



Thirteenth United Nations Congress on Crime Prevention and Criminal Justice

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Agenda item 5

Comprehensive and balanced approaches to prevent and adequately respond to new and emerging forms of transnational crime

Report of Committee I: workshop 3

Addendum

Workshop on strengthening crime prevention and criminal justice responses to evolving forms of crime, such as cybercrime and trafficking in cultural property, including lessons learned and international cooperation

Proceedings

1. At its 4th to 6th meetings, on 15 and 16 April 2015, Committee I held the workshop on strengthening crime prevention and criminal justice responses to evolving forms of crime, such as cybercrime and trafficking in cultural property, including lessons learned and international cooperation. The following institutes of the United Nations crime prevention and criminal justice programme network assisted in the preparation and organization of the workshop: National Institute of Justice of the United States Department of Justice, International Scientific and Professional Advisory Council, Korean Institute of Criminology and European Institute for Crime Prevention and Control, affiliated with the United Nations. The workshop had before it the following documents:

(a) Background paper on workshop 3, on strengthening crime prevention and criminal justice responses to evolving forms of crime, such as cybercrime and trafficking in cultural property, including lessons learned and international cooperation (A/CONF.222/12);

(b) Discussion guide for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (A/CONF.222/PM.1);

(c) Reports of the regional preparatory meetings for the Thirteenth Congress (A/CONF.222/RPM.1/1, A/CONF.222/RPM.2/1, A/CONF.222/RPM.3/1 and A/CONF.222/RPM.4/1).



2. The workshop was moderated by Jay Albanese, a criminologist and professor at Virginia Commonwealth University (United States). Presentations were made by the following panellists: Han-Kyun Kim, Korean Institute of Criminology; Francesca Bosco, United Nations Interregional Crime and Justice Research Institute; Richard Frank, International Cybercrime Research Centre, Simon Fraser University (Canada); Khalid Had Al Mohannadi, Gulf Cooperation Council, Criminal Information Centre to Combat Drugs; Duncan Chappell, University of Sydney (Australia); Marc Balcells i Magrans, John Jay College of Criminal Justice, City University of New York; Marc-André Renold, University of Geneva; Zhengxin Huo, China University of Political Science and Law; Rosa Vasquez Orozco, Permanent Mission of Ecuador to the United Nations (Vienna); Stefano Manacorda, International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme; Jinyong Chung, Senior Counsel for the World Bank; Ehab Elsonbaty (Qatar Investment Authority); Jianping Lu, Beijing Normal University; Mariya Polner, World Customs Organization; Anna Paolini, United Nations Educational, Scientific and Cultural Organization (UNESCO) Representative in the Arab States of the Gulf and Yemen; Giuseppe Sean Coppola, Permanent Mission of Italy to the United Nations (Vienna) and Luis Alfonso de Alba, Permanent Representative of Mexico to the United Nations (Vienna).
3. The 4th meeting, was chaired by Roberto Rafael Campa Cifrián (Mexico). The 5th and 6th meetings were chaired by Luis Alfonso de Alba (Mexico).
4. At the 4th meeting, statements were made by the representatives of Canada, Germany, the United States, South Africa, Romania, China, the Russian Federation, Algeria, India, Cuba, France, Thailand, Nigeria (on behalf of the African Group), Portugal, Oman and Egypt. A statement was also made by the observer for the Council of Europe.
5. At the 5th meeting, statements were made by the representatives of the United States, Saudi Arabia, Algeria, Switzerland, Nigeria (on behalf of the African Group), Turkey, Egypt, Pakistan, France, China, Canada, Japan, Mexico and Iran (Islamic Republic of).
6. At the 6th meeting, statements were made by the representatives of Pakistan, Germany, Brazil, Mexico, Japan, South Africa, Nigeria, Australia, the Netherlands, Switzerland, Canada, Algeria, the United States, Djibouti, Indonesia, the Sudan, the Russian Federation and China.

