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Dear Delegates,

Welcome to the 2017 National Model United Nations New York Conference (NMUN•NY)! We are pleased to introduce you to our committee, the Commission on Crime Prevention and Criminal Justice (CCPCJ). This year's staff is: Directors Sara Calamitosi (Conference A) and Grace Moyo (Conference B), and Assistant Directors Tiffany Dao (Conference A) and Gabrielle Sferra (Conference B). Sara received her Master's degree in Law in 2015 and is currently working as a legal trainee at a law firm in Perugia, Italy. This will be her third year on staff, and she is excited to return to NMUN•NY. Grace completed her Bachelor of Laws (LL.B) in 2015 at Rhodes University in South Africa. She is currently pursuing a Master of Laws in Dispute Resolution at the University of Cape Town, and is looking forward to her third year on NMUN•NY staff. Tiffany is currently studying at the University of Washington-Seattle and will soon finish her Bachelor in Law, Societies, and Justice. This will be her fifth time at an NMUN Conference and she is excited to be on staff at NMUN•NY. Gabrielle graduated from Syracuse University in May with a Bachelor in Television, Radio, and Film and a Bachelor in International Relations. She is currently pursuing a career in documentary filmmaking in New York City and is looking forward to serving on NMUN•NY staff for the first time.

The topics under discussion for CCPCJ are:

- I. Strengthening the Rule of Law for Post-Conflict Recovery
- II. Criminal Justice Responses to Prevent and Counter Terrorism in All Forms
- III. Strengthening International Legal Frameworks to Address Sexual Violence in Conflict

CCPCJ is a subsidiary organ of the United Nations (UN) Economic and Social Council (ECOSOC) and represents the main forum where Member States debate standards and norms in the fields of crime prevention and criminal justice. CCPCJ is also a governing body of the UN Office on Drugs and Crime (UNODC), and it prepares the UN Congress on Crime Prevention and Criminal Justice. Recent threats to international peace and security have made CCPCJ's role even more relevant, while the adoption of the *2030 Agenda for Sustainable Development* has also significantly influenced the work of the Commission.

This Background Guide serves as an introduction to the topics for this committee. However, it is not intended to replace individual research. We encourage you to explore your Member State's policies in depth and use the Annotated Bibliography and Bibliography to further your knowledge on these topics. In preparation for the Conference, each delegation will submit a Position Paper by 11:59 p.m. (Eastern) on 1 March 2017 in accordance with the guidelines in the [Position Paper Guide](#) and the [NMUN•NY Position Papers](#) website.

Two essential resources for your preparation are the [Delegate Preparation Guide](#) and the [NMUN Rules of Procedure](#) available to download from the NMUN website. The [Delegate Preparation Guide](#) explains each step in the delegate process, from pre-Conference research to the committee debate and resolution drafting processes. The [NMUN Rules of Procedure](#) include the long and short form of the rules, as well as an explanatory narrative and example script of the flow of procedure. In tandem, these documents thus serve as essential instruments in preparing for the Conference and as a reference during committee sessions.

Please take note of information in the [Delegate Preparation Guide](#) on plagiarism and the prohibition of pre-written working papers and resolutions. Additionally, please review the [NMUN Policies and Codes of Conduct](#) on the NMUN website regarding the Conference dress code; awards philosophy and evaluation method; and codes of conduct for delegates, faculty, and guests regarding diplomacy and professionalism. Importantly, any instances of sexual harassment or discrimination based on race, gender, sexual orientation, national origin, religion, age, or disability will not be tolerated. Adherence to these policies is mandatory.

If you have any questions concerning your preparation for the committee or the Conference itself, please contact the Under-Secretaries-General for the ECOSOC Department, Tsesa Monaghan (Conference A) and Dominika Ziemczonek (Conference B), at usg.ecosoc@nmun.org.

We wish you all the best in your preparations and look forward to seeing you at the Conference!

Sincerely,

Conference A

Sara Calamitosi, *Director*
Tiffany Dao, *Assistant Director*

Conference B

Grace Moyo, *Director*
Gabrielle Sferra, *Assistant Director*



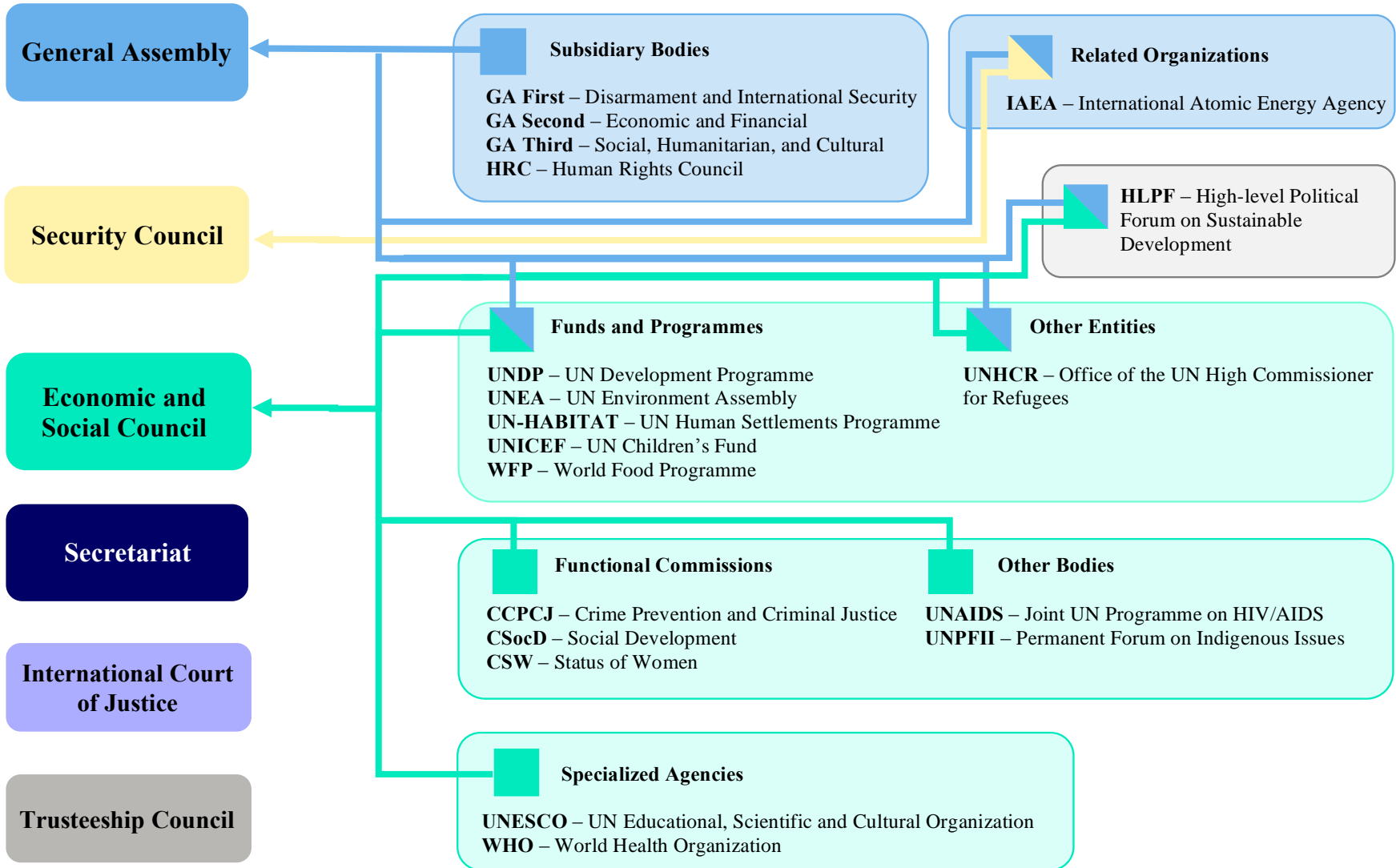
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United Nations System at NMUN•NY

This diagram illustrates the UN system simulated at NMUN•NY and demonstrates the reportage and relationships between entities. Examine the diagram alongside the Committee Overview to gain a clear picture of the committee's position, purpose, and powers within the UN system.





Abbreviations

CCPC	Committee on Crime Prevention and Control
CCPCJ	Commission on Crime Prevention and Criminal Justice
CJA	Center for Justice and Accountability
CND	Commission on Narcotic Drugs
CTITF	Counter-Terrorism Implementation Task Force
DESA	Department of Economic and Social Affairs
DPKO	Department of Peacekeeping Operations
ECOSOC	Economic and Social Council
FATF	Financial Action Task Force
HLPF	High-level Political Forum on Sustainable Development
ICC	International Criminal Court
ICTJ	International Center for Transitional Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal of the Former Yugoslavia
MARA	Monitoring, analysis, and reporting arrangements
NGO	Non-governmental organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
SDG	Sustainable Development Goal
SGB	Secretariat to the Governing Bodies
SRSV SViC	Special Representative of the Secretary-General on Sexual Violence in Conflict
TPB	Terrorism Prevention Branch
UN	United Nations
UN-Women	United Nations Entity for Gender Equality and the Empowerment of Women
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime
WPA	Women's Protection Advisers

Committee Overview

Introduction

The Commission on Crime Prevention and Criminal Justice (CCPCJ) is the main body within the United Nations (UN) that addresses issues related to crime and legal systems.¹ CCPCJ is a subsidiary organ and functional commission of the Economic and Social Council (ECOSOC).² The Commission collaborates with other UN bodies working in the field of crime and criminal justice, and it is a significant actor in the efforts for creating adequate conditions for sustainable development, peace, and security.³ CCPCJ's resolutions are reported to ECOSOC and the Third Committee (Humanitarian and Cultural Affairs) of the UN General Assembly, and adopted through these entities.⁴ Together with the Commission on Narcotic Drugs (CND), CCPCJ is part of the UN Office on Drugs and Crime (UNODC).⁵ Furthermore, CCPCJ is the preparatory body for the UN Congress on Crime Prevention and Criminal Justice (UN Crime Congress), and it also manages the finances of the UN Crime Prevention and Criminal Justice Fund.⁶ This Committee Overview will briefly outline the history of CCPCJ, and provide a summary of its mandate, functions, and relevance in the achievement of the main goals of the UN.

The Commission on Crime Prevention and Criminal Justice (CCPCJ) is a functional commission of the Economic and Social Council (ECOSOC).

The reason for the creation and integration of CCPCJ into ECOSOC was that ECOSOC had to find a format for the governance issues of crime and criminal justice, as this falls within the scope of its mandate.⁷ For this purpose, ECOSOC created the Committee on Crime Prevention and Control (CCPC) in 1971.⁸ CCPC was a technically-focused group of appointed experts selected according to their individual capacity.⁹ In 1991, the General Assembly passed a resolution on the "Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme."¹⁰ This General Assembly resolution was implemented by ECOSOC resolutions 1992/1, which established CCPCJ to replace CCPC, and 1992/22, which defined CCPCJ's mandates and priorities.¹¹ The reform of the governance structures integrated the new body, CCPCJ, fully into the intergovernmental process.¹²

Since then, the debate in the new Commission was gradually politicized as diplomats, rather than experts, became responsible for the deliberations.¹³ Those changes reflected the growing necessity of governments to discuss criminal issues at the international level, especially within the UN.¹⁴ With the rise in transnational crime in the past 20 years and the increasing number of threats to peace that are alarming to the international community, CCPCJ has assumed a central role in the discussion on the measures to adopt against these threats.

¹ UNODC, *CCPCJ*, 2016.

² UNODC, *CCPCJ: Mandate and Functions*, 2016.

³ UNODC, *CCPCJ*, 2016.

⁴ UNODC, *Commission on Narcotic Drugs and Commission on Crime Prevention and Criminal Justice: General information on draft resolutions and draft decisions*.

⁵ UNODC, *Commissions*, 2016.

⁶ UNODC, *CCPCJ: Mandate and Functions*, 2016.

⁷ *Charter of the United Nations*, 1945, Articles 1 (3), 55, 62.

⁸ Union of International Association, *Open Yearbook: United Nations Committee on Crime Prevention and Control*, 1992.

⁹ Clark, *Human Rights and the U.N. Committee on Crime Prevention and Control*, 1989, pp. 68-69; van Dijk, *Criminological Research in the Framework of the United Nations*, 2009, p. 228.

¹⁰ UN General Assembly, *Creation of an effective United Nations crime prevention and criminal justice programme (A/RES/46/152)*, 1991; UN ECOSOC, *Implementation of General Assembly resolution 46/152 concerning operational activities and coordination in the field of crime prevention and criminal justice (E/1992/22)*, 1992.

¹¹ UNODC, *CCPCJ*, 2016; UN ECOSOC, *Establishment of the Commission on Crime Prevention and Criminal Justice (E/RES/1992/1)*, 1992; UN ECOSOC, *Implementation of General Assembly resolution 46/152 concerning operational activities and coordination in the field of crime prevention and criminal justice (E/1992/22)*, 1992.

¹² van Dijk, *Criminological Research in the Framework of the United Nations*, 2009, p. 228.

¹³ *Ibid.*

¹⁴ *Ibid.*, p. 229.

Governance, Structure, and Membership

The Commission consists of 40 Member States, elected by ECOSOC, each serving a three-year term.¹⁵ The members are chosen according to equitable geographical allocation and are composed of 12 African states, nine Asian-Pacific states, four Eastern European states, eight Latin American and Caribbean states, and seven Western European and other states.¹⁶ The body meets twice annually at the UNODC headquarters in Vienna, once during the first half of the year and again in December, to consider administrative and budgetary matters.¹⁷ There are also intersessional meetings to finalize the provisional agenda, address formal and substantive matters, and to offer effective policy guidance to UNODC.¹⁸ At each session, the Commission approaches a thematic discussion on a priority issue identified at its previous sessions.¹⁹

The Bureau and Extended Bureau of the Commission assist CCPCJ in organizing and preparing its work thoroughly and in advance of the various sessions.²⁰ The Bureau's Chairperson, three Vice-Chairpersons, and Rapporteur rotate amongst Member States after each session, and the Extended Bureau consists of the chairpersons of the five regional groups, the European Union, China, and the Group of 77.²¹ The Bureau and Extended Bureau are assisted by the Secretariat to the Governing Bodies (SGB).²² The Secretariat serves as a link between CCPCJ and CND, as well as other parts of UNODC, and as an administrative link to the General Assembly and ECOSOC.²³ Also, the SGB offers substantial support to CCPCJ when required and assists in preparing the UN Crime Congresses.²⁴

Due to the great variety of topics covered by CCPCJ, the Commission has several experts and working groups.²⁵ These include a standing open-ended intergovernmental working group together with CND on improving governance and the financial situation, an expert group on protection against trafficking in cultural property, and a group on standard minimum rules for the treatment of prisoners.²⁶ Other expert group meetings have also been held in Vienna and in other Member States; one was held on gender-related killing of women and girls, while another was held on strengthening access to legal aid in criminal justice systems.²⁷ Pursuant to the latter meeting, the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* were adopted by the General Assembly in resolution 67/187 in 2013.²⁸

The Commission, like UNODC, is reliant on funding by Member States, the amount of which is largely at each state's own discretion. While UNODC's administrative infrastructure and core normative work are financed through a regular budget, the largest part of its budget is made up of extra-budgetary resources, of which special-purpose

¹⁵ UN General Assembly, *Creation of an effective United Nations crime prevention and criminal justice programme* (A/RES/46/152), 1991.

¹⁶ New Zealand, Ministry of Foreign Affairs and Trade, *United Nations Handbook 2016-2017*, 2016, pp. 167-170.

¹⁷ UNODC, *CCPCJ: Regular And Intersessional Meetings Of The Commission*, 2016; UNODC, *Documentation*, 2016; UN ECOSOC, *Frequency and duration of the reconvened sessions of the Commission on Narcotic Drugs and the Commission on Crime Prevention and Criminal Justice (Decision 2009/251)*, 2009.

¹⁸ UNODC, *CCPCJ: Meetings*, 2016.

¹⁹ *Ibid.*

²⁰ UNODC, *CCPCJ. Bureau and Extended Bureau*, 2016.

²¹ *Ibid.*

²² UNODC, *Secretariat to the Governing Bodies*, 2016.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ UNODC, *CCPCJ: Expert groups and working groups*, 2016.

²⁶ UNODC, *Standard Minimum Rules for the Treatment of Prisoners*, 2016; UNODC, *Standing open-ended intergovernmental working group on improving the governance and financial situation of the United Nations Office on Drugs and Crime*, 2016; UNODC, *Third meeting of the Open-ended intergovernmental expert group on protection against trafficking in cultural property, Vienna, 15-17 January 2014*, 2016.

²⁷ UNODC, *Open-ended Intergovernmental Expert Group Meeting on gender-related killing of women and girls*, 2014, pp. 11-13; UN General Assembly, *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* (A/RES/67/187), 2013.

