



# General Assembly

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## Thirteenth United Nations Congress on Crime Prevention and Criminal Justice

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### Discussion guide

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## **I. Introduction**

### **A. Background**

1. The present discussion guide has been prepared pursuant to General Assembly resolution 67/184, of 20 December 2012, in which the Secretary-General was requested, in cooperation with the institutes of the United Nations crime prevention and criminal justice programme network, to prepare a discussion guide for the regional preparatory meetings and for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice in a timely manner in order to enable those meetings to be held as early as possible in 2014.

2. Also in resolution 67/184, the General Assembly decided that the main theme of the Thirteenth Congress would be “Integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation”.

3. In the same resolution, the Assembly also approved the following provisional agenda for the Thirteenth Congress, finalized by the Commission on Crime Prevention and Criminal Justice at its twenty-first session:

1. Opening of the Congress.
2. Organizational matters.
3. Successes and challenges in implementing comprehensive crime prevention and criminal justice policies and strategies to promote the rule of law at the national and international levels, and to support sustainable development.
4. International cooperation, including at the regional level, to combat transnational organized crime.
5. Comprehensive and balanced approaches to prevent and adequately respond to new and emerging forms of transnational crime.
6. National approaches to public participation in strengthening crime prevention and criminal justice.
7. Adoption of the report of the Congress.

4. The Assembly also decided that the following issues should be considered in workshops within the framework of the Thirteenth Congress:

(a) Role of the United Nations standards and norms in crime prevention and criminal justice in support of effective, fair, humane and accountable criminal justice systems: experiences and lessons learned in meeting the unique needs of women and children, in particular the treatment and social reintegration of offenders;

(b) Trafficking in persons and smuggling of migrants: successes and challenges in criminalization, in mutual legal assistance and in effective protection of witnesses and trafficking victims;

(c) Strengthening crime prevention and criminal justice responses to evolving forms of crime such as cybercrime and trafficking in cultural property, including lessons learned and international cooperation;

(d) Public contribution to crime prevention and raising awareness of criminal justice: experiences and lessons learned.

## B. Substantive aspects

5. The fact that crime impairs development and constitutes a threat to the maintenance of the rule of law has long been recognized (see General Assembly resolution 46/152). It is broadly accepted that promoting the rule of law in a country fosters its overall development. In the recent Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (resolution 67/1), Member States stressed that the rule of law and development were strongly interrelated and mutually reinforcing and that that interrelationship should be considered in the development agenda beyond 2015. For the first time, Member States recognized that all persons, institutions and entities, public and private, including the State itself, were accountable to just, fair and equitable laws and were entitled without any discrimination to equal protection of the law. The contents of the Declaration covered various aspects of the current rule-of-law debate, from the importance of an independent judiciary to informal justice systems, transitional justice, effective countermeasures against transnational organized crime, corruption and terrorism, as well as international trade. In the Declaration Member States also reaffirmed that the rule of law was indispensable for upholding peace and security, as well as for achieving sustainable development and respect for human rights.

6. Moreover, bearing in mind its nature as a multilayered principle of governance, the rule of law will be a central theme in the context of the global thematic consultation on governance and the development framework beyond 2015 (see [www.worldwewant2015.org/governance](http://www.worldwewant2015.org/governance)).

7. In that context, the criminal justice system emerges more and more prominently as one of the central pillars of the rule of law, while its role in strengthening security is indisputable. This is also attributed to the fact that the world has changed — and continues to change — significantly at an unprecedentedly rapid pace and in at least three main directions: firstly, new and sophisticated forms of crime have emerged requiring more effective criminal justice responses; secondly, the constantly evolving social, cultural and economic environment creates novel challenges for criminal justice and law enforcement authorities, with the consequent dramatic changes to the approach to, and impact of, traditional and conventional criminality; and, thirdly, the spread of modern information and communications technologies, together with the growing transnationality of related criminal activities, also produce a vast range of new opportunities for the commission of new types of crime.

8. In view of the above, the development assistance community has gradually realized that the road towards the effective promotion of the rule of law passes through the criminal justice system. The debate on the issue has reached a crucial stage, with growing comprehension of the necessity to address the needs of the

criminal justice system in a holistic and long-term manner. Two principal considerations have been leading this debate: firstly, the firm establishment of the criminal justice system as a central pillar in the rule-of-law architecture; and, secondly, the realization of the essential role of a fair, humane and effective criminal justice system to the development process. The need for a holistic approach to criminal justice system reform has been emphasized, together with the other elements of consistency and coherence in criminal justice reform, as well as the need to strengthen the capacity of criminal justice response to new and more sophisticated forms of crime.

9. The Thirteenth Congress marks the sixtieth anniversary of the United Nations congresses on crime prevention and criminal justice. Over half a century, the congresses have shaped international and domestic policy in the field of crime prevention and criminal justice and have contributed to novel thinking and approaches to complex issues at the heart of one of the key institutions of the modern State, the criminal justice system (A/CONF.203/15).

10. Bearing this in mind, and in view of its being held on the threshold of the establishment and beginning of the implementation of the development agenda beyond 2015, the Thirteenth Congress offers a unique opportunity to place at centre stage the role of the criminal justice system in the promotion of the rule of law in support of sustainable development (see General Assembly resolution 67/186). The Congress is uniquely placed to achieve these goals for the following reasons:

(a) The inherent nature of the Congress as the only major United Nations conference in its field, as well as the largest and most diverse gathering of policymakers and practitioners in the area of crime prevention and criminal justice, with the participation of parliamentarians, individual experts from academia and representatives from civil society and the media;

(b) Its consequent political significance and importance in the area of international standard-setting and policymaking in crime prevention and criminal justice;

(c) The overall theme of the Thirteenth Congress, as well as its comprehensive provisional agenda, as determined by the General Assembly, covering a broad range of crime prevention and criminal justice issues and, as such, being able to trigger further policy debate on the importance of the promotion of the rule of law at the national and international levels.

11. Crime prevention and criminal justice issues affect all aspects of development, including its economic, social and environmental dimensions, as well as its sustainability. For instance, corruption and other economic crimes are serious barriers to effective resource mobilization and allocation, since they divert resources away from activities that are vital for poverty eradication, the fight against hunger and sustainable development (General Assembly resolution 65/1, para. 52). Organized criminal groups globally engage in trafficking in persons, drugs and firearms, and other forms of crime, including some that have a significant impact on the environment. It is recognized that organized crime represents a threat to health and safety, security, good governance and the sustainable development of Member States (Commission resolution 20/4). In order to address those challenges, Member States require fair, responsible, ethical and efficient criminal justice systems and

crime prevention strategies that contribute to sustainable economic and social development.<sup>1</sup>

12. At its reconvened twenty-first session, in December 2012, the Commission on Crime Prevention and Criminal Justice provided its contribution to the Economic and Social Council for the development agenda beyond 2015 (E/CN.7/2012/CRP.11-E/CN.15/2012/CRP.9 and Corr.1). The Thirteenth Congress provides the international community with an ideal opportunity to take stock of the role of crime prevention and criminal justice in the wider United Nations agenda. Taking into account the progress made in establishing the global development agenda beyond 2015, the Congress should consider specific ways in which crime prevention and criminal justice can address social and economic challenges and promote the rule of law. This approach has the potential to identify possible gaps and practical obstacles, exploring, at the same time, ways to overcome them. Such efforts could pave the way for a more coherent and comprehensive strategic approach in establishing, re-establishing or strengthening crime prevention and criminal justice systems that could serve as a basic framework and provide a solid foundation for the delivery of technical assistance and criminal justice education.

## C. Procedural aspects

13. In its resolution 67/184, the General Assembly decided that, in accordance with its resolution 56/119, the Thirteenth Congress should include a high-level segment in which States would be invited to be represented at the highest possible level, for example, by Heads of State or Government, government ministers or attorneys general, and that representatives would be given an opportunity to make statements on the topics of the Congress; also decided that, in accordance with its resolution 56/119, the Thirteenth Congress should adopt a single declaration, to be submitted to the Commission for its consideration, and that the declaration should contain recommendations reflecting the deliberations of the high-level segment, the discussion of agenda items and the workshops; and urged participants in the regional preparatory meetings to examine the substantive items on the agenda and the topics of the workshops of the Thirteenth Congress and to make action-oriented recommendations for consideration by it.

14. In that context, it should be recalled that, pursuant to resolution 46/152, the United Nations congresses, as a consultative body of the United Nations crime prevention and criminal justice programme, are to provide a forum for:

- (a) The exchange of views between States, intergovernmental and non-governmental organizations and individual experts representing various professions and disciplines;
- (b) The exchange of experiences in research, law and policy development;
- (c) The identification of emerging trends and issues in crime prevention and criminal justice;
- (d) The provision of advice and comments to the Commission on selected matters submitted to it by the Commission;

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<sup>1</sup> General Assembly resolution 55/59 and Economic and Social Council resolution 2002/13.

- (e) The submission of suggestions, for the consideration of the Commission, regarding possible subjects for the programme of work.

## **II. Substantive agenda items of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice**

### **Agenda item 3. Successes and challenges in implementing comprehensive crime prevention and criminal justice policies and strategies to promote the rule of law at the national and international levels, and to support sustainable development**

#### **A. Background**

15. The links between rule of law,<sup>2</sup> peace and security, and development are now internationally recognized. In the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels, Member States declared:

We are convinced that the rule of law and development are strongly interrelated and mutually reinforcing, [...] and for this reason we are convinced that this interrelationship should be considered in the post-2015 international development agenda.

In the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, adopted by the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in Salvador, Brazil, from 12 to 19 April 2010, and endorsed by the General Assembly in its resolution 65/230, Member States

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<sup>2</sup> The Secretary-General defines the rule of law (S/2004/616, para. 6) as:

A principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

As further highlighted by the Secretary-General (A/66/749, para. 4):

At the national level, the rule of law is at the heart of the social contract between the State and individuals under its jurisdiction, and ensures that justice permeates society at every level. The rule of law guarantees the protection of the full range of human rights, brings citizens and non-citizens alike legitimate avenues of recourse in cases of abuses of power and allows for the peaceful and fair resolution of disputes. The rule of law is ensured by national institutions that can generate and implement clear, public and just laws, and that provide fair, equitable and accountable public services to all people equally. Strengthening the rule of law fosters an environment that facilitates sustainable human development and the protection and empowerment of women, children and vulnerable groups, such as internally displaced persons, stateless persons, refugees and migrants.

recognized the centrality of crime prevention and the criminal justice system to the rule of law and that long-term sustainable economic and social development and the establishment of a functioning, efficient, effective and humane criminal justice system had a positive influence on each other.

16. In the discussions on the Millennium Development Goals and the development framework beyond 2015, a number of proposals have been made to include a security-related target in the new framework. The United Nations system task team on the United Nations development agenda beyond 2015 identified peace and security as an emerging challenge and proposed that the identification of goals for the agenda beyond 2015 could be defined along four highly interdependent dimensions: inclusive economic development, inclusive social development, environmental sustainability and peace and security, and should be built around three fundamental principles: respect for human rights, equality and sustainability. The Fourth High-level Forum on Aid Effectiveness, held in Busan, Republic of Korea, from 29 November to 1 December 2011, endorsed the New Deal for International Engagement in Fragile States advocated by the Group of Seven Plus (g7+)<sup>3</sup> and developed through the forum of the International Dialogue on Peacebuilding and State-building. The New Deal includes security (establish and strengthen people's security) and justice (address injustices and increase people's access to justice) within its five peacebuilding and State-building goals, which partners agree to use as an important foundation to enable progress towards the Millennium Development Goals and to guide work in fragile and conflict-affected States. The Group of Seven Plus undertook in the New Deal to work towards full consideration of the peacebuilding and State-building goals in the post-Millennium Development Goals development framework beyond 2015. In addition, a strong argument has been made by the Geneva Declaration on Armed Violence and Development (A/63/494) and other partners to include goals relating to reduction and prevention of armed violence in the new development framework.<sup>4</sup>

17. It is estimated that 1.5 billion people live in areas affected by fragility, conflict or organized criminal violence. New threats — organized crime and trafficking, civil unrest due to global economic shocks, terrorism — have supplemented continued preoccupations with conventional war between and within countries. The central message is that strengthening legitimate institutions and governance to provide citizen security, justice and jobs is crucial to break cycles of violence.<sup>5</sup>

18. In its resolution 66/181, the General Assembly recommended that Member States, as appropriate to their national contexts, adopt a comprehensive and

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<sup>3</sup> The Group of Seven Plus (g7+) is a country-owned and country-led global mechanism to monitor, report and draw attention to the unique challenges faced by fragile States ([www.g7plus.org](http://www.g7plus.org)). It includes the following countries: Afghanistan, Burundi, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Guinea, Guinea-Bissau, Haiti, Liberia, Papua New Guinea, Sierra Leone, Solomon Islands, Somalia, South Sudan, Timor-Leste (Chair) and Togo.

