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

Standards and norms in crime prevention and criminal justice

Report of the Secretary-General

Addendum

Report of the Meeting of Experts on the Application of United Nations Standards and Norms in Crime Prevention and Criminal Justice, held in Stadtschlaining, Austria, from 10 to 12 February 2003

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I. Introduction

1. In section I of its resolution 2002/15 of 24 July 2002, the Economic and Social Council encouraged the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention (now called the United Nations Office on Drugs and Crime), to continue, subject to the availability of existing funds, to provide technical assistance and advisory services to Member States, upon request, in support of criminal justice reform, including in the framework of peacekeeping and post-conflict reconstruction, drawing on the United Nations standards and norms in crime prevention and criminal justice; invited Member States to make available voluntary funds for technical cooperation projects in the area of criminal justice reform; invited the Centre for International Crime Prevention to increase cooperation and coordination with other relevant entities, in particular the institutes of the United Nations Crime Prevention and Criminal Justice Programme network and the Office of the United Nations High Commissioner for Human Rights, in the use and application of the United Nations standards and norms in crime prevention and criminal justice, with the aim of enhancing complementarities and reinforcing the existing collaboration in the implementation of their respective programmes, and to strengthen collaborative ties with other United Nations entities and relevant intergovernmental and non-governmental organizations; and requested the Secretary-General to convene a meeting of a group of experts, subject to the availability of extrabudgetary funds, to evaluate the results achieved and the progress made in the application of existing United Nations standards and norms in crime prevention and criminal justice, to review the present system of reporting, to assess the advantages to be expected in using a cross-sectoral approach and to make concrete proposals to be considered by the Commission on Crime Prevention and Criminal Justice at its twelfth session.

2. Accordingly, the Meeting of Experts on the Application of United Nations Standards and Norms in Crime Prevention and Criminal Justice was held in Stadtschlaining, Austria, from 10 to 12 February 2003. The Meeting was made possible by extrabudgetary contributions from the Governments of Austria, Canada and Germany.

II. Recommendations

3. The Meeting adopted the following recommendations for consideration by the Commission:

Recommendations to the Commission on Crime Prevention and Criminal Justice

1. The application and formulation of the United Nations standards and norms in crime prevention and criminal justice should continue to be accorded high priority by the Commission on Crime Prevention and Criminal Justice. The standing agenda item on those standards and norms should be maintained and appropriate time and resources should be devoted to it.

2. Possible future United Nations standards and norms in crime prevention and criminal justice should focus on emerging practices in crime prevention or criminal justice, in order to facilitate the development of detailed practical guidelines for use by interested States in carrying out specific tasks.
3. The Commission should establish a mechanism, such as a group of experts and/or a special rapporteur, to supplement existing procedures for undertaking periodic reviews of the application of selected standards and norms in order to ensure their promotion, as well as to make appropriate recommendations to the Commission.
4. The focus in subsequent review cycles should be on identifying difficulties that have been encountered in the application of United Nations standards and norms, in crime prevention and criminal justice, ways in which technical assistance can be used to overcome those difficulties and desirable practices in crime prevention and control.
5. The resulting data and other information should be shared in order to enhance the level and impact of technical cooperation in the world, the overall objective being to promote criminal justice reform in line with applicable United Nations standards and norms in crime prevention and criminal justice.
6. The entire review process should be guided by the need to relate it to the main programme priorities of the United Nations, as noted in the United Nations Millennium Declaration (General Assembly resolution 55/2) and the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (Assembly resolution 55/59, annex), including strengthening the rule of law, good governance, sustainable development and the alleviation of poverty.
7. In line with the programme priorities of the United Nations, the Commission, at each of its sessions, should seek to focus on the application of a cluster of United Nations standards and norms in crime prevention and criminal justice. The Commission may wish to consider the possibility of reviewing a presentation of a particular cluster of standards and norms and their application in specific countries. Such a presentation could be prepared in cooperation with the institutes of the United Nations Crime Prevention and Criminal Justice Programme network.
8. In redesigning the information-gathering mechanisms and within the limits of current programme budget resources, the Commission should examine and propose focusing the future review process on selected clusters of instruments with the most widespread potential and relevance for application in criminal justice reforms in the world, in the following order of priority, bearing in mind gender as a cross-cutting issue, and grouped into clusters as follows:
 - (a) Juvenile justice and prison reform, including alternatives to imprisonment and restorative justice;

- (b) The conduct of law enforcement and criminal justice practitioners, including the integrity of the judiciary;
- (c) Public security and crime prevention;
- (d) The treatment of victims and witnesses;
- (e) Legal, institutional and practical arrangements for international cooperation (model treaties).

9. The Commission should request donor States and relevant intergovernmental and non-governmental institutions to support criminal justice reforms, in accordance with the United Nations standards and norms in crime prevention and criminal justice, in countries requesting assistance. The Commission could rely on a roster of national and regional experts who could, upon request, provide technical assistance and advice on the use and application of selected standards and norms.