²⁸ UN General Assembly, *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* (A/RES/67/187), 2013.

funds and donations by Member States are most important, composing 80-85% of the total budget.²⁹ This can be an obstacle, for example, to adequate empirical research on crime if funds are not allocated to projects that are not welcomed by Member States.³⁰ A limited budget can also hinder efficient and strategic planning, which in turn makes donating less attractive.³¹ Calls to end the financial drought of UNODC and other programs and institutes are frequently repeated.³² In 2008, CCPCJ and CND set up a Working Group on “improving the governance and financial situation of UNODC,” which mandated the Joint Inspection Unit and the Office of the Internal Oversight Service to monitor the financial needs of the UNODC.³³

Mandate, Functions, and Powers

CCPCJ is mandated to approach issues of national and transnational crime, economic crime, and money laundering; to promote criminal law and all forms of crime prevention; and to assist in the management and improvement of criminal justice and related systems, focusing especially on strengthening national capacities in developing and implementing policies.³⁴ All these measures are aimed at preventing crime within and among Member States, and ameliorating responses to crime.³⁵ Furthermore, the Commission represents the main forum where Member States debate standards and norms in the field of crime prevention and criminal justice.³⁶ The Commission is also mandated to prepare the UN Crime Congress, which has been held every five years since 1955 to consider specific predetermined crime-related topics.³⁷ CCPCJ’s mandate was further expanded in 2006, making CCPCJ a governing body of UNODC and giving the Commission the responsibility to approve the general budget of the UN Crime Prevention and Criminal Justice Fund, which consists of the financial resources allocated to provide technical assistance in crime-related issues.³⁸

The functions of CCPCJ are congruent with its mandate.³⁹ As one of ECOSOC’s functional commissions, CCPCJ’s role is to consider and make recommendations to ECOSOC through a deliberative process in its fields of expertise and responsibility.⁴⁰ General Assembly resolution 46/152 of 1991, which created CCPCJ, establishes five main functions to be implemented by the Commission: offering policy guidance in the area of crime prevention and criminal justice; designing, monitoring, and reviewing the UN crime program’s implementation, taking into account priorities; enabling and coordinating assistance for UN entities for the prevention of crime and treatment of offenders; helping Member States become aligned and active for the goals of the program; and planning and managing the UN Crime Congresses.⁴¹ CCPCJ also cooperates with the UN Interregional Crime and Justice Research Institute (UNICRI) and can invite the Institute to report on issues related to its work.⁴² Together with

²⁹ Bewley-Taylor & Trace, *The Funding of the United Nations Office on Drugs and Crime: An Unfinished Jigsaw*, 2006, pp. 2-6; UNODC, *Fundraising Strategy 2012-2015*, 2012, pp. 33-34; UN CCPCJ, *Improving the governance and financial situation of the United Nations Office on Drugs and Crime: recommendations of the standing open-ended intergovernmental working group on improving the governance and financial situation of the United Nations Office on Drugs and Crime (Resolution 24/2)*, 2013.

³⁰ van Dijk, *Criminological Research in the Framework of the United Nations*, 2009, p. 249.

³¹ Bewley-Taylor & Trace, *The Funding of the United Nations Office on Drugs and Crime: An Unfinished Jigsaw*, 2006, p. 13.

³² UNODC, *Compilation on the methods of work of the United Nations CCPCJ*, 2013, pp. 34-37; UN General Assembly, *Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (A/RES/70/174)*, 2015.

³³ UNODC, *Fundraising Strategy 2012-2015*, 2012, pp. 3-8.

³⁴ UN ECOSOC, *Implementation of General Assembly resolution 46/152 concerning operational activities and coordination in the field of crime prevention and criminal justice (E/1992/22)*, 1992.

³⁵ UN General Assembly, *Creation of an effective United Nations crime prevention and criminal justice programme (A/RES/46/152)*, 1991.

³⁶ UNODC, *Compendium of United Nations standards and norms in crime prevention and criminal justice*, 2006.

³⁷ UN ECOSOC, *Establishment of the Commission on Crime Prevention and Criminal Justice (E/1992/1)*, 1992; UN ECOSOC, *Implementation of General Assembly resolution 46/152 concerning operational activities and coordination in the field of crime prevention and criminal justice (E/1992/22)*, 1992; UNODC, *United Nations Crime Congresses*.

³⁸ UN General Assembly, *Questions relating to the programme budget for the biennium 2006–2007 (A/RES/61/252)*, 2006; UNODC, *CCPCJ*, 2016.

³⁹ New Zealand, *United Nations Handbook 2016-2017*, 2016, pp. 167-168.

⁴⁰ UNODC, *CCPCJ*, 2016; Guide to UN Documentation, Dag Hammarskjöld Library at Uppsala University, *Functional Commissions*, 2014.

⁴¹ UN General Assembly, *Creation of an effective United Nations crime prevention and criminal justice programme (A/RES/46/152)*, 1991.

⁴² UN CCPCJ, *Strengthening crime prevention and criminal justice responses to counterfeiting and piracy (Decision 19/1)*, 2010.

UNICRI and other establishments, CCPCJ, as part of UNODC, is part of the UN Crime Prevention and Criminal Justice Programme Network.⁴³

An important aspect of CCPCJ's functions is its work with the UN Crime Congresses.⁴⁴ The Congresses no longer have the status of a quasi-legislative body, but play a decisive role in international standard-setting and policy-shaping in crime prevention and criminal justice.⁴⁵ Through the preparation of the Congresses, CCPCJ has not only contributed to international soft law in the form of guidelines and other recommendations, but also to hard law via the consolidation of the UN crime program, for instance by initiating the deliberations on the *UN Convention against Transnational Organized Crime* (2000).⁴⁶ CCPCJ adopts resolutions, which the Commission then recommends to ECOSOC for adoption.⁴⁷ Adopted resolutions are subsequently reported to the General Assembly Third Committee.⁴⁸

Recent Sessions and Current Priorities

CCPCJ's work has been significantly influenced by the adoption of the *2030 Agenda for Sustainable Development*, in particular by Sustainable Development Goal (SDG) 16, entitled "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels."⁴⁹ This goal highlighted the fundamental role of justice in achieving sustainable development.⁵⁰ In addition to its traditional involvement in this field, CCPCJ works to promote and achieve many other SDGs, such as SDG 3, "Ensure Healthy Lives and Promote Well-Being for All at All Ages," and SDG 8, "Promote Sustained, Inclusive and Sustainable Economic Growth, Full and Productive Employment and Decent Work for All."⁵¹ In this regard, CCPCJ contributes to the debate of the High-level Political Forum on Sustainable Development (HLPF).⁵² HLPF offers policy guidance for sustainable development, and addressed the theme "Ensuring that no one is left behind" at its 2016 session.⁵³ CCPCJ provided substantive contributions, considering the topic from its point of view and suggesting policy strategies to Member States.⁵⁴

The Commission focused the Thirteenth UN Crime Congress in 2015 on the integration of justice into the forthcoming UN development agenda, as well as on the promotion of the rule of law.⁵⁵ Rule of law has been defined by the UN Secretary-General Ban Ki-moon as "a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws."⁵⁶ Its effective realization is a central factor in the UN's work; its importance stems from the fact that it is closely interwoven with the promotion and

⁴³ UNODC, *Institutes of the UN Crime Prevention and Criminal Justice Programme Network (PNI)*, 2016.

⁴⁴ UNODC, *Thirteenth Congress on Crime Prevention and Criminal Justice: Previous Congresses*, 2016; van Dijk, *Criminological Research in the Framework of the United Nations*, 2009, p. 229.

⁴⁵ van Dijk, *Criminological Research in the Framework of the United Nations*, 2009, p. 229.

⁴⁶ *Ibid.*

⁴⁷ UNODC, *The General Assembly and the CND and CCPCJ*, 2016.

⁴⁸ *Ibid.*

⁴⁹ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015; CND & CCPCJ, *Contribution by UNODC in implementing the 2030 Agenda for Sustainable Development, and a proposed role of the CND and CCPCJ in reviewing the progress of the SDGs*, 2016.

⁵⁰ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015.

⁵¹ UN CND & UN CCPCJ, *Contribution by UNODC in implementing the 2030 Agenda for Sustainable Development, and a proposed role of the CND and CCPCJ in reviewing the progress of the SDGs*, 2016.

⁵² UN CCPCJ, *Note on the Contribution of the Commission on Crime Prevention and Criminal Justice to the 2016 High-level Political Forum on Sustainable Development on "Ensuring that no one is left behind"*, 2016.

⁵³ UN DESA, *High-level Political Forum on Sustainable Development*, 2016.

⁵⁴ UN CCPCJ, *Note on the Contribution of the Commission on Crime Prevention and Criminal Justice to the 2016 High-level Political Forum on Sustainable Development on "Ensuring that no one is left behind"*, 2016, p. 7.

⁵⁵ UN General Assembly, *Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (A/RES/70/174)*, 2015.

⁵⁶ UN and The Rule of Law, *What is the Rule of Law?*

reinforcement of peace and security, development, human rights, and democracy.⁵⁷ The discussion of these themes continued later in 2015, at CCPCJ's 24th session.⁵⁸

At the Commission's most recent session, the 25th, the debate was focused on criminal justice responses to the threat of terrorism.⁵⁹ Indeed, countering terrorism and its prevention is one of the goals for the current biennium, alongside countering corruption, illicit drug trafficking, and transnational organized crime.⁶⁰ During the next biennium, CCPCJ will continue to develop these topics, and particularly at its 26th session, CCPCJ will discuss comprehensive and integrated crime prevention strategies.⁶¹

Conclusion

CCPCJ plays a significant role in the promotion of the rule of law, a continually pertinent international topic in light of the post-2015 development agenda. Goal 16 in particular places CCPCJ in a prominent role in the achievement of many SDGs. At the same time, the threat of terrorism necessitates that the Commission urgently addresses this issue. While CCPCJ cannot formulate binding decisions for Member States directly, it influences the evolution of soft and hard international law.⁶² Crime has a significant direct impact on the lives of millions; those figures are far higher when thinking of the indirect impact and of economic and social consequences.⁶³ Therefore, the combination of political deliberations that bring attention to the issues that are discussed by CCPCJ, as well as the expertise and the actions that CCPCJ can undertake according to its mandate, is useful to find comprehensive solutions. It is important to remember CCPCJ's position within the UN crime prevention program, and to consider which other UN entities it can work effectively with in order to realize the potential that the Commission offers to Member States and the global community.

Annotated Bibliography

United Nations, Commission on Narcotic Drugs & United Nations, Commission on Crime Prevention and Criminal Justice. (2016). *Contribution by UNODC in implementing the 2030 Agenda for Sustainable Development, and a proposed role of the CND and CCPCJ in reviewing the progress of the SDGs* [Conference Room Paper]. Retrieved 20 July 2016 from:

https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_59/ECN72016_CRP1_V1601406.pdf

This document, released by the Governing Bodies of UNODC, addresses the introduction of the 2030 Agenda for Sustainable Development. From the point of view of CND and CCPCJ, the SDGs represent a great opportunity to take into consideration the strong connection between the rule of law and development. This document is particularly interesting because it highlights the relevance of the contributions of CND and CCPCJ to the successful achievement of several SDGs. Furthermore, this resource provides a brief summary of the current work of CND and CCPCJ on the topics addressed by the SDGs.

United Nations, Economic and Social Council. (1992). *Implementation of General Assembly resolution 46/152 concerning operational activities and coordination in the field of crime prevention and criminal justice (E/RES/1992/22)* [Resolution]. Retrieved 23 August 2016 from: <http://www.undocs.org/E/RES/1992/22>

In reading this resolution, delegates will be able to understand CCPCJ's mandate and thus the scope of their possible actions. Further, the Annex also enables them to contextualize the mandate

⁵⁷ UN General Assembly, *Discussion Guide (A/CONF.222/PM.1)*, 2013; UN and the Rule of Law, *What is the rule of law?; UN and the Rule of Law; UN and the Rule of Law*; UN Web TV, *Jan Eliasson, Measuring the Rule of Law and the Post-2015 Development Agenda*, 2014.

⁵⁸ UN CCPCJ, *Report on the twenty-fourth session (E/2015/30)*, 2015.

⁵⁹ UN CCPCJ, *Report on the twenty-fifth session (E/2016/30)*, 2016.

⁶⁰ UN General Assembly, *Proposed strategic framework for the period 2016-2017 (A/69/6 (Prog. 13))*, 2014.

⁶¹ UN ECOSOC, *Report of the Commission on Crime Prevention and Criminal Justice on its twenty-fifth session and provisional agenda for its twenty-sixth session (E/CN.15/2016/L.8)*, 2016; UN General Assembly, *Proposed strategic framework for the period 2018-2019 (A/71/6 (Prog. 13))*, 2016.

⁶² van Dijk, *Criminological Research in the Framework of the United Nations*, 2009, p. 228.

⁶³ UN Office of the President of the General Assembly, *Thematic Debate of the 66th session of the United Nations General Assembly on Drugs and Crime as a Threat to Development: On the occasion of the UN International Day against Drug Abuse and Illicit Trafficking*, 2012.

and identify its possible focal points. Understanding CCPCJ's role in the broader UN crime program is paramount for realizing the full potential of CCPCJ as a subsidiary organ of ECOSOC. It also helps in envisioning possible and realistic cooperation with other UN entities.

United Nations, General Assembly, Seventieth session. (2015). *Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (A/RES/70/174)* [Resolution]. Adopted on the report of the Third Committee (A/70/490). Retrieved 27 August 2016 from: <http://undocs.org/A/RES/70/174>

This resolution includes the Doha Declaration, which is the outcome document of the Thirteenth Congress on Crime Prevention and Criminal Justice held in Doha in April 2015. CCPCJ acted as a preparatory body of the Congress. The document calls upon Member States to improve their efforts in implementing the main conventions against international crimes, and creates the basis for the discussion on the relevance of the rule of law in the achievement of development goals.

United Nations Office on Drugs and Crime. (2006). *Compendium of United Nations standards and norms in crime prevention and criminal justice*. Retrieved 18 July 2016 from:

https://www.unodc.org/pdf/criminal_justice/Compendium_UN_Standards_and_Norms_CP_and_CJ_English.pdf

This Compendium, published for the first time in 1992 and revised in 2006, contains the most relevant resources, standards, and norms related to crime prevention and criminal justice. The Compendium is organized by topic, and every section mentions the specific resolution that created the norm. Despite the fact that national criminal systems still differ from each other, these norms represent the basic structure to consider and follow when reforming criminal justice systems. This document also makes reference to the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by the General Assembly on 17 December 2015 in its resolution 70/175.

United Nations Office on Drugs and Crime, Secretariat to the Governing Bodies. (2013). *Compilation on the methods of work of the United Nations Commission on Crime Prevention and Criminal Justice*. Retrieved 30 August 2016 from:

https://www.unodc.org/documents/commissions/CCPCJ/Working_Methods/Compilation_CCPCJ_working_methods.pdf

This compilation of documents by CCPCJ is highly valuable as it provides an overview of important rules, resolutions, and decisions by the General Assembly, ECOSOC, and CCPCJ, all impacting CCPCJ's work. It gives a realistic insight into the Commission's work, as it was compiled by a Member State (Canada) and updated by the Secretariat. The document is structured according to topics, which makes it easy to navigate for delegates. As it lists relevant quotes from original documents, it provides a starting point for in-depth research into CCPCJ's efforts. Furthermore, it provides an extensive chronological index of all contents, which enhances the understanding of the historical genesis of CCPCJ.

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I. Strengthening the Rule of Law for Post-Conflict Recovery

“Rights are empty words in the absence of a legal and political order in which they can be realized. The rule of law is the vehicle for the promotion and protection of all human rights.”⁶⁴

Introduction

One of the primary needs of a post-conflict state is to strengthen and develop rule of law. Strengthening the rule of law is fundamental to recovering from a conflict because it strengthens institutions and restores citizens’ faith in the legitimacy of their government.⁶⁵ The rule of law is “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.”⁶⁶ Rule of law incorporates all aspects of legislative and judicial institutions.⁶⁷ It includes a free press, law enforcement, police standards, the enforcement of a constitution, and everything that gives legitimacy to the ruling government.⁶⁸ A state with strong rule of law is one in which the government is held accountable for its actions, at-risk minorities are protected and secure, and there is minimal corruption in government and private business.⁶⁹ Rule of law is weakened in post-conflict states because of damaged institutions, poor security, lack of resources, and a disillusioned and exhausted population.⁷⁰ Therefore, strengthening the rule of law in states recovering from a violent conflict is a multidimensional and complex task that requires committed attention from the United Nations (UN).⁷¹

The UN is working actively to develop best practices to rehabilitate a state in post-conflict recovery.⁷² After a conflict has ended, ensuring the security of the citizens is a primary goal.⁷³ Efforts to develop the rule of law and the subsequent institutions require a developed and integrative plan.⁷⁴ Finding justice in the aftermath of atrocities is an important step in reestablishing respect for the law; many post-conflict states pursue transitional justice to this end, which is “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation.”⁷⁵ When reconstructing a post-conflict state, strengthening access to security and justice and protecting at-risk groups should be prioritized as foundational to supporting the rule of law.⁷⁶

International and Regional Framework

The UN has promoted rule of law since the signing of the *Charter of the United Nations* (1945), immortalizing it as a key goal of the organization.⁷⁷ The preamble to the *Universal Declaration of Human Rights* (1948) explicitly supports the rule of law, especially as a mechanism to protect human rights.⁷⁸ Furthermore, several international covenants have played a key role in reaffirming the UN’s commitment to rule of law. The *International Covenant on Civil and Political Rights* (1966) and the *International Covenant on Economic, Social and Cultural Rights* (1966)

⁶⁴ UN DPI, *Rule of Law Drives Promotion, Protection of Human Rights*, Deputy Secretary-General, 2014.

⁶⁵ UNODC, *Crime Commission Closes on Reminder that Rule of Law Protects Against Violence, Oppression, and Injustice*, 2013.

⁶⁶ UN Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General (S/2004/616)*, 2004.

⁶⁷ Open Society Foundations, *Three Principles to Strengthen Rule of Law*.

⁶⁸ Ibid.

⁶⁹ World Justice Project, *What We Do*.

