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OF CRIME AND THE TREATMENT OF OFFENDERS

Geneva, 22 August - 3 September 1955

PRISON LABOUR

Note by the Secretariat

The Secretariat has the honour to transmit herewith the text of the report on "Prison Labour" which was prepared in 1954 by the United Nations European Regional Consultative Group on the prevention of crime and the treatment of offenders (Annex III to document ST/SOA/SD/EUR/4).

ANNEX III

REPORT BY THE CONSULTATIVE GROUP

on

PRISON LABOUR

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PRISON LABOUR

Chapter I

INTRODUCTION

Section 1. Origin and composition of the Working Group

During the meeting of the United Nations European Regional Consultative Group on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1952, a Working Group for the Study of Prison Labour was set up, consisting of the following members:-

Mr. Ernest LAMERS	(Netherlands), Chairman
Mr. Jean DUPREEL	(Belgium)
Mr. Carlo ERRA	(Italy)
Sir Lionel FOX	(United Kingdom)
Mr. Charles GERMAIN	(France)
Mr. Hans TETENS	(Denmark)

This Working Group was requested to submit a report to the European Regional Consultative Group at its meeting at Geneva from 23 August to 2 September 1954.

Following exchanges of views by correspondence, it was agreed that the preliminary draft prepared by the Chairman, with the collaboration of Mr. Jean Dupreel, should be examined during a meeting of the Working Group. The Group did meet at Geneva on August 19th and 20th, 1954, with all the members being present with the exception of Mr. Carlo Erra who was unable to attend. The United Nations Secretariat was represented by Dr. Manuel Lopez-Rey, Chief of the Section of Social Defence and by Mr. Paul Amor, Regional Representative for Social Defence. A final text was prepared by the Working Group at Geneva and submitted to the European Regional Consultative Group.

The following report of the Consultative Group is based on this text.

Section 2. Documentation

A. Reports from member countries

The European Regional Consultative Group is not the only body concerned with the problem of prison labour. At its ninth session in May 1953, the Social Commission of the Economic and Social Council decided to give priority in its

programme to the study of prison labour. As part of its study it sent a questionnaire on the subject to a large number of countries. The replies of the following countries were made available to the Consultative Group:

Austria
Belgium
Denmark
France
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Portugal
Sweden
Switzerland
United Kingdom⁽¹⁾

B. Other documents

The field in which the Consultative Group undertook its investigation is undoubtedly one that has been well explored already. Many experts have made detailed studies of the problem and it has been given special attention by the International Labour Office on various occasions.

At several of the congresses organized by it, the former International Penal and Penitentiary Commission also concerned itself with various aspects of prison labour.⁽²⁾ The agenda for the last congress held at the Hague in 1950 included the question: "How is prison labour to be organized so as to yield both moral benefit and a useful social and economic return?"⁽³⁾ The discussion of this subject⁽⁴⁾ led to a resolution which was unanimously adopted.⁽⁵⁾

(1) The reply from Finland was received after the report had been prepared.

(2) See Analytical and Name Index, Proceedings of the Twelve International Penitentiary Congresses 1872-1950, pp. 175-181.

(3) Proceedings of the 1950 Congress, Volume IV, pp. 366-378.

(4) Proceedings of the 1950 Congress, Volume II, pp. 195-220, 459-467.

(5) Proceedings of the 1950 Congress, Volume II, pp. 590-593.

Lastly, the "Standard Minimum Rules for the Treatment of Prisoners" drawn up by the European Regional Consultative Group on the basis of a draft prepared by the International Penal and Penitentiary Committee incorporate various articles on prison labour (Part II, 73-79 and 90).

The present report is not intended to exhaust the subject. Since it feels that it can, in principle support the ideas expressed in the resolution of The Hague Congress and in the Minimum Rules, the Consultative Group thought it logical to take these provisions as a starting point for its study. However, on the basis of the data provided by the enquiry of the Social Commission and of the above resolutions, the Consultative Group intends to state its opinion more precisely. In this connexion some amendments or additions will be proposed.

The report will therefore be confined to a brief consideration of various important aspects of the problem.

Chapter II

IMPORTANCE OF THE PROBLEM

Of the various problems that can be raised in considering the manner in which terms of imprisonment should be served, prison labour has undoubtedly an exceptional importance. Whether it is regarded as a means of preventing idleness, maintaining order, providing for the formation of savings, of allowing the prisoners to make reparation by his labour for the damage he has caused to the community, of contributing towards the cost of his maintenance, or as an element of treatment, work is at the basis of the present prison system. Moreover, these different aspects always overlap. It can be expected from modern concepts of the organization of prison labour that they will make prisoners realize the intrinsic value of work and, by teaching them to maintain a certain rate of production, will create, preserve or increase their occupational skills and accustom them to the conditions of free industry. Thus they will be prepared for the tasks they will have to perform when they are free workers. In fact, the other aspects of individual treatment will often depend on prison labour. During the greater part of the day the prisoner does the work assigned to him. Hence, if he sees no positive value in his work, he can hardly be

expected to be receptive to the methods of treatment used outside working hours. This aspect of the problem must never be overlooked. It is not only as a worker that the prisoner will have to regain his place in society after he is released. Prison treatment must therefore also aim at changing the prisoner's personal outlook. To obtain this result it is essential to adopt appropriate principles and to organize prison labour on the right lines. Viewed in this light, work is more important than vocational training alone, and becomes a decisive factor in moral training.

The deficiencies resulting from badly organized or ill-chosen prison labour can never be made good by other elements of a system of treatment, however perfect.

Hence, if it is desired that prison sentences should be rationally served, the absolute necessity of providing sufficient, suitable and well-organized work for all prisoners must be stressed from the outset.

Chapter III

VARIOUS ASPECTS OF THE PROBLEM

Section 1. Purpose of prison labour

Present theories in the field of penitentiary organization condemn the view that work should be of a repressive nature. On the contrary, present theories regard it as having an aim in conformity with the views stated at the beginning of the present report.

In defining the purposes of prison labour, however, it is necessary to take account of the different categories of prisoners in institutions. When the Hague resolution stipulates that "prison labour should be considered not as an additional punishment but as a method of treatment of offenders", one is inclined to wonder whether the second part of that definition is not too wide, since it covers all classes of prisoners. Thus in the case of very short terms of imprisonment there is no doubt that the primary purpose of putting prisoners to work is to prevent idleness and maintain order while at the same time promoting their rehabilitation. In addition, there are certain classes of prisoners (for instance those not yet convicted) for whom prison training* cannot be considered

* Where the word "traitement" is used in the French text, the English text uses the word "training" where the context requires it.

as one of the ends to be pursued during detention. In order to prevent any misunderstanding of the statement of principles, it is advisable to consider prison training as a method used more especially with a view to rehabilitation.

The replies to the questionnaire show that many countries give a special place among the purposes of prison labour to the prevention of idleness and the maintenance of order. The Consultative Group agrees with this view.

Section 2. Right to work and obligation to work

The General Assembly of the United Nations approved on 10 December 1948 the Universal Declaration of Human Rights in which it was stated that everyone has the right to work. Thus the exceptional importance of labour is established as an essential element in human existence. This right to work should not be suppressed by deprivation of liberty. On the contrary, such deprivation imposes special obligations on the State and even, as shown by the Hague Congress, a well-defined responsibility towards prisoners. The State cannot, in fact, allow a prisoner to leave the institution in a worse position than when he entered it. That, however, would be the case if he was forced to live in idleness.

It may therefore be assumed that the special situation created between the State and the prisoner when he is deprived of his liberty gives the prisoner a kind of right to work, if only a moral right.

In all countries, convicted persons in general are under the obligation to work. Although in many cases that obligation was incorporated in a legal provision at a time when the purpose of labour was considered in quite a different light, it has nevertheless lost none of its force or its value. The prevention of idleness is still necessary, discipline must be maintained and labour has its place in any system of rehabilitation.

While everyone can claim the moral right to be allowed to work, he also has a moral duty to do so, since everyone has the duty to endeavour to develop his whole personality and here work plays an essential part. In many countries the law does not impose the obligation to work on certain classes of prisoners, such as persons awaiting trial and those convicted of political offences. The question was raised as to whether untried prisoners should also be obliged to work; some members of the Consultative Group were attracted by this idea because

work is a natural human activity and it is demoralizing for a man in prison to remain for a considerable time in idleness, but the Group, as a whole, felt unable to endorse this principle for legal reasons, including article 2 of the Convention concerning Forced or Compulsory Labour of 28 June 1930. Nevertheless it seems that everything possible should be done to convince those concerned of the moral obligation to work. In addition a system of special rewards may be considered.

