

# REHABILITATION AND REINTEGRATION OF OFFENDERS IN MAURITANIA: AN APPROACH TOWARDS A BALANCED PRISON SYSTEM

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## I. INTRODUCTION

The prison has been regarded for a long time as *the house of bad people*. It is the place where the authorities apply their powers in punishing the violators of the law and depriving their liberty for the sake of the society's security. However, experience has proved that this view is wrong for two main reasons: first, that committing a crime, no matter how serious, does not deprive the perpetrator of human rights, and secondly, because simply detaining people for a period of time will not provide a final solution to the increase of crimes, nor does it guarantee a permanent protection for society, especially in light of the increase in population and the increase in social and economic problems. Therefore, there has been, in many countries around the world and at the level of the United Nations' bodies charged with confronting crime, a trend towards unconventional measures to confront crime, in a way that preserves the offenders' human rights, restores their relationship with society, and at the same time ensures real protection of society.

Rehabilitation and reintegration are well-known measures among the good practices of the treatment of offenders that we have seen during UNAFEI's 183rd International Senior Seminar. In fact, the ideas and titles of these two measures have been known in Mauritania for decades.

## II. HISTORICAL BACKGROUND

Since the beginning of the establishment of prisons in Mauritania, the rehabilitation of prisoners has been a target, and its regulation was mentioned in many articles of Decree No. 70-135 issued on 23 May 1970 (Articles: 7, 9 and from 23 to 39). Decree No. 98-078, dated 26 October 1998, changed the name of prisons from "Prison Institutions" to "Prison and Correctional Institutions." Article 2 of this decree stipulates that the treatment of prisoners aims to:

1. Reform and correct prisoners through the use of all educational, religious, medical, vocational training, social service, and sports, cultural, and recreational activities.
2. Creating the desire and inclinations among inmates towards an honourable life and good citizenship.

Moreover, article 12 of the same decree stipulates the appointment of educators in prisons to carry out disciplinary tasks in addition to teaching prisoners. In its last paragraph, it obligated all prison workers to assist and influence prisoners by providing a good example for their reform.

Decree No. 2022-134 expanded the prison administration and divided it into two large departments: the General Directorate of Prison Administration and Reintegration and the Directorate of Criminal Affairs and Amnesty. Each department is assisted by regional services and local prison administrations.

On 13 July 2023, the *National Document on Justice Reform* was issued, after arduous and serious dialogue and discussion among all partners interested in the judiciary in Mauritania, and it was an unprecedented event in the country. It is the document that obligated the government to take reform measures, such as:

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strengthening alternative methods for resolving disputes, improving the legal aid law, raising awareness about the laws, amending articles of the procedural and criminal laws in order to avoid penalties restricting freedoms, establishing an independent directorate for prison management, called the “*General Directorate of Reform and Reintegration*” and obligating texts related to prisons to respect the international systems and standards related to the rights of prisoners (pages from 54 to 58 of the document).

However, no one can deny that the rehabilitation and reintegration efforts in Mauritania are still humble, weak and not ongoing, and the results, therefore, have brought a negative impact on the level of recidivism and have been an indirect cause of prison overcrowding. This situation might be a result of two main reasons:

- The lack of a clear strategy and programmes established for rehabilitation and reintegration;
- Failure to coordinate between stakeholders to implement goals.

This paper aims to answer the main question: what steps will guarantee best results for the rehabilitation and reintegration of offenders in Mauritania? In other words: what are the measures and decisions to be taken by the authorities to reach this goal?

Before getting into the topic, it is important to mention here that most of the main titles, recommendations and conclusions in this paper are collected through what I have heard and seen in the lectures of UNAFEI's professors, visiting professors and senior experts, discussions including the group workshops, some of UNAFEI's publications, some websites and field visits to the Correctional Officers' Training Center, Hiroshima Prison, Training Schools for Boys and Girls in Hiroshima and a halfway house, in addition to the texts of international standards for the treatment of offenders, especially the Mandela Rules, the Tokyo Rules, and the Bangkok Rules. The recommendations will be included in this paper, and before presenting those recommendations, I will begin by defining terms.

### **Definitions<sup>1</sup>**

- Rehabilitation can be defined as: “the result of a process that combines the correction of offending behaviour, human development and the promotion of social responsibility and values. It is a desired outcome of processes that involve both departmental responsibilities of Government and social responsibilities of the nation.”
- “Reintegration reflects the ability of an ex-prisoner to function in society (and family, place of employment, etc.) and manage situations by means of his or her decision-making and behaviour, in such a manner that avoids risk and further conflict with the law.”