⁷⁰ UN Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General (S/2004/616)*, 2004, pp. 3-4.

⁷¹ Stromseth, *Post-conflict Rule of Law Building: The Need for a Multi-Layered, Synergistic Approach*, 2008, p. 1448.

⁷² UN Rule of Law, *What is the Rule of Law?*

⁷³ UNODC, *Criminal Justice Reform in Post-Conflict State: A Guide for Practitioners*, 2011. p. 10.

⁷⁴ Stromseth, *Post-conflict Rule of Law Building: The Need for a Multi-Layered, Synergistic Approach*, 2008, p. 1454.

⁷⁵ UN Rule of Law, *Guidance Note of the Secretary General: United Nations Approach to Transitional Justice*, 2010, p. 2.

⁷⁶ UNODC, *Criminal Justice Reform in Post-Conflict State: A Guide for Practitioners*, 2011. p. 2.

⁷⁷ UN Rule of Law, *What is the Rule of Law?*

⁷⁸ UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

both recognized the role of the rule of law not only in upholding covenants and international treaties, but also as a means to furthering the international standard.⁷⁹

In 2000, the *Report of the Panel on UN Peace Operations* (Brahimi Report) was published as an integral framework document for promoting the rule of law in post-conflict peacebuilding.⁸⁰ After the shortcomings of the Security Council in Rwanda, the Brahimi Report found that the UN had been prematurely engaged in post-conflict peacebuilding before conflicts had concluded.⁸¹ The report encouraged a doctrinal shift in the approach to peacekeeping and peacebuilding efforts, emphasizing more cooperation with the local communities; this shift would make peacebuilding initiatives more inclusive of local contexts and support gradual trust building in post-conflict states, increasing reconciliation and the overall sustainability of these new institutions.⁸²

Following up on the Brahimi Report, the High-Level Independent Panel on Peace Operations was commissioned to evaluate the status of peace operations.⁸³ The subsequent report recommended four shifts in structure of peacekeeping strategy: building stronger partnerships with regional organizations, prioritizing political solutions, promoting individualized solutions for each situation, and enabling UN personnel to act in the field more effectively.⁸⁴ The *2015 Review of the United Nations Peacebuilding Architecture*, which identified several persistent flaws in peacebuilding mandates, also called for more collaboration between UN entities.⁸⁵ In 2008, the Secretary-General published a *Guidance Note: Approach to the Rule of Law*.⁸⁶ The document highlights eight guiding principles and six steps for strengthening the Rule of Law at the national level.⁸⁷ The Guidance Note advises all Member States to ratify a constitution, develop a legal framework, define an electoral system, ensure human rights, promote civil society, and adapt to transitional justice processes.⁸⁸ The note provides a clear methodology and goals for the UN to create tailored rule of law programs for Member States, be it in post-conflict situations or not.⁸⁹

The Economic and Social Council (ECOSOC) responded to the recommendations of the Brahimi Report and worked to further strengthen coordination with subsidiary bodies.⁹⁰ Through resolution 2004/25 (2004), ECOSOC requested collaboration between UN entities including with the United Nations Office on Drugs and Crime (UNODC) and the Department of Peacekeeping Operations (DPKO) to create specific programming for post-conflict recovery planning with a primary focus on crime prevention and criminal justice reform.⁹¹ Subsequent resolutions on this topic, including ECOSOC resolutions 2006/25 and 2014/19 adopted in 2006 and 2014, respectively, call upon the Commission on Crime Prevention and Criminal Justice (CCPCJ) to strengthen international cooperation in upholding the rule of law, with an emphasis on criminal justice reform in post-conflict situations.⁹² One of the ways

⁷⁹ UN General Assembly, *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966; UN General Assembly, *International Covenant on Economic, Social and Cultural Rights (A/RES/2200 (XXI))*, 1966.

⁸⁰ UN General Assembly, *United Nations Millennium Declaration (A/RES/55/2)*, 2000, p. 7; UN General Assembly and Security Council, *Identical Letters Dated 21 August 2000 from the Secretary-General to the President of the General Assembly and the President of the Security Council (A/55/305-S/2000/809)*, 2000, p. 7.

⁸¹ UN General Assembly and Security Council, *Identical Letters Dated 21 August 2000 from the Secretary-General to the President of the General Assembly and the President of the Security Council (A/55/305-S/2000/809)*, 2000, p. 3.

⁸² *Ibid.*, p. 7.

⁸³ Future Peace Operations, *Information Note on High-Level Independent Panel on Peace Operations*, 2015, p. 2.

⁸⁴ UN General Assembly, *Identical Letters Dated 17 June 2015 from the Secretary-General Addressed to the President of the General Assembly and the President of the Security Council (A/RES/70/95)*, 2015, pp. 9-10.

⁸⁵ UN General Assembly, *Identical Letters Dated 29 June 2015 from the Chair of the Advisory Group of Experts on the Review of the Peacebuilding Architecture addressed to the President of the General Assembly and the President of the Security Council, (A/69/968)*, 2015, p. 4.

⁸⁶ UN Office of the Secretary-General, *Secretary-General Guidance Note: Approach to the Rule of Law*, 2008 p. 1.

⁸⁷ *Ibid.*

⁸⁸ UN Office of the Secretary General, *Secretary-General Guidance Note: Approach to the Rule of Law*, 2008 pp. 6-7.

⁸⁹ *Ibid.*, p. 1.

⁹⁰ UN ECOSOC, *Strengthening the Technical Cooperation Capacity of the UN CCPCJ in the Area of the Rule of Law and Criminal Justice Reform (E/2005/21)*, 2005.

⁹¹ UN ECOSOC, *The Rule of Law and Development: Strengthening the Rule of Law and the Reform of Criminal Justice Institutions, with Emphasis on Technical Assistance, Including in Post-Conflict Reconstruction (E/2004/25)*, 2004.

⁹² UN ECOSOC, *Rule of Law, Crime Prevention and Criminal Justice in the United Nations Development Agenda Beyond 2015 (E/2014/19)*, 2014.

CCPCJ has addressed rule of law in its work is through resolution 17/2 (2008), which established professional standards for prosecutors in their role in criminal proceedings.⁹³

In 2012, the UN reaffirmed its commitment to strengthening the rule of law after hosting a High-level Meeting of the General Assembly on the Rule of Law at National and International Levels.⁹⁴ The outcome declaration of the meeting reignited the discussion on rule of law and applied the rule of law to the three pillars of the UN: development, human rights, and peace and security.⁹⁵ In the General Assembly, the topic of rule of law at the international and national level has been debated every year for the past ten years, after the adoption of the 2005 *World Summit Outcome*.⁹⁶ In addition, the General Assembly's most recent resolution on the topic, resolution 70/118 (2015), urged the international community to engage in more dialogue on how to strengthen the rule of law.⁹⁷

Every five years, UNODC and CCPCJ host the UN Congress on Crime Prevention and Criminal Justice.⁹⁸ In 2015, the 13th Congress convened in Doha, where participants focused on the rule of law and reforming the criminal justice system internationally and nationally.⁹⁹ The outcome document, the *Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels and Public* (Doha Declaration) (2015), reaffirmed the UN and CCPCJ's commitment to upholding and strengthening the rule of law.¹⁰⁰ The declaration also outlined specific areas of focus for continued efforts, such as strengthening cooperation to develop criminal justice systems and to continue to train criminal justice officials.¹⁰¹

The newly adopted Sustainable Development Goals (SDGs) also explicitly call for increased cooperation for peace and justice reform according to democratic principles.¹⁰² Successfully implementing the SDGs will require a strong international rule of law, but will also play an imperative role for post-conflict states.¹⁰³ SDG 16 specifically calls for a stronger rule of law and peace development.¹⁰⁴ The targets of SDG 16 are to promote the rule of law, ensure equal access to justice, reduce corruption, and encourage participatory decision and law making, all of which are relevant to a post-conflict state.¹⁰⁵

Role of the International System

As two primary entities addressing crime and criminal justice within the UN system, both CCPCJ and UNODC have taken previous action on this topic. CCPCJ and UNODC work to strengthen the rule of law in post-conflict states by supporting the training of officials in the criminal justice sector.¹⁰⁶ One instance of this is when the UNODC published a guide to illuminate several problems facing criminal justice practitioners in post-conflict states.¹⁰⁷ This guide serves as the foundation of the UNODC's work to strengthen the rule of law in fragile states.¹⁰⁸ Additionally, the UNODC works to reinforce justice institutions through supporting prison reform, juvenile justice programs, and criminal justice reform.¹⁰⁹

⁹³ UN CCPCJ, *Strengthening the Rule of Law Through Improved Integrity and Capacity of Prosecution Services (Resolution 17/2)*, 2008, pp. 2-5.

⁹⁴ UN General Assembly, *Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (A/RES/67/1)*, 2012, p. 3.

⁹⁵ Ibid.

⁹⁶ UN Rule of Law, *Key Documents*.

⁹⁷ UN General Assembly, *The Rule of Law at the National and International Levels, (A/RES/70/118)*, 2015, p. 2.

⁹⁸ UN Congress on Crime Prevention and Criminal Justice, *About*.

⁹⁹ UN Congress on Crime Prevention and Criminal Justice, *Doha Declaration, (A/CONF.222/L.6)*, 2015.

¹⁰⁰ Ibid.

¹⁰¹ Ibid., p. 7.

¹⁰² UN DPI, *Sustainable Development Agenda*.

¹⁰³ Ozanian, *Why Rule of Law is the Bedrock of Sustainable Development, World Economic Forum*, 2015.

¹⁰⁴ UN Department of Public Information, *Sustainable Development Goal 16*.

¹⁰⁵ Ibid.

¹⁰⁶ UNODC, *Criminal Justice Reform in Post-Conflict State: A Guide for Practitioners*, 2011, p. 6.

¹⁰⁷ Ibid., p. 2.

¹⁰⁸ Ibid., p. 6.

¹⁰⁹ UNODC, *UNODC in Afghanistan – Criminal Justice*.

As the parent organ to CCPCJ and UNODC, ECOSOC is also invested in strengthening the rule of law and rebuilding post-conflict states.¹¹⁰ ECOSOC works with the Department of Economic and Social Affairs (DESA) to strengthen the rule of law in promoting greater consultation with non-governmental organizations and the private sector to discuss rule of law policies and influence Member States to adopt more equitable justice practices.¹¹¹ The initiative also supports Member States in implementing recommendations and best practices for strengthening the rule of law domestically.¹¹² These efforts by DESA and ECOSOC also reinforce their mandates to support the achievement of the SDG's, from expanding the accessibility of justice to reducing corruption.¹¹³

The Security Council is responsible for mandating and authorizing peace operations, thus necessitating close work with DPKO.¹¹⁴ DPKO and Security Council have extensively researched methodology of post-conflict recovery to support sustainable peacebuilding.¹¹⁵ The Security Council recognizes three key areas of focus in the aftermath of conflict, which are “inclusivity, institution building, and sustained international support and mutual accountability,” and which in turn strengthen the rule of law.¹¹⁶ The Security Council prioritizes strengthening the rule of law in peace operations, mandating peace operations to support the development of laws and public awareness of these laws.¹¹⁷ Past peace operations authorized by the Security Council have supported the creation of national human rights commissions and anti-corruption agencies, among other related mechanisms.¹¹⁸

Additionally, there are other bodies within the UN that focus on specific components of the rule of law. The UN Democracy Fund works with states to draft new constitutions and the highest legislative documents, recently supporting such efforts in Ghana and Nepal.¹¹⁹ The UN Development Programme (UNDP) publishes an annual report investigating the progress of rule of law policies, with a special interest in post-conflict states.¹²⁰ UNDP highlights three areas of focus for strengthening the rule of law: working with rebuilding institutions, understanding the political environment, and working within communities.¹²¹

The World Bank, a specialized agency of the UN, works closely with other UN bodies to promote transitional justice and strong rule of law. The World Bank created the International Development Association to help developing states recovering from disaster and conflict.¹²² The World Bank also established a Law and Justice Institution to promote the rule of law nationally and strengthen rule of law through economic development, especially in fragile and conflict-affected states.¹²³ While the unit primarily funds major loan projects, the World Bank also partners with UN agencies to help fund and analyze national programs.¹²⁴ The World Bank also partners with regional banks, as they play an important role in funding post-conflict rehabilitation.¹²⁵ Many regional development banks, namely in Asia, Central Europe, and Africa, have developed specific funds to assist fragile states in strengthening the rule of law by supporting access to financing to aid the reconstruction of institutions.¹²⁶

Non-governmental organizations (NGOs) also contribute to strengthening the rule of law in many post-conflict states. The International Center for Transitional Justice (ICTJ) works to “build civic trust in state institutions as protectors of human rights.”¹²⁷ Partnering with the World Bank, ICTJ provides technical expertise to the transitional

¹¹⁰ UN DESA, *Rule of Law*.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ UN DPKO, *Forming a New Operation*.

¹¹⁵ *Ibid.*

¹¹⁶ UN General Assembly, *Peacebuilding in the Aftermath of Conflict (A/69/399)*, 2014, p. 3.

¹¹⁷ UN DPKO, *Rule of Law*

¹¹⁸ UN General Assembly, *Peacebuilding in the Aftermath of Conflict (A/69/399)*, 2014, p. 3.

¹¹⁹ UN Democracy Fund, *Enhancing Dialogue for Inclusive Constitution*, 2012; UN Democracy Fund, *Promoting Citizens' Participation in the Constitutional Reform Process in Ghana*, 2013.

¹²⁰ UNDP, *Annual Report*, 2015. p. 42.

¹²¹ *Ibid.*

¹²² World Bank, *What is IDA?*

¹²³ World Bank, *Rule of Law and Development*.

¹²⁴ World Bank, *World Bank Support for Criminal Justice Activities*.

¹²⁵ *Ibid.*

¹²⁶ UNDP & UN DESA, *The Challenges of Restoring Governance in Crisis and Post-Conflict States*, 2007, p. 19.

¹²⁷ International Center for Transitional Justice, *About Us*.

government and works in over 30 states around the world.¹²⁸ The Center for Justice and Accountability (CJA) is another NGO that focuses on justice for those who have experienced crimes against humanity.¹²⁹ Partnering with victims, CJA works for transitional justice by supporting impactful changes in policy.¹³⁰ Additionally, CJA supports the pursuit of justice by representing victims during international tribunals to raise awareness of crimes against humanity perpetrated during conflict and build cases against perpetrators of violence.¹³¹

Restoring Governance and Ensuring Access to Justice and Security

Post-conflict states often have a weakened rule of law, which stalls recovery efforts.¹³² When rule of law in a state is weak, there is an increased risk of violence, crime, and illegal trade.¹³³ In order to reduce these risks and strengthen the rule of law, efforts must be focused on ensuring justice and security.¹³⁴ Establishing security and strengthening government efficacy are steps that must be taken simultaneously to secure and stabilize post-conflict states.¹³⁵ There are many challenges to rebuilding institutions, including poorly trained officers and court systems that are not functional.¹³⁶ In a post-conflict state, criminal justice institutions often lack basic infrastructure to work effectively.¹³⁷ Whether it be from a decrease in trained personnel or from politicized criminal justice institutions, the state faces a security sector that is ineffective and in need of reform.¹³⁸ However, the justice and security sector is expansive and dysfunction and inefficacy may be present at several levels; attempts at reform should consider the reorganization and retraining of many branches, from the court system to the legislative branch of the government.¹³⁹

UNODC and CCPCJ encourage and fund technical training for forensics, lawyers, judges, and other personnel related to the courtroom procedure.¹⁴⁰ For example, in Liberia, the UNODC worked with law students and funded courtroom training for young students, as they shadowed experienced lawyers.¹⁴¹ This allowed the students to learn as well as contribute to the rehabilitation effort by contributing to the rehabilitated judicial forum.¹⁴² Another partnership between UNODC and DPKO works to strengthen due process by training forensic specialists and investigators with a focus on national and regional issues.¹⁴³

While these individual programs are important steps in strengthening the rule of law for these Member States, the largest obstacle facing post-conflict states is strategically planning the rebuilding of judicial and security institutions through holistic approaches.¹⁴⁴ Because the rule of law extends to a number of institutions, post-conflict recovery is overwhelming and the fragmentation of UN bodies working to establish peace can negatively affect the recovery process due to lack of coordination, information-sharing, and planning.¹⁴⁵ Improving information-sharing and strengthening coordination between these entities will support post-conflict states in enacting holistic plans to rebuild law enforcement and justice institutions.¹⁴⁶

¹²⁸ Ibid.

¹²⁹ Center for Justice and Accountability, *Mission and History*.

¹³⁰ Ibid.

¹³¹ Center for Justice and Accountability, *Legal Strategy*.

¹³² OHCHR, *Rule of Law Tools for Post-Conflict States: Mapping the Justice Sector*, (2006), p. 1.

¹³³ Ibid., p. 2.

¹³⁴ UNODC, *Criminal Justice Reform in Post-Conflict State: A Guide for Practitioners*, 2011, p. 2.

¹³⁵ Ibid.

¹³⁶ Ibid., p. 11.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ UNODC, *Annual Report*, 2014, p. 67.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ UN Congress on Crime Prevention and Criminal Justice, *Doha Declaration (A/CONF.222/L.6)*, 2015, p. 2.

¹⁴⁵ UNODC, *Annual Report*, 2014, p. 54.

¹⁴⁶ Ibid., p. 77.

