FEATURED ARTICLE

BASIC GUIDE TO THE UNITED NATIONS CRIME PROGRAMME

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1. The development of the UN Crime Programme[1]

1.1. The establishment of the UN Crime Programme

The United Nations Programme on Crime Prevention and Criminal Justice (generally referred to as the **UN Crime Programme**) consists of the work carried out under the coordination of the United Nations Commission on Crime Prevention and Criminal Justice (the **UN Crime Commission**) in order to provide practical assistance to member states in preventing crime, and in improving the response to national and transnational crime, for example through data collection, the sharing of information and experience, and training.[2] (Although the prevention and response to the illegal cultivation, production, trafficking in and use of **narcotic drugs and psychotropic substances** is closely related to crime prevention and the response to crime, it is dealt with by a separate UN Commission, the UN Commission on Narcotic Drugs.)

The foundation for the UN Crime Programme rests primarily on two predecessors: (1) the early work of international scientific and professional organizations, and (2) the work of the League of Nations.

At the end of the 1800s and the beginning of the 1900s, discussions on crime and criminal policy became international. Practitioners and policymakers from different countries started to exchange their experiences and theories, and organize international conferences. The first International Congress on the Prevention and Repression of Crime, held in London in 1872, led to the establishment of the International Penal and Penitentiary Commission (IPPC), which undertook to organize similar international congresses every five years.

When the League of Nations was established in the aftermath of the First World War, it organized discussions among experts on crime-related issues and produced a few reports on such subjects as juvenile delinquency and child welfare, trafficking in women and children, counterfeiting, and correctional treatment. In general, however, it did not have a very high profile in international discussions on crime and justice.[3]

At the time that the United Nations was established, shortly after the end of the Second World War, the general view seemed to be that, in respect of crime and criminal justice, it should continue where the League of Nations had left off. The United Nations started out with two steps, identification of what crime and justice issues it would deal with, and assumption of the functions of the IPPC.[4]

In 1950, the General Assembly decided that the **mandate** of what became the UN Crime Programme would cover the following: juvenile delinquency; assessment of adult offenders before sentencing; probation; fines, and open penitentiary institutions; habitual offenders; the role of medical, psychological and social sciences in dealing with delinquency and crime; the training of correctional staff; and criminal statistics, with a view to the development of a report on the state of crime. Markedly absent from the list of issues to be covered were organized crime and transnational crime (although trafficking in women and children did merit reference in other UN documents).[5]

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[1] Sections 1.1 - 1.5 are based on Matti Joutsen, Four Transitions in the United Nations Crime Programme, available at: https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_26/E_CN15_2017_CRP4_e_V1703636.pdf

[2] GA Resolution 46/152 on the creation of an effective United Nations crime prevention and criminal justice programme, preambular paragraph 8 and operational paragraph 5.

[3] Manuel Lopez-Rey, *Guide to United Nations Criminal Policy*, Gower 1985, pp. 8, 93–95; and Slawomir Redo 2012, *Blue Criminology: The power of United Nations ideas to counter crime globally - A monographic study*, Helsinki: HEUNI Report series no. 72, p. 68.

[4] This was achieved through General Assembly Resolution 415 (V).

[5] *International Review of Criminal Policy*, United Nations Department of Social Affairs 1952, Vol. 1, p. 12.

When the draft mandate of the UN Crime Programme was debated at the General Assembly in 1950, the Soviet Union and four of its allies argued for restricting the mandate to international and transnational crimes such as genocide, slavery, narcotic drugs, trafficking in women and children, and trafficking in obscene publications. In their view, the issues identified in the draft were essentially internal matters, and according to the UN Charter, the UN has no right to become involved in domestic issues. Lopez-Rey 1985 p. 1; Redo 2012, p. 110, and Roger Clark (1994), *The United Nations Crime Prevention and Criminal Justice Program. Formulation of Standards and Efforts at Their Implementation*, University of Pennsylvania Press, p. 15.

In taking over the functions of the IPPC, in turn, the UN received the following from the IPPF:
- two IPPF staff members who formed the nucleus for the UN Secretariat body dealing with crime and justice issues;[6]
- a pool of experts who had been active in the IPPF, from among whom an ad hoc Advisory Committee was formed to assist the Secretariat; and
- the model for the future United Nations Crime Congresses.[7]

1.2. The early years of the UN Crime Programme (the 1950s to the 1980s).

The main policy-making body in the UN on economic and social matters is the Economic and Social Council (**ECOSOC**). It has a rather large mandate, and its members cannot be expected to have sufficient substantive knowledge of crime prevention and criminal justice issues to formulate policy. In 1949, ECOSOC established an **ad hoc committee** of seven experts to advise it on such issues, with the individual experts changing in part from one meeting to the next. In 1965, the ad hoc Committee became a permanent body, the United Nations Committee on the Prevention of Crime and the Treatment of Offenders (the **UN Crime Committee**, to be replaced in 1991 by the United Nations Commission on Crime Prevention and Criminal Justice).

The members of the UN Crime Committee were appointed in their personal capacity; they did not represent their government or their organization. They were generally senior officials working in the criminal justice system of their respective country, or (in a few cases) academics. Since there was relatively little turnover among them, they tended to be familiar not only with criminal justice in general, but also with the working of the United Nations Crime Programme.[8]

During the first decades of UN work on crime prevention and criminal justice, the focus was on the collection and exchange of information, research, and the development of international standards and norms ("**soft law**").[9] Among the achievements were the adoption of the first ever UN standard and norm, the Standard Minimum Rules on the Treatment of Offenders, at the First United Nations Crime Congress in 1955.[10]

Membership in the UN began to expand in particular during the 1960s, and an increasing number of experts and practitioners from developing countries joined in the discussions. One result was that the scope of discussion widened from the traditional (Western) academic and professional focus on juvenile delinquency and corrections, to other types of crimes and criminal justice concerns. Already the Second UN Crime Congress, in 1960, had as one of its main topics the prevention of crime that results from social change and economic development in less developed countries.

When representatives of developing countries began to join in the UN discussions, in general they recognized the value of work on soft law. However, they repeatedly pointed out that work is needed also on implementing these decisions. In many of their countries, legislation and policies were often outdated, the structure of the criminal justice system was inadequate, many practitioners lacked training, and above all the financial resources for implementation were often lacking. In response, the UN Secretariat became more

[6] According to subparagraph (h) of GA resolution 415 (v), two IPPC "professional officers" were detached to the Secretariat, and one Secretariat staff member "specialized in the field of the prevention of crime and the treatment of offenders" was assigned to work with them.

[7] Paragraph (d) of General Assembly resolution 415 (v) stated that "The United Nations shall convene every five years an international congress similar to those previously organized by the IPPC (International Penal and Penitentiary Commission). Resolutions adopted at such international Congresses shall be communicated to the Secretary-General and, if necessary, to the policy-making bodies."

[8] Lopez-Rey 1985, pp. 14 – 20, and William Clifford, *Echoes and Hopes. The United Nations Committee on Crime Prevention and Control*, Canberra 1979 (*passim*) provide background on the Committee.

[9] In international law, "soft law" refers to quasi-legal instruments such as resolutions, guidelines and declarations, which embody political aspirations, but are not legally binding. "Hard law," in turn, refers for example to international conventions which are binding on the states parties.

[10] The Standard Minimum Rules had been originally drafted within the framework of the IPPC.

involved in **technical assistance** activities, assisted by the growing network of UN-affiliated institutes.[11]

1.3. From the UN Crime Committee to the UN Crime Commission

As of the beginning of the 1970s, transnational and organized crime began to appear on the UN Crime Programme agenda. The first such issues included consumer fraud, corruption, trafficking in cultural property, and terrorism. Towards the end of the 1980s, some countries began to argue that the growth of transnational and organized crime, including terrorism, trafficking in persons, and money laundering, required a more action-oriented UN Crime Programme, one that was not being provided by the expert-driven Committee, which was devoting most of its time to the drafting and adoption of "soft law" resolutions.

This criticism became stronger in the wake of the 1990 UN Crime Congress, held in Havana, which adopted not only twelve new standards and norms, but also thirty-three other resolutions, for a grand total of forty-five resolutions. For some participants, this torrent of paper was emblematic of growing problems in the UN Crime Programme. Some governmental representatives noted with concern that many of the draft standards and norms had been prepared without sufficient government input. Others argued that soft law instruments were an ineffective response to the growing problems of crime and criminal justice, and that the Congress should be looking more for action than for words on paper. Many participants pointed out that over half – twenty-four – of the draft resolutions had not been submitted until at the Congress itself, and therefore there was insufficient time to study these drafts.[12]

At the time of the 1990 UN Crime Congress, discussions were in fact already underway on **restructuring the UN Crime Programme**. This was accomplished with the adoption of General Assembly resolution 46/152 of 18 December 1991. The most notable and ultimately far-reaching change was that the expert-driven UN Crime Committee was replaced by a government-driven United Nations Commission on Crime Prevention and Criminal Justice (the **UN Crime Commission**).[13]

The new UN Crime Commission consists of forty member states elected by ECOSOC for a term of three years: twelve from the African region, nine from the Asian region, eight from the Latin American and Caribbean region, four from the Eastern European region, and seven from the "Western Europe and other states" regional group.

While the UN Crime Committee had been convened (during the last years of its existence) for a leisurely two weeks every second year, the UN Crime Commission began by holding annual sessions of one week, and in time added annual "**reconvened**" sessions as well as "**intersessional**" meetings.[14]

1.4. The negotiation of the UN Crime Conventions

The experts on the UN Crime Committee had served in their personal capacity. Nonetheless, as experts in crime prevention and criminal justice, they represented a broad range of backgrounds and approaches, and collectively tended to see crime as a **social issue**.

At the time the UN Crime Commission was established, in comparison, many national policy-makers tended to see crime (and in particular transnational organized crime and terrorism) as a **national security issue**. A consequence of the shift from an expert-driven to a government-driven UN Crime Programme has

[11] The capacity of the Secretariat to provide technical assistance, however, was severely hampered by the lack of financial and personnel resources. During these early decades, the Secretariat unit responsible for the UN Crime Programme had fewer than a dozen professional staff members.

[12] See, in particular, Clark 1994, pp. 126-132.

[13] A detailed presentation of the work of the UN Crime Commission is provided in Christopher Ram (2012), *Meeting the challenge of crime in the global village: An assessment of the role and future of the United Nations Commission on Crime Prevention and Criminal Justice*, Helsinki: HEUNI Report series no. 73.

[14] Reconvened meetings are formally continuations of the annual meetings. Intersessional meetings are primarily for the preparation of the next session, and for updates on progress achieved.

been an increased focus on strengthening the ability of the state to control crime: expanding the scope of criminalization, strengthening police powers, and increasing the efficiency of the operation of the criminal justice system. There was a resulting decrease in the amount of attention devoted for example to prevention, juvenile delinquency, restorative justice and victim issues – although, to be clear, also these remained on the agenda.

Above all, there was an increased focus on improving the efficacy of **international cooperation** in the response to crime. This focus was strengthened by a variety of developments.

One development was the strong perception by many states that crime was increasingly becoming more serious, more organized and more transnational.

A second, and related, development was the growing conviction that the response to transnational crime and terrorism could not be effective without international cooperation: cooperation among law enforcement agencies, judicial cooperation, and cooperation in the form of technical assistance.

A third development was that during the years that the UN Crime Committee was producing "**soft law**," the UN drug programme (the Commission on Narcotic Drugs and the International Narcotics Control Board) had continued the work on "**hard law**" begun under the League of Nations. In 1988, the United Nations adopted the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. This **1988 Drug Convention** consolidated and brought international hard law up to date in respect of the definition of drug-related crime. It also included, for the first time in a multilateral treaty, provisions on international law enforcement cooperation, mutual legal assistance and extradition.

The 1988 Drug Convention became a template for those who wanted a more vigorous and effective UN Crime Programme. Several states began to advocate for one or more international conventions dealing with different aspects of crime and criminal justice.

Following a ministerial conference held in Naples in 1994, the General Assembly set up an ad hoc Committee to elaborate a convention on transnational organized crime. The result, the **United Nations Convention on Transnational Organized Crime** (UNTOC), with separate protocols on trafficking in persons, the smuggling of migrants, and trafficking in firearms, was opened for signature in 2000. This was soon followed by the **UN Convention against Corruption** (UNCAC), which was opened for signature in 2003.

Each of the UN Crime Conventions established a Conference of the States Parties, which oversees implementation and discusses issues related to the substance of the respective convention. However, also the UN Crime Commission and the UN Crime Congresses began to devote more time to transnational and organized crime issues.

A fourth change in the UN Crime Programme has been in who participates in the discussions in Vienna. As already noted, during the early years of the UN Crime Programme, through to the 1980s, the participants at meetings tended to be individual experts knowledgeable in crime prevention and criminal justice. The UN Crime Committee met every other year for eight days, allowing time for interaction both in and outside of the meeting rooms. From 1955 to 1990, the UN Crime Congresses lasted for two weeks, and were a mix of debate, negotiations and social events. The tradition arose of seeking consensus on all resolutions and decisions (the "**spirit of Vienna**"). Calling for a vote on any issue was a measure used only in very rare situations.[15]

Since the 1990s, the profile of many of the participants has changed. Largely because of the entry into force of the two UN Crime Conventions, the number of UN Crime Programme meetings held in Vienna has increased considerably. In addition to the biannual sessions of the two Conferences of the States Parties, these two bodies have set up several subsidiary working groups, which generally meet on an annual basis,

[15] Exceptions did occur. Several resolutions at the Sixth UN Crime Congress in 1980 (in Caracas), and one resolution at the Eighth UN Crime Congress in 1990 (in Havana) were adopted following a vote. From 1990 to 2021, there have been no votes at any of the UN Crime Congresses or at any of the sessions of the UN Crime Commission. At the 2021 session of the UN Crime Commission, a vote was held on a procedural matter, the election of a member of the Bureau of the session.

for a period ranging from two to five days. The UN Crime Commission, in turn, meets for its regular annual session, but also other meetings throughout the year. In addition, various intergovernmental working groups hold meetings. The result is that the UN Crime Programme meeting calendar is demanding, with on the average one or more meeting every month. It is logistically and financially difficult for member states to send experts "from the capitals" to attend short meetings so often. As a result, the participants tend to be diplomats based in Vienna.

The four developments described above – a more globally representative UN Crime Programme, the increased influence that governments have on the work carried out in Vienna, the growing importance of hard law UN crime conventions, and the shift in the composition of participants – have had several consequences. One has been the **politicization** of several issues in the discussions. A second has been the **increased use of extrabudgetary funding**, and increasingly severe financial problems. A third consequence has already been mentioned: less discussion on general crime prevention and criminal justice, and a **greater focus on transnational and organized crime**.

Politicization of issues. Within the UN Crime Programme, diplomats, practitioners and academics all have an important role to play. Broadly speaking, academics can analyse developments in crime and the response to crime, practitioners can provide evidence on what works (and what doesn't), while diplomats can formulate this on the international level into policy pronouncements, and ensure that the decision is in line with what is being done elsewhere in the United Nations.

The change in the main participants in the discussions in Vienna, from experts in criminal policy to diplomats, has inadvertently meant that what were once discussions of substantive policy have often become negotiations over the wording of draft resolutions. The earlier discussions within the framework of the UN Crime Programme on standards and norms had been consensus-oriented, and in general had not excited politicized passions. This could largely be attributed to the fact that the soft law resolutions were not binding, and therefore had no direct policy implications for individual states. Once the discussion shifted to transnational organized crime and to the two hard law UN Crime Conventions, the situation changed. Certain aspects of transnational crime and of the response to transnational crime raise political sensitivities. Examples include the repatriation of the proceeds of crime, trafficking in cultural property, and cybercrime. The politicization has also extended beyond substantive crime issues and into questions of process, most significantly in the form of a continuing and at time acrimonious debate over the role of civil society in the local, national and international response to crime.

Financial constraints. During the first half century of the existence of the UN Crime Programme (roughly to the 1990s), most of the (extremely limited) activities of the Programme were financed through the regular UN budget. Today, the situation is quite the reverse: over 90 % of the UN Crime Programme budget comes from extrabudgetary sources. The two primary factors that have led to this are the rapid expansion of UN Crime Programme activities (most clearly visible in costs associated with the review of implementation of the UN Convention on Corruption), and a series of world-wide economic crises, which have led the major donor countries to reconsider their commitments.

The Secretariat has made commendable efforts to secure extrabudgetary funding, and has succeeded in significantly expanding its technical assistance activities around the world. However, this shift towards a high dependence on extrabudgetary funding has also had negative consequences. These consequences include the constant need to spend considerable time on identifying sources of funding, uncertainty over the sustainability of various projects, competition within the UNODC over resources, and concerns that much of the work that is carried out will remain tied to the interests of the donors.

As long as only 10 % of its activities is funded through the regular UN budget, the UN Crime Programme leads a tenuous existence. It is unlikely that these financial constraints will ease anytime soon. In addition, the UNODC is constantly being asked by member states to take on even more tasks.

Focus on organized and transnational crime, efficiency and punitive measures. The adoption of the two UN crime conventions has provided welcome tools for the international community to respond to serious threats. The global conventions have considerably expanded the geographical scope of cooperation. They provide common definitions of certain key offences; they require (or, in some cases, at least encourage) states parties

to criminalize these acts; and they have standardized and contributed to the development of procedural forms of cooperation. At the same time, however, the increased attention given to the improvement of international law enforcement and judicial cooperation appears to have resulted in correspondingly less attention being paid to prevention, to community-based and restorative measures, and to strengthening the position of the victim of crime.

1.5. The impact of the Sustainable Development Goals

In September 2015, the United Nations Summit adopted the 2030 Agenda for Sustainable Development. The 2030 Agenda emphasizes the links between the different goals, among them (as part of Goal 16) crime prevention and criminal justice. The 2030 Agenda could contribute to a further transition in the UN Crime Programme, towards a truly global UN Crime Programme that pays increasing attention to how crime prevention and criminal justice can contribute to sustainable development around the world, in both developing and developed countries. Such a UN Crime Programme would be framed by the links between Goal 16 and other Goals, such as gender equality, the sustainability of communities, and poverty reduction. It would continue to deal with pressing questions related to transnational and organized crime, but would also deal with the prevention of and response to "ordinary" crime. It would continue to identify best practices in international law enforcement and judicial cooperation, but would also seek to identify best practices in the strengthening of access to justice, restorative justice, victim support and community-based sanctions.

The ground work for this has already been laid. The extensive body of UN standards and norms provides a framework for the national and international response to crime, and in so doing serves to strengthen respect for human rights and the rule of law in the criminal justice system.

There are encouraging signs that this transition is already underway. One sign is that there has been a slight resurgence in the number of "experts from the capitals" attending UN Crime Programme meetings, working alongside the diplomats on such practical issues as prosecutorial and judicial cooperation, or the response to cybercrime. Another sign is the growing capacity of the UNODC (albeit subject to the availability of extrabudgetary funding) to provide technical assistance to member states. A third sign is the expanding work of the UN Programme Network of Institutes in providing member states with technical assistance in research, training and policy development in crime prevention and criminal justice.

The global Covid-19 pandemic, in turn, alongside of all the suffering it has caused, may have indirectly contributed to growing involvement of "experts from the capitals" in the UN Crime Programme. Governments around the world have locked down the population and restricted domestic and international travel. As a result, in-person meetings (such as those that have been held in Vienna) have been replaced at least for the time being by online and "hybrid" meetings, which opens up the possibility that the national experts could attend UN Crime Programme meetings online.

The changes brought about by the adoption of the 2030 Agenda and the SDGs can build on the strengths of the three previous transitions. The intellectual debate from the early years can be revitalized in order to bring in research and best practices from around the world, channelled for example through the UNODC and the Programme Network of Institutes so that it is reflected in the discussions at the UN Crime Commission, the UN Crime Congresses and other meetings. The government-driven discussions can in this way benefit from the input of experts, who can identify what best practices can be adapted to the different circumstances around the world so that these meet not only the general needs of member states, but also the ground-level needs of practitioners and local communities, of victims and of offenders.

The soft law and the hard law elements of the UN Crime Programme reinforce one another in strengthening local, national and international crime prevention and criminal justice, and in this way contribute to the ongoing work on the review of the implementation of the 2030 Agenda.

2. The structural elements of the UN Crime Programme

2.1. The overall structure

The primary responsibility within the UN system for issues related to crime prevention and criminal justice lies with the **Economic and Social Council**. Some politically sensitive crime issues, such as war crimes, genocide and terrorism, are now and then debated directly in the General Assembly of the UN. In addition, the General Assembly at times sets up special bodies to deal with specific issues, such as the drafting of new international agreements.

Within the UN Secretariat, issues relating to crime prevention and criminal justice are dealt with by the **UN Office on Drugs and Crime** (UNODC), although related issues are also considered by, for example, the **Office of the United Nations High Commissioner for Human Rights**.

2.2. The UNODC and its field and regional offices[16]

The United Nations Office on Drugs and Crime acts as the Secretariat to the UN Crime Commission, the UN Commission on Narcotic Drugs, and to the Conferences of the States Parties to the two UN Crime Conventions and the three Drug Control Conventions.[17]

For most of its existence, the Secretariat unit responsible for the UN Crime Programme remained small, with fewer than a dozen professional staff members, and somewhat more secretarial staff members. Over the past twenty years, largely as a consequence of the adoption of the two UN Crime Conventions, the number of professional staff members dealing with substantive crime issues in the UNODC has increased to about 350, serving both at the UNODC headquarters in Vienna, and at regional and field offices around the world.[18]

UNODC **regional offices** have been established in Bangkok (Southeast Asia and the Pacific), Cairo (Middle East and North Africa), Dakar (West and Central Africa), New Delhi (South Asia), Nairobi (East Africa), Panama City (Central America and the Caribbean), Pretoria (South Africa) and Tashkent (Central Asia). In addition, UNODC has seven national offices and 94 programme offices.[19]

2.3. The UN Commission on Crime Prevention and Criminal Justice[20]

The United Nations Commission on Crime Prevention and Criminal Justice (the UN Crime Commission) functions as the **governing body** of the UNODC. The UN Crime Commission coordinates with other United Nations bodies that have specific mandates in the areas of crime prevention and criminal justice, and is also the preparatory body to the **United Nations Crime Congress**. The UN Crime Commission thus acts as the **principal policy-making body** of the United Nations in the field of crime prevention and criminal justice.

The UN Crime Commission consists of forty member states elected by ECOSOC for a term of three

[16] For further information, see unodc.org

[17] The three Drug Control Conventions are the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol; the Convention on Psychotropic Substances of 1971; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

[18] This, however, is only an estimate. The UNODC currently has a total of 2,400 professional and secretarial staff members at the headquarters in Vienna, and at field and regional offices around the world. It is difficult to assess precisely how many staff members deal with drug control issues and how many with crime prevention and criminal justice issues, since for example the UN border control and container control programmes serve both areas.

[19] https://www.unodc.org/unodc/en/field-offices.html#:~:text=UNODC%20operates%20in%20more%20than,with%202%2C400%20UNODC%20personnel%20globally

[20] For further information, including the documentation and reports from the sessions of the UN Crime Commission, see https://www.unodc.org/unodc/en/commissions/CCPCJ/index.html

Christopher Ram 2012 has laid out several suggestions for how the work of the Commission (and, indirectly, of the UN Crime Programme itself) can be strengthened. See esp. pp. 98 ff.

years. The sessions of the UN Crime Commission are attended also by a very large number of observer states as well as by other categories of participants: representatives of UN specialized agencies, the UN Crime Programme Network of Institutes (PNIs), intergovernmental organizations and non-governmental organizations.[21]

The UN Crime Commission holds annual five-day sessions (generally during May). Since 2009, "reconvened" sessions of two or three days have been held in early December. In addition, "intersessional" meetings have been held as necessary.

Over the years, the formal agenda of each annual session has become relatively standard. Following the opening of the session, there will be a general debate (usually lasting the first day), followed by what is called a "**thematic debate**" related to the special theme selected for that respective session of the UN Crime Commission (usually lasting the second day). Ether on the afternoon of the first day or on Tuesday, the UN Programme Network of Institutes (PNIs) together with the UNODC organize a workshop related to this theme.

Towards the middle of the week, the UN Crime Commission takes up strategic management, budgetary and administrative questions, followed by "integration and coordination of efforts by the UNODC and by member states in the field of crime prevention and criminal justice." This includes ratification and implementation of the two UN Crime Conventions and of international instruments related to terrorism, as well as for example activities of the PNIs, NGOs and other bodies.

On Thursday, according to this somewhat standardized agenda, the UN Crime Commission discusses the use and application of UN standards and norms in crime prevention and criminal justice; world crime trends and emerging issues and responses; as well as follow-up to the previous UN Crime Congress, and preparations for the following UN Crime Congress.

On the last day, Friday, the UN Crime Commission directs its attention for example to implementation of the Sustainable Developments Goals. The afternoon is reserved for the draft agenda of the next session of the UN Crime Commission, the adoption of resolutions, and the adoption of the report.

The discussion on each of the agenda items follows a relatively standard procedure. Once the Secretariat representative has introduced the agenda item (or the members of a panel or roundtable have given their statements), the chairperson opens the floor for discussion. Regional groups have the option of speaking first, followed by representatives of member states. If Ministers or other dignitaries are in attendance, they will generally be invited to speak first.

The Secretariat keeps the list of speakers, which the chairperson consults in giving speakers the floor. Persons who wish to speak should contact a conference room officer and ask to be placed on the list of speakers, on the basis of "first come, first served." The speaker can also ask to be allotted a certain time (such as the first to speak after lunch, or the first to speak after another speaker), as long as this does not endanger the "first come, first served" approach, or speakers whose priority would be affected inform the conference room officer that they agree to this.

The conference room officer will usually ask if the statement is in writing, so that this can be distributed to the interpreters. If so, the written statements should preferably be given to the Secretariat at least an hour in advance, so that the Secretariat has time to deliver it to the interpreters' booths, and the interpreters, in turn, have time to note the availability of the text, and use it for the interpretation. (The UN interpreters are very competent, and can adjust if the speaker makes changes to the text during delivery.)

Because of the need for interpretation, oral statements should be given at a relatively leisurely pace: not ponderously slow, but definitely not in a rush. Most interpreters prefer simple, straightforward sentences that follow the normal rhythm of conversation. All too often, written statements can include long and convoluted sentence structures which can be difficult to follow, even if the interpreter has a written text in

[21] Representatives of specialized agencies, PNIs, IGOs and NGOs may take the floor only if no state wishes to do so. In practice, this means that their contribution to the debate has become indirect and rather marginal.

front of him or her.

The chairperson may limit the length of oral statements. However, even if no limit has been placed, speakers should avoid trying the patience of the audience, who have to sit through six hours of meetings every day, involving a study stream of oral statements. PowerPoint presentations and even videos may help in getting a point across, but if these are given, the speaker should be mindful that the UN works with six official languages, and thus perhaps the majority of the participants will depend on the interpretation.

Under the rules of procedure, the chairperson has the power to call a speaker to order if his or her remarks are not relevant to the subject under discussion. This is extremely rare.

The formal discussion on all of the agenda items at sessions of the UN Crime Commission, with the exception of the PNI Workshop, takes place in the plenary. Much of the work of the UN Crime Commission, however, takes place elsewhere, in the informal negotiations (known as "**informals**") and in the **Committee of the Whole**. It is here that most of the negotiation over the draft resolutions takes place (see section 4.2.).

In addition, various member states, PNIs, intergovernmental organizations and nongovernmental organizations organized so-called **side events** (similar to the ancillary meetings organized at UN Crime Congresses), on a large variety of issues.

The participants at UN Crime Commission sessions will have before them extensive documentation produced by the UNODC and generally available in advance at the unodc.org website. As with the formal agenda, many of these documents follow the same standardized format, and provide background for the discussion of the respective items on the agenda.

The final stage of work at UN meetings involves the **adoption of the report**. The Secretariat generally assists the rapporteur in this process, and the draft text is usually very carefully constructed to reflect what should be an impartial summary of the discussions.

Drafting UN reports can be called an art in its own right. UN meetings often deal with sensitive points, and the rapporteur (assisted by the Secretariat) seeks to present these in a way that would be acceptable to the different sides on the issues. With some exceptions (such as heads of state or other distinguished speakers) it is not customary for speakers to be identified in the report, even by member state. The reference will be simply to "one speaker noted" or "several speakers suggested that …"

Many participants, who may be exhausted by the lengthy negotiations, may assume that the adoption of the report will be a formality. However, on particularly sensitive issues, some representatives may try to expand the presentation of the arguments that their side had made, thus correspondingly diminishing the amount of attention given to opposing points of view. One technique used here is for a representative to argue that his/her country's position, as given earlier, was not correctly reflected in the report, and then submit a (lengthy) proposal for amending the report to remedy this. The chairperson usually accepts short amendments along these lines. Given that this may indeed give a one-sided impression of the discussion, representatives from the other side on the issues may wish to make corresponding amendments based on points made in the discussions by other speakers.

2.4. The United Nations Congresses on Crime Prevention and Criminal Justice[22]

The United Nations Congresses on Crime Prevention and Criminal Justice (generally referred to as the **UN Crime Congresses**) are the world's largest global gatherings on crime and justice. They are also the oldest periodic conferences organized by the United Nations on a specific subject area. The Congresses are organized every five years by the UNODC together with the host country, in accordance with mandates given by the General Assembly.

[22] The following section is based on Matti Joutsen, The Evolution of the United Nations Congress on Crime Prevention and Criminal Justice, Thailand Institute of Justice 2021, available at: https://knowledge.tijthailand.org/en/publication/detail/the-evolution-of-the-united-nations-congress-on-crime-prevention-and-criminal-justice#book/

UN Crime Congresses are intended for the exchange of views between states, intergovernmental organizations, non-governmental organizations and individual experts, the exchange of experiences in research, law and policy development, and the identification of emerging trends and issues in crime prevention and criminal justice.[23]

In the formal sense, the UN Crime Congresses do not set UN policy. The outcome of the Congress, the so-called Congress Declaration, is submitted to the UN Crime Commission. However, the argument has been made that a Congress convened every five years, and attended by senior policy makers from the large majority of UN member states, does have a marked influence in setting the framework of the work of the UN Crime Programme for the next five years.

UN Crime Congresses have a formal part and an extensive informal part. The formal part consists of the opening and the closing sessions, the "high-level segment" in plenary immediately after the opening (during which participants of ministerial rank and above are allowed to speak, for perhaps about ten minutes per speaker), the discussion on the agenda items, and the discussion in the workshops. The informal part consists of a large number of so-called ancillary meetings, meetings of regional groups, possible informal negotiations among national delegations, and an exhibition.

A total of fourteen UN Crime Congresses has been held to date. The next UN Crime Congress is scheduled to be held in 2025.

If a participant at the first UN Crime Congress, held in Geneva in 1955, would jump in a time capsule to attend the most recent UN Crime Congress, held in Kyoto in 2021, he or she would find much that is familiar (having overcome his or her astonishment at the fact that, due to the pandemic, most of the participants at the Kyoto Congress attended online). The participants represent member states, specialized agencies, intergovernmental organizations and non-governmental organizations. In addition (and this is unusual among major UN Conferences, and is a legacy from the IPPC conferences), a number of individual experts attend. The participants discuss specific agenda items, and a report is prepared on the proceedings. Much has thus stayed more or less the same.

However, as indicated in the table below, the format and substance of the UN Crime Congresses have evolved considerably. Among the more important changes are the following:

- the participants come from a larger number of member states, and the number of participants has increased;
- Congress Workshops have been added to the formal proceedings;
- the number of ancillary meetings has expanded;
- a "high level segment" has been added to the UN Crime Congresses (since 2000); and
- instead of adopting separate resolutions on different topics, the more recent UN Crime Congresses (since 2000) have adopted a single consolidated Congress Declaration.

Table 1: Timeline of the evolution of the UN Crime Congresses, 1955 – 2021

UN Crime Congress	changes in the approach to crime, as reflected in the Congresses	changes in the Congresses	notable UN developments
First Geneva, 1955	social defence theory; gradual shift from individual-oriented to society-oriented theories of crime	50 national delegations, 500 participants first UN standard and norm adopted	
Second London, 1960	expansion of criminological concepts beyond a purely Western perspective	number of participants reaches 1,000 Russian added as official language	1962: UNAFEI (first PNI) established

[23] GA resolution A/RES/46/152, para 29. Further refinements are provided in ECOSOC resolution 1992/24 and GA resolution A/Res/56/119 (2002).

UN Crime Congress	changes in the approach to crime, as reflected in the Congresses	changes in the Congresses	notable UN developments
Third Stockholm, 1965	new: attention to prevention and informal social control *new*: attention to the impact of social change on crime	growing participation by developing countries first Congress Workshop technical assistance becomes recurring agenda item	
Fourth Kyoto, 1970	first references to terrorism first references to organized crime	first Congress held outside Europe regional preparatory meetings organized for the first time	1972: ad hoc UN Crime Committee becomes permanent
Fifth Geneva, 1975	concept of transnational (organized) crime introduced *new*: attention to economic costs of crime *new*: human rights issues raised	number of national delegations exceeds 100 outcome routed to different addressees (e.g., GA, ECOSOC)	
Sixth Caracas, 1980	*new*: crime and development considered *new*: abuse of power considered *new*: prison overcrowding considered	first Congress in a developing country Arabic and Chinese added as official languages interregional expert preparatory meetings organized first pre-Congress consultations first UN crime survey given to Congress votes on several resolutions	
Seventh Milan, 1985	*new*: victim issues considered *new*: domestic violence considered	32 different documents adopted	
Eighth Havana, 1990		45 separate resolutions adopted	1991: UN Crime Committee replaced by UN Crime Commission
Ninth Cairo, 1995	growing attention to transnational (organized) crime *new*: environmental crime considered	interregional expert preparatory meetings no longer organized Congress shortened to 8 days number of participants nears 2,000 "omnibus" resolution	
Tenth Vienna, 2000	*new*: rule of law considered	first high-level segment (held at the end of the Congress) first consolidated Congress Declaration; no separate resolutions institutionalized Congress follow-up	2000: MDGs adopted 2002: GA res 56/119 on the Congresses 2003: UNTOC enters into force
Eleventh Bangkok, 2005	crime increasingly seen as threat to national security	number of participants reaches 3,000	2005: UNCAC enters into force 2006: expert group meeting on Congresses
Twelfth Salvador, 2010	*new*: cybercrime considered *new*: education for justice considered		

UN Crime Congress	changes in the approach to crime, as reflected in the Congresses	changes in the Congresses	notable UN developments
Thirteenth Doha, 2015		Congress Workshops "interlocked" with topics high-level segment shifted to beginning of Congress number of national delegations exceeds 140 number of participants nears 4,000	2015: SDGs adopted
Fourteenth Kyoto, 2021		first major UN conference to be held in a hybrid format (260 on-site participants and 5,300 on-line participants)	

The officials of the Congress (referred to collectively as the general committee; broadly similar to the Bureau of the UN Crime Commission) consist of the President (by tradition, the head of the delegation of the host Government), and 27 vice-presidents, a chairperson for each of the two Committees, as well as a general rapporteur.

The Secretary-General is represented by a senior UN official referred to as the Secretary-General of the Congress, who is assisted by the Executive Secretary. The extensive responsibilities of the Executive Secretary include ensuring that all of the official documentation as well as interpretation services are available in the official languages, servicing the meetings (including maintaining the list of speakers for the chairperson) and assisting the rapporteurs in the drafting of the reports.

Following an innovation adopted for the Thirteenth UN Crime Congress in 2015, each Workshop precedes the discussion on its respective agenda item, and the results of the Workshop are reported to the Committee under that agenda item. Each Workshop is thus "interlocked" with the corresponding agenda item.

While the discussion on the agenda items tends to focus on policy and on developments in the different member states, the Workshops are intended to be more practical and technical, of interest in particular to practitioners. Each Workshop is prepared by one or more institute in the UN Programme Network of Institutes, in cooperation with the UNODC and at times individual member states.

Ancillary meetings are organized in connection with the Congresses. These are meetings of non-governmental, professional organizations and geographical interest groups. The level of discussion at such meetings has often been quite high. The coordination of these ancillary meetings is done by the International Scientific and Professional Advisory Council (ISPAC), and in practice by one individual working in close coordination with the Secretariat and the host government, Mr. Gary Hill. Under his guidance, the ancillary meetings are scheduled so that, to the extent possible, these do not overlap with formal sessions or other ancillary meetings covering similar issues.[24]

Various professional and regional associations may wish to take advantage of the presence of many of their members at the Congress site, and organize meetings that are limited to their members and to invited guests. Such closed meetings may also cover a specific item where security is concerned (such as the training of police cybercrime technicians). Also these meetings are coordinated, on request of the UNODC, by ISPAC.

At an exhibition organized throughout the duration of the UN Crime Congress, various governments, NGOs, professional associations, UN bodies (including the Programme Network Institutes) and commercial vendors present information on their work or products.

Each UN Crime Congress produces a single document called a Congress Declaration "containing

[24] Through the efforts of Mr. Hill and those of his team of volunteer "interns", ancillary meetings at the more recent UN Crime Congresses have also been provided with interpretation as needed, and summaries of the different ancillary meetings have been made available.

recommendations derived from the deliberations of the high-level segment, the round tables and the workshops, to be submitted to the Commission for its consideration."

The concept of a single Congress Declaration was introduced at the 2000 UN Crime Congress, and replaced the different resolutions that earlier Congresses had adopted on a wide range of topics.

The (draft) Congress Declarations are negotiated in advance of the Congress, using as their basis the recommendations and conclusions from the regional preparatory meetings.

The Congress Declaration is not the only outcome of each Congress. In addition to the official report of the Congress, each Congress produces a considerable amount of documentation, such as the official background documents prepared by the Secretariat (which have been of very high quality), the reports of the regional preparatory meetings, a number of conference room documents, a large number of documents submitted by various participants in the different categories, as well as the unofficial report of the ancillary meetings.

At the more recent UN Crime Congresses, the respective UN Crime Programme Network Institute that had the lead role in organizing each Workshop has usually produced a report containing the various panel presentations and related material. In respect of the Thirteenth and the Fourteenth UN Crime Congresses, thanks to cooperation between the UNODC and the respective host government, much of this material has been made available through the Congress website,[25] thus providing a wealth of information even for those practitioners, policy-makers and researchers around the world who had not participated, and in this way increasing the impact of the Congresses.

Finally, it may be noted that over the past two decades, both the UN Secretariat and the UN Crime Commission have devoted increasing attention to ensuring that the UN Crime Congresses are not "one-off" events, which are forgotten as soon as preparations begin on the next five-year cycle. A standing item on the agenda of the UN Crime Commission is the UN Crime Congresses, during which implementation of action points raised by the previous Congress is reviewed and discussed, at the same time as the preparations for the next Congress are advanced. This ensures continuity in the process.

The Fourteenth UN Crime Congress in Kyoto, 2021[26]

The Fourteenth United Nations Congress on Crime Prevention and Criminal Justice was organized in Kyoto, Japan, from 7 to 12 March 2021. It continued the long tradition of the world's largest get-togethers on crime and justice, but in some respects, it was a very different Congress. Above all, it was the first major UN conference in any field to be organized after the beginning of the Covid-19 pandemic, with only a few hundred participants on-site, and the vast majority, some 5,300, participating online from all around the world. The Kyoto Congress set the pattern for how this can be done in such unprecedented circumstances.

What is more, the Kyoto Declaration, the main outcome of the Crime Congress, is remarkably substantive, balanced, well-structured and well written. The Kyoto Declaration is the politically most important substantive outcome of the Congress. It is a political statement negotiated by the member states in advance of the Congress and adopted by the member states on the opening day of the Congress.

While the Kyoto Declaration itself is not binding, it is of great significance to the international community. It has been laboriously drafted and negotiated, and since the representatives of the member states gathered in Kyoto have adopted it, it is clear that the document embodies their vision of what member states should commit to on the national level and how they would like to see international cooperation evolve.

The Kyoto Declaration is balanced in the sense that it deals with crime prevention and criminal justice at different levels, from local to national and international issues. It covers a wide range of issues, including the need to support victims and vulnerable communities, gender-sensitive crime prevention, the rule of law, transnational crime, anti-corruption, emerging forms of crime, as well as the operation of the domestic criminal justice system and international cooperation. The Kyoto Declaration is also very timely, above all

[25] http://www.unodc.org/congress/en/previous/previous-13.html

[26] See Matti Joutsen, Impressions from the Fourteenth UN Crime Congress and the attached report, available at https://heuni.fi/-/14th-un-crime-congress-matti-joutsen

by including several paragraphs on the impact and response to the Covid-19 pandemic.

