

NOTES

PROGRESS REPORT ON UNITED NATIONS HUMAN RIGHTS ACTIVITIES TO PROTECT PRISONERS

I. INTRODUCTION

"Each of us is a center of the Universe, and that Universe is shattered when they hiss at you: 'You are under arrest.'"¹

The latest report of Amnesty International² states that during the past year more than 100 governments put citizens in prison because of their beliefs.³ Many of these prisoners were denied a fair trial and, unfortunately, a large percentage of them were tortured or illegally executed.⁴ Perhaps one reason for this alarming statistic is the hypocrisy manifested by states which adopt human rights instruments,⁵ such as the International

¹ A. SOLZHENITSYN, *THE GULAG ARCHIPELAGO* 3 (1973). Solzhenitsyn, who has been described as "the conscience of modern Russia, a human rights movement in himself . . .," was expelled from the Soviet Union in February 1974, after releasing for publication this stirring account of the Soviet prison system. I. MCGREGOR, *HUMAN RIGHTS* 5 (1975).

² Amnesty International, a worldwide, London-based human rights movement independent of any government, political party faction or religious creed, acts on behalf of men and women who are imprisoned for their beliefs, ethnic origins or religion, provided they have neither used nor advocated violence. The organization has consultative status with the United Nations Economic and Social Council, the Council of Europe and the Organization of American States, and is recognized by the Organization of African Unity. It is currently conducting an international campaign for the abolition of torture. *Hearings on the International Protection of Human Rights Before the Subcomm. on International Organizations and Movements of the Comm. on Foreign Affairs*, 93d Cong., 1st Sess. 532 (1973); see generally AMNESTY INTERNATIONAL MATCHBOX (Winter 1977); and Note, *The Role of Nongovernmental Organizations in Implementing Human Rights in Latin America*, 7 GA. J. INT'L & COMP. L. 477, 482.

³ The report also alleges that 100,000 persons have been detained in Indonesia since 1965, and in India since Prime Minister Gandhi invoked emergency powers. In addition to its other human rights efforts, Amnesty International is presently investigating the cases of 320 "prisoners of conscience" in the Soviet Union. N.Y. Times, Oct. 3, 1976, § 4, at 2, col. 2. See also Lopez-Rey, *Criminological Manifesto*, 39 FED. PROBATIONS 18 (Sept. 1975) [hereinafter cited as *Manifesto*]; Nanda, *From Gandhi to Gandhi—International Legal Responses to the Destruction of Human Rights and Fundamental Freedoms in India*, 6 DENVER J. INT'L L. & POL. 19, 28 (1976) [hereinafter cited as Nanda].

⁴ As Marc Schreiber, director of the United Nations Commission on Human Rights, said, "Torture is a phenomenon of our times." From Chile, Brazil, Argentina, Uruguay and Paraguay to Guinea, Uganda, Spain, Iran and the Soviet Union, one survey indicates that methods of torture have become increasingly sophisticated and brutal. Among the worst offenders, the Soviet Union's common method of dealing with political and religious dissidents is to declare them insane and incarcerate them in mental hospitals, such as Moscow's notorious Serbsky Institute. AMNESTY INTERNATIONAL MATCHBOX 4 (Winter 1977); TIME, Aug. 16, 1976, at 31, 34. See also NEWSWEEK, Dec. 27, 1976, at 32.

⁵ United Nations instruments containing provisions which protect prisoner's human rights

Covenant on Civil and Political Rights⁶ and the Standard Minimum Rules for the Treatment of Prisoners,⁷ yet refuse to implement them.