<sup>4</sup> See, for instance, Elisabeth Gilgen, Keith Krause and Robert Muggah, "Measuring and monitoring armed violence: goals, targets and indicators", background paper prepared for the Oslo Conference on Armed Violence: Achieving the Millennium Development Goals, Geneva, 12 May 2010.

<sup>5</sup> World Bank, *World Development Report 2011: Conflict, Security, and Development* (Washington, D.C., 2011), pp. 1-2.

integrated approach to crime prevention and criminal justice reform, based on baseline assessments and data collection and focusing on all sectors of the justice system, and develop crime prevention policies, strategies and programmes. A comprehensive approach addresses the multiple dimensions of crime and victimization in a country, including transnational crime, based on a thorough assessment using tools such as victimization surveys and crime statistics. Such an approach also involves all relevant institutions and civil society, and includes measures to address the needs of particular groups of offenders or victims. Comprehensive approaches in most cases include both crime prevention and criminal justice responses. They are also often adopted at the highest political level after being developed through a participatory approach. In the context of development, crime prevention and criminal justice reform should form part of national rule of law and development plans as well as international assistance programmes.

## **B. Main issues and substantive focus**

19. Member States may wish to take the opportunity provided by the Thirteenth Congress to further define the role of crime prevention and criminal justice reform within broader rule of law efforts and development goals. Factors contributing to the success of comprehensive approaches to crime prevention and criminal justice could be identified.

20. Member States could look into comprehensive crime prevention and criminal justice reform strategies, that is, how they have been developed, adopted, funded and implemented, and which partners were involved in their design and implementation. This could also include reviewing examples in which crime prevention and/or criminal justice reform elements were part of national development plans. Member States may wish to share their experience in adopting participative approaches in designing and implementing strategies, as well as the challenges faced in ensuring sustainability beyond political change. Member States may further wish to explain how, particularly in times of financial crisis, sustainable funding has been ensured to implement comprehensive approaches.

21. Member States could also focus on essential elements in the success or failure of comprehensive approaches to crime prevention and criminal justice, as well as on their impact on crime, the rule of law and development. In that regard, the Congress could provide a forum to discuss options for, and successes in, measuring the impact of comprehensive crime prevention and criminal justice reform approaches. The various options and lessons learned in setting indicators based on general crime statistics, recidivism rates or other development indicators could be demonstrated.<sup>6</sup> Member States may wish to share their experiences in using statistical data and surveys to develop prevention policies and monitor their implementation. For example, victimization surveys and statistical records from police or prison

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<sup>6</sup> *The United Nations Rule of Law Indicators: Implementation Guide and Project Tools* (United Nations publication, Sales No. E.11.I.13). Available from [www.un.org/en/peacekeeping/publications/un\\_rule\\_of\\_law\\_indicators.pdf](http://www.un.org/en/peacekeeping/publications/un_rule_of_law_indicators.pdf). See also Mark D. Agrast and others, *The World Justice Project—Rule of Law Index®: 2012-2013* (Washington, D.C., World Justice Project, 2012).

authorities can provide valuable and detailed information on crime victims and offenders, as well as on situational contexts leading to crime. Countries that have developed and implemented crime prevention and criminal justice reform initiatives within the framework of broader rule of law reform and/or development plans could share their successes and challenges. Given the focus of the United Nations system on providing rule of law assistance to post-conflict and transitional societies,<sup>7</sup> experiences and challenges in delivering technical assistance on crime prevention and criminal justice reform in such settings could be another focus area of the discussion. Such exchange could also highlight the lessons learned from implementing a sectoral approach and providing assistance within the framework of United Nations integrated responses. In that regard, the experience of partner countries is essential to evaluate the success of assistance, in line with the Paris Declaration on Aid Effectiveness, the Accra Agenda for Action and the Busan Partnership for Effective Development Cooperation. Experience in implementing the New Deal for engagement in fragile States in pilot countries could be highlighted.

22. Member States could also review some specific issues that would be relevant and cross-cutting in this discussion:

(a) The challenges and threats posed by corruption to sustainable development and the rule of law. Important issues that may further be explored at the Thirteenth Congress are those of mainstreaming the United Nations Convention against Corruption<sup>8</sup> as a safeguard to development, streamlining the Convention into development assistance programmes, which may also include rule of law and criminal justice reform components, as well as promoting governance through the effective implementation of the Convention, drawing on the results of the Mechanism for the Review of Implementation of the Convention, whose scope will cover all chapters of the instrument in the years following the Congress. The Convention against Corruption, as the only global legally binding instrument against corruption with almost universal adherence (164 States parties as at 4 December 2012), gives new momentum to addressing some of the core development challenges such as improving governance, enhancing accountability and transparency, galvanizing institutional frameworks and reducing vulnerability to corruption. In addition, the Convention contains a separate chapter on asset recovery. This is a major breakthrough, bearing in mind that the field of asset recovery is an area with a particular impact on sustainable development in countries where public assets have been looted;<sup>9</sup>

(b) Similar considerations would apply in connection with the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto;<sup>10</sup>

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<sup>7</sup> See Kristin Hausler, Nicole Urban and Robert McCorquodale, *Protecting Education in Insecurity and Armed Conflict: An International Law Handbook* (London, British Institute of International and Comparative Law and Education Above All, 2012).

<sup>8</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

<sup>9</sup> See resolutions 3/3 and 4/4 of the Conference of the States Parties. The links between asset recovery and development are also the focus of the work of the Stolen Asset Recovery (StAR) Initiative, launched jointly by the United Nations Office on Drugs and Crime (UNODC) and the World Bank.

<sup>10</sup> United Nations, *Treaty Series*, vols. 2237, 2241 and 2326, No. 39574.

(c) Given the large proportion of children and young people in many countries, the global youth unemployment phenomenon<sup>11</sup> and the recognition that investing in youth is a key factor in development, it would be beneficial to focus discussion on successes and challenges of comprehensive strategies and plans on children and youth, both in terms of crime prevention measures and justice reform. This would also be in line with the new directions for international policy proposed by the World Bank in 2011.<sup>12</sup> The crucial importance of youth unemployment has also been recognized by the Secretary-General in addressing the development agenda beyond 2015 (A/67/257);

(d) In reviewing the Millennium Development Goals, it has become clear that, despite the fact that some progress has been made towards greater gender equality (Goal 3), women remain in a disadvantaged position in many fields. The scourge of violence against women and girls, including conflict-related sexual violence, holds back progress in the achievement of all the Goals (A/67/257). In the area of crime prevention and criminal justice, while women still represent a small proportion of offenders, that proportion is increasing and women often face a number of particular risk factors and vulnerabilities both as victims and offenders. The adoption of the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) (General Assembly resolution 65/229) and of the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice (resolution 65/228) have increased the visibility of the issue at the international level. However, there are limited examples of comprehensive strategies and policies to address gender issues in the crime prevention and criminal justice system;

(e) In view of the importance of the role of informal justice systems in many countries,<sup>13</sup> a discussion on successful examples of comprehensive approaches that have taken into account and addressed the informal justice system would be essential;

(f) Finally, Member States may wish to examine good practices and successful strategies linking responses to local, national and regional/transnational

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<sup>11</sup> *World Youth Report 2011: Youth Employment — Youth Perspectives on the Pursuit of Decent Work in Changing Times*. Available from <http://social.un.org/index/WorldYouthReport/2011.aspx>.

<sup>12</sup> The World Development Report 2011 states (pp. 268 and 274):

International assistance to strengthen the national institutions and governance that provide citizen security, justice, and jobs, and to alleviate the factors that undermine them, is crucial to break the repeated cycles of violence described in this Report. But it requires an international system better adapted to address 21st-century risks of violence. This means refocusing assistance on preventing criminal and political violence through greater, and more integrated, support for security, justice, and jobs; reforming the procedures of international agencies; responding at a regional level; and renewing cooperative efforts among lower-, middle-, and higher-income countries. [...] For violence prevention, there are also links between employment, justice, and identity issues. Programs that reinforce the role of disengaged youth as community members and support job creation with social and cultural activities merit investment and further evaluation.

<sup>13</sup> See United Nations Development Programme, United Nations Children's Fund and United Nations Entity for Gender Equality and the Empowerment of Women, *Informal Justice Systems: Charting a Course for Human Rights-Based Engagement* (New York, 2012). Available from [www.un.org/apps/news/story.asp?NewsID=43043&Cr=rule+of+law&Cr1=](http://www.un.org/apps/news/story.asp?NewsID=43043&Cr=rule+of+law&Cr1=).

crime in a comprehensive manner, as well as to review their impact on the rule of law at both the national and international levels.

### C. Questions for discussion

23. The regional preparatory meetings and the Thirteenth Congress may wish to consider the following questions for further discussion:

- (a) What experience have countries had in developing and implementing comprehensive crime prevention and criminal justice policies and strategies?
- (b) What have been the main challenges in developing and implementing such strategies? How has success been measured? What were the key factors for success?
- (c) Have countries included national crime prevention and criminal justice policies and strategies in their national development plans? What were the challenges in doing so? How has funding been secured? What has been the impact on development and the rule of law?
- (d) Has there been successful inclusion of crime prevention and criminal justice policies and strategies in broader sectoral rule of law or security sector reform plans? How has an appropriate balance between crime prevention and criminal justice approaches been maintained?
- (e) How have countries been able to ensure continuity in crime prevention and criminal justice policies beyond political change?
- (f) How has a focus on children and youth been integrated into comprehensive crime prevention and criminal justice strategies and policies? What are the lessons learned?
- (g) Are there any examples of national crime prevention and criminal justice strategies and policies with a strong gender dimension? What are the results or impact of such policies and strategies? How was the support of policymakers and the general public ensured?
- (h) How have regional and transnational dimensions of crime been integrated into comprehensive strategies and policies? What difficulties were encountered? What was the impact on the rule of law nationally and internationally?
- (i) Are there any examples of national crime prevention and criminal justice policies or strategies that have included informal justice systems and/or established links between informal and formal justice systems?
- (j) Have countries taken measures to address the impact of corruption on national development plans and rule of law reforms? How can donors and technical assistance providers enhance coordination among themselves and with recipient countries in order to reduce opportunities for corruption?
- (k) Have countries recently conducted victimization surveys? Are high-quality, detailed data regularly produced by police, the judiciary and the prison authorities? How are such data and related analyses used, in specific terms, to develop and monitor crime prevention policies?

## **Agenda item 4. International cooperation, including at the regional level, to combat transnational organized crime**

### **A. Background**

24. Criminal groups that operate across borders have embraced globalization and communication technologies to expand their reach and impact beyond national borders. The transnational nature of organized crime and the increasing mobility of offenders fleeing from one jurisdiction to another in order to avoid punishment and continue engaging in their criminal activity call as a matter of urgency for expanded international cooperation, as it is now more evident than ever that the investigation, prosecution and control of crime for the maintenance of the rule of law can no longer be confined within national boundaries. It is not unusual for investigators to find that a crime they are investigating at home has victims in other countries, that the person being investigated is part of a criminal group with members abroad or that proceeds from the crime have been hidden or invested in another jurisdiction. Law enforcement and judicial institutions are struggling to catch up with the ever-evolving modi operandi of organized criminal networks.

25. Furthermore, many of the benefits of globalization, such as easier and faster communications, the rapid movement of funds and simpler and cheaper international travel, are used by criminal groups to promote criminal activities, hide the origin of proceeds of crime and evade the administration of justice, including by exploiting loopholes, gaps and weaknesses in legal and regulatory regimes.

