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Asia and Pacific Regional Preparatory Meeting for the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice

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Conference room paper submitted by the Institutes belonging to the United Nations Crime Prevention and Criminal Justice Programme Network**Promoting the rule of law by fostering a culture of lawfulness**

Topic 3 at the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice (Kyoto, 20–27 April 2020) is entitled “Multidimensional approaches by Governments to promoting the rule of law by, inter alia,

- providing access to justice for all;
- building effective, accountable, impartial and inclusive institutions;
- and considering social, educational and other relevant measures, including fostering a culture of lawfulness while respecting cultural identities,

in line with the Doha Declaration.”

The formulation of Topic 3 accords with the focus of the Fourteenth United Nations Crime Congress on the implementation of the Sustainable Development Goals (SDGs).¹ Goal 16 of the SDGs calls for the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and the building of effective, accountable and inclusive institutions at all levels. In adopting this Goal, the General Assembly gave recognition to the fundamental importance of the rule of law in sustainable development.

Many of the elements of Topic 3 have been discussed recently within the context of the United Nations Crime Programme.² The overall element of rule of law has been the topic of resolutions in 2004,³ 2005 (in connection with Africa),⁴ 2006 (two separate resolutions, of which one was again related to Africa),⁵ 2008 (in the

¹ A/RES/70/1, Transforming our world: the 2030 Agenda for Sustainable Development.

² For an overview of discussions on the rule of law more generally in the intergovernmental work of the United Nations, such as in connection with human rights, see <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/the-rule-of-law-in-un-work/>.

³ ECOSOC resolution 2004/25.

⁴ ECOSOC decision 2005/248.

⁵ ECOSOC resolutions 2006/21 and 2006/25.



context of prosecution),⁶ 2012,⁷ 2013,⁸ 2014⁹ and 2018.¹⁰ Of these, the 2013 and 2014 resolutions were connected with ongoing work on the Sustainable Development Goals, and the 2018 resolution dealt with Goal 16.

The rule of law has often featured also on the agenda of the United Nations Crime Congresses. In 1995, Topic I of the Congress dealt with international cooperation and practical technical assistance for strengthening the rule of law. At the 2000 Congress, Topic III dealt with the promotion of the rule of law and the strengthening of the criminal justice system, and at the 2010 Congress, Workshop 1 dealt with international criminal justice education for the rule of law. In 2015, the overall theme of the Thirteenth United Nations Crime Congress was tied directly to the ongoing work that resulted in the formulation of Goal 16 of the SDGs, and accordingly Topic I of that Congress dealt with “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.”

Similarly, the provision of access to justice has been a repeated theme, with resolutions adopted in 2007 (with a particular focus on Africa),¹¹ 2012¹² and 2016.¹³

As for the building of effective, accountable, impartial and inclusive institutions, topics such as the United Nations standards and norms, and the strengthening of technical assistance, have often been the focus of resolutions, and have equally been prominent at discussions at the various United Nations Crime Congresses. For example, Topic V at the Eleventh United Nations Crime Congress in 2005 dealt with “Offenders and victims: accountability and fairness in the justice process”, and Workshop 1 at the Thirteenth United Nations Crime Congress in 2015 dealt with United Nations standards and norms in support of effective, fair, humane and accountable criminal justice systems (with a particular focus on meeting the unique needs of women and children). In addition, many specific issues relevant to institution-building have been discussed over the years, such as juvenile justice, restorative justice, and public participation.

A comparison of the formulation of Goal 16 and of Topic 3, however, shows that, in defining the topics for the Fourteenth United Nations Crime Congress, the General Assembly has added a new element: the consideration of social, educational and other relevant measures, including fostering a culture of lawfulness while respecting cultural identities. With this conference room paper, the United Nations Crime Programme Network of Institutes seeks to provide some input to the discussion on this new element of “a culture of lawfulness” by analysing the concept and suggesting practical measures that can be used to foster such a culture.

Defining the rule of law

The Secretary-General has described the rule of law 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

⁶ Commission Resolution 17/2.

⁷ [A/RES/67/186](#).

⁸ [A/RES/68/188](#).

⁹ [A/RES/69/195](#).

¹⁰ [A/RES/73/185](#).

¹¹ ECOSOC resolution 2007/24.

¹² [A/RES/67/187](#).