To combat this inconsistency, the United Nations Committee on Crime Prevention and Control⁸ drafted 13 procedures for implementing the Standard Minimum Rules.⁹ The Committee also formulated a new provision

include: the Universal Declaration of Human Rights, G.A. Res. 217A(III), U.N. Doc. A/810 at 71-77 (1948); the International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. 16, at 52-58, U.N. Doc. A/6316 (1966); the Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452(XXX), 13 U.N. CHRON. 55-57 (Jan. 1976); the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, G.A. Res. 1904(XVIII), 18 U.N. GAOR Supp. 15, at 35-37, U.N. Doc. A/5515 (1963); and the Standard Minimum Rules for the Treatment of Prisoners, *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders*, Annex I(A), U.N. Doc. A/CONF.6/1 (1956). See generally *Human Rights in the Administration of Justice*, U.N. Doc. E/AC.57/24 (1976); *Human Rights: A Compilation of International Instruments of the United Nations*, U.N. Doc. ST/HR/1 (1973); L. SOHN & T. BUERGENTHAL, *BASIC DOCUMENTS ON INTERNATIONAL PROTECTION OF HUMAN RIGHTS* (1973).

Recent articles analyzing such instruments include: Nanda, *supra* note 3; Skoler, *World Implementation of the United Nations Standard Minimum Rules for Treatment of Prisoners*, 10 J. INT'L L. & ECON. 453 (1975) [hereinafter cited as Skoler]; Schwelb, *Entry into Force of the International Covenants on Human Rights and the Optional Protocol to the International Covenant on Civil and Political Rights*, 70 AM. J. INT'L L. 511 (1976) [hereinafter cited as Schwelb]; Liskofsky, *Coping with the 'Question of the Violation of Human Rights and Fundamental Freedoms'*, 8 HUMAN RIGHTS 883 (1975); Prasad, *The Role of Non-Governmental Organizations in the New United Nations Procedures for Human Rights Complaints*, 5 DENVER J. INT'L L. & POL. 441 (1975); McDougal, Lasswell, & Chen, *The Protection of Aliens from Discrimination and World Public Order: Responsibility of States Conjoined with Human Rights*, 70 AM. J. INT'L L. 432 (1976); Burke, *New United Nations Procedure to Protect Prisoners and Other Detainees*, 64 CALIF. L. REV. 201 (1976).

⁶ G.A. Res. 2200A(XXI), 21 U.N. GAOR Supp. 16, at 52-58, U.N. Doc. A/6316 (1966). The International Covenant on Civil and Political Rights came into force on March 23, 1976, 3 months after the 35th ratification or accession. On the same date, the Optional Protocol, ratified by 13 states, went into effect. The 38 states parties to the Covenant met for the first time on September 20, 1976, and elected the 18 members of the Human Rights Committee. The Committee will consider communications from individuals who claim to be victims of violation by a state party to the Protocol of any rights embodied in the Covenant. 13 U.N. CHRON. 33 (Oct. 1976); Schwelb, *supra* note 5, at 512, 514-16.

⁷ *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders* Annex I(A), U.N. Doc. A/CONF.6/1 (1956). The Standard Minimum Rules, adopted by the United Nations Economic and Social Council in August 1957, currently consist of 94 statements setting the minimum standards to be applied without discrimination for, *inter alia*, accommodations, hygiene, medical care, clothing, bedding, food, exercise, discipline and punishment. 13 U.N. CHRON. 44 (July 1976) [hereinafter cited as 13 U.N. CHRON. (July)].

⁸ The Crime Prevention Committee held its fourth session in New York from June 21 to July 2, 1976. *Id.* at 43.

⁹ *Id.*; *The Range of Application and the Implementation of the Standard Minimum Rules for the Treatment of Prisoners*, U.N. Doc. E/AC.57/28 (1976) [hereinafter cited as *The Range of Application and the Implementation of the Standard Minimum Rules*].

which extends the scope of the 1957 Rules.¹⁰ In other important developments, the Crime Prevention Committee drafted a proposed code of conduct for law enforcement officials.¹¹ The Draft Code, *inter alia*, purports to eliminate the use of torture in the treatment of prisoners and to provide protection for officers who abide by the Code. In addition, the Committee approved potential topics for the agenda of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.¹² Finally, the Committee recommended that priority be given to the development of standards in new areas of human rights and formulated an intermediate plan of action for 1978-81.¹³