General discussion

7. During the first panel, the scientific moderator of the workshop reflected on general considerations related to evolving forms of crime, including cybercrime and trafficking in cultural property, exploring the connections between such crime and traditional criminality involving organized crime and corruption. The presentation underscored the importance of focusing on the full implementation of the Organized Crime Convention, as well as of studying and assessing the impact of actions by Governments regarding transnational organized criminal activity. It was suggested that moving the focus of research, policy and practice from actors — individuals and groups — to markets and asset flows was a promising method for the early

identification of evolving forms of crime, as well as for assessing their comparative risk, as newer forms of crime.

8. During the second panel, on cybercrime as an evolving form of crime, four panellists discussed the ways in which that type of crime had evolved in recent decades and the challenges it presented, including with regard to assessing its impact. One panellist analysed how the emergence of cyberspace had created new opportunities for highly profitable criminal activities, and described cybercrime as a complex crime, with new *modi operandi* used in its commission. The panellist underscored that technological innovation, which facilitated cybercrime, also served to strengthen the response of law enforcement authorities, and noted that the rate of cybercrime victimization was considerably higher than for other types of organized crime. The panellist highlighted that international and regional cooperation, in research, practice, information-sharing and policies on cybercrime, was key to strengthening crime prevention and criminal justice responses.

9. One panellist discussed how organized criminal groups, in both their traditional and new configurations, were making extensive use of cyberspace and thus contributing to the transnational nature of cybercrime. The panellist noted that tools for committing cybercrime no longer required highly specialized technical skills on the part of perpetrators and that proximity to poverty was a risk factor for young unemployed individuals joining organized criminal groups. The panellist further noted that, besides the possibility of enacting new national legislation to respond to cybercrime, it would be important to enforce existing laws and international legal instruments in that regard, in particular the Organized Crime Convention. The panellist emphasized that awareness-raising, public-private partnerships and protection of human rights should complement enhanced law enforcement responses.

10. One panellist discussed ways to measure, track and collect cybercrime data, using the example of online child exploitation, including through the use of geolocation and WHOIS data. The panellist discussed how the misuse of the Internet had increased the scale and complexity of the production and distribution of child exploitation material. The panellist noted that possible ways to act on information obtained through research included cooperation with law enforcement in the carrying out of arrests and the shutting down of servers, although the latter did not necessarily mean that the content was eliminated. Geomapping of child exploitation material showed how multijurisdictional strategies might be employed instead to attack child exploitation material networks and remove that content. Research found that, in at least one case, even strong national laws had not been sufficient to deter criminal activities.

11. One panellist delivered a presentation on the impact of cybercrime on the spread of narcotic and new psychotropic substances, in the specific case of Gulf Cooperation Council (GCC) countries. The panellist discussed regional efforts to combat drug trafficking via the Internet, particularly through strengthening information exchange processes and data collection. He emphasized the importance of technical assistance for countries, including training and tools, with limited technical capacities for combatting cybercrime. The panellist indicated that illicit drug trafficking, specifically of synthetic drugs, via the Internet was of particular concern to GCC countries. The panellist highlighted the fact that regional harmonization of legislation was necessary to combat illicit drug trafficking, as was

the creation of an early warning system that would aid in the timely identification of new formulas for the creation of synthetic drugs.

12. In the discussion that followed the presentations given during the second panel, one speaker noted the challenges posed for law enforcement authorities by large volumes of collected digital evidence and offered possible options for effectively managing that evidence, including through outsourcing and the creation of specialized police units. Several speakers emphasized that it was necessary to create a new international legally binding instrument on cybercrime, within the United Nations framework, in order to effectively address legislative and criminalization gaps and to enhance the global response to cybercrime. Several other speakers emphasized that such an instrument was not necessary, as existing instruments, such as the Council of Europe Convention on Cybercrime, which was open for signature and ratification by parties outside of the region, were sufficient to effectively address the challenges posed by cybercrime. Many speakers underlined the importance of implementing the relevant provisions of the Organized Crime Convention for enhancing international cooperation and mutual legal assistance, and noted that existing laws and legislation needed to be enforced. Some speakers also expressed concern regarding the problem of attribution of cybercrime and the links between cybercrime and other crimes, such as drug trafficking or terrorism. Some speakers also highlighted the importance of awareness-raising campaigns and technical assistance and capacity-building activities in responding to cybercrime.

