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Justice Ministère de la Justice
Canada

**NINTH UNITED NATIONS CONGRESS
ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS
APRIL 29 - MAY 8, 1995
CAIRO, EGYPT**

**REPORT OF THE
CANADIAN DELEGATION**



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Ninth United Nations Congress on the
Prevention of Crime and the Treatment
of Offenders, April 29 - May-8 April 1995,
Cairo, Egypt report of the Canadian
delegation



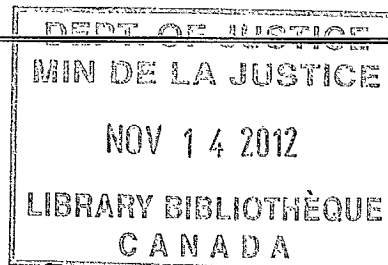
Department of Justice
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TABLE OF CONTENTS**PAGE**

PREFACE	<i>iv</i>
CHAPTER 1 - INTRODUCTION	1
1.1 Previous Congresses	1
1.2 Restructuring of the United Nations Crime Prevention and Criminal Justice Programme	2
1.3 General Information concerning the 9th Congress	3
1.4 Canadian Delegation to the 9th Congress	6
CHAPTER 2 - ORGANIZATION	6
2.1 International Organization	6
2.2 National Organization	7
CHAPTER 3 - CONGRESS ACHIEVEMENTS	8
3.1 Summary	8
3.2 Role Played by Canada	9
CHAPTER 4 - REPORT OF THE CANADIAN DELEGATION ON CONGRESS TOPICS	10
4.1 TOPIC 1: International Cooperation and Practical Technical Assistance for Strengthening the Rule of Law: Promoting the United Nations Crime Prevention and Criminal Justice Programme	10
4.2 TOPIC 2: Action against National and Transnational Economic and Organized Crime, and the Role of Criminal Law in the Protection of the Environment: National Experiences and International Cooperation ..	10
4.3 TOPIC 3: Criminal Justice and Police Systems: Management and Improvement of Police and Other Law Enforcement Agencies, Prosecution, Courts and Corrections; and, the Role of Lawyers	11
4.4 TOPIC 4: Crime Prevention Strategies: In Particular as Related to Crimes in Urban Areas and Juvenile and Violent Criminality, including the Question of Victims: Assessment and New Perspectives	12
CHAPTER 5 - REPORT OF THE CANADIAN DELEGATION ON CONGRESS	
PLENARY MEETINGS	13
5.1 Experiences in Practical Measures Aimed at Combating Corruption Involving Public Officials	13
5.2 Technical Cooperation	13
CHAPTER 6 - REPORT OF THE CANADIAN DELEGATION ON THE CONGRESS	
WORKSHOPS	14
6.1 Extradition and International Cooperation: Exchange of National Experiences and the Implementation of Relevant Principles in National Legislation	14
6.2 Mass Media and Crime Prevention	14
6.2.1 Using the Internet to Advance Crime Prevention	17
6.3 Urban Policy and Crime Prevention	17
6.4 Prevention of Violent Crime	19
6.5 Environmental Protection at the National and International Levels: Potentials and Limits of Criminal Justice	20
6.6 International Cooperation and Assistance in the Management of the Criminal Justice System: Computerization of Criminal Justice Operations and the Development, Analysis and Policy Use of Criminal Justice Information	24

TABLE OF CONTENTS**PAGE****CHAPTER 7 - REPORT OF THE CANADIAN DELEGATION ON THE CONGRESS**

RESOLUTIONS	25
7.1 <i>Recommendations on the Four Substantive Topics of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</i>	25
7.2 <i>International Cooperation and Practical Assistance for Strengthening the Rule of Law: Development of United Nations Model Instruments</i>	26
7.3 <i>International Instruments, such as a Convention or Conventions against Organized Transnational Crime</i> ..	26
7.4 <i>Links between Terrorist Crimes and Transnational Organized Crime</i>	27
7.5 <i>Practical Implementation of the Standard Minimum Rules for the Treatment of Prisoners</i>	28
7.6 <i>Criminal Justice Management in the Context of Accountability of Public Administration and Sustainable Development</i>	29
7.7 <i>Children as Victims and Perpetrators of Crime and the United Nations Criminal Justice Programme: From Standard Setting Towards Implementation and Action</i>	30
7.8 <i>Elimination of Violence Against Women</i>	32
7.9 <i>Firearms Regulation for Purposes of Crime Prevention and Public Safety</i>	34
7.10 <i>Expression of Thanks to the People and Government of Egypt</i>	36
7.11 <i>Credentials of Representatives to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</i>	36

CHAPTER 8 - REPORT OF THE CANADIAN NON-GOVERNMENTAL ORGANIZATIONS ON THE CONGRESS 36**CHAPTER 9 - DECISIONS TAKEN BY THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE AND BY THE ECONOMIC AND SOCIAL COUNCIL** 37

9.1 <i>International Cooperation and Practical Technical Assistance for Strengthening the Rule of Law: Promoting the United Nations Crime Prevention and Criminal Justice Programme</i>	37
9.2 <i>Action Against National and Transnational Economic and Organized Crime, and the Role of Criminal Law in the Protection of the Environment: National Experiences and International Cooperation</i>	38
9.3 <i>Criminal Justice and Policy Systems: Management and Improvement of Police and Other Law Enforcement Agencies, Prosecution, Courts and Corrections; and the Role of Lawyers</i>	39
9.4 <i>Crime Prevention Strategies: In Particular as Related to Crimes in Urban Areas and Juvenile and Violent Criminality, including the Question of Victims: Assessment and New Perspectives</i>	40

CHAPTER 10 - GENERAL AREAS DESERVING EMPHASIS OVER THE COMING YEARS 42

10.1 <i>Recommendations for Future Congresses</i>	43
10.2 <i>From a National Perspective</i>	44
10.3 <i>From an International Perspective</i>	44

ANNEXES	45
<i>A</i>	<i>List of Abbreviations used in the Report</i>
<i>B</i>	<i>List of Canadian Participants</i>
<i>C</i>	<i>Intervention concerning Topic 1: International Cooperation and Practical Technical Assistance for Strengthening the Rule of Law: Promoting the United Nations Crime Prevention and Criminal Justice Programme</i>
<i>D</i>	<i>Intervention concerning Topic 2: Action against National and Transnational Economic and Organized Crime, and the Role of Criminal Law in the Protection of the Environment: National Experiences and International Cooperation</i>
<i>E</i>	<i>Intervention concerning Topic 3: Criminal Justice and Police Systems: Management and Improvement of Police and Other Law Enforcement Agencies, Prosecution, Courts and Corrections; and, the Role of Lawyers</i>
<i>F</i>	<i>Intervention concerning Topic 4: Crime Prevention Strategies: In Particular as Related to Crimes in Urban Areas and Juvenile and Violent Criminality, including the Question of Victims: Assessment and New Perspectives</i>
<i>G</i>	<i>Plenary Speech on Experiences in Practical Measures Aimed at Combating Corruption involving Public Officials</i>
<i>H</i>	<i>Plenary Speech on Technical Cooperation</i>
<i>I</i>	<i>Speech for the Workshop on Extradition and International Cooperation: Exchange of National Experiences and the Implementation of Relevant Principles in National Legislation</i>
<i>J</i>	<i>Speech for the Workshop on Mass Media and Crime Prevention</i>
<i>K</i>	<i>Speech for the Workshop on the Prevention of Violent Crime: The Family Violence Initiative</i>
<i>L</i>	<i>Speech for the Workshop on the Prevention of Violent Crime: Outline of Canadian Measures on Control of Firearms</i>
<i>M</i>	<i>Speech for the Workshop on Environmental Protection at the National and International Levels: Potential and Limits of Criminal Justice</i>
<i>N</i>	<i>Speech for the Workshop on International Cooperation and Assistance in the Management of the Criminal Justice System: Computerization of Criminal Justice Operations and the Development, Analysis and Policy Use of Criminal Justice Information - Developing Justice Statistics Mechanisms: Purposes and Functional Requirements</i>
<i>O</i>	<i>Speech for the Workshop on International Cooperation and Assistance in the Management of the Criminal Justice System: Computerization of Criminal Justice Operations and the Development, Analysis and Policy Use of Criminal Justice Information - The Need for International Cooperation in Combating Computer Crime</i>
<i>P</i>	<i>Report of the National Associations Active in Criminal Justice Non-Governmental Organization Representatives</i>

PREFACE

The report of the Canadian delegation to the 9th United Nations Congress on the Prevention of Crime and the Treatment of Offenders is divided into ten parts. The first part, the introduction, traces the history of the quinquennial Congresses on the Prevention of Crime and the Treatment of Offenders and summarizes the events which took place during the 9th Congress. The second part explains the organization of the Congress from an international and national perspective. The third part provides a list of the resolutions which were adopted by the Congress and gives an overview of Canada's participation at the Congress.

Parts four, five and six provide, respectively, an overview of each of the four topics which were discussed during the Congress, the Canadian participation during the Congress plenary meetings and during the Congress workshops. Part seven is more substantial. It contains a summary of each adopted resolution, with the important modifications that were negotiated during the Congress.

Part eight refers to the report of the Canadian non-governmental organizations on the Congress. The follow-up that was given by the United Nations Commission on Crime Prevention and Criminal Justice, by the Economic and Social Council and the General Assembly is included in Part nine. Areas deserving future emphasis are noted in Part ten.

The Annexes contain the list of the Canadians who attended the 9th Congress, the main speeches delivered during the Congress, and the Report of National Associations Active in Criminal Justice Non-Governmental Organization representatives.

The Appendices, which are included in a separate book, are divided into four parts: the resolutions adopted by the 9th Congress (Appendix I); the report on the special sessions and plenary meetings of the Congress, as well as the reports of the workshops (Appendix II); the resolutions concerning the 9th Congress which were adopted by the Economic and Social Council in 1995 (Appendix III); and, the resolutions concerning the 9th Congress which were adopted by the General Assembly in 1995 (Appendix IV).

It is hoped that this report will be helpful and interesting to those who wish to gain a better understanding of the role of the United Nations in the field of crime prevention and criminal justice and the role which Canada plays within the United Nations in this respect.

Any comments relating to this report can be addressed to the Department of Justice, 239 Wellington Street, Ottawa, Ontario, K1A 0H8.

**THE 9TH UNITED NATIONS CONGRESS
ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS
(Cairo, Egypt, April 29-May 8, 1995)**

REPORT OF THE CANADIAN DELEGATION

1. INTRODUCTION

1.1 PREVIOUS CONGRESSES

The United Nations Congresses on the Prevention of Crime and the Treatment of Offenders trace their origin to the international penitentiary congresses, which had been organized by the International Penal and Penitentiary Commission since the nineteenth century. In 1950, the United Nations (UN) assumed the functions of the Commission and, by a General Assembly resolution, undertook to convene a world-wide congress every five years, commencing in 1955, to discuss the prevention of crime and the treatment of offenders.

These quinquennial Congresses provide a forum for the discussion of criminal justice priorities by policy-makers, administrators, academics and other professionals. Participants include delegates appointed by their governments, observers from national liberation movements, representatives of international, inter-governmental (IGOs) and non-governmental organizations (NGOs), representatives of bodies and specialized agencies of the United Nations, individual experts invited as observers, expert consultants invited by the United Nations Secretariat, and officials of the Secretariat.

Through the Congresses, the United Nations has set standards concerning human rights within the criminal justice system, crime prevention, criminal justice and the rehabilitation of offenders. The first three Congresses, held in Geneva (1955), London (1960) and Stockholm (1965), gave primary attention to penal and correctional systems. The 4th Congress, in Kyoto (1970), addressed social defence policies and development. The 5th Congress, in Geneva (1975), introduced policing issues. The 6th Congress, in Caracas (1980), emphasized crime prevention in the context of development. The 7th Congress, in Milan (1985), focused on transnational crime and crime prevention through international cooperation. The 8th Congress, in Havana (1990), dealt with international cooperation in crime prevention and criminal justice.

As an important international governmental forum, the Congress requires from its participants a high degree of expertise in criminal justice policy. The voting procedure is formal although efforts are made to develop consensus. In the past, resolutions adopted by the Congress have been forwarded for consideration or approval to the Third Committee of the General Assembly, which is responsible for Social, Humanitarian and Cultural Matters, and then to the General Assembly. Previous

Congresses have resulted in the adoption of several international instruments. Some of the most noteworthy include the Standard Minimum Rules for the Treatment of Prisoners, Code of Conduct for Law Enforcement Officials, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and Basic Principles on the Independence of the Judiciary. Post-Congress activities have domestic political implications since Member States are urged to implement, through their national legislation or practice, the resolutions and the other instruments adopted at the Congress.

1.2 RESTRUCTURING OF THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

Over the last decade there have been growing concerns about the effectiveness and ability of the United Nations crime prevention and criminal justice programme to meet the emerging demands of Member States, particularly developing countries, for assistance in developing and implementing crime prevention and control policies, and in addressing the growing threat of sophisticated forms of transnational crime, while at the same time respecting and promoting human rights in the administration of justice.

Many Member States (including Canada) had expressed dissatisfaction with the current arrangement, due to the inefficiencies and lack of resources, and wanted to see some major changes. In order to deal with these concerns, a resolution concerning the Creation of an effective United Nations crime prevention and criminal justice programme (46/152) was adopted on December 18, 1991, by the General Assembly. One of the main purposes of the resolution was to establish the United Nations Commission on Crime Prevention and Criminal Justice (CCPCJ) as a new functional commission of the Economic and Social Council (ECOSOC). This occurred in February 1992. On April 19, 1994, Canada was elected to the 40 member Commission for the term 1995-98. The Department of Justice has the lead responsibility for Canada's representation on the Commission.

The Commission, which meets annually, is the main preparatory body for the United Nations Congresses. It is assisted by the United Nations Crime Prevention and Criminal Justice Branch at the United Nations Office at Vienna (CPCJB), which is the permanent secretariat to the Commission.

As decided by the General Assembly, in 1991, in consequence of the creation of the new Commission, the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders now play a new role within the crime prevention and criminal justice programme. Accordingly, the main purpose of the 9th Congress, as well as future Congresses, was not to examine or elaborate draft legal instruments as did previous Congresses. The purpose is now to provide a forum in which relevant information will be exchanged and emerging trends will be identified. Nevertheless, resolutions can still be presented to the Congresses for adoption, as was done by some Member States, including Canada, at the 9th Congress. The results of the 9th Congress were submitted to the Commission on Crime Prevention and Criminal Justice at its fourth session, which was held in Vienna, on May 30-June 9, 1995. The Commission, after having considered the recommendations of the Congress, acted on them and referred certain matters to ECOSOC and to the General Assembly.

1.3 GENERAL INFORMATION CONCERNING THE 9TH CONGRESS

The Congress was attended by over 2,500 participants from 138 countries. Among the governmental representatives were Ministers of Justice, Ministers of the Interior, Attorneys General, chief justices, ambassadors, directors-general, heads of prison administrations and police services, as well as a large number of representatives of inter-governmental and non-governmental organizations. Approximately 190 experts attended as observers. Mr. Giorgio Giacomelli, Under-Secretary-General and Director General of the United Nations Office at Vienna, served as Secretary-General of the 9th Congress, and Mr. Eduardo Vetere, Chief of the CPCJB, acted as Executive-Secretary.

A. Substantive Issues

The general theme of the 9th Congress was "Less crime, more justice: security for all". The following topics were discussed under this theme:

- International cooperation and practical technical assistance for strengthening the rule of law: promoting the United Nations crime prevention and criminal justice programme;
- Action against national and transnational economic and organized crime, and the role of criminal law in the protection of the environment: national experiences and international cooperation;
- Criminal justice and police systems: management and improvement of police and other law enforcement agencies, prosecution, courts and corrections; and, the role of lawyers; and,
- Crime Prevention Strategies: in particular as related to crimes in urban areas and juvenile and violent criminality, including the question of victims: assessment and new perspectives.

In addition to the general discussion on these issues, workshops with a practical orientation were held during the Congress, in accordance with ECOSOC resolution 1992/24. These workshops were chosen on the basis of certain criteria: they represented a subject of interest to both developing and developed countries; they were multidisciplinary and displayed a balance among the various disciplines interested in the criminal justice system (law, police, corrections and social sciences); they took into account issues which have already been dealt with as well as emerging issues; they were oriented towards practical problems and solutions; and, finally, each of the priority items that were determined by the Commission were represented in the workshops. The following issues were addressed during the workshops:

- Extradition and international cooperation: exchange of national experiences and the implementation of relevant principles in national legislation (one day);
- Mass media and crime prevention (one day);
- Urban policy and crime prevention (one day);
- Prevention of violent crime (one day);
- Environmental protection at the national and international levels: potentials and limits of criminal justice (two days); and,
- International cooperation and assistance in the management of the criminal justice system: computerization of criminal justice operations and the development, analysis and policy use of criminal justice information (two days).

In addition, a one-day discussion on experiences in and practical measures aimed at combating corruption involving public officials was held during the plenary of the Congress. A special session on technical cooperation was also held during the plenary session.

B. Ancillary and Professional Meetings

During the Congress, non-governmental and inter-governmental organizations held eighteen ancillary and professional meetings, as well as two meetings with a practical orientation, in cooperation with the United Nations Secretariat, concerning the following issues which were related to the Congress topics:

- Demonstration on Alternatives to Violence Workshop;
- Juvenile Delinquency in Urban Areas: Street Children and Violence;
- Restorative Justice;
- Implementation of the Standard Minimum Rules for the Treatment of Prisoners;
- Transfer of Criminal Sanctions and the Basic Standards for the Treatment of Foreign Prisoners;
- Migration and Crime;
- The Role of the Public Prosecutor in Criminal Justice, According to the Different Constitutional Systems;
- Re-integration of Children Following Wars and Other Situations of Community Violence;
- Drug Legislation and Related Applications;
- Basic Training Handbook for Correctional Personnel;
- Making Young People Part of the Solution;
- Victims and Traumatic Stress: Respect, Restoration, Reparation and Protection;
- Life Imprisonment: the United Nations Report; and,
- United Nations Crime Prevention and Criminal Justice Programme and Peacekeeping Operations.

These meetings provided an opportunity for exchanges between the professional and scientific community and some of the delegates involved in the official deliberations of the Congress. A number of ad hoc meetings and working groups were also held on specific issues, such as a meeting of national crime prevention councils, which was organized by the Canadian National Crime Prevention Council. An overview of these meetings was circulated at the fourth session of the Commission (E/CN.15/1995/CRP.2).

C. Kiosks and Exhibits

The framework for the exhibit at the Congress was set out by Departments and Agencies participating in the Interdepartmental Communications Committee, which included members from Justice, Solicitor General, Heritage, National Film Board, CRTC, Health, National Crime Prevention Council, Status of Women, Statistics Canada, Indian and Northern Affairs and Canada Mortgage and Housing Corporation.

Discussions held throughout the planning stages identified an extraordinary number of Canadian activities and initiatives in support of the Congress themes that would be valuable to share with other countries. While supporting materials were available for all of these, the cost of printing large quantities and shipping, as well as manageability were convincing restraining factors. A consensus was reached to only send documentation and/or videos on UN themes for which Canada would directly contribute during the Congress and to have Theme Days which would focus on issues being discussed by Congress participants on each day. Publication order forms were prepared from input of participating Departments and Agencies to list all other pertinent materials that could be obtained.

In addition to supplying information materials, the Department of the Solicitor General provided the exhibit structure and computer quizzes on crime prevention. A representative of the Canadian Centre for Justice Statistics (CCJS) was on site to provide information on statistical research results and computerized statistical applications.

The entire exhibit area was moved to an annex of the Cairo International Conference centre a few weeks prior to the opening of the Congress to accommodate all exhibitors. This situation created problems as the traffic flow of Congress participants was non-existent. After three days of intense negotiations, Canada's exhibit was moved to a more convenient location. Although not ideal, the traffic was heavy enough to attract considerable interest.

The exhibit was held from May 1 to May 5. The theme-day approach chosen for the exhibit was very successful. The first day, which was also the day of the Canadian-organized workshop on Mass Media and Crime Prevention, featured the materials on violence on television and in society. Participants were invited to visit the exhibit for supporting materials and by the lunch break, most of it had been distributed. This mass affluence on the first day allowed to inform participants about the theme days from the beginning, which created return visits throughout the week.

The number of visitors at the kiosk was estimated at approximately 1000 from at least 125 different countries, with many being repeat visits with an average time of ten minutes spent at the exhibit. A selection of videos was featured throughout the week. The visitors were very interested in what Canada is accomplishing in the area of violence in society and violence against women and were seeking additional information on issues and programs of specific interest to them. The profile of visitors included justice and corrections officials, ministers of justice and attorneys general, senators, other politicians, prosecutors, criminologists, academics and members of non-governmental organizations.

D. Relations with the Press

Canadians were solicited extensively to conduct media interviews with local and international media. The requests primarily focused on the Canadian resolution on the elimination of violence against women. Both government officials and Canadian NGO participants contributed to the effort. Although monitoring of these articles was sometimes difficult, the coverage reviewed was fairly positive.

The Minister conducted a few interviews on Canada's presence at the Congress, the resolution on the elimination of violence against women and the Mass Media and Crime Prevention Workshop.

There was also media pick-up of the Minister's session on Internet linking Canadian students with Egyptian students.

Other subjects covered by interviews included youth justice, environmental crimes, extradition, money laundering, alternatives to imprisonment, terrorism, violence against children and human rights. Documented are 24 interviews on 16 subject matters. Canadians were available to the media which enhanced Canada's ability to transmit its messages on the international scene as well as to Canadians.

1.4 CANADIAN DELEGATION TO THE 9TH CONGRESS

The list of the twelve delegates composing the Canadian delegation is included in Annex B. Six criteria guided the choice of the proposed nominees: the issues to be discussed during the Congress, more particularly in respect of the resolutions and the workshops; the level of expertise of the nominee; a proper balance of experts from departments having an interest in attending; the main objectives for Canadian participation at the Congress; the need for the delegation to be as small but efficient as possible, given current budgetary restraints; and, the structure of the Congress (i.e., a plenary and two sub-committees, including workshops, that operate simultaneously).

The Canadian delegation was led by the Honourable Allan Rock, Minister of Justice and Attorney General of Canada. The twelve experts were from the federal government and the provincial/territorial governments. The delegation was approved by the Minister of Justice, the Solicitor General of Canada and the Minister of Foreign Affairs.

Some representatives of non-governmental organizations also attended the Congress at the expense of Justice Canada and Solicitor General Canada. The departments made a financial contribution toward the attendance of three experts who, although not official delegates, acted as special advisors to the delegation.

A list of the Canadian participants to the 9th Congress is included in Annex B.

2. ORGANIZATION

2.1 INTERNATIONAL ORGANIZATION

Regional Preparatory Meetings with representatives from national governments of each region of the world were held in 1994: Bangkok, in cooperation with the Economic and Social Commission for Asia and the Pacific (ESCAP) (January 17-21); Kampala, at the invitation of the Government of Uganda and in cooperation with the African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI) (February 14-18); Vienna, at the United Nations office in Vienna (February 28-March 4); San José, at the invitation of the Government of Costa Rica and in cooperation with the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) (March 7-11); and, Amman, under the patronage of His Royal Highness Crown Prince Hassan of Jordan, in cooperation with the Economic and Social Commission for Western Asia (March 20-24). Canada participated in the European regional meeting held in Vienna.

The results of the Regional Meetings were reviewed by the CCPCJ at its third session, held on April 26-May 6, 1994, in Vienna. The meeting adopted a draft resolution on preparations for the 9th Congress, which was then adopted at the 1994 meeting of ECOSOC. The resolution dealt with organizational matters and instructed the 9th Congress to consider certain specific issues under each of the four Congress topics.

2.2 NATIONAL ORGANIZATION

An interdepartmental committee composed of Justice (chair), Solicitor General and Foreign Affairs was established to prepare the Canadian delegation for the 9th Congress. This committee met every two or three weeks during the year preceding the Congress.

An informed and efficient participation at the Congress, reflecting the views of Canadians, was ensured through consultations with provincial and territorial representatives, NGOs and other interested parties, such as the Federation of Canadian Municipalities and media experts.

With input from other interested departments, Justice Canada drafted an information and consultation document which was distributed to provinces and territories, NGOs and other interested entities for consultation purposes. The comments received helped the Canadian delegation to participate in the Congress in a more efficient and informed manner. The document, which reflected the new mandate of the Congresses, provided an overview of the planning process for the 9th Congress, as well as a discussion of the four topics and the six workshops to be dealt with at the Congress. In view of the length and the specialized nature of the document, persons consulted were asked to provide comments by March 1, 1995, only on sections of concern to them.

A. Provinces and territories

For the two years before the Congress, the provinces and territories were kept informed of the preparations for the 9th Congress through the Coordinating Committee for Senior Officials (CCSO). As was the case for non-governmental organizations and other interested parties, provinces/territories were sent the information and consultation document and were asked to provide comments by March 1, 1995. Comments were received from Saskatchewan, British Columbia, Alberta, Québec and the federal regional office in the Northwest Territories.

Provinces/territories were also informed that, given budgetary restraints, the size of the Canadian delegation would be smaller than the last Congress in which four delegates from the provinces and territories participated. Only two delegates from the provinces and territories attended the 9th Congress. They were from the provinces of British Columbia and Québec.

B. Non-governmental organizations

As was the case for previous Congresses, ancillary and professional meetings for intergovernmental, non-governmental and professional organizations were held during the 9th Congress, on the same site as the Congress.

Given budgetary restraints, the NGO delegation to the 9th Congress was smaller than for the previous Congress. The Department of Justice and the Ministry of the Solicitor General jointly funded the participation of two NGOs who were chosen by the National Associations Active in Criminal Justice (NAACJ), which established a panel which surveyed candidates from their membership. As had been the case for the 8th Congress, the funding from the two departments also encompassed an amount of \$5,000 to help offset the cost of providing simultaneous interpretation services for the ancillary meetings at the 9th Congress.

Concerning the substantive preparations, consultations with non-governmental organizations were held on February 2-3, 1995. These NGOs were chosen by NAACJ, which was funded by the Department of Justice and the Ministry of the Solicitor General to organize these consultations. At the request of the Department of Justice, other groups, such as the Federation of Canadian Municipalities, media experts and some women's groups were also invited to attend the meeting to discuss issues of interest and, more particularly, the draft resolution on the elimination of violence against women.

3. CONGRESS ACHIEVEMENTS

3.1 SUMMARY

The 9th Congress adopted the 11 following resolutions:

- ▶ Recommendations on the four substantive topics of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;
- ▶ International cooperation and practical assistance for strengthening the rule of law: development of United Nations model instruments;
- ▶ International instruments, such as a convention or conventions against organized transnational crime;
- ▶ Links between terrorist crimes and transnational organized crime;
- ▶ Practical implementation of the Standard Minimum Rules for the Treatment of Prisoners;
- ▶ Criminal justice management in the context of accountability of public administration and sustainable development;
- ▶ Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action;
- ▶ Elimination of violence against women;
- ▶ Firearms regulation for purposes of crime prevention and public safety;

- ▶ Expression of thanks to the people and Government of Egypt; and
- ▶ Credentials of representatives to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

3.2 ROLE PLAYED BY CANADA

The head of the Canadian delegation, the Honourable Allan Rock, Minister of Justice and Attorney General of Canada, was elected as one of the 24 vice-presidents of the Congress. Led by Minister Rock and, following his departure, by Richard G. Mosley, Assistant Deputy Minister, Criminal and Social Policy Sector, the Canadian delegation played an active and constructive role on select agenda issues. The delegation was organized in sub-groups to parallel the Congress committees.

Donald K. Piragoff, General Counsel, and Lucie Angers, Counsel, both from the Criminal Law Policy Section, Department of Justice, coordinated the substantive and technical response of the Canadian delegation among the plenary and two committees, and represented Justice Canada at the regional meetings of the Western European and Other Groups Member States (WEOG). Bea Cleary, Canadian Coordinator for the 9th Congress, Department of Justice, coordinated all of the administrative and logistical arrangements for the delegation, as well as organized the workshop on mass media and crime prevention.

The Canadian delegation made a substantial number of interventions in the plenary and two committees, as well as during the workshops, and participated in unofficial consultations to improve the resolutions presented during the Congress. Canada also played a part in resolving a number of disputes which arose within the committees that considered these resolutions.

In addition to supporting and co-sponsoring a number of resolutions that had been put forward at the Congress, Canada proposed a resolution on the elimination of violence against women. The well-organized and active Canadian delegation gained significant support from all regions, ensuring consensus for the Canadian resolution, which was subsequently adopted by the Congress.

At the Congress, sixteen resolutions, including the Canadian resolution, were presented by Member States concerning issues such as juvenile justice, corrections, racism, terrorism and firearms. According to Rule 28 of the Draft Rules of Procedure for United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, draft resolutions on items of the provisional agenda had to be submitted to the Secretary-General of the Congress four months prior to the Congress and distributed to all Member States not later than two months prior to the Congress.

The introduction of the Turkish resolutions on Violence against women (L.16), on Terrorism (L.14) and on Measures to combat all forms of racism and racial discrimination, xenophobia and intolerance (L.13), the Belgian resolution concerning the elimination of violence against children (L.11), the Egyptian resolution concerning the establishment of a subregional institute for the Mediterranean region (L.15) and the Tunisian resolution on intolerance and incitement to religious and racial hatred as a form of transnational organized crime (L.17), did not comply with this rule.

Given the will of the Congress to respect the rules of procedure adopted by ECOSOC, it was decided to merge some of the draft resolutions that were filed late together with those resolutions which were clearly admissible; for example, mergers occurred between the Egyptian and the Turkish resolutions on terrorism and the Canadian and Turkish resolutions on the elimination of violence against women.

4. REPORT OF THE CANADIAN DELEGATION ON CONGRESS TOPICS

4.1 TOPIC 1: INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME.

Discussions under this topic stressed that the new United Nations crime prevention and criminal justice programme was oriented towards technical and advisory services, as evidenced by the decision of the CCPCJ to make technical assistance a standing item on its agenda. However, in order to meet the expectations raised by its new orientation, it was crucial that the programme be provided with the necessary resources for the implementation of its mandates.

The activities undertaken and the impediments to more intensive technical assistance were highlighted. The limitations of such assistance was due to many factors, including differences in legal systems and the multiplication of uncoordinated activities. Canada noted that technical assistance and cooperation should not be considered merely a humanitarian gesture but rather as an investment in development. There was unanimous support in emphasizing that effective and fair criminal justice systems, based upon the rule of law, were essential to the establishment and maintenance of conditions of peace and social stability.

In its intervention on this issue (see Annex C), Canada identified several areas in which it would appreciate hearing about the experience of others: community action for effective crime prevention; achieving economic equality between men and women; and, high incarceration rates. At this international exchange of information, Canada mentioned its interest in sharing about its experience in respect of the Canadian Charter of Rights and Freedoms, the establishment of front line sexual assault centres, public consultation processes and the Montréal-based ICPC.

4.2 TOPIC 2: ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

The discussions on Topic 2 covered two and a half days in the plenary session of the Congress. A number of states made interventions which generally focused on the various measures being taken within individual states in response to the spectre of transnational economic and organized crime. There was as well some discussion, although more limited, of the role of the criminal law in the protection of the environment. The interventions from Member States were extremely interesting and useful information as to current initiatives was presented.

The Canadian intervention on the topic (see Annex D), urged the Congress to build on the already important achievements of the World Ministerial Conference on Organized Transnational Crime held in Naples, Italy, in November 1994, and to use the Congress to debate the next steps to be taken as a follow up to the Naples Political Declaration and Global Plan of Action against Organized Transnational Crime. In particular, the Canadian representations emphasized the necessity to identify and develop practical technical cooperation and assistance projects to be undertaken by the United Nations and Member States. Examples of the types of assistance available from Canada in the areas of mutual legal assistance and investigative programs in relation to credit card fraud and computer crime were given.

4.3 TOPIC 3: CRIMINAL JUSTICE AND POLICE SYSTEMS: MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND CORRECTIONS; AND, THE ROLE OF LAWYERS

Delegations were presented with a working document prepared by the Secretariat that set the tone and intended to assist them in focusing on this topic. The document directed delegates' attention on major developments in the management of criminal justice, including the privatization of crime control and other more recent legal and technological developments in justice systems that have an impact on policing, prosecution, courts, prisons and the role of legal defence. Delegations were also encouraged to address new forms of policing, changes in prosecutorial practices, complex criminal trials, and special groups of prisoners, as well as the use of non-custodial sanctions as one of the measures to assist in alleviating overcrowding. Finally, international cooperation in criminal justice management and information technology completed the realm of issues to be covered.

In its country statement (see Annex E), the Canadian delegation reiterated its strong support for the aim of the UN Congress to inspire new strategies for preventing and controlling crime and strengthening the criminal justice system. While Canadian positions had been developed on all issues under this topic, Canada delivered a statement focusing on the following three major themes: a) Independence of the Judiciary; b) Community Policing and the International Management of Transnational Organized Crime; and, c) Corrections.

The Canadian delegate indicated that the notions of the independence of the judiciary and the exercise of prosecutorial discretion remained the cornerstones of Canada's criminal justice system and that the principal of judicial independence was recognized in the Canadian Constitution as a mainstay of protection of individual Canadians' rights. The statement went on to stress that an impartial and independent judiciary was essential to the administration of justice and the protection of human rights, adding that Canada played a leading role in the negotiation of the Basic Principles on the Independence of the Judiciary at the 7th Congress in 1985.

In addressing the community policing issue, the statement mentioned that it was a key component of Canada's National Strategy on Community Safety and Crime Prevention, culturally sensitive to First Nations communities and progressively endorsed by provincial governments. Crime prevention and problem solving went beyond national boundaries. This was emphasized by focusing on the international management of the problem of transnational organized crime and the need for the Royal Canadian Mounted Police (RCMP) to cooperate with its foreign counterparts, enter into joint force operations, and provide/receive investigative assistance on criminal matters of shared concern.

In the area of corrections, the Canadian statement insisted on the necessity to strike a balance between the need for public protection from offenders with the pursuit of an enlightened, progressive corrections policy that has as its ultimate aim the long-term protection of society through the safe reintegration of offenders as law-abiding citizens. A range of sentencing options, including community-based sanctions instead of prison terms, were to be seriously considered.

4.4 TOPIC 4: CRIME PREVENTION STRATEGIES: IN PARTICULAR AS RELATED TO CRIMES IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

Canada had much to offer in the discussion surrounding Topic IV. In its intervention in relation to this topic (see Annex F), it focused on three issues: violence against women; control of firearms; and, crime prevention.

Violence by men against women occurs at all points of the economic spectrum and has repercussions on the health and well-being of women, making it impossible for them to achieve their human and economic potential. The incidence of violence against women is a reflection of women's structural and systemic inequality in society. In Canada, the results of a national survey on violence against women showed that violence and fear of violence is an everyday reality for many women. In order to contribute to the discussion on this issue, Canada mentioned that it had introduced a resolution on the elimination of violence against women which it urged other Member States to support.

In respect of firearms, Canada mentioned that the proper role of government is to determine the legitimate uses of firearms and which firearms are appropriate for those uses. It referred to its recent legislation which was before Parliament and which addressed the following issues: smuggling, criminal sanctions to deter guns in crime; a ban on military type weapons and concealable handguns not appropriate for target shooting competitions; and, registration of all firearms. Bearing in mind the number of suicides and accidents which occur each year from firearms, the need for firearms control goes beyond crime to the issue of public health and safety. Canada mentioned its general support for the Japanese resolution concerning gun control and proposed specific suggestions to address additional issues.

Crime prevention means recognizing that the criminal justice system alone cannot solve the issue of crime. Canada referred to its experience in respect of how crime prevention could be given more importance, through social development and a cooperative and multi-disciplinary approach between governments and NGOs, in order to fight the underlying factors associated with criminality. It referred to the recent establishment of the Montréal-based ICPC and to the work of the National Crime Prevention Council.

Finally, the Canadian National Crime Prevention Council, in cooperation with the ICPC, was very pleased to host a meeting of national crime prevention bodies. The organizations outlined the work that they undertake in their respective countries and shared their experiences. Detailed minutes of this meeting as well as copies of the written presentations are available from the National Crime Prevention Council.

5. REPORT OF THE CANADIAN DELEGATION ON CONGRESS PLENARY MEETINGS

5.1 EXPERIENCES IN PRACTICAL MEASURES AIMED AT COMBATING CORRUPTION INVOLVING PUBLIC OFFICIALS

Following adoption by the 8th Congress of a resolution concerning corruption involving public officials, a working group was set up to draft an international code of conduct for public officials and submit it to the Ninth Congress.

A one-day plenary debate was organized during the 9th Congress to increase awareness of this problem and the related concerns and to permit participants to compare experiences and opinions. All the countries had had an opportunity to reflect on the subject since the 8th Congress at which a Manual on Practical Measures Against Corruption had been presented. Meetings had been held in other fora, including a symposium on corruption organized by the OECD.

During the Congress, five experts made presentations intended to help the international community identify appropriate methods and strategies for preventing and controlling corruption. Most of these speakers stressed the fact that corruption transcends national boundaries. According to Romul Petru Vonica, [TRANSLATION] "corruption is linked to organized crime and economic crime and leads to other forms of crime, such as misappropriation of public funds and money laundering." None of them referred to the benefits of an international code of conduct for public officials, and Antonio Di Pietro even said that codes of conduct adopted voluntarily by corporations are insufficient to combat corruption.

