



2nd – 5th of May 2019

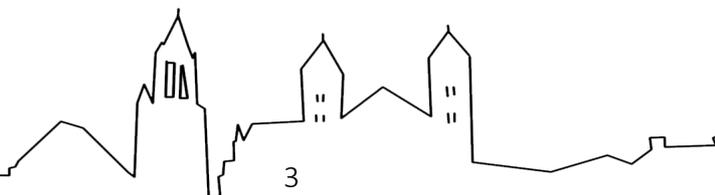
Study Guide

Commission on Crime Prevention and Criminal Justice

Table of Contents

<u>WELCOME LETTER FROM THE SECRETARIAT</u>	<u>4</u>
<u>WELCOME LETTER FROM THE CHAIRS</u>	<u>5</u>
<u>INTRODUCTION TO THE INSTITUTION</u>	<u>6</u>
HISTORY AND PRIORITIES	6
COMPETENCES AND MANDATE	6
OTHER FUNCTIONS	8
FINANCING AND FUNDING OF THE CCPCJ	9
SPECIAL RULES OF PROCEDURE	9
<u>TOPIC A: ENVIRONMENTAL CRIME (WITH A FOCUS ON ILLEGAL POACHING AND TRADE WITH ENDANGERED SPECIES).....</u>	<u>10</u>
INTRODUCTION	10
HISTORY OF POACHING AND ILLEGAL TRAFFICKING OF ANIMALS	10
CURRENT SITUATION	11
EXISTING LEGAL FRAMEWORK.....	12
CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES).....	13
CONVENTION ON BIOLOGICAL DIVERSITY (CBD)	15
CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES OF WILD ANIMALS (CMS)	17
GENERAL INFORMATION	18
RELEVANT ISSUES	19
DETECTING AND PREVENTING ILLEGAL POACHING.....	19
PROVIDING LEGAL ACCOUNTABILITY FOR PERSONS INVOLVED IN WILDLIFE CRIME	20
REDUCING SUPPLY OF AND DEMAND FOR ILLEGALLY OBTAINED WILDLIFE PRODUCTS	21
IMPROVING INTERNATIONAL INTELLIGENCE COOPERATION	25
RESOLUTION GOALS.....	26
<u>TOPIC B: COMBATING THE CHALLENGES OF JUSTICE SYSTEMS (WITH A FOCUS ON RESTORATIVE JUSTICE).....</u>	<u>27</u>
HISTORY	27
ORIGINS.....	27
LATEST DEVELOPMENTS.....	28
FRAMEWORK	28

APPROACH	33
GENERAL UNDERSTANDING	34
KEY ISSUES	36
RETRIBUTIVE JUSTICE SYSTEMS.....	36
RESTORATIVE JUSTICE SYSTEMS.....	41
HISTORY & LATEST DEVELOPMENTS.....	41
ADVANTAGES & CONTROVERSIES:	43
CURRENT STATE	44
FURTHER READINGS	47
GENERAL SUGGESTED FURTHER READINGS.....	47
RESOLUTION GOALS.....	48
<u>WORKS CITED</u>	<u>49</u>



Welcome Letter from the Secretariat

Dear delegates,

The EuroMUN 2019 Secretariat would like to warmly welcome you to the 11th edition of this conference. We are excited to provide an academically challenging experience which will motivate you to engage in insightful discussion while exploring our lovely city through the planned social program. Hopefully, you will enjoy the various events that will accompany the sessions, such as our talent night, our delegate's ball and our scavenger hunt through the city.

Our conference attracts individuals from over fifty nations to the city of Maastricht. This means that you will encounter points of view that will be very dissimilar to your own. See this conference as an opportunity to push yourself outside of your comfort zone, alongside people who might seem different, but at their core, just like you, are looking to expand their horizons beyond what they are confronted with at home. Be respectful but don't be afraid to challenge your beliefs and have them challenged in return. EuroMUN is a forum for discussion: take advantage of it, challenge yourself.

The slogan for this year's edition of EuroMUN is: Exploring the European Idea.

The European Idea is not geographically limited, but it refers to the goals of European integration. It demonstrates a move away from wide-scale disputes and towards collaboration. Every institution, organization, body, and committee represented at EuroMUN reflects the same idea: the will to work together instead of against each other. That is what is at the core of this notion.

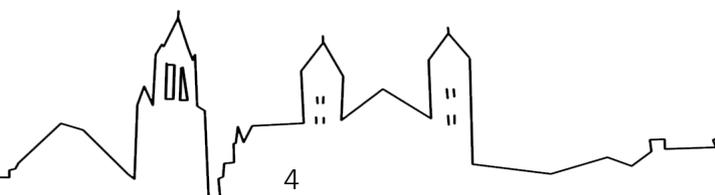
On that premise, the secretariat would like to pose the following question to you: What does the European Idea mean to you? Is it being connected through a common history? Or is it about staying united through adversity, change and the distinct characteristics of our culturally rich community?

Maastricht, the city where the Treaty on European Union was signed, provides the perfect backdrop to explore this concept. As the university hosts a diverse community of students from all over the world it truly demonstrates the possibilities the move towards collaboration can bring to the individual and the community. While we might not always fully appreciate the former, the benefits are not to be taken for granted. The environment in Maastricht and the assembly of delegates permit EuroMUN, now for the 11th time to provide this unique experience. Without each of these components, it would be impossible to replicate.

We hope that you enjoy your time at the European Model United Nations Conference 2019.

When in doubt: #fruitful

The EuroMUN Secretariat



Welcome letter from the Chairs

Dear delegates,

It is our absolute pleasure to welcome you to this year's CCPCJ committee at EuroMUN 2019! We're very excited to have you in our committee and we look forward to seeing what you bring to the sessions regarding our two long-titled (but very interesting) topics: "Environmental Crime (with a focus on illegal poaching and trade with endangered species)", and "Combating the challenges of justice systems, with focus on restorative justice". We're also very lucky to have our committee be supported by the UNODC this year – just another incentive to keep the quality of debate high, and the conference itself unforgettable!

In this guide, together with the help of our fabulous academic team, we've provided you with a detailed overview of the committee, the history of the conflicts and the basic concepts that you will be toiling with in May. Do note though that the contents in here should by no means replace your own research – it is merely a stepping stone to get you started. These topics are complexly nuanced, complicated, and will require you to use the skills expected in an expert committee – and hopefully, by the end you will find it all to have been tremendously rewarding.

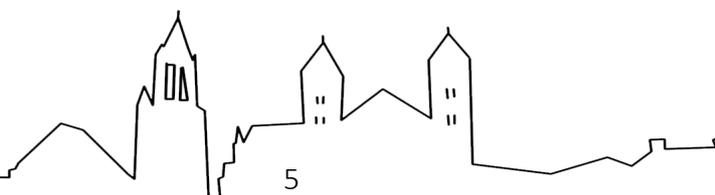
Of course, there will also be fun and games to balance with the serious subject matter – after all, what is an MUN without memorable punishments, memes and inside jokes that make no sense out of context? As your chairs we hope to leave you with a healthy bout of post-MUN blues, fond memories, and a big happy smile. Of course, the hard work has to come in first though – position papers are due on 28th of April.

If you ever need help or guidance before, during or after the conference, please don't hesitate to send us a message at aisha.erenstein@gmail.com or at maike.middeler@law-school.de! Now without further ado, welcome to the CCPCJ!

Kind regards,

Maike Middeler & Aisha Erenstein

Chairs of the Committee on Crime Prevention and Criminal Justice



Introduction to the institution

History and priorities

The Commission on Crime Prevention and Criminal Justice was established by the Economic and Social Council as one of its functional commissions, upon request of the General Assembly. It acts as the principal policy making body of the United Nations in the field of crime prevention and criminal justice. The Economic and Social Council provided for the Commission's mandates and priorities in resolution 1992/22, which includes:

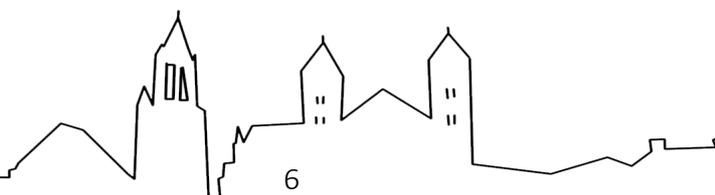
- "National and transnational crime, organized crime, economic crime, including money laundering, and the role of criminal law in the protection of the environment"
The main aim of the Commission understood as international actions to combat all kinds of crime, mainly including those mentioned above and the development of the criminal law and its importance in the environmental issues;
- "Crime prevention in urban areas, juvenile and violent criminality"
Not only limiting itself to combating crime across international borders, the Commission concentrates its actions also on the problem of crime in urban areas, including juvenile crime and violence;
- "Efficiency, fairness and improvement in the management and administration of criminal justice and related systems, with due emphasis on the strengthening of national capacities in developing countries for the regular collection, collation, analysis and utilization of data in the development and implementation of appropriate policies"

Moreover, the CCPCJ aims at improving the efficiency and fairness of criminal justice administration systems, putting emphasis on the importance of strengthening systems, especially in the developing countries.

Competences and mandate

Resolution 1992/22 also appoints in Section I (1) the responsibility of the secretariat of the programme undertaken by the CCPCJ, which include facilitating the planning, coordination and implementation of practical activities in the field of crime prevention and criminal justice, in close collaboration with Governments and interregional and regional institutes, specialized agencies, funding agencies, intergovernmental and non-governmental organizations, the activities of which should be promoted in this field.

It further reaffirms in Section I (3) that with necessary support for States from Secretary General in the field of human and financial resources, the Commission will be enabled to:



- a. help States identify their crime prevention and criminal justice needs and address them, especially with regard to law reforms within their legal systems so as to reach the standards and norms set by the United Nations, as can be seen in e.g. recent 27/6 Resolution on Restorative Justice from 2018¹;
- b. contribute to preservation and reinforcement of democracy and justice based on the rule of law, within its scope of competences and in collaboration with all United Nations' entities and other appropriate organizations, as addressed in Resolution 25/2 from 2016 on 'Promoting legal aid, including through a network of legal aid providers'²;
- c. plan, implement and evaluate crime prevention and criminal justice assistance projects, while serving as a facilitating agent and dynamic operational tool to assist involved States, visible in e.g. Resolution 27/4 from 2018 on 'Strengthening measures against trafficking in persons'³;
- d. serve as a world-wide training network for developing countries by means of developing training schemes, including manuals and curricula, by organizing national, regional and cross-sectoral training courses, workshops and seminars on priority issues and by developing fellowship programmes, such as actions described in Resolution 26/2 from 2017 on 'Ensuring access to measures for the prevention of mother-to-child transmission of HIV in prisons'⁴;
- e. further develop clearing-house facilities in relation to crime prevention and criminal justice issues, as can be seen in Resolution 1995/12 on 'Establishment of a clearing-house for international projects in the field of crime prevention and criminal justice'⁵ from 1995;
- f. continue and improve the surveys of crime trends and the operation of criminal justice systems, which are to be carried out at two-years intervals, in collaboration with the United Nations Development Programme and, within their competence, in collaboration with interregional, regional and national crime prevention and criminal justice institutes⁶;

¹https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_27/CCPCJ_res2018/CCPCJ_Resolution_27_6.pdf

²https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_25/2016_Resolutions_Decisions/03.CCPCJ_2016/Resolution_25_2.pdf

³https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_27/CCPCJ_res2018/CCPCJ_Resolution_27_4.pdf

⁴https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_26/CCPCJ_Res_Dec/CCPCJ-RES-26-2.pdf

⁵https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/1990-1999/1995/ECOSOC/Resolution_1995-12.pdf

⁶ <https://www.unodc.org/unodc/en/data-and-analysis/crime-and-criminal-justice.html>

- g. strengthen the United Nations Criminal Justice Information Network by inviting Governments and other relevant organizations and entities to join and support the Network financially and logistically in order to disseminate and exchange information and knowledge to further improve criminal justice management and crime prevention, which can be seen in Resolution 26/4 from 2017 on ‘Strengthening international cooperation to combat cybercrime’⁷;
- h. promote policy-oriented research and studies on topics of interest to the CCPCJ, as well as to individual member States or groups of member States, that can be then found under different categories, which results are presented in form of e.g. handbooks⁸;
- i. determine, with cooperation with Governments and appropriate institutes, categories of crime prevention and criminal justice information to be supplied to and exchanged through the UN Criminal Justice Information Network;
- j. cooperate closely with variety of national, regional, interregional and international institutions and training agencies and develop a roster of experts in different disciplines with practical experience in the field of crime prevention and criminal justice;
- k. strengthen interregional and regional advisory services in crime prevention and criminal justice, so as to ensure necessary feedback and follow-up action, by e.g. issuing a ‘minimum standard’ documents with guidelines, such as the “Beijing Rules”⁹;
- l. develop and implement the various activities of the programme, in accordance with the priorities recommend by the Commission.

