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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

Interim report of the Secretary-General

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I. Introduction

1. In its resolution 2004/28 of 21 July 2004, the Economic and Social Council requested the Secretary-General to forward the instruments for gathering information on standards and norms related primarily to persons in custody, non-custodial sanctions and juvenile and restorative justice to Member States, intergovernmental and non-governmental organizations and the institutes of the United Nations Crime Prevention and Criminal Justice Programme network and other United Nations entities for their comments; also requested the Secretary-General to review the instruments on the basis of the comments received and to submit the revised instruments to an intersessional meeting of the Commission on Crime Prevention and Criminal Justice for approval; invited Member States to reply concerning the instruments and to indicate their needs for technical assistance in the areas covered by the standards and norms; requested the Secretary-General to report to the Commission at its fifteenth session on the use and application of the United Nations standards and norms; also requested the Secretary-General to assist Member States, upon request, subject to the availability of extrabudgetary resources, in the use and application of United Nations standards and norms in crime prevention and criminal justice through the development and implementation of technical assistance projects aimed at criminal justice reform; requested the United Nations Office on Drugs and Crime (UNODC) to continue to work with the Department of Peacekeeping Operations of the Secretariat and other relevant entities responsible for providing assistance to countries in post-conflict situations and, subject to the availability of extrabudgetary resources, to strengthen its capacity to provide technical assistance and advisory services to post-conflict reconstruction efforts by utilizing the instruments for gathering information to obtain data that would assist in integrating a crime prevention and criminal justice component into those activities.

2. In the same resolution, the Council requested the Secretary-General to keep the development of legal, institutional and practical arrangements for international cooperation under review, through appropriate mechanisms such as, subject to the availability of extrabudgetary resources, the 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; invited 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 resolution with a view to consolidating and making more effective the action of United Nations and other intergovernmental and non-governmental organizations in that field; requested the Secretary-General to convene a meeting of intergovernmental experts, with representation based on the regional composition of the Commission on Crime Prevention and Criminal Justice and open to observers, subject to the availability of extrabudgetary resources, in cooperation with the institutes of the United Nations Crime Prevention and Criminal Justice Programme network, to design information-gathering instruments on the following categories of United Nations standards and norms: (a) standards and norms related to legal, institutional and practical arrangements for international cooperation, wherever feasible; (b) standards and norms related primarily to crime prevention and victim issues; also requested the Secretary-General to forward the information-gathering instruments to Member States, intergovernmental and

non-governmental organizations and the institutes of the Programme network and other United Nations entities for their comments; and further requested the Secretary-General to review them on the basis of the comments received, and to present those instruments, together with his report on progress made in their preparation, to the Commission at its sixteenth session.

3. Related mandates are contained in Economic and Social Council resolutions 2004/25, entitled “The rule of law and development: strengthening the rule of law and the reform of criminal justice institutions, with emphasis on technical assistance, including in post-conflict reconstruction”, 2004/27, entitled “Guidelines on justice for child victims and witnesses of crime” and 2004/35, entitled “Combating the spread of HIV/AIDS in criminal justice pre-trial and correctional facilities”, of 21 July 2004.

4. The present interim report provides the Commission on Crime Prevention and Criminal Justice with a summary of activities in the area of United Nations standards and norms in crime prevention and criminal justice, including advisory services and technical cooperation activities delivered in the area, since the last report on the subject (E/CN.15/2004/9).

II. Draft information-gathering instruments

5. By a note verbale of 8 February 2005, the Secretary-General forwarded for comments to Member States the draft information-gathering questionnaires on standards and norms related primarily to persons in custody, non-custodial sanctions and juvenile and restorative justice, which had been revised 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 (see E/CN.15/2004/9/Add.1) and presented to the Commission on Crime Prevention and Criminal Justice at its thirteenth session. As at 1 April 2005, comments had been received from several Governments. The questionnaires as revised in the light of those comments will be submitted to an intersessional meeting of the Commission.

6. Financing of an intergovernmental expert group to design information-gathering instruments on standards and norms related to legal, institutional and practical arrangements for international cooperation and standards and norms related primarily to crime prevention and victim issues had not been secured at the time of writing.

III. Development of new standards and norms

7. In accordance with Economic and Social Council resolution 2004/27, on 15 and 16 March 2005, UNODC convened an intergovernmental expert group, with representation based on the regional composition of the Commission on Crime Prevention and Criminal Justice and open to any Member State wishing to participate as an observer, in order to develop guidelines on justice in matters involving child victims and witnesses of crime (see E/CN.15/2005/14/Add.1).

8. In accordance with Economic and Social Council resolution 2004/35 and in coordination with the United Nations Joint Programme on HIV/AIDS (UNAIDS), the World Health Organization and other United Nations entities, UNODC organized a consultative meeting on HIV/AIDS prevention, care and support in prison settings in Vienna on 17 and 18 February 2005 in order to consider a draft global strategy and guidelines for action at the national level. The Ministerial Meeting on Urgent Responses to the HIV/AIDS Epidemics in the Commonwealth of Independent States, organized in Moscow on 31 March and 1 April 2005 by UNODC on behalf of the Committee of Cosponsoring Organizations of UNAIDS, agreed on the need to develop and adopt relevant legislation, regulations and financial frameworks ensuring multisectoral implementation of HIV/AIDS prevention, care and treatment programmes among the most vulnerable populations, including prisoners. A report on progress in this area will be submitted to the Commission at its fifteenth session.

IV. Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty

9. In its resolution 1745 (LIV) of 16 May 1973, the Economic and Social Council invited the Secretary-General to submit to it, at five-year intervals starting from 1975, periodic updated and analytical reports on capital punishment. In its resolution 1995/57 of 28 July 1995, the Council recommended that the quinquennial reports of the Secretary-General should continue to cover also the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty; and requested the Secretary-General, in preparing the seventh quinquennial report, to draw on all available data, including current criminological research. That report (E/2005/3) reviews the use of and trends in capital punishment, including the implementation of the safeguards during the period 1999-2003. It shows an encouraging trend towards abolition and restriction of the use of capital punishment in most countries, but indicates that much remains to be done in the implementation of the safeguards guaranteeing protection of the rights of persons facing the death penalty in those countries which retain it.

10. In accordance with Council resolutions 1745 (LIV) and 1990/51 of 24 July 1990 and decision 2004/242 of 21 July 2004, the seventh quinquennial report will be submitted to the Council at its substantive session of 2005 and to the Commission on Crime Prevention and Criminal Justice at its fourteenth session. Pursuant to Commission on Human Rights resolution 2004/67, the report was also before that Commission at its sixty-first session.

V. Inter-agency coordination and participation in United Nations system-wide initiatives

11. As the main custodian of United Nations standards and norms in crime prevention and criminal justice, UNODC is cooperating with other agencies providing assistance in this area. In 2004 and 2005, the main activities in inter-agency coordination focused on the standards and norms on juvenile justice, namely

the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33, annex) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (resolution 45/112, annex), and on further developments in victim protection, drawing on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (resolution 40/34, annex), in particular to vulnerable groups such as children and women.

A. United Nations Coordination Panel on Technical Advice and Assistance in Juvenile Justice

12. The United Nations Coordination Panel on Technical Advice and Assistance in Juvenile Justice was established in 1997, in response to Economic and Social Council resolution 1997/30 of 21 July 1997, in which the Council proposed United Nations system-wide coordination of activities in the field of juvenile justice to facilitate the implementation of relevant international standards and related recommendations of the Committee on the Rights of the Child. As a follow-up to the fourth meeting of the Coordination Panel, held in Rabat from 22 to 24 March 2004 (see E/CN.15/2004/9, paras. 26 and 28), an extranet webpage was set up by the United Nations Children's Fund and information was provided by all the partners. A publication on protecting the rights of children in conflict with the law: programme and advocacy experience from member organizations of the inter-agency coordination panel on juvenile justice was produced and will be presented and disseminated at the Eleventh Congress and elsewhere.

13. In September 2005, UNODC will chair the fifth meeting of the Coordination Panel in Vienna. The meeting will include a general debate on juvenile justice reform in societies emerging from conflict and in countries with economies in transition and a presentation of a number of juvenile justice products developed by the different members in that area. The possibility of expanding the membership of the Panel to other relevant partners is being discussed.

B. Study on violence against children

14. Pursuant to General Assembly resolution 57/190 of 18 December 2002, the Secretary-General has appointed an independent expert, Paulo Sérgio Pinheiro, to direct an in-depth study of violence against children. The study, based on children's human rights to protection from all forms of violence, aims to promote action to prevent and eliminate violence against children at the international, regional, national and local levels. It will combine existing research and relevant information about the forms, causes and impact of violence as it affects children. The report will be submitted to the General Assembly in 2006. UNODC is actively involved in the aspects of the study relating to crime, juvenile justice, trafficking in children, child victims and other issues relevant to it. The Office participated in the Expert Consultation on Violence against Children in Conflict with the Law for the Secretary-General's Study on Violence against Children, in Geneva on 4 and 5 April 2005 and will provide further input to the study. (More information on the study can be found at <http://www.violencestudy.org/>.)

C. Study on violence against women

15. In its resolution 58/185 of 22 December 2003, the General Assembly requested the Secretary-General to conduct an in-depth study on all forms and manifestations of violence against women. The study is expected to provide a statistical overview of all forms of violence against women; the causes of violence against women; the medium- and long-term consequences of violence against women; the health, social and economic costs of violence against women; and best practice examples for combating and eliminating violence against women. In order to address some of these questions and to identify and analyse good practices in combating and eliminating violence against women, the Division for the Advancement of Women of the Secretariat, in collaboration with UNODC, organized a meeting of experts to be held in Vienna from 17 to 20 May 2005. (More information on the study can be found at <http://www.un.org/womenwatch/daw/vaw/index.htm>.)

VI. Technical assistance in criminal justice reform, including in societies emerging from conflict and countries with economies in transition

16. The demand for technical assistance projects for the reconstruction of criminal justice systems, criminal justice reform and crime prevention has increased steadily over the past years. UNODC assists countries, including societies emerging from conflict and countries with economies in transition, to build their capacity to administer criminal law and to reduce crime, in accordance with United Nations standards and norms in crime prevention and criminal justice and good practices (see E/CN.7/2005/10). Current projects cover a variety of areas, including juvenile justice reform, penal reform and victim support, as described below.

17. In relation to societies emerging from conflict and countries with economies in transition, UNODC has been the focal agency in a process initiated by the Secretary-General through the United Nations System Chief Executives Board for Coordination, which has highlighted the impact of transnational crime and drug trafficking, including in societies emerging from conflict. A series of recommendations emerging from that process emphasized the importance of including issues related to drug control and crime prevention in peacekeeping missions from as early on as possible. These include ascertaining the nature and extent of organized crime in conflict situations, as well as during the initial assessment phase of peacekeeping missions; building the combating of organized crime and drug trafficking into the work of United Nations entities involved in peacebuilding operations following conflict situations; and developing training curricula and recommending training modalities for peacekeepers against organized crime, drug trafficking and related problems such as trafficking in persons and corruption.

18. UNODC also made contributions to the conceptualization and preparation of the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616) considered in October 2004 by the Security Council. Among other issues, the report seeks to highlight the importance of developing an adequate response to issues related to drug control, drug

trafficking and the associated problem of organized crime. An important conclusion of the report is that developing responses to post-conflict countries must eschew “one-size-fits-all” formulas and the temptation to import models from outside. Instead, effective strategies must seek to understand the specific context for reform and ensure adequate national participation.

19. The note by the Secretary-General containing the recommendations of the High-level Panel on Threats, Challenges and Change (A/59/565 and Corr.1) also highlighted the requirement for the United Nations system to deal effectively with organized crime. The High-level Panel identified transnational organized crime as one of six key threats currently facing the global community. In addition, the critical importance of developing adequate responses in the area of the rule of law, including the provision of effective technical assistance in this area, were underscored. The report of the High-level Panel will ensure that debate and discussion on the most effective means of providing international and United Nations assistance to weak and post-conflict States will intensify. Where possible, UNODC will continue to participate in those processes, emphasizing the importance of a sustained response to problems involving drug control, drug trafficking and organized crime.

20. UNODC has also been involved in reviewing a set of comprehensive draft model codes for post-conflict criminal justice, known as the transitional codes. The package includes a transitional criminal code, a transitional code of criminal procedure, a transitional detention act and a model transitional police directive. All of these draft model instruments were developed by a group of experts brought together by the rule of law programme of the United States Institute of Peace and the Irish Centre for Human Rights, in collaboration with the Office of the United Nations High Commissioner for Human Rights, and are concerned with the legal vacuum that emerges after rapid change of situation after civil war, when peacekeepers are mandated to assume transitional authority over a territory, but have no legal instruments to control and prevent crime.

A. Treatment of offenders and penal reform

21. In addition to its penitentiary reform project in Afghanistan, which it is planned to expand to the provinces in 2005 (see E/CN.15/2004/9, paras. 41 and 47), UNODC is currently planning penal reform initiatives in Ethiopia and the Islamic Republic of Iran. The Office also intends to expand the programme in this area to societies emerging from conflict and countries with economies in transition.

22. Further, in relation to the draft strategy referred to in paragraph 8 above, the Office is developing technical assistance tools to assist States in preventing the spread of HIV/AIDS in prison settings, through the possible development of a manual and the provision of training for prison staff.

B. The judiciary and law enforcement

23. The need to further enhance the provision of training in this area has been stressed. The Office is now developing a project on police integrity and oversight in Iraq, drawing on the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex).

C. Juvenile justice

24. The projects on juvenile justice reform described in the report on standards and norms to the Commission at its thirteenth session continued (see E/CN.15/2004/9, paras. 38-40). The project in Lebanon is being evaluated and an extension to apply best practices from the country to other countries in the Middle East and Northern Africa has been designed. Implementation of the project in Jordan started in early 2005. Other possible projects in the Middle East and Northern Africa and other regions have been discussed and have met with interest from both recipient and donor countries.

D. Protection of victims

25. In its resolution 45/114 of 14 December 1990, the General Assembly urged Member States to develop and implement policies, measures and strategies, within and outside of the criminal justice system, to respond to the problem of domestic violence; and requested the Secretary-General to convene a working group of experts to formulate guidelines or a manual for practitioners concerning the problem of domestic violence. That manual, *Strategies for Confronting Domestic Violence: a Resource Manual*,¹ was published in 1993 and now needs to be updated and made more user-friendly for the training of criminal justice and law enforcement personnel. UNODC is currently updating the manual and developing a pilot training project in this area.

26. UNODC is implementing two projects in the area of protection of victims (in addition to the specific projects targeting victims of trafficking covered by the Global Programme against Trafficking in Human Beings): one global project, which provides grants to non-governmental organizations that assist victims, is at present paying the second set of instalments following the submission of progress reports, and one project in South Africa, concerned with one-stop centres for victims of domestic violence, has proved very successful in designing best practice in support of victims of violent crime by providing shelters with a range of services, including paralegal, counselling and emotional support.

VII. Conclusions

27. The importance and variety of the mandates of UNODC in the implementation of criminal justice reform by application of United Nations standards and norms in criminal justice and crime prevention, including in societies emerging from conflict and countries with economies in transition, have been highlighted in the present report. The Office is committed to the provision of technical assistance to Member States in the area of criminal justice reform. On the basis of the recommendations of the Eleventh Congress, UNODC will continue to make use of the evolving set of standards and norms in criminal justice and crime prevention in order to expand its programme of activities.

Notes

¹ ST/CSDHA/20.