26. In that sense, extending, enhancing and improving international cooperation is crucial to reinforcing the effectiveness of efforts to combat transnational organized crime. For that objective to be achieved, more concerted efforts are needed to ensure the development and promotion of strategies and mechanisms in the entire range of international cooperation, including extradition, mutual legal assistance, transfer of sentenced persons, transfer of criminal proceedings, international cooperation for purposes of confiscation and international law enforcement cooperation. Today, more than ever, the need for States to cooperate effectively with each other on the basis of international and/or regional treaties, as well as bilateral agreements or arrangements, has become more urgent. International cooperation features prominently in international legal instruments concluded with a view to preventing and combating transnational organized crime and its manifestations, such as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>14</sup> and the United Nations Convention against Transnational Organized Crime. The latter, in particular, contains specific provisions on different forms of international cooperation (extradition, mutual legal assistance, cooperation for purposes of confiscation, joint investigations, cooperation to use special investigative techniques, transfer of criminal proceedings, transfer of prisoners and law enforcement cooperation) for use by its 173 States parties seeking to enhance the effectiveness of their international cooperation mechanisms.

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<sup>14</sup> United Nations, *Treaty Series*, vol. 1582, No. 27627.

27. The Organized Crime Convention creates a solid and robust regime for international cooperation in criminal matters. Article 16 of the Convention sets a basic minimum standard for enhancing the efficiency of extradition mechanisms in relation to the offences established by the Convention and its supplementary Protocols, and further encourages States parties to expand their extradition network by concluding bilateral or regional treaties or arrangements that can go beyond that basic standard. In addition, article 16 enables States parties that make extradition conditional on the existence of a treaty to consider the Convention as the legal basis for extradition in their relations with other States parties. All offences established by the Convention and its Protocols, including “serious crimes” punishable by a maximum deprivation of liberty of at least four years or a more severe penalty (as defined in article 2 (b) of the Convention), are also deemed to be extraditable offences under existing treaties between States parties. This removes the need for, as well as the expense of, negotiating and concluding special bilateral extradition agreements.

28. Moreover, States parties that do not make extradition conditional on the existence of a treaty are required to adopt mechanisms designed to streamline the extradition process, including by enacting or updating domestic extradition legislation to facilitate the effective implementation of article 16. Article 18, a “mini-treaty” on mutual legal assistance, addresses every aspect of mutual legal assistance, reflecting the considerable evolution of the concept and mechanism as one of the primary tools of international cooperation against transnational organized crime. Under article 18, States parties are obliged to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention and its Protocols.<sup>15</sup>

29. Similarly broad provisions, allowing for flexible international cooperation, are contained in the Convention with regard to international cooperation for purposes of confiscation (article 13), disposal of confiscated proceeds of crime or property (article 14), transfer of sentenced persons (article 17), joint investigations (article 19), cooperation to use special investigative techniques (article 20), transfer of criminal proceedings (article 21) and law enforcement cooperation (article 27).

30. It should be noted that, especially in cases of transnational organized crime involving the commission of corruption-related offences, the United Nations Convention against Corruption also includes extensive provisions on international cooperation. Those provisions are generally based on the precedent of the Organized Crime Convention, sometimes going beyond it, and also include an autonomous chapter on asset recovery.

<sup>15</sup> For a catalogue of examples of cases of extradition, mutual legal assistance and other forms of international legal cooperation pursued on the basis of the Organized Crime Convention, see the information submitted to the Conference of the Parties to the Convention at its fifth session (CTOC/COP/2010/CRP.5 and Corr.1). See also the report of the meeting of the Working Group on International Cooperation, held in Vienna on 20 and 21 October 2010 (CTOC/COP/WG.3/2010/1) and United Nations Office on Drugs and Crime, *Digest of Organized Crime Cases: A Compilation of Cases with Commentaries and Lessons Learned* (Vienna, 2012).

31. Despite the noble aims of the Organized Crime Convention and the efforts made so far towards its implementation, practitioners still encounter various obstacles to effective cooperation in fighting transnational organized crime. It is imperative that States commit to resolving the problems impeding cooperation in order to ensure that organized criminal groups cannot operate with impunity.

32. In promoting implementation of the Convention, the United Nations Office on Drugs and Crime (UNODC) provides practitioners involved in international cooperation with opportunities to discuss common problems with counterparts, strengthen their working relationships through mutual understanding and trust, achieve progress on pending cases and raise awareness of the potential offered by global instruments that offer a solid legal basis for international cooperation in criminal matters. Within the institutional framework established by the Convention to assist States parties in improving their capacity to combat transnational organized crime (the Conference of the Parties and its Working Group on International Cooperation), the international cooperation provisions have a prominent place in discussions on how best to accomplish that objective.

33. At the regional level, international cooperation has for years been among the main areas for consideration and action with a view to combating transnational organized crime. The trend followed in this regard was the conclusion and implementation of either ad hoc regional instruments on different forms of international cooperation<sup>16</sup> or other anti-crime instruments containing provisions on international cooperation.<sup>17</sup>

34. A recent development in the field of international cooperation in criminal matters, especially in order to combat transnational organized crime, relates to the practice of mutual recognition of warrants, at the regional level and among countries with similar legal traditions and systems, either arrest warrants for the

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<sup>16</sup> See for example, within the framework of the Council of Europe, the European Convention on Extradition (1957) and its Additional Protocols (1975 and 1978); the European Convention on Mutual Assistance in Criminal Matters (1959) and its Additional Protocols (1978 and 2001); the European Convention on the Transfer of Proceedings in Criminal Matters (1972); and the European Convention on the Transfer of Sentenced Persons (1983) and its Additional Protocol (1997); within the framework of the Organization of American States, the Inter-American Convention on the Taking of Evidence Abroad (1975) and its Additional Protocol (1984); the Inter-American Convention on Extradition (1981); and the Inter-American Convention on Mutual Assistance in Criminal Matters (1992) and its Optional Protocol (1993); among the Commonwealth States, the Commonwealth Scheme for the Rendition of Fugitive Offenders (1966, as amended in 1990); and the Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth (1986, as amended in 1990, 1999, 2002 and 2005); in the context of the Arab League, the Extradition Agreement (1952); within the Economic Community of West African States, the Conventions on Extradition and on Mutual Assistance in Criminal Matters (1992 and 1994, respectively); within the Southern African Development Community, the Protocols on Extradition and Mutual Legal Assistance in Criminal Matters (both signed in 2002); within the European Union, the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union (2000); and in the context of the Association of Southeast Asian Nations, the Treaty on Mutual Legal Assistance in Criminal Matters (2004).

<sup>17</sup> See, for example, within the framework of the Council of Europe, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990) and the Convention on Cybercrime (2001); and within the South Asian Association for Regional Cooperation, the Regional Convention on Suppression of Terrorism.

purpose of surrender of a fugitive<sup>18</sup> or evidence warrants.<sup>19</sup> The Nordic countries, including two non-European Union member States, agreed to a Nordic arrest warrant in 2005, and the 15 member States of the Caribbean Community negotiated the Arrest Warrant Treaty in 2008. This type of agreement is compatible with the United Nations drug and crime treaties, none of which require an evidentiary review or a particular allocation of responsibility between the judiciary and executive for ordering removal, as long as international human rights standards are maintained.

35. Having access to different networks and institutions that facilitate networking is one of the fundamental issues in getting prompt and comprehensive responses. There are different regional networks that can prove their functionality at the regional level.<sup>20</sup> Although those networks are mainly informal, the contact points can offer valuable information about legal systems and contact details of competent authorities, thus facilitating the transmittal of requests for mutual legal assistance.<sup>21</sup>

## B. Main issues and substantive focus

36. Under agenda item 4, the regional preparatory meetings and the Thirteenth Congress may wish to discuss the following issues:

(a) The search for practical approaches to overcome obstacles to the effective use and proper implementation of the Organized Crime Convention (and, to the extent necessary and useful for the discussion, the Convention against Corruption) as a legal basis for international cooperation in criminal matters in the investigation and prosecution of transnational organized crime (and offences linked to it);

(b) The impact, usefulness and functionality of other practical approaches, including experience of spontaneous transmission of information in the absence of a request; the establishment of direct contacts between practitioners and the role of central authorities in facilitating such direct contacts; the advantages of and challenges in using videoconferencing for obtaining the testimony of witnesses and experts; experience and practice in conducting joint investigations in cases of transnational organized crime; experience accumulated by regional judicial networks and the role of UNODC in promoting and supporting a global judicial network;

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<sup>18</sup> Council of the European Union framework decision 2002/584/JHA on the European arrest warrant and the surrender procedures between member States.

<sup>19</sup> Council of the European Union framework decision 2008/978/JHA on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters.

<sup>20</sup> For example, the European Judicial Network, the Commonwealth Network of Contact Persons, the Ibero-American Network for International Legal Cooperation and the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition of the Organization of American States.

<sup>21</sup> The Conference of the Parties to the Organized Crime Convention, in its resolution 5/8, requested the Secretariat to continue to foster international and regional cooperation by, inter alia, facilitating the development of regional networks active in the field of cooperation in the fight against transnational organized crime, where appropriate, and by facilitating cooperation among all such networks with a view to further exploring the possibility of Member States envisaging a global network.

- (c) On the issue of extradition, a general debate on the principle of “extradite or prosecute” and its ramifications for States in an increasingly globalized criminal context; the interpretation and application of the dual criminality principle; grounds for refusal of extradition requests and alternatives to extradition to avoid impunity in cases of denial of extradition; the length of extradition proceedings and practices pertaining to the simplification of such proceedings; and the varying evidentiary standards and requirements in extradition proceedings;
- (d) The potential use of other significant international legal instruments, in order to strengthen international cooperation, including mutual legal assistance and extradition, for dealing with transnational organized crime and its specific modalities, including drug trafficking (e.g. the 1988 Convention), as well as new and emerging forms of transnational crime. In a similar context, the examination of the complementarity among international and regional instruments containing provisions on international cooperation and the added value for cooperation among States arising from the availability of multiple treaty options;
- (e) The use of confiscation as an effective tool in combating transnational organized crime. It is only relatively recently that international agreements have begun to contain provisions on assistance in identifying, tracing and freezing or seizing proceeds of crime for the purpose of eventual confiscation (which can be regarded as a special form of mutual legal assistance — see article 13, paragraph 3, of the Organized Crime Convention, which stipulates that the provisions on mutual legal assistance under the Convention are applicable, mutatis mutandis, to cases of international cooperation for purposes of confiscation). The assessment of examples of different regimes for facilitating confiscation, their advantages and disadvantages and the sharing of best practices;

(f) The search for practical solutions and/or institutional arrangements for improving the effectiveness of transfer of prisoner schemes under the Organized Crime Convention and other ad hoc instruments or agreements; proposals and sharing of best practice examples;

(g) Revisiting the United Nations model treaties on extradition and mutual assistance in criminal matters, in the light of the Organized Crime Convention and the Convention against Corruption, as well as recent developments in the field of international cooperation at the regional level, for the purpose of updating and consolidating them.

37. The United Nations crime congresses have been successful in developing normative standards with potential applicability around the world. Most of that material is “soft law” and has been endorsed or promulgated through resolutions of the relevant United Nations legislative bodies. Increasingly, some of the material is being incorporated into treaty language or finding its way into the corpus of customary international law. The model treaties on international cooperation in criminal matters, such as the Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolutions 45/117 and 53/112) and the Model Treaty on the Transfer of Proceedings in Criminal Matters (resolution 45/118) were also considered during the drafting of the Rome Statute of the International Criminal Court.<sup>22</sup> In the Rome Statute, the provisions of article 89 (“Surrender of persons to

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<sup>22</sup> United Nations, *Treaty Series*, vol. 2187, No. 38544.

the Court") and article 93 ("Other forms of cooperation") represent substantial adaptations of those instruments appropriate to a context in which the object is cooperation between a State and an international organization rather than cooperation between two States. Treaties such as the Organized Crime Convention (articles 13 and 16-18) and the Convention against Corruption (articles 44-46) have provisions on extradition, transfer of sentenced persons and mutual legal assistance that closely reflect many of the approaches of the Model Treaty on Extradition (resolutions 45/116 and 52/88) and the Model Treaty on Mutual Assistance in Criminal Matters.

38. Several years have passed since the entry into force of the Organized Crime Convention and the Convention against Corruption. The 1988 Convention has had a longer history, with the consequent broader experience that countries have accumulated, especially in the implementation of its international cooperation provisions. All instruments are coming close to universal adherence, thus representing state-of-the-art standards. Utilizing the experience and knowledge gained through the use of these instruments as the legal basis for international cooperation in cases covered by their respective scope of application, the Thirteenth Congress may serve as a useful forum for discussing and identifying areas and issues in the model treaties that may require fresh consideration. In doing so, the Congress may be used as a platform to identify needs for further amendments in the text of the model provisions, with a view to reflecting new developments in the field of international cooperation in criminal matters stemming from the implementation of the aforementioned multilateral instruments, but also from the practical application of new instruments, at the regional level.

## C. Questions for discussion

39. The regional preparatory meetings and the Thirteenth Congress may wish to consider the following questions for further discussion:

- (a) What are the main obstacles to a more extensive use and appropriate implementation of the Organized Crime Convention (and, to the extent necessary and useful for the discussion, the Convention against Corruption) as a legal basis for international cooperation in criminal matters? What can be done to promote such use, especially in the absence of bilateral or regional instruments?
- (b) What practical experiences and examples exist of how the issue of non-extradition of nationals has been handled, and what are the lessons learned? Are procedures of temporary surrender of nationals to the requesting State used in lieu of their extradition requested for purposes of prosecution?
- (c) Are there examples of legislative or treaty action aimed at simplifying the extradition proceedings and/or easing the evidentiary burden in such proceedings?
- (d) What are the main obstacles to mutual legal assistance, especially in relation to special investigative techniques, joint investigations and inter-State cooperation for the protection of witnesses?

(e) What are the possibilities for expeditious mutual legal assistance especially in relation to cybercrime, money-laundering and other offences where immediate access to evidence is of paramount importance?

(f) What issues exist in relation to the role and duties performed by central authorities of Member States, especially when different authorities operate under the Organized Crime Convention, the Convention against Corruption or the 1988 Convention?

(g) How can the role of liaison magistrates, prosecutors and police officers posted abroad be strengthened to facilitate communication and avoid misunderstandings between legal systems? Is there experience among jurisdictions with limited resources in sharing common liaison personnel at the regional level?

(h) What are the benefits of establishing regional networks of central authorities and prosecutors, what are their limitations and what are the general lessons learned as to how these networks facilitate a more effective use of the international cooperation provisions of the 1988 Convention, the Organized Crime Convention and, to the extent necessary and useful for the discussion, the Convention against Corruption?

(i) What are the main obstacles to effective confiscation of the proceeds of crime? What measures have proved effective to overcome those impediments? What are the advantages of, and challenges encountered in, different models of confiscation? What lessons have been learned from the implementation of mutual legal assistance provisions on the identification, tracing and freezing or seizure of proceeds of crime for the purpose of eventual confiscation? What are the main human rights aspects to be considered in confiscation proceedings?

(j) In the area of transfer of sentenced persons, what are the main obstacles and challenges? Is the existing international legal framework adequate to address such challenges? What lessons have been learned from the establishment of transfer of prisoners mechanisms and what can be done for their improvement? How does national legislation influence the implementation of article 17 of the Organized Crime Convention?

## **Agenda item 5. Comprehensive and balanced approaches to prevent and adequately respond to new and emerging forms of transnational crime**

### **A. Background**

40. References to “new and emerging” forms of crime are frequently found in the criminological literature, as well as in the work of intergovernmental bodies and international organizations. In the Salvador Declaration, Member States, noting with concern the rise of new and emerging forms of transnational crime, encouraged Member States to strengthen their national crime prevention and criminal justice legislation, policies and practices in combating such emerging forms of crime as those having a significant impact on the environment, trafficking in cultural property, economic fraud and identity-related crime and cybercrime. At the high-level segment held during the fifth session of the Conference of the Parties to

the Organized Crime Convention, in 2010, speakers underlined the importance of developing adequate legislative and operational responses in order to prevent and combat emerging and re-emerging forms of crime, including cybercrime, identity-related crime, trafficking in cultural property, piracy and trafficking in natural resources, in counterfeit medicines and in human organs (CTOC/COP/2010/17).

41. In its resolution 6/1, the Conference of the Parties used the term “new forms and dimensions” of transnational organized crime, a phrase that highlights the fact that criminal groups often show diversity in criminal activity, adopting new modi operandi as required and exploiting emerging grey and black market demands.

42. Agenda item 5 thus revolves around a comprehensive and balanced crime prevention and criminal justice approach to the range of new criminal opportunities created and exploited by both criminal groups and individuals in the modern world. Transformations attributed to the ongoing process of globalization, the exponential growth in the volume of international trade and movement of goods and persons, and the explosion in global electronic connectivity mean that many new criminal opportunities are of a transnational nature. The financial services sector remains a very attractive target for fraudsters because of the significant amount of cash, assets and sensitive client data involved, as well as the nature of the industry. Illicit trafficking flows, such as of wildlife and timber, intermingle with international flows of licit goods. The mobile Internet creates virtual links between potential victims and perpetrators of cybercrime physically situated almost anywhere in the world and often involved in the falsification and criminal misuse of the identity of their victims. The growth in the international trade in pharmaceutical ingredients and medicines, in particular through brokers and free trade zones where regulation is weak or lacking, facilitates the trade in counterfeit medicines. Match-fixing has reached new levels of sophistication, with various operators involved across several countries, which in turn indicates the use of patterns of organized crime with transnational dimensions.

43. The complexity and cross-border nature of new criminal opportunities requires a certain degree of logistics and organization. As a result, many, if not all, new and emerging crimes are committed by groups meeting the definition of an organized criminal group contained in the Organized Crime Convention. A range of factors and pressures may result in the engagement of such groups in new criminal activities and the resultant emergence of new forms and dimensions of transnational crime. These include increased competition or enforcement in traditional criminal markets; the establishment of new links between groups engaged in previously separate criminal activities; the use of highly sophisticated money-laundering schemes; the evolution of new technologies and the recruitment into organized crime of subject-area “specialists”; the increased infiltration of organized crime into private and State institutions through the use of corruption; and the establishment of specialized internal criminal markets for the rental or provision of criminal equipment, such as cash-machine skimmers.

44. Driven by such factors, many “new” forms of transnational crime may be genuinely inventive and previously unseen. In contrast, others, such as maritime piracy and trafficking in cultural property, may represent the re-emergence or adaptation of historical or traditional types of crime. Overall, organized criminal groups may show shifting alliances, splintering and engagement in a range of

different illicit activities, as individuals are arrested and imprisoned, as power grows and wanes, and as illicit markets, incentives and risks develop and subside.

## B. Main issues and substantive focus

45. Under agenda item 5, the regional preparatory meetings and the Thirteenth Congress may wish to discuss how countries can develop an effective crime prevention and criminal justice approach to preventing and combating new and emerging forms of transnational crime. Such forms could include, at a minimum, cybercrime, identity-related crime, match-fixing and illegal betting, maritime piracy, environmental crimes, including trafficking in wild flora and fauna, and trafficking in cultural property, human organs and counterfeit medicines.

46. Many of these phenomena remain poorly understood or are addressed in a fragmented manner, with divergent national crime prevention and criminal justice responses. The fact that new forms of crime may emerge on a global scale and cause significant harm or loss within a short time presents a particular challenge to States in developing an effective balance between crime prevention and crime control through criminal justice measures. The need to counter emerging crimes may risk legislative responses that entail broad criminalization provisions and investigative powers premised on risk-profiling and a security-based narrative. In that respect, legislative responses require appropriate checks and balances, including those derived from international human rights law, together with long-term crime prevention initiatives aimed at underlying socioeconomic and vulnerability factors.

47. Developing a comprehensive and balanced approach may therefore entail a focus on the need for:

(a) Common approaches to identifying and characterizing new forms and dimensions of transnational crime, as well as research methods for quantifying the nature and extent of such crimes, numbers and degree of organization of perpetrators, levels of direct and indirect harm caused, and size of illicit financial flows generated as a result;

(b) Increased understanding at the international and regional levels of the underlying “drivers” for new and emerging forms of crime, such as limited rule of law and socioeconomic opportunities in the case of maritime piracy and environmental crime; comparative ease of access to financial and personal information in the case of some forms of cybercrime and identity-related crime; poverty and lack of adequate health-care legislation and regulation in the case of trafficking in organs; the diversity of national gambling regulations, as well as the heterogeneous nature of the gambling market, which makes betting an interesting vehicle for money-laundering; and the role of such factors in the design of effective crime prevention programmes;

(c) Clear and transparent national criminal law frameworks that define the elements of new forms and dimensions of transnational crime and establish appropriate sentences and investigatory powers, with a view to ensuring appropriate criminal justice responses, facilitating international cooperation in criminal matters and eliminating safe havens for suspected perpetrators;

- (d) Improved identification of the links between different forms of new and emerging transnational crime, including with respect to the nature and identity of the organized criminal groups involved, as well as the extent of the corrupt practices involved; and the use of such information in the development of an intelligence-led approach to law enforcement investigation, including through enhanced cooperation between law enforcement authorities;
- (e) Mechanisms to ensure a balance between crime prevention and criminal justice resource allocation and the development of an integrated response that addresses offending in a holistic manner, through both criminal law deterrence and the promotion of environments conducive to non-offending and rehabilitation of offenders;
- (f) Adaptation, where necessary, of forms of international cooperation in criminal matters to the particularities of new forms and dimensions of transnational crime, such as the need for timely cooperation where relevant evidence may exist only for a short period of time or may be easily lost or destroyed;
- (g) Strengthened understanding of and respect for rule of law standards in preventing and combating new forms and dimensions of transnational crime.

## C. Questions for discussion

48. The regional preparatory meetings and the Thirteenth Congress may wish to consider the following questions for further discussion:

- (a) What are the underlying drivers of new and emerging forms of transnational crime? Can common drivers be identified, or is each form associated with its own underlying risk factors and causes? How can such information be used in the design of effective prevention programmes?
- (b) What is the role of organized criminal groups in perpetrating new and emerging forms of transnational crime? Are different forms of emerging crime perpetrated by distinct groups? Or are some groups associated with multiple new types of crime? Is it possible to define different roles that individuals or groups play in the overall commission of specific new and emerging forms of transnational crime?
- (c) Are existing national criminalization frameworks sufficient to cover all known new forms and dimensions of crime? Or does divergence in national criminal law frameworks create safe havens for criminals engaged in certain acts? Are legal frameworks sufficiently flexible to address possible future criminal innovations or the emergence of new forms of criminal conduct?
- (d) What are the capacity and training needs of law enforcement officers, customs officials and criminal justice professionals in order to address new and emerging forms of transnational crime? What should be the main elements of appropriate training in that regard?
- (e) What programmes and initiatives are in place to assist, support and protect victims and witnesses of new and emerging forms of transnational crime? In particular, do effective links exist between criminal justice systems and other relevant institutions, such as health-care systems, financial service providers,

shipping operators and insurance providers, in the case of crimes such as trafficking in human organs, the trade in counterfeit medicines, cybercrime and maritime piracy?

(f) How should Governments partner with the private sector to facilitate the identification and detection of new and emerging forms of transnational crime?

(g) Are existing formal and informal mechanisms for international cooperation sufficient to address the challenges of new and emerging forms of transnational crime? Do they provide an adequate basis for seeking assistance from other countries and sufficiently articulate ways in which assistance may be sought? What are the shortcomings of existing mechanisms and what additional mechanisms or modes of cooperation would be required?

## **Agenda item 6. National approaches to public participation in strengthening crime prevention and criminal justice**

### **A. Background**

49. The range of policy responses to crime problems and experience to date point to the need to comprehend and consider local problems and traditions, to base actions and programmes on knowledge obtained through data-gathering instruments such as victimization surveys, local safety audits and self-reported delinquency surveys, and to consult communities on crime problems and work with them in developing solutions. Young people are particularly vulnerable to crime and victimization, especially in the age of information and communications technologies. Policymakers need to engage with young people in truly participatory and consultative processes and to see youth as agents of positive change. Among the criminal justice actors, the police in particular have a key role to play in working with communities to prevent crime. Courts can also play an important role through restorative justice processes and their educational and preventive function, as well as by publicizing sanctions.

50. Social or “developmental” prevention programmes that advance poverty alleviation and social and economic development, and that recognize and respect cultural diversity, are important and cost-effective investments that need to be balanced against deterrence and law enforcement measures. Evidence presented in the *Global Burden of Armed Violence 2011*<sup>23</sup> indicates that deconcentration of income inequality, proactive social inclusion and targeted youth employment and education schemes can have a positive effect on the onset, duration and dynamics of violence.

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<sup>23</sup> This report, published by the secretariat of the Geneva Declaration on Armed Violence and Development, takes an integrated approach to the complex and volatile dynamics of armed violence around the world. In the Geneva Declaration, which has been endorsed by more than 100 countries, States undertake to achieve measurable reductions in the global burden of armed violence and tangible improvements in human security by 2015 (see [www.genevadeclaration.org](http://www.genevadeclaration.org)).

