



UNODC

United Nations Office on Drugs and Crime

Prison Reform and Alternatives to Imprisonment

Concept Note

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1. Purpose and scope of the note

The purpose of this note is to outline how UNODC formulates and delivers **technical assistance** activities that will help countries to reform their prison systems in line with UN standards.

Through its network of Field Offices, UNODC plays an important role in helping Member States to bring their prison systems closer to the requirements of international standards. The Office's solid expertise in the area can be successfully extended to all countries and regions of the world.

A number of **projects** have already been implemented and are in progress. This note takes stock of what has been achieved to date and indicates areas where UNODC expertise can pave the way for further programming opportunities throughout the world.

Within this note reference is made to the **prevention and treatment of HIV/AIDS and drug dependence**, which are key interventions within the scope of many prison reform programmes. However, issues related to programmes on HIV/AIDS and drug prevention, treatment and rehabilitation are not included in this document. The aim is to draw the attention to the need to consider including HIV/AIDS and drug dependence treatment and care programmes when developing projects on prison reform, with reference to the relevant documents and in consultation with the Health and Human Development Section, Prevention, Treatment and Rehabilitation Unit (PTRU) and HIV/AIDS Unit (HAU) of UNODC, Headquarters, Vienna. Such an approach is in line with the integrated and multi-disciplinary strategy which is promoted by UNODC in the field of prison reform, as an essential element of success and sustainability.

The note includes references to **children in conflict with the law**¹ in the framework of projects aiming to improve the treatment of vulnerable groups in prisons. The inclusion of children in this note is based on the reality that many children are imprisoned worldwide, often together with adults, despite provisions in international standards relating to the need to respond in different and more appropriate ways to children who commit offences, within the scope of separate juvenile justice systems. Thus, while it is important that activities focusing on vulnerable groups, including children, should be included in prison reform programmes, parallel efforts should be made to support separate juvenile justice systems where children are treated in accordance with international law. In particular juvenile justice should aim at the rehabilitation of children and promote diversion, alternatives to imprisonment and restorative justice. We recommend cooperation with UNICEF and other agencies working on juvenile justice to develop appropriate and sustainable responses to children in conflict with the law in line with obligations contained in the *Convention of the Rights of the Child* and the recommendations of 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* and the *Secretary-General's Guidance Note on the UN approach to justice for children*.

2. The mandate of UNODC in the area of prison reform and alternatives to imprisonment

As the guardian of international standards and norms in crime prevention and criminal justice, UNODC is mandated to support Member States in putting into practice these standards and norms by assisting States in building fair and effective criminal justice systems. UNODC's mandates are contained in **resolutions** by

¹ A child (any person under the age of 18) is in conflict with the law where he or she has committed or has been accused of having committed an offence. Depending upon the local context, children may also be in conflict with the law where they are dealt with by the juvenile justice or adult criminal justice system for reason of being considered to be in danger by virtue of their behaviour or the environment in which they live. In many countries the term juvenile is used and defined depending on the age of criminal responsibility.

the main policy-making organs of the United Nations: the General Assembly and the Economic and Social Council.

Examples of key resolutions include:

Resolution 2004/25: The rule of law and development: strengthening the rule of law and the reform of criminal justice institutions, with emphasis on technical assistance, including in post-conflict reconstruction (E/RES/2004/25);

Resolution 2004/28: United Nations standards and norms in crime prevention and criminal justice (E/RES/2004/28);

Resolution 2004/35: Combating the spread of HIV/AIDS in criminal justice, pre-trial and correctional facilities (E/RES/2004/35);

Resolution 2005/21: Strengthening the technical cooperation capacity of the UN Crime Prevention and Criminal Justice Programme in the area of the rule of law and criminal justice reform (E/RES/2005/21);

Resolution 2006/21: Implementation of the Programme of Action, 2006-2010, on strengthening the rule of law and the criminal justice systems in Africa (E/RES/2006/21);

Resolution 2006/22: Providing technical assistance for prison reform in Africa and the development of viable alternatives to imprisonment (E/RES/2006/22);

Resolution 2006/25: Strengthening the rule of law and the reform of criminal justice institutions, including in post-conflict reconstruction (E/RES/2006/25);

Resolution 2007/24, International cooperation for the improvement of access to legal aid in criminal justice systems, particularly in Africa (E/RES/2007/24).

Examples of content:

Resolution 2004/35 requests UNODC to work in coordination with UN Joint Programme on HIV/AIDS, WHO, and other relevant UN entities to collect information and analyse the situation of HIV/AIDS in criminal justice, pre-trial and correctional facilities, with a view to providing Governments with programmatic and policy guidance in relation to the relevant standards and norms; and to offer advice and expertise in this area to UNAIDS, WHO and other relevant UN entities to ensure that the problems of HIV/AIDS in such facilities are adequately addressed.

Resolution 2005/21 requests UNODC to continue providing assistance to Member States in reinforcing the rule of law through technical cooperation, advisory services and other forms of assistance in the field of crime prevention and criminal justice reform and reconstruction of national criminal justice systems (upon request) – in particular to least developed countries, developing countries and countries with economies in transition, as well as to – countries emerging from conflict; and to continue developing tools and training manuals on criminal justice reform, based on international standards and best practices.

Resolution 2006/22 invites UNODC to develop further tools and training manuals, based on international standards and best practices, in the area of penal reform and alternatives to imprisonment, in particular in the areas of prison management, legal advice and assistance and the special needs in prison of women and children, as well as of persons with mental illness and the physically challenged; to continue to provide advisory services and technical assistance to Member States, upon request, in the area of penal reform,

including restorative justice, alternatives to imprisonment, HIV/AIDS in prisons and the special needs of women and girls in prisons; and to develop a programme of technical assistance for Africa in penal reform and provision of alternatives to imprisonment, building on the commitments made at the Round Table for Africa and in its Programme of Action, 2006-2010.

Resolution 2006/25 encourages UNODC to further develop its comprehensive programme in strengthening the rule of law and the reform of criminal justice institutions with a continued focus on vulnerable groups, such as women and children, countries with economies in transition and countries in post-conflict situations and the need for capacity-building at the field office level, and to develop innovative approaches and partnerships in that area.

