

SPECIAL REMISSION OF SENTENCES

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INTRODUCTION

1. The National Network on Reducing Re-offending (NRR) is a network of like-minded organizations and individuals who are committed to the reduction of re-offending in South Africa. Key focus areas of the network are knowledge building, advocacy and lobbying and promoting quality offender reintegration services. NICRO, CSPRI, VEZOKUHLE, PHOENIX ZULU-LAND, THE RESTOARTIVE JUSTICE CENTRE, REALISTIC, FOCODI, OPEN, AND YOUNG IN PRISON(SA), are members of the driver group of the network. The Network on Reducing Re-offending, adopts an inclusive approach to strategies, and is committed to promote the use of well co-ordinated, effective interventions to reduce re-offending.
2. On the 19th of July 2012 the NRR met for their third meeting, in Cape Town. As a Network committed to preventing re-offending, we were concerned by the approach that was taken by Presidency and Department of Correctional Services in the SURPRISE special remission release process that took place from April to May this year.
3. It was at this meeting that challenges that organizations were experiencing with the special remissions process was discussed at length. It was decided that a submission be sent to the Portfolio Committee on Correctional Services on our grave concerns regarding the recent Special Remission of sentences process.
4. As a Network we would like to draw to the attention of the Committee the lack of consultation with the public regarding the feasibility and consequences of such a release strategy, particularly our perceptions that poor consideration was given to the risks for victims and communities, as well as to share with the Committee some of the challenges the network member organizations

experienced in the process of our contact with inmates and their families(pre-and post release), including the consequences of poor preparation and inadequate/no rehabilitation.

5. As we are all aware, from media reports, several inmates (more than 47, and still rising) who were released on the Special Remission of sentence process are already back in prison, some of whom have committed serious crimes, including murder and rape. Estimates predict that approximately 50% of the offenders released through this special remission process will be back behind bars within the next few years, after having consumed additional taxpayer funds through new trials and incarceration.
6. President Jacob Zuma's special remission was awarded to 37 783 offenders. Though government spokespersons mention the purpose of the remission as being to relieving overcrowding, thus freeing up much-needed prison resources for rehabilitation and others mention it is done in the spirit of freedom, we were concerned either way, as whatever its true purpose, it failed to prevent re-offending, or in facilitating effective reintegration, and ultimately in preventing prison overcrowding or bringing about a "spirit of freedom.
7. There is no debate that our prisons are overcrowded. A large proportion of inmates are awaiting trial detainees – people who have not yet been sentenced. Early release of sentenced offenders will do nothing to reduce overcrowding amongst un-sentenced offenders.
8. Furthermore, the shortage of reintegration services in prison is not caused by overcrowding – it is caused by a shortage of skilled professionals. There are approximately 488 social workers and 55 psychologists available in the prison system. Releasing offenders does not make for more social workers or psychologists.
9. Last year, only 4 389 prisoners accessed literacy education, and only 5 036 prisoners accessed skills development, out of a total of over 112 000 sentenced offenders. Only 1 693 are put to work daily in the production workshops. The rest simply spend their days eating and sleeping, costing the taxpayer R243, according to the Inspecting Judge of Prisons.
10. As a Network we strongly support that there is no need to release large numbers of offenders into the communities without adequate consultation and preparation, for whatever reason.