2.5. The Conference of the States Parties of the two UN Crime Conventions

The governing structures of the two UN Crime Conventions steer the respective crime-related work of the member states that are parties to the conventions:

- the Conference of the States Parties to the UN Convention against Transnational Organized Crime;[27] and
- the Conference of the States Parties to the UN Convention against Corruption.[28]

Five Working Groups have been established under the mandate of the UNTOC CoSP and two Working Groups as well as one expert group under the mandate of the UNCAC CoSP, in order to discuss particular topics related to the conventions. Three of the UNTOC working groups deal with each of the three protocols (trafficking in persons, the smuggling of migrants, and trafficking in firearms). A fourth UNTOC working group deals with international cooperation, and a fifth with technical assistance. The UNCAC working groups deal, respectively, with prevention and asset recovery, and there is an expert group that deals with international cooperation.

The respective Conferences of the States Parties are convened in alternate years; the CoSP for UNTOC will meet in 2022, followed by the CoSP for UNCAC in 2023. The working groups under the two CoSPs, however, generally meet annually.

The work of the CoSPs clearly overlaps with the work of the UN Crime Programme related to, respectively, transnational organized crime and corruption. However, each have somewhat different constituencies (not all UN member states are parties to UNTOC or its protocols, or to UNCAC), and there are significant differences in the legal obligations involved. The two UN Crime Conventions consist of "hard law," while the UN Crime Commission operates on the basis of consensus in its negotiation largely of soft law resolutions and declarations.

In 2009, a mechanism for review of the implementation of UNCAC was established. This involves an extensive programme of peer review in each of the state parties, with an annual cycle of reviews and, where agreed, on-site visits by the experts conducting the peer review.[29] Although the UNCAC peer review mechanism was less intensive and thorough than the corresponding peer review conducted for example within the framework of the OECD for its convention on bribery, the process has arguably succeeded in encouraging many states parties to change their legislation and update their anti-corruption structures and policies.

Following the apparent successes of this process and mechanism, lengthy negotiations were conducted in order to establish a corresponding mechanism for the review of implementation of UNTOC and its three protocols. These proved difficult, for a variety of reasons. The UNCAC review mechanism did appear to be successful, but it was clearly very resource-intensive. Since 2009, when the UNCAC review mechanism was established, the UN's ability to identify funds for similar activities in the UNTOC area proved difficult. Furthermore, UNTOC, in comparison to UNCAC, was arguably more complex, in that it involved not only the Convention, but also the three protocols, each of which dealt with a very different set of issues and involved somewhat different sets of states parties as well as stakeholders.

Ultimately, agreement was reached in 2018 on a mechanism for the review of the implementation of UNTOC and its three protocols. As compared to the corresponding mechanism for the review of UNCAC, the UNTOC mechanism was "lighter", in that it relied far more on voluntary participation of the states parties.[30]

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[27] See https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html

[28] See https://www.unodc.org/unodc/en/treaties/CAC/index.html

[29] See Matti Joutsen and Adam Graycar, When Experts and Diplomats Agree: Negotiating Peer Review of the UN Convention Against Corruption, *Journal of Global Governance* Vol. 18, No. 4 (Oct.–Dec. 2012), pp. 425-439.

[30] The UNTOC review process is outlined in https://www.unodc.org/documents/treaties/UNTOC/COP/SESSION_10/Resolutions/Resolution_10_1_-_English.pdf

2.6. The United Nations Crime Programme Network of Institutes

The United Nations Crime Prevention and Criminal Justice Programme Network of Institutes (**PNI**) has grown over the years to consist of seventeen institutes, the International Scientific and Professional Advisory Council (ISPAC) and (formally speaking) the UNODC. These institutes have a variety of different mandates. Nonetheless, they all share a commitment to working together within the framework of the United Nations Crime Programme.

To list the PNI institutes very broadly by their mandate:
- the United Nations Interregional Crime and Justice Research Institute, UNICRI, Turin (established 1968);
- five institutes with a primarily regional mandate
  - o the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders; Tokyo (UNAFEI, the oldest institute; 1962);
  - o the Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD); San José, 1975;
  - o the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI); Helsinki, 1981;
  - o the African Regional Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI), Kampala, 1987; and
  - o the Naif Arab University for Security Sciences (NAUSS); Riyadh, 1972;
- seven specialized institutes / entities, each with an international mandate
  - o the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR & CJP); Vancouver, 1991;
  - o the International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme (ISPAC), Milan, 1991;
  - o the Siracusa International Institute for Criminal Justice and Human Rights (SII), Siracusa, 1972;
  - o the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI); Lund, 1984;
  - o the International Centre for the Prevention of Crime (ICPC); Montreal, 1994;
  - o Institute for Security Studies (ISS); Pretoria, 1991; and
  - o the Basel Institute on Governance / the International Centre for Asset Recovery, Basel, 2003; and
- five national level institutes
  - o the Australian Institute of Criminology (AIC); Canberra, 1973;
  - o the Korean Institute of Criminology and Justice (KICJ), Seoul, 1989;
  - o the National Institute of Justice (NIJ); Washington D.C., 1968;
  - o the Thailand Institute of Justice (TIJ), Bangkok, 2011; and
  - o the College for Criminal Law Science (CCLS), Beijing, 2005.

The interregional institute, the first four regional institutes listed above, and ISPAC were established specifically within the framework of the UN Crime Programme. NAUSS, the six specialized institutes and the five national level institutes each have their own original mandate, but have agreed (usually through a memorandum of understanding) to cooperate with the UNODC and the UN Crime Programme.

The report of the Secretary-General to the first session of the UN Crime Commission, in 1992, laid out the functions of the Programme Network of Institutes:[31]

(1) service as a link between the UN and the member states in the different regions;
(2) promotion of interregional, regional and subregional cooperation;
(3) fostering UN criminal policy;
(4) keeping member states abreast of the work and perspectives of the UN;
(5) advising the Secretariat of the special needs, concerns and priorities of the region; and
(6) assistance in the implementation of the UN Crime Programme.

The actual activities of the individual PNI institutes and entities can be divided into four "baskets":
- activities that are carried out in accordance with mandates formulated by the UN Commission on Crime Prevention and Criminal Justice. Examples include organization of workshops at the UN

[31] E/CN.15/1992/3, para 5.

Congresses and the Workshop connected with the thematic debate at annual sessions of the UN Crime Commission;
- activities that otherwise directly support the work of the UNODC. Examples include assisting the UNODC in the preparation of documentation for the UN Crime Congresses and the sessions of the UN Crime Commission, assistance in organizing regional preparatory meetings for the UN Crime Congresses, and organization together with the UNODC of various expert meetings and training programmes;
- activities that otherwise contribute to implementing UN mandates in crime prevention and criminal justice. Examples include various training programmes and research projects; and
- activities that are conducted primarily in accordance with mandates coming from sources other than the UN. This is the case in particular with the five national level institutes, which are primarily accountable to their respective national Government.

The two clearest examples of the contribution of the PNIs to the UN Crime Programme are in connection with the organization of the UN Crime Congresses, and in the organization of the annual sessions of the UN Crime Commission.

The PNI has had two specific roles to play in the organization of the UN Crime Congresses. First, in the preparations for the following UN Crime Congress, some institutes (such as ILANUD, but also for example UNAFRI and NAUSS) have been instrumental in organizing regional preparatory meetings, and in mobilizing regional interest in participation. Second, beginning with the organization by HEUNI and UNICRI of a workshop at the 1985 UN Crime Congress in Milan on juvenile justice, the PNIs have assumed a considerable share of the responsibility for the UN Crime Congress workshops. This role of the institutes was formally recognized by the UN Crime Commission in 2001.

Since 2001, the PNIs have organized side events at the sessions of the UN Crime Commission and ancillary meetings at the UN Crime Congresses. The PNIs have also been responsible, together with the UNODC, for the organization of the Workshop associated with the respective theme of each session.

3. Who's who in the UN Crime Programme

3.1. The member states

The member states are the most important units in the UN Crime Programme. This is evident already from the formulation of General Assembly resolution 46/152, which defines the mandate of the UN Crime Commission as helping *member states* in preventing crime and in improving the response to crime.

The importance of member states is also heightened by the fact that the UN Crime Commission consists of forty member states elected by ECOSOC, and by the fact that the budget of the UN to conduct this work comes almost entirely from assessments from member states (the regular UN budget) and from so-called extrabudgetary funds, which also are largely from member states.

In order to assure the equitable distribution of seats in various UN bodies (such as the UN Crime Commission), the 193 member states have been divided into **regional groups** as follows:[32]
- the African Group, with 54 member states;
- the Asia-Pacific Group, with 53 member states;
- the Eastern European Group, with 23 member states;
- the Latin American and Caribbean Group (GRULAC), with 33 member states; and
- the Western European and Others Group (WEOG), with 28 member states, plus one member state (the United States) as an observer state.

A variety of other regional groupings exist within the United Nations. Two important ones (in the sense that for example they engage in regional consultations during sessions of the UN Crime Commission, and

[32] https://www.un.org/dgacm/en/content/regional-groups

their respective spokesperson may give statements) are the G-77 + China (an organization of developing countries, with 131 members) and the European Union (with 27 members).

In the UN Crime Programme, the political "weight" of a member state in discussions at the UN Crime Commission, the UN Crime Congress or the Conferences of the States Parties to the two UN Crime Conventions is often of less importance than the professional competence and negotiating skill of the individual representative of the member state in question. Small and large member states alike have experience and insights to share. The "spirit of Vienna" that seeks consensus on all issues at UN Crime Programme meetings, without the need to resort to a vote, underlines the importance of getting the cooperation of all member states.

3.2. The specialized agencies and the PNIs

A number of specialized UN agencies (such as ILO, UNESCO and WHO) may have an interest in the topics on the agenda of the various UN Crime Programme meetings, and they often participate as observers. Strictly speaking, a "specialized UN agency" is an autonomous organization that works with the UN (and other agencies) under the coordination of ECOSOC. However, at times various units of the UN Secretariat itself (such as the United Nations Development Programme) will send representatives to UN Crime Programme meeting and be listed as a "specialized UN agency."[33]

At UN Crime Congresses and sessions of the UN Crime Commission, the PNIs (see section 2.6.) have generally been classified as belonging in the category of specialized UN agencies. They participate as observers.

3.3. Intergovernmental organizations

Formally, an intergovernmental organization is one in which the members are national governments. The United Nations itself is the best-known example. Other examples that have played an important role in the crime prevention and criminal justice sector are the Council of Europe, the Organization of American States, the African Union and the European Union.[34]

Intergovernmental organizations participate in many UN Crime Programme meetings as observers.

3.4. Non-governmental organizations

As is the case with intergovernmental organizations, non-governmental organizations (NGOs) participate in UN Crime Programme meetings as observers. The role of non-governmental organizations in the UN in general, and in the UN Crime Programme in particular, has evolved considerably over the years.[35]

When the United Nations was founded in 1945 as an intergovernmental organization, non-governmental organizations (NGOs) successfully lobbied for a provision in the Charter that grants NGOs consultative status with the Economic and Social Council. Article 71 of the UN Charter states:

> "The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its

[33] The most recent UN Crime Congress, the Fourteenth, used the following separate sub-categories of specialized UN agencies: the United Nations; representatives of United Nations Secretariat units; United Nations bodies and agencies; the United Nations Interregional Institute, affiliated regional institutes and centres of the UN Crime Prevention and Criminal Justice Programme Network; and specialized agencies.

[34] Although the International Criminal Police Organization is usually listed in this category, it is strictly speaking not intergovernmental, since its membership consists of the criminal police entities of different countries.

[35] See Matti Joutsen, What is the Role of the Public in Crime Prevention and Criminal Justice? The Debate in the United Nations, *UNAFEI Resource Material Series 105*, pp. 49-69, Tokyo 2018, available at https://www.unafei.or.jp/publications/pdf/RS_No105/No105_9_VE_Joutsen_2.pdf

> competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned."

ECOSOC rules of procedure recognize NGOs as a specific category of participants.[36]

On the basis of Article 71 of the UN Charter, a distinction is made between NGOs with **consultative status with ECOSOC**, and other NGOs. Those with consultative status have a standing invitation to attend for example the sessions of the UN Crime Commission as well as the UN Crime Congresses, whereas other NGOs need to apply to the UN Secretariat for an invitation to attend.

The International Scientific and Professional Advisory Council (ISPAC) was established in 1991 to serve as a structure for networking among NGOs, as well as academic institutions interested in the work of the UN Crime Programme. In addition, alliances of NGOs with consultative and associated status have been established in both New York (1972) and Vienna (1983).

In the past, the role of NGOs has been quite discernible in the drafting of the UN standards and norms on crime prevention and criminal justice, beginning with the first such standard and norm, the Standard Minimum Rules on the Treatment of Prisoners (SMRs), which was adopted by the General Assembly in 1955. The SMRs had, indeed, been drafted under the auspices of the IPPC. Especially during the time of the UN Crime Committee, other standards and norms were generally drafted by outside experts, who often worked together with various NGOs and academic institutions that were active in respect of the subject matter of the draft. These drafts were generally then submitted to a UN Crime Congress for approval and action. Currently, however, new standards and norms are generally drafted at UNODC Expert Meetings convened in accordance with a mandate given by the UN Crime Commission. The draft will then be submitted to the UN Crime Commission for action.

3.5. Individual experts

The large majority of persons attending UN Crime Programme meetings represent a member state or an organization. However, individual experts continue to play a role in the UN Crime Programme. They form a recognized category of participant at UN Crime Congresses. Perhaps more importantly, individual practitioners and academics have been active in various technical assistance projects, and in the drafting of manuals and other documentation being prepared by the UNODC and the PNIs.