Resolution 2007/24 requests UNODC to provide advisory services and technical assistance to Member States, upon request, in the area of penal reform, including restorative justice, alternatives to imprisonment, the development of an integrated plan for provision of legal assistance, including paralegals and similar alternative schemes to provide legal aid for persons in communities, including victims, defendants and suspects at all critical stages in criminal cases, and legislative reforms that guarantee legal representation in accordance with international standards and norms.

The full text of these resolutions and others can be found on the official UN website.

It should be noted that these resolutions mandate UNODC to provide technical assistance in a large range of areas related to criminal justice reform. It is essential to the success of UNODC's work that prison reform should be regarded within this wider context.

UNODC's integrated and multi-disciplinary prison reform strategy

It is of utmost importance that prison reform is not regarded in isolation from broader criminal justice reform. Effective prison reform is dependent on the improvement and rationalisation of criminal justice policies, including crime prevention and sentencing policies, and on the care and treatment made available to vulnerable groups in the community. Reform of the prison system should therefore always take into account the needs relating to the reform of the criminal justice system as a whole and employ an integrated, multi-disciplinary strategy to achieve sustainable impact. Thus, reform initiatives will usually need to also encompass criminal justice institutions other than the prison service, such as the judiciary prosecution and police service, as relevant.

The most obvious example for an integrated strategy is the combination of legislative and practical measures to reduce imprisonment rates and overcrowding in prisons, with training and capacity building in prison management to improve conditions and services in prisons. Other elements that could complement such activities would be technical assistance to improve access to justice for the poor and vulnerable, to ensure the fair treatment of disadvantaged groups in the criminal justice system, while also preventing overcrowding in prisons, as well as crime prevention measures which can reduce offending and re-offending. Addressing the social reintegration needs of prisoners and former prisoners, with adequate preparation for release and post-release support, is also an essential element of this approach. An integrated approach also takes account of areas that are typically not regarded as part of the "criminal justice system". These include, for example, the development of substance dependence treatment programmes in the community or psycho-social counselling programmes, to which certain offenders may be diverted, rather than being imprisoned, thus ensuring that services in prison are not overstretched, trying to meet the needs of a growing number of prisoners with special needs. The integrated strategy to prison reform can benefit immensely from the establishment and development of collaboration and partnerships with other UN agencies and other international and national organisations engaged in complementary programmes.

3. The benchmarks for action in prison reform: the United Nations Standards and Norms

Successive UN Crime Congresses since the First UN Congress on the Prevention of Crime and the Treatment of Offenders held in Geneva in 1955, have explored ways in which criminal justice systems can operate both more effectively and more humanely. The most recent Crime Congresses, held in Vienna in 2000 and in Bangkok in 2005, have continued to strengthen the role of the United Nations in the area of criminal justice reform. The Vienna Declaration and its Plans of Action, in particular, highlighted the importance of the issue of criminal justice reform in general.

Over the years a considerable body of United Nations standards and norms related to crime prevention and criminal justice has emerged through the Congresses.

Key among standards and norms that relate directly to prison reform are the **United Nations Standard Minimum Rules for the Treatment of Prisoners**, **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**, **Basic Principles for the Treatment of Prisoners** and the **United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules)**.

Despite their “soft-law” nature, **the standards and norms** have made a significant contribution to promoting more effective and fair criminal justice structures in three dimensions. Firstly, they can be utilized at the national level by fostering in-depth assessments leading to the adoption of necessary criminal justice reforms. Secondly, they can help countries to develop sub-regional and regional strategies. Thirdly, they provide guidance to States to improve their practices in line with internationally recommended standards.

KEY UNITED NATIONS STANDARDS RELEVANT TO PRISON REFORM AND ALTERNATIVES TO PRISON

United Nations Standard Minimum Rules for the Treatment of Prisoners provide guidance on the most essential elements of a prison system that meets the requirements of internationally accepted principles and good practice. They cover issues of prison management, staffing, prison conditions, health services, prison activities, preparation for release and post-release support.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provide very specific guidelines to protect the rights of all detained and imprisoned persons, including their right to be informed of charges, right to contact their families, to have immediate access to lawyers, right to be brought promptly before a judicial authority, among others.

Basic Principles for the Treatment of Prisoners contain 11 principles, which add to or elaborate some of the basic rules contained in the Standard Minimum Rules, such as the need to respect diversity of culture and religion, as well as prisoners’ right of access to education, cultural activities, remunerated employment and health services, available in the country. They also underline the need for post-release support to former prisoners. Principle 7 is a very strong statement of the need to move towards the abolition of solitary confinement as a punishment.

United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules) encourage the development and implementation of alternatives to imprisonment and provide guidance on non-custodial sanctions and measures, including at pre-trial, sentencing and post-sentencing stage.

There are many other instruments, both legally binding treaties, as well as declarations, rules and guidelines, which are directly relevant to UNODC’s mandate in the field of criminal justice reform, and to prison reform as an integral component of criminal justice reform. Some of them are listed in the box.

SOME OTHER UNITED NATIONS INSTRUMENTS RELEVANT TO PRISON REFORM

- Universal Declaration of Human Rights
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Basic Principles for the Treatment of Prisoners
- UN Declaration on the Protection of All Persons from Enforced Disappearance
- Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination Against Women
- Code of Conduct for Law Enforcement Officials
- Basic Principles on the use of Force and Firearms by Law Enforcement Officials
- Safeguards guaranteeing protection of the rights of those facing the death penalty
- UN Recommendations on Life Imprisonment
- Basic principles on the use of restorative justice programs in criminal matters
- Kampala Declaration on Prison Conditions in Africa
- Arusha Declaration on Good Prison Practice
- Kadoma Declaration on Community Service and recommendations of the seminar entitled “Criminal justice: the challenge of prison overcrowding”, held in San José from 3 to 7

For comprehensive information about United Nations standards and norms in crime prevention and criminal justice, see “Compendium of United Nations standards and norms in crime prevention and criminal justice” United Nations, New York, 2006
(accessible at <http://www.unodc.org/unodc/en/justice-and-prison-reform/tools.html>)

4. Key Challenges

In most countries of the world detention and imprisonment are the main measures and sanctions used against individuals who are suspected of having breached criminal law or those who are convicted of such breaches. The overuse of prisons leads to a series of mutually reinforcing challenges in responding appropriately to the social reintegration needs of offenders, while violating the rights of those who are innocent.

Some key areas of concern are listed below.

▪ Overcrowding

The rate of imprisonment is increasing in most countries worldwide, exacerbating the acute problem of overcrowding in many prisons. In many countries the majority of the people held in detention are awaiting trial, for a number of reasons, including the overuse of pre-trial detention in the first place, case overload in courts and cumbersome trial procedures, which lead to unacceptable delays in concluding the criminal justice process. In addition, a high number of detainees do not have access to legal counsel and face unfair trial procedures. The majority of prisoners are from poor and marginalised sectors of society. In many countries a large proportion of the prison population has been sentenced for minor offences. Harsh laws relating to drug offences have led to the rapid rise of the prison population in a number of countries.

Overcrowding leads to the deterioration of conditions, generates prison violence, disease and fuels multiple human rights violations.

- **Poor prison conditions**

Prison conditions in many countries do not meet the minimum requirements set out in the *UN Standard Minimum Rules for the Treatment of Prisoners*, as well as other international and regional standards and norms. Lack of adequate space, drinking water and nutrition, poor sanitation, lack of natural light and fresh air are characteristic features of many prisons worldwide. Conditions are particularly poor in prisons which are overcrowded, and are often worse in pre-trial detention facilities, where detainees should be presumed innocent.

- **Lack of inter-institutional communication**

A general characteristic of many systems is the lack of adequate coordination and cooperation between different justice institutions, for example the penitentiary system and the judicial system, which leads to delays in the processing of prisoners' cases, thus exacerbating the problem of overcrowding, especially in pre-trial detention.

- **Lack of information systems and strategic planning**

A strategic planning process, ideally integrated into the planning for the development of the criminal justice system as a whole, based on the analysis of reliable, factual data, is indispensable for the sustainable reform and management of prison systems. In many systems worldwide such planning, as well as systems to gather reliable data in order to enable the introduction of such planning, is lacking.

- **Lack of social reintegration programmes and services**

International standards emphasise that prisoners should be assisted in their social reintegration, in order to be in a position to live law abiding lives after release. The provision of purposeful activities in prisons, including educational and vocational training programmes, physical exercise facilities, therapy and treatment for problems such as drug addiction and mental disabilities, are lacking in many prison systems, to some extent due to lack of resources, but usually due to the lack of adequate recognition of the rehabilitative aims of imprisonment. This shortcoming exacerbates challenges prisoners face on re-entry to society after release and fuels high rates of re-offending.

- **Poor health services**

Health services in prison settings, where they exist, are generally substandard and under-funded, characterised by shortage of staff and of essential medications. Often health care in prison settings works in complete isolation from the general health care system, hampering the quality of health care and continuum of care following release. The lack of adequate healthcare services in prisons significantly hinders the social reintegration of prisoners, while leading to the spread of transmissible and life-threatening diseases in prisons, and the community.

- **Isolation – lack of inspection and monitoring mechanisms**

Prisons throughout the world tend to be isolated from society and prisoners are therefore easily forgotten by the public. The absence of proper oversight and inspection mechanisms undertaken by independent bodies is common in many countries. The independent oversight of prisons is one of the essential safeguards against torture and ill-treatment in places of detention. The oversight of prisons by monitoring bodies is also important to raise public awareness about prisoners and prison conditions.

- **Lack of support of and information for civil society**

Civil society groups, such as NGOs or universities in many countries have minimal involvement in the criminal justice process, although cooperation between prison administrations and civil society can enhance the social reintegration of prisoners significantly, increase the transparency of prisons, thereby preventing human rights violations, and contribute to awareness raising about the prison system and prisoners.

- **Lack of economic and human resources**

Improving conditions and services in prisons is not generally a priority in most countries. In addition, whatever funds are allocated to prisons will generally be used to improve security, with very inadequate investment being made in services to assist with the social reintegration of prisoners. The problem is often exacerbated by inefficient planning to enable the most effective allocation of resources.

- **Children in Conflict with the Law**

Children in conflict with the law are imprisoned worldwide, despite provisions in international instruments, which provide that their arrest, detention or imprisonment shall be used only as a measure of last resort and for the shortest appropriate period of time. Children are dealt with as adults in many systems during sentencing and held together with adult prisoners, putting them at risk of abuse. A recent global estimate by UNICEF calculated that as many as 1,5 million children were held in detention worldwide and 1,1 million children were held in pre-trial detention.

- **Women in Prison**

Women continue to constitute a very small proportion of the general prison population worldwide. However, not only are their numbers increasing in tandem with the rise in the overall prison population in many countries, but studies in some countries have shown that the number of female prisoners is increasing at a faster rate than that of male prisoners. The fact that the proportion of male prisoners has always been vastly larger than that of women in the prison system has resulted in a general disregard to the gender specific needs of women, as well as a denial of many services and opportunities, accessible to male prisoners. The change in the composition of the prison population has highlighted the shortcomings in almost all prison systems in meeting the gender specific needs of women prisoners. The challenges relating to the situation of children of imprisoned mothers have also been highlighted in many countries.

- **Prisoners with Special Needs**

With the growth of the prison population in many countries worldwide, the number and proportion of prisoners with special needs is also increasing. Such groups include prisoners with mental healthcare needs, drug dependent prisoners, foreign national prisoners, racial and ethnic minorities, older prisoners and prisoners with disabilities, among others. The special treatment requirements of these groups are rarely met in prisons, and especially in facilities which are overcrowded and under-resourced.

5. Why promote prison reform?

Obviously central to the arguments to promote prison reforms is a human rights argument – the premise on which many UN standards and norms have been developed. However, this argument is often insufficient to encourage prison reform programmes in countries with scarce human and financial resources. The detrimental impact of imprisonment, not only on individuals but on families and communities, and economic factors also need to be taken into account when considering the need for prison reforms.

▪ Human rights considerations

A sentence of imprisonment constitutes only a deprivation of the basic right to liberty. It does not entail the restriction of other human rights, with the exception of those which are naturally restricted by the very fact of being in prison. Prison reform is necessary to ensure that this principle is respected, the human rights of prisoners protected and their prospects for social reintegration increased, in compliance with relevant international standards and norms.

For example:

Universal Declaration of Human Rights

- Art. 6: Everyone has the **right to recognition** everywhere as a person before the law.
- Art. 7: All are **equal before the law** and are entitled without any discrimination to equal protection of the law. [...]
- Art. 11(1): Everyone charged with a penal offence has the **right to be presumed innocent** until proved guilty [...].

International Covenant on Civil and Political Rights

- Article 10.1. All persons deprived of their liberty shall be **treated with humanity and with respect for the inherent dignity of the human person.**

Standard Minimum Rules for the Treatment of Prisoners

- Rule 57: Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the **prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.**
- Rule 58: The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if **the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.**

Basic principles for the treatment of prisoners:

- Art. 1: All prisoners shall be **treated with the respect** due to their inherent dignity and value as human beings.
- Art. 6: All prisoners shall have the **right to take part in cultural activities and education** aimed at the full development of the human personality.
- Art. 9: Prisoners shall have **access to the health services** available in the country without discrimination on the grounds of their legal situation.
- Art. 10: With the **participation and help of the community** and social institutions, and with due regard to the interests of victims, favorable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions

▪ Imprisonment and poverty

Imprisonment disproportionately affects individuals and families living in poverty. When an income generating member of the family is imprisoned the rest of the family must adjust to this loss of income. The impact can be especially severe in poor, developing countries where the state does not provide financial

assistance to the indigent and where it is not unusual for one breadwinner to financially support an extended family network. Thus the family experiences financial losses as a result of the imprisonment of one of its members, exacerbated by the new expenses that must be met – such as the cost of a lawyer, food for the imprisoned person, transport to prison for visits and so on. When released, often with no prospects for employment, former prisoners are generally subject to socio-economic exclusion and are thus vulnerable to an endless cycle of poverty, marginalisation, criminality and imprisonment. Thus, imprisonment contributes directly to the impoverishment of the prisoner, of his family (with a significant cross-generational effect) and of society by creating future victims and reducing future potential economic performance.

- **Public health consequences of imprisonment**

Prisons have very serious health implications. Prisoners are likely to have existing health problems on entry to prison, as they are predominantly from poorly educated and socio-economically deprived sectors of the general population, with minimal access to adequate health services. Their health conditions deteriorate in prisons which are overcrowded, where nutrition is poor, sanitation inadequate and access to fresh air and exercise often unavailable. Psychiatric disorders, HIV infection, tuberculosis, hepatitis B and C, sexually transmitted diseases, skin diseases, malaria, malnutrition, diarrhoea and injuries including self-mutilation are the main causes of morbidity and mortality in prison. In countries with a high prevalence of TB in the outside community, prevalence of TB can be up to 100 times higher inside the prisons. In most countries HIV infection in prisons is significantly higher than within the population outside prison, especially where drug addiction and risk behaviours are prevalent. Prison staff are also vulnerable to most of the diseases of which prisoners are at risk.

Prisons are not isolated from the society and prison health is public health. The vast majority of people committed to prison eventually return to the wider society. Thus, it is not in vain that prisons have been referred to as reservoirs of disease in various contexts.

- **Detrimental social impact**

Imprisonment disrupts relationships and weakens social cohesion, since the maintenance of such cohesion is based on long-term relationships. When a member of a family is imprisoned, the disruption of the family structure affects relationships between spouses, as well as between parents and children, reshaping the family and community across generations. Mass imprisonment produces a deep social transformation in families and communities.

- **The cost of imprisonment**

Taking into account the above considerations, it is essential to note that, when considering the cost of imprisonment, account needs to be taken not only of the actual funds spent on the upkeep of each prisoner, which is usually significantly higher than what is spent on a person sentenced to non-custodial sanctions, but also of the indirect costs, such as the social, economic and healthcare related costs, which are difficult to measure, but which are immense and long-term.

6. Thematic Areas of Work in the field of Prison Reform and Alternatives to Imprisonment

Within the broad, integrated framework for prison reform outlined earlier, UNODC's technical assistance in the area of prison reform covers four thematic areas: **1) pre-trial detention 2) prison management; 3) alternative measures and sanctions; 4) social reintegration.**

A cross-cutting theme relevant to all prison related interventions is healthcare, including specifically the **prevention, management and treatment of HIV/AIDS and drug dependency.**

- **Pre-trial detention**

There are three main issues that need to be taken into consideration in the context of pre-trial detention: firstly, pre-trial detention is overused in most countries worldwide and in many developing countries the size of the pre-trial prisoner population is larger than that of the convicted prisoner population. This situation contradicts the provisions in international standards, including ICCPR, that provide for the limited use of pre-trial detention, only when certain conditions are present. Secondly, pre-trial detention is the period most open to abuse in the criminal justice process. Recognizing the particular vulnerability of pre-trial detainees, international human rights instruments provide for a large number of very specific safeguards to ensure that the rights of detainees are not abused, that they are not ill-treated and their access to justice not hindered. Thirdly, although pre-trial detainees should be presumed innocent until found guilty by a court of law, and treated as such, conditions in pre-trial detention are often much worse than those of prisons for convicted prisoners. In addition, the lack of resources for prisons in many low-income countries means that people in detention do not have access to legal advice and assistance, with the result being that they may overstay on remand, and/or not receive a fair trial, further adding to the congestion of prisons. Therefore, **improving access to justice, supporting legal and paralegal aid programmes, improving information management and cooperation between courts and prisons**, to speed up the processing of cases, as well as **assisting with the development of safeguards for pre-trial detainees, such as independent monitoring and inspection mechanisms**, comprise important elements of UNODC's work in the field of penal reform.

- **Prison Management**

In order for a prison system to be managed in a fair and humane manner, national legislation, policies and practices must be guided by the international standards developed to protect the human rights of prisoners. Prison authorities have a responsibility to ensure that the supervision and treatment of prisoners is in line with the rule of law, with respect to individuals' human rights, and that the period of imprisonment is used to prepare individuals for life outside prison following release. But often national legislation and rules relating to the management of prisons are outdated and in need of reform. In many countries the prison department is under the authority of police or military institutions and managers and staff have received no specific training regarding prison management. Staff morale is usually low and effective leadership to drive prison reform is lacking. Information collection and management systems are also very inadequate (or non-existent) in many prison systems worldwide, hindering the development of sound policies and strategies based on reliable, factual data. UNODC can provide much assistance in **reforming national legislation, developing training programmes for prison managers to improve their leadership role and staff to apply international standards and norms in their daily practice, and by contributing to the institutional capacity building** of prison administrations.

- **Alternative Measures and Sanctions**

Overcrowding is a key concern in almost all prison systems worldwide, while punitive criminal policies, as well as a shortage of social protection services in the community, continue to contribute to the rapid growth of the prison population in many countries. As mentioned earlier, overcrowding is the root cause of many human rights violations in prisons. Solutions to overcrowding need to be explored and implemented in almost all countries in which UNODC is operational.

While overcrowding can be temporarily decreased by building new prisons, practice shows that trying to overcome the harmful effects of prison overcrowding through the construction of new prisons does not provide a sustainable solution. In addition, building new prisons and maintaining them is expensive, putting pressure on valuable resources. Instead, numerous international instruments recommend a rationalization in sentencing policy, including the wider use of alternatives to prison, aiming to reduce the number of people being isolated from society for long periods.

The use of non-custodial sanctions and measures also reflects a fundamental change in the approach to crime, offenders and their place in society, changing the focus of penitentiary measures from punishment and isolation, to restorative justice and reintegration. When accompanied by adequate support for offenders, it assists some of the most vulnerable members of society to lead a life without having to relapse back into criminal behavior patterns. Thus, the implementation of penal sanctions within the community, rather than through a process of isolation from it, offers in the long term better protection for society. Supporting **the introduction and implementation of non-custodial sanctions and measures** is therefore a key element of UNODC's work in the area of prison reform.

- **Social Reintegration**

One of the principle objectives of the United Nations in the area of prison reform is to contribute to the successful reintegration of prisoners into society following their release. Social reintegration initiatives should start as early as possible within the criminal justice process in order to have maximum effect. This means that diversion from the criminal justice process (especially of vulnerable groups) to appropriate treatment programmes, non-custodial sanctions, instead of isolation from society and purposeful activities and programmes in prisons, can all be considered as elements of a comprehensive "social reintegration" policy. Interventions to support former prisoners following release from prison, continuum of care in the community for those in need, will all be more effective if the period in prison is used to prepare a prisoner for re-entry to society. This policy requires close coordination between criminal justice institutions and social protection and health services in the community and probation services where they exist. UNODC can offer key support and advice in this area, including **supporting the development of social reintegration programmes in prisons and in assisting with the planning and implementation of continuum of care and support in the community.**

- **Healthcare**

Equivalence of healthcare and the right to health is a principle that applies to all prisoners, who are entitled to receive the same quality of medical care that is available in the community. However, this right is rarely realised in prisons, where usually healthcare services are extremely inadequate. Prison health services are almost always severely under-funded and understaffed and sometimes non-existent. Most of the time under the responsibility of the authority in charge of the prisons administration, prison health services work in complete isolation from national health authorities, including national HIV and national TB programmes. Specific women's health needs are rarely addressed.

The right to health includes not only the access to preventive, curative, reproductive, palliative and supportive health care but also the access to the underlying determinants of health, which include: safe drinking water and adequate sanitation; safe food; adequate nutrition and housing; safe health and dental services; healthy working and environmental conditions; health-related education and information and gender equality.

Technical assistance provided by UNODC in this area is based on the premise that penal reform and health in prisons are interrelated, and that an integrated strategy needs to be adopted in addressing the enormous challenge of HIV/AIDS and other transmissible diseases such as tuberculosis (TB) in prison settings. **Improved prison management and prison conditions are fundamental to developing a sustainable health strategy in prisons.** In addition, prison health is an integral part of public health, and improving prison health is crucial for the success of public health policies.

- Prevention, treatment and management of HIV/AIDS

In nearly all countries HIV prevalence in prison is higher than in the community. Effective policies to prevent HIV inside prisons is often hampered by the denial of the problem as well as the denial of the existence of the factors that contribute to the spread of HIV. High risk behaviours for transmitting HIV in prison systems include unprotected sex, intravenous drug use, the use of contaminated cutting and piercing instruments, unsafe medical /dental services and transmission from mother to child. Poor prison conditions, overcrowding, malnutrition and stress negatively affect the overall health of all prisoners, generating disease and contributing to prisoners' vulnerability to HIV/AIDS.

To address the situation, **a comprehensive strategy must be developed.** An essential first step in developing such a strategy is to create awareness among policy makers on the HIV/AIDS situation in prisons. **The strategy must address legal issues such as the development of alternatives to imprisonment and the equivalence of health care; structural issues such as overcrowding and corruption; raise awareness among prison staff; and provide prisoners with information, means of prevention, counselling and drug dependence treatment and rehabilitation opportunities.**

- Drug abuse prevention, treatment and rehabilitation

The percentage of individuals reporting problematic substance misuse is comparatively higher in prison than in the community. Different studies have indicated that the percentage of people in prison who have a drug problem ranges from 40 to 80% . Various explanations may account for the correlation between drug use and imprisonment.²

Most societies stigmatise drug use and attitudes towards offenders are also often hostile. Negative attitudes towards offenders and prisoners can be a barrier to the provision of services and interventions. In some countries drug use itself is a criminal offence and therefore treatment is predominantly provided within the criminal justice system, rather than in the community.

It is internationally recognised that where possible drug users should receive treatment rather than imprisonment (UNODC/UNAIDS/WHO, 2006). **Interventions and services for drug users in prison are an essential component of public health care systems as prisoners are part of the community. Such interventions are also an essential element of the social reintegration of prisoners with drug dependency,** as untreated drug dependency can easily lead to renewed conflict with the law following release, as a number of studies have shown.

