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Working Paper

Experiences with welfare, rehabilitation and reintegration of prisoners: Lessons learned?

UNRISD Working Paper, No. 2018-5

Provided in Cooperation with:

United Nations Research Institute for Social Development (UNRISD), Geneva

Suggested Citation: Gisler, Charlotte; Pruin, Ineke; Hostettler, Ueli (2018) : Experiences with welfare, rehabilitation and reintegration of prisoners: Lessons learned?, UNRISD Working Paper, No. 2018-5, United Nations Research Institute for Social Development (UNRISD), Geneva

This Version is available at:

<https://hdl.handle.net/10419/186115>

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Working Paper 2018–5

**Experiences with Welfare, Rehabilitation
and Reintegration of Prisoners**
Lessons Learned?

Charlotte Gisler, Ineke Pruin and Ueli Hostettler

April 2018



The United Nations Research Institute for Social Development (UNRISD) is an autonomous research institute within the UN system that undertakes multidisciplinary research and policy analysis on the social dimensions of contemporary development issues. Through our work we aim to ensure that social equity, inclusion and justice are central to development thinking, policy and practice.

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Acronyms

BRIK	Assessment of the needs and resources of convicted persons (Behovs-og ressurskartlegging i kriminalomsorgen)
CBRFs	Community-based Residential Facilities
CCCs	Community Correctional Centres
CCRA	Corrections and Conditional Release Act, 1992
CCRR	Corrections and Conditional Release Regulations, SOR/92-620
CD	Commissioner’s Directive
CFCN	Canadian Families and Corrections Network
COSA	Circles of Support and Accountability
CRFs	Community Residential Facilities
CSC	Correctional Services Canada
DC	Drug Court
DUI	Driving under the Influence
EM	Electronic Monitoring
ESA	Execution of Sentences Act
ISA	Internal Security Act
ISIS	Islamic State of Iraq and Syria
MOJ	Ministry of Justice (Japan)
MPD	Malaysian Prison Department
NAV	Norwegian Labour and Welfare Service
NCS	Norwegian Correctional Service
NGOs	Non-governmental organizations
NMR	Nelson Mandela Rules
OCI	Office of the Correctional Investigator
PDFA	Act on Penal Detention Facilities and Treatment of Inmates and Detainees, Act No 50 of 2005
PO	Probation Officer
POTA	Prevention of Terrorism Act (Act 769) from 2015
PR	Prison Regulation, 2000
PST	Norwegian Police Security Service
Reg.	Regulation
RESA	Regulations to the Execution of Sentences Act
RNR	Risk-Need-Responsivity Model
SOSMA	Security Offences (Special Measures) Act 2012 (Act 747)
UN	United Nations
UNAFEI	United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders
UNODC	United Nations Office on Drugs and Crime
UNRISD	United Nations Research Institute for Social Development
VPO	Volunteer Probation Officer

Foreword

Globally, at least 11 million people are held in prisons and other penal institutions, a number which has increased by more than 10 percent over the past decade. Prisoners often come from marginalized groups in society with limited economic opportunities, and children in prison are mostly those without adequate care and support systems. The number of elderly people in penal institutions is also increasing in many countries with ageing populations and increased poverty among the elderly. Without adequate public policies that can provide social services and support to inmates and their families, correctional services risk perpetuating cycles of criminal behaviour and exacerbating poverty and inequality. Designing and implementing comprehensive policies based on internationally agreed norms and standards is essential in today's era of sustainable development that pledges to leave no one behind—offering a chance for inmates and the released to be full members of society.

These concerns led the United Nations Research Institute for Social Development (UNRISD), in partnership with the National Center for Social Studies (NCSS) in the Kingdom of Saudi Arabia, to explore “Lessons from Successful Experiences with Welfare, Rehabilitation and Reintegration of Prisoners.” UNRISD, through this commissioned research, aimed to support the NCSS in contributing to the improvement of conditions in the country's penal institutions, as part of the implementation of Saudi Arabia's Vision 2030, a goal of which is to maintain safety and security with low crime rates.

This Working Paper is a result of this research, undertaken by experts at the Institute for Penal Law and Criminology at the University of Bern, Switzerland, and is a revised version of the report submitted by UNRISD to the NCSS.

Paul Ladd
Director, UNRISD

Summary

This paper contributes to the debate on desirable correctional services systems by presenting four national case studies on the welfare, rehabilitation and reintegration of prisoners, and how each country regulates and institutionalizes these aspects of the penal system. The countries analysed are: Canada, known for its community involvement in release approach; Norway, known for its strong welfare system; Japan, known for its decreasing prison rate; and Malaysia, known for its efforts in the deradicalization and reintegration of prisoners with extremist ideologies.

To create a comparable basis for analysis between the different countries, a comparative scale was developed based on the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The scale allows the welfare, rehabilitation and reintegration dimensions of correctional services in each country to be classified in three categories (insufficient, sufficient and excelled). In addition to these three dimensions, the prison regime of each country was analysed to allow the national prison context to be considered in the country comparison.

Some of the main findings and lessons of the paper are as follows. The only country classified as sufficient in terms of the Nelson Mandela Rules is Norway, which demonstrates promising practices (in terms of exceeding the standards) in the areas of health care, living conditions, visits, offender assessment, conditional release, parole and probation, aftercare and re-entry assistance, as well as family support. All the other countries have at least one insufficient dimension, implying breaches of the Nelson Mandela Rules. The most frequent breach affecting the prison regime is the inappropriate use of solitary confinement. This demonstrates that correctional services administrators in these countries still have difficulties in finding the right balance between the rights of inmates on the one hand, and the overall peace and order of the institution (or in a broader sense, of the society) on the other. The impact of an insufficient or sufficient prison regime on the implementation of welfare, rehabilitation and reintegration measures is considerable. Further, the analysis in this paper argues that promising practices are achieved in collaboration with external stakeholders, such as non-governmental organizations (NGOs), volunteers, families, national service providers, communities or external employers. This finding underscores the positive impact that intersectoral collaborations have on prisoner rehabilitation, as well as the need for equal provision of services for inmates and for the general population.

Promising practices among the case study countries are not limited to Norway. Another example can be seen in Canada's levels of community involvement in the reintegration process. Canada displays a remarkably high percentage of conditional releases, facilitating the application of the "throughcare" approach (that is, the probation service takes responsibility for the support of the offender after release to ease the transition from prison to society) for the majority of prisoners. Regarding Japan, its cooperative employers' service achieves two important reintegration goals by supporting released prisoners to find employment and by integrating civil society into the reintegration strategy. Finally, and despite the Malaysian correctional service system being insufficient insofar as meeting the Nelson Mandela Rules, the country has an effective deradicalization programme for prisoners with extremist ideologies, which is designed to begin in prison and end with a reintegrated person in the community.

1. Introduction

In many countries worldwide, prison population rates are high and have risen significantly since the 1990s (Dünkel and Geng 2015; Walmsley 2016). Modern sentencing principles, laid down *inter alia* in international recommendations such as the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (UN General Assembly 2015) (the so-called Nelson Mandela Rules (NMR), described in further detail below), define humane treatment and standards for the rehabilitation and reintegration of prisoners, both core elements of prison sentencing. As most prisoners serve determinate sentences and will eventually be released, the purpose of imprisonment is to reduce future criminality by ensuring, as much as possible, that the offender is able to lead a law-abiding and self-supporting life upon return to society (Huber 2016). In this sense, successful reintegration results in the reduction of criminality and therefore contributes to promoting peaceful and inclusive societies for sustainable development.

The continuous incarceration of inmates for determinate sentences leads to a continuous flow of people being released. These former prisoners need to be reintegrated into society, often after having served lengthy terms in prison. Therefore, a number of countries are in search of new concepts and strategies for the effective management of this flow.¹

This paper contributes to the debate on desirable correctional service systems by presenting four national case studies on the welfare, rehabilitation and reintegration of prisoners, and analyses how each country regulates and institutionalizes these aspects of the penal system. Such comparative analysis allows promising practices to be distinguished, however these practices are also strongly connected to national sociopolitical and cultural contexts. The comparison captures each country's efforts to meet international standards, while respecting their own specificities and traditions. In this sense, the comparison shows that there is no "one-size-fits-all" model, but different issues impact the consolidation of social, political and cultural habits and international standards. This paper also provides a brief overview of each country's approaches to coping with radical ideologies, both to prevent inmates becoming radicalized as well as to disengage or deradicalize violent extremists. Though this specific point concerns aspects not solely related to detention, it is interesting to consider approaches to radicalization since it is a current topic of debate. However, these debates run the risk of reducing the prison solely to a place of radicalization or a school of crime, rather than considering the broader correctional system.

The national cases considered in this paper were chosen to reflect a wide range of differences in their respective correctional service systems: Norway, a country with a comparatively low prison rate (WPB 2016a), is internationally known for its strong welfare system and has been cited positively in many European discussions on prisoner release; Canada is internationally known for its extensive integration of citizens in release approach; Japan, a country with a decreasing prison rate, has a strategy to become "Japan the Safest Country in the World" by adopting a general attitude of "No Return to Crime, No Facilitation of a Return to Crime (Toward a Bright Society by Everyone Supporting Rehabilitation)"; and Malaysia, a country that has recently received international attention for its prisoner deradicalization efforts that distinguish between "cognitive and behavioural components", and its further work "to become a modern and a world class correctional department [...] conforming to human rights" as per the national Vision 2020 (Chowdhury Fink and Hearne 2008; APCCA 2013:3).

¹ See Petersilia (2004), Travis (2005), and Hucklesby and Hagley-Dickinson (2007). For examples of European practice, see Decarpes and Durenescu (2012) and Pruin (2016a, 2016b).

In the following section, this paper provides short definitions of its understanding of key concepts such as welfare, rehabilitation and reintegration. It then reviews the pertinent literature on research approaches to correctional service systems. This is followed by a discussion of demographic trends regarding prison populations and prison population rates for all national case studies. The section closes with brief considerations on methodological issues and the sources used in the four national case studies. In chapter 3, the case studies of the four countries are presented, with the same explanatory structure followed for each of them. The order of the four cases is arbitrary and does not reflect any prioritization. Additionally, major findings are summarized in a series of tables. Chapter 4 is devoted to the comparative analysis of four case studies. Finally, chapter 5 presents the conclusion and a set of recommendations.

2. Theoretical Framework and Methodology

2.1 Welfare, rehabilitation, reintegration

The national case studies presented in this paper focus on the welfare, rehabilitation and reintegration dimensions of correctional services. However, these concepts are far from being self-explanatory and operational definitions are needed since these concepts mean different things in different contexts.

In this paper, the term “welfare” refers to interventions designed to directly affect the well-being of prisoners, including their living conditions. Prisoner well-being is the foundation upon which treatment efforts and programmes are based. Every state is responsible for guaranteeing the well-being of all individuals incarcerated by state authorities, not least because prisoners are deprived of their ability to take care of themselves and so become dependent on others. Welfare includes harm reduction, humane treatment and normalization (Dünkel 2016).

“Rehabilitation” is understood here as including those strategies, measures and programmes applied during incarceration in preparation for release. This paper admits that the use of the term “rehabilitation” is to some extent idiosyncratic in view of how it is used in criminological literature (for example, Raynor and Robinson (2009)). There it encompasses not only measures and programmes taken in prison but serves as an umbrella term for programmes and structures inside and outside prison, aimed at preparing and supporting the release of offenders on their way back to society (other frequently used synonyms for this concept are “resettlement” or “re-entry”). This underscores the view that rehabilitation efforts ought to be offered by the prison system from the onset of detention, during incarceration and after release, to limit the detrimental effects of imprisonment through adequate activities and services (Scheirs 2016).

The third term “reintegration” refers to re-entry of released inmates into harmonious interactions with others. The term likewise uses the prefix “re”, suggesting that inmates had been integrated into society prior to their incarceration. However, this suggestion has been a subject of several debates, with prominent reference to the fact that prior to imprisonment, many prisoners, for various reasons, have never been “integrated” into society, facing barriers such as poor housing, unemployment, drug addiction, health issues and debt burdens (de Alcantara 2016), and, upon their release, seldom count on sound social structures. Like rehabilitation, reintegration is also not used in a uniform way in the literature. Even within the same country, the term reintegration can have

different meanings.² In the context of this study, “reintegration” encompasses those concepts, programmes and structures in psychological, legal, moral and social dimensions that take place after release from prison and aim at “de-labelling” the former prisoner toward a “normal citizen” (McNeill 2012).

2.2 Research approaches to correctional services

Different research approaches to correctional services suggest different definitions, as well as criteria and standards, for evaluating the efficiency and effectiveness of rehabilitation and reintegration measures. Despite their differences, these approaches all try to answer the questions of whether, and under what conditions, rehabilitation and reintegration measures are “successful” or “effective”.³

The “what works” approach

The “what works” approach—which is very influential in the United States, UK and the Netherlands—attempts to distinguish effective rehabilitation or reintegration programmes from non-effective ones through meta-analyses⁴ and systematic literature reviews. The idea is that evaluation research based on quantitative methods can objectively demonstrate which programmes show effects and can therefore be seen as (cost-) efficient. Effectiveness is mainly measured in terms of recidivism, which means that an effective programme must reduce recidivism rates.

While the first evaluations of treatment programmes tried to identify which programmes work in general, the current approach to research on effective rehabilitation focuses more on why some programmes work better for some offenders than others and what factors can lead to more highly effective programmes.

An important finding of this kind of research is that the effectiveness of treatment programmes depends on several moderators. These include offender-related factors (for example, motivation), the treatment context (for example, the institutional climate or the qualifications of the staff) and the evaluation methods.⁵ Therefore it is very unlikely that there are specific programmes for the treatment of offenders in general, or rehabilitation and reintegration in particular, which are equally effective in all contexts and in any places.

MacKenzie (2006; 2014) published a meta-analysis of the effectiveness of United States rehabilitation programmes in reducing the risk of recidivism. According to this analysis, recidivism was reduced by certain forms of cognitive behavioural therapy and vocational education programmes in prisons. These programmes train the offender in particularly important labour-market skills that were also productive for the prison (“multi-component correctional industry programmes”), as well as external treatment programmes for sex offenders.

² Morgenstern (2015) shows in the case of Germany how the term “reintegration” with respect to offenders has been influenced by political discussions, and is nowadays often used in combination with the “utilitarian justification” that measures aiming at reintegration will reduce the dangerousness of the offender.

³ See Pruin (2016c) for a more extended version of this summary.

⁴ Meta-analyses allow the identification of so-called “moderators” which influence the effectiveness of a programme (Döring and Bortz (2016), McGuire (2013).

⁵ See Graig, Gannon and Dixon (2013) for a current overview.

Two other research findings are particularly significant for the area of reintegration: one programme following the principle of therapeutic community⁶ in prison, combined with follow-up treatment after release, proved to be particularly effective. In addition, programmes helping offenders integrate in the labour market “outside” also seemed to work. Furthermore, MacKenzie (2006) argued that isolated intensive monitoring after release does not reduce the risk of reoffending.⁷

Seiter and Kadela (2003) used the same approach for the assessment of specific programmes for prisoner reintegration. They analysed evaluations that used a randomized control group design and investigated programmes that started in prison and combined treatment with follow-up after release. The following rehabilitation programmes were identified as “working” by Seiter and Kadela (2003): i) vocational training programmes in prisons and work-release programmes at the end of the sentence, ii) community-based transitional halfway houses which prepare the former offender for life in liberty (temporary living facilities provided to people recently released from incarceration), and iii) some prison drug treatment programmes with intensive aftercare. Due to the strict criteria,⁸ only a small number of programmes could be included in the analysis. However, they suggest that more evaluations are necessary to be able to determine the effectiveness of transition programmes.

According to the latest meta-analysis particularly focusing on prisoner re-entry programmes (Ndrecka 2014),⁹ the specific re-entry programmes of the study moderately reduced the risk of reoffending. Higher effect sizes have been identified for programmes that started in prison and were continued after release. In line with previous research on offender treatment Ndrecka (2014) found that therapeutic communities can increase the chances of rehabilitation and reintegration. These programmes had higher effects on high-risk offenders than on moderate or low-risk offenders. Another influential factor was the length of the programme with programmes lasting longer than 13 weeks showing higher rehabilitative effects. Ndrecka (2014) concluded that rehabilitation and reintegration programmes that offer individual treatment have a higher probability of reducing recidivism.

The “what works” approach to research is based on evaluations of a small percentage of all programmes. This is partly because many programmes and programme evaluations do not meet the criteria for meta-analyses (for example, using randomized control groups, see Petersilia (2004:6)). Although the demand for more robust evaluation of rehabilitation and reintegration programmes is certainly justified, the issue remains that meaningful evaluation results in this approach require the use of randomized control groups. The dilemma in these circumstances is that, it is highly problematic to treat prisoners differently solely for methodological reasons as the principle of equal treatment is a basic human right for prisoners and for other citizens. Further ethical considerations would not allow the exclusion of a randomly selected group from participation in a programme that is assumed to effectively reduce reoffending. In consideration of those limitations, the results of meta-analyses and systematic reviews can be viewed as “evidence-based” ways for rehabilitation and reintegration.

⁶ In Germany, prisons run on the principle of therapeutic community are considered to be better in comparison with the social therapeutic institutions, see Drenkhahn (2007) for work on the principle of therapeutic community prisons in England and Wales.

⁷ See Petersilia (2004: 6); these results confirmed those of Sherman et al. (1997) and were again confirmed later, for example, by Aos et al. (2006).

⁸ Outcome evaluation and programmes which either related only to the preparation of release or follow-up care.

⁹ All accessible meta-analyses on prisoner resettlement come from the United States.

The Risk-Need-Responsibility approach

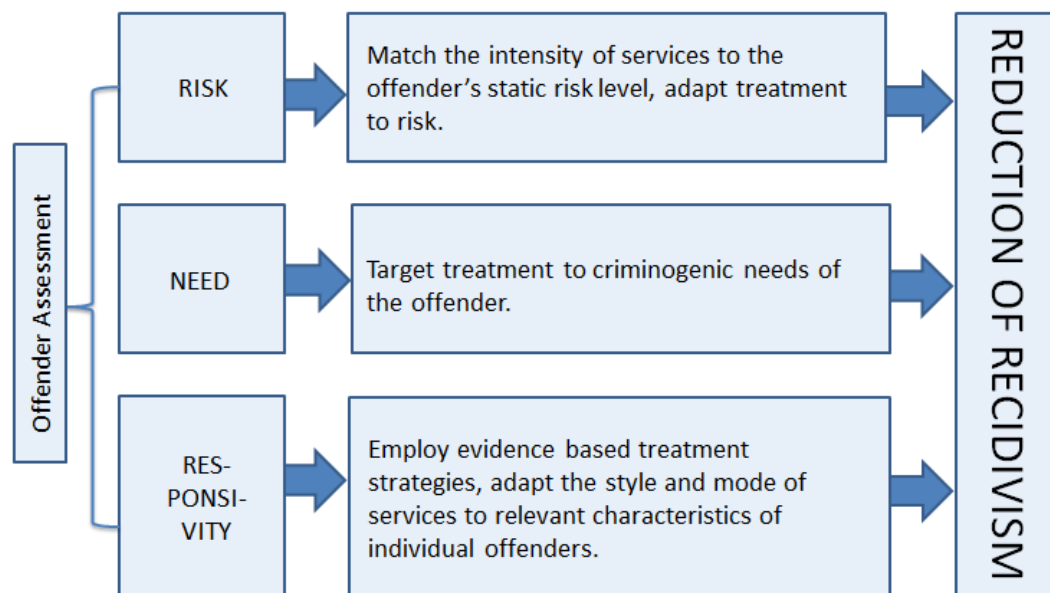
To find out how rehabilitation and rehabilitation structures can be, researchers analyse various findings from evaluations, surveys and observations, and summarize them in principles or guidelines, and finally, in theories for the implementation of treatment programmes, which then in turn can be empirically tested again. The very influential¹⁰ Risk-Need-Responsivity (RNR) approach developed by Andrews and Bonta (2010) attempts to integrate criminological research results from different fields into one model.¹¹ They combine “what works” results with findings from developmental criminology, for example knowledge on risk factors for offending. They suggest three main principles for the successful treatment of offenders: risk, need and responsivity. The risk principle states that the intensity of the interventions should be adjusted in accordance with the risk of the offender. This principle relies on those results from meta-analyses that find treatment programmes to have a positive effect on those offenders with a higher risk of reoffending, whereas for low-risk offenders they may even have a negative effect, especially when they are treated together with high-risk offenders. Therefore, the risk principle claims to tailor the intensity of the treatment to the individual risk: low-risk offenders should undergo little or even no treatment, while high-risk offenders should participate in very intensive measures.

The need principle states that interventions should be aligned to criminogenic needs, in particular dynamic factors which are associated with criminal activities. These factors include a lack of respect for authority, anti-social behaviour, addiction problems, criminal environment, lack of literacy and job skills, and nonconformist behaviour or attitudes. Unlike static factors such as the age of first arrest and criminal history, which cannot be addressed by any sort of programmes or training, dynamic factors can be addressed through specific therapeutic programmes, trainings and education. Treatment goals are therefore to be chosen in a way that treats these dynamic risk factors.

The responsivity principle integrates those findings that assert the importance of relationship and motivation, and claims that the type and style of intervention must be aligned with cognitive abilities and learning styles of the offender. Factors such as the motivation or the cultural background of the offender must be observed.

¹⁰ Lloyd and Serin (2014: 3303) refer to the RNR principle as “the guiding principle worldwide”.

¹¹ The most recent edition of their book “The psychology of criminal conduct” was edited in 2017 (see Bonta and Andrews(2017)).

Figure 1: RNR Model

The RNR model has also been studied through meta-analyses, which categorizes the extent to which programmes follow the RNR model and then, in a second step, whether observance of the principles influences the effectiveness of the programme.¹²

Petersilia (2004) summarizes how the RNR principle should be implemented, especially in offender rehabilitation and reintegration programmes, to achieve better effectiveness of these programmes. According to her work, such programmes should use cognitive behavioural methods and the participants should be positively motivated to participate (participation not imposed as punishment). Treatment programmes should be designed primarily for offenders with a higher risk of reoffending and be directed toward their dynamic risk factors. For this group, the programmes should, depending on the specific risk (“need”), take 3-12 months and occupy most of the participants’ time (40-70 percent). Offenders with a lower risk of reoffending require no “treatment” of this type.¹³ To assess which offenders have a higher risk of reoffending, validated risk assessment tools (such as the Level of Service Inventory-Revised (LSI-R; Andrews and Bonta (1995)) should be used instead of mere assessments by prison staff. Participation in outpatient programmes is more likely to have higher success rates than programmes carried out in the prison. Finally, staff must be able to adapt the respective treatment programme to the specific learning style of the participant.

The desistance approach

The third approach to the effectiveness of rehabilitation and reintegration programmes is found in desistance research.¹⁴ McNeill (2012) concludes that rehabilitation is a social project as well as a personal one. The desistance approach assumes that only a change of attitude can lead to the end of a criminal career. Such change can also be externally

¹² For the risk principle see references in Lowenkamp et al. (2006:1-17). For the effectiveness of treatment programs that follow the RNR principles see the meta-analyses of Lösel and Schmucker (2005), and Hanson et al. (2009). For a critique see Ward et al. (2014: 1969f) and Petersilia (2004:5).

¹³ The research of Andrews and Bonta (2010) revealed that cognitive-behavioural treatment methods are better than other suitable methods in reducing the risk of recidivism.

¹⁴ For example, Laub and Sampson (2003), Maruna (2001), Giordano et al. (2002), McNeill (2006), and Paternoster and Bushway (2009). For an excellent summary in German language, see Hofinger (2013).

encouraged.¹⁵ Social ties and participation opportunities are viewed as being highly significant.¹⁶ From this point of view, “treatment” should be targeted at improving the social bonds of the offender and improving their perspectives of a “good life” as a normal citizen. According to Laub and Sampson (1993), social bonds play an overarching role in the decision of an (ex-)offender to end their criminal career. They found a stable working place and a good relationship to be the main factors in the desistance process. According to Maruna (2001), a person must first have the motivation to change and be prepared cognitively to use these social bonds. The concept of “human agency” is considered to play an important role in the desistance process. Paternoster et al (2015: 214) define “agency” as four elements: (i) intentionality (“having a deliberate purpose”), (ii) forethought (“capacity to create future goals”); (iii) reflexivity (“ability to self-monitor”); and (iv) power (“self-efficacy”).

