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### Commission on Crime Prevention and Criminal Justice

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#### Draft report

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#### Addendum

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

1. At its 7th meeting, on 17 April, the Commission considered agenda item 6, entitled: “Use and application of United Nations standards and norms in crime prevention and criminal justice”. For its consideration of the items, the Commission had before it the following documents:

(a) Report of the Executive Director on the activities of the United Nations Office on Drugs and Crime (E/CN.7/2008/3-E/CN.15/2008/3);

(b) Report of the Secretary-General on implementation of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (E/CN.15/2008/11);

(c) Report of the Secretary-General on strengthening justice and integrity through technical assistance in developing, transitional and post-conflict societies, with a focus on Africa (E/CN.15/2008/12).

2. The Chief of the Treaty and Legal Assistance Branch, Division for Treaty Affairs, of UNODC made an introductory statement. The Commission also heard statements by the observer for Slovenia (on behalf of the States Members of the United Nations that are members of the European Union and Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia, the former Yugoslav Republic of Macedonia, Turkey and Ukraine as well as Norway). Statements were also made by the representatives of Canada, Germany, Moldova, Nigeria, the Russian Federation and the United States of America. The observer for Thailand also made a statement.

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The observers for Defence for Children International (on behalf of the International Association of Youth and Family Judges and Magistrates, International Juvenile Justice Observatory, Penal Reform International, Terre des Hommes Foundation, World Organization against Torture, the Office of the United Nations High Commissioner for Human Rights and the United Nations Children's Fund), the International Commission for Catholic Prison Pastoral Care and the Japan Federation of Bar Associations also made statements.

## **Deliberations**

3. The representative of the Secretariat informed the Commission that the analysis of the information provided by Member States indicated that most of those States had taken measures to implement the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.<sup>1</sup> The analysis indicated that successful protection plans for child victims and witnesses of crime included the following: (a) establishing special courts or special governmental agencies run by specialized personnel; (b) establishing measures requiring interviews and examinations of child victims and witnesses to be conducted by trained personnel and in a suitable environment; and (c) the use of in camera proceedings in order to protect the privacy and identity of children.

4. The representative referred to the technical activities undertaken by UNODC to assist Member States in the use and application of the United Nations standards and norms and the tools produced for criminal justice practitioners and policymakers, including how the Office had applied the United Nations standards and norms in crime prevention and criminal justice to implement technical assistance in the areas of justice reform and the integrity of criminal justice institutions. He drew the attention of the Commission to conclusions that could be drawn from the experience of UNODC.

5. Several speakers welcomed the work of UNODC in providing operational tools and technical assistance to Member States in the area of criminal justice and crime prevention. In particular, the criminal justice assessment toolkit was seen as an essential tool for policymakers and professionals throughout the world to use in applying United Nations standards and norms. Speakers highlighted the strengthened role of the Commission and of UNODC in implementing United Nations standards and norms in peacekeeping, development and post-conflict reconstruction through capacity-building and judicial reform efforts by strengthening the rule of law and good governance, in particular in the framework of the One United Nations initiative.

6. Several speakers stressed the important role that the United Nations standards and norms in crime prevention and criminal justice played in the global effort to address crime prevention and criminal justice issues and as a point of reference for legislators and practitioners. Their role in providing information on best practices and in developing a coordinated response to crime-related problems was commended. One speaker drew the attention of the Commission to the fact that the United Nations standards and norms provided the same clear guidance as legally

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<sup>1</sup> Economic and Social Council resolution 2005/20, annex.

binding instruments and highlighted that their non-binding nature made them easier and less costly to develop and update.

7. Some speakers underlined the role and renewed importance that the United Nations standards and norms in crime prevention and criminal justice had assumed in promoting and strengthening work on the rule of law, security sector reform and good governance, particularly in States in transitional or post-conflict situations. Commending the work recently undertaken by UNODC in that regard, they stressed the need to progress further in implementing existing standards and norms and to identify innovative approaches and new areas where international standards and norms could be applied. In addition, Member States were encouraged to harmonize national legislation with the relevant standards and norms and to share successful practices on the implementation of such instruments.