4. The products of the UN Crime Programme

4.1. The UN Crime Programme standards and norms

The term "standard and norm" refers, in the context of the UN Crime Programme, to a set of instruments adopted by the General Assembly and ECOSOC (and in a few exceptional cases, by other bodies) that are designed as benchmarks for the development of crime prevention and the criminal justice system. As noted on the UNODC website,[37] "These standards and norms provide flexible guidance for reform that accounts for differences in legal traditions, systems and structures whilst providing a collective vision of how criminal justice systems should be structured."

[36] Rules of Procedure of the Functional Commissions of the Economic and Social Council, available at http://www.ohchr.org/Documents/HRBodies/CHR/RoP.pdf

Rule 75 provides for the right of NGOs to designate representatives to attend public meetings of the commission and its subsidiary organs as observers. Rule 76 provides for consultation with NGOs, including the right to be heard by the Commission.

[37] https://www.unodc.org/unodc/en/commissions/CCPCJ/ccpcj-standards-and-norms.html

Over the years, a considerable number of UN standards and norms have been adopted.[38] The first to be adopted was the Standard Minimum Rules on the Treatment of Prisoners, known as the SMRs. Originally adopted in 1955, these have been updated in 2015. The revised version is known as "the Nelson Mandela Rules."

Other key standards and norms deal with

- corrections, such as the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and the Basic principles on the use of restorative justice programmes in criminal matters;
- torture and capital punishment, such as the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Safeguards guaranteeing protection of the rights of those facing the death penalty;
- justice for children, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice;
- crime prevention, such as the Guidelines for cooperation and technical assistance in the field of urban crime prevention, and the Guidelines for the Prevention of Crime;
- violence against women, such as the Declaration on the Elimination of Violence against Women, and the Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice;
- victims of crime, such as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; and
- the operation of the criminal justice system, such as the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Basic Principles on the Independence of the Judiciary, the Guidelines on the Role of Prosecutors, the Basic Principles on the Role of Lawyers, and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.

Standards and norms are commonly referred to as "**soft law**" instruments, in the sense that they provide guidance but are not legally binding. This does not mean that standards and norms, as "soft law", are meaningless, and have no practical effect. The significance of soft law, including standards and norms, does not lie in any assumed legal binding effect. The significance lies elsewhere, on both the national and the international level.

On the national level, international standards and norms may have an instrumental value in guiding national development.[39] They may be used as persuasive arguments by decision-makers in individual jurisdictions when these decision-makers seek to justify certain courses of action that they would have preferred even if the standard or norm did not exist. When selecting from among various alternative approaches to achieving a certain end, the decision-makers may thus defend their choice by referring to specific provisions in, for example, the Nelson Mandela Rules, the Bangkok Rules, or the Tokyo Rules.

Similarly, international standards and norms can also be used by citizens, non-governmental organizations and other stakeholders in trying to influence their government to change laws and policy in a certain direction.

It is difficult to analyse the actual impact of international standards and norms on the domestic level, due to a number of factors: the absence of an obligation to report, the heterogeneity of the criminal justice systems of different states, the possibility of different interpretations of the same text, and the difficulty in determining if a specific change in national law, policy or practice was due to the influence of a United

[38] See https://www.unodc.org/unodc/en/justice-and-prison-reform/compendium.html

[39] The most widely known example of a standard and norm guiding national development is the Standard Minimum Rules for the Treatment of Prisoners. It has clearly guided national practice in corrections and, in several cases, helped bring about legal reform.

Nations standard and norm, or to other factors.

Nonetheless, many reports from states to the United Nations Office on Drugs and Crime cite examples of the impact, and the literature shows several further examples of impact. In many states, the standards and norms are becoming part of the national discourse on crime prevention and criminal justice.

On the international level, "soft law" may be seen as an intermediate stage in the formulation of ideas and concepts that may in time emerge as "**hard law**", in the form of international agreements. When ideas are embodied in standards and norms, the recognition and declaration of certain principles and even detailed rules may be intended to have a direct influence on the practice of states. If this happens, they contribute to the creation of **customary international law**, which is widely recognized as binding on states. Standards and norms, even if they are not in themselves binding, may thus become a source of international law, in particular if they are drafted in the form of an obligation (e.g., "states *shall*" do something, as opposed to "states *may consider*" doing something, or "states *are invited*" to do something).

4.2. Resolutions

Much of the time of participants at sessions of the UN Crime Commission (and ECOSOC and the General Assembly), and at sessions of the CoSPs, is devoted to the consideration of draft resolutions. Resolutions are important for several different types of reasons.

First, on the substantive level, a resolution (when adopted) embodies the sense of the member states of the United Nations: what are the priority issues in crime prevention and criminal justice, and what should be done by the international community in general. They can, for example, call the attention of the member states, and the international community as a whole, to the emergence of new challenges, such as the difficulties faced by prisoners with a Covid-19 infection.

On the aspirational level, a resolution may express the will of member states to call upon member states, or to invite other actors (such as intergovernmental organizations) to take specific action.

On the political level, a resolution may be used to promote a certain political agenda: condemning certain developments, action taken or incidents, welcoming other developments, stressing the importance of certain values, and so on.

On the practical level, a resolution often requests that the Secretariat take specific actions, such as prepare a report, organize a meeting or provide certain assistance to member states on request.

Finally, on the linguistic level, and as a document reflecting the outcome of UN negotiations, the phrasing and terminology used in resolutions often becomes "agreed language," which may well be referred to in future negotiations.

The process of the consideration of draft resolutions consists of the following phases:
- a member state formulates the purpose and content of the intended draft resolution, and (preferably) the first draft version for circulation;
- initial informal consultations with at least some of the key delegations to solicit their comment and, ideally, their tentative promise to serve as **sponsors** of the draft in the negotiations, or otherwise to provide support;[40]
- the formal **tabling** of the draft resolution, after which it will be translated into all the official UN languages and distributed;
- informal negotiations with all "interested member states." These are closed negotiations, which may generally be attended only by representatives of member states. Other individuals may be present, if the other participants agree;
- presentation of the results of the informal negotiations in the "**Committee of the Whole**" (perhaps with

[40] Formally, the agreement of all member states which identify as sponsors of a draft resolution should be secured when amendments are proposed.

an updated "clean copy" of the text of the draft resolution, as amended); this stage may involve further negotiations; and
- submission of the results of the negotiations to the plenary for adoption.

The informal negotiations will generally not have the benefit of interpretation into all of the official UN languages. The considerations in the Committee of the Whole and in plenary, in turn, will have interpretation.

The negotiation of draft resolutions can be quite time-consuming, and some sessions of the UN Crime Commission have been marked by very lengthy negotiations on multiple draft resolutions that last far into the night (and the early morning). Generally, the negotiations do lead to the adoption of the draft resolution, although often with extensive amendments in "compromise language." If towards the end of a session of the UN Crime Commission it appears that consensus on the draft resolution will not be reached (or could be reached only with substantive amendments that do not meet the interests of the sponsors of the draft), the draft resolution may be withdrawn.

4.3. UNODC documentation and UN Crime Programme meeting reports

One of the major functions of the Secretariat is to prepare documentation for the consideration of UN Crime Programme meetings, such as the sessions of the UN Crime Commission, the UN Crime Congresses, and the Conferences of the States Parties to the two UN Crime Conventions. The result is a steady flow of information that has been collected and processed by the Secretariat.

The documentation, which is generally of a very high quality indeed, seeks to provide the conceptual framework for the expected discussion, set out the state of knowledge on the relevant issues, describe what action has been taken, and possibly suggest for consideration what action should be taken. This is a challenging task for several reasons, not least because of fairly stringent limits on the length of documents that have been imposed in order to keep down the costs of translation and processing of the documents into the six official languages.

The final stage of work at UN Crime Programme meetings involves the **adoption of the report**. The Secretariat generally assists the rapporteur in the drafting of the report, and the draft text is usually very carefully constructed to reflect what should be an impartial summary of the discussions.

Various UN Crime Programme meetings may, furthermore, request that the UNODC prepare a report on a subject, for submission and consideration at a subsequent meeting.

In addition to documentation connected directly with UN Crime Programme meetings, the UNODC has produced, to an increasing pace after the turn of the millennium, many **manuals, handbooks, training materials, reports and compendiums** that are intended to be used for example in technical assistance projects.[41] These include
- model legislation that can be used in different legal systems in the implementation of the two UN Crime Conventions,
- manuals and handbooks on how to prevent, investigate and prosecute specific offences (such as trafficking in persons and the smuggling of migrants),
- digests of legal cases showing how different courts have dealt with criminal cases related to the UN Crime Conventions, and
- manuals and handbooks on different aspects of international legal cooperation (such as mutual legal assistance, extradition, the transfer of prisoners, the recovery of assets).

The UNODC continues to produce excellent research publications. Special reference can be made to the annual Global Report on Trafficking in Persons, and the Global Studies on Homicide and the World Wildlife Crime Reports. Reports on different aspects of transnational organized crime, from different regions, have also been published.

[41] https://www.unodc.org/unodc/en/international-cooperation/publications.html

4.4. United Nations Crime Conventions[42]

As noted in section 1.4, the adoption of the two UN Crime Conventions – the UN Convention against Transnational Organized Crime and its three protocols, as well as the UN Convention against Corruption – marked a clear transition in the UN Crime Programme, towards an emphasis on hard law and on the effectiveness of the response of the international community to crime.

The two UN Crime Conventions have influenced international cooperation in at least three respects:
- as global conventions, they have considerably expanded the geographical scope of cooperation,
- they provide common definitions of certain key offences, and require (or, in some cases, at least encourage) states parties to criminalize these acts, and
- they have standardized and contributed to the development of procedural forms of cooperation.

Global scope. The UN Crime Conventions are global instruments, open to countries around the world. Most earlier agreements were bilateral or at most regional. The UN Crime Conventions provide a relatively clear basis for cooperation between countries, regardless of their legal system or the underlying principles of the operation of their criminal justice system. At present (April 2022) UNTOC has 190 parties (and its three protocols have somewhat fewer), and UNCAC has 189 parties. Both thus have considerable geographical scope.

Criminalization requirements. UNTOC requires that states parties criminalize four types of conduct. These are, respectively, participation in an organized criminal group, money laundering, corruption and obstruction of justice. In particular the first two of these articles marked a considerable shift in thinking in many countries. During the negotiations, the definition of participation in an organized criminal group proved difficult, since few countries had an offence in their laws that would cover the concept. The definition ultimately represented a merger of the common law concept of conspiracy with elements of the Italian and U.S. concept of a racketeering influenced and corrupt organization.

UNCAC contains a number of criminalizations. The provisions on money laundering and obstruction of justice are broadly similar to those to be found in UNTOC. Understandably, UNCAC goes into greater detail than UNTOC in requiring the criminalization of corruption offences, such as bribery, and misappropriation or other diversion of property by a public official. In addition, UNCAC contains definitions of some acts that states parties are encouraged to criminalize, although there is no obligation to do so. This non-mandatory approach is the result of the fact that, during the negotiations, many states were dissatisfied with what they saw as the vagueness of such definitions of offences as trading in influence, abuse of functions, and illicit enrichment. In addition, some states parties opposed making bribery in the private sector a mandatory offence.

Procedural cooperation. The impact of the two UN Crime Conventions on procedural cooperation is illustrated in the following table by comparing what law enforcement cooperation and judicial cooperation was typically like before the conventions entered into force (referred to here as "traditional cooperation") with the "new, improved" cooperation to which the two UN Crime Conventions contributed.

[42] For more on the UN Crime Conventions, see Matti Joutsen (2011), *The Impact of United Nations Crime Conventions on International Cooperation*, in Cindy Smith, Sheldon X. Shang and Rosemary Barberet (eds.), Routledge Handbook of International Criminology, Routledge, pp. 112-124.

Table 2: Two regimes of cooperation

The traditional cooperation regime	The "new, improved" cooperation regime
each country uses its own "traditional" investigative means	introduction of various modern investigative means
each country carries out its own criminal investigation	possibility of joint investigations
limited scope of offences; lists of offences	broad scope of offences; no lists of offences
limited scope of mutual assistance available	many possible forms of mutual assistance available
no provisions on confiscation of the proceeds of crime	such provisions are included, as are provisions on mutual assistance related to confiscation of the proceeds of crime
use of diplomatic channels in requesting and giving assistance	use of a Central Authority, and the possibility of direct contacts between lower-level authorities
bureaucratic	"good practice" standards followed (e.g. the possibility of consultation before possible refusal of a request)
requested state applies solely its own laws in granting assistance	procedures requested by the requesting state can be applied if these are not contrary to the laws of the requested state
extradition of nationals not possible	nationals can be extradited, although subject to possible conditions

Introduction of new investigative means. Because of the diversity of legal systems, investigative techniques that have proven useful in one country may not be allowed in another. This applies, for example, to such techniques as electronic surveillance, controlled delivery, undercover operations, the promising of immunity from prosecution or a reduced sentence in return for cooperation in investigations, and the use of anonymous witnesses. If an investigative technique is legal in one country (A) but not legal in another (B), this may result in at least two types of problems. The first is that A will be frustrated by the inability of the law enforcement authorities of B to use what A regards as an effective tool. The second is that the judicial authorities of B may not allow the use of any evidence that has been gathered through the use of what, for B, are illegal techniques, even if the evidence has been obtained in a jurisdiction where the evidence was acquired legally.

In response to this problem, the two UN Crime Conventions encourage State Parties to allow the use of certain special investigative techniques. UNTOC and UNCAC refer to controlled delivery, electronic and other forms of surveillance, and undercover operations. These techniques are especially useful in dealing with sophisticated organized criminal groups because of the dangers and difficulties inherent in gaining access to their operations and gathering information and evidence for use in domestic prosecutions or in other States Parties in the context of mutual legal assistance schemes.