II. THE RANGE OF APPLICATION AND THE IMPLEMENTATION OF THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

In May 1976, the Economic and Social Council requested the Committee on Crime Prevention and Control to formulate a set of implementing procedures and to study the range of application of the Standard Minimum Rules for the Treatment of Prisoners.¹⁴ The Committee responded by enacting a set of 13 implementing procedures¹⁵ and by adopting a draft resolution which purported to extend the scope of the Rules.¹⁶

The Rules do not have the formal status of an international convention which, when acceded to or ratified, becomes obligatory on the subscribing parties.¹⁷ The effectiveness of the Rules in protecting prisoners' human rights therefore depends upon the extent of formal incorporation and implementation by member states of the United Nations. Although the Standard Minimum Rules are universally recognized as a set of minimum

¹⁰ 13 U.N. CHRON. (July), *supra* note 7, at 43-45. See Appendix A.

¹¹ The Draft Code of conduct, which consists of ten articles (see Appendix B), will be considered for approval by the General Assembly at its 1977 session. 13 U.N. CHRON. (July), *supra* note 7, at 43-44; *Code of Conduct for Law Enforcement Officials*, U.N. Doc. E/AC.57/L.6 (1976) [hereinafter cited as *Code of Conduct*].

¹² The Sixth United Nations Crime Congress will be held in Sydney, Australia in 1980. 13 U.N. CHRON. (July), *supra* note 7, at 43-45; *Progress Report on United Nations Activities in Crime Prevention and Control*, U.N. Doc. E/AC.57/26/Add. 1 (1976) [hereinafter cited as *Progress Report*, Add. 1].

¹³ 13 U.N. CHRON. (July), *supra* note 7, at 43-45; *Progress Report on United Nations Activities in Crime Prevention and Control*, U.N. Doc. E/AC.57/27 (1976) [hereinafter cited as *Progress Report*].

¹⁴ Note 9 *supra*.

¹⁵ *Id.*

¹⁶ Note 10 *supra*.

¹⁷ Although the Standard Minimum Rules do not have the formal status of an international convention, two United Nations General Assembly resolutions have endorsed the Rules, recommending that member states implement them. G.A. Res. 2858, 26 U.N. GAOR Supp. 29, at 94, U.N. Doc. A/8588 (1971); G.A. Res. 3144, 28 U.N. GAOR Supp. 30, at 85, U.N. Doc. A/9425 (1973); Skoler, *supra* note 5, at 454, 458.

requirements for the treatment of prisoners,¹⁸ the extent of formal incorporation by member states has been somewhat limited. Of greater importance, the extent of implementation has been wretchedly insufficient.¹⁹ The obstacles to implementation most frequently cited include lack of legislative authorization, inadequate financial resources, and shortages of accommodations and trained personnel.²⁰

Dealing with the problem of legislative deficiencies, the Committee's draft procedures request all states whose penal standards fall short of the Standard Minimum Rules to adopt the Rules.²¹ The draft procedures suggest that the Rules, when adopted, should be embodied in national legislation and widely circulated among correctional personnel and prisoners.²² Member states of the United Nations are requested to provide regular reports to the Secretary General concerning the extent of their internal implementation of the Rules.²³ The draft procedures instruct the Secretary General to use such information to promote the Standard Minimum Rules in all relevant United Nations activities and publications.²⁴

The proposed procedures also deal with the problems of inadequate financial resources and shortages of accommodations and trained personnel.²⁵ They provide for technical assistance programs to help governments, upon request, improve their correctional facilities. In addition, the procedures make provision for national and regional seminars to train prison

¹⁸ Skoler, *supra* note 5, at 455.

¹⁹ *Id.* at 465-69; Lopez-Rey, *United Nations Policy in Crime Problems, the Problems of Crime and the Problem of Criminology*, 4 INT'L J. OF CRIMINOLOGY & PENOLOGY 59, 60 (1976).

