

Draft resolution II

Promoting and encouraging the implementation of alternatives to imprisonment as part of comprehensive crime prevention and criminal justice policies

The Economic and Social Council,

Recalling the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights,¹ the International Covenant on Civil and Political Rights,² the Convention on the Rights of the Child³ and other relevant international legal instruments, as well as standards and norms pertaining to the treatment of offenders,

Recalling that, in the 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,⁴ Member States expressed willingness to promote and encourage the use of alternatives to imprisonment, where appropriate, and to review or reform restorative justice and other processes in support of successful reintegration,

Noting that the availability of alternatives to imprisonment reduces prison overcrowding, promotes the rehabilitation and reintegration of offenders into society, contributes to the building of a safer community in a sustainable manner and supports the achievement of the Sustainable Development Goals,⁵ in particular Goal 16,

Mindful of the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)⁶ and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),⁷ which recommend the greater use of non-custodial measures, with adequate safeguards for victims and offenders, including women and girls and other offenders who are vulnerable or come from disadvantaged backgrounds, while outlining key considerations for the proper design and implementation of gender-sensitive non-custodial measures,

Bearing in mind the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice,⁸ in which it was recognized that the development of alternative non-custodial interventions and effective social reintegration programmes could provide an effective way of reducing the number of children in the justice system as well as reducing the risk of violence against children within the justice system,

Bearing in mind also the basic principles on the use of restorative justice programmes in criminal matters,⁹ in which attention was drawn to the fact that restorative justice could provide an adequate response to crime by ensuring a proper balance between the rights of individual offenders, the rights of victims and the concern of society for public safety and crime prevention,

Bearing in mind further that in the basic principles on the use of restorative justice programmes in criminal matters it is highlighted that restorative justice approaches can provide an opportunity for victims to obtain reparation, feel safer and seek closure, allow offenders to gain insight into the causes and effects of their behaviour and to take responsibility in a meaningful way, and enable communities to understand the underlying causes of crime, to promote community well-being and to prevent crime,

Bearing in mind the principle that the description of offences and of legal defences is reserved for the domestic law of States and that offences are to be prosecuted and punished in conformity with that law,

Mindful of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,¹⁰ in which it is stressed that legal aid could play an important role in facilitating diversion and the use of community-based sanctions and measures, including non-custodial measures,

Taking note of the *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment*,¹¹ prepared by the United Nations Office on Drugs and Crime, which sets out key considerations in implementing alternatives to imprisonment at each stage of the criminal justice process and strategies for developing alternatives for specific categories of offenders,

Bearing in mind the importance of promoting national sentencing policies, practices or guidelines for the treatment of offenders in which the severity of penalties for offenders is proportionate to the gravity of the offences and in which both mitigating and aggravating circumstances are taken into account, consistent with applicable international law and in accordance with national legislation,

Encouraging the development, adoption and implementation, with due regard for national, constitutional, legal and administrative systems, of alternative or additional measures with regard to conviction or punishment in cases of an appropriate nature, in accordance with applicable international law, including the three international drug control conventions, and taking into account, as appropriate, relevant United Nations standards and rules, such as the Tokyo Rules,

1. *Encourages* Member States, in implementing holistic and comprehensive crime prevention and criminal justice policies, to promote, as appropriate, alternatives to imprisonment, from the pretrial stage to the post-sentencing stage, taking into account the background, gender, age and other specific circumstances of offenders, including their vulnerability, and the objective of their rehabilitation and reintegration into society;

2. *Also encourages* Member States to develop or strengthen, as appropriate, legislative or other measures to promote and encourage the implementation of non-custodial measures and sanctions as alternatives to imprisonment, including through restorative justice and the provision of treatment and rehabilitative programmes for offenders in the community, and further encourages Member States to implement development-oriented interventions for offenders and their local communities that are aimed at

¹ General Assembly resolution 217 A (III).

² General Assembly resolution 2200 A (XXI), annex.

³ United Nations, *Treaty Series*, vol. 1577, No. 27531.

⁴ General Assembly resolution 70/174, annex.

⁵ Contained in General Assembly resolution 70/1.

⁶ General Assembly resolution 45/110, annex.

⁷ General Assembly resolution 65/229, annex.

⁸ General Assembly resolution 69/194, annex.

⁹ Economic and Social Council resolution 2002/12, annex.

¹⁰ General Assembly resolution 67/187, annex.

¹¹ United Nations publication, Sales No. E.07.XI.2.

addressing the underlying problems leading to offenders' contact with the criminal justice system and facilitating their reintegration into society;

3. *Further encourages* Member States, in promoting alternatives to imprisonment as part of comprehensive crime prevention and criminal justice policies, to continue to take into consideration the importance of the proportionality of sanctions;

4. *Encourages* Member States to build capacity and provide adequate resources for the effective implementation of alternatives to imprisonment, taking into account the potential role of the community, civil society and the private sector, where appropriate, in the provision of legal aid and the treatment, social rehabilitation, reintegration and, as necessary, aftercare of offenders;

5. *Also encourages* Member States to build or enhance the capacity of criminal justice officials and practitioners, including through specialized training to promote better understanding and recognition of specific needs and conditions of offenders, while considering the risks to victims and society;

6. *Further encourages* Member States, in cooperation with academia and civil society, where appropriate and in accordance with domestic law, to promote the monitoring and evaluation of the use of alternatives to imprisonment in order to assess their effectiveness in the rehabilitation and reintegration of offenders;

7. *Calls upon* Member States and relevant international and regional organizations to enhance cooperation and coordination at all levels, including with relevant non-governmental organizations and other relevant stakeholders, where appropriate, in order to better understand, identify, develop and implement effective policies on alternatives to imprisonment, in particular through the sharing of information, knowledge and best practices, including with regard to challenges to the implementation of such policies;

8. *Requests* the United Nations Office on Drugs and Crime, together with the institutes of the United Nations crime prevention and criminal justice programme network, to continue its efforts to promote the collection, analysis and dissemination of statistical data on alternatives to imprisonment and research on relevant policies that relate to the social reintegration of offenders and reduce recidivism;

9. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations.