



# Eleventh United Nations Congress on Crime Prevention and Criminal Justice

Bangkok, 18-25 April 2005

Distr.: Limited  
21 April 2005

Original: English

## Report of Committee I: agenda items 6 and 7 and Workshops 1, 2 and 3

### Addendum

### Agenda item 7. Making standards work: fifty years of standard-setting in crime prevention and criminal justice

#### Proceedings

1. At its 4th and 5th meetings, on 20 April 2005, Committee I held a general discussion on agenda item 7, entitled “Making standards work: fifty years of standard-setting in crime prevention and criminal justice.” For its consideration of the item, the Committee had before it the following documents:

(a) Working paper prepared by the Secretariat on making standards work: fifty years of standard-setting in crime prevention and criminal justice (A/CONF.203/8);

(b) Discussion guide (A/CONF.203/PM.1 and Corr. 1);

(c) Reports of the regional preparatory meetings for the Eleventh Congress (A/CONF.203/RPM.1/1, A/CONF.203/RPM.2/1, A/CONF.203/RPM.3/1 and Corr.1 and A/CONF.203/RPM.4/1);

(d) Report of the Intergovernmental Expert Group Meeting to Develop Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, held in Vienna on 15 and 16 March 2005 (E/CN.15/2005/14/Add.1).

2. At its 4th meeting, on 20 April 2005, the Executive Secretary of the Congress introduced the agenda item. Statements were made by the representatives of China, Thailand, Malawi, Argentina, Algeria, Finland, Mauritania, Austria, the Republic of Korea, Indonesia, Uganda and the Philippines. Statements were also made by the observers for the International Centre for Criminal Law Reform and Criminal Justice Policy, the International Organization for Migration, Penal Reform International, Defence for Children International, Friends World Committee for



Consultation, the Japan Federation of Bar Associations and Prison Fellowship International.

3. At its 5th meeting, on 20 April 2005, statements were made by the representatives of Sweden, Canada, Germany, Turkey, Oman, the Islamic Republic of Iran, Chile and the United States of America. Statements were also made by the observers for the following intergovernmental organizations: Council of Arab Ministers of the Interior and the International Centre for the Prevention of Crime. Statements were also made by the observers for the following non-governmental organizations: the International Commission of Catholic Prison Pastoral Care and the World Society of Victimology. The meeting was also addressed by an individual expert observer.

### **General discussion**

4. In his introductory statement, the Executive Secretary of the Congress invited the Committee to watch a documentary film entitled “Making Standards Work”, commissioned by the United Nations Information Service and produced by the non-governmental organization “Two Hands Free”. The video was inspired by the 50th anniversary of the adoption of the Standard Minimum Rules for the Treatment of Prisoners<sup>1</sup> and was dedicated to the memory of the former Chairman of Penal Reform International, Ahmed Othmani, who had died in a tragic accident in 2004.

5. The Executive Secretary noted that, as illustrated by the documentary film, the international community had made considerable strides in the implementation of standards and norms, but that more work remained to be done. He praised individuals, institutions and non-governmental organizations for their efforts and dedication in the implementation of standards and norms. The Eleventh Congress provided a unique opportunity to review the achievements made in the history of standard-setting in crime prevention and criminal justice over the last 50 years. It also provided an opportunity to chronicle the achievements made in applying standards and norms and to identify the challenges that lay ahead and propose recommendations on how best to tackle them, based on best practices. He outlined the history of standard-setting since the first Congress and the role played by the congresses and the Commission on Crime Prevention and Criminal Justice in that process. In conclusion, he drew attention to the draft charter of fundamental rights of prisoners recommended for adoption by the Congress by the Regional Preparatory Meetings for Latin America and the Caribbean and for Africa.

6. Several speakers paid tribute to Ahmed Othmani and his pioneering work in advocating the rights of prisoners. Many speakers emphasized the importance of the implementation of standards and norms in crime prevention and criminal justice, through criminal justice reform, respect for the rule of law and protection of fundamental rights.

7. Many speakers expressed their appreciation to the secretariat for the working paper on making standards work (A/CONF.203/8) and their support for the recommendations contained in paragraph 55 of that paper, emphasizing the need to continue assessing the impact of standards and norms. Other speakers gave examples of the influence of standards and norms in their criminal justice systems through legislative and institutional reform, including in the areas of juvenile justice, treatment of prisoners, alternatives to imprisonment and restorative justice.

8. A large number of representatives made reference to prison reform inspired by the Standard Minimum Rules for the Treatment of Prisoners.<sup>1</sup> Others reported the impact of other standards in their criminal justice systems, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33, annex), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (Assembly resolution 45/112, annex), the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Assembly resolution 40/34, annex), the basic principles on the use of restorative justice programmes in criminal matters (Economic and Social Council resolution 2002/12, annex), the Guidelines for the Prevention of Crime (Council resolution 2002/13, annex), the Model Treaty on Extradition (Assembly resolutions 45/116, annex, and 52/88, annex), the Model Treaty on Mutual Assistance in Criminal Matters (Assembly resolutions 45/117, annex, and 53/112, annex I) and the safeguards guaranteeing the protection of the rights of those facing the death penalty (Council resolution 1984/50, annex).

9. Some speakers stressed the importance of alternative sanctions, noting that a fully functioning criminal justice system was incomplete when it provided imprisonment as the only option for sentencing. Accordingly, there was a need for more use of parole and probation, as well as other non-custodial sanctions. One speaker reported that the use of mediation through dispute settlement councils in his country had contributed to the reduction of cases going to court, thereby reducing also the case backlog.

10. A number of speakers called for greater use of restorative justice. One speaker stated that his country was committed to the use of restorative justice and that it would use that remedy more in the future, because of its proven beneficial value to the enhancement of peace and stability in society.

11. The importance of the independence of the judiciary as one of the essential pillars in the maintenance of the rule of law was also underscored by many representatives. In that regard, they cited the impact of the Basic Principles on the Independence of the Judiciary<sup>2</sup> and the Code of Conduct for Law Enforcement Officials (Assembly resolution 34/169, annex) on their criminal justice systems.

12. Many speakers stressed the importance of providing training in implementation of standards and norms to professionals involved in the administration of justice, such as police officers, prosecutors, correctional facilities personnel, probation officers, social workers, magistrates and judges. They also emphasized the importance of wide dissemination of standards and norms in local languages. They called for the publication of a revised compendium on standards and norms in all six official languages of the United Nations and, where possible, for its translation into local languages.

13. Some speakers noted the difficulties in implementing standards and norms at the national level owing to a lack of adequate resources, especially in developing countries. In that regard, reference was made to the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa and its plan of action, which called for a broad interpretation of legal aid to include advice, assistance and education and representation not only by legally trained lawyers, but also through law clinics, the use of paralegals, offices of public defenders and justice centres.

14. Emphasis was placed on the special needs of women prisoners, including pregnant women and those with small children. Problems included physical conditions in correctional facilities, lack of separate facilities for women, lack of female staff, lack of trained staff and the risk of sexual abuse by prisoners and staff.

15. Several speakers reported that their countries had set up separate juvenile justice systems or improved the existing one, in accordance with international standards and norms. That was done through legislative changes, the establishment of specialized rehabilitation centres that provided for education and vocational training, recreational and sporting facilities and training of specialized staff such as judges, social workers and probation and correctional staff. Some speakers expressed concern over the large number of children who were still in detention, most of them in police custody and pre-trial detention facilities. Others referred to the benefits of using diversion, alternative sanctions and restorative justice for children in conflict with the law and provided examples of best practices in the field.

16. The application of standards and norms in institution-building and strengthening or re-establishing the rule of law in countries emerging from conflict and in post-conflict situations, including in situations where United Nations peacekeeping operations were in place, was emphasized. In that regard, the need to include well-trained prosecutors, judges and prison and probation officers in such operations was stressed.

17. Many speakers welcomed the proposed charter of fundamental rights of prisoners, as recommended for consideration by the Congress by the Regional Preparatory Meetings for Africa, Latin America and the Caribbean and Western Asia (see A/CONF.203/RPM.2/1, A/CONF.203/RPM.3/1 and A/CONF.203/RPM.4/1). One representative expressed the support of his country for the rights of prisoners, but questioned the value the charter would add to the existing body of standards and norms in crime prevention and criminal justice.

#### **Conclusions and recommendations**

18. There was broad agreement on the need to continue giving priority to the implementation of standards and norms, both in developing and developed countries. A balance should be maintained between responding to emerging threats, such as terrorism and transnational organized crime, and respect for and implementation of human rights instruments and humanitarian law in criminal justice systems.

19. There was consensus that effective implementation of standards and norms required proper allocation of resources at the national level, as well as to the United Nations in order to facilitate the provision of technical assistance.

20. There was general agreement on the need for innovative approaches in the administration of justice, including the use of alternatives to imprisonment for minor offences, especially by first-time offenders, juvenile offenders and drug abusers, the use of restorative justice, including mediation and conciliation, and the need to take into consideration the rights of victims, in particular those of women and children.

21. The Committee recommended that:

(a) The use and application of United Nations standards and norms in crime prevention and criminal justice should continue to be accorded high priority within the United Nations system and should remain a standing item on the agenda of the Commission on Crime Prevention and Criminal Justice. In that context, the Congress commended the cluster approach in the assessment of use and application of standards and norms in accordance with Economic and Social Council resolution 2003/30 of 24 July 2004. Future reviews of their application should focus on identifying difficulties and problems, as well as the best practices to overcome them, with a view to facilitating international cooperation through the sharing of such information and enhancing the impact of technical cooperation activities;

(b) States should ensure that human rights law becomes an integral part of their criminal justice systems and that the relevant international human rights instruments are consistently applied, especially when confronting complex forms of criminal activities, such as organized crime or acts of terrorism;

(c) States should consider mechanisms to promote, as appropriate, the widest possible application of United Nations standards and norms, including by coordinating the work of national authorities and agencies involved, as well as promoting exchange of information between them. Such mechanisms should have the support of relevant non-governmental and civil society organizations;

(d) The United Nations Office on Drugs and Crime, subject to availability of resources, should publish an updated version of the Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice in the six official languages of the United Nations and, where possible, translate it into other languages, in order to ensure its widest possible dissemination;

(e) The United Nations Office on Drugs and Crime should be provided with adequate resources to enable it to provide technical assistance in criminal justice reform to States, upon request;

(f) Considering that remand prisoners constitute the majority of the prison population in many countries and that, because of prison overcrowding, many prisoners are housed in inhumane conditions and often subjected to gross violations of human rights and even to torture and inhuman or degrading treatment, consideration should be given to the fundamental rights of prisoners;

(g) The Commission on Crime Prevention and Criminal Justice should consider the recommendations contained in the report of the Intergovernmental Expert Group Meeting to Develop Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, held in Vienna on 15 and 16 March 2005 (E/CN.15/2005/14/Add.1), in accordance with Economic and Social Council resolution 2004/27 of 21 July 2004;

(h) The Commission on Crime Prevention and Criminal Justice should give consideration to the draft charter of fundamental rights of prisoners, contained in the reports of the Regional Preparatory Meetings for Africa, Latin America and the Caribbean and Western Asia (A/CONF.203/RPM.2/1, A/CONF.203/RPM.3/1 and A/CONF.203/RPM.4/1);

(i) Since mandatory sentences restrict the discretion of the courts in considering the circumstances of each offender and in applying alternative sanctions, States that have not yet done so should consider enacting legislation that provides for flexibility in sentencing, as well as for the imposition of non-custodial measures.

*Notes*

<sup>1</sup> *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I.A.

<sup>2</sup> *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex.