In honor and tribute to Dušan Cotič – Last chairman of the glorious United Nations Committee on crime prevention & control

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This paper describes the accomplishments of the Committee on crime prevention & control. Its focus is on the functions discharged by its last Chairman Dušan Cotič before, during and after the Eight Congress held in Havana, and in the following months leading to the formal establishment of the Commission on Crime Prevention and Criminal Justice.

Keywords: Dušan Cotič, UN Committee, accomplishments.

Introduction

The Twenty-First Session of the United Nations Commission on Crime Prevention and Criminal Justice, which was successfully concluded just a few weeks ago, should be remembered for a number of reasons: First, the intrinsic importance of its discussions and debates, as well as the decisions taken, on a variety of topical issues, with a record number of draft resolutions recommended for adoption by the General Assembly; second, the consideration that it managed to agree upon on a text of a new Standard on “United Nations Principles and Guidelines to Legal Aid in Criminal Justice Systems” and, accordingly, it should be congratulated because – in addition of having been the ‘engine’ originating the Palermo Convention with its three Protocols and the Merida Convention – in just two decades it was also able

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1 See doc. E/2012/30
to recommend for adoption by the General Assembly and the Economic and Social Council more Standards and Norms than all those approved by the International Community in the previous four and past decades; third, the significance that the Commission was so competently, effectively and outstandingly chaired not only by a Woman (for the third time in twenty years!), but also by the youngest Person in its history who, in addition, is a Member of a Royal Family, i.e., H.R.H. Princess Bajrakitiyabha Mahidol of Thailand; and, last but not least, the parallel holding of extremely interesting, stimulating and well attended side-events organized in close cooperation with interested Governments, other United Nations bodies and specialized agencies, as well as relevant NGO's and IGO's.

Among them, one of such side-events should be particularly mentioned, jointly organized by HEUNI and ACUNS in cooperation with the Governments of Finland, Canada and Qatar, devoted to the presentation of two very important books, both published by HEUNI and both authored by two dear and unforgettable former UNODC colleagues: the first written by Christopher Ram and entitled “Meeting the challenge of crime in the global village. An Assessment of the Role and Future of the United Nations Commission on Crime Prevention and Criminal Justice” and the second written by Slawomir Marek Redo and entitled “Blue criminology. The Power of United Nations Ideas to Counter Crime Globally. A Monographic Study.”

Was it just a strange coincidence or was it Scandinavian timely planning the fact that these two very comprehensive substantive publications were presented exactly during the XXth anniversary of the establishment and of the first session of the Commission? In Italian we say “ai posteri l’ardua sentenza!!!!,” which may be roughly translated as “let’s future generations take a decision on this”…

Both books can rightly be considered as appropriate companions of the two classic scientific masterpieces on the history of the United Nations Crime Prevention and Criminal Justice Programme, written already some years ago, by Don Manuel Lopez-Rey (1985) and Professor Roger Clark (1994). While in both books there are ample references to the relevance of the work accomplished by the United Nations Committee on Crime Prevention and Control as the “parent” expert body to the functional United Nations Commission on Crime Prevention and Criminal Justice², there are still some important aspects and characteristic

features related to the accomplishments of the Committee which have not yet been fully explored or elaborated in depth.

I am referring, in particular, to the role of the Committee as the preparatory body of the quinquennial United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, as well as to the critical, indeed crucial, functions discharged by its last Chairman before, during and after the Eight Congress held in Havana, and in the following months leading to the formal establishment of the Commission.

Drawing on official United Nations documents, rather than on my memory that can be extremely labile or selective, I will try to do so in this paper, not only to formally and publicly express my personal gratitude and deep appreciation to Dušan for his long-standing friendship, but also to render justice to a Person who, continually and consistently throughout the years, has been one of the greatest wise and gentle, but also firm and always generous supporters of the United Nations in the field of crime prevention and criminal justice.

It should be recalled, in this connection, that before his election as Chairman of the Eleventh Session of the Committee in February 1990, Dušan had already served uninterruptedly for ten years – just like his colleague Ron Gainer – as one of its most distinguished Experts, thus having gained the full thrust and having conquered the incommensurate confidence of all its fellow members. Let me also note, in this connection, that only Madame Simone Rozes, Premiere President de la Court de Cassation in France, had served in the Committee for twelve years, having also chaired it at a very critical juncture during which there was the danger that, as result of a recurrent restructuring exercise of ECOSOC, the Committee might have been exterminated… and her personal intervention in New York saved it!

