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### Commission on Crime Prevention and Criminal Justice

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Items 3 (b) and 6 of the provisional agenda\*

**Thematic discussion: “Penal reform and the reduction of  
prison overcrowding, including the provision of legal aid  
in criminal justice systems”**

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

### **International cooperation for the improvement of access to legal aid in criminal justice systems, particularly in Africa**

#### **Report of the Secretary-General**

#### *Summary*

In its resolution 2007/24, the Economic and Social Council requested the United Nations Office on Drugs and Crime, subject to the availability of extrabudgetary resources, in cooperation with relevant partners, to continue to provide advisory services and technical assistance to Member States, upon request, in the area of penal reform, including restorative justice, alternatives to imprisonment and the development of an integrated plan for the provision of legal assistance, including paralegals and similar alternative schemes, for persons in communities, including victims, defendants and suspects, at all critical stages in criminal cases. It also encouraged Member States implementing criminal justice reform to promote the participation of civil society organizations in that endeavour and to cooperate with them. The Council requested the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its eighteenth session on the implementation of the resolution. Pursuant to that mandate, in July 2008, the Secretary-General sent a note verbale to Member States inviting them to provide information on the measures adopted to comply with the reporting obligations. The present report includes the information received from Member States and the activities of the Office in this area.

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\* E/CN.15/2009/1.



## I. Introduction

1. The present report provides an overview of activities and programmes carried out in accordance with Economic and Social Council resolution 2007/24, in which the Council requested the United Nations Office on Drugs and Crime (UNODC), subject to the availability of extrabudgetary resources, in cooperation with relevant partners, to continue to provide advisory services and technical assistance to Member States, upon request, in the broad area of penal reform, including restorative justice, alternatives to imprisonment, the development of an integrated plan for the provision of legal assistance, including paralegals and similar alternative schemes, for persons in communities, including victims, defendants and suspects, at all critical stages in criminal cases, and legislative reforms that guarantee legal representation in accordance with international standards and norms.
2. The Council also requested UNODC to assist African States, upon request, in their efforts to apply the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa<sup>1</sup> and to convene an open-ended intergovernmental meeting of experts to study ways and means of strengthening access to legal aid in the criminal justice system, as well as to build on the Lilongwe Declaration with a view to developing an instrument such as a declaration of basic principles or a set of guidelines for improving access to legal aid in the criminal justice system.

## II. General considerations

3. Access to legal aid is one of the minimum guarantees that should be granted to each person who enters into contact with the formal criminal justice system. In this regard, access to legal aid constitutes an essential component of the broader concept of access to justice and is a fundamental tenet of a criminal justice system that protects the basic human rights of each individual. Effective legal aid helps to promote communication, coordination and cooperation within the criminal justice system and is essential in promoting knowledge about and countering ignorance of the law and legal issues. It plays a crucial role in promoting efficiency and preventing corruption within the justice system, including in law enforcement agencies. Effective legal aid is also instrumental in the promotion of alternative dispute resolution mechanisms and facilitates victims' access to redress.
4. In securing justice as a basic human right, the Universal Declaration of Human Rights<sup>2</sup> enshrines the key principles of equality before the law, the presumption of innocence and the right to a fair and public hearing by an independent and impartial tribunal, along with all the guarantees necessary for the defence of anyone charged with a penal offence.
5. Article 14 of the International Covenant on Civil and Political Rights<sup>3</sup> grants the following minimum guarantees: the right to be tried without undue delay; the right to a fair and public hearing by a competent, independent and impartial tribunal

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<sup>1</sup> *Official Records of the Economic and Social Council, 2007, Supplement No. 10* (E/2007/30/Rev.1), chap. I, sect. B, draft resolution VI, annex I.

<sup>2</sup> General Assembly resolution 217 A (III).