According to a May 1975 survey of United Nations member states, although approximately 70 percent of the Rules were reported as fully implemented, some of the most important Rules were the least effectively implemented. For example, only one half of the reporting countries alleged compliance with Rules 9-14, dealing with minimum living condition requirements for prisoners. *Progress Report*, *supra* note 13.

²⁰ Skoler, *supra* note 5, at 468.

²¹ Draft Procedure 1 recognizes the need that adopting states harmonize the Rules with their laws and culture and thus emphasizes the incorporation of the substance rather than the letter of the Rules. For example, the Council of Europe, through its Committee of Ministers, adopted the Standard Minimum Rules in January 1973, and revised them to fit within the European framework of modern correctional policy. Council of Europe, Res. (73)5 (1973), cited in Skoler, *supra*, note 5, at 463-64; *The Range of Application and the Implementation of the Standard Minimum Rules*, *supra* note 9.

²² *The Range of Application and the Implementation of the Standard Minimum Rules*, *supra* note 9, at 6 (Draft Procedures 2-3).

²³ These reports are to include all laws and regulations concerning the applicability of the Rules to prisoners, and to places and programs of detention. *Id.* at 6-7 (Draft Procedures 4-5).

²⁴ This instruction to the Secretary General was proposed because, in the past, United Nations human rights publications have sometimes failed to mention the Standard Minimum Rules. *Id.* at 7-8 (Draft Procedures 6-8).

²⁵ *Id.* at 8-9 (Draft Procedure 9).

personnel.²⁶ These seminars would indirectly further the dissemination of the Rules and serve as an instrument for their enforcement. Finally, the draft procedures envision the creation of an expert referral system to give advice on questions submitted by interested member states.²⁷

The Crime Prevention Committee also adopted a new provision to be added to the Standard Minimum Rules.²⁸ The Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders considered extending the scope of the Rules. A majority of the Congress believed that the Rules should protect any person deprived of his freedom, whether or not that person had been charged with a crime. This view is consistent with a liberal interpretation of the nondiscriminatory features of the Standard Minimum Rules. A restrictive interpretation would permit detaining authorities to circumvent the Rules by characterizing a detainee as a person arrested without charge. The Committee's proposed amendment, therefore, eliminates such discretion by expressly including within the Rules all persons detained, whatever the cause of incarceration.²⁹

III. A DRAFT CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

The General Assembly, in November 1974, requested the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to give urgent attention to the development of an international code of ethics for police and law enforcement agencies.³⁰ However, since the Congress was involved with drafting a statement against the use of torture,³¹ it requested the Assembly to establish a committee of experts to prepare the new document. The General Assembly voted instead to request the Committee on Crime Prevention and Control to prepare a draft of the

²⁶ *Id.*

²⁷ See also Draft Procedures 10-13, which call for periodic review and enforcement of the Standard Minimum Rules. For example, Draft Procedure 12 provides for investigation by the Commission on Human Rights of individual complaints concerning violations of the Rules. *Id.* at 9-10.

²⁸ The proposed new rule is entitled, "Persons Arrested or Imprisoned without Charge." See Appendix A.

²⁹ *The Range of Application and the Implementation of the Standard Minimum Rules*, *supra* note 9; 13 U.N. CHRON. (July), *supra* note 7, at 43-45.

³⁰ U.N. Doc. E/AC.57/22 (1976).