¹³ Commission resolution 25/2.

the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”¹⁴

Similarly, many others refer to the rule of law as a principle or set of principles.¹⁵ This understanding is implicit, for example, in the Declaration of the High-level Meeting on the Rule of Law at the National and International Levels, held on 24 September 2012, which reaffirmed the commitment of Member States to the rule of law, and recognized “that all persons, institutions and entities, public and private, including the State itself, are accountable to just, fair and equitable laws and are entitled without any discrimination to equal protection of the law.”¹⁶

Defining a culture of lawfulness

Within the context of the United Nations Crime Programme, the concept of a culture of lawfulness first appears in the United Nations Guidelines for the Prevention of Crime as one of the basic principles of crime prevention¹⁷. And the concept has gained strong attention of the international community since the adoption of the Doha Declaration.¹⁸ In paragraph 7 of the Doha Declaration, Member States emphasize that education for all children and youth is fundamental to the prevention of crime and corruption and to the promotion of a culture of lawfulness that supports the rule of law and human rights while respecting cultural identities. The paragraph goes on to identify various ways in which the Member States commit themselves to endeavouring to stress the fundamental role of youth participation in crime prevention efforts.

A culture of lawfulness is also dealt with in paragraph 10(c) of the Doha Declaration, which speaks not only of youth, but more generally of engaging all members of society “to make prevention efforts more effective and to galvanize public trust and confidence in criminal justice systems.” In this sub-paragraph, the Member States commit themselves to endeavouring to promote a culture of lawfulness based on the protection of human rights and the rule of law while respecting cultural identities “seeking the support of civil society and intensifying our prevention efforts and measures targeting and using the full potential of families, schools, religious and cultural institutions, community organizations and the private sector in order to address the social and economic root causes of crime.”

Together, these two references in the Doha Declaration draw a direct link between the rule of law and a culture of lawfulness. By promoting a culture of lawfulness, the Member States seek to achieve the principle of the rule of law. The members of a society where a culture of lawfulness prevails abide by the rule of law, and in turn expect that the rule of law will be respected. Briefly put: where a culture of lawfulness prevails, there is support for the rule of law.

¹⁴ Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies, [S/2004/616](#).

¹⁵ See, for example, Godson 2018, who identifies four criteria that distinguish rule of law from rule by law.

¹⁶ [A/RES/67/1](#), para. 2.

¹⁷ [E/RES/2002/13](#), annex. Para. 12 of the United Nations Guidelines for the Prevention of Crime states “The rule of law and those human rights which are recognized in international instruments to which Member States are parties must be respected in all aspects of crime prevention. A culture of lawfulness should be actively promoted in crime prevention.”

¹⁸ [A/RES/70/174](#), annex. Redo attributes its insertion into the Doha Declaration to the chairmanship of Mexico and to the concept as used within the framework of the Organization of American States; Redo 2018, p. 28, fn 2. In Spanish, the concept is “cultura de la legalidad”.

The concept of a culture of lawfulness thus refers to a general set of attitudes and form of conduct in society.¹⁹ Roy Godson has defined a culture of lawfulness as a culture that is sympathetic to or supportive of the rule of law.²⁰ Godson further notes

“State institutions alone cannot secure the rule of law. Also required is a culture of lawfulness – a culture in which the overwhelming majority is convinced that the rule of law offers the best, long-term chance of securing their rights and attaining their goals. They believe that the rule of law is achievable and are committed to upholding it. In a culture of lawfulness, most people believe that living according to the rule of law (respecting the rights protected by law, fulfilling the duties codified by law) is the best way to serve both the public interest and their personal interest in the long term. They also strive to make the government itself follow the rule of law.”²¹

Godson continues:

“A culture of lawfulness makes two fundamental contributions to democracy and human rights. First, citizens are empowered. They come to believe that they have the ability to participate in the creation and implementation of laws, and that no person or institution is above the law – including government officials. They become convinced that the rule of law offers them the best chance to secure their human rights and achieve their democratic aspirations. Second, a culture of lawfulness fundamentally changes the dynamics of states’ rule of law institutions (e.g., the police and judiciary), requiring them to be more efficient, effective, and just.”²²

This same point can be made by looking at the reverse situation, a society where a culture of *un*lawfulness prevails.²³ In such a society, the strong prevail, and vulnerable groups have no effective access to justice. Where a culture of lawfulness is lacking, the members of the society will have little incentive to access the justice system, since they lack trust in the ability of the justice institutions to provide them with protection and with effective and timely remedies. Instead, they may resort to violence to resolve grievances and conflicts.

Once the concept of a culture of lawfulness is seen as a culture that supports the rule of law, the concept can be seen to have close ties to that of “procedural justice”. This latter concept helps us to answer a simple question, “Why do people obey the law?” Do they do so because, for example, they fear the punishment that might follow from committing a crime – or do they obey the law because they believe the law is fair?

Studies have shown that the readiness of people to obey the law depends less on the *outcome* of the process, and more on the *perceived fairness* of the process and on how they are treated – and thus on “procedural justice”.²⁴ The starting point is that the treatment that people receive at the hands of law enforcement and other agents of the criminal justice system influences the trust that people have in institutions of justice.²⁵

¹⁹ The concept of a culture of lawfulness has also been used in a narrower context. In peace-keeping and transitory justice projects, the concept refers to a society that rejects violence and calls for a stable rule of law. In the law enforcement context, the concept has been used as a synonym for a “culture of integrity”, in which law enforcement officers conduct themselves in accordance with the law and good police practice, and do not countenance violations on the part of other law enforcement personnel. Similarly, in the anti-corruption context, the concept has been used as a synonym for the integrity of decision-makers both in government and in the private sector.

²⁰ Godson 2000, in which the author cites examples from e.g. Colombia, Guatemala and Sicily of how the promotion of a culture of lawfulness can be used to respond to wide-spread violence and organized crime.

²¹ Godson 2018.

²² Godson 2018.

²³ This point is also made for example in Redo 2018, pp. 28–31.

²⁴ See for example Tyler 2006.

²⁵ The concept of a culture of lawfulness, as well as the rule of law, applies not only to the criminal justice system, but also to civil justice, administrative justice and traditional justice institutions. Since this conference room paper is intended for the regional preparatory meeting for the Fourteenth United Nations Crime Congress, the focus is on criminal justice.

This, in turn, influences the legitimacy that people confer on institutions of justice, and as a consequence influences the authority (respect) that these institutions can command in society. Ultimately, the readiness of the public to obey the police, comply with the law, and cooperate with the criminal justice process depends on the existence of a culture of lawfulness.

This essentially comes back to the question of trust. One way to understand the concept of a culture of lawfulness is that where it prevails, social interaction is embedded in trust: trust in the law, trust in the strength of the rule of law, trust in the institutions responsible for the rule of law, but also trust in one's own abilities, and trust in one's own community.

The importance of a culture of lawfulness for sustainable development

As noted in paragraph 14 of the Discussion Guide,²⁶

“Peaceful and just societies based on good governance, in which the rule of law and the culture of lawfulness prevail, gain the benefit of higher levels of growth, lower levels of poverty and reduced levels of crime and violence. A sine qua non condition for achieving sustainable development is building peaceful, just and inclusive societies which provide equal access to justice and are based on respect for human rights, on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions.”

This underlies the relevance of a culture of lawfulness not only as a way of promoting the rule of law and maintaining peace in society, but also in achieving sustainable development. In this connection, two observations can be made about a culture of lawfulness, as the concept has been formulated for discussion at the Fourteenth United Nations Crime Congress.

First, there is no single culture of lawfulness; the Doha Declaration and also other sources refer to “a” culture of lawfulness. There is no “one size fits all” culture of lawfulness that would be applicable to all societies, and to different stages of development.

Second, and closely related to the first observation above, the General Assembly referred to the fostering of a culture of lawfulness while respecting cultural identities.

This reference to the need to respect cultural identities is welcome, since it underlies the point that a culture of lawfulness need not be promoted solely on the national level but can and should take local cultural identities into consideration.

An illustration of this can be taken from Northern Thailand, where the illegal cultivation of the opium poppy used to be widespread. The Huai Pla Lod village in Tak Province of Thailand, for example, is home to about a thousand members of the “Black Muser” ethnic group.²⁷ The community was at one time heavily reliant on opium cultivation, which led to deforestation, barren soil and regular drought – and, of course, to illegal drug trafficking and various other crimes; in effect, to a culture of *unlawfulness*. In 1974, His Majesty the late King Bhumibol Adulyadej visited the community. He realized that the members of the community were aware of the negative effects of opium cultivation on their community and on the environment, but they did not see any viable alternatives. He also realized that using law enforcement to respond to this drug trafficking would, in itself, harm the ethnic community. His visit set in motion a chain of events, such as the replacement of opium with the cultivation of coffee, the introduction of forest management techniques, and the agreement of the community to act as stewards of the land, even after 1981, when the area became designated as part of a national park. Other actions taken by the government, not only in respect of this one village but more widely in marginalized and underdeveloped areas of Thailand, were to extend for example medical services, social services and educational opportunities to the members of vulnerable

²⁶ A/CONF.234/PM.1.