Other functions

Moreover, the CCPCJ coordinates with other United Nations bodies that have specific mandates in the areas of crime prevention and criminal justice and is the preparatory body to the United Nations Crime Congress. It is a UN Congress organized every 5 years since 1955, that gathers Governmental representatives, IGOs and NGOs, as well as criminal justice professors and scholars, in order to discuss the current issues that relate to criminal justice and crime prevention. CCPCJ implements the outcome of the congresses into concrete action through decisions and resolutions, many of which are recommended for adoption by the

⁷https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_26/CCCPJ_Res_Dec/CCPCJ-RES-26-4.pdf

⁸ <http://www.unodc.org/unodc/en/justice-and-prison-reform/tools.html?ref=menuside>

⁹ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). Adopted by General Assembly resolution 40/33 of 29 November 1985.

http://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Admin_of_Juvenile_Justice_Beijing_Rules.pdf

ECOSOC or, through the ECOSOC, by the General Assembly. Intersessional meetings of the CCPCJ are regularly convened to provide policy guidance to UNODC. Towards the end of each year, the CCPCJ meets at a reconvened session to consider budgetary and administrative matters as the governing body of the United Nations crime prevention and criminal justice programme.

Financing and funding of the CCPCJ

The activities within the UN Office on Drugs and Crime, that concern work associated to drug control and crime prevention are funded in almost 95 percent by the voluntary contributions from the Member States, multilateral organizations and private sector and those amounted to US\$ 361.9 million in 2017¹⁰. There is an available list of pledges for 2017, which indicates the contribution each Member State made¹¹.

However, the Commission on Crime Prevention and Criminal Justice is just one of the functional commissions and has a separate budget that is only a part of the overarching UNODC budget. Therefore, data given above shall only serve as a reference of the contribution of specific Member States for the cause of criminal justice. The detailed budgets for CCPCJ are published for bienniums, with the most recent one published for years 2016-2017 in Resolution 24/3¹². According to this Resolution and one of the referred documents A/70/6 (Sec.16) US\$111.4 thousands are considered a contribution from the UNODC. Section 14 of the Resolution outlines the expected contribution from the Member States, which amounts to at least US\$2, 618, 400, while Sections 15 and 16 outline the resource projections, including both general- and special-purpose funds, that are dependent on the availability of the funding.

Special Rules of Procedure

Although delegates of the Commission on Crime Prevention and Criminal Justice are to follow the general Rules of Procedure for the whole EuroMUN conference, some of the special CCPCJ rules are to be applied. Those can be found in Annex VII of mentioned Rules of Procedure.

¹⁰ <https://www.unodc.org/unodc/en/donors/partners.html>

¹¹ https://www.unodc.org/documents/donors/List_of_pledges.pdf

¹² https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/2010-2019/2015/Resolution_24_3.pdf

TOPIC A: Environmental Crime (with a focus on illegal poaching and trade with endangered species)

Introduction

With a heightened political and social consciousness for environmental issues that could be observed in many parts of the world over the past several years comes an increased attention for environmental crime. Environmental crime covers “the gamut of activities that breach environmental legislation and cause significant harm or risk to the environment, human health, or both”.¹³ Pollution, forest uprooting or biological manipulation of ecosystems – there are many ways our planet and the flora and fauna inhabiting it are harmed. One particularly grave form of environmental crime is the wildlife crime, illegal poaching and trafficking of animals, a practice that is especially disturbing with regards to endangered species. This Study Guide will give a brief insight into wildlife crime by outlining its history and the current situation, explaining the existing legal framework, giving some general information necessary to understand the topic and then detailing some issues more specifically and discussing how they should be addressed in a resolution.

History of Poaching and Illegal Trafficking of Animals

Although the practice has undergone significant changes in the past centuries, poaching – defined as “the shooting, trapping, or taking of game or fish from private property or from a place where such practices are specially reserved or forbidden”¹⁴ – has been practiced for several hundreds of years by a varying groups of people. It originated in Europe during the age of feudalism, when peasants were forced to hunt game illegally in order to survive and feed their families. During the 17th and 18th century, hunting was practiced as a sport by nobility and the right to hunt was therefore reserved for them. To defend this privilege from lower social classes, poaching was banned and often very harshly punished, with penalties ranging from

¹³ Environmental Crime. (n.d.) Retrieved from <https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/environmental-crime>

¹⁴ Poaching. (2019, February 17). Retrieved from <https://www.britannica.com/topic/poaching-law>

imprisonment or exile to capital punishment.¹⁵ The trade with illegally obtained game was also legally prohibited during that era.

Into the 20th century, the main form of poaching was subsistence poaching – only people that had no other chance to survive chose to partake in such activities.¹⁶ The legal situation did not change when the lands passed from nobility to private owners and laws were passed to restrict hunting on privately-owned territories or limit the rights to the proprietor. Those often chose to improve the protective measures on their lands, e.g. by employing gamekeepers, making it more difficult for individuals to enter the territory, hunt and then exit without being noticed. As a result, poachers started to organize themselves in groups.¹⁷ This different form of organization allowed them to not limit themselves to subsistence poaching, but instead made it possible for them to receive a financial benefit from the practice. This way, the commercial poaching that is prevalent today was born.

With economic progress and the advance of industrialization, poaching became mostly unnecessary in Europe. However, it continued to prevail in other parts of the world and commercial poaching started to put numerous species in serious danger of extinction. To prevent this from happening, countries started to pass national laws protecting the animals instead of the hunting privileges of an elite group of people. The first of its kind was the Lacey Act, passed in the USA in 1900, which prohibits the poaching as well as the sale across borders of wildlife or products thereof.¹⁸ The motivation consisted in the fact that due to illegal hunting and the introduction of non-native species, many species native to the USA were threatened. The Lacey Act is still active and was amended in 2008 to include plant species.

Current Situation

Today, poaching is a crime that mainly takes place in the Global South. However, the demand for illegally obtained animal products as well as the networks supplying those are more often international. And the demand is enormous: it is estimated that the trade with wildlife products

¹⁵ Shadow, S. (n.d.) How Poaching Works. Retrieved from <https://adventure.howstuffworks.com/outdoor-activities/hunting/traditional-methods/poaching1.htm>

¹⁶ Poaching. (2019, February 17). Retrieved from <https://www.britannica.com/topic/poaching-law>

¹⁷ Ibid.

¹⁸ U.S. Fish & Wildlife Service. Lacey Act. Retrieved from <https://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/lacey-act.html>

is worth up to 230 billion dollars annually.¹⁹ Certain wildlife products, perhaps most prominently ivory, continue to be highly sought-after, which has brought several species like elephants, rhinos or whales to the verge of extinction. According to an estimate by the World Wildlife Fund (WWF), at least 10,000 species go extinct every year.²⁰ Although that number is based on the numerous factors contributing to the danger of extinction that many species face, not merely on illegal poaching, it is severely concerning.

This development has been met with a growing acknowledgement of the problem in society as well as in the international community. Efforts to address the issue have been partially successful, some species like the grey wolf or the steller sea lion even recovered from a near-extinct state.²¹ However, the action to address wildlife crime is not internationally unified and there is a large gap in the ratification and implementation of existing conventions and treaties. For example, while the UK introduced a ban on the trade of ivory with only some very narrow exemptions in 2018,²² the US re-allowed the import of elephant trophies from Zimbabwe after having banned such hunting trophies in 2014, bowing to the pressure of prominent lobbying organizations like the National Rifle Association that argued hunting needed to be recognized as an effective means for wildlife control.²³ Consequently, the global responsibility to protect the earth's biodiversity is not taken seriously by every country alike.

Existing Legal Framework

The following section will examine different international conventions that were created to protect wildlife and biodiversity worldwide, especially with regards to their functioning, their achievements and the criticism that they face.

¹⁹ <http://www.poachingfacts.com/>

²⁰ How Many Species Are We Losing? (n.d.) Retrieved from http://wwf.panda.org/our_work/biodiversity/biodiversity/

²¹ Newton, B. (2014, October 18). 7 Animals Saved From Near Extinction. Retrieved from <https://www.thedodo.com/where-are-they-now-7-beneficia-770369557.html>

²² Government confirms UK ban on ivory sales. (2018, April 3). Retrieved from <https://www.gov.uk/government/news/government-confirms-uk-ban-on-ivory-sales>

²³ van der Zee, B./Milman, O. (2017, November 16). US to allow import of elephant trophies from Zimbabwe. Retrieved from <https://www.theguardian.com/environment/2017/nov/16/us-to-allow-imports-of-ivory-trophies-from-zimbabwe>

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

The most important tool to prevent poaching and illegal trade with endangered species is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) with 183 members. It entered into force on 1 July 1975. The adherence to CITES is on a voluntary basis, however countries can choose to be legally bound by the convention by becoming so-called “parties”. As such, the regulations of CITES must be implemented in the national law of the respective state.²⁴ There are currently 183 parties to the CITES.²⁵

The species protected by the convention are listed in three appendices, depending on the degree of danger that they currently face. While appendix III lists species that are only endangered in one country, to be included in appendix I the species must face an immediate danger of extinction.²⁶ The protection that the respective species enjoys depends on the annex that they are sorted into: while commercial trade with species in annex II and III is, under strict regulations, allowed, species listed in appendix I are completely exempted from all forms of legal commercial trade. However, less than 3 % of all species protected by CITES are listed in appendix I, so only a small portion of them cannot be traded under any circumstances.

The trade regulations under CITES are managed mainly by national institutions. Since “all import, export, re-export and introduction from the sea of species covered by the Convention has to be authorized through a licensing system”²⁷, each party must establish a national management authority entrusted with the administration of said licensing process. The data is gathered in a CITES Trade Database that contains every “permitted shipment (import, export or re-export) of live or dead animals and plants and their parts and derivatives”²⁸ in accordance with the regulations established by the Convention. This database is managed by the UN Environment World Conservation Monitoring Centre. With the number of entries on the rise, there are now over 15 million shipments registered.