However, by far most of those who spoke after the experts considered an interdisciplinary approach to be the most effective way to combat corruption. To neutralize the benefits gained from corruption, codes of conduct and disciplinary measures should be combined with criminal sanctions. The Manual on Practical Measures Against Corruption project was considered a praiseworthy initiative, and the Draft International Code of Conduct for Public Officials prepared by the CPCJB would be a useful complement to the efforts made to date.

Prior to the Congress, the United Kingdom, France and the United States had stated that they were not in favour of the draft code of conduct. During the plenary session, Canada clearly stated that it would support the international community's efforts to prevent and combat corruption and that it would continue to participate in working committees studying problems related thereto (see Annex G). However, the Canadian delegation expressed reservations about the draft code because it was intended to criminalize professional misconduct, whereas Canada felt that non-criminal methods and administrative policies better serve its interests and those of its officials.

5.2 TECHNICAL COOPERATION

Canada's position clearly enunciated the necessity of an international response in addressing the broad range of criminality, wherein, "we must continue to find practical and cost-effective ways in which to provide technical cooperation and assistance to each other through the United Nations crime prevention and criminal justice programme" (see Annex H).

One cost-effective medium is the sharing of documented information and Canadian experiences as a result of national initiatives that promote crime prevention, such as: youth crime and related legislation; domestic violence issues; alternative measures as experienced through the sentencing circles for aboriginal offenders; the new firearm control program; the formation of strategic partnerships with the banking and telecommunications industries to deal with counterfeiting and fraud; and, developing consultative avenues that allow the broad range of public and private sectors to share in decision-making processes serving the best interest of democratic institutions and good governance. In essence, all available experiences must be garnered as an international learning tool.

The substance of the Canadian position on technical cooperation was well received by many of the attending international delegates with extended dialogue and enquiries.

6. REPORT OF THE CANADIAN DELEGATION ON THE CONGRESS WORKSHOPS

Canada played a major role in the preparation and organization of the three research and demonstration workshops that discussed crime prevention: "mass media and crime prevention"; "urban policy and crime prevention"; and, "prevention of violent crime". Canada also participated in the other three workshops by making presentations.

6.1 EXTRADITION AND INTERNATIONAL COOPERATION: EXCHANGE OF NATIONAL EXPERIENCES AND THE IMPLEMENTATION OF RELEVANT PRINCIPLES IN NATIONAL LEGISLATION

During the workshops, a number of countries made presentations on various issues relating to the availability of extradition mechanisms, problems in the preparation and execution of requests and policy issues concerning impediments to extradition. Canada and the Netherlands made a joint presentation on the topic of "Bridging the Gap between Legal Systems", which focused on the evidentiary requirements for extradition. The discussion centred on the gap created by the differing demands of the common law and civil law systems and how these differences have been overcome in bilateral treaties, multilateral instruments and domestic law.

There was an opportunity for discussion amongst participants on some of the issues, which proved very helpful in understanding the position of various countries on such difficult questions as the role of the political offence exception in modern times and refusal on the basis of nationality. Increased understanding will assist countries in overcoming through legislation and treaty, some of the current impediments to effective extradition. The expert working group recommended that further follow up to this workshop be provided for.

6.2 MASS MEDIA AND CRIME PREVENTION

The Department of Justice Canada was responsible for the organization of the one-day workshop on "mass media and crime prevention" and for the development of the international background paper on the topic.

The workshop provided an excellent opportunity for Canada to contribute to international efforts aimed at improving the use of media in crime prevention education and to sensitizing representatives of the mass media to the criminogenic effects of graphic portrayals of violence and sensationalism in the media, particularly on the young. It also contributed to the Canadian government's international strategic programme in this area as it focused on, among other things, the insufficient use of mass media to promote women's and youth's positive contributions to society. This workshop also reinforced and reflected values and efforts having a high domestic priority for Canada.

The workshop was structured with the intent of initiating a dialogue among those who cover crime, those who use forms of mass media to help prevent crime and those who are involved in the criminal justice system. It was also designed to bring to light initiatives in the development and utilization of successful mass media crime prevention programs.

In his keynote address (see Annex J), the Honourable Allan Rock, Minister of Justice and Attorney General of Canada, pointed out that crime prevention is not something for governments to think about in isolation and that it must include the members of the community they serve. Mr. Rock went on to say that the media must not be blamed for the problems we have with crime; either the reality of crime or its perception. "Attacking the messenger simply won't do, and politicians and governments have to accept responsibility for their role in creating an unhealthy atmosphere."

But he added that it is important to remember the power and influence that the media has and its enormous potential as a positive force in crime prevention for increasing public awareness of the true facts: "the media are in a real sense on the front line in determining what the true facts are and in bringing them home to all of us."

In a discussion of the problem of international criminals, Justice Ramon Mabutas, journalist and judge on the Philippine Court of Appeal, recommended that an International Criminal Tribunal be created.

Section Two of the program demonstrated how serious crime issues are being addressed by the media. An international panel of practising journalists on the front lines of crime coverage told their own stories as samples of complex and universal problems: political corruption, computer crime, the destabilization of societies caused by organized crime, violence against women, and drug-related crime. For what is believed to be the first time in a UN forum, participants were asked to recognize degradation of the environment as a criminal as well as moral offence.

A dialogue with the floor brought out differences in attitude to the issue of freedom of information particularly with new technologies like the Internet.

Section Three dealt with the question "Media as Educator", the media's complicity in crime and its potential for positive change.

The Workshop then got to view actual examples of best practises in using media to help in the prevention of crime. Case studies from around the world were concrete demonstrations of how effectively mass media can be used to get a crime prevention message across. These included the South Africa "Street Law" legal education program, the "Squash It" program developed by Harvard

University, School of Public Health Centre for Public Health Communication and, from Canada, the TROP program in which children and adults evaluate TV programming.

Section Four speakers pointed out that the future of mass media may not be in the current forms of television, radio and newspapers but in the emerging technologies like the Internet that will shape the information highway. This section looked at the vast impact that these technologies will have on the dissemination of information and fundamental issues such as cultural integrity as well as associated issues such as freedom of expression.

The fifth section of the day discussed "Where do we go from here" and included a report by Duncan Chappell of UNICRI, Rome, who spoke of creating opportunities for the future. He stressed the need for a free press and suggested a number of principles "... basic to an unfettered flow of news and information both within and across national borders."

Significant suggestions made at the workshop included:

At the International Level

1. That the United Nations reassert the enormous importance of a free press as part of the democratic process. Hence, it should urge Member States to do more to make this democratic right a reality, and, in particular, to protect those who seek to advance it in emerging democracies.
2. That the United Nations devote resources to coordinate the development of tools to assist Member States in their mass media and crime prevention efforts; possible examples of such tools are a technical manual, a resource manual of good practises, development of a roster of experts and use of such experts in hands-on workshops.
3. That the United Nations develop multi-disciplinary training resources including programs in media literacy - and modules on mass media and crime prevention to be added to the curricula of universities and professional training programs (in schools of journalism, police colleges, schools of criminology, faculties of education, etc.)
4. That the United Nations agree, inter alia, to commit resources for counter-acting the negative effect the mass media can have on children, sensitizing and protecting the next generation by working with the media to ensure that the power it has to influence children is used in positive ways.
5. That the United Nations convince Member States to create an education campaign to ensure in the mass media that crimes against the environment are recognized as a criminal as well as a moral offense.
6. That the United Nations urge Member States to help the media encourage the development of appropriate measures and mechanisms to contribute to the eradication of violence against women and to enhance respect for their dignity by discouraging the perpetuation of pro-violence values and stereotypes of women.

6.2.1 Using the Internet to Advance Crime Prevention

The activities outlined in the workshop concluded at the end of the day with an Internet venue, the purpose of which was to demonstrate the positive educational aspects of mass media. For a period of approximately one hour school children from a number of schools in Canada conversed "live" via the Internet with school children in Egypt. The Egyptian school children were joined by the Honourable Allan Rock, Minister of Justice and Attorney General of Canada. During the session, conducted in English and French, the school children shared experiences and queried the Minister on the proceedings of the conference.

The technical aspects and coordination of the exercise were a major challenge given the cultural and geographical distance between the two countries. The Internet link spanned ten different time zones. However, as a result of the successful undertaking efforts are now underway to use the Internet as a resource to promote crime prevention and social justice on a more regular basis.

6.3 URBAN POLICY AND CRIME PREVENTION

This workshop was jointly organized by the Group of Mediterranean States (GEM) and the Montréal-based International Centre for the Prevention of Crime (ICPC). In Part I of the workshops, "Urban Policy and Coordinative Machinery", the emphasis was on the necessary partnership between the city and state on the one hand and the city and members of community on the other.

The experiences of many countries illustrated that multidisciplinary measures have also made possible coordinated and complementary approaches on several fronts at once - ideological, municipal, situational and social - and that involving the general population has not been limited to the creation of advisory machinery and ensuring that the public is involved in decision-making committees.

France noted at the outset that the creation of both a department responsible for cities and a National Cities Council has made it possible to promote coordination between the government and municipalities. The municipal and departmental crime prevention councils, through their membership, bring together the principal forces in society which can influence the "causes" of crime and develop prevention projects which receive financial support from the government through the granting of contracts.

Canada's presentation on the Canadian National Crime Prevention Council focused on the work of the Council, its correlation with the National Strategy on Crime Prevention and Community Safety, and the Council's mission to develop a comprehensive and coordinated prevention strategy which will enhance the safety, security and well being of individuals and their communities.

Belgium discussed a similar system through which the government has made commitments to investments worth nearly \$100 million U.S.: decisions regarding the use of this money are made on a decentralized basis which has resulted in the building of bridges between the police and the general public.

The workshop also heard that within the European Community, SECUCITE provides a framework in which fifty cities exchange experience, pool knowledge and arrange technical cooperation; and

that, in the United States, the combined efforts of the mayors of the seven largest cities in Texas have generated a wide-ranging procedure for joint consultation to identify problems they confront and solutions which can be adopted, an approach which has led to the creation of permanent crime prevention committees.

The United Kingdom highlighted the importance of the involvement of private enterprise and how it was possible to obtain such cooperation, even in circumstances where the immediate interests of a business are not affected. The experiences of the United Kingdom and the Netherlands have demonstrated the benefits to be derived from and the conditions required for obtaining direct public participation, in particular as volunteer police involved in prevention projects or as paid urban security officers.

In Part II of the Workshop, measures to create an interface between prevention services and innovative approaches were presented. In an introductory analysis, a Maltese government policy, which since 1992 has given priority to the development of systems for monitoring districts in which the public takes an active part in ensuring general safety, was presented. Associating the media and the voluntary sector with this approach was mentioned as an essential part of ensuring individual involvement and the general success of the approach.

The benefits to be derived from police organizations being closely involved with the everyday life of the community, easily accessible and offering a wide range of services were highlighted in a presentation on the Japanese Kobans. France highlighted their initiative to establish justice houses in difficult areas which have helped to rebuild public confidence in the justice system through the services they provide and the dialogue which they have created between the judiciary and local associations.

Israel demonstrated how peer group pressure can be used to encourage young parolees to rejoin society and presented a very interesting outline of their approach to crime prevention. They discussed the standards, established to ensure the development of sound crime prevention programs, which all agencies (governmental and private) must work with and use as a base for program evaluation and stressed that life skills are an important part of the programs delivered with the assistance of peer group support.

Portugal explained the operation of the Commission for the Protection of Minors, a locally-based agency directed at the minor, the parents and a range of institutions in the environment and which provides a means of adopting solutions which are alternatives to those offered by the traditional justice system. Life skills training is also an important approach here.

China indicated that it uses mediation procedures for resolving everyday conflicts in the neighbourhood and workplace. It has adopted national legislation to standardize and extend this practice to a range of situations. France mentioned that it has moved to mediation procedures for minor offences as an alternative to the justice system. In this way, family disputes, youth misconduct at school and at home, quarrels between neighbours and misdemeanours can be submitted to a mediation procedure. It is felt that the more general use of this practice encourages the non-violent resolution of disputes, promotes effective prevention of crime and violence, ensures that

effective rehabilitation measures will be adopted, and enables the courts to deal more quickly with more serious matters.

As one of the members of the Advisory and Policy Committee of the International Centre for the Prevention of Crime, Canada had argued for the inclusion in the workshop of a separate presentation on issues relating to future technical cooperation projects. Within the context of the workshop, the CPCJB noted that the function of its interregional advisors is to provide technical assistance to countries requesting it. HEUNI presented an update to a publication surveying and analyzing some fifty preventive approaches which have been tried or are particularly promising. The ICPC explained the main aspects of its action program, which treats easier and more general access to promising programs as a priority, and it invited participants to make use of its services and to work with the Centre as closely as possible.

6.4 PREVENTION OF VIOLENT CRIME

This workshop was jointly organized by the GEM and the Montréal-based ICPC.

The subjects covered at the workshop were as follows:

- ▶ **Violence and the family:** Greece and Israel were jointly responsible for the discussion of this subject. The presentations by Greece, Israel, Canada (see Annex K), the United States and the United Kingdom all focused on the importance of preventing family violence, not only because of the need to protect the victims, but also due to the part it plays in perpetuating the cycle of violence. On the question of preventive measures, participants emphasized the great importance of an approach which involves several sectorial departments, several levels of government, non-governmental organizations, professional associations and community-based groups. Multi-disciplinary and multi-sectorial activities were considered to be extremely important.
- ▶ **In-school violence:** France presented a videotape discussing, as part of a joint campaign between the departments of the interior, justice and education, measures taken to prevent violence in schools in the Seine-Saint Denis district. The United Arab Emirates discussed the activities of a special youth committee which deals with this issue and which is responsible to the departments of youth and sport, the interior and social services and the active participation of the media in this initiative.
- ▶ **Violence and sports events:** Spain, France, Chile, Uruguay and Italy made presentations on this subject. France showed a videotape jointly produced by physical education instructors, police and professional football players. Intended for use in schools, this videotape promoted respect for sports rules, respect for other players, team spirit and control of emotions. Other states have adopted legislation and regulations which, among other things, prohibit or limit the use of alcohol in sports stadiums and penalize acts of violence between professionals. Italy has created a permanent office to observe the phenomenon of violence in sports.

- ▶ **Violent crime and terrorism:** Chile, Egypt, Tunisia and Israel all noted the importance of international cooperation to fight terrorism. The principal measures suggested for fighting terrorism were the ratification of international conventions, control of firearms and the firearms trade, establishment of international data banks on terrorist groups, denying terrorists political asylum, extradition agreements and campaigns to educate the public in the importance of tolerance and respect for human rights.

Israel presented a videotape illustrating its worldwide strategy for fighting terrorism. It relies on the mobility and speed of its punitive units, the creation of voluntary self-defence groups, greater security at strategic locations, very sophisticated equipment for its investigative units and cooperation between the police and the judicial system.

- ▶ **The relationship of violence to illness:** Portugal presented an experimental program to rehabilitate drug-addicted inmates. The Penitentiary Services Branch, the Rehabilitation Institute and the Anti-drug Trafficking Planning and Coordinating Office have developed a joint plan for coordinating corrective measures. This program, which has been in effect for just under a year, has already had significant positive effects, including a reduction in drug use by inmates, greater effectiveness of individual inmate follow-up, more extensive cooperation between various penitentiary services and the families of inmates in treatment efforts and the creation in a penal institution in Lisbon of a closed residential program for drug addiction rehabilitation.
- ▶ **Firearms control:** The representatives of Japan, the Russian Federation, Canada, Malawi and Kuwait presented legislation and administrative action used in their countries to control firearms. Canada, in particular, indicated its belief in the value of compulsory, computerized registration of firearms, controlling the issuance of permits and required courses in firearms use (see Annex L).
- ▶ **Formulas for cooperation:** The International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLRCJP) in Vancouver presented its training course project on family violence and offered its assistance and cooperation to any country or organization wishing to make use of it.

The ICPC presented the main aspects of its action plan to prevent the cycle of violence. In this connection, the ICPC mentioned that its function was to lend technical assistance to governments, cities and organizations wishing to prevent violence and it invited states to contribute to this undertaking.

6.5 ENVIRONMENTAL PROTECTION AT THE NATIONAL AND INTERNATIONAL LEVELS: POTENTIALS AND LIMITS OF CRIMINAL JUSTICE

The three main objectives of the workshop, which was organized by UNICRI, were:

- (a) to provide information about the responses to pollution incidents in different countries and different legal systems;

- (b) to promote research into the different strategies and effects thereof on the prevention and reaction to environmentally harmful or threatening behaviour; and
- (c) to discuss selected issues in the realm of criminal justice response from a comparative perspective and with a view to facilitating international cooperation.

The workshop had four components:

- (a) a presentation by the rapporteurs of the relevant parts of the background paper;
- (b) an expert panel on *Environmental protection through criminal law: limits of individual responsibility-potentials of collective liability?*
- (c) a video presentation, *Ecomafia*, a project of *Legambiente*, a non-governmental organization in Italy; and
- (d) presentations by the CPCJB and UNICRI on research proposals and international cooperation, including advisory services and awareness, research and training projects and capacity building for sustainable development.

Canadian delegates made several interventions on the: workshop presentations; panel on the criminal liability of organizations; and, technical assistance projects proposed by UNICRI/CPCJB (see Annex M). The Portland International Meeting of Experts's report (March 1994) was presented by the ICCLRCJP.

1. Responses to three categories of polluting behaviour

The background paper dealt with responses to three categories of polluting behaviour: (a) transboundary pollution; (b) pollution originating from large enterprises; and, (c) small business or individual polluters.

(a) Transboundary pollution

It was noted that transboundary pollution emanates from three principal sources: (a) industrial plants and other land-based sources that emit or discharge pollutants into the sea, or transport them to the territory of another state or to the global commons; (b) as a result of the movement and disposal of hazardous chemical, medical and radioactive wastes; and (c) as a result of the discharge of oil or other noxious substances from vessels sailing on the high seas or in territorial waters (i.e. marine pollution).

It was also noted that alternatives to criminal sanctions appear to have the greatest potential for controlling pollution emitted from industrial plants and other land-based sources. An important contributor to making alternatives work would be equal access to courts and administrative processes to nationals of other countries to (a) commence civil proceedings to obtain compensation and redress, and (b) to facilitate mutual enforcement of judgements.

It was agreed that criminal sanctions have greater potential in dealing with the illegal transportation and disposal of hazardous wastes, activities which appear to have been penetrated by organized crime. Vigorous implementation and enforcement of international conventions, with stiff criminal penalties for contravention, are required for successfully combatting cross-border and international criminality in this area. Providing technical assistance to developing countries will help improve international enforcement efforts. The international community should be encouraged to adopt the proposal of the International Law Commission to include deliberate and serious damage to the environment in the International Code of Crimes against Peace and Security of Mankind.

(b) Pollution from large-scale enterprises

Participants observed that the operation of large-scale enterprises poses a significant environmental problem for all countries. The traditional role of criminal law has been to punish the wrongful decision of an individual in a specific situation. Consequently, the relevance of criminal law in this context was questioned by several participants, who pointed to the diffuse nature of decision making structures existing in large-scale enterprises today. Moreover, in many countries, there are limits to the responsibility of a single individual.

The growing trend towards broadening the criminal responsibility of individuals, which is particularly evident in civil law countries where corporate criminal liability is not an accepted principle of law, was noted by participants.

The utility of quasi-criminal approaches (such as fining corporations for violations of environmental laws) was discussed. Many participants felt that plant closure and other alternative remedies are far more effective tools.

Participants discussed a number of options for handling incidents of environmental damage caused by large-scale enterprises as well as the feasibility of establishing a separate criminal system for enterprises.

c) Small business or individual polluters

Participants noted that media highlights of environmentally damaging events generally showcase incidents that are caused by large enterprises. However, they agreed that environmental damage resulting from the activities of small-scale enterprises and of individual polluters can have devastating results at the regional and even international level.

Pollution in this category can pose very real detection difficulties and, particularly in developing countries, standard criminal law structures are highly ineffective when polluting behaviour is based upon crucial subsistence needs deemed essential to survival, or upon age-old traditions.

Despite these difficulties, participants agreed that the criminal law can be an effective tool in dealing with pollution caused by small-scale enterprises and individual polluters. Several suggestions were offered for securing the effectiveness of environmental criminal law including utilizing local community leaders in developing countries in enforcing environmental laws. It was emphasized that in this regard, corresponding political will is an essential component for success. It was also stressed

that punishment should not outweigh the individual contribution to pollution, and that there should be comparability between small-scale and large enterprises.

Some participants pointed out that socio-economic issues and environmental concerns were inseparable in the context of sustainable development. It was urged that theft, smuggling or destruction of cultural treasures (crimes against cultural heritage) should be viewed in the context of environmental offences.

The considerable progress made over the last several years by a number of international bodies toward developing definitions of core environmental offences was recognized.

Participants stressed that the environment should be viewed as a fundamental value in its own right deserving protection, not only for the benefit of the present generation but also of future generations for whom the former is the custodian.

A suggestion was made that consideration be given to establishing a world environmental protection agency under the auspices of the United Nations. It was pointed out in this regard, however, that in order to be truly effective, implementing legislation at the national level would be required.

Participants voiced support for the work of the International Law Commission on the establishment of an international code of crimes (which would include crimes against the environment) and an international criminal court.

2. Expert panel on Environmental Protection through criminal law

The expert panel, representing the major legal systems and drawn from developing and developed countries, discussed the role of corporations in causing environmental degradation and the legal position and current developments in the area of criminal liability of private and public entities within their jurisdictions.

Some panellists stressed the advantages of utilizing criminal law, including the deterrent effect exposure to a criminal conviction can have, while acknowledging the factors that limit its potential including the inability, in certain jurisdictions, to convict corporations for criminal offences.

Concerns were raised that, despite recent developments, the gap between common law and civil law countries with respect to corporate criminal liability continues to widen. Many participants, including those from civil law countries, strongly advocated that civil law countries move towards criminal liability, at least for private entities. Where the classical principle of personal guilt clashes with society's right of protection, it was suggested that the latter should prevail. Attention was drawn to a number of suggestions that had recently been made in a variety of international fora in an effort to narrow the gap between these divergent concepts of corporate liability. Participants also noted that Governments are largely immune from prosecution in all but a few countries such as Canada.

Participants suggested a number of methods for promoting environmental protection, including developing an integrated body of laws that includes such elements as the right to a clean environment

and which makes crimes against the environment a crime against society, and enshrines the "polluter pays" principle; establishing funds to support the enforcement of environmental laws and to repair damage committed by offenders, through the use of confiscated proceeds of environmental crimes, and contributions from other sources; creating environmental protection networks on the national and international levels to coordinate activities and share information on available resources; conducting feasibility studies to test relevant proposals for protecting the environment; and utilizing publicity as a means both to raise public awareness of the need for protecting the environment, and to deter offenders, especially convicted enterprises that depend upon an ecologically sensitive clientele to remain in business.

3. Research proposals and international cooperation

During the presentation of the report of UNICRI, a variety of technical cooperation activities for facilitating international cooperative strategies for promoting environmental protection were suggested. Some of the initiatives were: promoting awareness of the role of criminal justice in environmental protection; research and documentation projects; and technical cooperation and training.

The CPCJB's draft monograph on "Capacity Building in criminal enforcement of environmental law" which was presented during the workshop emphasizes the importance of strengthening the capacities of people and institutions to enforce environmental law to achieve sustainable development. Designing and implementing environmental laws pose significant problems for many countries, especially developing countries and countries in transition. Even with well-crafted environmental laws, the requisite technological capability or political will necessary to monitor compliance and correct violations is seldom available in these countries. The monograph proposes a number of packages for strengthening the capacity building mechanisms in developing countries and countries in transition.

Delegates of Canada and a few other developed countries generally supported the proposals presented in the report of UNICRI and the CPCJB's draft Capacity Building monograph.

6.6 INTERNATIONAL COOPERATION AND ASSISTANCE IN THE MANAGEMENT OF THE CRIMINAL JUSTICE SYSTEM: COMPUTERIZATION OF CRIMINAL JUSTICE OPERATIONS AND THE DEVELOPMENT, ANALYSIS AND POLICY USE OF CRIMINAL JUSTICE INFORMATION

The discussion focused on the development and use of national and international crime and criminal justice information and on the introduction of information technology in the administration of criminal justice. The discussion also sought to identify ways in which international cooperation, particularly within the framework of the United Nations crime prevention and criminal justice programme, could support development in that field. Many delegations described the experiences in their countries in responding to the changes and in utilizing the new information technology.

Interregional and regional summaries of the Fourth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems were given, as were the results of a cross-cultural

the United Nations Crime and Justice Information Network (UNCJIN) was demonstrated at the workshop.

In this workshop, Canada focused on policy use of justice information. This was accomplished by: a) delivering a paper on "Developing Justice Statistics Mechanisms: Purposes and Functional Requirements" (see Annex N); b) making a workshop presentation on the need for international cooperation in combatting computer-related crime (see Annex O), in particular on the manual produced by Canada and other Member States for the United Nations; c) making a podium presentation on "A National Model for the Development of a Generic Family Violence Statistical Information System"; and, d) demonstrating several innovative computer applications.

7. REPORT OF THE CANADIAN DELEGATION ON THE CONGRESS RESOLUTIONS

7.1 RECOMMENDATIONS ON THE FOUR SUBSTANTIVE TOPICS OF THE NINTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

At the third session of the CCPCJ in 1994, there was considerable discussion concerning how best to give effect to the various recommendations made by the five regional preparatory meetings. Some delegations, mainly Japan, were in favour of the Commission forwarding an omnibus resolution to the 9th Congress that would amalgamate the recommendations made at the regional meetings. Others, such as Canada, only wished to invite participants at the Congress to take these recommendations into appropriate account. Canada was instrumental in drafting a compromise to this effect with Japan, during the Commission meeting.

Two Member States introduced a draft omnibus resolution before the Congress: Argentina (L.3) and Uganda (L.10). Canada had concerns with these omnibus resolutions for two reasons: they opened the door to any amendment vaguely related to crime prevention and criminal justice issues; and, they theoretically permitted States to enlarge the scope of these resolutions to include any area of concern without the need to introduce a resolution within the four month deadline included in the Congress rules of procedure.

As its title indicated (Recommendations of the national preparatory meeting for the 9th Congress), the Argentinean resolution contained the recommendations of a national meeting which was held in Argentina, in August 1994, in relation to the 9th Congress. Since there was no reference to the fact that the resolution was for adoption at the Congress and following informal discussions with the Argentinean mission in Vienna, it appeared that the purpose of the Argentinean delegation was to have their recommendations considered and possibly included in any resolution that was discussed in connection with each of the topics before the Congress. This was confirmed in early discussions with the Argentinean delegation on the Congress site.

The Ugandan resolution was the resolution that had been adopted by the African Regional Preparatory Meeting, which was held in February 1994. Generally, it was not well structured and lacked specificity. Many of the operative paragraphs called for action, measures or legislation

without mentioning what was necessary. Several of the paragraphs overlapped in that they dealt with the same themes in a manner that appeared duplicative.

Following discussions during the pre-Congress consultations, it was decided to merge the substantive content of both the Argentinean and Ugandan resolution. It was also decided that consideration and debate of its contents should be divided by topic and discussed by the respective Committee in charge of each of the four topics, rather than being discussed entirely by one of the Committees. It was thought that this would permit the experts in each topic to discuss in their field of expertise all resolutions or parts of resolutions.

A conference room paper, consolidating the resolutions was prepared by the Secretariat. The consolidated text of the resolution was nonetheless quite controversial and necessitated lengthy negotiations in committee as well as in informal committees. Canada actively participated in all the discussions, playing a crucial role in generally providing the language of compromise with which all delegations could agree. This contributed not only to produce a text with which Canada was satisfied, but by facilitating the debate for some delegations, to obtain from them in return their support for the Canadian position.

7.2 INTERNATIONAL COOPERATION AND PRACTICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: DEVELOPMENT OF UNITED NATIONS MODEL INSTRUMENTS

This resolution was proposed originally by Finland. After negotiation, it was ultimately co-sponsored by six other countries including Canada and was adopted by the Congress. The resolution notes the necessity to promote effective international cooperation and as well to ensure that the processes for cooperation are designed to respect human rights. The resolution also emphasizes the importance of the contribution of various intergovernmental and non-governmental organizations' recommendations relating to the issue. The resolution recommends that an intergovernmental expert group be convened to develop and promote mechanisms of international cooperation, including UN model instruments and that the group specifically explore ways and means to increase the effectiveness of extradition and international cooperation while at the same time having due regard for human rights and the rule of law.

7.3 INTERNATIONAL INSTRUMENTS, SUCH AS A CONVENTION OR CONVENTIONS AGAINST ORGANIZED TRANSNATIONAL CRIME

This resolution as originally proposed by Argentina included a recommendation for the development of a multilateral convention on organized crime. It was substantially modified as a result of discussions at the Congress. The issue of such a convention was discussed at the World Ministerial Conference on Organized Transnational Crime held in Naples, Italy, in November 1994. The Political Declaration and Global Action Plan issued after that meeting recommended that the views of governments be sought with respect to the elaboration of such a convention.

Thus, this resolution ultimately co-sponsored by nine states and adopted by the Congress builds on the Naples recommendation by inviting the CCPCJ to give priority to the initiative of obtaining the

views of governments and to consider whether it would be helpful to include a list of possible issues for the convention such as those contained in the annex to the resolution.

7.4 LINKS BETWEEN TERRORIST CRIMES AND TRANSNATIONAL ORGANIZED CRIME

At the World Ministerial Conference on Organized Transnational Crime, held in Naples, Italy, in November 1994, Egypt with the support of a number of other states attempted to add a paragraph to the Political Declaration adopted by the Conference that would have recognized terrorism as a dangerous form of organized transnational crime. While considering terrorism to be a significant problem, the majority of states at the Conference were opposed to linking together terrorism and organized crime or assimilating terrorism as a new form of organized crime. In result, after significant discussion, it was agreed that the Naples Political Declaration would make reference to the "use of violence and terror" by organized crime and "note with grave concern links between organized transnational crime and terrorist crimes."

At the 9th Congress, Egypt sponsored a resolution on Links between terrorism and organized crime, and Turkey sponsored a resolution on Terrorism. After discussions with Egypt, Turkey withdrew its resolution and co-sponsored with Egypt a revised resolution on Links between terrorism and organized crime. During the discussions in the Plenary session, some delegations noted that evidence existed that terrorist groups and organized crime groups were working in cooperation. Several delegations expressed the view that terrorism was a new form of organized crime. Other delegations, however, stressed that excessive concentration on such links might result in losing insight and opportunities for effective international cooperation. Other delegations noted the distinction between terrorism and the legitimate struggle of national liberation movements against foreign occupation.

In the course of formal and informal discussions, in which Canada played an active role, a number of amendments were made to the draft resolution. These amendments included: changing references to "terrorism" to the phrase "terrorist crimes" in order to highlight the criminal nature of such activity; adding references to the Declaration on Measures to Eliminate International Terrorism (resolution 46/60 of 9 December 1994 of the General Assembly); inviting, rather than recommending to, the CCPCJ to establish an open-ended working group; changing the mandate of such working group "to consider measures for combatting transnational organized crime, with due regard to the growing danger of links with terrorist crimes, with a view to drafting a code of conduct or other legal instruments", rather than the originally proposed mandate "to draft a code of conduct for combatting transnational organized crime and its links with terrorism"; deleting a number of preambular and operative paragraphs; and, making various other changes to the text.

During the consideration of the revised resolution by the Plenary a number of written amendments were proposed by the Islamic Republic of Iran, Sudan and the Syrian Arab Republic that attempted to define terrorism and make a clear distinction between terrorist crimes and 1) the legitimate struggle of national liberation movements against colonial and racial regimes and foreign occupation, and 2) legitimate self defence of a nation's sovereignty. At the request of the President, the proposed amendments were withdrawn on condition that the substance contained therein be reflected in the records of the meeting.

7.5 PRACTICAL IMPLEMENTATION OF THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

The purpose of the resolution introduced by the Netherlands was to add impetus to the implementation of the Standard Minimum Rules for the Treatment of Prisoners (SMRs). The resolution called on Member States to respond, if they had not yet done so, to the questionnaire on the SMRs; to exchange information on improving prison conditions; to share information on actual conditions in prisons with the public and with relevant NGOs in particular; to stimulate and support research on prison conditions by academics and NGOs; and to enhance transparency in prison systems by instituting monitoring mechanisms such as judicial supervision and independent complaint commissions.

The resolution also welcomed the initiative undertaken by Penal Reform International (PRI) in preparing a manual entitled Making Standards Work, designed as a guide for practitioners to implement the SMRs in their daily work; and requested the Secretary-General to make this manual available to Member States in the official languages of the UN, as a joint publication of the UN and PRI. Finally, this resolution invited the CCPCJ to keep the matter of prison conditions under regular review through the establishment of efficient monitoring mechanisms; and recommended, in particular, that the CCPCJ keep under review the practical impact and utility of the manual as perceived by the Member States.

The Canadian position on the draft resolution was that it merited support. Adherence to the SMRs in the treatment of offenders is important from the perspective of human rights, and Canada is supportive of efforts to further the implementation of the SMRs throughout the world. The delegation considered the manual Making Standards Work a useful, practical guide and was prepared to support making it available to all Member States. Given that the major thrust of the conference was aimed at combating serious violent crime, particularly transitional crime, this resolution, focusing on the treatment of offenders in prison, provided some balance to the meeting. In the headlong rush to stamp out serious crime through more efficient networks and international cooperation, the Dutch were asking Congress participants to reflect on the human rights of prisoners. Canada was a co-sponsor of the revised version of this resolution.

Although this resolution had the support of WEOG, there were concerns expressed by other Member States. Japan took the position that it was premature to request that the manual be made available as a joint UN/PRI publication since Member States had not had an opportunity to review the manual. They proposed to replace the last three paragraphs of the draft resolution with a paragraph that simply welcomed PRI to distribute its manual to Member States, without any endorsement from the UN or recommendation that the Commission keep under review the practical impact and utility of the manual. This intervention was immediately supported by Egypt. Accordingly, it was evident at that meeting that there was a divergence of views on this resolution, and that informal consultations were required to arrive at an acceptable compromise.

Informal consultations involved several delegations, including the Netherlands (sponsor), Japan, United States, United Kingdom, Egypt and Canada. The United States were very vocal in supporting the view expressed in committee by Japan and Egypt that the manual should not be promulgated as a UN document. The United States were also adamant that any request for action ought to be

directed to the Commission and not to the Secretary-General (as in the original draft resolution). Canada's position was that this was a manual, not an elaboration of new norms and standards, and that having the Commission serve as a publication review committee for such documents would not be a of good use of the Commission's time. Furthermore, given that the Commission meets only once a year, the lag time in producing the publication would be considerable. Nevertheless, there was a great sensitivity surrounding this document, not only by the United States, but also by Japan and Egypt. The compromise that was eventually reached on this point was to replace the last three paragraphs of the original resolution with a para 3 that reads: "Invites the Commission to consider distributing this manual prepared by Penal Reform International among Member States of the United Nations for their use and consideration and to seek their advice with a view to the preparation of a subsequent revision of the manual to be considered by the Commission."

In addition to the matter of publication of the manual, there was concern about the Commission establishing "monitoring" mechanisms, and in the final version "monitoring" was replaced by "information gathering." The proposition of inviting Member States to stimulate and support research on prison conditions by academics and NGOs was also challenged, and this sub-paragraph was dropped in the final version. In short, there was considerable compromise from the original to the final version of this seemingly simple resolution.

7.6 CRIMINAL JUSTICE MANAGEMENT IN THE CONTEXT OF ACCOUNTABILITY OF PUBLIC ADMINISTRATION AND SUSTAINABLE DEVELOPMENT

In presenting the resolution, Poland explained that it was in the process of restructuring its criminal justice system and was anxious to benefit from the experiences and innovations of other Member States in this regard.

The resolution called on Member States to intensify efforts to exchange information on experiences and innovations in criminal justice operations at all levels, and encouraged developmental projects that address criminal justice issues in a comprehensive manner, taking into consideration accountability and sustainability. The resolution also urged Member States and NGOs to become active in the UNCJIN, and requested developed countries to promote broader participation in UNCJIN by developing countries and countries in transition; requested the CCPCJ to consider recommending the establishment of an ad hoc expert group on statistical and computerized criminal justice application to advise the CCPCJ on these matters; and to consider the resource implications involved in strengthening the management and information functions of the CPCJB. Finally, it requested the Secretary-General to prepare for the consideration of the CCPCJ a comprehensive action plan on criminal justice management.

Canada's position was to support this resolution with a few minor and one substantive modification. Canada proposed the deletion of the word "urgently" in paragraphs 8 and 9, arguing that it was sufficient to request the Commission simply to consider these matters within the range of priorities before them, and that it was not necessary to ascribe particular urgency to these items. On a more substantive level, Canada considered the preparation of a "comprehensive" action plan (par. 10) to be too ambitious an undertaking for the Commission and proposed to substitute "model" for "comprehensive". Before the resolution was introduced the Polish delegation agreed to these changes. Subsequently, Canada made an intervention at the third meeting of the Committee to

inform other delegations of its proposed amendments to the resolution. The United Kingdom also spoke to this resolution at this time, indicating that it accepted the spirit of the resolution but noted that it might be improved by including a reference to work already under way, and that the United Kingdom would be proposing an amendment to that effect. There were no serious objections to this resolution.

