



Initiative to Address the Life Cycle of Radicalization to Violence

Addendum to the Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders

Introduction

At the Sixth Ministerial Plenary Meeting in New York on 27 September 2015, Global Counterterrorism Forum (GCTF) Ministers endorsed the launch of the GCTF's *Initiative to Address the Life Cycle of Radicalization to Violence (Life Cycle Initiative)*. As part of this new initiative, the GCTF's Criminal Justice and Rule of Law (CJ-ROL) Working Group, together with the Detention and Reintegration (DR) Working Group, were tasked with developing an Addendum to the GCTF's *Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders (Rome Memorandum)*¹ that would highlight good practices concerning legal considerations regarding rehabilitation and reintegration efforts.²

Specifically, there was a recognition that significant efforts had been done over the past few years to raise the awareness of the importance of rehabilitation and reintegration as a part of States' efforts to address radicalization to violence; however, there has not been enough attention paid to ensuring that States have the appropriate laws, codes, statutes and/or implementing regulations in place to implement these types of programs. In recognition of this critical gap, the CJ-ROL and DR Working Groups, in conjunction with the United Nations Interregional Crime and Justice Research Institute (UNICRI), convened a meeting of practitioners, held in Turin, Italy, on 23 May 2016, to discuss issues regarding the legal frameworks³ needed to support the rehabilitation and reintegration of "foreign terrorist fighters" (FTFs) and other violent extremist offenders (VEOs) in custodial and non-custodial settings. This Addendum is informed by the findings and conclusions from this meeting of practitioners.

The rehabilitation and reintegration of FTFs and VEOs is a critical component of a multi-pronged approach to combating terrorism and countering violent extremism; if done correctly, it can reduce recidivism. In order to establish and implement an array of rehabilitative and reintegration services and programs, however, an effective legal framework is needed. States' laws, statutes, codes, and regulations can provide the legal authority to conduct these types of programs. Furthermore, an effective legal framework regarding rehabilitation and reintegration may ensure proper implementation of rehabilitation and reintegration services for offenders and give correctional staff legal parameters for the implementation of these types of programs, and aid in a multi-agency approach.

¹ See the GCTF's [Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders](#) (*Rome Memorandum*).

² This Addendum complements the two addenda on the [Rome Memorandum, *ibid.*](#), that have already been produced: *Additional Guidance on the Role of Psychologists/Psychology in Rehabilitation and Reintegration Programs* (International Centre for Counter-Terrorism (ICCT) and *Hedayah*, 2013); and *Additional Guidance on the Role of Religious Scholars and other Ideological Experts in Rehabilitation and Reintegration Programs* (UNICRI, 2013).

³ For the purposes of this Addendum, legal frameworks refer to a State's constitution, legislation, procedural codes, and regulations.

The GCTF's *The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon (The Hague-Marrakech Memorandum)*⁴ and the *Rome Memorandum* stress that rehabilitation and reintegration efforts should include a number of different stakeholders to be effective. In order to involve a broad range of government and non-governmental actors, including, but not limited to, psychologists, counselors, religious scholars, relevant family members, and local community leaders, States may need to develop or amend their legal frameworks to allow for different actors to participate in the rehabilitative and re-entry process. Also, rehabilitation and reintegration efforts can often take place as part of an alternative to prosecution (such as diversion) or an alternative to incarceration (such as probation) whereby an individual participates in intensive counseling and judicial supervision. States may consider the possibility of reviewing or developing laws regarding the use and implementation of alternative sentencing measures to include language that will allow for effective rehabilitation and reintegration efforts.

While existing GCTF documents emphasize the importance of rehabilitation and reintegration efforts and showcase the various components needed to develop and implement successful programs, there is not specific guidance regarding the need to review and potentially update a State's legal framework. The need for such guidance has been underscored in several GCTF workshops and meetings on this topic whereby some States have noted that they would like to support these types of programs but are prohibited by their existing legal framework. Therefore, the non-binding good practices highlighted below are meant to inform States that are looking to develop or refine their rehabilitation and reintegration programs and policies. It should be noted that the implementation of these practices must be consistent with applicable international law, as well as national law and regulations, taking into account the varied histories, cultures, and legal systems among different States.

Finally, this effort regarding the legal frameworks for rehabilitation and reintegration is just one facet of the *Life Cycle Initiative*. Some of the other efforts within this initiative focus on highlighting effective programs and policies to counter recruiters and facilitators, addressing juvenile justice within a counterterrorism context, showcasing the role of families in addressing radicalization to violence, and developing recommendations on the appropriate use of alternative measures for certain terrorism-related offenses⁵. While this Addendum is meant to be a companion piece to the *Rome Memorandum*, it should also be viewed in conjunction with other GCTF documents⁶ in order to have a comprehensive approach to incorporating rehabilitation and reintegration into overarching counterterrorism strategies, policies, and programs.

⁴ The *Addendum to the GCTF's [The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon](#) (The Hague-Marrakech Memorandum)* also discusses, among other issues, specific considerations regarding the development of comprehensive reintegration programs for returning FTFs.

⁵ For further information on the *Life Cycle Initiative*, and tools contained therein, see the GCTF website, www.thegctf.org.

⁶ These GCTF documents include, among others, [The Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon](#), and its *Addendum*, the [Ankara Memorandum on Good Practices for a Multi-Sectoral Approach to Countering Violent Extremism](#), the [Plan of Action on for Identifying and Countering Terrorist Recruiters and Facilitators](#), the [Neuchâtel Memorandum on Juvenile Justice in the Counterterrorism Context](#), and [Recommendations on the Effective Use of Appropriate Alternative Measures for Terrorism-Related Offenses](#).

Good Practices

Good Practice 1: States should have appropriate legal frameworks pertaining to rehabilitation and reintegration efforts in their national legislation and procedural codes that are consistent with international law, standards, and norms.

There are a number of international instruments as well as standards and norms that highlight the importance of rehabilitating and reintegrating offenders. If States are developing new legislation or reviewing existing legislation in this field, they may want to consult these documents as a starting point for guidance. For instance, Article 10, paragraph 3 of the *International Covenant on Civil and Political Rights* states that “the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation”.⁷ Furthermore, the *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)*, which provide comprehensive guidelines on the management of prisoners, includes specific references to the requirement for a legal authority or legal framework to underpin policies.⁸ In addition, *the Mandela Rules* note the importance of rehabilitation and reintegration. For example, *Mandela Rule 107* notes “[f]rom the beginning of a prisoner’s sentence, consideration shall be given to his or her future after release and he or she shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner’s rehabilitation and the best interests of his or her family”.⁹

For those outside of a custodial setting, the *United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules)* also highlight the importance of legal frameworks by noting in rule 3.1 that “[t]he introduction, definition and application of non-custodial measures shall be prescribed by law”.¹⁰ In addition, *the Tokyo Rules* call for States to develop and operate a wide range of sentencing alternatives in order to assist offenders in their early reintegration into society. While international instruments, and international as well as regional norms and standards, can provide baseline guidance on rehabilitation and reintegration efforts, it is vitally important that legal frameworks for rehabilitation and reintegration are embedded in national legislation.

Good Practice 2: States should ensure that their legal frameworks allow for targeted and tailored rehabilitation and reintegration efforts for special categories of individuals.

There are certain categories of offenders who may have different rehabilitative and reintegration needs. Therefore, States should ensure that their legal framework allows for tailored approaches for particular categories of offenders such as juveniles, individuals suffering from diminished mental capacity or cognitive deficits, women, and foreigners. In regards to juveniles, there are a number of United Nations’ standards and norms in crime prevention and criminal justice that may provide some overarching guidance on rehabilitation and reintegration policies and procedures. For instance, there are the *United Nations Standard Minimum Rules for the*

⁷ General Assembly Resolution 2200 A (XXI), annex (16 December 1966).

⁸ General Assembly Resolution A/RES/70/175 (17 December 2015). It should be noted that while *the Mandela Rules* references the need for laws to underpin policies and procedures, there is not a direct requirement for rehabilitation but rather it highlights the importance of rehabilitation and reintegration.

⁹ *Ibid.*

¹⁰ General Assembly Resolution A/RES/ 45/110 (14 December 1990).

*Administration of Juvenile Justice (the Beijing Rules)*¹¹, the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules)*¹², the *United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines)*¹³ and the *United Nations Guidelines for Action on Children in the Criminal Justice System*¹⁴. These documents emphasize the need for a variety of different services and facilities designed to meet the different needs of young offenders re-entering the community. Depending on national laws and practice, States may consider the possibility of reviewing their laws and regulations to determine if there are adequate allowances for rehabilitation and reintegrating juveniles.

The *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)*¹⁵ recognize the specific conditions and needs of women prisoners. Specifically, these rules call for “prison authorities, in cooperation with probation and/or social welfare services, local community groups and non-governmental organizations, shall design and implement comprehensive pre- and post-release reintegration programs which take into account the gender-specific needs of women”.¹⁶ *The Bangkok Rules* also pinpoint the use of relevant bilateral or multilateral agreements to transfer non-resident, foreign-national women prisoners to their home country. This approach dovetails with the need to conduct an overall review of a State’s laws and international agreements regarding the transfer of offenders, which may have an impact on rehabilitation and reintegration efforts. There are a host of questions and issues surrounding the rehabilitation and reintegration of foreign-national prisoners. For example, States may need to consider how they want to handle rehabilitation and reintegration if an offender will be deported upon having served their sentence. It is important to address these types of issues from the outset so that the appropriate legal frameworks are in place for proper treatment of these individuals.

Good Practice 3: States should review existing legal frameworks to ensure that roles and jurisdictional responsibilities are clearly defined in order to allow for an effective, integrated multi-stakeholder approach to rehabilitation and reintegration.

Good Practice 7 of the GCTF’s *Rome Memorandum* states that “[r]ehabilitation programs could incorporate a broad range of cross-disciplinary experts, with close coordination among the relevant departments and personnel involved”.¹⁷ Since effective rehabilitation and reintegration efforts often rely on a multitude of different actors and institutions, a State’s legal frameworks should clearly identify the objectives of the rehabilitation and reintegration efforts being conducted within the criminal justice system. Furthermore, the legal frameworks should define jurisdictional responsibilities, articulate requirements and responsibilities of governmental agencies, and encourage collaboration among criminal justice, health and human services, and other relevant government and non-governmental agencies.

¹¹ General Assembly Resolution A/RES/40/33 (29 November 1985).

¹² General Assembly Resolution A/RES/45/113 (14 December 1990).

¹³ General Assembly Resolution A/RES/45/112 (14 December 1990).

¹⁴ Economic and Social Council Resolution 1997/30 (21 July 1997).

¹⁵ General Assembly Resolution A/RES/65/229 (21 December 2010).

¹⁶ *Ibid* at Rule 46.

¹⁷ *Supra* note 1.

Good Practice 4: States should seek to incorporate into their legal framework language regarding incentives and sanctions for participating in rehabilitation and reintegration efforts.

Good Practice 19 of the GCTF's *Rome Memorandum* notes that "States could consider the use of incentives for inmates participating in rehabilitation programs, as appropriate".¹⁸ Correctional literature observes that motivation to change is an important precursor to disengagement and treatment success. Even in cases where individuals are placed in involuntary treatment programs as part of their sentence, incentives can assist in engaging and motivating offenders once in the program. States also should address any consequences for non-compliance with the conditions of a rehabilitation or reintegration program. Sanctions should be proportional to the infraction. Incentives and sanctions should have a legal foundation, be clearly described, and have a nexus to the offender's rehabilitation.

Good Practice 5: States should consider their legal framework for protective and security measures when it considers appropriate reintegration strategies and programs for rehabilitated FTFs and VEOs.

Since some rehabilitated terrorists may be at risk of retaliation when transitioning back into society, States should consider their legal options to provide protection to a rehabilitated FTF or VEO or an individual who has renounced his or her affiliation with a terrorist organization. States may need to address the safety of an offender while in a custodial setting and undertake efforts to separate the individual from other terrorist inmates. Also, States should consider their legal frameworks to offer protection to such offenders as they seek to re-enter society.

Good Practice 6: States should develop or update clear operating policies and procedures for correctional facilities that include information regarding rehabilitation and reintegration contained in international standards and norms as well as in their legal frameworks.

In addition to making sure that a range of different laws, statutes, codes, and/or regulations allow for the implementation of rehabilitation and reintegration programs, it is important to have this information incorporated in prison operation manuals, internal policies and procedures, and correctional training curriculum. As these internal manuals and policy documents provide instructions to employees on the day-to-day activities relating to managing a prison, inserting specific references to international and domestic legislation regarding rehabilitation and reintegration may increase staff familiarity with this information and thereby bolster the likelihood for proper implementation.

¹⁸ *Supra* note 1.

Conclusion

There is broad consensus that rehabilitation and reintegration efforts should not follow a one-size-fits-all approach. These efforts need to be based on clearly articulated objectives with clear outcomes. A key element to developing effective and comprehensive rehabilitation and reintegration programs and policies is having the appropriate legal framework in place that gives States the flexibility they need to develop efforts to address the specific issues they are facing with FTFs and VEOs. Given the cross-cutting and multi-disciplinary nature of rehabilitation and reintegration efforts, States should review their laws and procedural codes to ensure that they have the legal authority to conduct the types of rehabilitation and reintegration efforts that they deem to be the most useful and impactful.