Protecting and Upholding Human Rights

In 2004, Secretary-General Kofi Annan noted that post-conflict societies have an increased risk of violence and exploitation for vulnerable groups that requires rapid response to ensure their safety.¹⁴⁷ These groups of people may include women, refugees, prisoners, and children, among others.¹⁴⁸ During the process of post-conflict recovery, the inclusion of at-risk groups and minorities can increase their civilian engagement and in turn, their safety.¹⁴⁹ Yet, with a weak rule of law and weak security institutions, protecting at-risk groups becomes much more difficult and complex; often times violence and insecurity continue due to a nonexistent justice system.¹⁵⁰

Strengthening the rule of law is imperative to ensuring women's security and an equitable peace, and can enhance the population's respect for the rule of law.¹⁵¹ Creating the conditions for equal representation ensures a sustainable post-conflict recovery because it gives vulnerable populations the opportunity to voice their concerns develop and influence policy accordingly.¹⁵² One area where women's vulnerability and inequality is exacerbated is through policing, where women are underrepresented.¹⁵³ However, the impact of women in this sector is significant; when women serve on a police force, other women feel more comfortable reporting crimes.¹⁵⁴ Cultural and societal norms that dictate rigid gender roles may be a barrier to recruitment as policing is perceived to be outside of the scope of women's work.¹⁵⁵ The Secretary-General has allotted 15% of peace building funds to empowering women and ensuring gender equality in post-conflict states, more funds need to be allocated to develop programs for post-conflict states as current successes are not sufficient to guarantee equal representation in many areas.¹⁵⁶

Another issue facing post-conflict states is a disenfranchised youth.¹⁵⁷ Often times during conflict, children have witnessed or even participated in traumatic and violent experiences.¹⁵⁸ As a result, they may distrust the government, the law, and their community; accordingly, rule of law is weakened as the next generation plays a vital role in sustaining the rule of law.¹⁵⁹ The Doha Declaration underlines the importance of including youth in rule of law reform and encourages increased education regarding crime prevention and rule of law understanding.¹⁶⁰ Developing programs targeting children so that they feel protected and empowered to contribute as agents of change can support the rule of law.¹⁶¹ Educational programs that give youth opportunities to learn about the rebuilding of the rule of law may also engender trust of peacebuilding processes and a new government.¹⁶²

Rwanda: A Case Study for Alternative Justice

Transitional justice is a dual approach to post-conflict recovery. It focuses on repairing the past and working with victims to reform the political system to ensure victims and the rest of the population can move forward.¹⁶³ UN Peacebuilding missions utilize transitional justice to heal a variety of social divisions within a state, while promoting the importance of and need for justice.¹⁶⁴ The UN's approach to justice was to establish the International Criminal

¹⁴⁷ Samuels, *Rule of Law Reform in Post-Conflict States*, 2006, p. 5.

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*

¹⁵⁰ UNODC, *Criminal Justice Reform in Post-Conflict State: A Guide for Practitioners*, 2011. p. 2.

¹⁵¹ UN-Women, *Rule of Law and Justice*.

¹⁵² *Ibid.*

¹⁵³ UNODC, *Annual Report*, 2014, p. 56.

¹⁵⁴ *Ibid.*

¹⁵⁵ UNODC, *Criminal Justice Reform in Post-Conflict State: A Guide for Practitioners*, 2011. p. 3.

¹⁵⁶ UN General Assembly, *Identical Letters Dated 29 June 2015 from the Chair of the Advisory Group of Experts on the Review of the Peacebuilding Architecture addressed to the President of the General Assembly and the President of the Security Council, (A/69/968)*, 2015, p. 4.

¹⁵⁷ OHCHR, *Rule of Law Tools for Post-Conflict States: Mapping the Justice Sector*, (2006), p. 9.

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

¹⁶⁰ UN Congress on Crime Prevention and Criminal Justice, *Doha Declaration (A/CONF.222/L.6)*, 2015. p. 2.

¹⁶¹ UNODC, *Criminal Justice Reform in Post-Conflict State: A Guide for Practitioners*, 2011. p. 3.

¹⁶² Stromseth, *Post-conflict Rule of Law Building: The Need for a Multi-Layered, Synergistic Approach*, 2008, p. 1448.

¹⁶³ UN Peacebuilding, *What is Transitional Justice?*, 2008.

¹⁶⁴ *Ibid.*

Tribunal for Rwanda (ICTR), which brought the perpetrators of the Rwandan genocide to trial.¹⁶⁵ While the ICTR was able to bring justice to Rwanda, only 75 individuals were ever brought to trial, despite hundreds of thousands of participants.¹⁶⁶ Because of the number of people involved in the genocide, traditional punitive justice practices were both impractical and presented challenges to healing and societal restoration.¹⁶⁷ In response, Rwanda developed the Gacaca tribunals to restore and repair communities at a grassroots level.¹⁶⁸ Local judges were elected by the community to try all individuals charged with crimes during genocide – nearing 1.2 million cases.¹⁶⁹ The tribunals emphasized restoration and truth finding, giving more lenient sentences to those that were remorseful so that people could find closure and the community could move on.¹⁷⁰ This alternative model of justice promoted reconciliation and healing, which strengthened the rule of law through civil society and due process.¹⁷¹

However, problems also arose from the Gacaca Tribunals in Rwanda and learning from these shortcomings could help future cases of restorative justice. There were reports of misuse of power, limitations of freedoms, and faulty decision-making by the judges.¹⁷² Because of the nature of the community-based courts, some rights were suspended, like the right to not be prosecuted twice for the same crime and the right to prepare a defense.¹⁷³ Some also noted that victims were denied justice where the perpetrators of atrocities were not criminally prosecuted.¹⁷⁴ When implementing restorative justice measures, the UN must work with the community of each state to establish context-specific approaches to restorative justice that are effective both for reconciliation and strengthening the rule of law.¹⁷⁵

Conclusion

The UN conducts work on many aspects of strengthening the rule of law in post-conflict recovery. Recognizing the vast undertaking it is to recover from a conflict, a state must undertake reformation in many sectors, especially within criminal justice reform. Many organs and subsidiary bodies of the UN, including ECOSOC, the Security Council, the General Assembly, and international tribunals have stressed the importance of a strong rule of law in post-conflict states. CCPCJ and UNODC have several established programs to advance the rule of law and provide technical assistance to stabilize states by training criminal justice personnel and collaboratively drafting new government legislation. While strengthening rule of law has emerged as a top priority of the UN, many problems still face the implementation of programs working to achieve this. From protecting minority groups to managing funding, recovering from a conflict presents numerous challenges for states and requires united and concerted efforts from the UN.

Further Research

The abundance of obstacles facing a state recovering from a conflict is an enormous obstacle. How can the UN streamline the balancing act of so many institutions needing rehabilitation? How can the UN ensure that short term goals and long-term goals coincide with each other? How can CCPCJ do more to strengthen the rule of law? How can the UN create a rollout plan to train all sectors of the institutions? How can the UN be sensitive to cultural differences between Member States when strengthening the rule of law? What roles do regional organizations play in strengthening rule of law in post-conflict states? How can the UN ensure the safety of at-risk groups? How can states balance the need to prosecute human rights abuses and atrocities while also promoting reconciliation? With so many programs and agencies working towards similar goals, what coordination efforts can be designed to streamline rule of law in post-conflict states?

¹⁶⁵ UN Dag Hammarskjold Library, *International Law and Courts*.

¹⁶⁶ UN Mechanism for International Criminal Tribunals, *The ICTR in Brief*.

¹⁶⁷ UN Prevent Genocide, *The Justice and Reconciliation Process in Rwanda*, 2014.

¹⁶⁸ Human Rights Watch, *Justice Compromised: The Legacy of Rwanda's Community-Based Gacaca Courts*, 2011.

¹⁶⁹ *Ibid.*

¹⁷⁰ *Ibid.*

¹⁷¹ UN Prevent Genocide, *The Justice and Reconciliation Process in Rwanda*, 2014.

¹⁷² Human Rights Watch, *Justice Compromised: The Legacy of Rwanda's Community-Based Gacaca Courts*, 2011.

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

¹⁷⁵ UNDP & UN DESA, *The Challenges of Restoring Governance in Crisis and Post-Conflict States*, 2007, p. 84.

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Office of the United Nations High Commissioner for Human Rights. (2006). *Rule of Law Tools for Post-Conflict States* [Report]. Received 19 July 2016 from:

<http://www.ohchr.org/Documents/Publications/RuleoflawMappingen.pdf>

This report from the Office of the UN High Commissioner for Human Rights (OHCHR) details some of the key challenges and priorities in reestablishing the rule of law in post-conflict states. The report addresses the needs of the judicial, criminal justice, and law enforcement sectors, breaking recommendations down by specific actors and institutions within these larger sectors. This document will be especially helpful in guiding delegates' concrete policy recommendations on different facets of the rule of law, including the role of human rights in strengthening the rule of law.

Stromseth, J. (2008). *Post-Conflict Rule of Law Building: The Need for a Multi-Layered, Synergistic Approach*.

Retrieved 20 August 2016 from: <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1148&context=wmlr>

Post-conflict recovery requires a significant planning, taking into account local cultural and societal norms. Approaching the post-conflict state from a position of preparation where all angles and needs are addressed is an important step in helping to stabilize a fragile state. This article expertly explains why there is a need for three-dimensional planning and courses of action and gives helpful examples to explain why the UN has learned to approach the situation this way. Delegates should use this document to understand in depth the challenges a post-conflict state faces and why the rule of law is interconnected with rehabilitation and development.

United Nations, Congress on Crime Prevention and Criminal Justice, Thirteenth session. (2014). *Conflict Prevention, Post-conflict Peacebuilding and the Promotion of Durable Peace, Rule of Law and Governance (A/CONF.222)* [Preparatory Document]. Retrieved 19 July 2016 http://www.unodc.org/documents/crime-congress/13th_crime_congress/RPM/CRPS/ACONF222PMCRPI.pdf

This preparatory guide for the Thirteenth Congress on Crime Prevention and Criminal Justice addressed a multitude of concerns facing post-conflict recovery. Specifically highlighting the critical relationship between strong rule of law and good governance, the report focuses on peacebuilding and sustainable rule of law implementation. While the report only mentions post-conflict recovery briefly, the importance of the rule of law to the work of CCPCJ is noticeable. Finally, the document stresses the need for both national and international measures to strengthen rule of law, an approach the United Nations applies to most global issues.

United Nations Development Programme. (2009). *The Rule of Law in Fragile and Post-Conflict Situations Prepared by the Bureau for Crisis Prevention and Recovery* [Report]. Retrieved 19 July 2016 from:

<http://www.undp.org/content/dam/undp/library/crisis%20prevention/Global%20Programme%20Phase%20II%20-%20FINAL.pdf>

The report prepared by UNDP provides insight into the overwhelming number of challenges that must be addressed in order to restore and establish the rule of law in post-conflict states. The report focuses not only on the immediate aftermath of a conflict and the challenges facing the rule of law, but also includes a long-term outlook to comprehensively address the concerns of post-conflict recovery. The report highlights several areas of concern regarding peacebuilding and gives examples of Member State's programs working to overcome these problems. With three focus areas (conflict prevention, early recovery, and post-conflict recovery), the report provides a comprehensive approach to rebuilding the rule of law for individual situations. Delegates should use this resource to better understand the methodology used post-conflict situations by UN programs.

United Nations Development Programme. (2015). *Strengthening the Rule of Law in Crisis-Affected and Fragile Situations Annual Report*. Retrieved 22 August 2016 from:

http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access_to_justiceandruleoflaw/undp-rule-of-law-annual-report-2015.html

UNDP reports on the yearly progress of the rule of law in conflict zones. The report provides an extensive look into the various programs supported by UNDP and other UN entities. This report highlights the essential points and defines lessons learned a number of state programs addressing

the rule of law. Delegates should use this guide to research more innovative programming and understand how the rule of law can be strengthened practically in post-conflict and fragile states.

United Nations Development Programme & United Nations, Department of Economic and Social Affairs. (2007). *The Challenges of Restoring Governance in Crisis and Post-Conflict States* [Report]. Retrieved 22 August 2016 from: <https://publicadministration.un.org/publications/content/PDFs/E-Library%20Archives/2007%20The%20Challenges%20of%20Restoring%20Governance%20in%20Crisis%20and%20Post-Conflict%20States.pdf>

This report discusses the many challenges facing post-conflict states and how the rule of law can be utilized to help a state recover. Additionally, it calls attention to the many challenges facing post-conflict society and establishes reminders for UN personnel working to restore the rule of law in these societies. It brings together information from all departments of the UN and serves as inspiration for future programs for strengthening rule of law. For delegates interested in finding solutions and potential resolutions, this document will be important as a foundational and informational report.

United Nations, General Assembly, Sixty-ninth session. (2014). *Peacebuilding in the Aftermath of Conflict: Report of the Secretary-General (A/69/399)*. Retrieved 19 July 2016 from: <http://undocs.org/A/69/399>

This document, a specialized report provided by the Secretary-General regarding measures to rebuild peace after conflict, provides insight into the many struggles facing a post-conflict society, rebuilding not only the infrastructure of a state, but the very institutions. Because this report focuses on the immediate aftermath of conflict, establishing the rule of law is not addressed in depth. However, this report gives insight into the many problems facing Member States trying to rebuild after a conflict and the challenges that must be overcome in order to restore the rule of law. The report also highlights the need for strategic planning to effectively rebuild post-conflict societies and to maintain the peace. Reading this document will enhance delegate's knowledge of persistent problems facing post-conflict states and provide some potential solutions that will support the effectiveness of rule of law efforts.

United Nations, General Assembly, Seventy-first session. (2016). *Proposed Strategic Framework for the Period 2018-2019 (A/71/6 (Prog.13))*. Retrieved 19 July 2016 from: https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_25/N1605891.pdf

CCPCJ addresses measures to strengthen the rule of law, specifically in post-conflict recovery. The proposed strategic framework for 2018-2019 notes that those states that failed to make measurable progress towards the MDGs were states in violent conflict, which in turn led to a weak rule of law. With the post-2015 agenda established, and SDG 16 a priority, strengthening the rule of law in least developed states is a key item for 2018-2019. In reviewing the strategic framework, delegates will be able to gain understanding of the UN's overall work on international drug control, crime and terrorism prevention, and criminal justice.

United Nations, General Assembly, Fifty-fifth session & United Nations, Security Council. (2000). *Report of the Panel on United Nations Peace Operations (A/55/305-S/2000/809)*. Retrieved 20 August 2016 from: <http://undocs.org/A/55/305>

The Report of the Panel on United Nations Peace Operations, otherwise known as the Brahimi Report, was a report that significantly changed the UN's approach to the rule of law and rule of law programming. Understanding why peacekeeping operations changed can help delegates better understand the new approach to rule of law. The Brahimi Report was one of the most important documents that influenced the reformation of peacekeeping operations and specifically identified why strengthening the rule of law in post-conflict states is essential to stabilizing them and building sustainable peace. Furthermore, the categorical change in peacebuilding operations indicates a doctrinal shift in policy; understanding how this policy has been implemented is important to promote peacekeeping measures.

United Nations, Secretary-General. (2008). *Guidance Note of the Secretary-General*. Retrieved 20 August 2016 from: <https://www.un.org/ruleoflaw/files/RoL%20Guidance%20Note%20UN%20Approach%20FINAL.pdf>

The guidance note is the closest document to a framework the UN has produced regarding rule of law programming. The eight guiding principles indicate the power of rule of law and the six steps



listed as a framework for post-conflict society indicate the methodology behind the UN's Rule of Law Unit. Delegates should use this document as a foundational document for future resolutions. Because this Guidance Note outlines the basic framework for states recovering from a violent conflict, delegates can use this as a foundation for their own resolutions.

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II. Criminal Justice Responses to Prevent and Counter Terrorism in All Forms

Introduction

Flourishing in environments of political oppression, poverty, human rights abuse, regional conflict and foreign occupation, and weak state capacity, terrorism is a serious threat to international peace and security.¹⁷⁶ As a political term, terrorism is most commonly understood as “acts of violence that target civilians in the pursuit of political or ideological aims.”¹⁷⁷ Despite a common understanding of acts that constitute terrorism, the international community has not agreed on a comprehensive, legally binding definition of the word “terrorism.”¹⁷⁸ Nonetheless, progress against terrorism has occurred through existing universal legal instruments that focus on the criminalization of certain terrorist acts.¹⁷⁹ The Commission on Crime Prevention and Criminal Justice (CCPCJ) is an important actor in this response, serving as a normative body that advises the international community on the legal and criminal justice aspect of the response to terrorism and its prevention, as well as offering an international forum for Member States and experts to discuss the issue.¹⁸⁰

Efforts to counter terrorism still require effective and prevention-focused responses from all Member States, such as the promotion and enhancement of domestic criminal justice systems based on a normative legal framework and in accordance with the rule of law, due process, and respect for human rights.¹⁸¹ Moreover, criminal justice approaches to terrorism can provide for effective prevention mechanisms, which include interventions against the financing of terrorism.¹⁸² On the other hand, the role of the criminal justice system in countering terrorism is also a challenging one; depending on their legal tradition, their level of development, and their own capacity to maintain order and security, Member States will have different approaches and responses to terrorism.¹⁸³ There is no universal agreement on how to achieve these aims; CCPCJ, in partnership with other United Nations (UN) bodies, continues to deliberate how best to respond to terrorism in all its forms.¹⁸⁴ This Background Guide will introduce delegates to this topic by first outlining the role of international and regional frameworks, followed by an overview of relevant actions taken by international actors. Then, the guide will overview different facets of the topic, including approaches to strengthen criminal justice systems, restrict the financing of terrorism, and uphold human rights in the response to terrorism.