7. Developing strategy, programmes and projects on prison reform

How a strategy for prison reform is developed in each country will depend on the criminal justice system's level of development, the type and extent of challenges faced and the political will to embark on a penal reform programme, as well as other broader political, social and cultural factors relating to the country and region.

UNODC is in the process of developing regional programmes, covering all thematic areas included in its mandate, with strong criminal justice components, based on needs and objectives identified in each region. Prison reform programmes planned and developed in each region/country will need to correspond to the

² They include for example: where prisoners have used and developed drug problems before they are imprisoned; developed drug problems in prison; offended to fund their drug use; used drugs to support and 'permit' their offending; used drugs after criminal activity or to cope with the consequences; been involved in criminal activity which brings them into contact with drugs or have been imprisoned for using drugs, which is an illegal activity in a number of countries.

broad objectives and priorities outlined in the regional programmes, in order to ensure that they are in line with the overall regional strategy developed by UNODC following intensive consultations at Headquarters and Field Offices, and complement other initiatives undertaken by UNODC in the region.

In general terms, UNODC provides technical assistance to Member States, **only when requested**. However, such requests can be actively encouraged by awareness raising activities, discussions, meetings, seminars and working groups focusing on the particular challenges encountered in a country's or region's prison systems, by documenting good practices, outlining UNODC's programme of technical assistance and encouraging debate and reform.

On request from Member States for assistance, usually **an assessment** will need to be undertaken (of prison management practices, legal framework, access to justice, HIV/AIDS in prisons etc, depending on the nature of the assistance requested). Such assessments can be carried out by UNODC Field Offices where adequate human resource capacity and expertise exists, but should always be organised in coordination with UNODC Headquarters in Vienna. The assessment mission will usually include staff from headquarters and sometimes also external consultants. The aim of assessments is to identify needs and develop projects and programmes to address the needs in an effective and sustainable manner, in consultation with the prison and criminal justice authorities of the country in question.

Project proposals should always be developed **in consultation with the national partners/beneficiaries**, to ensure that there is full cooperation and mutual understanding about each party's expectations and inputs from the very start, that the project activities match the reality on the ground and that there is local ownership for the project. Early consultation is of course critical to ascertain the level of commitment of local authorities.

Where the political will to reform is weak and field offices face challenges in raising the interest of authorities to reform their prison systems, despite the obvious needs, alternative entry points may need to be identified. In such situations, UNODC adopts a step-by-step approach, starting for example, with interventions targeting visible challenges (e.g. HIV/AIDS, tuberculosis, drug abuse and treatment in prisons or the needs of vulnerable groups in prisons, such as women, children or prisoners with mental illness), with a view to expanding programmes to improve the management of prison systems as a whole, to achieve sustainable reform and a basis for a healthy prison environment that protects the rights of all prisoners.

Often there will already be programmes focusing on other areas of UNODC's mandate which may be expanded to include prison related interventions. For example, programmes on drug demand reduction and treatment in the community may be expanded to include vulnerable groups in prisons. There may be training programmes for judges and prosecutors, which can be developed to encompass prison officials, with a view to further more comprehensive interventions to improve the situation in prisons. Programmes focusing on violence against women may include women and girls in prison. Crime prevention measures in the community could be expanded to include post-release support to former prisoners, to assist them with their social reintegration, thereby reducing their risk of re-offending. Juvenile justice reform programmes often have components focusing on alternatives to imprisonment and treatment of children in detention, which can be expanded to include adults, especially vulnerable groups.

UNODC may act as a catalyst for reform by facilitating the sharing of best practices across countries and regions. Dissemination of acknowledged good practices should be encouraged, especially in regions with similar socio-economic conditions, traditions and laws. Different prison reform models and strategies may, thus, be developed for resource constrained settings and appropriate to different regions, taking account also of UNODC's regional programme strategies and priorities.

All the above, points to the necessity of adopting an integrated approach, identifying opportunities for synergies between different programmes and using such opportunities to their full potential.

8. Technical assistance that can be provided by UNODC

The list below provides detailed information about the range of services which can be provided by UNODC depending on identified needs.

UNODC regards the following **four core components** to be essential elements of any sustainable technical assistance programme relating to prison reform:

1. Prison management capacity building / prison leadership training
2. Development of information systems and documentation
3. Addressing the needs of vulnerable groups in the criminal justice system
4. Reducing overcrowding / alternatives to prison

UNODC has developed a range of tools and handbooks for policymakers, professionals and providers of technical assistance related to various aspects of prison reform. (See Annex I)

a. Collection and analysis of data / needs assessments

UNODC prison reform programmes need to be based on up-to-date and reliable factual data and targeted to the needs of the particular country or region. Therefore research and in-country assessments are key starting points to all interventions.

Data collection

UNODC collects from Member States basic information on prison statistics through the UN Survey of Crime Trends and Operations of Criminal Justice Systems (CTS)³ on the following issues:

- Number of adult and juvenile prisons, penal institutions or correctional institutions (including institutions for pre-trial detention)
- Official capacity of adult and juvenile prisons/institutions (intended number of places available without overcrowding)
- Total adult prison / institution staff (male and female)
- Total juvenile prison /institution staff (male and female)
- Total prison budget/ financial resources, for adult and juvenile prisons/ institutions (millions of local currency units).
- Total of persons held in prisons, penal institutions or correctional institutions (including institutions for pre-trial detention), including:
 - Persons at the pre-trial stage or awaiting final adjudication
 - Persons sentenced
 - Persons in other categories
 - Total Adults (both male and female)
 - Total Juveniles (both male and female)
 - Total Females (both adult and juvenile)
 - Total Males (both adult and juvenile)
 - Female adults
 - Female juveniles
 - Male adults
 - Male juveniles

³ <http://www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html>

- Number of prisoners who are citizens of other countries
- Number of prisoners for non- payment of a penal fine
- Total persons on probation/under community supervision, including:
 - Number of adults
 - Number of juveniles
- Total persons on conditional release/parole, including:
 - Number of adults
 - Number of juveniles
- Number of prisoners suffering from:
 - Drug addiction
 - HIV/AIDS
 - Tuberculosis
 - Mental illness

UNODC often faces challenges in receiving such information from Member States and the assistance of Field Offices in gathering such data or following up on requests sent by Head Office, would be extremely useful in contributing to the research of UNODC.