Informal consultations involving Poland, the United Kingdom, Japan, the United States and Canada resulted in the following modifications to the original draft resolution. Specific reference to the session (i.e., "at its fourth session", "at its fifth session") at which the Commission would undertake specific work (para. 6, 10, and 11 of the original) were deleted. A new paragraph (para. 7) was added "to take account the work already being carried out in the United Nations and other international organizations, such as the Council of Europe, on comparing national crime and criminal justice databases." Paragraph 9 of the original resolution was modified to read "Requests the Commission on Crime Prevention and Criminal Justice to prepare for the consideration of the Commission a model plan on criminal justice management, commensurate with the priorities of the United Nations crime prevention and criminal justice programme, and to report to the Tenth United Nations Congress on the Prevention of Crime and Treatment of Offenders on the implementation of the action plan." With these amendments, the resolution was readily adopted by the Congress.

7.7 CHILDREN AS VICTIMS AND PERPETRATORS OF CRIME AND THE UNITED NATIONS CRIMINAL JUSTICE PROGRAMME: FROM STANDARD SETTING TOWARDS IMPLEMENTATION AND ACTION

In January 1995, Belgium introduced a draft resolution on the elimination of violence against children which was to be discussed during the 9th Congress. The resolution, which Canada helped draft, followed the same format as the Canadian resolution on the elimination of violence against women. The interest in this issue in Canada and the Canadian experience in the field, justified strong Canadian support for this resolution.

The purpose of the resolution was to emphasize the role of the criminal law in dealing with and preventing violence against children, to emphasize the link between the protection of the human rights of women and the elimination of violence against children, and to propose specific measures in this respect which could be undertaken by Member States and the United Nations.

The resolution follows up on a resolution on domestic violence which was introduced by Canada at the 8th Congress in 1990 and adopted by the Congress and, in December 1990, adopted by the General Assembly. In furtherance of the goals of the 8th Congress resolution, a United Nations publication on "Strategies for Confronting Domestic Violence: A Resource Manual" was produced in 1993 by Canada and others.

Inter-departmental consultations had suggested that Canada propose the following amendments to the resolution: include more specific references to legislative and other measures which could be adopted by Member States in order to prohibit sexual abuse of children, their involvement in prostitution and pornography-related activities, sex tourism and traditional practices such as female genital mutilation; refer to the development of peer mediation programmes to contribute to students' self-esteem; mention the importance of media guidelines in discouraging the perpetuation of pro-

violence values; and, direct attention to the United Nations document entitled "Strategies for confronting domestic violence: a resource manual".

During the first days of the Congress, the Belgian resolution was merged with a resolution, introduced by Austria, in respect of the application of United Nations standards and norms in juvenile justice. This resolution was based on the recommendations generated by the Expert Group Meeting on Children and Juveniles in Detention: Application of Human Rights Standards, which was held in Vienna, in November 1994. In announcing the decision to merge the two original resolutions, four reasons were cited:

- the need to reduce the total number of resolutions
- the fact that children are a priority of the UN
- acknowledgement of the close inter-connection between the victimization of children and juvenile delinquency, and
- the need to move to implementation of existing standards regarding juvenile delinquency.

The draft resolution was considered in informal discussions during the Congress. A number of states, including Argentina, Austria, Belgium, Canada, Egypt, France, Ireland, Mexico, Sweden, Turkey, the United Kingdom, the United States, and two non-governmental organizations, participated in the two-day discussions. The resolution went through some changes which, however, did not significantly alter its content, including the incorporation of the Canadian proposed amendments.

Among the issues discussed were:

- the preambular paragraph stating that children "should enjoy" (rather than "are entitled to") the guarantees, protections and benefits recognized in various UN instruments (United States);
- the operative paragraphs calling for "full" implementation of relevant UN standards on human rights and juvenile justice were amended to read "full implementation of relevant human rights instruments and effective use and application of UN juvenile justice standards and norms" (United States);
- the call for an expert meeting to focus on the elaboration of a programme of action was changed to a recommendation that the CCPCJ invite the Secretary-General to consider ways of elaborating a programme of action (United States and Mexico);
- a proposal to change "requests" to "recommends" that the CCPCJ consider integrating UN standards and norms on juvenile justice into the current process of information gathering was put forward by Japan and supported;
- a paragraph urging Member States to become parties to the Convention on the Rights of the Child, withdraw any reservations, particularly those relevant to the issue of violence against children, and submit reports to the Committee on the Rights of the Child;

- ° the involvement of UN and other bodies in evaluation and follow-up procedures to technical cooperation programmes was questioned by Egypt;
- ° the operative paragraph which calls for the "independent monitoring of juvenile detention and other custodial facilities" was initially opposed by China;
- ° the operative paragraph which suggests that violence against children can be perpetrated by the state was questioned by Egypt;
- ° operative paragraph 23 which deals with the role of the media in the perpetuation of violence against children: influencing the media in any way was initially opposed by Sweden;
- ° operative paragraph 25 which deals with ways of fostering international cooperation in eradicating illicit traffic in children including the sexual exploitation of children for commercial purposes was strongly supported by Argentina;

Clause (f) in operative paragraph 19 which calls upon Member States to adopt measures to prohibit traditional practices prejudicial to the health of children, including female genital mutilation, was not raised as a concern in informal consultation but rather in informal discussions among delegates.

The wording of the operative paragraph calling on states to adopt legislation to regulate children's access to firearms was hotly debated by Argentina and the United States in Committee.

A number of additions were suggested by the United Kingdom particularly regarding the promotion of mediation, alternative dispute resolution, multidisciplinary approaches for responding to youth crime and early intervention programmes to break generational cycles of violence. These were not generally opposed.

7.8 ELIMINATION OF VIOLENCE AGAINST WOMEN

In December 1994, Canada sent to the Secretary-General of the Congress a resolution on the elimination of violence against women. The resolution was drafted by an interdepartmental Working Group composed of representatives from Justice, Health, Solicitor General, Foreign Affairs and International Trade, and Status of Women.

The purpose of the resolution was to emphasize the role of the criminal law in dealing with and preventing violence against women, to emphasize the link between the protection of the human rights of women and the elimination of violence against women, and to propose specific measures in this respect which could be undertaken by Member States and the United Nations.

The resolution follows up on a resolution on domestic violence which was introduced by Canada at the 8th Congress in 1990 and adopted by the Congress and, in December 1990, adopted by the General Assembly. In furtherance of the goals of the 8th Congress resolution, a United Nations publication on "Strategies for Confronting Domestic Violence: A Resource Manual" was produced in 1993 by Canada and others.

The 9th Congress resolution also follows up on the work developed in the last two years by the Commission on Crime Prevention and Criminal Justice. Canada believed that the expression of interest at the international level and the scale of this problem in all societies justified an in-depth discussion of this topic at the 9th Congress.

The draft resolution proposed by Canada was considered in informal discussions during the Congress. A number of states, including Argentina, Austria, Belgium, Egypt, France, Ireland, Mexico, Sweden, Turkey, the United Kingdom, the United States, and two non-governmental organizations, participated in the two-day discussions. The resolution went through some changes which, however, did not significantly alter its substantive content.

Among the contentious issues were:

- the preambular paragraph dealing with the fact that customary, traditional and religious considerations should not be invoked by States to avoid their obligations with respect to the elimination of violence against women;
- the extraterritorial jurisdiction of states in respect of acts concerning traffic in human beings and exploitation of the prostitution of others, committed abroad by one of their own nationals;
- the Cairo conference on population and its Principle 4 dealing with women's ability to control their own fertility;
- treatment, as opposed to punishment, of perpetrators of violence against women;
- the reference to measures to address marital rape;
- the particular vulnerability of certain groups of women to violence;
- the role of the media in respect of violence against women;
- the role of equality-seeking organizations in pre-trial and trial proceedings;

In informal discussions, one country mentioned to Canada that it had received clear instructions to the effect that no reference should be made to "marital rape" in operative paragraph 1(c) of the resolution. During the formal committee meeting, Egypt, Indonesia and Iran indicated that they wanted these words to be deleted and, if not, they would not be able to support the resolution in consensus. Canada indicated that these words were included in the United Nations Declaration on the Elimination of Violence against Women, but that, in order to achieve consensus, it could remove the word "marital" from operative paragraph 1(c) on the understanding that "marital rape" was included in "rape". Canada believed that opposing this change could open the debate on the whole paragraph and jeopardize the reference to "female genital mutilation" which is also referred to in the same paragraph and is a very delicate issue for several countries. Furthermore, the structure of operative paragraph 1 urges Member States, in order to eliminate violence against women, to adopt initiatives including "(c) Measures to prevent, prohibit, eliminate and impose effective sanctions

against marital rape or sexual assault, sexual abuse and all practices harmful to women and girl children, including female genital mutilation". Paragraph 1(c) is not meant to be exhaustive.

It should be noted that the Declaration on the Elimination of Violence against Women, which is the basis of the resolution, defines more comprehensively violence against women in its Articles 1 and 2. Paragraph 2a) of the Declaration refers to violence occurring in the family as including "battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation". Paragraph b) refers to violence against women occurring within the general community as including examples such as rape, sexual abuse, sexual harassment, while paragraph c) refers to violence against women perpetrated or condoned by States.

The reference to "marital rape" in the resolution was taken from paragraph a) of the Declaration and was included as only one of the examples of the forms of violence to be quoted in the resolution, since the length of the "definition" contained in the Declaration did not permit a full reference to the content of Articles 1 and 2 of the Declaration in the resolution. In addition, one of the examples in operative paragraph 1c) of the resolution, namely sexual assault, did not even come from the Declaration itself. Also, the resolution was dealing with violence against women in general and was not making distinctions between violence in general (rape) and violence in the family (marital rape), as does the Declaration. In light of these factors, Canada did not view the replacement of "marital rape" by "rape" as creating a problem or as being a drawback.

As adopted, the resolution refers to the Declaration in preambular paragraphs 2, 4, 5, 6, and 9, and, in particular, strongly condemns all forms of violence against women set out in the Declaration (preambular paragraph 5). Strong references are also made to the implementation of the Declaration and operative paragraph 1c) did not purport to be an exhaustive list or mirror of the Declaration. Additionally, Canada wanted to close debate on the paragraph quickly so as not to invite consideration of the reference to "female genital mutilation".

Upon the amendment to the resolution, Indonesia which had previously opposed the resolution not only supported but co-sponsored the resolution. In total, there were 55 co-sponsors of the resolution, which was the most supported resolution of the Congress (including support from a number of states with significant Islamic population).

7.9 FIREARMS REGULATION FOR PURPOSES OF CRIME PREVENTION AND PUBLIC SAFETY

In late December 1994, Japan forwarded a draft resolution on firearms control to the Secretary-General of the 9th Congress. A draft of the resolution had previously been provided to Canadian officials and extensive comments were provided to the Japanese Embassy in Ottawa. The main purpose of the draft resolution was for the Congress to adopt a Declaration on the Control of Firearms calling for a common strategy for effective control of firearms at the global level. It called upon States to cooperate, exchange information and coordinate law enforcement activities in this respect. It asked States to promote public awareness campaigns on control of firearms, with the help of intergovernmental and non-governmental organizations.

Canada was strongly supportive of the general aims of the resolution and worked closely with the Japanese delegation to obtain support for those objectives at the Congress. From a procedural perspective, the resolution was problematic in that it asked the CCPCJ to approve at its fourth session, the submission, through ECOSOC, of the Declaration to the General Assembly. Further, it called on the Commission to consider at its fifth session, measures to control firearms, such as the prevention of transnational illegal trafficking of firearms and to exchange information on data on criminal cases in which firearms were used, situations of transnational illegal trafficking of firearms, national legislation on the control of firearms and initiatives in this respect at the regional and interregional levels. These proposals were problematic in that they sought to circumvent the process for determining the priorities of the United Nations crime prevention and criminal justice programme.

In the course of general discussion on the draft resolution, many delegates expressed their concerns about the harmful effects of crimes committed with firearms and expressed the need for increased regulation at the national level and greater international cooperation. To achieve that cooperation, a common understanding of the nature of the problem was required based on the exchange of experience and data.

Canada stressed that, in addition to the crimes associated with firearms, the link between easy access to firearms and suicides and accidents had to be examined. A comprehensive research project was called for to support discussion at the CCPCJ on this topic. Canada's intervention provided an opportunity to refer to the legislative proposals recently introduced in Canada (Bill C-68).

Due to the procedural difficulties noted above and the concerns of some Member States about certain substantive aspects of the resolution, an informal working group was formed, chaired by Japan and including Canada, the United States, Italy, Russia, Sweden, France, the United Kingdom, Germany, Belgium and the Netherlands. Canada played a very active role in that working group in achieving a consensus on revisions to the document. Changes were proposed to give the Commission the major role in determining the work to be done in this area, subject to the availability of resources. In this regard, the revised document called for the Commission to initiate a study on the criminal cases, accidents and suicides in which firearms are involved; the situation with regard to transnational illicit trafficking in firearms; national legislation and regulations; and relevant initiatives for firearms regulation at the regional and interregional levels. The proposed declaration was abandoned in favour of a recommendation for further consideration to be given to the concept at the fifth session of the Commission, following completion of the study. Throughout the document, the use of the word "control" was abandoned in favour of "regulation" to avoid domestic political problems in one member country. At Canada's insistence, supported by Japan, Sweden and other delegations, references to suicides and accidents resulting from firearms misuse were inserted throughout the document to reflect public health concerns.

The revised draft resolution was co-sponsored by 20 countries. Following statements made by the representatives of several delegations, further amendments to clarify the intent of some paragraphs were made and the resolution was adopted with an additional 6 countries signifying their wish to co-sponsor.

7.10 EXPRESSION OF THANKS TO THE PEOPLE AND GOVERNMENT OF EGYPT

On the final day of the Congress, Turkey introduced this resolution expressing the Congress' profound gratitude to the people and Government of Egypt, as well as to all its authorities, for their warm and generous hospitality and for the excellent facilities provided. In its second part, the resolution welcomes the proposal of Egypt to establish a regional centre for training and research on crime prevention and criminal justice for Mediterranean States, to be based in Cairo. It also invites the CCPCJ to establish an open-ended intergovernmental working group within its framework with the aim of studying this proposal.

The second part of this resolution comes from a broader resolution concerning the establishment of a regional centre for training and research in crime prevention and criminal justice for the Mediterranean States, that had been introduced by the Government of Egypt after the four-month deadline imposed in the Congress rules of procedure. That resolution welcomed the proposal by the Government of Egypt on the establishment of a regional centre for training and research in crime prevention and criminal justice for the Mediterranean States. It welcomed the offer by the Government of Egypt to host the headquarters of the proposed regional centre and to provide the facilities necessary for its establishment. The resolution also decided what should be the objectives and competence of the proposed regional centre. It finally invited the Secretary-General and the CPCJB to follow up the implementation of the resolution in coordination with States concerned.

As demonstrated by the establishment of the ICPC in Montréal, and of the ICCLRCJP in Vancouver, Canada is not opposed to the establishment of centres at the regional or international level that would contribute in assisting States and facilitating joint strategies in the field of crime prevention and criminal justice. However, Canada believed that it should not be for the Congress to decide upon the objectives or the competence of a regional institute: the discussion on the opportunity of establishing a regional centre, as well as its mandate, objective and structure, had to be left to the Commission. Therefore, Canada was satisfied with the final resolution as adopted.

7.11 CREDENTIALS OF REPRESENTATIVES TO THE NINTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

This procedural resolution approved the report of the Credentials Committee. This Committee was composed of nine members appointed by the Congress: China, Honduras, Lesotho, Portugal, Russian Federation, Surinam, Togo, United States of America and Vietnam. Its purpose was to examine the credentials of representatives and to report to the Congress.

8. REPORT OF CANADIAN NON-GOVERNMENTAL ORGANIZATIONS ON THE CONGRESS

This report is included as Annex P.

9. DECISIONS TAKEN BY THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE AND BY THE ECONOMIC AND SOCIAL COUNCIL

Given the restructuring of the United Nations crime prevention and criminal justice programme, the resolutions adopted by Congresses are forwarded to the Commission for its consideration, rather than directly to ECOSOC or the General Assembly. At its fourth session, held on May 30-June 9, 1995, the Commission decided to consolidate the follow-up that it intended to give to the Congress resolutions in one resolution entitled "Implementation of the resolutions and recommendations of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders" (E/CN.15/1995/L.13/Rev.1), hereafter referred to as "resolution implementing the 9th Congress resolutions". The resolution, divided according to the four Congress topics, does not repeat the content of the Congress resolutions. Instead, it follows-up on some of the activities that the Congress requested the Commission to undertake.

The preliminary discussion on this resolution was based on a conference room paper which had been prepared by the CPCJB for discussion purposes. The paper included the paragraphs from the Congress resolutions which required follow-up action or consideration by the Commission.

Canada's position on the follow-up to be given to the 9th Congress resolutions was that the Commission could, first, welcome all of the 9th Congress resolutions in one resolution to be forwarded to the General Assembly. Second, the Commission could proceed to adopt a separate resolution in respect of the type of follow-up action required by Member States wishing to pursue some suggestions put forward at the Congress. The adoption of both of these resolutions would be an efficient and practical way not to revisit the conclusions reached during the Congress, since it would be a time-consuming exercise. Rather, Canada believed that this two-prong process, which was finally adopted by the Commission, would permit to feed issues considered important by Member States into the work of the Commission.

9.1 INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

This section of the resolution deals with technical cooperation matters, including the provision of advisory services and the development of training manuals and training curricula. As a way of strengthening the rule of law, the Secretary-General is encouraged to include upon request the re-establishment and reform of criminal justice systems in peace-keeping operations.

A. INTERNATIONAL COOPERATION IN CRIMINAL MATTERS, INCLUDING EXTRADITION

As a follow-up to the extradition workshop and subject to available extrabudgetary funds, a meeting of an intergovernmental expert group will be convened to examine recommendations for the development and promotion of mechanisms of international cooperation, including the United Nations model treaties on international cooperation in criminal matters, as well as for the development of model legislation on extradition and related forms of international cooperation in criminal matters. The report of the working group will be submitted to the Commission at its fifth session.

B. ESTABLISHMENT OF A REGIONAL CENTRE FOR TRAINING AND RESEARCH IN CRIME PREVENTION AND CRIMINAL JUSTICE FOR THE MEDITERRANEAN STATES

As a follow-up to the Congress resolution "Expression of thanks to the people and Government of Egypt", the Commission, following a lengthy debate, decided to establish an open-ended working group to study the proposal for the establishment of a regional centre, based in Cairo, for training and research in crime prevention and criminal justice for the Mediterranean States. The working group, which will meet on the two first days of the Commission, can invite other relevant entities or seek their views. Canada played a significant role in brokering a compromise regarding this resolution.

9.2 ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

A report will be submitted at the fifth session of the Commission on the feasibility of establishing an integrated system for the periodic gathering and dissemination of information on national legislation in crime prevention and criminal justice. Member States are invited to cooperate in this regard in order to encourage progressive alignment regarding international cooperation, extradition and other bilateral and multilateral modalities of mutual assistance in criminal matters.

As a follow-up to the environment workshop, the Secretary-General and the institutes are called upon to continue working on the role of criminal law in the protection of the environment with an emphasis on training of criminal justice and regulatory agency personnel, needs assessment and advisory services, as well as assistance in the review or redrafting of legislation and the development of an effective infrastructure.

At its sixth session, the Commission will consider measures on the prevention and suppression of illicit trafficking in motor vehicles.

A. LINKS BETWEEN TRANSNATIONAL ORGANIZED CRIME AND TERRORIST CRIMES

The Commission decided that, at its fifth session, an open-ended intergovernmental working group would consider the elaboration of new international instruments such as a convention or conventions against organized transnational crime, as well as measures for combating transnational organized crime, including the drafting of a code of conduct or other legal instrument. Information will be collected by United Nations bodies for these purposes.

It is also recommended that the Commission consider including on the agenda for the 10th Congress, an item entitled, "The links between transnational organized crime and terrorist crimes". Canada played a significant role in brokering a compromise acceptable to all parties.

9.3 CRIMINAL JUSTICE AND POLICE SYSTEMS: MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND CORRECTIONS; AND THE ROLE OF LAWYERS

In this section, the Secretary-General is requested to promote technical cooperation projects on penal law reform and on the modernization of criminal justice administration, particularly in the fields of data collection and computerization, the training of law enforcement officials, the promotion of non-custodial measures and prisoners' welfare. The Secretary-General is also requested to expedite the dissemination of the "Commentary on the United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules)".

A. PRISON CONDITIONS

As a follow-up to the 9th Congress resolution concerning Practical implementation of the Standard Minimum Rules for the Treatment of Prisoners, the open-ended in-session working group of the Commission will discuss, during the next session of the Commission, the establishment of efficient information-gathering mechanisms to keep the matter of prison conditions under regular review, taking into account the results of the United Nations survey on the use and application of the Standard Minimum Rules for the Treatment of Prisoners.

In light of the lengthy discussion which occurred at the 9th Congress on the manual of Penal Reform International on "Making Standards Work" (see section 7.5), the Commission decided that the manual should be distributed to Member States for their use and consideration by the Secretary-General, drawing upon extrabudgetary resources. Their advice was also to be sought concerning a subsequent version of the manual to be considered by the Commission.

B. INFORMATION NETWORK AND DATABASES

This part of the 9th Congress implementation resolution is a follow-up to the resolution on Criminal justice management in the context of accountability of public administration and sustainable development, which had been adopted by the Congress.

It requests the Commission to review the membership and databases of UNCJIN, with a view to increasing participation of Member States and other entities.

At its fifth session, the Commission will consider a draft action plan on international cooperation and assistance with regard to statistical and computerized applications in the management of the criminal justice system. This action plan, which will also include recommendations for improving the management and information functions of the CPCJB, will be prepared by the Secretary-General, in cooperation with the United Nations institutes and experts of interested Member States.

9.4 CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIMES IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

This part of the resolution approves the guidelines for cooperation and technical assistance in the field of urban crime prevention. The guidelines are aimed at making crime prevention more effective and they encourage Member States and institutes to report on their experiences in elaborating urban crime prevention projects on the basis of the proposed guidelines.

A previous version of the guidelines, which were originally drafted by France, had been discussed at the two previous sessions of the Commission. At the last session of the Commission, it was decided to forward the guidelines to the 9th Congress for its consideration. No major comments were made on the guidelines during the Congress, probably due in part to their lack of publicity in the Congress documents. Canada, as well as other countries such as Germany, believed that the guidelines could have benefitted from another revision by the Commission. However, in light of the strong reluctance by the French government to re-open the debate on the guidelines, the Commission adopted the guidelines as finalized at the previous session of the Commission.

Paragraph 4 of that part of the resolution also requests the Secretary-General to: study the effects of criminality in urban areas, the contributing factors and measures for its prevention; organize seminars and training programmes on the prevention of crime; and, promote technical cooperation projects on the improvement of juvenile justice systems. Member States and others are called upon to develop tried and tested crime prevention strategies that are capable of being adapted to local conditions, with particular reference to the three Congress workshops dealing with crime prevention.

A. FIREARMS REGULATION FOR PURPOSES OF CRIME PREVENTION AND PUBLIC SAFETY

During the fourth session of the Commission, Japan introduced a resolution on this issue, which was later withdrawn in light of the inclusion of the paragraphs on firearms in the 9th Congress implementation resolution. Given its willingness to provide expertise and possibly some funds for follow-up action, Canada had a number of informal discussions with the Japanese and other delegations which resulted in the adoption by the Commission of a workplan on the issue of firearms.

From July to December 1995, the Secretariat, in cooperation with the interested United Nations institutes, started the process of gathering information on the national situation of Member States with regard to firearms regulation. Ten experts were appointed to designate the topics and the format of the study. These experts will then appoint 90 national consultants to provide the CPCJB with country reports. It is proposed that an ad hoc expert group meeting will be held to elaborate recommendations for the Commission at its fifth session, including the possible establishment of a database to enable the Secretariat to update the information, as well as the publication of gun control reports every two years.

At its fifth session, the Commission will consider, under a separate agenda item, the measures to regulate firearms commonly applicable in Member States, such as the prevention of transnational illicit trafficking in firearms. At that session, measures to regulate firearms will be discussed on the basis of a report prepared by the Secretary-General on the following issues:

- ▶ criminal cases, accidents and suicides in which firearms are involved and the status of firearms regulation by the law enforcement authorities;
- ▶ the situation with regard to transnational illicit trafficking in firearms;
- ▶ national legislation and regulations relevant to firearms regulation; and,
- ▶ relevant initiatives for firearms regulation at the regional and interregional levels.

The Commission will also consider, at that session, recommendations made by the Secretary-General for further concerted action at the national and transnational levels, including the possibility of seeking views of Member States on the preparation of a declaration.

Subject to the decision of the Commission at that session, the Secretariat would start establishing a database on firearms regulation and it would hold four interregional workshops on firearms regulation. The results of these workshops would be submitted to the Commission at its sixth and seventh sessions.

B. CHILDREN AS VICTIMS AND PERPETRATORS OF CRIME: EFFECTIVE APPLICATION OF UNITED NATIONS STANDARDS AND NORMS IN JUVENILE JUSTICE

At the fourth session of the CCPCJ, Belgium and Austria proposed that some follow-up be given to the 9th Congress resolution on children as victims and perpetrators of crime. The follow-up measures were included in the resolution on the implementation of the Congress resolutions.

The resolution requests the Secretary-General to ask views of Member States on the elaboration of an international convention on the illicit traffic in children. The Secretary-General is also requested, subject to the availability of extrabudgetary funds to organize a meeting of an expert group on the prevention of the sexual exploitation of children for commercial purposes within the context of international travel (sex tourism). The resolution also requests that more efficient technical assistance be undertaken in the field of criminal justice and the administration of justice, with regard to children, in cooperation with relevant United Nations agencies.

The Secretary-General is also invited to consider ways of elaborating a programme of action aimed at promoting the effective application of United Nations instruments in the administration of justice related to children. At its fifth session, the open-ended in-session working group of the Commission will seek ways to develop and undertake practical activities, including training, research and advisory services, to achieve the goal of preventing and eradicating violence against children.

C. ELIMINATION OF VIOLENCE AGAINST WOMEN

At the fourth session of the CCPCJ, Canada proposed that some follow-up be given to the 9th Congress resolution on the elimination of violence against women. The follow-up measures were included in the resolution on the implementation of the Congress resolutions.

The resolution requests the Secretary-General to transmit the 9th Congress resolution on the elimination of violence against women to the Fourth World Conference on Women to be held in Beijing, China, in September 1995. It also requests the Secretary-General to prepare a draft plan of action, in the context of crime prevention and criminal justice, on the elimination of violence against women that will provide practical and action-oriented suggestions on how to address this issue by means of, *inter alia*, legislative action, research and evaluation, technical cooperation, training and exchange of information. Views of Member States and others will be sought in this respect and the plan of action, as well as the report of the views received, will be discussed at the fifth session of the Commission, to be held in 1996, by the open-ended in-session working group of the Commission.

A report of the institutes in the United Nations crime programme will also be considered at the fifth session of the Commission. The report will deal with measures to promote and undertake practical activities to eliminate violence against women. The resolution also urges the Commission to continue to consider the elimination of violence against women within its priority themes and within the training and technical assistance efforts of the United Nations crime programme.

D. VICTIMS OF CRIME

The final part of the resolution on the implementation of the 9th Congress requests the Secretary-General to seek the views of Member States and relevant organizations on the advisability of preparing a manual on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. This paragraph was introduced initially by the Netherlands which mentioned that a NGO was already working on this manual. Its main purpose was to give some visibility to the importance of implementing the Declaration.

This paragraph required considerable negotiations with the United States, in view of the experience with the manual that had been prepared by Penal Reform International on the SMRs. The United States wanted to make sure that this manual would receive appropriate input from Member States before being released as a United Nations publication.

10. GENERAL AREAS DESERVING EMPHASIS OVER THE COMING YEARS

Canada is well-respected internationally by the criminal justice community, as a result of our criminal justice initiatives, our policy support for international initiatives, and our personnel and financial support to United Nations agencies. Domestically, policy advances within Canada on firearms, violence against women, environment, computerization of the administration of criminal justice, alternatives to incarceration, young offenders, transfer of prisoners, and correctional policy have been enhanced and reinforced by our participation in United Nations bodies.

Canada will continue to work in close collaboration with the United Nations and its Member States in the struggle against crime towards the establishment of a fair and humane criminal justice system nationally as well as internationally.

10.1 RECOMMENDATIONS FOR FUTURE CONGRESSES

Canada was generally satisfied with the outcome of the 9th Congress, as well as its venue, organization and content. However, Canada hopes that the venue and dates of the 10th Congress will be decided more in advance than was the case for the 9th Congress in order to permit the opportunity for better planning by the organizing country, as well as by the participating ones. Canada also hopes that there will be less problems with respect to the location and setting up of the exhibits and kiosks.

The 9th Congress was a congress of transition following the restructuring of the United Nations crime prevention and criminal justice programme. In accordance with its mandate, the 9th Congress fulfilled its role as a forum for the exchange of information and the identification of new trends.

Canada believes that the adoption of Congress rule of procedure 28, concerning the four-month deadline for submission of resolutions, largely contributed to this success by permitting Member States to come forward with prepared positions on all substantive issues to be considered by the Congress. However, Canada has reservations as to the adoption by congresses of omnibus resolutions, even if the four-month deadline rule applies. Given the level of attention and time consumption associated with their adoption, such broad resolutions detract from the main objectives of congresses.

It is unfortunate, as well, that most of the resolutions on well focused issues did not receive within informal working groups the same attention from which they would have otherwise benefitted in the main committees that operate with simultaneous interpretation. Indeed, paramount to fully productive discussions associated with the adoption of resolutions is the contribution of Member States, as well as the input of non-governmental organizations, institutes and individual experts. One way of solving this problem would be to have one of the Congress Committees, at the outset, devote its time to the full consideration of resolutions with all participants. Another alternative would be to divide the resolutions between the Committees on the basis of their substantive expertise. Since there would be less time available, this would obviously imply a decrease in the number of issues and workshops to be discussed by other committees. While this decrease would be welcome if it permits a more focused discussion on specific issues, efforts should still be made to ensure that the number of resolutions are kept to a minimum and that the main purpose of the Congresses (i.e., exchange of information and identification of new trends) is not forgotten.

Canada believes that the workshops were the highlight of the 9th Congress, even though some workshops were not as well attended as expected, perhaps related in part to the extensive time devoted to negotiations on resolutions outside the formal setting. Canada believes that the Congress workshops are so important and crucial in the exchange of information and the identification of new trends, which constitute the basis of the new role of congresses, that the Congress rules of procedure should be amended to reflect their role and importance for future Congresses.

The rules should reflect that these workshops can, with the approval of the Commission, be organized by any interested party, including Member States, the interregional and regional institutes and non-governmental organizations, working in close collaboration to bring forward their different perspectives on the issues to be addressed. Such a participatory process fulfils more thoroughly the

main objectives of congresses and permits them to bring forward a different perspective than that of the Commission.

The Congress rules of procedure should also reflect that the number of workshops to be presented during a congress should be limited. Furthermore, the rules should mention that all workshops held during the Congress should fulfil five objectives during future Congresses:

- 1) deal with items of interest to both developing and developed countries;
- 2) be multidisciplinary and display a balance among the various disciplines (law, police, corrections and social sciences) and entities (Member States, interregional and regional institutes and non-governmental organizations) interested in the criminal justice system ;
- 3) endeavour to identify emerging issues;
- 4) stimulate discussion, rather than rely upon prepared speeches by being oriented towards practical problems and solutions; and, finally,
- 5) have a multiplier effect in stimulating work which would continue following the Congress.

Concerning the topics that could be discussed at the 10th Congress, Canada believes that the interest demonstrated at the 9th Congress and by the international community in general on the issues of violence against women, violence in society and organized crime confirms the need for more work to be done at the 10th Congress on these pressing issues.

10.2 FROM A NATIONAL PERSPECTIVE

For this reason, Canada will monitor compliance with the standards established at the Congress in relation to research, public education, information systems and other types of initiatives in criminal justice and crime prevention. It will endeavour to review existing, and to develop new legislation, procedures, policies and practices in conformity with the existing United Nations norms and standards. It will continue to develop and provide specialized training programs for law enforcement, custodial and other criminal justice personnel in areas where such training is required. Canada will facilitate the organization of conferences, workshops and training sessions to promote the implementation and the promotion of United Nations instruments on criminal justice and crime prevention.

10.3 FROM AN INTERNATIONAL PERSPECTIVE

As one of the forty members of the CCPCJ, Canada will continue to actively participate in elaboration of the United Nations crime prevention and criminal justice programme. It will endeavour to report periodically to the United Nations on the resolutions which require follow-up. It will also contribute to greater coordination among criminal justice agencies, both nationally and internationally.

ANNEXES

- A List of Abbreviations used in the Report*
- B List of Canadian Participants*
- C Intervention concerning Topic 1: International Cooperation and Practical Technical Assistance for Strengthening the Rule of Law: Promoting the United Nations Crime Prevention and Criminal Justice Programme*
- D Intervention concerning Topic 2: Action against National and Transnational Economic and Organized Crime, and the Role of Criminal Law in the Protection of the Environment: National Experiences and International Cooperation*
- E Intervention concerning Topic 3: Criminal Justice and Police Systems: Management and Improvement of Police and Other Law Enforcement Agencies, Prosecution, Courts and Corrections; and, the Role of Lawyers*
- F Intervention concerning Topic 4: Crime Prevention Strategies: In Particular as Related to Crimes in Urban Areas and Juvenile and Violent Criminality, including the Question of Victims: Assessment and New Perspectives*
- G Plenary Speech on Experiences in Practical Measures Aimed at Combating Corruption involving Public Officials*
- H Plenary Speech on Technical Cooperation*
- I Speech for the Workshop on Extradition and International Cooperation: Exchange of National Experiences and the Implementation of Relevant Principles in National Legislation*
- J Speech for the Workshop on Mass Media and Crime Prevention*
- K Speech for the Workshop on the Prevention of Violent Crime: The Family Violence Initiative*
- L Speech for the Workshop on the Prevention of Violent Crime: Outline of Canadian Measures on Control of Firearms*
- M Speech for the Workshop on Environmental Protection at the National and International Levels: Potential and Limits of Criminal Justice*
- N Speech for the Workshop on International Cooperation and Assistance in the Management of the Criminal Justice System: Computerization of Criminal Justice Operations and the Development, Analysis and Policy Use of Criminal Justice Information - Developing Justice Statistics Mechanisms: Purposes and Functional Requirements*
- O Speech for the Workshop on International Cooperation and Assistance in the Management of the Criminal Justice System: Computerization of Criminal Justice Operations and the Development, Analysis and Policy Use of Criminal Justice Information - The Need for International Cooperation in Combating Computer Crime*
- P Report of the National Associations Active in Criminal Justice Non-Governmental Organization Representatives*

LIST OF ABBREVIATIONS USED IN THE REPORT

CBA	Canadian Bar Association
CCJS	Canadian Centre for Justice Statistics
CCPC	United Nations Committee on Crime Prevention and Control
CCPCJ	United Nations Commission on Crime Prevention and Criminal Justice (Commission)
CCSO	Coordinating Committee of Senior Officials
CPCJB	Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, United Nations Office at Vienna
DCI	Defence for Children International
ECA	Economic Commission for Africa
ECLAC	Economic Commission for Latin America and the Caribbean
ESCAP	Economic and Social Commission for Asia and the Pacific
ECOSOC	Economic and Social Council
GEM	Group of Mediterranean States
HEUNI	European Institute for Crime Prevention and Control, affiliated with the United Nations
ICCLRCJP	International Centre for Criminal Law Reform and Criminal Justice Policy
ICPC	International Centre for the Prevention of Crime
IGO	Inter-governmental organizations
ILANUD	United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders
INTERPOL	International Criminal Police Organization
NAACJ	National Associations Active in Criminal Justice
NGO	Non-governmental organization

OECD	Organization of Economic Cooperation and Development
PRI	Penal Reform International
RCMP	Royal Canadian Mounted Police
SMRs	Standard Minimum Rules for the Treatment of Prisoners
UN	United Nations
UNAFEI	United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders
UNAFRI	United Nations African Institute for the Prevention of Crime and the Treatment of Offenders
UNCJIN	United Nations Crime and Justice Information Network
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICRI	United Nations Interregional Crime and Justice Research Institute
WEOG	Western European and Other Groups Member States
WHO	World Health Organization

ANNEX "B"

LIST OF CANADIAN PARTICIPANTS TO THE NINTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS, HELD IN CAIRO, EGYPT, APRIL 29 - 8 MAY 1995

Allan Rock, Minister of Justice and
Attorney General of Canada
Richard Mosley

Michael Bell
Donald Piragoff
Lucie Angers
Elaine Scott

Denyse Dufresne
Cleve Cooper
Jean-Luc Chouinard
Lorrain Audy
Susan Christie

Head of Delegation
Alternate Head of Delegation,
Department of Justice
Ambassador of Canada to Egypt,
Department of Justice Canada
Department of Justice Canada
National Crime Prevention Council
Secretariat
Solicitor General Canada
Royal Canadian Mounted Police
Foreign Affairs and International Trade
Ministry of Public Security (Québec)
Ministry of the Attorney General (British
Columbia)

Other Officials of the Federal Government

Glenn McKinnon
Sheila Purdy

Member of Parliament
Office of the Minister

Staff Supporting the Canadian Delegation

John Bell
Bea Cleary
Valerie Hughes
Charlene Cardinal
Julie Pigeon
Kim Prost
Mohan Prabhu
Johanne Vallée
Robert Cormier

Second Secretary, Canadian Embassy, Cairo
Canadian Coordinator - Department of Justice Canada
Department of Justice Canada
Department of Justice Canada
Department of Justice Canada
Department of Justice Canada
Department of Justice Canada
National Crime Prevention Council
Ministry of the Solicitor General Canada

Staff Supporting the Canadian Delegation (Con't.)