International and Regional Framework

In response to the growing threat of terrorism, a great number of international agreements have been adopted. In 2000, the *UN Convention against Transnational Organized Crime* recognized the growing connection between terrorist activities and transnational organized crime.¹⁸⁵ In addition, the General Assembly adopted the *UN Global Counter-Terrorism Strategy* in 2006, which it reviews every two years, most recently in 2016.¹⁸⁶ The Strategy affirms that any acts of terrorism pose a threat to international peace and security and are criminal and inexcusable; it also highlights the importance of international cooperation to prevent and combat terrorism in all its forms.¹⁸⁷

Additionally, 19 universal conventions relating to the prevention and suppression of terrorism currently exist, which specifically require Member States to take specific measures, such as prohibiting terrorist-related offenses and prevent the commission of terrorist acts.¹⁸⁸ These include the 1998 *International Convention for the Suppression of*

¹⁷⁶ UN High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, 2004, p. 47.

¹⁷⁷ OHCHR, *Human Rights, Terrorism and Counter-Terrorism*, 2008, pp. 5-6.

¹⁷⁸ UNODC, *The Use of the Internet for Terrorist Purposes*, 2012, p. 18.

¹⁷⁹ *Ibid.*

¹⁸⁰ UN CCPCJ, *Report on the twenty-fifth session (E/2016/30)*, 2016.

¹⁸¹ UNODC, *Handbook on Criminal Justice Responses to Terrorism*, 2009, p. 3.

¹⁸² *Ibid.*

¹⁸³ *Ibid.*, pp. 3-5.

¹⁸⁴ UN CCPCJ, *Report on the twenty-fifth session (E/2016/30)*, 2016.

¹⁸⁵ UN General Assembly, *United Nations Convention against Transnational Organized Crime (A/RES/55/25)*, 2001, p. 2.

¹⁸⁶ UN General Assembly, *The United Nations Global Counter-Terrorism Strategy (A/RES/60/288)*, 2006, p. 1; UN General Assembly, *The United Nations Global Counter-Terrorism Review (A/RES/70/291)*, 2016, p. 1.

¹⁸⁷ UN General Assembly, *The United Nations Global Counter-Terrorism Strategy (A/RES/60/288)*, 2006, p. 1; UN General Assembly, *The United Nations Global Counter-Terrorism Review (A/RES/70/291)*, 2016, p. 1.

¹⁸⁸ UN Security Council Counter-Terrorism Committee, *International Laws*.

Terrorist Bombings, the 2000 *International Convention for the Suppression of the Financing of Terrorism*, the 2005 *Protocol for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, and the 2010 *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation*.¹⁸⁹

In 2010, the Twelfth UN Congress on Crime Prevention and Criminal Justice (UN Crime Congress) convened to discuss a variety of issues, including terrorism.¹⁹⁰ With regards to this topic, the meeting discussed the significance of providing technical assistance to guide Member States in the ratification and implementation of the 19 universal conventions against terrorism.¹⁹¹ The outcome document of the Twelfth UN Crime Congress, the *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World* (2010), recommends all Member States to ensure sufficient human and financial resources to create and implement effective policies in dealing with criminal justice and the prevention of terrorism.¹⁹² Further, the Thirteenth UN Crime Congress outcome document, the *Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation* (Doha Declaration) (2015), recognized the need to enhance criminal justice responses to prevent and counter terrorism through dealing with a broad range of issues, including the financing of terrorism.¹⁹³

Beyond specialized international treaties and conventions, this topic was also included in the *2030 Agenda for Sustainable Development* (2015) and the Sustainable Development Goals.¹⁹⁴ Target 16.a recognizes the importance of strengthening relevant national institutions to prevent terrorism and crime as a major method of promoting just and peaceful societies, as well as contributing to international development.¹⁹⁵

In addition to the international legal framework on the prevention of terrorism, several regional organizations have also developed their own framework in the fight against terrorism.¹⁹⁶ Such frameworks include the Organization of American States' *Convention to prevent and punish acts of terrorism taking the form of crimes against persons and related extortion that are of international significance* (1971), the Shanghai Cooperation Organization's *Shanghai Convention on Combating Terrorism, Separatism and Extremism* (2001), and the European Union's 2006 decision "on the application of the principle of mutual recognition to confiscation order," which recognize terrorist acts as criminal, and also take into account a wide range of responses to terrorism.¹⁹⁷

Role of the International System

A wide range of actors are involved in this issue internationally, but CCPCJ plays a central role at the UN level. In broad terms, CCPCJ works as the principal policymaking body of the UN in the field of crime prevention and

¹⁸⁹ UN General Assembly, *International Convention for the Suppression of Terrorist Bombings* (A/RES/52/164), 1998; UN General Assembly, *International Convention for the Suppression of the Financing of Terrorism* (A/RES/54/109), 2000; International Conference on the Revision of the SUA Treaties, *Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation* (LEG/CONF.15/21), 2005; UN Security Council Counter-Terrorism Committee, *International Laws*.

¹⁹⁰ Thirteenth UN Crime Congress, *Previous Congresses*, 2015.

¹⁹¹ UNODC, *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World*, 2010, p. 1.

¹⁹² *Ibid.*, p. 3.

¹⁹³ UNODC, *Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation*, 2015, p. 7.

¹⁹⁴ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development* (A/RES/70/1), 2015, p. 26.

¹⁹⁵ *Ibid.*

¹⁹⁶ UNODC, *(Inter)-Regional Action against Terrorism*, 2016.

¹⁹⁷ Organization of American States, *Convention to prevent and punish acts of terrorism taking the form of crimes against persons and related extortion that are of international significance*, 1971; Shanghai Cooperation Organization, *Shanghai Convention on Combating Terrorism, Separatism and Extremism*, 2001; Council of the European Union, *Council framework decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders*, 2006.

criminal justice and reports to the UN Economic and Social Council (ECOSOC), advising on these matters.¹⁹⁸ The Commission recently convened at its 25th session in May 2016 to discuss the theme of “Criminal Justice Responses to prevent and counter terrorism in all its forms and manifestations, including the financing of terrorism, and technical assistance in support of the implementation of relevant international conventions and protocols.”¹⁹⁹ At this meeting, the discussion focused on a wide range of issues related to terrorism, such as implementing the relevant international counter-terrorism framework and ensuring effective criminal justice systems in preventing and countering terrorism.²⁰⁰ ECOSOC also remains active in the matter, recently adopting resolution 2015/22 on “Technical Assistance for implementing international conventions and protocols related to terrorism.”²⁰¹ In this and many other occasions, ECOSOC has stressed the importance of developing and maintaining effective, fair, humane, and accountable criminal justice systems in accordance with relevant international law.²⁰²

Working closely with CCPCJ, the UN Office on Drugs and Crime (UNODC), specifically the Terrorism Prevention Branch (TPB), has also contributed to the prevention of terrorism through operational work, such as by providing counter-terrorism legal technical assistance to Member States.²⁰³ Specifically mandated by the General Assembly, the Branch aids Member States with ratifying and implementing the universal legal framework against terrorism, as well as incorporating such international agreements into national law.²⁰⁴ Since the launch of the *Global Programme on Strengthening the Legal Regime against Terrorism* in 2003, the Branch has provided a number of technical assistance tools for Member States, such as online training courses and specialized workshops.²⁰⁵ These tools aim to strengthen Member States’ knowledge of the universal legal instruments in the fight against terrorism, providing general training on responding to terrorism from a criminal justice approach, issues such as protecting human rights and fundamental freedoms while countering terrorism, as well as terrorism financing.²⁰⁶ Recognizing the relevance of these instruments in combating terrorism, CCPCJ has called on UNODC for increased support in strengthening international cooperation in criminal matters regarding terrorism.²⁰⁷ UNODC is also a member of the Counter-Terrorism Implementation Task Force (CTITF), a group of 38 entities tasked with enhancing the coordination and effectiveness of counter-terrorism work within the UN system, as well as supporting Member States in their efforts to implement the *UN Global Counter-Terrorism Strategy*.²⁰⁸

As it is not only a domestic criminal matter, but also a threat to international peace and security, terrorism has caught the attention of many other international institutions, such as the UN Security Council.²⁰⁹ This body has the specific power to impose sanctions, such as asset freezing and arms embargos, on certain individuals, groups, or entities to maintain or restore international peace and security.²¹⁰ Focusing on the financing of terrorism, the Security Council adopted resolution 2199 in 2015, which reaffirms that all terrorist acts are criminal and reinforces the

¹⁹⁸ UN ECOSOC, *Implementation of General Assembly resolution 46/152 concerning operational activities and coordination in the field of crime prevention and criminal justice (E/RES/1992/22)*, 1992, pp. 22-26.

¹⁹⁹ UN CCPCJ, *Discussion guide for the thematic discussion on criminal justice responses to prevent and counter terrorism in all its forms and manifestations, including the financing of terrorism, and technical assistance in support of the implementation of relevant international conventions and protocols (E/CN.15/2016/6)*, 2016.

²⁰⁰ *Ibid.*; UN CCPCJ, *Report on the twenty-fifth session (E/2016/30)*, 2016.

²⁰¹ UN ECOSOC, *Technical Assistance for implementing international conventions and protocols related to terrorism, (E/RES/2015/22)*, 2015.

²⁰² *Ibid.*, p. 4; UN ECOSOC, *Strengthening International Cooperation and Technical Assistance in Promoting the Implementation of the Universal Conventions and Protocols Related to Terrorism within the Framework of the Activities of the United Nations Office on Drugs and Crime (E/RES/2005/19)*, 2005; UN ECOSOC, *Strengthening International Cooperation and Technical Assistance in Promoting the Implementation of the Universal Conventions and Protocols Related to Terrorism within the Framework of the Activities of the Centre for International Crime Prevention (E/RES/2003/22)*, 2003.

²⁰³ UNODC, *The United Nations Office on Drugs and Crime and Terrorism Prevention*, 2016.

²⁰⁴ *Ibid.*

²⁰⁵ UNODC TPB, *Our Work*, 2016.

²⁰⁶ UNODC, *Technical Assistance Tools and Publications*, 2016.

²⁰⁷ UN CCPCJ, *Report on the twenty-fifth session (E/2016/30)*, 2016.

²⁰⁸ UN CTITF, *About the Task Force*.

²⁰⁹ *Charter of the United Nations*, 1945.

²¹⁰ UN Security Council, *Security Council Committee Pursuant to Resolutions 1267, (1999) 1989 (2011) and 2253 (2015) Concerning ISIL (DA'ESH) Al-Qaida and Associated Individuals Groups Undertakings and Entities*, 2015.

importance of countering and disrupting terrorist financing with measures such as financial sanctions.²¹¹ In addition to these sanctions, the Security Council's Counter-Terrorism Committee has the responsibility of coordinating international action in countering terrorism, as well as guiding Member States in the implementation of the 19 universal conventions against terrorism.²¹²

Strengthening Criminal Justice Systems

An effective response to terrorism involves more than merely the ratification and implementation of the 19 universal instruments against terrorism.²¹³ In addition to the appropriate laws, policies, and practices, a successful counter-terrorism strategy requires a capable criminal justice system, which includes the police, prosecutors, lawyers, judiciary, and the prison system.²¹⁴ Furthermore, Member States still require a comprehensive capacity-building approach, which may involve actions such as increasing the overall capacity of justice institutions and increasing public legitimacy in order to curb corruption.²¹⁵ Each set of actors in criminal justice system plays an important role in the prevention and response to terrorism.²¹⁶

Role of Policymakers and Legislators

At both the international and national level, the rule of law requires the laws of a Member State be comprehensive and accessible, legislatively and politically legitimate, and stable and flexible.²¹⁷ Specifically, all Member States have the responsibility of adhering to international obligations in regards to implementing and enforcing domestic law, as well as creating effective criminal justice systems.²¹⁸ The legal framework of each Member State, in accordance with the ratification of a specific universal instrument, can be established by one of the following options: a comprehensive review of national criminal law and its relevant provisions, followed by amendments; inclusion in a Member State's criminal law of a special section of its criminal code; or the adoption of an autonomous law, consisting of all the elements required by all universal instruments against terrorism.²¹⁹ In order to facilitate a more effective response to terrorism, CCPCJ and UNODC have stressed the importance of a criminal justice approach, one based on the rule of law, while TPB has provided technical support in creating and implementing such laws.²²⁰

In particular, certain acts should be established as legal offenses in accordance with international agreements with regards to terrorism and other related forms of crime.²²¹ According to UNODC and the Security Council, domestic offenses, procedures, and cooperation mechanisms should comply with international law and internationally recognized human rights standards, while preventing terrorist actions before they occur.²²² However, the current 19 universal instruments against terrorism do not contain any provisions on the preparation and planning of such acts of terrorism, and instead punish for offenses that have been "committed," "abetted," or "attempted."²²³ Some Member States have already adopted laws to counter terrorism, such as criminalizing the formation of a group to prepare one or more terrorist acts, but many of them are still missing comprehensive legislation to prevent the planning and preparation of terrorist acts.²²⁴

²¹¹ UN Security Council, *Security Council Committee Pursuant to Resolutions 1267, (1999) 1989 (2011) and 2253 (2015) Concerning ISIL (DA'ESH) Al-Qaida and Associated Individuals Groups Undertakings and Entities*, 2015; United Nations Security Council, *Threats to International peace and security caused by terrorist acts (S/RES/2199 (2015))*, 2015.

²¹² UN Security Council, Counter-Terrorism Committee, *Policy Guidance on International Cooperation*, 2010.

²¹³ UNODC, *Handbook on Criminal Justice Responses to Terrorism*, 2009, p. 33.

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*, p. 35.

²¹⁸ UNODC, *Guide for the legislative incorporation and implementation of the universal anti-terrorism instruments*, 2006, p. 6.

²¹⁹ UNODC, *Handbook on Criminal Justice Responses to Terrorism*, 2009, p. 36.

²²⁰ UNODC, *International Workshop of National Counter-Terrorism Focal Points: Better linking national and global counter-terrorism efforts*, 2010, p. 19; UNDOC TPB, *Our Work*, 2016.

²²¹ UNODC, *Legislative Guide to the Universal Legal Regime against Terrorism*, 2008, p. 1.

²²² UNODC, TPB, *Preventing terrorist acts: a criminal justice strategy integrating rule of law standards in implementation of United Nations anti-terrorism instruments*, 2006, p. 8.

²²³ UNODC, *Legislative Guide to the Universal Legal Regime against Terrorism*, 2008, p. 6.

²²⁴ UNODC, *Digest of Terrorist Cases*, 2010, p. 21.

Role of the Judicial System

The courts, and the judicial system as a whole, play a crucial role in promoting and upholding the rule of law.²²⁵ A strong rule of law, one that protects human rights, can play a significant role in preventing terrorism by mitigating violent crime and conflict.²²⁶ Adopted at the Seventh UN Congress on Crime Prevention and the Treatment of Offenders in 1985, the *Basic Principles on the Independence of the Judiciary* (1985) outline the relevance of the courts' neutrality and impartiality.²²⁷ ECOSOC resolution 2007/22 on "Strengthening Basic Principles of Judicial Conduct" (2007) further acknowledged the importance of establishing of basic principles of judicial conduct, stating the role technical assistance can play in improving the integrity and capacity of judicial systems as well as other criminal justice institutions.²²⁸

Although improving the integrity and capacity of judicial systems and other criminal justice institutions is necessary in effectively countering terrorism, courts are not always properly equipped to handle these cases.²²⁹ Specifically, when the judicial system is poor of protections and guarantees, terrorists have sought to obstruct justice by threatening prosecutors, judges, and other court officials, or by intimidating or attacking jurors and witnesses.²³⁰ This highlights the importance of guaranteeing the security of judges, prosecutors, and other court personnel, as well as all other participants in court proceedings.²³¹ As a whole, without the capacity to properly protect these individuals, courts are often unable to function effectively when they are the object of threats by terrorist groups.²³²

Further, regarding the role of judicial systems in countering terrorism, one of the largest controversies surrounds the question of establishing courts with "special" jurisdiction to hear terrorist cases.²³³ It is sometimes argued that such courts are necessary, as the centralization of terrorist cases and specialization of judges, prosecutors, and defense counsels can ensure the impartiality and neutrality of the judiciary while preventing the obstruction of justice.²³⁴ On the other hand, Member States are often not allowed to take away the jurisdiction of ordinary courts and their ability to hear terrorism cases.²³⁵ Further, courts that only hear terrorism-specific cases should follow established legal procedures, in addition to guarantee the right of accused persons to a due process of law.²³⁶

Countering the Financing of Terrorism

In order to carry out their actions, terrorists generally generate and move finances to acquire weapons, recruit and train followers, and to communicate.²³⁷ In order to successfully counter terrorism, measures must be in place to deny them access to opportunities to commit future attacks by cutting off funding mechanisms for terrorism.²³⁸

Specifically, terrorists are often able to carry out their actions because of the financial support of formal sectors, which include private businesses, and informal sectors, such as funding coming from drug trafficking.²³⁹ The issue of the financing of terrorism is most prominently highlighted in the 1999 *Convention for the Suppression of the Financing of Terrorism*.²⁴⁰ The Convention requires States parties to criminalize any person who "by any means... collects funds with the intention [or] knowledge that they are to be used [...] to carry out" terrorist acts.²⁴¹ Security Council resolution 1373 also specifically urges all Member States to bring to justice not only perpetrators of terrorist

²²⁵ UNODC, *Handbook on Criminal Justice Responses to Terrorism*, 2009, p. 89.