According to Giordano et al. (2002) the path to abandoning a life of crime has several stages. The mental attitude and the will to change are the beginning of the process. However, anchor points or “hooks for change” must exist to ensure that the former offender will not return to their life of crime.¹⁷ Finally, a changed attitude to one's former criminal behaviour must manifest itself (Giordano et al 2002:1000).

For rehabilitation and reintegration, these approaches mean that not only the criminogenic “risks” and “needs” must be observed and addressed, but also that individual support must be offered to achieve the personal goals of the offender and to enable the creation of social capital and hooks for change. The structures nurturing pro-social behaviour and attitude, that is behaviours and attitudes for the benefit of another in the “outside world”, which are maintained or established during prison time are considered important. Likewise, it is important that social support after release enhances the desistance process and strengthens the former offender (Ward et al. 2014:1970). According to desistance theory “social reintegration is derived from the fundamental right of ‘social integration’ referring to ‘the opportunities to participate in all aspects of social life which are necessary to enable a person to lead a life in accordance with human dignity’” (Scheirs 2016:86). Therefore, an important aspect is the goal of including former prisoners in the community as full citizens (Maruna 2001; Maruna and LeBel 2003).

The so-called “strength-based” approach recommends that focus should be laid on the strengths of the (former) offender. Instead of focusing on risk factors and deficits, the question should be: what positive contribution can this person make and where does their expertise lie (Maruna and LeBel 2003; Ward et al. 2014:1967)? Of further importance is the relationship between the offender and the person working with them, as well as their professional attitudes or the philosophy of the programme.

Desistance research does not form its own theory on the successful treatment of offenders, but rather describes a framework for evaluating offender treatment programmes. However, research in this approach demonstrates strong consensus that a change in personal attitude is a significant factor for the effectiveness of rehabilitation programmes and that good social integration after release has an influence on the tendency to reoffend (for example, Marshal et al. 2006; Alexander et al. 2014).

¹⁵ MacKenzie (2006:339), who is classified as a representative of “what works” approach, also emphasised in the overall results that all programs do not help if they do not focus on the individual change with the offender.

¹⁶ Farrall (2002) particularly reiterated the significance of social capital.

¹⁷ Such individual “hooks for change” could be the family (marriage, children) but also treatment programs or religion, as summarised in Hofinger (2013:19).

2.3 Mandela Rules as common denominator

The above overview of major research and evaluation approaches has shown that there is no uniform guidance on the evaluation of rehabilitation and reintegration programmes. The question arises as to how those diverse perspectives and findings can be used as a framework for the analysis of welfare, rehabilitation and reintegration in the four countries presented in this paper. Such a framework must also acknowledge respective differences in the cultures of imprisonment and rehabilitation.

A common characteristic of the four countries presented in this paper is the fact that they are all member states of the United Nations (UN) and therefore have ratified UN General Assembly guidelines or recommendations for rehabilitation and reintegration of offenders. The most recent guidelines are the so-called “Nelson Mandela Rules,”¹⁸ which were adopted on December 17, 2015, and which revised the “Standard Minimum Rules for the Treatment of Prisoners” (1955) to incorporate human rights into criminal justice systems.¹⁹ They include, among other stipulations, rules and standards about welfare, rehabilitation and reintegration that are mandatory for all member states. However, it is important to emphasize that the Rules only form minimum standards of the lowest common denominator. Consequently, these rules help to provide a normative framework and criteria on what adequate treatment of prisoners should look like, and can thereby serve as a framework for the analysis of the four country studies.

The Nelson Mandela Rules comprise two main parts: the rules of general application and the rules applicable to special categories. The first, the rules of general application, constitute the majority of the Nelson Mandela Rules, with 85 rules out of the total 122. The rules of general application concern basic principles of detention, prisoner file management, separation of certain categories of prisoners, accommodation standards, personal hygiene, clothing and bedding, food, exercises and sport, health care services, use of restrictions, disciplines and sanctions, instruments of restraint, searches of prisoners and cells, information to and complaints by prisoners, contact with outside world, access to books, religion, retention of prisoner property, notifications, investigations and removal of prisoners, and rules regarding internal and external inspections. The second part provides rules for the treatment of five special categories of prisoners: (i) prisoners under sentence; (ii) prisoners with mental disabilities and/or health conditions; (iii) prisoners under arrest or awaiting trial; (iv) civil prisoners; and (v) persons arrested or detained without charge. The category for prisoners under sentence contains more detailed rules concerning the guiding principles of sentenced prisoners, their treatment, classification and individualization standards, their privileges, work, education and recreation activities, as well as rules regarding social relations and aftercare of those prisoners.

Even though the Nelson Mandela Rules are not organized explicitly in terms of welfare, rehabilitation and reintegration, they clearly include the main aspects of these dimensions, especially the dimensions of welfare and rehabilitation. The important aspects of the reintegration dimension are also incorporated by the Rules, however they are elaborated in less detail since reintegration and aftercare technically apply to a non-detained person. Yet, the domains regulated by the Nelson Mandela Rules directly correspond to the concepts of general prison regimes as well as to the welfare, rehabilitation and reintegration dimensions, as shown below in Table 1.

¹⁸ The Revised Rules are called the “Nelson Mandela Rules” to honour the legacy of the late President of South Africa, who spent 27 years in prison in the course of his struggle for global human rights, equality, democracy and the promotion of peace.

¹⁹ See UNODC (2016).

Table 1: Nelson Mandela Rules Comparison

Concept	Domain included by the NMR	Content
Prison Regime	Basic principles	The treatment of every prisoner shall respect their inherent dignity, protect them from cruel or inhuman treatment and be applied impartially while taking in account the individual needs of every prisoner. (Rules 1-3)
	Separation of categories	The different categories of prisoners (regarding their sex, age, criminal record, legal reason for detention and necessities of treatment) shall be detained in different institutions or in different part of one institution. (Rule 11)
	Restrictions, discipline and sanctions	Disciplinary offences and sanctions shall be authorized by a law or regulation and should not be more restrictive than necessary to ensure safe custody, order and security of the institution and community life. The mental health of every prisoner must be considered before sanction and no mentally ill or disabled prisoner shall be sanctioned. Torture or inhuman treatment are prohibited and include: indefinite solitary confinement, prolonged solitary confinement, placement of a prisoner in a dark or constantly lit cell, corporal punishment, diet or water restrictions and collective punishment. Solitary confinement means the confinement of a prisoner for 22 hours or more a day without meaningful human contact and is considered as prolonged when the period exceeds 15 consecutive days. Solitary confinement shall be used only in exceptional cases as a last resort and does not apply to mentally ill or disabled prisoners. Sanctioned prisoners should receive special health care attention and the medical professionals shall report and review to respective authorities. (Rules 36-46)
Welfare	Health care services	The health care standard provided to prisoners shall be the same as in the community. Every prison shall have in place a health care service and pay attention to special health care needs (physical and mental health, specific health care for women and children). For special treatment prisoners are transferred to adequate institutions or civil hospitals. Health care professionals have daily access to sick prisoners and follow the same ethical and professional standards in the treatment of prisoners as in the treatment of any civilian. (Rules 24-35)
	Accommodation	All parts of a prison used by prisoners (such as sleeping accommodation, living and workplaces, sanitary installation and bathing and shower installations) shall correspond to health requirements. Where cells are used as sleeping accommodation, it is not desirable to have two prisoners in one cell. Where dormitories are used, the prisoners shall be carefully selected. (Rules 12-17)
	Personal Hygiene	Penal institutions must provide water, toilet articles and hair and beard care in order that prisoners can keep a clean appearance. (Rule 18)
	Clothing and bedding	Clothes and beddings of every prisoner shall be clean and kept in proper conditions. If prisoners wear their own clothes, the institution ensures their cleaning. (Rule 19-21)
	Food	Food of nutritional value for health and strength shall be served at the usual hours and drinking water shall be available whenever a prisoner needs it. (Rule 22)
Rehabilitation	Basic principles	The period of imprisonment shall be used to prepare inmates for their life after prison, by offering specific programmes and minimizing the differences between prison life and life at liberty. (Rules 4-5)
	Contact with outside world	Regular contact with family and friends shall be provided, communication with legal advisors as well as diplomatic and consular representatives is allowed, and prisoners shall be allocated close to their homes. (Rules 58-63)
	Notification	Prisoner shall be able to inform family about the imprisonment, transfer or serious illness and shall be informed about serious illness or death of family members. (Rules 68-70)
	Prisoner file management	Every detention facility shall have a standardized prison file management system where the specific information of every prisoner is registered on their intake as well as during imprisonment. (Rules 6-10)
	Health care services	The specific health care, ill treatment, mental health needs of a prisoner must be identified as soon as possible following admission. (Rule 30)
	Information to and complaints by prisoners	Every prisoner shall be provided with information on the prison laws, his or her rights, obligations and general information on prison life. (Rules 54-57)

	Guiding principles for prisoners under sentence	It is desirable that prisoners follow a gradual return to life in society and that community agencies take part in social rehabilitation tasks. Therefore, individualized treatments and a flexible classification system with different security degrees are required. (Rules 86-89)
	Treatment for prisoners under sentence	The treatment of sentenced offenders shall establish in them the will to lead a law-abiding and self-supported life after release and developing their self-respect and sense of responsibility. To do so all appropriated means shall be used (rehabilitation programmes) and reported to the prison authority. (Rules 91-92)
	Work for prisoners under sentence	Prisoners shall have the opportunity to do useful work that increases the ability to earn a living after release. If possible, the prisoner should choose the type of work and vocational training shall be offered. Prisoners shall have an equitable remuneration, which can be spent and/or saved for after release. (Rules 96-103)
	Education and recreation for prisoners under sentence	Further education possibilities shall be provided and, if possible, follow the national educational system. Recreational and cultural activities shall also be provided in all prisons. (Rules 104-105)
	Exercise and sports	At least one hour of open air exercises a day (if the weather permits), and physical and recreational training during these exercises, shall be provided.
	Books	Every prison shall have a library accessible to every prisoner. (Rule 64)
	Religion	Every prisoner shall be allowed to have access to a qualified representative of a religion and should be able to satisfy needs of their religious life. (Rules 65-66)
	Prisoners with mental disabilities and/or health conditions	Offenders with mental disabilities or health conditions should be in adequate or specialized facilities and psychiatric treatment should be included in health care services inside prisons. The continuation of psychiatric treatment after release should be ensured. (Rules 109-110)
	Institutional personnel	Female prisoners shall be supervised by female staff members. (Rule 81)
	Classification and individualization	Classification shall separate different prisoner categories and facilitate the provision of adequate treatment to those categories. Treatment programmes should be in accordance with the individual needs, capacities and disposition of an inmate. (Rules 93-94)
Reintegration	Guiding principles for prisoners under sentence	Governmental or private agencies shall provide efficient aftercare to released prisoner. (Rule 90)
	Social relations and aftercare for prisoners under sentence	Assistance in maintaining and improving social contacts with the outside world shall be provided, also in the best interests of the family. Furthermore, released prisoners shall be provided with appropriate supports to maintain themselves in the period immediately following their release. (Rules 106-108)
	Contact with outside world	Regular contact with family and friends shall be provided and prisoners shall be allocated close to their homes. (Rules 58-63)

Source: UN General Assembly (2015) 70/175. *United Nations Standard Minimum Rules for the Treatment of Prisoners*.

2.4 Prison population trend

The following section, derived from the World Prison Brief, provides basic information on the evolution of prison populations and prison population rates, as shown in Table 2. It is currently estimated that well over 10 million people are incarcerated worldwide, of whom around half are in prisons in the United States, China, Russia and Brazil. Disparities in prison population rates (that is, the number of prisoners per 100,000 citizens) among the five large continents of Asia, the Americas, Europe, Oceania and Africa are clear, with the rate for Asia standing at 92, compared to the rate for Africa of 94, Oceania of 140, Europe of 192 and the Americas of 387 (Coyle, et al. 2016). Examining the information available on the prison population of the four countries of this study, the picture that emerges is one of diverse prison population rates and fluctuations. The country with the lowest imprisonment rate is Japan (47 per 100,000 in 2015), followed by Norway (74 per 100,000 in 2016), then Canada (114 per 100,000 in 2015) and finally Malaysia (172 per 100,000 in 2016). As data is not available on the flow of entries, it is not possible to assess whether these rates mirror smaller use of prison

sentences or rather a practice of many prison sentences of short duration.²⁰ If we look at fluctuations over the period of 2000 to 2016, we find relatively stable development in Canada on one end and on the other, a steady rise by almost 30 percent in Norway and by almost 50 percent in Malaysia. In Japan, the prison population rate rose from 48 in 2000 to 64 in 2006 and has since fallen to 47 in 2015. Again, without additional data it is not possible to determine if the rise and fall of prison sentences indicate more or less punitive turns or whether they can be attributed to changes in the length of prison sentences.²¹ For Japan, evidence suggests that the fluctuation is at least partly influenced by a legislative trend toward more severe punishment, that was followed by a rehabilitation law in 2006 aiming at reducing the prison population (Fenwick 2013).

Table 2: Prison Population Trend (2000-2016)

Year	Canada		Norway		Japan		Malaysia	
	Prison population total	Prison population rate*	Prison population total	Prison population rate	Prison population total	Prison population rate	Prison population total	Prison population rate
2000			2,548	57	61,242	48	27,358	116
2001	35,553	115						
2002			2,832	62	69,502	55	28,804	118
2003	35,868	114						
2004			3,028	66	76,413	60	43,424	171
2005	34,365	107						
2006			3,250	70	81,255	64	42,389	161
2007	37,452	115						
2008			3,387	71	76,881	60	39,440	145
2009	39,051	117						
2010			3,624	74	72,975	57	38,387	137
2011	39,976	117						
2012			3,591	72	67,008	53	36,608	126
2013	41,026	118						
2014			3,717	72	60,486	48	47,986	160
2015	40,663	114			59,620	47		
2016			3,874	74			52,784	172
Average value	37,994	114.63	3,317	68.67	69,487	54.67	39,687	147.80

Source: WPB (2016a, 2016b, 2016c, 2016d)

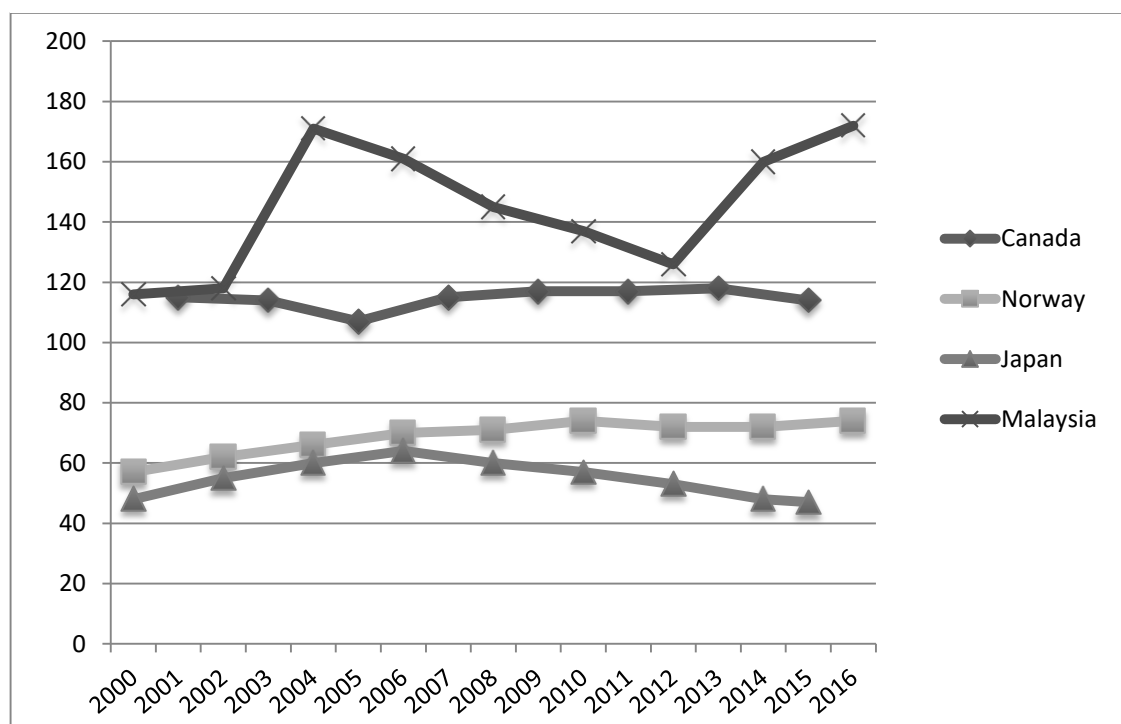
* Prison population rate: the number of prisoners per 100,000 citizens

²⁰ See also Dünkel et al. (2016).

²¹ Aebi et al. (2015) found that the rise of prison population rates in Western Europe could be attributed to longer prison sentences instead of more prison sentences.

Figure 2 highlights the prison population rate trends. While Norway's rate shows minimal growth, Japan's prison population has experienced a consistent decline since 2006. Canada demonstrated a low prison population rate in 2005, which has been slightly rising in the time since. Malaysia's prison population rate is the most volatile, experiencing a very high rate in 2004, followed by a constant decrease until 2012, only to return to very high levels by 2016.

Figure 2: Prison Population Rate* (2000-2016)



Source: WPB (2016a, 2016b, 2016c, 2016d)

* Prison population rate: the number of prisoners per 100,000 citizens

2.5 Methodology

To analyse data related to the welfare, rehabilitation and reintegration of prisoners in the cases of Canada, Norway, Japan and Malaysia—each differing regarding history, social norms and values, politics or culture—this paper uses indicators to measure the status of the welfare, rehabilitation and reintegration dimensions and a comparative scale based on the Nelson Mandela Rules. As a first step, based on the above presented definition of the three main dimensions of welfare, rehabilitation and reintegration, indicators have been developed to assess performance in these dimensions. These indicators were elaborated using findings from a review, presented earlier, on the state of the art in the pertinent literature. As mentioned above, key scientific texts written by McNeill (2012), Dünkel (2013, 2016), Petersilia (2004) and Padfield et al. (2010) were utilized, as well as documents such as the UN Office on Drugs and Crime (UNODC) Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders (2012), and the annual Global Prison Trends Reports by Penal Reform International (PRI). This preliminary literature review confirmed the assumption that a good and promising reintegration or resettlement strategy starts at the first day of imprisonment. Prisoners need to be prepared as well as possible during their time in prison for their life outside. Services inside prison should cooperate with outside services, and there should be supports for those prisoners who need it after release. Reintegration after prison should be a right for every inmate instead of being at the discretion of any authority. Since the first months after release are the most critical in terms of reoffending, a plan should be

elaborated upon release to provide the necessary everyday structures to support release and to mitigate factors leading to reoffending during that first period after release.

As a second step, the elaborated indicators were aligned with pertinent rules from the Nelson Mandela Rules to establish a scale that renders the four countries comparable. The Nelson Mandela Rules used for the comparative scale (see appendix 1) were selected in accordance with two criteria. First, the measurability criterion selects the rule in terms of concrete indications, conditions or activities, which should figure in every country's documentation. The second criterion is based on the accordance the rules have with the previous defined quality indicators. Although every Nelson Mandela Rule is considered equally important, not all refer to the quality indicators presented here, but rather refer to other important domains. Nevertheless, the comparative scale allows the classification of the observed welfare, rehabilitation and reintegration measures, respectively, within three categories: (i) insufficient; (ii) sufficient; and (iii) excelled. Situations were classified as insufficient when they deviated from the minimums established by the Nelson Mandela Rules. A classification of sufficient denotes that all rules apply. A classification of excelled denotes situations where more than the minimum set of rules have been respected. The reason for this three-level classification, especially for the insufficient category, is the irreducible character of the Nelson Mandela Rules. As its name states, the rules provide the standard for the *minimum* treatment of prisoners. In this sense, less than the minimum is considered as insufficient, while more than the minimum exceeds these expectations.

To identify the important aspects of welfare, rehabilitation and reintegration, data from the following sources have been systematically gathered, reviewed and analysed:

- Official websites from the case study countries (Norwegian Correctional Services, Correctional Services Canada, Ministry of Justice Japan, Malaysian Prison Department, Office of the Correctional Investigator of Canada, Prison Fellowship Canada, Canadian Families and Corrections Network);
- Official country reports (research products, reports, White papers);
- Legislation, laws, acts, regulations and declarations;
- Scholarly sources;
- Relevant databases (International Committee of the Red Cross, UNODC, Amnesty International, World Prison Brief, United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), Confederation of European Probation; and
- Newspaper articles.

While this procedure enabled the collection of a wealth of data, it also has its limits and challenges. The first challenge is linked to the accessibility of the data within the allocated research period. Due to the cultural and linguistic diversity of the four countries, not every case study provided the same form of information. Concretely, this diversity is linked to the cultural, traditional and social composition of the legal framework²² and the numbers of legal documents regarding the regulation of detention conditions accessible online. Furthermore, the existence of scholarly sources varied from one country to another and

²² Every country's legal system has its own specificities and influences that can derive from common law, the Romano-Germanic law system, Islamic law or customary law. Depending on these specificities and influences, relevant documentation may not be accessible.

therefore not every case study features existing in-depth studies on their rehabilitation and reintegration practices.²³

The second challenge relates to differences in terminology. Terms such as welfare, rehabilitation and reintegration, as well as parole, probation, pre-release, early release and conditional release are not used consistently in all four countries. This requires an interpretation of the information to avoid a possibility of misunderstandings in the context of this analysis.

The third challenge, which is partly due to the exclusive use of secondary data, is that it is not possible to empirically verify the implementation of welfare, rehabilitation and reintegration measures and their impacts.²⁴

Nevertheless, the information gathered provides a fairly comprehensive view of the correctional systems of the four countries and allows an indicator-based analysis of each case. Each of the following case studies is structured in six sections. The first section introduces the country by exposing the general structure and management of the respective correctional system as well as the relevant legal framework. The second section focuses on the prison regime that provides the general context in which rehabilitation and reintegration measures take place.²⁵ Welfare indicators are discussed in the third section, followed by rehabilitation indicators in the fourth, and reintegration indicators in the fifth section. Finally, the sixth section analyses the country measures of welfare, rehabilitation and reintegration through the elaborated comparative scale based on the Nelson Mandela Rules, enabling classification of the indicators and thereby facilitating discussion on indicators deviating from the minimum standards set by the Nelson Mandela Rules, either positively (exceeding the rules) and negatively (failing to meet them). Finally, the classification allows for an overall comparison of the four countries at the end of this paper (chapter 4).

3. Country Studies

3.1 Canada

3.1.1 Introduction

General management and service structure

In Canada, the responsibility for penitentiary administration depends on the length of the sentence. Sentences of two years or more and conditional release supervision fall under the responsibility of a federal government agency, the Correctional Service of Canada (CSC), whereas persons sentenced for less than two years are the responsibility of the respective provinces and territories. Each of the 13 provinces and territories has its own correctional services agency administering sentences of less than two years, as well as their probation sentences and juvenile corrections (CSC 2016a). Since adequate rehabilitation and reintegration programmes are particularly important in long-term

²³ Countries such as Norway and Canada were previously analysed several times and provide various scholarly sources on their methods as well as on their general attitude and principles guiding inmate rehabilitation and reintegration, while Japan and Malaysia have less available research articles on their correctional systems.

²⁴ Again, Norway and Canada have independent reports on the implementation of welfare, rehabilitation and reintegration measures, while such information is less accessible for Japan and Malaysia due to inexistent independent reports. However, in most countries, newspaper articles could give an idea of potentially lacking implementations.

²⁵ This general context includes the principles of the prison regime, security classification, institutional diversification, as well as disciplinary sanctions, namely solitary confinement.

sentences, the following paragraphs focus on the measures taken within Correctional Services of Canada. According to Section 5 of the Corrections and Conditional Release Act of 1992 (CCRA), the CSC is responsible for care of custody, the provision of programmes contributing to the rehabilitation and reintegration of offenders, release preparation, release supervision (parole, statutory and long-term supervision), as well as for public education programmes. Furthermore, their management takes place at three levels: national (overall planning and policy development); regional (implementation level); and institutional (correction facilities).