PRACTICAL CHALLENGES

11. When the announcement was made civil society was concerned that most of the offenders who will form part of the early release initiative will be unemployed and uneducated. They are likely to have a history of substance abuse and possibly addiction. They will be released after a hurried pre-release programme and be left to make shift for themselves, in communities that do not trust them and with families that cannot support them. There will be more harm to more victims. And these are exactly the challenges we uncovered.
12. According to news reports the alleged offenders, when asked why they committed the crimes so soon after their release, blamed boredom, homelessness, hunger, poverty, drug addiction and unemployment. The problem goes further as some committed crime to feed their families, stealing food or even intentionally committing crime so that they can be sent back to prison.
13. The experiences of the organizations of the network have been that the risks were not well thought through, the process disorganized, rushed and both inmates and families were not mentally or practically prepared for the challenges that the release of offenders back into their communities present. These are all signs of a lack of preparation, failed reintegration, lack of aftercare support and community and family involvement.
14. **NICRO Mpumalanga** stated that there was no clear communication from DCS officials regarding individual offenders that will be released on early remission or transferred to other Correctional Facilities. Further the remission process disrupted reintegration programmes already running in correctional facilities. **NICRO** staff for instance would start a reintegration programme (TEP) with a group of 20 offenders and within a few weeks end up only having one to perhaps six people left, without prior notification. Some of the offenders themselves complained about the fact that they did not have the opportunity to complete the programme.
15. Additionally, **NICRO's** experience, as reported by **NICRO Limpopo** was that some of the offenders were not welcomed by their families as they become burdens, depending on families, most of them impoverished, for financial support, food and clothing. This becomes a very serious challenge to both the offenders and family members. A proposal from a **NICRO** worker in Limpopo was that before consideration of another special remission, the government should

have a Road Show to engage with communities and hear their points of view as well as explain their intentions rather than “just dropping a bomb”.

16. **FOCODI** argued that, despite the guidelines that suggest that facilitation of support for inmates should have been done, families were not prepared. There were inmates released who were homeless, others were released far away from the communities they live in, and given R40 to find their way home.
17. Further the guidelines make reference to ‘the facilitation of acquisition of support systems.’ According to international best practice families and good supportive systems are key factors in preventing recidivism, yet very little is done to strengthen families and equip them to play this part.
18. Further, **FOCODI** argued that such blanket releases causes fear in communities and among victims and families of returning offenders.
19. **NICRO** believes that for aftercare to be effective the pre-release reintegration programme is essential in understanding and getting buy-in regarding social work intervention. Without an initial rehabilitation programme there is no motivation for change; aftercare will therefore take the form of policing rather than supportive services. Due to no buy-in into the social work intervention, clients do not avail themselves for aftercare services following release, e.g. not providing correct contact details so that no follow-up can be done. There is therefore no opportunity to prevent the offender from re-committing crime.
20. **YIPSA**, were also presented with a number of young ex-inmates experiencing challenges. A particular case that came to mind was one inmate who was sentenced to 18 months in prison. He was released in the special remission release process after 18 days in prison. **YIPSA**’s concern was, as is ours as a network, that this young man did not receive rehabilitation opportunities in 18 days, and if rehabilitation did not happen, what prevents him from committing further crime and returning to prison? This can also be said to be true of the majority of the prison population.

21. **REALISTIC**, another member organization of the Network stated that an important part of a good preparation process was linking “the guys” who received skills training inside the facility with job opportunities on the outside. This was not done. Further inmates, when asked what they learned in the pre-release programmes, some could not even remember the content of the programme.
22. One of the biggest challenges that both the community and the offenders face is the lack of adequate and sufficient rehabilitation programs for all those in prison. Hence the majority of inmates are released without being rehabilitated. We are aware that the DCS cannot be regarded as one homogenous body, and we acknowledge that there is pockets of excellent work happening on the ground, and that there are some dedicated DCS personnel and CSO’s that are doing amazing work, HOWEVER the general trends show that there is grave challenges regarding rehabilitation in South African prisons.
23. Further, NICRO’s experience has been that we often underestimate the impact of institutionalization and incarceration on the psyche of the individual offender. NICRO is presently encountering many offenders with deep seated mental health and psychological trauma as a result of victimization in correctional facilities. Not to forget also the several heinous torture incidents reported to be occurring in our correctional facilities, which is a call for serious concern.
24. In any instances offenders are also released back into the same “circumstances” where factors were present that led them into a life of crime in the first place. Yes, we know that people have choices, but offenders are often not equipped to make the right choices. Rehabilitation programmes is a key factor to developing this ability. Further, we often underestimate the complexity of making the right choices, which in some instances implies that the offender leave their community or family, and start afresh or run the risk of being killed if he leaves a gang etc. We are concerned that if this critical part of reintegration is not addressed we will continue to read and notice the rise in reoffending cases.
25. We believe that it is time for the Department of Correctional Services and government to assign much needed budget priority to programs both within Correctional facilities as well as in communities that address the issue of rehabilitation and reintegration. Existing programs from

several civil society organisations that work with the youth and community members on prevention programs should also be supported.