Brendan Reynolds
Sange De Silva
Ben Soave

Correctional Services Canada
Canadian Centre for Justice Statistics
Royal Canadian Mounted Police

Officials Involved in the Canadian Exhibit on Computerization

Irène Arseneau
Greg MacDougall
Denis Sauvé

Department of Justice Canada
Department of Justice Canada
Statistics Canada

Canadians Participating in the Mass Media and Crime Prevention Workshop

Peter Kent
René Caron

Global Television
TROP

Non-Governmental Organizations, Participation Financially Supported by Federal Government

Lea Lakeman
James MacLatchie
Linda MacLeod

Canadian Association of Sexual Assault Centres
John Howard Society of Canada
National Associations Active in Criminal Justice

Non-Governmental Organizations, Participation Not Financially Supported

Daniel Préfontaine

Catherine Bragg

Marcia Kran

Irvin Waller
Patti Pearcey
Michel Patenaude
Major David Howell
Laurence Mawhinney
Jim Hilborn

Director, International Centre for Criminal Law
Reform and Criminal Justice Policy
Senior Associate, International Centre for Criminal
Law Reform and Criminal Justice Policy
Senior Associate, International Centre for Criminal
Law Reform and Criminal Justice Policy
International Centre for the Prevention of Crime
British Columbia Coalition for Safer Communities
International Centre for the Prevention of Crime
Salvation Army
Federation of Canadian Municipalities
Canadian Training Institute

Other Delegates Attending as Individual Delegates

Alexander Abdennur
Dahn Batchelor
John Peter Frecker
James MacKenzie
Terry Mueller

Crime Causation and Prevention Consultant
Abatis Paralegal Services Inc.
Barrister and Solicitor
Department of Law, Carleton University
Public Policy Consultant



9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders

9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants

TOPIC 1:

International Cooperation and Practical Assistance
For Strengthening the Rule of Law: Promoting the
United Nations Crime Prevention and Criminal Justice Programme

THÈME 1:

Coopération internationale et assistance technique pratique en
vue du renforcement de la primauté du droit : promotion du
programme des Nations Unies pour la prévention du crime et la justice pénale

SPEECH

As Delivered By
The Honourable Allan Rock
Minister of Justice and Attorney General of Canada

DISCOURS

Tel que prononcé par
l'Honorable Allan Rock
Ministre de la Justice et Procureur général du Canada

April 30 avril 1995

Mr. President, May I begin by expressing, on behalf of the government and the people of Canada, our gratitude to the government of the Arab Republic of Egypt for its generosity in serving as host of this Congress and may I congratulate you, Mr. President, upon your election to lead this assembly and upon your effectiveness in that role.

The topic that we address today has a feature that sets it apart, that holds promise of enduring value and that is its practicality. Because today we have the opportunity in assembly to share technical assistance, a term that I take to mean, simply, practical help, useful advice and by which each of us can assist the other and be assisted by others in working to improve the lives of people who live in our respective countries. And all of that in the context of important subjects of this Congress; crime prevention and the strengthening of the criminal justice system.

In the few moments available to me this morning, I would like to identify some areas in which we in Canada would like the help of others and touch upon experiences that we have had that might be of assistance to our colleagues and friends elsewhere.

Let me first of all identify, Mr. President, some areas in which we want help, areas that we propose to pursue in bilateral meetings and follow-up at the conclusion of this Congress. We can learn, for example, from the experiences of France and Spain in developing community action for effective crime prevention. France leads the world and others have followed its example in developing municipal crime prevention councils of which there are now over 750 in place. And, during its ten years of experience, it has learned lessons that we can all learn. Its structure is supported by a national intergovernmental initiative that makes crime prevention a reality on the streets of towns and cities in that country.

We want to learn also from the United States of America. Its recent Law Enforcement and Violent Crime Act created the President's Crime Prevention Council, funded to achieve partnerships between housing and schools and social services, police, justice and community groups. It is an exemplary approach with a structure and with resources that are bound to make it succeed. There are also specific undertakings in the United States from which we can learn. Projects like those involving the seven largest cities in Texas where community action plans have been developed to prevent crime. Canadian cities are going to visit Texas, Mr. President, to study what has been achieved there.

We want to learn from the experience of Cuba. We heard yesterday in conversation with its representatives, that they have been able to address the issue of violence by men against women to some extent and upon examination they concluded that the successful strategy was to achieve a greater measure of economic equality between men and women. We shall look carefully at how that was achieved.

We want help in coming to terms with the rate of incarceration in Canada. We are deeply distressed at the incarceration rates. We can not afford to maintain them and in any event the question arises whether they achieve the most important objectives.

We can learn from the European experience and its constructive approaches. We heard just now from the representative from Sweden about the values and principles that motivate the organization of their correctional system. In Canada, as a practical contribution to the work on criminal law reform and criminal justice policy, we established, in 1991, the International Centre for Criminal Law Reform and Criminal Justice Policy in Vancouver, Canada. That Centre is now at work with the Correctional Service of Canada consulting with respect to improvements we can make in our present system.

May I also touch upon what we have learned from Australia and New Zealand, particularly in the area of gun control. We have very similar social and demographic conditions in Canada. We have studied the experience in those countries and we have learned from it.

And what is there that Canada can offer at this international exchange of experience?

Well, may I touch briefly upon our own constitutional approach, the way in which we established a criminal justice system with a solid constitutional foundation. Some 13 years ago we repatriated our Constitution under the leadership of then Prime Minister Pierre Trudeau. We also took the opportunity to establish our own Charter of Rights and Freedoms guaranteeing individual rights including equality and those Charter constitutional provisions have been of great help in promoting the equality of women in Canadian society.

There is a unique element to our Charter, Mr. President, that it provides by its own terms for a balancing of individual rights and the collective interest recognizing that there can be some laws that infringe individual rights and that they can be justified in a free and democratic society if the collective imperative requires that result.

We've established a Court Challenges Program to fund those equality seeking groups who would challenge laws on the basis of discrimination and provided public money so that access to court is available for such groups.

There are perhaps other things in the Canadian experience that might be useful to others. We have established a network of front line sexual assault centres and transition houses across Canada. These have been established by non-governmental organizations but they have developed a body of knowledge and learning with respect to the establishment and management of such facilities and the government of Canada would be happy to serve as an agent for putting people from around the world in touch with those who have developed that learning so that it might be shared.

On another matter, the government of Canada has worked over the years to develop strategies for consultation in the development of public policy and legislation so that we can canvas disparate views in society and involve people constructively in the process. We would be happy to share what we have learned about the process of consultation.

Mr. President, we have spoken about technical assistance or practical help that each of us can afford to the other. But there are also things that we can do together and perhaps one of the

leading examples, as it relates to the relevant subjects, is the International Crime Prevention Centre.

The governments of France and of Canada contributed to setting up the International Centre for Crime Prevention last year in Montreal. The purpose is to make full use, take full advantage of the know how and experience of various countries so that practice in crime prevention throughout the world, particularly through partnerships, should better attain its objectives. The Centre has been a technical collaborator in setting up a workshop on violent crime prevention and one on urban policies to be submitted in the next few days during this Congress. The founding members of the Centre, in other words the governments of France, Quebec and Canada, invite other governments to associate themselves with them within the Advisory and Consultative Committee so as to further the Centre's activities and help its innovative approach to deal with violence and crime, particularly in towns and cities.

These are just a few of the ways in which we can help each other and I suggest that we do so by regarding technical cooperation or practical help not as a humanitarian gesture to countries in need but rather as a way of cooperating in the development of crime prevention and criminal justice systems and strategies that will lead, in the long term, to strengthening all of our countries, to economic improvement, to respect for the human rights of others and the rule of law, to better and more democratic governments and increased social stability. And may I say that I look forward to working with Canada's friends and colleagues around the world in achieving these common objectives.

Thank you.



Department of Justice
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Ministère de la Justice
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ANNEX D

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

TOPIC 2:

**ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC
AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW
IN THE PROTECTION OF THE ENVIRONMENT:
NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION**

SUJET 2:

**LUTTE CONTRE LA CRIMINALITÉ ORGANISÉE ET LA DÉLINQUANCE
ÉCONOMIQUE NATIONALES ET TRANSNATIONALES ET RÔLE DU
DROIT PÉNAL DANS LA PROTECTION DE L'ENVIRONNEMENT :
EXPÉRIENCES DES DIVERS PAYS ET COOPÉRATION INTERNATIONALE**

SPEECH

delivered by Kim Prost

DISCOURS

prononcé par Kim Prost

**May 2, 1995
Le 2 mai 1995**

Canada

TOPIC 2:
ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC
AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW
IN THE PROTECTION OF THE ENVIRONMENT:
NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

MR. PRESIDENT,

Organised crime is a very serious problem for all countries, whether developed, developing or in transition. It is a parasite sapping the vitality of healthy economies and societies. It threatens basic economic, social and political institutions and values, and impedes their development. Traditional responses to organised crime have been largely domestic in nature and have yielded poor results. Criminals operate globally, and the required response by governments must also be a global response, as no country exists in a vacuum.

Le Canada a participé activement à la récente conférence ministérielle mondiale sur la criminalité transnationale organisée qui s'est tenue à Naples, en novembre 1994. Nous sommes d'avis que le plan d'action et la déclaration politique adoptés à cette conférence sont des réalisations importantes, qui ont permis, d'une part, de sensibiliser davantage la communauté internationale au problème que constitue la criminalité organisée et, d'autre part, d'inciter les milieux politiques à lutter contre ce problème. Alors que la déclaration politique traduit la volonté et l'engagement des gouvernements d'agir contre la criminalité organisée, le plan d'action global est la liste détaillée des mesures que les états devraient envisager de prendre afin d'établir et de mettre en oeuvre une stratégie cohérente et coordonnée de lutte contre ce problème. Nous invitons les états qui ne l'ont pas déjà fait à songer très sérieusement à adopter, lorsque cela est possible, les mesures énoncées dans le plan d'action et à les mettre en oeuvre le plus tôt possible.

When the United Nations Commission on Crime Prevention and Criminal Justice originally suggested that organized crime be included on the agenda of the 9th Congress, it was for the

purpose of providing a forum to exchange information and identify measures that could be undertaken domestically and internationally. To a large extent, this has already occurred through the venue of the Naples Conference and, we might add, successfully so. Therefore, we call upon Member States not to devote the time of the 9th Congress to re-debating issues upon which there was agreement at Naples. This would be counter-productive. We submit that the focus of our efforts at the 9th Congress should be to discuss how to transform the Political Declaration and Global Action Plan into concrete action and reality.

Canada would like to see the debate at this Congress devoted to the next steps that should be taken after the achievements of Naples; in particular, what sorts of technical cooperation and assistance projects should be undertaken by the United Nations and Member States in order to breathe life into the Action Plan?

Our common efforts should be focused on providing practical assistance so countries can develop a network of legislation concerning money laundering, proceeds of crime and asset sharing, and improve mechanisms for mutual legal assistance, extradition, and investigative techniques.

Mr. President, one of the means to achieve this goal is through enhanced technical cooperation.

Canada has been and continues to be strongly supportive of programs for technical cooperation. The following are but a few examples of possible areas of technical cooperation.

The criminal elements in our societies never hesitate to take advantage of the differences between legal systems and to use those to benefit their activities and criminal organizations. Promoting the expansion of the network of effective mutual assistance treaties is a cost-effective way of increasing Member States' ability to counter such activity. These treaties bridge

the gaps between systems and allow countries to effectively assist each other in gathering evidence for use in criminal cases.

In recognition of its importance Canada has developed an extensive program for mutual assistance over the past several years through the negotiation of bilateral treaties, development and implementation of flexible domestic legislation, extensive training of law enforcement authorities and the production of manuals and guides to assist program users. Canada also participated in a project on mutual assistance initiated by the United Nations Crime Prevention and Criminal Justice Branch by preparing an initial draft of a guide to the United Nations Model Treaty on Mutual Assistance, which will be distributed at this Conference.

For those countries which are developing or would like to develop a mutual assistance program, Canada can furnish technical assistance by providing copies of legislation, model treaties, manuals for users of the systems and booklets on Canada's central authority. In addition experts within the Canadian Department of Justice Central Authority can provide advice and information to interested officials of other Member States.

Canada has also developed a new approach for undertaking investigations to counter money laundering by drug traffickers as part of our National Drug Strategy. We are doing this through the work of Integrated Anti-Drug Profiteering Units. These units incorporate the participation of local, provincial and federal police, along with prosecutors, customs officers and forensic accountants. The approaches adopted by the units are proving to be both efficient and effective. We would be happy to share our experience in this area with interested governments.

I would also note that due to the profit motive, organized crime proliferates within the area of economic crime and its

proliferation is only enhanced by modern advances in technology.

The door is now open to new forms of technological crime and, in particular, computer-related crimes. Communications networks can be and are used by criminals in a variety of innovative ways. For instance, a criminal in one country can gain unauthorized access to a computer in another country to steal data, destroy files or steal computer telecommunications time. The computer channels can be used effectively to distribute pornography or hate literature in a manner that is virtually undetectable.

This issue was one of the emerging issues that was identified by the 8th Congress. It is evident that the international community must co-ordinate its approach to the detection, investigation and prosecution of technological crime and thus cooperation and projects of technical assistance in this area are essential. Following the 8th Congress, Canada produced a manual on computer related crimes to assist Member States to address this problem. The manual establishes an action plan to guide countries, both nationally and internationally. This manual was published by the United Nations in 1994, as volumes 43 & 44 of the International Review of Criminal Policy. The manual is to be specifically discussed within the context of the Congress workshop on Computerization and as well Canadian authorities would be pleased to share any expertise gained through this project with other Member States.

As well Mr. President, Canada through the RCMP has developed a national strategy for addressing a growing problem of organized economic crime in the form of the distribution and use of counterfeit credit cards. It includes the creation of a specialized group within the Forensic Laboratory for the examination of counterfeit or altered credit cards. Further the Royal Canadian Mounted Police has created a classification system for credit cards, a statistical data base and a Counterfeit Credit Card Bulletin to alert law enforcement and the banking community about related counterfeit activity. The Canadian

Bankers Association, as a strategic partner has co-sponsored this undertaking and views the new laboratory service as a model for law enforcement throughout the world. The credit card company VISA plans to distribute samples of the bulletins to its offices worldwide. The International Banking Security Association is willing to use this classification system as a model for the world. Canada would be pleased to share its experience in this program with other interested Member States.

Mr. President,

Organized Crime is a clear and present threat to our global community. We urge the Member States to use the opportunity presented by this conference to facilitate the adoption and implementation of practical measures for assistance and cooperation to combat this very pressing danger to world peace, stability and security.

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

TOPIC 3:

**CRIMINAL JUSTICE AND POLICE SYSTEMS:
MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW
ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND
CORRECTIONS; AND, THE ROLE OF LAWYERS**

SUJET 3:

**SYSTÈMES DE JUSTICE PÉNALE ET DE POLICE:
GESTION ET AMÉLIORATION DE LA POLICE ET D'AUTRES SERVICES
DE RÉPRESSION, DU PARQUET, DES TRIBUNAUX ET DU SYSTÈME
PÉNITENTIAIRE ET RÔLE DES AVOCATS**

SPEECH

delivered by Denyse Dufresne

DISCOURS

prononcé par Denyse Dufresne

SUJETS D'ENTRETIEN POUR LE
NEUVIÈME CONGRÈS DES NATIONS UNIES SUR LA PRÉVENTION DU CRIME
ET LE TRAITEMENT DES DÉLINQUANTS

LE CAIRE, 29 AVRIL - 8 MAI 1995

3^e SUJET : LES SYSTÈMES DE JUSTICE PÉNALE ET DE POLICE

Préambule

Le Canada appuie fermement l'objectif du Congrès des Nations Unies sur la prévention du crime et le traitement des délinquants qui consiste à trouver de nouvelles stratégies de prévention et de répression du crime et de renforcement du système de justice pénale. Nous croyons avoir réalisé des progrès importants à l'égard de nombreuses questions soulevées au sujet du système correctionnel et du secteur de la police, mais nous savons aussi que nous avons beaucoup à apprendre ici, au Caire.

Independence of the Judiciary/Prosecution module

The notions of the independence of the judiciary and the exercise of prosecutorial discretion remain the cornerstones of Canada's criminal justice system. The principle of judicial independence is recognized in Canada's constitution as a mainstay of protection of individual Canadians' rights. Strong constitutional and statutory guarantees ensure that the judiciary will be truly independent in practice as well as law.

This is a fundamental precept of the Canadian constitution—a precept that requires that Canadian judges be completely separate in authority and function from all other participants in the justice system, and not in any way dependent on the legislative, and particularly the executive, branches of government. Through a number of independent, administrative mechanisms, issues of salary and tenure are precluded from arbitrary interference from the executive branch of government.

Canada has consistently supported respect for human rights, both domestically and internationally. The enunciation and protection of human rights in international and domestic documents is only meaningful if those rights can be achieved and enforced. To that end, an impartial and independent judiciary is essential to the administration of justice and the protection of human rights. It is for this reason that Canada played a leading role in the negotiation of the Basic Principles on the Independence of the Judiciary at the 7th UN Congress in 1985 in Milan, Italy. We urge states to respect and implement those principles.

Secteur de la police

Un des éléments du troisième sujet - la mobilisation des dispositions en matière d'application de la loi et l'étude de moyens pour améliorer les liens entre le public et la police, c'est-à-dire en développant le concept de police communautaire - fait partie intégrante de notre stratégie de prévention du crime et nous tient à coeur.

Le concept de police communautaire a été adopté non seulement par la Gendarmerie royale du Canada, le plus important corps policier au Canada, mais aussi par un nombre croissant de services de police locaux et par les autorités qui les régissent. L'accent mis sur le partenariat entre la police et la communauté pour cerner les problèmes, trouver des solutions et fixer les priorités de la police cadre bien avec nos efforts visant à prévenir le crime et à amener la communauté à participer au système de justice pénale.

Nous croyons que la prévention communautaire du crime ainsi que le règlement des problèmes par la police communautaire sont des façons logiques et réalistes de lutter contre les causes sous-jacentes de la criminalité et du désordre, tout particulièrement en vue de répondre aux besoins précis de nos communautés autochtones et autres minorités ethniques en matière de services de police.

Dans notre rapport national intitulé « Une vision de l'avenir de la police au Canada : police - défi 2000 » rendu public en 1990 par le Solliciteur général du Canada, la police communautaire y est décrite comme l'avenir des services de police. Depuis, des progrès très encourageants ont été observés régulièrement.

La police communautaire est un élément clé de la Stratégie nationale sur la sécurité communautaire et la prévention du crime du gouvernement canadien, qui comprend le tout récent Conseil national de prévention de la criminalité.

Les gouvernements provinciaux souscrivent au concept de police communautaire et se servent du principe pour justifier la restructuration de leur organisation de manière à accroître l'appui aux agents de première ligne et à leur permettre de fournir à la collectivité des services de police plus efficaces et mieux adaptés. Pour n'en citer qu'un exemple, le gouvernement de l'Ontario a récemment débloqué une somme de 67 millions de dollars pour promouvoir la police communautaire et prévenir le crime.

Le Canada utilise la police communautaire avec beaucoup d'efficacité dans la prestation de services de police spécialement adaptés aux besoins culturels des communautés des Premières nations. Dans le cadre de notre Programme de services de police des Premières nations, les gouvernements fédéral et provinciaux concluent des ententes à frais partagés avec des bandes des Premières nations pour l'élaboration de services de police. Ces services peuvent varier énormément sur les plans de la composition et de l'approche, mais ils sont tous conçus en fonction du même principe, soit : la population desservie a beaucoup d'influence dans la façon dont les services de police lui seront fournis ainsi que dans leur composition et est en droit d'obtenir des services de qualité égale à ceux dispensés aux communautés n'appartenant pas aux Premières nations, conformément aux principes fondamentaux régissant l'exercice de la fonction policière au Canada.

Dans l'une de nos plus grandes provinces, le Québec, 17 ententes ont été signées. À l'échelle du Canada, plus de 30 ententes du genre sont en cours de négociation et on s'attend à ce qu'elles soient signées au cours de la prochaine année. Bref, le Canada dispose dans les réserves à travers le pays de corps policiers qui répondent au désir des communautés des Premières nations de gérer leurs propres services de police.

Le Canada attache aussi beaucoup d'importance à la gestion, à l'échelle internationale, du problème du crime organisé transnational.

Nous croyons, et nous sommes persuadés que les États membres ici présents aujourd'hui partagent notre sentiment, que, pour enrayer le crime organisé et le crime transnational, il est essentiel d'améliorer la coopération internationale. Or, les activités des criminels débordent de plus en plus les frontières, et les États doivent trouver des moyens indépendants ainsi que bilatéraux ou multilatéraux pour y mettre un terme. Je parle ici notamment des traités et des ententes, mais aussi de dispositions pratiques à prendre pour coordonner les mesures d'application de la loi.

Nous appuyons sans ambages les programmes internationaux d'aide technique et de coopération destinés à améliorer les capacités individuelles et collectives de l'État de lutter contre le crime organisé transnational. Nous nous sommes engagés avec nos partenaires étrangers à accroître la coopération internationale par les moyens suivants:

- a) participation au Programme des Nations Unies en matière de prévention du crime et de justice pénale (qui a parrainé la conférence ministérielle de Naples sur le crime organisé);
- b) participation aux travaux du G-7, en particulier aux activités du Groupe d'action financier international favorisant les normes et l'action internationale concertée pour combattre le blanchiment d'argent;
- c) participation aux activités de formation et de coopération technique internationales de la GRC, par exemple à l'appui de l'initiative de l'ONU en Haïti, ainsi que d'autres ministères et organismes fédéraux.

Le corps policier national du Canada, la GRC, collabore également avec ses homologues étrangers par le biais de son réseau d'agents de liaison. La GRC participe également à des opérations policières conjointes et fournit ou reçoit de l'aide pour ce qui est de questions criminelles d'intérêt commun, notamment : le trafic de la drogue à l'échelle mondiale; les enquêtes économiques antidroque et les enquêtes sur le blanchiment d'argent; l'immigration clandestine et la contrebande des armes à feu. La coopération sous forme d'action concrète dans ces secteurs et dans d'autres domaines prioritaires est essentielle.

Nous favorisons le partage des produits de la criminalité confisqués, tant au pays qu'à l'étranger, en conformité avec le Règlement sur le partage du produit de l'aliénation des biens confisqués, qui vient d'être promulgué. Nous espérons pouvoir établir un réseau d'ententes solide pour favoriser encore davantage des mesures

communes et coordonnées d'application de la loi dans les diverses juridictions. Au cours des dernières années, le Canada a adopté des lois pour améliorer sa capacité de prévenir le blanchiment d'argent et d'autres activités clés du crime organisé. Il a également établi un certain nombre d'unités antidrogue spéciales mixtes composées d'agents de police, de procureurs du ministère public, d'agents des douanes et de juricomptables, qui se consacrent à des enquêtes sur les produits de la criminalité.

Secteur correctionnel

Le Canada s'emploie toujours à établir un équilibre entre la nécessité de protéger le public contre les délinquants, en particulier ceux qui sont violents, et la recherche d'une politique correctionnelle enrichie et progressive, dont le but ultime est la protection à long terme de la société par la réinsertion sociale des délinquants en tant que citoyens respectueux des lois.

Nous croyons que, dans le monde, bien d'autres pays font face aux mêmes défis en matière correctionnelle que le Canada. Nous avons constaté ce qui suit :

- L'incarcération coûte cher, en particulier lorsqu'on la compare à des solutions de rechange comme la surveillance communautaire.
- Sans être le plus élevé, le taux d'incarcération du Canada est supérieur à la moyenne des pays occidentaux. La population carcérale sous responsabilité fédérale a augmenté de 17% au cours des quatre dernières années, et on prévoit qu'elle croîtra encore de 25 % au cours des cinq prochaines années. Les taux d'incarcération provinciaux montent aussi en flèche. Au Canada, le traitement que l'on réserve aux délinquants est généralement jugé progressif, mais nous continuons à faire face au problème que pose une population carcérale trop élevée.
- Les pressions accrues visant l'imposition de peines d'emprisonnement plus longues ainsi que l'abolition du régime de libération conditionnelle ou l'octroi de périodes de mise en liberté plus courtes ont pour effet de prolonger l'incarcération des délinquants.
- Les crimes sont de plus en plus signalés, et le public s'attend donc à ce que le recours accru aux peines d'emprisonnement soit la réponse à l'augmentation du crime.
- Au Canada, les gouvernements fédéral et provinciaux doivent composer avec des restrictions financières sévères. Ces facteurs amènent les autorités :
 - à consacrer plus de temps et d'énergie à l'amélioration de la gestion, de la prestation et de l'efficacité des services correctionnels, en particulier pour ce qui est des programmes de réadaptation;
 - à insister tout particulièrement sur la coordination interjuridictionnelle et interservice avec d'autres éléments du système de justice pénale;

- à favoriser la liaison à l'échelle internationale en vue d'identifier les « meilleures pratiques »;
- à travailler ensemble pour élaborer une stratégie visant à freiner la croissance de la population carcérale.

L'élément clé de cette stratégie est d'établir une distinction entre les délinquants violents à risque élevé, cas nécessitant l'incarcération jusqu'à ce que la propension à la violence puisse être maîtrisée, et les délinquants à risque faible, qui peuvent être punis par une forme quelconque de peine alternative pouvant être purgée dans la collectivité.

Le parlement canadien a été saisi d'un projet de loi visant à enchâsser dans le Code criminel des solutions de rechange à l'incarcération. Nos propositions législatives relatives à la réforme de la détermination de la peine, qui formeront bientôt une loi, comprennent une série d'options dont pourront se prévaloir les tribunaux pour choisir plus facilement les sanctions communautaires qui s'imposent, au lieu d'avoir à imposer des peines d'emprisonnement.

Pour que ces options soient bien accueillies, il faut, de toute évidence, informer, éduquer et sensibiliser le public. En fait, d'après des sondages d'opinion publique, la population canadienne est prête à accepter des solutions de rechange à l'incarcération pour certains délinquants lorsqu'elle obtient des renseignements sur les circonstances de l'infraction et le délinquant.

Dans les systèmes correctionnels provinciaux, de nombreux délinquants sont emprisonnés pour défaut de paiement d'une amende. Les propositions législatives précisent que des amendes ne devraient être imposées qu'aux délinquants qui peuvent les payer et que l'emprisonnement devrait être le dernier recours en cas de défaut de paiement. Certains gouvernements mettent en place des stratégies vigoureuses visant à réduire le recours à l'incarcération pour défaut de paiement des amendes.

Il convient de souligner que le secteur non gouvernemental s'intéressant à la justice pénale et au secteur correctionnel appuie les types d'approches décrits ici.

Le Canada a également joué un rôle déterminant dans l'élaboration du document intitulé « Pour de meilleurs services correctionnels », qui est le fruit du travail acharné des participants au réseau international des services correctionnels. Le but était de décrire un cadre stratégique - une vision - de la forme que peuvent prendre des « services correctionnels efficaces ». À notre avis, le principal défi consiste à exploiter les ressources du document en vue d'améliorer les services correctionnels tout en favorisant son application et en mettant en commun les renseignements et les compétences. Nous encourageons tous les pays membres à se joindre au réseau international des services correctionnels et à utiliser le cadre en tant que guide vers la réforme et l'amélioration du système correctionnel. Le document sera en montre au kiosque du Canada, dans le secteur des exposants.



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ANNEX F

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

**CRIME PREVENTION STRATEGIES AS RELATED TO CRIME IN
URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY,
INCLUDING THE QUESTION OF VICTIMS:
ASSESSMENT AND NEW PERSPECTIVES**

TOPIC IV

**LES STRATÉGIES DE PRÉVENTION DU CRIME RELIÉES
À LA CRIMINALITÉ DANS LES MILIEUX URBAINS ET À LA CRIMINALITÉ
AVEC VIOLENCE ET CHEZ LES JEUNES, Y COMPRIS LA QUESTION DES
VICTIMES : ÉVALUATION ET NOUVELLES PERSPECTIVES**

SUJET IV

SPEECH
delivered by the
Honourable Allan Rock
Minister of Justice and
Attorney General of Canada

DISCOURS
prononcé par l'Honorable Allan Rock
Ministre de la Justice et
Procureur général du Canada

**April 29, 1995
Le 29 avril 1995**

Canada

**CRIME PREVENTION STRATEGIES AS RELATED TO CRIME IN
URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY,
INCLUDING THE QUESTION OF VICTIMS:
ASSESSMENT AND NEW PERSPECTIVES.**
TOPIC 1V

Since this is the first intervention that Canada will be making, I would first like to congratulate you, Mr. Chairman, on your election. I am pleased to address the Congress on three issues today: elimination of violence against women, control of firearms and crime prevention.

ELIMINATION OF VIOLENCE AGAINST WOMEN

I believe that it is important to use language that is direct in speaking about the issue we are discussing; it is violence by men against women, occurring both in the domestic context and in society generally.

The evidence shows that violence by men against women is not only pervasive: it occurs at all points of the economic spectrum -- and it can and does occur regardless of the age, the culture, or the religion of the parties.

Violence has significant repercussions on the health and well being of women. It also diminishes our communities because it is a barrier to the participation of women, and makes it impossible for women to achieve their human and economic potential. To that extent, it impoverishes us all.

The incidence of violence against women is at once a reflection of women's structural and systemic inequality in society and, in a very real sense, a means of maintaining that inequality.

Violence violates women's fundamental human rights and freedoms. The harm caused by violence undermines the ability of women to lead autonomous lives, free of fear and coercion, and imposes great costs on society.

In Canada, the results of a national survey on violence against women, released in November 1993, showed that violence and fear of violence by men is an everyday reality for many women.

The survey, carried out by the statistics gathering arm of the federal government, demonstrated that:

- One-half of all Canadian women have experienced at least one incident of violence since the age of 16.
- Almost one-half of women reported violence by men known to them and one-quarter reported violence by a stranger.
- One-quarter of all women have experienced violence at the hands of a current or past male partner.
- Six-in-ten Canadian women who walk alone in their own area after dark feel "very" or "somewhat" worried doing so.

The impact of violence against women extends to their children. There is solid evidence that violent behaviour is passed from father to son. Male children who witness violence in the home are likely to repeat the violence in their own relationships with women.

The scale and the importance of the problem of men's violence against women in our societies justifies a frank and full discussion of this topic at the Congress. To contribute to this discussion, Canada has drafted a resolution on the elimination of violence against women. While understanding that violence against women is a complex issue, the purpose of the proposed resolution is to emphasize the role of the criminal law and equality seeking crime prevention strategies.

I urge all delegates to support our resolution.

In all countries, the message must be clear: no matter what the context, violence against women is unacceptable, and such violent acts are reprehensible and must be prohibited. They must not be allowed to slow international progress toward women's equality.

One of the purposes of this conference is to permit states to provide each other with technical assistance. To me, that means that Canada can learn from others. We are also anxious to share with others what little we have learned about this subject in Canada:

- The role of the Constitution in enshrining equality and creating a legal system to achieve it.

- The importance of a network of front-line services such as sexual assault centres, and transition houses. We can facilitate communication between those facilities and anyone who wants to learn how they have been established and how they are managed.
- Legal aid programs for those who are involved in the criminal justice system and for women seeking legal remedies.
- The relationship between the design by government of its social programs and the need to address violence against women.

In all of this, the role of non-governmental organizations has been crucial. Particularly in the last twenty years, independent and outspoken NGOs have helped shape public policy by providing constructive criticism of government. We must always encourage and welcome their role.

Purpose of conference: technical assistance. In this context, we are here to learn from them. We are also anxious to share what little we have learned:

- Charter - equality and legal system.
- Network of front-line services: sexual assault centres, transition houses.
- Legal aid programs -- for those involved in criminal justice system and for women seeking legal remedies.
- Relationship between government's design of social programs and the issue of violence towards women.

CONTROL OF FIREARMS

Effective control of firearms by government means a number of things and has several purposes. I speak from the Canadian experience and perspective and I recognize that the outlook may be vastly different elsewhere. No single approach is right for all societies. I simply wish to express our perspective for what it is worth.

The Government of Canada believes that the proper role of government is to determine the legitimate uses of firearms and which firearms are appropriate for those uses.

In Canada, hunting with firearms is an important activity, particularly for aboriginal persons, who often hunt for sustenance. Recreational hunting is an important economic activity, and contributes to a great deal of tourism. I hope that all delegates will find the opportunity to visit Canada and participate!

In Canada, firearms are used as a tool in farming and in ranching. Target shooting is popular, especially with pistols.

Many Canadians enjoy collecting firearms.

The Canadian approach to firearms is reflective in new legislation which is now pending before our legislature. While respecting the legitimate interests that I have described, these are the elements of our approach:

- stronger border control to address smuggling;
- criminal sanctions to deter guns in crime;
- a ban on military type weapons and concealable handguns not appropriate for target shooting competitions;
- registration of all firearms.

The control of firearms also figures in the issue of violence by men against women.

One woman in Canada is killed with a gun every six days. Most often, she is killed in her home. Almost always, she is killed by someone she knows.

When women are killed in domestic disputes, guns are the weapon of choice by a margin of two to one. Eighty-five per cent of the guns used to kill women are rifles and shotguns, most of which were legally owned at the time of the shooting. These guns were not illicitly obtained: they were quite legal, but they were put to an illicit and deadly purpose.

We also have evidence that a significant number of offenders act impulsively or while intoxicated, suggesting that the simple availability of a gun can determine whether or not a homicide will occur.

And so, the biggest risk for women in Canada, as any victim of domestic violence will tell us, is in the home, not in the streets. In 1993, 75% of female victims were killed in a private residence.

There is therefore a clear, demonstrable and a tragic link between the presence in the home of a firearm even a legal firearm -- and the prospect of a woman's death when domestic violence occurs in such a home.

The need for firearms control goes beyond crime to the issue of public health. Of the 1,100 suicides from firearms each year in Canada, too many are the result of an impulsive act, often by a young person in a moment of torment. If the legally acquired firearm was not readily at hand, the tragedy might have been averted, and help might have been made available to save a life.

The point is broader still. In the years since 1970, 425 children have died in Canada as a result of accidents with firearms. Secure storage can help us avert those senseless tragedies.

The police believe, and I agree, that universal registration will encourage greater compliance with existing laws requiring safe and secure storage of firearms. If firearms are securely stored in accordance with the law, they will be less readily available to persons who are acting on impulse in a moment of despair or anguish and less likely to be picked up by children.

For our consideration at this Congress, Japan has proposed a resolution concerning gun control. Canada believes that there are a number of significant principles and ideas expressed in the resolution which deserve our consideration and support. We welcome the opportunity to discuss some of these ideas, and where possible suggest improvements for your consideration.

In addition to the ideas raised by Japan, Canada believes certain other ideas and measures would improve this strategy to control firearms at the international level.

I therefore suggest that this Congress consider certain additions to the Japanese proposal, such as:

- a reference to public health and safety, in addition to law and order;
- the need for the United Nations to develop principles or guidelines on measures that states might wish to consider when they enact gun control; and,
- recognition of the relationship between firearms and domestic violence, accidental death and suicide.

Canada welcomes the opportunity to share the technical knowledge and strategies we acquired in developing our new firearms legislation and programs. Only through global cooperation can we protect all member states from firearms crime, violence, and illicit trafficking.

CRIME PREVENTION

Finally, I will turn to the last subject I will address.

Crime prevention means recognizing that the criminal justice system alone cannot and will not solve the issue of crime. Harsher laws alone will not solve our problems since they deal with effects and not with causes. By the time the justice system becomes engaged, people are in trouble, charges have been laid, harm has been done. The important social and economic costs of crime have already been incurred.

I am pleased to address the Congress on how countries can give greater importance to crime prevention, through social development and a cooperative and multi-disciplinary approach between governments and non-governmental organizations, in order to fight the underlying factors associated with criminality.

Prevention of crime through social development consists in a comprehensive approach in which all actors in society have to become involved.

To be effective in preventing crime, we must make linkages between law enforcement and social agencies; between the educational system and families; between community workers and health professionals.

To prevent crime, we must recognize that there are several connections between the crime rate and the unemployment rate - between access by young people to movies saturated with violence, and the way they act toward one another. Between the way a child behaves at school and the question of whether he has a hot meal that day.

Canada is proud that the International Crime Prevention Centre is based in Montreal, and we urge all member states to support the Centre in its work.