51. In the Salvador Declaration, Member States recognized that the development and adoption of crime prevention policies and their monitoring and evaluation were the responsibility of States, and expressed the belief that such efforts should be based on a participatory, collaborative and integrated approach that includes all relevant stakeholders, including those from civil society.

52. Governments have increasingly been availing themselves of approaches and methods to prevent and reduce crime that are knowledge-based, consultative and participatory in nature. These involve wide-ranging partnerships and consultations with all sectors of society, including non-governmental organizations (NGOs), academia and the private business sector, to develop and implement national and local crime prevention and security strategies, as well as civic participation in criminal justice reform processes and civic oversight and monitoring of the efficiency of justice systems, and their fairness and respect for human rights.

53. The array of positive experiences has been increasing in recent years, reflecting the recognition that the roots of crime problems are many and complex, and that in order to reduce and prevent crime and victimization, all sectors of government and society need to cooperate. Governments are increasingly partnering with NGOs for the prevention of crime because of their knowledge of local problems and capacity to reach out to the most vulnerable segments of society. The business community and other private sector stakeholders have much to offer in connection with certain forms of criminal activity in terms of crime control and cooperation with law enforcement authorities for that purpose.

## **B. Main issues and substantive focus**

54. There are many examples of national approaches to public participation in strengthening crime prevention and criminal justice focusing on various dimensions of crime and in response to national or local crime challenges. Given the broad scope of agenda item 6, it is proposed that the discussion at the regional preparatory meetings and the Thirteenth Congress focus on the subjects below.

### **1. The role of social networks and new communications technologies**

55. The role and use of social media for communication purposes, but also for crime prevention and criminal justice purposes by Governments, is an issue that has received increasing attention in recent years. On the one hand, there is a debate concerning the use of Internet-based social networks to incite violence, hate and discrimination and to plan and perpetrate criminal acts, including transnational organized crime. On the other hand, the same technology is being increasingly used in its evolutionary stages of development to connect people, Governments and the public at large in order to create more open societies. Technology, including social media, is also being used by law enforcement and intelligence agencies to understand new crime typologies and to detect and investigate crime committed in the digital environment.

56. According to a 2012 social media survey by the International Association of Chiefs of Police,<sup>24</sup> social networking is the most popular form of social media used

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<sup>24</sup> Available from [www.iacpsocialmedia.org/Portals/1/documents/2012SurveyResults.pdf](http://www.iacpsocialmedia.org/Portals/1/documents/2012SurveyResults.pdf).

by the law enforcement community, with nearly 90 per cent of responding agencies stating that they currently had a Facebook page. This networking Goliath — and, to a lesser extent, its cousin MySpace — is especially popular with crime prevention units, which can easily, and for no set-up cost, create a page where “fans” can read the latest news, post comments and participate in discussion forums. Smartphones are also being used increasingly by the police in various countries to send out safety messages.<sup>25</sup>

57. In addition to situational approaches, which reduce opportunities for crime and increase the risk of being apprehended for offenders, there is a growing potential for the use of social networks to build individual capital (personal resources brought by members of the community) and social capital (the capacity of persons to call upon personal ties within the community), which constitute important protective factors for resilience to crime, in particular for young people. Social networks and new communications technologies are being used by Governments and other stakeholders to facilitate the dissemination of information on access to health, education and housing, to build communities of knowledge and to engage with communities in discussions on community safety.

58. Conversely, there is potential for new technological crime prevention measures to have unintended, counterproductive consequences. These include the potential for the creation of actual criminogenic effects resulting from discussion of previously unidentified opportunities for crime.

59. The Thirteenth Congress could be used as a platform for Member States to exchange experiences and lessons learned on how social networks and new communications technologies are being used in various jurisdictions to increase public participation in strengthening crime prevention and criminal justice, while at the same time not creating new opportunities for criminality.

## **2. The role of public participation at the national and local levels**

60. At the national level, public participation can be called upon in the development of relevant crime prevention and criminal justice national strategies, action plans and legislation, as well as active participation in the functioning of the system through, for example, the selection of judges and participation in jury duties, approaches that draw on public participation, such as police volunteers and prison visitors, and post-release support activities.

61. As stated in paragraph 14 of the Guidelines for the Prevention of Crime (Economic and Social Council resolution 2002/13):

Crime prevention strategies should, when appropriate, pay due regard to the different needs of men and women and consider the special needs of vulnerable members of society.

Increasingly, Governments are recognizing the need to engage with socially marginalized or disempowered groups, such as those living in informal settlements

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<sup>25</sup> In Ireland, for example, a publicly accessible website was established with associated mobile phone technologies to enable citizens to report non-emergency issues, such as problems with street lighting, drainage, graffiti, illegal dumping and road and footpath maintenance, to their local authority and thus to improve community well-being.

or engaged in the informal economy, young people and indigenous groups and ethnic minorities. These populations are consistently identified as having very little influence over prevention and justice practice, yet they frequently come into contact with the criminal justice system.

(a) *Community-centred initiatives*

62. At the local level, public participation in strengthening crime prevention and criminal justice has a long history of accomplishments in many countries around the world.<sup>26</sup> Community involvement has become an essential component of crime prevention in all kinds of partnerships involving municipalities, the police, schools, health and social services, and the private sector. In order to encourage community involvement, some countries provide financial and other reward programmes in which successful and promising community crime prevention programmes are identified, commended and provided with support.<sup>27</sup>

(b) *Communities and the prevention of recidivism*

63. With high levels of recidivism (reoffending) in virtually all countries, regardless of the level of economic and social development, civic engagement is increasingly important. The primary objective of social reintegration efforts is to provide offenders with the support, assistance and supervision that will help them to lead crime-free lives upon release. However, for programmes to have a positive impact, the community must obviously also be responsive. The UNODC *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders* contains promising national practices aimed at reducing criminal recidivism by addressing the social reintegration challenges faced by offenders. Many countries are increasingly engaging with communities and civil society organizations for the social reintegration of offenders through, for example, community support schemes involving prisoners working with or on behalf of people outside the prison and restorative justice programmes.<sup>28</sup>

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<sup>26</sup> Examples include citizens' participation in citizen security programmes in Latin America, the *koban* policing system in Japan, community-centred crime prevention and assistance to victims programmes in South Africa and European initiatives to work with and for youth integration into society. Of particular note are innovative justice measures being used among indigenous peoples (e.g. in Australia and Canada) such as circle sentencing. Based on traditional law in many cases, these initiatives are built around the involvement of the wider community in bringing to justice offenders from local communities.

<sup>27</sup> One example is the Australian Crime and Violence Prevention Awards, which recognize programmes reducing crime and violence in Australia.

<sup>28</sup> One example is the From Prison Back Home project of the Uganda Prisons Service, also known as the Social Rehabilitation and Reintegration of Offenders project. The project is based on a restorative justice approach that emphasizes mediation and healing between offenders, victims and local communities for the purpose of repairing the harm caused by crime. The programme has consistently involved local council leaders, clan leaders, religious leaders, police, individual members of the community and civil society organizations doing work in the rehabilitation and reintegration of offenders (see United Nations Office on Drugs and Crime, *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders*, Criminal Justice Handbook Series (2012), p. 55).

(c) *Community policing and similar approaches*

64. The police have a key role to play in the prevention of crime in collaboration with all sectors of society. Efforts have included a variety of community-based crime prevention action plans and approaches for closer cooperation between the police and the public. Community policing and similar approaches have yielded positive responses from the public and lowered crime rates in many instances. Local security councils, in which citizens participate in collaboration with the police, aimed at identifying crime problems and solutions are just one of the many practices that foster public participation in efforts to enhance crime prevention and criminal justice. Another example is the cooperation between the police and research institutes. The Social Sector of the Pacifying Police Units (UPPs) of Rio de Janeiro, Brazil, for instance, cooperates with research institutes such as the Igarapé Institute to develop technology to promote responsive security in urban settings within the framework of South-South cooperation.

(d) *Public participation in legal aid*

65. Legal aid is an essential element in a fair, humane and efficient criminal justice system that is based on the rule of law. The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (General Assembly resolution 67/187) recommend that States should recognize and encourage the contribution of lawyers' associations, universities, civil society and other groups and institutions in providing legal aid. Where appropriate, public-private and other forms of partnership should be established to extend the reach of legal aid. Principle 14 thus reflects a recognition of the growing involvement of community-based groups in providing different types of service, ranging from legal advice, assistance and representation to legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes. While States should consider the provision of legal aid their duty and responsibility, they are encouraged to rely on non-governmental actors in order to meet the needs of their citizens, in particular those belonging to the most vulnerable groups. This is vital for those who are unable to obtain access to government-funded legal aid and who do not have personal resources available to obtain adequate legal representation or advice. Consideration needs to be given to how programmes of this nature can be encouraged and facilitated in order to focus on the most urgent needs.

(e) *The role of the media*

66. Media organizations have a central role to play in publicizing the long-term benefits of crime prevention activities and in communicating the messages of public education programmes designed to alert citizens to new and evolving crime risks. One important step in encouraging a positive relationship with media groups in enhancing public participation in the criminal justice system is to actively engage with them early on in the process of planning and delivery of relevant social marketing initiatives. In this way Governments can benefit from the expert

knowledge and skills of the media in the difficult process of delivering crime prevention messages and promoting engagement with the criminal justice system.<sup>29</sup>

67. Other important aspects of media participation in the prevention of crime and strengthening criminal justice relate to challenges encountered by Governments in ensuring the security of journalists, in particular in societies affected by high levels of crime and violence, as well as ensuring freedom of the press. More than 600 journalists and media workers have been killed in the last 10 years. In other words, on average every week a journalist loses his or her life in bringing news and information to the public. To end violence against journalists and to combat impunity, in April 2012 the United Nations System Chief Executives Board for Coordination endorsed the first ever United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity, in a process spearheaded by the United Nations Educational, Scientific and Cultural Organization.<sup>30</sup> The Thirteenth Congress would be a suitable platform for Member States to exchange information and best practices on their efforts to stem violence against journalists so that they can carry out their work and realize the right of all citizens to receive reliable information.

### **3. The role of victims in crime prevention**

68. Modern criminal justice systems have traditionally been focused on the investigation of criminal cases and the prosecution, sentencing and punishment of offenders. In recent times, criminal justice agencies in an increasing number of countries have set themselves the task of ensuring the protection of crime victims as an additional goal in the context of restorative justice. International standards for victims' empowerment were first formulated in soft-law crime prevention and criminal justice standards and norms, such as the United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power.<sup>31</sup>

69. The renewed interest of the international community in victims' issues has been further confirmed at the normative level through the adoption of international instruments that contain specific provisions aimed at ensuring respect for the rights and legal position of victims of crimes, for example, the Organized Crime Convention and its Protocols, and the Convention against Corruption.

70. Restorative justice and community conferencing also seek to involve victims in the determination of the appropriate response to crime. Such processes are aimed at resolving crime by focusing on redressing the harm done to the victims, holding the offenders accountable for their actions and engaging the community in the resolution of the conflict. Finally, communication of experiences of victims can be helpful in developing targeted and effective crime prevention information and measures.

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<sup>29</sup> See Peter Homel and Tom Carroll, "Moving knowledge into action: applying social marketing principles to crime prevention", *Trends & Issues*, No. 381 (September 2009). Available from [www.aic.gov.au/documents/C/B/1/%7BCB1B79BA-0728-4710-B6EB-374A2405BA3C%7Dtandi381.pdf](http://www.aic.gov.au/documents/C/B/1/%7BCB1B79BA-0728-4710-B6EB-374A2405BA3C%7Dtandi381.pdf).

<sup>30</sup> See [www.unodc.org/unodc/en/frontpage/2012/November/un-governments-and-civil-society-unite-to-stem-violence-against-journalists.html?ref=fs2](http://www.unodc.org/unodc/en/frontpage/2012/November/un-governments-and-civil-society-unite-to-stem-violence-against-journalists.html?ref=fs2).

<sup>31</sup> General Assembly resolution 40/34; see also the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (resolution 60/147).

### C. Questions for discussion

71. The regional preparatory meetings and the Thirteenth Congress may wish to consider the following issues for further discussion:
- (a) Reviewing good practices in designing and implementing crime prevention strategies, plans and programmes that ensure the involvement of all sectors of society;
  - (b) Reviewing good practices that facilitate the involvement of all sectors of society in strengthening the performance of criminal justice systems and the services they provide to communities;
  - (c) Exploring how the new social media and communications technologies can help national authorities increase public participation in strengthening crime prevention and criminal justice;
  - (d) Assessing the best ways to address the challenges posed by social media and communications technologies when used to incite violence, discrimination and crime;
  - (e) Ensuring that the media contribute to the prevention of crime and to community safety, and that freedom of expression and the security of journalists are adequately addressed by Governments;
  - (f) Ensuring that victims of crime are consulted on and involved in the crime prevention measures adopted by the Government, industry and the community.