As mentioned above, probation and parole supervision in Canada fall under the responsibility of either the CSC or respective provincial correction services and are supervised by parole boards on the national or provincial level.²⁶ The Canadian approach is based on the belief that the successful reintegration of an offender depends on the measures taken to support their gradual return to society during the stay in prison on the one hand (Parole Board of Canada 2011), and on the social acceptance and sensitivity of the general population to reintegrate offenders into society on the other. Community involvement in the rehabilitation and reintegration process is an important factor (Griffiths 2007). Thus, the CSC collaborates with the community through forms of volunteering where citizens can share their skills and talents as volunteers at the institutions, in outreach events or by actively advising the CSC through Citizen Advisory Committees (CSC 2012a). The CSC website reflects this open attitude toward society in terms of transparency and the provision of information which is detailed and easily accessible online.

Legal and regulatory framework

The broader Canadian legislative framework is mainly contained in the Criminal Code (1985), which regulates the form of custodial sentences, non-custodial sentences and the general Purpose and Principles of Sentencing which highlight security and protection aspects as well as the rehabilitation and accountability of the offender.²⁷ Furthermore, the CCRA regulates institution management in compliance with the different security levels as well as conditional release supervision. The CCRA is supplemented by the Corrections and Conditional Release Regulations (CCRR) to “exercise reasonable, safe, secure and humane control” (CSC 2013a). Other directives may be required to provide improved frameworks to address issues such as: budgetary constraints; the complexity of offenders needs, especially related to elderly or mentally ill offenders; or the persistent overrepresentation of Aboriginal people in the criminal justice system, especially among female and young offenders²⁸ (Kirkup 2016). Even though Canada’s legal framework is well detailed and developed, and considers individual offender’s needs where possible, in the security context of a prison the general tendency of the past years indicates an orientation toward a “tough on crime agenda” which tightens condition for violent offenders (Mas 2015; Payton 2011). In 2001 the Criminal Code was amended by the Anti-Terrorism Act, further revised as the Anti-Terrorism Act, 2015, as a reaction to the attacks on the United States on 11 September 2001 to provide a definition of terrorist activities and to create measures to react to terrorist threats. Although the Anti-Terrorism Act aims to combat terrorism and to ensure that “Canadian values of respect and fairness” are preserved (Department of Justice 2017), it also gives the police a “broader scope to act on suspected terrorist activities” (CBC News 2008).

²⁶ CCRA 1992, s. 101 and 108(2).

²⁷ Criminal Code 1985, s. 718.

²⁸ Offences by young offenders are regulated under the Youth Criminal Justice Act.

3.1.2 Prison management

Prison regime

As defined in Section 3 of the CCRA, “the purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society by (a) carrying out sentences imposed by courts through the safe and humane custody and supervision of offenders; and (b) assisting the rehabilitation of offenders and their reintegration into the community as law-abiding, citizens through the provision of programmes in penitentiaries and in the community.”²⁹ The general prison regime, based on those principles, is supposed to provide adequate management and treatment of offenders, including measures supporting rehabilitation and reintegration upon release. Therefore, the prison regime, considered as the institutional framework in which the rehabilitation measures and the release preparation take place, is a factor influencing the overall implementation of rehabilitation and reintegration programmes. Furthermore, there is no death penalty in Canada.

The security classification of Canada’s prisons has Maximum Security, Medium Security and Minimum Security levels, all targeting the objective of gradual supervised release. Furthermore, the CSC (2013b) operates reception facilities, a mental health centre, a psychiatric centre and institutions for female offenders as well as institutions for male offenders, while young offenders are the responsibility of the provinces and territories. The security classification and institutional diversification facilitates the separation and adequate treatment of the various prisoner categories, which is both in the interest of the CSC as well as of the prisoners themselves.

In Canada, segregation is used as administrative segregation on the one hand, and as a disciplinary sanction on the other. The former use is to “maintain the security of the penitentiary or the safety of any person by not allowing an inmate to associate with other inmates.”³⁰ The duration of segregation is not legally regulated (OCI 2015:25) and consequently this form of segregation is unlimited in its nature. Although CCRA Subsection 31(2) states that the inmate shall be released at the “earliest appropriate time”, the Office of the Correctional Investigator (OCI) (OCI 2015) points out that segregated inmates spend in practice 23 hours a day alone in their cells. The second use, as disciplinary sanction, can include restrictions on visits from outside the institution and can, in accordance to CCRA Subsection 44(1f), be imposed for a maximum of 30 days in the case of a serious disciplinary offence. Only limited information is available on exactly how many hours a day an inmate stays in administrative segregation, but the practice nevertheless indicates a deviation from the Nelson Mandela Rules and as such has been denounced by the OCI and major media outlets (CBC news 2016, 2014; Powers 2016). The authority and implication of the Segregation Review Board in reviewing and deciding on segregation is regulated in the CCRR Sections 19 to 23. Grounds for confinement are if the inmate “jeopardizes the security of the penitentiary or the safety of any person and allowing the inmate to associate with other inmates would jeopardize the security of the penitentiary or the safety of any person” as well as to guarantee the inmate’s safety (CCRA Subsection 31 (3)). The use of segregation for mentally ill prisoners is frequently used in the Canadian correctional system and was highly criticized after the death of a mentally ill female inmate in a segregation cell in 2007. The CSC’s response to the delivered recommendation concerning this incident followed nearly seven years later and was regarded as frustrating and disappointing by the OCI (2015). Even though the use of segregation practices is publicly criticized, the CSC rejects recommendations made by

²⁹ CCRA 1992, s. 3.

³⁰ CCRA 1992, s. 31.

the OCI such as “1. Abolishment of indefinite solitary confinement. 2. Prohibition on placements in conditions of long-term segregation, clinical seclusion, isolation or observation. 3. Restriction on the use of segregation and seclusion to 15 consecutive days, in accordance with international standards. 4. Prohibition on segregation for more than 60 days per year” (OCI 2015:29).

In consideration of the possible derivation from the Nelson Mandela Standards mentioned above, grievance or complaint mechanisms seem highly important. Sections 90 to 91.2 of the CCRA regulate the ability of every inmate to access grievance procedures based on concerns falling within the jurisdiction of the Commissioner.

3.1.3 Welfare

Health care

Section 85 of the CCRA defines the term health care as the “medical care, dental care and mental health care, provided by registered health care professionals” which the CSC is obliged to provide to every inmate. The CSC’s health care obligation concerns essential health care, containing medical, dental and mental health care, as well as reasonable access to non-essential health care, which contributes to the inmate’s rehabilitation and reintegration (CCRA Sections 85 and 86). This means that the health and health care needs of an offender must be considered in every decision that has an impact on the offender’s situation such as placement, transfer, disciplinary or administrative segregation, as well as release preparation and supervision (CCRA Section 87). However, there is little information on gender-specific health programmes or support like special prenatal and postnatal accommodation in women’s prisons, though these can be considered essential health care under Section 85 and 86 of the CCRA, and under the Commissioner’s Directive Number 768, which regulates the institutional Mother-Child Programme including specific health care for children.

Living conditions

The general living conditions of prisoners are briefly regulated in Section 70 of the CCRA and in Section 83 of the CCRR, highlighting the CSC’s obligation to comply with all federal health, safety, sanitation and fire laws in each institution. In addition, Commissioner’s Directives regulate details of Inmate’s Accommodation (CD 550), Clothing (CD 352) and Food Services (CD 880). However, budgetary constraints lead to an increased use of “double-bunking” (APCCA 2015:29), which is regulated by the Commissioner’s Directive as an exception and as not exceeding two inmates per cell.

3.1.4 Rehabilitation

Visits

The Commissioner’s Directive Number 559 (CSC 2012b) regulates visit applications, procedures and responsibilities of the implicated actors. In addition to regular contact, CSC offers Private Family Visiting to eligible inmates to develop and maintain family and community ties, which is considered to be a factor supporting the reintegration into community (CSC 2012c). Visitors can consult the CSC website, which provides information about the general visiting procedures and offers a virtual tour to visitors, allowing an inside view on the visiting areas in an “average institution” (CSC 2016b). Furthermore, Prison Fellowship Canada (2016a) offers a pen pal programme connecting inmates to volunteer writers to stay connected with the outside world. In the broader sense, CSC is aware that improved family interaction may have positive impacts on the safety and order inside the prison. Based on the *Report on the Needs of Families of*

Offenders, issued by Canadian Families and Corrections Network (CFCN), the CSC has improved the contact between offenders and the outside world (CSC 2013c).

Offender assessment

Offender assessments help to classify inmates, along a broad spectrum, within security classifications, according to the CCRA Subsection 30(1) and CCRR Subsection 18 which advise the CSC to establish minimum, medium and high security classifications. Beyond that, it allows for a comprehensive assessment of an offender's situation, risks and needs, and serves in this sense as a management tool in minimizing the risk of misbehaviour and violence within the institution, reducing escape risk and adequately distributing resources (CSC 2015a). Intake assessment, according to the Custody Rating Scale developed by the Solicitor General of Canada (1987), as well as regular security review and reclassification procedures of inmates, facilitate CSC compliance with the Subsection 4(d) of the CCRA, which stipulates that CSC "use the least restrictive measures consistent with the protection of the public, staff members and offenders." (CSC 2015a). Sub-classification within the minimum-, medium- and high-risk classifications considers the nature of the offence, outstanding charges against the inmate, their performance and behaviour during the sentence, the inmate's social and criminal history, physical or mental illness and potential for violent behaviour, as well as the inmate's continued involvement in criminal activities (CCRR Section 17). On admission and based on the information gathered during the intake assessment, the CSC, in collaboration with the offender, develops a correctional plan, containing the offender's needs and objectives for the offender's behaviour. The plan aims to help offenders obey penitentiary rules and actively participate in the programmes developed to fulfil court-ordered obligations, including restitution to victims as well as child support (CCRA Subsection 15.1). The CSC's manner of managing security classification reflects its risk-taking policy "by placing offenders in the least restrictive environment while maintaining predictive accuracy and managing risk. As such, the Service is maximizing reintegration potential through the security reclassification process" (CSC 2015a). Therefore, periodical assessments are an important tool to identify the adequate correctional plan—including rehabilitation measures—and to reclassify an offender within the security classifications, thus contributing to a gradual progression toward release.

The more information the CSC obtains on an offender, the more it can identify their criminogenic needs and individualize the correctional plan. Depending on the specificity of an offender, it is however unclear if their needs can actually be captured using standardized assessment tools. This concern was addressed during an international roundtable event organized and hosted by the CSC Research Branch on the Management of Radicalized Offenders held in Ottawa in December 2014 (CSC 2014e). The needs of this specific group of offenders, namely radicalized offenders, differ from the needs of non-radicalized offenders in the sense that the "most common treatment targets in correctional programmes—such as substance abuse, education, and employment, appear to be less important need areas for radicalized offenders. Other needs, such as beliefs and attitudes, may require greater attention" (CSC 2014f). In line with the growing conscious of radicalization in or outside detention facilities, the CSC (2016c) emphasizes six key points to enhance the effectiveness of radicalized offenders:

- 1) Awareness training on radicalization for the staff;
- 2) Pilot assessments and interventions to radicalized inmates;
- 3) Engagement of partners and community for facilitating reintegration;
- 4) Enhancement of information sharing;
- 5) Implementation "of a strategic management model"; and

6) Evidence-building on radicalization matters.

These key points highlight the need for a conscious institutional placement as well as a re-examination “of the applicability of current case management, supervision and intervention strategies for radicalized offenders” (CSC 2014h) and in general for groups with differing needs from the general prison population.

Educational, vocational and employment programmes

The CSC facilitates an offender’s rehabilitation by means of correctional programmes, as well as educational, social and vocational programmes. The education process, regulated by Commissioner’s Directive Number 720, includes reviewing initial education related assessments, career counselling, individual education planning, delivery of correctional education programmes and ongoing assessment of progress and reporting (CD 720 Section 20). Individual needs are considered in choosing educational and vocational programmes. In addition to basic education, post-secondary education can also be attained. Furthermore, the CSC has a special operating agency, CORCAN, supporting rehabilitation and reoffending prevention by offering employment and employability skills training during the time of incarceration and for a short time after release. This is one of the key rehabilitation programmes of the CSC and operates in 29 institutions across the country with specific business sectors offering jobs via apprenticeships, community employment and vocational training (CSC 2013d). In line with this, the CSC also allows work releases, which afford an offender a release of specific duration for work or community service outside the penitentiary (CCRA Section 18). Offenders receive payments for their participation, enabling them to take responsibility and save for their reintegration (CCRA Section 78).

Cultural, physical, leisure activities

The CSC provides cultural, physical and leisure activities, as well as access to a library containing books addressing offender’s needs for recreational, cultural, spiritual, educational and informative materials, including information on laws and regulations (CD 720 Section 37). Commissioner’s Directive Number 760 regulates any social programmes and leisure activities, which take place outside the usual working hours.

Religion, ideology and spiritual knowledge

According to Section 75 of the CCRA, “[every] inmate is entitled to reasonable opportunities to freely and openly participate in, and express, religion or spirituality, subject to such reasonable limits as are prescribed for protecting the security of the penitentiary or the safety of persons.” The CSC therefore provides an interfaith chaplaincy service to respond to the individual cultural and religious needs of offenders (CSC 2007a). Even though Canada shows a high interest in the management of radicalized offenders that they define as “an ideologically motivated offender, who commits, aspires or conspires to commit, or promotes violent acts in order to achieve ideological objectives” (CSC 2014g), there is little information available on the daily management of susceptible inmates. Yet the CSC Research Branch (CSC 2014h) has identified two groups of offenders susceptible to radicalization: the “vulnerable, unattached, and unskilled offender” and the “more connected, educated and skilled susceptible offenders”. The CSC has also identified indicators of radicalization including “possessing of certain books or materials, exhibiting a change in institutional associations, having ideological arguments with staff members or other inmates, and congregating in specific areas or participating in informal prayer sessions.” Radicalized offenders seem to attend vocational and educational programmes or psychological services, rather than social programmes or even interfaith chaplaincy services.

Furthermore, in the context of the chaplaincy service, the CSC funds projects of Circles of Support and Accountability (COSA), where trained volunteers support the reintegration of sexual offenders into the community by meeting and assisting him or her on a daily basis. Volunteers “are professionally supported and work in conjunction with community agencies, treatment providers like psychologist, sometimes parole or probation officers, the police, and the courts” (CSC 2007b).

Persons with mental illness/disabilities

Subsection 4(g) of the CCRA specifies that correctional policies, programmes and practices must respect the special needs of persons requiring mental health care, among others. The Mental Health Strategy for Corrections in Canada (CSC 2014d) therefore provides a scheme based on a federal-provincial-territorial partnership. Its seven key elements are: (i) mental health promotion; (ii) screening and assessment including initial screening, ongoing evaluation and comprehensive assessment as well as referral for services; (iii) effective treatment, services and support; (iv) prevention and management of suicide and self-injury; (v) transitional services and support from community to the correctional system, transitional reintegration plan and continuation of medication; (vi) staff education, training and support; and (vii) community support and partnerships. Despite the publication of this strategy, the journalist Mehta (2015) reports the persistence of inadequate health care for mentally ill prisoners and denounces the use of solitary confinement “to ‘contain and manage’ mentally ill prisoners”. Furthermore, the OCI (2015:13) also reports an inadequate system for the screening, assessment and diagnosis of Foetal Alcohol Spectrum Disorder (FASD),³¹ rendering persons concerned vulnerable “with significant mental health and behavioural needs.”

Vulnerable and specific groups³²

To take account of the specific needs of vulnerable and specific groups, it is a precondition to separate vulnerable groups like female and young offenders from adult male offenders, and to segregate according to the three security levels. The Subsection 4(g) of the CCRA states that “correctional policies, programmes and practices [must] respect gender, ethnic, cultural and linguistic differences” and be “responsive to the special needs of women, Aboriginal peoples, persons requiring mental health care and other groups” and therefore reflects a general awareness toward vulnerable and specific groups. The CSC’s Women Offender Sector is responsible for the development, implementation, and monitoring of programmes for federally sentenced female offenders by addressing their specific needs in consultation with appropriate organizations (CCRA Section 77). Furthermore, the CSC has introduced a well-developed correctional strategy (CSC 2013e) to address the needs of Aboriginal offenders (CCRA Section 80) by including their culture, values and beliefs within the Aboriginal correction programme. In line with this, national and regional Aboriginal Advisory Committees were established by the CSC and agreements reached with Aboriginal communities to provide a specific correctional service – called Healing Lodges – where Aboriginal inmates can be transferred (CCRA Section 81). This specific attention to Aboriginal inmates is part of a broader approach to address the inequalities between Aboriginal and non-Aboriginal Canadians resulting from a long history of

³¹ According to the OCI (2015), the prevalence of FASD among prisoners varies significantly and can range up to 23.3 percent. “The range of cognitive deficits that characterize FASD – difficulty understanding consequences of behaviour, inability to make connections between cause and effect, impulsivity, drug or alcohol problems, failure to learn from mistakes – have important legal and practical implications for the criminal justice system writ large. The unfortunate reality is that a significant proportion of FASD-affected offenders still enter prison today undiagnosed and they remain untreated throughout their incarceration.” (OCI 2015: 14) In consequence, FASD can impact an offender’s behaviour and furthermore influence the result of the offender’s assessment, security classification and individualized correctional plan.

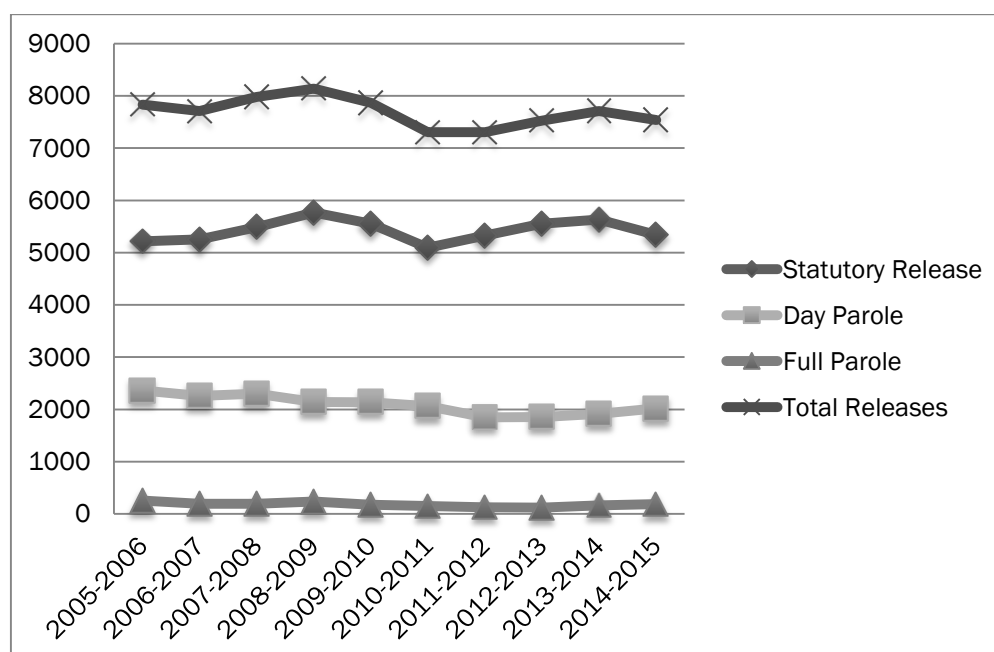
³² For further detailed information, see CSC (2014a).

colonization and suppression of the indigenous population. Hence, the OCI regards the overrepresentation of Aboriginals in the correctional system as a systemic failure (Kirkup 2016).

Pre-release and conditional release

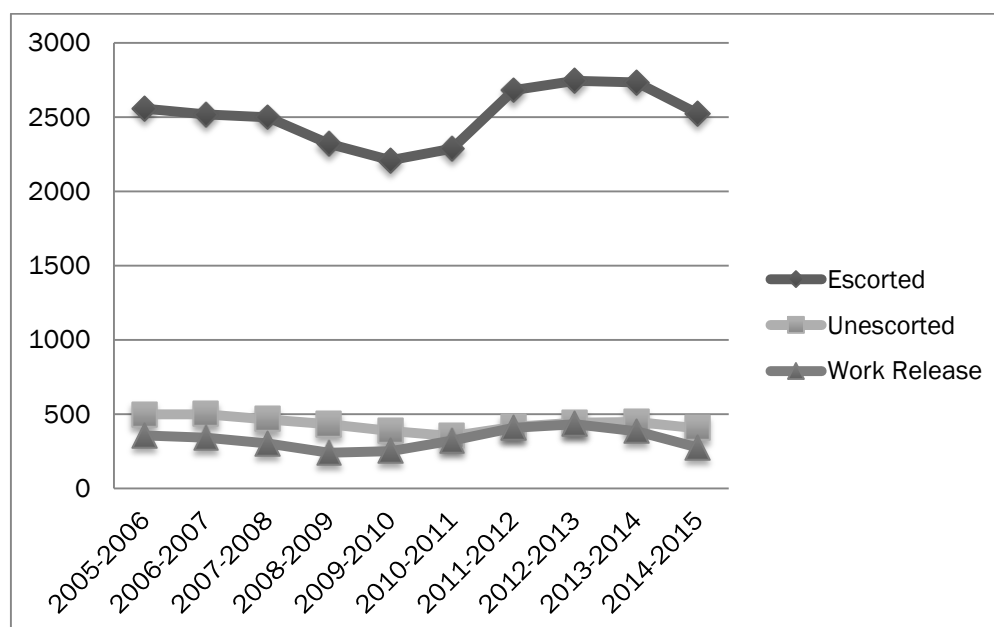
Along with mandatory statutory release³³ and release on expiry of sentence, the CSC also offers conditional release, as decided by the Parole Board of Canada and supervised by the CSC. The purpose of conditional release is “to contribute to the maintenance of a just, peaceful and safe society by means of decisions on the timing and conditions of release that will best facilitate the rehabilitation of offenders and their reintegration into community as law-abiding citizens.” (CCRA Section 100). This release must be regulated within the individualized correctional plan, outlining a risk management strategy, interventions and monitoring techniques for every offender, and the plan must be agreed with the offender before leaving the facility. The types of conditional releases for which offenders can apply are: escorted or unescorted temporary absences for medical and administrative reasons but also to maintain family contact, fulfil parental responsibilities and support personal development for rehabilitation purposes; day parole; and full parole. These measures are linked with other rehabilitation measures as mentioned above, which promote responsibility and self-supporting capacity. However, the following chart (Figure 3) showing the number of day parole and full parole releases granted in contrast to mandatory statutory releases demonstrates the relatively small numbers of full parole granted. Figure 4 presents the number of inmates who benefited from being granted temporary releases and highlights an important discrepancy between numbers of inmates benefiting from escorted temporary absences and those receiving unescorted ones.

Figure 3: Number and Type of Releases (2005-2015)



Source: Public Safety Canada (2016)

³³ “Statutory release is a mandatory release by law. (...) By law, most offenders (except those serving a life or indeterminate sentence) must be released by the Correctional Service of Canada (CSC) with supervision after serving 2/3’s of their sentence, if parole has not already been granted.” Even though offenders on statutory release are released by law, they “are required to follow standard conditions which include reporting to a parole officer, remaining within geographic boundaries, and obeying the law and keeping the peace. The Parole Board can also impose special conditions specific to the offender. In some instances offenders on SR are required to reside in a halfway house or community correctional centre operated by CSC.” (Government of Canada 2016)

Figure 4: Number and Type of Temporary Absences (2005-2015)

Source: Public Safety Canada (2016)

3.1.5 Reintegration

Parole and probation

Once an offender is conditionally released³⁴ from custody, they fall under the responsibility of CSC parole and probation officers who supervise compliance with the correctional plan established during the offender's intake procedure. In fact, most of Canada's federal offenders serve only part of their sentences in institutions and are then conditionally released to serve the remainder of their sentence in the community, where they adhere to certain conditions and are supervised by parole officers (CSC 2015b). Community corrections strategy sets the framework for monitoring and supervising offenders, where the first measures are taken within the prison settings and are continued in the community during the gradual and supervised transition to freedom (CSC 2015c). Community correction activities are interrelated and consist of supervision, programming activities and community involvement. Supervision is the responsibility of the CSC parole officers or trained volunteers and consists of monitoring and communicating with the offender. The programming activity is the offender's participation in programmes tailored to their needs. Community involvement involves the community in the supervision process (CSC 2010). It is mainly achieved through the voluntary involvement of local citizens who offer their skills and help as volunteers, as members of a Citizen Advisory Committee, by participating in the Community Forum Programme or by collaborating with the CSC Give Back Society,³⁵ where offenders are given the opportunity to give something back to society. All these forms of community involvement help increase general community awareness concerning correctional and reintegration matters, and contribute to the link between the community and CSC. This link is a key factor for successful reintegration since it facilitates communication between the CSC, the offender and the community and thereby contributes to a good transition from institutional prison life to life in society (CSC 2010).

³⁴ For more details on the types of release see CSC (2014b).

³⁵ The idea of giving something back to society is one of the principles of the restorative justice approach, aiming to repair the harm caused by a crime by adopting cooperative processes where all concerned parties meet in order to seek reconciliation.

Aftercare and re-entry assistance

The transition of an offender to the community is most likely to be successful when communities, NGOs and the government maintain collaborative relationships in the provision of tools and assistance for an adequately supported transition. One example is Community-Based Residential Facilities (CBRFs),³⁶ where conditionally released inmates (including statutory early released offenders, day parolees, full parolees and offenders granted temporary absences)³⁷ can retain progress toward gradual and supervised release. Community Residential Facilities (CRFs), which are owned and run by NGOs and contracted by the CSC, offer housing, counselling and supervision. In contrast Community Correctional Centres (CCCs), which provide housing for offenders on unescorted temporary absence, work release and day parole, as well as on full parole, statutory release or long-term supervision (if ordered by the Parole Board), are operated by the CSC (CSC 2014c). Other examples of collaborative relationship are chaplaincy services, CORCA and Prison Fellowship Canada (2016b), which offers an aftercare ministry programme where former inmates can receive community-based aftercare, and a victim-offender reconciliation programme. The COSAs, which originated in Canada in the mid-1990s, have gained a large amount of international attention in recent years. COSAs are a post-incarceration programme for sex offenders and involves volunteers in the reintegration process (see also: Hannem 2013). These community-based initiatives currently exist in 18 Canadian cities (COSA Ottawa 2017). Even though the COSAs in each city have their own specific structure, they all have the same organizational structure and are based on the principles of restorative justice. In line with this, trained volunteers contribute to offenders' reintegration into society and thereby enhance public safety by supervising meetings with the offenders and "walking with them in their transition into society" (COSA Halifax 2017). They offer concrete supports such as meeting practical needs like housing or work, and offering an established network of emotional support. Furthermore, they help offenders in developing their pro-social strategies, offering solutions to common and daily problems (COSA Ottawa 2017). An offender's participation in COSA is based on their voluntary commitment without any judicial mandate.³⁸

Family support

The CSC recognizes the importance of family ties in the overall rehabilitation and reintegration process, and offers a website to provide families with transparent information on visit procedures and regulations. They also place offenders in a penitentiary close to their home community and family (CCRA Section 28). Furthermore, the CFCN (2003) has published a strategic approach and policy document to address the needs of families of offenders and hence acknowledges the difficulties that families endure during the incarceration of an offender. The CFCN (2015) also assists family members by providing information and referrals to community resources, delivering services, and conducting research and sensitizing the authorities and society to the needs of an inmate's family. Prison Fellowship Canada (2016b) also offers support programmes to children of incarcerated parents by funding the integration of those children through camps or in maintaining parent-child relationships by providing Christmas gifts.

³⁶ CBRF is the overall used term to designate Residential Facilities for conditionally released offenders (including temporary absences, statutory release, day parole and full parole), since they appear in various forms (hostels, private home placements, alternative community beds or supervised apartments). Within the CBRFs there is a differentiation, based on who operates the facility, between CRFs (run by NGOs) and CCCs (run by the CSC). Hence, the principle of all those facilities is the same, namely they are community based.

³⁷ See Chapter 2.4, especially footnote 60.

³⁸ For more information on COSA and expansions to other parts of the world, see Hanvey and Höing (2012).

3.1.6 *Indicators classification*

By comparing the previously discussed indicators with the Nelson Mandela Rules, we can see that the prison regime, the general security classification and the institutional diversification correspond in large measure to the minimum standards elaborated in the rules. However, the case of female inmate Ashley Smith, who died in a segregation cell in 2007, is problematic given the requirements of the CCRA and CCRR, which require medical checks to be carried before a disciplinary sanction is imposed in order to identify the prisoner's mental health or developmental disabilities. According to the Nelson Mandela Rules, prisoners who commit a disciplinary offence because of their mental illness should not be sanctioned. Although the CSC was highly criticized for Smith's death, it took nearly seven years for the CSC to respond with recommendations following the incident, and the Office of the Correctional Investigator (OCI 2015) deemed the CSC response frustrating and disappointing.

In addition, the Nelson Mandela Rules 43, 44 and 45 expose a further flaw relating to segregation practices in Canadian penitentiaries. While the term used in the Nelson Mandela Rules is solitary confinement, the CSC uses the term administrative segregation. However, according to the OCI (2015:25) these terms are used interchangeably and "they share some common elements – e.g. restrictions on freedoms of association, assembly and movement and they imply some degree of perceptual and sensory deprivation as well as social isolation. The generally accepted term that captures these common elements, including administrative segregation, is 'solitary confinement'." The Nelson Mandela Rules prohibit the use of prolonged segregation by setting the maximum use at 15 consecutive days, and yet the CSC sets maximum use at 30 days of segregation for serious disciplinary offences and even permits unlimited administrative segregation in order to maintain the security within the institution.

Regarding welfare indicators, the general health care services within the Canadian correctional system exceeded the standards set by the Nelson Mandela Rules by including non-essential health care through the CCRA, and thereby contributing to the inmate's rehabilitation and reintegration. Yet, the living conditions of Canadian inmates do not exceed the standards and are considered as only sufficient mainly because of the budgetary constraints that have led to an increased use of "double-bunking" (APCCA 2015:29). Rule 12 of the Nelson Mandela Rules finds that it is "not desirable to have two prisoners in a cell or room" but that such conditions can occur in exceptional temporary situations.

For the rehabilitation dimension indicators, visits and contact with the outside world exceed the standards set in the Nelson Mandela Rules mainly because the CSC adopts a transparent and open position, encouraging the maintenance of family ties, and by offering additional visit options such as family visits. While the offender assessment practised by the CSC is in accordance with the Nelson Mandela Rules and therefore is classified as sufficient, the educational, vocational and employment programmes are considered to exceed the standards set in the Nelson Mandela Rules. This classification is due to the broad regulation of the education process and the special operating agency CORCAN that facilitates the transition from the prison to the community. The previously discussed mental health care and the use of solitary confinement for mentally ill prisoners persists, which is prohibited by Rule 45 of the Nelson Mandela Rules. Furthermore, the lack of a screening system, as mentioned by the OCI, implies inadequate treatment of affected prisoners and may even lead to misclassification within the security classification, thus denying the specific needs of such inmates. In contrast to this insufficient classification, the treatment of vulnerable and specific groups exceeds the

standards set by the Nelson Mandela Rules, as the CCRA includes respect for diversity and especially because of the specific correctional strategies for Aboriginal offenders.

All reintegration indicators exceed the standards set by the Nelson Mandela Rules by offering concrete assistance, such as housing and employment support, and active involvement of the community in the parole and probation supervision, which contributes to a good transition from institutional life to life in society. Furthermore, the offer of a variety of aftercare and re-entry assistance highlights the strong collaboration between the institutional agency and NGOs, and exceeds the standards through the services provided such as the COSAs and the different CBRFs. Finally, the family support structures are classified as exceeding the minimum standards, mainly because of the general awareness of the CSC of the importance of family ties and because of initiatives and supports such as those furnished by Prison Fellowship and the CFCN.

Table 3: Review of Indicators (Canada)

Prison Regime	Welfare		Rehabilitation								Reintegration		
	Health Care	Living Conditions	Visits	Offender Assessment	Education, Vocational Training, Employment	Cultural, leisure, physical activities	Religion, ideology and spiritual knowledge	Mentally ill / with disabilities	Vulnerable / specific groups	Pre-release / Conditional release	Parole and Probation	Aftercare and re-entry assistance	Family support

Classification of indicators	EXCELLED	SUFFICIENT	INSUFFICIENT
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3.2 Norway

3.2.1 Introduction

General management and structure of the service

Within the Ministry of Justice of Norway, its subordinated agency Norwegian Correctional Services “Kriminalomsorgen” (NCS) (NCS 2016), is responsible for executing penal sanctions and remands in custody, which are based on gradual progression toward reintegration. Following this approach, prisoners progress from higher to lower security facilities on their way back to society. Norway’s special geographical shape has led to adaptations regarding the size and the distribution of penitentiaries, resulting in the distribution of many small, medium and a few large size penitentiaries all over the country, whereas generally small prisons are more desirable than large ones.³⁹ According to the NCS (2016), Norway’s smallest prison contains 13 cells, while the largest has 392 cells. The smaller the size of the prison, the more prison officers are involved in all relevant prison officer tasks. This helps them to create a broader understanding and consideration of the prisoners’ situations, and contributes to greater transparency in prison management (Johnsen et al. 2011). Basic training for prison

³⁹ Johnsen et al. (2011); Shammass (2014) observed “pains of freedom” in Norway’s open and minimum security prisons, which challenge the positive view on the Norwegian “exceptionalism”.

officers lasts two years and supports the development of the necessary sensitivity of prison officers to become contact-officers for (NCS 2016). Furthermore, the national distribution of prisons allows offenders to serve their sentences as close as possible to their social network and relevant service providers (Pratt 2008b). In fact, community service providers are responsible for reintegration programmes such as medical, educational, employment and cultural or religious programmes within the correctional system, while the NCS is responsible overall for the security and correctional aspects (NCS 2016). This form of correctional system, with health care, education or employment services provided by external service providers, is known as the Import Model. This model assures continuity of services upon release and cross-sectoral involvement in the rehabilitation of offenders, and offers some general budgetary advantages (NCS 2012).

NCS activities are based on five pillars: legislation; a humanist approach; the principles of due process and equal treatment; the fact that the debt to society ends with the end of the sentence; and the principle of normality. Even though each pillar is important, the principle of normality influences the overall execution of procedures and states that: (i) punishment means the restriction of liberty where no other rights shall be affected; (ii) no one should serve their sentences under stricter circumstances than necessary for community security, and therefore all offenders will be placed in the lowest-level security classification possible; and (i) life inside prison should correspond as much as possible to life outside (NCS 2016). This principle consequently not only influences the prison regime but also the process of progression toward gradual release.

The Probation Service in Norway forms part of the NCS, under the Ministry of Justice, and consists of 17 Probation Offices in 40 locations. Probation Offices “are responsible for the implementation of community sanctions, like the community sentence, the programme against intoxicated driving, release on licence, home detention with or without electronic monitoring, and for the writing of pre-sentence reports” (NCS 2016). Within this framework, the Probation Service holds a high degree of discretion in deciding on the contents sanctions, including for example whether unpaid work will be performed as a part of a community sentence. Voluntary workers can also supervise unpaid work in situations where the probation unit and the offender’s workplace are too far apart, even though voluntary workers do not play a major role in the general Norwegian correctional system.

Legal and regulatory framework

As Norway has adopted the Import Model, which is based on the assumption that the rights of an inmate are the same as every civilian (apart from the loss of liberty), numerous others acts—for example the Mental Health Protection Act (1999)—apply not only to the general Norwegian population but to every prisoner as well. The General Civil Penal Code (1902) contains the specific regulations for correctional matters and regulates the general application of the law, the penalties and preventive measures, conditions governing criminal liability, suspension of sentence, cessation of penalties and/or sanctions, as well as felonies and misdemeanours. Within this broader legal framework, the Execution of Sentences Act (ESA) of 2001 and the Regulation to the Execution of Sentences Act (RESA) of 2002 define the correctional administration. They are supported by several further legal instruments at lower hierarchical levels, which essentially regulate the daily administration and execution of sentences (Johnson and Storgaard 2014). Furthermore, a law to establish Electronic Monitoring (EM) as alternative way of

executing unconditional prison sentences⁴⁰ was enacted in 2008 after it was tested in a pilot project in 2007 (Kylstad Oster and Rokkan 2015). Given this general awareness regarding the treatment of inmates, it seems surprising that Norway does not have special legislation for young offenders, despite the age for criminal responsibility being set at 15 years old. Although government policy states that no children under age 18 should be imprisoned, very severe crimes inevitably result in a prison sentence, as discussed below.

Norway is also known for its “Reintegration Guarantee”, a political intention of the (former) government that aims to commit public institutions and services to cooperate with each other to offer structures facilitating the reintegration of prisoners into society. Although the “Reintegration Guarantee” does not set out a legal framework, as a criminal policy measure⁴¹ it reflects the holistic view and awareness of the Norwegian government toward correctional, rehabilitation and reintegration matters, and further highlights the need for collaboration among various sectors such as housing, employment, health care and education to address the causes of crime, and furthermore, to work toward successful reintegration. Nevertheless, as was the case in Canada, Norway has experienced increasing penalties for violent offenders despite this holistic view and awareness (Norwegian Ministry of Justice and the Police 2008).

3.2.2 Prison management

Prison regime

The operations of the Norwegian prison regime reflect the general objectives of meeting security needs as well as the facilitating gradual “transition from imprisonment to complete freedom” insofar as possible (ESA Section 3). Gradual progression toward reintegration is based on the principle of normality in line with which progression “should be aimed as much as possible at returning to the community. The more closed a system is, the harder it will be to return to freedom” (NCS 2016). Therefore, progression moves from institutions classified as high security to lower security, and if possible, through halfway houses. ESA Section 10 lays out the sequencing of this progression, including closed prisons (high security), open prisons (lower security), prison or halfway houses, outside prison with special conditions (such as those relating to treatment, programme participation, compliance with medication, housing provision and avoidance of specific groups) and probation under conditions (such as compliance relating to residence provision, treatment provision, programme provisions, avoiding specific groups and sober appearance) (ESA Section 16 and Section 43). These are linked to the separation of inmate categories as per their criminal records, reasons for legal detention and treatment programmes. The progression approach based on the principle of normality also facilitates the separation of inmates with sentences of two years or more and those with sentences of less than two years. Norway does not have regulations for the separation of

⁴⁰ “Anyone breaking the law under the age of 18 at the time of the offence can only be sentenced to prison when particularly necessary. The Correctional Service can release offenders on parole when two-thirds of the sentence (minimum 60 days) have been served. Parole is only granted if the service believes that the offender will not commit a new offence during the parole period. How soon the sentence must be served depends on the waiting list.” (The Courts of Norway 2016). However, “a full sentence of up to four months’ unconditional imprisonment may be changed by the correctional services to home detention with electronic monitoring by means of an ankle bracelet. The offender must be active during daytime – through school, work, etc. – and at home at given times.” (NCS 2016).

⁴¹ “A number of cooperation agreements and joint instructions are intended to clarify the division of responsibility, strengthen the cooperation between the services and contribute to better solutions. The agreements and the instructions shall guarantee convicted persons good facilities before, during and after the penal implementation. (...) After this the various agencies will provide services to convicted persons in the same way as to other citizens. The most important guarantor is the convicted person himself. The return guarantee will not yield the desired results unless the convicted person commits himself to accepting society’s services and using them as intended. (...) An important instrumentality for the practical facilitation [of successful integration into the community] is the Government’s return guarantee, which is a joint criminal policy measure, inter alia to reduce the problem of repeat offending.” (Norwegian Ministry of Justice and the Police 2008).

female or youth offenders, even though specific institutions for these two categories exist. There are three correctional facilities receiving only female offenders, while other penitentiaries accept both male and female offenders (QCEA 2007). For young offenders, the NCS (2016) runs two special institutions for those admitted to prison, which are characterized by “a very high staff-prisoner ratio and a cross-professional approach.” Through a cross-professional approach, the NCS aims to answer the various needs of prisoners, who frequently manifest a diversity of issues such as psychiatric or mental health problems combined with drugs or alcohol addiction. It demonstrates the NCS’s recognition that the capacity of prison officers specialized exclusively in correctional matters cannot meet the diverse needs of prisoners alone.

The term solitary confinement does not exist in the Norwegian correctional system. However, there is a practice approximately corresponding to exclusion from interaction with others, as regulated by Section 17 (concerning high security units), Section 37 and Section 39 of the ESA. It falls to the NCS to decide whether to exclude a prisoner wholly or partly from interaction with others and its use is intended to be a preventive measure to maintain the peace, order and security of the institution, and of other prisoners and/or the security of the excluded prisoner themselves. This measure should not be “maintained longer than...necessary” (ESA Section 37) but can, however, be maintained for up to one year with regular re-examination of the case by higher hierarchical levels, and with more than one daily visit and notification of a medical practitioner. The use of exclusion as a consequence for a disciplinary offence can be applied for no longer than 24 hours (ESA Section 39). Overall, the information available on exclusion from interaction with others as a prevention measure does not provide information as to how affects other daily activities of the prisoner.

3.2.3 *Welfare*

Health care

Health promotion in Norwegian prisons is contained in the national health policy agenda as good health and health care are considered significant factors in desisting from crime (WHO 2014:180; Cook et al. 2013). As a result of the to the intersectoral collaboration provided by the Import Model, the health services provided in prison are qualitatively equivalent to the services provided to the general population. According to the Norwegian Directorate of Health, every municipality must provide health care for prisoners including “general practice, pregnancy and antenatal care, health clinics for mother and child, school clinics, mental health care, nursing homes, rehabilitation, physiotherapy, communicable disease control, preventive medicine, environmental health and health promotion” (Norwegian Directorate of Health 2012:18). Furthermore, if there are reasonable grounds, every inmate may request access to treatment from their own doctor, which is realized in collaboration with the prison health services (ESA Section 51). The prison health services have overall responsibility for regular medical supervision (RESA Section 3-16). However, in special cases where the NCS does not have sufficient treatment measures to respond to specific prisoner needs, those prisoners can be transferred for a limited period to another institution where the required treatment is available (ESA Section 12, RESA Section 3-5) or in a hospital (ESA Section 13, RESA Section 3-6). Health care treatment in prison therefore falls under the conditions of the general health care prevention act and is provided in order to implement effective welfare measures, including health care, for every inmate in accordance with their individualized plan (Santora et al. 2014:31).

Living conditions

In Norway, general living conditions such as accommodation, clothing, bedding, personal hygiene and diet are regulated within the RESA and the ESA (Section 22 Airing). Section 3-22 of the RESA states that prisoners can have private clothes with further provision made at the local level. The humanist approach, notably the principle of human detention guiding the NCS, has led to a one-man-one-cell policy, creating some difficulties in terms of capacity. There are not enough cells to receive all sentenced people on time, and therefore they must wait on a list for their turn to serve their sentence. As soon as an inmate is released, a sentenced person receives a letter indicating when and at which prison he or she must report. Until the reception of the letter calling for the start of custody, convicted offenders continue to live free for an indefinite period, however this does not apply to high-risk offenders who wait in jail until they are transferred to a prison (Glasse and Craig 2003). Even though this practice makes double-bunking very uncommon in Norwegian prison, the waiting list has been esteemed to be “politically untenable” (Pratt 2008a:288) and thus has been reduced by around 25 percent (Council of Europe 2011:22).

3.2.4 Rehabilitation

Visits

As mentioned before, Norway’s geographical shape has led to a distribution of penitentiary all over the country to allocate inmates close to their homes and families. In addition to visits, mail, telephone calls and, on exceptional occasions, electronic correspondences allow regular contact with the outside world.⁴² The NCS encourages and facilitates family visits, including conjugal relations, and provides special accommodation where partners and children can stay for weekend visits (Pratt 2008a). Furthermore, Section 31 paragraph 7 of the ESA highlights that visits by children shall be carried out in a considerate manner.

Offender assessment

After individual assessment, individuals are placed in institutions with appropriate security levels in accordance with the risks and needs presented by each inmate. The NCS uses the offender assessment system BRIK⁴³ to gather information on individual needs and resources, which helps the NCS to provide “comprehensive and effective interventions” in offender rehabilitation and reintegration procedures (Santora et al. 2014:31). BRIK is broadly based on the RNR model⁴⁴ where: (i) the risk principle indicates that the offered service has to correspond to an offender’s risk level of reoffending; (ii) the need principle estimates the criminogenic needs and dynamic risk-need factors which are predictors for criminal offending; and (iii) the responsivity principle “focuses on maximizing the offender’s ability to learn from rehabilitation interventions” (Santora et al. 2014:31-33). The Norwegian BRIK system uses IT-systems to assess the needs and resources of convicted persons, and includes pre-trial assessments and pre-sentence serving assessments, such as an offender’s eligibility for EM. Participation in this assessment is voluntary and the results are used to elaborate individualized treatment plan according the needs and resources of every inmate, and to strengthen cooperation with rehabilitation partners (NCS 2012).

⁴² Visits (ESA Section 31, RESA Section 3-28), telephone calls (ESA Section 32, RESA Section 3-29), mail (ESA Section 30), electronic correspondence (RESA Section 3-27).

⁴³ BRIK is the Norwegian acronym for “behovs-og ressurskartlegging i kriminalomsorgen” which corresponds to the assessment of the needs and resources of convicted persons.

⁴⁴ See Chapter 1.2.

Educational, vocational and employment programmes

In terms of the principle of normality, the progression toward freedom becomes easier where the differences between prison life and outside life are smaller. Norway's balanced sentence serving policy focuses not only on punishment but more specifically on "punishment that works" to prepare the offender for a life without crime (Norwegian Ministry of Justice and the Police 2008). In this sense, Section 3-12 of the RESA states that "work, training, programmes or other measures are all on a par and satisfy the requirements of the duty to take part in activity", are remunerated on an equal basis (RESA Section 3-13) and follow the national curriculum in the case of educational programmes. In addition to these measures, the Norwegian Agency for Lifelong Learning implements various projects within prisons, such as numeracy or carpentry projects in female facilities, or reading, writing and numeracy courses in male facilities (Byholt et al. 2016; Raude and Winsnes 2010). These practical aspects are supported by counselling offered by the Norwegian Labour and Welfare Service (NAV), which has a counsellor in every prison to provide assistance related to several matters, including education and employment (Santora et al. 2014:31).

Cultural, physical, leisure activities

While limited information is available on this indicator, the ESA regulates cultural, physical, leisure activities on a general level, stating that "the Correctional Services shall arrange for prisoners to be given facilities to take part in leisure activities, including opportunities for physical activity and cultural activity" (ESA Section 21). However, this vague regulation must be put into the context of the five pillars guiding the NCS's activities, such as the principle of normality or the humanist approach and that, in general, "the deprivation of liberty is the actual penalty" and that the "daily routine in prison (...) reflects [as far as possible] the society outside the walls" (Norwegian Ministry of Justice and the Police 2008).

Religion, ideology and spiritual knowledge

Section 23 of the ESA indicates that "[t]he Correctional Services shall give prisoners opportunities to practise their religion and philosophy of life". However, this is not further explained in the information available. Prison chaplaincy in Norway is financed by the Church of Norway, which considers chaplaincy as an integrated task but this financing raises the question of interfaith services. Even though Muslim inmates "constitute the largest religious minority in Norwegian prisons" and imams can visit on a voluntary basis, their general possibility to exercise religious activities during a regular workday is "fairly limited" (Furseth et al. 2011:128). The lack of interfaith sensitivity is reflected in Measure 16 of the Action Plan which aims to prevent radicalization and violent extremism, rather than respect for diverse religious faiths, stating that the NCS shall establish an interfaith team to enhance cooperation between personnel with different faiths to prevent radicalization in prisons. Within the same Action plan, Measure 18 also stipulates that the NCS should develop a mentoring scheme for inmates identified as vulnerable to radicalization (Norwegian Ministry of Justice and Public Security 2014). Following the Copenhagen terror attacks in 2015 where a young Dane killed two people, a Norwegian prison near Oslo organized seminars and interfaith philosophy groups in collaboration with an imam, aiming to counteract extremism by facilitating religious practices while being incarcerated. However, this soft approach of terrorism prevention and counter-terrorism provoked reaction seeking tougher approaches such as "isolation from other inmates, and rotation between several institutions" (The Local 2015). Despite those reactions, Norway adopted a more general and holistic counter-radicalization strategy aiming to: (i) reform rather than punish by guiding people away from radical thoughts and using imprisonment as a last resort; (ii) adopt a non-theological approach that brings

practical solutions to political and social problems such as isolation, poverty as well as the “failure of integrating immigrants into society” (Smith 2015:28); (iii) follow general Norwegian values; (iv) consider counter-radicalization as police-led work, using community policing; and (v) to enhance dialogues with communities such as the Norwegian Muslims (Vidino and Brandon 2012: 68). The general Norwegian values mentioned above also reflect the typical Norwegian approach – such as seen as in the reintegration guarantee – namely a “whole-of-government approach with nine ministries involved in its implementation” as well as identification of the root causes of radicalization to combat terrorism (Dahl 2016). In line with this, Norway participates in several cooperative bodies such as the Radicalization Awareness Network, the intergovernmental organ Financial Action Task Force to combat “money laundering and finance of terrorism”, the EU’s Counter Terrorist Group, and the Nordic Cooperation on Radicalization to name only a few (Smith 2015:59-60).

On a more concrete level, Norway’s efforts to combat violent extremism reflect, as mentioned above, the holistic approach that includes strong collaboration between the Ministry of Justice, the NCS, the police, the PST⁴⁵ as well as the prosecuting authority. On the one hand, the police and the PST adopt a comprehensive strategy to prevent terrorism and violent extremism by strengthening individual preventive talks and applying restorative justice measures for young offenders, as well as promoting liaison schemes to the local community to raise awareness and detect negative trends or individuals that may be vulnerable to radicalization. There is also the possibility for parents of teenagers who have joined violent extremist groups to meet in parent network groups to get information, professional support and advice as how to react in these situations. While the police and the PST work strongly to prevent radicalization within the society, the NCS on the other hand deals with offenders already radicalized and attempts to prevent other offenders following those radicalized offenders. It should be mentioned that Norway has had very little incidents involving violent extremists linked to religion, and more “lone wolf” attacks resulting from radical ideological right-wing views (Counter Extremism Project 2017a). For those radical ideological right-wing views however, no special measures have been put in place “but rehabilitation and security measures have been considered and implemented individually as with other prisoners and convicted persons” (Norwegian Ministry of Justice and the Police, 2011:19). The NCS is aware that incarceration can be a potentially destabilizing experience for an offender resulting in an increased vulnerability of the offender to follow a radical ideology. The NCS counteracts such situations by “facilitating adapted sentences and social training in the various arenas in society” and by offering “services and programmes for various religions and faith groups [...] with respect for individual and human rights, irrespective of the inmate’s background” (Norwegian Ministry of Justice and the Police 2011:19). Finally, a key practice in fighting radicalization in Norway seems to be the efforts to establish routine communication arrangements “for exchange of information between the Norwegian Correctional Services, the police, PST and the prosecuting authority. This cooperation strengthens the quality of Correction Service’s risk assessments, among other things, with regard to the composition of inmates in the various wings and the inmate’s progression during the period of imprisonment” (Norwegian Ministry of Justice and the Police 2011:19).

⁴⁵ PST is the Norwegian Police Security Service, a unit within the police force that works specifically on preventing violent extremism, and crimes against the national security and sovereignty (Norwegian Ministry of Justice and the Police 2011 :18).

Persons with mental illness/disabilities

According to Section 459 Paragraph 1 of the Criminal Procedure Act (1981), “execution of a custodial sentence or community sentence shall be deferred if the convicted person has become seriously mentally ill or his state of health otherwise makes execution [of the sentence] inadvisable”. Furthermore, less serious mentally ill offenders should execute their sentence in an adequate institution (RESA Section 3-5, Section 3-6). However, the NCS has difficulties in managing mentally ill inmates, often managing mental illness in combination with addiction problems, since they do not always have the adequate resources and competencies to manage these problems. There are plans to create special wards for people with specific mental health problems and for adequate professional attention (Council of Europe 2011). Furthermore, and as mentioned earlier, mentally ill inmates fall under the responsibility of the general Norwegian Health Service thereby facilitating the continuation of treatment upon release.

Vulnerable and specific groups

Since there are no specific regulations on female and young offenders in Norway, female offenders serve their sentences in mixed prisons with male offenders, though they are placed in different units (QCEA 2007). The information available does not show under what circumstances or how often women are in contact with the male offenders, or how gender issues are managed by the NCS staff. However, mixed prisons raise the concern that women could be subjected to sexual harassment (Oesterud 2016). As regards young offenders, prison sentences are used only as a last resort and for serious offences. In these cases, young offenders are assigned to special institutions or placed in a normal prison where they are separated from adult offenders (Wolf et al. 2004:62). These special institutions provide a very high staff-prisoner ratio and adopt a cross-professional approach that facilitates treatment of the complex and diverse needs of this specific group (NCS 2016). Crime rates for young offenders are low, and criminal behaviour is often regulated by police officers depending on the gravity of the offence. This may include formal talks with the parents and informing child welfare services, but could also lead to paying a fine, a delay in receiving a driving licence or a ban from certain types of jobs (Wolf et al. 2004). For more severe offences, young offenders are most likely to be sentenced to community work and very rarely to a prison sentence in the special institutions mentioned above. However, Norway shows a “lack of clarity over who takes responsibility when the police apprehend a young offender for the *n*th time”. This indicates the need for a system to prevent juvenile offenders from “fall[ing] between two stools – between the responsibilities of the police and the criminal justice system, and those of the child welfare system” (Wolf et al. 2004:61, 63). Further, the NCS identified foreign national inmates as a specific group requiring attention, as rehabilitation and reintegration measures are complicated in cases where the offender’s family is abroad or if they will be deported after serving the sentence.

Pre-release/conditional release

The gradual progression toward freedom, from higher to lower security facilities, including halfway houses, also affords prisoners the ability to apply for conditional release, which must be planned by Norway’s Probation Service in cooperation with the offender and focus particularly on accommodation, work or education. The gradual progression also includes other measures such as execution of sentence outside the prison after half the term of the sentence has been served (ESA Section 16), day-release (ESA Section 20) and leave of absence or escorted leave (ESA Section 33, ESA Section 34), as well as EM. Furthermore, the NCS undertakes preparations to help those released on probation by establishing contact with public authorities, organizations or other private volunteers who can assist in providing properly-organized living conditions. In addition,

the NAV also offers assistance in relation to housing, education and employment (Santora et al. 2014:31).

3.2.5 Reintegration

Parole and probation

The previous sections highlight the obvious importance of community agencies within the rehabilitation and reintegration measures in correctional settings, and how punishment is used as a means of rehabilitation to reduce recidivism. In line with this, Section 41 of the ESA states that the NCS “shall in good time make preparations and help to make suitable arrangements for release on probation. This applies as far as possible also to prisoners who are serving a rather short sentence of imprisonment” as well as to prisoners serving a term exceeding 21 years (ESA Section 42). However, once the offender is released on probation or conditional release, it is the responsibility of the Probation Service to support and supervise the offender as well as to mediate between him or her and the victim. The probation service is part of the NCS, and this organizational structure facilitates communication. The offender’s participation in special programmes such as the DUI-Programme (Driving Under the Influence programme) or the DC-Programme (Drug Court programme) can be part of the conditions of their release. Participation in the programmes is based on the offender’s consent. While the DUI-Programme falls under the responsibility of the Probation Service, a Drug Court team, consisting of representatives from the NCS and the Norwegian Health Service, Social Service and Educational Service, supervises the DC-Programme (Johnson and Storgaard 2014:245). According to the *Report to the Storting* (the supreme legislature of Norway), “penal implementation out in the community is more effective for rehabilitation than prison and is therefore the best long-term public protection” (Norwegian Ministry of Justice and the Police 2008). In this sense, the NCS also uses alternative forms of sentencing, such as community sentences (ESA Section 53-Section 58), including unpaid work and programme participation according to the offender’s needs (Johnson and Storgaard 2014), or EM sentences for offenders serving less than four months, provided that they have suitable accommodation and occupation, and respect the general conditions. EM is carried out by means of radio-frequency system at the domestic residency of the offender, through visits by the Probation Service, announced or not, at work, school or other measures defined by the activity plan. Where breaches occur, such as drug or alcohol use, offenders are sent back to prison, receive warnings or are placed under intensified supervision. EM is supervised by a multidisciplinary special unit within the Probation Office (Kylstad Oster and Rokkan 2015).

Aftercare and re-entry assistance

The NCS collaborates with several institutions to provide aftercare supports such as work, education, health services, addiction treatment and debt counselling, to name a few. Norway’s approach is based on the Soria Moria Declaration, which “expresses the Government’s position regarding important fields of social policy areas,” such as the NCS, and which “emphasizes the nexus between crime policy and welfare policy” (Norwegian Ministry of Justice and the Police 2008). In this sense, rehabilitation and reintegration are not only the responsibility of the NCS but also of the public bodies (Norwegian Ministry of Justice and the Police 2008). Welfare service providers (who sit in the municipalities) cooperate with the correctional service and create permanent committees to coordinate supports for released prisoners. The committees can create a “responsibility group”, where representatives of the responsible service organizations meet and discuss individual support plans for released offenders. The offender may assume the role of the leader of this group. Organizations like the Oslo Red Cross or

Prison Fellowship Norway offer post-release activities, mentoring programmes, child support and restorative justice programmes, while the NAV continues to offer assistance and counselling in relevant fields.

Furthermore, Norway has put into practice specific exit and deradicalization programmes, mostly for young offenders aiming to “help in establishing a new social network and arranging contact with public authorities and social services [...] to ensure that young person stays away from extremism when they leave prison” (Norwegian Ministry of Justice and the Police 2011:11). The exit programmes help young offenders to disengage from extremist groups through “individual guidance, group meetings with other defectors” and by including family members, deradicalization programmes also involve psychological and social help, theological dialogues as well as vocational trainings (Chowdhury Fink and Hearne 2008; Norwegian Ministry of Justice and the Police 2011).

Family support

The close allocation of prisoners to their home and families helps both families and prisoners to maintain positive family relationships. The *Report to the Storting* reveals that the incarceration of a family member can be harmful to family and friends, particularly children of inmates. However, involving family and friends can reduce this harm and the NCS prioritizes facilitation of family contacts (Norwegian Ministry of Justice and the Police 2008). Sections 1-3 of the RESA explicitly mention that the needs of the children of inmates should be taken into consideration in decisions concerning the convicted person and that children are entitled to express their opinion on matters that concern them. Furthermore, the NAV offers extended child benefit support for spouses or partners, while Prison Fellowship Norway offers programmes for children of inmates.

3.2.6 Indicators classification

The previous sections show that, from an overall perspective, the Norwegian correctional system corresponds and exceeds the minimum standards set by the Nelson Mandela Rules. No indicator was considered as insufficient, while eight out of twelve indicators were classified as exceeding the Nelson Mandela Rules. Concerning the prison regime, the information available on exclusion from company as a prevention measure does not detail how far it affects other daily activities of the prisoner, nor how many hours per day a prisoner would be in their cell, which makes it difficult to state the case of Norway as a deviation from the Nelson Mandela Rules when it comes to exclusion from company, a variation of solitary confinement.⁴⁶ Nevertheless, given the fact that no sources provide an indication of abusive conditions and in light of the principle of normality guiding the NCS prison management, the prison regime is classified as sufficient.

Two welfare indicators are classified as exceeding the Nelson Mandela Rules since the NCS not only *collaborates* with the national health care provider but provides, in the context of the Import Model, the same health care to inmates as to the general population. Further, the general living conditions also exceed the Nelson Mandela Rules with the quality of cells and the measures taken to avoid “double-bunking”.⁴⁷

Regarding the rehabilitation indicators, visiting conditions exceed the Nelson Mandela Rules because of the allocation of inmates close to their homes, as well as the general support of the NCS in facilitating family visits in special accommodation and in creating

⁴⁶ The case of Anders Breivik brought solitary confinement in the spotlight where it was criticised on one hand for its inhuman practice and on the other for his “luxurious cell” in solitary confinement. In consequence, this special case cannot be used on a general basis for this paper.

⁴⁷ However, the consequences of these measures is the so-called waiting list, considered as politically untenable and very difficult for a sentenced offender who has to wait to execute his or her sentence.

child-friendly visit environments. Furthermore, the offender assessment indicator is also classified as exceeded because of their RNR-based assessment strategy, focusing not only on risk factors but also on an offender's potential and specific needs that must be addressed to promote successful reintegration. The following indicators are all classified as sufficient regarding the Nelson Mandela Rules: the educational, vocational and employment programmes; the cultural, leisure and physical activities; religion and spirituality; treatment of mentally ill prisoners and those with disabilities as well as of the vulnerable and specific groups. As these indicators are classified as sufficient, it follows that improvements can be made. That said, the pre-release and conditional release indicators are considered to exceed the minimum standards due to their gradual progression toward freedom, including open prisons, day-releases and halfway houses, as well as their frequent use of EM to serve short-term sentences.

Table 4: Review of Indicators (Norway)

Prison Regime												
Welfare			Rehabilitation								Reintegration	
Health Care	Living Conditions	Visits	Offender Assessment	Education, Vocational Training, Employment	Cultural, leisure, physical activities	Religion, ideology and spiritual knowledge	Mentally ill / with disabilities	Vulnerable / specific groups	Pre-release / Conditional release	Parole and Probation	Aftercare and re-entry assistance	Family support
Classification of Indicators	EXCELLED		SUFFICIENT			INSUFFICIENT						

3.3 Japan

3.3.1 Introduction

General management and structure of the service

The Correction Bureau within the Ministry of Justice of Japan (MOJ 2016) is the authority responsible for the treatment of inmates, as well as for the development and adaption of correctional legislation. In 2013, the Japanese government approved a strategy aiming to make “Japan the Safest Country in the World” by 2020 (the year of the Olympic and Paralympic Games in Tokyo) by adopting comprehensive crime control (MOJ 2016b). This goal is linked not only to crime prevention in general but also to the prevention of

reoffending through the effective rehabilitation and reintegration of offenders. The Correction Bureau identified two main problems impacting successful reintegration, namely (i) individual problems like drug addiction and (ii) weakened family ties due to incarceration which create difficulties relating to work or housing (MOJ 2016b). The Correction Bureau therefore intends to address the reoffending problem by offering adequate guidance and support and to “enhance effective and seamless treatment based on empirical studies and bases according to each offender’s characteristics” (MOJ 2016c). However, efforts to reduce crime and recidivism were not only made by the Ministry of Justice and its Correction Bureau, but also on a more general level when the government took across-the-board measures, increased cooperation with other countries, and improved awareness-raising activities and terrorism prevention measures through the Public Security Intelligence Agency (MOJ 2014b). Concerning penal institutions, Japan is characterized by an increased number of female offenders, resulting in overcrowding of female prisons, and of elderly inmates. To address these issues, the government has undertaken measures to improve infrastructure and human resources, as well as to increase international prisoner transfers.

The Japanese justice system considers imprisonment as punishment, which can be handed out with or without prison work. During incarceration, the Correction Bureau uses correctional treatment to support inmates in their behavioural reform, with a view to reintegration into society. These efforts are supported by the probation and parole system, where Probation Officers (PO) and Volunteer Probation Officers (VPO) supervise and assist parolees and probationers in the rehabilitation and reintegration progress (MOJ 2016d). Nationwide, there are 52,500 possible VPO positions whose specific functions, qualifications and conditions are regulated in the Volunteer Probation Act. To become a volunteer, potential VPOs undergo a clear recruitment process whereby they must be designated as a successor by an established VPO to be confirmed by the local VPOs Association. The local VPOs Association recommend VPO candidates to a Probation Office, which further examines the candidate. If the examination goes well, the Probation Office confirms the candidate who is then considered by the VPO Screening Commission,⁴⁸ which finally decides whether a candidate is appointed or not. Once officially appointed and assigned to a local VPOs’ Association, VPOs have the same status as part-time government officials, however the position is without salary and they are rather recognized as private-citizen volunteers. They follow various training, capacity-building and exchange programmes to ensure good probation and parole supervision (Muraki 2015).

It is the responsibility of the Rehabilitation Bureau under the Ministry of Justice to supervise POs and VPOs, which, for their part, not only administer rehabilitation measures in the community for parolees and probationers from the correctional institutions, but also administer community-based treatment for mentally ill offenders (MOJ 2001). The parole and probation system seeks to support offenders in their process of becoming law-abiding citizens, and is organized through eight Regional Parole Boards, 50 Probation Offices and administered by professional POs and VPOs (MOJ 2016e). Under this collaboration between the Correction Bureau and the Rehabilitation Bureau, the correction measures are institutional, while the rehabilitation measures are community based, reflecting the community’s responsibility in the successful reintegration of offenders. In this sense, the VPO’s are an indispensable factor of the non-governmental

⁴⁸ “According to an Ordinance of the Ministry of Justice, the member of the Commission should be selected from the District Court Chief, the Family Court Chief, the Chief Prosecutor, the Chief of the bar association, a warden of a correctional facility, a representative of VPOs, the Chairperson of the Prefectural Public Safety Commission, the chief of a prefectural school board, the Chairperson of the local social welfare council, the Chairperson of the local labor council and scholars or other experts.” (Muraki 2015:86)

rehabilitation system, since they are familiar with local residents and thereby are able to maintain contact with the probationers (Muraki 2015).

Legal and regulatory framework

Alongside the Penal Code (Act No. 45) of 1907, the Japanese Prison Law of 1908 provides the basic rules and regulations for prison administration and is complemented by a significant number of various acts regulating specific aspects related to incarceration, in particular Act 50 of 2005 on Penal Detention Facilities and Treatment of Inmates and Detainees (PDFA). Further related acts containing regulations on specific domains are the Offenders Rehabilitation Act (2007), the Anti-Prostitution Act (1956), the Pardon Act (1947), the Juvenile Act (1948), the Correctional Administration Act (2006), the Law Related to Mental Health and Welfare of the Person with Mental Disorder (Law No. 94 of 2006), the 1952 Subversive Activities Prevention Act, and the Anti-Aum Act (1999), to mention but a few. The general Japanese environment, with its declaration of “No Return to Crime, No Facilitation of a Return to Crime (Toward a Bright Society by Everyone Supporting Rehabilitation)” indicates a general awareness toward rehabilitation and reintegration efforts (MOJ 2016f). This declaration contains measures taken by the Ministry of Justice, such as tripling the number of cooperative employers, creating places for inmates to go after release and implicating the community in rehabilitation, and these measures are considered to be the responsibility of all. Other issues and policy initiatives relate to a change in the general profile of prisoners, noting increasing rates for female as well as elderly offenders, while the number of prisoners aged 20-29 is in decline. In 2014, the challenges posed by the growing female prisoner population, the resultant overcrowding in specific female prisons and the increased burden on female prison officers led to the Marguerite Action Initiative, which aims to increase the number of female officers and improve conditions for female offenders in prisons (APCCA 2015:47).⁴⁹

3.3.2 Prison management

Prison regime

Japan has three types of penal institutions: (i) prison for sentenced offenders; (ii) juvenile prisons for young offenders; and (iii) specific facilities such as detention houses for those awaiting trial, workhouses for fine defaulters and court-ordered confinement houses.⁵⁰ Within these facilities, specific groups are separated from each other according to their sex, legal status (sentenced and unsentenced persons) and their work status (sentence with work or without work) (PDFA Art. 4(1)). The overall regime is organized as a progressive offender treatment programme, which contributes, through the offender classification programme, to the individualization of correctional treatment, as conditions adapt to progress in individual achievement (UNAFEI 2005, 2014a). The core of correctional treatment contains three areas: (i) general work and vocational training; (ii) guidance for reform, consisting of special programmes to overcome drug addiction, withdraw from organized crime groups, traffic safety guidance, prevention of sexual offences or employment support guidance, among others; and (iii) guidance through school courses which covers supplementary and special guidance.⁵¹ Furthermore, the Japanese justice system contains the death penalty, mainly for offences such as murder and robbery leading to death, with death sentences carried out by hanging.

⁴⁹ Interview with staff of the Center for Prisoners' Rights, Japan.

⁵⁰ MOJ. 2014a. *White Paper on Crime*. Part 2, Chapter 4.

⁵¹ MOJ. 2014a. *White Paper on Crime*. Part 2, Chapter 4, Section 2(1).

As regards disciplinary sanctions, Japan uses solitary confinement for a maximum of 30 days, which may be imposed cumulatively, as a form of punishment (PDFA Art. 150, 151). Furthermore, confinement is not exclusively used as a disciplinary measure, but isolation is also applied to maintain discipline and order within the institution (PDFA Art. 76, 79), as well as for inmates sentenced to death who occupy a single room and are not permitted “to make mutual contacts even in the outside of the inmate’s room” (PDFA Art. 36). To provide inmates with the possibility of addressing their grievances concerning treatment, a complaints mechanism enables them to file a complaint to the authorities (PDFA Art 157), which will be treated within a certain deadline, varying according to the authority to whom the complaint was filed. In addition to this mechanism, the administration of prisons is further examined by the Penal Institution Visiting Committee⁵² who issue reports on their findings (PDFA Art. 7).

3.3.3 *Welfare*

Health care

The overall principle guiding health care and health treatment programmes is to “grasp the physical and mental conditions of the inmates thereof, and hygienic and medical measures adequate in light of the public standards of hygiene and medical care shall be taken in order to maintain the health of the inmates and the hygiene inside the penal institution” (PDFA Art. 56). Medical examinations are conducted on a regular basis from the moment of the inmate’s commitment (PDFA Art. 61), with inmates transferred to adequate institutions such as hospitals and clinics in cases where the penal institution’s medical care or the appointed doctor are unable to offer adequate treatment (PDFA Art. 62, 63). Specific health care measures, such as those requested by female inmates nursing a child inside the prison, are provided and regulated in Article 66 of the PDFA. Furthermore, the general ageing of the Japanese population led to a “geriatric crime wave”, in turn requiring an improvement in prison health care services to address the needs of elderly inmates (AFP 2017). Links have been highlighted between the difficult social situation in Japanese society and the drastically increased rate of elderly inmates, who may be turning toward crime to alleviate their social situation (Lewis 2016).

Living conditions

The Penal Detention Facilities Act regulates general living conditions in different domains linked to the offender’s legal status. Despite the impact that an offender’s legal status may have on some aspects of living conditions, essential goods such as clothes, bedding, food, water and tea, as well as access to bathing and personal hygiene arrangements, are provided and regulated through Articles 40, 58, 59 and 60 of the PDFA. As regards accommodation, the full capacity of Japanese penitentiaries has not yet been reached as there are still free cells in male penitentiaries, but female penitentiaries are overloaded and overcrowded. This issue is partly addressed by the Marguerite Action Initiative, by placing women offenders in prisons for men, although this may present some difficulties in the implementation of the separation of certain categories.

3.3.4 *Rehabilitation*

Visits

Maintaining family and community ties during incarceration is important and useful for post-release support. Therefore, every sentenced and unsentenced inmate is permitted to

⁵² “Each penal institution has a Penal Institution Visiting Committee, a third party committee composed of a maximum of ten members appointed by the Minister of Justice.” (UNAFEI 2014a: 43) “The Minister of Justice shall appoint the Committee members from among the persons of advanced integrity and insight with enthusiasm for the improvement of the administration of the penal institution.” (PDFA Art 8(2))

receive visitors, send and receive correspondences and, in some cases, to conduct communication by telephone (PDFA Art. 146), as it is considered that “appropriate contact with the outside world is instrumental to his/her reformation and rehabilitation, and to his/her smooth re-entry into society” (PDFA Art. 110). Although the PDFA precisely regulates the conditions for contact with the outside world according to the inmate’s status (death penalty, sentenced and unsentenced), it affects the respective contact conditions only minimally in practice. The overall visitation arrangements of a death row inmate are the same as for a normally sentenced prisoner. Yet, persons allowed to visit an inmate are regulated within Article 111 of the PDFA and are mainly relatives, business or legal advisors, or rehabilitation services or a person deemed necessary for the rehabilitation of the offender. Article 111 stipulates that other persons may be permitted to visit where “it is deemed that there is a circumstance where the visit is necessary for the maintenance of good relationship with the person or for any other reasons” (PDFA Art. 111 Section (1) (iii)). This list is relatively restrictive, and does not facilitate and value the importance of contact to the outside world, as mentioned above, unless their circumstance is deemed important enough.

Offender assessment

In addition to the classification made to separate inmates according to sex, age and legal status, inmates undergo a treatment assessment in order to establish an individualized treatment code, involving the correctional treatment as well as the characteristics and the criminal tendencies of each inmate.⁵³ This treatment assessment is conducted on the inmate’s commitment to prison and periodically⁵⁴ repeated in order to adapt the treatment to each inmate’s conditions and progression (UNAFEI 2005). These assessments provide information on an offender’s needs and provide more precise direction as to which programmes, within the guidance for reform, are adequate and appropriate. Additionally, the periodic assessments put into evidence an offender’s progress within the programmes and the extent to which their needs have changed since the previous assessment, and thus lead to adaption within the individualized treatment code of the inmate.