- Pour qu'un plan de prévention du crime touche vraiment aux problèmes reliés aux crimes locaux et pour qu'il puisse y répondre, la collectivité doit y participer à toutes les étapes et à tous les niveaux. Il a été prouvé que plus grandes sont la participation et la solidarité de la collectivité pour faire face aux problèmes sociaux et de criminalité, plus grande est la sécurité et meilleure est la qualité de vie. Par exemple, des organisations communautaires offrent des services d'alphabétisation aux jeunes décrocheurs.
- Au Canada, nous travaillons lentement mais sûrement afin de mettre en oeuvre ces principes: Entre autres choses, le gouvernement a créé en 1994 le Conseil national de la prévention du crime, composé de vingt-cinq membres provenant de divers milieux.

- Le Conseil national, qui sert de structure centrale de coordination et d'information visant à unifier les efforts en matière de prévention du crime et à trouver des solutions pratiques à tous les niveaux mais particulièrement au niveau des communautés, est à développer une stratégie nationale en matière de prévention du crime par le développement social.
- Le Conseil national a identifié trois priorités: intervention hâtive auprès des enfants, du stade prénatal jusqu'à l'âge de six ans, amélioration des liens entre la justice applicable aux jeunes et leurs besoins, ainsi que le contrôle des armes à feu. Des travaux précédents ont indiqué un besoin pour que de telles mesures soient complètes et mises en place aux niveaux national et international.

During my last eighteen months as the federal Minister of Justice of Canada, I have learned that "the best way to predict the future is to invent it". Today, at this Congress, the world has an opportunity to invent a future that will reflect the best about humanity and to provide for a brighter future for our children. I look forward to working with all of you in this common endeavour.

DATE: le 29 avril 1995

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

**EXPERIENCES IN PRACTICAL MEASURES AIMED AT COMBATING
CORRUPTION INVOLVING PUBLIC OFFICIALS**

**DONNÉES D'EXPÉRIENCE CONCERNANT LES MESURES PRATIQUES
VISANT A LUTTER CONTRE LA CORRUPTION IMPLIQUANT
LES FONCTIONNAIRES**

**SPEECH
delivered by
Lorrain Audy**

**DISCOURS
prononcé par
Lorrain Audy**

**May 4, 1995
Le 4 mai 1995**

NEUVIÈME CONGRÈS DES NATIONS UNIES POUR LA PRÉVENTION DU CRIME ET LE TRAITEMENT DES DÉLINQUANTS

DISCOURS SUR LA CORRUPTION

M. le président,

- La corruption nuit aux principes de bon gouvernement et empêche le développement international. Elle met en péril la démocratie, le principe de la légalité, l'indépendance de la magistrature, et l'honnêteté du gouvernement. La corruption est parfois locale, mais peut prendre des proportions internationales. Elle n'est pas facile à tenir en échec, encore moins à maîtriser, et tous les pays, quels que soient leur type, leur dimension ou leur niveau de développement doivent la prévenir et la combattre de façon vigilante.
- Compte tenu des nombreuses facettes de la corruption, de sa nature malveillante et de son caractère intraitable, nous ne pouvons nous permettre de manquer de vigilance. Il nous appartient, à titre d'États Membres des Nations Unies, d'adopter des lois nationales et de collaborer à l'échelon international pour éliminer la corruption.
- Sur le plan national, il est nécessaire d'adopter une approche pluridisciplinaire, systématique et coordonnée afin de régler le problème. On peut réglementer la corruption par une série de lois, de règles parlementaires et de dispositions de nature administrative. Il doit y avoir un amalgame de mesures de prévention, d'éducation et de répression. De plus, on peut avoir recours à des sanctions pénales, administratives et civiles.

M. le président,

- Dans le domaine qui nous intéresse aujourd'hui, soit le domaine pénal, on peut adopter des dispositions créatrices d'infractions qui interdisent des activités comme la corruption, la fraude, l'abus de confiance, la vente, l'achat ou l'influence de nominations ou de charges.
- Afin de neutraliser l'appât du gain associé à la corruption, il est aussi possible d'adopter une loi sur les produits de la criminalité, qui peut criminaliser la possession de biens ou de produits criminellement obtenus ou le blanchiment de produits de la criminalité tirés directement ou indirectement de la perpétration d'infractions de corruption, entre autres.
- Une telle loi peut aussi prévoir la saisie et la confiscation des produits de la criminalité et, s'il est impossible de trouver le bien malgré l'exercice de la diligence raisonnable, elle peut imposer au contrevenant une amende de même valeur que le bien plutôt que d'ordonner la confiscation. Le droit pénal peut également interdire les commissions secrètes.
- Afin de dissuader les politiciens et les personnes qui passent des marchés avec l'État de s'engager dans des manœuvres frauduleuses, le droit pénal d'un pays peut comporter des dispositions empêchant certaines personnes reconnues coupables

d'occuper une charge publique ou un emploi, ou de conclure des marchés avec l'État, ou de tirer profit d'un marché avec l'État.

M. le président,

Je suis heureux de dire que tous les genres de conduite susmentionnés sont régis par le Code criminel du Canada. D'autres types de mesures peuvent également être prévues dans des lois autres que le code criminel d'un pays afin d'assurer la bonne conduite des fonctionnaires qui appliquent les lois et d'assujettir les contrevenants à des sanctions pénales ou à une responsabilité civile. Il peut notamment s'agir d'interdire l'utilisation de renseignements gouvernementaux pour réaliser des gains personnels.

Au sein des gouvernements, les codes régissant la conduite de la fonction publique et des titulaires de charge publique peuvent se révéler utiles. De tels codes ont pour objet d'accroître la confiance du public dans l'intégrité des employés de la fonction publique et des titulaires de charge publique, selon le cas,

(a) en encourageant les personnes qui possèdent l'expérience et les compétences requises à solliciter et à accepter une charge publique;

(b) en facilitant les échanges entre les secteurs privé et public;

(c) en établissant à l'intention des titulaires de charge publique des règles de conduite claires au sujet des conflits d'intérêts et de l'après-mandat;

(d) en réduisant au minimum les possibilités de conflit entre les intérêts personnels des titulaires de charge publique et leurs fonctions officielles, et en prévoyant les moyens de régler de tels conflits, le cas échéant, dans l'intérêt public.

Les codes de conduite peuvent contribuer à prévenir les conflits d'intérêts et peuvent donc jouer un rôle de prévention en matière de corruption. Cependant, les règles de conduite doivent être assez claires et précises pour fournir une orientation pratique. De plus, les fonctionnaires et les titulaires de charge publique devraient pouvoir obtenir d'autres conseils au besoin.

Le gouvernement peut également prévoir des mesures administratives ou disciplinaires, comme des réprimandes (orales ou écrites), des amendes, des suspensions, le retrait d'une autorisation de sécurité, et même le congédiement. Ces mesures peuvent être efficaces. Dans certains cas, des recours de nature pénale ne sont pas nécessaires. Dans d'autres cas, il ne sera pas possible d'obtenir une condamnation au pénal. Les sanctions administratives peuvent alors être particulièrement utiles.

Dans un troisième temps, M. le président,

Les États pourraient envisager certaines autres mesures préventives, dont un recrutement efficace, des autorisations de sécurité, et la plus grande transparence

possible dans la fonction publique. Il est possible d'élaborer des règles de procédure claires et détaillées relativement aux marchés publics de travaux et aux politiques concernant les marchés publics. La vérification peut jouer un rôle considérable tant au sein du gouvernement que dans le secteur privé.

Même si, dans certains pays, le lobbyisme n'a qu'une connotation négative, dans d'autres pays comme le Canada, il peut être associé à une démocratie vigoureuse. Toutefois, il ne fait aucun doute que le lobbyisme peut donner prise à la corruption.

Néanmoins, le lobbyisme est une réalité de la vie à laquelle il faut faire face d'une façon ou d'une autre. Les États Membres pourraient envisager la création d'un système d'enregistrement des lobbyistes pour régler le problème. La Loi sur l'enregistrement des lobbyistes du Canada comprend quatre principes fondamentaux : (1) l'importance de la liberté d'accès au gouvernement; (2) la légitimité du lobbyisme; (3) la nécessité que le public connaisse les diverses influences sur le gouvernement; (4) l'enregistrement des lobbyistes ne doit pas faire obstacle à la liberté d'accès au gouvernement.

M. le président,

Concernant le Code de conduite international pour les fonctionnaires, un certain nombre d'États ont affirmé qu'un tel Code peut être souhaitable comme outil éducatif et utile aux États Membres qui désirent élaborer leurs propres codes ou améliorer des codes déjà existants.

Mais que signifie l'expression «code de conduite», et à qui le code de conduite est-il destiné?

Il peut y avoir différents genres de code de conduite : pour les titulaires de charge publique, pour les législateurs (députés et sénateurs), pour les fonctionnaires, pour les corps professionnels, et même au sein des ministères.

Comme il peut y avoir divers genres de codes de conduite selon le type de fonctionnaires visés, sans compter les codes de conduite des corps professionnels, il n'est peut-être pas possible de rédiger un code de conduite international qui comprenne de façon efficace tous ces éléments.

Tout compte fait, le code vise à criminaliser l'éthique du comportement beaucoup plus qu'elle ne l'est déjà dans certains pays, dont le Canada. De plus, certaines politiques administratives et certaines méthodes autres que pénales règlent mieux certains problèmes. Certaines obligations inscrites dans le code, comme les règles 8, 9 et 10 semblent trop strictes et manquent de souplesse, surtout si elles sont appelées à devenir des infractions criminelles. Le droit pénal et les autres sanctions ne constituent pas nécessairement les meilleures manières de promouvoir l'intégrité au sein du gouvernement à l'aide d'un code de conduite. Il importe également d'avoir recours à l'éducation et à la consultation et ces moyens doivent être mis en relief.

Le Canada appuie l'initiative de lutte de la communauté internationale contre la corruption. Il participe activement aux groupes de travail de l'OCDE et du Conseil de l'Europe, qui étudient le problème d'un point de vue pluridisciplinaire et tiennent compte des divers genres de «fonctionnaires» concernés. Par conséquent, même si nous appuyons l'idée d'effectuer du travail à l'échelon international pour examiner et élaborer des mesures de lutte contre la corruption, nous ne sommes pas persuadés que le code de conduite proposé, actuellement soumis à la Commission pour la prévention du crime et la justice pénale des Nations Unies, constitue la meilleure façon de faire.

Merci, M. le Président.

**9th United Nations Congress
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TECHNICAL COOPERATION

ASSISTANCE TECHNIQUE

**SPEECH
delivered by
Cleve Cooper**

**DISCOURS
prononcé par
Cleve Cooper**

**May 5, 1995
Le 5 mai 1995**

TOPIC I
TECHNICAL COOPERATION
TALKING POINTS

Mr President, Canada believes that national action alone will not be sufficient to respond to criminality in all of its modern forms. Taking into account the financial pressures faced by the United Nations and Member States, including developed countries, we must continue to find practical and cost-effective ways in which to provide technical cooperation and assistance to each other through the United Nations crime prevention and criminal justice programme.

One cost-effective approach is to share our experiences with initiatives aimed at promoting crime prevention at the national level. Canada believes that it has much to learn from the work done in other countries but also much to share from our own experience. I would like to give you some examples.

A major concern in Canada today is with the nature and extent of youth crime. In response, we have undertaken a comprehensive review of our existing legislation and programs. We need to know what has been tried and found to work in other countries.

One of the success stories we have learned of is the experience with Family Group Conferencing in both Australia and New Zealand.

A similar type of approach is being adopted in Canada through sentencing circles for aboriginal offenders in which the community comes together, with the offender and the victim, to jointly consider how best to heal the harm that has been caused to all concerned.

Canada would be pleased to share the knowledge, both technical and strategic, we have acquired in developing a new firearms control program. This includes new criminal legislation, which is currently before our Parliament, bans on all assault weapons and many handguns, the licensing of every firearms user and the registration of every firearm in Canada. We believe this combination of measures, will substantially reduce the harms caused by firearms misuse within our society. To achieve that objective, we are investing many millions of dollars in an automated registration and information system that will be instantly accessible to law enforcement officers in every corner of our vast land. We would gladly share the lessons we have learned, and the mistakes we have made, from that experience.

Under its Peace and Democracy Fund, Canada offers a program of technical assistance to support countries in transition to a more democratic system of government. The program has a number of key objectives : to strengthen democratic institutions; to promote a dynamic civil society and to support good governance. Examples under this program include the provision of advice in the drafting of legislation and procedures consistent with democratic principles, the application of technical assistance in the strengthening of organizations which support the reform process and the adoption of a "training the trainers" approach.

One practical contribution Canada can offer as information to member states is our experience with the formation of strategic partnerships in the banking and the telecommunications industries, credit card manufacturers, computer crime forensic professionals, law enforcement and government agencies both nationally and internationally to develop appropriate enforcement strategies. In this regard we wish to again bring to your attention the United Nations' manual on computer-related crime which Canada produced for the United Nations.

Canada, through the Royal Canadian Mounted Police, has developed a national strategy dealing with counterfeit credit cards which includes a Forensic Laboratory service for the examination of counterfeit or altered credit cards. The RCMP Forensic Laboratory has developed a classification system for credit cards, a statistical data base and a Counterfeit Credit Card Bulletin to alert law enforcement and the banking community about related counterfeit activity. The Canadian Bankers Association, as a strategic partner, has co-sponsored this undertaking and views the new laboratory service as a model for law enforcement throughout the world. VISA plans to distribute samples of the bulletins to its offices worldwide. The International Banking Security Association is willing to use this classification system as a model for the world.

We can also learn from each other's experience with mechanisms that may help us deal with issues of concern.

At the national level, we have found that consultations with interested parties has helped us better understand the varied interests of the Canadian people. These consultations have

helped us improve our legislation, in developing a more appropriate criminal justice system and in focussing on crime prevention through social development, as one of the keys to safer communities.

We have worked out a model for consultation with the representatives of non-governmental organizations that gives them an opportunity to come together first to exchange information and knowledge prior to meeting with government officials. That enhances the quality of the input they can provide to the policy development process. We would be happy to share our experience with that process.

At the international level, we found that one of the mechanisms, which contributed with great cost effectiveness and success to the implementation of United Nations norms and guidelines, is the contribution to the drafting of manuals for the use of the international community. For example, Canada has participated in developing manuals for the United Nations on various issues such as domestic violence, computer-related crimes and mutual assistance in criminal matters.

Another form of assistance is the development of practical plans of action in respect of priority issues which are dealt with by the Commission. At the next session of the Commission, and as part of the follow-up to the resolution on the elimination of violence against women which will hopefully be adopted by this Congress, Canada proposes to produce a "Framework for the development of a strategic plan of action for the elimination of violence against women". We believe that such practical activities will contribute to better technical cooperation by the Commission.

In the absence of adequate human and financial resources to carry out technical cooperation activities, we believe that the more efficient and more cost effective way of dealing with these complexities is getting all interested partners involved through strategic partnerships and alliances with the national and local governments, non-governmental organizations, the business community and other interested parties.

The role of NGOs cannot be underestimated in this respect. For example, at the national level, NGOs in Canada have contributed to a better social infrastructure for women and victims of violence through the establishment of a network of front-line services such as sexual assault centres, transition houses, etc. The experience of NGO's in these areas should be shared with other states.

Furthermore, Canada welcomes the creation of specialized institutes to study, examine and provide technical cooperation and expertise in specific areas.

For example, as a practical contribution to the work on criminal law reform and criminal justice policy within the programme, Canada established, in 1991, the International Centre for Criminal Law Reform and Criminal Justice Policy, in Vancouver, Canada.

The International Centre, in collaboration with the Correctional Service of Canada, presented a consultation paper entitled "Opportunities for Renewal in Sentencing and Corrections", which outlines a proposed initiative to promote the practical implementation of universally recognized human values and principles applicable to sentencing and corrections.

In addition, we would like to mention the training programme focusing on domestic violence against women which the International Centre is developing. The essence of the program is that violence against women is a violation of fundamental principles of human rights, and an issue of gender equality. The primary audience of the training project will be practitioners in the criminal justice system including judges, lawyers, prosecutors, police and victim services workers.

In the same spirit of cooperation and collaboration with the United Nations, the governments of Canada and France contributed to the establishment of the International Centre for the Prevention of Crime, in Montreal.

Its purpose is to harness the know-how and experience of different countries, so that crime prevention practice across the world is more successful in reducing crime. It was the technical contributor to the urban policy and prevention of violence demonstration workshops at this Congress. Its main expertise is crime prevention, which focusses on partnerships between agencies and citizens, that influence the causes of crime or modify the situations that provide opportunities for victimisation.

The ICPC can provide information about promising practices from across the world, and help in adapting those practices to local conditions. It can provide assistance in using experienced practitioners and experts to put crime prevention into practice. It is releasing here a special bibliography for policy makers and practitioners on promising trends in crime prevention.

I would encourage you to review the publication released here by the ICPC on its work program. The founding members of the Centre are France, Canada, and the province of Quebec. We are interested in welcoming other governments to join hands with us in this innovative way of reducing violence and crime, particularly in cities.

We should stop thinking of technical cooperation as a purely humanitarian gesture to countries in need. To the contrary, technical cooperation in the development of crime prevention and criminal justice systems and strategies leads, in the long term, to economic improvement, respect for the human rights and the rule of law, better and more democratic governments and increased social stability.

April 30, 1995



Department of Justice
Canada

Ministère de la Justice
Canada

Ottawa, Canada
K1A 0H8

ANNEX I

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

**WORKSHOP ON EXTRADITION AND INTERNATIONAL COOPERATION:
EXCHANGE OF NATIONAL EXPERIENCES AND THE IMPLEMENTATION OF
RELEVANT PRINCIPLES IN NATIONAL LEGISLATION**

POLICY DEVELOPMENT AND BRIDGING THE GAPS BETWEEN LEGAL SYSTEMS

**ATELIER SUR L'EXTRADITION ET LA COOPÉRATION INTERNATIONALES:
ÉCHANGE DE DONNÉES D'EXPÉRIENCES NATIONALES ET APPLICATION
DES PRINCIPES PERTINENTS DANS LES LÉGISLATIONS NATIONALES**

**LE DÉVELOPPEMENT DE POLITIQUE ET COMBLER LE FOSSÉ ENTRE
LES SYSTÈMES JURIDIQUES**

**SPEECH
delivered by
Kim Prost**

**DISCOURS
prononcé par
Kim Prost**

Canada

Extradition Workshop - Topic V, subtopic A
Policy Development and Bridging the Gaps between Legal Systems

CANADA / NETHERLANDS DISCUSSION PAPER

Extradition is perhaps the most significant mechanism by which states cooperate in matters of criminal justice. It is the vehicle through which fugitives are delivered from one state to another to face prosecution or service of a sentence for alleged or found criminal conduct. And today, as in no time before, with the advance of transnational crime, effective world wide extradition relations have become of critical importance in combatting the criminal elements of our societies.

While the motivation and will of states to cooperate in the area of extradition has been demonstrated repeatedly, extradition by its very nature has inherent impediments to effective execution. One of the most significant impediments arises from the very essence of extradition, a process by which a fugitive is returned from one state to another to face criminal process. In each instance of extradition the legal systems of two states are implicated. And in almost every such case there are differences in those systems which must be bridged for extradition to take place.

This session of the workshop focuses on the problems which arise from these differences in legal systems. More significantly, solutions to these problems will be examined, as well as the underlying policies and approaches to extradition instruments and their implementation which permit these solutions.

There are a vast number of issues in extradition which are directly attributable to or complicated by the differences between legal systems. Some such as the extradition of nationals and extraterritorial jurisdiction have been the subject of separate discussion in this workshop. To facilitate consideration of the general topic of "bridging the gap" two issues have been identified for the focus of this session: evidentiary requirements and in absentia convictions.

For illustration, each topic will be outlined generally from the perspective of two often disparate legal traditions, common law and civil law, to identify any "gap" created. After discussion, the session will examine briefly some of the "bridges" which have been constructed between common law and civil law countries in response to these issues, as examples of how systemic differences can be overcome.

EVIDENTIARY REQUIREMENTS

Common law

The approach to evidentiary requirements in extradition matters is significantly influenced by a fundamental principle of most states that employ the common law system. That is, since most common law states use very limited bases of extraterritorial jurisdiction in relation to their nationals, extradition laws generally apply to nationals on the same basis as to non-nationals. This is the case in Canada.

For most common law states there is both a judicial and political component to the extradition of a fugitive, as is common in civil law states. However, because nationals are equally in jeopardy to be extradited, at the first stage in the request for the extradition of an accused person a judicial authority must consider, on the basis of some legislatively or judicially determined standard, whether there is a sufficient case against that person in the foreign state. The standard applied in Canada as in many common law states, is the same as that used in the domestic context to determine if a person who is charged with an offence will be put on trial, that is, is there some evidence with respect to each element of an offence which, if it were to be believed by a trial court, could result in a conviction.

In the context of extradition, therefore, the documents submitted must demonstrate that there is sufficient evidence against the person sought as would justify putting the person on trial in the Requested state, as if the offence had been committed in that state. This is further complicated by the fact that in some common law states, Canada included, domestic extradition law mandates that this standard be met on the basis of evidence submitted in a form that would be admissible in accordance with domestic rules of evidence.

Therefore, when extradition is sought from many common law states, the Requesting state must submit materials which meet these dual requirements that are consistent with the law of the Requested state, but which may be completely foreign to the Requesting state.

Civil Law

According to the continental tradition, to which the Netherlands belongs, no attention should, in principle, be devoted to the question of guilt when requests for extradition are being considered. Whether an allegation or conviction is sufficiently

supported by the facts is of no relevance to the authorities of the State from which extradition is requested, but is a matter for the court before which the criminal case in question was or is to be heard. From this viewpoint, the nature of extradition as a form of legal assistance is not compatible with an investigation of the facts, which would, in any event, be difficult to conduct and would only lead to undesirable delays in the extradition procedure. Moreover, an investigation could be construed as demonstrating a lack of trust in the authorities of the other state.

The 1957 European Convention on Extradition, to which approximately thirty, mainly European, countries, including Great Britain, which is a common law country, are party, does not set many requirements with regard to the documents to be submitted in support of a request. A copy of the warrant of arrest or of the conviction, an overview of the offences for which extradition is requested, including the time and date on which they were committed, a copy of the applicable statutory provisions and identification documents are all that are needed. Documents containing the evidence on which the suspicion of guilt is founded are not required.

For the record, some countries, including Denmark, Norway, Iceland and Sweden, have reserved the right to require evidence.

When requests for extradition are submitted in accordance with the European Convention on Extradition, it is therefore not up to the Dutch court responsible for assessing requests for extradition to decide whether the person claimed is guilty of the offence for which extradition is sought.

The Dutch Extradition Act only makes an exception in cases in which the person claimed can prove forthwith to the court that he could not have been involved in the offence for which extradition is requested. Absence of suspicion of guilt therefore constitutes an exception and a request for the extradition of an innocent person will be refused.

Gap

There are difficult problems flowing from this fundamental difference in legal systems. Problems arise almost immediately just from appearances. The evidentiary requests by common law states for certain types or forms of evidence can be viewed as offensive by many states. It may be perceived that the judges of

the Requested state go behind the issuance of process by the foreign legal system and substitute their own opinion as to what is sufficient for criminal process.

Thus the first "pillar" of the bridge must be built through open and detailed discussion of the evidentiary requests of the two states and the underlying reasons for these requests, in order to clarify that the problem does not flow from any mistrust of the legal system in the Requesting state. Without addressing these concerns, it will be difficult if not impossible to move forward and achieve a solution.

However, overcoming these initial concerns through discussion and explanation is only a partial solution to this problem and typically to most problems of this nature. There remain serious practical issues. Most prominently, because the common law requirements are often centered on domestic law, it can be difficult if not impossible for states of completely different legal tradition to comply with these requests. In particular, it can be extremely difficult to meet the request that documentary evidence be adduced not only to demonstrate a sufficient case but also that the evidence be generated in a form which is compatible with the domestic rules and procedures of the Requested state.

The search for a solution to this problem requires an extensive examination by both states of the requirements and practices of domestic law. In the case of common law states, fundamental policy questions have to be considered. Without amending domestic law, can there be any lessening of standards for the test or evidentiary requirements? Are such changes acceptable from a policy perspective? Is the gap created of such significance that legislative change should be considered? Is such change possible legally, constitutionally and politically? Are there steps short of legislative amendments to the standard or procedures which can be used to make the process more workable for foreign states? Is there assistance that can be provided at the practical case level?

For the civil law state faced with a problem of this nature there are also questions to be considered in finding a solution. Are there means within domestic law so that the evidentiary requests can be met? Are there existing procedures in the preparation of extradition materials that can be modified to meet the evidentiary requests of the foreign state?

Solutions

Attached are examples of how this problem has been addressed in some bilateral treaties, domestic law and the Commonwealth scheme for rendition.

EVIDENCE

Canada has negotiated several bilateral treaties on extradition with civil law countries which contain "evidence" articles designed to "bridge the gap" between systems. Generally the approach taken in these new treaties such as those with France, Mexico, Spain, Switzerland (signed but not in force) and the Netherlands is that outlined in the protocol to the Commonwealth scheme on rendition. Under this scheme the standard for assessing the evidence is maintained; that is the Canadian court still determines whether there is evidence which would be sufficient to justify committal if the conduct had occurred in Canada. However the evidence can be submitted in the form in which it is normally generated in the Requesting State and it need not meet the requirements of Canadian law as to form or rules relating to admissibility.

All of these treaties incorporate this general approach. However each article is carefully crafted after lengthy discussions to ensure that it properly reflects the form in which the evidence will be generated and certified in that particular Requesting State.

The Netherlands has concluded bilateral extradition treaties with a number of common law countries, to wit the United States of America, Australia and Canada. The common law evidence requirement is addressed in various ways in these treaties.

The Extradition Treaty between the Kingdom of the Netherlands and the United States of America (1980) requires that both parties submit evidence in support of requests for extradition for the purpose of prosecution which, according to the law of the requested state, would justify that person's arrest and committal for trial if the offence had been committed there (the requirement of probable cause, i.e. the evidence must be sufficient to support a reasonable belief that the accused is guilty of the crimes with which he is charged).

In cases in which the Netherlands submits a request to the United States, the evidence it submits must meet the requirements laid down in U.S. law. As this treaty is based on the principle of reciprocity, requests on the part of a U.S. authority must be accompanied by the evidence which would be required for a person to be summonsed to appear before a Dutch court.

This requirement has not yet led to insurmountable problems however this is mainly due to the good relations that exist between the international legal assistance departments at the Dutch and U.S. justice ministries, and to the scope that exists for submitting additional information at a later date. To date, no problem has arisen which could not be solved with a little creative thinking.

The 1985 Treaty on Extradition between the Kingdom of the Netherlands and Australia provides for extradition without the submission of evidence.

Attached as an example of a solution is an excerpt from the Treaty between the Netherlands and Canada on Extradition concluded in 1989. As noted above, this treaty incorporates a different and unique solution achieved through discussion and compromise. As a reflection of mutual trust and in recognition of system differences, the principle of reciprocity is abandoned. In requesting extradition for the purpose of prosecution, Canada does not need to submit evidence to the Netherlands. The documents required under the provisions of the European Convention on Extradition will suffice consistent with Dutch legal requirements. However, where requests on the part of the Netherlands are concerned, in compliance with Canadian law, evidence must be submitted that would justify the committal for trial of the person suspected (prima facie evidence). However, the Netherlands need not meet the requirements laid down by Canadian law with regard to the form and manner in which evidence is obtained. The treaty provides that Canadian courts should admit documents which, in accordance with a statement issued by the Dutch court, constitute evidence admissible under Dutch law and were the basis for the issuance of the order of arrest.

IN ABSENTIA CONVICTIONS

Common law

It is a general principle of the common law that a person cannot, with a few exceptions, be convicted of a crime in his or her absence. Thus, in the criminal process of most common law countries, trials must start and be completed with the accused present.

Under Canadian law for example an accused person, whose liberty is in jeopardy, has a right to be present throughout his or her criminal trial. The only exception recognized is where an accused absconds during trial, in which case, at the discretion of the trial judge, the case may be completed without that person's presence.

In the context of extradition this raises questions as to the status of, and the requirements for, requests flowing from countries where a conviction has been entered against a person in his or her absence.

Civil law

It is a basic principle of civil law that every accused person is entitled to attend, in person, the trial at which the criminal case against him is heard. Should national law permit a case to be heard in the absence of the accused, the latter has the right to a fresh determination of the merits of the charge as soon as he is informed of the fact that criminal proceedings have been instituted against him. This right is enshrined in the general notion of "fair trial" as laid down in article 6, paragraph 1, of the European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe and article 14, paragraph 3 of the International Covenant on Civil and Political Rights.

This concept is also enshrined in the Dutch Extradition Act. The Netherlands will only grant the extradition of a person for the enforcement of a judgement given *in absentia* if "the person claimed has had or will still be given an adequate opportunity to defend himself". No such provision has been included in the European Convention on Extradition, which is also a convention of the Council of Europe.

The Netherlands has therefore entered the reservation "not to grant extradition requested for the purpose of executing a judgement pronounced by default against which no remedy remains open, if such extradition might have the effect of subjecting the person claimed to a penalty without his having been enabled to exercise the rights of defence prescribed in Article 6(3)c of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950".

A request for extradition for the enforcement of a judgement given *in absentia* will therefore be granted, if the above conditions are met, as extradition for the purpose of prosecution.

The Second additional Protocol to the European Convention on Extradition, which was drawn up in 1978, contains a provisions relating to judgements given *in absentia*.

Chapter III provides that extradition for the enforcement of judgements given *in absentia* which did not satisfy the minimum rights of defence recognized as due to everyone charged with criminal offences will only be granted if the requesting party gives an assurance considered sufficient to guarantee to the person claimed the right to a retrial which safeguards the right of defence.

Gap

Again there can be a certain amount of difficulty created by the differing approach to the issue and it will be important that both countries understand the fundamental underpinnings of the differing systems, so there is no suggestion that one system is considered less fair or another more rigorous. On the practical level, this is another instance where a detailed consideration of both systems can reveal potential bridges. For example while common law systems operate under the general principle outlined above, many have created exceptions or can recognize exceptions, such as where the accused person absconds during trial or received notice of the trial, or where the conviction entered is not final and can be appealed or if a right of retrial exists. Often, because of these exceptions recognized in both systems, a compromise can be achieved in the treaty negotiations which virtually eliminates any gap between systems.

Solution

Attached are examples of solutions achieved on this issue in bilateral agreements.

IN ABSENTIA

The Treaty between the Kingdom of the Netherlands and Canada on Extradition achieves an interesting solution in relation to *in absentia* convictions based on the principle that the person claimed must have been given adequate opportunity to defend himself. In accordance with Article 7, paragraph 2 of this Treaty, in cases in which a person has been convicted *in absentia*, the same documents must be submitted as would be required for extradition for the purposes of prosecution, i.e. a warrant of arrest and the evidence. The purpose of this regulation is to enable the Canadian court, by examining the evidence on which the judgement *in absentia* was based, to establish that the conviction was passed after due consideration.

If, however, it is established that the charge containing notice of the date and place of trial, or the judgement rendered *in absentia* has been personally served on the person sought, and that person has not appeared or availed himself or herself of the rights to appeal and retrial, the documents required for extradition for the enforcement of a judgement are all that must be submitted. In such cases, copies of, for example, the judgement will suffice.

Canada, which is a common law country, therefore accepts, for the purpose of extradition, irrevocable judgements given *in absentia* which have been reached in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms.



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ANNEX J

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

**WORKSHOP ON MASS MEDIA AND CRIME PREVENTION
ATELIER SUR LES MÉDIAS ET LA PRÉVENTION DU CRIME**

**SPEECH
delivered by the
Honourable Allan Rock
Minister of Justice and
Attorney General of Canada**

**DISCOURS
prononcé par l'Honorable Allan Rock
Ministre de la Justice et
Procureur général du Canada**

Thank you Mr. Chairman and may I thank you also for the eloquence of your opening remarks and the way you framed the issue. I think, if I may say so, you put it just right. Today, we're initiating a dialogue among people who approach this subject of common interest, from very different perspectives, to see if together we can achieve improvement. I should first observe that today's event is unique. As I understand it, the practice of the United Nations does not ordinarily involve seminars of this type. Seminars that bring together not only delegates from countries, but also representatives of other interests, such as the media, so that we can enjoy discussions of matters of common interests.

While this seminar was initiated by Canada, it is important for us to recognize as well the contributions of Australia and Japan towards its organization, and we thank our colleagues from these countries for their help. May I say that we initiated this workshop because of our conviction that the topic should be examined and discussed, and we will be very much assisted in that process by the panel of participants who have agreed to take part today. We are grateful to them for having taken time from their busy lives to come here for that purpose.

You will see as the day goes on that they bring to bear experiences deriving from a wide range of work: from broadcasting to the bench. We are also very fortunate to have a very thought provoking and complete background paper, to provide context in which this discussion can take place. I regret to hear that it was not circulated long in advance, but I recommend it to you as, I think, a very useful collection of thoughts and observations about this important subject.

In Canada, I have a responsibility in the government which involves the criminal justice system. I answer for the criminal justice system in the Parliament of Canada. The topic you are discussing is of particular interest to me. Everyday in my work, I find that people are making demands upon the criminal justice system, which often we are unable to fulfil. And the media often plays a role in that process.

When a crime in Canada occurs, such as the horrific crime referred to by Peter Kent in his opening, Canadians naturally turn to me as the custodian of the criminal justice system. Many of them demand that I write harsher laws, or provide for stiffer punishments, so that such a thing will never happen again. I think we understand that it is not the simple answer, that indeed there are no simple answers, and that, ultimately, our best protection lies not simply in a reflexive punishment response, but in a more constructive approach that will look for causes and

find solutions of longer lasting importance.

As the person who must answer for the criminal justice system in Canada, I need your help. I look forward to learning from the process which is initiated here this morning, how the media can work in partnership with the government, and other interests, to achieve a better understanding in society of what those responses are, and to plot a course towards achieving them.

Parce que la prévention du crime ne concerne pas seulement le système de justice pénale. Vraiment, elle concerne la société. Le parrainage de cet atelier par le Canada témoigne de notre conviction que la prévention du crime ne représente pas une question sur laquelle seuls les gouvernements doivent se pencher. Les membres de la communauté que nous servons doivent aussi s'intéresser à la prévention du crime. Il est certes important de discuter des façons dont le système de justice pénale peut s'occuper des effets de la criminalité. Mais il est essentiel aussi d'examiner les causes de la criminalité, et cet impératif ne s'inscrit pas dans le mandat des corps policiers et des tribunaux.

In Canada, one of the tools with which we work is a Charter which forms part of our constitution, the supreme law of the land, and which includes a list of freedoms and rights that are guaranteed. Among them is the freedom of expression which includes the freedom of media to report. But none of those freedoms in our constitutional charter is absolute, not even the freedom of the press. They are all subject to limitations that can be justified in a free and democratic society.

That is the approach in Canada, at least, taken toward balancing the freedom of the individual, or the individual interest and the rights of the collectivity. It is also an effort to balance freedoms with responsibility. And it seems to me that it is an important part of the discussion that we are having today.

The freedoms or the rights of the media and the responsibility of the media to participate with other interests in society toward achieving good information for worthwhile purposes. And what does all this mean for the role of media in crime prevention, in achieving meaningful change to make communities safer or for strengthening the justice system?

Perhaps I might just, in opening, touch upon certain principles or observations which you may find relevant in your own approach. First of all, it seems to me as a politician and a member of a government, I must remember that it is important to resist the temptation to blame the media for the problems we have with crime, either the reality of crime or its perception.

Attacking the messenger simply won't do. Politicians and governments have to accept the responsibility for their role in creating an unhealthy atmosphere, in perpetuating misunderstandings, in exploiting the fears of people for narrow partisan purposes.

But that's not to say that there aren't legitimate grounds for criticizing the performance of the media in respect of reportage of crime. It is important to remember the power that the media has in influencing the perceptions of people about crime. In creating a public atmosphere that sometimes makes it very difficult for governments to discuss positive and constructive solutions, to break out of the mold of fear on the part of the citizenry about being victimized, and the connected demand on the part of citizens that the government cracked down.

During the course of my travels in Canada over the last year, I found myself in a small community in the northern part of a western province, a peaceful, quiet, countrylike community, and I found there a group of people talking about their worry about crime in the streets. I thought that it was rather out of place and upon further discussion, I learned that most of the information relied upon by the people with whom I was speaking was derived from the cable television in their homes. The television news which they relied upon for their information did not report what was going on in the streets of their town, rather it was the cable beamed by satellite from Detroit, Michigan. And what they were seeing and hearing were reports of the situation in a very different context.

And yet their perception of the circumstances in their own community was shaped directly by what they saw reported from elsewhere. This is not to compare the Canadian prairies with American cities, this is to talk about the different perceptions that people can glean from methods of communications. We did a study last year in our own Canadian Department of Justice about people's perception in Canada generally, and we found that they misunderstood the extent to which they had the risk of being victims of crime. They overestimated the incidence of violent crime. They had mistaken ideas about the extent to which people on parole reoffend. Now, where do they get these perceptions, where do people come to understand these things? Largely through the media.