26. We are aware that official guidelines were issued to the various Correctional facilities regarding the Special Remission process. Provisions applicable to offenders in correctional centres, was that compulsory pre-release assessment and pre-release programme (together with NGO's, CBO's and FBO's)—be a pre-requisite before conditional and unconditional release of offenders in order to assist with their reintegration into the community and to facilitate acquisition of support systems. Based on our experience, some offenders say they did not attend a pre-release programme, others have talked about rushed pre-release processes etc.
27. We are also aware that various NGO's, CBO's and FBO's were called in at short notice to render such programmes, which implies that there was no consistency regarding content and there was no guarantee of quality. As a network we are committed to ensuring quality services by NGO's and one of the objectives of the network is to develop standards for quality service delivery.
28. This then raises the issue of the Department's accreditation of civil society organizations, which is inconsistent. NICRO is still awaiting accreditation in the Western Cape to work in prisons, even though as an organization we have been working with prisons since 1910, without any compensation.
29. One of the gravest flaws in the process is the lack of adequate consultation with victims and civil society before the decision was made. According to Chandre Gould, this special remissions process represents yet another example where the state has failed to live up to its obligations in respect of victims. Chandre in her article, dated 29 June, 2012, argued that previously TRC reparations were never comprehensively made and few serious attempts have been made to prosecute perpetrators who either failed to apply for amnesty or who were refused amnesty. Victim groups had to approach the High Court to stop the President from granting pardons without consulting victims and interested parties. Following the ruling of the Constitutional Court in 2010 that victims had a right to be consulted. Victim groups have warned Zuma that any pardon issued on the back of such a flawed process would be irrational and in violation of the rule of law. Yet, once again the same mistake has been made? Surely this undermines governments commitment to support Victim Empowerment in the country?

WHAT ARE SOME OF THE PROPOSED SOLUTIONS?

1. Firstly, we would like to thank the committee for the initiative to review the Special remissions process to be held on the 8 August 2012, and hope to participate in the process. We are hopeful that this meeting would **critically examine the flaws in the process** of consultation with victims, communities, civil society organizations, and other government department, early and timeous preparation and who would qualify, as well as other lessons learnt to prevent the negative consequences of this process this from happening again. Consultation and dialogue is an important part of the policy debate.
2. Secondly, as a more long term vision we would like to propose a dedicated Portfolio Committee meeting that deliberates the content and merits of **developing a sustained, long-term and well-resourced strategy that addresses the rehabilitation and reintegration capacity of the Department of Correctional Services**. There are service providers in this country that have decades of experience in working with offenders, many of whom having been rendering quality services to offenders for many years, without compensation. Funding of these services must be considered in such a strategy.
3. Thirdly, there are proven and **reliable alternatives to prison**, which must be better utilized. NICRO, are among some of the organizations that offer diversion and non-custodial services. Since 2008, NICRO has established non-custodial service (NCS) for people serving sentences outside of prison with an 88% compliance rate. The most basic non-custodial service costs R4200 per offender, while the full service will average at about R15 000 per offender. It has cost the taxpayer much more than this for the average offender serving three months in prison (R21 870) without having accessed any programmes or reintegration services. Yet NICRO NCS services are under-utilized and under-funded by the South African state, despite ongoing efforts by NICRO to secure broad based government support. This renders government's commitment to reduce overcrowding and improve the reintegration of offenders back into society questionable. Alternatives to prison in the form of community-based behaviour change programmes and support services is a good place to start.
4. The Network we would like to reiterate the White Papers view that, "Corrections is a societal responsibility", and particularly motivate that all relevant departments, at a national,

provincial, including local government commit to jointly fund existing rehabilitation and reintegration services in and out of correctional facilities over the long-term. **The fragmented way in which government works needs to be addressed.**

5. The intensive involvement of government to **create jobs** as well as improved skills development programmes in correctional facilities, that are **linked to job creation opportunities on the outside** will assist ex-offenders to find honest jobs after being released.

6. We thank you for your attention and ask you to please deliberate over the concerns and proposed solutions presented.