It should also be recalled that Dušan had held a position of great responsibility at the Seventh Congress in Milan, where he had been elected as Vice-Chairman of Committee, and where his diplomatic and political skills resulted instrumental to the approval of a number of instruments such as the United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power and the United Nations Basic Principles for the Independence of the Judiciary³.

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³ See United Nation Publication Sales No. E. 86. IV. 1
In other words, Dušan had continued to keep very high the torch inherited by other leading Thinkers, Scholars and Reformers who had preceded or worked with him in the Committee, like Thorsten Sellin, Marc Ancel, Norval Morris, Niels Christie, Inkeri Anttila, Sergio Garcia Ramirez, Giuseppe di Gennaro, Ahmed Khalifa, Chief Adayemi, Manuel Lopez-Rey, Minoru Shikita, etc. to mention just a few, because the list would be too long (a total of 138 experts since the early establishment of the International Group of Experts in 1949!).

Dušan’s Role Before the Congress

Just before being elected as its Chairman in 1990, Dušan had played his part as a Member of a Subcommittee charged with the task to provide an overview of the problem of crime, assess the most efficient means of stimulating practical action in support of Member States and make recommendations to the Committee concerning the most effective mechanisms for implementation. The report of the Subcommittee – discussed and crafted in Riyadh on January 1989 in a Meeting hosted by an other Expert of the Committee, Dr. Farouk Mourad, Founder and First President of the Arab Security Studies and Training Center – had as its main promoters and co-drafters/rapporteurs his colleagues Ron Gainer, Vasily Ignatov and Matti Joutsen. It was formally considered and approved by the Committee4 chaired by Dušan, together with an accompanying draft resolution5, for transmission to and consideration by the Eight Congress to be held in Havana a few months later, on August-September 1990.


To realize the value and relevance of this report, let’s not forget that – in the words of Professor Clark – “the bulk of the ideas contained in this document were in due course incorporated in General Assembly resolution 46/152 setting out the parameters of the new program,” in particular the dissolution of the Committee of Experts and the establishment of the intergovernmental Commission. But, it is also equally important to be reminded – again in accordance with what Professor Clark pointedly noted – that, “as drafted by the Co-Rapporteurs and adopted by the Committee, the Addendum on “the Need...” was accompanied by a document entitled “Worldwide Crime and the Responsibility of the International Community: A Declaration of the End of Complacency.” Signed by most of the Committee members and the heads of the heads of the various institutes, the declaration was apparently framed in tones too lively for the Organization and did not achieve the final imprimatur of appearing as a United Nations document. It is a “cri de coeur” of the Committee’s frustrations.”

In fact, the declaration was considered as an implicit criticism to the then leadership of the United Nations Secretariat which – notwithstanding several periodic ECOSOC and General Assembly resolutions recommending the strengthening of the Programme on the basis of the outcomes of a number of review exercises mandated by both the Sixth and the Seventh Congresses, in particular the Milan Plan of Action – had been both incapable and unable to translate into action such plethora of recurrent calls for additional resources, required to conduct technical assistance activities. For these reasons, Miss Margaret Anstee, Director General of the United Nations Office at Vienna, decided to “censor” the text of the declaration, as some of key words like “neglect” or “complacency” were deemed to be too harsh and not fully

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6 R. Clark, op. cit., pp. 28.
7 Id.
reflecting the reality. Using as justification the fact that two Committee’s Experts (under the influence of whatever pressure…) had not signed the text, the entire Declaration was sacrificed and suddenly disappeared from the report!

In the final analysis, if any one had to be blamed, some Member States had to be considered the culprits of such inaction, and not the Secretariat, for imposing their stringent zero growth budgetary policies that were paralyzing the system!

I am not going to reveal the names of those two experts, also because both of them died and I have full respect of their souls but, instead, I am going to attach the text of the Declaration as an annex to this paper, because it was considered as a part and a parcel of the report by its co-drafters and the Committee itself and also because I am convinced that important documents, such as the Declaration, should be known and thus be preserved from oblivion.