²²⁶ UN and the Rule of Law, *Rule of Law and Peace and Security*.

²²⁷ Seventh UN Crime Congress, *Basic Principles on the Independence of the Judiciary*, 1985.

²²⁸ UN ECOSOC, *Strengthening Basic Principles of Judicial Conduct (E/RES/2007/22)*, 2007, p. 3.

²²⁹ *Ibid.*

²³⁰ UNODC, *Handbook on Criminal Justice Responses to Terrorism*, 2009, p. 90.

²³¹ *Ibid.*

²³² *Ibid.*

²³³ *Ibid.*, p. 92.

²³⁴ *Ibid.*

²³⁵ *Ibid.*, p. 90.

²³⁶ *Ibid.*

²³⁷ UN General Assembly, *Uniting against Terrorism: recommendations for a global counter-terrorism strategy: Report of the Secretary-General (A/60/825)*, 2006, p. 8.

²³⁸ *Ibid.*

²³⁹ *Ibid.*

²⁴⁰ UN General Assembly, *International Convention for the Suppression of the Financing of Terrorism (A/RES/54/109)*, 2000.

²⁴¹ *Ibid.*, p. 3.

acts, but also those who participate in the financing, planning, and preparation of such acts.²⁴² These means may include putting in place appropriate measures to identify, detect, freeze, and seize any funds used or allocated for the commission of terrorist offenses, as emphasized by the Security Council.²⁴³

Regarding the freezing and seizing funds and assets allocated for terrorist acts from illicit activities, it is necessary to note the differences between money laundering and terrorist financing.²⁴⁴ According to the International Criminal Police Organization (INTERPOL), money laundering refers to “any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from original sources.”²⁴⁵ Often integrated into legal businesses and the legal economy, money laundering can result from various types of organized crime.²⁴⁶ Terrorist financing, on the other hand, may involve large sums of money derived from lawful activities or minor crimes, which is eventually used to support terrorism.²⁴⁷ These funds only become illegal when an individual in the process has the intent to use the money to finance a terrorist act.²⁴⁸ With these differences in mind, simply criminalizing money laundering is not enough to prevent and suppress terrorist acts.²⁴⁹ In particular, in accordance with the 1997 *Convention for the Suppression of the Financing of Terrorism*, the Financial Action Task Force’s *International Standards on the Combating Money Laundering and the Financing of Terrorism & Proliferation* recommend all Member States to criminalize the financing of terrorist acts, organizations, and individuals even in the absence of a link to a specific terrorist act.²⁵⁰

While criminalization of money laundering and terrorist financing is necessary to successfully counter terrorism, many Member States lack the legal and operational frameworks required to detect, investigate, and prosecute financing cases, especially in cases involving the use of the Internet.²⁵¹ Generally, the manner in which terrorists use the Internet to accumulate funds and assets may be classified into four categories: direct solicitation, or requesting funds from supporters; e-commerce; exploitation of online payment tools, such as electronic wire transfers; and through charitable organizations.²⁵² However, even with the large amount of information on this, few Member States have developed legislation specifically targeting acts committed by terrorists over the Internet; accordingly, UNODC works with states to building capacity in this area, but challenges remain.²⁵³

Human Rights in Countering Terrorism

Terrorism has a significant impact on human rights, often threatening the right to life, liberty, and dignity; weakening social institutions; threatening economic development; fuel conflicts; and affecting the rights of all citizens in countless ways.²⁵⁴ In 2010, the Security Council adopted resolution 1963, which stressed that effective counter-terrorism measures and respect for human rights are not only compatible, but also mutually reinforcing.²⁵⁵ Under Pillar IV of the 2006 *UN Global Counter-Terrorism Strategy*, all Member States are encouraged to bring “any person who participates in the financing, planning, preparation or perpetration of terrorist acts” to justice with the “due respect” for human rights and fundamental freedoms.²⁵⁶

²⁴² UN Security Council, *Threats to international peace and security caused by terrorist acts (S/RES/1373 (2001))*, 2001, p. 2.

²⁴³ UN Security Council, *The situation in Afghanistan (S/RES/1267 (1999))*, 1999, p. 2; UN Security Council, *Threats to international peace and security caused by terrorist acts (S/RES/2161(2014))*, 2014, p. 4.

²⁴⁴ UNODC, *Legislative Guide to the Universal Legal Regime against Terrorism*, 2008, p. 20.

²⁴⁵ International Criminal Police Organization, *Money Laundering*, 2016.

²⁴⁶ International Criminal Police Organization, *Money Laundering*, 2016.

²⁴⁷ UNODC, *Legislative Guide to the Universal Legal Regime against Terrorism*, 2008, p. 20.

²⁴⁸ *Ibid.*

²⁴⁹ *Ibid.*

²⁵⁰ Financial Action Task Force, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations*, 2012, p. 13.

²⁵¹ UNODC, *Countering Terrorist Financing*, 2016.

²⁵² UNODC, *The Use of the Internet for Terrorist Purposes*, 2012, p. 7.

²⁵³ UNODC, *The Use of the Internet for Terrorist Purposes*, 2012, p. 134; UNODC, *Countering The Use Of The Internet For Terrorist Purposes*, 2016.

²⁵⁴ UNODC, *Handbook on Criminal Justice Responses to Terrorism*, 2009, p. 17.

²⁵⁵ UN Security Council, *Threats to international peace and security caused by terrorist acts, (S/RES/1963 (2010))*, 2010, p. 5.

²⁵⁶ UN General Assembly, *The United Nations Global Counter-Terrorism Strategy (A/RES/60/288)*, 2006, p. 9.

Regarding the investigation and prosecution of terrorist offenses, individuals are entitled to key rights and principles, including the freedom from torture.²⁵⁷ Despite this, the arrest and detention, interrogation, and subsequent of terrorist suspects may involve the violation of several human rights and freedoms, as codified in the *Universal Declaration of Human Rights* (1948) and *International Covenant on Civil and Political Rights* (1966).²⁵⁸ For example, in regards to torture and ill-treatment, all States parties have the responsibility to “protect the right to physical and mental integrity of all persons,” but in some cases, the conditions of detention can result in inhuman and degrading treatment.²⁵⁹ Although terrorist acts violate international law and threaten peace and security, Member States have the responsibility to take “all necessary measures” to ensure that the individuals that commit these acts are not arbitrarily deprived of the right to liberty; they are still entitled to other rights, such as the right to a fair trial.²⁶⁰

Aside from the human rights of the terrorist suspect, Member States are also encouraged to protect the human rights of victims and witnesses from the threats of persons under investigation, which include the right to life, security, and physical and mental integrity.²⁶¹ Increasingly, Member States are recognizing the need for victims of terrorism to be provided with protection of their human rights at all times, such as the rights to health, legal assistance, and effective and prompt reparation.²⁶² In addition, in relation to victims of other crimes, victims of acts of terrorism require specific needs and treatment, especially as such acts often result in large-scale human and material devastation, and may also indirectly affect family members and friends of victims.²⁶³ According to UNODC, human rights provisions, such as the right to trial within a reasonable time, and giving victims the rights of restitution, or other forms of compensation, should be made for victims.²⁶⁴

Conclusion

In a world of violence, the international community recognizes the vital need to promote and foster a “global culture of peace” and to continue working collaboratively as an international community.²⁶⁵ Terrorism continues to threaten international peace and security by destabilizing governments, undermining economic and social development, and taking innocent lives.²⁶⁶ There is much progress to be made on a comprehensive criminal justice response that both respects and strengthens rule of law and human rights.²⁶⁷ Member States have different legal, political, socioeconomic, cultural, and religious backgrounds; nonetheless, taking into account international norms and standards, strengthening criminal justice systems and developing common counter-terrorism strategies could help mitigate terrorism and its consequences.²⁶⁸ CCPCJ will continue to play an important role in advising other UN agencies and Member States on how to create and implement strong legal instruments to counter and prevent terrorism in all forms.

²⁵⁷ UNODC, *Human Rights and Criminal Justice Responses to Terrorism*, 2014, pp. 51, 141.

²⁵⁸ UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948; UN General Assembly, *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

²⁵⁹ UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/RES/39/46)*, 1984; UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin (A/HRC/16/51/Add.1)*, 2010, p. 19; UN General Assembly, *UN Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment*, 1988.

²⁶⁰ UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51/Add.1)*, 2010, p. 13.

²⁶¹ *Ibid.*, p. 53.

²⁶² *Ibid.*, pp. 12-13.

²⁶³ UNODC, *The Criminal Justice Response to Support Victims of Acts of Terrorism*, 2011, p. 93; UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin (A/HRC/16/51/Add.1)*, 2010, pp. 12-13.

²⁶⁴ UNODC, *Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework*, 2015, p. 61.

²⁶⁵ UN News Centre, *UN General Assembly President underscores importance of fostering ‘Culture of Peace’ in challenging world environment*, 2016; UN General Assembly, *The United Nations Global Counter-Terrorism Strategy Review (A/RES/70/291)*, 2016, p. 1.

²⁶⁶ UNODC, *The United Nations Office on Drugs and Crime and Terrorism Prevention*, 2016.

²⁶⁷ UNODC, *Handbook on Criminal Justice Responses to Terrorism*, 2009, p. 5.

²⁶⁸ UN General Assembly, *The United Nations Global Counter-Terrorism Strategy Review (A/RES/70/291)*, 2016, p. 7.

Further Research

Upon researching, delegates should consider the role of CCPCJ in strengthening criminal justice responses to terrorism. As a result of the various legal systems and traditions that exist internationally, how can Member States work together to create international norms and law against terrorism? What would be the advantages and disadvantages of a court with “special jurisdiction” on terrorism? What types of laws can Member States develop that bring justice to the victims of terrorism and hold terrorists accountable for their actions, and how can CCPCJ support them in doing so? In addition to policymakers and legislators, how can other actors of the criminal justice system, such as the police force, uphold the rule of law while combating terrorism? Aside from the criminalization of money laundering, how can each Member State prevent terrorists from accessing financial resources? With the expansion of technology around the world, how can Member States counter the use of the Internet to finance and plan terrorist activities? How can the policymakers and legislators of all Member States balance the human rights of both perpetrators and victims of terrorism in the response to combat terrorism?

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Financial Action Task Force. (2012). *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations*. Retrieved 20 August 2016 from: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

This document created by the Financial Action Task Force (FATF) in 2012 added on to the previous Nine Special Recommendations on terrorist financing. Setting an international standard, the FATF recommendations primarily guide Member States in combating the financing of terrorism. According to these recommendations, Member States should facilitate international cooperation and apply preventative measures for the financial sector. Delegates may find this resource useful when researching the key issues in countering the financing of terrorism, as well as understanding the differences between money laundering and the financing of terrorism.

Office of the United Nations High Commissioner for Human Rights. (2008). *Human Rights, Terrorism and Counter-Terrorism* [Fact Sheet]. Retrieved 20 August 2016 from: <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>

Published by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2008, this document outlines the key connection between human rights, terrorism and counter-terrorism. In addition to the connection between these three key issues, the document also highlights existing human rights challenges in the context of terrorism and counter-terrorism, including the right to life, freedom from torture, and the right to a fair trial. This document will be particularly helpful to the delegates in forming a basic understanding of the importance of human rights protection in responding effectively to terrorism as well as thinking about effective criminal justice responses to preventing terrorism.

United Nations, Commission on Crime Prevention and Criminal Justice. (2016). *Discussion guide for the thematic discussion on criminal justice responses to prevent and counter terrorism in all its forms and manifestations, including the financing of terrorism, and technical assistance in support of the implementation of relevant international conventions and protocols (E/CN.15/2016/6)*. Retrieved 27 October 2016 from: <http://undocs.org/E/CN.15/2016/6>

At the twenty-fifth session of CCPCJ, ECOSOC compiled this guide to highlight the primary policy, legal and logistical challenges regarding criminal justice responses to counter terrorism. The guide also focuses on major thematic areas of counter-terrorism, such as the financing of terrorism and human rights in countering terrorism. This guide, along with the Handbook on Criminal Justice Responses to Counter Terrorism, will be among the most helpful sources for delegates. Specifically, delegates will find the introduction helpful, as well as the information on the financing of terrorism and integrating human rights in counter-terrorism efforts.

United Nations, Commission on Crime Prevention and Criminal Justice. (2016). *Report on the twenty-fifth session (E/2016/30)*. Retrieved 30 October 2016 from: <http://undocs.org/E/2016/30>

As a report on the twenty-fifth session of CCPCJ, this document highlights the most important points from the meeting, one of which focused on the thematic discussion of criminal justice responses to prevent and counter terrorism in all forms and manifestations. The report

summarizes the most important issues in regards to terrorism. Part III of this report in particular will help delegates understand the involvement of the Commission in this issue and the significance of a criminal justice response in preventing and countering terrorism.

United Nations Office on Drugs and Crime. (2008). *Legislative Guide to the Universal Legal Regime Against Terrorism*. Retrieved 20 August 2016 from: <http://www.unodc.org/documents/terrorism/LegislativeGuide2008.pdf>

This guide was published in 2008 by UNODC as a tool to guide national authorities in adopting and implementing the universal anti-terrorism conventions and protocols. Specifically, this document presents ongoing challenges in relation to this issue, such as the inability to prosecute an offender for the financing of terrorism. Pertaining to the key issue of strengthening criminal justice systems, this document can help delegates think about the ways in which the international anti-terrorism framework can facilitate the criminalization of terrorist acts by utilizing existing criminal justice mechanisms.

United Nations Office on Drugs and Crime. (2009). *Handbook on Criminal Justice Responses to Terrorism*. Retrieved 20 August 2016 from:

http://www.unodc.org/documents/terrorism/Handbook_on_Criminal_Justice_Responses_to_Terrorism_en.pdf

Created in 2009 by UNODC, this handbook aims to guide law enforcement and criminal justice officials in responding to terrorism from a legal approach. As a whole, this UNODC document introduces the importance of the relationship between the rule of law and criminal justice mechanisms. Further, this handbook discusses the challenges encountered by key actors in the criminal justice system in the prosecution, investigation, detention, and prevention of suspected or convicted perpetrators of terrorist acts. This document will be especially important for delegates in that the information included will guide them in understanding the role the criminal justice system can play in preventing and countering terrorism.

United Nations Office on Drugs and Crime. (2009). *Manual on International Cooperation in Criminal Matters related to Terrorism*. Retrieved 23 August 2016 from:

http://www.unodc.org/documents/terrorism/Publications/Manual_Int_Coop_Criminal_Matters/English.pdf

Published in 2009 by the UNODC, this manual aims to facilitate international cooperation in criminal matters related to terrorism. Specifically, this document was developed to enable legal practitioners specialized in the topic of terrorism to efficiently utilize international cooperation measures to counter terrorist acts. Further, the manual outlines some difficulties and obstacles in countering terrorism and offers practical advice on dealing with such challenges. It is important for delegates to consider this resource because the criminal justice response to terrorism should not only be handled by Member States individually, but also through transnational cooperation.

United Nations Office on Drugs and Crime. (2014). *Human Rights and Criminal Justice Responses to Terrorism [Training Module]*. Retrieved 23 August 2016 from:

http://www.unodc.org/documents/terrorism/Publications/Module_on_Human_Rights/Module_HR_and_CJ_responses_to_terrorism_ebook.pdf

As one of the counter-terrorism legal training curriculum modules, this UNODC document guides actors in the criminal justice system make the connection between human rights and criminal justice responses to terrorism. Specifically, this module discusses the criminalization of terrorist activities, the investigation of terrorist offenses, the detention of terrorist suspects, the punishment of terrorist offenses, and the international transfer of persons in countering terrorism. As a whole, this source provides background information about actions that Member States can take in responding to terrorism from a criminal justice and human rights approach. In particular, delegates may find this source particularly useful in researching in depth about the third sub-topic.

United Nations Office on Drugs and Crime. (2016). *Technical Assistance Tools and Publications [Website]*. Retrieved 23 August 2016 from: <http://www.unodc.org/unodc/en/terrorism/technical-assistance-tools.html#Compendia>

On this website, key technical assistance tools and publications on preventing and combating terrorism are listed. These key sources include, but are not limited to: a counter-terrorism legislation database, model laws criminalizing terrorism, and frequently asked questions on

international law aspects of countering terrorism. Other sources include bilateral and regional instruments, as well as conference publications. Delegates may find this website, along with the Handbook on Criminal Justice Responses to Terrorism, particularly helpful in increasing their knowledge about the role criminal justice systems play in countering terrorism, ways to counter the financing of terrorism, and human rights in relation to counter terrorism.

United Nations Office on Drugs and Crime, Terrorism Protection Branch. (2006). *Preventing terrorist acts: a criminal justice strategy integrating rule of law standards in implementation of United Nations anti-terrorism instruments*. Retrieved 16 September 2016 from: <http://www.unodc.org/pdf/terrorism/TATs/en/3IRoLen.pdf>
Published by the Terrorism Prevention Branch of the UNODC in 2006, this document intends to provide technical assistance to all Member States in their efforts to counter terrorism. In addition, this document also aims to provide Member States with a strategy in implementing the UN anti-terrorism instruments in accordance with domestic law. This source will be particularly helpful for delegates as they design concrete solutions to addressing terrorism from a criminal justice perspective. Out of the sections in the document, the outlines on terrorist offenses will be the most helpful for the delegates.

