

SIXTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

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FN afholder hvert femte år en verdenskongres om kriminalpolitik. I år var den i Caracás, Venezuela, fra den 25. august til den 5. september. 101 stater deltog. Dertil kom f. eks. Namibia og adskillige intergovernmentale organisationer. Desuden var en række af FN's nongovernmentale organisationer meget aktive; det gjaldt ikke mindst Amnesty International. Endelig deltog et stort antal såkaldte »individual experts and consultants«, herunder undertegnede repræsentant for Nordisk Samarbejdsråd for Kriminologi. I det følgende skal jeg give en kort redegørelse for hovedemnerne, som blev behandlet i kongressens komitéer og arbejdsgrupper.

Det første hovedemne var »Crime trends and crime prevention strategies«. Der var enighed om at fremhæve sammenhængen mellem på den ene side kriminalitet og på den anden side social ulighed, racediskrimination og national diskrimination. Det var også let at gå ind for en veludviklet kriminologi – og måske især for en kriminologi, som kunne forbinde elementer i den almindelige udvikling med kriminaliteten. Og kendskabet til forskningsresultaterne skulle øges i vide kredse. Derimod var der kætterske røster, som var imod en forbedring af de eksisterende »systems of data collection and crime statistics«, fordi dette ville understøtte den almindelige centraliseringstendens og formindske den individuelle frihed. På den anden side ønskede mange at få mere sammenlignelige statistikker. På grundlag af de eksisterende talte de vestlige lande om naturloven om stigende kriminalitet, medens de socialistiske lande betragtede denne »naturlov« som knyttet til de kapitalistiske systemer. Der var nogen uenighed om udviklingen i den kvindelige kriminalitet. Men der var en ret bred betoning af den stigende betydning af (eller erkendelse af) narkotikakriminalitet og økonomisk kriminalitet.

Da kongressen skulle omsætte dens opfattelse af kriminalitetens årsager til et handlingsprogram for »effective measures to prevent crime«, skete der imidlertid en klar glidning bort fra det ovennævnte, og man tog i et vist omfang udgangspunktet i, »that crime prevention should be based on exalting the spirit of man and reinforcing his faith in his ability to do good«.

Det andet hovedemne var »Juvenile justice: before and after the onset of delinquency«. Efter en debat ad velkendte veje endte arbejdet med vedtagelsen af en resolution om »Development of minimum standards of juve-

nile justice«. Formålet skulle selvsagt være at få dækket også dette område med 'standard minimum rules' for at give større mulighed for national og international påvirkning af de enkelte landes systemer. Der var især diskussion om, hvorvidt der skulle være et absolut forbud mod, at unge blev varetaget fængslet sammen med ældre. Den endelige formulering af dette punkt blev foreløbig: »Pretrial detention should be used only as a last resort and no minors or juvenile offenders should be held in a gaol or other facility where they are vulnerable to the negative influences of adult offenders during this period and accounts should always be taken of the needs peculiar to their age«. Se i øvrigt nedenfor i bilag 1.

Det tredje hovedemne var »Crime and the abuse of power: offences and offenders beyond the reach of law«. En stor del af de emner, som skulle drøftes under dette punkt, ville i Skandinavien være blevet samlet under betegnelsen 'økonomisk kriminalitet'. Titlen var imidlertid så vidtfavnende, at der var rige muligheder for skænderier mellem Israel og P.L.O., kritik af apartheid o. s. v. Største delen af debatten brugte eksempler som multinationale selskabers prispolitik, salg af sundhedsfarlig føde og medicin, forurening, og korruption i den statslige administration. Der var tilsyneladende ret så stor enighed om analysen og beskrivelsen af problemerne. Enigheden forsvandt dog, når de skyldige skulle udpeges. Nogle delegationer forklarede, at noget sådant ikke kunne ske under deres styreform. Et afrikansk forslag, som lå i ret åbenbar forlængelse af debatten, og som indeholdt en fordømmelse af de multinationale selskaber, mødte kraftig modstand fra de vestlige industrilande. Der var også stor uenighed om det ønskelige i, at der skulle kunne kræves foretaget efterforskningsskridt i firmaers kontorer i andre lande etc. Denne del af debatten endte i en anbefaling af, at »more effective strategies be developed internationally, regionally and nationally . . . to prevent, prosecute and control such abuses of power«, og at der skabes »procedures for the gathering of evidence and the extradition of persons«. Se i øvrigt nedenfor i bilag 2.