²⁷ See, for example, Chitradon 2018.

communities. For Huai Pla Lod village, the result was a strong community spirit that rejected drug trafficking and worked to raise the standard of living for all in the community; a success story of sustainable development fostered by a community culture of lawfulness.

The example of the Huai Pla Lod village illustrates not only the importance of a culture of lawfulness for sustainable development, but also the relevance of a sustainable development led approach to crime prevention and criminal justice.²⁸ The SDGs emphasize that sustainable development and the rule of law are strongly interrelated and mutually reinforcing. The prevention of crime and the fair, humane and effective operation of the criminal justice system require progress in achieving other goals of the SDGs, including those related to health, climate change, gender equality and community development.

When decisions on crime prevention are guided by the Sustainable Development Goals – in others words a development-led approach is taken to crime prevention – work is undertaken in an integrated manner on the different aspects and functions of society, so that they help to strengthen the well-being of the individual, the community and the state so that people can live a life that is, to the extent possible, free of crime. This involves individual and community health, housing, education, gender equality, employment, protection of the environment and the many other sectors of our life in society. Each sector is important in its own right; of course we should do all we can to ensure that everyone is healthy, everyone has adequate and affordable housing, everyone can obtain the education that he or she wants and is suitable for, and so on. However, all of these sectors also contribute to the prevention of crime, and to the safety of our communities and our country. At the same time, the prevention of crime supports our work in other sectors of life: preventing the production of the opium poppy promotes health; preventing domestic violence promotes gender equality; preventing economic crime promotes national economic growth, and so on.

When decisions in the criminal justice system are guided by the Sustainable Development Goals – i.e., in parallel with the above, a development-led approach is taken to criminal justice – all of those taking part understand how the decisions that they make can have an impact on the different aspects of the life of the victim, the offender and the community; on their health, their housing, their education and so on. At the same time, all of those taking part understand how these different aspects of life can be brought together in order to restore the victim to the situation in which she or he was before the offence, to reintegrate the offender into society as a law-abiding and productive citizen, and to strengthen the ability of the community to function. Simply put: decisions in the criminal justice system should not be based solely on pure criminal justice considerations, but should also be informed as far as possible (subject of course to the law and to practical considerations) by the impact that they would have on achieving the other Sustainable Development Goals.

Many examples can be given of development-led criminal justice, such as (where possible and appropriate) using administrative or technical means instead of criminalization in order to minimize certain unwanted conduct, prioritizing community policing over more intrusive policing models, using diversion and restorative justice rather than processing a case through the criminal justice system, using community-based sanctions rather than incarceration, and promoting reintegration of offenders into the community by avoiding unnecessary application of criminal justice measures that would make it more difficult for them to find appropriate housing and employment on release.²⁹

²⁸ These concepts can be referred to more simply as development-led crime prevention and development-led criminal justice.

²⁹ For examples in the rehabilitation and reintegration of offenders, see, for example, Phiset Sa-ardyen 2018.

Fostering a culture of lawfulness

Para. 113 of the Discussion Guide notes that

“During the discussions held at the twenty-sixth session of the Commission on Crime Prevention and Criminal Justice on the overall theme, agenda items and workshop topics of the Fourteenth Congress, there was a widely shared understanding of fostering a culture of lawfulness in agenda item 5 as an approach taken by Governments towards the general public to promote trust and respect for the law and its enforcement.”³⁰

A culture of lawfulness can be fostered on two levels, through general policy, and through the implementation of individual projects. On the general policy level, strategies seeking to provide access to justice for all, and to build effective, accountable, impartial and inclusive institutions (as referred to in the formulation of Topic 2) at the same time strengthen the rule of law, and in this way a culture of trust in the law. Such strategies often involve law reform but also the improvement of the capacity and efficiency of the relevant criminal, civil, administrative and traditional justice institutions. Conflict resolution and restorative justice also figure prominently in fostering a culture of lawfulness, as does peacebuilding in post-conflict societies.³¹

Although a culture of lawfulness cannot be imposed from the top down, it can be fostered through well-designed projects.³² Even communities that seem to have particularly difficult problems (such as wide-spread extortion by organized crime, or widespread and visible drug trafficking) could benefit from concrete and simple local projects. Such communities can be mobilized because there is a clearly felt local need, and a simple project that produces a positive and discernible impact on daily life appears to be the easiest to sustain. When community members feel that they are part of the process and can use the law to improve their own lives, these projects can support the legal empowerment of marginalized communities, providing for example ethnic groups and migrants with improved access to legal services, or to property and labour rights.