<sup>3</sup> United Nations, *Treaty Series*, vol. 999, No. 14668.

established by law; the right to defend oneself in person or through legal assistance of one's own choosing and to be informed, if one does not have legal assistance, of that right; the right to have legal assistance assigned to one and in any case where the interests of justice so require, without payment; and the right to have adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's own choosing. The right to legal counsel for prisoners pending adjudication is also enshrined in a set of other standards and norms, such as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment<sup>4</sup> and the Standard Minimum Rules for the Treatment of Prisoners.<sup>5</sup>

6. In its resolution 2007/24, the Council recognized that many Member States lacked the resources and capacity to provide legal assistance for defendants and suspects in criminal cases. The problem is particularly acute in developing and post-conflict countries, where there is a dire shortage of qualified legal professionals and where the cost of obtaining legal advice may be too high for many citizens. The effective enforcement of the right to legal aid for suspects and pretrial detainees is also strictly intertwined with the issue of the length of time suspects are held at police stations and in detention centres, as well as with the thorny issue of prison overcrowding and congestion in the courts (see E/CN.15/2009/15).

7. In a context in which the criminal justice system is unable to effectively process cases and there are too few lawyers to assist detainees and other persons confronted with the law and in need of prompt legal advice, the justice system is likely to weaken further, undermining public confidence in its effectiveness and resulting in abuses within it. In some countries in Africa, penal reform and major legislative changes that often go with it have failed to bring about the expected change, as criminal justice systems grapple with problems of enforcement capacity. Legal aid is an essential element conducive to the implementation of legislative reforms.

8. To face these challenges, a number of mechanisms to deliver legal aid in criminal justice systems have been developed for persons in communities, including victims, defendants and suspects, so that legal representation is guaranteed at all critical stages in criminal cases in accordance with international standards and norms. Such alternative schemes include the public defender model, the "judicare" model, the contractual lawyer model, pro bono legal representation, the house of justice, and non-lawyer-based alternatives, such as paralegals or law school clinics. In developing and post-conflict societies, where fragile criminal justice systems are confronted with multiple challenges and where the vast majority of people do not have access to legal aid, the paralegal system offers a valuable means of accessing legal advisory services. In several African countries, the paralegals proved to be a critical intervention in stabilizing the criminal justice system by empowering people and, in so doing, reducing prison overcrowding.

9. Against this backdrop, the Lilongwe Declaration encourages Governments to recognize and support the right to legal aid in criminal justice. In particular, the Declaration emphasizes the need to diversify legal aid providers, adopting an inclusive approach and entering into agreements with non-State actors such as law

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<sup>4</sup> General Assembly resolution 43/173, annex.

<sup>5</sup> Human Rights: a Compilation of International Instruments, Volume I (First Part): *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.

societies, university law clinics, non-governmental organizations, community-based organizations and faith-based groups.

### **III. Efforts by Member States to implement resolution 2007/24**

10. In a note verbale, Governments were invited to submit information to UNODC on their efforts to implement resolution 2007/24 in compliance with the reporting obligations for the eighteenth session of the Commission.

11. The following Member States reported to UNODC on the status of implementation of the resolution: Algeria, Argentina, Bahrain, Belarus, Burundi, Canada, Croatia, Finland, Germany, Italy, Lebanon, Malta, Mauritius and Netherlands.

12. In paragraph 2 of Resolution 2007/24, Member States were encouraged to implement criminal justice reform to promote the participation of civil society organizations. A number of Member States (Burundi, Croatia, Malta and Mauritius) reported on the involvement, albeit to a different extent, of civil society organizations in the consultation process leading to the preparation of new laws and regulations, particularly in the area of criminal justice reform and access to justice.

13. Mauritius mentioned the elaboration of a green paper on equal access to justice: reform of legal aid in Mauritius, whereas Burundi reported on the active involvement of human rights and women's organizations in the preparation of the new penal code, as well as on their successful advocacy in favour of the reinforcement of penalties for violence against women and sexual abuse against women. Burundi further indicated that the endorsement of a new legal framework for legal aid and legal assistance was being pursued, with significant contributions made by non-governmental organizations.