Section 3. How to provide work

We have shown that prisoners have the right to work and that work is an essential condition for the satisfactory serving of a prison sentence. Since the State is responsible for the well-being of prisoners during their detention its first duty is also to provide sufficient, suitable and well-organized work. It cannot place this responsibility entirely on the prison administration. It must do its utmost to see that certain orders placed by the public authorities are earmarked for prison labour.

With respect to governmental programmes of national development, such as irrigation projects, resettlement projects, etc., the Consultative Group is of the opinion that prisoners may be usefully employed in such programmes provided that the nature and organization of the work are in accordance with the conclusions of this report relating to the employment and rehabilitation of prisoners.

When the State is unable to provide the different classes of prisoner with sufficient suitable work arrangements should be made for them to work for free industry.⁽⁶⁾ This applies, in particular, to mere occupational work for persons awaiting trial or serving short sentences. By obtaining work from the private sector it is often possible to cover a great variety of simple activities. Co-operation with the private sector can also be of value in order to obtain work especially suited for vocational training. Hence the Working Group is not opposed, in principle, to the fact that prisoners carry out work for free industry, but stresses that the primary responsibility in the matter rests with the State.

(6). It appears that all countries resort to work of this kind.

The employment of prisoners in private industry outside the penitentiary institutions also deserves special attention. It is calculated to facilitate vocational training under circumstances which are often difficult to realize in prison workshops. At the same time it can offer the prisoner an opportunity for gradual adjustment to free society.

Many countries allow certain prisoners to work with private employers during the day, returning to the institution in the evening. The Consultative Group thinks that it is worth considering provided there are sufficient safeguards including those against exploitation and provided that the prisoners are specially selected.

In the course of the discussions some doubts were raised as to whether the employment of prisoners in private industries outside prisons might be a contravention of article 2, paragraph 2 C, of the Convention concerning Forced or Compulsory Labour of 28 June 1930.⁽⁷⁾ Although the Consultative Group has no reason to believe that such contravention exists, in view of the advantages of this form of employment for selected prisoners, the Consultative Group expressed the hope that when next the Convention was revised, the International Labour Organisation, when considering this article, would take account of the views of this Group.

Section 4. Choice of work

The replies to the questionnaire show that all countries consider prison labour an important part of treatment. It can have two purposes: to inculcate the idea of labour by making the prisoner accustomed to regular work at a

(7) The relevant text of the Convention reads as follows:

Article 2 - paragraph 2: Nevertheless, for the purposes of this Convention, the term "forced or compulsory labour" shall not include:

- (a)
- (b)
- (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
- (d)

normal rate, or to prepare him for an occupation he may be able and willing to take up after his release. The latter objective should take precedence, but there are many difficulties in the way of its achievement. Many existing institutions were planned at a time when the social rehabilitation of prisoners was not considered in the same light as it is today, so that work possibilities are often necessarily limited.

In addition, every prison system has its own characteristics which make it impossible for the organization of prison labour to be completely adapted to the needs and preferences of prisoners.

In spite of these great difficulties, the essential object should be to make use of existing facilities and to adapt gradually, for so far as feasible, the organization of prison labour to the needs of the prisoners.

To this end, prisoners should generally be examined with a view to vocational guidance and the results taken into account in selecting them, so that each man is given the occupation best suited to him among those available in prison. This method makes it possible to reconcile the interests of the prisoner with those of prison labour and subsequently to release a man who will be useful to society.

When work is being re-organized, individual needs as regards prison training should be taken into account as far as possible. For that purpose it is important to investigate how work in the various institutions should be differentiated, as appears to be the practice, e.g. in Denmark. The possibilities will, of course, differ in each country according to its economic structure.

Accordingly, a place should be reserved for agricultural work and preferably those prisoners who can be rehabilitated in that sector should be assigned to it.

