**UNODC Comment to the Draft Convention on the Right to Development**

UNODC compliments the Chair of the Intergovernmental Working Group on the Right to Development for the submission of the Draft Convention on the Right to Development and thanks OHCHR for the opportunity to provide comments to the draft.

UNODC supports the overall content and structure of the Draft Convention and would like the Working Group on the Right to Development to consider referring to specific thematic areas under UNODC mandate that are highly relevant to the concept of Right to Development, including corruption, health challenges related to the world drug problem, as well as crime and violence and the rule of law.

The following comments and suggestions are provided:

1) In para 2 of the Preamble, UNODC suggests:

* Adding to the list of obstacles to development the following two items: **i.** C***rime*** and **ii. C*orruption****,* to read as follows:

*Concerned at* the existence of serious obstacles to the realization of the right to development constituted, inter alia, by poverty, inequality within and across countries, climate change, colonization, neo-colonization, forced displacement, racism, conflicts, aggression and threats against national sovereignty, national unity and territorial integrity, ***crime,*** ***corruption*** and the denial of other human rights,

* Adding ***reference to vulnerable groups*** (e.g. women, people with disabilities, elderly, people deprived from liberty, etc.)

Explanation for the proposed items:

1. ***Crime:***

Crime is often considered a major impediment to economic growth and development because it tends to increase economic uncertainty, discourage long-term investment and new employment opportunities and erode the rule of law. [[1]](#footnote-1)

The United Nations Convention against Transnational Organized Crime and the Protocols thereto[[2]](#footnote-2) highlight the negative effects of organized crime on society in general, in particular on sustainable development.

The Convention and its Protocols encourages States Parties to address underdevelopment in order to prevent and combat different forms of transnational organized crime. In particular:

Article 15, provision 3 of the ***Protocol against the Smuggling of Migrants by Land, Sea and Air*** affirms that:

*“Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.”*

Article 9, provision 3 of the ***Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*** affirms that:

*“Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.”*

The first paragraph of the Preamble of ***Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition***states:

*“Aware of the urgent need to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, owing to the harmful effects of those activities on the security of each State, region and the world as a whole, endangering the well-being of peoples, their social and economic development and their right to live in peace,”*

Furthermore, UNODC’s 2019 ***Global Study on Homicide***, contains the findings of extensive research on interlinkage between homicide rates and development, reporting that “*Homicide rates are strongly influenced by each of the principal dimensions of sustainable development (economic, social, environmental and the rule of law). Conversely, homicide rates also have a strong, negative impact on development*.”[[3]](#footnote-3)

1. ***Corruption:***

The link between corruption and development has been well recognized. In adopting the United Nations Convention against Corruption (the Convention)[[4]](#footnote-4) on 31 October 2003, Member States recalled paragraph 19 of the Johannesburg Declaration on Sustainable Development[[5]](#footnote-5) (2002), which declared corruption a threat to the sustainable development of people. The Convention’s preamble reflects States parties concern about the threat posed by corruption, including by “jeopardizing sustainable development and the rule of law”. This linkage is reflected also in Sustainable Development Goal 16 of the 2030 Agenda for Sustainable Development.[[6]](#footnote-6)

Most recently, on 2 June 2021, the General Assembly held a Special Session Against Corruption and adopted the Political Declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”.[[7]](#footnote-7) Through the Political Declaration, Member States reiterated their commitment to combat corruption and the threat it poses to the stability and security of societies as well as to sustainable development and the rule of law.

Considering that corruption is one of the key spoilers to the sustainability and advancement of development, UNODC suggests further references to corruption in comments 2, 3, 4 and 10 (see below).

2) In para 8 of the Preamble, UNODC suggests:

* Amending the text as follows:

Recognizing that good governance***, accountability*** and the rule of law at both national and international levels ***are*** essential for the ~~realization~~ ***achievement*** of the right to development, ~~and that such realization~~ ***which*** is ***also*** vital for ensuring good governance and the rule of law,

* Highlighting the **interdependence** between good governance, the rule of law and development;
* Adding ***reference to the Kyoto Declaration***, which highlights the negative impact that crime has on the rule of law, human rights, socioeconomic development, public health and security, the environment and cultural heritage;[[8]](#footnote-8)
* In addition to recognizing the significance of good governance and the rule of law to development, highlighting the **importance of international cooperation** to achieving the right to development. International cooperation is a key element in addressing corruption, as reflected, *inter alia*, in the Convention’s preamble and Article 62 as well as the General Assembly’s Political Declaration of 2 June 2021;

3) In para 14 of the Preamble, UNODC suggests:

* Including ***reference to the United Nations General Assembly Special Session Political Declaration “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”*** ***adopted on 2 June 2021***, as it also reflects Member States’ commitment to “mainstreaming transparency and anti-corruption as a cross-cutting enabler for the broader development agenda” and recognized “corruption as an impediment to the achievement of the 2030 Agenda for Sustainable Development”.

4) In Part III, UNODC suggests:

* Considering adding ***new provisions on the various main factors of development***, such as Education, Health, Infrastructure, Environment, Technology, Employment, Rule of Law, Corruption, Crime, in the same way that the current draft does so for Article 16 - Gender equality and Article 21 -International peace and security, rather than listing these factors within the existing above-mentioned Articles. These two provisions articulate specific factors, but other factors relevant to development could also be articulated separately under Part III, in a similar fashion.

5) In Part III, Article 8 - General obligations of States Parties, UNODC suggests:

* Under Point 1, adding **health** to the range of statuses listed, to read as follows:

States Parties undertake to respect, protect and fulfil the right to development for all, without discrimination of any kind on the basis of race, colour, sex, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, age, ***health*** or other status, in accordance with obligations set forth in the present Convention.

6) In Part III, Article 9 – General obligations of international organizations, UNODC suggests:

* That this article and other references to obligations on international organizations be carefully reviewed by the Office of Legal Affairs.

7) In Part III, Article 14 – Duty to cooperate, UNODC suggests:

* Under Point 4(h), extending to the current text, to read as follows:

Facilitating orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed rights-based migration policies ***to prevent migration-related crimes, such as smuggling of migrants and trafficking in persons, to protect the human rights of migrants, as well as to ensure the positive contribution of migration to origin and destination countries***.

8) In article 16 - Gender equality, UNODC suggests:

* Under Point 1, considering **deleting the words “women and men”** in order to be more inclusive, to read as follows:

States Parties, in accordance with their obligations under international law, shall ensure full gender equality ~~for all women and men~~, and undertake to take measures, including through temporary special measures as and when appropriate, to end all forms of discrimination against all women and girls everywhere so as to ensure their full and equal enjoyment of the right to development.

9) In Part III, Article 20 – Statistics and data collection, UNODC suggests:

* Under Point 1, modifying the text, to read as follows:

States Parties undertake to collect ***and disseminate*** appropriate information, including statistical and ***other*** research data, to enable them to ***produce the evidence needed to*** formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:

* Also under Point 1, adding a new bullet point after Point 1(b), to read as follows:

(a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for privacy;

(b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

***(c) Comply with the United Nations Fundamental Principles of Official Statistics to ensure data are produced according to quality standards and respecting professional independence of statistical entities.***

* Under Point 3, modifying the current text, to read as follows:

States Parties shall assume responsibility for the ***open and transparent*** dissemination of this ***data*** ~~statistics~~ in a manner consistent with the objective of fully realizing the right to development for all.

10) In Part III, Article 21 – International peace and security, UNODC notes the reference to disarmament as the means to achieving development. However, UNODC suggests:

* Considering **other aspects contributing to international peace and security**. These include preventing and countering terrorism, strengthening the rule of law, preventing and countering corruption as well as transnational organized crime in its various forms, including cybercrime.

11) In Part IV, Article 24 – Conference of States Parties, UNODC suggests:

* Under Point 2(c), adding **“indicators”** to the methodologies and best practices that States Parties should promote, develop and periodically refine, to read as follows:

Promote, develop and periodically refine, in accordance with the provisions of the present Convention, the methodologies, best practices ***and indicators*** for States Parties to assess the status of realization of the right to development;

1. https://www.unodc.org/islamicrepublicofiran/en/comprehensive-strategies-for-crime-prevention-towards-social-and-economic-development.html [↑](#footnote-ref-1)
2. https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf [↑](#footnote-ref-2)
3. UNODC, Global Study on Homicide - Booklet 4 (2019): <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet_4.pdf> p.15 [↑](#footnote-ref-3)
4. A/RES/58/4 [↑](#footnote-ref-4)
5. *Report of the World Summit on Sustainable Development, Johannesburg, South Africa,*

   *26 August–4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum),

   chap. I, resolution 1, annex. [↑](#footnote-ref-5)
6. A/RES/70/1 [↑](#footnote-ref-6)
7. A/RES/S-32/1 [↑](#footnote-ref-7)
8. https://www.unodc.org/documents/commissions/Congress/21-02815\_Kyoto\_Declaration\_ebook\_rev\_cover.pdf [↑](#footnote-ref-8)