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III. Strengthening International Legal Instruments to Address Sexual Violence in Conflict

*“Sexual violence in conflict needs to be treated as the war crime that it is; it can no longer be treated as an unfortunate collateral damage of war, or unavoidable by product of political strife.”*²⁶⁹

Introduction

The perpetration of sexual violence against vulnerable groups plagues nearly all societies across the world, both during times of conflict and in peace.²⁷⁰ In conflict, sexual violence is often used as a weapon of war against civilian populations.²⁷¹ In a 2016 report to the Security Council, the United Nations (UN) Secretary-General defined conflict-related sexual violence as “rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, boys, or girls, that is directly or indirectly linked (temporally, geographically, or causally) to a conflict.”²⁷² It is estimated that approximately 60,000 people were raped between 1992-1995 during the conflict in the former Yugoslavia, and between 100,000 to 250,000 were raped during the three months of genocide in Rwanda in 1994; more recently, service providers recorded 5866 cases of gender-based violence in Yemen in 2015.²⁷³ The impact of these crimes continues long after the conflict has ended; transmitted diseases, unwanted pregnancies, stigmatization of victims, and the erosion of communities have enduring legacies and continue to be felt by communities and individuals.²⁷⁴ Further, many post-conflict societies do not have adequate resources to support survivors legally, medically, and psychologically, and thus need to strengthen domestic capacity to address sexual violence in conflict.²⁷⁵ With impunity for perpetrators and in the absence of adequate security, the violence itself often continues even after the conflict has ended.²⁷⁶

While sexual violence was identified in many relief efforts of earlier conflicts, the international community did not prioritize it as an element of conflict that could and should be prevented.²⁷⁷ In recent decades, many strides have been made to address ways to contain and prevent sexual violence, as well as provide support for survivors in humanitarian efforts.²⁷⁸ The first of these is the recognition of sexual violence as a deliberate tactic in war, as a war crime, a crime against humanity, and in the case of rape – a crime of genocide.²⁷⁹ But even with this recognition, there is still much work to be done in ending the scourge of sexual violence in conflict.²⁸⁰ Some of the various achievements and challenges include survivor support and adequate data collection, developing alternative justice systems, accountability in militaries and armed groups, and domestic incorporation of international laws.²⁸¹

International and Regional Framework

The international framework for combating sexual violence is broadly encapsulated in article 5 of the *Universal Declaration of Human Rights* (1948), which states that “no one shall be subjected to cruel, inhumane, or degrading treatment or punishment;” as well as article three which guarantees the right to “life, liberty, and security of the person.”²⁸² With regards to international and non-international conflicts, the *Geneva Conventions* (1949) and Additional Protocols thereto were the first documents to explicitly criminalize sexual violence and rape in war.²⁸³ The *Geneva Convention Relative to the Protection of Civilian Persons in Times of War* (1949), also known as Geneva Convention IV, states that “women shall be especially protected against any attack on their honor, in

²⁶⁹ UN News Center, *Statement by SRSF SViC*, 2012.

²⁷⁰ UN Outreach Programme on the Rwanda Genocide, *Background Information on Sexual Violence used as a Tool of War*.

²⁷¹ *Ibid.*

²⁷² UN Security Council, *Report of the Secretary-General on conflict-related sexual violence (S/2016/361/Rev.1)*, 2016, p. 1.

²⁷³ *Ibid.*, pp. 18-19.

²⁷⁴ UN Outreach Programme on the Rwanda Genocide, *Background Information on Sexual Violence used as a Tool of War*.

²⁷⁵ *Ibid.*

²⁷⁶ *Ibid.*

²⁷⁷ The International Campaign to Stop Rape and Gender Violence in Conflict, *Stop Rape in Conflict*.

²⁷⁸ *Ibid.*

²⁷⁹ *Ibid.*

²⁸⁰ *Ibid.*

²⁸¹ *Ibid.*

²⁸² UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

²⁸³ *Geneva Convention Relative to the Protection of Civilian Persons in Times of War*, 1949.

particular against rape, enforced prostitution, or any form of indecent assault.”²⁸⁴ The two additional protocols, namely the *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts* (1977) and the *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts* (1977), echo similar sentiments, but without placing the focus solely on female victims of sexual assault.²⁸⁵ Both of these Protocols prohibit “rape, enforced prostitution, and any form of indecent assault,” and speak to the treatment of civilian victims in international and non-international armed conflicts respectively.²⁸⁶ The *Declaration on the Elimination of Violence against Women* (1993) discusses sexual violence as a gender-based crime, defining it in article 2 to include rape, sexual assault, and sexual violence.²⁸⁷ This declaration calls for Member States to proactively protect women from all forms of violence, and aims to solidify the international commitment to protecting women as a vulnerable group in society.²⁸⁸

International criminal tribunals and courts have also contributed to the international framework on this topic. Two international tribunals were set up to address matters that arose from the conflict in the former Yugoslavia and the Rwandan genocide: the International Criminal Tribunal of the Former Yugoslavia (ICTY), and the International Criminal Tribunal for Rwanda (ICTR), respectively.²⁸⁹ Article 5 of the *Statute of the International Criminal Tribunal for the former Yugoslavia* (1993, amended 2009) expressly acknowledges rape as a crime against humanity.²⁹⁰ In 2001, the ICTY became the first ever international tribunal to find an individual guilty of rape as a crime against humanity when it convicted three men for their role in systematic rape and sexual enslavement during the war.²⁹¹ Similarly, the ICTR has also declared rape to be a war crime and a crime against humanity, and in 1998 it made the first ever conviction of rape as a crime of genocide against former mayor Jean-Paul Akayesu.²⁹² The *Rome Statute* (2002), which is the founding document of the International Criminal Court (ICC), included rape, enforced prostitution, “and any other form of sexual violence of comparable gravity” as crimes against humanity when used in a systematic way during conflict, opening up the door for more prosecutions of sexual violence at the international level.²⁹³

The Security Council has extensively discussed the topic of conflict-related sexual violence, particularly as it is carried out against women. Its adoption of resolutions addressing sexual violence began with resolution 1325 (2000) on “Women and peace and security,” which calls for the protection of women against rape and sexual violence.²⁹⁴ Resolution 1325 stresses the need for gender mainstreaming in order to understand the unique impact of conflict on women and the importance of creating inclusive peace building mechanisms.²⁹⁵ Security Council resolution 1820 (2008) on “Women and peace and security” reinforced the principles of resolution 1325 and marked the first time the Security Council explicitly recognized sexual violence in conflict as a war crime and crime against humanity.²⁹⁶ It further called for the end of impunity for perpetrators of sexual violence and for the inclusion of women in all aspects of the peace process.²⁹⁷ These two landmark resolutions were followed and supported by Security Council resolution 1888 (2009) which mandated the creation of the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG SViC) and Women’s Protection Advisers (WPA) within peacekeeping

²⁸⁴ Ibid.

²⁸⁵ *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts*, 1977; *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts*, 1977.

²⁸⁶ Ibid.

²⁸⁷ UN General Assembly, *Declaration on the Elimination of Violence against Women (A/RES/48/104)*, 1993.

²⁸⁸ Ibid.

²⁸⁹ *Updated Statute of the International Criminal Tribunal of the Former Yugoslavia*, 2009; UN Outreach Programme on the Rwanda Genocide, *Background Information on Sexual Violence used as a Tool of War*.

²⁹⁰ *Updated Statute of the International Criminal Tribunal of the Former Yugoslavia*, 2009.

²⁹¹ UN Outreach Programme on the Rwanda Genocide, *Background Information on Sexual Violence used as a Tool of War*.

²⁹² Ibid.

²⁹³ *Rome Statute of the International Criminal Court*, 2002, art 7(1)(g).

²⁹⁴ UN Security Council, *Women and peace and security (S/RES/1325 (2000))*, 2000.

²⁹⁵ UN Peacekeeping, *Women, Peace and Security*.

²⁹⁶ UN Security Council, *Women, Peace and Security (S/RES/1820 (2008))*, 2008.

²⁹⁷ Ibid.

operations, as well as four other resolutions on women and peace and security.²⁹⁸ Resolution 2122 (2013) in particular reflects a commitment by the Security Council to better implement resolution 1325 in its own operations by making a pointed effort to assign more leadership roles to women and to welcome more regular briefings by the Executive Director of the UN Entity for Gender Equality and the Empowerment of Women (UN-Women), and the SRSg SViC.²⁹⁹

The Economic and Social Council (ECOSOC) has also adopted resolutions on sexual violence in conflict, beginning with resolution 1993/26 (1993) on “Violence Against Women in All its Forms,” which condemned systematic rape during conflict.³⁰⁰ ECOSOC also adopted resolution 2006/29 (2006) on “Crime Prevention and Criminal Justice Responses to Violence Against Women and Girls” which called for action to eliminate violence against women in all of its forms.³⁰¹ This resolution echoed many of the sentiments in Security Council resolution 1325, and acknowledged the prevalence and dangers of sexual violence in conflict.³⁰² It further called on Member States “to promote an active and visible policy for integrating a gender perspective into the development and implementation of policies and programs in the field of crime prevention and criminal justice.”³⁰³

Role of the International System

The Commission on Crime Prevention and Criminal Justice (CCPCJ) has been an active contributor in combating sexual violence in conflict. One of CCPCJ’s mandates is to review and implement the UN’s criminal justice and crime prevention agenda.³⁰⁴ One of the ways in which it does this is through the propagation of norms and standards on many aspects of criminal justice; these standards are put together in a compendium that was last revised in 2009.³⁰⁵ The compendium provides a vision on how criminal justice systems should be structured and guides states on possible criminal justice reforms, helps develop regional strategies, and promotes adherence to international best practices.³⁰⁶ CCPCJ recognizes the *Declaration on the Elimination of Violence against Women* in the compendium and presents a multi-faceted approach to mainstreaming gender perspectives into discussions on violence and crime prevention.³⁰⁷ In section 10 of the compendium, CCPCJ urges Member States to condemn all forms of violence against women during conflict, including systematic rape and sexual slavery.³⁰⁸ In its 24th Session in 2015, CCPCJ reiterated its commitment to eliminating sexual violence in conflict as Member States expressed deep concern for the use of sexual violence in conflict and emphasized the need to put an end to it.³⁰⁹

The UN Action Against Sexual Violence in Conflict (UN Action) is a concerted effort by the United Nations to prevent sexual violence in conflict and provide effective support for survivors.³¹⁰ Founded in 2007 and chaired by the SRSg SViC, it unites the work of 13 UN entities, including the UN Office on Drugs and Crime (UNODC) (of which CCPCJ is the governing body), UN Development Programme (UNDP), UN Children’s Fund (UNICEF), UN-Women, and the Office of the UN High Commissioner for Refugees (UNHCR).³¹¹ The program states its three main

²⁹⁸ UN Security Council, *Women, Peace and Security (S/RES/1888 (2009))*, 2009; UN Security Council, *Women, Peace and Security (S/RES/1889 (2009))*, 2009; UN Security Council, *Women, Peace and Security (S/RES/1960 (2010))*, 2010; UN Security Council, *Women, Peace and Security (S/RES/2106 (2013))*, 2013; UN Security Council, *Women, Peace and Security (S/RES/2122 (2013))*, 2013.

²⁹⁹ UN DPI, *Security Council Adopts Resolution 2122(2013), Aiming to Strengthen Women’s Role in All States of Conflict Prevention, Resolution (SC/11149)*, 2013.

³⁰⁰ UN ECOSOC, *Violence Against Women in All its Forms (E/RES/1993/26)*, 1993, p.1.

³⁰¹ UN ECOSOC, *Crime Prevention and Criminal Justice Responses to Violence Against Women and Girls (E/RES/2006/29)*, 2006.

³⁰² *Ibid.*

³⁰³ UN CCPCJ, *Aspects of Violence Against Women that Pertain Directly to the Commission on Crime Prevention and Criminal Justice: Note by the Secretariat, (E/CN.15/2008/CRP.1)*, 2008.

³⁰⁴ Barberet, *Women, Crime, and Criminal Justice: A Global Inquiry*, 2007.

³⁰⁵ UNODC, *Compendium of United Nations standards and norms in crime prevention and criminal justice*, 2006.

³⁰⁶ *Ibid.*, p. vii.

³⁰⁷ *Ibid.*, p. 334.

³⁰⁸ *Ibid.*

³⁰⁹ UN CCPCJ, *Report on the Twenty-fourth Session (E/CN.15/2015/19)*, 2015.

³¹⁰ UN Action Against Sexual Violence in Conflict, *Stop Rape Now: About*.

³¹¹ UN Action Against Sexual Violence in Conflict, *Stop Rape Now*.

pillars as “country level action, advocating for action, and learning by doing.”³¹² In its 2014 Strategic Framework, UN Action called for the end of impunity for perpetrators and pledged to advocate for the end of sexual violence.³¹³ The framework guides the provision of technical and strategic support to UN organizations in the field, coordination of services for survivors, and guides the work of a large advocacy program to bring light to the issue.³¹⁴ Through accessing funds and other means of support from UN Action, member organizations are able to pilot effective projects to work towards eliminating conflict-related sexual violence.³¹⁵

The office of the SRSV SViC was established through Security Council resolution 1888 (2009) in recognition of the need to prevent conflict-related sexual violence by having a specialized team to spearhead UN efforts.³¹⁶ The SRSV serves as the spokesperson of the UN on this topic and is a political advocate that encourages cooperation to end sexual violence in conflict.³¹⁷ The Office has established six priorities, which include ending impunity of perpetrators of sexual violence, protecting and empowering civilians affected by sexual violence in conflict, harmonizing the UN’s response by leading UN Action, and fostering government engagement in developing strategies to combat sexual violence in conflict.³¹⁸ Its key initiatives include training of state militaries that deploy troops in UN peacekeeping efforts, the development of comprehensive strategies to combat sexual violence, scaling up and improving access to services, and strengthening protection efforts.³¹⁹ The Office has worked in partnership with UN entities including UN-Women to achieve these objectives in their target states.³²⁰

Sexual Violence Reporting and Data Collection

Lack of accurate statistics on sexual violence can thwart action; without an understanding of who is affected, organizations working in prevention and protection cannot formulate appropriate responses.³²¹ However, there is little reliable data on the prevalence and severity of sexual violence in most conflicts.³²² The collection of such data is important not only to give recognition for the victims of the crimes, but also in order to effectively address the problem.³²³ Although a rarity, over-reporting has been cited as a hindrance to accurate data collection.³²⁴ In some instances, people may be more inclined to “over report” rape and sexual violence if they believe that victims may receive additional benefits and humanitarian assistance.³²⁵ More frequently, stigmatization of sexual violence prevents victims from reporting the crimes committed against them.³²⁶ The methods used for data collection may also be skewed and render many victims and vulnerable groups invisible.³²⁷ Many researchers target their surveys towards girls and women exclusively, which overlooks male and child victims who may not fit into the traditional conception of what sexual violence victims look like.³²⁸ The number of these victims is not so small as to be insignificant, and by failing to collect their data, their needs, including medical care and support, are not met by international response.³²⁹ Police involvement in data collection can also lead to inaccurate statistics.³³⁰ Law enforcement is not always properly trained in dealing with cases of sexual violence and can inadvertently re-

³¹² UN Action Against Sexual Violence in Conflict, *Stop Rape Now: About*.

³¹³ UN Action Against Sexual Violence in Conflict, *Progress Report 2013-2014*, pp. 1-10.

³¹⁴ *Ibid.*, p. 7.

³¹⁵ *Ibid.*, p. 7.

³¹⁶ UN Office of the SRSV for Sexual Violence in Conflict, *About the Office*, 2016.

³¹⁷ *Ibid.*

³¹⁸ *Ibid.*

³¹⁹ UN Office of the Special Representative of the Secretary-General for Sexual Violence in Conflict, *Key Initiatives*, 2016.

³²⁰ *Ibid.*

³²¹ Palermo & Peterman, *Undercounting, overcounting and the longevity of flawed estimates*, 2011.

³²² *Ibid.*

³²³ Brooks, *The Need for Numbers On Rape in War—And Why They’re Nearly Impossible to Get*, *Women Under Siege*, 2014.

³²⁴ Palermo & Peterman, *Undercounting, overcounting and the longevity of flawed estimates*, 2011.

³²⁵ *Ibid.*

³²⁶ Brooks, *The Need for Numbers on Rape in War – And Why They’re Nearly Impossible to Get*, 2014.

³²⁷ Palermo & Peterman, *Undercounting, overcounting and the longevity of flawed estimates*, 2011.