Possibility of joint investigations. A number of provisions in the UN Crime Conventions focus on overcoming problems that result when each country carries out its own criminal investigations. Among the innovations are the possibility of the establishment of joint investigation teams, cooperation in the protection of witnesses, the establishment of formal channels for the exchange of operational and general information between police agencies, and the possibility of appointing liaison officers.

Broad scope of offences. The earliest treaties were based on lists of offences. If an offence was not included in the list, a country would not provide mutual legal assistance or grant extradition. The reason for this was that countries traditionally wanted to specify in advance for what offences they would consider providing judicial assistance. This led to several difficulties, including the technical ones that arise due to differences in definitions of even the most basic offences, such as assault or robbery. UNTOC, in contrast, provided that cooperation should essentially be provided in cases where the offence fit into a generic definition of "transnational organized crime."

Broader range of forms of assistance. The earliest agreements on mutual legal assistance treaties concerned merely the service of summons. UNTOC and UNCAC, in turn, include specific provisions on the transfer of

criminal proceedings, whereby if a person is suspected of having committed an offence under the laws of one state party, that state party may request another state party to take action on its behalf in accordance with the Conven¬tion in question, and the latter would prosecute the alleged offender under its own laws.

It has only been relatively recently that international agreements began to contain provisions on assistance in identifying, tracing and freezing or seizing proceeds of crime for the purpose of eventual confiscation (which can be regarded as a special form of mutual legal assistance). The need to come to grips with the profit motive behind the rapid growth of drug crime led the drafters of the 1988 Drug Convention to require that states parties criminalize money laundering, and also to require states parties to create domestic mechanisms for the tracing, restraint and confiscation of the proceeds of drug-related crime, and to respond to requests presented by other states parties for the tracing, restraint and confiscation of the proceeds of drug offences. The 1988 Convention was the primary point of reference in the formulation of the corresponding (albeit broader) provisions in UNTOC and UNCAC.

UNTOC and UNCAC allow several forms of assistance that were not envisaged under earlier international instruments. Examples include video conferences, and what is known as the "spontaneous transmission of information", whereby the authorities are allowed, even without a prior request, to pass on information to the competent authorities of another state that they believe might be of use.

Use of a Central Authority. Traditional mutual legal assistance treaties required that requests be sent through diplomatic channels. What this entails is that, for example, a request for evidence, usually originating from the prosecutor, is authenticated by the competent national court in the requesting state, and then passed on by that state's Foreign Ministry to the embassy of the requested state. The embassy sends it on to the competent judicial authorities of the requested state, generally through the Foreign Ministry in the capital. Once the request has been fulfilled, the chain is reversed.

UNTOC and UNCAC contain provisions on the concept of a "Central Authority." Although each state party may continue to insist on diplomatic channels, these Conventions require that they identify an authority – in practice, often the Ministry of Justice, although also for example Supreme Courts have been designated as such – to be competent for the transmission of international requests, and to provide guidance for practitioners. This has tended to shorten the chain of authorities involved, and accordingly has speeded up the process of obtaining assistance.

Adoption of "good practice" standards. One of the major problems in mutual legal assistance world-wide is that the requested state is often slow in replying, and suspects must be released from custody due to absence of evidence. There are many understandable reasons for the slowness: a shortage of trained staff, linguistic difficulties, differences in procedure that complicate responding, and so on. Nonetheless, it can be frustrating to investigators and prosecutors to find that a case must be abandoned because even a simple request is not fulfilled in time. UNTOC makes the point of the importance of promptness in two separate provisions. UNTOC provides that, if the Central Authority itself responds to the request, it should ensure speedy and prompt execution. If the Central Authority transmits the request to, for example, the competent court, the Central Authority is required to encourage the speedy and proper execution of the request. According to a separate UNTOC provision, the request is to be executed "as soon as possible" and the requested state is to take "as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given."

Difficulties may also arise due to different legal standards. An example of this is the concept of "*prima facie* evidence of guilt" which some countries require as a condition for extradition. Since different countries apply differing rules of evidence, it may be difficult for a practitioner in one country to know what evidence would satisfy the requirements of the requested state. Both UNTOC and UNCAC call upon state parties to simplify their evidentiary requirements in this respect.

Possibility to apply the law and procedures of the requesting state. Since the procedural laws of states differ considerably, the requesting state may require special procedures (such as notarized affidavits) that are not recognized under the law of the requested state. Traditionally, the almost immutable principle has been that the requested state follows its own procedural law. This principle has led to difficulties, in particular when the requesting and the requested state represent different legal traditions. For example, the evidence

transmitted from the requested state may be in the form prescribed by the laws of this state, but such evidence may be unacceptable under the procedural law of the requesting state.

The modern trend is to allow more flexibility in respect of procedures. According to both UNTOC and UNCAC, a request shall be executed in accordance with the domestic law of the requested state. However, the respective provisions go on to say that, to the extent not contrary to the domestic law of the requested state and where possible, the request shall be executed in accordance with the procedures specified in the request. Thus, although the two UN Crime Conventions do not go so far as to require that the requested state comply with the procedural form required by the requesting state, they do clearly exhort the requested state to do so.

Extradition of nationals. One of the most cherished principles in extradition law has been that states will not extradite their own nationals and will, at most, undertake to bring them to trial in their own courts. Today, more and more states are allowing extradition of their own nationals, although some conditions may be placed, such as that the national, if convicted, should be returned to his or her own country to serve the sentence. UNTOC and UNCAC incorporate provisions that reflect this development, by allowing for the possibility of "temporary surrender" of the fugitive on the condition that this person will be returned to the requested State Party for the purpose of serving any sentence imposed. In cases where the requested state refuses to extradite a fugitive on the grounds that the fugitive is its own national, the state is often seen to have an obligation to bring the person to trial. Where extradition is requested for the purpose of enforcing a sentence, the requested state may also enforce the sentence that has been imposed in accordance with the requirements of its domestic law.

4.5. UN Crime Programme technical assistance

Along with the increased focus of the UN Crime Programme on the implementation of the two UN Crime Conventions, the UNODC and the PNIs have sought to provide more **technical assistance** to member states and other organizations on request.[43] Much of the UNODC assistance is provided through its network of regional and national offices.

Substantive priority areas include organized crime and illicit trafficking (including trafficking in persons, the smuggling of migrants, cybercrime and money laundering), corruption and economic crime, and the prevention of terrorism. Technical assistance is provided for example on preventive and security measures, the identification and monitoring of the extent, dynamics and actors involved in crime, the criminal justice response, and international cooperation and information exchange. The UNODC has developed an extensive Criminal Justice Assessment Toolkit to be used in this work.[44]

The technical assistance covers, for example, legislative advice (including support in the drafting of legislation), assistance in the development of national policy and strategies, and capacity building. The two UN Crime Conventions as well as the UN standards and norms provide the basic framework, which needs to be tailored to the national and local situation, including not only the assessed needs and priorities, but also the legal and administrative system, the human and technical resources, and the cultural and political context.

Although the projects are generally done in direct cooperation with the member state in question, the UNODC and the PNIs also emphasize the importance of consensus-building, and the involvement of all the relevant stakeholders, including the relevant civil society organizations as well as bilateral and multilateral donors.

[43] For an overview of the "lessons learned" in UNODC and PNI technical assistance projects, see Margaret Shaw, *Maximizing the effectiveness of technical assistance provided by Member States in crime prevention and criminal justice. Background Note for the PNI Workshop at the Fifteenth Session of the UN Crime Commission*, International Centre for the Prevention of Crime, 2006, available at https://cipc-icpc.org/wp-content/uploads/2019/08/Maximazing_effectiveness_of_technical_assistance_2006.pdf

[44] *UNODC Criminal Justice Assessment Toolkit*, available at https://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html

In the planning of UN Crime Programme technical assistance projects, increasing attention has been given to the importance of adopting an **integrated approach**, as opposed to the carrying out of short-term, piecemeal, specialized initiatives that do not take into account the broader need in the target country for institutional reform, institution building and capacity building. This calls for taking into consideration such cross-cutting issues as gender mainstreaming, the promotion of human rights, and support for the participation of civil society. Such an emphasis has been strengthened by the adoption by the General Assembly in 2015 of the Sustainable Development Goals.

The UNODC and the PNIs seek to promote evidence-based projects, and emphasize the importance of evaluating the effectiveness and impact of the assistance provided.

Technological development, and in particular the use of **video technology**, is rapidly changing the way in which the UNODC and the PNIs are developing and conducting technical assistance projects. In project development, a wide range of stakeholders in the country in question can be consulted online, and they can provide important details on the national or local context. Similarly in the preparation of technical assistance materials, online meetings can be used to prepare and finalize the drafts. The training can be and is being provided online to practitioners and other stakeholders. And finally, in evaluating the results of the programme, a wide range of stakeholders can be interviewed individually or together online. This allows for a more comprehensive assessment than what would be possible with cost-intensive in-person meetings.

5. International sensitivities in the UN Crime Programme

Different states have different priorities, and there are often disagreements over what should be done. This section identifies some of the issues that have been repeatedly debated within the scope of the UN Crime Programme, generally in the context of the drafting of resolutions.

5.1. Work on a proposed UN Convention on countering the use of information and communications technologies for criminal purposes

Issue: What should be the scope of the proposed UN Convention on countering ICT technologies for criminal purposes.

GA resolution 74/247 established an "open-ended *ad hoc* intergovernmental committee of experts, representative of all regions, to elaborate a comprehensive international convention on countering the use of information and communications technologies for criminal purposes"

Appearance of the issue in practice:

- Work has begun at the beginning of 2022 on the negotiation of a UN Convention on countering ICT technologies for criminal purposes (a "UN Convention on Cybercrime"). However, this was preceded by over ten years of disagreements over the need for such a convention.
- The main argument for a UN cybercrime convention is the need for a global convention in the drafting of which all UN member states can participate. Existing regional instruments (and here the reference is generally to the Council of Europe Convention on Cybercrime from 2001, the "Budapest Convention")[45] are argued to not reflect the concerns of developing countries. Furthermore, some countries have argued in particular that art. 32(b) of the Budapest Convention, which allows states to obtain information in another country if the lawful owner of the date consents, without the need for approval of the state in question, is a violation of national sovereignty.
- The main arguments against a UN cybercrime convention include the lack of perceived need (those making this argument hold that implementation of existing frameworks, standards and legislation is more important than the drafting of new instruments), the expense of drafting and implementing a UN convention, and the difficulties that would arise if there are two or more competing conventions with

[45] Reference can also be made to the Shanghai Cooperation Council's Agreement on Cooperation in the Field of Ensuring International Information Security (2009), the League of Arab States Convention on Combatting Information Technology Offences (2010), and the African Union's Convention on Cyber Security and Personal Data Protection (2011).

dissimilar provisions.
- Now that work has begun on the negotiations, the key issues are likely to concern the respective role of member states, the private sector (in particular technology companies and service providers), and civil society in the regulation of cyberspace; the issue of transborder access to data and electronic evidence; to what extent the proposed convention would cover online content; and to what extent the data subject has the right to digital privacy.

5.2. Role of civil society

Issue: This (in addition to the current debate over the proposed UN Convention on countering the use of information and communications technologies for criminal purposes) is perhaps the major disagreement within the UN Crime Programme at present. It rose to prominence in connection with the negotiation of the UNCAC implementation review mechanism (2006-2011), and revolves around different understandings of the "intergovernmental nature" of the United Nations. Basically, some states are of the view that non-governmental organizations (NGOs) should not have a role in many international discussions on crime prevention and criminal justice within the UN framework, while other states are of the view that non-governmental organizations can strengthen the national and international response.[46]

Appearance of the issue in practice:
- Within the framework of the UNCAC implementation review mechanism, NGOs may at present attend only plenary sessions of the Conference of the States Parties, but not sessions of the working groups or of the Implementation Review Group (IRG). A one-day "briefing" is organized for duly accredited NGOs in connection with the annual main session of the IRG.
- This status quo is viewed by some state parties as the result of a "final" decision, resting on a delicate balance, and should not be re-opened. Other state parties are of the view that the status quo is a matter that should be kept under constant review in view of the "constructive dialogue" between the states parties and the NGOs called for by the 2011 session of the Conference of States Parties (the "Marrakesh compromise").
- More generally within the work of the UN Crime Commission, earlier resolutions have included many references to the necessity of states working together with NGOs also on the international level. Currently, largely the same states that have opposed NGO involvement on the international level in the review of the implementation of UNCAC tend to object to references in draft resolutions to civil society also in other connections.
- If references to NGOs in a draft resolution seem to have strong support, some objecting states may insist on language to the effect that the activity of such NGOs must be subject to the law of the state in question.
- A related point of contention has been the accreditation of NGOs to various meetings within the framework of the UN Crime Programme. The basic rule is that NGOs that have consultative status with ECOSOC may attend UN meetings, unless decided otherwise. Other NGOs may apply for permission to attend. The Secretariat drafts a list of such requests and circulates it among diplomatic missions in Vienna. Now and then a state has objected to a specific NGO, in which case the matter is dealt with by the Bureau. If the Bureau cannot reach agreement, the issue is decided by the meeting itself. In such a case, the NGO is assumed to have the right to attend the meeting until and unless the meeting decides otherwise. (So far, such issues have almost always been solved amicably before the start of the meeting in question.)

5.3. The mandate of the UN: what can be discussed in Vienna?

Issue: how strict can and should the borderlines be between what is discussed within the framework of the UN Crime Programme, and what is discussed by other elements in the UN system, such as the UN bodies debating human rights, the advancement of women, education, climate change and urban development?

[46] See *Civil Society Engagement in the Implementation of the United Nations Convention against Corruption* (2015) conference room paper submitted by Finland to the UNCAC Conference of the States Parties, CAC/COSP/2015/CRP.3.