³¹ The Congress adopted the Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was unanimously adopted by the General Assembly on Dec. 9, 1975, as Resolution 3452(XXX). *The Range of Application and the Implementation of the Standard Minimum Rules*, *supra* note 9. Sources discussing the "torture resolutions" include 13 U.N. CHRON. 55-57 (Jan. 1976); *Human Rights in the Administration of Justice*, U.N. Doc. E/AC.57/24 (1976); *Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*, U.N. Doc. A/CONF.56/10 (1976).

code and to submit it to the Assembly for consideration at its 32nd session in 1977.³²

The Committee produced a Draft Code of conduct for law enforcement officials.³³ It represents the culmination of 5 years work by the United Nations Secretariat, the Secretary General of INTERPOL, and law enforcement officials throughout the world. In a July 2nd press conference, Giuseppe di Gennaro, Chairman of the Committee, stated that the proposed Code emphasizes "that the police must always act with full respect for human rights and for the fundamental liberties of individuals and should never use more force than necessary."³⁴

The Draft Code includes not only police officers, but all officials who exercise police powers, especially the powers of arrest and detention. The code therefore includes members of military and security services in nations which authorize them to utilize police powers.³⁵ The Draft Code also suggests that use of force by officers should be exceptional and proportionate to the purposes of arrest. It explicitly prohibits "any act of torture, or other cruel, inhuman or degrading treatment or punishment" of prisoners.³⁶ Additionally, law enforcement officials are instructed to take appropriate action to meet the medical needs of persons in custody.³⁷

The Draft Code also deals with the question of the protection of officers who fulfill the obligations of the Code.³⁸ When faced with an unethical order by a superior, the subordinate officer is instructed to file a complaint within the chain of command. If that fails, the Code provides that the officer should proceed to the appropriate reviewing bodies provided by national law. As a last resort, the Code permits the officer to approach the press to report the impending violation of human rights.³⁹ The Code also

³² *The Range of Application and the Implementation of the Standard Minimum Rules*, supra note 9; *Fifth U.N. Crime Congress Backs Guidelines on Torture and Community Treatment*, 6 CRIM. JUSTICE NEWSLETTER 6, 7 (Nov. 10, 1975) [hereinafter cited as NEWSLETTER].

³³ See Appendix B.

³⁴ 13 U.N. CHRON. (July), supra note 7, at 43-44.

³⁵ *Id.*; *Code of Conduct*, supra note 11.

³⁶ *Code of Conduct*, supra note 11.

³⁷ The Draft Code assumes that all medical personnel will act in conformity with principles of medical ethics. *Id.* See also *Guidelines for Medical Doctors concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to Detention and Imprisonment*, U.N. Doc. E/AC.57/24/Annex (1976); *Human Rights in the Administration of Justice*, U.N. Doc. E/AC.57/24/Add. 1 (1976).

³⁸ *Code of Conduct*, supra note 11.

³⁹ *Id.* The Committee rejected a proposal by Amnesty International which would give a police officer the right to disobey a superior's order which violates "basic human rights." *Code of Conduct for Law Enforcement Officials (Statement Submitted by Amnesty International, a Non-Governmental Organization in Category II Consultative Status)*, U.N. Doc. E/AC.57/NGO/2 (1976); NEWSLETTER, supra note 32, at 7.

offers the full protection afforded by national law to those who exceed, in good faith, the Code's limits.

IV. PROPOSED UNITED NATIONS HUMAN RIGHTS ACTIVITIES IN THE ADMINISTRATION OF JUSTICE

The Crime Prevention Committee approved potential topics for the agenda of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.⁴⁰ In doing so, the Committee exhibited interest in a new human right: the right to be free from crime.⁴¹ To promote this new human right, the proposed agenda first focuses on crime prevention strategies, aimed particularly at juvenile offenders, "gilded" criminality, and hard-core offenders.⁴² However, when these strategies fail, the proposed agenda suggests the development of a compensation plan for victims of crime.⁴³

The Committee also proposed that priority be given to the development of standards in new areas of human rights.⁴⁴ New areas include the treatment of offenders in the community and the return of persons convicted of crimes abroad to serve their sentences in their native country.⁴⁵ The Committee also recommended that new guidelines be formulated for the selection and training of judges and prosecutors, and the strengthening of inmate grievance procedures.⁴⁶

Finally, the Crime Prevention Committee formulated a medium term plan of action for 1978-81.⁴⁷ The plan calls for the Committee's consideration, by 1979, of the incidence of female criminality, with particular attention to differential treatment by legal systems. The medium term plan also includes a target date of 1981 for the Committee's promotion of equal participation of women in law enforcement.⁴⁸

⁴⁰ 13 U.N. CHRON. (July), *supra* note 7, at 43.