Educational, vocational and employment programmes

The Correction Bureau considers work to be a key factor in preventing reoffending since it offers regular income and helps released inmates establish stable social relations, thereby becoming independent law-abiding citizens. By offering inmates vocational training and job assistance, in collaboration with various public and private organizations, it aims to reduce unemployment due to insufficient qualification upon release (MOJ 2014g). Vocational training in prison mainly consists of learning new skills and techniques and is linked to job assistance, social contribution activities and even to traffic safety. This training is completed alongside educational programmes, such as academic training, correspondence courses and living guidance, following the curriculum of the general School Education Act (Act No. 26 of 1947) (UNAFEI 2005; PDFA Art. 104). Furthermore, work in general occupies an important place within correctional treatment in Japan. As such, Japanese penitentiaries contain prison industries where work is mainly divided into three categories, notably productive work, vocational training and self-maintenance work (UNAFEI 2014a:40). The majority of inmates serve a prison sentence with work, which is compulsory by law and considered to raise the morale of inmates and maintain discipline. In consequence, working hard during the daytime is a very common practice for the majority of inmates and is generally defined by the PDFA as a correctional treatment (PDFA Art 84). The general working conditions, such as working hours per day

⁵³ MOJ. 2014a. *White Paper on Crime*. Part 2, Chapter 4, Section 2(1).

⁵⁴ At different states of an inmate’s imprisonment period.

and days of leisure, are determined by the warden of the penal institution, which is done “in accordance with the standards provided for by a Ministry of Justice Ordinance.” (PDFA Art. 95). Work is remunerated and inmates can gain additional money according to their achievements in work (PDFA Art. 98). Furthermore, some sentenced offenders can, if the warden of the respective penal institution allows, commute to an “outside business establishment” to facilitate their reintegration into society (PDFA Art. 96).

Cultural, physical and leisure activities

There is little information available on cultural or leisure activities other than Article 39 of the PDFA, which states that inmates can engage in self-contracted work during leisure time, meaning that can be “under contract to a person outside the penal institution” for whom they can manufacture goods. In addition, the same Article mentions that inmates should receive assistance regarding intellectual, educational and recreational activities, such as sports and others. Exercises for mental and physical health, including outdoor activities are regulated under Section 6 “Hygiene and Medical Care” of the PDFA.

Religion, ideology and spiritual knowledge

According to Section 7 of the PDFA, inmates may conduct individual religious acts and the warden of the prison must support them by offering the possibility of participating in religious ceremonies held by volunteers or religious leaders. While this general regulation provides little information on the extent to which measures facilitate religious practices or diets, there are indications that it is difficult to practice Islam, notably to fast during Ramadan, since, as one inmate describes “leaving the food constitutes breach of the [prison] rule which would result punishment for me” (MCHK 2016). Yet it seems that prisons can offer meals that respect religious conditions “if a religious preference is declared when an inmate enters a system” (Van Buren 2015). This implies that prisoners converting to Islam or another religion during their sentence may have missed out on the possibility to declare their preferences.

Further information on detention conditions in the context of religious, ideological or spiritual preferences, as well as radicalization issues, are hardly available or almost non-existent. Although Japan has experienced attacks carried out by terrorist groups such as the cult Aum Shinrikyo in the past, and more recently is facing the phenomena of Japanese nationals joining the Islamic State of Iraq and Syria (ISIS) (Counter Extremism Project 2017b), the countermeasures referred to focus more on international counter-extremism support than on national deradicalization efforts. According to Chapter IV of the 2009 National Public Safety Commission’s White Paper, the International Terrorism Countermeasures contain two main measures: (i) the Promotion of Terrorism Prevention Measures; and (ii) the Enhancement of Terrorism Response Capabilities. The Promotion of Terrorism Prevention Measures include: enhancement of information gathering and thorough investigation; strengthening of border controls; tighten security aspects at important facilities; as well as promoting the development of deliberated legislation regarding terrorism prevention measures. Concerning the second measure, the Enhancement of Terrorism Response Capabilities include: improvements to the police’s counter-terrorism unit; the utilization of the sky marshal system aiming to prevent the hijacking of airplanes; the overseas dispatch of the Terrorism Response Team in cases where terrorist attacks are related to Japanese interests; cooperation with government agencies and ministries; contribution in order to freeze terrorist assets; and finally safety measures for Japanese nationals overseas (National Public Safety Commission 2009: 152-154). Most of these measures address a threat that seems to come more from other countries than from inside Japan, with the measures highlighting that “the number of terrorism incidents around the world is increasing. Despite the strengthening of terrorism

countermeasures by governments of all countries since the terrorist attacks on the United States on 11 Sept 2001, the threat of terrorism by Islamic extremists remains as high as ever” (National Public Safety Commission 2009:148). The threat for Japan is even higher since it is an important ally of the United States in the fight against terrorism. Nevertheless, the source of the threat seems to remain reliant on “external factors”, a view amplified by the Counter Extremism Project statement that “compared to Europe, homegrown radicalization of Japanese nationals to Islamic extremism is minuscule” (Counter Extremism Project 2017b).

Persons with mental illness/disabilities

The health care system for mentally ill offenders, regulated by the Act on Medical Care and Treatment for Insane Persons of 2005, provides for treatment in adequate institutions in order to facilitate reintegration back into society.⁵⁵ Yet, to receive mental health care, an offender has to be “declared legally insane or of diminished capacity” and the necessary medical treatment will then be determined by a judge and a mental health expert, normally a psychiatrist.⁵⁶ During their stay in a psychiatric hospital, the Probation Office provides such offenders with adequate living conditions, which continues after discharge. Medical treatment can be provided as inpatient or outpatient treatment, both supervised by the Probation Office, who provide general parole and probation guidance as well as mental health supervision (MOJ 2016e).

Vulnerable and specific groups

Vulnerable and specific groups in Japanese prisons mainly consist of female offenders, young offenders and elderly offenders, while the needs of other specific groups such as drug-dependent inmates, gang members and sexual offenders are addressed in special programmes within the general guidance for reform. Accordingly, drug addicts can follow the drug offender treatment programme to overcome their addiction, former gang members participate in the special guidance programme on withdrawing from organized crime groups, and sexual crime offenders follow guidance on prevention of repeating sexual offences.⁵⁷ The implementation of treatment programmes addressing the needs of female offenders is, however, a challenge that needs more attention (APCCA 2015:23). In response to increasing number of female inmates, most of whom were not employed prior to their detention, the Japanese government offers counselling services as well as vocational training programmes (APCCA 2015:46). Furthermore, improvements are planned around the recruitment and training of female prison officers which are “gaining support from local communities, welfare and medical experts and volunteers”, as well as for general services to address the needs of female offenders (APCCA 2015:56). It is notable that, despite these efforts, Japan has an Anti-Prostitution Act that criminalizes female sex workers who are therefore sentenced, placed in a women’s guidance home and afterwards released on probation. This practice contributes to the increasing numbers of female offenders (MOJ 2016d).

As regards the needs of young offenders, the Japanese justice system provides a full structure of prevention measures. It is noticeable that the prevention measures of the Japanese justice system are not only orientated toward the prevention of reoffending among juvenile offenders,⁵⁸ but also toward pre-delinquents. The latter represent those who are at high risk of committing an offence in the future due to their character or

⁵⁵ MOJ. 2014a. *White Paper on Crime*. Part 4, Chapter 6, Section 2.

⁵⁶ MOJ. 2014a. *White Paper on Crime*. Part 4, Chapter 6, Section 2(1).

⁵⁷ MOJ. 2014a. *White Paper on Crime*. Part 2, Chapter 4, Section 2(1).

⁵⁸ Juvenile offenders include two categories: juvenile offenders aged 14 or older, and juvenile offenders under age 14.

difficult living conditions.⁵⁹ Juvenile delinquents are placed, in accordance with their age, the gravity of the offence and their criminal predisposition, into juvenile training schools where they receive correctional education while following the regular schooling curriculum. Juveniles aged from 12 to 16 years are placed in primary juvenile training schools, while juveniles aged from 16 to 20 years are placed in middle juvenile training schools. Those between 16 and 23 years of age sentenced to imprisonment or with pronounced criminal tendencies are placed in special juvenile training schools, while young offenders up to 26 years of age with physical or mental disabilities are placed in medical juvenile training schools.⁶⁰ During their detention, young offenders follow different treatment programmes of variable intensity, including daily life guidance, vocational guidance, academic education, health and physical education and other special activities.⁶¹ After training schools, they are placed on parole under supervision in order to reintegrate them into community and prevent reoffending. However, some juvenile offenders may be placed under probation instead of joining a training school, which can last until they turn 20 in the case of a pronounced tendency for delinquency.⁶²

Since 1994, Japan has experienced a consistently growing rate of elderly inmates, requiring appropriate health care and treatment programmes, trained staff and adequate equipment to address their specific needs (APCCA 2014:69). In response, the Ministry of Justice implemented programmes to support the positive relationships of elderly inmates with others, “to stimulate brain functioning and physical coordination”, and to offer health care, including nutrition. It also provides elderly inmates with support and information concerning their finances and general social welfare supports. However, the difficult social and living conditions of released elderly inmates often lead to reoffending. To support successful reintegration, prisons offer “job application role-playing exercises and lectures on social security services” to prepare prisoners to go back to society (AFP 2017). Furthermore, halfway houses such as community Settlement Support Centres support inmates in their transition and reintegration into society by offering specific classes, such as computer training or classes for social skills and good manners, and thereby help to reduce recidivism of elderly offenders (APCCA 2014:68; AFP 2017).

Pre-release/conditional release

Prisoners in Japanese justice system can be granted parole or suspension of their custodial sentence and placed under supervision or on probation.⁶³ These measures are supplemented by day leave and furlough regulated under Subsection 4 of the PDFA. Specifically, Article 106 (1) of the PDFA states that day leave or furlough shall be granted “if it is deemed necessary that the sentenced person, for smooth re-entry to society, go outside the penal institution to settle important personal matters such as securement of his/her residence and employment following release, visit people relevant to his/her rehabilitation and to the guardianship thereof, or acquire other useful experiences for life in society following his/her release”. This leave is carried out without the escort of a prison staff member and can be granted for a period of up to seven days.

⁵⁹ MOJ. 2014a. *White Paper on Crime*. Part 3, Chapter 1.

⁶⁰ MOJ. 2014a. *White Paper on Crime*. Part 3, Chapter 2, Section 4(2).

⁶¹ MOJ. 2014a. *White Paper on Crime*. Part 3, Chapter 2, Section 4/2.

⁶² MOJ. 2014a. *White Paper on Crime*. Part 3, Chapter 2, Section 1.

⁶³ MOJ. 2014a. *White Paper on Crime*. Part 2, Chapter 5, Section 2.

3.3.5 Reintegration

Parole and probation

In Japan, inmates eligible for must have served the statutory term of their sentence and express a “genuine repentance” for parole to be granted.⁶⁴ Offenders on probation and on parole are supervised by VPOs under the guidance of professional POs, who are responsible for community-based crime prevention campaigns as well. The probation and parole system in Japan is highly dependent on these volunteers regulated under the Volunteer Probation Officers Act of 1950. In addition to guiding VPOs, professional POs supervise special cases that are particularly complex. This general supervision consists of everyday life assistance, including home visits or assistance in educational and employment matters, and crime prevention activities and programmes such as sexual offender treatment programmes, stimulant offender treatment programmes, violence prevention and drunk driving prevention.⁶⁵ In order to provide an adequate programme in view of the gradual treatment approach, offenders are classified into one of four treatment levels, taking into account their rehabilitation progress, as well as their recidivism risk and need for guidance. Community service activities in Japan are mainly carried out at welfare facilities or in public places by probationers and parolees with support from VPOs and other organizations. In terms of non-custodial sanctions, probationers are offenders who were granted suspension of execution of their sentences in custody, and therefore probationers must follow the supervision programme, including community service activities, supervised by VPOs and POs. More generally, the vocational programmes provided within prisons are offered to provide prisoners with useful skills required by society according to “high social needs”, and therefore facilitate reintegration by giving prisoners the possibility of becoming law-abiding citizens (MOJ 2016g).

Aftercare and re-entry assistance

The above-mentioned objective of reintegrating former inmates into society by providing them with work is further reflected in the cooperative employers’ service. The MOJ is constantly seeking employers and companies to join this service, whereby participants can post their job offers within a penal institution to provide a seamless transition for offenders from prison work to employment outside the institution (MOJ 2016g). Next to employment after release, housing is also considered an important factor to prevent recidivism. To avoid situations in which offenders do not know where to go upon release, efforts are being made to organize, in collaboration with NGOs, places such as welfare hotels (self-support homes) and halfway houses to receive such inmates after release. Halfway houses in Japan are commissioned by the Probation Offices to provide general support (MOJ 2016g). Re-entry assistance does not only apply to employment and housing, but more generally, offers support to any inmate who has difficulties in leading an independent life, including elderly or drug-dependent offenders and offenders with disabilities, as well as young offenders who need support in reconnecting with their families (MOJ 2016g). Aftercare in general includes medical care, meals, accommodation, clothing, education and training, travel expenses, vocational guidance and referral to public welfare authorities, and is provided for six months with the possibility to extend in specific cases (UNAFEI 2014a:55). In addition to the VPO system, which already highlights the importance of community involvement within the reintegration process of an offender, further organizations such as the Big Brothers and Sisters Movement and the Women’s Association for Rehabilitation Aid, collaborate with the government to work toward successful reintegration (MOJ 2016e).

⁶⁴ MOJ. 2014a. *White Paper on Crime*. Part 2, Chapter 5, Section 1/2.

⁶⁵ MOJ. 2014a. *White Paper on Crime*. Part 2, Chapter 5, Section 2.

Family support

Even though the Japanese government has taken several measures to improve the reintegration process and thereby reduce crime rates and recidivism, the attention paid to the families of offenders is limited to the general recognition of the importance and desirability of family support within the rehabilitation and reintegration procedure. Unfortunately, there is no information available concerning further measures to maintain and facilitate visits from the inmate's families or other indications of governmental support.

3.3.6 Indicators classification

The classification of Japan's indicators shows that 11 of 14 indicators are considered sufficient, most notably all welfare and rehabilitation indicators, as well as the family support within the reintegration dimension. However, the Japanese prison regime is classified as insufficient since it deviates from the Nelson Mandela Rules by the use of confinement for a maximum 30 days, with the possibility to be imposed cumulatively, as a disciplinary punishment. This practice exceeds the 15-day limit set by Rule 44 and therefore can be regarded as prolonged solitary confinement as prohibited by Rule 43.

In contrast to the insufficient classification of the prison regime, the parole and probation indicators, as well as the aftercare and re-entry assistance indicators, are considered as exceeding the standards defined within the Nelson Mandela Rules. Both indicators are based on an institutionalization of community involvement facilitating the smooth transition from prison life to life in freedom. VPOs, other volunteers and NGOs provide concrete aftercare services to support former prisoners on their way toward an independent and self-supporting life.

Table 5: Review of Indicators (Japan)

Prison Regime	Welfare		Rehabilitation								Reintegration		
	Health Care	Living Conditions	Visits	Offender Assessment	Education, Vocational Training, Employment	Cultural, leisure, physical activities	Religion, ideology and spiritual knowledge	Mentally ill / with disabilities	Vulnerable / specific groups	Pre-release / Conditional release	Parole and Probation	Aftercare and re-entry assistance	Family support

Classification of indicators	EXCELLED	SUFFICIENT	INSUFFICIENT
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3.4 Malaysia

3.4.1 Introduction

General management and structure of the service

The overall mission of the Malaysian Prison Department (MPD), under the Ministry of Home Affairs, is to “nurture productive individuals through effective rehabilitation, a conducive environment and strategic integration” by establishing and operating detention orders, ensuring lawful detention, control and security, lawful treatment of prisoners, effective rehabilitation programmes and by ensuring the implementation of effective reintegration programmes for prisoners (MPD 2012b). The MPD is organized in ten divisions, of which the Safety and Intelligence Division, the Inmate Management Division, the Transfer of Prisoner Division, and the Parole and Community Service Division are responsible for prison population management (MPD 2012a, 2012c, 2012d). While the Safety and Intelligence Division ensures all security conditions are met, the Inmate Management Division aims to reduce recidivism by providing effective rehabilitation measures, reducing the number of complaints against the system and providing adequate health facilities to offer medical treatment to at least 80 percent of the prison population (MPD 2012e, 2012f). According to the MPD, its Inmate Management Division is responsible for the moral rehabilitation of inmates and providing for prisoner health, medical treatment, basic needs and social relations, within the Nelson Mandela Rules. To fulfil these functions, the Inmate Management Division has two subsections: the Rehabilitation and Treatment Section for educational and character development, treatments, religious and welfare matters: and the Vocational and Industrial Section (MPD 2012f).

The Parole and Community Service Division aims to “ensure continuity of the rehabilitation programmes” and to regulate and develop the Parole Management Information System to facilitate the sharing of information between the MPD and parole officers, who are responsible for the supervision of parolees (MPD 2012d).

Legal and regulatory framework

The Malaysian Penal Code, Act 574 of 1997, provides detailed definitions of offences and their corresponding sanctions, including the death penalty and corporal punishment by means of caning. Furthermore, the Prison Act, Act 537 of 1995, regulates general prison administration and management, as well as parole conditions, and is complemented by the Prisons Regulations (PR) from 2000 and other Government Gazettes regarding general living conditions and daily activities of inmates.

The Malaysian legal framework for addressing terrorism is found in Chapter VI_A of the Penal Code, the Prevention of Terrorism Act 769 (POTA) from 2015, and the Security Offences (Special Measures) Act 747 of 2012 (SOSMA), that replaced the former Internal Security Act (ISA) as a result of a broad Government Transformation Programme that identified terrorism as a challenge. The Transformation Programme focused on seven major policy areas, including crime reduction and fighting corruption (APCCA 2013:58). However, the Government’s efforts to fight and prevent terrorism by introducing SOSMA and POTA caused controversy as “SOSMA was evidently inadequate in managing the new threat of terrorism”, “POTA is unnecessary as existing laws are sufficient to deal with the threat posed by Islamic State” and concern was raised “that the government would politically abuse it and use it against its opponents” (Bilveer 2015). In addition to

the legal framework, the MPD declares its commitment to its Client Charter⁶⁶ by providing “fair, impartial and humane” treatment to every inmate while they are in “safe custody at all times” during detention and to offer rehabilitation programmes to every inmate (MPD 2012g).

3.4.2 Prison management

Prison regime

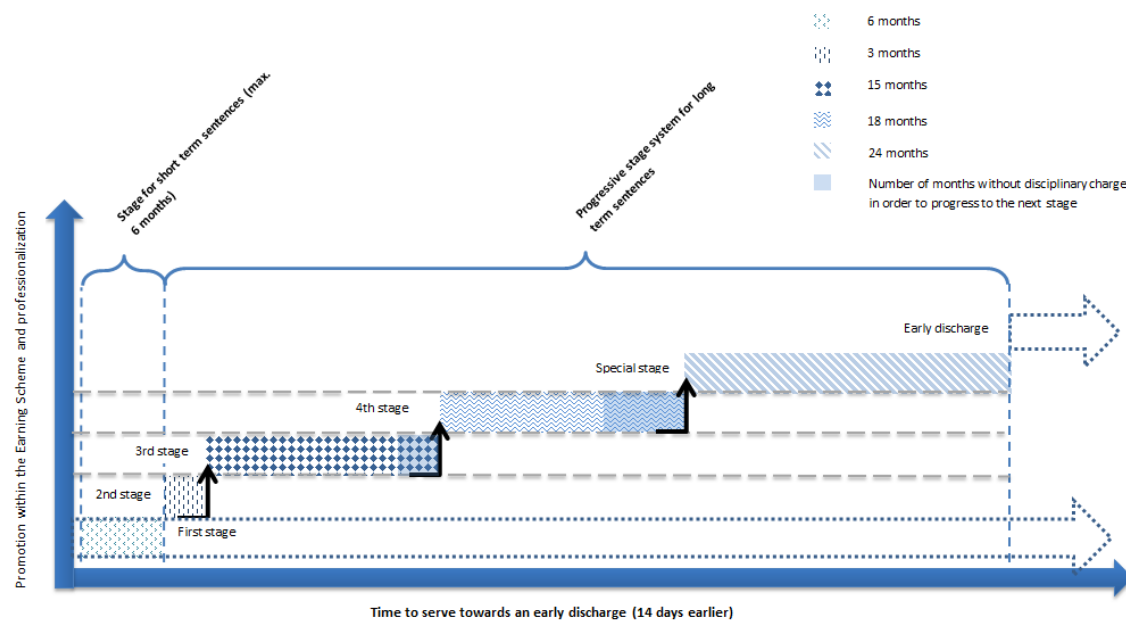
Malaysia’s PR direct strict separation between women and male offenders (Regulation (Reg.) 5), between adults and young offenders (Reg. 6), and between convicted and prisoners who have not been convicted (Reg. 165). Security classification of institutions is not regulated by the Prison Act but rather institutions can be “gazetted” by the government as a High Security Prison or an Open Prison (MPD n.d.). Further, the MPD utilizes two technological tools to strengthen security and promote information sharing. The first tool, the Integrated Electronic Security System, facilitates the detection of contraband items or attempted escapes by implementing a communication system as well as alarm and video monitoring systems. The second, the Inmates Information System, assists in the recording of general activities and movements of staff and inmates which, again, helps to prevent escapes or detect contraband items, and at the same time reduces human resource needs. These technological tools aim to improve general security levels as well as inmate management (APCCA 2015:67). While security seems to have improved, regulations are less likely to assess offender’s needs or requests. Yet, the MPD has a Board of Visiting Justice, which inspects prisons monthly, meets with inmates and reports on its findings to the Officer-in-Charge as well as to the Chair of the Board (PR Part 19). In addition, the MPD (2012g) itself aims to guarantee to consider every complaint and request made by an inmate, and to address the complaint within seven working days.

Inside Malaysian prisons, inmates can be promoted within the five stages of the progressive stage system, as defined in Part 5 of the PR, each with respective uniforms, work skills experiences,⁶⁷ earnings, rights and privileges. However, the first stage is reserved for short-term sentenced offenders who will not progress to a higher stage but will be released after their served term. Offenders with long-term sentences may progress to a higher stage and benefit from better earnings, privileges and professionalization possibilities within their work. In addition to the mandatory period within each stage, certain time periods must be spent without disciplinary charges, otherwise the offender is sanctioned and falls back within the stage system. Offenders arriving at the last stage, referred to as the Special Stage, and “whose conduct has been continuously excellent from the time of his entering the Fourth Stage, shall, if he has been in the Special Stage for at least two years, be eligible to be discharged fourteen days earlier” (Reg. 40). The following scheme (Figure 5) recapitulates the progressive stage system.

⁶⁶ The Client Charter of the MPD states “We, personnel of the Prisons Department of Malaysia, a correctional organization, will remain committed in providing quality and effective services to customers. With determination and commitment, we pledge to carry out the responsibilities entrusted to us by: Providing correctional machinery and an administration system that is organised, integrated, dynamic, efficient and professional based on continuous innovation in accordance with the current priorities and needs; Ensuring that each inmate serving a sentence is released on the date stipulated; Ensuring that each inmate will be in safe custody at all times during the period of detention; Giving treatment that is fair, impartial and humane to all inmates based on the laws and regulations in force; Providing an integrated rehabilitation programme for all inmates based on the Human Development Plan of the Prisons Department; Providing dedicated, committed, trained, disciplined, responsible and productive members of staff; and Ensuring that the complaints were given feedback to the complainant within 7 working days” (MPD, 2016).

⁶⁷ Within the Malaysian Correctional System, the possibility to work is seen as possibility to increase their work skills which are considered as very useful once goes back to society.

Figure 5: Progressive Stage System



The progressive stage system broadly organizes the prison administration, with several linked areas of prison management, such as family visits and privileges such as library access, leisure and cultural activities, school classes, recreational activities, escorted leave or pre-release (Reg. 42). Furthermore, the practice of moving an inmate back to a previous stage is also used as a disciplinary sanction, implying reductions related to conditions like the earning scheme and privileges. As regards disciplinary sanctions, the MPD uses, among other mechanisms, separate confinement with restricted diet for a maximum of 21 days, as well as corporal punishment, namely caning with a maximum of twelve strokes with a rattan (Reg. 125). Although the Medical Officer must examine prisoners before disciplinary sanctions are imposed, Regulation 126 states that this examination is conducted for dietary or corporal punishments without mentioning confinement sentences or procedures for mentally ill inmates. Confinement in a special cell is furthermore used for violent prisoners without a clear limit on how long the inmate can be confined (Reg. 140), and for prisoners under a death sentence (Reg. 176).