Der vedtoges endvidere en resolution mod »extra-legal executions« af politiske modstandere og sigtede, udført af militær, politi m. m. (Argentina, Brasilien, Chile, Uruguay og et par lande mere undlod at stemme). Et cubansk forslag om at pege på nogle bestemte stater blev stemt ned. Derimod blev en opfordring til regeringerne om at forhindre tortur og »illtreatment of detained persons« vedtaget énstemmigt.

Det fjerde hovedemne var »Deinstitutionalization of corrections and its implications for the residual prisoner«. Bortset fra nogle socialistiske lande, der mente, at fængselsstraf kan være et adækvat middel til behandling af visse lovovertrædere, var der almindelig enighed om det ønskelige i at finde andre muligheder. Der blev vedtaget en resolution om alternativer, en om behandling af kvindelige lovovertrædere, jfr. bilag 3, og en om »Development of measures for the social resettlement of the imprisoned«.

Det femte hovedemne var »United Nations norms and guidelines in criminal justice: from standardsetting to implementation, and capital punishment«. Under dette punkt blev der vedtaget en række resolutioner: (1) »Prevention of torture and other forms of cruel, inhuman or degrading treatment«, (2) »Code of conduct for law enforcement officials«, (3) »Transfer of offenders«; i denne forbindelse var der en principiel debat om nødvendigheden af den kriminelles eget samtykke; Canada og USA gik stærkt ind for dette, medens Vesteuropa var lige så kraftigt imod; for taler blandt andet at det er den sikreste og politisk set mindst belastende måde at undgå overførsel til lande, der må forventes at mishandle fanger; imod taler, at det modsatte er gældende ret i Europa, at staten kan have en interesse i at blive fri for bestemte personer, og at straffuldbyrdelse i almindelighed ikke forudsætter samtykke. Den endelige formulering blev: »... recognizing that any such procedures can only be undertaken with the consent of both the sending and receiving countries and either with the consent of the prisoner or in his interest«, se nærmere bilag 4, (4) »Human rights instruments and their implementation for prisoners«, (5) »Legal information and the dissemination of legal knowledge«, (6) »Guidelines to ensure independence and to improve selection and training of judges and prosecutors«, og (7) »Implementation of the conclusions of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders«.

Derimod blev et svensk-østrigsk forslag om en dødsstrafsresolution trukket tilbage. Skønt den var meget afdæmpet, og skønt generalforsamlingen havde pålagt kongressen at diskutere dette »with a view to restricting and eventually abolishing that punishment«, kunne den ikke få tilstrækkelig støtte.

Det sjette hovedemne var »New perspectives in crime prevention and criminal justice and development: the role of international co-operation«. På baggrund af at det var en FN-kongres, er det ikke mærkeligt, at en stor del af denne debat drejede sig om støtte til en udvidelse af FN's arbejde inden for kriminologien og kriminalpolitikken. Der blev vedtaget en resolution om støtte til instituttet i Costa Rica og en om »Establishment in Africa of a regional institute for social defence«. Der var endvidere en del debat om ønskeligheden af fortsat at gå ind for en flytning af sekretariatet fra New York til Wien.

Endelig blev der vedtaget en »Caracas Declaration« omhandlende nogle meget generelle principper for kriminalpolitik, forskning m. m.

Generelt gælder det jo, at slige resolutioner ikke binder nogen, og at de ikke kan gennemtvinges. Det er imidlertid ikke ensbetydende med, at de er ligegyldige. Det er givet, at de er velegnede midler i den politiske proces både internt og eksternt. F. eks. kan Amnesty Internationals arbejde gøres mere effektivt på grundlag af sådanne.

Ved siden af det mere politiske arbejde var der forelæsninger (blandt andet ved Inkeri Anttila) og fremlæggelser af kriminologiske projekter m.m.