Assessments

The **UNODC Criminal Justice Assessment Toolkit**, tools on Custodial and Non-custodial Measures, provide comprehensive guidance and information on the type of data that needs to be sought in assessing the implementation of UN Standards and Norms relating to prisons and non-custodial sanctions and measures worldwide. Information provided in the assessment toolkit can be useful for Field Offices to increase their knowledge in this field, as well as to assist staff and consultants commissioned to undertake assessments to access the relevant information. (see: <http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>)

Country assessments undertaken by UNODC would usually cover some or all of the following topics: (1) pre-trial detention; (2) prison conditions, prison management policies and practices; (3) sentencing practices and the implementation of alternatives to imprisonment; (4) post-release support services; (5) Health conditions in prisons and continuum of care after release, including specifically for HIV/AIDS, TB and drug dependence; and (6) training needs in relation to all of these topics.

The role of the Field Office is crucial in providing the local and regional knowledge and expertise to such assessments, in addition to establishing the right contacts, organising meetings, prison visits and logistics in general.

b. Legislative assistance and legal advisory services to incorporate UN standards and norms into national legislation

Legislative assistance and advisory services to review legislative and regulatory frameworks, identify gaps and recommend action to comply with the requirements of the United Nations Standards and Norms on Crime Prevention and Criminal Justice.

In this area UNODC can provide assistance to :

- Improving legal safeguards for prisoners and management of prisons by reforming relevant legislation: such as criminal executive code (prison act), as well as secondary legislation, such as

prison regulations and standing orders, which enable the implementation of criminal executive codes.

- Reducing overcrowding in prisons by, *inter alia*, introducing and expanding the scope of alternative measures and sanctions in penal legislation, reducing the length of prison sentences for selected offences and decriminalising certain offences.
- Review and reform of legislation and policies relating to the prevention and treatment of HIV/AIDS and drug dependence in prison settings.

c. Capacity building to apply UN standards and norms in practice

There is a broad range of capacity building activities that UNODC can offer to implement prison reform. Capacity building constitutes the core of UNODC intervention, and most ongoing projects have large training components. In this area, assistance can be rendered in the following fields:

Policy level

- Providing advisory services and technical input to design, implement and monitor prison reform strategies and action plans at national and local levels .
- Providing advisory services and technical input to establish an integrated policy for prisoner rehabilitation and social reintegration with the involvement of all relevant ministries and stakeholders.

Access to Justice

- Providing technical assistance to develop procedures for and management of legal aid programmes and support NGOs and others providing paralegal advisory services.

Prison management

- Improving strategic planning processes relating to the administration of prisons in line with international standards.
- Establishing and managing information gathering and documentation systems (e.g. prisoner registration and prisoner file management);
- Developing training curricula for prison service staff, including prison social workers, healthcare staff, and educators, and providing technical assistance to training;
- Developing and managing constructive prisoner programmes;
- Developing policies and services relating to the treatment of vulnerable groups of prisoners, such as women, children, prisoners with mental healthcare needs, drug users, older prisoners, prisoners with disabilities, prisoners with terminal illness and prisoners facing the death penalty, among others.
- Supporting the establishment and strengthening of independent inspection bodies.
- Strengthening integrity and ethical standards to prevent and control corruption in the prison administration.
- Providing guidance to prison construction and refurbishment initiatives, to ensure that they are undertaken to reflect, in practice, the recommendations of UN Standard Minimum Rules for the Treatment of Prisoners.

Model Prisons

Reference is often made in prison reform literature to the establishment of “**model prisons**”. For UNODC a model prison is a prison managed on the basis of justice and humanity; in which prisoners

spend their time engaged in purposeful activities, such as education and vocational training, which will help them with their social reintegration following release; where vulnerable groups are not discriminated against or abused; where prison staff perform their duties professionally, in line with UN Standards and Norms, where healthcare services meet the needs and prisoners have adequate contact with the outside world. The way in which prisons are managed, how prisoners spend their time, the behaviour of prison staff, the quality of healthcare services and the level of civil society access to prisons are much more important criteria in the definition of a “model prison” than a prison’s physical structure, provided that the basic needs of prisoners are provided for. Examples of prisons which include many features of such models can be found in countries worldwide, including in low-income countries from South America to Asia. The driving force behind the establishment of such prisons is usually the quality of the prison director and support he or she receives from the prison service leadership, with an overall vision and strategy for the system, reflected in good planning, staff training and development of constructive links with civil society.

UNODC projects on prison reform aim to provide the required assistance to enable the development of such models.

Non-custodial measures and sanctions

- Improving organisational design and management processes relating to the implementation of non-custodial sanctions and measures;
- Developing training curricula for judges, magistrates, probation service staff and others involved in the administration of alternative sanctions and measures;
- Improving mechanisms of coordination between criminal justice agencies, as well as between prison authorities and social welfare and/or probation services.
- Setting up and testing pilot projects introducing new types of community sanctions and measures.

Prevention, Treatment, care and support for HIV and AIDS in prison settings

The activities of UNODC related to HIV are based on the Unified Budget and Workplan (UBW) agreed by UNAIDS, which is approved by the Programme Coordinating Board (PCB) of the UNAIDS every two years.