⁴¹ A balance must be maintained between the quest for freedom from crime and freedom from pervasive police security and surveillance measures. *Progress Report*, Add. 1, *supra* note 12. This new human right was first discussed by the Fifth United Nations Crime Congress. NEWSLETTER, *supra* note 32, at 6-7.

⁴² Proposed Topics I-IV. *Progress Report*, Add. 1, *supra* note 12.

⁴³ Proposed Topic V. *Id.*

⁴⁴ 13 U.N. CHRON. (July), *supra* note 7, at 45.

⁴⁵ The Fifth United Nations Crime Congress "approved in principle" a proposal to extend the Standard Minimum Rules to include a community treatment approach. A 1972 National Council on Crime and Delinquency Survey before the United States Congress indicated, for example, that almost 3,000 foreign nationals were in United States prisons and that approximately 2,000 American citizens were in prisons abroad. NEWSLETTER, *supra* note 32, at 6-7.

⁴⁶ 13 U.N. CHRON. (July), *supra* note 7, at 45.

⁴⁷ *Id.*

⁴⁸ *Id.* One might also recall the Declaration of the International Women's Year, held at Mexico City in 1975, which called for measures to promote the participation of women in the professional spheres of life, including the criminal justice system. *Human Rights in the*

V. CONCLUSION

Hopefully, the Crime Prevention Committee's efforts will successfully increase adherence to the Standard Minimum Rules by member states. If not, perhaps the Committee should redraft the Rules to give them the formal status of an international convention.⁴⁹ The Crime Prevention Committee should also consider revising the 1957 Rules to reflect modern correctional innovations.⁵⁰ Finally, the Committee should extend its membership to include representatives of nongovernmental organizations which are independent of national or ideological bias.⁵¹

Seemingly, United Nations organs and resolutions are ineffectual to transform the criminal justice system radically in order to eliminate widespread abuses of human rights.⁵² If this is true, however, it is because the United Nations reflects the various proclivities of its member states. Some states refuse to become parties to international conventions and resolutions. Others hypocritically endorse the instruments, but disregard their application. Yet these nonparticipating states frequently raise the issue of human rights in order to undermine the international position of political enemies who are trying to observe human rights.⁵³ Thus, perhaps United Nations organs will be more effective in combating violations of prisoners' human rights only when states are willing to support a stronger United Nations.

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Administration of Justice, U.N. Doc. E/AC.57/24 (1976). See generally McDougal, Lasswell & Chen, *Human Rights for Women and World Public Order: The Outlawing of Sex-Based Discrimination*, 69 AM. J. INT'L L. 497 (1975).

⁴⁹ However, even if the Rules were given the formal status of an international convention, compliance with the Rules by member states remains critically important to safeguard prisoners' human rights. Thus, as Skoler suggests, "[e]nforcement . . . must proceed hand in hand with enactment of prisoner guarantees." Skoler, *supra* note 5, at 479.

⁵⁰ In addition, the Committee should consider revising vague provisions of the Rules. For example, Rule 55, which calls for "regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority," includes no requirement that the inspectors be independent of the penal system or that the inspections occur at specific intervals. U.N. Doc. A/C.43/3 (1970), cited in Forsythe, *Political Prisoners: The Law and Politics of Protection*, 9 VAND. J. TRANSNAT'L L. 295, 312-13 (1976).