Despite these and other similar problems faced and solved, under the experienced stewardship of Dušan, the Committee managed not only to unanimously approve such a “revolutionary” report, but also to complete the review of all draft standards and norms to be considered by the Congress with the related draft resolutions, as proposed by the regional and interregional preparatory meetings. The report of the Committee with its Addendum, submitted to ECOSOC before being forwarded for the consideration of the Eight Congress, attests to the forward-looking strategy conceived and pursued by the Committee, as well as to the seriousness and completeness of the wok done.

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Dušan’s Role During the Congress

Even without the accompanying Declaration, the report on “The Need…” was very well received and considered by the Eight Congress. Let’s not forget, in this connection, the moral authority exercised by Dušan as Chairman of its preparatory body, as well as the behind the scene role he continued to play as the closest advisor of the First Vice-President of the Havana Congress, the Head of the Yugoslav Delegation Professor Vladimir Kambowski, Minister of Justice at the time.

As noted in the report of the Congress, “great importance was attached to the United Nations role and the creation of an effective international crime and justice programme. It was stressed that the United Nations should have the capacity to serve all Member States as a source of reliable and timely information that would serve as a base for multilateral co-operation. Joint action programmes were also necessary to make tangible inroads into crime. In particular, reference was made to the recommendations of the Committee contained in its report entitled “the need for the creation of an effective crime and justice programme” (E/1990/31/Add.1). In commenting on the thrust of those recommendations and goals to be achieved, several delegations noted that, in view of the existing financial constraints, priority setting was an imperative. Others considered that the existing United Nations resolutions and recommendations already reflected Member States’ views on priority actions and that the solution was an increase in financial support.”

“Some delegations felt that a convention on international cooperation in crime prevention and criminal justice, as recommended by the Committee, deserved careful consideration. Other delegations, however, stated that while it had its attraction, the negotiation and preparation of such a convention could be a lengthy process, taking up resources of the Secretariat and of Member States which could be more profitably to the tasks. The most promising form for a Convention was one which provided the structural framework for a concerted United Nations programme. The Committee’s decision 11/122 on the review of the functioning of the programme of work of the United Nations was widely supported and the need for the creation of a more effective United Nations programme in this field was stressed repeatedly. Everything possible should be done so that the momentum was not lost. The future course of crime prevention and criminal justice in the context of global economic and social realities depended on the political will
of Member States, and only their determination and collective efforts could make the Committee and Congress recommendations a reality.”

As a personal annotation, let me stress here that the Eight Congress will remain for me – maybe due to the fact that it was the first one which I had the honor of servicing as its Executive Secretary – an unforgettable special event, not only because it was the last one lasting two entire weeks; or the last one which was preceded by a series of both regional and interregional preparatory meetings; or again the last one reporting directly to the General Assembly; or the first one which was conducted without the formal participation of the United States (apparently, President Bush Father could not resist political pressures of the American/Cubans, particularly the large community living in Florida, where one of his sons was Governor at that time); or because the President of the Host-country, “el Comandante Supremo” Fidel Castro – in addition to addressing the Congress at its official opening or appearing at the Conference Centre after its formal closing to personally extend his thanks and gratitude to the United Nations Secretariat and the Cuban staff of the Organizing Committee for the tremendous work accomplished – did not miss any of the official receptions offered by the various delegations during the entire period of the Congress; but also because it was without any shadow of a doubt the most productive, cost-effective and efficient Congress, in terms of substantive issues covered, policy options produced, far-reaching recommendations made and number of new instruments approved, especially when compared with other major United Conferences costing much more than the Crime Congresses!

Again, as Roger Clark commented – quite prophetically, I would say! – “the Eight Congress adopted a total of 45 resolutions, 21 on the recommendation of Committee as its preparatory body and 24 introduced by Governments in Havana. This undoubtedly placed some stress on the system and it is unlikely

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9 See United Nation Publication, Sales No. E. 91. IV. 2, Chapter IV, paragraph 87.
that such a marathon effort will occur in the future”\textsuperscript{10}. And he added that “the outpouring of resolutions in 1990, including standard setting measures\textsuperscript{11}, represented approximately as many total pages were produced at all previous Congresses combined. This volume led to heightened pleas for restraint and was a factor in the follow up discussion on the restructuring of the program”\textsuperscript{12}.