10. The Commission should encourage donor countries to make financial contributions to the United Nations Crime Prevention and Criminal Justice Fund. Contributions should be directed towards technical cooperation projects for implementing and promoting United Nations standards and norms in crime prevention and criminal justice, as well as organizing meetings of experts to identify priority areas for the development of future standards and norms.

Recommendations to Member States and other entities

11. Each of the Member States should be encouraged to identify at least one contact person who could serve as a knowledgeable source for the analysis of the State's response concerning the application of United Nations standards and norms in crime prevention and criminal justice.

12. Member States should establish mechanisms and provide resources at the national level for promoting and monitoring the application of United Nations standards and norms in crime prevention and criminal justice.

13. Focused efforts should be made to obtain the commitment of policy makers and criminal justice managers to the implementation of United Nations standards and norms in crime prevention and criminal justice.

14. Member States should publish and disseminate, in their local languages, the United Nations standards and norms in crime prevention and criminal justice.

15. The United Nations standards and norms in crime prevention and criminal justice should be easily accessible and explained in understandable language.

16. Member States, financial institutions and development agencies should support projects for the implementation of United Nations standards and norms in crime prevention and criminal justice.

17. Member States, intergovernmental and non-governmental organizations and interregional, regional and national training and

educational institutions should vigorously promote programmes and projects that advance the United Nations standards and norms in crime prevention and criminal justice.

18. National institutions and non-governmental organizations should integrate United Nations standards and norms fully in their relevant training programmes.

Recommendations to the United Nations Office on Drugs and Crime

19. The United Nations Office on Drugs and Crime should emphasize in its organizational structure and operations the essential role of the United Nations standards and norms in crime prevention and criminal justice.

20. The United Nations Office on Drugs and Crime should assist Member States, upon request, in the application of United Nations standards and norms in crime prevention and criminal justice and in the development of projects.

21. The United Nations Office on Drugs and Crime should seek to ensure that the relevant entities within the Secretariat and in the field are fully aware of the importance of the United Nations standards and norms in crime prevention and criminal justice for building and maintaining the rule of law.

22. Well-focused efforts should be undertaken to encourage officials in peacekeeping and peace-building operations and their counterparts to apply United Nations standards and norms in crime prevention and criminal justice.

23. The United Nations Office on Drugs and Crime should identify opportunities for sharing data and other information on United Nations standards and norms in crime prevention and criminal justice with Governments and with intergovernmental and non-governmental organizations.

24. The information provided by Member States on the application of United Nations standards and norms in crime prevention and criminal justice should be distributed by the United Nations Office on Drugs and Crime via the World Wide Web.

25. The United Nations Office on Drugs and Crime should encourage financial institutions, development agencies and non-governmental organizations to expand their technical assistance programmes for improving access to justice and the rule of law.

26. The information-gathering mechanisms used by the United Nations Office on Drugs and Crime should be reviewed in order to bring them in line with the overall programme priorities of the United Nations. The goal should be to redesign the mechanisms in a more comprehensive, consistent and operational manner, so that the collected data and other information are more relevant to those priorities. The goal should also be

to enhance cooperation among respondents, both in the collection of data and in the execution of technical cooperation projects.

27. New information-gathering mechanisms should be focused on identifying difficulties encountered in application and desirable practices. The mechanisms should be based on the present United Nations priorities unless the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, to be held in 2005, identifies new priorities.

28. Bearing in mind the priorities, the new information-gathering mechanisms should be conceptualized and existing mechanisms reviewed along the following parameters:

(a) Standards and norms related to the rule of law and to human rights in the administration of justice;

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

(c) Standards and norms related primarily to crime prevention, victim issues and gender equality;

(d) Provisions of standards and norms that deal with legal, institutional and practical arrangements for international cooperation.

29. Reviews of United Nations standards and norms related primarily to capital punishment should be conducted pursuant to Economic and Social Council resolution 1995/57 of 28 July 1995, in which the Council recommended that the quinquennial reports of the Secretary-General should continue to cover the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty.

30. In gathering information on the above-mentioned priorities, the United Nations Office on Drugs and Crime should also focus its efforts on practical measures that make it possible to determine their operational usefulness in restoring or maintaining law and order, with particular reference to developing countries, countries with economies in transition and post-conflict situations.

31. The United Nations Office on Drugs and Crime should continue to explore the possibility of additional approaches and techniques in information-gathering in order to develop even more concise, simplified and cross-sectoral methods.

32. The survey instruments should be designed to be short, easy to complete and comprehensible.

33. The Secretary-General is requested to involve the regional institutes of the United Nations Crime Prevention and Criminal Justice Programme network in the review and design of the information-gathering instruments and the analysis of information collected.

34. Procedures should be developed according to which the Secretary-General, in reporting on the application of United Nations standards and norms in crime prevention and criminal justice, would be able to utilize

not only other relevant information available within the United Nations, but also the expertise of specialized agencies, relevant intergovernmental and non-governmental organizations and academic institutions.

Recommendations on training

35. The United Nations Office on Drugs and Crime should continue to develop and produce manuals, modules and tools to be used in providing training on United Nations standards and norms in crime prevention and criminal justice, to carry out a limited number of such training courses and workshops and to coordinate such training with other United Nations entities.

