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**PROMOTING A  
CULTURE OF  
LAWFULNESS**

# Introductory Handbook on The Prevention of Recidivism and the Social Reintegration of Offenders



CRIMINAL JUSTICE HANDBOOK SERIES



UNITED NATIONS OFFICE ON DRUGS AND CRIME  
Vienna

# **Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders**

CRIMINAL JUSTICE HANDBOOK SERIES



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## Preface

The first version of the *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders*, published in 2012, was prepared for the United Nations Office on Drugs and Crime (UNODC) by Vivienne Chin, Associate of the International Centre for Criminal Law Reform and Criminal Justice Policy, Canada, and Yvon Dandurand, criminologist at the University of the Fraser Valley, Canada. The initial draft of the first version of the *Handbook* was reviewed and discussed during an expert group meeting held in Vienna on 16 and 17 November 2011. Valuable suggestions and contributions were made by the following experts at that meeting: Charles Robert Allen, Ibrahim Hasan Almarooqi, Sultan Mohamed Alniyadi, Tomris Atabay, Karin Bruckmüller, Elias Carranza, Elinor Wanyama Chemonges, Kimmett Edgar, Aida Escobar, Angela Evans, José Filho, Isabel Hight, Andrea King-Wessels, Rita Susana Maxera, Marina Menezes, Hugo Morales, Omar Nashabe, Michael Platzer, Roberto Santana, Guy Schmit, Victoria Sergeyeva, Zhang Xiaohua and Zhao Linna. The following UNODC staff members also contributed to the development of the first version of the *Handbook*: Piera Barzanò, Estela Máris Deon, Fabienne Hariga, Valérie Lebaux, Alexandra Martins, Philipp Meissner, Anna Giudice and Miri Sharon.

In 2017, UNODC initiated a revision of the 2012 version of the *Handbook*, among other things, to consolidate its content and to fully incorporate the provisions of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which had been adopted by the General Assembly in its resolution 70/175 of 17 December 2015. Vivienne Chin and Yvon Dandurand, who had prepared the 2012 version of the *Handbook*, also prepared the revised version. UNODC staff members Philipp Meissner and Muriel Jourdan-Ethvignot undertook the final review of the revised version. The following UNODC staff members also contributed to the development of the revised version: Piera Barzanò, Anja Busse, Anna Giudice, Sven Pfeiffer, Dayan Farias Picon and Ehab Salah.

UNODC wishes to express its gratitude for the support provided by the Government of Qatar for the development of the revised version of the *Handbook*, including its translation into Arabic, French, Russian and Spanish, under the Global Programme for the Implementation of the Doha Declaration: Towards the Promotion of a Culture of Lawfulness.

The revised version of the *Handbook* is dedicated to prison and probation staff, as well as to service providers and volunteers who work towards fostering the social reintegration of offenders around the world.



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This *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders* is a revised version of the 2012 publication with the same title. It is part of a series of practical tools developed by the United Nations Office on Drugs and Crime (UNODC) to support countries in preventing crime, implementing criminal justice reforms and strengthening the rule of law. The tools are meant to assist countries in implementing United Nations standards and norms in crime prevention and criminal justice. The publication focuses on the prevention of recidivism and emphasizes the crucial importance of effective programmes to supervise and assist offenders and support their social reintegration. Incarcerated offenders face very real challenges at the time of their release, and communities become unsafe when offenders are released without adequate preparation, supervision or support.

Following the publication of the first version of the *Handbook*, in 2012, two important events occurred that re-emphasized the importance of the rehabilitation and social reintegration of offenders. The first event was the adoption in 2015 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (General Assembly resolution 70/175, annex); relevant provisions of the Nelson Mandela Rules are reflected in the present version of the *Handbook*. The second event was the development by UNODC of the Global Programme for the Implementation of the Doha Declaration: Towards the Promotion of a Culture of Lawfulness, which followed the adoption of 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 (Assembly resolution 70/174, annex) at the end of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Doha in April 2015. This four-year initiative includes a major component on fostering prisoner rehabilitation, reflecting Member States' commitment, expressed in the Doha Declaration (Assembly resolution 70/174, annex, para. 5 (j)), to implement and enhance policies for prison inmates that focus on education, work, medical care, rehabilitation, social reintegration and the prevention of recidivism, and to consider the development and strengthening of policies to support the families of inmates, as well as 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.

The *Handbook* introduces readers to promising practices and programmes for reducing recidivism by addressing the social reintegration challenges faced by all offenders, in particular by those who are or have been incarcerated. The tool can be used in a variety of contexts,

including as part of technical assistance and capacity-building projects. It is meant, however, to be particularly helpful in supporting reforms and programme development in low- and middle-income countries.<sup>1</sup> The target audience of the *Handbook* is anyone involved in the criminal justice process, including policymakers, legislators, judges, law enforcement officials, prison managers and staff, probation and parole officers, service providers, members of non-governmental organizations (NGOs) and other stakeholders interested in crime prevention and the treatment of offenders.

While the *Handbook* is not prescriptive, it is informed by evidence on successful social reintegration practices and provides, where appropriate, advice on programme design and delivery. It offers, in a quick reference format, an overview of key considerations in implementing social reintegration programmes with frequent references to applicable international standards and norms. It covers programmes that can be delivered during and after imprisonment and, to a lesser extent, programmes that can be offered as an alternative to imprisonment. Special attention is given to programmes that focus on the re-entry of offenders into the community.<sup>2</sup>

Chapter II emphasizes the importance for countries and communities of investing in social reintegration programmes, including by introducing key concepts, terminology and relevant international standards and norms. Chapter III provides a review of lessons learned and research on the successful implementation of reintegration programmes and offers guidance on programme development and management. The next three chapters focus on prison-based rehabilitation programmes, including pre-release programmes (chapter IV), on post-release services and supervision (chapter V) and on community-based non-custodial measures (chapter VI). Chapter VII presents specialized interventions and reintegration programmes for children in conflict with the law, women offenders and other categories of offenders having special needs or posing particular risks.

At the end of the *Handbook*, there is an annex listing other relevant UNODC publications and a glossary.

<sup>1</sup>“Low- and middle-income” refers to gross national income per capita, the World Bank’s main criterion for classifying economies for analytical and operational purposes. Based on the World Bank’s operational lending categories, every economy is classified as low-income, middle-income (subdivided into lower-middle and upper-middle) or high-income. In general discussions, the term “developing economies” is typically used to denote the set of low- and middle-income economies.

<sup>2</sup>Specific challenges that exist when attempting to develop social reintegration programmes in post-conflict countries fall outside the scope of the present *Handbook*.

## II.

# Why invest in the social reintegration of offenders?

### A. Relevant international standards and norms

Most offenders face significant social adaptation issues, which can include family and community stigmatization and ostracism, and the ensuing negative impact on their ability to find jobs or housing, return to formal education or build (or rebuild) individual and social capital. Unless they receive help to face these issues, they risk getting caught up in a vicious cycle of failed social integration, reoffending, reconviction and social rejection.

The rehabilitation of offenders and their successful social reintegration into society should therefore be among the basic objectives of criminal justice systems. Legally binding international human rights conventions,<sup>3</sup> as well as the United Nations standards and norms in crime prevention and criminal justice, clearly acknowledge this point and emphasize the importance of interventions to support the social reintegration of offenders as a means of preventing further crime and protecting society.<sup>4</sup>

For example, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)—the most important and recent set of international standards on what is generally accepted as being good principles and practice in the treatment of prisoners and prison management—clearly establish that the provision of meaningful rehabilitation programmes in prisons is crucial to achieving the ultimate purposes of a sentence of imprisonment, namely to reduce recidivism and to improve public safety. The Nelson Mandela Rules also emphasize that education, vocational training, work, treatment and other forms of assistance, in line with the individual treatment needs of offenders, should be offered by prison administrations and other competent authorities to support the social reintegration of prisoners into society.<sup>5</sup>

<sup>3</sup>More specifically, the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex) states that “the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation” (art. 10, para. 3).

<sup>4</sup>See United Nations Office on Drugs and Crime (UNODC), *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (New York, 2016).

<sup>5</sup>United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (General Assembly resolution 70/175, annex), preliminary observation 1 and rule 4.

**United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules):<sup>a</sup> rule 4, paragraph 1**

*Rule 4*

1. The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.

...

<sup>a</sup> General Assembly resolution 70/175, annex.

The distinct considerations that apply to women prisoners are acknowledged in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). Importantly, the rules recognize that a number of female offenders do not pose a risk to society and that imprisonment may render their social reintegration more difficult. Furthermore, the Bangkok Rules require prison authorities, in cooperation with probation and/or social welfare services, local community groups and NGOs, to design and implement comprehensive pre- and post-release reintegration programmes that take into account the gender-specific needs of women prisoners.<sup>6</sup>

States parties to the Convention on the Rights of the Child are required to ensure that “the arrest, detention or imprisonment of a child ... shall be used only as a measure of last resort and for the shortest appropriate period of time” and that any response to a child in conflict with the law should take into account the desirability of promoting the child's reintegration and the child's assuming a constructive role in society. According to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the objective of the training and treatment offered to children deprived of their liberty should be to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society. With regard to non-institutional treatment, efforts should be made “to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance, helpful and practical, in order to facilitate the rehabilitative process”.<sup>7</sup>

The emphasis on “law-abiding behaviour” and “socially constructive roles” as objectives of treatment reflects the importance of regarding the prevention of recidivism as an overarching objective of criminal justice interventions. The Guidelines for the Prevention of Crime acknowledge that crime prevention encompasses a wide range of approaches, including measures to “prevent recidivism by assisting in the social reintegration of offenders and other preventive mechanisms (reintegration programmes)”. The United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) refer to the importance of measures to facilitate the socialization and integration of all children and young persons.<sup>8</sup>

<sup>6</sup>United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (General Assembly resolution 65/229), thirteenth preambular paragraph and annex, rule 46.

<sup>7</sup>Convention on the Rights of the Child (United Nations, Treaty Series, vol. 1577, No. 27531) (art. 37, para. (b), and art. 40, para. 1); and United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33, annex) rules 24.1 and 26.1.

<sup>8</sup>Guidelines for the Prevention of Crime (Economic and Social Council resolution 2002/13, annex) para. 6 (d); and United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112, annex), para. 10.

Finally, the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) call on Member States to develop non-custodial measures in order to provide other options to imprisonment, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender. The Tokyo Rules also encourage efforts to raise awareness and constructive attitudes among the general public about the value of non-custodial measures, as well as of the importance of the social reintegration of offenders, and call for public participation in the implementation of alternatives to imprisonment to be regarded “as an opportunity for members of the community to contribute to the protection of their society”<sup>9</sup>.

More detailed references to relevant international standards and norms are made in the chapters below.

## B. What are social reintegration programmes?

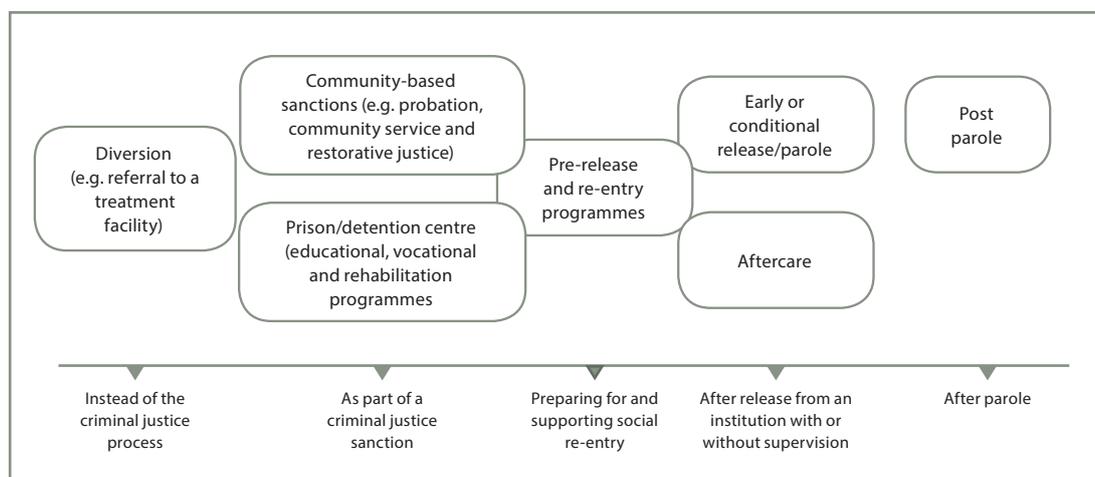
The primary objective of social reintegration programmes is to provide offenders with the assistance and supervision that they may need to desist from crime, to successfully reintegrate into the community and to avoid a relapse into criminal behaviour. In general, there are three main categories of social reintegration programmes: (a) prison-based rehabilitation programmes; (b) reintegration and aftercare programmes delivered upon release;<sup>10</sup> and (c) non-custodial, community-based programmes.

The boundaries between these categories are not always clear-cut. Some post-release interventions do in fact begin while offenders are still imprisoned; such interventions are aimed at facilitating their post-release adjustment. In many countries, renewed emphasis is being placed on managing the re-entry of offenders into society. Re-entry support typically occurs at the end of a period of imprisonment, but it can also occur earlier as part of a conditional release programme, with or without formal supervision. The Association of Chief Officers of Probation of the United Kingdom of Great Britain and Northern Ireland has adopted the following definition of “resettlement programmes”—a different term for social reintegration interventions: “a systematic and evidence-based process by which actions are taken to work with the offender, in custody and on release, so that communities are better protected from harm and reoffending is significantly reduced. It encompasses the totality of work with prisoners, their families and significant others in partnership with statutory and voluntary organizations.”

Social reintegration interventions can take place at various stages of the criminal justice process and even outside of that process when offenders are diverted to alternative services and programmes (see figure I). They cover a wide array of services and initiatives implemented or sponsored by the criminal justice system, often complemented by collaborative schemes with community agencies and NGOs.

<sup>9</sup>United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) (General Assembly resolution 45/110, annex), rules 1.5, 17.2, 18.3 and 18.4.

<sup>10</sup>In recent years, post-release interventions, including community-based interventions, have been referred to as “aftercare”, “transitional services” or “social reintegration” and “resettlement” programmes (see the glossary at the end of this publication).

**Figure 1. Social reintegration programmes and the criminal justice process**

All such interventions are best delivered as part of an integrated programme designed to address an individual offender's specific issues and challenges. Positive reintegration outcomes are more likely to be generated when factors predisposing offenders to criminal behaviour are confronted and their physical and social needs are addressed in a continuous and holistic manner both during and after imprisonment.<sup>11</sup> For that reason, it is important to emphasize comprehensive interventions, based on a continuity of care, and to provide consistent assistance to offenders within and beyond the prison environment. Preparation for re-entry into society, for example, should obviously commence before an offender is released. After release, interventions should facilitate a smooth transition from the prison to the community, reinforce the gains achieved in prison through treatment and educational programmes, and continue until reintegration is successfully completed.<sup>12</sup>

Unfortunately, such a "throughcare" approach (i.e. a system-wide mode of interventions)<sup>13</sup> is rarely available to the majority of offenders. In low- and middle-income countries, in particular, the offender's situation may be aggravated by poverty, stigma and social exclusion, as well as only sporadic access to any form of health care, education or assistance. In such cases, imprisonment only compounds the problems with which the offender is faced.

Investments in prisons alone, without complementary investments in post-release services, are often insufficient to address this situation and to produce a significant reduction in recidivism. A period of incarceration—placing offenders under strict control—can be used to stabilize and start addressing the root causes of their offending; without corresponding support for the social reintegration of offenders upon release, however, those gains are often short-lived. The importance of prison-based rehabilitation programmes notwithstanding, it should be noted that many of the interventions aimed at fostering an offender's rehabilitation and social reintegration can be delivered more effectively in the community. In fact, imprisonment can often seriously hinder the social reintegration prospects of an offender. Individuals who are imprisoned for longer periods are more likely to associate with criminal elements, to identify with criminal values, to experience greater deterioration in their family and social

<sup>11</sup> J. Travis, A. L. Solomon and M. Waul, *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry* (Washington, D.C., Urban Institute, Justice Policy Center, 2001).

<sup>12</sup> A. Fox, "Aftercare for drug-using prisoners: lessons from an international study", *Probation Journal*, vol. 49, No. 2 (2002), pp. 120–129.

<sup>13</sup> See M. Borzycki, *Interventions for Prisoners Returning to the Community* (Canberra, Australian Government Attorney-General's Department, 2005).

relationships, and to encounter greater difficulties when they return to the community. For those who are imprisoned, however, the period of imprisonment must be used to support, as much as possible, their eventual reintegration into society.

### C. The link between social reintegration and public safety

The criminal recidivism rate continues to be very high among certain groups of offenders. Although global statistics are not available, data from individual countries confirm that the rate of reoffending is high, sometimes higher than 70 per cent. Many offenders, even after serving repeated prison sentences, fail to desist from crime and to reintegrate into the community. Imprisonment, in itself, is incapable of addressing the offenders' social integration issues. Even when effective prison programmes have helped offenders to achieve progress during detention, that progress is often lost because of lack of follow-up supervision and assistance after release. Therefore, effective crime prevention strategies at the local and national levels must pay special attention to the integration (and reintegration) of offenders into the community.<sup>14</sup> In fact, adopting corresponding measures is arguably one of the best and most cost-effective ways of preventing their reoffending.

The social and economic costs of the failed reintegration of offenders are a major concern for policymakers around the world. Every crime has social costs. In addition to the costs of investigating and prosecuting crimes, the costs of legal proceedings and the costs of imprisonment, other "social costs" to the victims and the community need to be equally kept in mind:

If an ex-prisoner does not successfully reintegrate, there are ... direct and indirect costs to the community. If prisoners re-offend after release, community safety is compromised through increased crime. There are the costs associated with policing and adjudicating these new offences plus the costs of administering new sanctions. There are far less easily quantifiable or indirect costs to society, such as those borne by the victims of these crimes, those associated with lost economic and community capacity, or through ex-prisoners relying on social services rather than contributing to society.<sup>15</sup>

Furthermore, prison overcrowding is a major challenge in many countries. Although prison overcrowding is a complex problem, there is no doubt that it is attributable in part to the large number of repeat offenders who populate the prisons and for whom imprisonment has had little or no effect in terms of their desistance from crime. One key strategy in reducing the number of persons in prison is to provide effective rehabilitation programmes for prisoners and support their social reintegration upon release.<sup>16</sup> Unfortunately, prison overcrowding itself affects the ability of prisons to offer meaningful rehabilitation programmes and tends to limit prisoners' access to existing programmes.

 *For further details on addressing prison overcrowding: Handbook on Strategies to Reduce Overcrowding in Prisons (2013), published by UNODC in cooperation with the International Committee of the Red Cross*

<sup>14</sup> According to the guidelines for cooperation and technical assistance in the field of urban crime prevention, a comprehensive and integrated crime prevention action plan should include measures to prevent recidivism by providing socioeducational support within the framework of the sentence, in prison and as preparation for release from prison, and by giving an active role to the community in the rehabilitation of offenders (Economic and Social Council resolution 1995/9, annex), para. 3 (d) (ii).

<sup>15</sup> M. Borzycki and T. Makkai, "Prisoner reintegration post-release". Available at <http://www.ibrarian.net/navon/page.jsp?paperid=6084622&searchTerm=prison+reintegration>.

<sup>16</sup> F. Lösel, "Counterblast: the prison overcrowding crisis and some constructive perspectives for crime policy", *Howard Journal of Criminal Justice*, vol. 46, No. 5 (2007), pp. 512–519.

The problem of repeat offenders is another major concern. A large proportion of offenders often go through the prison system for relatively minor crimes, such as small property crimes, serving successive and relatively short terms of imprisonment. Although such crimes are of a less serious nature, their impact on communities, public safety and public confidence in the justice system is substantial. Much of these offenders' behaviour can be linked to substance abuse and addictions, mental disorders, lack of job skills and other issues. Because they tend to serve short sentences, their access to treatment and other programmes during imprisonment, as well as to post-release services and supervision, is quite limited and they remain at a high risk of reoffending. As such, they not only constitute a real public safety concern, but also overpopulate prisons and have few opportunities to integrate into mainstream society. It is therefore important to provide repeat offenders with priority access to social reintegration programmes, including effective community supervision, upon release.<sup>17</sup>

In low- and middle-income countries, policymakers are sometimes hesitant to invest in social reintegration programmes for offenders, in particular when such assistance and services are not readily available even to ordinary citizens. However, decision makers should remember that such programmes are necessary not only for the sake of the offenders, but also for public safety and ultimately for the socioeconomic development of countries.

## D. The prevention of recidivism and related risk factors

Facilitating offender reintegration is a complex task, and the impact of specific interventions is often difficult to measure.<sup>18</sup> Reduced criminal recidivism remains the ultimate indicator of successful social reintegration programmes. "Recidivism" ("reoffending") refers to whether a person who is the object of a criminal justice intervention reoffends later on.

At the level of the individual, recidivism is prevented when an offender desists from crime. "Desistance" refers to the process by which, with or without external intervention, offenders cease to engage in criminal conduct and maintain crime-free lives. A number of factors are associated with desistance from crime, such as the acquisition of new skills, full-time employment or significant life partnership. Changes in family and employment circumstances are key factors in accounting for desistance. However, while it seems plausible that desistance becomes less likely when problematic social circumstances increase, the causal relationship between these factors and the absence of criminal behaviour are difficult to specify.<sup>19</sup>

Programmes based on desistance theory emphasize long-term change over short-term control, recognizing that progress is unlikely to be direct or continuous. The focus is on supporting offenders to see themselves in a new and more positive light, with hope for the future. The approach assumes that the successful social reintegration of an offender rests on a combination of motivation and human and social capital. "Human capital" refers in part to the capacity of the individual to make changes and achieve goals. "Social capital" includes factors such as employment and supportive family or other relationships.<sup>20</sup>

<sup>17</sup>P. Dawson and L. Cuppleditch, "An impact assessment of the Prolific and Other Priority Offender programme", Home Office Online Report 08/07 (London, Home Office, 2007).

<sup>18</sup>C. T. Griffiths, Y. Dandurand and D. Murdoch, *The Social Reintegration of Offenders and Crime Prevention* (Ottawa, Public Safety Canada, National Crime Prevention Centre, 2007).

<sup>19</sup>S. Farrall, *Rethinking What Works with Offenders: Probation, Social Context and Distance from Crime* (Cullompton, Devon, Willan Publishing, 2002), p. 212.

<sup>20</sup>*Resource Material Series No. 82* (Tokyo, Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, 2010), Work Product of the 145th International Training Course, "The Effective Resettlement of Offenders by Strengthening 'Community Reintegration Factors'", Visiting Experts' Papers, S. Pitts, pp. 3 ff.

Preventing recidivism requires effective interventions based on an understanding of the factors that place offenders at risk and make it difficult for them to successfully reintegrate into society. Some risk factors are dynamic—meaning that they are amenable to change—whereas other (static) risk factors are not.<sup>21</sup> Static risk factors do not change over time; they include aspects such as, inter alia, an offender’s gender, criminal history, age at the time of arrest or prior mental health problems. Dynamic risk factors, on the other hand, can be addressed through interventions within or outside the criminal justice system. Corresponding programmes vary according to the risk factors and the type of social reintegration challenges that they are designed to address. Many programmes focus on specific challenges confronting offenders, such as a low educational level, unemployment or drug use. Other programmes have been designed to deal with specific categories of offenders, such as young offenders, repeat offenders, offenders with drug disorders, offenders with mental disabilities or sexual offenders.<sup>22</sup>

Most offenders are confronted by a range of social, economic and personal challenges that tend to become obstacles to their social integration. Some of those challenges are a result of the offender’s social environment, family, peer group or low educational and skill levels. Offenders may have a history of social isolation and marginalization, physical or emotional abuse, poor employment or unemployment, and involvement in a criminal lifestyle that began at an early age. Offenders may also be challenged by physical and mental disabilities or health issues, including problems related to substance abuse and drug addiction. Many offenders have serious skill deficits that make it difficult for them to compete and succeed in the community: poor interpersonal skills, low levels of formal education, illiteracy or innumeracy, poor cognitive or emotional functioning, or a lack of planning and financial management skills.<sup>23</sup>

Institutional and community-based programmes can address such dynamic risk factors by focusing on motivation, education, development of skills, employment, accommodation, interpersonal relationships, drug and alcohol treatment, mental health care and cognitive-behavioural interventions.<sup>24</sup>

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<sup>21</sup> G. Harper and C. Chitty, eds., *The Impact of Corrections on Re-offending: A Review of “What Works”*, 3rd ed., Home Office Research Study 291 (London, Home Office, Research, Development and Statistics Directorate, 2005).

<sup>22</sup> See Y. Dandurand and others, *Conditional Release Violations, Suspensions and Revocations: A Comparative Analysis* (Vancouver, International Centre for Criminal Law Reform and Criminal Justice Policy, 2008), p. 8; and Griffiths, Dandurand and Murdoch, *The Social Reintegration of Offenders and Crime Prevention*, p. 4.

<sup>23</sup> Ibid.

<sup>24</sup> Researchers have identified a number of early preventive interventions that can reduce risk factors. These include preschool education, family literacy, parenting information and support, training in reasoning and social skills, organizational change in schools and reading schemes (see Griffiths, Dandurand and Murdoch, *The Social Reintegration of Offenders and Crime Prevention*, p. 4). Furthermore, many countries make use of community justice initiatives and problem-solving courts, based on the concept of therapeutic jurisprudence, in order to provide alternatives to imprisonment, address the risk and need factors of offenders and actively involve the community in their social reintegration.

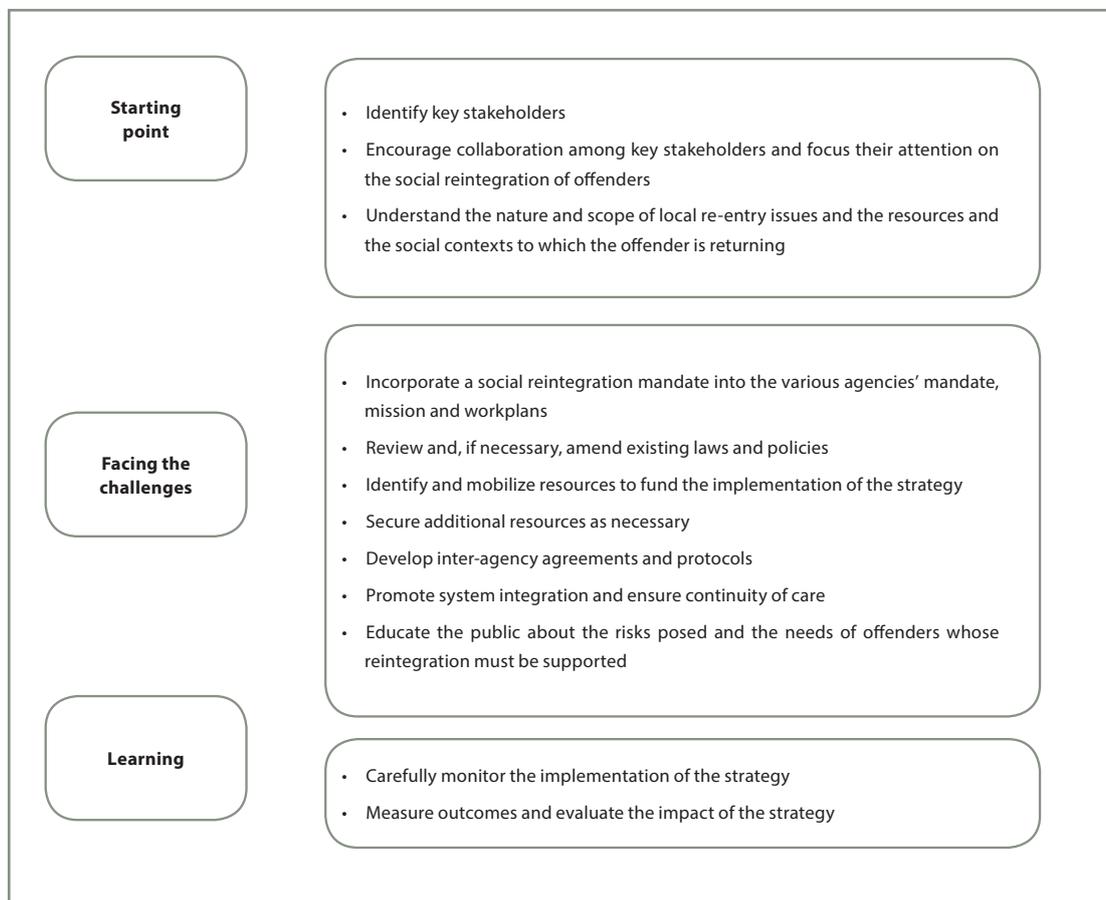


### III.

# How to invest in the social reintegration of offenders

There is no simple recipe for developing an effective and comprehensive strategy on the prevention of recidivism and the social reintegration of offenders. The approach taken in each country is determined, to a large extent, by existing laws and the resources that are available in the justice system and in the community, as well as the receptiveness of the population to progressive recidivism prevention initiatives. However, some of the essential steps involved in planning and implementing a social reintegration strategy for offenders are fairly similar (see figure II).

**Figure II. Elements of a social reintegration strategy for offenders**



It may be possible to start the process by adopting new legislation or by creating new functions or responsibility centres with an explicit mandate on preventing recidivism. In some instances, a social reintegration strategy may be part of an even broader crime prevention strategy. In others, it may be stand-alone and decentralized in order to account for the varying crime prevention priorities in different communities. Typically, social reintegration strategies involve multiple levels of government, coordination among agencies (health, education, prison administration, law enforcement, etc.) and mobilization of community resources.

#### United States of America

The National Institute of Corrections, the Urban Institute and the United States Department of Justice have developed online resources for communities to develop their own strategies to increase public safety by planning the transition of offenders from jail to community. This is meant to mobilize local communities and encourage local strategies and ownership (see, for example, the “Transition from Jail to Community” online learning toolkit (available at: <http://tjctoolkit.urban.org/>), developed by the Urban Institute and the National Institute of Corrections). Many states are establishing re-entry policy councils to develop policies, coordinate programming among State agencies, mobilize community resources and improve the re-entry process.

According to available evidence, it seems that the most successful social reintegration strategies for offenders are those which:

- (a) Reflect the public safety priorities of the community for which they are developed, including by engaging the community in the planning and the delivery of interventions in order to foster community ownership;
- (b) Differentiate between special categories of offenders, including sound methods for assessing their risks and needs, as well as the specific social reintegration issues that they may face;
- (c) Begin, if the offender is in custody, as early as possible and continue throughout the offender’s transition to the community (“throughcare”);
- (d) Hold offenders accountable and responsible for their own choices and actions, but strike a balance between surveillance and control on the one hand and support and assistance on the other;
- (e) Offer assistance in an integrated and comprehensive manner in the form of a coordinated effort of all agencies involved and based on strong inter-agency cooperation;
- (f) Are supported by evidence-based case management practices and adequate information management systems; and offer offenders, whenever possible, a single point of contact in accessing support and services;
- (g) Include a well-thought-out communications and community relations strategy to foster and maintain community support and engagement;
- (h) Have a robust monitoring and evaluation component that allows the interventions to evolve, self-improve and remain accountable to the community for crime reduction results;
- (i) Are gender- and age-sensitive.<sup>25</sup>

<sup>25</sup> Based on Griffiths, Dandurand and Murdoch, *The Social Reintegration of Offenders and Crime Prevention*, p. 41.

## A. Mapping the legal framework and collecting relevant data

### 1. Relevant laws and policies

A strategic approach to the development of offender reintegration policies and programmes requires a thorough review of existing laws and policies. It is necessary to identify any legal or regulatory obstacles that may prevent inter-agency cooperation or the provision of effective supervision and assistance to offenders in prisons, as well as in the community. Various aspects of existing legislation may require attention, including:

- (a) *Sentencing laws and policies.* Criminal (penal) law and its sentencing dispositions have an impact on who is sentenced to imprisonment, for how long and for what purpose. They will also determine whether non-custodial sentences are possible and how frequently they can be used for various categories of offender and types of crime;
- (b) *Police laws.* Laws and policies regulating police agencies, setting their authority and mandate, defining their governance structure and setting the overall parameters within which the police function is exercised should also be scrutinized. These laws can be made more relevant to the social reintegration of offenders by directing and enabling police officers and agencies to collaborate with correctional agencies and community organizations in order to facilitate the supervision and reintegration of offenders;
- (c) *Prison laws.* The laws and regulations governing the administration of prisons will determine in part the kind of reintegration programmes and interventions that are possible in prison;
- (d) *Probation laws.* These are laws and policies governing the objectives, availability of probation as a sentencing option, the conditions that are attached to a probation order and the nature of the supervision that is offered to offenders placed on probation, as well as laws establishing a probation service and its responsibilities;
- (e) *Juvenile justice laws.* The reintegration of juvenile offenders deserves to be treated as a priority. Existing juvenile justice laws must therefore be reviewed from the point of view of whether they, for example, provide for alternatives to imprisonment, allow for diversion, ensure that adequate programmes and education are provided to juveniles deprived of their liberty and facilitate the early release and social reintegration of juvenile offenders;
- (f) *Privacy laws.* Privacy protection (and access to information) laws and how they are applied can facilitate or hinder information exchanges among the various agencies that need to work together to support the reintegration of offenders;
- (g) *Laws and treaties relating to the international transfer of sentenced persons.* Existing laws and treaties may or may not facilitate the voluntary return of foreign offenders to their country of nationality;<sup>26</sup>
- (h) *Legal provisions related to diversion.* Diversion programmes are crucial to the social reintegration of offenders and can facilitate their early access to proper interventions. Existing laws concerning the use of discretionary authority at various levels of the criminal

<sup>26</sup> In this regard, see also UNODC, *Handbook on the International Transfer of Sentenced Persons*, Criminal Justice Handbook Series (2012).

justice system and the possibility of diverting offenders to non-criminal justice interventions often need to be reviewed, clarified or strengthened;

(i) *Legal provisions related to the administration of sentences.* Sentence calculation, remission and execution have an impact on the offender's progress and eventual return to the community;

(j) *Legal provisions related to conditional release.* Laws and policies establishing various conditional release and early release programmes, including eligibility, process, the decision-making process, conditions, supervision and programme management, will determine how often conditional or early release are used and to what extent they are designed to contribute to the social reintegration of offenders. Where such legal provisions do not exist, they should be developed as a matter of priority;

(k) *Legal provisions related to eligibility to services.* Various laws and regulations governing the provision of various treatment, service and support schemes can affect offenders' access to those services. Obstacles to their access to services must be identified and removed. Laws and policies regulating access to medical services and medication are often particularly relevant to the situation of offenders upon their return to the community, in particular offenders with a major illness, a mental illness or a substance abuse problem, as well as pregnant women and children.

## 2. Offender re-entry data

In addition to the above review of the applicable legal framework, policymakers will need to gain a clear understanding of the profile and characteristics of the offender population, including who is being released from prison, as well as existing capacities in the community to support the offenders' social reintegration. Some of this kind of planning information about the offender population may already be available from the national prison system.

### Mapping prisoner re-entry

The purpose of obtaining, analysing and mapping data on prisoner re-entry is to provide information to the public, government officials, policymakers, service providers, former prisoners and others on the local dynamics of prisoner re-entry. These stakeholders can then draw on this information to improve and refine local policy, service delivery and community responses to re-entry. A re-entry mapping initiative should form a partnership of local stakeholders, to guide this process of disseminating re-entry mapping to improve communities.

*Source: N. G. La Vigne, J. Cowan and D. Brazzell, Mapping Prisoner Reentry: An Action Research Guidebook, 2nd ed. (Washington, D.C., Urban Institute, Justice Policy Center, 2006).*

The goal is to develop appropriate programmes that respond to community concerns, build on community strengths and allow a community to manage the risks to which it may be exposed. It is therefore important to have access to data on the communities in which offenders are living or are planning to return to, including their capacity to offer services and supervision.

Methods have been developed to help map out offender re-entry data using geographic information systems and city planning data. Maps depicting the concentration of released

prisoners in the local area provide the basis for a re-entry planning initiative. Mapping can provide valuable information on how prisoner re-entry may affect local communities and to what extent existing resources and services can address the needs of the re-entering population. The results of such mapping exercises often lead to the identification of communities to which offenders are returning in disproportionately large numbers and thus to a decision to concentrate access to services, as well as supervision, accordingly. When local level re-entry data are disseminated carefully and presented strategically to create a foundation for positive community action, the mapping exercise can contribute significantly to a community engagement strategy by enlisting the support and involvement of community stakeholders.<sup>27</sup>

### 3. Data for monitoring and evaluation

Evidence-based programming, including initiatives geared to the social reintegration of offenders, assumes that programme outcomes are being monitored and evaluated in order to determine whether the programme's objectives and goals are being achieved. Evidence-based programming presupposes that evaluation findings are reviewed in order to identify lessons learned and good practices and to integrate these into future programming. This is all predicated on the use of clear criteria against which programme outcomes can be measured, on the use of sound measuring techniques and on the collection of relevant data in the course of programme implementation.

One reason why it is difficult to identify good practices with respect to social reintegration programmes is the fact that many agencies are satisfied with simply measuring programme outputs and are not paying sufficient attention to the more controversial and difficult task of measuring programme outcomes or results. Evaluating the effectiveness of a programme intervention involves at least three main steps:

- (a) Measuring for change in the observed outcomes;
- (b) Attributing the change in the observed outcomes to the programme (i.e. whether the change resulted from the programme or one of its activities);
- (c) Judging the value of the change by reference to or comparison with standards, targets, benchmarks or other programmes.

An evaluation of a social reintegration programme presupposes that its objectives and goals have been clearly specified and defined in terms of measurable outcomes. Unfortunately, this is not always the case. Too often, intended outcomes are not stated as measurable changes over time, objectives are unrealistic or conflicting and targets or measures of success are not specified. Furthermore, in the absence of a logic model or an empirically based theory of change, it is difficult to ascertain whether observed outcomes can logically and legitimately be attributed to a programme.

As researchers have noted, "people commit crime for many reasons and they also stop committing crime for many reasons".<sup>28</sup> Participation in a social reintegration programme is not automatically the most significant factor influencing desistance from crime. Nevertheless, desistance (i.e. the absence of recidivism) is the desired outcome of social reintegration

<sup>27</sup>D. Brazzell, "Informing and engaging communities through reentry mapping", Reentry Mapping Brief (Washington, D.C., Urban Institute, 2007).

<sup>28</sup>A. Worrall and C. Hoy, *Punishment in the Community: Managing Offenders, Making Choices* (Cullompton, Devon, Willan Publishing, 2005), p. 11.

programmes, and it is usually measured by an indicator, such as reoffending, reconviction or reimprisonment. Rates of recidivism, however, are difficult to establish. Estimates of recidivism rates are influenced by how and when reoffending is measured. In addition, recidivism may be measured at different points of an offender's contact with the criminal justice system. The use of reconviction rates, as a proxy for reoffending, has its limitations, as it is an undercount of actual offending, as well as an all-or-nothing measure; it does not account for changes in the nature, severity or frequency of the offences committed. Thus, even if recidivism is an unavoidable performance indicator for social reintegration programmes, it needs to be supplemented by other, more discerning indicators.

## B. Fostering inter-agency cooperation

The police, prison administrations, probation agencies, other governmental entities and community-based organizations all have important roles to play in jointly addressing some of the challenges associated with the development, management and evaluation of social reintegration programmes. Effective collaboration among these agencies and a shared vision and responsibility for the prevention of recidivism are crucial to enabling a holistic strategy on social reintegration to be successful and to result in tangible benefits for community safety.

### Integrated programmes

There is increasing recognition that all interventions, regardless of content, are best delivered as part of an integrated programme designed to address an individual prisoner's specific issues, disadvantages and problems.

*Source: M. Borzycki and E. Baldry, Promoting Integration: The Provision of Prisoner Post-release Services, Trends and Issues in Crime and Criminal Justice Research Paper No. 262 (Canberra, Australian Institute of Criminology, September 2003).*

A model of service delivery to provide “throughcare”, from prison to the community, requires the provision of services through integrated, multi-agency partnerships involving prison administrations, other governmental agencies and non-governmental agencies responsible for the delivery of treatment and welfare services. These models require the implementation of sound case management practices, usually placing a case manager as a central point for the delivery or brokerage of treatment, support and even supervision. In this regard, it is good practice for a single agency to assume the lead role in the partnership and to be responsible for coordinating the intervention. Such an arrangement is likely to assist the various partners and other stakeholders in developing a shared vision of what is to be achieved and a common language in which to better communicate with each other about the process and objectives of the programmes.

### Characteristics of successful inter-agency approaches to reintegration

- Clarity of objectives
- Specific allocation of resources
- Clarity of respective staff (and agency) roles

- Leadership and ownership in order to drive things forward
- Procedures for making joint decisions
- Appreciation of the important role of families
- Good communication and procedures for solving communication problems
- Good staff supervision and investment in development and training
- Elements of reflection and evaluation of progress towards stated objectives and revision of procedures if they are ineffective or prove to be a stumbling block

Source: A. Haggel, "Key elements of effective practice: resettlement" (London, Youth Justice Board, 2004).

Ideally, partner agencies should be able to count on a shared and effective information management system that offers due protection of confidential information and protects individuals against the possible misuse of such information.

Inter-agency cooperation is most effective when it is formalized and accompanied by clear protocols for information-sharing, resource allocation and problem-solving. The respective roles and responsibilities of all agencies must be clearly defined in order to create a mutual understanding of each entity's policies and practices. When possible, the organizations involved may consider linking information systems so that data from criminal justice, health, labour and social services can be shared and analysed, as appropriate. Understanding the importance of information-sharing while adhering to the confidential nature of certain information is an important first step in order to identify a realistic subset of information that can be shared and made available to decision makers and case workers. Devising procedures whereby the informed consent of individuals can be obtained to allow inter-agency access to their personal information can enhance access to relevant information among the various stakeholders.

Close collaboration among the various agencies involved also helps them to publicly communicate their focus on community safety and the prevention of recidivism. It is, however, often necessary to establish a committee of high-ranking officials and community leaders to provide a central coordination mechanism and to guide the overall community strategy. The work of such a committee needs to be well supported by staff who can facilitate routine communications among agencies, maintain information management systems, prepare for and facilitate meetings and prepare material.

### *The role of the police*

Offender reintegration and recidivism prevention initiatives fit very well into a community policing model with an emphasis on problem-solving through collaboration with other agencies and local stakeholders. The police have the potential to play an important role, if not a leadership role, in offender reintegration initiatives. In order to assume such a role, however, the police need to expand their traditional understanding of law enforcement to include crime prevention, problem-solving, community engagement and strategic partnerships. Those involved in supporting the reintegration of offenders have much to gain from police participation. Police involvement can support both the offender supervision and assistance functions in the community, as well as encourage offenders' compliance with release or probation conditions. The police, by law, often play a role in the enforcement of these conditions. In the United States of America, for example, the police in the District of Columbia are involved

in “accountability tours”, in which visits to the homes of high-risk offenders are conducted jointly by a community supervision officer and a Metropolitan Police Department officer.

#### **Police and offender reintegration**

As a primary stakeholder in reducing recidivism among released prisoners, the police can respond by:

- Partnering with probation and parole authorities to enhance supervision
- Facilitating sessions that notify returning prisoners of the expectations and support of the community
- Gathering and sharing intelligence on behaviour indicating that released prisoners are having trouble reintegrating into the community (e.g. spending time with their old gang members, violating curfew restrictions)
- Building upon existing partnerships (and engaging new partners) to strengthen the collaborative action of re-entry initiatives
- Connecting released offenders to services and community resources
- Communicating with the residents to overcome barriers caused by prior harms

*Source: N. G. La Vigne and others, Prisoner Reentry and Community Policing: Strategies for Enhancing Public Safety (Washington, D.C., Urban Institute, Justice Policy Center, 2006).*

## IV.

# Prison-based rehabilitation programmes

Prisoners are confronted by a range of social, economic and personal challenges that tend to significantly complicate their social reintegration. Some of those challenges result from the offenders' own circumstances and experiences. Other challenges are the direct consequences of incarceration and the community's attitude and disposition towards released offenders.

Incarceration itself tends to have several "collateral effects"<sup>29</sup> upon offenders: they may have lost their livelihood, their personal belongings and their ability to maintain housing for themselves and their family; they may have contracted a serious disease while in custody; incarceration may have damaged their social networks and they may have lost important personal relationships; and they may have experienced mental health difficulties or acquired self-defeating habits and attitudes.<sup>30</sup> Finally, the conditions of imprisonment and the prison regime are known to contribute to the institutionalization of offenders and other personal problems that make their reintegration more difficult. Without effective programmes to help offenders face these multiple challenges, the likelihood of their successful social reintegration is very poor. Prison-based rehabilitation programmes are most effective when they are based on a full diagnostic and individual assessment of the offender and his or her situation.<sup>31</sup> Such an assessment needs to occur as soon as possible after the offender's admission to an institution and, if at all possible, serve as the basis for a comprehensive and individualized intervention plan. That way, programmes can focus on the dynamic risk factors and other challenges faced by offenders in order to prepare them for their release and successful social reintegration. All programmes must be designed in a culturally sensitive manner and address, as applicable, the gender-specific needs of women prisoners, as well as the special needs of certain other categories of prisoners.

Specialized programmes can be offered just before the offenders' release in collaboration with community-based agencies able to provide aftercare services and follow-up with the offenders. Prison officials should establish and actively facilitate the necessary linkages and collaborate with health agencies and other relevant community-based service providers.

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<sup>29</sup> Borzycki and Makkai, "Prisoner reintegration", post-release, p. 10.

<sup>30</sup> See Dandurand and others, *Conditional Release Violations, Suspensions and Revocations*, p. 9.

<sup>31</sup> United States, Department of Justice, "Roadmap to reentry: reducing recidivism through reentry reforms at the Federal Bureau of Prisons" (Washington, D.C., April 2016).

## A. Relevant international standards and norms

In general, the level of adherence of a prison system to all of the Nelson Mandela Rules, including the basic principles and minimum standards related to prison conditions, the treatment of prisoners, prison management practices and the competencies of prison staff, will affect the extent to which the offenders' experience of imprisonment assists or possibly prevents their successful social reintegration upon release. Moreover, the Nelson Mandela Rules intrinsically link the achievement of any prison system's ultimate objective—namely the protection of society and the reduction of recidivism—to the period of imprisonment being actively used to establish in prisoners the ability and will to lead law-abiding and self-supporting lives after their release (rules 4 and 91).

### Nelson Mandela Rules: rules 91 and 92, paragraph 1

#### *Rule 91*

The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

#### *Rule 92*

1. To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his or her social and criminal history, physical and mental capacities and aptitudes, personal temperament, the length of his or her sentence and prospects after release.

...

In line with this fundamental principle, the need to foster the social reintegration prospects of prisoners runs like a red thread throughout the rules and forms the basis for other core provisions, including those which emphasize that the treatment of prisoners should actively facilitate, or be based on close linkages with community agencies, and pay special attention to the maintenance or improvement of relations between prisoners and their families. It is equally noteworthy in this regard that the Nelson Mandela Rules encourage the allocation of prisoners close to their homes or places of social rehabilitation. (International standards and norms applicable to specific categories of prison-based rehabilitation programmes are dealt with in chapter IV, section C, below; and international standards and norms related to special categories of offenders are dealt with in chapter VII below.)

**Nelson Mandela Rules: rules 59, 88, 106 and 107***Rule 59*

Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.

...

*Rule 88*

1. The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.

2. There should be in connection with every prison social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his or her family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

...

*Rule 106*

Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.

*Rule 107*

From the beginning of a prisoner's sentence, consideration shall be given to his or her future after release and he or she shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner's rehabilitation and the best interests of his or her family.

**For practical guidance on how to assess compliance with the Nelson Mandela Rules**

*Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms (2017)*, published by UNODC

## B. Offender assessments

The Nelson Mandela Rules emphasize that in order to provide meaningful and tailored interventions and services to prisoners and in order to take into account the vast diversity of risks and needs among the prison population, prison administrations need to classify prisoners as soon as possible upon admission and subsequently prepare individual sentence plans that match their different backgrounds and personalities. Offenders typically present a wide array of risk factors and needs, the full range of which must be addressed to prevent recidivism. However, the successful identification, targeting and tackling of risks and needs among offenders depend on an effective assessment system to identify those needs and to measure change in the degree to which they are present.

Assessments can take place upon the offender's admission to a prison and at regular periods thereafter, as well as at various stages of the criminal justice and rehabilitation process. More specifically, an assessment may be conducted: (a) at the time of sentencing; (b) when diversion from formal criminal proceedings is being considered; (c) whenever there are significant changes in the offenders' life; (d) when an early release of the offender is being considered; or (e) at the beginning of a period of supervision or when consideration is being given to a change in the nature or level of supervision. The assessment process should be continuous and its accuracy and relevance should be periodically reviewed. Offenders should be informed about the process and should be able to participate actively in it.<sup>32</sup> An assessment should consider risk factors as well as protective (or resiliency) factors.<sup>33</sup> It is also important to assess the offender's basic skills and education to plan future interventions, keeping in mind that a lack of basic skills is not necessarily related to recidivism but is related to other factors that are known to be associated with offending: poor school experience or adaptation; unemployment; social exclusion; and various psychological or cognitive factors linked to self-concept and attitudes to offending.<sup>34</sup>

## 1. Evaluating an offender's risk of reoffending

Various instruments exist to evaluate the key factors that may have an impact on the likelihood that an offender will either reoffend or desist from crime. These risk factors are defined as prior factors that increase the probability (risk) of reoffending and the potential danger that an offender may represent for the victim and the community. For example, a study of risk factors associated with recidivism allowed researchers in the Netherlands to offer a forensic profile for young offenders. The profile identifies a number of factors grouped in seven categories: (a) family environment; (b) offence-related risk factors and substance use; (c) history of criminal behaviour; (d) psychological-cognitive factors; (e) psychopathy; (f) social behaviour and interpersonal relationships; and (g) behaviour during incarceration in an institution, when relevant.<sup>35</sup>

## 2. Risk-needs-responsivity framework

Evidence suggests that an accumulation of risk factors in an individual's life is associated with a higher likelihood of involvement in criminal behaviour.<sup>36</sup> A lot of work has been done to try to identify an empirical framework capable of supporting decisions concerning the treatment of offenders and their successful reintegration into the community. The risk-needs-responsivity (RNR) framework<sup>37</sup> is one of those frameworks, initially based on research to identify the risk factors associated with recidivism (see figure III). These risk factors are not

<sup>32</sup>See rules 69 and 70, of the Council of Europe Probation Rules (recommendation CM/Rec (2010) 1, adopted by the Committee of Ministers of the Council of Europe on 20 January 2010).

<sup>33</sup>F. Lösel and D. Bender, "Protective factors and resilience", in *Early Prevention of Adult Antisocial Behaviour*, D. P. Farrington and J. W. Coid, eds. (Cambridge, Cambridge University Press, 2003), pp. 130–204.

<sup>34</sup>Harper and Chitty, *The Impact of Corrections on Re-offending*.

<sup>35</sup>E. Mulder and others, "Risk factors for overall recidivism in serious juvenile offenders", *International Journal of Offender Therapy and Comparative Criminology*, vol. 55, No. 1 (2011), pp. 118–135.

<sup>36</sup>D. P. Farrington, "Childhood risk factors and risk-focused prevention", in *The Oxford Handbook of Criminology*, 4th ed., M. Maguire, R. Morgan and R. Reiner, eds. (Oxford, Oxford University Press, 2007), pp. 602–640.

<sup>37</sup>See, for example, D. A. Andrews and J. Bonta, *The Psychology of Criminal Conduct*, 5th ed. (Albany, New York, Lexis Nexis/Anderson Publishing, 2010).

necessarily causal but relate to issues (or “criminogenic needs”) that must be addressed by treatment in order to prevent recidivism, including various cognitive-behavioural intervention techniques. However, given that the effectiveness of such treatment is likely to be affected by how it is delivered and in what context (therapeutic elements, focus on cognitive processes, relevance to individual offenders and structured supervision) as much as by the motivation, characteristics and situation of the offenders themselves, the model framework has come to include a third dimension, namely responsivity.

**Figure III. The risk-needs-responsivity framework**

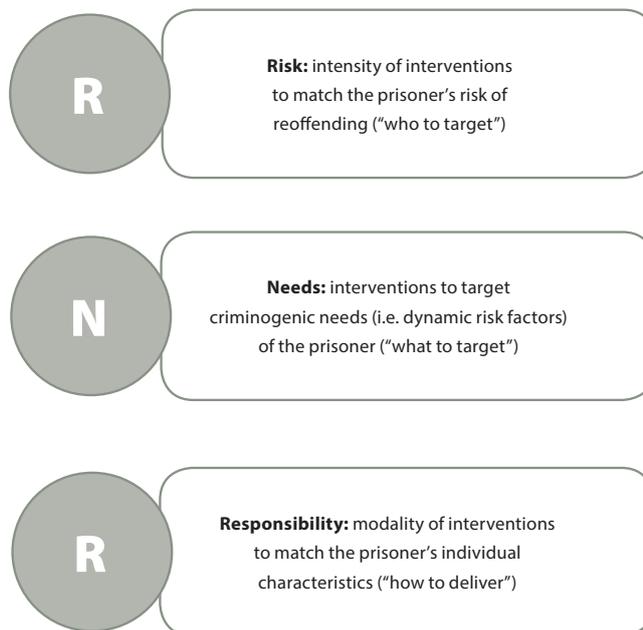


Figure IV shows the general factors related to recidivism and the associated criminogenic needs. Treatment to help offenders deal with those needs can be offered either in an institution or in the community. The challenge, of course, continues to lie in the difficulty of translating the abstract model upon which the framework is based into specific interventions adapted to different groups of offenders.

**Figure IV. Factors associated with recidivism and criminogenic needs**

History of anti-social behaviour	Anti-social personality	Anti-social cognitions	Anti-social attitudes	Substance abuse	Family issues	School/work	Pro-social recreation
<i>Indicators</i>	<i>Indicators</i>	<i>Indicators</i>	<i>Indicators</i>	<i>Indicators</i>	<i>Indicators</i>	<i>Indicators</i>	<i>Indicators</i>
Early and continuing involvement in anti-social acts in a variety of settings	Impulsive, adventurous, pleasure-seeking, aggressive, irritable and lying	Values, beliefs and rationalization	Criminal friends, isolation from pro-social others	Substance abuse and addiction	Conflicted relationships with family and/or spouse	Low school attachment and performance; unemployment; inability to function at work	Poor attachment to community and pro-social activities
<i>Needs</i>	<i>Needs</i>	<i>Needs</i>	<i>Needs</i>	<i>Needs</i>	<i>Needs</i>	<i>Needs</i>	<i>Needs</i>
Develop non-criminal alternative behaviour in risky situations	Develop problem-solving skills, emotion management and coping skills	Reduce anti-social cognitions, reduce risky thinking and build alternatives to risky thinking	Reduce association with criminals and enhance associations with others	Reduce substance abuse and deal with addiction	Develop positive relationships and learn to deal with conflict	Enhance performance, work/school satisfaction	Rewarding pro-social activities, pro-social relationships and social acceptance

### 3. The “good lives” model

The “good lives” model is based on the assumption that people inevitably seek certain goals or primary human goods, such as knowledge, autonomy, friendship, social recognition or happiness. Secondary goods, such as relationships, employment or education, provide means of obtaining the primary goods. From that perspective, interventions should not only manage or reduce the risk of recidivism, but also help individuals achieve their primary goals without harming others. The model directs the attention of assessment methods to the offenders’ goals, motivation and legitimate frustrations.

### C. Programme categories

This section groups the various types of prison-based rehabilitation programmes into six general categories (see figure V), not including re-entry preparation or pre-release programmes, which are discussed separately. The categories are physical health care; mental health care and psychological support; substance abuse treatment; programmes to address behaviour and attitudes (including cognitive-behavioural therapy); education and vocational training; and work experience.

**Figure V. Types of prison-based programme**

In practice, prison administrations rarely have the resources and means to offer the full range of the above-mentioned programmes to all the prisoners who need them and to do so when the prisoners need them. Prisoners usually have to wait, sometimes for years, before they can access a programme.

### 1. Physical and mental health care

People entering prisons predominantly come from poorly educated and socioeconomically deprived sectors of society. Prior to imprisonment, many of them may not have been in contact with health services for many years, if at all, while at the same time having led lifestyles risky for their health. For these reasons, prisoners tend to have poorer physical and mental health than the general population. Mental illness, drug dependence, dental problems, skin diseases and communicable diseases are frequent health problems among prisoners. At the same time, some offenders may already have been under treatment for a disease in the community or in prison, and the continuity of their treatment upon admission or upon release is essential for the offender's health and for prison and public health.

**Nelson Mandela Rules: rules 24; 25; 27, para. 2; and 32, para. 1**

*Rule 24*

1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.

2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.

(continued)

*Rule 25*

1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.

2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.

...

*Rule 27*

...

2. Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by prison staff.

...

*Rule 32*

1. The relationship between the physician or other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular:

(a) The duty of protecting prisoners' physical and mental health and the prevention and treatment of disease on the basis of clinical grounds only;

(b) Adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship;

(c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;

(d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical or scientific experimentation that may be detrimental to a prisoner's health, such as the removal of a prisoner's cells, body tissues or organs.

...

Ensuring that prisoners' health needs are met will not only contribute to the prisoner's successful reintegration into the community, but also takes into account the mobility between prisons and the community via prisoners, prison staff, visitors and service providers. In order to prevent a spread of communicable diseases contracted in prisons to the community, the prison health-care service should therefore be organized in close relationship with the public health-care service. Furthermore, health services should not be limited to curative care, but should encompass prevention, health promotion, reproductive health, maternal and child health, and palliative health care.

### *(a) Tuberculosis, hepatitis and HIV*

Together with AIDS, tuberculosis is one of the main causes of death in prisons. These diseases, like hepatitis B and C, are preventable. Hepatitis C and tuberculosis are curable diseases. In reality, however, the rates of infection for HIV, tuberculosis and hepatitis B and C tend to be significantly higher among prisoners than among the general population. (For further guidance on offenders living with HIV, see chapter VII, section C, below.)

For detailed guidance on measures to address HIV and AIDS in prisons

*HIV and AIDS in Places of Detention: A Toolkit for Policymakers, Programme Managers, Prison Officers and Health Care Providers in Prison Settings* (2008), published jointly by UNODC, WHO and UNAIDS

### *(b) Oral health*

Many prisoners enter prison with poor oral health. This may be attributable to limited access to dentists, limited knowledge about oral hygiene or the effects of alcohol, tobacco and drugs on the gums and teeth. Opiate users, for example, are likely to report severe toothache if their access to opiates has decreased and they therefore often require urgent dental care soon after admission to prison. Loss of teeth and poor hygiene, in addition to having aesthetic consequences, have an impact on speech ability, eating ability and susceptibility to halitosis and are thus of importance for the social reintegration of offenders. Dental services provided by a qualified dental team should therefore be available in all prisons. Emergency and chronic problems should be addressed and information on oral hygiene should be provided to all prisoners.

### *(c) Mental health care and psychological support*

Incarceration itself has a negative impact on a person's mental health. The prevalence of mental disorders is typically much more severe among prisoners than among the general population. Female prisoners seem to be generally more likely than male prisoners to be diagnosed as suffering from a mental illness. Prisoners suffering from mental disorders often have longer criminal histories and are more likely to experience substance abuse problems. At the same time, imprisonment often has a particularly harmful effect on persons with mental illness. Mental health care should be provided in accordance with the principle of the least restrictive environment and, wherever possible, individuals with mental disabilities or illnesses should be diverted from the criminal justice system at the earliest point of contact with that system. Lack of public mental health services alone should never justify in any way the imprisonment of people suffering from a mental health disorder. (For further guidance on offenders with mental disabilities, see chapter VII, section C, below.)

### *(d) Treatment for drug use disorders*

It is very important for persons with drug use disorders, in particular those who are in contact with the law, to have access to evidence-based treatment for drug dependence. In most countries, a significant percentage of prisoners suffer from drug use disorders. Offenders with co-occurring drug use disorders and mental health disorders require an integrated

treatment approach. Complete recovery from drug dependence takes time and requires effective treatment followed by effective management of the problem over time. Post-release continuum of care is particularly important for offenders with drug use disorders who receive pharmacological treatment. Access to appropriate drug dependence treatment is essential for ensuring the successful social reintegration of offenders with drug use disorders. (For further guidance on offenders with drug use disorders, see chapter VII, section C, below.)

## 2. Programmes to change behaviour and attitudes

Various forms of programmes focus on changing the attitudes and behaviour of offenders by motivating them to change their cognitive process or address their emotions, by providing good role models. The goals of those programmes are usually defined in terms of desistance from crime and social pre-adaptation. A few examples are described below.

### (a) Cognitive-behavioural programmes

A frequent characteristic of offenders is distorted cognition (self-justificatory thinking, misinterpretation of social clues, displacement of blame, deficient moral reasoning, schemas of dominance and entitlement, etc.). Cognitive-behavioural therapy can address these cognitive deficits and distortions by teaching offenders to understand the thinking process and choices associated with their criminal behaviour. Offenders can learn to self-correct their thinking and identify and correct biased, risky or deficient thinking patterns. These interventions often involve cognitive skills training, anger management (to address patterns of automatic thoughts leading to violent reactions) and other techniques related to the development of social skills and interpersonal maturity, moral development and relapse prevention. This type of intervention can have a significant impact on reducing recidivism.<sup>38</sup>

Some professionals argue that the most effective types of treatment for offenders are based on cognitive-behavioural and social learning approaches, in particular when they take into account the offender's personal characteristics such as, for example, interpersonal sensitivity, interpersonal anxiety and verbal intelligence.<sup>39</sup> Cognitive-behavioural therapy is clearly among the more promising rehabilitative treatments for criminal offenders. Compared with other treatment approaches, cognitive-behavioural therapy is generally ranked at the top in terms of its positive effects on recidivism. Cognitive-behavioural therapy has a well-developed theoretical basis that explicitly targets "criminal thinking" as a contributing factor to deviant behaviour and it can be adapted to a range of offenders. Like most other prison-based programmes, it can also be offered successfully in the community, either as part of a comprehensive set of services or as a stand-alone intervention.<sup>40</sup>

Anger management is used to help offenders, in particular violent offenders, control their anger responses. Individuals who commit crimes out of uncontrollable anger are often assigned to such programmes, which consist of specific interventions and classes that are designed to teach people how to recognize their own anger symptoms, how to understand what triggered

<sup>38</sup> M. W. Lipsey, N. A. Landenberger and S. J. Wilson, "Effects of cognitive-behavioral programs for criminal offenders", *Campbell Systematic Reviews*, vol. 3, No. 6 (2007).

<sup>39</sup> See, for example, D. A. Andrews, J. Bonta and R. D. Hoge, "Classification for effective rehabilitation: rediscovering psychology", *Criminal Justice and Behavior*, vol. 17, No. 1 (1990), pp. 19–52.

<sup>40</sup> Lipsey, Landenberger and Wilson, "Effects of cognitive-behavioral programs for criminal offenders".

their anger, how to control it, how to be more in control of their emotions, how to develop positive relationships, how to express themselves assertively rather than angrily and how to deal with difficult people and situations.

For example, a group programme called Controlling Anger and Learning to Manage it (CALM) is used by the National Probation Service of the United Kingdom to teach clients new skills to apply in managing their anger and other emotions. The court may have ordered the offender to follow the programme as a part or condition of his or her sentence. CALM is used to teach participants how to speak to others, how to express feelings and how to solve problems without becoming aggressive. Participants must attend all sessions, arrive on time and stay to the end, take an active part and do work between sessions if asked, arrive with a clear head (not under the influence of drugs, alcohol or solvents) and treat tutors and other group members with respect.

### *(b) Relapse prevention therapy*

Relapse prevention therapy, which is often used in cases involving addictions, teaches coping strategies for maintaining changed behaviour. Sometimes these strategies involve changing attitudes, social environments, physical environments and avoidance of certain triggers of addictive behaviour. Relapse prevention generally involves a self-control programme designed to teach offenders skills to help them recognize the warning signs that their symptoms may be worsening or that they may be going back to an unwanted and unhealthy behaviour or habit.

Relapse prevention does not cure or remove the urge to behave in a certain way. However, extensive education and awareness about patterns of behaviour are often needed to help offenders to understand their own behavioural pattern. It involves helping these individuals identify specific pre-offence thoughts, feelings and acts so that they may understand that their behaviour is a product of a series of predictable thoughts, feelings and acts. The individuals are also made aware of more healthy ways of dealing with their urges whether they are sexual or drug-, anger- or violence-related. Once all these factors are understood and analysed, an individual relapse prevention plan can be developed for each offender.

### *(c) Basic life and relationship skills*

During imprisonment, offenders do not have control over everyday aspects of their lives and are required to conform to the restricted prison environment. Therefore, prisoners, in particular those who have been held in custody for an extended period, tend to experience diminished independence, self-sufficiency, self-esteem and initiative. Upon their release, offenders are suddenly required to organize their lives independently outside of the closed system that used to structure their everyday lives. Some of them, including younger offenders, may have never had a proper opportunity to acquire the basic skills required to manage everyday life routines. Others have deficits in terms of interpersonal maturity and interpersonal skills and may need help in developing a repertoire of socially acceptable responses, conflict management and resolution skills, and an ability to engage more successfully in social interactions. They may need to unlearn some of the social interaction patterns that they learned during imprisonment.

Programmes for developing basic life and relationship skills can help offenders to acquire problem-solving, communication and conflict resolution skills, as well as to receive some

instruction on how to develop self-advocacy, patience, impulse control, anger management and constructive assertiveness, all of which can prepare the offenders for easier adaptation to life in the community.

#### (d) *Motivation*

Recruitment, attendance and compliance with any prison programme are often problematic, in particular in the case of offenders with low motivation to change their behaviour or lifestyle. Imprisonment by itself is not sufficient to motivate an offender to change and to desist from crime. In fact, it should be quite obvious that “people do not respond warmly to being shamed, coerced, berated, or deprived of choice”.<sup>41</sup> Offenders cannot be expected to respond differently and to avoid resentment, resistance and confrontational responses. The question is how offenders can be motivated to change and to participate meaningfully in programmes that are offered to them.

It should be noted that, in most cases, the offender is essentially motivated by the same internal factors (intrinsic, arising from within the person, such as achievement of valued goals, avoidance of pain, escape from aversive emotions and social recognition) and interpersonal factors (encouragement, gaining social acceptance, positive reinforcement from the person’s reference group, etc.) as every other human being. The dynamics are essentially the same.

A related question is whether it is possible to assess the motivation of offenders or whether it is possible to increase their motivation to change.<sup>42</sup> Valid measures of an offender’s motivation, sometimes referred to as measures of “readiness to change” or “readiness to participate in a helpful programme”, are still rare. Counsellors are sometimes left to use their own professional skills to assess offenders’ willingness to engage in treatment programmes or their interpersonal skills and ability to form relationships of trust with those who are trying to help them. There is obviously also the question of whether the offenders’ motivation to change is a prerequisite to a successful intervention and whether treatment can be imposed and still be effective in the (initial) absence of such motivation.

Treatment interventions can inspire offenders to change and support them through the change process by reducing the offenders’ ambivalence towards change or by enhancing an offender’s self-esteem and self-confidence. Low self-confidence may preclude hope or generate negative self-fulfilling prophecies and ambivalence, which can defeat the offenders’ attempts to change. People who are motivated to change may nevertheless resist change when they do not believe that they are able to change. Interventions are sometimes necessary to increase their confidence in their ability to carry out a specific task (self-efficacy). Finally, interventions to help offenders confront their own inability to tolerate the feelings associated with change (distress, interpersonal vulnerability, fear of the unknown, fear of failure etc.) may be useful.<sup>43</sup>

<sup>41</sup> V. López Viets, D. Walker and W. R. Miller, “What is motivation to change? A scientific analysis”, in *Motivating Offenders to Change: A Guide to Enhancing Engagement in Therapy*, M. McMurrin, ed. (Chichester, West Sussex, and New York, Wiley, 2002), pp. 15–30.

<sup>42</sup> See M. McMurrin, “Motivation to change: selection criterion or treatment need?”, in *Motivating Offenders to Change: A Guide to Enhancing Engagement in Therapy*, M. McMurrin, ed., pp. 3–14.

<sup>43</sup> L. Jones, “An individual case formulation approach to the assessment of motivation”, in *Motivating Offenders to Change: A Guide to Enhancing Engagement in Therapy*, M. McMurrin, ed., pp. 31–54.

### (e) *Opportunities to become active citizens*

Positive mental health includes a sense of confidence and self-respect. It involves being and feeling responsible for oneself and for others. Some prison programmes offer prisoners work opportunities; others offer prisoners the chance to volunteer for projects that help others. There is a growing body of research on re-establishing prisoners as active citizens, for example, by growing vegetables and donating the produce to a women's shelter or by making baby clothes for those in need. Prisoners are active citizens when they exercise responsibility by making positive contributions to prison life or the community as a whole.

A report prepared for the Prison Reform Trust suggests different categories of active citizenship in prisons in the United Kingdom: (a) schemes in which prisoners help and support their fellow prisoners; (b) community support schemes involving work with or on behalf of people outside the prison; (c) restorative justice programmes, whereby prisoners are encouraged to acknowledge the harm they have caused and to make amends; (d) democratic participation in prison life, for example involving membership of prisoner councils or other forums; and (e) arts and media projects, such as prison-based radio stations, newspapers or performing arts programmes.<sup>44</sup>

The report found that prisoners who volunteered in the various schemes had a chance to acquire new skills and earn the trust of others, had an increased capacity for responsibility, found purpose in their time in prison, felt they had a chance to give something back and experienced a change from being a passive recipient (of the system) to a contributor to society. The report concluded with practical steps that prisons could take to develop and promote opportunities for active citizenship.<sup>45</sup>

#### United Kingdom (Northern Ireland)

The Prison Arts Foundation was founded by the Northern Ireland Prison Service, the Probation Board for Northern Ireland, the Arts Council of Northern Ireland, the Community Relations Council and the Community Arts Forum. Its aim is to create access to the arts for all prisoners, former prisoners, young offenders and former young offenders in Northern Ireland. Through "artist-in-residence" programmes, the Foundation promotes and widens the practice and appreciation of the arts to all those serving custodial sentences. Workshops are organized on a variety of art forms, including writing, drama, fine art, craft, music, circus/physical theatre and dance. These workshops allow prisoners to explore their more creative side and to bolster their self-confidence. Prisoners who enrol in the Prison Arts Foundation are sometimes supported in their artistic endeavours after release as a way to help them reintegrate.

Source: [www.prisonartsfoundation.com/about/](http://www.prisonartsfoundation.com/about/).

### (f) *Animal care programmes*

Prisoners who have contact with animals while in prison, or better still are responsible for their care, tend to be better prepared for their return to the community. Programmes lead

<sup>44</sup> K. Edgar, J. Jacobson and K. Biggar, *Time Well Spent: A Practical Guide to Active Citizenship and Volunteering in Prisons* (London, Prison Reform Trust, 2011).

<sup>45</sup> *Ibid.*

them to assume responsibility for an animal, something that can teach them respect and appreciation for other forms of life. At the same time, the programmes can provide educational opportunities and an occasion for offenders to learn new skills and, while doing so, develop their self-confidence and self-efficacy.

Some prison programmes are based on the principles of animal-assisted therapy. Animal-assisted activities have been incorporated into an increasing range of prison programmes. Prisoners with various physical and emotional needs can interact with (train, groom or pet) animals, such as dogs, horses and llamas. According to one study, “the responsibilities and care-giving activities associated with a pet are ties to a reality that can otherwise be absent for an institutionalized person. Companion animals also provide the person with an outlet to demonstrate his ability to commit, not only to the tasks required in animal care, but also to the living creature that relies on him.”<sup>46</sup> In Viet Nam, for example, a reform school for young offenders in the Province of Dong Nai maintains a small zoo with exotic animals for which the residents are collectively responsible.

### 3. Faith-based programmes and activities

In addition to the spiritual and mental support they provide, faith-based activities can help engage offenders and motivate them to change and take responsibility for their lives. As such, faith-based groups can offer crucial support to prisoners. They also tend to be very capable of raising community-based resources to assist offenders. In many poor countries, faith-based groups are essentially providing the only prison programmes that are accessible to offenders.

#### Nelson Mandela Rules: rules 65 and 66

##### *Rule 65*

1. If the prison contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.
2. A qualified representative appointed or approved under paragraph 1 of this rule shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his or her religion at proper times.
3. Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his or her attitude shall be fully respected.

##### *Rule 66*

So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the prison and having in his or her possession the books of religious observance and instruction of his or her denomination.

<sup>46</sup> G. A. Furst, *Animal Programs in Prison: A Comprehensive Assessment* (Boulder, Colorado, First Forum Press, 2011).

Faith-based groups can help prisoners develop informal contacts with the community and offer critical support at the time of re-entry. Many such groups offer pre-release and post-release mentors from the community. In many instances, they have established and managed facilities and resources—such as halfway houses or substance abuse recovery centres—that would otherwise not be available to released offenders.

### Fiji

The concept of respect and allegiance to land (people), faith and government is central to indigenous Fiji Islanders. The Fiji Corrections Service places the spirit of offenders at the core of its work. Even before behavioural counselling and other approaches utilizing cognitive means, offenders are put in touch with the faith of their upbringing and mentored and counselled by spiritual mentors from the denomination of their choice. Matters of the soul are dealt with as this helps “soften” most offenders for placement in other stages. The Fiji Corrections Service utilizes spiritual mentors in conjunction with behavioural counsellors to allow for more objective monitoring and evaluation of offender changes.

*Source:* I. Naivalurua, “Community social reintegration: the Fiji approach”, in *Survey of United Nations and Other Best Practices in the Treatment of Prisoners in the Criminal Justice System*, K. Aromaa and T. Viljanen, eds., HEUNI Publication Series, No. 65 (Helsinki, European Institute for Crime Prevention and Control, affiliated with the United Nations, 2010), p. 40.

### Singapore

Breakthrough Missions in Singapore is a non-profit, faith-based drug rehabilitation centre offering clients training in woodworking, reflexology, car maintenance, landscaping and gardening, copper tooling, bookbinding, framing (for art), computer skills, and catering and food preparation. Breakthrough Missions has opened a popular restaurant near the law courts, employing former prisoners as servers and cooks and also offering information and help to those who have come into conflict with the law. There is much public support for the restaurant, as people can see former prisoners trying to live better lives.

### United States

A programme that is part of the Colorado Correctional Industries provides the outside community with dogs trained by prisoners. The programme allows offenders to learn new skills, improve self-esteem and earn a salary that is based on their work performance. Prisoners participating in the programme are eligible to earn vocational certification in canine behaviour modification.

*Source:* [www.coloradoci.com/serviceproviders/puppy/index.html?intro](http://www.coloradoci.com/serviceproviders/puppy/index.html?intro).

The Center for Faith-Based and Community Initiatives in the United States Department of Labor has developed the Prisoner Reentry Toolkit for Faith-Based and Community Organizations, which includes guidelines on how to design an effective re-entry programme structure, how to form partnerships, case management, removing barriers to employment through supportive services, mentoring adult former prisoners and monitoring programme success.<sup>47</sup>

<sup>47</sup> The toolkit is available at [www.doleta.gov/PRI/PDF/Pritoolkit.pdf](http://www.doleta.gov/PRI/PDF/Pritoolkit.pdf).

## 4. Education

Social reintegration is more difficult for offenders with poor basic educational and skill levels. The European report on prison education and training in Europe, for example, shows how education and training for prisoners help reduce the social costs of crime and support the rehabilitation of prisoners and their reintegration into society.<sup>48</sup> To address a practical and very important concern, the Nelson Mandela Rules recommend the integration of the education of prisoners with the country's educational system, so that prisoners may choose to continue their education without difficulty after their release.

### Nelson Mandela Rules: rule 104

#### *Rule 104*

1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of young prisoners shall be compulsory and special attention shall be paid to it by the prison administration.
2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

Education is also highly relevant with regard to supporting access to the job market, which typically requires a level of functional literacy and numeracy that many prisoners have simply not achieved. Functional literacy and a basic school certificate (or, even better, the equivalent of a secondary school degree) therefore facilitate entry-level employment.

### Ukraine

Some convicted women in prisons in Ukraine are participating in distance learning via online seminars, or "webinars", which have all the advantages of a seminar except for live communication between the presenter and the participants.

### For practical guidance on educational programmes in prisons

*Roadmap for the Development of Prison-based Rehabilitation Programmes (2017), chap. 3.*

## 5. Vocational training and work

The fact that there are few if any job opportunities for people without proper work experience poses a problem for many offenders. At the same time, employability of prisoners is

<sup>48</sup> J. Hawley, I. Murphy and M. Souto-Otero, *Prison Education and Training in Europe: Current State-of-Play and Challenges* (European Commission, 2013).

thought to be one of the key factors that reduce the likelihood of a prisoner reoffending. Employment is key to offenders' ability to secure housing, establish financial stability, support family members, gain self-confidence, make friends and ultimately desist from crime.

**Nelson Mandela Rules: rules 96; 97; 98, paras. 1 and 2; and 99–103**

*Rule 96*

1. Sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation, subject to a determination of physical and mental fitness by a physician or other qualified health-care professionals.
2. Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

*Rule 97*

1. Prison labour must not be of an afflictive nature.
2. Prisoners shall not be held in slavery or servitude.
3. No prisoner shall be required to work for the personal or private benefit of any prison staff.

*Rule 98*

1. So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.
2. Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.

...

*Rule 99*

1. The organization and methods of work in prisons shall resemble as closely as possible those of similar work outside of prisons, so as to prepare prisoners for the conditions of normal occupational life.
2. The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the prison.

*Rule 100*

1. Preferably, institutional industries and farms should be operated directly by the prison administration and not by private contractors.
2. Where prisoners are employed in work not controlled by the prison administration, they shall always be under the supervision of prison staff. Unless the work is for other departments of the government, the full normal wages for such work shall be paid to the prison administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.

(continued)

*Rule 101*

1. The precautions laid down to protect the safety and health of free workers shall be equally observed in prisons.
2. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workers.

*Rule 102*

1. The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workers.
2. The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of prisoners.

*Rule 103*

1. There shall be a system of equitable remuneration of the work of prisoners.
2. Under the system, prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.
3. The system should also provide that a part of the earnings should be set aside by the prison administration so as to constitute a savings fund to be handed over to the prisoner on his or her release.

Prison authorities therefore need to place considerable emphasis on offering the vocational skills training, and meaningful and remunerated work experience in prisons that offenders need in order to find and keep jobs after their release. Without such skills, the offenders' social reintegration remains problematic.

The impact of vocational training and work programmes in prisons is likely to be highest when such programmes are firmly based on demand in the employment market. Even if offenders may not necessarily end up using the vocational skills or training they received in prison after release, the employability skills they may gain (reliability, trustworthiness, or the ability to work on their own initiative) often prove essential to their employment prospects.<sup>49</sup> The remuneration that offenders should receive for the work they perform in prison, part of which should be set aside as a savings fund to be handed to prisoners at the time of their release, is another important factor supporting the offenders' immediate resettlement after release.

**For practical guidance on vocational training and work programmes in prisons**

*Roadmap for the Development of Prison-based Rehabilitation Programmes* (2017), chaps. 4 and 5.

<sup>49</sup> United Kingdom, Her Majesty's Inspectorate of Prisons, Her Majesty's Inspectorate of Probation, and Office for Standards in Education, Children's Services and Skills, *Resettlement Provision for Adult Offenders: Accommodation and Education, Training and Employment* (London, 2014).

## D. Pre-release interventions and arrangements

The period of transition from prison to the community is challenging for offenders; if they are monitored or supervised in the community upon release, the level of stress may increase. As mentioned earlier, imprisonment may itself have had several negative effects on the offenders' ability to lead law-abiding and self-supporting lives. Homelessness, in particular, may place offenders at risk of reoffending. Finally, without the prospect of gainful employment and the capacity to earn a living in the community, offenders will often drift back towards criminal activities.

### Nelson Mandela Rules: rules 87 and 108

#### *Rule 87*

Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same prison or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

...

#### *Rule 108*

1. Services and agencies, governmental or otherwise, which assist released prisoners in re-establishing themselves in society shall ensure, so far as is possible and necessary, that released prisoners are provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.
2. The approved representatives of such agencies shall have all necessary access to the prison and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his or her sentence.
3. It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.

Given the above, social reintegration support interventions must start in prison and carefully link institutional services with community-based services. This involves a lot more than a simple referral to community-based services at the time of a prisoner's release. In fact, there is little evidence that interventions that merely refer offenders to community-based services effectively assist in the social reintegration process. Providing referrals rather than substantive aftercare is generally ineffective. Rather, there must be linkages between prison-based programmes and community-based interventions to ensure a genuine continuity of support.<sup>50</sup>

<sup>50</sup> Griffiths, Dandurand and Murdoch, *The Social Reintegration of Offenders and Crime Prevention*, p. 6.

### South Africa

The National Institute for Crime Prevention and the Reintegration of Offenders, a non-governmental organization in Cape Town, South Africa, offers programmes to assist with offender reintegration and assistance in resolving complex problems relating to returning to and resettling in society. Individuals choose to contract with the Institute, thereby requiring a full commitment to completing the programme. The Institute also works within prisons to offer offenders the chance to study with the support of a bursary. Bursaries can also be awarded to the children of offenders.

Source: [www.nicro.org.za/](http://www.nicro.org.za/).

There is a real need for interventions to alleviate the potential distress associated with re-entry and to address the long-term social reintegration needs of offenders. Former prisoners experience levels of depression or anxiety beyond the normal range.<sup>51</sup> A study in the United Kingdom, for example, has shown that prisoners are less likely to reoffend and therefore more likely to successfully reintegrate into the community if they receive visits during their incarceration, have participated in prison job clubs, have contact with a probation officer and/or attend victim awareness courses.<sup>52</sup>

Prisoners can benefit from pre-release support; for example, they may be provided with lists of available support services and, if necessary, with referrals to relevant mental health services, where available. Some programmes simply provide an opportunity for prisoners to verbalize and discuss their feelings about leaving the prison environment and re-entering the community. Some organizations are able to work with the offenders both before and after their release, thus supporting them throughout that critical period.

A number of interventions can be designed to prepare prisoners for their release. It is usually better to deliver such interventions in partnership with community-based agencies in order to ensure some continuity of intervention after the prisoners are released. The weeks immediately preceding and following the release of an offender from custody are particularly important. What happens during those few weeks often determines whether the offender's reintegration will be successful or not.<sup>53</sup> Unfortunately, re-entry planning is an aspect of the rehabilitation process that does not always receive sufficient attention.

## 1. Contacts with family and the community

Prisons isolate offenders from their families, partners and friends. Further, prisoners are often transferred to prisons according to their security risk, and this may involve moving them far from their homes and family. Female prisoners, because they are fewer in number than male prisoners, are more likely to be placed in facilities that are even further from their homes. At the same time, assisting prisoners in establishing and maintaining constructive contact

<sup>51</sup> A. J. Shinkfield and J. Graffam, "The relationship between emotional state and success in community reintegration for ex-prisoners", *International Journal of Offender Therapy and Comparative Criminology*, vol. 54, No. 3 (2010), pp. 346–360.

<sup>52</sup> C. May, N. Sharma and D. Stewart, "Factors linked to reoffending: a one-year follow-up of prisoners who took part in the Resettlement Surveys 2001, 2003 and 2004", Research Summary 5 (United Kingdom, Ministry of Justice, 2008).

<sup>53</sup> D. Plecas and others, *Getting Serious about Crime Reduction: Report of the Blue Ribbon Panel on Crime Reduction* (British Columbia, Canada, Ministry of Justice, 2014), e-book.

with their families, as well as with friends and relevant agencies outside the prison, is an important way to facilitate their eventual social reintegration after their release. Such assistance should be of particular benefit to young offenders and adult offenders who are primary caregivers for children.

**Nelson Mandela Rules: rule 43, para. 3; rule 58, para. 1; and rule 106**

*Rule 43*

...

3. Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

*Rule 58*

1. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals:

(a) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means;

(b) By receiving visits.

...

*Rule 106*

Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.

In practice, the impact of family and friends' visits on the psychological health of prisoners, their motivation to desist from crime, future offending, prospects of finding accommodation and employment after release is often underestimated. Many prison administrations restrict the number of visits, limit the time that prisoners can spend with their family members and do not pay sufficient attention to the conditions of the visit and the positive emotional impact they have. Prison visits are often treated as a privilege that can easily be withdrawn, as opposed to an entitlement of prisoners that is essential to preparing them for their return.

A clearer focus on the social reintegration of offenders has redirected the attention of practitioners and policymakers to the importance of family contacts. Small changes in existing policies and regulations and some simple staff training can turn prison visits into structured opportunities to help offenders re-engage with the community, ensuring that the prison visits are a positive experience for both the prisoners and their visitors. While family and other visits should be provided throughout a prisoner's incarceration, such visits are also crucial in the pre-release period, allowing the prisoner and his or her family, in particular, to make realistic plans for the transitional period.

### Family relationships and the reduction of reoffending

A lack of connect with family, family breakdown or not having a family to return to on resettlement facilitates the cycle of reoffending. Conversely, maintaining meaningful relationships with family members, acquiring parenting and relationship skills, reshaping negative patterns of thinking and behaviour in interaction with the family and having a supportive family to return to on resettlement are seen to be protective factors not only in reducing reoffending but also in preventing the intergenerational transmission of offending.

*Source:* United Kingdom, Department for Business Innovation and Skills, and National Offender Management Service, *Parenting and Relationship Support Programmes for Offenders and Their Families*, vol. II, *Best Practice in Commissioning and Service Provision* (2014), p. 3.

The Singapore Prison Service, for example, has introduced facilities for teleconferences and videoconferences to enable family members to see and talk to incarcerated relatives without having to make a potentially long journey to the prison. Also, a low-risk offender with a good behaviour record may serve the tail end of his or her sentence at home. This facilitates the gradual reintegration of the offender into the family environment and the community.

In the Republic of Korea, for example, the national correctional service has built detached family meeting houses within prison facilities to allow prisoners to stay for one night and two days with family members in order to maintain family relationships. These family meeting houses now operate in 41 facilities in 40 regions throughout the country. Aside from using family meeting houses, prisoners are also allowed family meeting days and are allowed to have meals with their family members in pleasant surroundings, such as gardens.

In the Krasnoyarsk Region of the Russian Federation, for example, family communication using electronic applications, such as email messages from family members and videophone calls, are now being permitted in order to increase family contact.

In addition to facilitating contact between offenders and their families, it is often important to offer services and support to family members and children of prisoners.<sup>54</sup> Released offenders frequently rely on their families for help with several immediate needs, including housing, employment and financial support. At the same time, many families may already be struggling with various issues and may not be able to offer the support that the offender may be expecting. Furthermore, family members may have experienced significant distress over the period of imprisonment. Some of them may have relocated or formed new relationships. Family members should receive timely notification and information concerning the offender's release. Social service agencies can be mobilized to offer assistance to an offender's family members, helping them to cope with the emotional, financial and interpersonal issues relating to the offender's return to his or her family and community.

## 2. Preparing the community

There are many ways in which the prison administration can help offenders connect with the community while managing any potential safety or security risks. Working with community groups, faith-based organizations or volunteers can assist in creating such opportunities for

<sup>54</sup> United Kingdom, Ministry of Justice and Department for Children, Schools and Families, "Reducing re-offending: supporting families, creating better futures—a framework for improving the local delivery of support for the families of offenders" (2014). Available at <http://dera.ioe.ac.uk/207/>.

offenders. In some instances, prisoners will be allowed to volunteer their services or time in support of community initiatives or to participate in religious services in the community, for example. Day-parole, temporary furlough or *semi-détention* (open custody) programmes can help offenders maintain or re-establish contact with the outside community, including with potential employers and service providers. In France, prisoners may be granted *semi-détention* by the court or the judge responsible for administration of the sanction. This allows them to leave the prison during the day to attend courses, work, receive medical treatment or take care of their family.

#### Singapore

The Yellow Ribbon Project involves public, private and non-governmental bodies all working together to help former offenders find employment and housing, reconnect with families and friends, learn new skills and feel welcomed back into society. Prisoners engage in work that connects them to the outside world. For instance, they are trained in website development and work on real projects for businesses. They also work in a prison-based bakery that produces bread and all kinds of other baked goods for various retail outlets in Singapore. Once they are released from prison, they are offered vocational training and work programmes through an agency called the Singapore Corporation of Rehabilitative Enterprises to help them find jobs.

#### Uganda

The project of the Uganda Prisons Service called From Prison Back Home (also known as the Social Rehabilitation and Reintegration of Offenders project) is based on a restorative justice approach that emphasizes mediation and healing between offenders, victims and local communities for the purpose of repairing the harm caused by crime. The programme has consistently involved local council leaders, clan leaders, religious leaders, police, individual members of the community and civil society organizations doing work in the rehabilitation and reintegration of offenders. One such organization is the Uganda Discharged Prisoners' Aid Society, specializing in aftercare. Communities have been sensitized and informed about the project and have been willing to participate in it. The Prisons Service has partnered with the police through the community policing programme, community liaison offices and child and family protection units.

In planning the release of offenders, it is important to understand who may be at risk when a particular offender is about to be released. To assess that risk and take it into account in planning the return of the offender to the community, it is important to make the best use possible of all the information available about any history of conflict, violence or threats by or against individuals in the community.

#### United States

Huikahi restorative circles in Hawaii are a group process for re-entry planning that involves the incarcerated individual, his or her family and friends and at least one prison representative. The process was developed by the Waiawa Correctional Facility on Oahu in collaboration with two community-based organizations, the Hawaii Friends of Civic and Law-Related Education and the Community Alliance on Prisons.

Children with incarcerated parents experience serious emotional and physical consequences, such as increased drug use, sleep disturbances, stress, depression, and feelings of guilt and shame. Huikahi circles provide a process whereby incarcerated individuals and their loved ones can find ways to heal from the harm created by crime and punishment.

For offenders, reconnecting with the victims and others who have been affected by their behaviour is a difficult process. In many instances, relationships have been seriously damaged and cannot be repaired easily or immediately. Restorative justice processes and other mediated interventions, starting while the offenders are still in prison, can help them find their place in the community. This is sometimes referred to as a “restorative reintegration process”. There is a growing movement to use restorative practices to facilitate the social reintegration of prisoners returning to the community.

Interventions can be planned to notify and prepare the offender’s victims and relevant community members for his or her return to the community and to provide them with protection, counselling services and support. The decisions and plans of prisoners following release, including those related to housing, may have implications for the safety of their former victims or even members of their own family, for example where there is a risk of family violence.

A victim may choose not to participate in any decision concerning the offender, but may nevertheless need to be kept informed at the time of the offender’s release. For a crime victim, it may be important to be notified about the timing and circumstances of the offender’s release and return to the community. Ideally, the correctional institution releasing the offender will have a record indicating whether or not the victim wishes to be notified. When possible, counselling and support must be made available to victims of crime, as required, to prepare them for the return of the offender to the community.

### 3. Addressing the financial consequences of imprisonment

The financial consequences of imprisonment on offenders and their families cannot be ignored when considering their social reintegration plan. Loss of income and perhaps bank accounts are commonplace once an individual has a criminal record. The impact is further felt by family members and often also by members of the extended family. Imprisonment can result in high personal debt. If it was caused by such debt, the situation is likely to have worsened upon release, especially if interest rates are high. Imprisonment may also mean a loss of contact with creditors and financial contacts that can be of assistance to offenders. Prison administrations rarely offer services for prisoners on how to manage their finances, and they do not tend to offer much in terms of opportunities to earn money or save those earnings. Financial exclusion resulting from incarceration is a serious obstacle to the social reintegration of offenders upon their release.

In the United Kingdom, the Prison Reform Trust and the National Association of Reformed Offenders (UNLOCK) produced a study called “Time is Money”,<sup>55</sup> which concluded that:

“A substantial proportion of people sent to prison were already experiencing extreme and persistent financial exclusion. However, having a criminal conviction further exacerbates their lack of access to financial services. Changes to the system could promote financial inclusion, which in turn would support effective resettlement and a reduction in the rate of reoffending.”

Assessing the financial status of the offender on admission to the prison system may well be the best time to ascertain the financial impact of imprisonment on the individual. Information about prisoners’ financial situations should be included in their personal files and should be carefully considered when developing their release plan.

<sup>55</sup> C. Bath and K. Edgar, *Time is Money: Financial Responsibility after Prison* (London, Prison Reform Trust and UNLOCK, 2010), p. 8.

In the United Kingdom, advice and support are available to prisoners on financial matters during custody to assist in their resettlement after release. Prisons and probation services work in partnership with community-based organizations that are able to help prisoners with benefit claims such as housing benefits and provide advice on claiming benefits when the prisoners are released. At the time of their discharge, prisoners may be eligible for money in addition to a discharge grant to help them to secure accommodation.

Another important aspect of social reintegration is financial security in the sense that former prisoners will require, in most societies, a bank account and in all cases a basic knowledge of how to manage their finances and how to assume responsibility for their finances. Programmes that help prisoners learn these skills can go a long way towards easing the difficulties of social reintegration and, in particular, the difficulties involved in finding accommodation and employment.

#### 4. Re-entry planning

The progress achieved by prisoners during their incarceration must be maintained and consolidated and ideally reinforced after their release. It is important, therefore, to plan the release of offenders to ensure that they will receive uninterrupted services and support upon returning to the community. That continuity of care can be achieved through close links and collaboration between prison administrations and community-based service providers. Subject to applicable laws, it is often important to facilitate the offenders' progressive re-entry into society by permitting them to leave the institution—for a day or a few days—to prepare their eventual return to the community.

##### Nelson Mandela Rules: rule 107

###### *Rule 107*

From the beginning of a prisoner's sentence, consideration shall be given to his or her future after release and he or she shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner's rehabilitation and the best interests of his or her family.

##### Norway

In order to create a "safe and predictable release", the Government of Norway declared in 2005 that it would establish a "reintegration guarantee". This involves ensuring that, upon release, a former prisoner is offered a range of services, including a place to live, work or educational opportunities, debt counselling and so on. Despite being faced with capacity constraints in both the correctional service and the municipalities, the criminal justice system, supported by the Government, hopes to return the responsibility for social problems back where it belongs—within the social welfare system. The efforts of the Correctional Services Department have so far resulted in the social, health and labour authorities acknowledging that, except for those limitations which are demonstrably necessitated by the fact of incarceration, prisoners have the same rights as all other citizens.

*Source:* Norwegian Ministry of Justice and Public Security, Correctional Services Department, February 2012.

### United Kingdom (Northern Ireland)

Northern Ireland has introduced what is called the Personal Progression System with the aim of providing pathways to employment for prisoners and support mechanisms after their release. Those working for the System carry out employability assessments of individual prisoners and help to develop resettlement plans to ensure the prisoners' reintegration after release. The workers also develop strong ties to private and public agencies and voluntary and community agencies that can provide different kinds of support to prisoners once they have been released. The workers also make contact with employers who might be able to provide jobs for prisoners after they have served their sentences.

Ideally, institutional programmes should include interventions by professionals who can work with the offenders and help them plan and prepare for their return to the community.<sup>56</sup> This can include facilitated group discussions or courses to help prisoners deal with the problems they expect to face after their release, such as problems involving housing, employment, benefits, health, drugs, alcohol and family problems.

It is also important to ensure that prisoners preparing for their release have adequate identification and other civil documents. Lack of such documents at the time of their release will impede the individual's access to services, housing and employment. Prisoners should also be provided with information on how they may access various forms of service and support in the community; in some instances, planning for their release may involve applying for such services in advance of their release.

A pre-release plan should be developed that identifies the offender's particular needs and circumstances and determines the type of educational or employment programmes that the offender should access in order to maximize his or her chances for successful reintegration. Individual circumstances (e.g. age, experience with independent living, place and type of work, whether the person is responsible for the care of children or others, history of shelter use or homelessness, family history, cultural and ethnic background and health) must be taken into account as much as special needs (e.g. those resulting from physical disabilities). The pre-release plan must also take into account whether reuniting the individual with family members will have a negative impact on the family or whether the family may have a negative impact on the individual and increase his or her risk of reoffending.

#### (a) *Applying for conditional release*

In the case of prisoners who are eligible to be considered for early or conditional release, arrangements should be made to conduct a risk assessment and a release plan to inform the decision of conditional release authorities (e.g. parole boards). Offenders should be provided with information on the application and decision-making process and their potential eligibility under existing law. Offenders may need assistance in preparing their submission or application for conditional release and may need the assistance of paralegals to put their case forward. Parole and other conditional release decisions are often based on whether offenders have

<sup>56</sup> In many countries, institutions employ case managers, who are trained counsellors and social workers, to conduct a comprehensive risk and needs assessment of all offenders when they are admitted to the institutions. Based on that assessment, the case manager develops, monitors and refines an individual reintegration plan for each offender. The plan identifies the offender's strengths, risk factors and major needs—education, vocational training, housing, family care, behavioural and life skill problems, drug or alcohol abuse and professional skills—and develops strategies the offender can use to begin addressing some of those problems while in the institution.

participated in programmes designed to address some of their risk factors and other challenges. These decisions can also be based on whether the offender's release plan is realistic.

### *(b) Assistance in securing housing*

Finding suitable housing tends to be a major challenge for former prisoners and there is evidence that it may be related to the risk of recidivism. Having somewhere to live for a longer period is an essential prerequisite to getting and holding down a job. Without a secure place to live, it is difficult to get a job; and without a job, it is difficult to afford a place to live. Living with a family member or a friend is not always a possibility and, when it is, it may create its own problems. A large majority of people being released from prison do not have access to suitable accommodation. The rate of homelessness among recently released prisoners is typically higher than for any other group. There are particular subgroups among former prisoners, such as those with mental disabilities, young unattached males serving short sentences and single women with children, who face greater difficulties securing adequate housing. The resulting social isolation renders their social reintegration even more difficult.

Pre-release planning and assistance programmes should therefore include a plan for securing appropriate housing. Prisoners must understand the benefits, risks and restrictions associated with each type of housing. Working with community-based organizations is often the best way to gain access to the full range of housing options available in the community.<sup>57</sup> These options should include:

- (a) Rental housing (usually private rental housing or housing possibly subsidized or partly paid for by public sources);
- (b) Living with family members or friends;
- (c) Public or subsidized housing;
- (d) Halfway houses or transition centres;
- (e) Other specialized re-entry housing for former prisoners (usually operated by non-profit organizations and offering peer support and other forms of assistance).

Providing offenders with assistance in securing suitable housing, although it is necessary, is not always sufficient. In many communities, there simply is not enough affordable housing for people who need it, and former prisoners are rarely given priority in accessing the limited supply of affordable housing. In some situations, people with a criminal record may even be automatically excluded from subsidized housing. With respect to access to public, subsidized or supportive housing, public housing authorities should have clear policies to ensure the non-discriminatory use of criminal records by providers of housing.

A comprehensive community strategy to address this challenge may require the development of affordable housing, maximizing the use of existing housing resources and eliminating barriers that prevent offenders and their families from having access to affordable and suitable housing. A comprehensive strategy also requires proactive measures by community organizations to offer more supportive transitional housing for people released from custody.

<sup>57</sup> B.D. Williams, "Employment and housing models for people with criminal records" in *Resource Material series No. 99* (Tokyo, Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, September 2016), pp. 45-57.

Community development organizations, housing authorities and non-profit and faith-based organizations, in cooperation with prison authorities, can all work together to create such specialized resources to facilitate the social reintegration of prisoners.

### *(c) Assistance in securing employment*

Being employed can substantially reduce the risk of reoffending. Unfortunately, most prisoners do not benefit from post-release employment support, or it is not offered early enough to have a meaningful impact.

In addition to the training and educational programmes already mentioned, a number of interventions can be delivered as part of a pre-release programme to prepare offenders for reintegration into the employment market. These may include services helping prisoners to develop job search and presentation and interview skills, discussions about expectations, addressing anxiety associated with the job search process, provision of information about the job market, preparation of a curriculum vitae and applications, information and contact with public and private employment agencies, and contact with individuals or previous employers who may be able to offer assistance in seeking employment. Assistance may also include specific advice to prisoners on their rights and responsibilities when disclosing criminal records to increase their chances of securing employment. Some prisons run job clubs in which advice and assistance are available to prisoners on how to look and apply for jobs, including how to prepare a résumé and prepare for a job interview.

#### **United Kingdom**

Nacro, a national social justice and “crime reduction charity” in the United Kingdom, delivers programmes to equip offenders with the skills, advice, attitude and support they need to move on with their lives and to move away from crime. Nacro has an online service that provides up-to-date information on housing, employment, training and education, benefits and money advice and counselling services. The services help people to find somewhere to live and to develop independent living skills. They provide pre-vocational and vocational programmes, problem-solving courses and employment preparation programmes for people who cannot find a way to move forward.

Source: [www.nacro.org.uk/](http://www.nacro.org.uk/).

### *(d) Halfway houses*

Transition centres, resettlement units and pre-release centres offer supervised residential settings to help offenders go through a planned transition from custody to community living. They allow offenders substantial interaction with the outside world, as well as contact with their families and (potential) employers.

Some prison administrations offer opportunities for prisoners to work outside of the prison. In the Republic of Korea, a rehabilitation centre opened by the national correctional service in 2009 provides prisoners with assistance in social adaptation, including assistance in how to adjust to an open environment and how to adapt to a labour or work programme. The centre is linked to a business start-up programme that helps prisoners to find jobs after their release.

A halfway house called the House of Hope was built in 2009 for 10 prisoners. Prisoners normally spend between three and six months at the halfway house prior to being released on parole. There are specific pre-release programmes for prisoners in the areas of job placement and business start-up and renewal of driving licences; and provision of funds to cover basic living needs, including those related to accommodation, education and medical services.

#### China

The Sunshine Halfway House in the Chaoyang District of Beijing was established a few years ago as the first community correctional institution in China. The 200-bed facility helps prisoners prepare for their return to society. Prisoners are offered vocational training, legal education, psychological support and counselling, as well as assistance in preparing for their return. The labour, education and assistance section of the halfway house helps offenders acquire the skills they need to find work, thanks to partnerships with professional skill training schools. Throughout the training and rehabilitation programme, corrections officers at the halfway house live alongside the offenders and help them with their day-to-day development. The model is being replicated in many other parts of China.

#### India

The West Bengal Correctional Services run the Open Air Correctional Home, reserved for prisoners who have completed two thirds of their sentence and have demonstrated good behaviour. Prisoners are allowed to leave the Home at 6 a.m. as long as they return by 8 p.m., and that enables them to work in the community and thus gain work experience prior to the end of their sentence. They are free to find jobs anywhere in the community; there are non-governmental organizations to assist in the process. In some cases, prisoners have saved enough money to buy goats and cows. They are then allowed to sell the milk from these animals to the public and to keep their earnings.

In the United States, the Safer Foundation operates adult transition centres on behalf of the Illinois Department of Corrections. The Foundation maintains that four elements are necessary to facilitate the successful transition of a former prisoner into society: a secure and structured environment; a well-trained and caring staff; a motivated client; and a comprehensive range of quality programmes and services designed to meet the client's needs. The transition centres provide assistance in areas such as case management, family support, fatherhood skills, substance abuse treatment, basic skills, life skills, mental health, cognitive therapies, community service, health care and recreation.

The Canadian Association of Elizabeth Fry Societies operates several successful programmes addressing the needs of women who are making the transition from prison back to independent living in society but are homeless or jobless or without basic coping skills. It offers transitional housing, crime prevention and addiction counselling, goal planning, structured relapse prevention support and financial assistance.



# V.

## Post-release services and supervision

The period of transition from custody to the community can be particularly difficult for offenders. They typically face anxiety and stress associated with the need to find employment and lodging, to repair damaged relationships, to face social stigma and potential isolation and to comply with conditions of official supervision. It has been found that the weeks immediately preceding and following the release of prisoners are crucial in determining the extent to which their social reintegration into the community will be successful. In a study of prisoners in Australia (Queensland),<sup>58</sup> about half of the sample of prisoners interviewed reported at least moderate psychological distress in the weeks prior to their release. Many reported impaired mental health prior to their release.

Following their release, offenders must face a number of practical challenges, such as securing suitable accommodation with very limited means, managing financially with little or no savings until they begin to earn wages, accessing a range of everyday necessities and accessing services and support for their specific needs.<sup>59</sup> Research on the variables that influence successful reintegration has revealed the interdependence of employment, housing, addiction treatment and social network support.<sup>60</sup> In the absence of material, psychological and social support during this transitional period, many offenders are likely to be caught up in a vicious cycle of release and rearrest.

In order to preserve community safety, governments therefore need to develop effective post-release or aftercare interventions geared at helping former prisoners to reintegrate into the community and to desist from crime. Managed offender re-entry processes and resettlement programmes are gaining wider acceptance and can offer a very cost-effective way of preventing crime.

There are different approaches to supporting the re-entry and social reintegration of offenders after their stay in prison. Some of these interventions submit offenders to a period of supervision in the community—often as part of a conditional release or parole programme—whereas others focus on the provision of assistance to facilitate the offender’s transition from the institution to the community.

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<sup>58</sup>S. A. Kinner, *The Post-Release Experience of Prisoners in Queensland* (Brisbane, University of Queensland, Queensland Alcohol and Drug Research and Education Centre, March 2006).

<sup>59</sup>See Griffiths, Dandurand and Murdoch, *The Social Reintegration of Offenders and Crime Prevention*, p. 4.

<sup>60</sup>C. A. Visser, “Returning home: emerging findings and policy lessons about prisoner reentry”, *Federal Sentencing Reporter*, vol. 20, No. 2 (2007), p. 95.

Social support, for example, can mitigate the offenders' feelings of hostility and the effects of potential psychological problems.<sup>61</sup>

As former prisoners are not a homogeneous group, post-release services should be based on an individualized case management approach and should take into account factors such as the former offender's criminal history, length of sentence and any special needs resulting from, inter alia, drug use disorders or mental disabilities.<sup>62</sup> Post-release services should cover a range of interventions (see figure VI) and be complemented by some form of supervision, as appropriate.<sup>63</sup>

**Figure VI. A case management model**



Source: Canada, British Columbia, Community Corrections and Corporate Programs Division, May 2009.

In recent years, much of the discussion concerning the social reintegration of offenders has centred on the development of better means of managing their re-entry into the community by providing an effective and balanced mix of supervision and assistance and finding ways to do so through effective collaboration involving prison administrations, law enforcement agencies and community-based organizations. Some programmes actively seek community participation and help communities to become more responsive to the offenders' situation.

## A. Relevant international standards and norms

Various international standards and norms highlight the need for post-release services, including (a) the delivery of aftercare services to former prisoners; (b) early release from prison and community supervision of offenders; and (c) the crucial role of the community in the social reintegration of former offenders.

<sup>61</sup>A. Hochstetler, M. DeLisi and T. C. Pratt, "Social support and feelings of hostility among released inmates", *Crime and Delinquency*, vol. 56, No. 4 (2010), pp. 588–607; see also S. J. Bahr and others, "Successful reentry: what differentiates successful and unsuccessful parolees?", *International Journal of Offender Therapy and Comparative Criminology*, vol. 54, No. 5 (2010), pp. 667–692.

<sup>62</sup>See A. J. Shinkfield and J. Graffam, "Community reintegration of ex-prisoners: type and degree of change in variables influencing successful reintegration", *International Journal of Offender Therapy and Comparative Criminology*, vol. 53, No. 1 (2009), pp. 29–42.

<sup>63</sup>See Dandurand and others, *Conditional Release Violations, Suspensions and Revocations*, p. 5.

Most importantly, the Nelson Mandela Rules contain a strong reminder that “the duty of society does not end with a prisoner’s release” (rule 90); they emphasize the need for efficient aftercare to be delivered by both governmental and non-governmental entities. The Tokyo Rules call for the availability and early consideration of a wide range of post-sentencing alternatives, including various forms of parole, remission and pardon. Finally, both the Nelson Mandela Rules and the Tokyo Rules strongly encourage public participation in the social reintegration of offenders and corresponding community-based interventions (including the use of properly trained volunteers), which “should be regarded as an opportunity for members of the community to contribute to the protection of their society” (Tokyo Rules, rule 17.2). In view of the desired involvement of various public and non-governmental entities, effective coordination mechanisms and linkages are rightly portrayed as crucial for the effective provision of post-release services. (International standards and norms related to post-release services for offenders and the supervision of special categories of offenders are discussed in chapter VII below.)

#### Nelson Mandela Rules: rules 90 and 108

##### *Rule 90*

The duty of society does not end with a prisoner’s release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient aftercare directed towards the lessening of prejudice against him or her and towards his or her social rehabilitation.

...

##### *Rule 108*

1. Services and agencies, governmental or otherwise, which assist released prisoners in re-establishing themselves in society shall ensure, so far as is possible and necessary, that released prisoners are provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.
2. The approved representatives of such agencies shall have all necessary access to the prison and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his or her sentence.
3. It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.

**United Nations Standard Minimum Rules for Non-custodial Measures  
(the Tokyo Rules):<sup>a</sup> rules 9.1–9.4 and 22.1**

**9. Post-sentencing dispositions**

9.1 The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalization and to assist offenders in their early reintegration into society.

9.2 Post-sentencing dispositions may include:

- (a) Furlough and half-way houses;
- (b) Work or education release;
- (c) Various forms of parole;
- (d) Remission;
- (e) Pardon.

9.3 The decision on post-sentencing dispositions, except in the case of pardon, shall be subject to review by a judicial or other competent independent authority, upon application of the offender.

9.4 Any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage.

...

**22. Linkages with relevant agencies and activities**

22.1 Suitable mechanisms should be evolved at various levels to facilitate the establishment of linkages between services responsible for non-custodial measures, other branches of the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and the mass media.

<sup>a</sup>General Assembly resolution 45/110, annex.

## B. Aftercare and re-entry assistance

Numerous countries can count on specialized agencies in charge of providing aftercare assistance and supervision to recently released offenders. In some instances, such programmes are offered by probation services; in others, they may be offered by NGOs. While most re-entry programmes have not been subjected to controlled evaluations and the most successful approaches have yet to be fully identified, much is known about factors affecting programme retention and/or completion.<sup>64</sup> Improving employment, housing and education, in particular, can improve programme retention and have a positive impact on the social reintegration of offenders.

<sup>64</sup> See C. A. Visher, “Effective reentry programs”, *Criminology and Public Policy*, vol. 5, No. 2 (2006), pp. 299–302; and S. J. Listwan, “Reentry for serious and violent offenders: an analysis of program attrition”, *Criminal Justice Policy Review*, vol. 20, No. 2 (2009), pp. 154–169.

### Kenya

In Kenya, the Department of Probation and Aftercare Services implements an aftercare support programme that provides supervision and support to former offenders as a programme for re-entry into society. The programme views former offenders not only as disadvantaged and needing welfare assistance, but also as having a responsibility to avoid reoffending. The Department supervises former offenders—apart from children deprived of their liberty who are released on licence and complete their sentence under the supervision of probation officers—on a voluntary basis. The aftercare support programme combines an opportunity deficit model and offender responsibility model. The former offenders mainly supervised under the programme include former long-term offenders, psychiatric offenders and children deprived of their liberty. The programme is built on the premise that offenders deserve not only punishment but also an opportunity to build a crime-free life upon being released from the penal system. Aftercare is therefore seen as a continuation of the rehabilitation efforts started while in prison.

*Source:* Kenya, Office of the Vice-President and Ministry of Home Affairs, Department of Probation and Aftercare Services, Research Report on the Impediments to Offender Reintegration and Resettlement (Nairobi, 2007).

## 1. Job market re-entry assistance

Employment is obviously a key factor in the successful reintegration of former prisoners. Employment is more than simply a source of income. It provides structure, routine and opportunities to contribute to the work and lives of others while facilitating valuable social contact. It helps former prisoners to reconnect with elements of the community and contributes to their enhanced self-esteem, self-confidence and self-efficacy.<sup>65</sup>

### The importance of employment to the reintegration of former offenders

Employment provides more than the income necessary to support adequate material conditions. It also provides structure and routine, while filling time. It provides opportunities to expand one's social network to include other productive members of society. In addition to all this, employment can contribute to enhanced self-esteem and other psychological health.

*Source:* J. Graffam and others, "Variables affecting reintegration as perceived by offenders and professionals", *Journal of Offender Rehabilitation*, vol. 40, Nos. 1 and 2 (2005), pp. 147–171.

Very often, however, offenders return to disadvantaged communities with poor economic conditions and limited employment opportunities. Peer groups in those communities tend to have few contacts in the world of legitimate work, and not having good contacts may render it difficult for individuals to identify and take advantage of the few employment opportunities available in their community. Labour economists note that a scarcity of jobs disproportionately affects the most disadvantaged job seekers and that offenders are near the bottom of the list of employers' preferences.<sup>66</sup>

Employers are often reluctant to hire former offenders, especially if such individuals have yet to prove themselves after their release from custody and suffer from the stigma associated

<sup>65</sup> See J. Graffam and others, *Attitudes of Employers, Corrective Services Workers, Employment Support Workers, and Prisoners and Offenders towards Employing Ex-Prisoners and Ex-Offenders* (Burwood, Victoria, Deakin University, School of Health and Social Development, 2004), p. 4.

<sup>66</sup> L. Hannson and R. DeFina, "The state of the economy and the relationship between prisoner reentry and crime", *Social Problems*, vol. 57, No. 4 (2010), p. 612.

with imprisonment. In addition, few former offenders have the skills, expertise or experience that employers are looking for. Finally, former prisoners typically return to the community with little if any money. And having limited financial means can have a negative effect on an offender's interview attendance and ability to obtain and maintain employment, to travel to work, to purchase the clothing or tools necessary to work or to set up his or her own business.

Research has found that the gains of employment with respect to reducing reoffending may not be linked solely to the former offender finding a job—the gains may also be linked to the quality of the job.<sup>67</sup> Furthermore, the relationship between lawful employment and reduced recidivism may be strongly influenced by the interaction of the following factors: stable accommodation, having employment-related qualifications, not being affected by drug use disorders and being proactive in asking for help with job searches.<sup>68</sup>

## 2. Lodging and financial assistance

As mentioned above, accommodation must be considered a key factor affecting the extent to which an offender is able to successfully reintegrate into his or her community, as it is also likely to have direct implications for employment and social support services. Offenders who are reconvicted often point to their inability to secure suitable housing as a reason that ultimately led them to reoffend.<sup>69</sup> Prisoners typically receive limited support in securing accommodation prior to their release and are often unable to find suitable living arrangements in the community. Social isolation is a core experience of many former prisoners who may end up homeless or with unstable or unsuitable housing.

Furthermore, homelessness is often a direct consequence of incarceration. Crisis accommodation, such as transient hotels, are difficult environments and may limit the individual's social contacts to people with similar backgrounds or problems. Unstable or unsafe housing tends to exacerbate the difficulties encountered by offenders with substance abuse or mental health issues. The lack of programmes to address homelessness in general compounds the problem. Even when a public housing system exists, it is often inaccessible or unable to respond to the needs of former prisoners.

## 3. Access to health care and social security

While the Nelson Mandela Rules highlight the importance of ensuring that former prisoners can continue any health treatment and care that they may require and that they may have received in the course of their imprisonment (“continuity of treatment and care” (rule 24, para. 2)), released prisoners typically face many barriers in accessing health services in the community, including those of a financial or psychological nature.

<sup>67</sup> C. Uggen, “Ex-offenders and the conformist alternative: a job quality model of work and crime”, *Social Problems*, vol. 46, No. 1 (1999), pp. 127–151; and R. Webster and others, *Building Bridges to Employment for Prisoners*, Home Office Research Study No. 226 (London, Home Office, Research, Development and Statistics Directorate, 2001).

<sup>68</sup> S. Niven and J. Olagundoye, “Jobs and homes: a survey of prisoners nearing release”, *Findings*, No. 173 (London, Home Office, Research, Development and Statistics Directorate, 2002).

<sup>69</sup> A. Nilsson, “Living conditions, social exclusion and recidivism among prison inmates”, *Journal of Scandinavian Studies in Criminology and Crime Prevention*, vol. 4, No. 1 (2003), pp. 57–83.

For example, in some countries, released prisoners are not covered by any type of health insurance. Furthermore, it may be difficult for a former prisoner to present himself or herself to a hospital and explain his or her past history and health needs. National authorities should therefore ensure that released prisoners are covered by a social security scheme, as applicable, or receive some kind of assistance with health and social security issues in the absence of such a scheme. Linkages with health services in the community need to be established prior to release, including with regard to the prevention, treatment and care of HIV, tuberculosis and other infectious diseases, as well as drug use disorders.

#### 4. Family support

The families of offenders are a potential source of support and assistance when they re-enter the community. There is some evidence that former offenders with greater family support do better in terms of obtaining employment and having greater stability in employment than those with less or no support.<sup>70</sup> It should be acknowledged, however, that a common attribute of offenders is the absence of family support. The challenge posed by lack of family support is particularly important among released women prisoners, who tend to be stigmatized even more than men, to the extent that released women prisoners may not be able to return to their family and community.

Various programmes can be designed to work with families. As outlined earlier, interventions should begin while prisoners are still in custody and measures can be taken to prepare the family for the forthcoming transition. In the United States, the Greenlight Family Reintegration Program includes activities for participants with their family because of the crucial role the family is likely to play in the offender's experience of re-entering the community. The programme focuses on both exploring ways family members can support the person coming home and on helping them anticipate and, if possible, resolve family issues.<sup>71</sup> Other organizations have developed resources for former offenders' families to help them through the reintegration process.<sup>72</sup>

For offenders with parental responsibility, reuniting with and caring for their children can be very challenging. Some level of distress is usually experienced by children who are separated by imprisonment from their parent or guardian, especially if the parent or guardian is the sole or primary caregiver. Children may also experience difficulties maintaining relationships with an imprisoned parent because of the distance, costs, trauma and stigma associated with various forms of visitation and their parent's criminal status. Yet, there is clear empirical evidence that preserving the family environment and maintaining family relations, when doing so is not detrimental to the safety and well-being of the child, can produce positive outcomes not only for the child (reduced state intervention, increased positive adjustment, etc.), but also for the parent (reduced recidivism, increased employment prospects, etc.).

<sup>70</sup> Graffam and others, *Attitudes of Employers, Corrective Services Workers, Employment Support Workers, and Prisoners*, p. 4.

<sup>71</sup> M. Bobbitt and M. Nelson, "The front line: building programs that recognize families' role in reentry", *Issues in Brief* (New York, Vera Institute of Justice, September 2004), p. 3.

<sup>72</sup> Canadian Families and Corrections Network, "Time's up: a reintegration toolkit for families" (2008).

### Prisoner re-entry programme

Community Mediation Maryland's prisoner re-entry programme is an innovative solution that seeks to assist offenders in overcoming the difficulties in returning home by providing an opportunity for offenders to have conversations with family and other supportive individuals, one-on-one and facilitated by a trained mediator, so they can address the past, heal relationships and make plans for the future ...

Mediation sessions are held in the community at a time and place convenient to participants ... As the mediators build understanding, participants develop a better understanding of themselves and each other. The mediators support participants using a brainstorming process through which participants consider a range of options, and all ideas and solutions come from the participants. As participants move toward consensus on certain solutions, mediators ask questions to help them develop details to their plans ...

Mediation provides prisoners and other supportive individuals the opportunity to have meaningful discussions, thus laying the groundwork for a more realistic return home.

Source: L. Charkoudian and others, "The role of family and pro-social relationships in reducing recidivism", *Corrections Today* (August/September 2012), pp. 94–97.

## C. Early release programmes

Pardons and amnesties are mechanisms used to release offenders before the end of their sentence. A pardon, which refers to a release following the setting aside of the conviction or sentence, is a form of unconditional release; it is usually an act of grace and favour granted by the Head of State. An amnesty, which is also ordered by the Head of State, moves forward the release date of an offender or class of offenders. This terminology is not fixed, however, and "pardon" and "amnesty" are often used interchangeably.<sup>73</sup> Some countries have put into effect large-scale early release programmes, and some of them may include hundreds if not thousands of prisoners released at once. Such programmes for the large-scale release of offenders create significant reintegration challenges, including for the communities to which the offenders are returning. It is virtually impossible to offer effective re-entry assistance services on such a large scale.

Conditional release (parole) refers to the release of an offender from an institution on conditions that are set prior to release and that remain in force, unless altered, until the full term of the court sentence has expired. The release can be mandatory when it takes place automatically after a minimum time period or when a fixed proportion of the sentence has been served, or it can be discretionary when a decision has to be made to release a prisoner conditionally (i.e. on parole).<sup>74</sup> In some countries, there is a mixed system that affords both possibilities.

Discretionary parole release is a conditional release that is granted by a paroling authority and is usually governed by standard and/or special release conditions (obligations). Standard conditions are established by law or regulation and apply to all conditionally released

<sup>73</sup> In Canada, a "pardon" may refer to the process of "erasing" the criminal record of offenders after a long period of law-abiding behaviour; this can reinforce and complete the long-term reintegration of offenders.

<sup>74</sup> See *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment*, Criminal Justice Handbook Series (United Nations publication, Sales No. E.07.XI.2), p. 49.

offenders within a jurisdiction. Special conditions are meant to address any condition or risk factor associated with the individual offender's risk of reoffending and may include participation in treatment, personal development or rehabilitation programmes.

Clearly, there are many factors at play in determining whether an offender will successfully complete a period of conditional release and, more importantly, successfully reintegrate into society. Individual factors and the nature and extent of the offender's criminal involvement are important, as is the availability of treatment, rehabilitation and other support programmes and services. Equally relevant are factors related to the supervision of conditionally released offenders, including supervision policies and procedures, the style of supervision, the nature of the conditions imposed and the manner in which those conditions are enforced.<sup>75</sup>

An offender's attempts to reintegrate into the community are sometimes interrupted by either a new offence or a violation of the conditions of his or her release. This will cause a suspension of the offender's release, his or her recall to the prison or a revocation of the parole licence. In many countries, there seems to be an increase in the proportion of offenders who fail to complete a period of supervision after an early conditional release from custody. This level of failed re-entry is not necessarily attributable to an increase in reoffending among offenders on conditional release; it may be attributable to the strict enforcement of other release conditions by supervisors.<sup>76</sup> A significant proportion of the offenders returned to institutions are indeed returned solely for violations of parole conditions as opposed to having committed a new offence, for example, for missing treatment sessions, breaking a curfew or breaching no-go/exclusion zones.<sup>77</sup>

## 1. Discretionary release decisions

While the nature, role, powers and functions of paroling authorities vary from country to country, their primary role is to decide whether to grant or deny conditional releases (parole). In some cases, strict guidelines are provided for making such decisions (e.g. guidelines related to time served, the seriousness of the offence and the risk of recidivism). In other cases, parole decisions are informed by the results of risk assessments designed to systematically and continuously evaluate the risk that an offender may reoffend. In some jurisdictions, such as in Ethiopia, the paroling authority is a politician acting on the recommendations of the prison administration or an advisory body created for that purpose.

## 2. Information requirements for release decisions

In most national jurisdictions, the prison administration or the prospective supervising community agency prepares the information for review by the paroling authority. The scope and quality of that information may be very limited owing to the absence of an adequate prisoner file management system. Proper release decisions require the consideration of sound information based on the results of an individual assessment of the risks and needs of the prisoner

<sup>75</sup> Dandurand and others, *Conditional Release Violations, Suspensions and Revocations*, pp. 6–8.

<sup>76</sup> N. Padfield, ed., *Who to Release? Parole, Fairness and Criminal Justice* (Portland, Oregon, Willan Publishing, 2007).

<sup>77</sup> J. W. Stickels, "A study of probation revocations for technical violations in Hays County, Texas, USA", *Probation Journal*, vol. 54, No. 1 (2007), pp. 52–61.

and his or her eligibility to benefit from an early release scheme. Two general criteria are used to inform release decisions, namely public safety and progress in the rehabilitation of the offender:

(a) *Public safety*: “Can the offender be managed safely in the community with the right set of conditions?” This notion is explicit in all submissions, as a principle in conditional release decision-making and in defining the conditions that will be imposed;

(b) *Rehabilitation/reintegration*: “Will the required resources be available for the offender when he or she is released into the community?” This is second only to the notion of public safety. The focus here is generally on the “needs” side of the coin.<sup>78</sup>

While effective readiness for release is difficult to assess, conditional release decisions are often based in part on whether the offender has participated in programmes designed to address some of his or her risk factors or other challenges and on whether the offender’s release plan is realistic. At the regional level, for example, the Council of Europe Probation Rules require that an assessment of offenders be made involving a systematic and thorough consideration of the individual case, including risks, positive factors and needs, the interventions required to address those needs and the offenders’ responsiveness to the interventions. As a matter of principle, the rules emphasize that an assessment is a continuing process and that its accuracy and relevance should be periodically reviewed.<sup>79</sup>

### 3. Offender and victim participation in release decisions

According to the Council of Europe Probation Rules, offenders should not only be made aware of the process and outcomes of the assessment, but should also, wherever possible, be allowed to make an active contribution to it, including by giving due weight to their views and personal aspirations, as well as their own personal strengths and responsibility for avoiding further offending.<sup>80</sup>

In practice, however, the scope of offender participation in release decisions varies greatly. In some countries, the offender may not even be aware that he or she is being considered for early release and does not have an opportunity to present a request. In other countries, offenders participate in parole hearings. In Australia (Queensland), for example, an offender can make an application to appear or have an agent appear on his or her behalf. In the United Kingdom (England and Wales), decisions related to conditional release and re-release following revocation are conducted mainly on paper. The offender can make written representations (generally assisted by his or her legal representative) but will not be present at the hearing. The parole board can opt for offender participation (and always does so in cases involving juveniles), and offenders can request an oral hearing at which they will be present. When offenders participate, they most often have legal representation at the hearing.

In some jurisdictions, the paroling authority is also able to consider submissions made by the crime victims (or their representative) and the victims can be notified of the decision and the anticipated release of the offender.

<sup>78</sup> Dandurand and others, *Conditional Release Violations, Suspensions and Revocations*, p. 16.

<sup>79</sup> See rules 69 and 70 of the Probation Rules.

<sup>80</sup> See rules 66 and 69 of the Probation Rules.

## D. Offender supervision and the role of the community

### 1. Offender supervision

Post-release supervision are important in contributing to the success of an offender's re-entry and social reintegration.<sup>81</sup> However, supervision is more than simply monitoring an offender's compliance with the conditions attached to his or her release. It involves managing the risk presented by the offender, acquiring and/or arranging resources to meet the needs of the offender and developing and maintaining a human relationship with the offender that engenders trust with appropriate boundaries. It includes acts of surveillance, teaching, support, reinforcing positive behaviour and enforcing consequences for negative behaviour. Carried out professionally, it includes at its core supporting the social reintegration of the offender while never forgetting the risk that he or she may reoffend.<sup>82</sup>

#### (a) Models of offender supervision

Models of offender supervision include risk- and need-based models. Risk-based strategies operate on the premise that some offenders are dangerous and need to be controlled and closely monitored. Need-based supervision strategies focus on offenders' criminogenic needs and support their involvement in appropriate treatment programmes.<sup>83</sup>

Parole officers often feel challenged as they try to achieve the dual goals of helping offenders to successfully reintegrate into the community and protecting society from at-risk individuals. This is partly the result of the tension between the main functions of their role as supervisors, which includes assistance and policing aspects.<sup>84</sup> The "supervisory style" of parole supervisors, including how they define their role on some kind of continuum between control and assistance, is likely to have an impact on the quality of the supervision and possibly on the successful social reintegration of the offender.<sup>85</sup>

A surveillance-based approach without a treatment and skill development component is not an effective intervention strategy.<sup>86</sup> It is important, therefore, for supervision to be accompanied by treatment opportunities for offenders, in particular treatment for persons with drug use disorders. It is also important to commit to a community-based approach to supervision whereby partnerships are formed among police, public service providers, community members, victim advocates and offenders and their families. The goal of such partnerships is to manage offenders' risks and increase their likelihood of success on parole supervision through the process of informal control.

<sup>81</sup> H. L. Chung, C. A. Schubert and E. P. Mulvey, "An empirical portrait of community reentry among serious juvenile offenders in two metropolitan cities", *Criminal Justice and Behavior*, vol. 34, No. 11 (2007), pp. 1402–1426.

<sup>82</sup> See Dandurand and others, *Conditional Release Violations, Suspensions and Revocations*.

<sup>83</sup> S. Maruna and T. LeBel, "Revisiting ex-prisoner re-entry: a buzzword in search of a narrative", in *Reform and Punishment: The Future of Sentencing*, S. Rex and M. Tonry, eds. (Cullompton, Devon, Willan Publishing, 2002), pp. 158–180.

<sup>84</sup> R. P. Seiter, "Prisoner reentry and the role of parole officers", *Federal Probation*, vol. 66, No. 3 (2002), pp. 50–54; and R. P. Seiter and A. D. West, "Supervision styles in probation and parole: an analysis of activities", *Journal of Offender Rehabilitation*, vol. 38, No. 2 (2003), pp. 57–75.

<sup>85</sup> J. F. Quinn and L. A. Gould, "The prioritization of treatment among Texas parole officers", *The Prison Journal*, vol. 83, No. 3 (2003), pp. 323–336.

<sup>86</sup> Griffiths, Dandurand and Murdoch, *The Social Reintegration of Offenders and Crime Prevention*, p. 18.

The process of offender supervision must be informed by an understanding of “desistance”. The latter refers to age and maturity, to social ties or bonds and to changing personal identities. It is often argued that desistance is not an event, but a process. It is an individual process because of the subjectivities and issues of identity that are involved. Supervision must therefore focus on developing offenders’ motivation and capacities for change. Supervision, based on an adequate assessment of the offender’s needs, motivation and situation and on a sound case management approach, can be an effective mechanism for fostering among former offenders desistance from crime.

### *(b) Conditional release*

Every conditional release system applies some conditions to the release of prisoners prior to the expiration of their sentence, regardless of whether they will actually be supervised following their release. Sometimes those conditions are minimal. However, in many cases, both standard (mandatory) and special conditions are imposed on the offender. In some cases, the paroling authority enjoys considerable discretion in determining such special conditions.<sup>87</sup>

Standard conditions of release are most frequently defined in the legislation or regulations governing conditional release and typically include the following:

- (a) Initial contact with a supervisor;
- (b) Ongoing contact with a parole supervisor;
- (c) Notification to the parole officer of any change in living or employment circumstances;
- (d) Limitations on travel;
- (e) To be “of good behaviour” and/or to be lawful at all times.<sup>88</sup>

In addition to the above-mentioned standard conditions, special conditions of release can be imposed to offer a more specific response to the risks that a specific offender may pose to the community, or a more detailed response to his or her social reintegration needs. Such conditions usually fall into two categories: (a) conditions directly and explicitly related to the crime pattern of the offender; and (b) conditions that enable supervisors to acquire verifiable information about the offender.

Examples of conditions to facilitate the supervision of offenders include requiring the offenders to submit themselves to urinalysis, electronic monitoring or regular reporting to the police. Through the use of special conditions, decision makers are encouraged to tailor the conditions of release to the perceived challenges presented by the offender. The use of special conditions should be related to the degree of risk that is presented by the offender. For example, the conditions related to the offender’s criminal pattern may include various requirements, such as requirements:

- (a) To avoid certain geographical areas;
- (b) To abstain from the use of intoxicants and/or drugs;

<sup>87</sup> Dandurand and others, *Conditional Release Violations, Suspensions and Revocations*, pp. 18 and 19.

<sup>88</sup> *Ibid.*, pp. 19 and 20.

- (c) Not to approach or communicate with named people;
- (d) To reside at a particular location;
- (e) To remain in contact with a volunteer or other person on a regular basis;
- (f) To participate in a particular treatment programme;
- (g) To obey a curfew;
- (h) To undertake psychological counselling and to participate in recommended care or treatment (including completing a treatment plan);
- (i) To address problems involving alcohol, drug, sexual, gambling and/or solvent abuse, as well as problems involving anger management, debt and/or offending behaviour, at a specified centre;
- (j) Not to work or participate in organized activities with people under a certain age and/or not to reside in the same household as children under a specific age.

### (c) *Compliance and the enforcement of release conditions*

The high percentage of conditionally released offenders who violate the conditions attached to their early release is a serious problem in many jurisdictions. However, there is no conclusive evidence demonstrating that non-compliance with technical conditions signals an offender's likelihood of engaging in further criminal behaviour or that returning conditionally released offenders to prison actually prevents them from engaging in further criminal behaviour.<sup>89</sup> If revocation does not help to reduce offender recidivism, it is important to question its use and the increasing reliance on such a costly approach. A suspension can be very disruptive in terms of an offender's reintegration process; and the costs of imprisonment should also be taken into account. It is sometimes suggested that a more strategic approach is required, based on systematic attempts to enhance the likelihood of successful completion of supervision, with violations being used as opportunities to intervene with offenders and redirect their behaviour.<sup>90</sup> In order to do so, it is often necessary to implement intermediate sanctions for non-compliance with the conditions of release. In the United States, a number of states have developed intermediate sanctions for technical violations of release conditions. These sanctions are both custodial and therapeutic but do not involve a return to prison.

The Council of Europe Probation Rules remind practitioners of the need to ensure that offenders are made fully aware of what is required of them, of the duties and responsibilities of probation staff and of the consequences of non-compliance. The control of the offender should not rely solely on the prospect of sanctions for non-compliance; it should also include his or her active cooperation. In the case of non-compliance, the response must take full account of the circumstances of the failure to comply.<sup>91</sup>

<sup>89</sup> N. Padfield and S. Maruna, "The revolving door at the prison gate: exploring the dramatic increase in recalls to prison", *Criminology and Criminal Justice*, vol. 6, No. 3 (2006), pp. 329–352.

<sup>90</sup> P. Burke, A. Gelb and J. Horowitz, "When offenders break the rules: smart responses to parole and probation violations", *Public Safety Policy Brief*, No. 3, November 2007 (Washington, D.C., Pew Center on the States, 2007).

<sup>91</sup> See rules 85–87 of the Probation Rules.

#### (d) *Intensive supervision programmes*

In an intensive supervision programme, probationers are supervised very closely, with requirements for frequent face-to-face meetings with probation officers, a set curfew, monitoring of contacts by the police, frequent random testing for alcohol or drug use and, in some cases, electronic monitoring. Research suggests that, within the overall offender and recidivist population, it is high-risk offenders, in particular, who are most likely to benefit from intensive institutional and community-based interventions.<sup>92</sup> In Canada, for example, an evaluation of the application of intensive supervision practices to high-risk offenders found that the intensive supervision group had lower rates of readmission to incarceration for revocation of conditional release.<sup>93</sup> This is not the case for low-risk offenders, for whom intensive treatment initiatives may actually even result in increasing recidivism rates.<sup>94</sup>

Global Positioning System (GPS) satellite monitoring for offenders with the highest risk has been used as part of a series of graduate sanctions, or as a special condition imposed by the releasing authority. GPS monitoring is used to enforce curfews, to establish prohibited/restricted areas and to assess and monitor offender movement in the community.<sup>95</sup> Depending on the type of GPS technology employed, an offender can be monitored on an almost real-time basis. This effective, yet complex and costly tool may render it possible in some jurisdictions to provide heightened supervision of high-risk offenders while allowing them to reintegrate into the community.<sup>96</sup>

#### (e) *Electronic monitoring*

Electronic monitoring is used as a component of intensive supervision in some jurisdictions. A meta-analysis of studies examining the impact of electronic monitoring on the criminal behaviour of moderate- to high-risk offenders did not find any conclusive evidence demonstrating the effectiveness of electronic monitoring in reducing recidivism or greater effectiveness compared with other diversion programmes. It suggested that electronic monitoring was most effectively applied when used in conjunction with treatment interventions that had been shown to be effective.<sup>97</sup> An evaluation of the Learning Resources Program in Canada produced some interesting insights. The programme provided electronically monitored probationers with access to individual and group counselling and skill development. It was observed that high-risk offenders who were given electronic monitoring and intensive treatment had lower recidivism rates than high-risk offenders who were not. The importance of this evaluation is that it demonstrated the effectiveness of intensive rehabilitation services for high-risk offenders that involved a combination of supervision and treatment.

<sup>92</sup> See D. A. Andrews and J. Bonta, *The Psychology of Criminal Conduct*, 3rd ed. (Cincinnati, Ohio, Anderson, 2003); and M. A. Paparozzi and P. Gendreau, "An intensive supervision program that worked: service delivery, professional orientation, and organizational supportiveness", *The Prison Journal*, vol. 85, No. 4 (2005), pp. 445–466.

<sup>93</sup> R. Serin, B. Voung and S. Briggs, "Intensive supervision practices: a preliminary examination", Research Brief No. B-31 (Ottawa, Correctional Service of Canada, 2003); see also Paparozzi and Gendreau, "An intensive supervision program that worked".

<sup>94</sup> P. Gendreau, *A Review of the Learning Resources Program*, *John Howard Society of Newfoundland* (Ottawa, Solicitor General of Canada, 1996).

<sup>95</sup> International Association of Chiefs of Police, "Tracking sex offenders with electronic monitoring technology: implications and practical uses for law enforcement" (Alexandria, Virginia, 2008).

<sup>96</sup> See M. Nellis, "Understanding the electronic monitoring of offenders in Europe: expansion, regulation and prospects", *Crime, Law and Social Change*, vol. 62, No. 4 (2014), pp. 489–510; and H. Graham and G. McIvor, *Scottish and International Review of the Uses of Electronic Monitoring*, Report No. 8/2015 (Stirling, University of Stirling, Scottish Centre for Crime and Justice Research, 2015).

<sup>97</sup> M. Renzema and E. Mayo-Wilson, "Can electronic monitoring reduce crime for moderate to high-risk offenders?", *Journal of Experimental Criminology*, vol. 1, No. 2 (2005), pp. 215–237.

## 2. The role of the community

It may nevertheless be a mistake to focus social reintegration programmes too narrowly on managing the offenders' risk factors and responding to their needs. In doing so, the primary role for communities in the reintegration process is sometimes forgotten. Reintegration programmes must also focus on the key objective of building relationships of social support and control around the offender.

### Community involvement

Community involvement has become an essential ingredient of crime prevention in all kinds of partnerships involving municipalities, the police, schools, health and social services, and the private sector.

*Source:* M. Shaw, "Communities in action for crime prevention", background paper prepared for the Sixth Annual Colloquium of the International Centre for the Prevention of Crime, Canberra, 14 and 15 September 2006.

While community organizations have a key role to play in supporting the successful social reintegration of offenders, specific strategies are required to mobilize and sustain community interest and involvement in doing so. Communities are not always responsive to the idea of community-based initiatives to receive and support former offenders, in particular in countries where resources for the overall population are limited and where access to basic services is poor. The population often has a punitive attitude that is not conducive to establishing community-based corrections programmes. NGOs can assist in ensuring that this issue is kept on the political agenda and advocate for change. Some programmes, in particular those offering offenders an opportunity to perform community services or to volunteer for the benefit of the community, can be very successful in rehabilitating certain types of offenders and in sensitizing the public. However, such programmes can hardly operate without the support of the community, and their success mostly depends on the active participation of community members.

In addition, the level of community involvement is often also subject to the degree of openness and transparency of a criminal justice system. A criminal justice system that is committed to high standards of transparency, accountability, integrity and openness is likely to be more open to different forms of community involvement. Repressive systems are far more reluctant to carve out a suitable place for community participation or, for that matter, for any kind of meaningful civil society involvement.

Some jurisdictions have developed partnerships with community-based services to form a coalition of service providers to coordinate comprehensive re-entry services.<sup>98</sup> In Canada, for example, community-based services and programmes for offenders on conditional release are being developed in many Aboriginal communities. These programmes reflect traditional Aboriginal culture and spirituality and are typically rooted in restorative and community justice ideals.<sup>99</sup>

<sup>98</sup> For example, see J. Roman and others, "Impact and cost-benefit analysis of the Maryland Reentry Partnership Initiative" (Washington, D.C., Urban Institute, Justice Policy Center, 2007).

<sup>99</sup> Griffiths, Dandurand and Murdoch, *The Social Reintegration of Offenders and Crime Prevention*, p. 32.

### Fiji

The Fiji Corrections Service uses branding as a means of marketing and promoting its work. It has customized the Yellow Ribbon Project from Singapore in order to alter public mindsets, encourage dialogue and build relationships. Founded on the themes of awareness, acceptance and action (community action), it targets schools, villages, urban and peri-urban settlements and neighbourhoods, churches and the private sector. It uses all forms of media to disseminate its message that every offender needs a second chance.

*Source: I. Naivalurua, "Community social reintegration: the Fiji approach", in Survey of United Nations and Other Best Practices in the Treatment of Prisoners in the Criminal Justice System, K. Aromaa and T. Viljanen, eds., HEUNI Publication Series, No. 65 (Helsinki, European Institute for Crime Prevention and Control, affiliated with the United Nations, 2010), p. 42.*

### India

In the State of Orissa, India, the Biju Patnaik Open-Air Ashram has engaged prisoners in important humanitarian work; prisoners have aided in distributing relief materials to flooded villages. This kind of community involvement can help the community recognize the potential for successful reintegration, especially as they may see prisoners as stakeholders in the community who are willing to participate in positive ways.

## (a) Use of volunteers

The use of volunteers is an efficient way to involve the community and to provide much-needed support to offenders. The Tokyo Rules stress the importance of the role of volunteers, in particular when they are properly trained and supervised,<sup>100</sup> and the importance of supporting their work in various practical ways.

### Tokyo Rules: rules 19.1–19.3

#### 19. Volunteers

19.1 Volunteers shall be carefully screened and recruited on the basis of their aptitude for and interest in the work involved. They shall be properly trained for the specific responsibilities to be discharged by them and shall have access to support and counselling from, and the opportunity to consult with, the competent authority.

19.2 Volunteers should encourage offenders and their families to develop meaningful ties with the community and a broader sphere of contact by providing counselling and other appropriate forms of assistance according to their capacity and the offenders' needs.

19.3 Volunteers shall be insured against accident, injury and public liability when carrying out their duties. They shall be reimbursed for authorized expenditures incurred in the course of their work. Public recognition should be extended to them for the services they render for the well-being of the community.

<sup>100</sup> In this regard, it is important to adhere to the principle that volunteers or other members of the community should never be involved in disciplinary or enforcement functions, including the final decision on whether an offender has failed to adhere to the conditions set by the court (see commentary to rule 19 in *Commentary on the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)* (ST/CSDHA/22)).

In Japan, volunteer probation officers assist professional probation officers in the social reintegration process based on cases referred to them by the chief probation officer. The major rehabilitation aid activities are: (a) to supervise and assist the probationers and parolees; (b) to undertake inquiries related to the environment in which a former prisoner will live upon being released; and (c) to conduct a preliminary assessment of individuals who may eventually be pardoned. In Kenya, community volunteers play an important role in providing probation and aftercare supervision and assistance to offenders in remote areas of the country.

### *(b) Circles of support and accountability*

A circle of support and accountability is a form of community reintegration programme that seeks to reduce the risk of reoffending by former sexual offenders re-entering the community without supervision after serving their sentence. Based in the religious community, the circle is aimed at enhancing public safety by working in cooperation with the police, neighbourhood groups, victims and treatment professionals.

This type of programme was originally conceived in Canada as a means of filling a gap in services left by government policy regarding those individuals who had served their entire court sentence in prison and were released at the expiration of their sentence. These individuals were being released without a formal process of aftercare and without any assistance or supervision. The programme was initiated out of necessity to work with released individuals who had committed serious offences (many of whom were untreated sexual offenders) and whose return to the community was likely to cause public unease and to attract significant media attention.

The programme is a good example of community participation and of successful partnerships between the community and the justice system. The volunteers involved in the programme are carefully selected from the community, professionally trained and aptly supported. An agreement is established between the core member (the offender) and up to seven circle volunteers. Participation is voluntary on both sides. However, once the agreement is made, it becomes the road map for both the support and the accountability that can be expected by all participants. The outer “professional” circle refers to the support, guidance and interventions that are provided by professionally trained participants and representatives of official law enforcement agencies or prison administrations.<sup>101</sup>

### *(c) Restorative justice*

Community-based restorative justice programmes can build social capital and make the community more receptive to and engaged in supporting the offenders’ reintegration. The application of the restorative justice framework to offender re-entry provides an opportunity to define programmes not just in terms of individual interventions, but also in terms of helping communities to build their own resiliency, capacity and collective efficacy to exercise informal social control over offenders and enforce their own values. The community can be not only a source of informal social support, but also a source of informal social control. It has the

<sup>101</sup> R. E. Brown and Y. Dandurand, “Successful strategies that contribute to safer communities”, in *Selected Papers on Successful Reduction and Prevention Strategies in the Urban Context*, S. Maio, ed. (Riyadh, Naif Arab University for Security Sciences, 2007).

resources to promote healing and reintegration: “The importance given to social relationships in restorative processes, and in the context of reintegration, is grounded in a sense of community as interconnected networks of relationships between citizens and community groups who collectively have tools and resources that can be mobilized to promote healing and reintegration.”<sup>102</sup>

*(d) Communities at risk*

Many poor and disadvantaged communities have a much higher crime rate than other communities, as well as a much larger percentage of persons incarcerated and released each year. The number of returning prisoners is not evenly distributed within a city or region. A large percentage of prisoners are therefore returning to disadvantaged and vulnerable communities, and this creates special challenges for both the offenders and the community. Some communities or elements of a community may be particularly vulnerable, a fact that must be carefully taken into consideration. The method of re-entry mapping outlined above (in chapter III, section A) allows public officials to collaborate with communities to identify where offenders are locating after their release, in order to mitigate any potential impact on those sectors and to help plan for offender access to services.

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<sup>102</sup> G. Bazemore and C. Erbe, “Operationalizing the community variable in offender reintegration: theory and practice for developing intervention social capital”, *Youth Violence and Juvenile Justice*, vol. 1, No. 3 (2003), p. 254.

## VI.

# Non-custodial sanctions

For many offenders, imprisonment is a poor way of encouraging them to desist from crime and of preventing recidivism. Non-custodial sanctions can be used to avoid the harmful impact of imprisonment on offenders and to allow them to serve their sentence in the community instead, under proper supervision. Resorting to alternatives to imprisonment in suitable cases fosters the ability of offenders to make different choices, to change their lives, to actively repair the harm they have caused and to contribute to society. Offenders may also attend community-based therapeutic services and programmes that can help them to address addiction or mental health issues.

Unlike imprisonment, non-custodial sanctions seek to create, wherever possible, relationships between offenders and members of the community. They aim to strengthen rather than sever those relationships, based on the rationale that offenders who have strong connections to their community and who care about the people around them are less likely to reoffend. Those who support a family have the possibility of continuing to do so, including by remaining gainfully employed or otherwise contributing to their community. In suitable cases, non-custodial sanctions thus facilitate community safety, accountability and the successful social reintegration of offenders.

Not only have non-custodial measures proved to be very effective in preventing recidivism, but they are also cheaper to administer than prison-based programmes. From this perspective, consistently resorting to alternatives to imprisonment can reduce prison costs and alleviate prison overcrowding.

In addition to non-custodial sanctions, diversion programmes also deserve some attention. For some offenders, a formal criminal sanction is neither necessary nor useful to facilitate their social reintegration and to prevent recidivism. In suitable cases, other more effective and less stigmatizing interventions are possible in the community, including diversion programmes that “reroute” offenders from the criminal justice process to other, more appropriate, interventions. Diversion programmes are based on the discretionary authority of criminal justice officials, such as the police and prosecution, to refer offenders to suitable programmes as an alternative to the criminal justice process. In appropriate circumstances, in particular in cases involving young offenders or offenders suffering from mental illness or drug use disorders, diversion programmes can ensure that offenders receive the most suitable and effective interventions or treatment while avoiding unnecessary exposure to a formal criminal justice process.

● For further details on alternatives to imprisonment: *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment (2007)*, published by UNODC

#### Strategies for promoting accountability among offenders

- Focus on repairing the harm to the victim
- Provide a process for making amends to the community
- Provide a process for greater understanding of how the incident affected others
- Offer a meaningful way for the offender to take responsibility for his or her action
- Encourage apology or expression of remorse
- Involve the victim (or victims) and the community in determining the accountability measures

#### Elements of accountability on the part of the offender

- Acknowledging the harm caused
- Understanding the harm from the other person's viewpoint
- Recognizing that a choice existed
- Taking steps to make amends (apology, repair of harm)
- Taking action to make changes in one's life so that it is unlikely to happen again

Source: United States, Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *Guide for Implementing the Balanced and Restorative Justice Model* (Washington, D.C., 1998). Available at [www.ojjdp.gov/pubs/implementing/contents.html](http://www.ojjdp.gov/pubs/implementing/contents.html).

## A. Relevant international standards and norms

In the Tokyo Rules, promotion of alternative, non-custodial measures forms the basis for a reductionist criminal justice policy that avoids unnecessary resorting to imprisonment, encourages greater community involvement in the treatment of offenders and promotes among offenders a sense of responsibility towards society. As such, the call for the availability of a wide range of non-custodial measures is part of the broader objective to “rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender” (rule 1.5). At the same time, the Tokyo Rules recognize that the application of non-custodial measures needs to be based on “a proper balance between the rights of individual offenders, the rights of victims and the concern of society for public safety and crime prevention” (rule 1.4). (International standards and norms relating to non-custodial measures for special categories of offenders are discussed in chapter VII below.)

**Tokyo Rules: rules 2.3, 2.5, 2.6, 17.1 and 17.2****2. *The scope of non-custodial measures***

...

2.3 In order to provide greater flexibility consistent with the nature and gravity of the offences, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions...

...

2.5 Consideration shall be given to dealing with offenders in the community, avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.

2.6 Non-custodial measures should be used in accordance with the principle of minimum intervention.

...

**17. *Public participation***

17.1 Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.

17.2 Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

## **B. Sentencing policies and social inquiry reports**

### **1. Sentencing policies**

The decision on whether to resort to imprisonment or to non-custodial sanctions is governed by penal law and, ideally, is informed by a clear and explicit sentencing policy. In some countries, sentencing policies do not go much beyond reaffirming the principles of equity and proportionality and acknowledging the relevance of considering potential aggravating or mitigating circumstances in determining a sentence. The rehabilitation of offenders and the protection of the community are sometimes mentioned as formal objectives, but often without stipulating how these objectives are to be achieved. The need to individualize the sanction in order to take into account not only the seriousness of the crime and the degree of culpability of the offender, but also the circumstances under which the crime was committed, as well as the offender's characteristics and needs, is not always fully recognized. Finally, there are many instances where sentencing policies are in fact silent about exactly how and when non-custodial sentences are to be used as a means of rehabilitating the offender.

International standards and norms, such as the Tokyo Rules, provide a general framework in which a national sentencing policy should be articulated and, if necessary, legislated. However, it is the responsibility of national authorities to formulate and implement such

policies so as to prevent excessive resorting to imprisonment. Policies need to ensure that sentencing practices reflect an optimal use of the range of possible sanctions provided for in penal laws, facilitate the rehabilitation and social reintegration of offenders and contribute to public safety. Sentencing policies are sometimes also required to address how existing sentencing practices and systemic factors affect certain groups. For example, in Australia, Canada and New Zealand, indigenous sentencing courts (sometimes referred to in Canada as First Nations Courts) have been established to address the issue of overrepresentation of indigenous people in prison and to facilitate the use of community-based and restorative sentences.<sup>103</sup>

➊ For further details on how to reduce the scope of imprisonment and to develop fair sentencing policies: *Handbook on Strategies to Reduce Overcrowding in Prisons (2013)*, published by UNODC in cooperation with the International Committee of the Red Cross

## 2. Types of non-custodial sanctions

A wide range of criminal sanctions or dispositions other than imprisonment can be used to hold offenders accountable for their crimes, while contributing directly to their rehabilitation and social reintegration. Many but not all of the following non-custodial sanctions require an administrative structure in order to be used as realistic sentencing alternatives to imprisonment:

- (a) Verbal sanctions, such as admonitions, reprimands and warnings;
- (b) Economic sanctions and monetary penalties, such as fines and day-fines;
- (c) Restitution to the victim or compensation orders;
- (d) Community service orders;
- (e) Confiscation or expropriation orders;
- (f) Status penalties denying the offender some specified rights in the community;
- (g) Probation and judicial supervision;
- (h) Conditional discharge;
- (i) Suspended or deferred sentences, where a sentence of imprisonment is pronounced but its implementation is suspended for a period of time on a condition set by the court;
- (j) Referrals to an attendance centre, a facility where the offender spends the day, returning home in the evening;
- (k) House arrest;
- (l) Any other mode of non-institutional treatment;
- (m) Some combination of the sanctions listed above.<sup>104</sup>

<sup>103</sup> See E. Marchetti, “Delivering justice in indigenous sentencing courts: what this means for judicial officers, elders, community representatives, and indigenous court workers”, *Law and Policy*, vol. 36, No. 4 (2014), pp. 341–369.

<sup>104</sup> For definitions and a more detailed explanation, see *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment, Criminal Justice Handbook Series (United Nations publication, Sales No. E.07.XI.2)*.

### 3. Pre-sentence assessments

In order to determine whether a specific case is suitable for community-based sanctions, an assessment of the circumstances under which the crime was committed, as well as of the offender's needs, his or her risk profile and receptiveness to therapeutic interventions, is required. For courts to consider alternative sanctions, they must have at their disposal information on such sanctions and programmes, as well as on the individual offender and his or her circumstances. The probation service or another similar agency can facilitate this process, for instance through verbal presentations or by submitting a social inquiry (or pre-sentence) report to the court.

The Tokyo Rules explicitly note the value of social inquiry reports,<sup>105</sup> which should: describe the background of offenders and any circumstances of their lives relevant to understanding why they committed the offence; identify potential strengths and risk factors; and make recommendations about potential interventions in custodial or non-custodial settings. When a community-based sanction is recommended, the report is expected to include information on how the offender is likely to cope in the community and comply with any conditions or restrictions that the court might consider.

#### Sample contents of a pre-sentence or social inquiry report

- Sources of information used in the report
- Personal information on the offender
- Personal history of the offender
- Family information (in particular for children)
- Details about the current criminal charge
- Information about the circumstances of the offence and the offender's criminal history, peer association and criminal involvement
- Offender's general attitude, motivation and attitude concerning the crime and the victim (or victims)
- Physical and mental health information
- School and/or employment history, including current school enrolment or employment
- Impact on the victim (or victims)
- Potential drug or alcohol use disorders
- Sentence recommendation and rationale

<sup>105</sup> Rule 7.1 of the Tokyo Rules: "If the possibility of social inquiry reports exists, the judicial authority may avail itself of a report by a competent, authorized official or agency. The report should contain social information on the offender that is relevant to the person's pattern of offending and current offences. It should also contain information and recommendations that are relevant to the sentencing procedure. The report shall be factual, objective and unbiased, with any expression of opinion clearly identified."

## C. Probation and community service

Probation has been described as an “untapped resource” to facilitate the social reintegration of offenders.<sup>106</sup> In many jurisdictions, the historical function of probation was almost exclusively related to welfare. Placing an offender “on probation” meant only that a social service would pay particular attention to an offender’s welfare and other needs. While this is still the case in many countries, in other countries the probation service has evolved into an agency that is primarily responsible for ensuring that offenders carry out orders of the court, including orders about what the offenders must or must not do to remain in the community instead of being imprisoned.

While probation and community supervision under judicial authority are not defined in the Tokyo Rules, in the Council of Europe Probation Rules both the “social inclusion of offenders” and “community safety” are mentioned under basic principles of probation, and the term “probation” is defined as relating “to the implementation in the community of sanctions and measures, defined by law and imposed on an offender. It includes a range of activities and interventions, which involve supervision, guidance and assistance aiming at the social inclusion of an offender, as well as at contributing to community safety”.<sup>107</sup>

Whatever the model of probation may be in a given jurisdiction, it is hardly a viable sentencing option without adequate service infrastructure. A probation service must be able to implement the probation order of the court by providing the service support and the supervision of conditions imposed by the court. This may include the implementation of other community sanctions and measures such as restitution to a victim, conditionally suspended and deferred sentences and even community service orders and house arrest. The courts may be able to involve community organizations in this function.

### United Republic of Tanzania

In 2008, the Probation and Community Service Department was established in the Ministry of Home Affairs of the United Republic of Tanzania. The objectives of the Department are:

- To decongest prisons in the country
- To reduce the costs of running prisons in the country
- To protect the human rights of offenders
- To prevent petty offenders from coming into contact with more serious or repeat offenders
- To involve the community in the supervision process as well as in the process of rehabilitating offenders in the community
- To ensure that the community benefits directly from the work undertaken by offenders
- To enable offenders to continue taking care of their families
- To combat prison stigma by sensitizing the public to accept offenders under non-custodial programmes
- To reintegrate offenders back into society

<sup>106</sup> D. L. MacKenzie, “Probation: an untapped resource in U.S. corrections”, in *Rethinking Corrections: Rehabilitation, Reentry, and Reintegration*, L. Gideon and H.-E. Sung, eds. (Thousand Oaks, California, Sage, 2010), pp. 97–125.

<sup>107</sup> Council of Europe Probation Rules (<http://www.cep-probation.org/wp-content/uploads/2015/03/CMRec20101E.pdf>), appendix I, part I (Scope, application, definitions and basic principles).

Several probation agencies also perform other related community-based criminal justice functions. They may be responsible for supervising offenders after their release from prison, for example, and for managing some transitional facilities and aftercare services. In many countries, they also manage community service orders. As encouraged by the Nelson Mandela Rules (rule 108, para. 3), it is desirable to combine community-based correctional programme management functions and make them the responsibility of a single agency. In Kenya, for example, the Department of Probation and Aftercare Services, in the Ministry of Home Affairs, is responsible for the supervision of non-custodial court orders, that is, probation and community service orders. Other key functions of the Department include the preparation of reports (including those at the pre-bail, pre-sentence and pre-release stages and victim impact reports), the social reintegration of former offenders, participation in crime prevention initiatives and the facilitation of activities with victims, including reconciliation.

In 2011, the Council of State Governments Justice Center, a national non-profit organization in the United States, released a guide for policymakers entitled *A Ten-Step Guide to Transforming Probation Departments to Reduce Recidivism*<sup>108</sup> (see the box below), which offers probation services guidelines on how to reorganize their agencies to improve probationers' compliance rates. Through enhanced assessments of probationers' risk factors, needs and strengths (protective factors), individualized supervision strategies can be more effectively designed for each probationer.

#### Ten-step guide to transforming probation departments to reduce recidivism

##### *Setting the agenda for change*

- Step 1. Engage and inform key stakeholders
- Step 2. Review and evaluate current departmental policies and practices
- Step 3. Analyse the evaluation and develop a mechanism for overseeing change

##### *Redesigning departmental policies and practices*

- Step 4. Improve probationer screening and assessment processes
- Step 5. Align supervision plans with screening and assessment results
- Step 6. Redesign incentive and sanctioning strategies
- Step 7. Develop recidivism-reduction training

##### *Implementing procedures to ensure quality and monitor progress*

- Step 8. Develop and implement a process- and outcome-accountability system
- Step 9. Retool the personnel evaluation system to reinforce agency-wide recidivism-reduction efforts
- Step 10. Review progress and set goals for continuous improvement

Source: Council of State Governments Justice Center, *A Ten-Step Guide to Transforming Probation Departments to Reduce Recidivism* (New York, 2011). Available at [https://www.bja.gov/Publications/CSG\\_10Step\\_Guide\\_Probation.pdf](https://www.bja.gov/Publications/CSG_10Step_Guide_Probation.pdf).

<sup>108</sup> Council of State Governments Justice Center, *A Ten-Step Guide to Transforming Probation Departments to Reduce Recidivism* (New York, 2011).

## 1. Conditions attached to a probation order

The conditions attached to a probation order are meant to protect the community and the victim (or victims) while equally considering the rights and needs of the offender. Such conditions must be simple and well understood by the offender. According to the Tokyo Rules (rules 12.2 and 12.4), the conditions to be observed by the offender should be practical, precise and as few as possible. And they should be clearly aimed at reducing the likelihood of an offender relapsing into criminal behaviour and at increasing the offender's chances of social reintegration, taking into account the needs of the victim. In addition, the conditions should be explained clearly to the offender and may be modified by the competent authority in accordance with the progress made by the offender.

## 2. Supervision of former offenders

The supervision of offenders in the community is at the core of a probation order, but there are many ways to define and understand what effective supervision consists of. According to the Council of Europe Probation Rules (part I), probation agencies should aim “to reduce reoffending by establishing positive relationships with offenders in order to supervise (including control where necessary), guide and assist them and to promote their successful inclusion”. The supervision of offenders is generally the responsibility of professionals, although some countries involve volunteers in doing so.

### Japan

In Japan, volunteer probation officers assist professional probation officers in the rehabilitation process based on cases referred to them by the chief probation officer. The major rehabilitation activities are: (a) to supervise and assist the probationers and parolees; (b) to undertake inquiries related to the environment in which a prisoner will live following release; and (c) to conduct a preliminary assessment of individuals who may be pardoned.

While the professional probation officer is involved in the case as a specialist, the volunteer probation officer works as a neighbour of the offender, assisting him or her on behalf of the community, and may make use of their community network to secure employment for offenders. Volunteer probation officers also submit monthly progress reports to the probation office in which they can recommend a discharge from supervision or revocation of probation.

A volunteer probation officer normally serves for a two-year term with the possibility of reappointment. Volunteer probation officers are required to be highly respected individuals, enthusiastic about their work and financially stable, as well as healthy and active. They attend five types of training courses, including a course on initial basic training for new recruits. Volunteer probation officers provide offenders with useful information about the community and, because of their position in society, can help mobilize social resources and change the public's attitude towards the offender.

### Kenya

Probation offices in Kenya are assisted in their work by volunteer probation officers, also known as “assistant probation officers”. These are people of good character and integrity identified from within the community to support the work of probation staff by offering close supervision of offenders. The assistant probation officers are also used to assist in the preparation of reports of the courts in busy urban areas, for example by verifying information such as the addresses and other circumstances of offenders.

To be fully effective, community supervision must be accompanied by some form of assistance or, at the very least, proper referrals to suitable services. According to the Tokyo Rules, offenders should be “provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society” (rule 10.4); and, “within the framework of a given non-custodial measure, the most suitable type of supervision and treatment should be determined for each individual case aimed at assisting the offender to work on his or her offending. Supervision and treatment should be periodically reviewed and adjusted as necessary” (rule 10.3).

The supervision of offenders can involve various agencies and vary in intensity. Different levels of supervision in the community can be provided, including regular supervision, supervision with community service, intensive supervision, day reporting centres, home confinement with electronic monitoring, residential aftercare/treatment homes or halfway houses. In Kenya, for example, the Department of Probation and Aftercare Services manages five probation hostels with a capacity of approximately 200 persons.<sup>109</sup> In the United States, re-entry courts are being used to provide effective probation supervision and as part of a broader trend to establish “problem-solving courts”. For example, the Probation Accountability Court in San Francisco deals with individuals who break their probation and supervises their access to “wrap-around” services, which are individually designed to serve adults with complex health and social issues through inter-agency collaboration. Instead of going back to prison, the former offender is offered another chance to access critical services and support.

Programmes providing some form of intensive supervision are often seen as more politically palatable alternatives to prisons because of their greater focus on surveillance. What makes the supervision “intensive” is not always precisely defined. In general, probationers involved in these programmes are supervised very closely, with requirements for frequent face-to-face meetings with their probation officers, a set curfew, monitoring of contact with police or arrests, frequent random testing for use of alcohol or drugs and, in some cases, electronic monitoring. However, it is not yet clear whether the intensity level of the supervision, in itself, affects recidivism outcomes, in particular when the supervision is not accompanied by some other form of intervention, such as cognitive-behavioural training or counselling.<sup>110</sup>

As a general principle, it is important to match the level of intervention intensity to the former offender’s risk, need and responsivity levels. Furthermore, proper procedures must be in place for dealing fairly and effectively with new offences and any breach of court-imposed conditions. A breach of those conditions will usually lead to a modification or revocation of the probation order and may result in the imprisonment of the former offender.

<sup>109</sup> See R. Allen, “Alternatives to imprisonment in East Africa: trends and challenges” (London, Penal Reform International, 2012).

<sup>110</sup> R. Moore and others, *Managing Persistent and Serious Offenders in the Community: Intensive Community Programmes in Theory and Practice* (Cullompton, Devon, Willan Publishing, 2006), p. 64.

According to the Tokyo Rules (rules 14.2–14.4 and 14.6): modification or revocation of a non-custodial measure should be done only after a careful examination of the facts; the failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure; a sentence of imprisonment should be imposed only in the absence of other suitable alternatives; and finally, in the event of a modification or revocation of a non-custodial measure, the offender should have the right to appeal to a judicial or other competent independent authority.

#### Key strategies for effective recovery and competency development

- Offenders are given the opportunity to learn and practice competency through active, experiential programmes and activities.
- Programmes are designed to increase interaction with positive peers or adults from the community, rather than simply with service providers.
- Cognitive learning and decision-making are integrated with active, experiential and productive activities.
- The offenders work and interact with law-abiding individuals in the community.
- Delinquent and non-delinquent individuals are mixed whenever possible to avoid negative labelling and stigmatization.

### 3. Access to treatment during a term of probation

A probation order, in addition to offering the possibility of actively supervising offenders in the community, offers some real opportunities to enrol them in beneficial treatment and assistance programmes. More specifically, the Tokyo Rules (rules 13.1 and 13.4) state that, in appropriate cases and in cooperation with the community and social support systems, where applicable, “various schemes, such as casework, group therapy, residential programmes and the specialized treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.”

Interventions focusing on competency development and work opportunities can complement community supervision and allow offenders to learn new skills and work habits. Training in cognitive and decision-making skills can be offered, for example, in order to address specific issues that interfere with the offenders’ ability to make reasonable choices and control their behaviour. Additional interventions may focus on improving the offenders’ moral reasoning, decision-making and anger management through experiential techniques that allow them to learn through practice.

### 4. Community service

Unlike probation, a community service order requires an offender to do unpaid work for a specified number of hours or to perform a specific task. As its name suggests, the work should provide a service to the community. As the offenders perform the community service, they may be rebuilding some much needed social capital. The sanction is particularly appropriate in allowing offenders to regain status in their own community and to demonstrate their intent to change their behaviour. In some cases, this may be all that is required for an offender to reintegrate into his or her community.

### Uganda

Measures to promote and encourage the consideration of alternative sentences by the courts should be taken and prison authorities can play a role in facilitating that process, as demonstrated by a community service order programme in Uganda. In the absence of a functioning probation service, the Uganda Prisons Service collaborates with a non-governmental organization to screen cases of accused persons remanded in custody in order to identify those who may be eligible for a community service sentence and may be prepared to enter a guilty plea. They then bring these cases, as a group, to the attention of the courts for an early decision.

*Source: United Nations Office on Drugs and Crime, *Persisting Challenges and Emerging Strengths: Findings and Recommendations—Report of the UNODC Prisons Assessment Mission to Uganda, 2009.**

## D. Diversion and restorative justice

### 1. Diversion programmes

Diversion offers a way to respond to criminal offences without resorting to criminal sanctions. With the agreement of the offender, this process refers him or her to educational, mentoring, assistance or supervision programmes without going through formal proceedings. Some of these programmes involve a restorative process, often in the form of mediation between the offender, the victim (or victims) and community members.

A primary objective of diversion programmes is to minimize contact between offenders and the formal criminal justice process, thus avoiding the stigmatizing effects of being involved with the criminal justice system. The following advantages of diversion programmes has led to their widespread use in many jurisdictions:

- (a) The use of diversion may result in a quicker disposition for the offender and a more expedient means of addressing the needs of the offender, the victim (or victims) and the community;
- (b) Diversion can reduce the workload of justice agencies, allowing resources to be allocated to programmes and activities designed for the most serious offenders;
- (c) The use of diversion provides an opportunity for the offender's family, the victim (or victims) the family of the victim (or victims) and, where appropriate, community residents to participate in the processing of cases and in assisting the offender in reintegrating into the community.

Diversion programmes vary considerably and are often designed to meet the needs of offenders, resolve conflicts, increase citizen participation, address the concerns of the community and provide restitution to victims. Some of these interventions are therapeutic in nature and offer behavioural therapy, treatment or counselling for drug use disorders, sometimes with restrictive conditions.<sup>111</sup> This is frequently the case for treatment referrals made by specialized drug courts. In the United States, for example, the Drug Treatment Alternative to Prison

<sup>111</sup> It should be noted that discussions of re-entry programmes often exclude those offenders who are diverted to a community-based treatment facility and who also must face re-entry challenges of their own. Their need for re-entry support programmes is often the same as that of former prisoners.

programme in Brooklyn, New York, allows felons arrested for selling drugs who have entered a guilty plea to be diverted to a residential treatment facility for a period of 18–24 months.<sup>112</sup> It is important to state that drug use disorders are a health disorder and that related treatment should always be voluntary and with informed consent.<sup>113</sup> Other interventions are of a more restorative nature, giving the offender an opportunity to repair the harm caused by his or her behaviour. Further categories of diversion programmes focus on skills development intended to facilitate the offender's adaptation (e.g. life skills, vocational skills or education) or on providing a formative experience that may bring about a change of the offender's attitude (e.g. mentoring or outdoor adventure programmes).

A number of procedural mechanisms can be used to create opportunities for the referral of offenders to diversion programmes. In some countries, the options of “staying proceedings”, “postponing proceedings” or “suspending a sentence” are used by prosecutors and judges to temporarily suspend formal proceedings against an offender who is accused of committing a crime. Furthermore, conditions can be attached to diversion measures. If offenders successfully comply with the conditions, they are exempt from further processing in the formal justice system. If they fail to comply with the conditions, the original criminal proceedings are reinstated or reopened.

Police-based diversion programmes provide an opportunity for police officers to exercise discretion and develop creative interventions to prevent future recidivism. Diversion allows law enforcement officials to deal with cases expeditiously and to ensure that offenders are held accountable for their behaviour through informal responses such as warnings, restitution, apologies and community service work. This reduces the number of minor offences clogging up the formal criminal justice system. Diversion can also be used as a means of promoting more restorative approaches by involving families, victims and community members in supporting the offender's accountability, recovery and reintegration. Front-line police officers have at least three important roles to play in pre-charge diversion programmes: (a) serving as referral agents by screening cases that can be referred onward to the programme; (b) providing information on the offender's attitudes, needs, behaviour, family and life circumstances; and (c) providing expert advice to the diversion committee and to service providers.

In most countries, police and prosecutors are the main sources of referrals to diversion programmes. However, the level of discretionary powers they enjoy with respect to a decision on whether or not to prosecute offenders varies significantly between legal systems. In large part, the scope of discretion will depend on whether such decisions are to be guided by the principle of legality (mandatory prosecution), which creates an obligation for the prosecutor to prosecute, or by the principle of opportunity, which traditionally allows for some discretionary decision-making. The principle of legality does not, in itself, hinder the diversion of cases, such as those involving juvenile offenders. However, it may make it difficult to divert a case to a restorative justice programme before the case has reached the court. According to rule 3.3 of the Tokyo Rules, discretion should be exercised by the judicial or other competent independent authority “at all stages of the criminal proceedings by ensuring full accountability and only in accordance with the rule of law”.

<sup>112</sup> H.-E. Sung, “From diversion to reentry: recidivism risks among graduates of an alternative to incarceration program”, *Criminal Justice Policy Review*, vol. 22, No. 2 (2011), p. 221.

<sup>113</sup> See United Nations Office on Drugs and Crime (UNODC), “From coercion to cohesion: treating drug dependence through health care, not punishment”, discussion paper based on a scientific workshop, Vienna, 28–30 October 2009. Available at [www.unodc.org/documents/hiv-aids/publications/Coercion\\_Ebook.pdf](http://www.unodc.org/documents/hiv-aids/publications/Coercion_Ebook.pdf).

## 2. Restorative justice mechanisms

Restorative justice is based on the principle that the most effective responses to crime are those which hold offenders accountable for their behaviour in ways that reintegrate them into society rather than increase their sense of isolation and stigma. The objective is to help offenders understand the consequences of their actions and mend their relationships with others in the community, including their victims.<sup>114</sup> By showing offenders the full impact of their behaviour on all those around them, restorative justice can encourage real and lasting change. At the same time, the participation of victims of crime and community members may serve to strengthen ties in the community and to facilitate the development of community-based capacities to assist offenders.

In the basic principles on the use of restorative justice programmes in criminal matters (Economic and Social Council resolution 2002/12, annex), the term “restorative process” is defined as “any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator”. Restorative processes may include mediation, conciliation, conferencing and sentencing circles.

The core part of the basic principles deals with setting the parameters for the use of restorative justice and the measures that should be adopted by Member States to ensure that participants in restorative processes are protected by appropriate legal safeguards. More specifically, in sections II and III of the basic principles, it is stated that restorative processes should be used only when there is sufficient evidence to charge the offender and when there is free and voluntary consent of the offender and the victim and that Member States should consider establishing guidelines and standards, with legislative authority when necessary, that govern the use of restorative justice programmes.

### Basic principles on the use of restorative justice programmes in criminal matters:<sup>a</sup> paragraphs 6–9

...

#### II. Use of restorative justice programmes

6. Restorative justice programmes may be used at any stage of the criminal justice system, subject to national law.

7. Restorative processes should be used only where there is sufficient evidence to charge the offender and with the free and voluntary consent of the victim and the offender. The victim and the offender should be able to withdraw such consent at any time during the process. Agreements should be arrived at voluntarily and should contain only reasonable and proportionate obligations.

<sup>114</sup> Y. Dandurand, “Alternative approaches to preventing recidivism: restorative justice and the social reintegration of offenders”, in *Women and Children as Victims and Offenders: Background, Prevention, Reintegration: Suggestions for Succeeding Generations*, vol. 2, H. Kury, S. and E. Shea, eds. (Zurich, Springer International Publishing, 2016), pp. 283–299.

(continued)

8. The victim and the offender should normally agree on the basic facts of a case as the basis for their participation in a restorative process. Participation of the offender shall not be used as evidence of admission of guilt in subsequent legal proceedings.

9. Disparities leading to power imbalances, as well as cultural differences among the parties, should be taken into consideration in referring a case to, and in conducting, a restorative process.

<sup>a</sup>Economic and Social Council resolution 2002/12, annex.

Restorative justice approaches have proved highly successful at reducing recidivism by helping offenders to truly understand the consequences of their action and to take responsibility for their behaviour. More specifically, a restorative justice intervention helps offenders:

- (a) To take responsibility for their harmful behaviour in a meaningful way;
- (b) To gain insight into the causes of their behaviour and its effects on others;
- (c) To change their behaviour and desist from crime;
- (d) To be accepted back into their community.

Restorative principles can be applied as part of a diversion programme or in connection with a probation order. In a “restorative probation” model, a judge sentences the offender to probation with a suspended sentence, while a volunteer reparative board meets with the offender and the victim to agree on a contract that the offender consents to carry out. Fulfilment of the contract is the only condition of probation and the contract is based on restorative goals, namely that the offender understands the effects of the crime and learns how to avoid reoffending, that the victim is restored and healed and that the community is reassured and offers reintegration to the offender.<sup>115</sup> Subject to the case in question, reparative boards can be more effective than standard probation.<sup>116, 117</sup>

<sup>115</sup> L. Kurki, “Restorative and community justice in the United States”, *Crime and Justice: A Review of Research*, vol. 27, M. Tonry, ed. (2000), p. 283.

<sup>116</sup> K. J. Fox, “Second chances: a comparison of civic engagement in offender reentry programs”, *Criminal Justice Review*, vol. 35, No. 3 (2010), pp. 335–353.

<sup>117</sup> For further details, see *Handbook on Restorative Justice Programmes*, Criminal Justice Handbook Series (United Nations publication, Sales No. E.06.V.15).

## VII.

# Special categories of offenders

### A. Children in conflict with the law

As a general principle, achieving social reintegration should be the primary purpose of any action taken by public authorities affecting children<sup>118</sup> in conflict with the law, and it should be necessary for the child to assume a constructive role in society. Rehabilitation and social reintegration programmes for children in conflict with the law should begin by acquiring an in-depth understanding of the personal circumstances and needs of the child. The respective roles of the family, the school and the community in facilitating the social reintegration of children in conflict with the law are particularly important. Furthermore, improving the effectiveness of interventions for girls in conflict with the law requires comprehensive intervention models that integrate gender-related risks, needs, responsibility factors and social roles. All programmes should be based on a developmental perspective and implemented through a multidisciplinary approach. They must be fundamentally educational in nature and capable of addressing the specific challenges confronting children in conflict with the law.

As detention should be used only as a measure of last resort and only for the shortest appropriate period of time, alternative measures and early release programmes should be favoured. Whenever possible, interventions should take place outside of the criminal justice system altogether by means of diversion mechanisms. When children are deprived of their liberty, they should receive the maximum support possible for their social reintegration. This includes the care, protection and individual assistance—social, educational, vocational, psychological, medical and physical—that they may require in view of their age, sex and personality. Each child should be assessed, and interventions should be tailored to his or her individual needs and circumstances. These interventions are very likely to have an effect on whether the child will be able to make a successful transition to adulthood and adapt socially.<sup>119</sup>

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<sup>118</sup> According to article 1 of the Convention on the Rights of the Child (United Nations, *Treaty Series*, vol. 1577, No. 27531), “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (see also the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex), rule 11, para. (a)).

<sup>119</sup> E. S. Scott and L. Steinberg, *Rethinking Juvenile Justice* (Cambridge, Massachusetts, Harvard University Press, 2008).

## 1. Relevant international standards and norms

International law in the area of juvenile justice is substantial and detailed.<sup>120</sup> One overarching principle is that States should deprive a child of his or her liberty only as a measure of last resort and for the shortest appropriate period of time. When sentencing a child for an offence, the response should be based not only on the gravity of the criminal offence and the respective harm caused, but also on the child's individual circumstances, such as social status and family situation. International standards place a specific obligation on States to develop a range of non-custodial measures and to promote diversion by dealing with children alleged as, accused of, or recognized as having infringed the penal law without resorting to judicial proceedings, whenever appropriate and desirable. In order to facilitate the discretionary disposition of cases, efforts must be made to provide for community programmes and to establish and apply programmes aimed at strengthening social assistance.

Convention on the Rights of the Child:<sup>a</sup> article 37, paragraph (b), and article 40, paragraph 3 (b)

### Article 37

States Parties shall ensure that:

...

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

...

### Article 40

...

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

...

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

...

<sup>a</sup> United Nations, *Treaty Series*, vol. 1577, No. 27531.

<sup>120</sup> See, in particular, the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights; apart from these legally binding international instruments, the United Nations standards and norms in crime prevention and criminal justice include five main instruments related to juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Riyadh Guidelines, the Guidelines for Action on Children in the Criminal Justice System (Economic and Social Council resolution 1997/30, annex) and the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice.

**United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice:<sup>a</sup> paragraph 31**

XI. Reducing the number of children in contact with the justice system

...

31. Recognizing that an important and highly effective way of reducing the number of children in the justice system is through diversion measures, restorative justice programmes and the use of non-coercive treatment and education programmes as alternative measures to judicial proceedings, as well as the provision of support for families, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(a) To consider diversion to community-based programmes and to provide police and other law enforcement officers, prosecutors and judges with options for diverting children away from the justice system, including warning and community work, to be applied in combination with restorative justice processes;

(b) To foster close cooperation among the justice, child protection, social welfare, health and education sectors, so as to promote the use and enhanced application of alternative measures to judicial proceedings and to detention;

(c) To consider designing and implementing restorative justice programmes for children as alternative measures to judicial proceedings;

(d) To consider the use of non-coercive treatment, education and assistance programmes as alternative measures to judicial proceedings and the development of alternative non-custodial interventions and effective social reintegration programmes.

<sup>a</sup> General Assembly resolution 69/194, annex.

**United Nations Rules for the Protection of Juveniles Deprived of their Liberty:<sup>a</sup> rule 28**

28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

<sup>a</sup> General Assembly resolution 45/113, annex.

**United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules):<sup>a</sup> rule 26.1**

26. *Objectives of institutional treatment*

26.1 The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.

...

<sup>a</sup> General Assembly resolution 40/33, annex.

When no alternative measures can be applied, the primary purpose of detention, or any action taken against a child in the juvenile justice system, must be the rehabilitation and social reintegration of the child. While children are in custody, they should receive care, protection and all the individual assistance, including of a social, educational, vocational, psychological, medical and physical nature, that they may require in view of their age, sex and personality and in the interest of their wholesome development (see the Beijing Rules, rules 13.5 and 26.2). Juvenile female prisoners should be provided with access to age- and gender-specific programmes and services, such as counselling for sexual abuse or violence (see the Bangkok Rules, rule 38).

Children in conflict with the law face a heightened risk of violence. The United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (General Assembly resolution 69/194, annex) support a comprehensive, system-wide and strategic approach to effectively preventing and responding to violence against children. A number of strategies are suggested to prevent children from being victimized during their contact with the justice system, including the juvenile justice system. Considering that one important objective of the justice system is the protection of children's rights, violence against children within that system hinders the achievement of that objective and undermines efforts to rehabilitate and successfully reintegrate the child.

 For further details on the prevention of violence against children in the justice system: "Introducing the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice: a new tool for policymakers, criminal justice officials and practitioners" (2015)

## 2. Individual assessments

As a rule, an adequate assessment of an offender's situation, risk factors and needs is the proper basis for effective and individualized interventions to support his or her social reintegration. The same is true for children in conflict with the law, for whom such an assessment should be undertaken with due regard to their age, level of development, personal experiences and the risk of secondary victimization. It should also identify specific needs of the child and risks that could undermine the social reintegration process, and it should take into account the child's personal views. Based on the assessment, an individual intervention or social reintegration plan for the child should be developed, including clear objectives, sound indicators of progress, regular reviews and the identification of services that best respond to the needs of the child.<sup>121</sup> It is important to ensure that any specialized assessment tools are made available to all those who are responsible for assessing children and assisting in their social reintegration.

## 3. Diversion

Reflecting the specific reference in the Convention on the Rights of the Child to measures for dealing with children in conflict with the law without resorting to judicial proceedings (art. 40, para. 3 (b)), the Committee on the Rights of the Child expressed the opinion that

<sup>121</sup> See the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, rule 27.

States parties should make diversion measures an integral part of the juvenile justice system and ensure that children's rights and legal safeguards are thereby fully respected and protected.<sup>122</sup>

By removing children in conflict with the law from the criminal justice process and either disposing of such cases or redirecting them to community-based programmes, diversion can help hinder the negative effects of subsequent formal proceedings in the juvenile justice system. Diversion programmes can take on a number of forms, but generally they include elements of mediation, supervision or restorative justice. Diversion is typically based on the use of the structured discretionary authority of the police, the prosecution or other agencies dealing with juvenile cases. In Thailand, for example, the introduction of diversion through the use of restorative justice practices in the juvenile justice system was made possible by a provision in the Juvenile Procedure Act, which allows prosecutors to drop a charge at the recommendation of the director of a juvenile training centre.

#### Committee on the Rights of the Child: guidance on the use of diversion

Acknowledging the need to protect children's rights and to have legal safeguards in place when implementing diversion programmes, the Committee on the Rights of the Child has emphasized the following with reference to article 40 of the Convention on the Rights of the Child:

- Diversion (i.e. measures for dealing with children, alleged as, accused of, or recognized as having infringed the penal law without resorting to judicial proceedings) should be used only when there is compelling evidence that the child committed the alleged offence, that he or she freely and voluntarily admits responsibility, and that no intimidation or pressure has been used to get that admission and, finally, that the admission will not be used against him or her in any subsequent legal proceeding.
- The child must freely and voluntarily give consent in writing to the diversion, a consent that should be based on adequate and specific information on the nature, content and duration of the measure, and on the consequences of a failure to cooperate, carry out and complete the measure. With a view to strengthening parental involvement, States parties may also consider requiring the consent of parents, in particular when the child is below the age of 16 years.
- The law has to contain specific provisions indicating in which cases diversion is possible, and the powers of the police, prosecutors and/or other agencies to make decisions in this regard should be regulated and reviewed, in particular to protect the child from discrimination.
- The child must be given the opportunity to seek legal or other appropriate assistance on the appropriateness and desirability of the diversion offered by the competent authorities and on the possibility of review of the measure.
- The completion of the diversion by the child should result in a definite and final closure of the case. Although confidential records can be kept of diversion for administrative and review purposes, they should not be viewed as "criminal records" and a child who has been previously diverted must not be seen as having a previous conviction. If any registration takes place of this event, access to that information should be given exclusively and for a limited period of time, e.g. for a maximum of one year, to the competent authorities authorized to deal with children in conflict with the law.

*Source:* Committee on the Rights of the Child, General comment No. 10 (2007) on children's rights in juvenile justice (CRC/C/GC/10), para. 27.

<sup>122</sup> See Committee on the Rights of the Child, General comment No. 10 (2007) on children's rights in juvenile justice (CRC/C/GC/10), para. 26; and the Beijing Rules, rule 6.1.

#### 4. Community-based measures

The Convention on the Rights of the Child places a specific obligation on States to develop a range of alternatives to deprivation of liberty in order to ensure that children are dealt with in a manner appropriate to their well-being and proportionate to their circumstances and to the offence. More specifically, reference is made to guidance and supervision orders, counselling, probation, foster care, education and vocational training programmes and other alternatives to institutional care.<sup>123</sup> All measures should be adjusted to the different stages of development of children in conflict with the law.

International standards and norms call for an appropriate scope of discretion at all stages of proceedings, including investigation, prosecution, adjudication and the follow-up of dispositions, so that relevant criminal justice officials can take appropriate action in each individual case. The police, the prosecution and other agencies dealing with juvenile offenders need to be empowered to dispose of such cases at their discretion, without recourse to formal hearings, in accordance with the criteria laid down for that purpose in national law, as well as with proper checks and balances to curb any abuse of discretionary power. Efforts should be made to establish and apply community programmes that allow for the diversion of children from the justice system. In this context, the importance of close cooperation and the complementary roles of the criminal justice system, child protection agencies, health, education and social service sectors and, in some cases, informal justice systems is highlighted.<sup>124</sup>

In practice, community-based measures offer very reasonable and effective alternatives to the deprivation of liberty. Some situations affecting children, such as the need for housing, do not justify the use of detention to start with. Rather, other alternatives should be in place, such as “group homes”, residential schools or foster care placement. One of the most effective alternative measures to the deprivation of liberty is community supervision (juvenile probation or youth probation).

##### Viet Nam

A Plan Viet Nam project included several community-based activities specifically designed to assist children in conflict with the law in successfully reintegrating into the community. Project activities included the training of volunteers, the provision of direct assistance to children released from a reform school (including transportation back to the community), workshops with parents, job placements, assistance in starting a business and individualized legal assistance. Although none of these services have so far been offered on a large scale, the project has demonstrated their usefulness in supporting children’s reintegration. Legal assistance, for example, was instrumental for many children in dealing with legal complications concerning their registration, in obtaining their birth certificates and other necessary official documents and in addressing some administrative issues related to their situation.

One of the distinct achievements of the project at the community level was its ability to encourage coordination and cooperation among a number of relevant stakeholders. The close cooperation that grew as a result of the project between community groups and the local police, for example, augurs well for the future, as such cooperation is essential to both effective crime prevention and the social reintegration of offenders.

*Source:* Y. Dandurand, “Final review and development assessment of the Juvenile Crime Prevention and Reintegration Project” (Hanoi, Plan Viet Nam, February 2011).

<sup>123</sup> Convention on the Rights of the Child, art. 40, para. 4; see also the Beijing Rules, rule 18.1.

<sup>124</sup> See the Beijing Rules, rules 6.1–6.3 and 11.1–11.4; see also the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, sect. VII (Enhancing cooperation among various sectors).

## 5. Deprivation of liberty

The primary purpose of depriving a child in conflict with the law of his or her liberty, like any action taken against children in the juvenile justice system, must be the rehabilitation and reintegration of the child. The placement of children in institutions should therefore be guided by the provision of the type of care best suited to their particular needs and the protection of their physical and mental integrity and well-being.

When deprived of their liberty, children must be separated from adults, unless it is not in the child's best interest to do so, as there is abundant evidence that the placement of children in adult prisons or jails compromises their basic safety, well-being and future ability to remain free of crime and to reintegrate.<sup>125</sup> Conditions of detention facilities for children should reflect the rehabilitative aim of residential treatment and take into account the child's need for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities.<sup>126</sup>

In view of the particularly adverse effects of detention on children, they should receive care, protection and all the necessary individual assistance that they may require while being deprived of their liberty in view of their age, sex and personality, including assistance of a social, educational, vocational, psychological, medical and physical nature. Education and skill development, in particular, are vital to a child's rehabilitation and social reintegration into society upon release. More specifically, every child of school age, regardless of gender, has an equal right to receive education suited to his or her needs and abilities, as well as vocational training in occupations likely to prepare him or her for future employment. Furthermore, the right of children to the enjoyment of the highest attainable standards of health and to facilities for the treatment of illness and rehabilitation of health, including access to both preventive and remedial health care, must not be compromised while they are deprived of their liberty. Preferably, all health-care services should be provided through community-based health facilities and services in order to prevent stigmatization of the child, as well as to promote self-respect and social reintegration.<sup>127</sup>

Finally, contact with the outside world is especially important for children deprived of their liberty, as maintaining or re-establishing contacts and relationships is often a prerequisite for their successful social reintegration. International standards therefore consider the right of a child to maintain contact with his or her family, friends and other persons or representatives of reputable outside organizations, through correspondence and visits, to be an integral part of the child's right to fair and humane treatment. Due consideration should also be given to granting children deprived of their liberty permission to visit their homes or to leave the institution for educational, vocational or other important reasons.<sup>128</sup>

<sup>125</sup> Committee on the Rights of the Child, General comment No. 10 (2007) on children's rights in juvenile justice (CRC/C/GC/10), para. 85; see also art. 37, para. (c), of the Convention on the Rights of the Child, rule 11, para. (d), of the Nelson Mandela Rules and rule 29 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

<sup>126</sup> See rule 32 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

<sup>127</sup> See arts. 24 and 28 of the Convention on the Rights of the Child, rule 13.5 of the Beijing Rules, paras. 38–46 and 49–55 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, rule 104.1 of the Nelson Mandela Rules and rule 37 of the Bangkok Rules.

<sup>128</sup> See the Convention on the Rights of the Child, art. 37, para. (c); and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, para. 59.

## Egypt

With the assistance of UNODC, the Government of Egypt has strengthened its legislative and institutional capacity to deal with children in conflict with the law. More specifically, Egypt has established a Youth Council, attached to the Ministry of Justice, that offers training on juvenile crime legislation. It also seeks to improve the conditions of detention of children in conflict with the law in order to facilitate their reintegration and resocialization. Juveniles are offered vocational workshops, including in shoemaking, welding, plumbing, and computer and electrical skills, as well as literacy classes.

A second part of the UNODC project in Egypt has focused on training and capacity-building for non-governmental organizations that assist children deprived of their liberty after they have been released from detention in the cities of Cairo, Giza and Al-Qalyubiyah. The project has resulted in the expansion of pre- and post-release reintegration programmes to areas such as employment, social and mental health and education. For example, youth are being coached to develop a "life plan" in the last few months of their detention to follow through on programmes offered upon being released. Many have been able to secure jobs in carpentry workshops, garment factories and marble production following their release.

How children experience deprivation of liberty largely depends on their developmental level, and it can affect their future development. The personal impact of being deprived of liberty can affect the ability of children to benefit from various interventions during or after imprisonment, as well as their ability to overcome the social stigma and social reintegration challenges upon their release. Interventions must therefore be designed to promote the development of the child. Accordingly, the regime of activities within the institution must aim at educational, personal and social development, vocational training, rehabilitation and preparation for release.<sup>129</sup>

A high percentage of children in juvenile justice systems display symptoms of mental disorders, which pose significant challenges to both national juvenile justice and mental health systems. Reliable research in several European countries has shown that between one half and two thirds of children entering pretrial detention centres meet the criteria for one or more mental disorders, including substance abuse.<sup>130</sup> In the United States, a comprehensive, multi-state study undertaken in 2006, which analysed data on 1,400 children in different juvenile justice settings (community-based programmes, detention centres and secure residential facilities), found that 70 per cent of the children met the criteria for at least one mental health disorder and over 60 per cent met the criteria for three or more diagnoses. Girls were found to be at significantly higher risk (80 per cent) than boys (67 per cent).<sup>131</sup>

## 6. Early or conditional release

International standards and norms provide that early or conditional release programmes, which allow authorities to release children as soon as they are ready to return to society,

<sup>129</sup> D. P. Mears and J. Travis, "Youth development and reentry", *Youth Violence and Juvenile Justice*, vol. 2, No. 1 (2004), pp. 3–20.

<sup>130</sup> International Juvenile Justice Observatory, *Mental Health Resources for Young Offenders: European Comparative Analysis and Transfer of Knowledge—MHYO Manual for Improving Professional Knowledge, Skills and Developing Advocacy Programme*, vol. II (Brussels, 2011).

<sup>131</sup> J. Shufelt and J. Cocozza, "Youth with mental health disorders in the juvenile justice system: results from a multi-state prevalence study", Research and Program Brief (Delmar, New York, National Center for Mental Health and Juvenile Justice, 2006).

should be used for children deprived of their liberty to the greatest possible extent and should be granted at the earliest possible time.<sup>132</sup> For early release programmes to function properly, the progress of children during imprisonment must be periodically assessed so as to determine their prospects for successful social reintegration.

There is a connection between the transition that children undergo as they develop into adulthood and the transition they face when returning to their community. The challenges that arise from this dual transition are significant and multifaceted.<sup>133</sup> Children face many of the same social reintegration difficulties as adults. In addition, however, they are in the process of moving from dependence on their families to independence, from school to work and from immersion in the adolescent peer group to intimate partnership and parenthood. Their successful social reintegration is therefore closely tied to their success along these other development trajectories.<sup>134</sup> Early release based on proper assessments of each child offers the possibility of taking both developmental and reintegration issues into account. If accompanied by proper supervision and assistance, early or conditional release can thus be a powerful tool for ensuring the successful social reintegration of children deprived of their liberty.

## 7. Post-release services and supervision

International standards and norms emphasize the need for a diverse range of services and facilities designed to meet the different needs of children in conflict with the law who are re-entering the community and to provide them with guidance and support as an important step towards their successful reintegration into society. More specifically, they call for semi-institutional arrangements—including halfway houses, educational homes, daytime training centres or other appropriate arrangements—that may facilitate a gradual return to society, as well as for community-based services and programmes offering appropriate care, counselling, assistance and therapy-oriented interventions to released children, as appropriate, with a view to supporting their social reintegration. In addition, the immediate needs facing a detained child upon release (e.g. a suitable residence, employment (in some cases), clothing and sufficient means to maintain him- or herself) should carefully be taken into account. In this regard, volunteers, local institutions and other community resources should all be mobilized with a view to contributing to the social reintegration of the child in a community setting and, as far as possible, within his or her family.<sup>135</sup>

The first few months after children are released from institutional care have been found to be critical. At that point in time, they find themselves without the structure, supervision or support that the institution provided. Too many children return to their community with serious risks and needs that have remained unaddressed, thus compromising their chances of successful reintegration. Released children are often returning to families and communities that cannot accommodate them even under the best of circumstances. Therefore, supportive interventions during that period are particularly important.

<sup>132</sup> See the Beijing Rules, rule 28.1.

<sup>133</sup> D. M. Alschuler and R. Brash, “Adolescent and teenage offenders confronting the challenges and opportunities of reentry”, *Youth Violence and Juvenile Justice*, vol. 2, No. 1 (2004), pp. 72–87.

<sup>134</sup> M. L. Sullivan, “Youth perspectives on the experience of reentry”, *Youth Violence and Juvenile Justice*, vol. 2, No. 1 (2004), pp. 56–71.

<sup>135</sup> See the Beijing Rules, rules 25.1, 28.2 and 29.1; the Riyadh Guidelines, paras. 32 and 35; and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, paras. 79 and 80.

As part of an aftercare strategy, a number of interventions can be delivered to assist children in reintegrating into their families and the community. The interventions must fit the needs and circumstances of the child, and the choice of an intervention should be based on a realistic assessment of the individual's challenges and needs. It is usually a matter of assessing the public safety risk posed by each child, as applicable, developing a post-release plan prior to the release that will reduce the risk of reoffending, and providing concentric circles of support by working with families, employers and community organizations.

Effective post-release interventions usually involve three phases: institutional or pre-release planning and services; re-entry preparation; and community-based services upon release from the institution. In jurisdictions where an extensive range of services exist, intensive aftercare programmes have been developed, which include individual case planning, a mix of surveillance and services, a balance of incentives and graduated sanctions, and service brokerage with community resources. Experience suggests that such programmes can be successful when:

- (a) Preparing children for progressively increased responsibility and freedom in the community;
- (b) Facilitating child-community interaction and involvement;
- (c) Working with both the child and targeted community support systems (family, peers, schools and employers) on qualities needed for constructive interaction;
- (d) Developing new resources and support where needed;
- (e) Monitoring and testing the children and the community on their ability to deal with each other productively.<sup>136</sup>

Support interventions should link institutional services with community-based services. This goes beyond only providing referrals, which, by itself, has been found to be insufficient. There must be genuine substantive linkages between institutional programming and community-based interventions to ensure a continuity of support. Furthermore, post-release services for children need to balance supervision with the developmental needs of children, considering both the risk and protective factors that hinder or contribute to social adjustment.<sup>137</sup> Programming with a focus on punitive or surveillance elements is not as effective as an approach that incorporates interventions to help children overcome problems, including factors that may have contributed to their criminal behaviour. The subsections below contain descriptions of measures that can be taken as part of both early release schemes and post-release interventions.

#### (a) *Supervision and attendance centres*

Supportive supervision, together with effective case management methods, is usually at the heart of effective aftercare intervention for children released from an institution. It often involves a stay in a transitional facility, a foster care placement or a halfway house. In some cases, the intervention consists of placing the child under the supervision and guidance of a responsible adult in the community (e.g. a schoolteacher, social worker, community member,

<sup>136</sup> D. M. Altschuler and T. L. Armstrong, *Intensive Aftercare for High-Risk Juveniles: Policies and Procedures* (Washington, D.C., United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1994).

<sup>137</sup> H. L. Chung, M. Little and L. Steinberg, "The transition to adulthood for adolescents in the juvenile justice system: a developmental perspective", in *On Your Own Without a Net: The Transition to Adulthood for Vulnerable Populations*, D. W. Osgood and others, eds. (Chicago, University of Chicago Press, 2005), pp. 68–91.

parent or other relative) in order to monitor and guide his or her behaviour. In other instances, the supervision of the child is the responsibility of a specialized criminal justice agency (e.g. a probation and aftercare agency) or a child protection and welfare agency.

In a day reporting or attendance centre, children are required to report to a non-residential community centre for a specified number of hours each week. Such centres, which are usually run by local agencies or NGOs, provide a closely supervised environment where children can participate in education, recovery and recreation programmes (employment and training assistance, education and literacy classes, alcohol and drug abuse counselling, training in life skills, and sporting activities). Attendance centres provide structure and supervision to children in conflict with the law, a constructive way to spend their free time and positive association with adults and peers. Programmes that are located in existing community or recreation centres and that integrate children with non-delinquent peers have been found to be particularly effective for suitable groups of children in conflict with the law.

#### *(b) School attendance and vocational skills training*

Children in conflict with the law may be encouraged to make a commitment to attend school regularly or to enrol in a vocational or skills training programme upon release. In some cases, support from local authorities or other agencies may be required to allow the offender to return to school or gain access to skills training (e.g. fee reduction or exemption). The development of employable skills is obviously a priority for many children. The most effective vocational training programmes are those that provide the child with both marketable skills and assistance in finding employment.

#### *(c) Community service work*

Community service work requires a child in conflict with the law to do unpaid work for a specified number of hours in some way that benefits the community. The purpose is to give the child the opportunity to make amends for his or her crime by contributing something of value to either the victim or the community at large, thereby demonstrating that the child can be a productive member of society. For children, the most effective community service work placements are often those that require them to work alongside positive adult or peer role models and give them an opportunity to practise and demonstrate competent and responsible behaviour. For example, small community construction or clean-up projects that require children to work in a team environment with law-abiding peers or adults help them to build work and social skills. The community gets the benefit of the offender's labour and the child is given a sense of accomplishment and improved self-esteem. It should be noted, however, that care must be taken regarding the regulation of child labour and the corresponding risks of exploitation.

#### *(d) Competency development programmes*

Competency development programmes are specialized programmes designed to assist children in conflict with the law in addressing the underlying problems in their cognitive development that may have contributed to their offending behaviour. Topics commonly covered include responsible decision-making, communication skills, problem-solving, conflict resolution, self-esteem and anger management. Most competency development programmes are "experiential" or active

learning programmes. Studies have repeatedly shown that active learning programmes that provide children with an opportunity to practise or model positive behaviour are preferable to, and far more effective than, lecturing offenders about laws and appropriate behaviour.

#### (e) *Treatment for drug use disorders or alcohol dependence*

The criminal behaviour of an individual, including children, may be directly linked to an underlying problem, such as drug use disorders or alcohol abuse. Furthermore, it is not uncommon for children in conflict with the law to have been victims of violence, and such children may require specialized intervention to help them recover from the impact of that violence. In such cases, the child may be referred to a specialized counselling or therapeutic treatment programme. Early intervention and treatment, when applied as soon as the underlying problem is identified, can help prevent the escalation of destructive habits. Post-release interventions of this nature may further build on treatment programmes in which the child may have already participated in the institutional setting.

#### (f) *Mentoring programmes*

Mentoring is one of the most commonly used interventions for children in conflict with the law. There are comprehensive aftercare programmes that include training in life skills and the provision of services, as well as the establishment of relationships between children released from an institutional facility and mentors. Mentoring is one important kind of programme used to help steer youth away from risky and delinquent behaviour. Ideally, mentoring children in conflict with the law should involve the relationship with the mentor and should also be complemented by other forms of assistance and support systems.<sup>138</sup>

##### United Kingdom

The non-governmental organization Trailblazers works in close partnership with youth offender institutions, prison staff and other stakeholders in the United Kingdom to prevent reoffending by children deprived of their liberty. In order to assist in their successful resettlement, volunteers work with young people for up to six months prior to release, including through intensive mentoring and “signposting” to specialist agencies. This support is extended to a period of up to nine months of support in the community after release. According to the organization, the average over the two years was a reoffending rate of 9 per cent, compared with government figures of over 70 per cent. The mentors, who come from a wide variety of professional and ethnic backgrounds, are required to have a mature outlook on life and a non-judgmental and empathetic attitude towards young people (including their issues, problems and failings), to be enthusiastic, practical and realistic and to agree to a commitment of at least 12 months. The mentor visits the young person in prison for one hour each week, undertakes research on training, education and housing opportunities, as required, makes links with other relevant agencies and supports the young person upon his or her release from prison. This support includes keeping in touch with the young person in the community by phone on a weekly basis and meeting with the young person every two weeks where possible. In addition, the mentor attends training courses, regular supervision sessions and a quarterly group meeting.

Source: [www.trailblazersmentoring.org.uk/](http://www.trailblazersmentoring.org.uk/).

<sup>138</sup> P. Tolan and others, “Mentoring interventions to affect juvenile delinquency and associated problems: a systematic review”, *Campbell Systematic Reviews*, No. 10, 2013.

### (g) *Non-involvement in gangs*

For certain children in conflict with the law, membership in a criminal gang presents a special social reintegration challenge. Children are often drawn into criminal gangs by the sense of belonging and protection that group membership may promise, which may lead to a situation where the children cannot see any opportunities outside of gang life. Those who are drawn to criminal groups early, at about 11 or 12 years of age, are much more likely to become repeat offenders as adults. Gang membership has a highly negative effect on the ability of children deprived of their liberty to successfully reintegrate into the community upon their release and increases the likelihood of (early) recidivism. Gang affiliates also tend to reoffend earlier than non-affiliates.<sup>139</sup>

Tools are available to identify children at high risk of gang involvement and to support more intensive prevention efforts focused on a common set of risks young people are experiencing (e.g. the gang risk entry factor assessment tool).<sup>140</sup> Programmes can be developed to help children in conflict with the law sever their links with gangs or criminal associates and to support specific exit strategies for children trying to leave gangs.<sup>141</sup> The Singapore Prison Service, for example, offers a “gang renunciation” programme, including counselling, removal of tattoos and ceremonial events. Youth who are involved in gangs and who are among those in the lower echelons of a group may be suitable candidates for treatment in the form of group therapy, family therapy and other alternatives.

#### United Kingdom (Scotland)

According to the Scottish police, the Community Initiative to Reduce Violence, set up to combat gang culture in Glasgow, has significantly reduced violence in parts of the city. Those who have taken part in the most intensive programmes have cut their offending by 73 per cent. Knife-carrying among participants has dropped by almost 60 per cent, and there has even been a 25 per cent drop in violent offending among gang members in areas of the city where the Initiative does not yet operate.

At the core of the programme are “call-ins”, where known gang members are invited to attend a session at the Glasgow Sheriff Court. Family members, police and medical personnel describe the human cost of gang culture, and the participants are invited to sign a pledge to put down their weapons and work with the programme. Those participants who sign the pledge are supported by a variety of agencies that work on their employability and physical and emotional well-being. They are then encouraged to take the message back to other gang members.

Source: K. Scott, “Glasgow gang project leads to cut in violent crime”, *The Guardian*, 4 July 2011. Available at [www.guardian.co.uk/](http://www.guardian.co.uk/).

<sup>139</sup> See Kate O’Brien and others, “Youth gang affiliation, violence, and criminal activities: a review of motivational, risk, and protective factors”, *Aggression and Violent Behavior*, vol. 18, No. 4 (2013), pp. 417–425; see also R. L. Mullis and others, “Young chronic offenders: a case study of contextual and intervention characteristics”, *Youth Violence and Juvenile Justice*, vol. 3, No. 2 (2005), pp. 133–150; S. H. Decker, D. C. Pyrooz, and R. K. Moule, “Disengagement from gangs as role transitions”, *Journal of Research on Adolescence*, vol. 24, No. 2 (2014), pp. 268–283; A. Braga, A. M. Piehl and D. Hureau, “Controlling violent offenders released to the community: an evaluation of the Boston Reentry Initiative”, *Journal of Research in Crime and Delinquency*, vol. 46, No. 4 (2009), pp. 411–436; and J. W. Caudill, “Back on the swagger: institutional release and recidivism timing among gang affiliates”, *Youth Violence and Juvenile Justice*, vol. 8, No. 1 (2010), pp. 58–70.

<sup>140</sup> See K. M. Hennigan and others, “Identifying high-risk youth for secondary gang prevention”, *Journal of Crime and Justice*, vol. 37, No. 1 (2014), pp. 104–128.

<sup>141</sup> S. Decker, *Strategies to Address Gang Crime: A Guidebook for Local Law Enforcement* (Washington, D.C., United States Department of Justice, Office of Community Oriented Policing Services, 2008).

## B. Women offenders

Compared with the number of male prisoners, the number of female prisoners is relatively small. Despite significant regional differences and a 50 per cent rise since the year 2000, female prisoners currently constitute approximately 7 per cent of the world prison population.<sup>142</sup> As a result, most prison systems and programmes tend to be planned, designed and managed for male prisoners, leaving the particular needs of female prisoners unaddressed. Very often, women in prison do not receive adequate, gender-specific rehabilitation resources or guidance preparing them for release and life after imprisonment, despite the fact that women are often ill-prepared for release from prison.<sup>143</sup> Women in prison are more likely to have a history of sexual and physical abuse, and they suffer from mental illness at a higher rate than male prisoners; moreover, if they have a history of drug abuse, it tends to be different from that of male prisoners. Most women, because of the nature of the offences they have committed, can be detained safely under far less strict security levels than men—a fact that has implications for restrictions that can impede their social reintegration.

Programmes for women prisoners can be meaningless unless the prison itself is managed in a gender-sensitive way and an understanding of women's gender-specific needs is incorporated into the overall prison regime, including organizational planning, staff training, treatment and overall prison conditions (e.g. clothing, sanitary supplies and conditions, cell design, access to medical services and approaches to security and safety measures).

In addition, women face specific social reintegration challenges in the community. Prior victimization, such as childhood or intimate partner abuse, may provide pathways to drug use disorder, limited job opportunities, prostitution and involvement in criminal activity.<sup>144</sup> A history of victimization, the unresolved trauma and the socioeconomic disadvantages that characterize a significant proportion of the population of women prisoners predispose them to mental illness and self-harm.<sup>145</sup> Women in prisons have alarmingly high rates of mental health problems such as post-traumatic stress disorder, depression, anxiety, phobias, neuroses and drug use disorders. This is often a considerable obstacle to gaining acceptance in their community. Developing strategies to prevent suicide and self-harm and to provide gender-specific and individualized mental health treatment to female offenders, both during their imprisonment and afterwards (when they have entered the community), must be recognized as a priority.

 For further details on women prisoners: *Handbook on Women and Imprisonment, 2nd ed. (2014)* .....

### 1. Relevant international standards and norms

With regard to the imprisonment of women in general, it is important to note that, in its resolution 65/229, the General Assembly, recognizing that a number of female offenders did not pose a risk to society and, as with all offenders, their imprisonment might render their social reintegration more difficult, adopted the United Nations Rules for the Treatment of

<sup>142</sup> R. Walmsley, "World female imprisonment list", 4th ed. (London, World Prison Brief, Institute for Criminal Policy Research, and Birkbeck University of London, 2017), p. 2.

<sup>143</sup> Report of the Special Rapporteur on violence against women, its causes and consequences on pathways to, conditions and consequences of incarceration for women (A/68/340), para. 67; see also F. Gerry and L. Harris, "Women in prison: is the penal system fit for purpose?" (London, Halsbury's Law Exchange, 2014).

<sup>144</sup> K. S. van Wormer and C. Bartollas, *Women in the Criminal Justice System*, 2nd ed. (Boston, Pearson Education, 2007).

<sup>145</sup> UNODC and World Health Organization (WHO), *Women's Health in Prison: Correcting Gender Inequity in Prison Health* (Copenhagen, WHO Regional Office for Europe, 2009).

Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), annexed to that resolution. The Bangkok Rules provide guidance on addressing the specific conditions and needs of female prisoners and place those needs at a level of importance that is equal to those of male prisoners. The Bangkok Rules complement the Nelson Mandela Rules, which—while they are equally applicable to male and female offenders—do not always take into account the gender-specific needs and circumstances of women.

**United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules):<sup>a</sup> rules 42, 45–47, 60 and 61**

*Rule 42*

1. Women prisoners shall have access to a balanced and comprehensive programme of activities which take account of gender-appropriate needs.
2. The regime of prison shall be flexible enough to respond to the needs of pregnant women, nursing mothers and women with children. Childcare facilities or arrangements shall be provided in prisons in order to enable women prisoners to participate in prison activities.
3. Particular efforts shall be made to provide appropriate programmes for pregnant women, nursing mothers and women with children in prison.
4. Particular efforts shall be made to provide appropriate services for women prisoners who have psychosocial support needs, especially those who have been subjected to physical, mental or sexual abuse.

...

*Rule 45*

Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.

*Rule 46*

Prison authorities, in cooperation with probation and/or social welfare services, local community groups and non-governmental organizations, shall design and implement comprehensive pre- and post-release reintegration programmes which take into account the gender-specific needs of women.

*Rule 47*

Additional support following release shall be provided to released women prisoners who need psychological, medical, legal and practical help to ensure their successful social reintegration, in cooperation with services in the community.

...

(continued)

*Rule 60*

Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. Such programmes shall take account of the need to provide care for children and women-only services.

*Rule 61*

When sentencing women offenders, courts shall have the power to consider mitigating factors such as lack of criminal history and relative non-severity and nature of criminal conduct, in the light of women's caretaking responsibilities and typical backgrounds.

<sup>a</sup> General Assembly resolution 65/229, annex.

### *(a) Treatment of women prisoners*

While all provisions of the Nelson Mandela Rules relating to prison-based rehabilitation programmes and social reintegration support services equally apply to women prisoners, the Bangkok Rules emphasize the need for a gender-sensitive prison regime, giving due consideration to pregnant women, nursing mothers and women with children. In view of the crucial importance of women prisoners having continuous contact with their families and children, where applicable, the Bangkok Rules call on prison administrations to actively encourage and facilitate such contact, including through visits, by all reasonable means and to provide a suitable environment in which positive visiting experiences can take place, including by allowing open contact between mother and child (rules 26 and 28). Measures such as these help women feel connected to the outside world and closer to their children and families by reducing feelings of isolation, loneliness and helplessness.