Number of transactions registered between 1975 and 2015²⁹

²⁴ <https://www.cites.org/eng/disc/what.php>

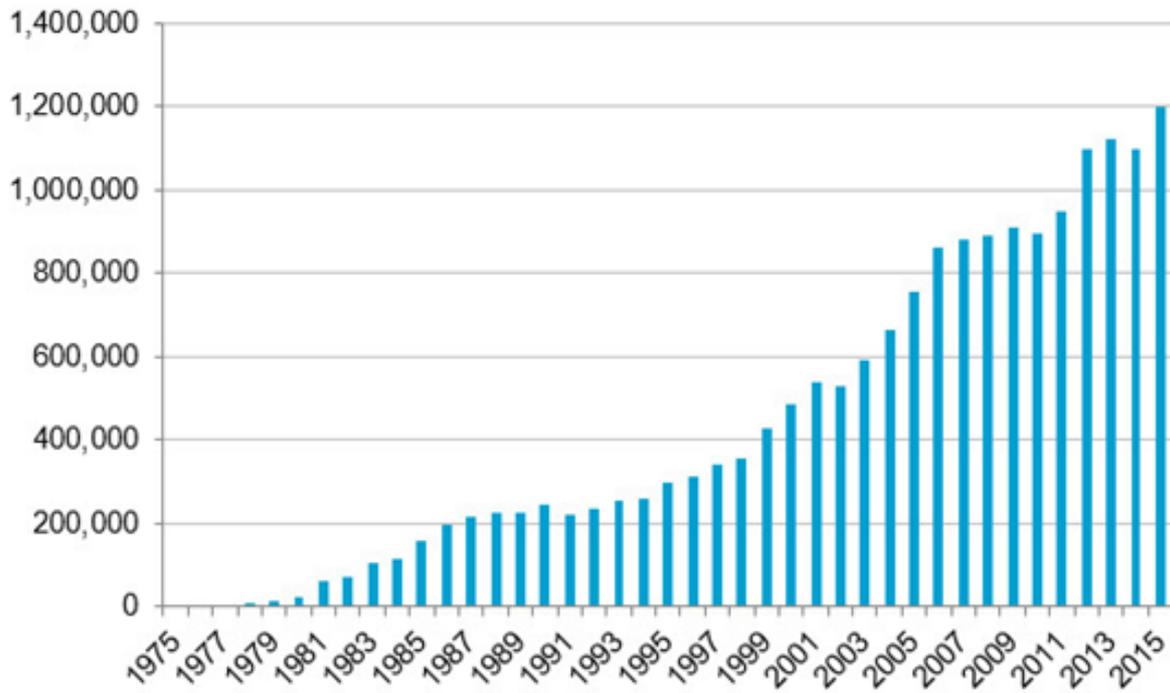
²⁵ <https://www.cites.org/eng/disc/parties/chronolo.php>

²⁶ <https://www.cites.org/eng/disc/how.php>

²⁷ Ibid.

²⁸ CITES Trade Database passes 15 million records. (2015, June 2). Retrieved from https://www.cites.org/eng/cites_trade_db_passes_15million_records

²⁹ <https://www.cites.org/eng/disc/what.php>



In total, more than 36,000 species are regulated under the Convention. But CITES is not only a tool for regulating the trade, the CITES secretariat is also active in the more practical aspects of wildlife conservation by providing legal accountability for the perpetrators.

During an exemplary mission in 2018, the CITES secretariat collaborated with INTERPOL, the World Customs Organization, the World Bank and other organizations for an operation against transcontinental wildlife trafficking. The international intelligence cooperation led to a record number of both goods seized and suspects arrested.³⁰ The combination of measures does show success in certain areas – for example, a 2017 CITES Report notes numbers of elephant poaching declining for the fifth year in a row, with the number of tusk seizures steadily rising.³¹

In spite of the numerous achievements of CITES, the Convention is also faced with heavy criticism. As it is typical in international law, any changes and amendments to the convention need to be agreed upon. For this reason, critics claim that the appendices have not been adapted to the current situation sufficiently. In their eyes, commercial interests often lead

³⁰ Month-long transcontinental operation hit wildlife criminals hard. (2018, June 19). Retrieved from https://www.cites.org/eng/news/month-long-trans-continental-operation-hit-wildlife-criminals-hard_20062018

³¹ African elephant poaching down, ivory seizures up and hit record high. (2017, October 24). Retrieved from https://www.cites.org/eng/news/pr/African_elephant_poaching_down_ivory_seizures_up_and_hit_record_high_24102017

countries to oppose the inclusion of a species in a CITES appendix or improving the degree of protection they receive by listing them in a different appendix. Moreover, it has also been criticized that CITES does not take into account regional differences enough. Most notably, Tanzania and Zambia requested their elephant populations to be downlisted from appendix I to appendix II, claiming that they had recovered enough to reintroduce – under rigorous limitations – commercial trade with ivory.³² Their request was declined by the competent authorities. The different aspects that are criticized demonstrate that the Convention is a balancing act between the environmental necessities and the political possibilities.

The general costs of the CITES administration are covered by contributions from the participating countries. The sum each country contributes is based on the UN scale of assessment, but also depends on the status of a state as a party or only a member to the Convention. Apart from the core administrative costs, CITES has received many external donations with EU institutions as well as the US as major donors.³³

Convention on Biological Diversity (CBD)³⁴

The Convention on Biological Diversity (CBD), signed by 150 member states at what became known as the “Earth Summit” in Rio, provides a comprehensive compilation of measures that outline a wholesome approach to reducing the massive loss of biodiversity. Although the focus of the Convention lies in the prevention of habitat loss of endangered species due to commercial and/or political interests and combatting pollution, topics that are not inherently relevant to the prevention of poaching and illegal trade with endangered species, it establishes some obligations that are likely to contribute to the reduction of the latter as well. According to Art. 34 No. 2, the Convention is legally binding for the contracting parties, meaning that the clauses established in CBD are justiciable.

The Convention outlines various obligations to combat global biodiversity loss. Measures that are to be taken in accordance with CBD include data management, incentives for sustainable use of biodiversity, research and capacity building, education and awareness, scientific cooperation and information sharing. Furthermore, in accordance with Art. 6 of the Convention, each party shall develop a National Biodiversity Strategies and Action Plan (NBSAP). The NBSAPs are tools for the individual parties to implement the obligations founded

³² Tanzania, Zambia ivory sales requests fail at CITES. (2010, March 22). Retrieved from <https://www.traffic.org/news/tanzania-zambia-ivory-sales-requests-fail-at-cites/>

³³ <https://www.cites.org/eng/disc/fund.php>

³⁴ <https://www.cbd.int/doc/legal/cbd-en.pdf>

by the CBD and include them in national and regional policies in order to make the convention applicable on a local level.³⁵ As such, they are likely to contribute to factors like raising appreciation for biodiversity and awareness of the loss thereof, collection of data on different ecosystems and profit-sharing with indigenous communities, all of which are important in the elimination of poaching. To date, an overwhelming majority (97%) of the parties has developed an NBSAP. Most of those were amended after the Conference of the Parties that took place 2010 in Nagoya, where the Conference established the so-called “Aichi Targets”, more concrete objectives that aim to provide a framework for what the parties need to achieve from 2011-2020 according to the Convention. The Aichi Targets are supposed to enhance the implementation of CBD, address the underlying causes of biodiversity loss and include the local communities affected by the loss of biological diversity.³⁶ After an NBSAP is adapted, the parties are encouraged to inform on the advances that were made in the implementation in yearly National Reports. They are also provided with assistance and capacity building modules to be able to adopt more efficient measures.

Many important achievements were made under the CBD regulations. The protected area coverage has increased significantly and contained approximately 12 % of the earth’s surface in 2010.³⁷ This is relevant to the issue of poaching, since the status of a protected area is the legal instrument to allow the regulation of human influence in this area and the enforcement of such regulations.³⁸ Unfortunately, in spite of the fact that many of the regions that constitute the habitat for endangered species have already been given the status of “protected area”, poaching continues to take place in a great percentage of them. A study conducted by WWF concluded that UNESCO World Heritage Sites are particularly endangered: roughly 60% of them contain an extremely high level of biodiversity and rare species, but those species are being harvested in 45% of them nonetheless.³⁹ This shows that, although protected areas are an important means to tackle illegal poaching locally, they do not suffice to stop the practice.

Nonetheless, CBD is also faced with some criticism. In 2016, five charitable organizations conducted a study and came to the conclusion that only 5 % of the countries that had originally

³⁵ <https://www.cbd.int/nbsap/introduction.shtml>

³⁶ <https://www.cbd.int/sp/targets/default.shtml>

³⁷ <https://www.cbd.int/2010-target/implementation/achievements.shtml>

³⁸ Protected Areas in environmental law. (2009, June). Utrecht Law Review, Volume 5, Issue 1. Retrieved from <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUK EwiejpCgnu3gAhUGZVAKHYosBeYQFjACegQICRAC&url=https%3A%2F%2Fwww.utrechtlawreview.org%2Farticles%2F10.18352%2Fulr.91%2Fgalley%2F91%2Fdownload%2F&usq=AOvVaw00IVuYm5BDrx4eX86R4XAv>

³⁹ Not for Sale: Halting the Illegal Trade of CITES Species from World Heritage Sites. (2017). Retrieved from http://d2ouvy59p0dg6k.cloudfront.net/downloads/cites_final_eng.pdf

agreed to the Aichi Targets were now on track with the NBSAPs that they themselves had created in order to be able to comply with the targets. According to this study, mainly rich western nations were displaying a lack of compliance, while other states, especially from the Global South, had not only set themselves more ambitious goals but were also closer to fulfilling them.⁴⁰ Even more concerning, most states' National Plans did not even theoretically meet the standards established by the Aichi Targets, although nearly all parties agreed to them in 2010.

Convention on the Conservation of Migratory Species of Wild Animals (CMS)

The Convention on the Conservation of Migratory Species of Wild Animals (CMS) entered into force in 1983 under the patronage of the UN Environmental Programme. As the name suggests, the Convention focuses on the protection of migratory species, since they are especially vulnerable due to the lack of one singular applicable jurisdiction. The CMS functions similar to the way CITES is organized: the species are listed in two appendices and their level of protection is decided based on their listing. The Convention is mainly focused on enabling the migratory process of these animals, but also prohibits the “taking” of species listed under appendix I. However, the Convention uses an interesting approach with regards to species listed in appendix II. Instead of establishing strict guidelines, parties are encouraged to adopt individual agreements between the respective countries, governing the policies that should be applied to the management of these species. Although the Convention provides certain ground rules for those agreements, the members still have a considerable freedom to decide which measures they deem fit to protect the respective migratory species.

The Convention provides several mechanisms for the parties to be able to comply with its regulations. For example, a review mechanism has been installed in 2017 to ensure long-term compliance.⁴¹ For the same purpose, a National Legislation Programme was established under CMS. The Convention has been relevant to the stabilization of populations of several species.⁴² But critics say that CMS is not concrete enough to be able to protect migratory species as well as they should be. This assumption is partially based on the fact that even though the

⁴⁰ Coghlan, A. (2016, December 8). Biodiversity Betrayal as Nations Fail Miserably on Conservation. Retrieved from <https://www.newscientist.com/article/2115585-biodiversity-betrayal-as-nations-fail-miserably-on-conservation/>

⁴¹ <https://www.cms.int/en/activities/review-mechanism>

⁴² Baldwin, E. (n.d.) Twenty-five Years under the Convention on Migratory Species: Migration Conservation Lessons from Europe. Retrieved from <http://elawreview.org/articles/volume-41/issue-41-2/twenty-five-years-under-the-convention-on-migratory-species-migration-conservation-lessons-from-europe/>

Convention controls the “taking” of endangered species, the conditions for allowing it are relatively generic, which leaves plenty of room for abuse of clauses like “scientific purpose” or “extraordinary circumstances”. Furthermore, critics claim that the Convention leaves gaps in the coverage of animals that are “non-charismatic or have no commercial value”.⁴³

General Information

In order to be able to address the topic of poaching and trafficking of endangered species and finding a feasible solution to the issue, it is essential to understand how these activities are typically organized. The New York Times dissected this process with regard to the African continent in one of their articles.⁴⁴ According to them, the poachers themselves tend to be local men from the communities bordering protected areas often living in socio-economically difficult circumstances. They are contacted by larger networks offering them a supposedly easy escape from poverty. They usually enter the national parks at night, making it harder to detect them, and kill their prey at dawn. The prey is then either picked up by someone else or the poachers carry it out of the park themselves. After that, the wildlife products go through a well-organized network of smugglers that transport it to continuously bigger cities until it is finally transported overseas. The international routes are usually not direct, on one hand because it is necessary to obscure the goods’ true origin, but also because routes depend on where the respective international network was able to corrupt competent officials. Many of the goods are transported to Asian countries like Vietnam and China, because they are used for traditional medicines that are believed to cure cancer, diabetes and infertility.⁴⁵

Discovering these networks is as hard as holding them legally accountable for the crimes they committed. One major difficulty is the high degree of dispersion within the networks. The people ranking lower in the chain of command often only know their immediate superior, if at all. Moreover, the networks are usually not only in the business of trafficking wildlife products, but also in other illegal businesses like human trafficking or drugs. They typically operate under the coverage of a legal business that is mostly involved in something that requires transportation. Recently, some operations have been conducted to arrest the leadership of

⁴³ Ibid.