In the paper, you will see on page 13, paragraph 54, at least in the English version, reference to the overrepresentation in the media of crimes of personal violence when crime is being reported. There is a reference to, I believe, one country in which although the rate of reporting for crime and personal violence was 48 per cent of all crimes reported in one country,

such crimes represented only 17 per cent of the actual incidents. But the spectacular sells, it attracts attention. That perhaps is why it gets such prominence.

Televisions in the courtroom, at least in North America, are another means by which information about crime and justice is made broadly available. This is not a simple topic and I touch upon it very briefly without doing justice to its complexity. Obviously television in the courtroom has enormous potential value as a tool for education, but it also presents the prospect of personal tragedy as entertainment, of prolonging and intensifying the anguish of victims, of distorting the views the people have of how the justice system works, of trivializing and commercializing crime and personal pain.

In terms of critiques that might be offered of the media, one thinks as well of the depiction of women in media throughout the world. The tendency to objectify women, or to portray them in roles that are narrow, stereotypical, peripheral or to broadcast pornography which is a process again of objectifying, influencing the way men behave toward women, tending to the conclusion that women are not persons and should be treated accordingly.

Now, obviously, there is an enormous potential for positive in the media. There is one of the topics you will discuss this afternoon called Media as Educator which will build on that theme. The media has an enormous potential as a positive force. In crime prevention among other departments, for increasing public awareness of the true facts, through narrow casting, to provide information to specific groups on points of interest to them, through distance education to bring information to remote communities to which it might not otherwise be accessible. The media are in a real sense on the front line in determining what the facts are and bringing them home to all of us.

The background paper gives examples of comic books, of radio shows, of television dramas, that are very effective and constructive in helping public understanding of complex issues. So, let's focus on the positive, let's develop the potential for good that is in the media, and let's work together, governments, non-governmental organizations, and media to achieve something worthwhile. And let's focus on how crime can be reported to enhance public understanding and identify effective strategies to reduce it. Not just violent crimes, but let's remember the other forms of crime that are destructive of our society. Government corruption, a free press must root it out and report it. Environmental crime, a free press must make us all understand the significance of the damage caused by environmental crime, and identify solutions. Violence by men against women, not just the spectacular examples, the burning brides, but also the insidious

and systemic denial of opportunities for women to participate equally, which is itself a form of violence against women.

Corporate fraud, and the extent to which that kind of crime causes often far more and longer lasting damage than an assault by a young offender, and above all constructive criticism by media of the justice system itself. It has been said that justice must not only be seen to be done, it must also be seen to be believed. And that's terribly important, the justice system must always be under the spotlight of public scrutiny, so that its integrity can be assured. And the media is essential in that process. So let us, as Peter Kent suggested, start the dialogue today and let us go beyond Cairo in the month and years to come toward a constructive partnership to achieve these objectives. In Canada we have created a National Crime Prevention Council, and we have included as one of its members, a veteran journalist and executive producer of an investigative journalism television report, called the Fifth Estate. Kelly Creighton sits with the other members of the National Crime Prevention Council bringing to bear her perspectives on these very issues.

La prévention du crime est l'affaire de la société dans son ensemble, et non celle du gouvernement et du système pénal agissant en vase clos. Pour prévenir le crime avec efficacité, nous devons mettre à contribution chaque communauté, chaque classe sociale, chaque profession, chaque groupe d'intérêts et chaque citoyen. C'est pourquoi cet atelier revêt autant d'importance. Il s'agit d'une rencontre de deux mondes: le gouvernement et les médias.

Let us make sure that those worlds stay in close touch each with the other to forward on solid information, clear communication between us and an honest commitment to improve our communities. On page 21, in paragraph 95 and following of the background paper, there have been identified some specific actions that you might consider during the course of your deliberations. I look forward to learning with you as we develop these subjects and to working with you toward our common objectives.
Thank you for your attention this morning



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ANNEX K

**9th United Nations Congress
on the Prevention of Crime
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**9ème Congrès des Nations Unies
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WORKSHOP ON THE PREVENTION OF VIOLENT CRIME

**THE FAMILY VIOLENCE INITIATIVE
A CANADIAN NATIONAL PROGRAMME TO ADDRESS FAMILY VIOLENCE**

ATELIER SUR LA PRÉVENTION DE LA CRIMINALITÉ VIOLENTE

**L'INITIATIVE EN MATIÈRE DE VIOLENCE FAMILIALE:
UN PROGRAMME NATIONAL CANADIEN VISANT À TRAITER
DE LA VIOLENCE FAMILIALE**

**SPEECH
delivered by
Elaine Scott**

**DISCOURS
prononcé par
Elaine Scott**

**May 5, 1995
Le 5 mai 1995**

Canada

I am pleased to be here to day to talk about Canada's activities to prevent family violence.

First, I would like to clarify what I am talking about when I use the term family violence. In the context of this address, family violence means child abuse (including child sexual abuse), violence against women and the abuse of seniors.

For us, family violence represents a serious abuse of power within family, trust or dependency relationships. It is for that reason why we chose to address all of these forms of abuse under the umbrella of family violence. Although the groups involved may be different when we are dealing with children, women or seniors, the underlying issue is the same; that is, the abuse of power.

Furthermore, it is important for us to effectively transmit the message that this type of violence is not something that happens to strangers. It happens in our families, among our neighbours, our friends and our co-workers.

Today, I want to share with you what we are doing in Canada to inform and empower people through a national family violence initiative. I will concentrate on the work that the Canadian federal government is undertaking in collaboration with its many partners. However, I would like to underline the fact that provinces, territories, and municipalities are undertaking additional work in this area.

Canada's Family Violence Initiative is a unique program in which community-based groups, voluntary organizations, professional associations, all levels of government, the corporate sector and individuals are working together to address this issue.

One other aspect of its uniqueness is that it involves all of the sectors which must be concerned about this issue such as, to name just a few, housing, education, health, social welfare, police, correction services, and the justice system.

Thus, the program is community-based in approach and multidisciplinary in nature.

Partnerships are fundamental to the Initiative because they increase our capacity to share knowledge on the nature and extent of family violence, which prevention and intervention techniques are effective, and the issues which are essential to address in the development of effective collaborative partnerships.

In order to develop effective partnerships, consultations are essential, and I believe that one of the major reasons why the Family Violence Initiative has been effective is that it is based on consultation. The Initiative was introduced after extensive consultation across the many regions of our country and among the various social and cultural groups.

The present Family Violence Initiative began in 1991 as a call to all Canadians to act on the issue of family violence. The current initiative, which builds on the progress of earlier initiatives, has become an important national movement, mobilizing community action across all sectors of our diverse society.

M. le président,

En tant qu'initiative universelle de coopération, elle a rassemblé des Canadiens afin d'élaborer une politique sociale dans ce domaine important et de mettre en oeuvre des programmes vraiment efficaces pour les personnes touchées par la violence familiale.

Du point de vue de mon gouvernement, les solutions à long terme au problème de la violence familiale reposent dans la prévention, l'intervention précoce et la promotion de relations saines. Ces mesures aident à réduire la souffrance humaine et le fardeau économique que la violence familiale impose à nos systèmes de justice pénale, de services sociaux et de santé.

Le rôle du gouvernement canadien dans l'initiative en matière de violence familiale est de fournir un leadership par des activités d'éducation publique, de recherche, d'échange d'information et de coordination nationale.

Mr. Chairman,

I won't outline all of the government departments involved in this Initiative but it will suffice to say that twelve funded and non-funded departments work actively together to ensure that the goals of the Initiative are reached.

A recent evaluation of the initiative concluded that the work undertaken within the Initiative has increased awareness among Canadians of the issues of violence against women, child abuse and senior abuse. It is important to note that this increase in awareness has, in turn, resulted in an increase in the levels of reporting which should not, in any way, be misinterpreted as an increase in the incidence of family violence.

The Initiative has also strengthened efforts at the provincial and territorial levels and brought about a number of innovative prevention and protection programs. It has ensured that attention has been given to the needs of indigenous people, residents of remote and rural parts of the country, members of ethnocultural minority communities and people with disabilities.

We have tried to address the issue through prevention, intervention, rehabilitation and data collection. These areas cover the broad spectrum including, but not exclusive to, education in the schools, public education, professional training, development and evaluation of treatment programs for both the victim and the offender, evaluation of specific aspects of the criminal justice system, the training of judges, the

building of shelters for abused women and their children, the development of programs required in these shelters for both the women and children, and the collection of incidence data to assist us to obtain a much clearer picture of the issues of child abuse, violence against women and the abuse of seniors.

As I mentioned earlier, these activities have been undertaken in collaboration with a wide variety of partners and, I believe, all partners, including ourselves, have learnt a great deal from this approach.

I will now try to very quickly provide you with some examples of the types of activities which have been undertaken. I would first like to underline the point that for an activity to be funded under the Initiative, it must be clear from the outset how the activity will be evaluated, what type of product will result from that activity and how that product will be distributed across the country. It is our contention that by quickly disseminating the results of activities, as well as by connecting groups from various parts of the country during the development and implementation stages of these activities, each and every one of us will be able to access vital program development information more rapidly which, in turn, will enable us more effectively address the issue.

I would now like to give you just a very few example of the type of work I am talking about. One of our communities, Prescott, Ontario, has had to address the issue of child sexual abuse in a very reactive manner due to the disclosure of several incidences of child sexual abuse. The community, with the assistance of the provincial government, very quickly created a multidisciplinary committee to begin the implementation of the criminal justice process and determine how best to provide services to the victims. Under the Initiative, the work of the committee has been carefully documented in order that other communities in Canada who may be facing a similar situation have access to the experiences and the work of this Committee.

The Mountain and Beyond is a very good example of how various professional groups can effectively work together to determine how best to provide professionals with the tools they require to effectively deal with the issue of family violence. The Canadian Association of Chiefs of Police, Canadian Association of Social Workers, Canadian Medical Association, Canadian Nurses Association, Canadian Psychological Association, Canadian Teachers' Federation, Canadian Bar Association and the Canadian Council of Churches all worked together to develop a multi-resource kit containing practical tools for interdisciplinary cooperation in addressing family violence. This kit contains a video, video guide, reference and planning workbook and ideas for collaboration and has been extensively used by workers across the country.

A third example is the Bridges Demonstration Project in Victoria, British Columbia, which is the only training program of its kind in Canada for abused women for whom abuse has proven to be a

barrier to employment. This training program includes life skills, employment readiness skills and job placement. Many women are trapped in an abusive situation because they are not economically independent. The evaluation of this program has shown that it has been extremely successful in assisting these women to enter the work force.

An example of partnership with the private sector is a joint effort between six federal departments and the Canadian Association of Broadcasters. Under this partnership, radio and television advertisements have been developed to not only increase public awareness of the issue of violence, but to also address the issue of violence in the media itself. The broadcasters have pledged more than \$10 million in free air time this year for the airing of the radio and television advertisements.

The final example is in the area of abuse of seniors. From the research work which we undertook it was clear that the major form of abuse of seniors by family members was what we call material abuse - gaining access to the senior's funds or possessions. A partnership was developed between the federal government, the province of Manitoba and the Canadian Bankers Association to increase the understanding of bank workers of the misuse of power of attorney, to educate seniors themselves and to provide tools to both seniors and bank employees to prevent this type of abuse.

M. le président,

L'initiative en matière de violence familiale établit un équilibre entre ce genre d'activités d'intervention et de prévention et des programmes d'envergure nationale visant à recueillir des données et à diffuser de l'information. L'enquête nationale sur la violence faite aux femmes, exécutée par Statistiques Canada en 1993, en est une composante importante. Cette enquête n'était qu'une des activités de Statistique Canada visant à recueillir des données sur le sujet de la violence familiale et elle fut la première en son genre dans le monde. 12 300 femmes, âgées de plus de 18 ans, ont été interrogées relativement à leur expérience en tant que victime de violence par des proches et concernant leur peur d'être victimisées dans la communauté. L'enquête a constaté qu'être témoin de violence à la maison peut enclencher un cycle de comportements violents : les fils de pères violents ont trois fois plus de chances d'agresser leur partenaire que les fils de pères non violents. Dans la même enquête, 39 % des femmes vivant dans un mariage violent ont rapporté que leurs enfants avaient été témoins de violence à leur endroit. Ces constatations et des données se rapportant à la fréquence et à la nature de la violence faite aux femmes révèlent la véritable étendue du problème. L'enquête a suscité une acceptation plus large de la nécessité d'agir.

Finalement, l'échange d'information est une composante clé de la stratégie fédérale en matière de prévention de la violence familiale. Sous ce rapport, le Centre national d'information sur la violence dans la famille a été une source inestimable de

partage d'information à l'échelon national. Le Centre d'information produit et distribue à l'intention des professionnels et du grand public des documents sur toutes les formes de violence familiale. Il gère un service téléphonique de renseignements sans frais sur les programmes et les services aux quatre coins du pays qui reçoit plus de 35 000 demandes de renseignements chaque année.

Les réseaux d'appui réciproque au sein du milieu non gouvernemental sont aussi critiques dans la lutte contre la violence familiale. Le gouvernement fédéral a créé plusieurs «cercles d'orientation» afin de faciliter l'établissement de réseaux. Ces cercles d'orientation se composent de spécialistes non gouvernementaux provenant de différents secteurs. Ils se réunissent pour se pencher sur des domaines particuliers, comme les questions féminines, la violence familiale au sein de collectivités autochtones, la violence faite aux personnes âgées, la violence et la négligence à l'endroit d'enfants et l'exploitation sexuelle d'enfants. Ces cercles d'orientation analysent les questions spécifiques, identifient les progrès accomplis et identifient les orientations futures en vue de recherche plus approfondie et d'activités de suivi.

Mr. Chairman,

Through its effective partnerships, networking, information sharing and cooperation among active players, the Family Violence Initiative is moving toward the ultimate goal of preventing family violence, and indeed contributing to the prevention of all forms of violence. We still have a long way to go but I believe that, together with our many partners, we are on the right path. In the spirit of cooperation, we would be very willing to share more detailed information on our activities under the Canadian Family Violence Initiative with any of you who may wish to obtain that information.

I would like to thank the Chair for providing me with this opportunity to share our experiences with you.

Thank you.



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Ministère de la Justice
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Ottawa, Canada
K1A 0H8

ANNEX L

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

WORKSHOP ON THE PREVENTION OF VIOLENT CRIME

**OUTLINE OF CANADIAN MEASURES
ON CONTROL OF FIREARMS**

ATELIER SUR LA PRÉVENTION DE LA CRIMINALITÉ VIOLENTE

**APERÇU DES MESURES CANADIENNES
RELATIVES AU CONTRÔLE DES ARMES À FEU**

**SPEECH
delivered by
Richard G. Mosley**

**DISCOURS
prononcé par
Richard G. Mosley**

**May 5, 1995
Le 5 mai 1995**

Canada

OUTLINE OF CANADIAN MEASURES ON CONTROL OF FIREARMS

Mr Chairman, we are assembled here to promote crime prevention because the peoples of the world want their governments to deal more effectively with crime. One aspect of crime that causes them particular concern, because of the direct physical harm that may result to innocent members of our societies, is the criminal misuse of firearms.

My object to-day is to describe how we are approaching these problems in Canada. At the outset, I wish to note that we consider the misuse of firearms to be both a crime and a public health and safety problem. In addition to the injuries and deaths caused by criminal activities, the number of suicides by firearms and the traumas resulting from accidents are also of very grave concern and in our view justify greater controls.

Canada has had a firearms control program since 1892, a program which has evolved over the years with changing needs and circumstances.

Our most recent initiative in the area of firearms control is a legislative package introduced in Canada's House of Commons in February of this year.

This legislation, which remains under consideration by our Parliament, will amend the firearms provisions of the Criminal Code and creates a new Firearms Act.

Country-wide consultations undertaken by the Minister of Justice over the past year showed that Canadians want to preserve the non-violent character of our society and impose stiff punishment for the criminal misuse of firearms.

In addition to new crime control measures, the proposed law will enhance public health and safety through further controls on legitimate users of firearms, including the registration of all

guns, and the elimination of those handguns and other weapons that have no legitimate purpose. In doing so, the new law will not interfere unduly with the rights of hunters and target shooters to pursue their sports.

The cornerstone of the Canadian strategy to deal with borders, criminals and public safety is a computerized licensing and registration system, to be administered by the Royal Canadian Mounted Police, together with the governments of the provinces and territories.

The Firearms Licensing System defines legitimate owners and legitimate uses for firearms, screening out those who should not have access to guns and limiting the purposes for which firearms may lawfully be employed.

Canadians who acquire firearms must pass a safety competence course and know the requirements of the law including the safe storage requirements and regulations governing possession and use.

All firearms are covered by the Canadian Registration System and will have to be registered.

The new systems bring several benefits for public and police safety.

These benefits include more effective handling of domestic violence incidents because police will know, in advance of arriving at the scene, that a firearm is present in the home.

Similarly, the system will facilitate enforcement of court-ordered firearms prohibition orders.

These orders prohibit individuals, convicted of a violent offence or subject to a restraining order, from possessing firearms. With registration, police will be more confident that all

firearms have been confiscated from such individuals.

The systems will increase compliance with our safe storage regulations, enhancing the safety of others in the home, particularly children, and also decreasing the risk of theft and criminal misuse of the stored firearms.

Universal registration and licensing will also stem diversion of firearms from shipments crossing the border.

Amendments to the Criminal Code bring tough new penalties for the criminal misuse of guns and include mandatory minimum sentences of four years in prison, and a lifetime prohibition, for any of ten violent offences with a firearm.

These offences involving a firearm include manslaughter, attempted murder, sexual assault, robbery and criminal negligence causing death.

The new law imposes stiff mandatory minimum jail terms on those convicted on indictment of a range of other firearms offenses, including possessing smuggled or stolen firearms.

Anyone wishing to purchase ammunition will have to be at least 18 years old and show the required identification document.

Military and para-military weapons are now prohibited in Canada including all assault pistols, eliminating the future sale of over 200 models.

We are banning the future sale, importation and ownership of .25 and .32 calibre handguns and handguns with a barrel length of 105mm (4.4 inches) or less. This will result in a reduction of almost 60 per cent of the handguns in circulation in Canada, or over a half a million handguns.

Crossbows will be treated as firearms. Owners must be 18 years

old and have a crossbow licence.

Compact crossbows designed to be aimed and fired with one hand, as well as crossbows less than 400mm (15.75 inches) in overall length are now prohibited weapons, and future importation and sale of these types of crossbows will be banned.

The future sale, import and manufacture of replica firearms will be also banned.

Crime control is a big part of our job. We also want to enhance public safety through gun control.

The vast majority of gun-related deaths and injuries occur in the home, and often relate to violence against women.

The majority of gun homicides in Canada -- 86% - are caused by family members, friends, or acquaintances.

When women are killed in domestic disputes, guns outpace other weapons by a margin of two to one. 85% of the guns used to kill women are rifles and shotguns, most of them legally owned.

An average of one women is killed by a firearm every six days in Canada.

Homes with guns are three times more likely to be the scene of a homicide than homes without a gun. Spousal arguments are twelve times as likely to end in death in homes where a gun is present.

Gunshot wounds are fatal at least three times more often than knife wounds. In other words, guns tend to kill, knives to wound.

There is a demonstrable and tragic link between the presence in the home of a firearm and the prospect of a woman's death when

domestic violence occurs in such a home.

We also want to reduce accidents with firearms, which often involve children and teenagers.

We need both crime control and gun control if we are to ensure safer homes and safer streets.

Therefore, our objective is to reduce the number of guns on the market that have no legitimate hunting or sporting uses.

Conclusion:

In Canada, many citizens have participated in the democratic debate on firearms control, and will have further input on the new law during the Parliamentary Committee hearings which are currently underway.

We are in the process of deciding the legitimate purposes for which we will allow firearms, the firearms that are not considered suitable for those purposes and will be prohibited, and the reasonable controls that will be in place for the sale and use of legitimate firearms.

Mr Chairman, these are the ways we are fighting firearms crime and violence in Canada. I would like to thank you again for providing me with the opportunity to present this description of our national firearms control program.



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ANNEX M

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

**WORKSHOP ON ENVIRONMENTAL PROTECTION AT NATIONAL AND
INTERNATIONAL LEVELS: POTENTIALS AND LIMITS OF CRIMINAL JUSTICE**

**ATELIER SUR PROTECTION DE L'ENVIRONNEMENT AUX ÉCHELONS NATIONAL
ET INTERNATIONAL: POTENTIAL ET LIMITES DE LA JUSTICE PÉNALE**

**SPEECH
delivered by
Kim Prost**

**DISCOURS
prononcé par
Kim Prost**

Canada

SPEAKING NOTES BY CANADA
ON THE WORKSHOP ON ENVIRONMENTAL PROTECTION
AT NATIONAL AND INTERNATIONAL LEVELS -
POTENTIAL AND LIMITS OF CRIMINAL LAW

CANADA WOULD LIKE TO ADDRESS SOME OF THE IMPORTANT ISSUES THAT HAVE BEEN RAISED IN THE BACKGROUND PAPER AND PRESENTED BY THE SPEAKERS AT THIS WORKSHOP.

CANADA RECOGNIZES THAT SIGNIFICANT PROGRESS HAS BEEN MADE IN THE LAST TWO YEARS IN DEVELOPING AND DEFINING CORE CRIMES AGAINST THE ENVIRONMENT, THROUGH THE WORK OF INTERNATIONAL BODIES, SUCH AS THE COUNCIL OF EUROPE, THE INTERNATIONAL ASSOCIATION OF PENAL LAW, AND OTHERS. THEIR PROPOSALS RANGE FROM ELABORATING A DETAILED LIST OF CRIMES TO RECOMMENDATIONS ON THE INCLUSION OF CORE CRIMES IN DOMESTIC PENAL CODES.

WE BELIEVE THERE IS A NEED, FOR THOSE MEMBER STATES WHICH HAVE NOT YET DONE SO, TO INCLUDE IN THEIR PENAL CODES, CORE ENVIRONMENTAL CRIMES SUCH AS CAUSING SERIOUS HARM TO THE ENVIRONMENT BY DELIBERATE, RECKLESS OR GROSSLY NEGLIGENT ACTS OR CREATING A SERIOUS RISK OF SUBSTANTIAL HARM TO HUMAN BEINGS. THE CRIMINALIZATION OF SUCH ACTS WOULD EMPHASIZE THE IMPORTANCE OF PROTECTING THE ENVIRONMENT AND SEND A STRONG SIGNAL TO THE WORLD COMMUNITY AT LARGE THAT ENVIRONMENTAL DEGRADATION IS A CRIME, IN THE TRUE SENSE OF THAT WORD.

WE ALSO BELIEVE THAT MEMBER STATES SHOULD CONSIDER CREATING A CRIMINAL OFFENCE OF UNLAWFULLY CAUSING SERIOUS DEGRADATION OF THE ENVIRONMENT WHICH MIGHT HAVE THE EFFECT OF IMPAIRING THE ABILITY OF PRESENT AND FUTURE GENERATIONS TO MEET THEIR NEEDS. IN THIS WAY, THE DELIBERATE DISREGARD OF ENVIRONMENTAL IMPACT ASSESSMENT LAWS AND OTHER LAWS PROTECTING THE ENVIRONMENT COULD FORM THE BASIS FOR PROSECUTION.

EQUALLY THOUGH, WE SUPPORT MAINTAINING THE SPECIFIC OFFENSES THAT ARE CURRENTLY FOUND IN ENVIRONMENTAL STATUTES ENACTED BY DIFFERENT LEVELS OF GOVERNMENT WITHIN A STATE, AS AN ESSENTIAL VEHICLE FOR PROTECTING THE ENVIRONMENT. OFFENSES INCORPORATED

IN THE PENAL CODE WILL SUPPLEMENT THESE AND ENSURE THAT THERE ARE NO LOOPHOLES AVAILABLE TO THOSE WHO WOULD ENGAGE IN ENVIRONMENTALLY DESTRUCTIVE ACTIVITY. IN SO DOING, HOWEVER, IN CANADA'S VIEW CARE SHOULD BE TAKEN NOT TO OVERRIDE OR IMPEDE THE EFFECTIVENESS OF ANY SPECIFIC OFFENSES IN ENVIRONMENTAL STATUTES.

MR. CHAIRMAN,

IN ADDITION TO THAT WHICH CAN BE ACHIEVED THROUGH DOMESTIC LAW, STATES MUST BE PROTECTED AGAINST UNLAWFUL ACTS PERPETRATED WHOLLY OR PARTLY OUTSIDE THE STATE WHERE THOSE ACTS CAUSE SIGNIFICANT HARM TO THE ENVIRONMENT OF THE STATE. TO THAT END, WE BELIEVE THAT REGIONAL CONVENTIONS ON THE PROTECTION OF THE ENVIRONMENT SHOULD BE STRONGLY ENCOURAGED.

FURTHER, CANADA BELIEVES THAT SOME ACTION SHOULD BE TAKEN AGAINST THOSE WHO, DELIBERATELY OR RECKLESSLY, CAUSE SERIOUS HARM OR CREATE A SERIOUS RISK OF SUBSTANTIAL HARM TO THE GLOBAL ENVIRONMENT, BY, FOR EXAMPLE, THE ILLEGAL DUMPING OF TOXIC WASTE OR THE RECKLESS EXPLOITATION OF RESOURCES OF THE SEA THAT MIGHT LEAD TO THE EXTINCTION OF SPECIES.

IN THIS RESPECT, WE INVITE MEMBER STATES TO GIVE SUPPORT TO THE WORK OF INTERNATIONAL BODIES, SUCH AS THE UNITED NATIONS ENVIRONMENT PROGRAMME, IN THE DEVELOPMENT OF AN INTERNATIONAL CONVENTION ON THE PROTECTION OF THE GLOBAL ENVIRONMENT. WE ALSO BELIEVE THAT THE DISCUSSION SURROUNDING THIS POTENTIAL CONVENTION SHOULD CONSIDER THE ISSUE OF PROVIDING FOR CRIMINAL OFFENSES FOR THE FLAGRANT DISREGARD OF OBLIGATIONS AGREED TO BY STATES.

FINALLY MR. CHAIRMAN,

PRIVATE AND PUBLIC ENTITIES ARE BY AND LARGE THE MOST IMPORTANT ACTORS ENGAGED IN INDUSTRIAL AND COMMERCIAL OPERATIONS IN MANY COUNTRIES AND BY THE SAME TOKEN, MUCH ENVIRONMENTAL DEGRADATION MAY ARISE FROM THE ACTIVITY OF THOSE ENTITIES WHEN THEY DELIBERATELY DISREGARD LEGALLY ESTABLISHED OBLIGATIONS.

IN THIS RESPECT WE REGARD THE APPLICATION OF CRIMINAL LIABILITY TO BOTH PRIVATE AND PUBLIC ENTITIES TO BE AN IMPORTANT ELEMENT IN COMBATING ENVIRONMENTAL CRIME.

IN THIS REGARD, CANADA AND OTHER COMMON-LAW COUNTRIES TREAT PRIVATE ENTITIES ON THE SAME BASIS AS NATURAL PERSONS FOR THE PURPOSE OF APPLYING THE CRIMINAL LAW. FURTHERMORE, CANADA IS AMONG A FEW COUNTRIES WHICH REGARD PUBLIC ENTITIES AND THE STATE ITSELF AS HAVING THE CAPACITY FOR DOMESTIC CRIMINAL LIABILITY.

WE WOULD ENCOURAGE OTHER STATES TO CONSIDER INCLUDING IN DOMESTIC LAW THE CAPACITY TO HOLD PRIVATE AND PUBLIC ENTITIES CRIMINALLY LIABLE FOR OFFENCES AGAINST THE ENVIRONMENT.

**9th United Nations Congress
on the Prevention of Crime
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**WORKSHOP ON INTERNATIONAL COOPERATION AND ASSISTANCE IN THE
MANAGEMENT OF THE CRIMINAL JUSTICE SYSTEM:
COMPUTERIZATION OF CRIMINAL JUSTICE OPERATIONS AND THE DEVELOPMENT,
ANALYSIS AND POLICY USE OF CRIMINAL JUSTICE INFORMATION**

**DEVELOPING JUSTICE STATISTICS MECHANISMS:
PURPOSES AND FUNCTIONAL REQUIREMENTS**

**ATELIER SUR LA COOPÉRATION ET L'ASSISTANCE INTERNATIONALES
POUR LA GESTION DU SYSTÈME DE JUSTICE PÉNALE:
INFORMATION DES ACTIVITÉS DE JUSTICE PÉNALE ET ÉLABORATION,
ANALYSE ET UTILISATION DES INFORMATIONS SUR LA JUSTICE PÉNALE**

**LE DÉVELOPPEMENT DES STATISTIQUES JURIDIQUES:
OBJECTIFS ET EXIGENCES PRATIQUES**

**SPEECH
delivered by
Sange de Silva**

**DISCOURS
prononcé par
Sange de Silva**

April 4, 1995

**9th United Nations Congress on the
Prevention of Crime and the Treatment of Offenders
Cairo, Egypt**

**Developing Justice Statistics Mechanisms:
Purposes and Functional Requirements**

Sange de Silva
Executive Director
Canadian Centre for Justice Statistics
Ottawa, Ontario CANADA

Purposes of Developing National Criminal Justice Information Mechanisms

Purposes of criminal justice information are many. The most important purpose is that of public accountability. This is important for the following reasons:

First, it is expected of the governments:

- a) to let the citizens know how much crime there is in the country and how the governments, both national and regional, through their social policies and the justice system are reacting to the crime problem;
- b) to indicate how many people have their freedom of action and movement restricted by the state, for what reasons and in what way.

Second, the delivery of criminal justice is expensive ranging from 2% to 3% of national budget in the western democracies to 10% - 12% of budget in the developing world. The taxpayer has a right to know how this money has been spent, and the national justice statistics are the only way to obtain this information.

Third, national indicators(e.g. unemployment rate or the inflation rate) tell us a great deal about the state of a nation. The only way to obtain national crime indicators (crime rate, arrest rate, imprisonment rate, etc.) is through national statistics.

These indicators are needed regularly so that the way in which the state of the nation varies over time or from region to region or city to city can be known.

Fourth, national statistics are needed if we are to begin to evaluate the efficiency, effectiveness, accountability and fairness of the criminal justice system.

Fifth, the citizens have a right to information on the justice system as it is applied throughout the country, not just a partial or local view. Only national statistics will enable them to obtain a view of the system which affects them wherever they happen to be.

Sixth, in order to be able to make international comparisons, national statistics must be produced.

The six reasons for collecting national statistics outlined above are reasons for providing the general public with information about crime, criminals and the criminal process. However, besides these general reasons for collecting and publishing national justice statistics there are other potential users for such statistics who have a more professional or specialized need.

Criminologists in particular and social scientists in general use justice statistics to test their theories and expand on available knowledge. Justice statistics are part of the more general body of social statistics and indicators that can help in gaining a more complete understanding of the relationship between crime and other social policies, and between crime and social change and development.

Assuming that decisions taken about the criminal justice system will be better if based on reliable, timely, credible and relevant information rather than feelings and "experience", national statistics are needed for all levels of governments to:

- a) inform criminal justice policy planning (e.g. without information about sentencing policies across the country, it is difficult to know how to produce, or where are the impediments to producing such desired objectives as the reduction in the incarcerated population):
- b) increase the accuracy of predictions about crime rates, costs, manpower requirements, demands for services, changes in the use of dispositions available to the courts, etc.;
- c) identify problem areas of common interest and concern to all levels of government (e.g. high crime rates in certain areas or disparity in sentencing practices), so that national or local policies and programmes might be initiated;
- d) provide a basis for evaluating the delivery of services (efficiency, fairness, etc.) by those responsible for the justice system so that improvements may be made;
- e) assess the impact and interpretation of the criminal law;
- f) plan resource allocations and monitor and control performance.

If national justice statistics are not available it will be impossible to know, on a national scale, how many crimes committed result in reports to police, how many reported crimes result in arrests, how many arrests result in prosecutions and how many prosecutions result in convictions. It will be impossible to know, on a national scale, how many convictions result in probation, in fines and in prison sentences and of the prison sentences imposed, what portion of each sentence is served. It will be impossible to know on a national scale, who among those who serve sentences are likely to return to prison. In brief, it will be impossible to follow on a national scale criminal offenders through the criminal justice process and know what happens to them and what in turn happens to the system.

Unless one knows, with some degree of certainty, the path of offenders across all of the transitions that occur between different steps in the criminal justice process - from arrest to court, from court to prison, from prison to streets - one can never tell what effect in one part, for example increased police activity, has or will have on any other part, for example the amount of delay in the courts. Consequently, any overall effort to control crime must base its strategy on hunch, opinion, prejudice and occasional fragments of information totally inadequate to the magnitude of the problem and not on national information which is accurate and credible.

Functional Requirements of a System of Criminal Justice Information

The development of a national system of criminal justice statistics is a complex one requiring the participation and co-operation of many and diverse sectors. For such a system to emerge and remain viable several broad requirements must be satisfied. The essential among them are the following:

1. A Management Process

All criminal justice programmes, particularly those which are not directly operational, inevitably confront competing demands and needs in an environment of limited resources and changing and expanding requirements. A solid and well understood process of management is, therefore, essential for a criminal justice information programme. This process will:

- a) establish, confirm or change strategic direction;
- b) verify and modify client requirements;
- c) set priorities;
- d) develop strategies for the allocation of human and financial resources; and
- e) establish procedures for the monitoring and control of the operational plan and updating of the strategic plan.

2. A Process to Obtain and Maintain Commitment of Stakeholders

Experience shows that information programmes will not develop without the commitment of senior criminal justice managers. Core data for the production of statistical information in the criminal justice area are extracted from the administrative records which are kept by the various sectors - police, prosecutors, courts, correctional officers etc. This activity, by necessity, is resource intensive. This is further complicated by the need to have national standards, common data definitions and other desirable attributes expected of a credible and useable statistical series. In practice, those who keep records for operational purposes pay only rudimentary attention to the non-operational uses of those records. Without the commitment of senior managers, conversion of official records into useable statistical series becomes an untenable proposition.

Wide variety of initiatives could be employed to sustain commitment of major stakeholders. The most effective among them is a commitment based on the value of justice information for achieving the fundamental goals of the administration of justice. The least effective, on the other hand, would be a situation where the administrators of justice are forced by legislation to participate in a national justice statistics enterprise.

True commitment of justice managers will be directly proportional to the usefulness of quantitative criminal justice information for policy, program and management decisions. Viewed in this way, an essential requirement of a system of criminal justice information is a direct link between the information produced and its capacity to address the policy and management agendas of the senior administrators of justice.

3. Political Neutrality and Respect for Privacy and Confidentiality

One major purpose of a national criminal justice information programme is public accountability. This purpose cannot be effectively served if the national criminal justice information programme is viewed as one subscribing to a political ideology or one subject to interference by the government in power. The programme must be and must be seen to be impartial and objective.

4. Technical and Subject Matter Resources

Knowledge and experience of subject matter specialists are invaluable in any statistical programme and criminal justice is no exception. Experts in crime and victimization, criminal justice policy, programmes and administration must play a key role in designing the statistical series and projects, in determining the concepts and definitions to be employed, in planning and conducting the analysis and in preparing the output. Much of the raw data for the information programme is generated within the administration of justice (i.e. police agencies, courtrooms, prisons and jails etc.) and therefore tend to reflect policies and processes of the administration rather than a depiction of the substantive phenomena. Knowledge and experience of the subject matter specialists are essential to ensure that the data are competently analyzed and placed in the appropriate context.

Data processing and analysis inevitably requires an infra-structure of computer technology. Recent technological advances, if properly mobilized, will immensely facilitate all aspects of information production. Working with computers, however, raises many issues that must be addressed in a proactive way. These issues range from organizational to security and access, from procurement and maintenance to training and development and a whole lot more.

5. Clear Articulation of the Scope and Context

It is generally recognized that a comprehensive criminal justice statistics program should describe:

- a) the problem of crime in society in the context of demographic, social and economic realities; and
- b) the response to the problem of crime on the part of the criminal justice system including costs of administrative interventions.

These broad objectives may mean different things to different people. However, a national system of criminal justice statistics can not be all things to all users. It follows then that a decision has to be made as to what information packages are to be sought first. This decision will depend on the amount of resources available, commitment and willingness of data suppliers to provide the data required and the hierarchy of information requirements of major stakeholders.

As a general rule, the primary focus of the national justice statistics system should be perennial rather than transitory needs. Transitory needs are important but they can best be satisfied by special surveys or issue focussed special studies.

Experience suggests that the following broad categories should be given the highest priority in the determination of the national criminal justice information program content:

- crime data which indicate the incidence of victimization in society by type of victimization, crimes reported to the authorities and reasons for not reporting, and the level of fear of crime;
- caseload data which indicate the number and types of cases handled by the justice services(i.e. police, courts, corrections, etc.), and some of the characteristics of persons processed through the justice system;
- resource data regarding the numbers of persons employed in the justice services, expenditures, and the distribution of services;
- qualitative descriptions of the justice services outlining organizational structures, responsibilities and jurisdictions as well as the programs operated.

The need for crime data requires no elaboration. Caseload statistics enable justice administrators to compare the volume and composition of their workloads and the disposition of cases. Resource data, when combined with caseload data, can provide performance indicators and outline the level of services provided by the municipal, regional and central governments. Accurate description of the services provide the framework within which the statistics can be meaningfully interpreted.



**9th United Nations Congress
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**WORKSHOP ON INTERNATIONAL COOPERATION AND ASSISTANCE IN THE
MANAGEMENT OF THE CRIMINAL JUSTICE SYSTEM:
COMPUTERIZATION OF CRIMINAL JUSTICE OPERATIONS AND THE DEVELOPMENT,
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**THE NEED FOR INTERNATIONAL COOPERATION
IN COMBATING COMPUTER CRIME**

**ATELIER SUR LA COOPÉRATION ET L'ASSISTANCE INTERNATIONALES POUR LA
GESTION DU SYSTÈME DE JUSTICE PÉNALE:
INFORMATION DES ACTIVITÉS DE JUSTICE PÉNALE ET ÉLABORATION,
ANALYSE ET UTILISATION DES INFORMATIONS SUR LA JUSTICE PÉNALE**

**ACCROÎTRE LA COOPÉRATION INTERNATIONALE AFIN DE MIEUX
COMBATTRE LES CRIMES INFORMATIQUES**

**SPEECH
delivered by
Donald K. Piragoff**

**DISCOURS
prononcé par
Donald K. Piragoff**

THE NEED FOR INTERNATIONAL COOPERATION
IN COMBATTING COMPUTER CRIME

IN ORDER TO UNDERSTAND THE PROBLEMS CONCERNING INTERNATIONAL COOPERATION IN COMBATTING COMPUTER CRIME, ONE MUST OF COURSE UNDERSTAND THE NATURE OF COMPUTER CRIME AND THE MANNER IN WHICH DOMESTIC LAWS APPLY, OR OFTEN DO NOT APPLY, TO THE PHENOMENON OF VARIOUS TYPES OF ANTI-SOCIAL BEHAVIOUR. THIS, OF COURSE, REQUIRES SOME UNDERSTANDING OF THE NATURE OF COMPUTER ABUSE, HOW IT IS COMMITTED AND THE NATURE OF APPLICABILITY OF ONE'S OWN LEGAL SYSTEM TO THIS TYPE OF CONDUCT.

THE PROBLEM OF LAW, PARTICULARLY AS APPLIED IN THE AREA OF INTERNATIONAL COOPERATION AND COMPUTER TECHNOLOGY, IS TO SAY SIMPLY THAT WHILE LAW IS LOCAL AND BOUND BY TERRITORIAL JURISDICTION, THE TECHNOLOGY IS WORLD-WIDE, UNIVERSAL AND COMPLETELY OBLIVIOUS TO NATIONAL BOUNDARIES. MAGNIFIED TO THE INTERNATIONAL LEVEL, THE LAW AS BETWEEN VARIOUS COUNTRIES IS GENERALLY FRAGMENTED AND DIVERSE, WHILE THE TECHNOLOGY IS COMMON AND PERVASIVE. THUS WHILE NATIONS ARE LINKED THROUGH THE WONDERS OF TECHNOLOGY, THEY ARE DIVIDED BY CONCEPTUAL RIFTS OF DIVERSITY AMONGST THEIR LEGAL SYSTEMS. NEVERTHELESS, THE COMMON LINK OF TECHNOLOGICAL COMMUNICATION, WITH THE CONCOMITANT NEED OF EACH NATION TO ATTEMPT TO LIVE AND DO BUSINESS IN LIGHT OF THE NEW INFORMATION TECHNOLOGIES, FORCES UPON EACH OF THE NATIONS OF THE WORLD A DEGREE OF COOPERATION AND A WILLINGNESS TO RATIONALIZE THE DIFFERENCES OF THEIR LEGAL SYSTEMS. THE SAME WORLDWIDE, INTER-CONNECTED COMMUNICATION LINKS THAT MAGNIFY THE PROBLEM OF COMPUTER CRIME, AT THE SAME TIME NECESSITATE THE NEED FOR AND THE INCENTIVE FOR INTERNATIONAL COOPERATION.

TO A LARGE DEGREE, COOPERATION IS, FIRST, FOUNDED UPON ATTEMPTS TO HARMONIZE BOTH SUBSTANTIVE LAW (THAT, IS, DEFINITIONS OF WHAT CONSTITUTES A CRIME) AND PROCEDURAL LAW (THAT IS, THE STATE POWERS TO INVESTIGATE

AND PROSECUTE CONDUCT THAT IS ALLEGED TO BE CRIMINAL). WHERE HARMONIZATION CANNOT OCCUR, ATTEMPTS ARE MADE TO ACCOMMODATE EACH OTHERS LEGAL SYSTEM.

WHY IS INTERNATIONAL HARMONIZATION OF SUBSTANTIVE LAW AND PROCEDURAL LAW SO IMPORTANT. WHAT ARE THE BENEFITS OF, AND WHY THE NEED FOR, HARMONIZATION AND COOPERATION?

FIRST, THE TRANSNATIONAL EXPANSION OF LARGE SCALE COMPUTER NETWORKS INCREASES THE VULNERABILITY OF THESE SYSTEMS AND THE OPPORTUNITY FOR MISUSE OR CRIMINAL ACTIVITY ON A TRANSNATIONAL BASIS. IN ORDER TO EFFECTIVELY ADDRESS TRANSNATIONAL CRIME, CONCERTED INTERNATIONAL COOPERATION IS REQUIRED. SUCH CAN ONLY OCCUR, HOWEVER, IF THERE IS A COMMON FRAMEWORK OR UNDERSTANDING AS TO WHAT IS THE PROBLEM. THIS, THEREFORE, REQUIRES A COMMON UNDERSTANDING AS TO WHAT SHOULD BE, OR IS, A CRIME.

SECOND, THE EXPANSION OF INTERNATIONAL TRADE AND COMMERCE RAISES THE CONCOMITANT NEED FOR LAWS THAT WILL ADEQUATELY SAFEGUARD THESE ECONOMIC INTERESTS IN ORDER TO FACILITATE, STABILIZE AND SECURE THESE ECONOMIC ACTIVITIES. LIKEWISE, THE INCREASING COMPUTERIZATION OF DATA CONCERNING PERSONAL CHARACTERISTICS, ATTRIBUTES AND SOCIO-ECONOMIC STATUS OF INDIVIDUALS, AND THE INCREASING CONCERN ABOUT PRIVACY INTERESTS RAISES THE CORRESPONDING NEED FOR LEGAL PROTECTION, NOT ONLY NATIONALLY BUT INTERNATIONALLY.

THIRD, HARMONIZATION INCREASES THE ABILITY OF TRANSNATIONAL BUSINESS AND OTHER COMPUTER USERS TO PREDICT THE POSSIBLE RESULT OF LEGAL CONSEQUENCES IF CRIMINAL MISUSE OF COMPUTER SYSTEMS SHOULD OCCUR. PREDICTABILITY OF THE FUTURE LEADS TO CONFIDENCE AND STABILITY IN INTERNATIONAL INVESTMENT.

FOURTH, TO THE EXTENT THAT CRIMINAL LAW ESTABLISHES POSITIVE NORMS OF CONDUCT AND SERVES DETERRENCE AND EDUCATIONAL PURPOSES, HARMONIZATION OF CRIMINAL LAW FACILITATES THE CREATION OF INTERNATIONAL NORMS OF CONDUCT IN RESPECT OF COMPUTER USAGE.

FIFTH, A LACK OF HARMONIZATION CAN LEAD TO MARKET RESTRICTIONS AND NATIONAL BARRIERS TO THE FREE FLOW OF INFORMATION AND TECHNOLOGY TRANSFER. BUSINESS AND GOVERNMENT MAY REFRAIN FROM EXPORTING COMPUTER PROGRAMS, DATA, OR TECHNOLOGY TO, OR ESTABLISHING COMPLEX COMPUTER INTER-CONNECTIONS WITH COUNTRIES THAT DO NOT HAVE AN EFFECTIVE SYSTEM OF LEGAL PROTECTION.

SIXTH, A LACK OF HARMONIZATION OF LAWS, INCLUDING CRIMINAL LAWS, COULD AFFECT EQUAL CONDITIONS OF COMPETITION. THE LACK OF LAWS IN SOME COUNTRIES THAT WOULD ADEQUATELY PROTECT COMPUTER PROGRAMS, TECHNOLOGY OR TRADE SECRETS COULD RESULT IN SOME COMPANIES CHOOSING TO OPERATE BUSINESSES IN THESE COUNTRIES IN A MANNER WHICH COULD BE CONSIDERED BY OTHER COUNTRIES TO BE UNFAIR COMPETITION.

SEVENTH, A LACK OF HARMONIZATION, AS A RESULT OF THE ABSENCE OR INADEQUACIES OF LEGAL PROTECTION IN SOME COUNTRIES COULD LEAD TO THESE COUNTRIES BECOMING "COMPUTER-CRIME HAVENS", FROM WHICH INTERNATIONAL COMPUTER CRIME COULD BE COMMITTED WITH IMPUNITY.

EIGHTH, HARMONIZATION FACILITATES LAW ENFORCEMENT AS BETWEEN LAW ENFORCEMENT AGENCIES OF DIFFERENT COUNTRIES DUE TO A COMMON UNDERSTANDING AND CONCEPTUALIZATION AS TO WHAT TYPES OF CONDUCT CONSTITUTE "CRIME".

NINTH, HARMONIZATION OF SUBSTANTIVE LAW FACILITATES EXTRADITION OF ALLEGED OR FUGITIVE OFFENDERS. EXTRADITION TREATIES GENERALLY REQUIRE

DOUBLE CRIMINALITY (THAT IS, THE CONDUCT MUST BE CONSIDERED TO BE A CRIME UNDER THE LAWS OF BOTH COUNTRIES AND, OFTEN, CONCEPTUALLY THE SAME TYPE OF CRIME). ACCORDINGLY, HARMONIZATION OF THE CONCEPT AND EVEN THE DEFINITION OF "CRIME" CAN BE CRUCIAL TO THE ABILITY TO PROVIDE EXTRADITION.

TENTH, HARMONIZATION FACILITATES MUTUAL LEGAL ASSISTANCE (I.E., THE USE OF LEGALLY CONTROLLED INVESTIGATORY POWERS, SUCH AS SEARCH AND SEIZURE, EXAMINATION OF WITNESSES, ELECTRONIC SURVEILLANCE, ETC., BY ONE COUNTRY FOR THE BENEFIT OF ANOTHER COUNTRY). IN SOME MUTUAL ASSISTANCE TREATIES, DOUBLE CRIMINALITY IS ALSO REQUIRED BEFORE ONE STATE WILL USE ITS JUDICIAL MECHANISMS IN THE AID OF LAW ENFORCEMENT OF A FOREIGN POWER. EVEN WHERE DOUBLE CRIMINALITY IS NOT A PREREQUISITE, A COMMON CONCEPTUALIZATION OF WHAT CONSTITUTES A "CRIME" ASSISTS THE LAW ENFORCEMENT AND JUDICIAL AUTHORITIES OF THAT COUNTRY IN UNDERTAKING INVESTIGATIONS WITHIN ITS OWN TERRITORY ON BEHALF OF A FOREIGN COUNTRY.

ELEVENTH, LACK OF HARMONIZATION WITH RESPECT TO OFFENCES CAN LEAD TO PROBLEMS OF HARMONIZATION OF PROCEDURAL LAW WITH RESPECT TO INVESTIGATORY POWERS.

NOW THAT WE HAVE EXAMINED SOME OF THE BENEFITS OF HARMONIZED INTERNATIONAL COOPERATION, WHAT ARE SOME OF THE PROBLEMS.

FIRST, THERE IS A LACK OF CONSENSUS AS TO WHAT TYPES OF CONDUCT SHOULD BE CONSIDERED AS CONSTITUTING "CRIME".

SECOND, WHERE A CONSENSUS HAS BEEN ACHIEVED THAT A CERTAIN TYPE OF CONDUCT SHOULD BE CONSIDERED AS BEING A "CRIME", THERE IS OFTEN A LACK

OF CONSENSUS AS TO WHAT THE DEFINITION OF THAT CRIME SHOULD BE; THAT IS, WHAT ARE THE REQUISITE ELEMENTS THAT MUST BE PROVED IN ORDER FOR THE CONDUCT TO BE ADJUDGED AS A CRIME.

THIRDLY, THE LACK OF A TRULY INTERNATIONAL FORA IN WHICH TO ACHIEVE INTERNATIONAL COOPERATION HAS RESULTED IN ONLY REGIONAL APPROACHES TO DATE (E.G., COUNCIL OF EUROPE, OECD).

THE WORK OF THE OECD AND COUNCIL OF EUROPE HAS BROUGHT US A LONG WAY IN ACHIEVING CONSENSUS. THE CHALLENGE FOR THE FUTURE IS TO EXPAND THAT CONSENSUS TO OTHER REGIONS OF THE WORLD. THE POTENTIALITY OF COMPUTER CRIME IS AS VAST AND EXTENSIVE AS IS THE INTERCONNECTIONS OF OUR COMPLEX WORLD-WIDE TELECOMMUNICATIONS NETWORKS.

DESPITE THESE INTERNATIONAL EFFORTS, MUCH STILL REMAINS TO BE ACCOMPLISHED IN ORDER TO ACHIEVE INTERNATIONAL COOPERATION. WHILE MUCH OF THE INTERNATIONAL WORK, TO DATE, HAS BEEN CENTRED AMONG WESTERN EUROPEAN AND OECD COUNTRIES, THE POTENTIAL EXTENT OF COMPUTER CRIME IS AS BROAD AS THE EXTENT OF OUR INTERNATIONAL TELECOMMUNICATION SYSTEMS. ALL REGIONS OF THE WORLD MUST BECOME INVOLVED IN ORDER TO PREVENT THIS NEW FORM OF CRIMINALITY. IT IS AN ISSUE THAT AFFECTS BOTH DEVELOPED AND DEVELOPING COUNTRIES. IF DEVELOPING COUNTRIES LOOK TO THE TECHNOLOGICAL ACHIEVEMENTS OF THE DEVELOPED COUNTRIES IN ORDER TO DEVELOP AND INCREASE THEIR OWN ECONOMIC AND SOCIAL PROSPERITY, THEY WILL ALSO WANT TO BE AWARE OF THE POTENTIAL FOR ABUSE AND CRIME THAT THESE NEW TECHNOLOGIES POSE. IT IS IMPORTANT TO PLAN FOR SECURITY AND CRIME PREVENTION AT THE SAME TIME THAT COMPUTER TECHNOLOGY IS BEING IMPLEMENTED.

IN ORDER TO INVOLVE ALL REGIONS OF THE WORLD IN ADDRESSING THIS ISSUE, CANADA, WITH TWENTY CO-SPONSORS, SPONSORED A RESOLUTION FOR ADOPTION

BY THE 8TH UNITED NATIONS CONGRESS. THE RESOLUTION WAS ADOPTED UNANIMOUSLY BY CONSENSUS OF THE CONGRESS. IN PARTICULAR, THE RESOLUTION URGES MEMBER STATES TO INTENSIFY THEIR EFFORTS TO COMBAT COMPUTER CRIME BY:

- 1) MODERNIZING NATIONAL CRIMINAL LAWS, INCLUDING THE INSTITUTION OF MEASURES TO:
 - A) ENSURE THAT EXISTING LAWS ADEQUATELY APPLY TO THE COMMISSION OF SUCH OFFENCES WHEN COMMITTED WITHIN THE COMPUTER ENVIRONMENT;
 - B) CREATE NEW OFFENCES WHERE REQUIRED;
 - C) ENSURE THAT LAWS APPLY ADEQUATELY TO THE INVESTIGATION AND PROSECUTION OF SUCH OFFENCES; AND,
 - D) INCREASE THE EFFECTIVENESS OF PROCEDURES FOR PREVENTING, INVESTIGATING AND PROSECUTING COMPUTER RELATED CRIMES;
- 2) IMPROVING COMPUTER SECURITY AND PREVENTION MEASURES;
- 3) ADOPTING ADEQUATE TRAINING MEASURES FOR OFFICIALS AND AGENCIES RESPONSIBLE FOR THE PREVENTION, INVESTIGATION AND PROSECUTION OF ECONOMIC AND COMPUTER RELATED CRIME;
- 4) TEACHING OF COMPUTER ETHICS AS PART OF THE CURRICULA OF COURSES IN INFORMATICS;
- 5) ADOPTING POLICIES TOWARD THE VICTIMS OF COMPUTER-RELATED CRIMES; AND

- 6) INCREASING INTERNATIONAL COOPERATION IN ORDER TO COMBAT THESE CRIMES.

THE RESOLUTION ALSO REQUESTS THAT THE UNITED NATIONS PROMOTE INTERNATIONAL EFFORTS CONCERNING THE DEVELOPMENT AND DISSEMINATION OF A COMPREHENSIVE FRAMEWORK OF GUIDELINES AND STANDARDS TO ASSIST MEMBER STATES TO CONTROL COMPUTER-RELATED CRIME. THE RESOLUTION ALSO MANDATES THE UNITED NATIONS TO INITIATE AND DEVELOP FURTHER RESEARCH AND ANALYSIS IN ORDER TO FIND NEW WAYS IN WHICH MEMBER STATES MAY DEAL WITH THE PROBLEM OF COMPUTER RELATED CRIME IN THE FUTURE. IT REQUESTS THE SECRETARY-GENERAL TO CONSIDER THE PUBLICATION OF A TECHNICAL PUBLICATION ON THE PREVENTION AND PROSECUTION OF COMPUTER-RELATED CRIME.

IT IS WITH THIS BACKGROUND, THAT CANADA PREPARED A MANUAL TO BE EMPLOYED BY MEMBER STATES IN ADDRESSING THE PROBLEM OF COMPUTER-RELATED CRIME. AS INDICATED EARLIER, IN ORDER TO EFFECTIVELY ADDRESS TRANSNATIONAL CRIME, CONCERTED INTERNATIONAL COOPERATION IS REQUIRED. SUCH CAN ONLY OCCUR, HOWEVER, IF THERE IS A COMMON FRAMEWORK OR UNDERSTANDING AS TO WHAT CONSTITUTES THE PROBLEM AND THE POSSIBLE SOLUTIONS.

THE PURPOSE OF THIS MANUAL IS TO ASSIST IN DEVELOPING A COMMON FRAMEWORK OF UNDERSTANDING THROUGHOUT THE WORLD. IT IS TO ADVISE MEMBER STATES OF THE NATURE OF THE PROBLEM, THE CURRENT INADEQUACIES OF THE LAW, AND OF VARIOUS SOLUTIONS OR PROPOSALS FOR ACTION THAT HAVE BEEN RECOMMENDED THROUGHOUT THE WORLD. THE MANUAL IS NOT INTENDED TO BE A COMPREHENSIVE DISSERTATION ON COMPUTER-RELATED CRIME OR OF THE INHERENT LEGAL PROBLEMS IN ADDRESSING IT. IT DOES NOT MANDATE THAT PARTICULAR COURSES OF ACTION SHOULD BE TAKEN, AS WOULD BE THE FORMAT OF AN INTERNATIONAL STANDARD OR GUIDELINE. RATHER, THE MANUAL SEEKS TO

BE A WORKING DOCUMENT, A BLUEPRINT FOR ACTION, WHICH MEMBER STATES, FACED WITH THE PROBLEM OF THIS NEW CRIMINALITY, MAY UTILIZE TO BETTER UNDERSTAND THE NATURE OF THE PROBLEM, BECOME AWARE OF SOME OF THE SOLUTIONS THAT HAVE BEEN RECOMMENDED, DEVELOP THEIR OWN RESPONSE TO THE PROBLEM AND FOSTER INTERNATIONAL COOPERATION. THE MANUAL ALSO IDENTIFIES OTHER SOURCES OF INFORMATION TO WHICH MEMBER STATES COULD RESORT IN ORDER TO OBTAIN MORE DETAILED INFORMATION CONCERNING A PARTICULAR ISSUE.

THE MANUAL IS ONLY ONE TOOL TO ACHIEVING INTERNATIONAL COOPERATION. IN ORDER TO ACHIEVE SUCH COOPERATION, IT WILL REQUIRE A REALIZATION AND COMMITMENT BY NATIONS OF ALL REGIONS OF THE WORLD THAT SOMETHING SHOULD BE DONE. COMPUTER CRIME, BEING AN INTERNATIONAL PROBLEM, REQUIRES INTERNATIONAL ACTION. SUCH CAN ONLY HAPPEN IF THERE IS THE POLITICAL WILL AND PUBLIC DEMAND THAT IT HAPPEN.

**9th United Nations Congress
on the Prevention of Crime
and the Treatment of Offenders**

**9ème Congrès des Nations Unies
pour la prévention du crime
et le traitement des délinquants**

**REPORT OF THE
NATIONAL ASSOCIATIONS ACTIVE IN CRIMINAL JUSTICE
NON-GOVERNMENTAL ORGANIZATION REPRESENTATIVES**

**RAPPORT DES REPRÉSENTANTS DE L'ORGANISATION NON GOUVERNEMENTALE
DES ASSOCIATIONS NATIONALES INTÉRESSÉES À LA JUSTICE CRIMINELLE**

REPORT OF N.A.A.C.J. NGO REPRESENTATIVES TO

NINTH U. N. CONGRESS ON THE PREVENTION OF CRIME
AND

THE TREATMENT OF OFFENDERS

CAIRO, EGYPT

APRIL 28, 1995-MAY 9, 1995

TABLE OF CONTENTS

A. BACKGROUND	1
B. CANADA'S PROFILE	2
C. CONGRESS STRUCTURE	3
D. NGO ANCILLARY MEETINGS	3
E. NGO PARTICIPATION	4
F. CONGRESS AGENDA	5
G. CONTRIBUTIONS OF CANADIAN NGO REPRESENTATIVES	5
H. OTHER CONCERNS	7

A. BACKGROUND

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was different from previous Congresses in a number of ways.

To begin with, the planning for the Congress was delayed due to the changes wrought by the creation of the Commission on Crime Prevention and Criminal Justice which took place since the 8th Congress in Havana, Cuba; by the change in location from Tunis to Cairo at the last minute; and by the usual delays of governments inherent in the budgeting process, approvals for expenditures and so forth; and, from delays caused by the negotiating procedures of Regions as to the structure and format of the Congress.

The Ninth Congress was to be qualitatively different from others in that Workshops were to be held with the express purpose of moving away from merely negotiating statements of high principle towards presenting the innovations and the current realities of crime and prevention in a context which would permit countries to utilize the information provided directly.

It was hoped that developing countries would be able to access technology transfer and resources more directly, and that more action would result if proceedings were more concrete in nature.

In Canada, these delays were also part of the Canadian government's dilemma in planning. In the past, position papers had been prepared well in advance of the Congresses, because the topics were well known and time for local research was available.

As it turned out, in this case, the consultation with the voluntary sector in Canada did not occur until Feb 2-3, a mere two months before the Congress, before there was a clear idea of which countries would be submitting resolutions, and before the government or the voluntary organizations knew who the official delegation would be.

There were a few meetings of the official delegation, without NGOs just prior to the Congress.

U.N. Congresses for the Prevention of Crime and the Treatment of Offenders are essentially meetings of governments. In the course of their history, Non Governmental Organizations (NGOs) have been made welcome to attend as observers to the Congresses and in addition, they have routinely organized themselves in the form of Ancillary Meetings which take place concurrently with the work of the Congresses (and usually, in the same place as the Congresses.)

The Congresses work formally, in the fashion of the U.N. General Assembly, via the proposing of formal resolutions which are then negotiated and discussed back and forth in

"Committee" until they are brought to the stage of approval or defeat by the Congress by way of a vote.

In the past, topics debated by the Congress were introduced by testimony of experts selected by the U.N. who prepared background studies and spoke during the Congress, or by the various U.N. Institutes who have an interest or expertise in the field.

The ancillary meetings of NGOs work less formally, usually by way of panels on various topics of interest to the NGOs. At these meetings, official delegates from various countries were often panellists, and they were usually active participants in the NGO discussions. This sort of structure allowed for a great deal of exchange of information and was also an opportunity for NGOs to make contact and to try to inform delegates about matters with which the NGOs had experience, often internationally.

NGOs were permitted to speak to the formal sessions of the Congress provided they gave due notice to the chairman in control, had a written brief of their remarks, spoke no longer than the allotted time which was less than that allotted to government delegates, and had the support of an official delegation.

Participants to Congresses are designated as Official Delegates, Experts, NGO Observers, or U.N. Secretariat.

It is the official delegates who carry the responsibility for representing Canada and for negotiating with other governments about the content of various resolutions. Ostensibly, the role of experts accompanying the official delegation is to provide advice. A similar role might be accorded to NGOs who have a close relationship with their delegation. (Canada is one of the very few countries of the world with a very close relationship to its NGOs in the criminal justice field.) As well, individual experts who attend the Congress on their own also represent a possible resource for the official delegation.

B. CANADA'S PROFILE

Canada has traditionally played a large role in the international field of crime prevention and the treatment of offenders and this Congress was no exception. The Canadian delegation made an outstanding contribution to the Congress.

Lucie Anger became a legend among delegates from many countries for her incredible linguistic and group management skills in the working meetings around the resolution on violence against women.

The media workshop, organized by Canada, was certainly one of the high points of the conference.

Don Piragoff was always quick to suggest compromise wording when countries were at logger-heads on the wording in different resolutions.

C. CONGRESS STRUCTURE

This congress was supposed to be different from past congresses in that it was to emphasize the sharing of practical ideas and learnings. Even the organizational structure looked different. There were many scheduled workshop sessions not only in the NGO stream, but in the meetings of the official delegations as well.

In fact, this goal was not realized. The so-called workshops that were part of the official delegation stream, were set up like plenary sessions, with the same formal seating arrangements, the same careful attention to protocol, and the same general information aimed at presenting the actions of any individual country in a positive light.

The media workshop, organized by Canada was the only exception. It truly did break new ground, and used the medium as the message along with some excellent substantive stories from newpeople who had covered some of the most important stories of political corruption, organized crime and terrorism over the past few years.

D. NGO ANCILLARY MEETINGS

Some workshops in the NGO stream were organized by official delegates, rather than non-governmental organizations. This was largely the result of a very small contingent of true NGO's at this Congress. Many of the people registered as NGO's were in fact academics or people who work in the justice system, e.g., probation officers.

The status and role of NGO's was even more diminished at this Congress than at previous Congresses, according to some participants who had attended previous meetings. There were very few "true" NGO's at the Congress. Approximately fifty delegates were registered as NGO's, and perhaps half of these actually represented different NGO's. Even though Canada made a contribution towards the cost of translation, except for specific sessions where translation was arranged, many of the meetings of NGO's had no translation unless the organizers were able to find someone who would translate aloud after every few sentences. This process allowed NGO's to communicate, but was cumbersome. In addition, an "on-the-spot" translator could not always be found.¹ The result was that (compared to the official U.N. sessions) NGO's were limited in who they could communicate with, and therefore the utility and credibility of the NGO workshops was severely reduced.

¹See appendix 1.

E. NGO PARTICIPATION

Most NGO representatives felt excluded from the Congress process. Certainly, all NGO representatives were allowed to attend any plenary or official committee meetings. Even working meetings on resolutions were generally open to all participants. However, it was virtually impossible for an NGO representative to speak in plenary or committee sessions. To make a statement, an NGO representative had to find an official delegate who would be willing to approach the Secretary of a session, at least one day in advance, and get permission for the NGO representative to speak. Ideally, a written statement of what is to be said should be submitted. As cumbersome as this process is, it still did not guarantee that a delegate could speak. For example, Linda MacLeod attempted to gain permission to make a presentation on the Literacy and Crime Prevention project to a session of Committee II. She approached the Canadian delegation five days before the workshop in which she wanted to speak. A request was made by the Canadian delegation to the Secretary in charge of that workshop. She was told she could have between 5 and 10 minutes to speak. However, when the day came, she was not included on the list of speakers. Elaine Scott of the Canadian delegation did go to the secretary on her behalf during the meeting, and in the end Linda was given a very short two minutes to make her presentation.² Then, her presentation was not included on the official minutes and again a Canadian delegate had to intervene on her behalf to ensure that it would be included.

Feelings of exclusion were increased by the generally negative discussions around NGO's by official delegations of some countries, in their consideration of formal resolutions. For example, in one resolution which included reference to the important contribution of NGO's in providing community-based programs, China intervened repeatedly to say that it would not support the resolution unless the reference to NGO's was deleted. Other countries supported this position. Fortunately delegates from Canada, the U.S. and the Netherlands did argue the case for leaving this reference in, but the overall perception of NGO's by many countries appears to be extremely negative.

Real dialogue between NGO's and official government delegates, was virtually impossible during the conference. Official delegates were very engrossed in agendas and plans which had been mapped out largely before the Congress. NGO representatives were not privy to these plans, or to the "deal-making" that often accompanied the plans. As one seasoned NGO delegate pointed out, "this is undoubtedly a government show". It is difficult to assess what delegates see the role of NGO's to be. Certainly it became obvious that if NGO's are to have influence, this influence must be asserted far in advance of the actual meetings and must be very specific, attached to particular wording, points, and concrete strategies pertaining to actual resolutions.

² See Appendix 4

F. CONGRESS AGENDA

a) Terrorism and Organized Crime

Interestingly the themes of terrorism, organized crime and corruption among officials, as well as the links among all three, became the overwhelming focus of the Congress. It was fascinating to hear countries acknowledge that one of the biggest problems for the justice system is addressing the far-reaching "crimes" that corruption, organized crime, big-business white-collar crime and the terrorism of official governments against one another can create.

NGO's should accept the challenge of looking beyond street crime to this larger definition of harm and crimes against humanity.

b) Youth

There was significant fear-mongering and scapegoating of young people. There was much talk about the escalation of youth crime and the need for strengthening the rule of law. Street children were identified as a growing group at risk.

c) Values.

There were frequent references to the need to bring people back to spiritual values which preserve the family, prevent crime and achieve justice.

G. CONTRIBUTIONS OF THE CANADIAN NGO REPRESENTATIVES:

Despite the difficulty of establishing a visible NGO presence at the conference, the Canadian NGO delegation worked diligently to bring together NGO representatives from different countries and to ensure that the perspectives of NGO's became part of the experience and the reporting of the conference.

James MacLatchie prepared and logged in information "bytes" to the Access to Justice net (ACJnet). This was a cooperative effort with the Department of Justice prior to the Congress. It was an experiment to see if direct communications with Canada could be conducted via electronic communication throughout the Congress. This was also to be part of another initiative of the Department to set up a World Wide Web Home Page for official government public communiqués and as well as a connection to Schoolnet in British Columbia. The experiment with ACJnet was partially successful and a few articles of information were sent from the Congress and were received in Canada, and subsequently "Posted" on ACJnet. Difficulties with telephone and power services to the

Canada Kiosk and other minor difficulties occurred. In spite of this, the capacity for electronic communications via Internet and similar technologies was demonstrated as possible and with pre-planning quite probable for the next Congress.

Lee Lakeman, at Justice Minister Rock's request, attended the meetings as a special advisor on women's issues. In this capacity, she had a central role in the drafting, strategizing and negotiations around the resolution on violence against women tabled jointly by Canada and Turkey.

Jim Hilborn, from the Canadian Training Institute, paid his own way to come to the Congress. He had a special interest in meeting people working in third world countries. He is embarking on a visionary personal project to help Estonia build an equitable and fair justice system.

Dave Howell, of the Salvation Army, was, for the first time in many years, the only Salvation Army representative to attend the Congress. He ensured that the Army continued to have a presence in international thinking around crime prevention and the treatment of offenders.

Linda MacLeod, in cooperation with an Australian delegate, Don Robertson, organized a workshop entitled "Making Young People Part of the Solution". This workshop was an attempt to address the widespread negative and blaming rhetoric around young people which characterized many of the presentations by official delegates from numerous countries. Although this workshop was not part of the advance agenda, and was advertised only by flyers typed up and taped in strategic locations around the conference site, there was an enthusiastic response to the workshop (6 people approached her to make presentations) and 45 people including both NGO representatives and official delegates attended. A brief summary of the workshop with a partial list of participants is appended to this report.³

Linda MacLeod requested permission to make a brief presentation about the NAACJ Literacy and Crime Prevention project in the Committee II plenary. The Canadian delegation approached the Secretary of the Committee and obtained a five-minute time-slot for Linda's presentation. Unfortunately, on the day of the presentation, this time allocation was reduced to two minutes. Nevertheless, the presentation did generate interest and some international orders for the kit when it is completed. In addition, Linda talked about the project in the NGO workshop she co-organized on "Making Young People Part of the Solution".

³ See Appendix 2

Linda MacLeod also called and chaired a series of NGO strategy meetings aimed at making practical plans to ensure that NGO's have as clear and strong a voice as possible at the upcoming Commission and Council meetings following this Congress and also at future Congress meetings. James MacLachie prepared minutes of these meetings, and will circulate the minutes to participants. The minutes are appended to this report.

At the request of the participants at the NGO strategy meetings, Linda was asked to write, on behalf of the people at the meeting, and ask Renate Winter at the Vienna Alliance to ensure that all people who were part of the NGO strategy meetings receive information about the Vienna Alliance, including the member organizations, and the minutes of their meetings. Linda also agreed to write to Gary Hill at the New York Alliance to make the same request.⁴

Linda, Jim and Lee did numerous interviews with press at the Congress. An interview with Lee was printed in the Ottawa Citizen.

H. OTHER CONCERNS:

Although the Congress was supposed to be about "Crime Prevention and the Treatment of Offenders", in fact the conference looked very little at the treatment of offenders. People representing the Howard League in England and Penal Reform International did organize workshops in the NGO stream to look at offenders' rights and offender treatment issues. However, sessions for the official delegations rarely mentioned these concerns.

Community sentences and probation and corrections issues generally were not seen as having an impact on crime prevention strategies.

There was a very punitive orientation toward offenders at the conference, despite the lip-service paid to crime prevention through social development. Talk about monitoring and controlling offenders was far more prevalent than helping or even rehabilitating them.

There was much more trust and enthusiasm expressed toward private for-profit organizations providing adjunct services to the formal justice system, than toward NGOs.

⁴ See Appendix 3

Some Interesting and/or Disturbing Observations

1. Iran has acted on their goal to prevent crime by strengthening the family, by encouraging marriage among young people, and strengthening moral and religious education.
2. An Australian who was in charge of a newly built young offenders' facility, reacted with dismay when he saw that the building incorporated none of the movement toward openness, solidarity and a "home-like" atmosphere espoused in policy. He got together with the young people in the facility and asked if they would like to "create a more livable space". They put the building under quarantine for two months, knocked down walls and rebuilt the institution to better fit the ideals and goals they hoped to pursue.
3. There was a great deal of acknowledgement that a feeling of safety was as important as a reality of safety. Australia particularly emphasized this.
4. There was widespread acknowledgement that reoffending is more likely if a young person has been imprisoned.
5. France emphasized the importance, particularly with juvenile offenders of systematically speeding up the response to delinquent acts to build on feelings of responsibility that can quickly dissipate with time and meaningless process.
6. There was much soul-searching around the issue of how we can prevent young people from leaving their families to pursue illegal work, without sentencing them to abuse.
7. The importance of family violence as a root problem behind much street crime was emphasized. As one delegate said: "Family violence is the mother of all violence."
8. There was agreement by many delegates that around the world, it is the people in power who are the worst criminals.
9. There was a fear that because organized criminals, wealthy white-collar criminals and political leaders who are corrupt so often appear to be beyond the law, young people aspire to be criminals. One delegate spoke of a video in which a mafia godfather was talking to a group of young people and telling them he would help them with their fears of the future by teaching them how to steal and how to take care of themselves through crime generally. Several people spoke of their concerns that the values of young people are shifting because they see that the values we espouse are not the values we act upon.
10. A South African delegate spoke of their Street Law Program. This program includes a series of comics that provide a practical law program for S. African students. They hold mock trials where students wear robes, use a real courtroom where possible and have to

argue the case and make the judgements. The students are also taken into communities to do community work so that they will understand the social problems of the community. Celebration is a big part of the program. They celebrate their rights. They use music. In very violent communities, the young people are asked to create walls for peace or walls celebrating democracy. They turn graffiti into a celebration of what is positive or what could be positive in their lives. They use street art, street theatre and sport as well. As the presenter said: "We see this as long-term work. We hope to change attitudes about crime, about justice, about violence. We are working with street children too. This is an expression of hope." The presenter said that to counteract their despair about media coverage, they try to attract newsmakers to their program. They asked the President to be a sponsor. They try consciously to create positive newsworthy events that the media will cover.

11. A professor from Harvard spoke about the "Squash It" program, a public education program aimed at discouraging violence. A group of Harvard professors used a street term "squash it", which is already a term used by youth gangs to mean "Let's walk away from this fight. It isn't worth it." They expanded its meaning to include other situations of potential violence that might not be organized gang violence. They also developed a hand signal like the time-out sign, but using a clenched fist under an open hand. They took the sign and the term out to many focus groups with young people to see if it would work for them. The video was fascinating. This is an excellent example of a well-researched and thought-out public education program which builds on the realities of the young people it tries to reach.
12. Alan Rock mentioned the importance of literacy in crime prevention in his key-note address.
13. In Botswana, to counteract sensationalizing media reports, they trained their police officers in journalism. They created stories on crime prevention. They set up their own radio programs and newsletter.