From these two definitions, it is possible to distinguish the elements or steps that must be taken in any prison system to reach the goals of rehabilitation and reintegration.

## **III. STEPS TOWARDS REHABILITATION AND REINTEGRATION**

It is difficult, in fact, to enumerate all the procedures leading to the rehabilitation and reintegration of offenders into society, but we can distinguish between four main categories of these procedures: 1. resorting to non-custodial measures; 2. promoting a rehabilitative environment in correctional facilities; 3. promoting a rehabilitative environment in the community; and 4. promoting multistakeholder partnerships.

### **A. Resort to Non-custodial Measures as Much as Possible**

It is known that the longer a person is detained, the more difficult it is to reintegrate him or her into

<sup>1</sup> Muntingh, L (2005), “Offender Rehabilitation and Reintegration”, Research Paper, n. 10. CSPRI, Capetown, South Africa, pp. 6-8. Available online at: [https://repository.uwc.ac.za/bitstream/handle/10566/5097/Muntingh\\_Offender%20rehabilitation%20and%20reintegration\\_research%20paper%20no.%2010%20%282005%29.pdf?sequence=1&isAllowed=y](https://repository.uwc.ac.za/bitstream/handle/10566/5097/Muntingh_Offender%20rehabilitation%20and%20reintegration_research%20paper%20no.%2010%20%282005%29.pdf?sequence=1&isAllowed=y)

society. Therefore, most laws provide the criminal justice authorities with several options to choose what is appropriate for the accused person and the circumstances of the case.

There are many of these options in Mauritanian laws, but what we need is to develop a criminal policy that aims to restore the effects of the crime rather than simply putting the perpetrator in prison. I can mention here some examples of these measures that are either present in Mauritanian laws or can be taken from an international instrument, and we need to apply these measures in reality:

1. **Mediation and Fines (Arts. 41 and 42, Code of Criminal Procedure)**

This procedure is used to settle the dispute between the offender and the victim in misdemeanour crimes, and the case will be closed after the offender pays a fine. This option is not available for adults, except before the Public Prosecutor. As for juvenile cases, it is available at all stages of the case, even after the ruling is issued.

2. **Temporary Release (Articles 138, 142, 144, and 148, CCP<sup>2</sup>; Art. 11, Code of Criminal Protection of the Child)**

At every stage of the case, the accused can request temporary release pending his or her trial. In fact, misdemeanour perpetrators are often released after settling the victim's rights.

3. **Judicial Monitoring (Art. 123, CCP)**

Although the law stipulates dozens of procedures to achieve this oversight, judges often resort only to those related to preventing the accused from leaving the court's administrative circle, providing bail, and guarantying the presence of the accused.

4. **Conditional Suspended Punishment (Arts. 324, 658, 659, CCP; Arts. 170 and 171, CCPC<sup>3</sup>)**

The purpose of the conditions imposed on the accused in exchange for stopping his or her sentence is mostly to rehabilitate him or her.

5. **Medical Treatment for Drug Addicts (ANL<sup>4</sup>)**

The Anti-Narcotics Law obliges the criminal authorities to refer the accused to a specialist doctor for treatment, but this does not often happen in reality.

6. **Ban from Appearing in Some Areas (Art. 38, PC)**

The judge can ban the accused from being present in certain places for a period of time, if this prevents new crimes and helps with the rehabilitation of the accused.

7. **Parole (CCP)**

The law allows the Minister of Justice to release a misdemeanour convict who has completed half of his or her sentence and no violation of the prison system has been recorded against him or her. The powers of the Minister of Justice in parole procedures are based on his position as head of the Public Prosecution, which is entrusted with the task of implementing penalties in Mauritania.

8. **Juvenile Rehabilitation Programmes (Arts. 122 and 131, CCPC)**

The law allows juvenile justice authorities to resort to several options for rehabilitating juvenile offenders, including placing them in a safe environment, which are often the semi-open rehabilitation centres.

9. **Pardon**

It is within the powers of the President of the Republic (special pardon) and the Parliament (general pardon), and only those convicted of non-serious crimes usually benefit from pardons. It would be better here to adopt the Japanese special pardon practice, by establishing a specialized committee to decide on pardon requests, after subjecting the requester to a rehabilitation programme.<sup>5</sup>

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<sup>2</sup> Code of Criminal Procedures

<sup>3</sup> Code of Criminal Protection of the Child

<sup>4</sup> Anti-Narcotics Law

<sup>5</sup> Articles 12 & 13 of the Japanese Pardons Act (Act No. 20 of March 28, 1947). The reference available online at: <https://>

**10. Adherence to What is Stated in the International Standards and Norms on Non-custodial Measures**

These standards and norms include the Tokyo Rules and the Bangkok Rules for women offenders.

**B. Promote a Rehabilitative Environment in Correctional Facilities<sup>6</sup>**

The first condition for rehabilitating inmates is to create the appropriate environment, which is done by:

**1. Humane Treatment (Rules 1, 2 and 3, NMR<sup>7</sup>)**

Although this treatment is a basic right for inmates and one of the minimum rules for their treatment, we must remember its importance in the field of rehabilitation, because good treatment raises the inmate's level of self-esteem and others and builds a bridge of trust between him and the authorities, and therefore, increases his or her ability to acquire knowledge and understand skills.

**2. Establishing and Implementing Effective Rehabilitative Programmes (Rule 4, NMR)**

The authorities should offer permanent access to educational, vocational and practical programmes in addition to the activities of a remedial, moral, spiritual, social and health – and sport – based nature.<sup>8</sup>

**3. Raising Awareness among Inmates and Staff**

About the rights and duties in a way that will protect security, safety and human rights and will guarantee a good environment for rehabilitation.

**4. Classifying Inmates**

Classification should include the question about what kind of programmes and methods of approach will fit the inmate, and this will save time and material efforts and will accelerate the rehabilitation.

**5. Minimize any Differences between Prison Life and Life at Liberty (Rule 5, NMR)**

This will at the end facilitate the inmate's reintegration in a normal social life after release, and we can achieve this minimization by respecting the UN minimum standard rules for the treatment of prisoners (NMR).

**C. Promote a Rehabilitative Environment in the Community**

The correction system cannot stand on the efforts of authorities without social support, and the Japanese justice system is clear proof of how important the role of the community is in the treatment of offenders and crime prevention. Although societies differ in terms of characteristics and cultures, the ideas remain human ideas that are adaptable to many societies, even if their applications vary from one society to another. In general, I have concluded in recent weeks that the Mauritanian society should be involved in prisoner rehabilitation procedures, in a way that guarantees its presence at all stages of procedures. There is no doubt, that the reasons for the failure of previous rehabilitation systems, especially for children, include the absence of any significant community presence in the correctional process. The community's presence in the prisoner's corrective process can be achieved by preparing a social environment capable of reforming the offender's behaviour through:

**1. Use of the Mediation Mechanism to Settle the Rights of Victims**

It has been said earlier in this paper that mediation is a legal measure under Mauritanian law to avoid the consequences of accusation and punishment, and the best way to apply such measure is through social means, as the Mauritanian society still recognizes the value of family and social ties. Therefore, the authorities should benefit from this fact and mobilize social forces to intervene in the efforts of mediation in order to end many cases before the courts.

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[www.japaneselawtranslation.go.jp/en/laws/view/3201/en#je\\_at4](http://www.japaneselawtranslation.go.jp/en/laws/view/3201/en#je_at4)

<sup>6</sup> Online titles and ideas of this step and the steps III and IV are collected from the Kyoto Declaration (articles from 37 to 40); Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, March 2021, Kyoto, Japan, Published by UNODC, Vienna, Austria, 2021, p. 7.

<sup>7</sup> The United Nations Standards Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

<sup>8</sup> Rule 4, NMR.

**2. Raise Awareness of the Importance of the Public Acceptance of Offenders**

The social view towards inmates in general is still a tough obstacle in terms of reintegration, and the only solution is to take all possible means to inform the public about the rights of prisoners and the best practices for their treatment. There should be a mechanism (a radio programme or a Facebook page by the prison administration) that can bring the voices of prisoners outside the walls of the cell to talk about their experiences and express their wishes for their society and for their country, and this may narrow the gap between them and the society.

**3. Active Involvement of Local Communities**

The prison should not be an island closed to the community. There should be active interaction with the neighbouring communities as the rehabilitation programme should pay attention to the local means and needs for any productive projects. Also, the teachers, educators, imams and social assistants should be from the locality.

**4. Ensuring Access of Goods Manufactured in Prison to the Local Market**

This is in order to help the inmate to see the results of the rehabilitation programmes in the short term and to narrow the gap between the prison's programmes and the society.

**5. Reduce the Impact of Imprisonment on Inmates' Families**

The life of these families is destroyed when one of their parents is deprived of liberty. There should be a way to provide them with financial aid from an account of the rehabilitation programme.

**6. Allocate Prisoners to Prisons Close to Their Homes or Their Places of Social Rehabilitation (Rule 59, NMR)**

This rule aims to facilitate the reintegration of the offender to his or her normal life.