⁴⁴ Nuwer, R. (2018, September 24). How to Stop Poaching and Protect Endangered Species? Forget the “Kingpins”. Retrieved from <https://www.nytimes.com/2018/09/24/science/poaching-conservation-rhinos-elephants.html>

⁴⁵ Alihusain, C. (2014, April 7). International Wildlife Law and the Problem of Illegal Trade. Retrieved from <https://www.peacepalacelibrary.nl/2014/04/international-wildlife-law-and-the-problem-of-illegal-trade/>

important organizations. However, that might not be the most effective measure: if the structure stays in place, the leadership can easily be replaced. Another recent development adds another layer of difficulty to the process of investigation: more and more often, instead of poor and desperate local men, trained policemen or former military officials take the role of the poacher.⁴⁶ With these trained professionals, it is even harder for the staff of national parks to protect the animals.

Relevant Issues

The following paragraphs will discuss certain issues that must be considered when trying to find a solution to the issue of illegal poaching and trade of endangered species.

Detecting and Preventing Illegal Poaching

As an immediate measure, it is necessary to prevent poaching by ensuring a better protection for national parks that is able to detect any unauthorized person entering the park and removing them before any harm can come to an animal. Detecting and preventing poaching are two different approaches, but both must be part of an efficient solution.

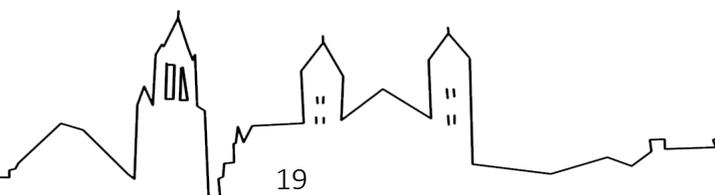
Action against Illegal Poaching⁴⁷



An important reason why poaching is still so prevalent is the fact that there is no efficient Anti-Poaching System (APS) yet that would allow the timely detection of the poachers. Many techniques that can be organized in the four categories enumerated in the graphic (perimeter

⁴⁶ Kaminga, J., Ayele, E., Meratnia, N., Havinga, P. (2018, May 8). Poaching Detection Technologies – A Survey. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5982520/>

⁴⁷ Ibid.



based, ground based, aerial based and animal tagging techniques) have been tried, including cameras, radars, infrared sensors, and sensors tagged to the animals.⁴⁸

An efficient APS has not been developed so far. Many of them tend to either not be sensitive enough to detect the poachers or have a high rate of false alarms, both of which are obstructive to the protection of endangered species. An efficient APS must be able to prevent unauthorized persons from entering protected areas and performing illegal activities on them. They should also be able to recognize perpetrators of wildlife crime and ideally be of assistance in a possible legal case. However, many countries heavily affected by poaching do not have the financial means to fund the development of such advanced technology.

Providing Legal Accountability for Persons involved in Wildlife Crime

Strongly related to the aforementioned issue is the lack of legal accountability that poachers, smugglers and other personnel involved with wildlife crime face. For example, in South Africa of 317 arrests related to rhino poaching, only 15% resulted in a sentencing.⁴⁹ Many wildlife criminals do not have to face any legal consequences for their actions, some because they are not found and arrested in the first place, but some also because law enforcement entities are not able to tie them to the criminal acts with sufficient evidence. In addition to that, many countries do not consider poaching to be a serious crime but rather a minor offense. The effect that a converse strategy can have is demonstrated by the case of Kenya: when Kenya introduced a high minimum penalty for poaching, including imprisonment for the killing of endangered species, the number of animal deaths through poaching was reduced by up to 78-85 % among some species.⁵⁰ They now have the strictest criminal law with regards to poaching worldwide. However, while there is a correlation between the stricter laws and the dramatic decrease, a causality remains unproven. The ministry of Tourism rather attributes the changes to “law-enforcement efforts and investment in conservation”.⁵¹

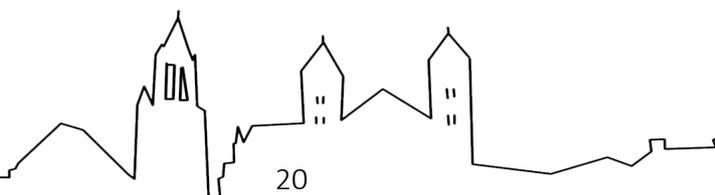
Many states in affected regions, mostly Africa, are starting to pass similar laws, but the tendency is far from a universal one. Unfortunately, legal accountability cannot be achieved if

⁴⁸ Ibid.

⁴⁹ Nuwer, R. (2018, September 24). How to Stop Poaching and Protect Endangered Species? Forget the “Kingpins”. Retrieved from <https://www.nytimes.com/2018/09/24/science/poaching-conservation-rhinos-elephants.html>

⁵⁰ Dalton, J. (2018, May 13). Wildlife poachers in Kenya “to face death penalty”. Retrieved from <https://www.independent.co.uk/news/world/africa/poachers-kenya-wildlife-death-penalty-capital-punishment-najib-balala-a8349966.html>

⁵¹ Ibid.



it is not guaranteed along the chain of command of criminal networks that operate internationally. For this reason, the UNODC has suggested to extend the range of activities that are considered wildlife crime, e.g. making the possession of illegally obtained wildlife products punishable.⁵²

But the issue is not only a legal, but also a practical one: at the moment, non-governmental groups are playing a major role in the investigation of wildlife crime.⁵³ These institutions typically have a deepened understanding of the topic and yearlong practice in investigations, but they are regularly outmatched by the extensive financial resources that the wildlife criminals dispose of.⁵⁴ For this reason and also due to the general understanding that the law enforcement is an obligation that the states must fulfil, it is questionable whether the current system is sufficient to guarantee legal accountability.

Since poaching and trading of endangered species is not yet recognized as an international crime, national and regional courts are left to their own devices when handling such criminal activities. This leads to several difficulties: the degree of punishment that is to be expected for these activities may vary greatly depending on the applicable national jurisdiction. Moreover, international courts not only dispose of more financial resources than most regional ones, but also of a greater experience handling large-scale trials. However, no jurisdiction has been transferred to the international institutions so far.

Reducing Supply of and Demand for Illegally Obtained Wildlife Products

It is a universally held opinion that the main driver of the continuously high levels of poaching is the global demand that still exists for many wildlife products, although trade with them has been forbidden. Therefore, it is essential that the international community tackles the reduction of demand as one of the main factors contributing to the extinction of species.

a. Educative Measures

One promising approach to reduce the demand for goods like elephant ivory or rhino horns is raising awareness for the issue. It is likely that a major part of the consumers of wildlife

⁵² <https://www.un.org/africarenewal/magazine/may-july-2017/conservationists-take-aim-poachers>

⁵³ McConnell, T. (2017, August 19). "They're like the mafia": the super gangs behind the African poaching crisis. Retrieved from <https://www.theguardian.com/environment/2017/aug/19/super-gangs-africa-poaching-crisis>

⁵⁴ Ibid.

products do not consciously choose to partake in an illegal trade and fund criminals who are partially responsible for the danger many species face. A study conducted by the International Fund for Animal Welfare (IFAW) concluded that 70% of Chinese people “don’t know that ivory comes from dead elephants”.⁵⁵ This number suggests that making people aware of the practices that are attached to poaching might strongly discourage them from continuing to illegally purchase wildlife products. Apart from regular consumers, awareness-raising measures must address other target groups that are likely to have an especially high impact on demand reduction, like children or tourists.



Figure 1 © Shivani Bhalla: A poaching scene entitled "Babylon's family and orphan of first ladies." The baby on the right has lost her mother to poaching of her valuable ivory tusks.

⁵⁵ Reducing demand for wildlife products. Retrieved from <https://www.ifaw.org/international/our-work/wildlife-trade/reducing-demand-wildlife-products>

b. Socio-economic Measures in Affected Communities

Another important factor that international networks trafficking endangered species benefit from is the economic situation in the areas where endangered species live. The precarious living conditions make it easier for them to find young men who are willing to risk their freedom and in extreme cases even their lives for the chance to receive a minimal percentage of what the wildlife products are worth on the black market. Hence, providing professional alternatives that are legal and enable people living in the affected communities to survive and support their families would constitute a significant difficulty for criminal networks since it aggravates their recruitment process. It is also relevant that poachers cannot count on the approval of their social surroundings, since stigma can be a powerful tool. For this reason, education in the respective communities is equally as important as making them beneficiaries of alternative gains that the proximity of national parks can provide, mainly tourism.

c. Handling Wildlife Product Stockpiles

A major international debate about the handling of seized goods was started when Kenya burned their large parts of their ivory stockpiles in 2016.⁵⁶ While some considered this the only viable strategy of what to do with seized goods, others criticized the waste of the valuable material. The following paragraphs outline the different approaches to handling seized goods, exemplified by elephant ivory.

i. Destruction

Probably the most prominent measure taken in recent years is the destruction of ivory stockpiles, with Kenya on the forefront of the movement. Not only did they conduct the first ever ivory burning ever in 1989,⁵⁷ they were also responsible for the largest amount of ivory that was ever burned in a single event when they destroyed over 100 tons of seized ivory in 2016. This decisive step was applauded by many animal rights organizations who claimed that this was a clear message from the government condemning the practice of illegal poaching and underlining that the protection of live animals is of more value to society than the dead elephants' tusks. However, the approval was not unanimous. Some of the critics justified their

⁵⁶ Smith, D. (2016, April 30). Kenya to burn largest ever ivory stockpile to highlight elephants' fate. Retrieved from <https://www.theguardian.com/environment/2016/apr/30/kenya-to-burn-largest-ever-ivory-stockpile-to-highlight-elephants-fate>

⁵⁷ Zane, D. (2016, April 29). Kenya's ivory inferno: Does burning elephant tusks destroy them? Retrieved from <https://www.bbc.com/news/world-africa-34313745>

skepticism reasoning that the destruction of enormous amounts of ivory might drive up the prices and possibly even the demand, since availability would be notably reduced.⁵⁸ Moreover, it might lead to the destruction of evidence in court cases against the poachers and thus reduce legal accountability. Lastly, conservationists have voiced concern that the destruction might open up the possibility for corrupt government officials to take registered ivory out of the systems to launder and illegally resell it.

ii. Sale

In the past, CITES authorities allowed one-off sales of ivory stockpiles two times.⁵⁹ In 1999, Botswana, Namibia and Zimbabwe sold 50 tons of ivory to Japan. In 2008, the same three countries as well as South Africa were given permission to sell 108 tons of ivory to Japan and China. These sales became the subject of a ferocious debate between the different stakeholders invested in elephant conservation. Some were convinced that such practices would contribute to the reduction of wildlife crime. They argued that flooding the markets with this much ivory would reduce the prices and therefore make illegal international networks less profitable, ultimately forcing them to stop operating.⁶⁰ In addition to that, the money the seller countries obtained is reinvested in elephant conservation. Lastly, the permission granted by CITES authorities is coherent with the purpose of the Convention, since CITES is not supposed to be a complete ban based on animal welfare and morale, but a legal tool to prevent the extinction of endangered species. However, the decision also faced harsh criticism. With that much ivory entering the country at once, it might be hard to keep track, so this could be used as an opportunity for the laundering of other, illegally obtained wildlife products.⁶¹ Moreover, such practices create a visible inconsistency in the government's action: while on the one hand condemning the killings of elephants and trying to convince the population not to buy ivory, they themselves spend outrageous amounts of money on this good, recognizing hence that it does have an inherent value.