Appearance of the issue in practice:

- some states may oppose references in draft resolutions to issues (such as violence against women, or environmental crime) that would seem to overlap with the mandate of other UN bodies, even if these are simple references to the importance of an issue. An example was the demand of one representative that references to human rights be deleted from a draft resolution being discussed in Vienna, on the grounds that human rights are dealt with in Geneva.
- references that merely cite resolutions and work by other elements of the UN are generally accepted, in line with the "one UN" approach.

5.4. Financing of activity, including technical assistance

Issue: what activities should be covered by the regular UN budget, and what activities require the identification of "extrabudgetary funds." The UN Crime Commission itself cannot decide on the UN budget, and therefore any draft resolution that may have financial implications (staff work by the Secretariat, organization of a meeting, and so on) would require a "statement of financial implications" from the Secretariat, and an indication of how the funding would be obtained.

Appearance of the issue in practice:

- major donors to the UN budget tend to oppose increases in the regular UN budget, and require that any additional activities be conducted only if extrabudgetary funding is made available for this purpose. Those states that support the activity in question may argue that it is so important that it should be funded from the regular UN budget.
- If there are financial implications which cannot be covered by the regular UN budget, then the phrase "... subject to the availability of extrabudgetary funds" (or something along the same lines), is inserted into the draft. If it is not possible to identify the source of such funding, then the relevant provisions of the resolution (if the resolution is adopted) will in practice not lead to any action.

5.5. Conditionality of technical assistance

Issue: Some states requesting technical assistance oppose requirements that, in order to receive such assistance, they must take certain steps (such as adopt certain legislation or certain policies). They generally argue that this constitutes interference in domestic matters. Donors, in turn, may be of the view that certain steps are necessary for the assistance to have the intended impact.

Appearance of the issue in practice:

- Some developing countries are sensitive to phrasing of draft resolutions that would appear to imply that they must take certain action before they can receive any funding. Their principal argument is that the international community can successfully respond to crime only if all states have the possibility to take the requisite measures – and therefore, (unconditional) technical assistance is required.

5.6. Multilingualism

Issue: the UN has six working languages: Arabic, Chinese, English, French, Russian and Spanish. Member states have the right to participate in the work of the United Nations in their preferred language. Nevertheless, much of the work of the UN takes place in informal settings, in which case there is no allocation for interpretation. In practice, most of the representatives based in Vienna are able to work in English, and these informal negotiations will generally be conducted in English.

Appearance of the issue in practice:

- Proposals for holding expert meetings or other meetings that do not specifically allow for interpretation may be opposed by those whose working language would not be made available.
- States may oppose expert meetings in general and require that the meetings be "open-ended intergovernmental meetings" which would implicitly require that all six UN working languages can be used. (This, in turn, increases the costs of the meetings and lessens the willingness of states to offer to host such meetings. It also raises the possibility that the participation of NGOs at such a meeting

might be questioned, on the grounds that the meeting would be "intergovernmental.")
- If a meeting (even an "informal meeting") is held in one UN language only, representatives of other language groups may argue that any decisions made even provisionally can be subjected to new debate, once the consideration proceeds to a forum where all six languages may be used. (In practice, interested governments have cooperated with the UNODC in the organization of such monolingual expert meetings in order to prepare draft documents, which can then be submitted for the consideration of the UN Crime Commission.)
- If negotiations are being conducted on the basis of documentation (such as is the case with the adoption of a draft resolution or draft report), the consideration may be postponed until the documents are available in all six working languages.

5.7. Recovery of assets

Issue: Concern that some states do not take sufficiently effective action in tracing, freezing, seizing and confiscating illegally obtained assets and, in particular, in returning them to the country of origin.

Appearance of the issue in practice:
- Several developing countries take the view that those countries to which the proceeds of crime (for example, of corruption) have been transferred have an obligation under the two UN Crime Conventions to be much more efficient in recovering and repatriating the proceeds of crime. The states to which the funds are transferred, in turn, are in general of the view that the proper domestic legal procedure must be followed, and this, in turn, entails the provision of sufficient evidence that the assets in question are indeed the proceeds of crime, and that the requesting state (and not any third party) is the legitimate owner.

5.8. Trafficking in cultural property

Issue: Concern that some states do not take sufficiently effective action in tracing, freezing, seizing and confiscating trafficked cultural property and, in particular, in returning them to the country of origin.

Appearance of the issue in practice:
- As with the debate over the recovery of assets, many developing countries from which cultural artefacts have been taken, are of the view that the states to which the artefacts have been taken are not sufficiently efficient in tracing, recovering and returning the cultural property. The states to which the artefacts are transferred, in turn, may be of the view that the artefacts were legally taken out of the country in question.
- In some cases, developing countries call for the return of artefacts that have been taken from the country many years before, although the records showing the provenance of the artefacts may in the interim have been destroyed, for example in a war.

5.9. Use of peer review

Issue: UNCAC is the first UN convention for which national implementation has been subjected to peer review. At the time, the concept of peer review was unfamiliar to the representatives of many states, and there was concern (for example) that allowing foreign states to examine what action has been taken in a state party constitutes intervention in domestic matters, which would be against the UN Charter.[47]

Appearance of the issue in practice:
- Although there were considerable difficulties in the negotiation of the mechanism for the review of the implementation of UNCAC, and several states parties were sceptical of the concept of peer review (in particular the necessity for a "country visit" that would allow discussions with a broad range of

[47] See Matti Joutsen and Adam Graycar, When Experts and Diplomats Agree: Negotiating Peer Review of the UN Convention Against Corruption, Journal of Global Governance Vol. 18, No. 4 (Oct.–Dec. 2012), pp. 425-439.

stakeholders), there are at present few, if any, state parties that regard the UNCAC implementation review mechanism as intrusive. Country visits have been conducted in the vast majority of reviews.
- The major concern has to do with the expense of a multilingual review process, which may, in the case of an individual country under review, require the translation of hundreds of pages into one or two languages during the review process, followed by translation of the executive summary into all working languages. The country visits also entail travel and other costs.
- A separate issue is that the UNCAC peer review mechanism is different from those used for example by the OECD or the Council of Europe; in particular, in the UNCAC process the state party under review has control over what information is used and how the report is written, the Implementation Review Group may not consider the situation in any individual state party, and there is no rigid follow-up process.

5.10. "Ranking" of member states

Issue: The issue of the ranking of states arose, in the framework of the UN Crime Programme, with concern by several member states that the "Transparency Index" published by Transparency International misrepresented the extent of corruption in their countries. In their view, such indexes were not only misleading, but could even be harmful for example by providing disincentives for foreign investment.

Appearance of the issue in practice:
- One of the principles on which the UNCAC implementation review mechanism is based is that the reviews should not involve any ranking of states parties. Thus, the UN avoids comparing the amount of corruption in specific countries. (More generic comparisons, however, are permissible, although the appropriateness also of these would be examined carefully.)
- Although the principle of avoiding any "ranking" has thus far been adopted only in the context of UNCAC, the Secretariat has become cautious also when reporting more generally on the levels of reported crime, or the operation of the criminal justice system. Tables listing for example the number of reported homicides or the number of prisoners per capita in different countries tend to be avoided, and may be replaced by charts or graphs showing groups of countries.

5.11. "Questionnaire fatigue"

Issue: Some states are of the view that UNODC *notes verbale* that ask states for information may place an excessive burden on practitioners in the different states. For this reason, they would prefer to limit the number and scope of such requests.

Appearance of the issue in practice:
- The UN Crime Commission has considerably curtailed the number of requests for information on implementation of UN standards and norms.
- The scope of the UN crime trend surveys has been restricted.

5.12. Wording of resolutions: "shall", "should", "may consider" (and so on)

Issue: resolutions of UN bodies generally call for action. The obligatory nature of the calls varies, and is usually indicated by phrases such as "states shall …", "states may …" and "states may consider …".

Appearance of the issue in practice:
- UN Crime Congress declarations and resolutions of sessions of the Conferences of the States Parties are much more likely than those of the UN Crime Commission to include a mandatory phrase such as "states shall …" (or, for the Conferences of State Parties, "states parties shall …"). The UN Crime Commission, in turn, is generally not deemed to have the mandate to require that member states of the UN act in a certain way, or that they refrain from taking certain action. For this reason, softer formulations such as "states may consider …" or "states are urged to …" tend to be used.
- The references may be further qualified with phrases such as "subject to their constitutional principles",

"subject to the basic principles of their legal system" or the like.
- In respect of intergovernmental and other bodies, a formulation such as "[IGO X] is invited to ..." may be used.
- In respect of the UN Secretariat, the standard formulation is "the UNODC is requested to ..."

5.13. Incorporation in draft resolutions of references to decisions or the work of other entities

Issue: different entities have different memberships, and different states may well have different views regarding their effectiveness or indeed their value.

Appearance of the issue in practice:
- Language that appears to endorse the work or decisions of other entities will often be weighed carefully. Such language may well be rejected for example with the argument that not all the members of the UN Crime Commission (or other UN Crime Programme body) are familiar with the work of the entity in question, and thus cannot endorse its work.
- Language referring to entities that have a restricted membership (such as regional organizations) may be rejected on the grounds that it is not the role of the UN body in question to comment on them or implicitly endorse their work.
- Language referring to a specific entity may be rejected as not representative of such entities in general. Alternatively, some states may require that many different entities, from different regions, are listed in the same connection.

6. Ten rules for success in the UN Crime Programme

As with so many negotiations, success at negotiations in UN Crime Programme meetings depends on preparation of one's own position, anticipation of the arguments that may be put forward to defend opposing positions, and an ability to influence the course of the negotiations. Negotiators come in many shapes and sizes, representing member states both large and small, and there are no hard-and-fast rules as to who will "win out" at the end. At times, the outcome may depend on misunderstood statements, seemingly trivial proposals for amendment, or chance events. Nonetheless, the more influential and successful negotiators in UN Crime Programme meetings tend to fit a distinct (and rather loose) profile, and appear to abide by the following ten "rules."

6.1. Be polite (and never disrespect the chairman)

International diplomacy is based on at least superficial respect for the views of the other players, even if you not only totally disagree with these views but cannot understand how any sensible person could suggest them. One can succeed in negotiations only if one respects, and has the respect of, the other parties. Persons from different cultures have different styles, and the use of blunt language (especially when interpreted into the other five working UN language) may unintentionally be regarded as impolite or offensive, taking attention away from the substance.

This politeness can be seen, for example, when participants are referring to the interventions made by earlier speakers. No matter whether one agrees or disagrees with a statement, the rule is that speakers who want to refer to what someone said earlier should thank the "[distinguished] representative of X" for his or her statement and then go on to say if one supports it or, with great regret, cannot support it.

It is of particular importance to be polite to the chairperson. One of the key functions of the chairperson is to serve as the neutral arbitrator who ascertains the views of the participants, seeks to identify the points of conflict, and tries to piece together wording that would achieve consensus. If the chairperson's impartiality is questioned, this could endanger the success of the entire negotiations. The politeness is shown in that participants, when they are speaking for the first time at a session, almost invariably express sentiments along the lines of the following: "Thank you Mr./Madame Chairman for giving me the floor. Since this is the

first time that my delegation has the opportunity to speak at this meeting, I would like to convey to you, and through you to the other members of the Bureau, our profound respect for the important work which you are doing. We would also like to assure you of our country's commitment to the success of this work ..." (and so on).

6.2. Avoid pomposity

In an article published during the 1980s, the Norwegian criminologist Thomas Mathiesen, after attending a UN Crime Congress for the first time, identified what he calls the "importance norm" and the "self-importance norm" at UN Crime Congresses.[48] Essentially, the "importance norm" requires that everyone respects the importance of the work being done, even if it may even seem pointless or silly at times. The "self-importance norm" is clearly linked to the one-upmanship that is so often evident in any social activity, work or play. If a participant at a UN Crime Programme meeting is able to project an aura of importance (or of experience, or of being knowledgeable), perhaps the other participants will pay closer attention to his or her views.

Indeed, some pomposity can at times be detected at UN Crime Programme meetings, and some individual participants do appear to try to bolster their self-importance. At times, this is apparently done for tactical reasons. For example, there are some speakers who do not use the first-person singular in referring to themselves, but prefer to speak about "my delegation": "My delegation is of the view that ..." Apparently, these speakers believe that an argument would be more persuasive if the audience understood it to reflect the collective view of the Government of a member state, and not just of one person. (At times, however, the tactic can misfire, especially if most listeners in the room are quite aware that the delegation in question consists of only that one person, and the speaker says something like "My delegation is of the view that we would prefer to wait until after lunch to speak on this issue.")

These examples of importance and self-importance, however, appear to be becoming more infrequent. There is currently less pomposity than what was evident in earlier UN Crime Programme meetings. This presumably is related to the fact that most of the participants are representatives of the permanent missions based in Vienna, and have generally worked with one another for many years. After such a long time, how often can one repeat the same phrases to the same audience?

6.3. Take a crash course in haggling

The UN Crime Programme deals with a large variety of issues, on many of which there are considerable differences of opinion as to what, exactly, should be done: cybercrime, assisting victims, the role of civil society, whether or not to include references to human rights in draft resolutions being negotiated within the framework of the Crime Programme, and so on. Different individuals and different countries have different experiences with crime prevention and criminal justice, and thus they have different priorities. Some countries have a strong practical or political reason to address the issue of trafficking in cultural property; others do not. Some countries want to involve non-governmental organizations more actively in the national and in particular in the international response to crime; others do not.