These activities include:

- Improving mechanisms of coordination between all stakeholders: establishment of working groups on HIV in prison settings: prison administration, health services in prison, National AIDS Plan, National Tuberculosis plan, Ministry of Health, NGOs, Civil Society Organisations (CSOs), prison staff, prisoners and other relevant UN agencies such as WHO, UNAIDS, UNFPA.
- Training curricula development, training material adaptation and training;
- Resources mobilization: technical support for development of funding proposals such as for the Global Fund to fight AIDS, Tuberculosis and Malaria.
- Monitoring and evaluation: technical support to improve monitoring capacity based on the principles of the “3 Ones”: **One** agreed HIV/AIDS Action Framework that provides the basis for coordinating the work of all partners; **One** National AIDS Coordinating Authority, with a broad-based multi-sectoral mandate; **One** agreed country-level Monitoring and Evaluation System

Drug prevention, treatment and rehabilitation

- UNODC can offer a range of capacity building tools and training for staff working in prisons in order to improve their knowledge and skills to provide quality, evidence based interventions. UNODC developed a good practice document entitled “Drug dependence treatment: Interventions for drug

users in prison', which provides worldwide examples of good practices and a broad framework to inform the planning, implementation and management of drug treatment in prisons.

d. Information, advocacy and awareness raising

Public awareness raising and dissemination of information on matters relating to prisons are very important, though often neglected, components of successful prison reform strategies. Punitive criminal justice policies are most often driven by a public which support policies that are "tough on crime", due to inadequate knowledge about the characteristics and needs of individuals sentenced to imprisonment, the harmful impact of imprisonment on the community and other adverse public health and economic consequences of the overuse of prison. For this reason, the dissemination of reports, surveys and assessments to decision makers in the field, the media, civil society organisations and the public in general is key to harness and develop support for reforms and thereby ensure the sustainability of prison reform programmes. UNODC may not always have the resources – human and financial – to undertake comprehensive public awareness and advocacy campaigns. This is an area where partnerships or cooperation with NGOs and other organisations of civil society can be immensely valuable, while empowering civil society to take an active role in prison reform initiatives. UNODC, together with its partners, may undertake the following activities:

- Develop communication strategies, public information/education programmes to raise awareness on:
 - The composition of the prison population, including vulnerable groups
 - the harmful effects of imprisonment;
 - the rights of detainees/prisoners;
 - advantages of alternatives to pre-trial detention and imprisonment;
 - role of the community in the social reintegration of offenders/prisoners.
- Design and implement measures to promote and facilitate the active participation of individuals and groups outside the public sector in the criminal justice process, such as in the implementation of alternative sanctions and measures, and in social reintegration programmes and initiatives.
- Organise seminars, conferences and workshops at national, regional and international level to raise awareness about selected penal reform topics, to harness the support and participation of national, regional and international actors in the development of strategies and programmes.

9. Potential partnership with relevant actors

There are a number of **international actors and stakeholders** – including UN entities – who have already cooperated with UNODC in the area of prison reform. UNODC field offices are advised to explore opportunities for cooperation with other international actors, and in particular other UN agencies in the implementation of their programmes. As demonstrated by the existing ongoing activities, joint programming could provide an additional input or perspective to UNODC's work in these matters. In this regard, UNODC's role should be shaped by the added value and know-how it can provide, in order **to ensure synergies** with existing initiatives and **avoid duplications and fragmentation of efforts**.

The active involvement of **NGOs** in UNODC's efforts to reform prison systems worldwide has already proven to be very successful for building comprehensive and multi-stakeholder partnerships and alliances. Local community organisations can play a critical role in providing local expertise, contributing to advocacy/awareness raising, and providing tangible examples of effective operational projects in this field. Involvement of local NGOs is also important to ensure the sustainability of programmes.

ANNEX I: UNODC Tools and Publications

- **Criminal Justice Assessment Toolkit:**
 1. The Prison System
 2. Detention Prior to Adjudication
 3. Alternatives to Incarceration
 4. Social Reintegration
 5. Cross-cutting tool on Juvenile Justice
 6. Cross-cutting tool on Criminal Justice Information

Available at: <http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>

- **Criminal Justice Handbook Series:**
 - Handbook on Prisoner File Management
 - Handbook for Prison Leaders
 - Handbook on Prisoners with Special Needs
 - Handbook for Prison Managers and Policymakers on Women and Imprisonment
 - Handbook on Restorative Justice Programmes
 - Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment
 - UNODC/UNICEF Manual for the Measurement of juvenile justice indicators

Available at: <http://www.unodc.org/unodc/en/justice-and-prison-reform/tools.html>

- **HIV in prison Tools:**
 - *Operational tool:* HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: a Framework for an Effective National Response (all UN languages and Portuguese) (UNODC/WHO/UNAIDS)
 - *Training material:* HIV/AIDS in Places of Detention: a Toolkit for Policymakers, Managers and Staff (English, Russian) (UNODC/WHO/UNAIDS)
 - *Advocacy:*
 - Brief on Women, HIV and prison settings (UNODC/UNAIDS)
 - Evidence for Action Technical Papers - Intervention to address HIV in prison (English, Russian) (WHO/UNODC/UNAIDS)
 - Policy brief: Evidence for action on HIV and injecting drug use: reduction of HIV transmission in prisons.

Available at: <http://www.unodc.org/unodc/en/hiv-aids/publications.html>

- **Drug dependence treatment tools, useful in prison settings:**
 - **Treatment toolkits**
 - Drug abuse treatment and rehabilitation :A practical planning and implementation guide. (Russian) , (Spanish)
 - Investing in drug abuse treatment .A discussion paper for policy makers. (Russian) , (Spanish)
 - Contemporary drug abuse treatment , A review of the evidence base. (Russian) , (Spanish)
 - Good practice document : Drug Dependence treatment, Interventions for drug users in prison. (draft to be posted on Treatnet website: www.unodc.org/treatment)
 - **Treatnet Capacity Building Package**
 - Volume A: Screening, Assessment, and Treatment Planning
 - Volume B: Elements of Psychosocial Treatment
 - Volume C: Addiction Medications and Special Populations
 - Volume D: Administrative Toolkit

Available at: http://www.unodc.org/treatment/en/UNODC_documents.html

▪ **Studies:**

- Afghanistan: Implementing Alternatives to Imprisonment, in line with International Standards and National Legislation
- Afghanistan: Female prisoners and their social reintegration

Available at: <http://www.unodc.org/unodc/en/justice-and-prison-reform/tools.html>

- Iran: Alternatives to Imprisonment or Intermediate Sanctions

Available at: <http://www.unodc.org/iran/en/publications.html>