⁵⁸ Burkhalter, C. (2016, April 21). Opinion: Why Destruction of Ivory Stockpiles Might Not Be a Good Idea. Retrieved from <https://blog.nationalgeographic.org/2016/04/21/opinion-why-destruction-of-ivory-stockpiles-might-not-be-a-good-idea/>

⁵⁹ https://www.cites.org/eng/news/pr/2007/070602_ivory.shtml

⁶⁰ Carrington, D. (2016, June 13). Legal ivory sale drove dramatic increase in elephant poaching, study shows. Retrieved from <https://www.theguardian.com/environment/2016/jun/13/legal-ivory-sale-drove-dramatic-increase-in-ivory-poaching-study-shows>

⁶¹ Leakey, R. (2008, November 5). CITES ivory sale will increase poaching and illegal trade. Retrieved from <https://www.telegraph.co.uk/news/earth/earthcomment/3394968/CITES-ivory-sale-will-increase-poaching-and-illegal-trade.html>

iii. Storing

Considering the fact that this topic is so controversial, some countries have decided to not pursue any of the abovementioned options and just keeping their ivory stored. Although this strategy is not typically subject of public scrutiny, it has considerable disadvantages: not only is it expensive, but also insecure, since there are several reports of stolen goods. Therefore, this is not a viable long-term strategy.

Improving International Intelligence Cooperation

Since wildlife trafficking is a crime that usually transcends national borders, it is essential that states work together in order to be able to better detect and persecute violations of environmental law. Considerable progress has already been made when the International Consortium on Combatting Wildlife Crime was established in 2010. This cooperation consists of the UNODC, the CITES Secretariat, INTERPOL, the World Bank and the World Customs Organisation (WCO). It has played an essential role in several large-scale operations that were successful in discovering and eliminating ground structures of international criminal networks.⁶²

Regardless of that, the international community could improve their collaboration significantly, particularly taking into account that wildlife crime often occurs in connection with other criminal activities. Not only do officials not talk to one another within the respective countries, some states are also reluctant to share information with the international community that could help reduce poaching significantly. When conservation biologist Samuel Wasser developed a method that enabled him to identify the geographic origin of a tusk and therefore create a map with poaching hotspots in the world, he had to discover that many countries took over a year to even send in samples and some refused to send in any at all.⁶³ If similar scenarios should be avoided in the future, it is necessary to revise the way international intelligence cooperation is functioning at the moment. The international community needs to agree on an efficient method of data sharing, the kind of data that would need to be shared and the incentives that could motivate countries to actually contribute to relevant databases.

⁶² Month-long transcontinental operation hit wildlife criminals hard. (2018, June 19). Retrieved from https://www.cites.org/eng/news/month-long-trans-continental-operation-hit-wildlife-criminals-hard_20062018

⁶³ Nuwer, R. (2018, September 24). How to Stop Poaching and Protect Endangered Species? Forget the “Kingpins”. Retrieved from <https://www.nytimes.com/2018/09/24/science/poaching-conservation-rhinos-elephants.html>

Resolution Goals

A resolution tackling the problem of illegal poaching and trafficking of endangered species should:

- a. Provide guidance as to how states can achieve legal accountability for environmental crimes like poaching and trafficking of endangered species;
- b. Include measures to support affected communities and educate them about the dangers of biodiversity loss and the ecological and economic benefits of rich biological resources;
- c. Recommend national policy strategies that are likely to reduce supply and demand of wildlife products;
- d. Further the existing efforts in detecting and preventing poaching;
- e. Take into consideration the existing conventions and bodies fighting environmental crime and include suggestions to improve the work these institutions are already doing;
- f. Suggest revisions to national criminal codes in order to be able to be able to persecute wildlife crime more efficiently.

Topic B: Combating the Challenges of Justice Systems (with a focus on restorative justice)

This part of the guide will serve as an introduction to Topic B by providing an overview of the development of modern justice systems and amongst these the three key justice systems. Throughout the guide, an emphasis will be placed on restorative justice, which we expect to be the main focus of debate.

History

Origins

Criminal justice systems have developed substantially in modern times as we slowly shift towards a more universalized process and an increased focus on victim and offender rights. This process has involved criminal justice systems becoming more complex as the understanding of rights for victims and perpetrators expanded and policing reforms were put into place, reflecting a largely global shift in mentality, politics and economic contexts. In some ways, a ‘risk society’ mentality has been adopted when it comes to approaching criminal justice. On the other hand, prior to the 19th century, exile and corporal punishment were by far the most common form of ‘severe’ punishment; after this point we can see a rise in popularity of incarceration⁶⁴.

The UNODC was set up as “the guardian of international standards and norms in crime prevention and criminal justice”, and to aid Member States in the implementation of these standards and norms. The CCPCJ, as the principal policy-making committee of the UNODC shapes how states combat national and transnational crime, as well as their justice systems⁶⁵. Additionally, it serves as a platform to facilitate the discussion and development of new strategies in these areas, coordinating with other specialized UN bodies in the process, and is responsible for the implementation of agreements formed in associated bodies (predominantly the ECOSCO and the GA). In this way, the evaluation of different justice systems and their improvement falls directly under the jurisdiction of the CCPCJ. Not only this, but in

⁶⁴ Wolfgang, M. (1990). Crime and Punishment in Renaissance Florence. *Journal of Criminal Law and Criminology*, 81 (3): 567–84. doi:doi:10.2307/1143848

⁶⁵ CCPCJ Homepage. (2019). From United Nations Office on Drugs and Crime: <http://www.unodc.org/unodc/en/commissions/CCPCJ/index.html>

Decision 2010/243, the committee decided that the theme for the 28th commission session, which is set to convene from the 20th to the 24th of May in Vienna would be as follows⁶⁶:

"The responsibility of effective, fair, humane and accountable criminal justice systems in preventing and countering crime motivated by intolerance or discrimination of any kind"⁶⁷

Latest Developments

Modern criminal justice systems tend to follow a retributive model, which relies heavily on incarceration, and are in serious need of reform. Within the UN, UNODC and CCPCJ much of this reform is by way of trying to bridge the gaps in the current system with alternative systems, primarily restorative models and practices, which rely more on recovery of all parties involved. Subsequently, the detailed list of issues that plague this system and a description of key issues within the restorative model can be found below.

Framework

As the field is an incredibly complex area to study, and there are multitudes of crucial frameworks and agreements that have been adopted since the 1950s, below you can find a chronological overview of key developments, congresses and events in criminal justice reform within the UN, UNODC & CCPCJ.

Date	What	Notable for
Pre-1948		In this time, retributive justice systems were most common - and continue to be so - yet they varied greatly depending on the country and local authorities; few, if any, international standards had been set up at this point, nor was there an effective global authority organization through which this would be run.

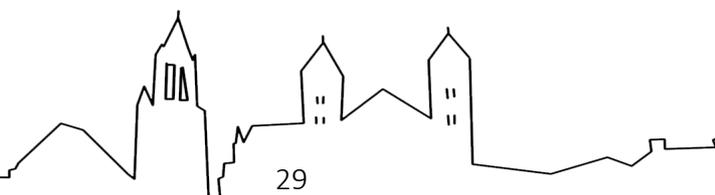
⁶⁶ (2010). Decision 2010/243. Vienna: Commission on Crime Prevention and Criminal Justice. From <http://www.un.org/en/ecosoc/docs/2010/dec%202010-243.pdf> ; CCPCJ Sessions. (2019). From United Nations Office on Drugs and Crime: <https://www.unodc.org/unodc/en/commissions/CCPCJ/session/index.html>

⁶⁷ CCPCJ Thematic Discussion. (2019). From United Nations Office on Drugs and Crime: http://www.unodc.org/unodc/en/commissions/CCPCJ/CCPCJ_Sessions-Thematic-Discussion.html

		Furthermore, it should be noted that due to the frequency of wars before the Cold War, imprisonment as a prisoner-of-war was significantly more common, not to mention that the Second World War had only just ended, meaning that the world was ripe for radical change - which came with the Universal Declaration of Human Rights and the UN.
1948	Universal Declaration of Human Rights	A landmark document, you can find the UDHR at the base of almost all resolutions and legal frameworks pertaining to criminal justice and reforms ⁶⁸ ; the UDHR is not legally binding, but is universally recognized as a key milestone in as it established a common principle for international cooperation
1955	First UN Crime Congress	From this point on, UNCC convenes once every five years for the development of the UN's standards and norms on crime prevention and criminal justice, which provide structured advice on reform adaptable to various contexts; these standards and norms are now published in the Compendium of United Nations standards and norms in crime prevention and criminal justice (henceforth referred to as the Compendium) (Compendium of the United Nations standards and norms in crime prevention and criminal justice, 2006)
1985	Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power	This declaration details the UN's policies on how victims of crimes should be treated by signatory states, through access to justice and fair treatment, restitution, compensation and assistance; this, along with the UDHR is the second foundational declaration on which prison reform efforts base themselves ⁶⁹

⁶⁸ Universal Declaration of Human Rights. (1948, December 10). Paris, France: United Nations General Assembly.

⁶⁹ A/RES/40/34. (1985, November 29). New York, United States of America: United Nations General Assembly. From <http://www.un.org/documents/ga/res/40/a40r034.htm>



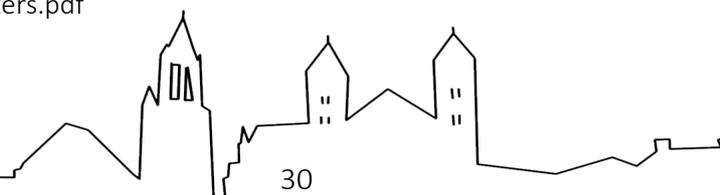
1992	Creation of the CCPCJ	After its establishment, the CCPCJ takes the helm in guiding unilateral criminal justice reform; they also publish the first Compendium this year
1993	Vienna Declaration and Programme of Action	The product of one of the first human rights conferences after the end of the Cold War, the VDMA reviewed and reaffirmed the universality of human rights; the document serves as a humanitarian proponent of criminal justice reform and the implementation of this was detailed in General Assembly Resolution 56/261 ⁷⁰
1997	ECOSOC Resolution 1997/33	Also known by its title, “Elements of responsible crime prevention: standards and norms”, this resolution added to the body of work which contributed to the start of the UN’s criminal justice reform process ⁷¹
1998	ECOSOC Resolution 1998/23	This resolution recommended that Member States seriously consider transitioning to “amicable means of settlement” when it came to minor crimes; these amicable means referred to methods, such as mediation for minor offences and the promotion of restorative justice practices in general ⁷²
1999	ECOSOC Resolution 1999/26	This resolution was the first to move towards integrating restorative justice into UN standards, and so the resolution requests that the CCPCJ writes up these standard ⁷³
2000	ECOSOC Resolution 2000/14	Also known by its title, “Basic principles on the use of restorative justice programmes in criminal matters”, this resolution addresses the need to establish common principles for

⁷⁰ CCPCJ Thematic Discussion. (2019). From United Nations Office on Drugs and Crime: http://www.unodc.org/unodc/en/commissions/CCPCJ/CCPCJ_Sessions-Thematic-Discussion.html

⁷¹ ECOSOC Resolution 1999/26. (1999). United Nations Economic and Social Council.