8. Some speakers recalled specific key areas, such as the prevention of violence against women, crime prevention and the treatment of prisoners, in which the United Nations standards and norms had provided and could continue to provide a solid foundation for States in reforming their criminal justice systems, making them fairer, more efficient and more effective. Echoing the words of the Secretary-General in his report to the Security Council on rule of law and transitional justice in conflict and post-conflict societies (S/2004/616), one representative stressed the relevance and centrality of crime prevention as the first imperative of justice. In that regard, the representative encouraged Member States to undertake a special effort to making crime prevention work and called for the development of technical tools, particularly in the area of urban crime, to put into practice the Guidelines for the Prevention of Crime.<sup>2</sup>

9. Several speakers highlighted how the existence and acceptance of common standards and norms provided a foundation for more effective cooperation in criminal justice matters. In particular, it was noted how international cooperation in crucial areas, such as police cooperation, including the exchange of information between law enforcement agencies and cross-border surveillance, and judicial cooperation, including mutual legal assistance and the extradition and transfer of prisoners, would not have been possible without a common understanding and acceptance of the underlying standards and norms for the criminal justice process. One speaker indicated that, despite the undeniable progress made, problems remained and there was a need to strengthen and improve international cooperation in criminal justice matters. In that connection, the speaker recalled the relevance and importance of the European Convention on Mutual Assistance in Criminal Matters<sup>3</sup> and invited UNODC to study the matter further with a view to proposing practical solutions.

10. Some speakers expressed support for the periodic review by the Commission of the use and application of those United Nations standards and norms as a means of exchanging information on the implementation of those instruments and making further progress in that regard. It was recognized that the work of collecting and analysing data posed a major challenge both for Member States and the Secretariat. The importance and usefulness of operating with a knowledgebase was stressed, as was the need for further consultation on best practices in data collection. One

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<sup>2</sup> Economic and Social Council resolution 2002/13, annex.

<sup>3</sup> United Nations, *Treaty Series*, vol. 472, No. 6841.

speaker indicated that the quality of the data gathered by UNODC was a crucial consideration and suggested that the Commission should consider reconvening the open-ended intergovernmental expert group on ways and means to improve crime data collection, which had meet in 2006.

11. Some speakers reported on measures taken at the national level to implement United Nations standards and norms, particularly in the areas of the prevention of violence against women, restorative justice, crime prevention and reduction, penal reform, the reform and strengthening of the judiciary, victim support and juvenile justice.

12. Several speakers indicated that the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime represented an important set of standards for the protection of human rights. One speaker stated that the right to be treated with dignity and compassion, the right to be protected from discrimination and the right to be protected from hardship during the justice process constituted the basis of a fair trial. Member States were encouraged to implement the Guidelines in their national legislation, paying special attention to the preparation of children for their role as witnesses and to the possibility of using audio-visual means for children to provide testimony. Members States were also encouraged to share information and expertise that they might have in that area and were reminded of the importance of reporting periodically on the status of implementation of the Guidelines, including on difficulties that might have hindered their implementation.

13. One speaker stressed the need to provide technical, material and financial assistance to developing countries and to countries in post-conflict situations in order to assist in the implementation of the Guidelines. It was suggested that the Guidelines should be translated into languages other than the six official languages of the United Nations. In that regard, it was noted more generally that the utilization of the United Nations standards and norms by Government officials, lawyers, staff of non-governmental organizations and citizens could be increased by translating the standards and norms into additional languages. One speaker urged Member States to translate relevant standards and norms into their national languages.

14. One speaker outlined the successful results of five years of programmes in the area of human rights and the rule of law, which, with the support of UNODC and other partners, had led to considerably modernized judiciaries that served as models for other States. Results included decreased use of pretrial detention, increased trust in the judiciary and improved case-flow management.

15. Reference was made to the importance of adopting comprehensive national action plans on crime prevention and child justice reform containing, in particular, specific targets with regard to decreasing the pretrial detention and imprisonment of children, including through the use of diversion, restorative justice and alternatives to imprisonment and ensuring proper detention conditions. In connection with violence against children in conflict with the law, attention was drawn to the recommendations contained in the report of the independent expert for the United Nations study on violence against children (A/61/299) and the *World Report on Violence against Children*.<sup>4</sup>

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<sup>4</sup> Paulo Sérgio Pinheiro, *World Report on Violence against Children* (Geneva, United Nations Secretary-General's Study on Violence against Children, 2006).

16. Concern was expressed about the overuse of sentencing, in particular because conditions in prisons were often not conducive to rehabilitation. It was highlighted that mental health and education and rehabilitation programmes in prisons often were unsuccessful owing to the security situation in the prison or to overcrowding.

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