

United Nations General Assembly

High-Level General Assembly Thematic Debate on “*Integrating Crime Prevention and Criminal Justice in the Post-2015 Development Agenda*”

New York, 25 February 2015

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This High-Level Meeting is convened by the President of the General Assembly, following a proposal by the Permanent Missions of Qatar, Thailand, Italy, Mexico and Morocco, together with the United Nations Office on Drugs and Crime (UNODC).

1. The General Assembly’s Millennium Goals and the Secretary-General’s Synthesis Report on the Post-2015 Development Agenda, as well as other relevant resolutions by the General Assembly, the Economic and Social Council, the quinquennial Congresses on Crime Prevention and Criminal Justice and other U.N. reports, including the Report of the Executive Director to the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, Doha, 12-19 April 2015, A/CONS.222/5, 8 January 2015 entitles “Contribution of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice to the discussions on the post-2015 development agenda,” emphasize the linkage between the promotion of peace, economic and social development, the establishment of democracy and the rule of law, providing fair and effective justice systems, as part of the overall value-oriented goals of the United Nations Millennium Goals and the *Post-2015 Development Agenda*.
2. These resolutions, declarations and reports reflect the interconnected relationships that exist between global and local factors relating to human and economic

¹ ISISC is one of the eighteen organizations comprising the United Nations Crime Prevention and Criminal Justice Programme Network.

development on the one hand and justice and peace on the other. The assumption is that all of these factors are integrated and impact upon one another. These connections need to be articulated in both strategic and programmatic terms, to show the cause-and-effect relationship between these factors, and their impact on specific policies and practices.

3. While it is well established that globalization is an ongoing phenomenon that continues to expand, it is also, in many of its manifestations, beyond the ability of international and national mechanisms to control. New realities arise, which impact previously made assumptions, and thus impact on the outcomes of strategies relating to economic, social and human development, human rights, national and international criminal justice, and other international and national factors. It is not evident or obvious in the various resolutions, reports, and activities of the U.N. system, that there is a system to understand the dynamics of global factors and their impact upon the United Nations' goals mentioned above.
4. The work of the United Nations, as a multifaceted organization, is necessarily divided in accordance with its own bureaucratic structures and the mandates of its Bodies and Agencies. Thus, by its very nature, it requires a constant reassessment of the overlaps and gaps between the mandates of these Bodies and Agencies and their programmatic activities. The difficulty of establishing an overall policy coordinating mechanism at the Secretary-General level is obvious, as are the challenges that such an undertaking would face. This is particularly evident in relation to the institutional and programmatic separation between human rights and crime prevention. While both are two sides of the same coin, they operate in almost entirely separate, not to say sealed, compartments. Another separate compartment is that of International Criminal Justice. Thus these three most substantively related subject matters are placed in separate institutional compartments, without the institutional and programmatic links that could fill gaps and avoid overlaps. This is also evident in connection with the normative sources of applicable law such as International Human Rights Law, Humanitarian Law and International Criminal Law (which is in turn also subdivided into major international crimes and transnational crimes).
5. In the last two decades international and non-international armed conflicts have increasingly involved non-state actors who also increasingly resort to activities that constitute international, transnational and national crimes. And yet, the normative sources applicable to these three categories of criminal activities have historically evolved separately within the United Nations system, as well as other international organizations. This separate normative development does not take into account the factual reality that the perpetrators of such crimes freely move from one legal context

to another, insofar as their criminal activity reflects their interests. This, notwithstanding many experiences involving non-state actors and groups on different continents that involve more or less traditional military activities as well as transnational and domestic criminal activities. Surprisingly however, a high level decision by some coordinating U.N. Committee going back to 2012 has misguidedly decided that crime prevention and criminal justice do not include international crimes. The fact remains that non-state actors who engage in violent conduct at the national level, do so by committing international crimes which are also crimes under national law such as crimes against humanity, war crimes, piracy and torture; and also transnational crimes such as drug trafficking, human trafficking, money laundering, illicit arms trafficking and “terrorism.” This previously adopted position by the U.N. Secretariat must be changed because it is totally artificial and constitutes an impediment to effective crime prevention and criminal justice. This approach also ignores the fact that, under the ICC’s principle of complementarity, the crimes within the jurisdiction of the ICC are also criminalized in the national laws of the state parties. Thus the U.N.’s separation of international, transnational and national crimes is not only entirely misguided, but counterproductive.