⁷² CCPCJ Thematic Discussion. (2019). From United Nations Office on Drugs and Crime: http://www.unodc.org/unodc/en/commissions/CCPCJ/CCPCJ_Sessions-Thematic-Discussion.html

ECOSOC Resolution 2002/12. (2002). United Nations Economic and Social Council. From: https://www.unodc.org/pdf/criminal_justice/Basic_Principles_on_the_use_of_Restorative_Justice_Programs_in_Criminal_Matters.pdf



		restorative criminal justice systems, and whether new tools need to be made to achieve this ⁷⁴
2002	ECOSOC Resolution 2002/12	This short resolution has the same title as the one above, and calls upon Member States to facilitate the development of restorative justice systems through international collaboration ⁷⁵
2004	ECOSOC Resolution 2004/25	This resolution discusses the rule of law and development, in particular the role that the strengthening of the rule of law plays in institutional criminal justice reform; also highlights the importance of technical assistance, particularly in post-conflict recovery ⁷⁶
2004	ECOSOC Resolution 2004/28	This resolution established the United Nations standards and norms in crime prevention and criminal justice ⁷⁷
2005	ECOSOC Resolution 2005/21	Titled “Strengthening the technical cooperation capacity of the UN Crime Prevention and Criminal Justice Programme in the area of the rule of law and criminal justice reform”, this resolution specifically looks at the technical aspects of criminal justice reform ⁷⁸
2006	ECOSOC Resolution 2006/25	Also known as “Strengthening the rule of law and the reform of criminal justice institutions, including in post-conflict reconstruction”, this resolution looks at the field results of efforts up to that point, and potential ways to effectively use the

⁷⁴ ECOSOC Resolution 2000/14. (2000). United Nations Economic and Social Council.

⁷⁵ ECOSOC Resolution 2002/12. (2002). United Nations Economic and Social Council. From: https://www.unodc.org/pdf/criminal_justice/Basic_Principles_on_the_use_of_Restorative_Justice_Programs_in_Criminal_Matters.pdf

⁷⁶ ECOSOC Resolution 2004/25. (2004). United Nations Economic and Social Council. From: https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/2000-2009/2005/ECOSOC/Resolution_2004-25.pdf

⁷⁷ Ibid.

⁷⁸ ECOSOC Resolution 2005/21. (2005). United Nations Economic and Social Council. From: https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/2000-2009/2005/ECOSOC/Resolution_2005-21.pdf

		UNODC's extrabudgetary resources when it comes to criminal justice systems reform ⁷⁹
2006	General Assembly Resolution 61/251	The adoption of this resolution extended the UNODC's mandate to be the governing body of the CCPCJ and for it to be responsible for the budget of the United Nations Crime Prevention and Criminal Justice Fund. ⁸⁰
2015	General Assembly Resolution 70/1	Better known as the 2030 Agenda for Sustainable Development, point 16 of the Sustainable Development Goals which details a commitment to "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels", which is particularly relevant to criminal justice systems ⁸¹
2015	Doha Declaration	Not to be confused with the 2001 Doha Declaration, the 2015 Declaration's full title is "Doha Declaration on integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation"; this declaration called for the integration of crime prevention and criminal justice into broader UN policies, and directly ties the law to sustainable development ⁸²

⁷⁹ ECOSOC Resolution 2006/25. (2006). United Nations Economic and Social Council. From: https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/2000-2009/2006/ECOSOC/Resolution_2006-25.pdf

⁸⁰ General Assembly Resolution 61/252. (2006, December 22). New York, United States of America. From: http://www.unodc.org/documents/commissions/General_Assembly/CCPCJ/GA-61-252.pdf

⁸¹ General Assembly Resolution 70/1. (2015, September 15). New York, United States of America: United Nations General Assembly. From: <https://undocs.org/A/RES/70/1>

⁸² Doha Declaration on integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation. (2015, April). Doha: 13th United Nations Congress on Crime Prevention and Criminal Justice.

2016	Publishing of the third draft of the Compendium	The most recent issue of the Compendium has been further adapted to the modern world and its criminal justice systems ⁸³
2018	CCPCJ Resolution 27/6	The most recent resolution on the matter encourages Member States to waver adopting restorative criminal justice systems when and where possible, using them to address issues in their current criminal justice systems - especially in the juvenile context - and to use a holistic process when doing so; furthermore, it also suggests that the UNDOC use any extrabudgetary resources to update its materials on restorative justice ⁸⁴

Approach

Starting in 1948, the UN’s approach to crime prevention and criminal justice has been through human rights, as defined in the UDHR. However, more recently - starting in the early two thousand’s - this has expanded to also include the protection of perpetrator’s human rights, in addition to placing the focus on victim’s recovery process⁸⁵. The results of the agreements presented in the timeline above, can be found in the third edition of the Compendium. These current standards and norms include 58 “instruments” which undergo regular revision as the UN moves towards a more inclusive framework⁸⁶. Furthermore, they now include several focus areas, which draw special attention to certain vulnerable groups or areas that tend to be overlooked, as well as having been updated according to recent UN Crime Congresses. Subsequently, the present edition of the Compendium includes a number of new standards and norms that divide the Compendium into the following groups:

1. Persons in custody, non-custodial sanctions and restorative justice

⁸³ Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice. (2016).

⁸⁴ CCPCJ Resolution 27/6. (2018). United Nations Commission on Crime Prevention and Criminal Justice.

⁸⁵ CCPCJ Standards and Norms. From: United Nations Office on Drugs and Crime: <https://www.unodc.org/unodc/en/commissions/CCPCJ/ccpcj-standards-and-norms.html>

⁸⁶ CCPCJ Thematic Discussion. (2019). From United Nations Office on Drugs and Crime: http://www.unodc.org/unodc/en/commissions/CCPCJ/CCPCJ_Sessions-Thematic-Discussion.html

2. Justice for children
3. Crime prevention, violence against women and victim issues
4. Good governance, the independence of the judiciary, the integrity of criminal justice personnel and access to legal aid
5. Legal, institutional and practical arrangements for international cooperation (Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice, 2016)

These groups add to the comprehensiveness of the international, UN-sanctioned criminal justice system, meaning that ultimately more human rights are protected, and the criminal justice system is more ethical. That being said, it does also mean that the system needs to be more complex as it adapts to the necessary nuance of the field.

General Understanding

In 2015, the UNODC issued a figure of 10 million people being imprisoned worldwide - over 0.1% of the global population⁸⁷. This means that currently more people are imprisoned worldwide than ever before. Of these, a recent estimate published by UNICEF suggested that 1.5 million children are being detained worldwide with 1,1 million children being kept in pre-trial detention⁸⁸. The pre-existing criminal justice systems may not be able to sufficiently cope with the current situation, and so revisions are necessary. The CCPCJ, as the policy-making body of the UNODC is chiefly responsible for this, and for keeping policies up to date. Subsequently they published the following strategy to champion transnational prison reform:

“Taking into account the various factors that contribute to the prison crisis [...] the Office will bolster its penal reform work through interventions under the following three strategic objectives: reducing the scope of imprisonment, improving prison conditions, and supporting social reintegration of offenders upon release.”⁸⁹

⁸⁷ Addressing the global prison crisis: strategy 2015 - 2017. (2014) Vienna: United Nations Office on Drugs and Crime. From: http://www.unodc.org/documents/justice-and-prison-reform/Global_Prison_Crisis_ebook_rev.pdf

⁸⁸ Prison Reform and Alternatives to Imprisonment: Concept Note. (2011). Vienna: Justice Section, Division for Operations of the United Nations Office on Drugs and Crime. From: http://www.unodc.org/documents/justice-and-prison-reform/UNODC_Prison_reform_concept_note.pdf

⁸⁹ Addressing the global prison crisis: strategy 2015 - 2017.(2014) Vienna: United Nations Office on Drugs and Crime. From: http://www.unodc.org/documents/justice-and-prison-reform/Global_Prison_Crisis_ebook_rev.pdf

However, before we can consider reforming the criminal justice system, it's necessary to understand the key systems still in use in the modern world. The table below does this:

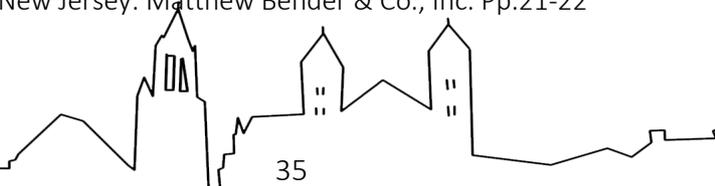
Criminal Justice System	Details
Retributive	<p>This is the standard criminal justice system, which involves the persecution of the accused, the implementation of justice (usually through incarceration), and finally the reintegration of the perpetrator into civil society⁹⁰</p> <p>Example: the principle of “an eye for an eye” in the Bible</p>
Transitional	<p>In the case of a post-conflict or transitional state, restoring the rule of law is crucial to the area’s recovery once the larger conflict has ended⁹¹. Transitional justice involves the strengthening of the local legal system, as well as addressing any crimes committed during the conflict⁹²</p> <p>Example: Gacaca Courts</p>
Distributive	<p>These lay the focus on the treatment of offenders to avoid repeat offences, in part also emphasizing the importance of successful reintegration⁹³</p> <p>Example: post-apartheid South Africa</p>

⁹⁰ Retributive Justice. (2014, June 14). From: Stanford Encyclopedia of Philosophy: <https://plato.stanford.edu/entries/justice-retributive/>

⁹¹ Criminal justice reform in post-conflict states: a guide for practitioners. (2011). United States Institute of Peace. Vienna: United Nations Office on Drugs and Crime. From: http://www.unodc.org/documents/justice-and-prison-reform/11-83015_Ebook.pdf

⁹² What is Transitional Justice? (n.d.). From: International Center for Transitional Justice: <https://www.ictj.org/about/transitional-justice>

⁹³ Van Ness, D. W. i Strong, K. H. (2010). Restoring Justice – An Introduction to Restorative Justice (wyd. 4th). New Province, New Jersey: Matthew Bender & Co., Inc. Pp.21-22



Alternative dispute resolution	This employs methods which, through means of mediation or arbitration aim to resolve conflicts out of the court ⁹⁴ Example: India's Lok Aldat & the Arbitration and Conciliation Act of 1996
Restorative justice	Laying emphasis on creating a dialogue between the victim(s) and the perpetrator(s), this method focuses solely on compromise and constructive confrontation to help with the recovery of all those affected by the crime ⁹⁵ Example: the Maori Utu system

The following section will go into further detail about the two systems that the UN is most involved in, and those which are key to the debate on criminal justice reform: retributive justice and restorative justice.

Key Issues

Retributive Justice Systems

History & Latest Developments

Retributive justice systems can be found throughout global history, with it being the main form of criminal justice for most cultures. Texts from as early as 1st century Roman civilization, to the Law of Moses in ancient Jewish culture, the Code of Hammurabi in Babylonia, the Bhagavadgita in Hindu culture, to even Allah having the epithet of Lord of Retribution in Islam⁹⁶ reflect the values of enacting punishments as a consequence of breaking the law. The purpose of these systems was, and remains, to maintain social order by providing legal channels for

⁹⁴ Alternative Dispute Resolution. (n.d.). From: Legal Information Institute:

https://www.law.cornell.edu/wex/alternative_dispute_resolution

⁹⁵ A New Kind of Criminal Justice. (2009, October 25). Parade, p. 6

⁹⁶ Meyer, J. F. (2014, September 12). Retributive Justice. From: Encyclopædia Britannica:

<https://www.britannica.com/topic/retributive-justice>

victims to be vindicated and deter any citizens from breaking the law in the first place through fear⁹⁷.

During the late 18th century, justice re-entered the political, ethical, philosophical and legal discourse, and this would be instrumental in shaping Western perspectives for the most part of the next two centuries (and this in turn would spread globally with Western colonial might). Key in this was the influence of Immanuel Kant who brought the matter back to the discussion table in the 1790's with his *Science of Right and Metaphysics of Morals*, claiming that retributive justice is the only legitimate form of legal justice and that the law must stand above all as the fabric of the state⁹⁸. This is quite reflective of classical retributivism, where proportionality between crime and punishment is the basis of the ethics behind the system. On the other hand, more modern approaches to retributive justice suggest that this interpretation is too simple, suggesting for example evaluating the situation based on the unfair advantage the perpetrator gained from the crime, and reversing this⁹⁹.