36. A training unit should be created within the United Nations Office on Drugs and Crime, and resources should be allocated for training and coordination functions.

37. To the maximum extent possible, the institutes in the United Nations Crime Prevention and Criminal Justice Programme network should be utilized in the planning and conduct of such training activities.

38. In cooperation with the Department of Peacekeeping Operations and the Department of Political Affairs of the Secretariat, the United Nations Office on Drugs and Crime should develop basic training materials for peacekeeping and peace-building operations.

Recommendations on technical cooperation

39. The United Nations Office on Drugs and Crime should establish rosters of national and regional experts who would be able to provide, upon request, technical assistance and advice on the application of particular types of United Nations standards and norms in crime prevention and criminal justice. Such rosters should be developed in accordance with the different clusters of such standards and norms.

40. The advisory services of the United Nations Office on Drugs and Crime in relation to United Nations standards and norms in crime prevention and criminal justice should be enhanced. Projects should be evaluated in the light of the information gathered. The lessons learned should be incorporated into future planning so that the capacity to execute technical assistance projects can be improved.

41. At the request of Member States, practical projects should be developed, in particular for victims' support services and witness protection, prison reform and alternatives to imprisonment, juvenile justice and restorative justice.

III. Organization of the Meeting

4. Four plenary meetings were held. Three working groups, each chaired by one of the three vice-chairmen, held a total of six meetings.

5. A background paper prepared by a consultant provided the basis for discussion at the Meeting. Papers prepared by the experts on various aspects of the subject under discussion were also distributed at the Meeting. A list of the papers submitted to the Meeting is contained in annex II.

6. The Meeting was opened by the Director of the Centre for International Crime Prevention of the United Nations Office on Drugs and Crime. The Director presented a brief outline of recent developments concerning the United Nations standards and norms in crime prevention and criminal justice and stressed their importance as instruments that could be used to assist States in upgrading national practices and harmonize legislative provisions. He also underlined their significance, at the national, regional and international levels, in providing guidance in the reform of criminal justice systems, a framework for the formulation of regional action plans, highlighting desirable practices and increasing the prospects of inter-State cooperation.

7. The participants were also welcomed by Thomas Selzer, Ambassador of Austria to the United Nations (Vienna), who stressed the importance that his Government placed on the United Nations standards and norms in crime prevention and criminal justice, especially in view of their close interlinkages with human rights issues. The Director of the Peace Center in Stadtschlaining, Austria, also welcomed the participants and gave a brief outline of the objectives and activities of his Centre.

A. Attendance

8. The Meeting was attended by 19 experts from 16 countries, as well as by observers for numerous Governments and United Nations bodies and affiliated regional institutes, other intergovernmental organizations and non-governmental organizations. The list of participants is contained in annex I.

B. Election of officers

9. The following officers were elected by acclamation:

Chairman: Roland Miklau (Austria)

Vice-Chairmen: Pedro David (Argentina)
Joseph Etima (Uganda)
Andrzej Rzeplinski (Poland)

Rapporteur: Ye Feng (China)

C. Adoption of the agenda

10. The Meeting adopted the following agenda:

1. Opening of the Meeting.
2. Election of officers.
3. Adoption of the agenda.

4. Evaluation of the progress made in the application of United Nations standards and norms in crime prevention and criminal justice at the national and regional levels: perspectives of the Office of the United Nations High Commissioner for Human Rights and the Centre for International Crime Prevention.
5. Review of the present system of reporting on the application of United Nations standards and norms in crime prevention and criminal justice.
6. Formulation of concrete proposals on the future application of United Nations standards and norms in crime prevention and criminal justice.
7. Adoption of the report.

IV. Evaluation of the progress made in the application of United Nations standards and norms in crime prevention and criminal justice at the national and regional levels

11. The Meeting noted that the extensive work of the United Nations, individual Member States and various intergovernmental and non-governmental organizations in the application of the United Nations standards and norms in crime prevention and criminal justice had left its mark. At the international level, certain principles and provisions contained in the standards and norms had been integrated into legally binding instruments. For example, several principles in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex) had been incorporated into the Rome Statute of the International Criminal Court,¹ the United Nations Convention against Transnational Organized Crime (Assembly resolution 55/25, annex I) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Assembly resolution 55/25, annex II). The Standard Minimum Rules for the Treatment of Prisoners² had provided the basis for the development of the European Prison Rules of the Council of Europe, which in turn had been used by the European Court of Human Rights in its jurisprudence.

12. The Meeting agreed that the impact of the standards and norms at the international level might be strong but not always visible. The incorporation of a standard or norm into an international legal instrument did not reduce the influence of the standard or norm, although it might be left in the shadow of the new instrument. The Meeting noted that, as emphasized by the Commission on Crime Prevention and Criminal Justice, the existing United Nations standards must be considered on their own merits, independently of the development of future international instruments on criminal justice.³

13. The Meeting noted that, because of the differences in the direction in which the United Nations standards and norms might have an impact, it was difficult to say which of the standards and norms had been most influential. The Meeting also noted that one factor hampering the assessment of the application of the standards and norms was the heterogeneity of criminal justice systems. The standards and norms had been drafted to a large extent to reflect desirable practice in countries around the world. As a result, the assumption might be that many criminal justice systems

had already been in line with the standards and norms at the time of their adoption. There would thus be different needs for their application in different States. That did not mean, however, that the more developed countries would inevitably be in compliance with the standards and norms. The Meeting was of the opinion that no State should be of the view that its criminal justice system had reached such a level of development that it could no longer benefit from comparisons with United Nations standards and norms and with other criminal justice systems.

14. It was noted that developing countries and countries with economies in transition could benefit from an analysis of the structure and operation of their criminal justice systems, in the light of the standards and norms. The same was true of countries in a post-conflict situation. The experience in, for example, Bosnia and Herzegovina and Timor-Leste had underlined the importance of responding to organized crime and corruption and of re-establishing the rule of law in general.

15. The Meeting noted that the impact of the standards and norms could be seen in the work of other United Nations bodies. For example, various special rapporteurs to the Commission on Human Rights and its Subcommission on the Promotion and Protection of Human Rights had used the standards and norms in their studies and reports. The Human Rights Committee, established under the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex), had given various special rapporteurs mandates to deal with particular standards and norms (for example, on the independence of the judiciary) and had drawn on existing standards and norms when reviewing country reports, as well as individual complaints. Some of the standards and norms had been taken into account in drafting the Convention on the Rights of the Child (Assembly resolution 44/25, annex); moreover, the Committee on the Rights of the Child, established under article 43 of that convention, actively dealt with various juvenile justice standards. The Meeting also noted that certain reporting mechanisms had been established under various human rights conventions, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women (Assembly resolution 34/180, annex), the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol⁴ and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.⁵

16. The Meeting noted that, if assessed through the perspective of the United Nations itself, a growing area of direct application of the standards and norms was within the context of ongoing peacekeeping missions and in post-conflict reconstruction. It was noted that in efforts to restore a functioning economy, create a free and fair political system and strengthen the development of civil society, the rule of law had to first be established. The rule of law was a paramount consideration for the participation of the local community in the justice system. The culture and traditions of a society must be understood. The laws or the norms and standards of justice introduced should complement but not supplant that culture and those traditions unless it could be shown that a particular tradition would be to the detriment of that society's development or harmonious coexistence. The Meeting stressed the role that the United Nations standards and norms could play in that regard and noted that some progress had already been made in that direction. The Meeting was of the opinion that advancing such work was a serious task that

required thorough consideration by the Commission on Crime Prevention and Criminal Justice.

17. The Meeting was of the opinion that that view should be imparted across the spectrum of issues with which United Nations peacekeeping operations were confronted globally. The Meeting was informed that, as at September 2002, there were 44,359 military observers, civilian police and troops from 90 countries, who were mandated to maintain law and order in 28 countries around the world.⁶ Each of those individuals participated in the operations with a slightly different perception of what the rule of law was in practice and a greater difference in perception of what the United Nations standards and norms in crime prevention and criminal justice contained (assuming that the individual in question was even aware of their existence). The Secretariat, in particular, the United Nations Office on Drugs and Crime, was confronted with the challenge of dealing with that problem in a practical and effective manner.

18. The Meeting noted that some progress in that direction had already been made. In August 2002, an inter-agency task force of the Executive Committee on Peace and Security had prepared a report containing a number of recommendations and, in its compilation of available United Nations expertise and resources in core and related areas of the rule of law, had listed the contributions, and potential contributions, of all the key actors, including the Centre for International Crime Prevention of the United Nations Office on Drugs and Crime. The Meeting was of the opinion, however, that the United Nations Office on Drugs and Crime still had a long way to go in order to operationalize the United Nations standards and norms in crime prevention and criminal justice. In the meantime, there was a need to consider communicating those standards and norms to a vast and diversified criminal justice audience and, finally, evaluating their effectiveness in the observance of the rule of law. Advancing that work was another serious task that required thorough consideration by the Commission on Crime Prevention and Criminal Justice.

19. The Meeting concluded that, in spite of the difficulties involved, the United Nations standards and norms had had a visible impact.

V. Review of the present system of reporting on the application of United Nations standards and norms in crime prevention and criminal justice

20. It was noted that the primary source of information on the application of the United Nations standards and norms in crime prevention and criminal justice was the reports provided by Member States themselves. However, the Meeting noted that there seemed to be little commitment on the part of Member States to fulfil their obligation to report to the Secretary-General on the application of those standards and norms. The number of replies from Member States to notes verbales from the Secretary-General soliciting information for reporting purposes usually ranged from 40 to 70, with some requests eliciting over 100 replies. Some of the replies were rather succinct, essentially noting that the operation of the criminal justice system in the Member State was in accord with the standard or norm in question. Other replies provided more detailed explanations of the changes that had been made. Moreover, it was possible that primarily those States which had been successful in applying the

standards and norms would tend to submit reports. Thus, the reports might give a deceptively positive picture of the ease with which the standards and norms could be applied.