The UN Crime Programme follows what is known as the "spirit of Vienna", which calls for consensus on all issues, without the taking of a vote. The chairperson seeks throughout the process to ensure that all the delegations agree on the formulations used in draft resolutions or the report of the meeting. Because of the intense nature of the negotiations, and because a large proportion of the negotiators are career diplomats who do not have personal practical or academic experience in criminal justice or international co-operation, arguments based on criminology or criminal justice at times seem to have limited value, and more weight is

[48] *Thomas Mathiesen, FN-kongress som kulturfenomen ("UN Congresses as cultural phenomena"), Nordisk Tidsskrift for Kriminalvidenskab, Oslo, vol. 73, no. 2 (April 1986), pp. 157 – 160.*

The other three norms he listed were the "politeness norm", the "consensus norm" (agreement is sought on all points) and the "my country norm" (in the experience of Mathiesen, each delegation seems to be trying to avoid any agreement that might result in the member state it represents having to change its national policy and legislation).

placed on political and national priorities.[49]

That is not to say that substantive arguments are not made; indeed, they often are. Especially the larger delegations may have participants with extensive practical or academic experience who can readily explain why certain formulations suggested by others simply would not work in practice, or would have significant drawbacks. Yet other delegations may have participants who can quickly direct a logical mind at even the more obtuse questions and outline the key issues so that these can be better understood by all.

However, the stilted nature of the negotiations at times makes rational discourse difficult at best. With over 100 member states attending some of the UN Crime Programme meetings, the floor needs to be given in turn to each and all who have requested permission to speak. If the participant from country A happens to disagree with a participant from country B, it can often take many interventions before he or she can get the floor back and reply, by which time the focus of the discussion may already have meandered off to something else entirely.

As a result, the more successful negotiators include those who are good at haggling. The following gives some of the tactics that these inveterate wheeler-dealers appear to follow:

- Find out in advance who your main opponents might be, and find out what their interests and goals are. At times it is necessary to find out why ideas are being opposed, and whether the opponents would be satisfied either by a minor change of wording, or whether (for example), they might have to be brought on your side by promising to support some of their own initiatives.
- Be careful of "blind-siders." With over 100 delegations in attendance, and with the constant turn-over in the participants, it is not enough to simply assume that certain delegations will be on your aside, or at least would not speak out against your proposal. At times, opposition might pop up from a completely unexpected source. Worse, when one delegation goes on record as being against your proposal, there is a strong likelihood that subsequent speakers (especially if they come from the same regional group) would say that they tend to agree with these nay-sayers.
- Work the corridors. Now and then, it is important to enlist as many speakers as possible to go on record as being in support of your proposal. This may encourage others to jump on the bandwagon of support.
- Get the support of key delegations. If such key delegations come out in your support, this can help considerably to win on the field. Another tactic, especially important in matters with a political dimension, is to get the support of delegations from as many different regions as possible.
- Set up positions as bargaining chips (even if they may seem rather extreme) and insist on them as long as necessary. This is an unusual tactic, but also it can be seen to be used now and then. By not showing your hand too early, it may be possible to appear to be satisfied with a compromise – and yet this "compromise" may be the position that you had wanted to achieve from the outset. (Without the benefit of ESP, it is difficult to know how often this tactic is used at UN Crime Programme meetings. However, towards the end of some negotiations over draft resolutions there tend to be more and more examples of delegations stating that they want an entire paragraph or even section deleted. Often, this leads to slight amendments of the text of these paragraphs "as a compromise." perhaps along the line that the delegations in question had wanted in the first place.)

6.4. Be prepared

The old Boy Scout motto of "Be Prepared" serves many delegations in good stead in negotiations. For example, the drafting of resolutions may require familiarity with past or ongoing work in other parts of the United Nations system, for example in Geneva or New York. The drafting of resolutions may also require familiarity with previous UN Crime Congress Declarations, with key ECOSOC or General Assembly resolutions, or with resolutions by a session of one of the Conferences of States Parties. When some delegations try to invent new refinements or terminology, or delete tried-but-true wording, others may jump in and point out that the phrasing in question is based on a key text, and ask for justification for making any changes.

[49] This development can be seen to be related to the strengthening tendency to see crime and criminal justice as national security issues. While it is true that academics and practitioners represent a great variety of approaches, they can be said to have a greater tendency to see crime and criminal justice as social (or economic, or medical) issues.

"Being prepared" also applies to the giving of statements. It is helpful to work out in advance what points you want to make in a statement, how to make them, and how to justify your position. However, you should remain open to adjusting your remarks, depending on how the discussions go. One good method is to weave in points made by speakers before you. This can gratify those earlier speakers (making them more likely to support your own position), and it also conveys the impression to the audience that other member state representatives think in the same way as you do.

If you do have a prepared statement, it is advisable to provide this in advance to the Secretariat, so that they can convey it to the interpreters. (Also, don't rush too quickly through your written statement, or else the interpreters – even the excellent ones at UN meetings – may have difficulties keeping up with you.)

6.5. Learn English

The United Nations has six working languages (Arabic, Chinese, English, French, Russian and Spanish). All official documentation has to be translated into these languages, and the sessions at the UN benefit from excellent simultaneous interpretation. Nonetheless, in practice, English is the dominant language. Most of the participants based in Vienna are able to read English-language proposals, and can fluently discuss questions of drafting in English. In addition, and with the exception of the Latin American and Caribbean group, where the dominant language is Spanish, most of the regional groups rely on English as their *lingua franca*. And when informal negotiations are held or lobbying is carried out across regional divides, this tends to be done in English.

Most importantly, English dominates drafting. Although many representatives can speak in several of the other UN working languages, the discussion over a turn of the phrase is almost inevitably in English.

6.6. Learn and use certain stock phrases and "agreed language"

In accordance with the "consensus norm" identified by Mathiesen, delegations which disagree on certain points tend to be pressured by the chairperson to find language suitable to all. On the other hand, delegations applying the "my-country norm" identified by Mathiesen tend to try to avoid accepting any wording that would force them to change their domestic law or practice or, more importantly, to go against their strong views on how international criminal policy should be conducted. If delegations in the minority fail to block wording with which they disagree, they may fall back on a set of defensive ploys, all of which involve inserting certain stock phrases that weaken the nature of the obligation, or even emasculate it entirely.

The first such ploy is to replace the phrase "states shall …" (which implies an obligation) with the much weaker "states may …" or even "states may consider …". Other formulations along the same line include the exhortatory but non-binding "states are called upon …" and "states are encouraged to …". One more phrase, "states shall consider …" may seem binding at first glance, but ultimately all that it requires is that states consider something. What steps they actually take is left entirely to their discretion.

The second ploy is to insert a condition: states are required to undertake certain measures, but only for example those that "may be necessary, consistent with its legal principles" or "to the extent appropriate and consistent with its legal system." Even the insertion of the simple phrase "where appropriate" leaves each state with a margin of appreciation in deciding how to implement the resolution in question.

The third ploy is to subject everything to domestic law. It is, of course, understood that different legal systems require different measures for implementation. For example, in some countries the police carry out measures which, elsewhere, are carried out by investigating magistrates, or the courts. Furthermore, for example Continental law countries rely primarily on statutory law, while common law countries continue to place considerable weight on court practice. Finally, different legal systems used different concepts. Accordingly, now and then a paragraph may be inserted in a draft resolution obliging states to do something "in conformity with fundamental principles of its domestic law."

In the drafting of resolutions in Vienna, at times a delegation may seek to insert a somewhat modified version of this phrase, "subject to the fundamental principles of its domestic law." The difference at first seemed innocuous. However, when there is an obligation to do something "in conformity" with domestic law, the obligation to do something remains; domestic law only governs how it is done. But if the obligation is to do something "subject" to domestic law, then, logically, the state is not required to do anything that would go against its domestic law.

6.7. Learn when form can be more important than substance

All words are not created equal. In the work of UN Crime Programme bodies, it is possible to identify four categories of words, from the most to the least important: words as such, words in an optional paragraph, words in brackets, and words in a footnote.

When words are left as such in the text of a draft resolution in informal negotiations, the assumption is that they reflect the general working consensus of the participants. They benefit from the rule of inertia: unless someone is later able to persuasively argue why these words should be amended or even deleted, they are allowed to stay in the text, all the way through to final adoption.[50]

If the representative of a state is not satisfied with a formulation in general, he or she may suggest a completely different formulation or an entirely new paragraph as an "**option**." Much of the work in informal negotiations is spent on trying to eliminate the options, so that just one text remains. Thus, options exist on sufferance. It is the survival of the fittest, with the duelling options brandishing pistols at twenty paces.

When brackets are used, they denote words or entire phrases that had been questioned by one or several delegations. These delegations may disagree with the entire purpose of the words or phrase, or they may simply feel uncomfortable with the wording. Again, considerable time can be spent on debating whether or not the brackets can be "lifted." (This phrase may give rise to considerable confusion. At times, delegations may say that they want the brackets deleted. The chairperson would usually then have to ascertain whether it is only the brackets themselves that are to be deleted – in which case the words would remain in the text – or whether it is the words in the brackets that these delegations want to be deleted.)

Words in a footnote lived an even more tenuous existence. (This category does not appear very often in practice.) Every now and then, a country or group of countries may strongly disagree with the view of the majority. For them, it is often important to have their views clearly reflected in the drafting, even in a footnote, so that when the matter comes up again, the reason for their disagreement would be clear, and in the meantime, they may have succeeded in getting more allies. However, once words have been demoted to a footnote, it usually proves very difficult to get them back into the text.

6.8. Drink lots of melange and forget about your social life

Vienna is a city well known for its great variety of excellent coffee. The coffee bars outside the meeting rooms at the Vienna International Centre serve quite a few of these varieties, but it seems to be melange that is the drink of choice for many participants. Filling oneself with caffeine proves to be a good tactic for a variety of reasons. First, it helps to keep the participants awake during the long sessions; at times, listening to delegations raise the same points, over and over again, can become mind-numbing. The participants must, nonetheless, stay on their toes. The chairperson may seek at various stages to push things along by moving on to the next paragraph in the negotiations, and asking if there are any comments. If no participant raises

[50] *A further distinction can be made between words in an "**operative paragraph**" of a draft resolution, and words in a "**preambular paragraph**." The operative paragraphs are regarded as the most important part of a resolution, since they lay out policy or establish mandates. The preambular paragraphs in general give the context of the draft resolution: concern over certain developments (such as the increase in certain forms of crime), pleasure over certain other developments (such as meetings held, or decisions taken), and what key resolutions have previously been adopted on the subject. Now and then, a contentious issue may be shifted, with appropriate rewording, from the draft operative paragraphs into the preamble of the draft resolution, thus in effect giving it less political weight.*

his or her country's nameplate, the paragraph may be gavelled,[51] and the chairperson proceeds to the next point. Anyone who tries to reopen a gavelled paragraph could be subjected to considerable peer pressure.

But melange also has other functions. Coffee breaks are used for informal consultations and for lobbying. When a particularly difficult point arises, the chairperson might ask the key delegations to step outside and come back with an acceptable formulation. If the issue proves to be very vexatious, the chairperson might even declare a "15-minute coffee break" for informal negotiations, and the time is used – often quite successfully – to lobby for support for whatever proposals are on the floor.

In general, the pace of the negotiations in Vienna can be deceptively slow. Sessions usually do not begin on time, and fifteen-minute coffee breaks may last half an hour or longer. As one ambassador warned participants towards the end of one long session in Vienna, "forget about your social life." Evenings tend to be free for most participants, but especially on the third and fourth day of one-week meetings, some informal discussions continue until late at night.[52]

6.9. Either bring colleagues or learn how to be in two places at the same time

Although the work at UN Crime Programme meetings formally takes place in one and the same room, delegations with only one participant may soon find themselves in difficulties. In addition to the formal meetings and the informal negotiations (several of which may be going on at the same time), many regional groups are convened throughout the meetings to review developments, discuss proposals and plan strategy. The two-hour lunch breaks are often filled with drafting meetings or at least informal discussions.

As a result, key members of delegations (and especially the members of the **Bureau**, i.e. the chairperson, the vice chairpersons and the rapporteur) may soon find themselves overworked. When dealing with one matter, they may quite now and then be interrupted by someone tugging on their sleeve, saying that they are supposed to be addressing another topic somewhere else.

6.10. Develop a sense of humour

The final lesson is an elective one, not a requirement. A sense of humour makes surviving meetings at the UN Crime Programme easier.

Humour can also be used deliberately at UN Crime Programme meetings. Humour may come in handy at times to defuse a tense atmosphere. Some of the more successful and respected chairpersons resort to it now and then, at times cajoling participants to agree, good-humouredly dangling the promise of a coffee break before them. One of the masters at this is Ambassador Luigi Lauriola, who chaired the very difficult negotiations on the UNTOC Convention with grace and patience. When told by a national representative that he seemed to have strong views on a sensitive issue at hand, he immediately replied that he may be strong, but has no views; at another tense time, he closed his statement by noting that he was "your obedient servant" – but then added in an audible stage whisper caught by the microphone, "almost."

[51] The chairperson bangs the gavel to denote that the meeting has accepting the wording in question.

[52] *The Secretariat generally has to work not only the hours during which the participants are meeting formally or informally, but late into the night, checking and rechecking the texts and ensuring translation, editing and dissemination for the next morning.*

7. Legends in the UN Crime Programme

Legends in the UN Crime Programme
Individuals who have made a difference

Inkeri Anttila
Bridge-builder for humane criminal policy

William ("Bill") Clifford
Practitioner, reformer, humanist

Ronald Gainer and **Vasily Ignatov**
Architects of the restructuring of the Programme

Manuel Lopez-Rey
Developer of the theory of social defence

Irene Melup
Tireless defender of the vulnerable

Gerhard Mueller
Respected teacher and organizer

Minoru Shikita
Model diplomat and Chief

Eduardo Vetere
The energy in the UN Crime Programme

Dimitri Vlassis
The maestro behind the scenes