14. Germany pointed out that under current law, civil society organizations may actively support criminal proceedings by providing support to victims and witnesses, in the form of facilities for victim assistance, particularly for giving testimony, but their participation in criminal proceedings, with independent rights and responsibilities, could not be considered. With respect to the participation of civil society in the proceedings, Lebanon referred to the law on juvenile offenders or juveniles at risk, confirming the participation of relevant civil society organizations in following up court judgements on juveniles as well as their significant role in the execution of those judgements.

15. Some Member States described the way in which the right of defence, particularly for indigent people, is recognized within the domestic legal system. The principle is generally enshrined at the constitutional level, whereas its effective enforcement is normally regulated through the provisions in the code of criminal procedure. Algeria, Bahrain and Belarus provided exhaustive and detailed explanations on how the right to legal aid is provided in the norms established in the respective national constitutions and in the code of criminal procedure. Algeria also emphasized how the establishment of tribunals and courts responds to the need to ensure access to the criminal justice structures for all citizens, particularly in remote areas. It further reported on the improvement of prison conditions and on alternatives to imprisonment mechanisms foreseen in the penal code, in the code of

penal procedure and in the penitentiary code. Concerning access to legal aid in the case of children in conflict with the law, Argentina mentioned restorative justice mechanisms and alternatives to imprisonment for juveniles.

16. Canada, Finland and the Netherlands reported on bilateral assistance provided to countries, particularly in Africa, to enhance the legal aid system. Canada and Croatia also reported on the provision of extrabudgetary resources for the work of UNODC. In particular, Canada reported on the support given to UNODC and its partners in the area of prison reform in Southern Sudan so as to respond more effectively to the needs of women, children and other groups with specific needs currently found in the prisons of Southern Sudan.

#### **IV. Role of the United Nations Office on Drugs and Crime in promoting access to legal aid in criminal justice systems, particularly in Africa**

17. UNODC has initiated several programmes and activities that have led to the provision of technical assistance to Member States in the area covered by resolution 2007/24. In this endeavour, UNODC has pursued solid partnerships with other United Nations agencies and non-governmental organizations active in this area, both at headquarters, for the development of tools and guidelines, and in the field, for the delivery of technical assistance programmes.

18. UNODC has also increased its engagement in a number of post-conflict countries in the area of criminal justice reform by contributing to the development of rule-of-law assistance programmes, in close coordination with both domestic and international stakeholders. Pursuant to paragraph 3 of resolution 2007/24, the Office has worked jointly with the Department of Peacekeeping Operations in selected countries (Afghanistan, Burundi, Democratic Republic of the Congo, Guinea-Bissau, Haiti, Iraq, Sierra Leone, Somalia, the Sudan and Timor-Leste). Building on the demonstrated link between post-conflict settings and vulnerability to criminal activities, UNODC has assisted countries in building up their criminal justice institutions. The Office has focused in particular on such issues as juvenile justice reform, penitentiary reform, alternatives to imprisonment and police oversight and integrity.

19. Furthermore, penal reform and access to legal aid feature prominently in the regional programmes recently developed by UNODC, which are aimed at promoting the rule of law and human security in selected regions through a new generation of technical cooperation programmes in response to the needs and requests of Member States.<sup>6</sup>

##### **A. Technical assistance and advisory services**

20. Technical assistance related to the provision of criminal justice defence may broadly include the following activities: supporting legislative reforms that

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<sup>6</sup> Regional programmes have been developed for South-East Asia and the Pacific, Central America, the Caribbean region, East Africa and the western Balkans.

guarantee legal representation in accordance with international standards and norms; developing integrated legal assistance for criminal defendants and suspects at all critical stages in criminal cases; enhancing the regulatory body that governs the practice of law and the licensing and accreditation of lawyers; improving the quality of legal education; improving the integrity of the justice system; enhancing codes of ethics, professional responsibility and conduct and their practical adoption and application by lawyers; developing disciplinary systems that support integrity in the practice of law through effective enforcement of the codes of ethics, professional responsibility and conduct; improving the allocation of resources for criminal defence services through sound budgeting and financial management; and providing improved access to justice, including the use of paralegal assistance as a short-term source of limited legal services where shortages of lawyers leave the poor or rural population with no other access to legal assistance.