However, in my views, such critical remarks tend probably to deny the fact that, in the historical period in which the Eight Congress was held, there were such high expectations on the part of the international community that no limits were imposed to the intellectual curiosity and imagination to search for new approaches, explore alternative policy options and propose viable strategic solutions. And, naturally, all this was done by the Government Representatives participating in the Congress, in accordance with its Rules of Procedure.

\textbf{Dušan’s Role After the Congress}

As already noted, the report of the Congress, submitted directly to the General Assembly, was discussed at length by the Third Committee, where—again—Dušan was there, participating actively in its debates both as a Member of the Delegation of Yugoslavia and as Chairman of the Committee.

In his first intervention, “Mr. Cotič (Yugoslavia), speaking also as Chairman of the Committee on Crime Prevention and Control, said that he also felt that the United Nations role in that area was very important and that its work programme in the field of crime prevention and control, in particular in the present circumstances, should receive priority attention. Some of the most serious forms of crime, such as economic crime, terrorism, drug trafficking, fraud, illegal arms trafficking, theft of works of art and cultural heritage, illegal industrial practices and criminal environmental pollution, were increasingly carried on across national boundaries. The monetary, human and social cost of crime had become incalculable.

\textsuperscript{10} R. Clark, op. cit., p.p. 78.
\textsuperscript{11} The Congress recommended for adoption by the General Assembly or adopted a total of 11 new Standards and Norms.
\textsuperscript{12} R. Clark, op. cit., p.p. 117.
Among the results achieved in the past, Yugoslavia was particularly impressed with the international instruments on crime prevention and criminal justice. The United Nations congresses had contributed greatly to the process of standard-setting and the Eighth Congress was no exception.

While new initiatives should be welcomed and universal principles and standards should continue to be formulated, Yugoslavia would, however, wish to see wider application of the instruments already adopted. Such an approach called for closer co-ordination and cooperation between the United Nations system, national institutes and non-governmental organizations, technical assistance and advisory services. The United Nations should also be provided with adequate staffing and resources to deal with the problems caused by crime.

The Eighth Congress had demonstrated the willingness of Member States to co-operate in a comprehensive crime-prevention and criminal-justice programme. In the past, the Committee on Crime Prevention and Control had been appalled by the lack of a response to its repeated pleas and to the successive resolutions of United Nations policy-making bodies mandating the strengthening and upgrading of the United Nations crime and justice programme. The Congress had undertaken an entire review of the matter and, supporting the Committee’s recommendations (E/1990/31/Add.1), it had also adopted a draft resolution to review the functioning and programme of work of the United Nations in crime prevention and criminal
justice, which he hoped the Third Committee would endorse for final approval by the plenary of the General Assembly\textsuperscript{13}.

Intervening once more, towards the end of the debate, mainly to “defend” the results of the Eight Congress which were somewhat questioned by the Delegate of the United States, “Mr. COTIČ (Yugoslavia), in his capacity as Chairman of the Committee on Crime Prevention and Control, said he was pleased that a number of delegations had endorsed the work of the Committee and hoped that the consensuses reached by 127 delegations at the Eighth Congress would be repeated at the current session of the General Assembly. He thanked the representative of the United States of America, in particular, for expressing his delegation’s appreciation of the enormous amount of useful work accomplished by the United Nations Crime Prevention and Criminal Justice Branch, which he had said was probably at the highest point since its creation.

He assured all the delegations, in particular that of the United States, that the Committee had given its most careful consideration to the preparation of the draft instruments submitted to the Congress, especially those recommended for adoption by the General Assembly. It had embarked on its work in that connection immediately after the Seventh Congress and continued it on the basis of the results of both regional and interregional preparatory meetings, at which Governments had expressed their views. The instruments had then been sent to the Economic and Social Council before their submission to the Congress, where they had again been considered, first in informal consultations and then by all the participating delegations. Thus, the consensuses reached at the Congress had in fact been very well informed.

He thanked the United States for the contribution its experts had made to the drafting of certain instruments, including the model treaty on extradition, and said he hoped its delegation would support the adoption in the General Assembly of all the instruments approved at the Congress”\textsuperscript{14}.