21. In assessing modalities for collecting and reporting information on the application of the United Nations standards and norms, it was noted that the Secretary-General had previously been requested, in preparing such reports, to take into account the proposals for their application by Governments, as well as other relevant information available within the United Nations system. In the preparation of the reports, the Secretary-General had also enlisted the cooperation of specialized agencies and relevant intergovernmental and non-governmental organizations. The reports were submitted to the Commission on Crime Prevention and Criminal Justice for its consideration and further action, where appropriate. It was noted that, in the past, concern had been expressed about the reporting mechanisms, the poor response rate, the quality of some of the replies and the absence of any effective verification procedures (E/CN.15/1992/4/Add.4, para. 14). Concern had also been expressed that some of the replies had been of little value for a proper evaluation of the work of the United Nations. Preparing, responding to and analysing the results of the many questionnaires was quite time-consuming. The Meeting recognized that there might be several reasons for the problems mentioned. Different respondents might be using different definitions, which might not have been what the drafters of the questionnaire in question had intended. The recording procedures and the structure of statistics differed from one country to another, and, consequently, quantitative data might be misleading. Various technical, administrative and even political problems might hamper the preparation of a suitable response. Finally, practitioners in developed countries and developing countries alike recognized that the absence of reliable and valid performance indicators made the measurement of the degree of application of criminal justice reform quite difficult. Reliable and valid performance indicators, however, required intensive research efforts, which not all countries possessed.

22. It was agreed that it was essential to have a system for reporting on the application of the United Nations standards and norms in crime prevention and criminal justice to increase the awareness of, and compliance with, those standards and norms.

VI. Formulation of concrete proposals on the future application of United Nations standards and norms in crime prevention and criminal justice

23. The Meeting recalled the importance of Economic and Social Council resolution 1992/22 of 30 July 1992, in section VII of which the Council had decided that the Commission on Crime Prevention and Criminal Justice should include in its agenda a standing item on existing United Nations standards and norms in the field of crime prevention and criminal justice, including their use and application. The Meeting was of the opinion that the application of those standards and norms should continue to be accorded high priority within the United Nations system.

24. In its consideration of the advantages to be expected in using a cross-sectoral approach, the Meeting noted that one full cycle of assessments of the application of

the standards and norms had been completed by the Commission between 1996 and 2002. The Meeting was of the opinion that the future focus of the Commission should be on how those assessments could strengthen the work of the United Nations in general, in line with the overall priorities established by the Economic and Social Council and the General Assembly. Particular attention should be paid to using the assessments to strengthen technical cooperation activities of the United Nations. For that reason, various proposals were made on how to identify desirable practice or needs for technical assistance and how the standards and norms themselves could be used to promote performance assessment efforts related to criminal justice reform.

25. The Meeting was informed of the drawbacks to continuing to study the application of each individual standard or norm. It was noted that several standards and norms dealt with the same basic subject, such as corrections or juvenile justice. For that reason, preference was given at the Meeting to the “clustered approach” referred to in a report of the Secretary-General to the Commission at its twelfth session (E/CN.15/2002/3, para. 29). The Meeting was informed that such a “clustered approach” had already been used in practice, for example by the Latin American Institute for the Prevention of Crime and the Treatment of Offenders and by a non-governmental organization.

26. It was agreed that, in deciding on the composition and priority of the clusters, the United Nations Millennium Declaration and the overall priorities of the United Nations Crime Prevention and Criminal Justice Programme should serve as the basic frame of reference. The present priorities were stated in the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (General Assembly resolution 55/59, annex) and in the plans of action for the implementation of the Vienna Declaration (Assembly resolution 56/261, annex).

27. The Meeting noted that several information-gathering mechanisms were already in place within the different sections of the Secretariat, including in the United Nations Office on Drugs and Crime, and stressed the importance of not only utilizing such mechanisms, but also ensuring proper coordination of their use within the Secretariat.

28. In considering how to implement the proposals of the Secretary-General to consolidate, streamline and better rationalize reporting obligations (E/CN.15/2002/3, para. 29), the Meeting discussed the possibility of drawing a “road map” for the subsequent cycle assessing the application of United Nations standards and norms in crime prevention and criminal justice. The Meeting noted that four clusters of standards and norms could be identified. It also noted that, while the allocation of standards and norms to the different clusters could not be straightforward, since elements of one and the same instrument might be linked to different clusters, the following possibilities should be considered by the Commission on Crime Prevention and Criminal Justice:

(a) *The first cluster*, provisions of the United Nations standards and norms in crime prevention and criminal justice related to the rule of law and to human rights in the administration of justice, should be pursued, in close cooperation with the Office of the United Nations High Commissioner for Human Rights. It was identified as having five “sub-clusters”, dealing with capital punishment, persons in remand and in custody, victim issues, restorative justice and non-custodial sanctions,

and juvenile justice. The following were seen to fall primarily within those five “sub-clusters”:

- (i) Standards and norms related primarily to capital punishment:
 - a. Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65, annex);
 - b. General Assembly resolution 2857 (XXVI) of 20 December 1971, entitled “Capital punishment”;
 - c. Safeguards guaranteeing protection of the rights of those facing the death penalty (Council resolution 1984/50, annex);
 - d. Council resolution 1989/64 of 24 May 1989, entitled “Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty”;
 - e. Council resolution 1990/29 of 24 May 1990, entitled “Capital punishment”;
- (ii) Standards and norms related primarily to persons in custody:
 - a. Standard Minimum Rules for the Treatment of Prisoners;²
 - b. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Assembly resolution 43/173, annex);
 - c. Procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners (Council resolution 1984/47, annex);
 - d. Basic Principles for the Treatment of Prisoners (Assembly resolution 45/111, annex);
 - e. Kampala Declaration on Prison Conditions in Africa (Council resolution 1997/36, annex);
- (iii) Standards and norms related primarily to victim issues:
 - a. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Assembly resolution 40/34, annex);
 - b. Council resolution 1989/57 of 24 May 1989, entitled “Implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power”;
 - c. Council resolution 1990/22 of 24 May 1990, entitled “Victims of crime and abuse of power”;
- (iv) Standards and norms related primarily to restorative justice and non-custodial sanctions:
 - a. Basic principles on the use of restorative justice programmes in criminal matters (Council resolution 2002/12, annex);
 - b. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) (Assembly resolution 45/110, annex);

- (v) Standards and norms related primarily to juvenile issues:
 - a. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (Assembly resolution 40/33, annex);
 - b. Council resolution 1989/66 of 24 May 1989, entitled “United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)”;
 - c. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (Assembly resolution 45/112, annex);
 - d. United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Assembly resolution 45/113, annex);
 - e. Guidelines for Action on Children in the Criminal Justice System (Council resolution 1997/30, annex);

(b) *The second cluster* consists of provisions of standards and norms related to good governance, independence of the judiciary and the integrity of criminal justice personnel. It was identified as having two “sub-clusters” dealing, respectively, with professional conduct and with crime prevention. The following were seen to fall primarily within those two “sub-clusters”:

- (i) Standards and norms related primarily to professional conduct:
 - a. Code of Conduct for Law Enforcement Officials (Assembly resolution 34/169, annex);
 - b. Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials (Council resolution 1989/61, annex);
 - c. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;⁷
 - d. Guidelines on the Role of Prosecutors;⁸
 - e. United Nations Declaration against Corruption and Bribery in International Commercial Transactions (Assembly resolution 51/191, annex);
 - f. International Code of Conduct for Public Officials (Assembly resolution 51/59, annex);
 - g. Basic Principles on the Role of Lawyers;⁹
 - h. Basic Principles on the Independence of the Judiciary;¹⁰
 - i. Procedures for the effective implementation of the Basic Principles on the Independence of the Judiciary (Council resolution 1989/60, annex);
 - j. Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment (Assembly resolution 37/194, annex);
- (ii) Standards and norms related primarily to crime prevention:
 - a. Guidelines for cooperation and technical assistance in the field of urban crime prevention (Council resolution 1995/9, annex);

- b. United Nations Declaration on Crime and Public Security (Assembly resolution 51/60, annex);
- c. Guidelines for the Prevention of Crime (Council resolution 2002/13, annex);
- d. Guidelines for the prevention and control of organized crime;¹¹
- e. Measures against international terrorism;¹²

(c) *The third cluster* consists of the provisions of standards and norms that are related to gender equality, which should be pursued in close cooperation with the Division for the Advancement of Women. In line with the Vienna Declaration, the focus would be on the special needs of women as criminal justice practitioners, victims, prisoners and offenders. The following standard and norm was seen to fall primarily within this cluster: Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice;

(d) *The fourth cluster* can be identified for further consideration, namely, provisions of standards and norms that deal with legal, institutional and practical arrangements for international cooperation. The following model treaties were seen to fall primarily within this cluster:

- (i) Model Treaty on Extradition (Assembly resolution 45/116, annex);
- (ii) Model Treaty on Mutual Assistance in Criminal Matters (Assembly resolution 45/117, annex);
- (iii) Model Treaty on the Transfer of Proceedings in Criminal Matters (Assembly resolution 45/118, annex);
- (iv) Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners;¹³
- (v) Model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property;¹⁴
- (vi) Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released (Assembly resolution 45/119, annex);
- (vii) Model Bilateral Treaty for the Return of Stolen or Embezzled Vehicles (Council resolution 1997/29, annex II).

29. The Meeting was informed that the Secretariat was already cooperating with the European Institute for Crime Prevention and Control, affiliated with the United Nations, in the drafting of a new survey instrument, to be considered by the Commission, for gathering information on one priority item: juvenile justice and prison reform, including alternatives to imprisonment and restorative justice.