MEMO

To: Joe Callan
From: Gary Hill
Subject: Report of Alliance Activities in Cairo
Date: May 10, 1995

I. General Comments

The Ninth United Nations Congress was held from 28 April through 8 May, 1995 in Cairo, Egypt. It was the function of the Alliance to coordinate the Ancillary meetings and to help provide secretariat services to the NGOs during the Congress. Though the official numbers from formal registration will be slightly lower (due to many NGO representatives registering either as "Experts" or as part of national delegations), it appears that about 50 NGOs were represented at the Congress.

II. Coordination with the Branch, United Nations and Egyptian Hosts

- A. Henrik Andersen of the Branch was our staff liaison and either he or other members of the Branch attended each of the Ancillary meetings and took notes. It is my hope to visit with him in Vienna, during the Crime Commission meeting in early June to compare notes and to provide you with a summary of the various meetings.
- B. Raymonde Martineau, a UN liaison officer for NGOs from Geneva, was the official UN liaison for the NGOs and she and I shared the office and the duties. I concentrated on the NGO meetings and she served as the bridge between the NGOs and the United Nations and provided information and direction on UN technical questions. She also handled the registration, coordinated obtaining the necessary equipment for our office and administered the local staff. I can tell you (and anyone else who will listen) that she was invaluable and our work in Cairo would have been much more difficult and a great deal less effective if she had not been with us. She is more than just a professional. She is dedicated to the United Nations and to the active involvement of NGOs.
- C. Though not directly responsible for the NGOs, Richard Scherpenzeel of HEUNI was asked to help us establish contact with various contractors in Cairo and to acquire an office, lounge and seminar room for us. Richard was in charge of the technical workshop on computers and the exhibits. In that capacity he visited Cairo in advance and made the necessary contacts. As a result, we did have an office, lounge and seminar room assigned directly to the NGOs. Though there were some initial communications and coordination problems, as soon as Richard

understood our difficulties he put me in direct touch with the proper people at the Congress and worked hard to insure we knew who all the players were. Richard also allowed us to contract directly with the Egyptian contractors for our services and be billed through him. That allowed us to get prices equal to or better than those given the United Nations, the exhibitors and the workshop presenters.

- D. The Egyptian contractors, mainly under the direct control of various government divisions were knowledgeable and helpful and provided us with excellent service in a timely manner. Though they had a tendency to attempt to re-negotiate prices after agreements had been reached, they did not attempt to hold provision of services hostage nor did they deal with us unfairly -- but some of their services and equipment rental was very, very expensive.

III. Ancillary Meetings

The following schedule outlines the 23 Ancillary Meetings held during the Congress:

DAY TIMES	MEETING	SPONSOR	LANGUAGE	VENUE
Sunday, April 30 1000- 1300	Demonstration on Alternatives to Violence Workshop	Friends World Committee for Consultation	English	NGO Meeting Room
Sunday, April 30 1500- 1800	Juvenile Delinquency in Urban Areas: Street Children and Violence	Howard League for Penal Reform	English Arabic	Symposium Room
Monday May 1 0900- 1200	Meeting of national crime prevention councils	National Crime Prevention Council of Canada	English French Spanish Arabic	Symposium Room

Joe Callan
Page 3
May 10, 1995

Monday May 1 1130- 1445	NGO Congress Orientation and Strategy Session	NGO Section	English French Spanish Arabic	Symposium Room
Monday May 1 1500- 1700	Restorative Justice —	Prison Fellowship International	English	Symposium Room
Monday May 1 1700- 1800	Draft Resolution on Children and Juveniles- discussion between sponsoring delegations (Austria & Belgium) and interested NGOs	NGO Section	English	Symposium Room
Tuesday May 2 1000- 1300	Implementation of Standard Minimum Rules	Penal Reform International	English French Spanish Arabic Russian	Symposium Room
Tuesday May 2 1500- 1800	Transfer of Criminal Sanctions and the Basic Standards for the Treatment of Foreign Prisoners	International Legal Defense Counsel International Bar Association Criminal Law, Section (SPG)	English	Symposium Room

Joe Callan
Page 4
May 10, 1995

Wed May 3 1000- 1300	Migration and Crime	International Scientific and Professional Advisory Council of the United Nations Crime Prevention Program	Arabic English French	Symposium Room
Wed May 3 1500- 1800	Practical Applications on Techniques for Prevention and Prosecution of Transborder Computer- related Crime	Foundation for Responsible Computing	English	NGO Meeting Room
Wed May 3 1500- 1700	UN Criminal Justice Programme and Peacekeeping Operations	UN Crime Branch and UN Reconstruction and Development Support Unit	English	Symposium Room
Wed May 3 1700- 2000	Inter-State Cooperation in Penal Matters in Arab States	International Association of Penal Law, Egyptian National Group	Arabic	Symposium Room

Joe Callan
Page 5
May 10, 1995

Thur May 4 1000- 1300	The Role of the Public Prosecutor in Criminal Justice, According to the Different Constitutional Systems	International Committee for Coordination (International Association for Penal Law, International Society for Criminology, International Society for Social Defense, International Penal and Penitentiary Foundation	French English	General Committee Room
Thur May 4 1500- 1800	Re-integration of children following wars and other situations of community violence	International Society for Traumatic Stress Studies	English	NGO Meeting Room
Friday May 5 1000- 1300	Drug legislation and related applications	CeIS di Roma	English Spanish Italian	General Committee Room

Friday May 5 1500- 1630	Basic Training Handbook for Correctional Personnel	International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Program	English	NGO Meeting Room
Friday May 5 1630- 1800	Making Young People Part of the Solution	National Associations Active in Criminal Justice	English	NGO Meeting Room
Sat May 6 1000- 1300	Victim and Traumatic Stress: Respect, Restoration and Reparation	International Society for Traumatic Stress Studies, World Society of Victimology	English	General Committee Room
Sat May 6 1000- 1300	Basic Education in Prisons: Results of an International Research Project	UNESCO Institute for Education	English	NGO Meeting Room
Sat May 6 1330- 1500	Working with Offenders in the Community	Association of Chief Officers of Probation (UK)	English	NGO Meeting Room

Sat May 6 1500- 1800	Life Imprisonment - the UN Report	Penal Reform International, Friends World Committee for Consultation	English	NGO Meeting Room
Sunday May 7 1000- 1300	Community Participation in Corrections	Friends World Committee for Consultation, Prison Fellowship International, International Prisoner's Aid Association	English	NGO Meeting Room
Sunday May 7 1300- 1500	Protection of the Environment: Some Environmental Crimes	Arab Lawyers Union	Arabic	NGO Meeting Room

IV. General Meetings

- A. Three meetings were held at 9:30 in the morning for NGOs to coordinate activities among themselves and to identify upcoming issues or activities in regards to UN resolutions that might be of interest to them.
- B. Every day of the Congress a 2:30 p.m. to 3:00 p.m. was held to allow NGOs to share information. Henrik Andersen of the Branch was present at most of those meetings and provided updated information. Eduardo Vetere, Branch Chief, came to one meeting to brief the NGOs on activities and to help identify ways they could be more effective and active in the future.
- C. As a result of an initiative by representatives of Canadian NGOs, representatives of the governments that drafted the UN Resolution on Juveniles came to a special meeting of interested NGOs to go over the draft and to discuss suggested changes in the wording.
- D. Though I do not have an exact number, several informal meetings were held by

groups of NGOs interested in specific topics or in establishing better coordination among NGOs for future UN meetings. The Alliance provided help in acquiring the meeting rooms and the sound system for those meetings.

V. Interpretation and Equipment

- A. interpretation were acquired for seven sessions. In addition, Arabic was provided by one of our Egyptian staff for most of the NGO informational meetings held each day. On four occasions, during Ancillary meetings, volunteers were found to sit next to attendees to help translate for them.
- B. Equipment requests from NGOs included overhead projectors, tapes and equipment to record sessions, use of typewriters and computers and copy facilities. In all cases the equipment requested was provided. Having said that, some groups were told that they had to help supply paper if they wished to reproduce large quantities of documents, especially if the documents was general material about their own organization rather than something specific to their Ancillary or special meeting of NGOs.

VI. Secretariat Services

- A. The office was open and staffed from 8:30 a.m. until 8:00 p.m. for all but two days of the Congress. The second from the last day of the Congress the office was closed at 6:30 p.m. due to the Congress Reception and the last day of the Congress all activities ended by 2:00 p.m.
- B. Alliance personnel provided NGOs with typing, copying, notification of meeting, message and special services such as acquiring needed office or graphic supplies or helping coordinate meetings with UN personnel or delegates. As has been mentioned previously, the NGO office helped handled the NGO registration and helped with special registration problems.

VII. Costs

- A. Interpretation cost \$8,190.00
- B. Equipment cost \$ 390.00
- C. Taping cost \$ 60.00
- D. Printing cost \$ 907.91
- E. Shipping cost \$ 150.00
- Total costs \$9,697.91

Organizations, at the Congress provided funding in the amount of \$4,155.00

Costs covered by the Alliance \$5542.91 (Note: \$5,000 was donated by the

Joe Callan
Page 9
May 10, 1995

Canadian

Government to help cover those costs)

It should be further noted that more interpretation would have been desirable and a couple of additional sessions should have been recorded. In addition, four requests for overhead projectors and video equipment had to be turned down due to budget restraints. One group was able to acquire a video system for their ancillary meeting by borrowing it from an exhibitor. It is estimated that a budget of \$10,000 would have been adequate to cover most of the desired services and that \$15,000 would have allowed for interpretation during all Ancillary and general NGO meetings.

VIII. Special Services for the Branch

About 800 T-shirts, with the Congress emblem, were donated to the Branch. We volunteered to provide the personnel and to set up the sales location to sell the t-shirts. Following is the add we prepared for them.

THE OFFICIAL UN CRIME CONGRESS T-SHIRTS

AVAILABLE IN ENGLISH, FRENCH AND ARABIC

LARGE AND EXTRA-LARGE SIZE ONLY

ONLY 40 EGYPTIAN POUNDS EACH - PLEASE HAVE CORRECT
CHANGE READY

ON SALE AT THE NGO REGISTRATION DESK

THE SUPPLY IS VERY LIMITED

ALL THE MONEY FROM THE SALE WILL BE GIVEN TO THE UNITED NATIONS
CRIME PREVENTION AND CRIMINAL JUSTICE FUND - THE SHIRTS WERE
DONATED SO EVERY POUND RAISED WILL GO DIRECTLY INTO THE FUND

Though we do not have an exact figure yet, because the money was turned over to the Branch as it was collected and it was not counted on a daily basis, I estimate that we raised about \$3,000 for the fund.

IX. Requests from NGOs for the future

- A. NGOs met four times during the last few days of the Congress to suggest facilities and activities for future Congress, Crime Commission and UN meetings. The minutes of those meetings are being prepared by others and we will receive a copy in the near future. Most of the items request the availability of specific equipment (copy machines, faxes, phones, computers, etc.) to be available for NGO use (at no cost to the UN). Some of the suggestions involve better meeting facilities and space for NGOs and some suggestions relate to the coordination of NGOs, specifically between the New York and Vienna Alliances.
- B. A representative from Australia requested information about the organization of the New York Alliance and indicated he will attempt to set up a similar group for the Pacific Rim.

X. Final Thoughts

- A. I felt the Alliance provided a needed service and did so in a relatively effective manner. We learned much from this Congress and by cataloguing the information and suggestions both with this report and with reports of others to be sent to us, we should be able to improve our service to NGOs and to the Branch for future meetings.
- B. I am sure many will not agree with me, however, after visiting with NGOs, Branch personnel, experts and delegates, I am convinced that the NGOs will play a much greater role in the future. It seems to me that the UN Crime Congress program is in the middle of a transition from being mainly a political event to a more professional and practical meeting. This year was frustrating to many who attended because they saw the political and either had not seen how much the program had moved or felt it should have moved much further towards a professional approach than it had. Having attended several previous Crime Congresses, I saw some major changes both in the format and in the types of people who attended. I am optimistic about the future, but we have much to do to help insure that the movement to a more practical meeting continues and that it moves in a proper way.

MAKING YOUNG PEOPLE PART OF THE SOLUTION

Special NGO Workshop
Ninth U.N. Congress on Crime Prevention
and the Treatment of Offenders

Chair:

Linda MacLeod National Associations Active in Criminal
Justice, 383 Parkdale Avenue, Suite 308,
Ottawa, Ontario, CANADA 613-761-1032 or
613-748-6101 fax: 613-748-1272

Participants:

Kimmett Edgar FWCC (Quakers) c/o: Friends House, Erston Rd.,
London, England

Mohamed Abdel Mawla Prosecution, Egypt

Dr. Nalin El-Alhamy Senator, Prof. in the Kairo-Zamelek Agyntaul,
Helman University

Richard Broughton Toronto Quakers (416) 236-4101

John Graham Home Office, 50 Queen Anne's Gate, London,
England, SW1H 9AT

Magdy Hosny EOHR 8/10 Mathaf EL Manial St. Roda, Cairo
Tel: 3620467 Fax: 3621613

K. Tomono UN Crime Branch, Wien, Fax: 4312092599

Aleya Mohamed Egypt delegation

A.R. Abu Nasser Palestinian Lawyers for Human Rights, Gaza
Strip, Gasa, P.O. Box 1226, Te. Fa. 972-7-
868860

Giuliana Martirani, International Fellowship of Reconciliation,
Centro Directionale, Torre Francy, 80143
Naples, Italy, fax: 38-81-787-5470

Reem S. Dagga Palestinian Lawyers for Human Rights

Loretta Horton Evangelical Lutheran Church in America, 8765
W. Higgins Rd., Chicago, Illinois, USA, 60631

Don Robertson University of Western Sydney, P.O. Box 555
Campbelltown, N.S.W., Australia, 2560

AbdLaziz Younis Cairo St. Yousef El Sahaff, Nasar Elgaded

PARTICIPANTS
NGO WORKSHOP: MAKING YOUNG PEOPLE PART OF THE SOLUTION

-2-

Prof. Dr. Mahmoud Motawie	Al Azhar University, Nasr City, Cairo Faculty of Engineering
Gila Rouen	Social Worker, Israel, P.O.B. 3430 BET SHEMESH, Israel
Yair Ronen	Legal Coordinator, Defence for Children International POB 3430 BET SHEMESH, Israel
Takako Kumeda	DCI-JAPAN, PhD Candidate Hitotsubashi-Uni Naka 2-1, Kuntachi, Tokyo, JAPAN
Manabu Sunose	Japan Federation of Bar Associations, 1-1 Kasumigaseki 1-choine, Chiyoda-ku, Tokyo 110, Japan
Robert Greaves	Wandsworth Council/EUDACC, Crimewatch, Town Hall, Wandsworth High Street, London, SW18 2PU, UK (Fax: 44-181-871-6537)
Fiona Begg	Australian Community Safety and Research Organization (ACRO Inc.) P.O. Box 440, Lutwyche 4030 Bne Qld. Australia
Clive Begg	ACRO (as above)
Peter Homel	Director, Juvenile Crime Prevention Division, NSW Attorney General Dept. GPO Box 6, Sydney, NSW, Australia
Caroline Hunt	U.N. Crime Prevention and Criminal Justice Branch
Jim MacLatchie	John Howard Society of Canada, 383 Parkdale Avenue, Ottawa, Ontario.
Martina Osada	Association of Chief Officers of Probation, 212 Whitechapel Road, LONDON, E1 1BJ
Linda Jones	Association of Chief officers of Probation, 212 Whitechapel Road, London, E1 1BJ UK
Jim Hilborn	Group HSRI (for Canadian Training Inst.) 72 Devon Road, number 10, Brampton, Ontario, L6T 5B4

PARTICIPANTS
MAKING YOUNG PEOPLE PART OF THE SOLUTION -3-

Lee Lakeman	Canadian Association of Sexual Assault Centres, 77 East 20th Avenue, Vancouver, B.C., U5V 1L7
Nigel Whiskin	Crime Concern, Signal Point, Station Road, Swindon Wilts, United Kingdom.
Lloyd Rupp	Pres. HSPI, 2702 Osborne Ln., Henderson, NV 89014 USA
Dr. Salah Abdel- Motaal	Prof. of Sociology, 22 Abuel Mahusen ElShazly, Agouza Hohandseen, CAIRO (tel. and Fax: 202-3461007)

NINTH U.N. CONGRESS ON CRIME PREVENTION AND
THE TREATMENT OF OFFENDERS

NGO WORKSHOP
MAKING YOUNG PEOPLE PART OF THE SOLUTION

HIGHLIGHTS OF WORKSHOP PRESENTATIONS

Nigel Whiskin:

Nigel reported on a national survey done in the U.K. focussing on the concerns and fears of young people. He told participants that, despite the fact that most media reports portray young people as problems, most young people see themselves as potential victims of crime, not as the aggressors. They resent the finger-wagging approach that most adults and the media take toward them. They emphasized that the way adults interact with young people speaks much louder than the content of what they say.

They reported that they worry about stealing, which is endemic in schools. They worry about being "taxed". They worry about gangs plundering stores, and noted that these gangs are frequently adults. For example, in one suburb, it was a gang of young married women who were doing this plundering. However, young people are often blamed. They worry that one person using graffiti can turn an area into a racist area overnight. They resent the trouble-makers in their classes.

90% of young people surveyed, including white youths, reported that they regard racial crime as the most serious form of crime.

When asked why young people commit crimes, the number one answer was boredom. Peer pressure was a close second.

They were asked who they would go to for help. They said they would not go to probation officers, to social service workers, to teachers or to parents. Some said they spoke to their family pets. Most spoke only to friends.

Nigel said that this information was influential in their planning around programs for young people. They now try to help find ways to prevent the victimization of young people, they try to ensure that adults interacting with young people practice what they preach, and they are trying to create recreational programs to reduce boredom.

Don Robertson

Don spoke of two experiments in Sydney, Australia. The premise of the experiments was to encourage adults who traditionally work with young people to ask these young people including young offenders to "fix" problems that they were creating.

He explained that in Australia, police in his state run police youth clubs in uniform. Between 1,000 and 2,000 young people are affiliated with each youth club. They come to the club every night and on the weekends.

One of the experiments took place in a youth club that was constantly vandalized. Adults were only there to listen to what the young people had to say, not to advise. Those young people who caused the trouble initially ran from the trouble, but they came back to the trouble eventually. At first they asked the adults for help, but the adults refused and said they had to solve the problem. Eventually the young people figured they needed to raise \$10,000 which would be matched to repair the damage. They raised the money by organizing a dance. This was difficult since they had to find a location and they were competing with another dance in the community.

He also spoke of the way he involved young people in a new juvenile prison he was running. The facility was set up in a very inappropriate, institutional way. He wanted changes made, but corrections would not provide money. The young people decided to fix it themselves. During the renovations, they put the institution under quarantine. They smashed down walls, repaired and painted the facility. Relatives brought in new plumbing equipment, carpeting etc.

Dr. Rupp:

Dr. Rupp gave an institutional perspective on involving young people in change. He spoke first of involving young people positively in careers in the corrections system.

He also said we often overlook young people as victims. We forget that if we put a parent behind bars, the child is often abandoned. The victim is therefore often revictimized.

He stressed that in order to do this work in a constructive and positive way, we must get rid of the "moat" mentality.

Loretta Horton:

Loretta described the SYMBA, or young lion program which she has created through the Evangelical Lutheran Church of America. This program is created for young African-American men. There is a program as well for young African-American women. This program connects the young people to their roots, teaches them self-esteem and provides a variety of activities. While it began as a camp, they are planning to expand it to become an ongoing process.

Mr. Mohamed Abdul-Mawla, Representative for the Egyptian Delegation and and Dr. Nabiha el Al-Kamy, General Secretary for Youth of the National Democratic Party

Mr. Abdul-Mawla stressed the importance of making work and legitimate sources of money available to young people so they don't depend on exploitation. They create camps, workshops, and sports events for young people. They also speak about Egyptian history. To find jobs for young people, they involve progressive businessmen who will employ young people. They also make arrangements for exchanges between young people in Egypt and in other countries.

They spoke as well of the problem of absent fathers, who are working outside Egypt and sending money back to their families. They are giving their children money, but not their presence.

Yair Ronan

Yair described the legal aid program he is involved in. They wanted to deal with children who are run-aways, and other children who are seen as the hard cases. He emphasized that once the children know there is someone there for them, the barriers come down. He gave examples of some of these hard cases, and how taking a different perspective toward young people can create positive results. For example, one young boy had been in a psychiatric hospital, but was kicked out when he started acting out. He had been diagnosed as retarded, and was extremely frustrated by this diagnosis and the treatment he was being given. When the people Yair works with worked intensively with this young boy they found he was not retarded, but had a learning disability. This new diagnosis and the new approaches this diagnosis opened up, gave the boy new hope and made him feel that finally people were finding what the real problem was. The diagnosis also changed his parents' attitude and approach to him and he was able to return to his family. Yair stressed that we must look for approaches which respect the experiences and perspectives of young people...we must respect their rights, if we want to find approaches that work.

Guiliana Martirani

Guiliana, who is from the International Fellowship of Reconciliation, told participants that they are collecting money and signatures to create a federation against the mafia. She asked interested participants to sign her list.

Linda MacLeod:

Linda MacLeod, who is with the National Associations Active in Criminal Justice, briefly described a project on literacy and crime prevention, she was coordinating on behalf of this organization, with funding from the National Literacy Secretariat in Canada. She said that the coordinating committee for this project, made up of 12 national crime prevention and literacy organizations, decided that they wanted to create resources and processes that would:

- help people understand crime and crime prevention in more accurate and more human ways;

- . encourage people working to prevent crime to form partnerships with literacy trainers and literacy advocates;
- . make people working to prevent crime more aware of how to make their programs accessible to people with low literacy skills;
- . find ways to make young people part of the solution to crime.

She briefly described a process of consulting with street youth, with some school children and with adult repeat offenders, to find what kinds of approaches would reach people who are low literate and have been in trouble with the law. The result is a kit that emphasizes storytelling, action theatre, art and community involvement. She said that interested participants could order the kit from her. She explained that it would be available in French and English in June and could be obtained free of charge, except for shipping charges.

MINUTES OF THE FIRST NGO SESSION
RE. NGO RELATIONS WITH THE CONGRESS
CAIRO, EGYPT 1995

Sat May 6, 1995

We convened to discuss our impressions of the Conference to date and to discuss the possibilities of joint strategies on both substantial issues and on the role of NGO's in general in relation to the United Nations procedures.

Several delegates expressed concern about the tone and content of the interventions by states. In general the threat was that governments perhaps even the majority of governments, talk about crime and law enforcement in a way that made it clear that they are unwilling to meet their own existing commitments towards UN standards and norms and that there are in fact growing authoritative tendencies.

Virtually all delegates felt that the 9th Congress hasn't been very favourable to NGO representation or to NGO input.

We agreed that the marginalization of NGO's hasn't been well enough prevented or dealt with by us. There was not enough communication between us and not early enough in the conference process. We could have established minimum agreements to proceed.

We discussed the usefulness of some of us getting to the Commission meeting and established that three delegates will attend and that we could meet on Monday morning at 9:30 with someone from the Branch to further inform and prepare ourselves and to establish what we will need in Vienna.

Amnesty International offered to facilitate meetings in Vienna since the delegate lives in the city. The delegate will fill out the offer at the meeting on Monday.

Delegates talked about the changes since the UN decisions of '92. The committee of specialists which used to work with the branch is now replaced by the Commission. The Branch now serves the needs of the Commission which meets annually. The Commission now oversees all decisions of this conference.

Some delegates felt that the NGO possibility of being heard was greater at the Commission. But that we should put together our own list of non-financial, non-political things needed for successful NGO organising such as equipment for interpretation and quiet rooms in which to work. A sub-group of delegates agreed to prepare such a list.

The Commission has 40 members and extra observers. It operates with similar structures as this Congress in plenary sessions, over a two week period. Some delegates reminded us that it is critical to be present in the beginning of the session and to work with the UN staff who are usually allies on our substantive issues. That UN staff needs to be informed well in advance of upcoming issues.

At the last meetings of the Commission, NGO's lobbied for references to NGO's in decisions so that a role would be carved out. NGO's lobbied for a role in the questionnaire regarding minimum standards. In '96 the Commission will look at the results of the questionnaire.

We reminded ourselves that we are not a political block but in another sense we could be a human rights block and could support each others work.

We referred to the NY Alliance and the Vienna Alliance and began to see what cooperation might be possible.

We agreed to meet tomorrow evening at 5:30.

NOTES OF NGOs MEETING
FOLLOWING THE CLOSING SESSION OF THE
U.N. CONGRESS ON CRIME PREVENTION AND THE TREATMENT OF
OFFENDERS.

CAIRO, EGYPT.

MONDAY MAY 8th 1995

ATTENDEES: (SEE LIST ATTACHED)

-This meeting was the third to take place attended by NGO representatives to the Congress.

- At the third meeting held Monday May 8th, the following points were agreed upon:

1. At least two NGO reps expect to attend the next meeting of the Commission at Vienna and will express our concerns in cooperation with the Vienna Alliance and the Branch.
2. That a summary of the concerns expressed at this Congress by NGOs be prepared for the benefit of others who may attend future Congresses.
3. That the draft minutes of these NGOs meetings may be used as background information for delegates' individual reports to the constituencies they represent.
4. That we mandate our delegates attending the next Commission meeting to speak on our behalf.
5. That we share among ourselves, our individual reports to our own countries and organizations.
6. It was noted that since translation has been a major problem for NGOs this time, there is reason to hope that E.U. may consider supporting us next time and efforts should continue to encourage them to do so.

Comments:

-It was noted that the Branch is already making an effort to subscribe to internet services.

-Concern was expressed that this Congress seemed to reflect a reactive "Stop Crime", attitude rather than emphasizing restorative justice, rehabilitation, training etc.. NGOs need to advocate for more professionalization based upon Human Rights.

-It was agreed that we need to monitor what happens to this Congress's resolutions as they

proceed to the Commission.

-The U.N. should be encouraged to follow-up on the questionnaires which were prepared on standards.

-If the commission is to "re-consider" Congress resolutions, it would place the Commission in the role of an advisory capacity to the U.N.. Not desirable in the view of NGOs.

-It was noted that while violence against women may be deemed to be a key issue for governments, there is also room for misinterpretation about the position of some women's groups. Their call for criminalization of violence against them means, criminal charges, trial and conviction. This does not necessarily imply harsher sanctions per se. Alternatives to custody may be quite sufficient in many cases. It is meant rather, to reflect the need for social (criminal) nature of the offence and, based upon experience to date, is a critical warning to individual abusers about the need to change. Governments who take the worst of these offenders and make them into symbols of evil necessitating increasingly cruel punishments are missing the point. (And the bulk of the problem.)

-Further to the foregoing, it was suggested that the trend to privatize interventions into abuse should be discouraged.

-It is recognized that a number of NGOs have issues of concern and that some of these may even overlap. It was suggested that a "Grid" be prepared of the name of the NGO on one axis and the issue on another axis so that they could all readily see the scope of issues and the commonalities of interest. (See attached)

-It was agreed that there does need to be some sort of statement which articulates perhaps even from an historical perspective of the role of NGOs and the U.N. and its agencies.

-There is a clear need for NGOs to be able to stay informed about the progress of various U.N. resolutions. Particular concern was expressed about the inclusion of the PRI "Making Standards Work" document in the L18 resolution at this Congress. It was recommended that L18 be circulated and efforts made to

-It was suggested that there is a need for Vision, especially with regard to social development and reference was made to how crime concerns which targets young people implies a scapegoating of young people- a serious error.

-The group was reminded that the role of Congresses has been to elevate the principles, standards and minimum rules to full U.N. acceptance. It was noted also, that the role, and influence of experts should not be lost to the overwhelming influence of justice politicians. There needs to be a balance. In a sense the balance between the two is reflected in the roles of the Branch

(professional) and the Commission (political).

-It was noted that the Vienna Alliance of NGOs do indeed work well together and can continue to have an important influence in the process. We rely on their knowledge and skills to keep us informed and assist us to participate.

-Any organization intending to attend at the next Commission meeting should advise Anki Wetterall of Amnesty International As Soon As Possible. She and Christian Kuhn have kindly offered to assist with our NGO concerns. (See tel and address attached.)

- A particular request was made by the Egyptian Human Rights Organization present to be kept informed about progress.

-It was indicated that the New York Alliance and the Vienna Alliance are in contact with one another via the exchange of minutes and at other times where the situation warrants, such as the preparation of the Ancillary Meetings Program. It was recommended that an effort be made for a closer relationship between the two. It was suggested that the chairpersons of the Alliances should be in closer communications so as to exchange information and disseminate such information to various networks of NGOs.

NOTE:

A copy of the notes for the first meeting of NGOs held Saturday May 6th is attached.

At the second meeting of NGOs held Sunday May 7th, the following "Wish List" was agreed upon for the purpose of assisting NGOs to participate meaningfully in subsequent Congresses or meetings of the Commission on Crime Prevention.

1. A meeting room with chairs, table, typewriter (or word processor), a photocopier, and a notice board.
2. Pigeon hole boxes for messages.
3. Access to telephone and fax machine.
4. At the official meetings, official Names Boards so that delegates can readily recognize who is speaking at sessions where NGOs are making an intervention or presentation.
5. Clear instructions of procedures for presenting statements, for example the need for official stationery requesting access to participation.
6. Internet access.

7. Display table.

8. List of Official Delegates

These items were deemed to be important aids in facilitating organized NGO participation. It was recognized that the Branch would be able to provide without charge or without further discussion.

NGO MEETING PARTICIPANTS

NAME AND ADDRESS	ORGANIZATION
Dave Howell Box 402, Station A Toronto, ON M5W 2B1 Tel (416) 340-2183 Fax (416) 340-2204	Salvation Army
Ahmed Othmani 5, rue Paulin Méry 75013 Paris France Tel 33-1-4588284 Fax 33-1-45652742	Penal Reform International
Jim MacLatchie 404-383 Parkdale Ave Ottawa, ON K1Y 4R4 Tel (613) 761-7678 Fax (613) 729-7715	John Howard Society of Canada
Lee Lakeman 77 East 20th Ave Vancouver, BC V5V 1L7 Tel (604) 872-8212 Fax (604) 876-8450	Canadian Association of Sexual Assault Centres
Jim Hilborn c/o group HSRI 72 Devon Rd, #10 Brampton, ON L6T 5B4 Tel (905) 458-4915 Fax (905) 458-6388	Canadian Training Institute
Dr. Lloyd Rupp 2702 Osborne Lane Henderson, NV 89014 USA	American Correctional Association

<p>Mona Rishmawi & Peter Wilborn 26 chemin de Joinville 1216-Coinbin-Geneva Switzerland Tel (41-22) 788-4747 Fax (41-22) 788-4880</p>	<p>The International Commission of Jurists</p>
<p>Pierre Zappelli 19 Route de la Guyère 1700 Fribourg Switzerland Tel (41-37) 253910 Fax (41-37) 253919</p>	<p>International Association of Judges</p>
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<p>Anki Wetterhall 1 glaseegasse 60 1190 Vienna Austria Phone & Fax 43 1 32094 98</p>	<p>Amnesty International</p>
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Don Robertson c/o University of Western Sydney PO Box 555 Campbelltown NSW Australia 2560 Tel 61-2-7729272 Fax 61-2-7730019	Australian Crime Prevention Council
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Renate Winter Rüdengasse 7-9 A-1030 Wein Austria	Vienna Alliance of NGOs on Crime Prevention and Criminal Justice

FWCC (Quakers)

Issues of importance for Quakers

- 1) abolition of the Death Penalty
- 2) rights and due process for life sentence prisoners
- 3) the use and abuse of electronic surveillance/tagging of offenders
- 4) changing justice systems from being based on retribution to being based on restoration
- 5) alternatives to violence programmes in prisons and schools
- 6) strengthening of UN norms and standards to make them more effective and recognising the humanity of offenders, with the constant aim to reduce the use of imprisonment
- 7) privatization of prisons--issues of state responsibility and linked encouragement to have more people in prison

"Making Standards Work"

PRI Handbook and Resolution CONF/169.L4

This aims to stimulate new efforts, at all levels, international, regional and national, to improve implementation of internationally recognized norms and rules concerning the penal justice systems and treatment of prisoners.

The resolution, as adopted by the Ninth UN Congress on Crime Prevention and the Treatment of Offenders invites the CCPTO to "Consider distributing" the Handbook to governments for use and consideration.

The CCPTO is also invited to subsequently consider this Handbook as a UN Publication.

Next Step is to have the CCPTO take specific actions towards promoting concretely the UN Norms or Rules including the distribution, the use and the publication of the Handbook "Making Standards Work".

+ the Questionnaire governments must be lobbied to fill in and send to the Crime Branch

Amnesty International

Our main concern is the implementation of UN standards and norms within the human rights field.

AI's mandate is limited to work for release of prisoners of conscience, fair trials for all political prisoners and to work against torture and the abolition of the death penalty.

At this Congress we had mainly been concerned about L. 18, L.4 and also about violence against women and children.

For the communications, we are concerned about the Questionnaires on UN standards and norms and we are eager to urge governments to send in their replies and also that the communication takes the decision to continue this information-gathering process.

NINTH U.N. CONGRESS
ON CRIME PREVENTION AND THE TREATMENT OF OFFENDERS

Cairo Egypt, April and May 1995

PRESENTATION TO COMMITTEE II
ON CRIME PREVENTION AND LITERACY

Presentation Made By Linda MacLeod

Thank you Mr. Moderator. In the brief time available, I would like to talk about a project on Literacy and Crime Prevention that I have had the privilege of coordinating on behalf of a coalition of 20 national non-governmental organizations in Canada, called the National Associations Active in Criminal Justice. Funding for this project has been provided by the National Literacy Secretariat.

This project uses literacy training and literacy awareness both as a practical catalyst to promote crime prevention through social development and as a way to involve young people and adults who are low literate in planning and implementing crime prevention programs appropriate to their communities and to their needs.

To be specific, we organized our work around five main objectives:

1. to use literacy training and literacy awareness as a practical catalyst to stimulate broader social development initiatives that would help reduce economic, racial, cultural and gender inequities;
2. to involve literacy organizations and other "learning" institutions or organizations such as libraries, museums and schools as partners in crime prevention;
3. to expand the vision of literacy to include reading and writing along with a broad range of tools and support to give people full access to their communities and the broader society;
4. to involve young people in the planning and creation of crime prevention tools and approaches; and
5. to create tools and approaches that would promote attitude change around crime and crime prevention. We wanted to help people see crime and crime prevention in different ways...in ways that would:
 - . discourage the current scapegoating of young people and other marginalized groups;
 - . encourage people to look beyond punishment to community-based solutions to crime, and

help people move beyond a focus on the roots of the problem of crime to a more positive focus on the roots of the solution.

We began our work by consulting with a group of young people who were living on the street. We also consulted with young adults who had been in conflict with the law and were participating in a literacy program run by the John Howard Society of Ottawa. We spoke as well to some primary school students. We asked them what their experiences had been with crime and literacy problems. We asked them what they thought should be done about these problems. We also asked them how they thought we could best get these messages across to people. We asked what else we could do to reduce crime and low literacy.

They encouraged us to find ways to bring literacy training to young people by making learning part of all aspects of their lives. They suggested we look at involving young people in literacy activities:

- . on the streets;
- . in recreation programs;
- . in shopping malls;
- . in libraries;
- . in public housing and other housing complexes;
- . in drop-in centres.

They advised us as well to use:

- . story-telling,
- . audio-tapes,
- . action theatre,
- . art and
- . learning approaches that reflect and address their experiences....approaches that tell the whole story of crime and low literacy.

They stressed that learning must be involving and should be linked to past experience and future action.

With this advice, they helped us create a kit that could be used by a wide variety of people working with young people and with adults through literacy programs, crime prevention programs, recreation programs and other community programs.

The kit includes:


- . stories about crime, learning problems, crime prevention and literacy training from many different perspectives;
- . art by young offenders;
- . four theatre scripts written by low literate young people, many of whom have been in trouble with the law;
- . many process ideas, discussion questions and facts and figures to help mobilize communities around literacy and crime prevention;
- . an audio tape in which a young offender talks about the experiences and emotions which triggered the violence

that led up to her getting in trouble with the law; and many examples of how different communities mobilized:

- . to make libraries safe places for young people;
- . to build positive community and crime prevention programs in culturally and linguistically diverse communities by setting up second language courses, family literacy programs and homework clubs;
- . to start literacy programs for street youth;
- . to use media celebrities and local leaders including police and municipal politicians to create drop-in reading and learning programs in shopping malls, and,
- . to build on their community strengths and realities to prevent crime and low literacy.

This kit can help people concerned with literacy training and crime prevention in developing and developed countries. It is a tool which can help move communities beyond the blaming and scapegoating which so many people who are low literate and people who come in conflict with the law, experience. It challenges people to look beyond the punitive approaches which are too often accepted by a discouraged and fearful public as the only way to solve the crime problem. It encourages them instead to look to problem-solving approaches which will make our communities safer, healthier and more caring places to live. And it encourages communities to make young people and other people who have become alienated and marginalized in our society, part of the solution to crime and literacy problems.

This kit will be available in English and French in one month. If you are interested in ordering a copy, please contact me after this session. Thank you for your attention.

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REPORT OF THE CANADIAN
DELEGATION

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