13. During the third panel, five panellists discussed trafficking in cultural property as an emerging form of crime. While several panellists noted the increasing number of known cases of destruction, theft, looting, counterfeiting and illicit export and import of art and antiquities, other panellists underscored the difficulties in ascertaining the dimensions and impact of trafficking in cultural property, owing to the lack of systematic collection of criminal statistics, in particular with regard to clandestine excavations or theft, private sales and the mix of the objects in the legitimate market. Some panellists mentioned the growing trend of resorting to new technologies, including e-commerce transactions for the purposes of smuggling and sale of goods of dubious provenance on the international market.

14. While some panellists noted the growing involvement of organized criminal groups in that form of transnational crime, one panellist emphasized the importance of conducting further research on those links. The importance of improving the collection and analysis of data and statistics was acknowledged. Some panellists highlighted the relationship between that form of crime and money-laundering. Panellists underscored the importance of strengthening national legislation, and in particular of making trafficking in cultural property and related offences a serious crime, so as to enable the application of the Organized Crime Convention. Some panellists provided examples of national legal regimes, notably those of China, Ecuador and Italy, and of challenges faced by national authorities, making clear that international approaches needed to be adapted to local realities, and that there was an urgent need to strengthen international cooperation in criminal matters in that area.

15. Panellists drew attention to the importance of countries becoming parties to and implementing the relevant conventions of UNESCO and the International Institute for the Unification of Private Law (Unidroit), as well as the Organized Crime Convention. One panellist noted the complexity, diversity and dynamism of

national laws in the area of criminal justice responses to trafficking in cultural property, and underscored the importance of concerted action at the international level by strengthening the criminal justice approach, adding that the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences should have a central role in that regard. Another panellist underlined the complementary nature of the Guidelines to the existing legal framework.

16. In the discussion that followed, one speaker encouraged all States to take appropriate steps to prevent the illicit trade in Iraqi and Syrian cultural property, pursuant to Security Council resolutions 1483 (2003) and 2199 (2015). Some speakers highlighted challenges in international cooperation related to trafficking in cultural property, including cases of return and restitution, and encouraged additional research and data collection in that regard. Further collaboration among relevant intergovernmental organizations, notably among the International Criminal Police Organization (INTERPOL), UNESCO, the United Nations Office on Drugs and Crime and the World Customs Organization (WCO), was encouraged. Several speakers welcomed the recent adoption of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, and encouraged their full application, while one speaker encouraged further discussions by Member States on efforts to apply the Guidelines, including through the identification of good practices, to be facilitated by UNODC. While some speakers expressed the view that the existing international legal framework was insufficient and that a new legally binding instrument under the auspices of the United Nations was a necessary step, other speakers said that there should be a focus on the full implementation of existing instruments, including the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 and the Organized Crime Convention. One speaker proposed that UNODC should increase its activities to address work on trafficking in cultural property, with a focus on the development of tools. Some States expressed the view that the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property should be further assessed and revised.

17. During the fourth panel, six panellists spoke about preventing and combating evolving forms of crime. One panellist presented the World Bank project to combat cybercrime, including its tools and capacity-building for emerging economies. He noted that the World Bank sought to enhance capacity-building in the area of cybersecurity and in the criminal justice sector, in collaboration with relevant stakeholders, and further noted that the project would be piloted in selected countries. Another panellist provided an overview of legislative initiatives in the Arab region to combat cybercrime, focusing on the example of the recent cybercrime law adopted by Qatar. The panellist reiterated the importance of private sector involvement, international cooperation and public awareness campaigns. The panellist also discussed the model law and guidelines prepared by the International Telecommunication Union and the League of Arab States. He emphasized that countries should seek to use existing international instruments, and noted that countries should consider the possibility of creating central national authorities to combat cybercrime. One panellist discussed efforts in China to strengthen national and international cooperation in combating cybercrime. The panellist also emphasized that cooperation, including information-sharing and cooperation with

regional and international organizations, as well as research, needed to be strengthened.

18. Another panellist analysed the role of customs services in the fight against trafficking in cultural property, and provided an overview of the challenges they faced, and the tools and instruments that WCO recommended using to safeguard cultural heritage and prevent its unauthorized export or import. The panellist provided information on current WCO activities in that regard, including the network of regional intelligence liaison offices and the Archeo real-time communication platform. She also spoke about international efforts to assist with the implementation of Security Council resolution 2199 (2015).

19. Another panellist spoke about regional cooperation to protect cultural property from trafficking and about the role of UNESCO. The panellist presented international instruments under the auspices of UNESCO and examples of its work, in close cooperation with other international organizations, including INTERPOL, museums and auction houses, not only to address illicit trafficking, but also to facilitate awareness-raising, capacity-building and networking. The panellist noted that trafficking in cultural property was an evolving form of crime, increasingly linked to terrorism, and highlighted the recent adoption of Security Council resolution 2199 (2015), noting that UNESCO was working with Iraq, Libya and the Syrian Arab Republic in relation to protection of cultural property in times of conflict.

20. Two panellists spoke about the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences. One panellist noted that the Guidelines were a good example of how the United Nations could deliver concrete tools to address trafficking in cultural property, and that they provided a framework for judicial cooperation that could complement the provisions of the Organized Crime Convention. The panellist emphasized that States should focus their efforts on implementing the Guidelines and existing instruments, and recalled the important role of UNODC tools and the United Nations crime prevention and criminal justice programme network of institutes in that regard. Another panellist noted that the Guidelines were the result of intensive efforts on the part of Member States. He also noted that discussions on the necessity of a new international instrument on trafficking in cultural property could be continued at the twenty-fourth session of the Crime Commission.

21. In the general discussion that followed, many speakers reiterated the points that had been made during the discussions following the second panel with respect to the creation of new international legally binding instruments related to cybercrime and to trafficking in cultural property. One speaker specified that one such instrument on cybercrime should focus on issues of mutual legal assistance and collection of evidence. Another speaker recalled the text of the Doha Declaration in relation to the open-ended intergovernmental expert group to conduct a comprehensive study of the problem of cybercrime and responses to it. Other speakers noted recent initiatives against cybercrime, such as the Global Conference on CyberSpace and the Geneva Internet Platform. One speaker noted the activities of the UNODC Global Programme on Cybercrime in strengthening national and regional capacities to combat cybercrime, and said that he looked forward to further supporting the Programme.

22. Several speakers emphasized the importance of strengthening national legal frameworks to ensure the effective protection and return of cultural property. One speaker underlined the necessity of establishing national registers and inventories of cultural property in order to enhance restitution mechanisms. Another speaker drew attention to the long-term negative impact of trafficking in cultural property, which deprived future generations of their cultural heritage. Some speakers acknowledged the role of UNESCO in assisting countries in relation to the protection of cultural heritage. One speaker noted that full implementation of the Guidelines was not feasible in all jurisdictions, owing to the differences in their systems, but acknowledged the significance of the Guidelines in developing a comprehensive response to trafficking in cultural property.

Conclusions

23. The conclusions of the discussion, as summarized by the moderator on behalf of the Chair, are as follows:

(a) There is general agreement that cybercrime, in its many forms, as well as trafficking in cultural property, are global threats which can be effectively countered only through international cooperation. The implementation of the Organized Crime Convention, and in particular its provisions on international cooperation and mutual legal assistance, is essential to effectively combat cybercrime and trafficking in cultural property;

(b) Increasing links have been observed between cybercrime and other forms of crime, including terrorism and drug trafficking. Technical assistance and capacity-building activities in both developing and developed countries are needed in order to strengthen the response to cybercrime;

(c) As reflected in the interventions of several speakers, Member States should consider, as a matter of priority, becoming parties to and fully implementing the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the Unidroit Convention on Stolen or Illegally Exported Cultural Objects of 1995 and the Organized Crime Convention and using the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences. For that purpose, there is a need for Member States to review and strengthen domestic legislation to counter trafficking in cultural property, where appropriate, including by establishing relevant conduct as a serious crime, as defined in article 2, paragraph (b), of the Organized Crime Convention;

(d) The importance of Member States continuing to improve data collection and contributing to further research to better understand the dynamics of evolving forms of crime, including cybercrime and trafficking in cultural property, in particular when such crimes involve organized criminal groups and terrorist organizations, was highlighted. Speakers reiterated the role of relevant international organizations in their mandated areas of activity, as well as the importance of working with civil society.