30. The Meeting discussed how to encourage States to respond to notes verbales requesting information on the application of the standards and norms, in particular in the light of the fact that there was no legal obligation for States to report and it did not seem likely that such an obligation would be introduced. The Meeting concluded that the Secretary-General should be asked to repeat, where appropriate, requests to Member States for responses. At the same time, attention should be

given to considering ways to increase the motivation of States to respond to such requests.

31. The Meeting unanimously agreed that, to that end, the process of reporting on the application of the standards and norms should be made as simple as possible. It was noted that, during the reporting period between 1996 and 2002, the Secretary-General had sought to make the various questionnaires as user-friendly as possible. Many questions could be answered simply by ticking the appropriate box in the questionnaire, and other questions could be answered relatively briefly (for example, by supplying specific quantitative data). The number of questions requiring an extensive answer in writing had been kept to the minimum. The Meeting was of the opinion that that approach should also be used in subsequent surveys.

32. It was agreed that Member States should be reminded that their responses could be useful in several ways. Their experiences in the application of the standards and norms could provide the basis for the development of desirable practices in the prevention and control of different forms of crime, thus contributing to the level and impact of technical cooperation in other countries. If a Member State experienced difficulties in the application of the standards and norms, it would be helpful to other States in a similar position to know how those difficulties might have been overcome. If such difficulties persisted, then identifying the difficulties might help the State in formulating a request for technical assistance.

33. The Meeting discussed how the accuracy of the information provided by Member States could be ensured. It was suggested that each Member State might wish to identify a contact person to whom the Secretary-General could turn for additional information. The information provided might also be made available on the World Wide Web.

34. Several suggestions were made regarding supplementary sources of information. The importance of using the expertise of the institutes in the United Nations Crime Prevention and Criminal Justice Programme network was stressed. In addition, it was noted that consideration could be given to the appointment of regional special rapporteurs, such as the Special Rapporteur on Prisons in Africa of the African Commission on Human and People's Rights.

35. Other potential supplementary sources of information identified by the Meeting included research institutes, relevant intergovernmental and non-governmental organizations, national independent monitoring bodies and the network of focal points. Consideration could be given to establishing a United Nations network on the application of the standards and norms.

36. The participants at the Meeting also stressed the importance of other mechanisms for promoting the application of the standards and norms, including closer cooperation with other relevant United Nations entities, as well as other intergovernmental and non-governmental organizations, the dissemination of the texts of the standards and norms, the dissemination of reports on application and the development of more detailed standards and norms, as well as guidelines on their application.

37. The possibility of developing new standards and norms in crime prevention and criminal justice was discussed. The Meeting was informed by the observer for the International Bureau for Children's Rights that guidelines on justice for child

victims and witnesses of crime had been developed as a tool to assist in the implementation of existing United Nations standards and norms in this field. The Meeting was also informed, by the observer for Penal Reform International, of the initiative launched by correctional administrators from different regions to prepare a draft charter of fundamental rights of prisoners. It was noted that, in view of the fact that the Eleventh United Nations Congress on Crime Prevention and Criminal Justice would be held 50 years after the adoption of the first United Nations standard in crime prevention and criminal justice, the Standard Minimum Rules for the Treatment of Prisoners, the Eleventh Congress would be the appropriate forum for the adoption of such a charter.

38. With regard to the provision of technical assistance, participants noted the value of identifying panels of experts at the international, regional and subregional levels who assist Member States, upon request, as well as the role and contribution of the relevant intergovernmental and non-governmental organizations in the application of the standards and norms.

39. The Meeting also noted that technical assistance efforts could and should be supplemented by manuals and handbooks that set out in detail how the standards and norms could be applied in different circumstances and that provided information on desirable practices.

Notes

- ¹ *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A, art. 68.
- ² See *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I.A.
- ³ *Official Records of the Economic and Social Council, Supplement No. 10, 2002 and corrigendum* (E/2002/30 and Corr.1), para. 53.
- ⁴ *Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).
- ⁵ United Nations, *Treaty Series*, vol. 976, No. 14152.
- ⁶ United Nations, Department of Public Information, "UN peace operations: year in review", December 2002, p. 14.
- ⁷ *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.
- ⁸ *Ibid.*, chap. I, sect. C.26, annex.
- ⁹ *Ibid.*, sect. B.3, annex.
- ¹⁰ *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex.
- ¹¹ *Eighth United Nations Congress ...*, chap. I, sect. C.24, annex.

¹² Ibid., sect. C.25, annex.

¹³ *Seventh United Nations Congress ...*, chap. I, sect. D.1, annexes I and II.

¹⁴ *Eighth United Nations Congress ...*, chap. I, sect. B.1, annex.