Leaving now the official records, and entering more into the field of the personal memories, how to forget the feelings and emotions of speaking from the podium of the General Assembly Hall (where usually the Plenary takes place and where for logistical reasons the first meeting of the Third Committee devoted to the Eight Congress was moved in the morning of 30

\textsuperscript{13} See the Summary Records of the Third Committee contained in document A/C.3/45/SR.24.
\textsuperscript{14} See A/C.3/45/SR.27.
October 1990, and where I had the honor of introducing this item)? And more, how to forget the Meeting with the Secretary-General Xavier Perez de Quelll, attended not only by Dušan as Chairman of the Committee and the Yugoslav Ambassador, but also by two other Experts, i.e., General Ignatov and Professor Clark, in addition to Miss Anstee and myself? And finally, how to forget the sumptuous and delicious dinner to which we (Dušan, Vassili, Roger and me) were invited by the American Expert Ron Gainer, in his antique and beautiful mansion/country house Upstate New York?

In the end, all draft resolutions recommended by the Eight Congress were unanimously adopted, including General Assembly resolution 45/158 on the restructuring of the programme, on whose mandate first an intergovernmental Working Group was convened in Vienna in August 1991 and after a Ministerial Meeting was also convened in Versailles in November of the same year.

Acting on its recommendations, finally, the General Assembly adopted resolution 46/152, with its Annex containing the Statement of Principles and Programme of Action and, a few months later, the Economic and Social Council proceeded with the formal establishment of the new Commission and the election of its membership.

And, at the first session of the Commission, Dušan made his last intervention as Chairman of the Committee by “presenting an overview of the role, work and accomplishments of that body and reviewing the developments that had resulted in the establishment of the Commission. He considered the inaugural session of the Commission a turning point in the history of the United Nations crime prevention and criminal justice programme, and expressed the hope that the Commission would breathe new life into it.”

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17 See ECOSOC resolution 1992/1.
“Most representatives expressed appreciation for the pioneering work of the Committee, as well as the valuable service it had provided since its establishment in 1971. The Committee passed on to the new Commission a heritage of significant accomplishments, on the basis of which it could undertake the challenge of setting the future course of global activities in the field of crime prevention. The support provided, and the useful work carried out, by the Committee’s Secretariat was also acknowledged. An impressive body of standards for national application and instruments for international cooperation had been developed, especially in recent years, providing a sound foundation for future efforts. In that connection, many members of the Commission paid tribute to the formidable accomplishments of the experts of the Committee and expressed the hope that they would continue to be involved in the development of the programme, thus lending their invaluable experience to this newly established functional body.”

Let me quote for the last time, at this stage, the words of Roger Clark, who stated that… “in the last years of its life, the Committee was expanding its role as a catalyst, particularly in drafting standards and devising methods for their implementation… Its demise and replacement by an intergovernmental Commission is the most dramatic feature of the new era ushered in by the Assembly 1991 resolution.”

To conclude, it may now be perfectly legitimate to ask the following question: would have this ‘new era’ been ushered in without the active participation and at times passionate involvement of Experts of the caliber of Dušan Cotič, so much visionary and so much committed to the cause to the point of accepting the self-destruction and almost ‘collective suicide’ of the independent expert body of which they were members, and whose existence

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19 R. Clark, op. cit., p.p. 4.
was ‘sacrificed’ to the altar of intergovernmental real-politics just because such a body had been so successful in accomplishing its mandated tasks?

Again, as Alessandro Manzoni said, “ai posteri l’ardua sentenza,” to be more literally translated, as… “to posterity the arduous judgment…”

References


ECOSOC resolution 1992/1.


United Nation Publication Sales No. E. 86. IV. 1.

United Nation Publication, Sales No. E. 91. IV. 2.


U čast Dušana Cotiča – poslednjeg predsednika slavnog
Komiteta UN za prevenciju i kontrolu kriminala

Ovaj rad opisuje uspehe Komiteta za prevenciju i kontrolu kriminala. Njegov fokus je na postignućima poslednjeg predsednika ovog Komiteta Dušana Cotiča pre, tokom i nakon Osmog kongresa održanog u Havani, kao i u narednim mesecima koji su prethodili zvaničnom uspostavljanju Komisije za prevenciju kriminala i krivično pravo.

