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Use and application of United Nations standards and norms in crime prevention and criminal justice

United Nations standards and norms in crime prevention and criminal justice

Report of the Secretary-General

Addendum

Report of the Intergovernmental Expert Group Meeting on United Nations Standards and Norms in Crime Prevention and Criminal Justice, held in Vienna from 23 to 25 March 2004

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* E/CN.15/2004/1.



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I. Introduction

1. In its resolution 2003/30 of 22 July 2003, the Economic and Social Council decided to group United Nations standards and norms in crime prevention and criminal justice into the following four categories for the purpose of targeted collection of information, in order to better identify the specific needs of Member States and to provide an analytical framework with a view to improving technical cooperation: (a) standards and norms related primarily to persons in custody, non-custodial sanctions and juvenile and restorative justice; (b) standards and norms related primarily to legal, institutional and practical arrangements for international cooperation; (c) standards and norms related primarily to crime prevention and victim issues; (d) standards and norms related primarily to good governance, the independence of the judiciary and the integrity of criminal justice personnel; and requested the Secretary-General to convene, subject to the availability of extrabudgetary funds, an intergovernmental expert group meeting on the basis of adequate and equitable geographical representation to prepare proposals to be considered by the Commission on Crime Prevention and Criminal Justice at its thirteenth session in relation to: (a) the design of information-gathering instruments that are short, simple, complete and understandable in relation to select groups of standards and norms and that are aimed at identifying and addressing specific problems in Member States requesting assistance and at providing an analytical framework with a view to improving technical cooperation; and (b) new ways and means for maximizing the effectiveness of technical assistance to Member States in specific areas of crime prevention and criminal justice, including in the context of the reconstruction of criminal justice institutions in peacekeeping and post-conflict situations, in particular as regards capacity-building and the promotion of the rule of law.

2. Pursuant to Economic and Social Council resolution 2003/30, the Intergovernmental Expert Group Meeting on United Nations Standards and Norms in Crime Prevention and Criminal Justice was held in Vienna from 23 to 25 March 2004. The Meeting was made possible by an extrabudgetary contribution from the Government of Canada.

II. Recommendations

3. The Meeting recommended to the Commission on Crime Prevention and Criminal Justice the approval of the following draft resolution for adoption by the Economic and Social Council:

Draft resolution

United Nations standards and norms in crime prevention and criminal justice

The Economic and Social Council,

Recalling the United Nations Millennium Declaration, contained in General Assembly resolution 55/2 of 8 September 2000, in which the Assembly resolved to strengthen respect for the rule of law in international as in national affairs and to make the United Nations more effective in

maintaining peace and security by giving it the resources and tools it needed for conflict prevention, peaceful resolution of disputes, peacekeeping, post-conflict peace-building and reconstruction,

Mindful of the report of 21 August 2000 of the Panel on United Nations Peace Operations¹ and the discussions on justice and the rule of law held by the Security Council,

Recognizing the critical importance of incorporating crime prevention and criminal justice components into post-conflict reconstruction, poverty alleviation and socio-economic development programmes in order to ensure economic progress and good governance,

Mindful of the importance for Member States and intergovernmental and non-governmental organizations to use and apply United Nations standards and norms in crime prevention and criminal justice as important international principles in developing an efficient and fair criminal justice system, in particular in circumstances where the basic tenets of the rule of law are ineffective or absent or in post-conflict reconstruction,

Recalling its resolution 1993/34 of 27 July 1993, in particular section III, paragraph 7 (c), in which it requested the Secretary-General to commence without delay a process of information-gathering to be undertaken by means of surveys, such as reporting systems, and contributions from other sources,

Recalling also its resolution 2002/15 of 24 July 2002, in which it reaffirmed the importance of United Nations standards and norms in crime prevention and criminal justice, including in the framework of peacekeeping and post-conflict reconstruction,