**D. Promote Multistakeholder Partnerships to Reduce Reoffending**

It is clear that any process that has a variety of aspects will not succeed without the contributions of all actors in these aspects, and rehabilitation is not an exception from this rule; thus, we should mobilize all the efforts by taking the following steps:

**1. Intensify the Efforts of the Prison's Monitoring Committee**

The composition of this committee was stipulated in Articles 15 and 16 of Decree No. 98-078 regulating the management of prison and correctional institutions. It is under the chairmanship of the governor of the region or the governor of the district, and its members include: the prosecutor, the director of the prison institution, the investigating judge, and the heads of the regional departments of the education and health sectors, the Commander of the National Guard Division, prison warden, and three national figures chosen by the county mayor based on their efforts to reform and reintegrate offenders. Article 17 of the same decree stipulates that the committee meets every six months and may visit the prison to monitor its conditions. It may also delegate one of its members to visit the prison in the period between meetings; however, the meetings of this committee are rare, so the law should be amended, in light of the restructuring of the prison administration, so that the chairmanship of the committee can be assigned to a representative of the prison administration in order to carry out its tasks in a flexible way, away from bureaucracy. It is necessary for this committee to supervise the rehabilitation programmes.

**2. Intensify Coordination between Government Agencies Concerned with Prisons**

Article 25 of Decree 078-98 stipulates that the Minister of Justice, the Minister of the Interior, the Minister of Finance, the Minister of Education, the Minister of Health and Social Affairs, the Minister of Labor, Youth and Sports, and the Minister of Culture and Islamic Guidance are each responsible for implementing this decree. Prison institutions are not an issue that concerns the Ministry of Justice or the Ministry of Interior alone. Rather, the responsibility for taking care of it falls on the entire public sector related to the needs and care of prison inmates.<sup>9</sup> However, the level of coordination between these bodies is not at the level of their mandates; therefore, they should increase their efforts of

<sup>9</sup> BABA, Mulya Abdullah. (August, 2023) a lecture on "The International Standards of the Prisoners' Protection". During a workshop held in Kiffa, Mauritania. The lecturer has been the General Director of Prisons in Mauritania since June 2016.

coordination.

**3. Establish Good Relations between Prison Authorities and the Inmates' Families for the Purpose of Rehabilitation**

This step is very important because it helps implement Rule 5 of the NMR regarding the minimization of the differences between life inside and outside prison.

**4. Establish Good Relations with the National Mechanism for Prison Oversight, to Share Ideas and Practices for Rehabilitation**

Through their work in inspecting prisons, these bodies will become aware of the need for rehabilitation programmes, and their knowledge of the conditions of inmates allows them to know which programmes are beneficial to them.

**5. Establish a Local Council for Rehabilitation**

This may include educators, medical experts, imams, businessmen and social experts, to discuss the best methods for rehabilitation and present recommendations to the authorities. This council or board will inform the prison administration about the skills and knowledge needed in the local market, and will coordinate with national NGOs to provide support for inmates.

**6. Strengthening Links with the United Nations Crime Prevention and Criminal Justice Programme Network**

By strengthening links with Programme Network Institutes (PNI), such as UNAFEI, criminal justice practitioners can learn and be updated about the good practices of the treatment of offenders. These think tanks in criminal justice are very important because of their research, studies and training programmes; therefore, the governments should have close ties with them.

## IV. CONCLUSION

Establishing programmes for rehabilitation and reintegration of offenders is not an option. It is one of the minimum international standards for the treatment of prisoners and deeply related to essential human rights. Therefore, the authorities cannot invoke the lack of means because in all cases they can provide programmes with the simplest means and can cooperate with stakeholders, and they cannot invoke security concerns because rehabilitation programmes fall within the context of procedural security and their results are beneficial to security and safety.

All that remains is the will, and the Mauritanian authorities are embarking on new directions that will achieve important progress in the field of reforming the justice system in general and the prison system in particular, in the context of implementing the *National Document on Justice Reform*. Therefore, I will seize the opportunity and submit the recommendations mentioned in this paper to the newly restructured Administration of Prisons, with the expectation that the rehabilitative policy will:

1. Reduce recidivism (permanent solution);
2. Reduce overcrowding in the prisons;
3. Strengthen social harmony;
4. Reinforce confidence in the justice system;
5. Provide better living conditions for society;
6. Impose staff training;
7. Build trust between the authorities and society;

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8. Put correctional institutions on the path to development and productivity instead of being merely costly to public funds;
9. Ensure transparency within prisons;
10. Increase awareness of duties and rights among staff and prisoners.

These great impacts on the prison system will, in short, create a productive and effective system which will be able to achieve the balance between the security of society and the rights of prisoners.