### III. Workshops to be held at the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice

#### **Workshop 1. Role of the United Nations standards and norms in crime prevention and criminal justice in support of effective, fair, humane and accountable criminal justice systems: experiences and lessons learned in meeting the unique needs of women and children, in particular the treatment and social reintegration of offenders**

##### A. Scope

72. Since its foundation, the United Nations has been active in the development and promotion of internationally recognized principles in crime prevention and criminal justice. Over the years, thanks also to the driving force provided by the United Nations congresses on crime prevention and criminal justice, a considerable body of standards and norms covering a wide variety of issues related to crime

prevention and criminal justice, such as treatment of prisoners, justice for children, victims of crime, violence against women and crime prevention, has emerged.<sup>32</sup>

73. The existing array of United Nations standards and norms in crime prevention and criminal justice constitutes a mechanism to measure and assess the fairness, effectiveness and humanity of national criminal systems and as such has helped throughout the years to promote more effective crime prevention policies and strategies and more effective and fairer criminal justice institutions.

74. In the Salvador Declaration, Member States acknowledged the value and impact of the United Nations standards and norms in crime prevention and criminal justice and endeavoured to use those standards and norms as guiding principles in designing and implementing their national crime prevention and criminal justice policies, laws, procedures and programmes. Furthermore, with a view to rendering them effective, it was also recommended that appropriate efforts be made to promote their widest application and to raise awareness of them among authorities and entities responsible for their application at the national level. In that connection, it should also be recalled that the General Assembly, in its resolution 67/166, on human rights in the administration of justice, reiterated its call to all Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards.

75. The United Nations standards and norms that address aspects related to the treatment of women and children as offenders and their social reintegration include:

- (a) The Standard Minimum Rules for the Treatment of Prisoners (1955, as amended in 1977), which are now being revised in accordance with General Assembly resolution 67/188;
- (b) The procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners (1984);
- (c) The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules, 1985);
- (d) The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988);
- (e) The Basic Principles for the Treatment of Prisoners (1990);
- (f) The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990);
- (g) The United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules, 1990);
- (h) The United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (1990);
- (i) The Guidelines for Action on Children in the Criminal Justice System (1997);

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<sup>32</sup> See *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*, published by the United Nations Office on Drugs and Crime in 2006. Available from [www.unodc.org/unodc/pdf/compendium/compendium\\_2006.pdf](http://www.unodc.org/unodc/pdf/compendium/compendium_2006.pdf).

- (j) The Kampala Declaration on Prison Conditions in Africa (1997);
- (k) The Kadoma Declaration on Community Service and related recommendations on prison overcrowding (1998);
- (l) The Arusha Declaration on Good Prison Practice (1999);
- (m) The basic principles on the use of restorative justice programmes in criminal matters (2002);
- (n) The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (2010).

76. Women constitute a small proportion of the general prison population worldwide. However, not only are their numbers increasing in tandem with the rise in the overall prison population in many countries, but studies in some countries have shown that the number of female prisoners is increasing at a faster rate than that of male prisoners. Despite that trend, existing prison facilities and prison management practices worldwide were designed primarily for male prisoners, so the specific needs of women prisoners are most often not taken into account in prison management practices and rehabilitation programmes.

77. In December 2010, the General Assembly, with a view to addressing the specific needs and requirements of women prisoners, adopted the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). The Bangkok Rules cover a range of issues, including admission, safety in prison, rehabilitation programmes that address the special needs of women, gender-sensitive health care, the care of children in prison with their mothers, preparation for release and aftercare. The scope of the Rules also extends to non-custodial measures and sanctions for women offenders.

78. In the Salvador Declaration, Member States recognized the importance of preventing youth crime, supporting the rehabilitation of young offenders and their reintegration into society, protecting child victims and witnesses, including efforts to prevent their revictimization, and addressing the needs of children of prisoners. Such responses should take into account the human rights and best interests of children and youth, as called for in the Convention on the Rights of the Child and the Optional Protocols thereto,<sup>33</sup> where applicable, and in other relevant United Nations standards and norms in juvenile justice, where appropriate. Despite the fact that the Convention on the Rights of the Child and other international standards and norms provide that children in conflict with the law should be deprived of their liberty only as a measure of last resort and for the shortest period of time,<sup>34</sup> it is estimated that at least 1 million children are deprived of their liberty worldwide at any given time.<sup>35</sup> It is therefore crucial that countries have in place proper measures to address the specific needs of children deprived of their liberty, in particular as relates to health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training, rehabilitation and reintegration programmes.

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<sup>33</sup> United Nations, *Treaty Series*, vols. 1577, 2171 and 2173, No. 27531.

<sup>34</sup> See article 37 (b) of the Convention on the Rights of the Child and rule 13.1 of the Beijing Rules.

<sup>35</sup> Geert Cappelaere and Anne Grandjean, *Enfants privés de liberté : droits et réalités* (Liège, Editions Jeunesse et Droit, 2000).

79. No crime prevention or criminal justice reform strategy is complete without effective measures to address the problem of recidivism. A comprehensive strategy must obviously take into account the fact that public safety is affected by the large number of crimes committed by individuals who have already faced criminal sanctions but have not yet desisted from crime. Without effective interventions, reoffending remains likely. Effective social integration or reintegration programmes are urgently required, as they are essential means of preventing recidivism and increasing public safety, two very important social policy objectives in all countries.<sup>36</sup>

80. International standards and norms state that the rehabilitation of offenders and their successful reintegration into the community are among the basic objectives of the criminal justice process. They emphasize the importance of interventions to support the reintegration of offenders as a means to prevent further crime and protect society. The current efforts to revise the United Nations standards and norms for the treatment of prisoners, more than half a century after their promulgation by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders, constitute an attempt not only to update outdated language, but also to bring them into line with current international law and best practices.

81. Where prison and community resources exist and can be mobilized, the offender re-entry process can be more effectively managed so as to reduce the likelihood of recidivism. Programmes can be developed to link criminal justice or correctional interventions with community-based interventions by various governmental or non-governmental agencies. The main goal of such interventions is to help offenders overcome the stigma of a criminal conviction, the detrimental effects of incarceration and the numerous obstacles they face in trying to reintegrate into the community.

## B. Objectives

82. The objectives of Workshop 1 will be:

- (a) To identify good practices, inspired by and drawing upon relevant United Nations standards and norms in crime prevention and criminal justice, in meeting the unique needs of women and children as relates to their treatment as prisoners;
- (b) To identify good practices and experiences in the successful reintegration of women and child offenders and prevention of recidivism;
- (c) To identify existing gaps and challenges in meeting the unique needs of women and children as relates to their treatment as prisoners and their social reintegration;
- (d) To present best practices in mobilizing civil society and resources to support reintegration programmes and initiatives for women and child offenders.

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<sup>36</sup> United Nations Office on Drugs and Crime, *Introductory Handbook on the Prevention of Recidivism*, p. 1.

## C. Questions for discussion

83. The regional preparatory meetings and participants in Workshop 1 at the Thirteenth Congress may wish to consider the following points:

- (a) What mechanisms are in place to gather data and statistics on the number and situation of children in contact with the law, in particular the status of children deprived of their liberty, and the profile of children in detention? What mechanisms are in place to gather data and statistics on the number and situation of women prisoners and their profile?
- (b) What mechanisms have proved successful in gathering data on patterns of offending, including recidivism? And in disaggregating those data according to offender groups?
- (c) Have there been any experiences and lessons learned on the collection of data, including through social inquiry reports, on the background of women and child offenders and on how those data have been used to inform prevention strategies, sentencing policies and/or social reintegration programmes?
- (d) Have any good practices been identified with regard to the provision of alternative measures to formal legal proceedings for children in conflict with the law? And in providing alternatives to pretrial detention and imprisonment for children in conflict with the law?
- (e) What gender-specific options for diversionary measures and alternatives to imprisonment have proved successful? Did they take into consideration the history of victimization and caretaking responsibilities of many women offenders, as well as the fact that they often do not pose a risk to society?
- (f) What has proved successful in ensuring the mobilization of community support for alternatives to incarceration? Which forms of community supervision (i.e. probation, parole) have proved effective and why?
- (g) What measures have been used to alleviate the impact of the separation of children from adults and the treatment of children in detention in accordance with a child-centred approach?
- (h) What measures have proved effective to ensure that children in detention are provided with health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training? What good practices can be shared as relates to the development of specific programmes for categories of particularly vulnerable children, such as those with HIV/AIDS, drug users and so on?
- (i) Are there any good practices to ensure that detained girls have equal access to educational, vocational and recreational services that are provided to their male counterparts and that they have access to age- and gender-specific programmes and services?
- (j) What successful measures have been taken to ensure that the specific needs of women in detention are met, in particular as relates to allocation; personal hygiene; health-care services; gender-specific health care; HIV prevention, treatment, care and support; substance abuse treatment programmes; suicidal and

self-harm prevention; safety and security; searches; discipline and punishment; instruments of restraint; and contact with the outside world?

(k) What successful measures have been taken with regard to pregnant women, women with babies and children in prison, and custody and care of children of imprisoned mothers (outside prison)?

(l) Are there any good practices in the treatment of vulnerable categories of women prisoners, including mentally ill prisoners, foreign nationals, minorities and indigenous peoples?

(m) What are the key elements of a successful programme to prevent any form of violence against women and children, especially girls, in detention facilities?

(n) What impact have regular inspections of penal institutions and services had on the treatment of women and child prisoners? Have systems for responding to their complaints proved efficient?

(o) Have good practices been identified in ensuring that continuous support and services are provided to children deprived of their liberty during their detention and prior to and after release in order to promote their full rehabilitation and reintegration into the community? And for women offenders?

(p) What rehabilitation and reintegration programmes for detained children have proved particularly successful and why? What are the main challenges?

(q) What are examples of successful rehabilitation and reintegration programmes for women offenders? Did they address the common problems leading to women's contact with the criminal justice system and did they take into consideration factors such as the type of offences committed by women, characteristics of women offenders and so on? What are the main challenges for rehabilitation and reintegration programmes for women offenders?

(r) Have any good practices been identified to assess the risks posed by women and child offenders and their needs as a prerequisite for individualizing treatment and social reintegration programmes?

(s) Which cooperation frameworks, involving different governmental and/or non-governmental stakeholders, have proved effective in providing a continuum of care for offenders, including the availability of social reintegration programmes in both prisons and in the community upon release? How were these established and maintained?

(t) What kind of monitoring systems exist to assess social reintegration programmes for offenders, in particular women and children, and how do they measure programme effectiveness?

(u) What lessons have been learned from initiatives to assist released women and child offenders in overcoming the effects of stereotyping, prejudice, discrimination and stigma in society, and to maintain or re-establish social networks? What measures have been found to be particularly effective, and to what extent do these involve active outreach to the community?

## **Workshop 2. Trafficking in persons and smuggling of migrants: successes and challenges in criminalization, in mutual legal assistance and in effective protection of witnesses and trafficking victims**

### **A. Scope**

84. Trafficking in persons and smuggling of migrants most often occur within the multifaceted and complex phenomenon of migration. While most migratory movements may take place by regular means, it has been estimated that 10 to 20 per cent of migrants are in irregular situations in countries of destination. It is often difficult to know how many of them used the services of smugglers. In acknowledging the multiple positive impacts of migration, it must also be recognized that individual human beings in search of safety and security are involved. Often migrants find themselves in situations of acute vulnerability to multiple forms of criminal abuse and exploitation, especially in cases of irregular migration.

85. The number of international migrants continues to grow worldwide. As the labour force grows rapidly in many less developed countries, the demand for migrant labour is likely to increase in the developed world and an increasing number of middle-income economies, as is the demand for skilled labour globally. At the same time, the ongoing economic upheaval and downturn may result in unexpected new migration flows whenever people decide to migrate in search of better economic opportunities. It is in this context that smuggling of migrants and trafficking in persons are expected to increase further in the near future. The flows of labour migration may be exploited by traffickers who deceive their victims by offering fake job opportunities or sham smuggling services.