In addition, the special class of non-manual workers must also be considered. During their imprisonment some of them can be given manual training, whereas others - and these are probably the majority - should resume their non-manual activities, as they are not likely to make good craftsmen. They could be included in the normal system of prison labour, though the question arises, whether the interests of the prisoner and society would not be better served by using them in occupations of a different kind, such as clerical work. This may seem undesirable in view of the possibilities of corruption, the danger of forming a privileged class of prisoner etc. Experience has shown, however, that such abuses can be avoided by rational organization.

The Working Group also recommends that theoretical and practical courses should be held outside normal working hours, for prisoners wishing to learn or improve their knowledge of a trade which is not carried on in prison.

The problem of free choice of work by prisoners will assume a very different aspect in the light of the ideas set out above. In principle, however, the Working Group can support the resolutions of the Hague Congress and the Minimum Rules, as regards the procedure for assigning prisoners to different kinds of work. Judicious assignment is essential for satisfactory integration of the prisoner in accordance with his rehabilitation programme.

Section 5. Domestic work

It seems to appear from the enquiry that many prisoners are assigned to domestic work. Such duties may be regarded as being of two kinds; those which are of a productive nature and provide vocational training (for instance maintenance of premises and furniture, kitchen service etc.) and those which are merely occupational, such as cleaning. The number of prisoners engaged in the latter should not be more than is necessary. Probably only a small proportion of prisoners engaged in cleaning are unfit for normal productive work and it is most important that fit prisoners should be given more suitable work. During the discussions it has been pointed out that certain institutions have adopted the system of having the cleaning done by all prisoners outside working hours or by rotation. Prisoners would thus have an opportunity to take part in productive work during the day. Prisoners ought not to be employed in the service of the staff.

Section 6. Remuneration

The enunciation of this problem may lead to legal and ethical considerations. We may consider the position of the prisoner in regard to the work he performs, determine the meaning to be given to the term "wages", decide whether the legal obligation to work eliminates the right to normal wages etc.

Without engaging in discussions of this kind, we may start from the fact that in all countries⁽⁸⁾, prisoners are given some remuneration, either a

(8) The State of Israel and Northern Ireland do not pay any remuneration. Israel is, however, considering new regulations.

progressive basic wage or piece rates. In most countries earnings are divided into several parts one of which is generally for the personal use of the prisoner during his detention and to enable him to meet certain obligations, while another goes to form savings to be returned to him on his discharge.⁽⁹⁾ The return of savings to the discharged prisoners is an important aspect of the remuneration of prison labour. In many countries these funds are made available only with the consent of the officials or agencies charged with the supervision of the released prisoners. The Consultative Group considers that this system, when used with discretion, has much to recommend it. In addition, in some countries a part of the earnings is withheld by the State in order to cover partially the cost of maintenance of the prisoner.

Remuneration is also important because it is an incentive to work, it can increase self-respect, it can help to preserve family ties or to meet other legal or moral obligations, it can cover the cost of study and hobbies etc. Closer examination of the wages paid in different countries shows that they are often too small to be of real value for these purposes. This is particularly regrettable because if the prisoner could, by the fruit of his own labour, contribute to certain expenses at present borne by the State, it would help to preserve and increase his sense of responsibility.

Of recent years there has been a movement tending to bring prisoners' wages into line with wages in free industry. The idea finds expression in the resolutions adopted at the Hague Congress. The Consultative Group welcomes it and, while realizing how extremely difficult it might be to put it into practice, recommends that the possibilities be explored. If the achievement of this goal seems unattainable or inadvisable, it recommends strongly that remuneration, where necessary, be reconsidered with a view to its becoming a real incentive and a means of rehabilitation.

(9) The United Kingdom has not prescribed any general rules for the use of earnings from work.

Section 7. Conditions and organization of work

Free industry has long recognized that it is essential for workrooms to come up to certain demands. Air and light, good ventilation and room to move about, stimulate the desire to work and increase productivity.