6. Notwithstanding the above, it is evident that the mandate of UNODC in the last two decades has been gradually narrowed to transnational criminality, corruption and drugs, without regard to the connections between these forms of criminality and the military and paramilitary activities of non-state actors in violent conflicts. Similarly, the Human Rights Fact Findings and Special Procedures conducted by UNOG are almost totally devoid of any programmatic or institutional linkage with the work of UNODC. These and other programmatic activities are also largely unrelated to the development normative standards work conducted under the auspices of the General Assembly and its various committees and to the programmatic activities of the Counter-Terrorism Committee.
7. At present, U.N. and its member-states place heavy emphasis on counter-terrorism, but without much emphasis on the identification of contemporary sources and manifestations of “terrorism,” in particular when conducted by groups falsely claiming Islamic legitimacy. This applies to IS (predominately in Iraq and Syria, though expanding), Boko Haram (Nigeria), Al-Shabab (Somalia and Kenya), Ansar al-Dine (Mali) and Ansar Beit al-Maqdis (Sinai, Egypt) and other affiliates, as is now evident in Libya. Assumptions about these groups are not necessarily well founded because they are not necessarily based on expertise reflecting knowledge and understanding of Islam and of Muslim communities’ cultural characteristics, which differ from community to community. International Western consulting firms, as well as Western governmental sources, have not proven to possess sufficient knowledge

and understanding needed to accurately understand such groups, their internal functioning and their methods of operation. Responses provided by Western governments (and, to a large extent by the United Nations, seeking to meet the expectations of these governments) are essentially misinformed and primarily repressive. There is little criminological understanding of the causes that bring about these phenomena as well as the criminogenic factors that enhance recruitment. Instead, it is these groups that have understood the weaknesses of the international community and the limitations of national responses, and which have effectively exploited them. In a more institutional way, it is difficult to understand why the United Nations' counter-terrorism efforts are conducted in such separate ways from those of UNODC and the other Bodies and Agencies of the system that deal with different aspects of that criminal phenomenology.

8. It is also evident from the various resolutions and reports mentioned above, that little attention is being given to the increasing number of failed and failing states and to the reasons for their failure. The lack of development, economic, social and human, constitutes three inter-related factors that produce these outcomes. But whether they are causes or consequences, it remains the condition of that failed or failing state, and is invariably accompanied by the rise of non-state actor groups that engage in domestic, transnational and international criminality. Notwithstanding this reality, there seems to be no evidence, at the policy level of United Nations Bodies and Agencies, and more importantly at the Secretary-General policy level, that these combined and interrelated factors are being taken into account. Understandably in a bureaucratic institution, which is largely guided by political as well as bureaucratic considerations, it is difficult to readjust strategic planning to new realities in the field. But it should not be so difficult to readjust bureaucratic policies and practices, particularly as they relate to the exigencies of overlaps and gaps, connected to the responses that need to be developed in facing these challenges.
9. Another glaring anachronism is the failure by the planners of the Post-Millennium Goals to include Civil Society in Crime Prevention and Criminal Justice, particularly that of specialized NGOs in this field. This important component of the international community and active participant in the work of the United Nations has been inexplicably left out, and that too must be explicitly reconsidered.
10. ***In conclusion it is recommended that the Secretary-General convenes a High-Level Meeting of Experts both from within and outside the United Nation system, to examine the situation mentioned above and to make recommendations for a comprehensive strategy to address all forms of criminality, irrespective of their normative legal sources, and to examine the overlaps and gaps that exists within***

the United Nations system in connection with a comprehensive response to criminological phenomena. Which, unlike the United Nations bureaucratic system, do not draw artificial legal distinctions between international, transnational and national criminality. In addition, it is necessary to establish permanent coordinating bodies between UNODC, OHCHR, UNHCR, Counter-Terrorism and UNDP (for funding and economic and social development). It is also recommended that the General Assembly consider calling a Special Session to address on an overall comprehensive and integrated policy basis the new realities arising out of international, transnational and national criminality in the context of contemporary globalized society.

There is no doubt, that in our global society everything is related: environment, economic development, social development, human development and crime, irrespective of its sources and manifestations. These globalized factors, whether they deal with migration, failed and failing states, multinational corporations – which have become beyond the reach of the law – the role of specialized IGOs and NGOs, and the ability of national systems to deliver justice as part of its social contract are all interrelated. Artificial and bureaucratic divisions, as well as normative separation by categories, whose enforcement relies on unrelated institutions and mechanisms, weaken the overall effectiveness not only of the reduction of crime in general and the achievement of justice in particular, but also impact in direct and indirect ways on peace and security at the international levels and on peace and stability at the national levels.