Annex I

List of participants

Experts

Jay Albanese (United States of America)
Otto Bönke (Germany)
Roger Clark (New Zealand)
Pedro David (Argentina)
Joseph A. A. Etima (Uganda)
Ye Feng (China)
Anthony Harriott (Jamaica)
Matti Joutsen (Finland)
Julita Lemgruber (Brazil)
Valentin I. Mikhailov (Russian Federation)
Roland Miklau (Austria)
Kamudoni I. Nyasulu (Malawi)
Andrzej Rzeplinski (Poland)
Hajrija Sijercic-Colic (Bosnia and Herzegovina)
Jutharat Ua-Amnoey (Thailand)
Dirk van Zyl Smit (South Africa)
Takashi Watanbe (Japan)

Observers from the host country

Hans J. Almoslechner, Second Secretary, Permanent Mission of Austria to the United Nations (Vienna)
Valerie Kyrle, Permanent Mission of Austria to the United Nations (Vienna)
Gabriele Loidl, Ministry of the Interior of Austria
Thomas Stelzer, Ambassador, Permanent Mission of Austria to the United Nations (Vienna)
Arnold Truger, Executive Director, Peace Center, Stadtschlaining, Austria
Alexander Wojda, First Secretary, Permanent Mission of Austria to the United Nations (Geneva)

Observers from other States

N. S. Memela, First Secretary, Permanent Mission of South Africa to the United Nations (Vienna)

United Nations entities

Office of the United Nations High Commissioner for Human Rights

United Nations Crime Prevention and Criminal Justice Programme network

Latin American Institute for the Prevention of Crime and the Treatment of Offenders

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

African Institute for the Prevention of Crime and the Treatment of Offenders

International Centre for Criminal Law Reform and Criminal Justice Policy

Intergovernmental organizations

European Union

International Committee of the Red Cross

Office of the High Representative, Bosnia and Herzegovina

Non-governmental organizations

Amnesty International

Asia Crime Prevention Foundation

International Bureau for Children's Rights

Penal Reform International

Victims' Support

World Society of Victimology

Annex II

Papers submitted to the Meeting

Papers prepared by experts

1. Jay Albanese, "United Nations standards and norms and their impact on criminal justice policy and practice"
2. Otto Bönke, "Criminal policy in the process of reform: review of juvenile and restorative justice as examples of the applications of United Nations and European standards and norms in Germany"
3. Pedro David, "Technical cooperation in strengthening the rule of law in Latin America: applicability of United Nations standards and norms in crime prevention and criminal justice to facilitating access to justice"
4. Joseph A. A. Etima, "The application of the United Nations standards and norms in crime prevention and criminal justice: administration of justice in Uganda (the sector-wide approach)"
5. Ye Feng, "The measures of enactment and implementation of United Nations standards and norms in crime prevention and criminal justice"
6. Anthony Harriott, "Police and society in the Caribbean: the application of United Nations standards for law enforcement"
7. Matti Joutsen, "The application of United Nations standards and norms in crime prevention and criminal justice"
8. Julita Lemgruber, "Drugs, arms, poverty and governability: a Brazilian city in the 21st century"
9. V. L. Mikhailov, "United Nations standard rules for the treatment of prisoners: a tool for reforming Russian Federation penal law"
10. Roland Miklau, "The plan of action for the implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century; United Nations standards and norms in crime prevention and criminal justice as a tool for meeting the objectives of the Declaration"
11. Kamudoni I. Nyasulu, "Kosovo: rule of law at a watershed"
12. Hajrija Sijercic-Colic, "The criminal justice system of Bosnia and Herzegovina in the process of reform: lessons learned from the application of United Nations standards and norms in crime prevention and criminal justice"
13. Jutharat Ua-Amnoey and Kittipong Kittayarak, "New community-based treatment measures and criminal justice reform in Thailand"

Other papers

Amnesty International, "The role of UN standards and norms in the fight for human rights"

Kauko Aromaa, "Reporting on the crime situation and trends: HEUNI experiences of operationalizing data and information from the UN crime trends and criminal justice surveys"

Elias Carranza, "Prison overcrowding as an obstacle to the application of the United Nations standards on penitentiary systems"

John P. Dussich, "On behalf of victims of crime and abuse of power"

Purév Erdenebayar, "Application of the United Nations standards and norms in law enforcement: training experience of the International Committee of the Red Cross"

James Farsedakis, "The European Union and its activities in Europe with regard to training of judges: applying European and United Nations principles in practice"

Curt Griffiths, "Implementing international standards in corrections: challenges, strategies, and outcomes"

Irene Melup, "UN crime and justice-related standards and norms: an integrated approach and framework for future action"

Ahmed Othmani, "Alternatives to imprisonment as a global policy tool in criminal justice reform: how to increase public support for their implementation?"

Bilijana Potparić, "The rule of law in post-conflict recovery in Bosnia and Herzegovina: United Nations and European criminal policy standards for the treatment of offenders and victims in the work of the Office of the High Representative"

Jolanta Redo, "Poverty alleviation and the work of Asia Crime Prevention Foundation in the context of United Nations standards and norms"

Nicolas Roggo, "The Standard Minimum Rules for the Treatment of Prisoners: the experience of the International Committee of the Red Cross in monitoring the treatment of inmates"

N. Masamba Sita, "Prisons in Africa: statistics, health situation, main problems and good practices"

Arno Truger, "Work of the Peace Center in the application of United Nations standards and norms"

Eduardo Vetere, "United Nations standards and norms in crime prevention and criminal justice"