Ključne reči: Dušan Cotič, Komitet Ujedinjenih nacija, uspesi.
Annex

UNITED NATIONS
ECONOMIC AND SOCIAL COUNCIL

COMMITTEE ON CRIME PREVENTION AND CONTROL
Eleventh session
Vienna, 5–16 February 1990
Item 6 of the provisional agenda*

REVIEW OF THE FUNCTIONING AND PROGRAMME OF WORK OF THE UNITED NATIONS IN CRIME PREVENTION AND CRIMINAL JUSTICE

Results of the review undertaken by a sub-committee of the Committee on Crime Prevention and Control on the functioning and programme of work of the United Nations in crime prevention and criminal justice**

Note by the Secretary-General

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*E/AC.57/1990/1.

**The declaration and report have been reproduced in the form in which they were received; only typographical errors and errors of fact or terminology have been corrected.

V.89-61695 61388T
Notes

The declaration and report annexed hereto were prepared by a sub-committee of the Committee on Crime Prevention and Control. The sub-committee had been appointed by the Chairman of the Committee on Crime Prevention and Control in accordance with its resolution 10/1 of 31 August 1988 as a continuation of the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice that had been initiated by the Secretary-General in pursuance of General Assembly resolution 40/32 of 29 November 1985.

The sub-committee met at Riyadh on 18-19 January 1989 under the auspices of the Arab Security Studies and Training Center. The meeting was attended by members of the bureau of the Committee and other designated experts, as well as by the directors of the regional and interregional institutes for the prevention of crime and the treatment of offenders, the Arab Security Studies and Training Centre and the Australian Institute of Criminology.

The declaration and report of the sub-committee are hereby transmitted to the Committee on Crime Prevention and Control, for its consideration.
WORLD-WIDE CRIME AND THE RESPONSIBILITY OF THE INTERNATIONAL COMMUNITY

A DECLARATION OF THE END OF COMPLACENCY

There comes a time when patience loses virtue. There comes a time when good intentions stand alone as futile. There comes a time when human tragedy is so compounded that honest men and women must seek effective remedies or lose their self-respect.

The tragedy is world-wide crime. The men and women who must speak out include the undersigned. The time is overdue.

Control of crime ranks at the forefront of governmental responsibilities. It is of unique importance. It is a prerequisite to national progress. To the extent that a nation cannot protect the safety and security of its citizens, their possessions and their fundamental institutions, that nation’s economic, social, and cultural advancement will be stifled. Yet, in all countries serious crime persists, in most nations it is increasing, and among nations it is burgeoning. Domestic crime has outstripped the control of most individual nations, and transnational crime has accelerated far beyond the current reach of the international community. Most countries need help with problems of national crime, and some need it desperately. All countries manifestly require help with the overwhelming problems of transnational crime.

We, the undersigned, are members of the United Nations Committee on Crime Prevention and Control and heads of the affiliated institutes dealing with problems of crime and justice. We have reviewed the problems of world-wide crime from the standpoint of specialists in the field. We are not alarmists. We have not reached our conclusions in haste. We are professionals and realists who have tried our best to work within existing structures and existing strictures. Over time, though, our tolerance for inadequacy has been eroded by repeated evidence of the tragic plight of victims. Our patience has been ground thin by the creaky wheels of the intergovernmental mechanism in which we find ourselves enmeshed. Our forbearance has been stretched to the snapping point by the witnessing of entire nations falling prey to crime. We have become convinced that effective reduction of world-wide crime requires nothing less than a completely restructured, comprehensive, practical, boldly-active programme several orders of magnitude greater than that yet attempted by the international community. To continue as we have would cost far more - in money, in suffering and in conscience.

With this conviction, we submit the attached report for review by the national representatives attending the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. We commend it to their very careful attention. Upon its consideration, we call for a resolution from the Congress for the drafting of a United Nations Convention on Crime Prevention and Control - a Convention that will detail the structure, functions, and financing of a complete programme for effective assistance against national and transnational crime. We call upon the same national representatives, and their colleagues, for support of such a Convention in the General Assembly.

We call, on behalf of all humanity, for the end of complacency.

(To be individually signed by Committee members and institute heads).