86. Significant gaps remain in both policy and practice with regard to the response to the threats represented by human traffickers and migrant smugglers, especially regarding the protection of victims of trafficking in persons and of the rights of smuggled migrants. The adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both supplementing the United Nations Convention against Transnational Organized Crime,<sup>37</sup> placed these two serious crimes, frequently involving serious human rights violations, at the centre of global attention. Since then, States have increasingly ratified or acceded to these instruments and sought to align their laws and practices with the new international standards.<sup>38</sup> A number of key challenges remain, however.

87. While the international community steadily advances towards universal ratification of the Trafficking in Persons Protocol, and with adherence to the Smuggling of Migrants Protocol approaching the same level, implementation in practice of both instruments remains uneven and often cannot be sustained. With

<sup>37</sup> United Nations, *Treaty Series*, vols. 2237 and 2241, No. 39574, respectively.

<sup>38</sup> As at 4 December 2012, 154 Member States had become party to the Trafficking in Persons Protocol and 135 to the Smuggling of Migrants Protocol.

regard to human trafficking, for example, while most States have introduced specific criminal legislation over the last decade, the rate of criminal prosecutions and convictions, globally, remains low and in many States is actually decreasing. Meanwhile, national activities attributed to the international efforts against migrant smuggling most frequently concern border control and other enforcement responses, while measures to protect the rights of those smuggled remain limited and are infrequently seen as a necessary part of a comprehensive response.

88. Further, the two Protocols are not stand-alone tools. They are part of a constellation of complementary international legal instruments, some focusing on the suppression of crime and others on human rights and protection, that are available to address the multidimensional challenges represented by human trafficking and migrant smuggling. Those instruments and legal regimes include provisions of international human rights law, international humanitarian law, international refugee law, immigration law, labour law and criminal law. There is little evidence, however, that the utilization of these sources of international law has found practical expression in the response to either human trafficking or migrant smuggling.

89. Both issues remain characterized by ongoing knowledge gaps concerning the scope, nature and context of the crimes, from the local to the international levels, as well as the action taken in response by a diverse range of often uncoordinated actors.

## B. Objectives

90. A common approach based on the stated objectives of the Trafficking in Persons Protocol and the Smuggling of Migrants Protocol is to pursue a comprehensive response to either crime, encompassing the three internationally recognized components of prevention, protection and prosecution, as well as endorsing an overarching principle of partnership, manifesting itself as national, regional and international coordination and cooperation. Consequently, the broad objective of Workshop 2 is to address targeted sub-elements of the components of prosecution, protection and partnership from both a national and an international perspective, including criminalization, mutual legal assistance and effective protection of witnesses and trafficked persons.

91. Given the individual complexities of the two crimes, their differences and similarities, as well as the differences in responses at the national level, it is proposed that the Workshop also set a specific focus for each of its sessions on, firstly, human trafficking, and, secondly, migrant smuggling.

92. The Workshop will also take into consideration all the international instruments, in addition to the Trafficking in Persons Protocol and the Smuggling of Migrants Protocol, that are relevant to combating the two crimes in a comprehensive manner while protecting victims of trafficking in persons and the rights of smuggled migrants.

93. The two Protocols suggest various options that States may consider to protect victims of trafficking and the rights of smuggled migrants. The Organized Crime Convention they supplement contains specific provisions for the protection of

witnesses. Other legal instruments also create protection obligations, depending on the status of the victim or migrant, such as those concerned with internally displaced persons, refugees, stateless persons, non-combatants, women and children. The Workshop will address the extent to which other protection regimes, instruments and provisions and standards are applicable to smuggled migrants or victims of trafficking in persons, and to what extent they are able to benefit from the protection available through those other legal regimes and what the differences are. It will also address the potential gaps in protection available to victims of trafficking in persons and smuggled migrants.

94. Internationally, human trafficking has largely been addressed in the context of sexual exploitation, while trafficking for the purpose of labour exploitation has received less attention. Increasingly, experts and research indicate the likely rapid growth of identified cases of trafficking in persons for labour exploitation, as well as the current lack of widespread knowledge regarding how such cases are responded to. It is therefore proposed that the Workshop, in discussing trafficking in persons, focus on prosecution of cases of trafficking in persons for labour exploitation, protection of victims of such trafficking and partnerships among different competent authorities to curb this form of crime.

95. With regard to migrant smuggling, the international response is less developed and, consequently, components of the response have been addressed more uniformly and with some success within particular regions. In some cases, this has been supported by the development and use of bilateral and regional arrangements and mechanisms. It is therefore proposed that the Workshop, in discussing smuggling of migrants, focus on prosecution issues, protection of smuggled migrants, other challenges and joint responses, in particular at the regional level.

## C. Questions for discussion

96. The regional preparatory meetings and participants in Workshop 2 at the Thirteenth Congress may wish to consider the following questions for further discussion:

(a) What practices have States utilized with regard to the protection of witnesses, both domestically and in cooperation with other States? How are language and cultural barriers overcome in using witnesses in related investigations? What are the challenges in protecting witnesses during the criminal justice process and beyond?

(b) What practical experiences and examples exist of international cooperation to prevent and combat trafficking in persons and smuggling of migrants? What specific impediments have been experienced in related investigations? How can States share resources and expertise in the development of international cooperation? What practices exist for the exchange of information between jurisdictions?

### *Trafficking in persons*

(c) What are the main challenges in defining forced labour and/or labour exploitation at the national level? What are the main challenges in differentiating

between cases of trafficking in persons for forced labour and cases of forced labour in practice? When and how have jurisdictions criminalized such practices? To what extent is a more holistic approach to reducing coercive and exploitative practices a necessary precondition to achieving more effective outcomes in combating trafficking in persons for labour exploitation?

(d) What are the main obstacles to identification of trafficked persons? How are the indicators of exploitation operationalized? What training opportunities are provided for key labour and criminal justice actors, including regarding referral practices?

(e) What practical experiences and examples exist regarding criminal investigation and prosecution of such cases? How have States investigated such trafficking in persons across borders and overcome impediments to international cooperation? What distinguishes such investigations from those concerning other forms of human trafficking?

(f) What role has been established for key labour actors, especially recruitment agencies and employers, in both the prevention of and response to trafficking in persons for labour exploitation?

(g) What are the specific needs of persons trafficked for labour exploitation? Are existing measures adequate and targeted enough? What victim assistance measures work particularly well for victims of trafficking for the purpose of labour exploitation?

(h) What are the specific protection needs in such cases? Is there a lesser need to rely upon the testimony of victims than in cases of sexual exploitation? What are the main challenges concerning witnesses in such cases?

#### *Smuggling of migrants*

(i) How have States established legal frameworks against smuggling of migrants? Have other general criminal provisions been utilized? What action has been taken to ensure that migrant smuggling offences are clearly distinguished from human trafficking offences and additionally do not criminalize smuggled migrants for having been the object of smuggling? What challenges exist in reconciling law and practice to address migrant smuggling with other responses to irregular migration?

(j) What techniques are most effective in disrupting migrant smuggling, while also protecting the rights of smuggled migrants? How can admissible evidence be captured upon interception of migrant smuggling operations without compromising the life and safety of smuggled migrants? What are the main challenges concerning witnesses in such cases?

(k) What are the major challenges to fulfilling the protection obligations set out in the Smuggling of Migrants Protocol? How do States cooperate in assisting smuggled migrants whose lives or safety are endangered in the process of being smuggled? What referral practices and other measures have States put in place to assist smuggled migrants who are victims of other crimes or in need of special protection?

## **Workshop 3. Strengthening crime prevention and criminal justice responses to evolving forms of crime such as cybercrime and trafficking in cultural property, including lessons learned and international cooperation**

### **A. Scope**

97. During the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, in 2010, Member States discussed in some depth the issue of cybercrime and decided to invite the Commission on Crime Prevention and Criminal Justice to convene an open-ended intergovernmental expert group to conduct a comprehensive study of the problem of cybercrime as well as the response to it.<sup>39</sup> The study, carried out pursuant to paragraph 42 of the Salvador Declaration, thoroughly examined the problem of cybercrime and responses to it by Member States, the international community and the private sector, including the exchange of information on national legislation, best practices, technical assistance and international cooperation, with a view to examining options to strengthen existing and to propose new national and international legal or other responses to cybercrime.

98. At its fifth session, in 2010, the Conference of the Parties to the Organized Crime Convention identified, among others, cybercrime and trafficking in cultural property as new and emerging crimes of concern. The emergence of these new types of crime gives rise to the need for law enforcement to adapt its efforts and capacities accordingly.

99. Participants in Workshop 3 may wish to build on the results achieved so far and further focus on practical ways to operationalize the existing recommendations of the study, with a view in particular to developing effective strategies and policies to prevent, prosecute and punish this form of crime. Participants may also wish to consider methodologies for supporting effective anti-cybercrime capacity-building programmes as recommended in the Salvador Declaration. Methodologies that may be considered include providing a comprehensive, long-term and structured approach to emerging crime threats by addressing development requirements related to capacity-building, prevention, framework support, and cooperation, as well as the necessary technical assistance tools and improvements for the development of underlying standards.

100. Similarly, in the Salvador Declaration, Member States that had not yet done so were urged to develop effective legislation to prevent, prosecute and punish trafficking in cultural property and to strengthen international cooperation and technical assistance in that area, including the recovery and return of cultural property, bearing in mind the existing relevant international instruments, including the Organized Crime Convention, where appropriate.

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<sup>39</sup> It is expected that the comprehensive study on cybercrime will have been completed before the regional preparatory meetings are held in 2014.

101. Pursuant to Economic and Social Council resolutions 2008/23 and 2010/19, an open-ended intergovernmental expert group meeting on protection against trafficking in cultural property met twice in Vienna, in 2009 and 2012. Participants in Workshop 3 may wish to build on the work of the expert group meetings and further discuss practical proposals for implementing the recommendations made by the group on protection against trafficking in cultural property, especially with regard to the review of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property; the guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property; and the practical proposals for implementing the recommendations made by the expert group, with due attention to aspects of criminalization and international cooperation, including mutual legal assistance.

102. An important common denominator for both crimes is that, in the vast majority of cases, they are transnational in nature and rely heavily on advances in globalization and information technology. In the case of cybercrime, the increasing number of Internet-related cases has a significant impact on the work of investigators, as Internet-related crimes are, to a large degree, transnational in nature. As a consequence of the underlying digital architecture of the Internet, as well as the global availability of services, cybercrime often has an international dimension. On the other hand, despite having a long history, trafficking in cultural property is evolving and using the effects of globalization, such as ease of communications and rapid movement of goods, to support the criminal activity. In addition, as UNODC has noted, it is increasingly linked to organized crime and is also becoming an important source for laundering of proceeds of crime.<sup>40</sup> Therefore, and with respect to international cooperation to counter trafficking in cultural property, the open-ended intergovernmental expert group, at its second meeting, in 2012, invited Member States to consider enhancing cooperation between their law enforcement and criminal justice agencies responsible for investigation and prosecution of trafficking in cultural property, the detection of illicit movement of cultural property and combating the illicit trade in cultural property. This might include joint investigative arrangements and special investigative techniques as provided for in the Organized Crime Convention (UNODC/CCPCJ/EG.1/2012/4, para. 9 (b)). Additionally, the Conference of the Parties to the Organized Crime Convention, in its resolution 5/7, reaffirmed that the Convention constituted an effective tool for international cooperation in combating criminal offences against cultural property.

103. During the sixth session of the Conference of the Parties (15-19 October 2012), the Open-ended Interim Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation held a joint discussion on the topic of cultural property. The joint discussion produced specific recommendations on, inter alia, the provision of data to UNODC on trafficking in cultural property, such as the links between trafficking in cultural property and transnational organized crime, estimates of illicit money involved, and good practices in and challenges to combating and preventing this activity (CTOC/COP/WG.3/2012/5).

<sup>40</sup> United Nations Office on Drugs and Crime, "Thematic Programme: Action against Transnational Organized Crime and Illicit Trafficking, Including Drug Trafficking (2011-2013)", p. 20.

104. The second meeting of the open-ended intergovernmental expert group on protection against trafficking in cultural property was held in June 2012, and, in close consultation with States, UNODC is continuing work on finalizing the development of specific guidelines for crime prevention and criminal justice responses in relation to trafficking in cultural property ([www.unodc.org/documents/organized-crime/UNODC\\_CCPCJ\\_EG.1\\_2012/Draft\\_Guidelines\\_24\\_April\\_2012.pdf](http://www.unodc.org/documents/organized-crime/UNODC_CCPCJ_EG.1_2012/Draft_Guidelines_24_April_2012.pdf)).