Før kongressen havde FN afholdt møder om hovedemnerne, dels regionalt, dels globalt. På baggrund af dette havde sekretariatet udarbejdet nogle gode arbejdsplaner. Debatterne formede sig tit på den måde, at en række lande forklarede, at beskrivelsen ikke passede på deres hjemlige system eller begrundede, hvorfor de foreslåede resolutioner m.m. ville være uacceptable for dem. Som eksempel kan nævnes, at en stat mente det nødvendigt at have dødsstraf for at afskrække hekserdokterer fra at sælge medicin indeholdende menneskekød. Andre stater redegjorde for de kriminalpolitiske problemer, der opstod, når udenlandske lejetropper angreb dem. Der blev peget på det fundamentale religiøse grundlag, f. eks. nødvendigheden af at bruge koranens straffesystem. Deltagerne fik på den måde dels en mængde faktisk viden om andre landes forhold, dels en meget kraftig understregning af, hvor kulturafhængige selv vore mest fundamentale kriminalpolitiske problemer er. I den forbindelse er det værd at fremhæve, at mange af de oplysninger, der blev lagt frem, var indsamlet specielt med henblik på denne kongres, og at afholdelsen af kongressen har betydet, at mange lande har været »tvunget« til at overveje spørgsmål, som ellers ville have fået en væsentlig lavere plads i de ministerielle arbejdsprogrammer.

Det er efter min mening afgjort en kongres, som det er værd at deltage i. Den næste bliver sandsynligvis i Marokko i 1985. Den specifikt videnskabelige del af kongressen var i år kun på enkelte punkter væsentlig. Og sådan vil det nok let blive ved de følgende, men den kriminalpolitiske debat m.m. har klart været kvalificeret og relevant.

Vagn Greve

Bilag 1.

Development of minimum standards of juvenile justice

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recognizing that a high degree of social attention should be paid to the ways by which juveniles are handled because of their early stage of development,

Noting the adoption by the United Nations of standards and guidelines designed to protect fundamental human rights of all persons, particularly those involved in the criminal justice system,

Affirming that standard minimum rules for the administration of juvenile justice are important in protecting the fundamental human rights of juveniles and that these standard minimum rules should reflect the following basic principles:

(a) Juveniles in trouble with the law should be provided with carefully constructed legal protections,

(b) Pretrial detention should be used only as a last resort and no minors or juvenile offenders should be held in a gaol or other facility where they are vul-

nerable to the negative influences of adult offenders during this period and account should always be taken of the needs peculiar to their age,

(c) Juvenile offenders should not be incarcerated in a correctional institution unless adjudicated of a serious act involving, above all, violence against another person or of persistence in committing other serious offences; moreover, no such incarceration should occur unless it is necessary for their own protection or unless there is no other appropriate response that will protect the public safety, or satisfy the ends of justice and provide the juvenile with the opportunity to exercise self-control,

(d) The community of nations should do all that it can, both individually and collectively, to provide the means by which every young person can look forward to a life that is meaningful and valuable to himself, to his community and to his country,

Recognizing further that cross-cultural comparative research will significantly advance worldwide understanding of the causes of juvenile delinquency and the means to prevent it and that this vital research is not currently a major focus of any of the United Nations crime prevention centres,

Recommends:

(a) That the Committee on Crime Prevention and Control should be directed to develop standard minimum rules for the administration of juvenile justice and the care of juveniles, which can serve as a model for Member States;

(b) That the Secretary-General should assign to one of the United Nations crime prevention centres the responsibility for conducting research on the causes of delinquency and programmes for its prevention;

(c) That the Secretary-General should report to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the progress achieved in the formulation of the proposed standard minimum rules for the administration of juvenile justice and the care of juveniles for review and final action; moreover, the Secretary-General should report to the Congress on the progress in the research conducted in juvenile delinquency by the designated United Nations crime prevention centre.

Bilag 2.

Prevention of abuse of power

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Considering that abuses of economic and political power cause great material and social harm, undermine economic and social development and impair the quality of life of people throughout the world,

Considering that multinational and transnational corporations contribute to such abuses of political and economic power, particularly in their operations in developing countries,

Recognizing that criminal justice systems in most countries are designed primarily for the prevention and control of conventional forms of crime,

Emphasizing the need for urgent and incisive action to prevent, prosecute and control abuses of economic and political power, wherever they may occur, and to make criminal justice more responsive to contemporary needs and able to cope more effectively with such abuses,

Recommends:

(a) That the public be made aware of the harmful consequences of the abuse of economic and political power, including those abuses committed or generated by the activities of multinational and transnational corporations;

(b) That more effective strategies be developed internationally, regionally and nationally, as appropriate, to prevent, prosecute and control such abuses of power;