3.4.3 Welfare

Health care

According to the PR, every prison must have appropriate health facilities (Reg. 7) and a resident Medical Officer (Reg. 230) to examine every prisoner on admission and on other occasions, such as before beginning labour, punishment, transfer or removal. The Medical Officer also conducts examinations for sick prisoners, female prisoners with children, and prisoners in confinement as well as those on restricted diets (Reg. 231). Overall, the resident Medical Officer plays a key role within the inmate management system by actively participating in decisions concerning punishment, labour, release, food and general health. Although the PR often highlights the health aspect, it also criticizes poor living and health conditions related to exposure to rats, cockroaches and mosquitos within the prisons (Ahsan 2016). In cases of serious illness or the certified mental disorder of a prisoner, they must be transferred to adequate treatment facilities, such as a psychiatric hospital, governmental hospital or other places of safe custody (Act 537 Section 36 and 37).

Living conditions

General living conditions, such as accommodation, bathing, prison clothing and personal grooming, bedding, cleanliness and diet are precisely regulated in different parts of the PR, which also state that the MPD may accommodate up to three prisoners per cell. Another specificity of the Malaysian correctional system is the use of restricted diet as a disciplinary sanction, which affects the general living conditions of an offender as a restricted dietary consists only of bread and milk powder.

3.4.4 Rehabilitation

Visits

Visit and contact conditions are carefully regulated in Part 10 of the PR and follow the same principles of the progressive stage system, with the number of permitted visits per month increasing with progression within the stage system. It starts from one visit a month in the first and second stage, up to a visit every week in the Special Stage (Reg. 87). Despite Rule 59 of the Nelson Mandela Rules indicating that “prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation”, the PR only specifies that prisoners serving long sentences should be located close to their homes after serving three years of their sentence in cases where they did not receive any visits during that time period (Reg. 110).

Offender assessment

Offender assessment is carried out by the Reception Board,⁶⁸ which interviews every inmate after their intake to consider arrangements for the prisoner’s training. It is also up to the board to classify prisoners by considering their age, character and previous history (Reg. 21). In addition to this classification, Regulation 34 of the PR aims to facilitate the training, and reduce the risk of ideological or other contamination, of six categories of prisoner (convicted, prisoners who have not been convicted, young prisoners, first offenders, recidivists, escapees). Efforts made by the Reception Board are completed by the Discharge Board,⁶⁹ which also interviews prisoners on admission, to offer treatment with a view to rehabilitation (Reg. 191). However, the PR does not direct any interactions between the two boards on matters concerning prisoner treatment arrangements.

Educational, vocational and employment programmes

Work, regulated by Part 8 of the PR, is a general requirement for inmates within the MPD framework. As mentioned before, work has an important role within the progressive stage system and a direct impact on a prisoner’s earnings. Payments are made according to grades measuring the prisoner’s working skills, with promotion to a higher grade possible based on good behaviour and work progress (Reg. 82). The type of labour offered within the prison is allocated by the Officer-in-Charge who must give first consideration to “suitable vocational training” for each prisoner in accordance with their sentence, individual interests and capacity, and the disposability of prison resources (Reg. 76). Along with work inside the prison, the MPD offers a Prison Workforce programme, with community service work activities whereby inmates can contribute to their social duty by maintaining public places. Furthermore, some prisons offer workshops to provide skills training to the inmates, such as carpentry, sewing, craft, welding or laundry workshops

⁶⁸ Prison Regulation 21 paragraph 1 states that “At every prison there shall be a Reception Board consisting of the Officer-in-Charge and such other persons as the Director General may determine, who shall, as soon as possible after the reception of the prisoner in the prison, interview every prisoner, and consider what arrangements are to be made for his training.”

⁶⁹ Prison Regulation 190 defines the constitution of the Discharge Board as followed: “At each prison there shall be established a Discharge Board, [...], which shall consist of the Officer-in-Charge, and if possible a welfare officer and a representative of the local Discharged Prisoners Aid Committee, if any.”

(MPD n.d.). In addition, the MPD considers educational classes to be part of the rehabilitation programme but bases them as optional activities to be fulfilled during general leisure time (Reg. 151).

Cultural, physical, leisure activities

Inmates may engage physical training and recreational games supporting physical as well as mental health (Reg. 155). Furthermore, there are activities such as lectures, concerts and debates. General access to a library, reading and writing material are regulated by the PR (Reg. 71, 152, 153, 154). Educational classes are considered leisure activities and can be fulfilled through correspondence courses as well as through voluntary teachers who visit and teach inmates on a regular basis (Reg. 156).

Religion, ideology and spiritual knowledge

Vocational, educational and leisure programmes form a part of the general rehabilitation programme of inmates, and includes the religious component. Part 14 of the PR regulates matters related to faith and religious practices. An inmate must declare their religious denomination upon intake to inform the prison officer, who will treat them accordingly (Reg. 145). The MPD offers religious or moral education to prisoners of every faith, and explicitly states its respect for Muslim as well as non-Muslim prisoners (Reg. 147). Visits by religious personnel or members of religious associations, as well as access to religious texts, are granted to every inmate (Reg. 149, 150).

Nationally, Malaysia has high awareness of religious radicalization and terrorism, a factor in establishing the Security Offences (Special Measures) Act 2012 (SOSMA) and the Prevention of Terrorism Act (POTA) in 2015, which contains a section related to detention and the possibility to hold potential security offenders in custody without trial for a certain period and in some cases even up to years through renewable appeal processes (Besant 2016, Spiegel 2012).

SOSMA replaced the infamous ISA to “take into consideration fundamental rights and freedoms” (Spiegel 2012). While the ISA enabled the police to detain a suspect for up to two years without trial, the SOSMA prescribes a maximum pre-trial detention period of up to 28 days. However, the 28-day period is renewable up to a maximum of two-year, similarly to what was stipulated in its predecessor, the ISA. Closer consideration evidences that the SOSMA brought some improvements in certain areas, but was also “more repressive and retrograde in others, demonstrating yet again that the Malaysian government was playing ‘bait and switch’ with human rights” (Spiegel 2012). Further concerns were expressed regarding the fact “that the government was pushing for more authoritarian and draconian powers for the police, given the “unabated deaths” in police custody and the high level of perceived corruption among the police” (Bhatt 2014). This is even more delicate given the statement of the President of the Malaysian Bar Council that “the war against terrorism and extremism was one that could not be won without the ‘need for oversight and accountability’ from the police and other enforcement agencies” (Bhatt 2014).

Malaysian militants support groups allied with ISIS,⁷⁰ which has become a greater threat on a national as well as international level. In some cases, radicalization has been traced back to prison experiences where ideologies were shared (IPAC 2016). As a result,

⁷⁰ Radicalization often starts in prison where new militants meet extremists and are radicalized by them. As a result deradicalization programmes often start within prisons, either to prevent prisoners becoming radicalized or to deradicalize radical militants. For more information on radicalization of prison inmates see Mulcahy et al. (2013); Jones (2014); and PRI (2015).

Malaysia developed its own deradicalization programme, under the main responsibility of the Royal Malaysian Police, that brings an arrested suspect to a special Branch Department for interrogation. There it will be decided whether the suspect will be detained under the POTA and SOSMA, released under a Restriction Order or released unconditionally (Aslam et al. 2016). Detainees under the POTA and SOSMA undergo the deradicalization programme which aims to change their radical ideology, seen to be caused by religious misinterpretation, through the Religious Rehabilitation Program which covers re-educational and rehabilitation aspects (Noor and Hayat 2009). First, the re-education aspect focuses “on correcting political and religious misconceptions” through religious classes providing Islamic studies to detainees, and discussion and debates with Islamic clerics (Noor and Hayat 2009: 3, Besant 2016). Second, the rehabilitation aspect consists of evaluating and monitoring released detainees, and financially supporting the spouses and families of detainees (Noor and Hayat 2009: 3). In addition to family support, released detainees receive financial assistance to prevent recidivism for financial reasons and to reduce the negative effects of potential efforts to indoctrinate other family members (Besant 2016, Aslam et al. 2016). Therefore, the Malaysian deradicalization programme not only focuses on the re-education of militants but also supports families to guarantee “a good perspective and prevent misunderstanding towards the deradicalization initiative” (Aslam et al. 2016). However, in addition to the re-education and rehabilitation aspects, the Malaysian deradicalization programme is also known for being an authoritative and coercive one,⁷¹ using beatings and “strong surveillance for monitoring rehabilitated prisoners after their release” (Speckhard 2011: 10-12). These coercive measures using “fear and threats of harsh punishments are a key component of the Malaysian deradicalization program. The militants are beaten, tortured and subjected to long periods of solitary confinement in addition to other punishments” (Noor and Hayat 2009: 3).

Although there are no official documents stating the success rate of this programme, Malaysian officials point to high success rates and international recognition of the programme (Povera 2016). Once a detainee has gone through the programme and is released, post-release care, including job provision, counselling activities and visits from parole officers, are key factors in keeping the former prisoner disengaged from extremist groups (Jones 2013). Thus, they still face some restriction and controls on their activities, and limits on their travel as well as contacts (USDOS 2011). Finally, Malaysia also involves communities by means of awareness-raising measures aiming to train communities to recognize the early signs of radicalization and to report those to authorities. To do so, the Malaysian government organizes events where former militants who underwent the deradicalization programme “speak to university students and preach against joining the ISIS terrorist group” and also focuses on “social media channels and other means of communication (...) in the clampdown on the spread of terrorism” (Mogul 2016).

Persons with mental illness/disabilities

Section 36 of the Prison Act regulates the administration of mentally ill inmates, who should be removed from detention and placed in treatment in an appropriate institution, such as a psychiatric hospital or other fit place of safe custody. It is the Medical Officer who certifies the inmate’s condition and reports on that case (Reg. 233). Malaysia also established the Mental Disorder Ordinance (1952) dealing with examination procedures, the administration of mentally ill prisoners in psychiatric hospitals and general provisions in mental disorder cases (Lee et al. 1994). In addition, Section IV of the general Mental Health Act (Act 615) (2001) addresses the admission, detention and discharge of persons

⁷¹ Mentioned by Noor and Hayat (2009), Jones (2013), and Speckhard (2011).

assigned to or confined in psychiatric hospitals under the Criminal Procedure Code. However, a mentally ill inmate, or patient in general, has very restricted possibilities to consent to treatment, which may be undertaken on an involuntary basis. As soon as the Medical Officer determines that a prisoner detained in a special institution is no longer mentally ill, this prisoner must return to prison to complete any time remaining in the term of their imprisonment (Act 537 Section 36[3], [4]).

Vulnerable and specific groups

The accessible laws and regulations distinguish female, male, adults and young offenders, as well as convicted, those who have not been convicted, recidivists and escapees (Reg. 34). Apart from female and young offenders, little is known of whether these groups receive special treatment in response to their specificities. However, young offenders receive institutional treatments such as religious education, juvenile rehabilitation practices, discipline building programmes, character reinforcement and skill training, among others (Guan Bee 2002). As regards the treatment of female offenders, they receive additional health supports if incarcerated with their children (Reg. 13). Female offenders are supervised by female prison officers (Reg. 274) and can be employed “only within the prison precinct” (Reg. 74). The regulations for female offenders are explicitly mentioned in the PR which is otherwise mainly written for male offenders.

Pre-release/conditional release

The MPD has a remission system where a Pardons Board⁷² can grant as remission one-third of a prisoner’s sentence to encourage “good conduct and industry and to facilitate reformatory treatment” (Reg. 43 (1)). Alongside the 14 days-earlier release resulting from the progressive stage system, the Fourth Stage also enables certain inmates to have home leaves to “gradually re-adjust to life in the community and have opportunity to re-establish family and community relationships” (APCCA 2013:61). If an inmate is released, including on early release or remission, the Discharge Board, who consults with appropriate aftercare organizations (Reg. 189), re-conducts an inmate interview within the three months before the release date, aiming to decide the form of assistance appropriate for their rehabilitation (Reg. 191). The MPD pays the inmate a gratuity on the release date (Reg. 30). In addition to these earlier releases, a parole system for eligible prisoners was implemented in 2008 to facilitate the general reintegration of prisoners into society (APCCA 2014:75), the conditions of which are regulated by Part IV_A of the Prison Act. It is the Parole Board that decides whether an inmate is eligible for early release and under which supervision level they will be placed on parole (TIJ 2015). The MPD’s Parole and Community Service Division is also responsible for conducting parole programmes under the supervision of parole officers, such as good behaviour promotion, employment provision, fostering community involvement and reducing operational costs in prisons, as well as helping to reduce overcrowding and to manage the Parole Management Information System (MPD 2012d).

⁷² Article 42 (5) and (6) of the Federal Constitution of 1957 state that “(5) The Pardons Board constituted for each State shall consist of the Attorney General of the Federation, the Chief Minister of the State and not more than three other members, who shall be appointed by the Ruler or Yang di-Pertua Negeri [Governor]; but the Attorney General may from time to time by instrument in writing delegate his functions as a member of the Board to any other person, and the Ruler or Yang di-Pertua Negeri may appoint any person to exercise temporarily the functions of any member of the Board appointed by him who is absent or unable to act. (6) The members of a Pardons Board appointed by the Ruler or Yang di-Pertua Negeri shall be appointed for a term of three years and shall be eligible for reappointment, but may at any time resign from the Board.”

3.4.5 Reintegration

Parole and Probation

The parole system established under the MPD is one of two community-based treatment programmes, the other being the Community Service programme (TIJ 2015). Parole is considered a continuation of serving a sentence, where offenders are placed under the responsibility of parole officers, whose duties are regulated in Section 46J of the Prison Act. The parole system “operates with 50 Parole Offices throughout the country to conduct home visits, employment visits, telephone check-ins, urine testing, and reporting” (TIJ 2015). As mentioned before, the Parole and Community Service Division manages the Parole Management Information System, makes sure parole officers have the technical know-how to properly access the offender’s file and thereby realizes the transition of responsibility from Prison Officer to Parole Officer.

The Community Service programme consists of: (i) the prison workforce, where prisoners do community work in collaboration with the local community; and (ii) community involvement within the rehabilitation procedures. The MPD considers the Community Service programme as one that raises awareness within the community, who share responsibility for maintaining peace and well-being in society. In this sense, the MPD offers “educational and crime prevention activity consisting of an exhibition and lectures by selected inmates who will share their life stories and experiences that led to their imprisonment as a lesson and example to the public” (MPD 2012h), which it also calls on society to do voluntary work such as religious speeches, lectures and counselling for inmates, or to donate food, material or money for prisoners (MPD 2012h).

Along with programmes with community involvement, Malaysian courts also impose non-custodial sentences to facilitate reintegration, such as unconditional discharge, conditional discharge or a Good Behaviour Bond, and restitution to the victim, as well as compulsory attendance and community service. Furthermore, the National Blue Ocean Strategy promotes efforts undertaken by government agencies to increase collaboration to optimize resources and thereby achieve greater results in preventing reoffending (APCCA 2013:58-59).

Aftercare and re-entry assistance

In order rehabilitation programmes to have full effect, the return to society needs to be adequately planned so that released prisoners do not commit new offences, thereby reducing recidivism. Yet many prisoners have lost contact with their families and social stigma negatively affects their reintegration into community. In 2010, the Ministry of Home Affairs began implementing halfway houses, receiving released inmates and offering them monitoring and a safe place to help them to adjust to life in society (Sokial 2013). Additionally, the MPD’s SAHABAT Club⁷³ aims to support prisoners, their families and residents in general by promoting and fundraising for welfare and vocational programmes, and by raising awareness within society (MPD 2012i). Alongside governmental efforts, former inmates also receive support from NGOs such as Prison Fellowship Malaysia, which offers aftercare by supporting former inmates with counselling and reconciliation programmes bringing together prisoners and victims of crime.

⁷³ SAHABAT-Club Memberships are open to “Individual Malaysian citizens aged 18 and above. Representatives of voluntary organizations and non-governmental organizations that are registered, Organizations or voluntary bodies may send a representative not later than three (3) representatives. Institution or body corporate, governmental or quasi-governmental agency whose membership represented by three (3) members.” (MPD 2012i).

Family support

The MPD's Client Charter highlights its efforts toward family support by providing a guide for family meetings with prisoners, by ensuring "safe and comfortable waiting and visiting areas" (MPD n.d.), and by offering them support during the detention period by means of the SAHABAT Club. These measures are augmented by the family care programme organized by Prison Fellowship Malaysia (2016).

3.4.6 Indicators classification

Based on the previous consideration of the Malaysian correctional system, 11 of the 14 indicators can be classified as sufficient, while three are considered insufficient. Consequently, the Malaysian correctional system has no indicator that exceeds the minimum standards set by the Nelson Mandela Rules and is thereby the only country without such a classification in this paper.

The prison regime is considered insufficient mainly because of the use of dietary restriction and corporal punishment through caning. These practices are strictly prohibited by the Rules 39, 43 (b), 43 (d), 44 and 45 of the Nelson Mandela Rules. Furthermore, separate confinement of violent prisoners and prisoners under death sentence in special cells without clear limits on how long these prisoners can be confined is considered to be solitary confinement of an indefinite character, which is also prohibited by the Nelson Mandela Rules. The next insufficient classification is in living conditions, such as dietary restrictions whereby the MPD violates Rule 22 which attests that “1. Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health of strength, of wholesome quality and well prepared and served. 2. Drinking water shall be available to every prisoner whenever he or she needs it.” In addition to this breach, Malaysian prisoners can be housed with up to three prisoners in a cell, while Rule 12 indicates that it is preferable not to exceed two inmates per cell, and that if this is exceeded it should only be on a temporary and exceptional basis.

Finally, the third insufficient classification concerns the treatment of mentally ill offenders, and arises due to the restrictions on gaining consent or dissent to an involuntary treatment, and which consequently can result in forced treatment. Even though some offenders with mental illnesses are transferred to special institutions to receive adequate treatment, they are transferred back to prison as soon as the Medical Officer considers them to be recovered. By sending a mentally ill offender back to prison, the MPD will most likely not be able to ensure the continuation of treatment as required by the Nelson Mandela Rules.

Table 6: Review of Indicators (Malaysia)

	Welfare		Rehabilitation								Reintegration		
Prison Regime	Health Care	Living Conditions	Visits	Offender Assessment	Education, Vocational Training	Cultural, leisure, physical activities	Religion, ideology and spiritual knowledge	Mentally ill / with disabilities	Vulnerable / specific groups	Pre-release / Conditional release	Parole and Probation	Aftercare and re-entry assistance	Family support
Classification of indicators		EXCELLED		SUFFICIENT				INSUFFICIENT					

4. Analysis and Comparative Classification

The compilation of the classified indicators of the four countries allows a direct comparison on their quality indicators in the dimensions of welfare, rehabilitation and reintegration, as well as the overall prison regime of each country (Table 7). Furthermore, the comparative scale reflecting the Nelson Mandela Rules helps identify some general tendencies.

Table 7: Country Comparison

Country	Prison Regime	Welfare		Rehabilitation								Reintegration		
		Health Care	Living Conditions	Visits	Offender Assessment	Education, Vocational Training, Employment	Cultural, leisure, physical activities	Religion, ideology and spiritual knowledge	Mentally ill / with disabilities	Vulnerable / specific groups	Pre-release / Conditional release	Parole and Probation	Aftercare and re-entry assistance	Family support
Canada														
Norway														
Japan														
Malaysia														

Classification of indicators	EXCELLED	SUFFICIENT	INSUFFICIENT
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The comparative analysis concludes that only the case of Norway met all minimum standards for welfare, rehabilitation and reintegration as stated in the Nelson Mandela Rules. Norway demonstrates promising practices (in terms of exceeding the standards) in the areas of health care, living conditions, visits, offender assessment, conditional release, parole and probation, aftercare and re-entry assistance, and family support. Canada and Malaysia underperform in relation to prison regime and the treatment of mentally ill prisoners. Canada exceeds the standards in the areas of health care, visits, education, vocational training and employment, the treatment of vulnerable groups, parole and probation, aftercare and family support, whereas Malaysia does not provide information to deduce whether it exceeds the minimum standards in those areas. Japan does not meet the standards in relation to prison regime, but exceeds them in relation to parole and probation, and aftercare and re-entry assistance. The general assessment of the four case studies is described in more detail below.

4.1 Prison regime

Analysis of the four cases shows that it is not easy to establish a prison regime which meets all the standards of the Nelson Mandela Rules. Three of the four examined countries are therefore considered as insufficient, mainly due to the inappropriate use of segregation practices and corporal punishment. Each case uses segregation, albeit using different terminology, as a disciplinary sanction and as a measure to maintain the safety and order of the institution. The need to maintain safety and order in prisons allows diverse interpretations about the appropriateness of segregation measures. For instance, it justifies the use of segregation as a measure to prevent an inmate from performing a disruptive act, including self-harm. However, the disciplinary segregation measure can be also used for mentally ill inmates, as it is the case in Canada. The problematic interpretation and implementation of segregation measures has been partly due to the unclear standards and definition of solitary confinement, since resolved in 2015 with the

Nelson Mandela Rules providing “the first-ever definition of this practice in international human rights law” (ICRC 2016). It is also partly due to the difficulty in striking a balance between policy priorities in the prison regime. The question of whether a prison regime should restrain an inmate’s rights to guarantee the overall peace and order of the institution and the general prison population, and in the broader sense of the society, (Croydon 2016:2) is consistently raised in daily prison administration. Establishing a balanced approach is a difficult but integral part of a prison management. Although it is difficult to establish detailed guidelines for this balanced approach, it can be said that a balanced approach should be somehow in accordance with the aim to use separation as a measure to reintegrate the inmate to the general prison population, as it should have the aim to use imprisonment as a measure aiming at reintegrating offenders into society (ICRC 2016). The recent definition of solitary confinement provided by the Nelson Mandela Rules is particularly notable, as it contains specific guidelines on a balanced approach regarding solitary confinement, and therefore assists in understanding why three of the four countries are classified as insufficient in their prison regimes and consequently points to where improvements can be made.

4.2 Welfare

Table 7 demonstrates that only Malaysia has insufficient welfare measures, and that Canada and Norway have slightly excelled against Japan and Malaysia in these areas. Malaysia’s insufficient classification relates to its prison regime using dietary restrictions as a disciplinary sanction, thereby violating the adequate food supply considered part of the general living conditions of inmates. Concerning health care measures, Canada and Norway again exceeded the minimum standards due to the diversity of health professionals providing adequate treatment to each inmate. They also have the distinction of an established intersectoral collaboration between their respective Correctional Services and national or regional health agencies. In particular, Norway, with its Import Model, offers inmates the same health care standards as those provided to every member of the society. Additionally, health care and hygiene standards, such as personal and facility sanitation, are frequently linked to each other. Every country offers living conditions in accordance with the minimum standards, yet Norway has slightly exceeded the others by adopting a one-man-one-cell policy, resulting in a waiting list for offenders to commence their prison sentence rather than breaching this policy. This waiting practice is questionable because sentenced offenders must wait for the start of their sentence, and this waiting time can be defined as “lost time” in terms of personal social costs as well as in terms of rehabilitation. However, this policy guarantees adequate accommodation for every inmate. It is worth mentioning that one-man-cell is not the same as solitary confinement, as inmates participate in some activities during the day and inclusion in a one-man-cell is effectuated at the end of every day to spend the night. Such limited separations from the general prison population improve the safety and self-integrity of inmates.

4.3 Rehabilitation

The rehabilitation measures identified in this paper generally take place in an overall framework defined by the prison regime and welfare measures. Table 7 demonstrates that the overall majority of the rehabilitation programmes are sufficient according to the minimum standards. There are, however, exceptions provided by some excelled classifications for Canada and Norway, as well as two insufficient classifications for Canada and Malaysia.

As to the conditions allowing prisoners to maintain contact with the outside world, Canada and Norway surpass the conditions set by the Nelson Mandela Rules due to measures such as private family visits or special child-friendly visits. All four countries are aware of the importance that social contact has in the overall rehabilitation and reintegration process, but not all countries have the same level of acceptance within society. In this sense, Japan for instance has recognized the difficulty of maintaining family contacts because of the stigmatization of inmates and further because of estrangement induced by the criminal behaviour and isolation (MOJ 2016g). This leads to fewer visits or other forms of contacts during incarceration. As regards offender assessments, Norway exceeds the Nelson Mandela Rules by basing its procedure on the RNR model, which considers not only the security aspect but also an inmate's needs and capacities in view of an improved rehabilitation process.

Contrary to Norway, Malaysia meets only the absolute minimum requirements of the Nelson Mandela Rules but is, however, found sufficient by offering an adequate intake assessment. Furthermore, Canada is considered to outperform the minimum standards for educational, vocational and employment programmes, due to its special operating agency CORCAN, offering several vocational programmes to improve technical and employability skills, in addition to educational courses. Additionally, it also offers employment possibilities not only for inmates but also for released offenders. The three other countries also undertake several measures to offer adequate programmes, which are all in accordance with the Nelson Mandela Rules. Programmes related to work seem to have a more compulsory nature in Japan and Malaysia, where they represent a very important aspect of the general rehabilitation and reintegration process. While Japan uses employment as one of two key factors to reduce crime (MOJ 2016h), the Malaysia system is based on a meritocratic prison system where an inmate can earn progress and privileges through work performance.

Concerning the remaining rehabilitation indicators, the minimum standards defined in the Nelson Mandela Rules are respected or even exceeded, except regarding the treatment of offenders with mental illness or disabilities where both Canada and Malaysia are classified as insufficient. Despite an intersectoral Mental Health Strategy, Canada has inadequate treatment which is linked on one hand to inadequate screening methods, and on the other, to the use of administrative segregation for inmates with mental health problems, prohibited by the Nelson Mandela Rules. Furthermore, Malaysia's Prison Regulations provide treatment in special facilities to affected inmates who must return to prison once the treatment is considered over. In cases of severe illness, this transition will worsen an inmate's condition once they are back in regular prison, considered to be an inadequate facility for such conditions. The treatment of other vulnerable groups is generally classified as sufficient in each of the four countries, except for Canada, where programmes for vulnerable groups exceed the standards set by the Rules. However, the definition of vulnerable groups, other than women, children and elderly, varies with each culture, social history or tradition. Canada, for instance, has a long history of tensions around social discrimination against Aboriginals by non-Aboriginal Canadians and is dealing with its consequences, which have a profound impact on today's reality. Thus, Canada's efforts to offer specific programmes and facilities for Aboriginals to provide a system of incarceration that respects their cultural values and beliefs are important steps in addressing their vulnerability.

Finally, the last indicator within the rehabilitation measures shows that each of the four countries is sufficient, except Norway, where measures like systematic use of EM exceed the minimum standards. Norway's use of different types of releases is linked to its overall

approach including the principle of normality influencing detention administration as well as rehabilitation and reintegration measures.

For all four countries, the general tendency for rehabilitation measures appears to be sufficient according to the Nelson Mandela Rules. Two factors influence this overall tendency. First, the more the indicator refers to individual perceptions or interpretations of a specific matter (such as religion, spirituality or cultural and leisure activities), the more difficult it becomes to exceed the minimum rules since it is difficult to make regulations specific enough to respond to every individual's diverse needs. Second, these indicators concern activities initially defined by society outside the prison, and also represent the meeting point of the prison world and the outside world. In this sense, more elaboration on the standards of activities which can contribute to reducing the gap between the outside world and a security setting (such as a prison) is needed.

4.4 Reintegration

Since both rehabilitation and reintegration contribute to an inmate's progress toward freedom and the ability to be a meaningful member of society, there is a clear link between rehabilitation and reintegration measures. Whereas rehabilitation measures aim to prepare, guide and support an offender toward a law-abiding life, reintegration measures put those efforts into practice in the world outside prison. Table 7 demonstrates that, in general, the majority of reintegration measures exceed the Nelson Mandela Rules with some exceptions, such as the sufficient measures accorded to Malaysia and Japan. The overall tendency toward the excelled classification is due to measures such as a well-established probation and parole system, including community involvement, housing and employment support, family support, continuity in health care treatments and psychosocial support, to mention only a few. In Malaysia, even though the indicators are classified as sufficient, it is clear that community involvement and crime prevention activities are dissuasive in character instead of addressing those criminogenic factors that may have pushed the individual to commit a crime. Furthermore, the fact that it seems common for a prisoner to lose family contacts demonstrates that the prison administration could improve their support to maintain and improve a prisoner's social relations. However, the general classification within the reintegration measures tends toward the excelled category and it implies that reintegration may have been improved under the influence of the general standards of the Nelson Mandela Rules, which indicate the minimum treatment for prisoners and considers their social relationships less.

4.5 Linkage between prison regime, welfare, rehabilitation and reintegration

The connection between the prison regime, welfare, rehabilitation and reintegration measures from the perspective of successful reintegration of offenders into society, and by extension, the reduction of crime rates, was already discussed in the first part of this paper. However, it seems that a sufficient or insufficient prison regime has an overall impact on the welfare, rehabilitation and reintegration measures. Three of the four countries are considered to have insufficient prison regimes and demonstrate further insufficiencies within the welfare, rehabilitation and integration measures. Norway however, presents a sufficient prison regime and, in consequence, a stable quality distribution, especially for welfare and reintegration measures. This example points to the importance of the framework provided by the prison regime in overall prison management, in the sense that a sufficient prison regime is a precondition for implementing adequate welfare, rehabilitation and reintegration measures. Furthermore, as it is the case in Norway with its Import Model and as also illustrated with the example

set by Canada, collaboration between the respective Correctional Services and other agencies is a key factor in improving general prison management. The peculiarity of the Norwegian Import Model is that the services provided in prison are qualitatively equivalent to the services provided to the general population. This approach reflects the idea of a universal welfare state that does not exclude prisoners.

Examining Canada's indicators in Table 7, it appears that the performances in various dimensions are uneven. However, the Canadian case highlights the fact that whenever an indicator can be categorized as excelled, there are institutionalized collaborations with external actors: the health care strategy is the result of an intersectoral collaboration; visits are in collaboration with the families; vocational and employment programmes are offered in collaboration with the special agency CORCAN; Aboriginal correctional services together with the Aboriginal communities; parole and aftercare in collaboration with NGOs and the community; and family support in collaboration with the CFCN. The same lesson can be also drawn from the case of Japan: the two indicators categorized as excelled are based on collaboration with POs, VPOs and the community. Concerning Malaysia, there are indications of such collaboration with volunteers regarding educational and chaplaincy services, though there is not much documented empirical evidence.

5. Conclusion and Recommendations

5.1 Rehabilitation perspectives and practices

The analysis presented above reveals that the four countries have different perspectives on the meaning of welfare, rehabilitation and reintegration of criminal offenders. Canada and Norway reveal a desistance-based perspective that shares the responsibility for the desistance process between the offender on the one hand and society on the other. Risk assessment is not primarily used to protect society from the offenders but to enable appropriate treatment with a focus on rehabilitation and reintegration of offenders, with risk estimated to ensure that inmates serve their sentences in the lowest security level facility deemed appropriate for the specific risk the offender presents to society and fellow inmates. In both countries, the needs of the offender play an important role and Norway especially highlights the rights of the prisoners as an important foundation of the reintegration strategy.

In Japan, we find a “what works” perspective on rehabilitation with a strong focus on evidence-based practice. Effective rehabilitation is regarded as a means of preventing reoffending. As such, reintegration is not primarily seen as a responsibility of the state as a duty bearer to realize the offender's (human) rights, but rather the state is supposed to put more emphasis on order and safety of society. In Japan, it is the task of the offender not to relapse into crime, and society offers support and control measures. In this sense, risk assessment is primarily used to limit the possibilities of the offender to reoffend.

A similar conclusion can be drawn from the case of Malaysia, where the available information led to an assessment that the offender is an individual which must “pay back” society to compensate for the damage that their crimes incur. Inmates being productive in the process of rehabilitation and reintegration is one sign of their potential to pay back society, and this might be the reason why work plays such an important role within the progressive stage system.

The analysis in this paper further reveals that all four countries have regulations and practices that either meet or exceed the minimum standards for welfare, reintegration or rehabilitation. For Canada, the involvement of the community in the reintegration process should be highlighted. It is remarkable that, partly due to the high percentage of conditional release, the “throughcare” approach (that is, the probation service taking responsibility for the support of the offender after release) can be applied to the majority of the prisoners. Halfway houses are integrated into the concept of prisoner release to a major extent. It is fair to say that the Canadian “Correctional Investigator” plays an important role in the monitoring of the correctional and rehabilitation practice.

For Japan, the cooperative employers’ service, which aims to structurally involve employers into the reintegration strategy, should also be highlighted. This approach achieves two important reintegration goals. The first is to support released prisoners in finding employment, which is an important factor in the desistance process. The second is to integrate civil society into the reintegration strategy. For Malaysia, the deradicalization programme, which offers support inside and outside prison, including financial assistance after release, should be highlighted. Although the measures for deradicalization have been well developed, it is too early to tell the actual impact of these programmes, as this paper could not find accessible empirical research that validates the effects of those programmes. Given that many countries are concerned with this issue, it is necessary to conduct research and evaluation on ongoing programmes, including the Malaysian programme.

Particularly interesting is the idea of the Import Model of Norway that lays the responsibility for important aspects of the reintegration process in the hands of community service providers. This is undertaken to implement the principle of normality, which highlights the fundamental basis of the system for welfare, rehabilitation and reintegration: the rights of inmates should be respected and protected as much as those of other civilians, except for the loss of their liberty.

5.2 Recommendations

As the previous sections have demonstrated, the interdependence between the prison regime, and welfare, reintegration and rehabilitation programmes has a major impact on the successful reintegration of former offenders into society. Based on a review of recent research and the four case studies, this paper identifies several recommendations for a successful reintegration strategy.

1. A holistic approach to crime prevention includes the identification of criminogenic factors and possible social, psychological or economical preconditions that may influence an individual in their decision to commit a crime. Crime prevention can be accomplished neither by one sector of society nor by one set of sectoral policy measures. In particular, potential recidivists are less likely to reoffend if the factors which influenced them to commit the crime in the first place are appropriately addressed and if the measures to address those factors are incorporated into the rehabilitation and reintegration process.
2. Perceptions and contents of a prison sentence can differ from one society to another and will have an impact on the general living conditions of an incarcerated offender. Departing from the punitive approach, which considers a prison sentence only as punishment and defines prison as the place for this

- punishment, helps to improve the standards of welfare, reintegration and rehabilitation.
3. Strategies for rehabilitation also differ from one society to another. A strategy that addresses both the offender and their inner processes for change, and the state's responsibility to provide support to the offender is, according to desistance theory, the most promising strategy to promote a crime free life.
 4. Welfare, rehabilitation and reintegration services and programmes are more easily provided in open and/or low security regimes that are as permeable as possible to the outside world. If community service organizations can start their work in collaboration with prison authorities and inmates during the prison sentence, the relationships between prison inmates and the community are more likely to continue "through the prison gate" after the release of inmates.
 5. A promising reintegration strategy needs to cover the pre-trial detention conditions. The moment when the offender is taken out of their social life has major influence on their reintegration needs after release. A close relationship and cooperation between the police and the correctional authorities, which can facilitate a smooth transition from their pre-prison life to prison life, is needed.
 6. The risk-need balance, notably between the security principle of a penitentiary and the need principle of inmates, is a significant factor that influences the nature, contents and performance of daily prison management and its various programmes and services. The fact that security is one of major elements of a prison system does not negate the fact that there should still be enough space for a flexible and adequate implementation of security measures. According to the principle of proportionality, risk-need-assessment should be used to apply the lowest possible security measures to inmates.
 7. In addressing offender's needs, an individualized treatment programme addressing psychological, medical, social and intellectual needs is more likely to contribute to effective rehabilitation. The capacity of criminal justice systems, such as the staff-inmate ratio, is a major obstacle to establishing individualized treatment programmes. More research is needed on how to enhance efficiency and mobilize available resources.
 8. In order to improve the performance of reintegration programmes and services, the focus of rehabilitation activities should not be confined to only one area of activity, such as work, but rather, should be on multiple areas of activities which can address diverse needs and realize the potential of every inmate.
 9. Based on recommendation 8, there should be appropriate, regulated and specialized institutions for specific and minority groups, particularly female and mentally ill offenders, to address their specific needs and realize their potential.
 10. One important factor in an elaborate reintegration strategy is the cooperation of different service providers inside and outside prison. In particular, to facilitate a seamless transition from prison supervision to probation supervision or aftercare, there need to be structured plans which clearly specify the roles and functions of all the partners involved.
 11. Progressive systems based on a gradual opening toward society (day leaves, work leaves, pre-release, etc.), must be employed as much as possible in correctional practice to prepare prisoners for their reintegration into society. The

use of safety and security as arguments for the denial of such opening measures should be reconsidered in the light of the fact that an unprepared release does not reduce the risk of reoffending.

12. It is important to raise awareness of the issues of welfare, reintegration and rehabilitation of criminal offenders within society to facilitate reintegration. The involvement of volunteers is particularly notable in awareness-raising campaigns, since it shows that the responsibility for the reintegration of former inmates into society can be shared by all. The less obvious the segregation between prison and the outside world (as in open regimes), the more open the outside world is in terms of helping in the reintegration of former and in accepting them as full members of society.

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Appendices

Appendix 1: Comparative scale

N°	Indicator	Insufficient	Sufficient	Excelled
1	Prison Regime	-	<ul style="list-style-type: none"> • Rule 11 (Separation of categories: sex, age, criminal record, legal detention reason, treatment) • Rule 39 (considering mental illness before a disciplinary sanction) • Rule 40 (No employment in service of prison as disciplinary sanction) • Rule 43 (Prohibition of a) indefinite solitary confinement, b) prolonged solitary confinement, c) placement in dark or constantly lit cell, d) Corporal punishment or reduction of prisoner's diet or drinking water, e) collective punishment. Disciplinary sanction shall not include prohibition of family contact) • Rule 44 (solitary confinement = confinement of 22h or more a day without meaningful human contact, prolonged solitary confinement = more than 15 days) • Rule 45 (solitary confinement only in exceptional cases and prohibited in mental or physical illness) • Rule 46 (Attention to health of separated inmates) 	+
2	Health care	-	<ul style="list-style-type: none"> • Rule 24 (Inmates health as a responsibility of the state, following the outside standards, organizing service in relationship with general public health administration) • Rule 25 (Every prison has a health care service in place, special attention to special health care needs) • Rule 27 (prompt access to medical attention, transfer to specialized institutions/civil hospitals for special treatment) • Rule 28 (Special prenatal and postnatal accommodation in women's prisons) • Rule 30 (Health care examination of every prisoner on his/her admission) • Rule 31 (Daily access for health care professionals to sick inmates or whom attention is directed) 	+
3	Living conditions	-	<ul style="list-style-type: none"> • Rule 12 (Not desirable to have two prisoner in a cell, in dormitories prisoner shall be carefully selected) • Rule 15 (Access to sanitary installations complying with needs of nature when necessary) • Rule 16 (Adequate bathing and shower in a necessary frequency for general hygiene) • Rule 18 (Providing inmates with water and toilet articles to keep their persons clean, hair and beard care) • Rule 19 (Providing clean clothing, kept in proper condition, outside inmate shall wear his/her own clothes) • Rule 22 (Providing adequate food for health and strength, drinking water available at every time) 	+
4	Visits	-	<ul style="list-style-type: none"> • Rule 58 (regular contact with family) • Rule 59 (Allocation close to their home) • Rule 68 (Inform family over incarceration / transfer) 	+
5	Offender Assessment	-	<ul style="list-style-type: none"> • Rule 6 (standardized prisoner file management) • Rule 8 (minimum information to fill in the file) • Rule 30 (Health care examination of every prisoner on his/her admission) • Rule 54 (Information about regulations, rights, obligations) • Rule 89 (Classifying for individualized treatment) 	+
6	Educational & Vocational Programmes, Employment	-	<ul style="list-style-type: none"> • Rule 92 (In order to develop inmate's self-respect and sense of responsibility appropriate means shall be used in accordance with the individual needs: religious care, education, vocational guidance and training, social casework, employment counselling, physical development, strengthening of moral character, reports shall be made to the prison director and placed in individual files) • Rule 96 (Opportunity to do work of a useful nature) • Rule 98 (Work maintain/increase prisoner's ability to earn a living after release, vocational training also for youth, is possible in accordance to institutional administration a prisoner shall choose the type of work) • Rule 103 (System of remuneration, possibility to spend the money and to save funds) • Rule 104 (Provision for further education, if possible integrating the education with the national system) 	+
7	Cultural, physical, leisure activities	-	<ul style="list-style-type: none"> • Rule 23 (1h exercise a day in the open air if possible, providing equipment for physical, recreational training) • Rule 64 (Access to library) • Rule 105 (Providing recreational & cultural activities for mental and physical health of prisoners) 	+
8	Religion & spiritual knowledge	-	<ul style="list-style-type: none"> • Rule 65 (Access to qualified representative of any religion) • Rule 66 (Possession of religious books) • Rule 92 (In order to develop inmate's self-respect and sense of responsibility appropriate means shall be used in accordance with the individual needs: religious care, education, vocational guidance and training, social casework, employment counselling, physical development, strengthening of moral character, reports shall be made to the prison director and placed in individual files) 	+
9	Mentally ill / disabilities	-	<ul style="list-style-type: none"> • Rule 5 (Full & effective access to prison life on an equitable basis) • Rule 45 (solitary confinement only in exceptional cases and prohibited in mental or physical illness) • Rule 109 (Severely ill, shall not be detained in prisons but transferred to mental health facilities, others if necessary can be treated in specialized facilities, treatment provided by health care service) • Rule 110 (Provision of social-psychiatric aftercare) 	+
10	Vulnerable / specific groups	-	<ul style="list-style-type: none"> • Rule 1 (Treat every inmate in dignity and with respect) • Rule 2 (No discrimination of grounds of race, colour, sex, language, religion, political/other opinion, national & social origin, property, birth or any other status. Religious beliefs and moral precepts shall be respected, individual needs, especially of vulnerable categories, shall be taken in account and their rights promoted) • Rule 11 (Separation of categories: sex, age, criminal record, legal detention reason, treatment) • Rule 81 (No male staff shall enter female prisons, except teachers, doctors or in company of female guard) • Rule 94 (Treatment programme according to individual needs, capacities and dispositions) 	+
11	Pre-release / Conditional release	-	<ul style="list-style-type: none"> • Rule 4 (Imprisonment is used to ensure reintegration upon release (law-abiding and self-supporting)) • Rule 87 (Steps for gradual return to society; pre-release, on trial under supervision combined with social aid) • Rule 88 (Community agencies and prison staff collaboration in social rehabilitation tasks, family relations) • Rule 91 (Treatment shall encourage self-respect and develop sense of responsibility) 	+
12	Parole and Probation	-	<ul style="list-style-type: none"> • Rule 88 (Community agencies and prison staff collaboration in social rehabilitation tasks, family relations) • Rule 107 (Prisoner's future shall be considered from the beginning of a sentence) 	+
13	Aftercare and re-entry assistance	-	<ul style="list-style-type: none"> • Rule 90 (Governmental /private agencies aftercare toward social rehabilitation and lessening of prejudice) • Rule 108 (Providing to inmate after release documents, homes & work, clothed and means. Approved representative) • Rule 110 (Provision of social-psychiatric aftercare) 	+
14	Family support	-	<ul style="list-style-type: none"> • Rule 59 (Allocation close to their home) • Rule 106 (Maintenance and improvement of relation between prisoner and his/her family) • Rule 107 (Prisoner's future shall be considered from the beginning of a sentence) 	+

Appendix 2: Country Activities Classification

	Indicator	Improbable	Necessary	Eligible
	Legal and regulatory Framework	Prevention of Terrorism Act (Malaysia) Security Offences (Special Measures) Act (Malaysia)	Criminal Code (Canada, Norway, Japan, Malaysia) Corrections and Conditional Release Act (Canada) Corrections and Conditional Release Regulations (Canada) Youth Criminal Justice Act (Canada) Execution of Sentences Act (Norway) Regulation to the Execution of Sentences Act (Norway) Prison Law (Japan) Penal Detention Facilities and Treatment of Inmates and Detainees (Japan) Correctional Administration Act (Japan) Juvenile Act (Japan) Law related to Mental health and Welfare of the Person with Mental Disorder (Japan) Prison Act (Malaysia) Prison Regulation (Malaysia)	Commissioner's Directives (Canada) Import Model (Norway) Law establishing EM (Norway) Regulations on lower hierarchical levels (Norway) Offenders Rehabilitation Act (Japan) No Return to Crime, No Facilitation of a Return to Crime Declaration (Japan)
	Prison Regime	Prolonged solitary confinement (Canada and Japan) Corporal punishment and restricted diet (Malaysia)	Principle of Normality (Norway)	
Welfare	Health care		Measures to maintain the health of the inmate and the hygiene of the penal institution (Japan) Residential Medical Officer and appropriate health facilities in every prison (Malaysia)	Access to "non-essential" contributing to the rehabilitation and reintegration of a detainee (Canada) Import Model (Norway)
	Living conditions	Up to three people in one cell and restricted diet (Malaysia)	Exceptional double-bunking not exceeding 2 persons in a cell and regulated by Commissioner's Directives (Canada) Overcrowding in female prisons led to Marguerite Action Plan (Japan)	One-men-one-cell policy (Norway)
Rehabilitation	Visits		Persons allowed to visit an inmate are limited and regulated by the PDFA (Japan) Regular visits according to an inmate's stage (Malaysia)	Recognition and encouragement that family ties support the reintegration process (Canada) Close allocation to an inmate's home and family (Norway)
	Offender Assessment		Comprehensive Intake assessment and reclassification procedures (Canada) Individualized Treatment Code and periodically re-assessment (Japan) Intake interview and treatment offer according to the needs (Malaysia)	BRIK system (Norway)
	Educational & Vocational Programmes, Employment		The employments and vocational trainings are remunerated and the educational programmes follow the national curriculum (Norway) Importance of working during the sentence (Japan) Prison work and Community Service Activities and educational classes during leisure time (Malaysia)	Special operating agency CORCAN (Canada)
	Cultural, physical, leisure activities		Social programmes and leisure activities regulated by Commissioner's Directives (Canada) Opportunities to take part in leisure activities (including physical and cultural activities) (Norway) Self-contracted work during leisure time and educational, intellectual and recreational activities (Japan) Physical, recreational, educational and cultural activities (Malaysia)	
	Religion & spiritual knowledge		Access to reasonable opportunities to pursue religious or spiritual beliefs and practices (Canada) Prison Chaplaincy services and the establishment of an interfaith team enhancing cooperation between personnel with different faiths in order to prevent radicalization in prison (Norway) Possibilities to conduct individual religious acts and participate in ceremonies (Japan) Religious and moral education of every faith and deradicalization programme (Malaysia)	
	Mentally ill / disabilities	Use of solitary confinement to contain and manage mentally ill prisoners (Canada) Restricted possibility to consent to a treatment and return to prison once the treatment in a special institution is completed (Malaysia)	Lack of adequate resources and competencies to manage problems related to the management of mentally ill inmates who fall, however, under the Norwegian Health Service (Import Model) (Norway) Treatment in adequate institutions in order to facilitate reintegration (Japan)	
	Vulnerable / specific groups		Mixed institution raise concern that female offenders might be sexually harassed (Norway). Treatment programmes for the needs of female inmates, prevention measures for juvenile offenders and programmes and support for elderly inmates (Japan) Health support for female offenders and institutional treatment for young offenders (Malaysia)	Strategic Plan for Aboriginal Corrections including Healing Lodges (Canada)
	Pre-release / Conditional release		Limited use of full parole (Canada) Parole or suspension of the custodial sentence and placed under supervision or probation (Japan) 14 days-earlier release, home leaves, parole system (Malaysia)	Inter-institutional collaboration and community agencies implication (Norway)
Reintegration	Parole and Probation		Community Service Programme under the supervision of the Parole Officers and Good Behaviour Bond as well as the Blue Ocean Strategy (Malaysia)	Community Corrections Strategy (Canada) Specific DUI and DC Programmes as part of the release condition and the broad use of EM (Norway) Volunteer Probation Officers (Japan)
	Aftercare and re-entry assistance		Halfway Houses and the SAHABAT Club (Malaysia)	Community-Based Residential Facilities and the COSA-Programme (Canada) Reintegration Guarantee (Norway) Cooperative Employers' Service, general aftercare for 6 months after release, community implication through Big Brothers and Sisters Movement and Women's Association for Rehabilitation Aid (Japan)
	Family support		Limited attention paid to the families of offenders (Japan) MPD's Client Charter and support by means of the SAHABAT Club (Malaysia)	Family friendly support network CFCN (Canada) Child-friendly visits and child benefits for spouses or partners (Norway)