³²⁸ *Ibid.*

³²⁹ *Ibid.*

³³⁰ *Ibid.*

victimize and stigmatize victims, which prevents many victims from reporting.³³¹ The combined result skews the statistics in a manner that is not reflective of the true situation.³³²

In order to successfully combat sexual violence as a systematic weapon of war, there needs to be a more unified and consistent approach to data collection that is cognizant of these barriers and challenges and seeks to overcome them.³³³ In its 2008 discussion paper, CCPCJ highlights the importance of reporting for developing adequate responses.³³⁴ It stresses the need for sensitization training of police officers and the creation of victim-friendly units as a means of encouraging reporting and gathering reliable data for advocacy campaigns.³³⁵ It further states that creating a social and police environment that encourages reporting enables vigorous investigation, timely arrests, and prosecution in order to end the culture of impunity for perpetrators.³³⁶ CCPCJ recommends the development of support systems that promote the dignity and privacy of victims in order to create a space conducive to reporting, as the availability of accurate data on sexual violence in conflict situations assists policy makers in designing effective preventative interventions.³³⁷ In resolution 1960 (2010) on “Women and peace and security,” the Security Council requests that the Secretary-General establish monitoring, analysis, and reporting arrangements (MARA) on sexual violence in conflict and post-conflict situations.³³⁸ It highlights such arrangements as important to ensuring a coherent approach to data collection and a coordinated response to conflict-related sexual violence.³³⁹ The efficacy of international legal instruments in addressing sexual violence depends on the ability of implementers to successfully identify victims and understand their needs, and as such reporting and data collection form an integral part of combating sexual violence in conflict.³⁴⁰

Prosecution of Sexual Violence Crimes and Alternative Justice Systems

Impunity for perpetrators of sexual violence is widespread for a number of reasons, including underreporting of cases and the lack of effective prosecution and convictions where cases are investigated.³⁴¹ The UN system and other international organizations have called for the end of impunity, highlighting the importance of perpetrators being held accountable and the need for victims to receive justice.³⁴² Both the ICTY and ICTR were able to successfully prosecute sexual crimes and designate rape convictions as a crime against humanity and a crime of genocide.³⁴³ These prosecutions are examples of retributive justice, which is punitive in nature and is the basis of criminal proceedings in most domestic and international courts.³⁴⁴ Its aim is to punish the offender for a wrongdoing through prosecution, trial, conviction, and sentence.³⁴⁵ However, in many cases in both domestic and international courts and tribunals, successful prosecution of sexual crimes is not always possible or efficiently delivered.³⁴⁶ Lack of understanding regarding gender dynamics in sexual violence cases often results in judicial bias and different standards of proof for sex crimes that make them more difficult to convict.³⁴⁷ A case study on the ICC case of *The Prosecutor v Germain Katanga* reveals that during this trial, the same legal principles that were relied upon to convict Katanga as an accessory to the crime of murder could not be used to convict him for rape and forced sexual

³³¹ Ibid.

³³² Ibid.

³³³ Ibid.

³³⁴ UN CCPCJ, *Aspects of VAW that Pertain Directly to the CCPCJ: Note by the Secretariat, (E/CN.15/2008/CRP.1)*, 2008.

³³⁵ Ibid., p. 11.

³³⁶ Ibid., p. 14.

³³⁷ Ibid., pp. 7, 14.

³³⁸ UN Security Council, *Women and peace and security (S/RES/1960 (2010))*, 2010.

³³⁹ Ibid.

³⁴⁰ Palermo & Peterman, *Undercounting, overcounting and the longevity of flawed estimates*, 2011.

³⁴¹ Ibid.

³⁴² Ibid.

³⁴³ UN Outreach Programme on the Rwanda Genocide, *Background Information on Sexual Violence used as a Tool of War*.

³⁴⁴ Geneva Centre for the Democratic Control of Armed Forces, *Justice for Survivors of Sexual Violence in Conflict*, p. 156.

³⁴⁵ Ibid.

³⁴⁶ Women’s Initiative for Gender Justice, *Speech by the Executive Director of Women’s Initiative for Gender Justice Brigid Inder on A Critique of the Katanga Judgment*, 2014, p. 1.

³⁴⁷ Ibid.

slavery.³⁴⁸ Similar problems regarding the lack of consistent application of the law in sexual violence crimes exist in many domestic jurisdictions and impede effective prosecution and conviction.³⁴⁹

There has been much discussion on restorative justice methods to supplement retributive justice to address sexual violence.³⁵⁰ Restorative justice is built on creating platforms for all parties affected by the wrongdoing to discuss and engage with each other on long-term consequences.³⁵¹ Restorative justice may include truth commissions, mediation, and other alternative justice systems.³⁵² Its aim is primarily for healing the affected community and encouraging dialogue between victim and offender.³⁵³ However, one of the issues highlighted with restorative justice is that it may not succeed in deterring future offenders and may give the perception of impunity for perpetrators of sexual violence.³⁵⁴ Whether there is a place for both of these types of justice in instances of sexual violence, particularly in conflict, is subject to debate.³⁵⁵ Where systems work, the victim should have recourse to more than one method of justice and should be able to tailor their chosen method to adequately address their experience.³⁵⁶ However, during a conflict and in the immediate aftermath, such systems are often broken and the options available to victims are limited.³⁵⁷

One of the ways in which international and domestic systems attempt to bridge this gap between broken systems and the need to realize the victims' right to justice is through transitional justice.³⁵⁸ The UN defines transitional justice as "the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation."³⁵⁹ These methods include, but are not limited to the establishment of temporary ad hoc tribunals and truth and reconciliation commissions.³⁶⁰ Traditional justice systems that emphasize criminal prosecutions leave many victims behind because victims often find that the social and psychological cost of reporting is too high.³⁶¹ Victims suffer stigmatization from their communities from reporting and pursuing justice, and recognizing that most accused perpetrators are never convicted, many victims are deterred from following this route to justice.³⁶² The aim in transitional justice is to achieve reconciliation, accountability, and acknowledgement of atrocities committed, as well as to deter perpetrators from reoffending.³⁶³ Truth and reconciliation commissions aim to provide a space for victims to receive acknowledgement for the crimes committed against them and to end impunity by providing recommendations for reparations.³⁶⁴

Legislation that recognizes and punishes sexual violence, both in peace and conflict is one way to support justice for victims of these crimes.³⁶⁵ There is a legal obligation for states to enact legislation that protects people from sexual violence, however, many Member States have failed to adopt domestic legal frameworks to this end.³⁶⁶ Prosecution demands a clear legal basis for justice, and it is thus important for Member States to develop their own domestic law that enforces their international obligations.³⁶⁷ It is also important for this law to not place undue difficulty on the

³⁴⁸ Ibid.

³⁴⁹ Ibid.

³⁵⁰ Geneva Centre for the Democratic Control of Armed Forces, *Justice for Survivors of Sexual Violence in Conflict*, p. 156.

³⁵¹ Koss & Achilles, *Restorative Justice Responses to Sexual Assault*, 2008.

³⁵² Ibid.

³⁵³ Geneva Centre for the Democratic Control of Armed Forces, *Justice for Survivors of Sexual Violence in Conflict*, p. 156.

³⁵⁴ Ibid.

³⁵⁵ Ibid.

³⁵⁶ Koss & Achilles, *Restorative Justice Responses to Sexual Assault*, 2008.

³⁵⁷ Geneva Centre for the Democratic Control of Armed Forces, *Justice for Survivors of Sexual Violence in Conflict*, p. 156.

³⁵⁸ Ibid.

³⁵⁹ UN Rule of Law, *Guidance Note of the Secretary General: United Nations Approach to Transitional Justice*, 2010, p. 2.

³⁶⁰ Geneva Centre for the Democratic Control of Armed Forces, *Justice for Survivors of Sexual Violence in Conflict*, p. 156.

³⁶¹ Stauffer, *No Shame in Justice: Addressing Stigma Against Survivors to end Sexual Violence in Conflict*, 2015, p. 5.

³⁶² Ibid.

³⁶³ Geneva Centre for the Democratic Control of Armed Forces, *Justice for Survivors of Sexual Violence in Conflict*, p. 156.

³⁶⁴ Ibid., pp. 157-158.

³⁶⁵ Ibid., p. 162.

³⁶⁶ Ibid.

³⁶⁷ Ibid., pp. 162-163.

prosecution of sexual crimes by contextualizing and modifying the threshold for proof, and by making the process more friendly for victims through training for court and law enforcement officials.³⁶⁸

Accountability and Intervention for Armed Groups

Sexual violence can be used by state armed groups as a means of torture of detainees, and to suppress the civilian population.³⁶⁹ However, given the varying patterns and trends across different conflicts, this is not identified as the only reason it is perpetrated, and there is no conclusive evidence as to why armed groups commit sexual violence.³⁷⁰ Perpetrators of sexual violence in conflict are more likely to be members of state armed groups, but commission of sexual crimes by rebel or militia groups also occurs.³⁷¹ For example, during the civil war in El Salvador, state forces frequently committed rape and other forms of sexual violence against detainees, while the rebel group FMLN rarely committed such crimes.³⁷² By contrast, the civil war in Sierra Leone featured regular sexual violence by both state and rebel groups in the form of sexual torture, sexual slavery, and gang rape.³⁷³

The disparity in the commission of these crimes between and even within conflicts demonstrates that sexual violence is not an inevitable part of war.³⁷⁴ It is thus important to study armed groups that do not perpetrate sexual violence alongside those that do, with the aim of developing best practices for training and intervention of commanders and troops.³⁷⁵ In the same vein, states need to develop better policies for holding militaries and other armed groups accountable for sexual crimes committed; this is particularly important and effective where there is established command within the group.³⁷⁶ Commanders should be held accountable for the conduct of troops under their command, even if troops are not acting under order, if it can be shown that the commander knew or should have known that the troops were committing such acts.³⁷⁷ Greater accountability of commanders may create greater command control of armed groups, and therefore serve to decrease incidences of sexual violence.³⁷⁸

Accountability as described above should take on a victim-centered approach. Many victims of sexual violence face intimidation and physical attacks from their perpetrators, especially where perpetrators are commanders of armed groups; in these instances, victims require protection from the judicial system in order to secure their participation in the process.³⁷⁹ In recent trials, this protection included closed hearings and the concealment of victims' identities.³⁸⁰ These practices are some, among others, that can be adapted to prosecute perpetrators in a way that protects victims in their pursuit of justice.³⁸¹

Conclusion

There are a number of ways in which international legal frameworks can be strengthened to better address sexual violence in conflict. Some of these measures are taken by Member States on a domestic level, while others may be international initiatives supported by CCPCJ among other actors. Among these recommendations, the need for reliable research and data collection on sexual violence in conflict, and Member States' initiative to develop their national legislation so that it is in line with international obligations are paramount. It is important for legal frameworks to adopt a context-specific approach and for the international community to be mindful of the sensitivities of the different communities in which the violence occurs. International legal frameworks for addressing sexual violence need to be supported by effective implementation, comprehensive drafting of policy, reliable research, and Member State cooperation.

³⁶⁸ Ibid., pp. 162-163.

³⁶⁹ Cohen et al., *Wartime Sexual Violence Misconceptions, Implications, and Ways Forward*, 2013, p. 4.

³⁷⁰ Ibid.

³⁷¹ Ibid.

³⁷² Ibid., p. 2.

³⁷³ Ibid.

³⁷⁴ Ibid., p. 12.

³⁷⁵ Ibid.

³⁷⁶ Ibid., p. 13.

³⁷⁷ Ibid.

³⁷⁸ Ibid.

³⁷⁹ Human Rights Watch, *Democratic Republic of Congo: Ending Impunity for Sexual Violence*, 2014.

³⁸⁰ Ibid.

³⁸¹ Ibid.

Further Research

How can the barriers and challenges in the implementation of legal instruments be addressed? In what ways can CCPCJ contribute to victim-friendly training of officials in order to encourage increased reporting? What are the shortfalls of current measures and how can they be improved? Could restorative justice be used in a more widespread manner in the future as a means of redress? How can the international community frame training and intervention for armed groups to reduce their likelihood of committing sexual violence? What measures can the state and the international system put in place in the early stages of conflict to maintain accessible justice systems for victims of sexual assault?

Annotated Bibliography

Axmacher, S. (2013). *Review of Scenario-based Trainings for Military Peacekeepers on Prevention and Response to Conflict-Related Sexual Violence*. UN Action Against Sexual Violence in Conflict. Retrieved 17 July 2016 from: <http://stoprapenow.org/uploads/advocacyresources/1394227122.pdf>

This paper is a review of a rollout scenario-based training program conducted by UN-Women and UN Action Against Sexual Violence in Conflict. The program, piloted in a small number of Member States, aims to practically equip peacekeepers to deal with sexual violence reports when on mission. In this review, the author critically analyzes the methodology and effectiveness of the program and provides recommendations for implementation in the future. This is a key resource in delegate preparation because of the practical perspective it gives to the topic that helps the reader to understand what mechanisms of combating sexual assault look like when they are implemented and provides an opportunity to think reflectively on how these mechanisms can be improved, and create substantively rich and practical solutions to the issue.

Cohen, D., et al. (2013). *Wartime Sexual Violence: Misconceptions, Implications, and Ways Forward*. United States Institute of Peace. Retrieved 5 September 2016 from: <http://www.usip.org/publications/wartime-sexual-violence-misconceptions-implications-and-ways-forward>

This article takes a comprehensive look at sexual violence in conflict and explores many aspects of the topic in a concise manner. By disregarding myths and concluding with policy recommendations, it gives delegates a solid foundation on which to begin considering resolutions of their own. It provides interesting discussion points on misconceptions surrounding conflict-related sexual violence that will help delegates to develop their knowledge on the topic further.

Geneva Centre for the Democratic Control of Armed Forces. (n.d.). *Justice for Survivors of Sexual Violence in Conflict*. Retrieved 5 September 2016 from: <http://www.dcaf.ch/Chapter-Section/Justice-for-Survivors-of-Sexual-Violence-in-Armed-Conflict>

Transitional justice, which can include restorative justice, forms an important part of rebuilding societies after conflict, when done properly. This article draws attention to the different form transitional justice may take, and provides an evaluation of the suitability of different methods of justice for victims of sexual violence in conflict. By doing this, it gives the reader an understanding of the different forms that peacebuilding can take, and gives them an understanding of how these systems interact with each other.

The International Campaign to Stop Rape and Gender Violence in Conflict. (n.d.). *Stop Rape in Conflict*. [Website]. Retrieved 19 July 2016 from: <http://www.stoprapeinconflict.org/learn>

The “Learn” tab of this resource is particularly useful for understanding sexual violence in conflict from a practical perspective. It provides a brief summary of challenges to protection and prosecution, both of which are foundational to ending sexual violence. The website also provides an overview of international efforts in target states, which will be helpful for delegates to situate the problem in the regions where it is most concentrated, while understanding the diversity of the problem.

Palermo T., & A. Peterman. (2011). *Undercounting, Overcounting and The Longevity of Flawed Estimates: Statistics On Sexual Violence in Conflict* [Bulletin]. World Health Organization. Retrieved 5 September 2016 from: <http://www.who.int/bulletin/volumes/89/12/11-089888/en/>

This bulletin for the World Health Organization highlights the important yet sometimes overlooked issue of data collection in addressing sexual violence. It covers important aspects of the topic in a simplistic way that will allow delegates to do further research on this section. It is well corroborated by other sources, and provides key information on knowledge management in conflict. This source is particularly helpful because it helps link the need for reliable and accurate data to the effective implementation of prevention measures.

United Nations Action Against Sexual Violence in Conflict. (n.d.). *Stop Rape Now Key Documents* [Website]. Retrieved 18 July 2016 from: <http://www.stoprapenow.org/key-documents>

This web page is a compilation of key documents on this topic by UN Action Against Sexual Violence in Conflict. It is a very useful resource as it provides delegates with some of the most important documents on this particular issue, as well as recent articles and reports of the Stop Rape Now project. It is a strong starting point for delegate research and provides a well-rounded contextual background to understanding international legal instruments on the matter.

United Nations, International Criminal Tribunal of the Former Yugoslavia. (n.d.). *Crimes of Sexual Violence* [Website]. Retrieved 18 July 2016 from: <http://www.icty.org/en/in-focus/crimes-sexual-violence>

The ICTY was the first international tribunal to pass a conviction for conflict-related sexual violence, and has provided a definitive legal voice on the matter. On this website, delegates will gain access to landmark judgments on conflict-related sexual violence, and a history on how judiciary bodies have handled these cases. Under the tab "Resolutions and International Tribunals," it directs delegates to an important report that links resolution 1820 and the jurisprudence of international tribunals. This is an important link for delegates to review in understanding potential gaps between agreements made by states and the philosophy of the courts.

United Nations, Outreach Programme on the Rwanda Genocide and the United Nations. (2016). *Background Information on Sexual Violence used as a Tool of War* [Website]. Retrieved 5 September 2016 from: <http://www.un.org/en/preventgenocide/rwanda/about/bgsexualviolence.shtml>

This resource provides an overview of international milestones in combating sexual violence in conflict, including decisions of international tribunals and adoption of relevant Security Council resolutions. By mapping a timeline of shifting societal and judicial attitudes, it guides delegates through understanding how the existing jurisprudence evolved. It also assists delegates in understanding the international tribunal decisions and Security Council resolutions in relation to each other.

United Nations, Office for the Special Representative of the Secretary-General for Sexual Violence in Conflict. (2016). *About the Office* [Website]. Retrieved 19 July 2016 from: <http://www.un.org/sexualviolenceinconflict/about-us/about-the-office/>

The Office of the Special Representative of the Secretary-General for Sexual Violence in Conflict is a creation of Security Council resolution 1888 (2009). As the institution that is mandated to coordinate the UN response to conflict-related sexual violence, its website provides many rich resources on the work that it and other organizations and agencies have been doing. A thorough read through the resources on the website will provide delegates with a comprehensive understanding of the topic and access to key UN documents.

United Nations, Security Council, 5916th meeting. (2008). *Women and peace and security (S/RES/1820 (2008))* [Resolution]. Retrieved 18 July 2016 from: [http://undocs.org/S/RES/1820\(2008\)](http://undocs.org/S/RES/1820(2008))

Security Council resolution 1820 (2008) is one of the most comprehensive resolutions on this topic. One of its most important aspects is that it is the first time the Security Council explicitly, in a resolution, acknowledges rape as a war crime. Further, it calls the Secretary-General and Member States to action on addressing the issue, and clearly sets out certain obligations of states during conflict. Because of the binding nature of Security Council resolutions, these iterations are important in that they create mandatory obligations for all states, and create a foundation for punitive action should there be non-compliance. It is succeeded by resolutions 1888 and 2106, among others, which also extensively address the issue.

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