21. In accordance with resolution 2007/24 and other relevant regional instruments, such as the Kampala Declaration on Prison Conditions in Africa,<sup>7</sup> the Kadoma Declaration on Community Service,<sup>8</sup> the Arusha Declaration on Good Prison Practice<sup>9</sup> and the Lilongwe Declaration, UNODC has begun to be actively engaged in the issue of access to legal aid.

#### **Activities of the Office in Africa**

22. UNODC is addressing the theme of access to justice, in particular access to legal aid, in Africa, in all its efforts undertaken at the continental, regional and country levels to assist Member States to build effective and fair criminal justice systems. At the continental level, UNODC is supporting the implementation of the Revised African Union Plan of Action on Drug Control and Crime Prevention (2007-2012), which was approved at the African Union Heads of State Summit in January 2008 and which includes, among its priority areas, the reinforcement of the effectiveness of the criminal justice systems, with a specific focus on victim assistance and witness protection.

23. At the regional level, in the context of the newly designed regional programme promoting the rule of law and human security in East Africa, the UNODC programme of intervention in the area of penal reform and alternatives to imprisonment will focus on legal reform or implementation of existing legislation relating to alternatives to imprisonment and restorative justice; legal aid and access to justice (in particular to counteract the overuse of pretrial detention and to reduce prison overcrowding); and prison reform and capacity-building in the prison system.

24. As far as West Africa is concerned, a political declaration was endorsed at the Economic Community of West African States (ECOWAS) Ministerial Conference on Drug Trafficking as a Security Threat to West Africa, held in Praia in October 2008, and a regional action plan was adopted by the ECOWAS summit of Heads of State and Government, held in Abuja in December 2008. ECOWAS requested UNODC to assist in the drafting of a plan to implement the Action Plan, which will include targeted national and regional technical assistance interventions in the area of access

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<sup>7</sup> Economic and Social Council resolution 1997/36, annex.

<sup>8</sup> Economic and Social Council resolution 1998/23, annex I.

<sup>9</sup> Economic and Social Council resolution 1999/27, annex.

to legal aid, including paralegal programmes and the establishment of houses of justice.

25. At the country level, UNODC has initiated a three-year project in Guinea-Bissau aimed at strengthening the capacity of the local judicial police to investigate and combat drug trafficking and organized crime as well as promoting the rule of law and the effective administration of justice. The latter component envisages the improvement of access to justice for all citizens by, inter alia, establishing houses of justice, providing immediate legal advice and facilitating mediation or other settlements in less serious cases. In this framework, paralegals and legal assistants will also receive adequate training.

26. UNODC is also providing technical assistance in Southern Sudan through a two-phase project aimed at assisting the process of prison reform. Phase II, which started in 2008, concentrates in particular on aspects of lawful detention and adherence to the rule of law. The absence of sufficient defence counsel in Southern Sudan is addressed through the training of court liaison personnel to assist prisoners in understanding the court processes and their rights, including the right to appeal, especially in relation to juveniles and newly convicted prisoners.

27. In Egypt, UNODC has started, in 2009, a preparatory assistance project to assess the country's capacity in the area of citizens' access to justice and legal aid with a view to developing a full-fledged programme of technical assistance to establish legal aid offices within the courts. The project will establish a platform for dialogue between the national authorities and non-governmental organizations on improving the legal aid system through a comprehensive needs assessment of existing legal aid schemes.

28. UNODC organized in Malawi, in cooperation with Penal Reform International, a five-day regional training course for paralegals in post-conflict environments (27 November-1 December 2006). Twenty-one participants from Kenya, Malawi and Uganda participated in the course, which covered a variety of issues, using Liberia as a case study for developing programmes. UNODC also participated in a study visit to Malawi to analyse how the paralegal mechanism set up by the Paralegal Advisory Service Institute works in practice and the positive impact that paralegals have had in the criminal justice system of Malawi. UNODC envisages the possibility of replicating the successful experience of paralegals in Malawi in other countries, particularly in post-conflict countries. In Liberia, under the lead of the United Nations Mission in Liberia, UNODC is part of a coalition set to assist national stakeholders to develop a strategic policy framework on paralegal services.