Recalling further its resolution 2003/30 of 22 July 2003, in which it decided to group United Nations standards and norms in crime prevention and criminal justice into four categories for the purpose of targeted collection of information, in order to better identify the specific needs of Member States and to provide an analytical framework with a view to improving technical cooperation,

Reaffirming the important role of intergovernmental and non-governmental organizations in contributing to the effective use and application of United Nations standards and norms in crime prevention and criminal justice,

Desirous of reforming and streamlining the current process of information-gathering with regard to the application of United Nations standards and norms in crime prevention and criminal justice, in order to make it more efficient and cost-effective,

Wishing to streamline the provision of technical assistance in the implementation of United Nations standards and norms in crime prevention and criminal justice,

¹ A/55/305-S/2000/809.

1. *Takes note* of the report of the Secretary-General on United Nations standards and norms in crime prevention and criminal justice;²
2. *Takes note also* of the report of the Intergovernmental Expert Group Meeting on United Nations Standards and Norms in Crime Prevention and Criminal Justice;³
3. *Expresses its appreciation* for the work undertaken by the Intergovernmental Expert Group Meeting on United Nations Standards and Norms in Crime Prevention and Criminal Justice, held in Vienna from 23 to 25 March 2004;
4. *Expresses its gratitude* to the Government of Canada for its financial support in the organization of the Intergovernmental Expert Group Meeting and to the European Institute for Crime Prevention and Control, affiliated with the United Nations, for assisting in the preparation of the information-gathering instruments for the first category of United Nations standards and norms in crime prevention and criminal justice;
5. *Approves* the instruments for gathering information on United Nations standards and norms related primarily to persons in custody, non-custodial sanctions and juvenile and restorative justice, as revised by the Intergovernmental Expert Group Meeting;
6. *Invites* Member States to reply to those information-gathering instruments and to indicate their needs for technical assistance in the areas covered by the standards and norms referred to in paragraph 5 above;
7. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its fifteenth session on the use and application of the United Nations standards and norms referred to in paragraph 5 above, in particular as regards:
 - (a) The difficulties encountered in the application of the United Nations standards and norms in crime prevention and criminal justice;
 - (b) Ways in which technical assistance can be provided to overcome those difficulties;
 - (c) Best practices in addressing persisting and emerging challenges in crime prevention and criminal justice;
8. *Invites* Member States to strengthen the human and financial resources available to the United Nations Office on Drugs and Crime by, for example, contributing to the United Nations Crime Prevention and Criminal Justice Fund, in order to enable the Office to better assist States in conducting seminars, workshops, training programmes and other activities aimed at promoting the use and application of the United Nations standards and norms in crime prevention and criminal justice;
9. *Requests* the Secretary-General to assist Member States, upon request, in the use and application of United Nations standards and norms in

² E/CN.15/2004/9.

³ E/CN.15/2004/9/Add.1

crime prevention and criminal justice through the development and implementation of technical assistance projects aimed at criminal justice reform;

10. *Also requests* the Secretary-General to strengthen the capacity of the United Nations Office on Drugs and Crime to provide technical assistance and advisory services and to participate in peacekeeping operations and post-conflict reconstruction by utilizing the instruments for gathering information on United Nations standards and norms in crime prevention and criminal justice to obtain data that will assist in integrating a crime prevention and criminal justice component into those activities;

11. *Notes* that the principal United Nations standards and norms related to legal, institutional and practical arrangements for international cooperation take the form of model treaties on international cooperation and, as such, can more effectively be assessed through other appropriate mechanisms;

12. *Also notes* that the Model Treaty on Extradition and complementary provisions thereto⁴ and the Model Treaty on Mutual Legal Assistance in Criminal Matters⁵ have been instrumental in helping the international community to reach consensus on binding provisions on those issues, as reflected in the United Nations Convention against Transnational Organized Crime⁶ and the United Nations Convention against Corruption;⁷

13. *Requests* the Secretary-General to keep the development of legal, institutional and practical arrangements for international cooperation under review, through appropriate mechanisms, such as revision of the manuals on extradition and mutual legal assistance and preparation of model laws, in order to make international cooperation and technical assistance more effective;

14. *Invites* the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, to be held in Bangkok from 18 to 25 April 2005, under the agenda item "Making standards work: fifty years of standard-setting in crime prevention and criminal justice", to address the issues raised in the present resolution with a view to consolidating and making more effective the action of United Nations and other intergovernmental and non-governmental organizations in this field;

15. *Requests* the Secretary-General to convene a meeting of a group of experts, subject to the availability of extrabudgetary funds, in cooperation with the United Nations Crime Prevention and Criminal Justice Programme network, to design the instruments for gathering information on the following categories of United Nations standards and norms:

(a) Standards and norms related primarily to crime prevention and victim issues;

(b) Standards and norms related primarily to good governance, the independence of the judiciary and the integrity of criminal justice personnel;

⁴ General Assembly resolutions 45/116, annex, and 52/88, annex.

⁵ General Assembly resolution 45/117, annex.

⁶ General Assembly resolution 55/25, annex.

⁷ General Assembly resolution 58/4, annex.

16. *Also requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its sixteenth session on progress made in the preparation of the information-gathering instruments referred to in paragraph 15 above.

III. Organization of the Meeting

A. Opening of the Meeting

4. The Meeting was opened by the Director of the Division of Treaty Affairs of the United Nations Office on Drugs and Crime, who thanked the Government of Canada for its financial contribution, which had made possible the convening of the meeting, and the European Institute for Crime Prevention and Control, affiliated with the United Nations, for designing the draft information-gathering instruments. The Director stressed that the process of setting and implementing United Nations standards and norms in crime prevention and criminal justice had constituted one of the main areas of work of the United Nations Office on Drugs and Crime since the process had begun nearly 50 years ago. He noted that, in its resolution 46/152 of 18 December 1991, on the creation of an effective United Nations crime prevention and criminal justice programme, the General Assembly had defined a general set of goals, including more efficient and effective criminal justice administration, based on the respect for the human rights of all those affected and on the highest standards of fairness, humanity, justice and professional conduct. He stated that, through a series of resolutions, legislative bodies of the United Nations had adopted international instruments and established a significant body of standards and norms, within the framework of the United Nations, dealing with a wide range of issues relating to crime prevention and criminal justice. *The Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*,⁸ issued in 1992, which contains photocopies of resolutions as they appear in the *Official Records of the General Assembly* and the *Official Records of the Economic and Social Council*, had been disseminated widely and translated into various languages, through the collaboration of Governments, the United Nations Crime Prevention and Criminal Justice Programme network and other entities. The *Compendium* had been used in many countries to train law enforcement officers, including correctional officers, and in the provision of training for those taking part in peacekeeping operations. He also informed the Meeting that a revised and updated version of the *Compendium*, the draft of which was made available to the Meeting for its reference, would be finalized before the end of 2004.

B. Attendance

5. The Meeting was attended by 13 experts from 13 countries, as well as by observers for 7 Governments and the European Institute for Crime Prevention and Control, affiliated with the United Nations. A list of participants is contained in the annex to the present report.

⁸ United Nations publication, Sales No. E.92.IV.1.

C. Election of officers

6. The following officers were elected by consensus:

Chairman: Pedro David (Argentina)

Vice-Chairmen: Dayantha Laksiri Mendis (Sri Lanka)
Clemence Masango (Zimbabwe)
Mariusz Skowronski (Poland)

Rapporteur: Jay Albanese (United States of America)

D. Adoption of the agenda

7. The Meeting adopted the following agenda:

1. Opening of the Meeting.
2. Election of the bureau.
3. Adoption of the agenda.
4. Review of the draft information-gathering instruments:
 - (a) On standards and norms related primarily to persons in custody, non-custodial sanctions and juvenile and restorative justice;
 - (b) On standards and norms related primarily to legal, institutional and practical arrangements for international cooperation.
5. New ways and means of maximizing the effectiveness of technical assistance to Member States in specific areas of crime prevention and criminal justice, including in the context of the reconstruction of criminal justice institutions in peacekeeping and post-conflict situations, in particular as regards capacity-building and the promotion of the rule of law.
6. Conclusion and recommendations.
7. Adoption of the report and closure of the Meeting.

IV. Review of the draft information-gathering instruments on standards and norms related primarily to persons in custody, non-custodial sanctions, and juvenile and restorative justice; and on standards and norms related primarily to legal, institutional and practical arrangements for international cooperation

8. The experts expressed their gratitude to the European Institute for Crime Prevention and Control, affiliated with the United Nations, for preparing the draft information-gathering instruments and stressed the importance of the task before them. They also noted that it had taken considerable effort to make the information-gathering instruments short, simple, complete and understandable in accordance

with Economic and Social Council resolution 2003/30. Some experts emphasized that, in certain States where the criminal justice system was lagging behind international developments, one positive aspect was that standards and norms had been used in their jurisprudence.

9. The experts stressed the importance of the continued development of standards and norms and assessment of their application. It was important to agree on definitions of the concepts and terminology used in the instruments, such as “restorative justice” and “custody”, and also to use the same information-gathering instruments for both developed and developing countries in order to identify the needs for criminal justice reform and the sharing of information on best practices.

10. It was explained that the information-gathering instruments had been developed by three working groups in which experts from different countries were represented. The instruments had been tested with the assistance of the United Nations Crime Prevention and Criminal Justice Programme network.

11. The Meeting expressed its appreciation for the work done in preparing the new information-gathering instruments, which were significantly shorter, simpler, more complete and more understandable than the previous ones. It reviewed in detail and amended each of the draft information-gathering instruments on standards and norms related primarily to persons in custody, non-custodial sanctions and juvenile and restorative justice. The revised instruments were endorsed by the Meeting for approval by the Commission on Crime Prevention and Criminal Justice.

12. The Meeting recognized the importance of information-gathering instruments in facilitating appropriate technical assistance to Member States, based on the needs identified by means of the surveys.

13. In concluding its discussion of the item, the Meeting agreed that the second category of standards and norms, related to legal, institutional and practical arrangements for international cooperation, should take the form of model treaties on international cooperation, and, as such, could not effectively be assessed through information-gathering instruments. However, the importance of keeping the development of legal, institutional and practical arrangements for international cooperation under review, through appropriate mechanisms, such as the revision of the manuals on extradition and mutual legal assistance and preparing model laws, in order to make international cooperation and technical assistance more effective, was stressed.

V. New ways and means of maximizing the effectiveness of technical assistance to Member States in specific areas of crime prevention and criminal justice, including in the context of the reconstruction of criminal justice institutions in peacekeeping and post-conflict situations, in particular as regards capacity-building and the promotion of the rule of law

14. The theme of the discussion was the need to pay special attention to rule of law issues in peacekeeping and post-conflict situations and the threat to

development and economic reconstruction posed by lawlessness and corruption. In order to re-establish the rule of law, adequate resources were needed for law enforcement, law reform, the judiciary and correctional services. The Meeting noted that that situation had recently been recognized by the World Bank and other development institutions, which had experienced the negative impact of corruption and lawlessness in their programmes.

15. The Meeting also noted that, in post-conflict situations, in order to effectively re-establish the rule of law, issues of social justice, such as the compensation of victims and payment of moral debts, were very important. For example, it was noted that, while truth and reconciliation commissions had been effective in some parts of the world, they had not helped in restoring the rule of law and social justice in other parts of the world, mainly because peace had often been imposed for political expediency, using ad hoc solutions. It was stressed that standards and norms in themselves did not guarantee justice, but had to be made effective in practice, for instance through technical assistance programmes adapted to local situations and needs, if sustainable peace based on the rule of law was to prevail.

16. The link between the rule of law and development in post-conflict situations was emphasized. The Meeting noted that a new manual on prisons had been financed by an aid agency in the United Kingdom of Great Britain and Northern Ireland, showing the overlap and importance of the link between development and the rule of law and good governance. It was recalled that, in 2003, representatives of the World Bank had met with the United Nations Office on Drugs and Crime and identified nine areas of common interest to provide for assistance in the re-establishment of the rule of law and good governance.

17. The lack of coordination between bilateral and multilateral development agencies was noted, but it was stressed that coordination and cooperation between different aid agencies, bilateral donors and international organizations were essential, especially in post-conflict situations where a holistic approach based on the rule of law should be adopted.

18. A draft resolution was drawn up for the consideration of the Commission on Crime Prevention and Criminal Justice at its thirteenth session. The draft resolution was intended to clarify to the Commission that the draft information-gathering instruments had been reviewed, revised and approved by an intergovernmental expert group meeting at which the delegates were speaking on behalf of their Governments, as opposed to past meetings, which experts had attended in their individual capacity. Once the questionnaires had been approved by the Commission, they would be sent to Member States. In the draft resolution, the Secretary-General would be requested to report to the Commission at its fifteenth session, in 2006, on the first group of surveys, taking into account that at its fourteenth session, in 2005, the Commission would have before it the recommendations of the Eleventh Congress on Crime Prevention and Criminal Justice.

19. As regards the second category of information-gathering instruments, it was proposed that an expert group meeting, assisted by the United Nations Crime Prevention and Criminal Justice Programme network, would draft those instruments, which would be reviewed and revised by an intergovernmental expert group meeting. The revised instruments would then be submitted to the Commission on

Crime Prevention and Criminal Justice at its fifteenth session, in 2006, for its approval.

VI. Conclusions and recommendations

20. The Meeting had before it for its consideration and adoption a draft resolution on standards and norms in crime prevention and criminal justice, proposed by the Chairman and the experts from Canada, Peru and the United States of America. The draft resolution, which is contained in paragraph 3 of the present report, was discussed and orally amended before its adoption by the Meeting.

21. The Meeting also had before it four draft instruments for gathering of information on standards and norms, related primarily to persons in custody, non-custodial sanctions and juvenile and restorative justice, for its consideration and adoption. The Meeting reviewed the instruments paragraph by paragraph and made amendments before adopting them. The revised instruments are to be issued as conference room papers at the Commission on Crime Prevention and Criminal Justice at its thirteenth session.

22. With regard to the second cluster of standards and norms, related to legal, institutional and practical arrangements for international cooperation, the Meeting concluded that because those standards and norms took the form of model treaties on international cooperation, they could not be assessed effectively through instruments designed to gather information. However, the Meeting stressed the importance of keeping the development of legal, institutional and practical arrangements for international cooperation under review, through appropriate mechanisms such as revising the manuals on extradition and mutual legal assistance and preparing model laws, in order to make international cooperation and technical assistance more effective.

VII. Adoption of the report and closure of the meeting

23. On 25 March 2004, the Meeting considered and adopted its report, as orally amended. Closing statements were made by the Director of the Division for Treaty Affairs of the United Nations Office on Drugs and Crime and by the Chair of the Meeting.

Annex

List of participants

Experts

Argentina	Pedro David
Canada	Lucie Angers
Chile	Fernando Londoño Martinez
Finland	Matti Joutsen
Germany	Horst Schüler-Springorum
Hungary	Klara Kerezsi
India	A. K. Srivastava
Peru	Carlos Morelli
Poland	Mariusz Skowronski
Sri Lanka	Dayantha Laksiri Mendis
Sudan	Hafiz El Sheikh Elzaki
United States of America	Jay Albanese
Zimbabwe	Clemence Masango

States Members of the United Nations represented by observers

Austria, Canada, Germany, Hungary, Sudan, the former Yugoslav Republic of Macedonia, Zimbabwe

United Nations Crime Prevention and Criminal Justice Programme network

European Institute for Crime Prevention and Control, affiliated with the United Nations