The Working Group of Experts on the Standard Minimum Rules, which met in September 1972, expressed strong reservations about making such substantive changes in the Rules. However, the Group recommended the development of an explanatory commentary to the 1957 Rules (funds for which are currently being sought). The commentary would not have the force of the Rules, but would provide a guideline for a more realistic application of the Rules and lend a quality of flexibility as revisions become necessary, in the light of the experience of states adapting the Rules to changing social conditions. *Progress Report*, *supra* note 13; *Meeting of a Group of Experts on the Standard Minimum Rules for the Treatment of Prisoners*, 31 INT'L REV. OF CRIM. POLICY 84, 88 (1974).

⁵¹ *Manifesto*, *supra* note 3, at 19.

⁵² *Id.*; see generally M. MOSKOWITZ, INTERNATIONAL CONCERN WITH HUMAN RIGHTS (1974).

⁵³ Former Secretary of State Dean Rusk cites such hypocrisy as one reason for United

APPENDIX A

PROPOSED RULE NO. 95

"PERSONS ARRESTED OR IMPRISONED WITHOUT CHARGE"⁵⁴

"Persons arrested or imprisoned without charge shall be accorded the same protection as those accorded by Section C of Part II (which deals with prisoners under arrest or awaiting trial). The principles of Part I (which deals with various aspects of prisoner's daily life, among other things, including food, medical services, discipline and punishment and contact with the outside world) shall be applicable to their full extent to all such persons held in custody under circumstances amounting to imprisonment.

"Relevant provisions of Part II A (which deals with rules relating to prisoners under sentence, including treatment, privileges, work, education and recreation, among other things) should likewise be applicable where their application may conduce to the benefit of this special group of persons, provided that no measures shall be taken implying that re-education or re-habilitation is in any way appropriate to persons not convicted of any criminal offence."

APPENDIX B

DRAFT CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS⁵⁵

"Law enforcement officials must at all times fulfill the duties imposed upon them by law, by serving their community and protecting their fellow citizens against illegal acts, as defined by law, consistent with the high degree of responsibility required by their profession.

"In fulfilling their duties, law enforcement officials should respect and protect human dignity and maintain and uphold the human rights of all persons.

"Law enforcement officials may never use more force than necessary in the performance of their duties.

"Matters of a confidential nature in the possession of law enforcement officials should be kept confidential, unless the performance of duty, the needs of justice or the provisions of this code require otherwise.

"No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment; nor may any law enforcement officials invoke exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

"Law enforcement officials having custody of persons needing medical attention should secure such attention by medical personnel and take immediate action to meet the needs of the person in custody.

"Law enforcement officials must refrain from and rigorously oppose and pursue all acts of corruption.

"Law enforcement officials should prevent and vigorously oppose all violations of this code by taking appropriate action to the best of their capability. When violations have occurred,

States reluctance to promote human rights through treaties and conventions. Rusk, Book Review, 12 COLUM. J. TRANSNAT'L L. 609, 623 (1973) (L. HENKIN, FOREIGN AFFAIRS AND THE CONSTITUTION). See also former United States Representative William Scranton's forceful speech made in Committee III (Social, Humanitarian and Cultural) of the General Assembly on Nov. 24, 1976, in which he asserted, "[t]oday, the only universality that one can honestly associate with the Universal Declaration of Human Rights is universal lip service." 4 The Interdependent, at 4, col. 5 (Feb. 1977).

⁵⁴ 13 U.N. CHRON. (July), *supra* note 7, at 44-45.

⁵⁵ *Id.* at 43-44.

or can be expected to occur, law enforcement officials should report the matter within the chain of command, or take such other actions as are lawfully open to them, including, as a last resort, the reporting to any agency with reviewing or remedial power.

"A law enforcement official who, in fulfilling the obligations of this code, erroneously exceeds the limits of law despite honest and conscientious assessment, is entitled to the full protection afforded by national law.

"A law enforcement official who complies with the provisions of this code deserves the respect, the full support and the collaboration of the community and the law enforcement agency in which such officer serves, as well as the support of the law enforcement profession."