29. In South Africa, UNODC is supporting the country's efforts to address the problem of violence against women through a broad victims' empowerment programme and by setting up multidisciplinary services for victims of gender-based violence (specifically for women and children), including legal services and counselling.

30. Building on these activities, UNODC has initiated a project on access to legal aid in Africa in partnership with the Paralegal Advisory Service Institute funded by the United Nations Democracy Fund. The project is aimed at assisting Member States in enhancing their capacity to provide access to legal aid in the criminal justice system in accordance with Economic and Social Council resolution 2007/24 and the Lilongwe Declaration, as well as other international legal instruments, such

as article 14 of the International Covenant on Civil and Political Rights and other relevant United Nations standards and norms in crime prevention and criminal justice. The project focuses on post-conflict societies, with the aim of providing a normative framework on access to legal aid, as well as providing specific pilot training to paralegals supplying services to suspects, accused persons and victims, particularly in rural areas. This will be done by undertaking a survey of existing legal aid systems and mechanisms in Africa; through the development of a handbook on best practices in providing legal aid; by providing pilot training to paralegals in Liberia, Sierra Leone and Southern Sudan; and by conducting a thorough assessment of the additional needs of those countries in providing effective legal aid.

31. Finally, access to justice and legal aid represents an important component of a number of projects elaborated by UNODC jointly with other United Nations agencies in the framework of the Millennium Development Goals Fund. In the African region, the projects with a legal aid component that are set to receive funding include, in Guinea-Bissau, the strengthening of legal assistance for vulnerable populations and women as well as access to available legal services and a sensitization programme, and, in Mauritania, the development of mechanisms to facilitate access to justice of vulnerable populations, in particular women.

#### **Activities of the Office in other regions**

32. Access to legal aid is a critical component of the UNODC criminal justice programme in Afghanistan, as the country is undergoing extensive reform. Penal legislation is being reviewed and revised, judges and prosecutors are receiving training, detainees' access to legal counsel is improving, courthouses and prisons are being constructed and the capacity of justice institutions is being developed. UNODC has contributed to improving access to legal assistance, including research, legislative drafting, infrastructure building and training. In particular, UNODC supported the Afghan Bar Association and the Legal Aid Department at the Ministry of Justice by providing technical assistance and delivering training programmes. Projects on penitentiary reform and juvenile justice also enabled UNODC to support and advocate broader access to legal assistance.

33. In Afghanistan, UNODC has also been building justice support centres in 8 to 10 Afghan provinces. The centres are set up as multi-purpose facilities to provide a safe haven for all justice professionals and accommodations for visiting judges, prosecutors, lawyers and legal aid providers. Following a thorough assessment, in December 2006, of information and trends with respect to gender violence, gender crime, the circumstances and types of criminal offences, criminal justice capacities, the socio-criminological profiles of selected female detainees and their needs in terms of legal aid, UNODC initiated a monthly working group of civil society organizations working in women's prisons (legal defence organizations, non-governmental organizations providing medical services and human rights organizations) to improve the coordination of activities implemented for the benefit of female inmates. Such ad hoc arrangements ensured that the provision of free legal assistance offered by non-governmental organizations would reach in particular vulnerable groups detained in the women's detention centre and the juvenile rehabilitation centre built by UNODC in Kabul. Within this framework, UNODC has been advocating for better monitoring of the rights of detainees and



those awaiting trial, more effective database management of the Central Prison Department and better coordination among justice institutions.

34. In August 2008, UNODC successfully supported the establishment of an Independent Afghan Bar Association in cooperation with the International Bar Association. It will be one of the few bar associations in the world with mandatory pro bono requirements for criminal cases and a quota for women in its leadership. UNODC provided support to the Ministry of Justice in the establishment of a sustainable bar association, including the development of a database to collect all relevant information on registered lawyers in Afghanistan and a training course on its use by administrative staff of the bar association and the organization of the General Assembly of the Independent Afghan Bar Association, which has enabled the Association to begin its work on a sound footing. Future activities include assistance in the adoption of a code of conduct and the development of disciplinary mechanisms and operating procedures of the Association, including the licensing procedure, accreditation requirements (bar exam) and pro bono requirements.

35. Jordan and the Palestinian territory have been the beneficiaries of a preparatory assistance project to assess their capacity and needs in the area of citizens' access to justice and legal aid. The project will establish a platform for dialogue between the national authorities and non-governmental organizations on improving the legal aid system through a comprehensive needs assessment of existing legal aid schemes.

36. Issues of access to justice and to legal aid are often addressed by UNODC in the context of programmes focusing on violence against women and children and on children in conflict with the law. Victims in general, and vulnerable groups in particular, are often deterred from participating in legal proceedings because simple, accessible and timely legal advice is not available to them when they seek assistance and support. Legal advice should be made available as part of the integrated support offered by the victim assistance programme. The establishment of conditions necessary for the provision of specialized legal aid to these vulnerable groups represents a crucial component of technical assistance activities. UNODC programmes in the areas of access by victims to justice and to legal aid have been developed as a means of improving the capacity of legal and judicial professionals to handle this type of case.

37. Several projects on trafficking in human beings also place a strong emphasis on victims' access to legal aid.<sup>10</sup> The UNODC Toolkit to Combat Trafficking in Persons provides an overview of ways and means of ensuring adequate legal representation for victims of trafficking to facilitate their participation in criminal proceedings against traffickers. The Toolkit also advises that State-paid legal counsel should, in appropriate cases, be made available to victims of trafficking to represent them during the various legal proceedings, which may range from

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<sup>10</sup> Article 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, obliges States parties to provide victims with information and an opportunity for their views and concerns to be presented at criminal proceedings against offenders and to establish measures to enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

prosecution of the trafficker to claims for compensation or restitution by the victims.

38. In the framework of the Millennium Development Goals Fund, a number of projects starting in 2009 will address issues in the area of access to justice, including the development of protection and mediation mechanisms for 24 communities in Chiapas, Mexico; legal empowerment programmes through the training of civil society groups, particularly women, youth and indigenous people, in Bolivia; and the adoption and promotion of mediation and restorative justice techniques at the school and at community levels in Brazil.

## **B. Developing tools**

39. UNODC has developed or contributed to the development of a number of operational tools for the purpose of guiding policymakers and professionals in the implementation of United Nations standards and norms related to the issue of access to legal aid.

40. One of the most recently developed tools in the rule-of-law area is the comprehensive Criminal Justice Assessment Toolkit, which includes a module on access to justice and legal aid. The module consists of four tools, covering the courts; the independence, impartiality and integrity of the judiciary; the prosecution service; and legal defence and legal aid. The latter tool lays out the basis for an assessment of the legal framework for providing access to lawyers and legal services as well as access to legal defence services, including ex officio representation, contractual lawyers, public defender services and legal assistance by non-lawyers. It is a valuable instrument for obtaining an adequate illustration of the mechanism for the delivery of the legal aid services existing in a given country and for assessing needs and gaps. The forthcoming technical guide to promote the implementation of the Bangalore Principles of Judicial Conduct<sup>11</sup> will also include a chapter on access to justice and legal services.

41. The operationalization of standards and norms requires increased knowledge about and awareness of the accessibility of legal aid schemes and mechanisms. For this reason, through the United Nations Democracy Fund project on access to legal aid in Africa, UNODC envisages the production of a survey on existing legal aid systems and mechanisms in Africa with the aim of identifying their weaknesses and strengths and promoting the cost-efficient and sustainable allocation of resources for the development of legal aid mechanisms. The development of a UNODC handbook on promising practices in improving access to legal aid in post-conflict societies would provide a tool for developing more specific activities in the selected countries on the basis of successful experiences elsewhere, and would also be used as a tool for trainers.