This applies still more strongly to prison labour, which is carried out in much less favourable circumstances. The prisoners are deprived of liberty, live in an artificial environment, are employed in work which is not always what they would have chosen, and receive a very low wage. All those things stultify the desire to work, and moreover in the time prior to detention the prisoners have frequently not become accustomed to normal and regular labour, so that they will still have to come to understand the purpose of work and to acquire the taste for it. Further, work being an essential element of prison treatment, it is necessary that prison workrooms conform with modern standards. When work has to be performed under conditions of solitary confinement, care should be taken that good working conditions exist also in the cells.

Likewise, the organization and management of prison labour can be modelled on the example of free industry, although its purpose is clearly quite different. In prisoners' work profit should not be a dominant consideration as it is in private enterprise, yet at the same time efficient organization and economic running are desirable, both in the interest of the national economy, and because the prisoner can be better prepared to take his place in free industry after release, if his training has taken place under conditions comparable to those that exist in the private sector.

This is equally true of work primarily designed as vocational training for the prisoners, and where little or no importance at all is being attached to the manufacture of marketable products. Such training, which is particularly desirable for young prisoners and for other carefully selected individuals, will give the best results if it is based on the training principles that operate in the private sector. It will then also be possible for the trainees to take part in trade examinations held by the appropriate authorities outside prison.

Lastly, the Consultative Group endorses the Hague resolutions and the Standard Minimum Rules on the subject of safety regulations in workshops and compensation for industrial accidents and diseases. Although all countries do not comply with those resolutions, there is a definite movement to grant

prisoners the same compensation as free workmen and, to a lesser extent, to allow them to participate in other forms of social security.

Section 8. Competition with the free market

The nature of this much discussed problem varies from country to country and sometimes, dependent on the current economic situation, within a particular country. In theory there ought not to be any problem. The prisoners have a right to work. If they were not prisoners they would be on the general labour market. Besides, the problem can hardly, in practice, be considered a real one when prison labour accounts for only a minute part of national production.

It appears from the questionnaire, moreover, that the question is no longer a burning one in most countries and that only Austria is, temporarily, having real difficulties with employer and labour organizations. In the other countries friction is sporadic on account of the healthy state of the free market, and certain other factors, e.g.:

- (a) many countries have set up boards to consider, in consultation with the prison authorities, what type of work the prisoners should do and to deal with complaints from free industry;
- (b) in countries without such boards, the prison authorities usually see that work is not undertaken in the most vulnerable sectors of the free economy and is not unduly concentrated in particular trades which are in competition with private industry;
- (c) the establishment of normal operating expenses is preventing unfair competition to a much greater extent than in the past;
- (d) public opinion is taking more interest in the prison problem.

The healthy state of the free market enables special attention to be paid to public relations. Employers, trade unions and other organizations should be informed of the immense social value of well-organized prison labour.

The effect of competition would perhaps be less marked in respect of the production of semi-finished goods. Prison labour could then form some kind of a link in the production process of certain articles.

However, great care should always be taken that the ends of prison labour can be attained. It is therefore particularly important for the State to become increasingly aware that it is its duty to place orders with prisons. In turn, the prison administration should do the utmost, within the limitations resulting

from its general mission, to assure a high quality and a sufficient quantity of prison-made products. When the State accepts its responsibility, competition will be still less of a problem. The removal of tensions due to competition cannot but assist the harmonious development of prison systems.

Chapter IV

CONCLUSIONS

The present report has only dealt with a few aspects of prison labour, and has simply propounded ideas without feeling called upon to substantiate them fully. It has not been necessary to do this, nor to consider other points because, in the first place, the problem was gone into at length at the 1950 International Congress and at the meetings preparatory to the drafting of the Standard Minimum Rules by the European Consultative Group, and secondly the questionnaire shows that a satisfactory uniformity of views is apparently developing in the various countries about the fundamental principles governing the scope and structure of prison labour.

This unanimity does not, however, mean that the practice of the various nations is uniform. Much still remains to be done to bring the practice of prison systems into line with the views expressed in this report.

A number of questions remain to be studied. Among these the Consultative Group wishes more particularly to refer to the following:

- (a) the provision of full employment for all prisoners and the responsibility of the State in this respect;
- (b) the provision of work to a standard in accordance with the views expressed in this report about the training and the rehabilitation of prisoners;
- (c) the integration of prison industry with the national economy; in this connexion might be considered: the employment of prisoners, both inside and outside prisons, in private industry and the production of semi-finished goods;
- (d) the remuneration of prisoners, particularly the problem of raising prisoners' wages to the same level as that prevailing in outside industry;
- (e) the provision of vocational training in skilled or semi-skilled trades;
- (f) the improvement of workshops;
- (g) the adaptation of prison labour to the needs of particular classes of prisoners, including the work-shy and those who through physical or mental handicaps are incapable of normal work.