(c) That the United Nations, with special concern for the needs and interests of developing countries, continue to gather, analyse and disseminate to Member States information, including the current status of the law in its Member States, concerning abuse of economic and political power, *inter alia*, the corruption of public officials and conduct adversely affecting consumers, working people and the environment;

(d) That research and training be developed at the international, regional and national levels to assist Member States in combating such abuses;

(e) That Member States consider working on the further improvement of civil and penal laws against abuses of economic and political power, to the end that such abuses may be prevented;

(f) That co-operative efforts be intensified among Member States to prevent, prosecute, and control abuses of economic and political power that extend beyond national boundaries and territorial jurisdictions, and that such efforts, including mutual legal assistance treaties or conventions, make provision for the establishment of procedures for the gathering of evidence and the extradition of persons;

(g) That the United Nations continue its present work on the development of guidelines and standards regarding abuse of economic and political power, and that the possibility of international agreements on illicit payments should be actively pursued.

Bilag 3.

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Considering that the Secretary-General of the United Nations, in his statement to the Sixth Congress, requested that the Congress should address itself to the problems encountered by women and to their contribution to the prevention of crime and the promotion of criminal justice,

Recognizing the efforts of the United Nations, through its Commission on the Status of Women and the World Conference of the United States Decade for Women: Equality, Development and Peace, to achieve equality for women,

Noting that, because of the small number of women offenders throughout the world, they often do not receive the same attention and consideration as do male offenders,

Noting further that this inattention often results in limited access for women to the necessary programmes and services and placement in detention facilities far from their families and home communities,

Bearing in mind that women most of the time have major responsibilities for children and considering that deinstitutionalization is an appropriate disposition for most women offenders to enable them to discharge their family responsibilities,

1. *Recommends* that in the implementation of the resolutions adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders directly or indirectly relevant to the treatment of offenders recognition should be given to the situation of women offenders and to provide for their needs;

2. *Recommends also* that in countries where it is not yet done programmes and services used as alternatives to imprisonment be made available to women offenders on an equal basis with male offenders;

3. *Recommends further* that the United Nations, the governmental and non-governmental organizations in consultative status with it, and all other international organizations, make continuing efforts to ensure that the woman offender is treated fairly and equally during arrest, trial, sentence and imprisonment, particular attention being paid to the special problems which women offenders encounter, such as pregnancy and child care;

4. *Requests* that, at future Congresses and their preparatory meetings, as well as in the work of the Committee on Crime Prevention and Control, time should be allotted for the study of women as offenders and victims, and urges Governments to include appropriate representation of women in their delegations.

Bilag 4.

Transfer of offenders

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Considering the fact that improved means of transportation and communication, the development of economic and financial resources, and the ensuing mobility of individuals have resulted in increasing the internationalization of crime, and the consequent incarceration of larger numbers of foreign nationals in the prison systems of many Member States,

Conscious of the fact that difficulties of communication by reason of language barriers, unfamiliarity with local culture and habits, and the absence of contact with relatives and friends may work excessive hardship on individuals serving sentences in other than their home countries,

Reaffirming the right of each State to formulate and implement its national policies and programmes in the field of crime prevention and control in accordance with its own needs and priorities, as expressed in General Assembly resolution 32/60 of 8 December 1977,

Recognizing the conclusion reached by the Committee on Crime Prevention and Control in its International Plan of Action, which calls for international co-operation in order to establish procedures that provide for the return of persons convicted

of crimes abroad to their home country in order to serve the sentence, thereby facilitating the process of reintegration into society,

Noting that such procedures have been established or are being considered by several Member States, especially since the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the fact that work on the development of standards for transfer of offenders was identified as a priority by the Committee on Crime Prevention and Control at its fourth session,

1. *Urges* Member States to consider the establishment of procedures whereby such transfers may be effected, recognizing that any such procedures can only be undertaken with the consent of both the sending and receiving countries and either with the consent of the prisoner or in his interest;

2. *Calls upon* the Secretary-General to provide or facilitate the provision of technical and professional advice and support at the request of Member States that are interested in establishing such procedures;

3. *Requests* the Committee on Crime Prevention and Control to give priority to the development of a model agreement for the transfer of offenders with a view to presenting it to the General Assembly for consideration as soon as possible.