In addition, the Bangkok Rules reiterate the importance of facilitating a gradual return of women prisoners to society at the earliest possible stage and to the maximum possible extent—including by means of home leave, open prisons, halfway houses and community-based programmes (rule 45); and decisions regarding conditional release (parole) should be informed by women prisoners' caretaking responsibilities, as well as their specific social reintegration needs (rule 63).

### *(b) Non-custodial measures for women offenders*

With regard to alternatives to imprisonment, the Bangkok Rules encourage States: *(a)* to develop gender-specific options for diversionary measures and pretrial and sentencing alternatives and to resort to such alternatives wherever appropriate and possible, in particular in the case of pregnant women or women with dependent children;<sup>146</sup> *(b)* to ensure that women are not separated from their families without giving due consideration to their background and

<sup>146</sup> In these situations, custodial sentences for women offenders should be limited to serious and violent offences or to offenders who represent a continuing danger, yet only after taking into account the best interests of their children and while ensuring that appropriate provision has been made for the care of the children.

family ties; and (c) to authorize courts to consider a range of mitigating factors when sentencing women offenders, including women’s caretaking responsibilities (rules 57, 58, 61 and 64).

## 2. Gender-sensitive programmes

Gender is an important factor to consider when identifying strategies that will facilitate a successful return to the community.<sup>147</sup> Much more needs to be done to address gender-related risk, needs and responsivity factors. In addition to the differences in risk and responsivity, female offenders often differ from male offenders in their emotional and family relationships. Relationships are often critically related to women’s involvement in crime. Similarly, women offenders and prisoners tend to be more easily motivated to change by their connections to others. Their self-confidence and perception of self-worth are often more directly and immediately influenced by the relationships they maintain. In recent years, some gender-responsive risk and needs assessment tools have been developed—a practice explicitly called for in the Bangkok Rules (rule 40).<sup>148</sup>

### Panama

With the support of UNODC, Panama implemented a specialized programme focusing on female prisoners, designed in line with the Bangkok Rules, with an emphasis on involving and informing women prisoners. As a result, the University of Panama opened a branch in the female prison in Panama City, enabling more than 60 women prisoners to pursue university studies. Moreover, the number and the quality of reintegration activities for women increased, including through new projects with emphasis on production, such as a project on hydroponics.

*Source:* Background paper on workshop 1, on the role of the United Nations standards and norms in crime prevention and criminal justice in support of effective, fair, humane and accountable criminal justice systems: experiences and lessons learned in meeting the unique needs of women and children, in particular the treatment and social reintegration of offenders (A/CONF.222/10), para. 22.

### Russian Federation

The Government of the Russian Federation established the Social Rehabilitation Centre for Women and Girls in 2007 for women and girls who have been released from prison or to whom non-custodial measures have been applied. The Centre provides legal advice, psychological counselling and training, assistance in finding employment, and training in computer literacy.

In terms of programming, it appears that women tend to respond better to “wrap-around” services that take into account several different facets of re-entry at the same time.<sup>149</sup> Wrap-around models incorporate various interventions to deal with the host of concurrent challenges with which the offender is faced. Services are linked, coordinated and offered as a package as opposed to a series of disconnected interventions. A clear understanding is required of women’s

<sup>147</sup> S. Spjeldnes, H. Jung and H. Yamatani, “Gender differences in jail populations: factors to consider in reentry strategies”, *Journal of Offender Rehabilitation*, vol. 53, No. 2 (2014), pp. 75–94.

<sup>148</sup> For gender-responsive risk and needs assessment tools, see P. Van Voorhis and others, “Women’s risk factors and their contributions to existing risk/needs assessment: the current status of a gender-responsive supplement”, *Criminal Justice and Behavior*, vol. 37, No. 3 (2010), pp. 261–288; see also [www.uc.edu/womenoffenders](http://www.uc.edu/womenoffenders) and [www.nic.gov/womenoffenders](http://www.nic.gov/womenoffenders).

<sup>149</sup> S. Covington, “A woman’s journey home: challenges for female offenders and their children”, paper presented to the National Policy Conference “From Prison to Home: The Effect of Incarceration and Reentry on Children, Families, and Communities”, Washington, D.C., 30 and 31 January 2002.

role as caregivers, daughters, mothers and wives (or partners), as they cannot be assisted effectively in isolation from their social networks and the relationships within them.

Many women in prison have left their children with their husbands, partners or relatives and are constantly worried about their children's well-being. Programmes that help women cope with those worries and alleviate their anguish are instrumental in supporting their rehabilitation. The facilitation of communication between mothers and their children and families is one simple and practical way to assist.

Women's desistance from crime appears to be related to what may be broadly described as investments in relational commitments and the acceptance of responsibility for others (e.g. in the context of families). Interventions that offer them practical and emotional support in meeting such responsibilities and commitments are particularly significant to women offenders. Gender-sensitive social reintegration programmes must take into account the realities of women offenders' lives, what is important to them and the social demands placed upon them.<sup>150</sup>

#### (a) *Contact with the outside world*

Facilitating prisoners' contacts with the outside world is an important component of strategies to reduce the harmful effects of imprisonment and assist with the social reintegration of prisoners. Perceived family acceptance was found to be the factor most associated with employment success, drug abstinence and expression of future optimism, and prisoners who were visited by their families or friends were found to be less likely to reoffend than those who did not receive visits.<sup>151</sup>

Unfortunately, some prison administrations restrict visits because they may create administrative and security management inconvenience, as well as additional work for prison staff. Making prisoner visits a priority and turning them into opportunities to prepare offenders for their release, however, does not necessarily require a lot of resources. Often, it is simply a matter of scheduling staff time and prisoner movements, establishing appropriate security measures and putting in place an information management process to keep track of visitors and contact information.

Female prisoners are more likely than male prisoners to have caregiver and parental responsibilities, which is the reason why separation from families and children and the isolation that comes with imprisonment have a particularly detrimental effect on women. It is therefore important that prisons include facilities where male and female prisoners can receive visits from their family members, including an area where they can spend meaningful time with their children. In view of women's disproportionate experience with domestic violence, however, women should always be consulted on whom they want to see and should be able to refuse to see certain visitors (see the Bangkok Rules, rule 44).

Given the limited number of female prisons, women prisoners are often held in institutions far from their home and are therefore likely to receive fewer visitors. It is therefore considered good practice to allow for longer visiting hours if visitors have to travel a long distance. It is also desirable to allow access to telephones and increase the number of telephone or

<sup>150</sup> R. Matthews and others, *Exiting Prostitution: A Study in Female Desistance* (London, Palgrave Macmillan, 2014).

<sup>151</sup> S. Spjeldnes and S. Goodkind, "Gender differences and offender reentry: a review of the literature", *Journal of Offender Rehabilitation*, vol. 48, No. 4 (2009), pp. 314–335; see also L. Bartels and A. Gaffney, *Good Practice in Women's Prisons: A Literature Review* (Canberra, Australian Institute of Criminology, 2011).

video calls between prisoners and members of their families, in particular when the latter live far away or are unable to visit. Prison authorities can cooperate with community-based agencies and organizations to help women prisoners maintain contact with their families.

*(b) Interventions for women with a history of victimization*

Although women prisoners are disproportionately affected by sexual, physical and psychological victimization, relevant interventions in prisons or in the community are often not available. In some countries, women may have access to rape crisis counsellors, mental health evaluations followed by medical treatment or counselling, protective custody or safety and self-defence training. In many other countries, however, such interventions do not exist, and women are often left on their own to deal with their emotional and mental trauma. In such cases, the development and provision of gender-sensitive, trauma-informed mental health-care and rehabilitation programmes for women, including substance abuse treatment programmes, should be considered a priority in both prisons and the community (see the Bangkok Rules, rules 12 and 62).<sup>152</sup>

With properly trained counsellors, it is possible to hold group or individual counselling sessions within prison and even following the release of women prisoners with a history of victimization in order to understand how the victim feels and to review the women's plans to move forward in life. Very often, the ability to talk about their thoughts and feelings can prepare women with a history of victimization for the future and give them additional strength to get through the trauma.

*(c) Interventions for women with children*

Imprisonment creates special challenges for mothers, in particular if they are unable to maintain bonds with their children during the period of imprisonment. Along with other challenges, such as a lack of employment and accommodation, women must reassume their role as mothers following their release. While family support is an important factor for the offender's eventual family reunification, incarceration—even for a short period—is associated with shifts in the family configuration, increasing the risk of divorce or separation.

Separation from children during imprisonment can have damaging consequences on both women and their children. A mother's incarceration intensifies whatever troubles her child might be experiencing, but leaves her in no position to help.<sup>153</sup> The mothers' position of authority in relation to her children may have been compromised as a result of imprisonment. As mentioned above, the active facilitation of children's visits is an important measure to support family binding and to prepare the family for future reunification. However, further interventions are often needed to strengthen the mothers' support systems.

<sup>152</sup> See also A. N. Cimino and others, "Women reentering the community: understanding addiction and trauma-related characteristics of recidivism", *Journal of Human Behavior in the Social Experiment*, vol. 25, No. 5 (2015), pp. 468–476.

<sup>153</sup> P. Scharff Smith, *When the Innocent are Punished: The Children of Imprisoned Parents*, B. Crewe, Y. Jewkes, and T. Ugelvik, eds., Palgrave Studies in Prisons and Penology Series (London, Palgrave Macmillan, 2014).

Children of incarcerated women are a neglected and vulnerable group.<sup>154</sup> In many cases, they suffer from lack of food, no exposure to social interaction and no access to educational and health services. They also suffer from the stigma of being associated with the prison system through their mother. The question of how long children can remain with their mothers in prison is a contentious and complex issue, with many countries imposing a maximum age after which the child is taken from the prison and accommodated with the family or friends or in foster care. The Bangkok Rules provide guidance on how to address the needs of children staying in prison with their mothers,<sup>155</sup> in particular: (a) the decision to allow a child to stay with his or her mother in prison shall always be based on the best interest of the child (rule 49); (b) children in prison with their mothers shall never be treated as prisoners (rule 49); (c) women prisoners whose children are in prison with them shall be provided with the maximum possible opportunities to spend time with their children (rule 50); and (d) the environment provided for such children's upbringing shall be as close as possible to that of a child outside prison, including child-care facilities and child-specific health-care services (rule 51).

Similarly, in its recommendation 1469 (2000) on mothers and babies in prison, the Parliamentary Assembly of the Council of Europe recommended the following:

- (a) Developing and using community-based penalties for mothers of young children and avoiding the use of prison custody;
- (b) Developing education programmes for criminal justice professionals on the issue of mothers and young children;
- (c) Developing small-scale secure and semi-secure units with social service support for the small number of mothers who do require such custody, where children can be cared for in a child-friendly environment and where the best interests of the child will be paramount, while guaranteeing public security;
- (d) Ensuring that fathers have more flexible visiting rights so that the child may spend a little time with its parents;
- (e) Ensuring that staff have appropriate training in child care;
- (f) Developing appropriate guidelines for courts whereby they would only consider custodial sentences for pregnant women and nursing mothers when the offence was serious and violent and the woman represented a continuing danger.

#### Costa Rica

A female prison in San José has a sector for pregnant women and mothers with children under three years of age. Another prison nursery in Santa María caters to children who are more than one year old and is run by a non-governmental organization.

<sup>154</sup> See O. Robertson, *Collateral Convicts: Children of Incarcerated Parents—Recommendations and Good Practice from the UN Committee on the Rights of the Child Day of General Discussion 2011*, Human Rights and Refugees Publications (Geneva, Quaker United Nations Office, 2012).

<sup>155</sup> See also the Nelson Mandela Rules, rule 29.

### Kenya

The Kenya Prisons Service recognizes the importance of offering every mother a kit for her baby that contains the following items: assorted baby clothes, two baby blankets, two small bed sheets, one medium-sized towel, a pair of plastic pants, a dozen nappies, a plastic sheet to be placed under the bed sheet to protect the bed from becoming soiled, one bar of soap, a jar of petroleum jelly (for rashes), a feeding bottle, a spoon and a plate. Mothers can keep their babies until the baby is two or three years old and they are permitted to stay together in cells shared with other women. Female prison guards are trained to be sensitive to the needs of incarcerated mothers.

### Peru

In the nursery in a female prison, Chorrillo I in Lima, the Ministry of Education of Peru offers teachers, pedagogical material and workshops for mothers.

### Uruguay

The Mother and Baby Unit “El Molino” in Montevideo hosts mothers and children under four years. A nursery outside the prison, “Pájaros pintados”, serves female prisoners’ children, children of staff and children from the local community.

Mothers with drug use disorders face additional difficulties with respect to their maternal role and their return to their families. However, there is evidence to suggest that women who expect to live with their minor children are more likely to enter a treatment programme. Some prison nursery programmes in the United States, for example, allow women in prison to live with and look after their infants during part or all of their sentence, thus enabling them to experience physical closeness with their babies in a supportive environment. Research involving the Nebraska Correctional Center for Women has shown decreased recidivism of women offenders after having participated in a nursery programme.<sup>156</sup>

### 3. Release planning and post-release support

Planning and preparation for release are important for all prisoners. However, the respective challenges for women prisoners may be very different. The social stigma attached to imprisonment may be worse for women, and their families may not accept them back because of the shame brought on them and the community. When women are imprisoned for adultery or other “moral crimes”, they often face outright rejection and even physical abuse following release. In addition, female offenders tend to have access to fewer resources than male offenders, since in many cases they are financially dependent on their husbands and families. In some countries, their right to property is either non-existent or poorly protected. The economic dependency of women offenders creates an added vulnerability at the time of their return to the community.

<sup>156</sup> L. S. Goshin and M. W. Byrne, “Converging streams of opportunity for prison nursery programs in the United States”, *Journal of Offender Rehabilitation*, vol. 48, No. 4 (2009), pp. 271–295.

Planning and preparation for release of women offenders should therefore start early in order to allow for plans to be completed and confirmed with family members or community organizations. If a female prisoner is fearful for her own safety, such plans need to be kept confidential and steps should be taken to ensure that information on the offender's release plans is not passed on to anyone who might pose a threat.

There are five broad areas of need for women returning to the community after a period of imprisonment, taking into account their family situation, parental status and caring responsibilities: childcare and parenting skill development; health-care, counselling and drug dependence treatment programmes; housing and transportation assistance; education, employment and job training services; and social support.<sup>157</sup> Accordingly, post-release support must address several challenges at once, including the women's need for protection and emotional and psychological support. Most important are the offenders' contact with supervisors or service providers who are able and prepared to listen to, encourage and support them.<sup>158</sup>

#### Afghanistan

In Kabul and Mazar-e-Sharif, UNODC, in partnership with the Government of Afghanistan and the non-governmental organization Women for Afghan Women, supports two post-release transition centres for women leaving prisons. The transition centres offer women instruction in reading, writing and arithmetic, life skills classes, vocational training, basic health care, family counselling and mediation. The centres also facilitate family reunions when necessary. The programme offers women a minimum of six months of follow-up assistance to facilitate their reintegration into the community

#### Canada

The Elizabeth Fry Society of Canada operates numerous transitional residences for women throughout the country. It also assists women in obtaining long-term affordable housing. In a supportive and structured environment, the residents work towards their own goals and reintegration into the community. The programme provides individual and group counselling, life skills, practical assistance and resources.

#### Yemen

In Yemen, the Ministry of Human Rights, with the financial support of the Government of Germany, has established the Social Care House in Aden to facilitate the reintegration of women who have been released from prison. The project partners include the Arab Foundation for Supporting Women and Juveniles and Al-Mansura Prison. The Social Care House helps women who are in prison, as well as those who have been released, to earn their own income rather than being dependent on their families. Upon release, many women cannot return to their families because they have committed "moral crimes" and would risk facing violence and abuse if they did. The Social Care House also accommodates women who are victims of violence and offers educational

<sup>157</sup> J. R. Scroggins and S. Malley, "Reentry and the (unmet) needs of women", *Journal of Offender Rehabilitation*, vol. 49, No. 2 (2010), pp. 146–163.

<sup>158</sup> J. E. Cobbina, "Reintegration success and failure: factors impacting reintegration among incarcerated and formerly incarcerated women", *Journal of Offender Rehabilitation*, vol. 49, No. 3 (2010), pp. 210–232.

opportunities, vocational training and literacy classes. Women have access to social workers, doctors, psychologists and volunteers who provide the support that they need. Female lawyers also offer legal aid to the women and help them navigate the legal system. All residents have learned how to read and write and have acquired handicraft skills. One graduate of such a skill course went on to study at the Institute of Fine Arts in Aden, while other women have found jobs and become financially independent.

Some women are in need of assistance in locating their families or children and in re-establishing contact. Programmes such as childcare services and parenting assistance assist women offenders in facilitating their transition from prison, where everyday life is organized and planned for them, to the outside world, where they themselves have to do the organizing and planning. Learning or relearning how to plan and structure one's life requires time and help. If a woman feels that she has the ability to take care of her children, she is likely to feel more confident about returning to society. If she cannot take care of her children, they may not be returned to her. At the same time, if she wants to find employment, she will need to have access to some sort of childcare.

Social support is crucial to successfully returning women offenders to the community because of the stigma attached to incarcerated women and the damage to their reputation. Community leaders can play an important role in conflict resolution, mediation and reconciling differences, as well as in encouraging community members to accept former women offenders in the community. To prevent recidivism among poor people, including women offenders, it is important to increase their access to low-cost housing, food and work, including through charities. Many women offenders also require special assistance in finding suitable accommodation and employment after their release. Halfway houses and transition homes can ease the move from the prison setting to the community and provide women offenders with an opportunity to re-establish contact with their family at the earliest possible stage.

In many parts of the world, most women prisoners have limited schooling and few if any marketable skills. Following their release from prison, however, they often end up being the sole source of income for themselves and their children. They should therefore be provided with vocational training and assistance in re-entering the labour market. While education and vocational programmes continue to be the mainstay of prison-based rehabilitation programmes, the training that women receive in prison is often limited by stereotypes about appropriate roles and occupations for women. Finally, mentoring programmes are an increasingly popular form of intervention for women offenders and are probably most useful for women offenders who have a shorter, less serious criminal history and do not face very difficult problems (mental illness, substance abuse or alcohol dependency).<sup>159</sup> However, the availability of community-based transitional facilities to ease the process of women's social reintegration is far more important.

### C. Other offenders with special needs or posing special risks

In addition to women offenders and children in conflict with the law, offenders in some other categories face unique social reintegration challenges due to their special needs, including prisoners with mental or physical disabilities, elderly prisoners, prisoners with drug use

<sup>159</sup> See M. Brown and S. Ross, "Mentoring, social capital and desistance: a study of women released from prison", *Australian and New Zealand Journal of Criminology*, vol. 43, No. 1 (2010), pp. 31–50.

disorders, members of ethnic or racial minorities and indigenous people, and prisoners who have undergone extended pretrial detention. The Nelson Mandela Rules indicate that the vulnerable categories of prisoners need to benefit from measures to protect and promote their safety, as well as to facilitate their full and effective access to prison life. At the same time, for prisoners posing special risks, such as violent offenders, sexual offenders or members of gangs and criminal groups, having such a criminal record can turn out to be an almost insurmountable obstacle to their social reintegration.

**Nelson Mandela Rules: rule 2, paragraph 2**

*Rule 2*

...

2. In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.

Meeting the needs of specific offender groups presents some difficult challenges for national authorities, in particular in low-income countries where community resources are scarce and where the costs of offering many of the specialized programmes described in the present chapter may be prohibitive. Moreover, it is obviously difficult to offer additional services to offenders and former prisoners when these services are not generally available to members of the community. Nevertheless, some of the simpler forms of intervention described here should be considered.

- ➊ *For further details on vulnerable categories of prisoners: Handbook on Prisoners with Special Needs (2009), published by UNODC*
- ➋ *For further details on prisoners assessed to be of high risk: Handbook on the Management of High-Risk Prisoners (2016), published by UNODC*
- ➌ *For further details on the disengagement of violent extremist prisoners: Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons (2016), published by UNODC*

## 1. Prisoners with disabilities

**Nelson Mandela Rules: rule 5, paragraph 2; rule 25, paragraph 2; rule 39, paragraph 3; rule 45, paragraph 2; rule 55, paragraph 2; rule 109; and rule 110**

*Rule 5*

...

2. Prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis.

...

*Rule 25*

...

2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full independence and shall encompass sufficient expertise in psychology and psychiatry ...

...

*Rule 39*

...

3. Before imposing disciplinary sanctions, prison administrations shall consider whether and how a prisoner's mental illness or developmental disability may have contributed to his or her conduct and the commission of the offence or act underlying the disciplinary charge. Prison administrations shall not sanction any conduct of a prisoner that is considered to be the direct result of his or her mental illness or intellectual disability.

...

*Rule 45*

...

2. The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice,<sup>a</sup> continues to apply.

...

*Rule 55*

...

2. ... Prisoners with sensory disabilities should be provided with information *[about the prison law and applicable prison regulations, the prisoner's rights and obligations as well as all other matters necessary to enable the prisoner to adapt him- or herself to the life of the prison]* in a manner appropriate to their needs.

...

*Rule 109*

1. Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible.

(continued)

2. If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals.
3. The health-care service shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

*Rule 110*

It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provisions of social-psychiatric aftercare.

<sup>a</sup> See rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (resolution 45/113, annex); and rule 22 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (resolution 65/229, annex).

### (a) *Prisoners with mental disabilities*

The present *Handbook* follows the terminology used by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The umbrella term “mental disability” is used to include psychiatric disabilities and intellectual disabilities. Psychiatric disabilities may be major (e.g. schizophrenia and bipolar disorder) or more minor mental health problems, often referred to as psychosocial problems (e.g. mild anxiety disorders). Intellectual disabilities are defined as “a condition of arrested or incomplete development of the mind characterized by impairment of skills and overall intelligence in areas such as cognition, language, and motor or social abilities”.<sup>160</sup>

States parties to the Convention on the Rights of Persons with Disabilities must ensure that the existence of a disability shall in no case justify a deprivation of liberty (art. 14, para. 1 (b)); and recognize the equal right of persons with disabilities to live in the community, including by ensuring that persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community (art. 19, para. (b)).<sup>161</sup> The Nelson Mandela Rules stipulate that persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, must not be detained in prisons; and arrangements must be made to transfer them to mental health facilities as soon as possible (rule 109, para. 1).

Given the particularly harmful effect of imprisonment on persons with mental disabilities, they should be diverted from the criminal justice system as much as possible. Diversion programmes and referral mechanisms should ensure that offenders receive adequate treatment in specialized mental health facilities or in the community. However, in many low-income countries, such facilities or community-based resources are simply not available or accessible

<sup>160</sup> Report of the Special Rapporteur on the right to everyone to the enjoyment of the highest attainable standard of physical and mental health (E/CN.4/2005/51), paras. 18 and 19; see also WHO, *The World Health Report 2001: Mental Health—New Understanding, New Hope* (Geneva, 2001), p. 35.

<sup>161</sup> United Nations, *Treaty Series*, vol. 2515, No. 44910.

to offenders. By default, therefore, prisoners with mental disabilities may end up in prison without proper care or attention. In prison, persons with mental disabilities are at increased risk of being abused and victimized by other prisoners, and sometimes also by prison staff. As such persons are often punished for behaviour that they are not able to control, the Nelson Mandela Rules stipulate that prison authorities must not sanction any conduct of a prisoner that is considered to be the direct result of his or her mental illness or intellectual disability (rule 39, para. 3). The Nelson Mandela Rules also prohibit the imposition of solitary confinement in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures (rule 45, para. 2).

A competent diagnosis of mental disabilities and subsequent treatment or other interventions require that a careful (psychiatric) assessment be conducted by a qualified mental health professional. The Nelson Mandela Rules require the prison health-care service to include sufficient expertise in psychology and psychiatry (rule 25, para. 2). Unfortunately, the services of mental health professionals are not always available in prisons. In the absence of qualified mental health professionals, at the very least, other health-care professionals and regular prison personnel should be trained to identify symptoms of psychological or emotional distress and to recognize the signs and symptoms of mental disabilities.

Upon being released into the community, prisoners with mental disabilities are likely to encounter some unique problems. They sometimes experience extreme social isolation and often encounter considerable difficulties in finding suitable accommodation and securing employment. Many of them will require further medical or therapeutic services, as well as practical assistance (e.g. in financial management). These factors, in combination with the risk of non-compliance with treatment orders, require the development of a community-based treatment model of continuing care that addresses the risks, needs and vulnerabilities of this group.<sup>162</sup> The Nelson Mandela Rules point to the need for arrangements to be made, in cooperation with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric aftercare (rule 110). This includes multidisciplinary case management for psychiatric treatment and social services (e.g. housing, food, help with disability benefits and vocational training).

Offenders with mental health disorders are often affected by co-occurring substance use disorders. Evaluations of enhanced treatment programmes for offenders with mental disabilities who have substance use problems, for example, have shown that: (a) integrated treatment and care for mental health and substance disorders constitute the recommended approach to addressing health disorders and improving the quality of life of people affected by these often co-morbid disorders; (b) comprehensive models of treatment and care provide diverse evidence-based treatment options in a continuum of care that are tailored to the needs of the person with a mental health and/or substance use disorder; and (c) like any other health intervention, treatment of substance use disorders is aimed at the highest attainable level of health. In addition, substance use disorders often follow the course of chronic and relapsing disorders. In this regard, while abstinence from illicit substance use is the final goal of treatment, reduced substance use, improved quality of life and reduction of the negative health and social consequences of substance use are also important treatment outcomes. Offenders participating in treatment programmes that accept only complete abstinence as a positive treatment outcome often have problems in fully complying with the conditions of such treatment.

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<sup>162</sup> S. W. Hartwell and K. Orr, "The Massachusetts forensic transition program for mentally ill offenders re-entering the community", *Psychiatric Services*, vol. 50, No. 9 (1999), pp. 1220–1222.

The consequence of failure to successfully reintegrate into society or to complete a period of community supervision can be especially serious for offenders with mental disabilities, as reoffending or failure to comply with the conditions of their sentence may lead to the interruption of their treatment and the reoccurrence of problematic symptoms.

#### Core components of intervention for prisoners with mental disabilities

The core components of interventions designed to assist prisoners with mental disabilities in successfully re-entering the community include:

- Stabilizing the offender's illness as a matter of priority and appropriate administration of medication
- Enhancing their independent functioning
- Maintaining internal and external controls so as to minimize the likelihood that the offender will act violently and commit new offences
- Establishing a liaison between treatment staff and the justice system
- Providing structure in the offender's daily life
- Using authority appropriately
- Managing the offender's violence and impulses
- Integrating treatment and case management
- Securing therapeutic living arrangements where necessary
- Working with the offender's family to determine if it is a reliable source of support for the offender

Prisoners with learning disabilities typically find themselves in challenging situations during their imprisonment and at the time of their release.<sup>163</sup> Their inability to write or read well, together with poor verbal and comprehension skills, may render it difficult for them to effectively cope with the prison regime and may expose them to ridicule, exploitation and isolation. These offenders do not always understand what is expected of them and cannot participate very effectively in many programmes. In addition, their ability to communicate their feelings to others is sometimes limited. As a result, they are likely to experience high levels of depression and anxiety.

Effective social reintegration planning is important for prisoners with learning disabilities when they are preparing for their release. They do not always have the skills or the know-how to make the necessary arrangements without assistance. Although their support needs are often of a relatively low level, they are long-term; and they may, for example, need help with budgeting, paying bills, personal care and friendship networks, applying for jobs or finding various kinds of information.

Learning disabilities are often hidden. Prisoners with learning disabilities are usually hesitant to reveal their difficulties and to ask for assistance. Effective interventions and support for offenders with learning disabilities or difficulties presuppose the availability of proper screening tools and procedures for those with learning disabilities. It is therefore desirable for prison

<sup>163</sup> J. Talbot, *Prisoners' Voices: Experiences of the Criminal Justice System by Prisoners with Learning Disabilities and Difficulties* (London, Prison Reform Trust, 2008).

officials to have access to learning disability expertise, including mechanisms for making referrals to speech and language therapy. Linked to the identification of people with learning disabilities or difficulties is the issue of information flows and confidentiality, that is, the appropriate sharing of information as the offenders move through the criminal justice system and from prison to the community. Protocols to guide the sharing of that information among the agencies concerned are usually extremely useful. Furthermore, at the time of their release, prisoners with learning disabilities or difficulties should be referred to specialist services and be supported during the aftercare period. Clear referral procedures can help ensure that offenders receive the specialized help they need after their release.

### *(b) Prisoners with physical disabilities*

The Nelson Mandela Rules require prison administrations to make all reasonable accommodation and adjustments to ensure that prisoners with physical disabilities have full and effective access to prison life on an equitable basis (rule 5, para. 2). It is important for prisons to be designed and built in a way that does not hinder or prevent prisoners with temporary or permanent physical disabilities from accessing facilities and services that will help with their rehabilitation. Some countries have building codes that address the needs of disabled people. Others may have enacted legislation to counter discrimination against disabled persons.<sup>164</sup> Such a legal framework should have an important impact on the design of buildings, including prisons.

Prisoners dependent on wheelchairs or crutches, for example, require ramps and elevators to gain access to higher building levels, while prisoners who are visually or hearing impaired may require people to guide and accompany them from one location to another. Some prisoners with disabilities may require larger living cells to accommodate their wheelchair or a special bed. At the very least, prison officers should be trained and sensitized to the needs of prisoners with physical disabilities. In addition, prison administrations should have policies and regulations that address this special category of prisoners.

Prison officials can consult with community organizations experienced in such matters for advice and assistance on how to improve prison conditions for disabled prisoners and how to provide assistance in managing their daily activities. This is essential, as prisoners with physical disabilities may not always be able to participate in all prison programmes, and this may affect their preparation for release and possibly also their eligibility for early release or conditional release programmes. Furthermore, having a physical disability often creates additional obstacles to finding suitable accommodation or employment. Especially if resources are limited, prison officials may benefit from donated equipment, volunteers from such organizations, and partnership arrangements with organizations specializing in physical therapy and physical rehabilitation. Such services may result in the prisoners being able to cope more effectively with the prison regime, as well as with life in the community following their release.

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<sup>164</sup> Regarding the international regulatory framework, see also the Convention on the Rights of Persons with Disabilities.

## 2. Offenders with drug use disorders

The high prevalence of offenders with drug use disorders in the prison system requires the development of evidence-based drug dependence treatment and rehabilitation programmes as alternatives to incarceration, during incarceration and after incarceration. The quality and diversity of the treatment services offered, as well as the continuity of treatment upon entering (or re-entering) and leaving prison, are critical to the effectiveness of programmes for the treatment of offenders with drug use disorders. A delay or break in the treatment programme may negatively affect the motivation of the individuals to participate in treatment. The interruption of offenders' access to treatment for drug dependence upon their release from prison can have a negative impact on their health and social reintegration prospects.

### Nelson Mandela Rules: rule 24

#### *Rule 24*

1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.
2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.

Overall, access to treatment for drug dependence is limited: on average, only one out of six persons in need of treatment for drug use disorders have access to such treatment. In many countries, evidence-based treatment for drug dependence in prisons is even more limited. If such treatment is available, pretrial detainees may be excluded, even though they may have been receiving such treatment prior to their arrest and detention. Furthermore, the period immediately following release from prison is a time of increased risk of overdose for people with opioid use disorders, as tolerance decreases after periods of abstinence or reduced illicit opioid use. Prison release programmes should integrate effective overdose prevention strategies in addition to ensuring the continuity of drug use disorder treatment upon release.

Offenders with drug use disorders often have multiple treatment needs in a range of personal, health, social and economic areas. Such disorders can be treated effectively if people can access treatment and rehabilitation services that are appropriate to their needs and are of sufficient quality, intensity and duration, given that no single treatment approach is effective for everyone. There is an array of evidence-based psychosocial and pharmacological treatment interventions that can be implemented in different settings. Offenders with drug use disorders should have access or be referred to the treatment that best meets their needs, including access to services to reduce the negative health and social consequences of illicit drug use, and that takes into account specific needs related to gender, age, health and risk behaviour. To further support recovery, a wide range of social interventions should be made available in the community.

Effective planning for treatment should involve a partnership between health and justice authorities as well as different governmental and non-governmental agencies and providers, service users and the community. Treatment and rehabilitation services can play a key role

in reducing the social stigma and discrimination faced by drug users and in supporting their reintegration into society as healthy and productive members of the community.<sup>165</sup>

- ➊ For further details on alternatives to imprisonment for offenders with drug use disorders: *Treatment and Care for People with Drug Use Disorders in Contact with the Criminal Justice System: Alternatives to Conviction or Punishment* (2018), co-published by UNODC and WHO
- ➋ For further details on the rehabilitation and social reintegration of people with drug use disorders: *Drug Dependence Treatment: Sustained Recovery Management* (2008), published by UNODC “Sustainable livelihoods: a broader vision” (2011), discussion paper published by UNODC
- ➌ For further details on evidence-based drug use disorder treatment, including in prisons: “International standards for the treatment of drug use disorders: draft for field testing” (2016) *Drug Dependence Treatment: Interventions for Drug Users in Prison* (2008), co-published by UNODC and WHO

### 3. Offenders living with HIV

HIV and AIDS pose a major challenge in prisons throughout the world.<sup>166</sup> HIV prevalence in prisons is often far higher than in the community, and prisons are a high-risk environment for HIV transmission. All modes of transmission occurring in the community (blood-borne, sexual and vertical transmission) also occur in prisons, where HIV is transmitted through the sharing of contaminated injecting equipment among people who inject drugs; consensual or coerced unsafe sexual practices, including rape; or unsafe skin-piercing and tattooing practices.

#### Nelson Mandela Rules: rule 24

##### Rule 24

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2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.

The higher vulnerability of people in prison and the overrepresentation of key populations, together with overcrowding, poor hygiene and nutrition, violence, lack of access to basic health services and higher prevalence of various communicable diseases, are responsible for the high rates of morbidity and mortality related to HIV and tuberculosis. Despite constituting a minority in prisons, women are at higher risk of acquiring HIV than men due to their typically lower socioeconomic background and the reasons for which they are imprisoned, which are different from the reasons for which men are imprisoned.

All prisoners should therefore receive relevant health education upon admission to prison, during their detention and after they have been released. HIV testing should be accessible

<sup>165</sup> For further UNODC guidance on applying a public health approach to the issues of drug dependence, see “From coercion to cohesion: treating drug dependence through health care, not punishment”, discussion paper based on a scientific workshop, Vienna, 28–30 October 2009. Available at [http://www.unodc.org/docs/treatment/Coercion\\_Ebook.pdf](http://www.unodc.org/docs/treatment/Coercion_Ebook.pdf)

<sup>166</sup> See UNODC, *HIV and AIDS in Places of Detention: A Toolkit for Policymakers, Programme Managers, Prison Officers and Health-care Providers in Prison Settings* (2008).

on a voluntary basis, accompanied by confidential pre- and post-counselling and linked to access to treatment. All health services in prisons should ensure a continuity of HIV-related services for prisoners during the admission process, when they are being transferred to other prisons and upon their release.

As early as 1993, the World Health Organization, in its guidelines on HIV infection and AIDS in prisons, recommended that condoms be made available to prisoners “throughout their period of detention” and “prior to any form of leave or release”. Access to safe tattooing equipment, as well as methadone maintenance programmes and, where appropriate, access to safe injection equipment in the case of prisoners with drug use disorders also reduce the risk of transmission of HIV and hepatitis between prisoners. In order to prevent the spread of HIV and other contagious diseases, national authorities must address the problems of prison overcrowding, and poor prison living and sanitary conditions, both of which affect the rate of HIV infection. Finally, it is important to raise awareness among both prison staff and prisoners about HIV in a non-judgmental way, including with easy-to-understand and accessible information to make prisoners aware of the extent of their illness and ways in which they can prevent transmission of HIV.