Furthermore, although retributive justice systems can be found in most cultures across the world, the practice of incarceration is something which is primarily European. Due to the power of the global West in the 19th and 20th centuries through colonialism, incarceration too became a global system. As mentioned earlier, modern retributive justice models follow the more standard model of 1) persecution of the perpetrator of the crime, 2) enacting of justice for the crime, and 3) reintegration of the perpetrator into civil society once they have paid for their crime¹⁰⁰. Step two of the retributive justice model is usually done by a jail sentence being issued for the perpetrator, and this is incidentally also what most reformatory efforts in the criminal justice system focus on as it is the area states are most able to directly influence the perpetrators.

Advantages & Controversies

The main advantage to the retributive justice is that as the most widely used criminal justice system, this model already has an established infrastructure to support it on a generally global

⁹⁷ Alschuler, A. (Winter 2003). The changing purposes of criminal punishment: A retrospective on the past century and some thoughts about the next. *The University of Chicago Law Review*(70), 1-22.

⁹⁸ Martin, J. (2005). *The English Legal System* (wyd. 4th). London: Hodder Arnold. doi:ISBN 0-340-89991-3

⁹⁹ Davis, M. (2002). Sound Retributive Argument for the Death Penalty. *Criminal Justice Ethics*, 21(2), 22-26.

¹⁰⁰ Retributive Justice. (2014, June 14). From: *Stanford Encyclopedia of Philosophy*: <https://plato.stanford.edu/entries/justice-retributive/>

level. That being said, recent studies have shown that other systems are significantly less socially disruptive on several fronts. According to the UNODC, prison sentences tend to be “overused” when addressing crime, and as a consequence of this the social reintegration process of ex-convicts is severely hindered¹⁰¹. Prison reform by way of reducing the reliance on incarceration, is a key way that the CCPCJ has been looking at when it comes to improving the criminal justice system whilst still making use of pre-existing infrastructure.

It should be noted that the prison system intends to only deny convicts of the right to liberty and should by no means violate the other human rights, unless this is inescapable with the state of being in prison¹⁰². However, it is often the case that the prison system inadequately protects these rights, either structurally or due to a lack of proper funding. Furthermore, in many ways the main tenet of retributive justice is that the criminal has a punishment inflicted upon them that is of equal worth of the damage they caused upon the victim, akin to an eye for an eye but more suffering for suffering but still clinically procedural¹⁰³. This approach does not usually take into account the ripple effects of these punishments, whether it be through the need for future rehabilitation, closure for the victim (and perpetrator), and deterrence; nor does it take into consideration the socio-economic contexts.

Current State

This section focuses on the issues pertaining to retributive justice that have been highlighted by the CCPCJ, UNODC and the international community in recent years. These have been detailed in the table below along with a description of the current status and implications of these problems on a global scale¹⁰⁴.

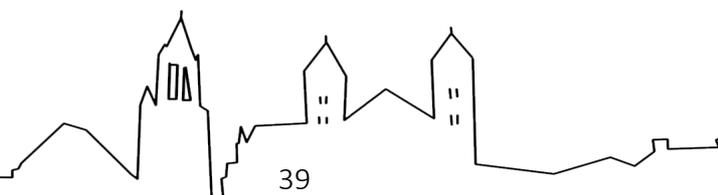
¹⁰¹ Prison Reform and Alternatives to Imprisonment: Concept Note. (2011). Vienna: Justice Section, Division for Operations of the United Nations Office on Drugs and Crime. From: http://www.unodc.org/documents/justice-and-prison-reform/UNODC_Prison_reform_concept_note.pdf

¹⁰² CCPCJ Thematic Discussion. (2019). From United Nations Office on Drugs and Crime: http://www.unodc.org/unodc/en/commissions/CCPCJ/CCPCJ_Sessions-Thematic-Discussion.html

¹⁰³ Nozick, R. (1981). Philosophical Explanations. Cambridge, Massachusetts: Harvard University Press. doi:ISBN 9780674664791

¹⁰⁴ The entire contents of this table falls under the following citation: Prison Reform and Alternatives to Imprisonment: Concept Note. (2011). Vienna: Justice Section, Division for Operations of the United Nations Office on Drugs and Crime. From http://www.unodc.org/documents/justice-and-prison-reform/UNODC_Prison_reform_concept_note.pdf

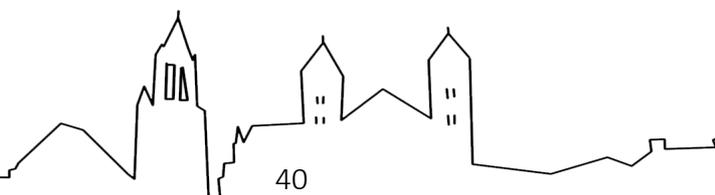
Issue	Details
“Overcrowding”	Aside from the aforementioned record numbers of people being incarcerated today, most people in detention are being held as they await trial, and a significant percentage of them will likely be subject to unfair trial procedures without legal counsel; be charged for “minor” crimes; and come from disadvantaged groups in local society – ultimately, the result of this is an exacerbation of the prison overcrowding situation
“Poor prison conditions”	In “many” countries, prisons do not meet UN standards, falling short in areas such as adequate space, drinking water, food, sanitary levels, lack of natural light and access to fresh air; these issues are exacerbated in overcrowded prisons and pre-trial detention facilities.
“Lack of inter-institutional communication”	The UNODC notes that many criminal justice systems fail to sufficiently coordinate on a national and international level, which often results in further delays in the processing of cases and adding to the overcrowding issue
“Lack of information systems and strategic planning”	Overall the prison model, including the planning behind the stages of detention need reformation on the basis of factual analysis rather than tradition; however, many countries do not have adequate planning nor research systems to facilitate this
“Lack of social reintegration programmes and services”	It is internationally recognized that a successful social reintegration process is key to avoiding regression amongst ex-convicts; a key aspect of this is access to purposeful activities when incarcerated, which is often neglected due to lack of resources and recognition
“Poor health services”	If present, health services are usually below par and without sufficient staff and/or resources, working separately from national health care systems; this harms reintegration efforts, as well as increases the likelihood of diseases spreading within the prison and upon release among the general community
“Isolation – lack of inspection and monitoring mechanisms”	Prisons tend to lack proper oversight and rely upon independent monitoring bodies for auditing adherence to (inter)national rules and standards; furthermore, their physical isolation from civil society often results in general public ignorance on the penitentiary system



“Lack of support of and information for civil society”	Collaboration between the criminal justice system and civil society is crucial for the successful reintegration of previously incarcerated persons, as well as having a positive ripple effect for conditions within prisons and transparency within the system as a whole
“Lack of economic and human resources”	Most funds go directly towards improving the security of prison facilities, without due attention being given to the ‘softer’ issues that relate to prisoner’s well-being and future re-integration; this matter is usually exacerbated by improper planning
“Children in Conflict with the Law”	The detention and trial of children is decreed to be a measure of last resort by the UN, and any punishment should be for the minimal appropriate time, however often this is neglected with children being tried as adults and sentenced in adult prisons putting them at risk
“Women in Prison”	Although prison demographics are very skewed towards men, overall the numbers of women being incarcerated is increasing along with the general increase - and even in some cases the rise in women is surpassing the overall rise; this means that the current systems often fall short with regards to the gender-specific needs of women
“Prisoners with Special Needs”	As the general prison population numbers rise, as does the percentage of prisoners with special needs, including but not limited to “prisoners with mental healthcare needs, drug dependent prisoners, foreign national prisoners, racial and ethnic minorities, older prisoners and prisoners with disabilities”; these require special treatment which is often unavailable in prisons, particularly over-crowded and under-resourced establishments

Further Reading

- Prison Reform and Alternatives to Imprisonment Concept Note
 - https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Prison_reform_concept_note.pdf
 - A comprehensive guide aimed at people working in the UNODC who will be working on prison reform in an international setting
- United Nations Standard Minimum Rules for the Treatment of Prisoners
 - https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf



- the UN's basis for international legislation regarding prison systems, specifically ethical practice, management systems and respect for human rights¹⁰⁵
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
 - <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/un-body-of-principles-for-the-protection-of-detained-or-imprisoned-persons/8F48394A27D64536D73DF02EA245CDF1>
 - details the rights of all detained or imprisoned people, highlighting key aspects such as rights to information, contact with family, access to legal representation and fair trial¹⁰⁶
- Basic Principles for the Treatment of Prisoners
 - <http://www.un.org/documents/ga/res/45/a45r111.htm>
 - contains 11 principles, which elaborate on the Standard Minimum Rules, for example right of access to education, cultural activities, remunerated employment and health services, support to former prisoners and highlights the importance of the abolition of solitary confinement as a punishment¹⁰⁷

Restorative Justice Systems

History & Latest Developments

Restorative justice is a conflict resolution mechanism which emphasizes the importance of an active, direct dialogue between the perpetrator(s) and the victim(s)¹⁰⁸. Developed as a general conflict resolution practice, its adaptation to the criminal justice system has shown it to be quite successful in mitigating the negative consequences of a conflict¹⁰⁹. Built on the fundamental principle that a crime harms not only the victim but the community in which it takes place, helping and supporting the involved parties by whatever means possible is crucial, and justice is understood through recovery and reconciliation. By including the relevant social groups, justice agencies and communities, the restorative method creates a holistic approach to criminal justice.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ CCPCJ Criminal Justice Reform. (n.d.). From: United Nations Office on Drugs and Crime: <http://www.unodc.org/unodc/en/justice-and-prison-reform/criminaljusticereform.html>

¹⁰⁹ Handbook on Restorative justice programmes. (2006). Vienna: United Nations Office on Drugs and Crime. From: http://www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf

Modern restorative justice methods have been credited largely to indigenous communities in Canada and New Zealand, whose ancient methods of circular justice aimed to protect the integrity of the community¹¹⁰. When colonial settlers arrived, these traditional methods were oppressed in favor of the West’s retributive practices but have seen a recent comeback and continue to be practiced in these communities. These ideas gained general popularity in the 1970s, when several US scholars began experimenting with victim-offender mediation¹¹¹. In 1977, Albert Eglash separately defined three main justice systems: retributive justice, distributive justice, and restorative justice¹¹²; the definition he provided shaped modern understanding of this system. Based on the work in the 1970s and 1980s Howard Zehr developed the first official (Western) theory of restorative justice in 1990¹¹³, where he framed the theory with the following comparison in questions:

Restorative Justice

1. Who has been hurt?
2. What are their needs?
3. Whose obligations are these?
4. What are the causes?
5. Who has a stake in the situation?
6. What is the appropriate process to involve stakeholders in an effort to address causes and put things right?¹¹⁴

Retributive Justice

1. What laws have been broken?
2. Who did it?
3. What do the offender(s) deserve?¹¹⁵

Restorative justice has been getting more attention from the UN since the late 1990’s, beginning with Resolution 1999/26 which requested that the CCPCJ draws up UN standards on “field mediation and restorative justice”¹¹⁶, and expanding throughout the early 2000’s to

¹¹⁰ Zehr, H. (2005). *Changing Lenses – A New Focus for Crime and Justice* (wyd. 3rd). Scottsdale, Pennsylvania. Pp.268-269

¹¹¹ Van Ness, D. W. and Strong, K. H. (2010). *Restoring Justice – An Introduction to Restorative Justice* (wyd. 4th). New Province, New Jersey: Matthew Bender & Co., Inc. p.27

¹¹² Ibid. p.21-22

¹¹³ Ibid. p.24

¹¹⁴ Zehr, H. (2005). *Changing Lenses – A New Focus for Crime and Justice* (wyd. 3rd). Scottsdale, Pennsylvania. P.271

¹¹⁵ Zehr, H. (2002). *The Little Book of Restorative Justice*. Intercourse, Pennsylvania: Good Books.

¹¹⁶ ECOSOC Resolution 2002/12. (2002). United Nations Economic and Social Council. From: https://www.unodc.org/pdf/criminal_justice/Basic_Principles_on_the_use_of_Restorative_Justice_Programs_in_Criminal_Matters.pdf

create a comprehensive UN framework on restorative justice. Currently the focus of the CCPCJ has been on seeing how the international community could use restorative justice systems to complement currently existing criminal justice systems, especially with regards to the long-term protection of human rights.

Advantages & Controversies:

Restorative justice systems are an ideal method of meeting the UNODC's strategic objectives and have been adopted by the UNODC (and thus the CCPCJ) as the chief way of long-term criminal justice reform¹¹⁷. Furthermore, studies have shown that restorative justice practices have the highest reports of "victim satisfaction", with recidivism being significantly less likely¹¹⁸. Victims are also more likely to resume normal day-to-day lives, experience a sense of reduced fear towards the offender, feel more safe and secure and to trust others, feel more sympathy towards the perpetrators, be less anxious and more self-confident¹¹⁹. Not only this, but it is possible that the costs of restorative justice would be less than that of retributive justice, with participants 'healing' more effectively, and thus saving time and money in the long run. This is of particular interest in some of the countries where the UNODC has invested in prison and criminal justice and which do not have the financial capabilities to maintain these infrastructures for the foreseeable future¹²⁰. It should be noted though that restorative justice efforts which suffer from incomplete or inconsistent funding have the lowest reports of success¹²¹.

Restorative justice also has some significant limitations, such as the potential negative influences of friends, families, or socio-economic situations when a perpetrator is being

¹¹⁷ Criminal justice reform in post-conflict states: a guide for practitioners. (2011). United States Institute of Peace. Vienna: United Nations Office on Drugs and Crime. From: http://www.unodc.org/documents/justice-and-prison-reform/11-83015_Ebook.pdf

¹¹⁸ Sherman, L. W., & Strang, H. (2007). Restorative Justice: the Evidence. London: The Smith Institute.; p. 7 of Hayes, H. (2005). Assessing Reoffending in Restorative Justice Conferences. Australian and New Zealand Journal of Criminology, 38(1).; Braithwaite, J. (1999). Restorative Justice: assessing optimistic and pessimistic accounts. (M. Tonry, Ed.) Crime and Justice: A Review of Research, 25, 1.

¹¹⁹ Sherman, L. W. and Strang, H. (2007). Restorative Justice: the Evidence. London: The Smith Institute.

¹²⁰ UNODC's strategic response to global prison challenges (2015). [Movie]. From: https://www.youtube.com/watch?v=K02BaDGcBcM&feature=youtu.be&ab_channel=UNODC-UnitedNationsOfficeonDrugsandCrime

¹²¹ Armour, M. (2013). Restorative Justice in School Communities: Successes, Obstacles, and Areas for Improvement. The University of Texas School of Social Work.

reintegrated after the crime, as they may encourage them to return to criminal habits¹²²; the willingness of victims and perpetrators to even participate in such a process; and the prevalence of mental health issues amongst criminals, especially within prisons as this may hinder effective communication between parties¹²³. In addition to this, it is far less well known than the more traditional justice systems, regardless of its good reputation, and faces opposition from some experts who argue that there isn't enough expert involvement and monitoring in the process which can result in more harm than good¹²⁴. This is also reflected in terms of the restitution victims receive, which may be given in forms that aren't recognized by local courts.

Current State

Modern restorative justice systems make use of several methods to achieve their aims, which have been detailed below¹²⁵: A resolution should look at ways of using these methods in improving and complementing current general criminal justice systems.

Method	Detail
Victim-offender mediation	Sometimes referred to as victim-offender reconciliation, this method is usually reserved for less serious offences and can involve other third parties as mediators. Applicable to the pre-charge, post-charge/pre-trial and post-charge stages of the process, both parties need to be willing to partake; for the former two stages the outcome of the mediation may be used to affect the sentencing, and in all stages it can be a key part of the rehabilitation process.

¹²² Shank, G. and Takagi, P. (2004). Critique of Restorative Justice. *Social Justice*, 31(3), 147-63

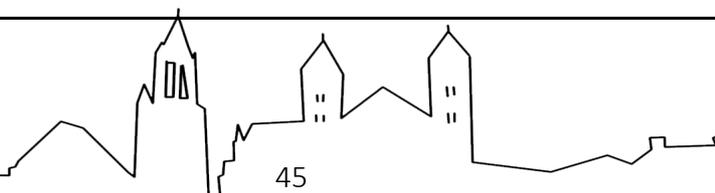
¹²³ Albrecht, B. (2011). The Limits of Restorative Justice in Prison. *Peace Review*, 23(3), 327-334. doi:doi:10.1080/10402659.2011.596059. ; Handbook on Restorative justice programmes. (2006).

Vienna: United Nations Office on Drugs and Crime. From http://www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf

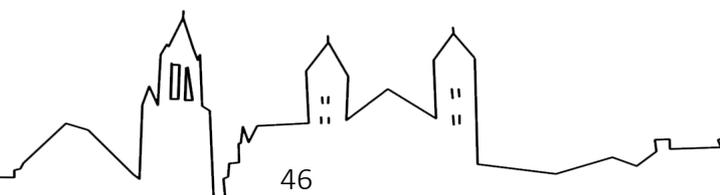
¹²⁴ Dzur, A. W. and Olson, S. M. (2004). Revisiting Informal Justice: Restorative Justice And Democratic Professionalism. *Law & Society Review*, 38(1), 139-76. doi:doi:10.1111/j.0023-9216.2004.03801005.x.

¹²⁵ Handbook on Restorative justice programmes. (2006). Vienna: United Nations Office on Drugs and Crime. From: http://www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf

	<p>The mediation process is more likely to be successful if the victim and perpetrator are able to directly interact with each other, although a trained facilitator is usually required to first ensure the safety of both parties and the willingness of the offender to collaborate; indirect mediation through the facilitator is also a possibility. Furthermore, in these situations the victim is given “maximum input” over the final resolution and is usually given the chance to speak first.</p>
<p>Community and family group conferencing</p>	<p>Originating with the Maoris of New Zealand, this practice is also first restorative approach to have been officially adopted into national legislation (1989, New Zealand), this model involves the active participation of local police forces. A conference has a convener or facilitator, and the conference brings together the family and friends of both the victim(s) and perpetrator(s), as well as relevant parts of their communities, to discuss the ramifications of the crime and see how it can be prevented from occurring again.</p> <p>Due to the active inclusion of a much larger group of people who also support the perpetrator, this process has shown higher success rates in terms of the perpetrator meeting the agreement outcomes. Furthermore, it should be noted that in some cases this method is considered as an alternative to the criminal justice system, in which case the process is run by community groups and may or may not be funded by the government.</p>
<p>Circle sentencing</p>	<p>Originating with indigenous communities in Canada, circle sentencing makes use of a literal circle, with all involved parties (including prosecutors, defense counsel, police, judges, community members, families in addition to the victim and perpetrator) sitting in a circle facing each other. The discussion focuses on finding a consensus on the best way to resolve the conflict, and to facilitate this, the accused must first have pleaded guilty before the process can commence.</p> <p>Circle sentencing also makes use of Community Justice Committees, who are decided upon by the community. The Committee provides a contact point for criminal justice agencies and other third parties to the circle, as well as new cases being brought to them for the formation of new circles. The outcome of a circle will be submitted to a judge who may take the conclusion into consideration, although it does not necessarily have to adopt or fully ratify it. That being said, key</p>



	<p>to circle sentencing is the process as the circle works towards a consensus - not necessarily the final agreement.</p>
<p>Restorative programmes for juvenile offenders</p>	<p>Usually restorative methods are initially developed to be used with juvenile offenders and may then be adapted to adult offenders. Due to their active, educational methods they are particularly appealing alternatives to the harsher retributive methods, instead creating a “community of care” around the youth.</p> <p>Many of these programmes can also take place outside of the criminal justice system, often receiving more support due to the youths involved. This approach also allows the community to address minor crimes and other conflicts without officially criminalizing the situation, which would ultimately harm the youth in the long run.</p>
<p>Indigenous and customary justice reforms</p>	<p>In recent decades, the traditional indigenous justice methods and court processes have started collaborating more closely (and consequently more effectively). These methods may be referred to as community based informal systems or non-state justice systems, and although the specifics of the approach to conflict resolutions vary somewhat between communities, the process is usually deliberative, and the result is often decided upon by arbitration.</p> <p>It should also be noted that in indigenous context often coincides with that of smaller rural communities, where there is little to no anonymity and the consequences of any crime will be felt by the entire community. Additionally, some communities may be part of post-conflict societies where the national legal system is no longer functional, and so individuals take matters of justice into their own hands; in such cases relying on older customary justice practices which base themselves on restorative justice may be necessary to maintain the peace.</p>



Further Readings

- UNODC's Handbook on Restorative Justice Programmes
 - http://www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf
 - a comprehensive introduction to restorative justice programmes worldwide, with several regional examples and thorough explanations
- ECOSOC Resolution 2002/12: Basic principles on the use of restorative justice programmes in criminal matters
 - http://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/2000-2009/2002/ECOSOC/Resolution_2002-12.pdf
 - this resolution provides the basic framework for restorative justice systems within the UN legal framework
- ECOSOC Resolution 1999/26: Development and implementation of mediation and restorative justice measures in criminal justice
 - http://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/1990-1999/1999/ECOSOC/Resolution_1999-26.pdf
 - another key resolution which looks at how the current (current being of 1999) can be reformed to be more humanitarian, and considers the benefits of restorative systems
- Outcome of the expert group meeting on restorative justice in criminal matters: Report of the Secretary-General
 - <https://undocs.org/E/CN.15/2018/13>
 - this is the most recent report from the expert group on restorative justice (2017); the meeting convened 25 experts on restorative criminal justice to discuss different practices, new developments and innovations in the field

General suggested further readings

- CCPCJ's web-page on Criminal Justice Reform
 - <http://www.unodc.org/unodc/en/urban-safety/criminal-justice-reform.html>
 - although the webpage itself does not have much to read in and of itself, it contains several useful links to CCPCJ publications relevant to the general issue, as well as more specific cases
- CCPCJ's web-page on Working Expert Groups
 - http://www.unodc.org/unodc/en/commissions/CCPCJ/CCPCJ_Expert-Groups-Working-Groups.html
 - these expert groups specialized in fields mentioned as trouble-areas in this guide, and are international by nature, so would be useful in finding country-specific information on a given matter

- Universal Declaration of Human Rights
 - the basis of any justice system is the UDHR, and with the VDPA this was reaffirmed in a modern context; a thorough understanding of the UDHR is necessary to understand the various justice systems and any reforms which have or will happen
- Compendium of the United Nations Standards and Norms in Crime Prevention and Criminal Justice
 - <https://www.unodc.org/unodc/en/justice-and-prison-reform/compendium.html>
 - this seminal work is referred to several times throughout this guide, and is a foundational publication when it comes to the content of Topic B; the link provided does not lead you directly to the file, but to the UNODC's downloads page where it can be found
- UNODC's Handbook of basic principles and promising practices on Alternatives to Imprisonment
 - http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Handbook_of_basic_principles_and_promising_practices_on_Alternatives_to_Imprisonment.pdf
 - although we do not have the time to delve into this in this guide, this field is closely tied to restorative justice systems, and well worth looking into and this handbook provides a thorough and clear introduction from an international perspective

Resolution Goals

- What are the key issues that criminal justice systems are facing now?
 - Are these issues systematic?
 - How is the system adapting to changing demographics, if at all?
 - How would the CCPCJ be able to reshape the system to address these issues?
 - Have these issues occurred before, and if so, how were they addressed then? Was this effective?
- How do the UN's current standards, norms and procedures address these issues? How, if applicable, do they contribute to them? How can they be improved?
- Are there specific regions where reform is lagging? Which regions are these, and how can they be effectively helped?
- What is the potential role of restorative justice in criminal justice reform? Is restorative justice the best way to address this issue?
- Are there specific groups in society which are suffering disproportionately within the criminal justice systems? Who are they, and how can they be effectively helped?
- What is the role of the CCPCJ in reforming criminal justice systems? What about other affiliated committees and UN organs (think UNODC, ECOSOC, GA)?

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