105. The draft guidelines contain a chapter on criminal justice policies, which includes guidelines on the application of existing international instruments, the introduction and/or implementation of criminal and administrative offences, the nature and severity of sanctions that may be imposed, the introduction and/or implementation of corporate liability for offences against cultural property, seizure and confiscation measures for combating trafficking in cultural property, and the improvement of effective investigations, both national and across borders.

106. Historically, there has been a lack of — or at least a limited capacity to compile — research data upon which programme decisions for both cybercrime and trafficking in cultural property are to be based. However, both topics have gained increased attention in recent years. A growing number of studies and, more importantly, new data sets have emerged that address both issues. Participants in Workshop 3 may wish to take stock of the research material and identify new areas or aspects for further work in the field, in particular with regard to evidence-based material needed to quantify the extent and describe the patterns of the crimes under discussion.

## **B. Objectives**

107. Both cybercrime and trafficking in cultural property require the adoption and implementation of comprehensive responses that are not limited to the domestic criminal justice and law enforcement community alone. The challenges posed by these crimes are to be addressed, at a first level, by criminal justice and law enforcement authorities. However, it has been acknowledged that there is a dire need for a multi-stakeholder and multifaceted approach, whereby other government agencies (mostly entrusted with a preventive mandate) and international organizations, as well as civil society and the private sector, are also involved and join forces to deal with these forms of crime. Coordination among different actors may lead to innovative partnerships and a sharing of responsibilities across the public and private sectors. Moreover, such partnerships can focus not only on responses, but also on the prevention of these crimes through community outreach and risk management.

108. The objectives of Workshop 3 will be the following:

- (a) To identify trends in evolving crimes such as cybercrime and trafficking in cultural property;
- (b) To discuss the methodologies and patterns used in the commission of these crimes, highlighting their transnational nature and the involvement of organized criminal groups, as well as their links to such criminal acts as corruption and money-laundering;

- (c) To explore ways in which the criminal justice sector and related public sector agencies may better prevent and combat these crimes;
- (d) To identify the best ways to further promote international cooperation to combat these crimes and to serve as a platform for the exchange of views and experience, as well as the sharing of good practices, regarding the use of the Organized Crime Convention with a view to strengthening such cooperation;
- (e) To ascertain the nature of public-private partnerships in preventing or addressing these crimes;
- (f) To take stock of existing research that provides information on the nature and extent of these crimes;
- (g) To review available evidence or evaluations of preventive approaches to cybercrime and trafficking in cultural property;
- (h) To discuss the role of internal coordination among law enforcement and criminal justice agencies and other state authorities involved in the fight against these crimes.

## C. Questions for discussion

109. The regional preparatory meetings and participants in Workshop 3 at the Thirteenth Congress may wish to consider the following questions for further discussion:

- (a) What are the most important research findings about cybercrime and trafficking in cultural property and what types of research are needed in the next five years? What are the most important questions that may arise from such research?
- (b) How can law enforcement encourage education about best practices for cyber safety by Internet users and reporting of cybercrime to law enforcement? How can law enforcement encourage personal responsibility on the part of users in using the shared ecosystem of cyberspace safely?
- (c) How can criminal justice and law enforcement authorities effectively respond to such evolving crimes as cybercrime and trafficking in cultural property? What role can other public sector agencies (including the central authorities designated under article 18, paragraph 13, of the Organized Crime Convention) play in this response?
- (d) What role can the private sector play, including through its involvement in public-private partnerships, in responding to evolving crimes such as cybercrime and trafficking in cultural property? What barriers exist to effective public-private information-sharing regarding cybercrime? What examples or innovative approaches exist that involve the private sector and address both prevention and repression of these crimes?
- (e) Are there any good or promising practices in the areas under discussion that are evidence-based or have undergone evaluation? How can law enforcement and the private sector work together to encourage preservation of evidence while protecting the privacy of Internet users?

- (f) What are the obstacles and barriers to international cooperation to combat these crimes? How may States and the private sector ensure effective cooperation in this regard? To what extent are Member States entering into bilateral agreements for preventing and combating trafficking in cultural property, taking into consideration, as appropriate, the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property?
- (g) What are the main technical assistance needs and priorities as regards capacity-building to address these crimes?
- (h) How can the public and the private sectors work together to increase understanding of new and emerging technologies that may be abused as instruments of cybercrime?
- (i) What is the most appropriate role for international organizations to play either in prevention or as a response to evolving crimes such as cybercrime and trafficking in cultural property?

## **Workshop 4. Public contribution to crime prevention and raising awareness of criminal justice: experiences and lessons learned**

### **A. Scope**

110. The experience of crime and victimization is universal, but it occurs differently and at differing rates for different communities and populations across the world.

111. The populations and places most vulnerable to victimization and/or to offending experience multiple risk factors at the individual, family and community levels that are not the exclusive domain of any one sector. They require integrated, evidence-based responses.

112. A key governance challenge arises where there are no institutional crime prevention interventions at the local level leading to collaborative, multisectoral action to properly assess and address crime, victimization and security issues. As stated in the Guidelines for the Prevention of Crime, a rigorous planning process that includes a systematic analysis of crime problems, their causes, risk factors and consequences, in particular at the local level, is a key factor. The purpose of institutionalizing prevention at the local level is to ensure that sectors with responsibility for contributing to safety come together and do their part, allowing for the genuine involvement of civil society.

113. While the Guidelines state that Governments have a leadership role in developing crime prevention strategies, they also state that cooperation and partnerships should be an integral part of effective crime prevention and that this should include community organizations, NGOs, the business sector and private citizens. Citizens have a vested interest and a role to play in crime prevention and in the criminal justice process.

114. The importance of public-private partnerships was further recognized in the Salvador Declaration, in which it is stated that through the mutual and effective

sharing of information, knowledge and experience and through joint and coordinated actions, Governments and businesses can develop, improve and implement measures to prevent, prosecute and punish crime, including emerging and changing challenges.

115. A further issue as regards promoting public participation in strengthening crime prevention and criminal justice is how related interventions are managed in order to avoid structural deficiencies that repeatedly expose certain populations to adverse outcomes. These include disproportionate victimization and/or involvement in the justice system of indigenous populations, minority groups and children, and a disproportionate number of individuals with mental health problems in youth and adult correctional systems. A coherent criminal justice and prevention strategy must clearly take such realities into account.

116. Prevention strategies provide an opportunity to involve civil society and affected groups in collaborative work in order to increase safety. Such involvement may serve to break down barriers of distrust between law enforcement and civil society in some States.

117. Furthermore, the manner in which crimes are being committed has changed dramatically as a result of rapidly developing technologies and the spread of organized crime. There is a need to address various new forms of crime and to enlist the cooperation of new disciplines and constituencies in counteracting the ever-changing patterns in local and global crime.

118. Globally, there is a growing interest in initiatives that involve the public in crime prevention and criminal justice reform, and there is an increasing number of examples of public participation. In this context, and given the broad scope of agenda item 6, which will focus on the role of Governments in ensuring public participation, it is proposed that the discussion in Workshop 4 supplement the deliberations on the agenda item, and focus on other actors. Further topics could include the issues mentioned below.

#### **1. The role of the media and social networks and new communications technologies**

119. Understanding how best to harness the positive aspects of media coverage of crime prevention measures, while ensuring self-regulation so as to prevent the negative aspects of media coverage (such as stigmatization), is an important topic to explore. Each year, for example, as part of a global effort to fight mass-marketed consumer scams, consumer protection agencies in some countries participate in a month of fraud-prevention activities in order to raise awareness of the problem and to provide advice to consumers on how to avoid being victimized.

120. The importance of the growing use of social media as communication tools in general, but also for crime prevention and criminal justice, should not be underestimated. There is potential in the use of social networks to build the individual capital and social capital that constitute important protective factors in enhancing resilience to crime, in particular for young people. Social networks are being used for awareness-raising and information-sharing in a way that provides enhanced access to effective crime prevention knowledge and practice as well as improved knowledge about the criminal justice system and how to engage with it in

a positive way. One relevant example is applying social marketing processes to crime prevention:<sup>41</sup>

It is a process that works to engage key target groups to translate evidence-based knowledge about effective practice in a way that enables them to take action to modify their own behaviour to achieve the best outcomes.

## **2. Public participation at the local level: grass-roots initiatives**

121. This issue covers community-centred initiatives and approaches to community involvement, including by community-based organizations, the role of communities in the prevention of recidivism, including through the use of volunteers, community justice initiatives, participation in restorative justice and alternatives to imprisonment, public participation in ensuring access to justice (through legal awareness and legal aid) and other initiatives that have been started at the local level and have in some cases been adopted by Governments as part of their own strategies. One example in the area of criminal justice is the use of paralegals in several countries in Africa to assist local communities where no lawyers are available. In the area of crime prevention, neighbourhood watches or parent watches have started locally in many communities around the world and in some localities have gradually become part of the Government's integrated approach to local crime prevention.

## **3. The role of private sector business in crime prevention and criminal justice**

122. The business sector is heavily involved in developing measures for the prevention and solving of crime through action to develop technological solutions to new forms of crime associated with the growth in e-commerce and transnational organized crime exploiting new technologies. It will thus continue to play an influential role in assisting in the prevention of crime directed at business and economic and computer-enhanced crime.

123. In its resolution 19/1, the Commission on Crime Prevention and Criminal Justice encouraged Member States to cooperate with the private sector, in accordance with national priorities and legislation, on a voluntary basis and within their respective areas of competence, in the spirit of partnership and mutual trust, to counter all forms of crime, including drug trafficking and terrorism.

124. There are significant examples of business-Government-community cooperation in crime prevention and in the operation of the criminal justice process. There are examples of very successful cooperative arrangements such as the measures taken by telecommunications companies to restrict network reconnection of stolen mobile phone handsets; inroads into the reduction of motor vehicle theft through joint bodies such as the National Motor Vehicle Theft Reduction Council of Australia (a collaboration between car manufacturers, insurers and the Government); and international cooperation between financial institutions and government bodies to prevent money-laundering. At the same time, there are examples that remain contentious and disputed in terms of evidence and efficacy, which can be further discussed in the Workshop.

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<sup>41</sup> See Homel and Carroll, *Moving knowledge into action*.

## B. Objectives

125. The objectives of Workshop 4 will be:

- (a) To develop an idea about the actors and key players within the wider community with an interest or capacity to contribute to crime prevention and raising awareness of the criminal justice process and to discuss the benefits of such participation;
- (b) To identify and disseminate information on the increasing range of innovative community-based approaches and initiatives for crime prevention and criminal justice reform;
- (c) To develop a more extensive appreciation of the important role of the media, the business sector, young people and the victims of crime in the task of raising awareness about the criminal justice system and opportunities for the prevention of crime;
- (d) To discuss the challenges and benefits related to coordination of public participation in order to ensure collaborative, multisectoral action that effectively addresses the needs of communities;
- (e) To discuss some of the contentious and disputed examples of business-Government-community cooperation in crime prevention and in the operation of the criminal justice process;
- (f) To identify and better understand the different contexts, settings, media and approaches taken by civil society and other non-government actors to promote crime prevention and criminal justice reform and to convince Governments to adopt community-based approaches;
- (g) To foster improved training and capacity-building for the range of actors and key players within civil society with an interest or capacity to contribute to crime prevention and raising awareness of the criminal justice process.

## C. Questions for discussion

126. Participants in Workshop 4 at the Thirteenth Congress are encouraged to present examples of specific projects or strategies that have been successful, or from which lessons can be learned, identifying the key factors of success or failure and how they have been applied or overcome as they relate to:

- (a) Reviewing good practices of public participation in strengthening the performance of criminal justice systems and the services they provide to communities;
- (b) Discussing ways to promote public participation at the grass-roots level in innovative criminal justice programmes and approaches to the prevention of crime;
- (c) Identifying and maximizing the benefits of community-based crime prevention initiatives and minimizing any unintended consequences;

- (d) Reviewing good practices in applying social media and networking to crime prevention and criminal justice reform;
  - (e) Discussing the best ways to address the challenges posed by social media and communications technologies when used to incite violence, discrimination and crime;
  - (f) Harnessing the financial and intellectual capital of the private business sector in preventing and reducing crime;
  - (g) Discussing different experiences with private sector involvement in crime prevention and criminal justice, in terms of evidence and efficacy, and identifying successful examples.
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