42. In collaboration with the United States Institute of Peace, UNODC has developed a handbook for practitioners on strengthening and reform of criminal justice systems in post-conflict States. The handbook, which describes a cross-section of key challenges and lessons that have emerged from international efforts to strengthen and reform criminal justice administration post-conflict States,

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<sup>11</sup> Economic and Social Council resolution 2006/23, annex.

addresses extensively the themes of legal empowerment and the crucial role played by civil society organizations in securing local ownership and tailor-made solutions to help poor and other disadvantaged groups to use legal knowledge in addressing the demand side of the criminal justice equation. The manual also focuses on programmatic measures to secure legal counsel through increased levels of representation for those accused of a crime.

### **C. Normative development**

43. In paragraph 6 of resolution 2007/24, the Economic and Social Council requested UNODC, subject to the availability of extrabudgetary resources, to convene an open-ended intergovernmental meeting of experts to study ways and means of strengthening access to legal aid in the criminal justice system, as well as the possibility of developing an instrument such as a declaration of basic principles or a set of guidelines for improving access to legal aid in criminal justice systems.

44. Accordingly, UNODC, subject to the identification of the required financial resources, is planning to organize the meeting in the second half of 2009. It is envisaged that the meeting will first identify international best practices in strengthening access to legal aid in criminal justice systems, with particular emphasis on developing countries, post-conflict countries and countries in transition, and, subsequently, on the basis of those practices and taking into account the Lilongwe Declaration and other relevant materials, develop a set of internationally recognized principles or guidelines for improving access to legal aid in criminal justice systems.

45. It is also envisaged that the meeting will benefit from the findings of the survey of existing legal aid systems and mechanisms in Africa to be undertaken in the framework of the UNODC-United Nations Democracy Fund project on access to legal aid in Africa.

### **V. Conclusions and recommendations**

46. The theme of legal aid is proving to be a key element of the criminal justice system, as it relates to all stages of criminal proceedings, including investigation, arrest, pretrial detention, bail hearings, trials, appeals and other proceedings brought to ensure that human rights are protected. Access to legal aid should be addressed from the point of view of the suspect and defendant, as well as from the point of view of the victim.

47. Legal aid plays a crucial role in the development and maintenance of a fair and equitable criminal justice system. UNODC places strong emphasis on the continuous provision of technical assistance and advisory services as well as the development of tools and guidelines in the field of access to justice, including access to legal aid. In this area, a number of technical assistance initiatives have been introduced that have been integrated as critical components of the broader criminal justice programmes of UNODC.

48. In view of the above considerations and in the light of the work currently being undertaken and planned by UNODC, the Commission on Crime Prevention and Criminal Justice may wish to consider:

**(a) Inviting Member States to strengthen and improve access to justice, including access to legal aid, for their citizens, particularly the most vulnerable ones;**

**(b) Encouraging Member States to involve civil society organizations in the implementation of criminal justice reform;**

**(c) Inviting Member States to provide extrabudgetary resources to support the continuous development and implementation of UNODC technical cooperation activities, including those reflected in UNODC regional programmes, to assist countries in strengthening and improving access to justice and to legal aid for their citizens;**

**(d) Inviting Member States to provide funding for the organization of the open-ended intergovernmental meeting of experts to study ways and means of strengthening access to legal aid in the criminal justice system as well as the possibility of developing an instrument such as a declaration of basic principles or a set of guidelines for improving access to legal aid in criminal justice systems, mandated by the Economic and Social Council in its resolution 2007/24;**

**(e) Requesting UNODC to continue to integrate access to justice and access to legal aid, for defendants and suspects as well as for victims, as a component of ongoing and planned technical cooperation and programmes, including regional programmes;**

**(f) Requesting UNODC, in cooperation with relevant partners, to continue to provide advisory services and technical assistance to Member States, upon request, in the area of penal reform, including restorative justice, alternatives to imprisonment, development of an integrated plan for the provision of legal assistance, including paralegals and similar alternative schemes to provide legal aid for persons in communities, including victims, defendants and suspects at all critical stages in criminal cases, and legislative reforms that guarantee legal representation in accordance with international standards and norms.**