Whether on the general policy level or the level of concrete projects, promotion of a culture of lawfulness requires a broad alliance of government, the private sector, educational institutions, religious authorities, cultural institutions, civil society and the media. Each stakeholder in culture of lawfulness projects needs to understand and accept the view that a culture of lawfulness improves the quality of life, and that each stakeholder has a role and a responsibility in achieving this.

The government can contribute not only through resources, but also through better communication, openness (transparency) and effective anti-corruption measures. This is especially true of the institutions of justice. Law enforcement, which is often the first point of contact, should seek to set an example by not tolerating corruption and by promoting a culture of lawfulness. If the agents of law enforcement are regarded as “outsiders” who are feared by the members of the community (perhaps to the extent of being seen as an occupying force), they cannot be effective, since members of the public may not be willing to report crimes or provide them with information about criminal activity. If, in turn, the agents of law enforcement are seen to be fair and to be responsive to (legitimate) local needs, they will be more effective in their core functions of law enforcement and the maintenance of order.

The private sector (from large corporations to local shops and businesses) can assist in resource mobilization and in the organization of projects, as well as through their own example in complying with the law. The private sector has almost by definition

³⁰ See [E/2017/30](#).

³¹ Dandurand and Jahn.

³² See in particular Godson 2000. World Bank 2011 contains a description of a three-year project carried out in Pereira, Colombia that incorporates many of the elements described here.

a rich tradition of innovation. Involving them in culture of lawfulness projects can provide benefits all around.³³

The educational system (governmental and, to the extent it exists, non-governmental) at the primary, secondary and university levels can send a strong message of a culture of lawfulness, how the rule of law improves the quality of life, why each and every one should follow the law, how to use the justice system, and how to prevent crime.³⁴ In addition, individual teachers are key figures of moral authority and local projects would benefit from their participation.

Faith-based institutions and religious leaders, artists, writers and other widely respected figures are in a position to support a culture of lawfulness through their statements, and through their own example. Such messages can both single out courageous acts of lawfulness and condemn acts of lawlessness.

The mass media (and more widely social media) can play many roles: sending a general message of support for a culture of lawfulness and the rule of law; exposing crime and corruption; monitoring the conduct of the government and the private sector; and providing a forum for the public to express their views on the rule of law.

Concluding comments

The United Nations Crime Programme Network of Institutes (PNI) welcomes the decision of the General Assembly to include among the topics for discussion at the Fourteenth United Nations Crime Congress the promotion of the rule of law inter alia by fostering a culture of lawfulness while respecting cultural identities. This is directly related to the implementation of the Sustainable Development Goals. The PNI stands ready to assist Member States and other stakeholders at their request in this work.

Fostering a culture of lawfulness requires constant and long-term work, but experience has shown that the major components of a culture of lawfulness can be created in one generation. By marginalizing lawless behaviour, a culture of lawfulness helps protect societies against threats such as corruption, organized crime, authoritarianism, extremism, political violence, and public fatalism.³⁵ As with other work on the Sustainable Development Goals, this requires the commitment and input of many stakeholders: the government and its various agencies, the private sector, community leaders and representatives of civil society, religious leaders, educators and the media.

Above all, encouraging the participation of children and youth in order to promote a sense of ownership is a good way to cultivate a culture of lawfulness. The Discussion Guide for the 14th Congress rightly highlights the fact that empowering children and youth and engaging them as agents of change by promoting their effective participation can lead to positive change. Going beyond the provision of quality education, encouraging children and youth to participate actively and effectively through different avenues for decision-making, implementation and even monitoring should inspire the younger generations to take a culture of lawfulness to their heart.

³³ In its work, the Thailand Institute of Justice has recognized the value of non-traditional stakeholders (for example private enterprises, social enterprises and experts outside the field of criminal justice) to help address crime and violence at the root causes and promote a wider impact on social justice.

³⁴ See for example Redo 2018.

Para 116 of the Discussion Guide notes that “[i]ntegrating the rule of law into all levels of education enables young people to become positive agents of change by considering the roles they may play in the promotion of a culture of lawfulness. This also addresses cross-cutting issues such as human rights, global citizenship and gender equality. Social crime prevention programmes may also support the promotion of a culture of lawfulness by fostering protective factors through non-stigmatizing social and economic development programmes, including skills training with a focus on at-risk youth.”

³⁵ Godson 2018.

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