The problem of prison labour still, therefore, deserves very close attention.

APPENDIX

The European Regional Consultative Group has summarized its ideas as follows:

A. PRINCIPLES

Prison labour is not an additional punishment; it should be considered as a means of preventing idleness and keeping order, and above all as an essential factor in the training of offenders.

All prisoners have the right to work.

Prisoners under sentence have the obligation to work, subject to their physical fitness as determined medically.

Those who cannot legally be compelled to work should nevertheless be allowed and encouraged to do so.

B. CHOICE OF WORK

It is desirable to give suitable categories of prisoners vocational examination and to take the results into account when they are assigned to a certain type of work in the institution.

Within the limits compatible with proper vocational selection and with the requirements of prison administration and discipline, the prisoners should be able to choose the type of work they wish to perform.

So far as possible, the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after liberation.

It is desirable to ascertain what types of work are most suitable for prisons, with a view to the prisoners' rehabilitation.

C. NATURE AND ORGANIZATION OF LABOUR

Prison labour should be performed under conditions and in an environment which will stimulate industrious habits and interest in work. The management and organization of prison labour, whether industrial or agricultural, should be as much as possible like that of free labour, so as to enable the prisoners to adapt themselves to the conditions of normal economic life.

The interests of the prisoners and of their industrial training must not be subordinated to the purpose of making a financial profit from an industry in the institution. It is the duty of the State to ensure that adequate and suitable employment is provided for prisoners. When advantage is taken of employment offered by free industry, such employment should be subject to adequate safeguards to ensure that there is no exploitation of prison labour in the interest of private industry.

Special attention should be given to the employment of prisoners not fitted for manual labour.

With respect to governmental programmes of national development, prisoners may be usefully employed in such programmes provided that the nature and organization of the work are in accordance with the present conclusions relating to the employment and rehabilitation of prisoners.

D. VOCATIONAL TRAINING

Prison labour should aim primarily to teach a trade to prisoners able to profit thereby and especially to young prisoners.

The trades should be sufficiently varied to enable them to be adapted to the educational standards, aptitudes, and inclinations of the prisoners.

Outside working hours, the prisoner should be given the opportunity either to learn a trade not practised in prison, or to improve his skill in the work he is doing already, for example by attending theoretical or practical classes.

E. REMUNERATION

Prisoners should receive a remuneration for their work.

This remuneration should be at least such as to stimulate keenness and interest in the work. It is desirable that it should be sufficient to enable prisoners to help their families, to further their own interests within the prescribed limits or to set aside a part as savings to be returned to them on discharge, where desirable through an official or agency.

The possibility should be explored of raising the remuneration to the same rate as that received by free workmen, in which case, after a reasonable amount has been deducted for his maintenance in prison, it will be possible for the prisoner to contribute towards his obligations in maintaining his family and in compensating the victims of his offences.

F. HEALTH AND SAFETY

The precautions laid down to protect the safety and health of free workmen should likewise be observed in institutions. Provision should be made to compensate prisoners for industrial accidents and diseases on terms not less favourable than those granted by law to free workmen. In addition, prisoners should be allowed to participate to the greatest practicable extent in the social insurance schemes in force in their countries.

G. COMPETITION AND PUBLIC OPINION

Employers, trade unions and other organizations should be informed of the social and economic necessity of providing full employment for prisoners and endeavour should be made to persuade them not to fear competition from prison labour.

It is advisable, therefore, not to employ prison labour in the most vulnerable sectors of economic activity. Unfair competition, particularly by undercutting prices, should always be avoided.

This archiving project is a collaborative effort between United Nations Office on Drugs and Crime and American Society of Criminology, Division of International Criminology. Any comments or questions should be directed to Cindy J. Smith at CJSmithphd@comcast.net or Emil Wandzilak at emil.wandzilak@unodc.org.