Health services in prisons are often isolated from public health programmes, including those related to HIV and tuberculosis. In countries where health in prisons does not fall under the responsibility of the Ministry of Health, programmes implemented in prisons should be implemented in close collaboration with public health programmes and in line with their guidelines. While access to community-based services is often limited, these can play an important role in the provision of testing and counselling as well as peer-based interventions to provide support to the continuity of treatment and care beyond the place of detention. The continuity of treatment, including opioid substitution therapy for drug dependence and treatment for tuberculosis and HIV, as well as the prevention of mother-to-child transmission, is crucial to protecting the health of the patient and to reducing the risk of developing resistance. As health surveillance systems are often poor in prisons and other closed settings and are often neither linked nor compatible with national health surveillance systems, it is also important to build the capacity of health-care professionals to monitor health in prisons based on public health surveillance systems.

As noted above, overcrowding and inadequate ventilation and natural lighting might impede the implementation of prevention efforts, including those related to tuberculosis. Malnutrition also plays an important role. In countries with limited resources, malnutrition rates in prisons can be high, especially among prisoners who do not receive support from their relatives. Supplementary feeding programmes are needed in such settings, in particular, for people living with HIV, individuals receiving antiretroviral therapy, pregnant and/or nursing women and tuberculosis patients.

#### Lesotho

Lesotho has adopted a public health approach for condom programmes in correctional institutions to curb the spread of sexually transmitted infections, including HIV. As such, Lesotho is currently one of two countries in Southern Africa implementing condom programmes in prisons. Condoms and lubricants are made available to people in prisons through condom dispensers located at several locations.

*Source:* UNODC regional expert group meeting on HIV prevention and condom programming in prisons, Masero, 23–25 June 2015 ([www.unodc.org/southernafrica/en/stories/lesotho-hosts-unodc-regional-expert-group-meeting-on-hiv-prevention-and-condom-programming-in-prisons.html](http://www.unodc.org/southernafrica/en/stories/lesotho-hosts-unodc-regional-expert-group-meeting-on-hiv-prevention-and-condom-programming-in-prisons.html)).

### Republic of Moldova

The Department of Penitentiary Institutions of the Republic of Moldova has built a holistic strategy on HIV and AIDS prevention, treatment and care in prisons by ensuring access of prisoners to services equivalent to those available in the community. Currently, the Moldovan prison system is implementing interventions recommended in the UNODC comprehensive package of services for people in prisons, including voluntary HIV testing, antiretroviral treatment, the provision of condoms, a needle-syringe programme, opioid substitution therapy and the management and prevention of drug overdose.

*Source:* UNAIDS, “Republic of Moldova progress report on HIV/AIDS” (January–December 2015). Available at [www.unaids.org/en/regionscountries/countries/republicofmoldova](http://www.unaids.org/en/regionscountries/countries/republicofmoldova).

Finally, it should be noted that programme interventions benefiting prisoners living with tuberculosis, hepatitis or HIV not only help to ensure the health of offenders and to facilitate their social reintegration, but also prevent further infections in the community (“prison health is public health”).

UNODC, the International Labour Organization, the United Nations Development Programme, the World Health Organization and the Joint United Nations Programme on HIV/AIDS have developed a comprehensive package of 15 interventions that are essential for effective HIV prevention and treatment in closed settings. While each of these interventions alone is useful in addressing HIV in prisons, the interventions have the greatest impact when delivered as a whole.<sup>167</sup>

## 4. Offenders who are foreign nationals

Prisoners who are foreign nationals are offenders who do not carry the passport of the country in which they are imprisoned. The population of foreign nationals held in custody has increased considerably in many countries. Their number tends to be larger in countries that have a large transient or migrant worker population. Prisoners who are foreign nationals have difficulties maintaining contact with their families and communities and typically lack the contacts and support that are vital to reducing the harmful effects of imprisonment.

### Nelson Mandela Rules: rules 55, para. 1; and 62

#### *Rule 55*

1. The information referred to in rule 54 [i.e. information about the prison law and applicable prison regulations, the prisoner’s rights and obligations, as well as all other matters necessary to enable the prisoner to adapt him- or herself to prison life] shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.

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<sup>167</sup> For further details, see “HIV prevention, treatment and care in prisons and other closed settings: a comprehensive package of interventions”, UNODC/International Labour Organization/UNDP/UNAIDS Policy Brief (2013).

(continued)

*Rule 62*

1. Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.
2. Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

Foreign offenders face several disadvantages, the most prominent being the language barrier, which may significantly hinder their understanding of the law, the legal process and their rights and obligations. For example, foreign prisoners must be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong. However, many foreign prisoners are not aware of this entitlement, and consular services may not always be available or readily extended to all foreign prisoners. In addition, insufficient awareness of prison rules and regulations may lead to unintended breaches of those rules and regulations, resulting in disciplinary sanctions. Educational, vocational training and other programmes are less accessible to foreigner prisoners, as they are less likely to be able to read or write in the language of the country in which they are imprisoned. In addition, many foreign prisoners do not have the proper immigration status or legal permit to remain in the country, and they often face prolonged detention pending a decision on deportation to their country of origin. Foreign prisoners may also experience discrimination based on their culture or religion. Since they tend to be cut off from their families and communities, foreign prisoners also face a significant degree of isolation.

Prisoners who are foreign nationals are often ill prepared for release and may not be eligible for health, welfare and other community-based services. In addition, they are often unable to qualify for early release programmes and typically have nowhere to return to in the community. If they are to be deported after having served their sentence, they typically do not receive much assistance in preparing to be returned to their country. When assistance is available, there are sometimes long delays in finalizing their deportation, and offenders struggle while waiting to depart for their home country. Very few countries have halfway houses for those awaiting deportation. Once they return home, there are usually limited if any services available to help them with their social reintegration after a long absence. Where foreign prisoners are being transferred, many of these problems could be alleviated by better communication and cooperation between the prison authorities of the country of imprisonment and the home country, but such collaboration is often insufficient.

Early repatriation of foreign prisoners (either through prisoner transfer programmes, conditional release programmes or other mechanisms) is often important to facilitate their social reintegration upon release. Transferring such persons to serve their sentences in their country of origin can contribute to dealing with them fairly and effectively. Almost all instruments that regulate international prison transfers specify social rehabilitation as one of the grounds for supporting such transfers. The transfer of foreign sentenced persons to serve their sentences in their home countries is an alternative way of implementing a sentence. All other things being equal, sentenced persons who serve their sentences in their home countries can be better rehabilitated and reintegrated into the community. This is a good reason for

transferring sentenced persons to a State with which they have social links to serve their sentences. Imprisonment in a foreign country, away from family and friends, may be counterproductive, as families may provide prisoners with the social capital and support that improve the likelihood of successful resettlement and reintegration.

As far as women prisoners are concerned, the Bangkok Rules (rule 53, para. 1) recommend that “where relevant bilateral or multilateral agreements are in place, the transfer of non-resident foreign-national women prisoners to their home country, especially if they have children in their home country, shall be considered as early as possible during their imprisonment, following the application or informed consent of the woman concerned”.<sup>168</sup>

📌 *For further details on the repatriation of foreign prisoners: Handbook on the International Transfer of Sentenced Persons (2012), published by UNODC*

#### European Union

Eliminating Language Barriers in European Prisons through Open and Distance Education Technology, a project funded by the European Commission, focuses on solving communication problems between European prison officers and foreign prisoners. Not only do prison officers learn an additional language and receive accreditation for their achievements, but communication with foreign prisoners also improves, thereby having a positive impact on the well-being of foreign prisoners.

In addition to the above-mentioned project, the FORINER project was launched in 2016 to enable foreign nationals who are citizens of European Union member States and in prisons within the European Union to be provided with access to education and learning opportunities by an institution of their home country while they are in prison. The project reflects provisions in the European Prison Rules to the effect that prisoners have a right to have access to education and training whatever their nationality. Among its many partners are universities with knowledge about distance education and developing electronic learning environments, probation associations, prison professional organizations, adult education specialists and organizations supporting prisoners. If prisoners have access to education provided by an institution of their home country, their reintegration into their community is likely to be greatly facilitated.

*Sources:* European Prison Education Association ([www.epea.org/](http://www.epea.org/)); Education, Audiovisual and Culture Executive Agency, “Eliminating languages barriers in European prisons through open and distance education technology: progress report 2007”. Available at <http://eacea.ec.europa.eu/>; and FORINER project ([www.foriner.com/](http://www.foriner.com/)).

## 5. Offenders belonging to ethnic or racial minorities or indigenous peoples

Imprisonment can add to the exclusion and isolation of members of minority groups who may already face discrimination based on their racial or ethnic background. Ethnic or racial minorities are often overrepresented in the prison system as a result of legislation and law enforcement strategies that have a particular impact on those groups. Where this is the case, further discrimination at the time of their release from prison can be expected.

<sup>168</sup> As for non-resident foreign women prisoners who are accompanied by a child, the Bangkok Rules (rule 53, para. 2) provide that whenever such a child is to be removed from prison, “consideration should be given to relocating the child to its home country, taking into account the best interests of the child and in consultation with the mother”.

Members of minority groups are likely to have multiple needs because of their socioeconomic marginalization and the effects of discrimination. Their participation in prison programmes is often limited owing to language barriers and the limited cultural relevance of existing programmes. At the same time, they typically need a greater amount of assistance upon release as a result of their disadvantaged socioeconomic status. The mainstream post-release support, where it exists, rarely takes into account the special cultural needs and the particular circumstances of members of ethnic or racial minorities and indigenous peoples.<sup>169</sup> Ethnic or racial discrimination is a serious obstacle to the social reintegration of prisoners and may lead to a vicious cycle of reincarceration that perpetuates their marginalization.

Addressing the issue of racial discrimination is a collective responsibility, but there are initiatives that can be taken within the prison system to reduce racial discrimination and to assist individuals in overcoming their fears and feelings of alienation. One of the ways prison systems can address racial discrimination is to employ people from different backgrounds. Prison staff of all ethnic backgrounds should be trained in cultural sensitivity and understanding. These professionals must be aware that differing cultural responses to offenders and offending behaviour can affect the offenders' reintegration process and their willingness and capacity to engage with services. Prison managers should review any inequalities or barriers faced by minorities in accessing services within the prison. Finally, prison counsellors and other community volunteers can also play an important role in helping prisoners develop resilience and the self-confidence and ability to face discrimination.

#### Australia

##### *Aboriginal programmes*

The Aboriginal Family Visits Programme, which is implemented under the auspices of the Victorian Association for the Care and Resettlement of Offenders, recognizes the importance of Koori prisoners' maintaining their family relationships and links with their community. More specifically, the programme provides travel and accommodation assistance to the families of Koori prisoners to facilitate visits to a family member who is in custody. In Queensland, custodial centres coordinate programmes for elders, respected persons and spiritual healers to work with indigenous people. A number of centres work closely with indigenous organizations, including community justice groups, to provide support and assistance to indigenous prisoners. Links with indigenous communities have also been forged through visits by senior officers from a number of correctional centres to community justice groups operating in communities in the lower Gulf and Cape York.

*Source:* M. Willis and J.-P. Moore, *Reintegration of Indigenous Prisoners*, Research and Public Policy Series No. 90 (Canberra, Australian Institute of Criminology, 2008).

To ensure the relevance and accessibility of social reintegration support services for members of visible minorities, the following three general principles offer some guidance:

- (a) Services must redress the existing racial inequalities in criminal justice practices that affect the provision of services to members of visible minorities and that have a negative impact on their reintegration prospects;

<sup>169</sup> The Bangkok Rules confirm, for example, that women prisoners from different religious and cultural backgrounds have distinctive needs and may face multiple forms of discrimination in accessing gender- and culture-relevant programmes and services; accordingly, prison authorities are called upon to provide comprehensive programmes and services to address those needs, in consultation with the women prisoners themselves and the relevant groups, including suitable pre- and post-release services (rules 54 and 55).

- (b) Services must recognize and address the impact of perceptions of discrimination and stereotyping within the criminal justice system and society as a whole, including on offenders' willingness and motivation to engage with existing services;
- (c) Services must display understanding of, and sensitivity towards, cultural differences in expectations and experiences of resettlement.<sup>170</sup>

## 6. Elderly offenders

As the general population ages in many countries, so does the prison population. As the ageing population results in additional costs to the health and social welfare system of a country, so does the ageing population in prisons. In addition, given the trend towards tougher sentencing laws in many jurisdictions, an increasing proportion of prisoners are now serving very long sentences, including natural life sentences. As a consequence, the age profile of prisoners in many countries is rising.

The stress of prison has a more severe impact on the health of elderly prisoners than on that of the general prison population. Research suggests that the ageing process in prisons is even faster than outside prisons, owing to the conditions in prisons. Because of their age, many older prisoners experience heightened psychological shock upon being incarcerated and feel less able to cope with their new surroundings than younger prisoners.<sup>171</sup> They tend to feel vulnerable and may be at risk of abuse by other prisoners. Older women prisoners, in particular, feel threatened by younger prisoners and often become a target of bullying.<sup>172</sup>

Special attention should therefore be given to the needs of elderly prisoners and, where possible, separate units should be available for them. Elderly offenders should not be forced to do any hard labour or heavy work but should have the opportunity to stay engaged in work or other constructive activities. It is also important to take into account that, in many instances, the only support older prisoners can expect to receive after their release from prison, in particular after serving a long sentence, is that available from welfare agencies or NGOs. This is because of the fact that in many communities, facilities or nursing homes for older persons are scarce and difficult for former prisoners to access. Given their multiple needs and vulnerability, the lack of suitable accommodation for older former prisoners upon release is very problematic.

Finally, as a result of the rising age profile in many prison systems, elderly or terminally ill prisoners may require end-of-life medical, nursing and hospice care. Several prisons in the United States, for example, have introduced prison hospice programmes that involve prisoners caring for prisoners who are at the end of their lives. Both the National Institute of Corrections and the National Prison Hospice Association offer guidelines on how to establish related training programmes for prisoners. In principle, terminally ill prisoners should be considered for release on compassionate grounds.

<sup>170</sup> Adapted from J. Jacobson, C. Phillips and K. Edgar, *"Double Trouble?": Black, Asian and Minority Ethnic Offenders' Experiences of Resettlement* (London, Clinks and Prison Reform Trust, 2010), p. 4.

<sup>171</sup> M. Davies, "The reintegration of elderly prisoners: an exploration of services provided in England and Wales" (2011).

<sup>172</sup> R. H. Aday and J. J. Krabill, *Women Aging in Prison: A Neglected Population in the Correctional System* (Boulder, Colorado, Lynne Rienner Publishers, 2011).

### United Kingdom

In the United Kingdom, the Department of Health and Nacro, a crime reduction charity, have jointly developed a resource kit for working with older prisoners, which describes all aspects of ageing and health, as well as good practice ideas for activities, health care and resettlement. Nacro offers free access to an online database, the Resettlement Service Finder, with information on housing, employment and other services to help prisoners reintegrate successfully.

Furthermore, Resettlement and Care of Older ex-Offenders and Prisoners (RECOOP), a non-governmental organization, promotes the care, resettlement and rehabilitation of offenders and former offenders, in particular those over the age of 50. It provides support services in the fields of advocacy, financial advice, mentoring on issues such as employment and training, and guidance on housing and health in order to enable former prisoners to take control of their lives, avoid social exclusion and remain free from offending.

*Source:* United Kingdom Department of Health and Nacro, "A resource pack for working with older prisoners" (London, Nacro, 2009); see also [www.recoop.org.uk/pages/home/](http://www.recoop.org.uk/pages/home/).

### United States

In the Louisiana State Penitentiary known as "Angola", prisoners assist in running a hospice programme that provides services such as shaving prisoners in palliative care, giving them baths or volunteering to clean their cells. Many of the programme participants are serving life sentences and look upon their volunteer work as helping others, and they hope that someone will do the same when it comes to their time to face the end of their life in prison. Although such hospice programmes are not serving to reintegrate older prisoners back into society, they may nevertheless have a rehabilitative value for those who work in them.

## 7. Prisoners released after extended periods of pretrial detention

In many jurisdictions throughout the world, pretrial detainees form a very large percentage of the prison population and, in several instances, actually outnumber the convicted prisoners. Inefficient and ineffective criminal justice systems and delays in bringing charges or cases to court may cause unnecessarily prolonged pretrial detention, whereas the limited use of alternatives to pretrial detention may account for the high number of prisoners held on remand.<sup>173</sup> Some pretrial detainees may remain behind bars for years.

While in detention, pretrial detainees may suffer lasting physical and psychological damage, be exposed to diseases and experience a (sometimes irremediable) negative impact on their relationships with families and communities.<sup>174</sup> Yet, because they have not been convicted, pretrial detainees usually have less access to programmes or training than convicted prisoners—despite the "special regime" for pretrial detainees which the Nelson Mandela Rules foresee, reflecting the principle of presumption of innocence (rules 111–120). In effect, they are often caught in the unfortunate situation of being presumed innocent but treated worse than if they had been found guilty.

<sup>173</sup> Open Society Justice Initiative, *Presumption of Guilt: The Global Overuse of Pretrial Detention* (New York, Open Society Foundations, 2014).

<sup>174</sup> Open Society Justice Initiative and United Nations Development Programme, *The Socioeconomic Impact of Pretrial Detention* (New York, Open Society Foundations, 2011).

Those who are released after being remanded in custody for a long time have to deal with the effects of prolonged isolation and exclusion from the community, which is likely to include the loss of (or serious setbacks involving) their jobs, homes, contacts and social networks.

In many instances, pretrial detainees released without a conviction or charge (even after an acquittal) face the same stigmatization and exclusion from their community as if they had been convicted. The mere suggestion of an accusation can bring shame, fear and other negative social consequences to an individual. In some cases, those who have been accused but not formally charged or convicted have already been judged and “convicted” by their community. They may never be accepted again as full members of that community. In such cases, transition homes and shelters should be available at least on a temporary basis. Social reintegration may involve moving them to another community to ensure their safety and security. NGOs can be instrumental in providing such services. At the same time, law enforcement must be kept informed and must refrain from any action that may hinder the individual’s successful social reintegration.

## 8. Offenders posing a particular risk

### (a) *Violent offenders*

Violent offenders constitute a relatively small percentage of the offender population. However, it tends to be more problematic to engage violent offenders in rehabilitation programmes than other offenders, and the social reintegration of violent offenders presents a difficult challenge. Repeat violent offenders, in particular, tend to have poor coping or problem-solving skills, which undermines their social interaction and social integration. The rehabilitation and social reintegration of high-risk offenders, whose risk and need profiles are complex and diverse, are particularly challenging.

Several cognitive-behavioural programmes have been developed for violent offenders and can be delivered in prisons or in the community (while offenders are on probation or conditional release).<sup>175</sup> Existing studies on the effectiveness of treatment for violent offenders show that treatment intensity is a factor in the relative success of such programmes. Interventions that address cognitive skills and anger (emotional) control and that focus on relapse prevention tend to be more effective in reducing recidivism among violent offenders.

In order to prevent recidivism among dangerous, high-risk offenders (relapse prevention), three preconditions to success have been identified: (a) self-efficacy, the confidence in one’s ability to cope with a situation in which the risk of relapsing is relatively high; (b) coping skills, the possession of the requisite skills to cope with various risk situations; and (c) motivation, the desire or the incentive not to relapse. “Through cognitive (providing insight into the how and why of their behaviour) and behavioural (providing actual experience of mastery and success) means, a relapse prevention approach teaches offenders new ways of coping that may allow them to break the cycle before they relapse completely.”<sup>176</sup>

<sup>175</sup> See D. Joliffe and D. P. Farrington, “A systematic review of the national and international evidence on the effectiveness of interventions with violent offenders”, Ministry of Justice Research Series 16/07 (United Kingdom, Ministry of Justice, 2007).

<sup>176</sup> V. L. Quinsey and others, *Violent Offenders: Appraising and Managing Risk*, 2nd ed. (Washington, D.C., American Psychological Association, 2006), p. 251.

### (b) *Members of criminal groups*

Institutional programming and appropriate re-entry supervision and support are a priority for members of criminal groups, as individuals who are immersed in negative social groups are more likely to identify with the roles in the group and less likely to modify their identity and behaviour after imprisonment. Gang members and others with greater opportunities for negative peer interaction are more likely to reoffend upon release than non-gang members. In addition, desistance from crime is more difficult to achieve for offenders with strong ties to other criminals or gangs. Gangs and criminal groups provide a strong sense of belonging to their members and thus can have a strong attraction for recently released prisoners. For a member of such a group, it is often difficult to extricate him- or herself from the group without facing threats to personal safety or further social alienation. Peer group pressure and the threat of violence and retribution are serious obstacles to gang members renouncing gang membership.

Belonging to a gang often means that members protect each other and look out for each other's families. Thus, the only alternative for such former gang members often consists of starting a new life in a completely new environment, away from familiar networks of friends or contacts. Programmes and interventions to help break the offenders' social ties to gangs are necessary, including interventions to help offenders develop pro-social support networks. Most gang members have low levels of education and work skills. Many of them have grown up in marginalized communities where job opportunities are scarce. Standard pre-release programmes may be ineffective when applied to gang members. Tailor-made programmes are therefore needed for members of criminal groups to address the specific risks associated with their situation.

### (c) *Sexual offenders*

For sexual offenders, a criminal record can become an almost insurmountable obstacle to their social reintegration, including employment and accommodation. They usually encounter numerous challenges related to the stigma and fears associated with sexual offending, including difficulties related to the fact that they may have been registered as sexual offenders in a publicly available registry. The numerous consequences associated with being convicted for committing a sexual offence, including restrictions in employment, housing and support by the State, are obstacles that can compromise the offenders' efforts to successfully re-enter the community and desist from offending. Research shows that re-entry planning, the acquisition of the necessary skills to control their behaviour and the availability of social support and resources are all essential to successful behavioural change and the social reintegration of this particular group.<sup>177</sup>

<sup>177</sup> S. Gobbels, G. M. Willis and T. Ward, "Current re-entry practices in sex offender treatment programmes: desistance facilitating or hindering?", *Journal of Sexual Aggression*, vol. 20, No. 3 (2014), pp. 354–366; and G. M. Willis and L. Johnston, "Planning helps: the impact of release planning on subsequent re-entry experiences of child sex offenders", *Journal of Sexual Aggression*, vol. 18, No. 2, pp. 194–208.

### Need for a comprehensive approach to the management of sexual offenders

Responding effectively to the complex dynamics of sexual offending behaviour requires a specialized and thoughtful approach to sexual offender management. Collaboration among the entities responsible for sexual offender management, specialization among the disciplines that treat and monitor sexual offenders, and a shared goal of promoting public safety by reducing the risk offenders pose to the community are all integral components of successful sexual offender management efforts.

Source: M. L. Thigpen and others, *Parole Essentials: Practical Guides for Parole Leaders. No.4—Special Challenges Facing Parole* (Washington, D.C., United States Department of Justice, National Institute of Corrections, 2011), p. 2.

Individuals who commit sexual offences vary in many ways, including in terms of their background, demographics, type of offence and crime pattern, motivation and risk of reoffending. They may have committed sexual offences against adults or children, against male or female victims or against several or all of those groups. The following principles have been proposed for the management of sexual offenders:

- (a) Interventions should be based on the assessment and reassessment of offender risk;
- (b) The factors that are targeted for intervention should be those specifically related to criminal behaviour;
- (c) There should be appropriate monitoring of activities in the community;
- (d) There should be effective sharing of information among treatment and supervisory staff.

According to that approach, the most “dangerous” and high-risk sexual offenders should have the strictest supervision over a long period. Research has demonstrated that the two most important factors associated with sexual recidivism are sexual deviancy (dynamic factors) and lifestyle instability and/or criminality (static, historical factors).<sup>178</sup> In addition, criminal lifestyle characteristics have been found to be strongly related to violence and general recidivism among sexual offenders, general offenders and offenders with mental disorders.<sup>179</sup> Specialized supervision<sup>180</sup> (sometimes by specialized supervisory units, with smaller caseload size and special training, working in close collaboration with law enforcement and other agencies) and specific terms and conditions of release under supervision are often required as part of an individualized supervision plan for each offender.

Community rejection is the background against which sexual offenders return to the community. Some communities are known to take proactive steps to ensure that sexual offenders do not return to them. Social reintegration interventions for sexual offenders (e.g. “circles of support and accountability”) are not widespread. Community education and awareness are therefore crucial to the success of any social reintegration programmes designed for this group of offenders.<sup>181</sup>

<sup>178</sup> R. K. Hanson and K. Morton-Bourgon, *Predictors of Sexual Recidivism: An Updated Meta-Analysis* (Ottawa, Public Safety Canada, 2004).

<sup>179</sup> P. Gendreau, T. Little and C. Goggin, “A meta-analysis of the predictors of adult offender recidivism: what works!”, *Criminology*, vol. 34, No. 4 (1996), pp. 575–608; see also Griffiths, Dandurand and Murdoch, *The Social Reintegration of Offenders and Crime Prevention*, p. 26.

<sup>180</sup> Center for Sex Offender Management, *Twenty Strategies for Advancing Sex Offender Management in Your Jurisdiction* (Silver Spring, Maryland, Center for Effective Public Policy, 2009).

<sup>181</sup> A.-M. McAlinden, “Managing risk: from regulation to the reintegration of sexual offenders”, *Criminology and Criminal Justice*, vol. 6, No. 2 (2006), pp. 197–218; see also M. G. Petrunik, “Managing unacceptable risk: sex offenders, community response, and social policy in the United States and Canada”, *International Journal of Offender Therapy and Comparative Criminology*, vol. 46, No. 4 (2002), pp. 483–511.

### Canada

The Correctional Service of Canada offers a variety of programmes focusing on sexual offenders, including:

- The High Intensity National Sex Offender Program, which targets male sexual offenders who have been assessed as having a high risk of reoffending. The programme consists of 75 group sessions and up to 7 individual sessions. Each session is 2–2.5 hours long.
- The Moderate Intensity National Sex Offender Program, which targets male sexual offenders who have been assessed as having a moderate risk of reoffending. The programme consists of 55 group sessions and up to 6 individual sessions. It helps such men to understand their thinking in relation to sexual violence. They learn how to manage their harmful behaviour, their emotions and their risk factors. The programme also covers the importance of healthy relationships and coping strategies.
- The National Sex Offender Maintenance Program, which targets male sexual offenders who have completed one of the other national sex offender programmes. The programme helps such men to maintain the skills they were taught in the initial programme. It also helps them to continue to manage their risk. The programme deals with high-risk situations and self-management. It consists of 12 group sessions.
- The Tupiq Program is for Inuit men who are sexual offenders and who have been assessed as having a moderate or high risk of reoffending.

Source: [www.csc-scc.gc.ca/correctional-process/002001-2008-eng.shtml](http://www.csc-scc.gc.ca/correctional-process/002001-2008-eng.shtml).

Family members of a convicted sexual offender may experience many challenges in reuniting with the offender after a period of incarceration. They arguably suffer the effects of imprisonment, release and re-entry more acutely than family members of other offenders. Family ties can be irreparably broken by the nature of the sexual offence committed by a family member, especially where there are victims in the family itself. Those families who choose to reunite with convicted sexual offenders bear an enormous burden, including emotional and psychological issues, social rejection, isolation, invasion of privacy and economic hardship. Yet sexual offenders often have no one else to turn to apart from their family members. Families, if properly supported, can provide encouragement and emotional support and encourage the offender to comply with supervision conditions, attend treatment sessions and avoid problematic behaviour and thus may form an essential part of the offender's relapse prevention strategy.<sup>182</sup>

<sup>182</sup> See M. A. Farkas and G. Miller, "Reentry and reintegration: challenges faced by the families of convicted sex offenders", *Federal Sentencing Reporter*, vol. 20, No. 2 (2007), pp. 88–92.

# Annex

## *Other relevant publications of the United Nations Office on Drugs and Crime\**

*Treatment and Care for People with Drug Use Disorders in Contact with the Criminal Justice System: Alternatives to Conviction or Punishment* (2018)

*Roadmap for the Development of Prison-based Rehabilitation Programmes* (2017)

*Assessing Compliance with the Nelson Mandela Rules: A Checklist for Internal Inspection Mechanisms* (2017)

*Handbook on Anti-Corruption Measures in Prisons* (2017)

*Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System* (2017)

*Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons* (2016)

*Handbook on the Management of High-Risk Prisoners* (2016)

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

*"International standards for the treatment of drug use disorders: draft for field testing"* (2016)

*Handbook on Dynamic Security and Prison Intelligence* (2015)

*Training Curriculum on Women and Imprisonment: Version 1.0* (2015)

*"Introducing the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice: a new tool for policymakers, criminal justice officials and practitioners"* (2015)

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\*Listed by year of publication.

*Planning the Implementation of the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice: A Checklist* (2015)

*Handbook on Women and Imprisonment, 2nd ed.* (2014)

*Handbook on Strategies to Reduce Overcrowding in Prisons* (2013), published in cooperation with the International Committee of the Red Cross

*"HIV prevention, treatment and care in prisons and other closed setting: a comprehensive package of interventions", UNODC/International Labour Organization/UNDP/UNAIDS Policy Brief* (2013)

*Justice in Matters Involving Children in Conflict with the Law: Model Law on Juvenile Justice and Related Commentary* (2013)

*Handbook on the International Transfer of Sentenced Persons* (2012)

*Handbook for Prison Leaders: A Basic Training Tool and Curriculum for Prison Managers Based on International Standards and Norms* (2010)

*Handbook on Prisoners with Special Needs* (2009)

*"HIV testing and counselling in prisons and other closed settings", UNODC/WHO/UNAIDS Policy Brief* (2009)

*Handbook on Prisoner File Management* (2008)

*Drug Dependence Treatment: Interventions for Drug Users in Prison* (2008)

*HIV and AIDS in Places of Detention: A Toolkit for Policymakers, Programme Managers, Prison Officers and Health Care Providers in Prison Settings* (2008), published jointly with WHO and UNAIDS

*Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment* (2007)

*Criminal Justice Assessment Toolkit* (2006)

*Handbook on Restorative Justice Programmes* (2006)

*HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective National Response* (2006), published jointly with WHO and UNAIDS

# Glossary\*

<i>Aftercare</i>	Refers to the less formal support that follows a structured intervention. It is sometimes also defined as a process of reintegrating an offender, on a voluntary basis and after final release from detention, into the community, in a constructive, planned and supervised manner.
<i>Assessment</i>	The process of estimating the risks and assessing the needs and strengths of an offender before planning an intervention and/or providing advice to judicial or other competent authorities. It can also include identifying measures that can be taken to reduce the likelihood of reoffending.
<i>Child</i>	Every person under the age of 18.
<i>Community corrections</i>	Non-prison sanctions that are imposed on convicted adults or adjudicated juveniles either by a court instead of a prison sentence or by a parole board following release from prison. Community corrections programmes are usually operated by probation and parole agencies, and the programmes can include general community supervision, as well as day reporting centres, halfway houses and other residential facilities, work release and other community programmes. <sup>a</sup>
<i>Community sanction</i>	Measure or sanction taken by a judicial or administrative authority that maintains the offenders in the community and involves some restrictions on their liberty through the imposition of conditions and/or obligations.
<i>Continuum of care</i>	A commitment to providing consistent services and support to offenders within and after prison.

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\*The definitions contained in this glossary are for the purpose of this Handbook only. Some of the definitions included have been adapted from the Council of Europe Probation Rules (recommendation CM/Rec (2010) 1, adopted by the Committee of Ministers of the Council of Europe on 20 January 2010).

<sup>a</sup>Pew Centre on the States, "What works in community corrections: an interview with Dr. Joan Petersilia", Expert Q&A, No. 2, November 2007.

<i>Day reporting centre</i>	A treatment facility to which an offender is obliged to report on a daily basis.
<i>Desistance from crime</i>	When an offender ceases to commit crimes (crime cessation). It refers also to the process by which, with or without the intervention of criminal justice agencies, offenders terminate their offending behaviour and maintain crime-free lives through the development of their human capital (such as individual skills and knowledge) or their social capital (such as employment, family, social connections and ties, and engagement in civil society). The concept is based on research on the criminal careers of offenders and the factors associated with their eventual desistance from crime and future law-abiding behaviour.
<i>Early release</i>	All forms of discharge from prison before the prison sentence has been fully served, including parole, conditional release or conditional pardon.
<i>Institutionalization</i>	The development of deficits or disabilities in social and life skills as a result of having spent a long time living in prison or other closed settings.
<i>Intensive supervision</i>	Probationers (or early released offenders) are supervised very closely, with requirements for frequent face-to-face meetings with probation officers, a set curfew, monitoring of contacts with police or arrests, frequent random testing for alcohol or drug use and in some cases electronic monitoring.
<i>Intervention</i>	Any action taken to supervise, treat, assist or guide offenders in order to divert them from committing further offences and to help them lead law-abiding lives.
<i>Juvenile</i>	A child or young person who, under the legal system, may be dealt with for an offence in a manner different from an adult.
<i>Post-release intervention</i>	Intervention aimed at preventing recidivism and facilitating the social reintegration of offenders after their release from custody. The length of the post-release period may vary subject to the social reintegration needs of the individual offender. It may include supervision during the period of early or conditional release.
<i>Probation</i>	Relates to the implementation in the community of sanctions and measures, defined by law and imposed on an offender. This may include a range of activities and interventions, such as supervision, guidance and assistance aimed at the social integration of an offender, as well as at contributing to community safety.

<i>Recidivism (reoffending)</i>	Refers to whether or not a person who is the object of a criminal justice intervention (sanction) commits a new criminal offence. Recidivism is therefore a key indicator for the performance of social reintegration programmes and initiatives.
<i>Re-entry planning</i>	The process whereby offenders plan for their re-entry and take effective steps to prepare for life in the community after their release from custody, including communications with the community and, as applicable, their family. Also refers to preparatory steps and planning activities that prison authorities and community-based agencies undertake to eventually facilitate an offender's re-entry and to ensure continuity of care after the offender's release.
<i>Rehabilitation</i>	Refers to a wide variety of interventions aimed at promoting desistance from crime and the restoration of an offender to the status of a law-abiding person.
<i>Relapse prevention</i>	The act of preventing oneself or someone else from sliding back into undesirable or unhealthy behaviour, by identifying early warning signs or recognizing high-risk situations, often by using cognitive-behavioural tools.
<i>Residential treatment home</i>	A community-based facility that welcomes offenders and offers treatment programmes or other forms of intervention. Offenders may attend a treatment home voluntarily.
<i>Resiliency factor (or protective factor)</i>	Positive influence. Factor that reduces the risk of (persistent) offending behaviour associated with risk factors.
<i>Risk factor</i>	Negative influence. Factor that places offenders at risk and renders it difficult for them to desist from crime.
<i>Social inquiry report (or presence report)</i>	A report to the court presenting an overview and summary of an offender's background, patterns of offending, needs, circumstances and a number of other factors designed to assist the sentencing judge in determining an individual sentence.
<i>Social reintegration programme</i>	Refers to intervention designed to help offenders who have been incarcerated to reintegrate into the community after their release. The term can also designate an intervention delivered as an alternative to imprisonment.
<i>Supervision</i>	Refers both to assistance activities conducted by or on behalf of an implementing authority or agency and to action taken to ensure that the offender fulfils any conditions or obligations imposed, including control where necessary.

*Throughcare*

The process of delivering continuous care and ensuring that interventions started in prison are continued after release to enable in-prison gains to be practised and reinforced in the community.

*Transition house  
(pre-release centre)*

Supervised residential setting to help bridge the gap between custodial and community living. It allows offenders substantial interaction with the outside world and contact with their family and with employers or potential employers.





# UNODC

United Nations Office on Drugs and Crime



The Doha Declaration:  
**PROMOTING A  
CULTURE OF  
LAWFULNESS**

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