A PENOLOGICAL STUDY OF THE ROLE OF NON-GOVERNMENTAL ORGANISATIONS IN THE REHABILITATION AND REINTEGRATION OF OFFENDERS

BY

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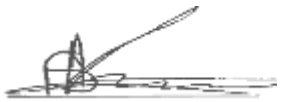
DECLARATION

Student number: **36865990 I, Aaron Labane** declare that **A penological study of the role of non-governmental organisations in the rehabilitation and reintegrationof offenders** is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.



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(Mr. A. Labane)

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ABSTRACT

TITLE : A penological study of the role of non-governmental organisations in the rehabilitation and reintegration of offenders

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The usage of non-governmental organizations (NGOs) in criminal justice can help to alleviate the problem of overburdening professionals like parole officials and probation officers. They can also help with a task that requires a high level of professional knowledge and competence in order to reduce the demands on professional people's time.

Department of Correctional Services must acknowledge the significant impact that an outside role player can make. The Department of Correctional Services must improve its capacities and rely on non-governmental entities to provide services due to its limited size. Several non-governmental organisations (NGOs) in South Africa work both inside and outside of correctional institutions with convicts, ex-offenders, and their families. The researcher discusses the role of non-governmental organizations (NGOs) in the rehabilitation and reintegration of offenders in South Africa and foreign correctional systems in three countries: Canada, the United States of America, and Namibia. In the rehabilitation and reintegration of offenders into penal systems, each country makes use of external role actors such as NGOs. Several correctional institutions rely on non-governmental organizations (NGOs) to support personnel in various programs for offender rehabilitation and reintegration.

The fact that the South African Department of Correctional Services does not place a strong emphasis on aspects such as reintegration to work, and that Non-Governmental Organizations play a decisive role in such matters, necessitated research into the role of non-governmental organizations in the criminal justice system. Effective reintegration programs are time-

consuming, expensive, and require skilled personnel. The White Paper on Corrections and the Correctional Services Act 111 of 1998 do not provide rules that educate policies that control the role of non-governmental organizations in rehabilitation programs so that all NGOs are aware of their responsibilities. Its open-door strategy does not help it gain additional funding from non-governmental organizations. There is no provision for non-governmental organizations (NGOs) with professional skills and their functions in the Department of Correctional Services, the professional society for NGOs in criminal justice, and so on. This study involved an extensive literature review that looked at the role of NGOs in the criminal justice system on a global and national level, as well as standards for the treatment of criminals and a variety of rehabilitation programs offered by NGOs.

KEY TERMS

Rehabilitation, Volunteers, Non-Governmental Organisation, Justice, Criminal, Crime, System, United Nations, Reintegration, Offender, Correctional Services, Correctional Services Act; White Paper on Corrections; and Treatment programmes.

TABLE OF CONTENTS

LIST OF FIGURES

LIST OF TABLES

LIST OF ANNEXURES

CHAPTER 1
THE RESEARCH

1.1 BACKGROUND TO THE STUDY

From 2000 to date, Non-Governmental Organisations (NGOs) have been progressively more regulated when implementing development programmes. In recent years, growing amounts of development resources have been channelled to and through NGOs in all sectors (Miller-Grandvaux, Welmond & Wolf, 2002: 1). According to Neser (1989: 289), NGOs as a concerned community must share the challenges and obligations of the criminal justice system. They can also contribute in performing tasks that require high professional knowledge and skills to alleviate the demands made on the time of professional people. NGOs such as the National Institute for Crime Prevention and Re-integration of Offenders (NIGRO) make use of volunteers to assist with community integrating of offenders and make a special contribution by improving the tasks performed by professional personnel (Neser, 1993: 394).

Nxumalo (2000: 16) mentions that during the 1990s, the criminal justice system came under public scrutiny and criticism which pointed to serious flaws in the criminal justice system, such as poor investigative procedures; unquestioned reliance on statements taken and data such as crime statistics provided by members of South African Police Services (SAPS); and oppressive interrogation by police officers. With regards to the prosecution component, there is a failure to disclose evidence by the prosecution. The court component fails to properly assess the weight of evidence and exhibits an unwillingness by the Appeals Court to admit that things have gone wrong. Additionally, courts are too lenient in instances when confessions have been excluded from evidence and the defendant has been acquitted, and the correctional component fails to deal with the offender as a human or disrespects offenders' rights.

Muntingh (2008: 1) stated that within the South African Correctional Services, there is a real and growing need for rehabilitation and reintegration of offenders. There are several NGOs in South Africa working both inside and outside of prisons with offenders, ex-offenders and their families

such as Promised Land, NIGRO, Alpha and Khulisa. Some external religious programmes use the opportunity to perform Christian missionary work while they assist offenders. These Organisations offer services generally aimed at supporting and promoting offender rehabilitation through some treatment programmes in an attempt to reduce the chance of offenders reoffending. Unfortunately, the type of services and activities that these NGOs are involved in have not been recorded or documented on a national level.

This study will examine how NGOs operate in criminal justice systems internationally and within South Africa, and describe their impact on criminal justice components. This will be accomplished by researching relevant regulations, such as the United Nations principles and guidelines on assessing legal aid in the criminal justice system, and of the role played by NGOs in maintaining order through preventing and controlling crime. The criminal justice system has to consider that crime affects every person in society, and it needs to recognise the significant impact that NGOs can make in assisting in combating crime and the rehabilitation of offenders. For criminal justice to be effective, the NGOs (community) must be at the centre of maintaining order by preventing and controlling crime as well as the rehabilitation process (Du Preez & Luyt, 2004: 156).

This chapter is aimed at indicating how the research will be undertaken, and all the designs and methods to be used will be outlined. The background to the research, the motivation that led to the formulation of the problem statement and research questions will be outlined. The following section will further address the statement of the research problem.

1.2 PROBLEM STATEMENT

The responsibility of a criminal justice system is to ensure that it has the authority to maintain order in a free society by means of preventing crime from happening by apprehending, prosecuting, convicting, and punishing offenders to take full responsibility for their actions (Muthaphuli, 2012: 25). Different components of the system perform specific functions to realise the relevant objectives (Du Preez, 2002: 24; Luyt, 1999: 6). Criminal justice on its own cannot

be effective if it is solely responsible for maintaining order in a free society. Therefore, it must recognise the significant involvement that external role players, such as Non-Governmental Organisations can make (Du Preez & Luyt, 2004: 156). Nxumalo (2002: 3) also mentioned that criminal justice should involve the community in dealing with issues such as crime and social problems.

According to the White Paper on Corrections Section 4.2.4 (South African Department of Correctional Services, 2005b), rehabilitation is best-facilitated through a holistic correctional sentence planning process that engages the offender at all levels of functioning, including social, moral spiritual and physical levels. If the correctional environment is not conducive to offenders' mental growth and social development, recidivism is likely, and the community's safety may be jeopardized because of the lack of identification of the offenders' needs (educational, psychological), and rehabilitative process may also be threatened because of the lack of professionalism among prison staff members (Kheswa & Lobi, 2014: 211-212).

Governmental changes have brought about a change in funding policies, resulting in less money being channelled into the criminal justice system.

According to Nxumalo (2013), the problems experienced by Non-Governmental Organisations (NGOs) in their effort to play a meaningful role in the rehabilitation of offenders concerning the Department of Correctional Services are as follows:

- For an NGO to obtain the acknowledgement to operate in the Department of Correctional Services, one has to undergo a very stringent process which includes the quality assurance of study material by the relevant QA-Committee.
- It is the responsibility of NGOs to give the impression of being financially supported by someone else for it to deliver any services in the Department of Correctional Services, including rehabilitation programmes.
- Overcrowding and lack of infrastructure to support rehabilitation in South African correctional facilities is another reality.

- Training of correctional official personnel to operate as rehabilitators of offenders is still a challenge to date.
- Lack of interest on the side of offenders to participate in rehabilitation programmes is also another challenge, since no offender may be forced to participate in any programme for far.

Nxumalo's statement was also supported by the Deputy Minister of Correctional Services, Hlegiwe Mkhise in the 2009 budget speech, who listed the challenges facing the department as:

- overcrowding;
- the ill-preparedness of officials to be caretakers of rehabilitation programmes;
- the high levels of illiteracy amongst offenders;
- the diminishing spirit of Ubuntu (Mkhize, 2009).

Muntingh (2008: 14) mentioned that the South African Department of Correctional Services does not have a strong focus on aspects such as reintegration to work and that Non-Governmental Organisations play a decisive role when it comes to such matters, given that effective reintegration programmes are time-consuming, expensive and require skilled personnel. Even if these stumbling blocks are overcome, the programmes may still only deliver fairly reasonable results. On a national level, none of the services and performance of Non-Governmental Organisation (NGOs) has been acknowledged (Muntingh, 2008: 1).

Although the Department of Correctional Services, as part of the correctional component that is charged with the function of executing the punishment imposed and, as part thereof, with treating the offender with a view to the positive modification of his or her behaviour (Du Preez, 2002: 24; Luyt, 1999: 6), acknowledge the significance of external role players such as Non-Governmental Organisations in participating in the rehabilitation of offenders and also drafted a community participation policy that outlines the guidelines for community involvement that are in line with the Departmental Rehabilitation Strategy (Bailey & Ekiyor, 2006: 27), there is much more that needs to be improved. Chapter 3 of the White Paper on Corrections and Correctional Services Act 111 of 1998 do not provide guidelines that enlighten policies that regulate the role of Non-Governmental Organisations in rehabilitation programmes so that all NGOs know what is

expected of them. Its open-door policy does not enhance and attracts the Non-Governmental Organisations to give more support. There is no formal training for officials to engage with Non -Governmental Organisations or for the department to coordinate with Non-Governmental Organisations within and outside the criminal justice. There is no advisory council that is responsible for coordination with NGOs to improve the rehabilitation and reintegration of offenders

The rationale or motivation for undertaking the research is to provide a guiding principle that will clarify the criminal justice policies that outline the role of Non-Governmental Organisations to assist the South African Criminal justice system to be more effective concerning proactive policing, speedy trials, appropriate sentences, criminals' rehabilitation and the reintegration of offenders and assist as orientation for the experts within the criminal justice components. The researcher was further motivated by how South African Non-Governmental Organisations offer services mostly aimed at supporting and promoting offender rehabilitation through treatment programmes with an attempt to reduce the chance of offender reoffending, functioning both inside and outside of prisons with offenders, ex-offenders and their families. The researcher is also motivated by problems and challenges experienced by some members of Non-Governmental Organisations with the Department of Correctional Services as the last chain of criminal justice.

1.3 AIM AND THE OBJECTIVE OF THE RESEARCH

This research aims to develop guidelines that will enhance the criminal justice policies that regulate the role of Non-Governmental Organisations in maintaining order in a free society and serve as a reference for criminal justice system components and their practitioners within the criminal justice system.

1.3.1 Objectives

Hofstee (2006: 86) mentioned that the objective of a study ensures that the researcher makes it clear at the beginning what is needed to achieve with the research. The objectives aim to:

- Identify factors within a policy that inhibits the role of Non-Governmental Organisations in preventing and controlling crime within the criminal justice system.
- Identify principles and implementation of challenges that hinder the effectiveness of criminal justice components.
- Describe the interaction between Non-Governmental Organisations and the criminal justice system internationally.
- Investigate the role and responsibilities of South African Non-Governmental Organisations that are involved with the criminal justice components,
- Describe the importance of NGOs' involvement in the criminal justice system.
- Evaluate the application of NGOs in the criminal justice system.
- Make recommendations based on the findings concerning the policies that regulate the role of NGOs in the criminal justice system.

The guidelines for a rational analysis strategy of the study will be derived from clearly formulated aims and objectives. This study aims to develop guidelines that will enlighten criminal justice system policies that regulate the role of Non-Governmental Organizations in maintaining order using preventing and controlling crime in the community. Therefore, as derived from the introductory remarks on the informal interviews, the objective of this study will be to establish respondents' views on challenges faced by NGOs in criminal justice, the link between services rendered by components of criminal justice and NGOs and offenders, and correctional officials' perception on rehabilitation programmes provided by NGOs.

1.3.2 **Research Questions**

According to Agee (2009: 432), the research questions need to express what a researcher wants to know about persons involved in social interactions' goals and viewpoints and should serve as a guide for the entire design of the research study. A research question is a formulation of what the purpose of the research question is (Lavrakas, 2008: 737). The research is aimed at answering the following questions:

- Do criminal justice components have policy guidelines on the involvement of NGOs with regards to maintaining order by preventing and controlling crime?
- How NGOs adapt the fundamental objective of rehabilitation and to what degree?

1.4 DEFINITION OF THE KEY THEORETICAL CONCEPTS

The following concepts that will be utilised and referred to in this study must be defined and discussed to ensure that the reader and the researcher attach the same meaning and understanding to a concept throughout the research and to clarify their meaning contextually (Nxumalo, 2000: 8; Bachman & Schutt, 2011: 84). The definition of the key theoretical concept will make it absolutely clear to the reader what the researcher means whenever there is any possibility of misunderstanding. The researcher needs to define the terminology and then stick to whatever definition is given throughout the dissertation. It is also useful to provide the reader with a list of abbreviations used in the researcher's work (Hofstee, 2006: 88). For this study, the following concepts will be defined and operationalised:

1.4.1 Crime

Crime is any unlawful act that prohibits a person from performing or violating the criminal law of a country, committed without justification and will be punishable by the law of the state since that act was committed deliberately.

1.4.2 Criminal

A criminal is a person who has been found guilty by the court of law for deliberately violating the criminal law of the of a country, without justification or explanation, and he or she will be punished using safe custody in a correctional institution to protect society against crime and that person will be known as an offender and will undergo treatment faction within the correctional institution to be facilitated for his or her reintegration into society.

1.4.3 Justice

There is no universal definition of the term justice. It can be referred to as any law that is put in place by the state to maintain order in the country to ensure the peaceful co-existence of the members of the free society. Justice can also present elements of crime such as identifying the person who committed a crime, apprehending and prosecuting and punishing the person.

1.4.4 Non-Governmental Organisation

Are many kinds of private organisations that are independent of government and may be funded by businesses, foundations, private persons or the government. Non-Governmental Organisations believe in the cause in which they are involved and most of them have knowledge and expertise that can benefit the individual organisation or community in which they are interested. They participate in various projects within the community or organisation intending to achieve humanitarian objectives, an interest in the organisation and disposition towards community responsibility. Non-Governmental Organisations are also regarded as stakeholders of the Department of Correctional Services.

1.4.5 Volunteers

A volunteer voluntarily undertakes or expresses a willingness to undertake services as people who contribute much to alleviate the demands made on the time of professional people. The Department of Correctional Services serves as a valuable resource when it comes to integrating the offender into the community. Volunteers are economical in any institution they serve, especially when it comes to the re-integration process of the Department of Correctional Services.

1.4.6 Rehabilitation

Rehabilitation in the Penological perspective refers to a process within a correctional institution whereby offender's negative behaviour is to be transformed into positive behaviour through assigning offenders into different programmes to bring about desired changes in values, attitude and skills that will prevent them from committing a further crime or returning to prison.

1.5 SIGNIFICANCE OF THE STUDY

The correctional institution is responsible for the care of the convicted offender, and those who are responsible for their care have come to realise that if society is to be served well, it is the offender, not the offence, which must be the primary consideration. The Department of Correctional Services on its own cannot be effective if it is solely responsible for rehabilitation. It must therefore recognise the significant involvement that the community can make. For rehabilitation to be effective, the community must be at the centre of the rehabilitation process because it is both the place of origin and the return for the prisoner. Therefore, the findings of this study will not only benefit academics or academic institutions, but will be of value to the correctional system, and the broader community.

1.5.1 Value for Academia

The various data collection and analysis strategies that will be applied in this study will offer value to future postgraduate students and researchers. The study will cover the literature on the role and responsibilities of South African Non-Governmental Organisations (NGOs) that are involved with the crime prevention, controlling crime rehabilitation, support and reintegration of offenders at the Department of Correctional Services and the researcher also will identify factors within a policy that inhibits the role of Non-Governmental Organisations (NGOs) within the criminal justice components.

1.5.2 Value for the criminal justice system

This research will develop guidelines to inform existing policies that regulate interactions between the criminal justice system and Non-Governmental Organisations in protecting the members of society. The White Paper on Corrections mentions that corrections as a component of the criminal justice system are a societal responsibility and that civil society organisations have a critical role to play in terms of the rehabilitation of offenders. The guidelines in this study will thus facilitate an understanding that Non-Governmental Organisation (NGOs) have a legitimate right to assist the criminal justice system in meeting its commitment to society. The partnership between the criminal justice system and Non-Governmental Organisations can assist in changing the circumstances of those entrusted in components of criminal justice. The study will further assist the criminal justice system to evaluate Non-Governmental Organisations' current programmes and effective cooperation. In the long term, the study will provide a practical solution to the approach following in guiding NGOs to know what is expected of them.

1.5.2 Value for NGOs

The criminal justice system must view preventing and controlling crime as a societal responsibility. Since the criminal justice is trying to deliver on its mandate, it can be alleviated by the partnership between the criminal justice system and NGOs. The research will emphasize the importance of effective criminal justice by involving NGOs in society. It will also provide concrete guidelines on how NGOs existence and the rehabilitation of offenders with the Department of Correctional Services develop, what implications their existence will have on the rehabilitation of offenders and DCS, and which background factors can affect NGOs' interventions. By developing these guidelines, it will assist NGOs to have an effective relationship with the criminal justice system and understand what criminal justice system components require from them to play a meaningful role in preventing and controlling crime, which will be in line with the criminal justice strategy, and is needed by the criminal justice system to improve their services.

1.6 RESEARCH DESIGN

According to Mouton (2001: 55), the research design can be seen as the plan or blueprint of how the researcher intends to conduct the research. Hagan (2000: 68) mentioned that a research design is the plan or blueprint for a study, and includes the 'who', 'what', 'where', 'when', 'why' and 'how' of the investigation. A qualitative, descriptive, exploratory and contextual design was employed since this study has been conducted.

The researcher will use both exploratory and descriptive research, since the study will make a preliminary investigation into an unknown area of research, and the aim is to choose a sample that will be representative of the population about which the researcher aims to describe conclusions. Therefore, a hypothesis could be developed as a result of the explorative study. The study will be guided by relevant research questions. In the exploratory study the formulation of a hypothesis is not always necessary or desirable (Mouton & Marais, 1992: 45). Durrheim (2006: 44) mentions that exploratory studies' new questions generate speculative hypotheses.

1.7 RESEARCH METHODOLOGY

The literature review will help the researcher as the component of the research that will guide the formulation of the research questions as well as the aims and objective of the study.

1.7.1 Literature review

The researcher will conduct a literature search as the process of collecting information using scholarly articles on a provided topic. The literature search involves recognising the theories that concentrate on the topic and what they say, previous research on the topic, whether the finding is consistent or disagree (Babbie, 2004: 133). Mouton (2001: 48) mentioned that the literature search resulted in the formulation of motivating questions and was at the same time based on the research questions. The researcher will conduct a literature search to reveal expertise within the

literature on the problem, demonstrate the path of previous research and the existing development to it, and summarise or incorporate what is known (Repko; 2012: 168).

With regards to the role and responsibilities of NGOs that are involved with the rehabilitation of offenders internationally, the researcher will not perform an empirical study but will perform a more extensive literature review. The literature review will include extensive books, relevant government documents, reports, journals, unpublished dissertations, theses and an extensive internet search to ensure that the most recent and relevant publications will also be included in the study.

Repko (2012: 168) mentions that there are several practical reasons for conducting the literature search. The following are nine reasons for conducting the literature search:

1. To identify the factors that have contributed to the development of the problems over time.
2. To identify the defining elements used by each discipline's experts in their writing on their problems
3. To discover what scholarly knowledge has been produced on the topic by different disciplines.
4. To reveal the paths of prior disciplinary research and how the proposed interdisciplinary project is linked to these and may extend them.
5. To narrow the topic and sharpen the focus of the research question.
6. To accumulate occasion and effort.
7. To develop adequacy in the relevant disciplines.
8. To situate or contextualise the problem.
9. To verify the disciplines identified by narrowing, the topic and sharpening the focus of the research question.

1.8.3 Data analysis

Analysis of data is referred to as synthesis in systematic literature reviews. Data analysis is a process that is disorganized, uncertain, time-consuming, creative and captivating (Devos, Strydom, Fouche & Delport, 2002: 339). According to Taylor (1994: 9), it begins after collecting the data and double-checking it.

1.9 ETHICAL ISSUES

The researcher understands that research participants' dignity and welfare are more important than the research (Durrheim, 2006: 63). Therefore, to ensure that the study has remain ethical, the researcher has adhere to the four main ethical issues that are discussed by Banchman and Schult (2007: 2087).

The researcher has follow the research process as stipulated by the University of South Africa (UNISA). This research was guided by the ethical aspects set out in the Unisa Standards. The ethical code of conduct for NGOs as well as the ethical code for the Department of Correctional Services will be adhered to.

1.10 LAYOUT OF THE DISSERTATION

This study consists of the following chapters.

Chapter 1: The research.

This chapter will introduce the reader to the study providing the orientation and research methodology also covers aspects such as the background to the study; rationale of the study; the motive for the research; the objective of the study will follow including a clear outline of the research questions followed by the key theoretical terms will be subsequently defined in this chapter.

Chapter 2: The criminal justice system.

This chapter aims to introduce criminal justice in general as the state machinery which is responsible for the prosecution of offenders and the imposition and execution of punishment. The concept of crime has been discussed and that act can only be classified as a crime if there are some elements of a crime that are present or certify certain requirements. The researcher has explained the purpose of criminal justice and how it ensures that it prevents and controls crime to maintain order. The researcher uncover the four major goals in criminal justice that belong to one of two groups, namely absolute theory or relative theory and how these goals relate with the components of criminal justice.

Chapter 3: The philosophy of the existence of non-governmental organisations.

This chapter tries to define NGOs in a wide sense, with a focus on studies of societal actors, and to try to capture the term while studying the makeup and functions of NGOs in greater depth. The legal position of NGOs from a national perspective, as well as their implications on international law, are given priority. The study looks at the evolution of non-governmental organizations (NGOs) before and after World War II. The purpose and aims of NGOs will be explored in detail, considering that each NGO has its unique vision and personality. In this chapter, an attempt is made to explain the function of non-governmental organizations (NGOs) in the criminal justice system and how they contribute to the completion of activities that require their assistance.

Chapter 4: The role of NGOs in the structure of the United Nations.

The function of non-governmental organizations (NGOs) in the UN framework has been discussed in this chapter. The UN's history is briefly discussed as a starting point for understanding the UN's origins and structure. This chapter also discusses the importance of the Economic and Social Council's Committee on Non-Governmental Organizations (ECOSOC).

This chapter will also cover the role of NGOs in the Economic and Social Council (ECOSOC) Commission. This chapter attempts to explain the origins of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

Chapter 5: The role of NGOs in the rehabilitation and reintegration of an offender in the international correctional system.

This chapter looks at the international correctional services of three countries: Canada, the United States, and Namibia. The researcher analyzes how these three countries' rehabilitation and reintegration efforts align with the UN's Standard Minimum Rules for the Treatment of Prisoners. This chapter also discusses the role of non-governmental organizations (NGOs) in the rehabilitation and reintegration of offenders in the Canadian Correctional Services, the United States, and Namibia correctional systems, as well as how each country employs external role players such as NGOs in the rehabilitation and reintegration of offenders.

Chapter 6: The role of NGOs in the rehabilitation and reintegration of an offender in the South African correctional system.

The chapter opens by providing a brief history of penology in the African context, as well as the ways that most African countries utilize to preserve order and reduce crime. The role of non-governmental organizations (NGOs) in the rehabilitation and reintegration of criminals in the South African penal system is explained in this chapter. The researcher discusses the role of non-governmental organizations (NGOs) in the rehabilitation and reintegration of criminals in South Africa's Correctional Services. Partnerships between DCS and non-governmental groups to aid in the administration of correctional programs in correctional facilities and community corrections

Chapter 7: The research conclusion and recommendation

This chapter aims to provide comprehensive conclusions of the research project and to make recommendations against the background of the investigation. This research project is guided by primary and secondary aims. In this chapter, the researcher provides conclusion and recommendations, which were influenced by the literature review. This chapter can be regarded as a conclusion and summary of findings from Chapters 1, 2, 3, 4, 5 and 6.

1.11 VALIDITY AND RELIABILITY

Validity means the extent to which it measures what is required. For the measure to be required valid, it has to be reliable first and it must be able to present the expected result (Babbi, 2007: 518). The researcher must make sure that the result indicates what the research says they do, for the research findings to be valid (Du Preez, 2003: 14). In the validity measurement, the researcher must determine whether the instrument provides a good operational definition of the contract and whether the instrument is suited to the purpose for which it will be used (Durrheim, 2006: 147). If the study findings are valid, they are certainly reliable too since reliability will always follow validity (Lasly, 1999: 54; Du Preez, 2003: 15).

1.12 RESEARCH PLAN

The research is conducted over 24 months. The researcher is also in the employ of the University of South Africa and is therefore eligible to conduct research days two days a week which will be utilised for this research.

1.13 CONCLUSION

The engagement of non-governmental organizations (NGOs) in criminal justice can help to alleviate issues such as faulty investigative methods, unquestioning dependence on statements and data provided by members of the South African Police Services (SAPS), and oppressive

interrogation by police personnel. There is a failure by the prosecution to disclose evidence in the prosecution component. The court component's failure to properly assess the weight of evidence and the Appeal court's unwillingness to admit that things went wrong, being overly lenient or instances, where confessions were excluded from evidence and the defendant, was acquitted, the correctional component's failure to treat the offender as a human being or disrespect of the offender's rights non-governmental organizations (NGOs) have been increasingly influential in recent years.

This research focuses on a larger view of the programs and services given within correctional institutions that encourage offender rehabilitation and reintegration as a fundamental subject in correctional services, which can also be managed through the employment of external role players such as NGOs.

The problem statement and the significance of the study are given. The research questions and research objectives pertaining to the study are stated. In this study, a discussion of the key steps in doing a literature review study played an important role in achieving this.

CHAPTER 2
THE CRIMINAL JUSTICE SYSTEM

2.1 INTRODUCTION

This chapter aims to introduce criminal justice in general as the state machinery which is responsible for the prosecution of offenders and the imposition and execution of punishment. Before we discuss criminal justice, first we must understand the concept of crime, since there can be no criminal justice system without crime. The concept of crime will be discussed and that the act can only be classified as a crime if there are some elements of a crime that are present or certify certain requirements. There is no way that we can discuss criminal justice without considering crime and all forms of punishment that are practised in the world since the study of penology has to do with the scientific study of punishment of crime and operations of prisons.

The researcher explain the purpose of criminal justice and how it ensures that it prevents and controls crime to maintain order. By doing this, there will be peaceful co-existence by encouraging members of society to control punished offenders. Crime and disorder disrupt stability in society and the primary goal of a criminal justice system in a free society is to protect the members of that community. In this chapter, the researcher will outline the goal and the characteristics of criminal justice.

Criminal justice consists of the different role-players which are those state organs that are involved in the administration of justice such as the South African Police Services, courts, the Department of Social Development, the Department of Correctional Services and the Judicial Inspectorate of Correctional Services. Each component and how it functions are discussed in this chapter. The researcher has also discussed the relationship between the role players of the criminal justice system as well as the process of criminal justice where the police, prosecution, courts and correctional services are involved collectively through a sequence of give-and-take relationships since each agency is responsible for a part of the decision-making system. The researcher identifies and discussed the four major goals in criminal justice that belong to one of

two groups, namely absolute theory of punishment or relative theory of punishment and how these goals relate to the components of criminal justice.

2.2 THE CRIME AND PUNISHMENT

The definition of crime varies from one author to another. Various disciplines such as psychology, criminology, education and sociology and penology have their definition of the concept of crime. From a penological perspective as discussed by Scott (2008: 194), The term is used to describe specific types of social harm, illegalities, and misconduct. A 'crime' is a social construct formed by legal, historical, and spatial settings. The definition of what constitutes "crime" is inherently contentious and is dependent on the theoretical and political standpoint of the definer. Adler, Mueller, & Laufer (1994: 8) defines crime as any conduct by a human being that violates criminal law and therefore leads to punishment. Fox and Stichcomb (1994: 44), Coetzee and Gerick (1997: 32) and Tappan (1947) defines crime as an intentional act in violation of the criminal law committed without defence or excuse and penalized by the state. The legal definition of criminal behaviour differs from other forms of social deviance in that it violates criminal law promulgated by the political authority and is subject to punishment administered by agents of the state. Crowther (2007: 19) summarise crime as a violation of a written code or law, or to be even more specific, Luyt (1999: 19) summarise crime as a deliberate act that:

- Violate the criminal law of a state;
- Is committed without justification or explanation;
- Is penalised by the state.

Findlay, Odgers, Yeo . (1999: VII) concluded that the definition of crime should be considered in legal terms since it is a complex concept and cannot be understood outside of its social context. It must be precise, unambiguous and usable and should consist of certain elements or certify certain requirements. Coetzee and Gerick (1997: 32) emphasise that an act is only classified as a crime only if these elements are present such as act omission, the intent requirement, violation of the elements of criminal law and occurring without justification or defence. A criminal offence is classified and defined differently. The popular classification of crime is based on an assessment

of the type of harm caused by a crime: crime against the individual, crime against the public order and crime against property (Crowther, 2007: 20).

(Clack, Du Preez & Jonker, 2008: 2-3) explain that before an act can be off the record as a crime, it must satisfy the following elements:

- **An act or omission must have taken place.**

  The act of crime has not yet taken place, once the act of robbery is planned but not performed. In such a case, the planning of the crime is not adequate to cause the organizer to be found guilty of the crime of robbery. The act of planning to commit a crime must also be an arbitrary act, which means that the person must consciously decide to perform the act.

- **The act must be unlawful.**

  The term unlawful means that the law prohibits a person from performing a certain act. For example, the law prohibits a person from taking the life of another person (killing). This act is regarded as the crime of murder. The act can also be unlawful if the law prohibits men from abusing women and children.

- **The act or failure to act must be associated with culpability.**

  The act is only punishable if the law includes some sanction or penalty clause for the crime. For example, when parents discipline their children for being badly behaved, they cannot be charged with a crime because the law does not make provision for the punishment of such an act. However, if the children are assaulted by the parents, the parents commit a crime, because assault is a punishable act in terms of the law.

- **The act must be punishable by law.**

  The Latin term “men's rea” is used to evaluate such an act, which means that a person’s guilty conscience or “men's rea” plays a role in determining whether an act is a crime.

The law determines that guilt can be based on either intent or negligence. Coetzee and Gericke (1997: 34) explain intent and negligence as follow:

- **Negligence**: An example of negligence is when a man decides to clean a firearm and then accidentally shoots and kills his wife. The wife was not shot intentionally, but the man was negligent. In this scenario, the man will be charged with culpable homicide and not murder.
- **Intent**: It is when a man deliberately forcefully violently strips off the woman, pointing her with a knife, threatening to kill her and performing the act of rape. That person is charged with rape.
- There must be a **logical relationship (causality**) between the act and the consequence. This means that the act that has been committed must have caused the consequences. If the consequences would have been the same regardless of the act, it cannot be said that the element of causality is present.

2.2.1 The concept of punishment

Punishment is the infliction of a penalty, loss or suffering as defined in the Oxford Advanced Learner's Dictionary (Wehmeier, Mclntosh & Turnbull, 2009) It has to do with the legal justice system and a codified definition of the offence, and it should fit the type of crime that the offender has committed.

Scott (2008: 18) indicated that the penalty consists of five rules that the panel must consider: (1) Create human suffering; (2) arise as a direct result of the perpetration of an offence; (3) only be directed to the one who started the offence; (4) be the intentional creation of another human in response to that offence and (5) be influenced by an authorised body representing the personification of the rule of law of the society in which the offence was committed. Scott (2008: 18) further explains that justification of punishment can be divided into three main methods or philosophies that look to justify punishment in terms of:

- Philosophies that focus on responding to the actual offence;
- Preventing future offending behaviour; and

- Philosophies maintain that punishment can be neither moral nor politically justified.

Later in this chapter, philosophies of punishment will be discussed relative to the components of criminal justice and also how they are underpinning sentencing.

2.2.2 Forms of punishment

Here follows a short description of each of the different forms of punishment that can be imposed on offenders if he or she has deliberately violated the criminal law of a country and committed a crime without justification or explanation, and that person will be penalised by the state (Clack, Du Preez & Jonker, 2008: 4):

- **Imprisonment:** According to Section 2 of the Correctional Services Act 111 of 1998, the purpose of a correctional system is "to contribute to maintaining and protecting a just, peaceful and safe society by - enforcing sentences of the courts in the manner prescribed by this Act; detaining all off in safe custody whilst ensuring their human dignity, and promoting the social responsibility and human development of all offenders and persons subject to community corrections". A sentence to imprisonment is one of the most general forms of punishment in South Africa. It is imposed at the discretion of the court. In South Africa, when a person is imprisoned, they are not only subjected to deep lock but is also under the social responsibility of the Department of Correctional Services. The department will make sure that the sentenced person is rehabilitated before he or she is released from custody. One of the Department of Correctional Services' main objectives is to provide prisoners with the opportunity to develop and to grow into individuals who can positively contribute to conventional society (Louw, 2008: 7).

  "In South Africa, the word imprisonment means the admission, locking up and detention of a person in a place of safety. A person who is sentenced to a term of imprisonment will receive a warrant for imprisonment. This warrant, which is also known as the warrant for committal,

is issued in all criminal cases by the court for a person's detention in a prison to serve the sentence imposed by the court" (Clack, Du Preez & Jonker, 2008: 6).

- **Fines:** In terms of the provisions of the Criminal Procedure Act 51 of 1977, the court may have the money of a particular person seized to pay his fine in full or in part. The main objective of the acceptance of fines is to free an offender from the stigma of incarceration as soon as possible and to enable him to return to his next of kin, friends and employer with the least consequences. It is therefore essential that sentenced offenders who have money and who have been given the option of a fine be encouraged to use such money to pay their fines in full or in part.

- **Community corrections:** Community corrections are those sentences imposed by a court of law that is served by offenders within the community. Offenders are not distant from their neighbourhood, job and family, ensuring the least interruption for the family of the offender (Bruyns, 2002: 4).

  According to Du Preez (2002: 25), offenders can be admitted into community corrections in three ways:

  - An offender is sentenced directly to community corrections by a court of law and is called a probationer.
  - An offender is sent to prison and, on qualifying for parole, is placed under community corrections. This person is then called a parolee.
  - A person is placed under the supervision of a correctional official in terms of Section 51(1)(e) of the Correctional Services Act 111 of 1998.

- **The death penalty:** According to Neser (1993: 23), in South Africa, this form of punishment has been abolished, During the late 1980s and early 1990s, many political changes took place in South Africa, including the abolition of the compulsory death penalty and the death penalty for burglary set out in Section 277 of the Criminal Procedure Act 55 of 1977 and were relieved by Section 4 of the Criminal Law Amendment Act 107 of 1990. Section 4 of

the Act determined that the death penalty could only be compulsory by a supreme court in convictions for murder treason committed when the country was in a state of war kidnapping, child kidnapping, rape robbery, including attempted robbery if aggravating circumstances were present (Neser, 1993: 23)**.**

The death penalty related to the whole argument about theories of punishment and the rule of sentencing is the question of the possibility of the death sentence for murder in South Africa (Snyman, 2002: 29). In 1995, the democratically elected South African Government declared the death penalty to be unconstitutional. Section 11 of the Bill of Rights enshrined in the Constitution of the Republic of South Africa, 1996, states the following: "Everyone has the right to life". The last execution in South Africa took place at Pretoria Central Prison on 14 November 1989. Thereafter the government placed a moratorium on executions and introduced life imprisonment as an alternative to the death penalty. The abolishment of the death penalty as a form of punishment in South Africa was handed down in 1995 by the Constitutional Court in its first judgement, the Mankwanyane Decision. It was also ruled that the government and all its organs were not allowed to execute any person already sentenced to death (South African Human Rights Commission, 2005). At the time of the Makwanyane judgement, official records of the Department of Correctional Services indicated that there were 430 people on death row (awaiting the death sentence). As a result of that judgement, legislation was passed to stipulate procedures for the setting aside of death sentences. An offender who had been sentenced to death should have had his sentence substituted with alternative sentences (Clack, Du Preez & Jonker, 2008: 5).

- **Corporal punishment:** According to Neser (1993: 24), South Africa was one of the few countries that imposed corporal punishment for certain sentences, including robbery, arson and public violence. The age of an accused played an important role in a sentence to corporal punishment, because corporal punishment was not allowed if the accused was over the age of thirty years.

When South Africa adopted the Constitution in 1996, corporal punishment was deemed to conflict with the human rights of each South African. The Abolition of Corporal Punishment Act 33 of 1997 gave effect to the Constitutional Court's judgement that corporal punishment as a sentence option conflicts with the Constitution of South Africa. The commencement date of the abolition Act was 5 September 1997. The main thrust of the Abolition of Corporal Punishment Act was the following: "Any law which authorises corporal punishment by a court of law, including a court of traditional leaders, is hereby repealed to the extent that it authorises such punishment".

2.3 THE SYSTEMS THEORY

The definitions and interpretation of the word "system" are explained by the Webster dictionary as "A collection of objects united by some form of interacting or independent" (Merriam Webster Dictionary,2016).

The system theory reveals important understandings into criminal justice structure and functions (Stephens,2018: 15). Kraska (2004) argues that system theory is a useful perspective for potential reform and improvement of criminal justice because the goal of system theory is to make systems more effective by detecting problems and focusing on organisation and management concerns. Is a useful standpoint for possible improvement and development of criminal justice since the goal of system theory is to make systems more effective by detecting problems and focusing on organisation and management concerns. The systematic approach to criminal justice facilitated the observation of criminal justice in macro terms. The system theory is described as a skeleton of science by Becvar (2000: 11). The bone of this skeleton "may be fleshed by whatever discipline one chooses" (Jones, 2003: 49).

Stephens (2018: 15) found that the criminal justice agents and activities are best understood as operating in the setting of the larger whole and concluded that the criminal justice system is a system in the sense of general system theory. General Systems Theory (GST) added substantial insights to the understanding of a wide variety of complex phenomena, had a long tradition in the

natural, behavioural and social sciences. GST generates substantial insights into both the structure and functioning of criminal justice agencies and organisations. The American criminal justice system is analysed by using GST (Bernard, Paoline III & Pare, 2005: 203).

According to Jones (2003: 49), GST consists of a smaller element or subsystems that in turn are also part of the supra-system, in which each of these has characteristics. The systems are recognised by several characteristics that are mentioned above.

According to Stephens (2018: 14), General Systems Theory was not only employed and explained by Bernard et al. (2005) in the field of criminal justice. GST has been used to describe and further understand different concepts in various fields such as organisation (Foster, 2012); medicine (Decker & Redhorse, 1979); management (Charlton & Andrai, 2003; Mele, Pels & Polese, 2010); social work (Redman, Sargent & Staff, 2014); communication (Infante, Rancer & Womack, 1997); economics (Hoddgson,1987; Intriligatot, 1980) and political science (Kaplan, 1968).

2.3.1 Criminal justice and the system theory

The criminal justice system is the collective of all operating and administrative or practical support activities that perform criminal justice functions. The basic divisions of the operational characteristics of criminal justice are law enforcement, courts, and corrections (Schmalleger, 2009: 5). The characteristics of system theory that was mentioned by Holten and Jones (1982: 6) and Neser (1983: 49), clearly link with the characteristics of criminal justice systems mentioned by Cole and Smith (2001: 20). Gigch (1978: 23-25) argues "that specific criminal justice agencies and agents were subsystems within the criminal justice system, which itself was a subsystem within the larger political, economic, educational and technical system. Therefore, he described criminal justice as a system". Criminal justice agents and agencies are best understood as operating in the context of the larger whole and concluded that the criminal justice system is a system in the sense of general system theory (Bernard, Paoline III & Pare, 2005: 205). Stephen, (2018: 16) argued in his research that "the criminal justice system is the system of practices and

institutions of government-directed at upholding social control, deterring and mitigating crime or sanctioning those who violate the law with criminal penalties". The criminal justice system has several overlying stages, where each level can be described as a system that involves input, handing out, and output (Bernard, Paoline III & Pare, 2005: 208).

According to Nesser (1993: 49) and Jones (2003: 50-54), the basic principle of the criminal justice system of approach is a component comprising of a number of fragments such as independent parts or components of a system that make every effort toward a particular collective objective. The most important characteristic of a basic principle of the criminal justice system are as follow:

- Every simple system forms a recognizable whole;
- All the part contributes to the functioning of the whole system;
- One system is different from another through its activities, inputs, outputs, environment and function;
- Systems consist of clearly defined parts that form specific structures;
- The system also has certain outputs in the environment in which it functions, and it usually initiates a reaction;
- The system and the environment influence each other;
- The system since its initials reaction it's regarded as feedback;
- The outputs and decision making in the system may be influenced by its feedback;
- The environmental support and demands continually influence the system;
- Every system function in a specific environment;
- The components of a system are interdependent and affect one another reciprocally;

Bernard et al. (2005: 205-208) strongly support the idea that criminal justice is a system, not just descriptive terminology that adds nothing to the understanding of criminal justice by applying General Systems Theory (GST) to criminal justice as follows:

- Criminal justice consists of several layers of ever more surrounding systems, each of which can be described in terms of input, processing and output. In this sense, criminal justice is like other complex organisational systems: The police officer is part of a larger system which itself is part of an even larger system since they can investigate a crime, arrest and book the perpetrator. A single police officer can be described as a system that receives inputs. All systems must maintain equality between inputs and outputs, and any movement away from equality generates corrections to move the system back towards it.

- Criminal justice processes "cases" each of which includes offenders, victims, and the public. In systems theory, nonoffenders could be described as the "completed products" of criminal justice processing, while recidivist offenders would be "defective products". One common goal of the system is to change offenders into non-offenders. Each subsystem takes offenders as input, for example, a person who committed a crime is arrested by the police, prosecuted and sentenced by the court to correctional services to be rehabilitated as output to the next subsystem unit and return to the external environment (community). The goal of correctional services as a criminal justice processing is to change offenders into non-offenders while simultaneously satisfying both the victims and the public.

- When processing terminates before completion, products tend to return to the system as "defective". That is products that previously were defined as "output" return to the system as additional "input". This is inefficient and therefore undesirable. If a victim or the public is dissatisfied with the way a case is handled, then criminal justice agents may have to continue dealing with it in one way or another. Criminal justice agencies police, courts and correctional services "input" offenders and then attempt to "process" them to produce a rehabilitated person as "output". If those offenders later commit more crimes, they can be described in systems theory as defective products.

- There is little agreement on how to achieve the goals of criminal justice processing (the production of nonoffenders, satisfied victims, and a satisfied public). The essential characteristic of a system is that disparate parts work together toward a common goal to

protect society and maintain law and order by preventing and controlling crime, to ensure that press full co-existence surrounded by members of the society and must create order. Various mechanism of the system performs a specific function.

- Declining capacity to process cases generates "backward pressure" across the system to reduce the flow of cases to the next system stage. Each stage, therefore, is pressured to output a certain portion of its cases to the external environment. Each system stage has less processing capacity than the stage before it. For example, police can make more arrests than the prosecutors can prosecute, prosecutors can bring more cases to trial than judges can hear, and judges can sentence more people to prison than the prisons can hold.

- This backward pressure supplements the fact that it is quicker and easier to decide that processing is complete than to send the case to the next stage for additional processing. The main aim is the fact that it is easier for staff who currently have the case, it is always easier to simply close the case than it is to send that case to the next system component for further processing.

- Countervailing "forward" pressure arises because sending cases to the next stage of the system limits the criminal justice agent's exposure to blame for defective processing. If the teenager reports his abusive parent to the police officer and the police officer decides not to arrest an abusive parent and subsequently within two weeks the teenager is killed by the abusive parent, then the officer may be held accountable because the officer did not sufficiently process the product and thus the product was defective (i.e., the offender went on to offend again). The unfinished processing exposes the criminal justice and works to the risk of being defined as incompetent.

- These conflicting pressures require that criminal justice agents be able to "close cases that will stay closed". As a result of the feedback loop in which cases reopen, incompetent criminal justice workers have difficulty concealing their incompetence. The failure to close enough cases also expose the officer to charges of incompetence. Eventually, this is an

unavoidable “feedback loop” within the criminal justice system. Criminal justice agents who do not possess a certain minimal level of competence – i.e., those who cannot close enough cases in such a way that those cases stay closed eventually will be identified.

Muthaphuli (2012: 29) mentioned that for the criminal justice system to function properly, it needs to work with favourable characteristics such as discretionary, resource dependents, sequential tasks and filtering. These four characteristics are explained by (Cole & Smith, 2001: 20) as follows:

- **Discretionary:** Each system functions within a specific environment, the environment and the system have a mutual effect on each other. The environments consist of anything external to the system's boundary (Jones, 2003: 51). Every component of the criminal justice process can decide whether or not and in what manner a law will be enforced. A high degree of discretion is present at all levels of the criminal justice process. Nesser (1993: 29) stated that a rival court has discretion and also allows the court to determine the period of imprisonment, except when the jurisdiction of the period is restricted, as in the case of lower courts, where judges decide on the length of the sentence or when the period is determined by a specific act. This also applies when police make their dissection on how to handle a criminal.

  Discretion within the criminal justice system allows each component to achieve great justice than inflexible roles would produce and is also needed due to lack of resources to treat every case the same way.

- **Resource dependents:** Since the criminal justice system does not generate its own resources, organisations within the system depend on others for funding however, they should maintain good relations with other stakeholders such as political decision-makers (legislators, majors, city council members). In England and Wales, Joyce (2013: 105) stated that central government events are supplemented by the amount of revenue paid by the local council. The local government, the Home Office, the Department of Communication, and the Welsh Assembly Government all contribute to the funding. The probation service is sponsored by

the National Offender Management Service (NOMS), whereas it was previously paid by the exchanger and local government. Joyce (2013: 111) further explains that the revenue from the criminal courts results from the budget received by her Majesty's courts, and tribunals service the criminal court system controlled by the Ministry of Justice. Muthapudi (2012: 29) mention that some departments within the system can produce incomes through traffic fines. An organisation within the criminal justice needs to keep up a good image and good relations with the public as they depend on budget decisions that are generated by the elected officials who have an obligation to the community. The criminal justice official images can be promoted by positive coverage in the media.

- **Sequential task:** Decisions are taken in a specific sequence with the criminal justice system. Before an offender is brought to a correctional centre, he or she must have been convicted of a crime punished with the offence having been investigated and all processes of correctional services as a component of the criminal justice system is the last chain of the system. The system of corrections without police and courts will not be effective or may be considered worthless (Matetoa, 2013: 39). The same thing applies to the courts, for example, before the prosecutor determines the nature of the court's workload, the police must first make an arrest. Both prosecutor and the judge cannot eliminate the police by making arrests, therefore it is not possible to accomplish the goals of criminal justice by acting in sequence since the system is highly interdependent. This is a key element in who are influenced by each to achieve an objective and the environment and the system have a reciprocal effect on one another.

- **Filtering:** The person who has been arrested within the process of criminal justice may be reflected or deliberated filtered out of the system at various points. It should be also be taken into consideration that not all suspects are prosecuted, tried and convicted. Due to a lack of evidence or the decision that a crime has not been committed, the suspect can be set free. Nxumalo (2000: 16) mentions poor investigative procedures, oppressive interrogation by the police, failure to disclose evidence by the prosecution, the trial courts. Disappointment to evaluate to the burden of evidence and unwillingness of the appeal court to admit that things

had gone wrong, when sentencing has been considered as too compassionate or for circumstances when a confession has been excluded from evidence and acquittal rate are too high. In some cases, the accused or suspect pleads guilty, doing so brings with its own benefits and the court will probably pass a more lenient sentence (Cole & Smith, 2001: 20).

2.4 WHAT IS CRIMINAL JUSTICE?

Schmalleger (2009: 5) mentions that criminal justice is one of the important functions of government. In the strictest sense, it is the law of criminal procedure, the criminal (penal) law, and the array of procedures and activities having to do with the enforcement of this body of law. Criminal justice cannot be disconnected from social justice because the kind of justice passed in our nation's criminal courts reflect basic understandings of right and wrong. Reid (1981: 476) outlines the criminal justice system "as the agencies responsible for the enforcement of the law".

Criminal justice collectively exists to protect society, maintain order and prevent crime. It encourages communal approved behaviours, morals and values as well as provide an environment that promotes trade by encouraging honesty and trust in a commercial contract. There is no single best criminal justice system goals and there are many ways to achieve these goals, as maintenance of order is viewed as the principal objective. The meaning of criminal justice will be explained in detail later in the section on the purpose of the criminal justice system.

2.5 HISTORICAL BACKGROUND OF THE CRIMINAL JUSTICE SYSTEM

Champion (1999: 10) mentions that the origin of effective control of crime can be qualified to the 1764 publication of an Italian social thinker, Cesare Beccaria, who developed the classical school of criminology. This philosophy accepts that man as a normal being acts based on reason and intelligence, and is capable of being responsible for their own behaviour. Beccaria persuasively argued that the preservation of crime is the way forward. His publication 'On crime

and punishments' contains the basic elements of the classical school of criminology (Beirne 1994) that include the following:

- The best approach to crime is prevention rather than punishment;
- Law should be limited only to the most serious offence; it serves the need of society rather than enforce moral virtues;
- Everyone should be considered innocent till proven guilty;
- Punishment should be swift and certain with no regard for offender personalities or social characteristics;
- Punishment should be retributive to those who violated the law. The degree of punishment specified is independent of the actual or predicted consequences of the punitive measure.

"Within a period of 50 years of his publication, the first police agency, the London Metropolitan Police, was established to maintain peace and identify criminal suspects and the first prison was created to provide non-physical correction treatment" (Stephens, 2018: 17).

The concept of criminal justice was recognised in 1891. The Chicago Crime Commission is a nonpartisan volunteer organisation established in 1919 by a committee of the Chicago Association of Commerce. The commission acted as a citizen's advocacy group and kept track of the activities of local justice agencies. Its basic purpose was to act as an independent investigative agency representative of the public interest in matters regarding the quality of criminal justice services provided to citizens in the greater Chicago district. (Chicago Crime Commission, www.ncjrs.gov: 3)

According to Stephens (2018: 17), the revolutionary work of the Chicago group was replicated in several other jurisdictions in the United States of America. In 1922, one of the models of the Chicago Commission, the Cleveland Crime Commission, provided a comprehensive analysis of local criminal justice policy and discovered an extensive use of discretion, plea bargain and other practices unknown to the public. The Commission encouraged tense law enforcement measures by recommending an increased number of men for the police force. One thousand patrolmen were added (Chicago Crime Commission, www.ncjrs.gov: 6)

The modern era of criminal justice can also be traced to a succession of research projects which first began in the 1950s under the sponsorship of the American Ford Foundation, which was originally designed to improve an in-depth analysis of the organisation, administration, and operation of criminal justice agencies. Later the term criminal justice system was introduced and used, relating an opinion that justice agencies could be connected in a complex and up till now, frequently observed network of decision-making processes (Stephens, 2018: 18).

Scharf and Cochrane (1998: 3) mention that South Africa became a union of four provinces and a member of the British Commonwealth in 1910. Its criminal justice system has a mixed heritage of Roman-Dutch law and common law, which draws its roots from a blend of Roman-Dutch and English law and has, over the years, tried and borrowed from a variety of respected international legal systems. The South African government's method of criminal justice is confined in the principal 1996 National Crime Prevention Strategy (NCPS), which, to some extent, still guides activities in the criminal justice sector. The 1998 White Paper on Safety and Security, and the Department of Justice's Vision 2000 document have built on this framework strategy (Pelser & Rauch, 2001).

2.6 GOVERNMENT STRUCTURE (ORGANS OF STATES) AND THE CRIMINAL JUSTICE SYSTEM

South Africa is a democratic country that is based on the concept that a people should be independent and that the representatives of the people should be held accountable for their actions. For a state to be said to be democratic, there must be an established government with clearly defined organs, namely, the legislature, the executive and the judiciary, all with coordinated powers and performing specific functions as enshrined in the law of the state (Egobueze, 2017). The South African Government is divided into three parts: the Executive (the Cabinet), the Legislature (Parliament), and Judiciary (the courts). These three organs are known as organs of the government. These three organs of government provide the basic framework for criminal justice in most countries (SAHO, 2000)

For example, the legislature makes the laws that determine which acts or conducts is against the law, establishing penalties for criminal violations and rules for criminal violation and rules for criminal procedure. The Legislature must exist and the doctrine of separation of powers is a sine qua non to democracy (Stephens, 2018: 19). According to Egobueze (2017), the legislature is the watchdog over other organs of government and society.

The executive organ is the collective of all the functionaries and agencies which are concerned with the implementation of the will of the state as is voiced and expressed in terms of the law. In its broadest sense, the executive department consists of all government officials except those acting in a legislative or judicial capacity. It includes all the agencies of government that are concerned with the execution of states will as expressed in terms of law **(**Egobueze, 2017). The Executive is responsible for ruling the country through different departments or ministries. Each department is responsible for a different issue (South African History Online (SAHO), www.sahistory.org.za/article/structure; Stephens, 2018: 19).

According to the Oxford Advanced Learner's Dictionary (Wehmeier, Mclntosh & Turnbull, 2009), "Judiciary" is "usually the judges of a country or a state when they are considered as a group". This is the part of the government that must make sure that those who do not keep the law are punished. There are different levels of courts. The judiciary generally does not make law or enforce the law, rather interprets the law and applies it to the facts of each case. The judiciary in the final analysis interpreters the laws and punishes the person or persons that breached the law (Egobueze, 2017).

The criminal justice system is a subsystem within a larger political, economic, educational and technical system. It is imperative to describe the relationship between the criminal justice system and the structure of government. The relationship between the roles of the three organs of government and the criminal justice system is highlighted below:

- **The legislature:** The South African Police force has been created through legislation and the most important statute being the Police Act (No. 7) of 1958 (Scharf & Cochrane, 1998: 8). According to Stephens (2018: 20), the legislature passes laws involving the Criminal Procedure Act 51 of 1977. The legislature also carries out rules and regulations concerning arrests and search warrants amongst others. South African Correctional services have also been created through legislation and the most important statute being the Correctional Services Act NO. 111 of 1998.

National legislation may provide for any matter concerning the administration of justice that is not dealt with within the constitution including:

a) Training programmes for judicial officers;
b) Procedures for dealing with complaints about judicial officers; and
c) The participation of people other than judicial officers in Court decisions (Section 180 of the Constitution).

The legislature also serves as a medium for voicing public opinions on criminal justice matters (public hearing) (Stephens, 2018: 20).

- **The Executive:** Consists of the Cabinet which is an advisory body made up of the heads of the executive departments as appointed by the President. The members of the Cabinet are frequently the President's closest confidants. All the members of the Cabinet take the title minister, national commissioners and provincial commissioner. According to Stephens (2018: 20), it is the responsibility of the executive to appoint heads of agencies of criminal justice systems such as the 1) Head of Police (Department of South African Police): Minister of South African Police, National Commissioner of South African Police and Provincial Commissioner which is responsible to provide the mandated role of the provincial structure as outlined in the Constitution Section 206: 3, 2) Head of Corrections (Department of Correctional Services): Minister of Justice and Correctional Services, National Commissioner of South African Correctional Services and Correctional Services Provincial

Commissioner, 3) Head of Judiciary: Minister for Justice and Constitutional Development, Chief Justice, and Head of Justice Ministry or Department.

The executive has the power to remove administrative heads of agencies of the criminal justice system. Moreover, the executive in the name or office of the President or governor has the constitutional powers to grant amnesties for the crime (Stephens, 2018: 20).

- **The Judiciary:** is an independent branch of the government, subject only to the Constitution of South Africa and the laws of the country. The judiciary is represented by the various courts, the courts conduct criminal trials, impose sanctions and sentences guilty offenders. Different Courts and their categories include the Constitutional Court, Supreme Court of Appeal, High courts and Magistrates' courts. The different courts and their categories will be discussed later in this chapter (Stephens, 2018: 20). Clack, De Preez and Jonker (2008: 15) mentions that the courts as the judicial authority are responsible for the administration of justice, which holds all those procedures by which courts of law have recognised organs of state intervention in order to adjudicate both civil and criminal cases. Chapter 8 of the Constitution The Republic of South Africa (199) defines the structure of the South African judicial system and also guarantees the independence of the courts and requires other organs of the state to assist and protect the courts to ensure their "independence, impartiality, dignity, accessibility and effectiveness". Section 96 of the Constitution of South Africa,1993 states that "the judicial authority of the Republic shall vest in the Courts".

2.7 THE PURPOSE OF CRIMINAL JUSTICE

By preventing and controlling crime, criminal justice aims to protect society and maintain law and order. The criminal justice system must establish order and achieve the required purpose to promote peaceful cohabitation among society's members. Each system mechanism fulfils a defined function. The criminal justice system serves multiple purposes (Fagin, 2003: 44). The criminal justice system must ensure that it prevent and control crime in order to maintain order, and by doing this there will be peaceful co-existence by encouraging members of the society to

control and punish offenders (Nesser, 1993 45). Fagin (2003: 45) mentions that the goal of the criminal justice system is to encourage communal approved behaviours, morals and values as well as to provide an environment that promotes trade by encouraging honesty and trust in a commercial contract. There are no single best criminal justice system goals and there are many ways to achieve these goals. Maintenance of order is viewed as the principal objective (Clack, Du Preez & Jonker, 2008).

There are several other significant sub-goals for which the three most important mechanisms of the criminal justice system are responsible. The following are six important sub-goals of criminal justice as mentioned by Nxumalo (2000: 16):

1. The deterrence of crime;
2. The destruction of criminal behaviour by arresting criminals for who deterrence ineffective;
3. The evaluation of the legality of our deterrence and oppressive measure;
4. The judicial determination of guilt or innocence of these apprehended;
5. The appropriate personality of those who have been legally found guilty;
6. The correction by socially approved men of the behaviour of those who violate the criminal law of the Country without justification or explanation.

According to Clack, Du Preez and Jonker (2008: 9), the criminal justice system maintains order by means of principal objectives such as abstract and pragmatic objectives:

- **The abstract objective** has to do with four major goals of punishment which are designed to achieve sentencing in criminal justice since each goal hold implications for sentencing practice. They belong to two groups, namely absolute theory or relative theory. Retribution is a goal with is known as absolute theory. Retribution is a process whereby punishment is imposed on the person who has committed an offence, where the three relative theories are: deterrence, rehabilitation and incapacitation.

- **Pragmatic objective**, in contrast, refers to the protection of the rights of the victim and offender by means of an integral part of the constitution in the bill of rights that aims to

protect the individual against abuse of power held by the state (Clack, Du Preez & Jonker, 2008). These key protections include:

(i) **Freedom and security of the person (Section 12)**: this involves the right not to be detained without trial and not to be punished in a cruel or degrading way.

(ii) **Privacy (Section 14)**: this involves the right not to have your communication intercepted.

(iii) **Access to: information (Section 32)**: (1) everyone has the right of access to any information held by the state, and (b) any information that is held by another person and that is required for the exercise or protection of any rights. (2) National legislation must be enacted to give effect to this right and may provide for reasonable measures to alleviate the administrative and financial burden on the State.

(iv) **Arrest and detaining an accused person (Section 35):** this involves the right to remain silent; have legal representation; to communicate with your spouse, partner or doctor; to a public trial; to a speedy trial and to present and to challenge evidence.

(v) **Enforcement of rights (Section 38):** this involves the right to approach the court for relief when a right is being infringed. (The Criminal Justice System and You. Accessed on: 2015 September).

The pragmatic objective, in contrast, refers to crime prevention taken steps taken before a crime occurs, any effort to do away with the crime before the preliminary incidence before activity. It has to do with effective planning such as the criminal justice strategy plan which emphasized the victims should be at the heart of criminal justice by ensuring that justice is delivered to those who have suffered as a consequence of crime (Joyce, 2013: 102).

- **Firstly**, it is well known that crime can be reduced by promoting crime prevention, decreasing the chance of misconduct taking place, motivating further specific training on criminality causality and guaranteeing that the judicial process is speedy and non-discriminatory.

- **Secondly**, the criminal justice system must make sure that the victim's rights, and that of the defendant, are acknowledged fully in the process of criminal justice.
- **Thirdly**, to advance the wealth of ensuring public safety by retaining all current technology producers who may be able to assist in boosting the system's anxiety and personality of case abilities, through a new communication system and tool that combines crime and the use of computers to speed up criminal exposure, case preparation, and program additions to improve the quality and speed of decision-making across all system modules

- **Fourthly,** the criminal justice system must be future-orientated by making sure that it gets ahead of growing and changing needs to advance new tactical and strategic methods for combating the changing patterns of crime. The insidious and elusive characteristic of crime is its capability of invading almost unannounced any part of the realm of human activities. For example, new crime patterns include the true effect of violence on the global economy, violent service delivery protests, internal conflict activities, political terror and violent demonstrations, terrorist activities, deaths at tribulation to xenophobic attacks, technological intelligence, scams such as criminal pretending to represent activities of well-known companies, calling clients to assist with computer problems requesting the victim to log on and for criminals to then gain access to their computer, passwords and personal information.

- **Fifthly**, the criminal justice system consists of initiatives by the three components of the system – law enforcement (which deals with the prevention of crime and the suppression of criminal conduct by apprehending offenders for whom prevention is the effective count (review of the legality of our preventive and suppressive measures, and judicial determination of guilt or innocence of those apprehended as well as proper disposition of those who have been legally found guilty) and corrections (by socially approved means of the behaviour of those who violate the criminal law) in assisting to break the understanding and communications between the criminal justice system and community are equally

thought to lead to greater citizen demand for system improvements through elected officials.

- **Sixthly,** criminal justice in its decision-making process must be compassionate. This usually causes more dispute and disagreement and it includes such issues as bail practices, adherence to due process, plea bargaining, an alternative to custody, and the nature of punishment and rehabilitation. The degree of consideration in the criminal justice process is frequently a matter of public policy, of the management of the law enforcement, judicial and correctional process, and of the leadership, education and training of those in the system who make the decisions.

- **Seventhly,** criminal justice must embark further on the most current and scientific means such as research development and evaluation that will allow: (1) the improvement, and provide a foundation for the adjustment and transformation in criminal law as well as the justice of public policies concerning the management of the criminal justice system: (2) the creation of a body of verified knowledge that supports the decision-making process, assist to formulate the right question for system study improvement and provide the basis for the professional education of individuals within the system. The modification of public policies relating to the management of the criminal justice system as well as the development of a basis for modification and change in criminal law (Chamelin, Fox & Whiseuand, 1979: 12-14).

Joyce (2013: 101) claims that objectives of the criminal justice system are interpreted into a number of particular responsibilities such as:

- The establishment, through the law, of the restrictions between right and wrong behaviour;
- The investigation, prosecution and imprisonment of the offence;
- The collection of evidence in connection with criminal activities;
- The prevention and determination of offending behaviour;
- The distribution of an applicable reaction to those who have committed a petty offence which does require prosecution;

- The definition, charging and presentation of an offender;
- The provision of support to prevent an offender from reoffending;
- The delivery and administration of the sentence carried onto by a court of law;
- The punishment of those found guilty of a crime by a court of law.

Nxumalo (2000: 15) explains eight principles for the model criminal justice scholars, such as Wayne R. Lafave and Jerold H Israel. These principles are as follows:

- **Respecting the dignity of the individual**: The criminal justice process must safeguard an administration for privacy and autonomy well as freedom from physical and emotional abuse.
- **Minimizing erroneous convictions:** An important goal of the process of convictions is to protect an accused from mistaken conviction.
- **Maintaining the appearance of fairness:** Ensuring an appearance of justice to the participants and the public.
- **Providing lay participation:** Lay participation can guarantee fairness and independence.
- **Achieving equality in the application of the process:** the criminal justice process must also ensure that like the cases are treated the same coronate the just treatment of an accused is not enough.
- **Establishing an adversarial system of adjudication:** Natural decision-makers must decide on a forum where opponents present interpretations of facts and law in a light most favourable to their case.
- **Establishing an accusation system of prosecution:** In such a system the state bears the burden of providing the guilt of the accused.

2.7.1 Goals of the criminal justice system

Crime and disorder disrupt stability in society, the primary goal of a criminal justice system in a free society is to protect the members of that community since it has the authority to maintain

such order. As a result, a choice must be made and law inaction order and a particular place and at a particular time. Even though the purpose of criminal justice is a significantly questioned function, such goals are prevention of crime, control of crime and doing justice. Nesser (1993: 46) explains that prevention and control of crime are the general objectives of the system. Cole and Smith (2001: 14) outlined the goals of criminal justice as follows:

Prevention of crime: According to Roham and Bennet (1995: 9), prevention of crime covers all procedures that are proposed to reduce or otherwise contribute to reducing crime and citizens' feelings of insecurity, both quantitatively and qualitatively, through policies and interventions that reduce the potential for crime and its causes. Crime can be prevented in various ways. The determent effect of police, courts and corrections actions provide an example that prevents others from committing crimes in the first place (general deterrence) and also punish those who violate the law (individual deterrence), even though many people within the community do not take the necessary steps to protect themselves and their properties. The prevention of crime is not the sole responsibility of components of the criminal justice system (police, courts and convections such as NGOs and volunteers whose task is to work within any particular community). They can be tied together in the interest of crime prevention in four techniques namely multi-agency co-cooperation, the introduction of a neighbourhood watch, community, and international donor assistance (National Crime Prevention Institutions, 1986: 2). Anderson and Newman (1998: 22) mention that crime prevention deals with future situations, such as forecasting and forestalling future crimes through present intervention. According to the National Crime Prevention Council (1997: 2), a pattern of attitude and behaviour is directed at both reducing the threat of crime and enhancing the sense of safety and security, positively influencing the quality of life in our society and helping develop an environment where crime cannot flourish. Crime prevention involves any attempt to eliminate crime before it takes or before the initial occurrence.

Crime control: Crime control should not be confused with crime prevention or existing level and the management of that amount of behaviour. It is reactive and it includes the controlling of specific crime events that have already occurred. Nessre (1993: 47) references crime control is as a model which realizes the goals of the criminal justice system. Crime control as a model of the

criminal justice system takes responsibility that freedom is so significant that every determination must be made to repress crime, it emphasizes efficiency and the capacity to invest, try, sentence and disposal of a high proportion of offenders, and it also emphasizes haste. Finally, the criminal justice system serves the purpose of crime control by arresting, prosecuting, sentencing and punishing offenders by means of rehabilitation in correctional facilities. Since criminal law outlines individual rights and procedures to achieve system goals, it also defines what is illegal, therefore, the effort toward crime control must be carried out within the frame of work of law by the criminal justice system. Muthapuli (2012: 25) mentions that the crime control model is regarded as a primary function of the criminal justice process. The criminal justice system helps to control crime by apprehending, prosecuting, convicting, and punishing offenders. Criminal law not only defines what is illegal but also outlines individual rights and processes for achieving the system's goals, therefore attempts to reduce crime must be carried out within the framework of the law.

2.8 COMPONENTS OF CRIMINAL JUSTICE SYSTEM AS ROLE PLAYER IN THE SYSTEM

The components of criminal justice according to Stephens (2018: 13), are organised, purposeful of interrelated and interdependent elements that continually influence one another as a system. These components are different components that must interact and be interdependent, interaction must be in a deferent environment, and there must be a purpose or goal that the component is intended to achieve. The components of criminal justice normally form the structure of the criminal justice system which comprises of four components:

- **The Law Enforcement Component:** This is concerned with observing crime, investigation, tracing, arresting, questioning suspects and pursuits of investigations and it decides which cases enter the stages of the criminal justice system.

- **The Prosecution Component:** This concerns charging and prosecuting the alleged offender. It has the authority or power to institute criminal proceedings on behalf of the state and to do

anything necessary related to this function. Its primary function is to help the court to reach for a just verdict and, in the process of sentencing, to announce a fair sentence based upon the evidence provided (Matthews, 2009: 100).

- **The Court Component:** This regulates or decides the innocence or guilt of the accused and is responsible for sentencing after an accused has been found guilty. The specific set of principles and practices are applied in the court (Crowther, 2007: 173). The court is the systematic process that is most venerable, most formally organised and the most elaborately circumscribed by law and tradition and it involves all judicial agencies at all levels of government (Cavadino & Dignan, 2007: 2).
- **The Correctional Component:** This is the most essential component of the criminal justice process which is charged with the function of executing the punishment imposed, while other punishments can be imposed. Frequently, corrections remain the most widely used as part thereof it enforces the order of the criminal courts and parole boards. It provides offenders with developed programmes that assist offenders to reform with a view to a positive modification of their behaviour (Cavadino & Dignan, 2007: 4).

All the components in the criminal justice system share certain main goals as they collectively exist to protect society, maintain order and prevent crime. The Government of the Republic of South Africa contain departments that form an integrated justice system. These departments have a major role to play and contribute to nurturing the culture of justice for all. According to the Department of Correctional Services (2005: 99), the following are the government departments that form the integrated justice system:

- The Department of Social Development;
- The South African Police Services;
- The National Prosecuting Agency;
- The Department of Justice; and Constitutional Development; and
- The Department of Correctional Services.

The following figure illustrates the criminal justice system in the Republic of South Africa.

FIGURE 1 COMPONENT OF CRIMINAL JUSTICE

Source: Adapted from Roufa: 2000; https://www.thebalancecareers.com/

2.8.1 Different role players in the criminal justice system

According to Clack, Du Preez and Jonker (2008: 12), the role players in the criminal justice system also involve components of criminal justice and others from an official point of view. The different role players in the criminal justice system are those state organs that are involved in the administration of justice such as the South African Police Services, courts, the Department of Social Development, the Department of Correctional Services and the Judicial Inspectorate of Correctional Services**.** The above-mentioned role players are the roles assigned to each of these organs in the administration of justice and its functions.

2.8.1.1 The Role and Responsibilities of the South African Police Services

The security services consist of the Defence Force, the Police Services and any intelligence services. "The process of the criminal justice system starts when the offence is reported to the police who will then investigate any suspected wrong-doing, make an arrest and question suspects in pursuit of their investigation" (Muthaphuli, 2012: 28). The South African Police Services is headed by a National Commissioner employed by the President to justify the terms of a performance agreement outlining specific performance indicators as approved by the Minister of Safety and Security. The following are the specific performance indicators approved by the Minister of Safety and Security (Nxumalo, 2000: 55):

- To provide effective and efficient policing services in terms of the specific performance indicators outlined in the performance agreement;
- To account to the Minister and Parliament on policing issues and activities from time to time or as requested;
- To ensure effective and efficient management and control of police resources, including human resources and to meet the specific goals articulated by the Minister in the performance agreement;
- To assume responsibility for the executive command and control of The South African Police Service in the performance of the objective of the police as set out in the Constitution;
- To maintain executive management control and accountability for the budget and the associated performance agreement;
- To focus the resources and activities of The South African Police Service on the three major policing priorities outlined in the White Paper namely; the enhancement of criminal investigation, crime prevention through targeted visible policing and service delivery through support to victims of crime; and
- To formulate an operational budget for its line and support functions in terms of the National Policing Policy (White Paper on Safety and Security).

The function of The South African Police Service is to ensure that it delivers efficient and effective service to the public through ensuring conditions of safety and security by rendering efficient and effective services and continuously improving the level and quality of these services (The South African Police Services, 2006: IV). In the same way, the everyday activities of the police involve the upholding and enforcement of the law by means of prevention, combating and investigation of crime, the protection and security of the inhabitants of the Republic and their property as well as the prevention of any action that may threaten the safety or security of the community (Section 205 (3) of the Republic of South Africa's Constitution, Act 108 of 1996).

As an organised department, the police are responsible for the prevention and detection of crime, the apprehension of criminal offenders, the defence of constitutional guarantees, the resolution of community conflicts, promotion and preservation of civil orders and the protection of society (Reid, 1997: 156). According to Pursely (1994: 7), the following functions should be accomplished by the police:

- **Protection of life and property:** The protection of society and possession is incorporated in the wide range of services accessible by the police in areas such as apprehension, investigation as well as prevention of crime and crime reduction strategies that are designed to protect society.

- **Crime reduction:** Police have the responsibility to eliminate and reduce opportunities for criminal behaviour. Police programmes such as preventative and visible patrol activity, intelligence and information collecting on crime-producing situations and known criminals and target hardening strategies that challenges make certain physical sites less vulnerable to criminals are just a few examples of police crime reduction efforts.

- **Prevent criminal behaviour:** The police are not only involved in crime reduction; they also have the responsibility to prevent criminal behaviour and are involved in efforts that are focused on eliminating the cause of crime. Such preventive efforts might include activities

such as citizen education programmes which educate citizens on ways to avoid victimisation and how to act when victimised as well as prevention programmes.

- **To apprehend and arrest an offender:** Police are responsible for the investigation of a crime and collecting all the necessary evidence and presenting them to the court. They also have a link with the court to testify against those who violate the law of the court or state.

- **Regulation of non-criminal conduct:** In addition to the abovementioned functions, the police have the responsibility to ensure that the laws concerning public safety and security are adhered to daily. This includes activities such as traffic regulations and crowd control.

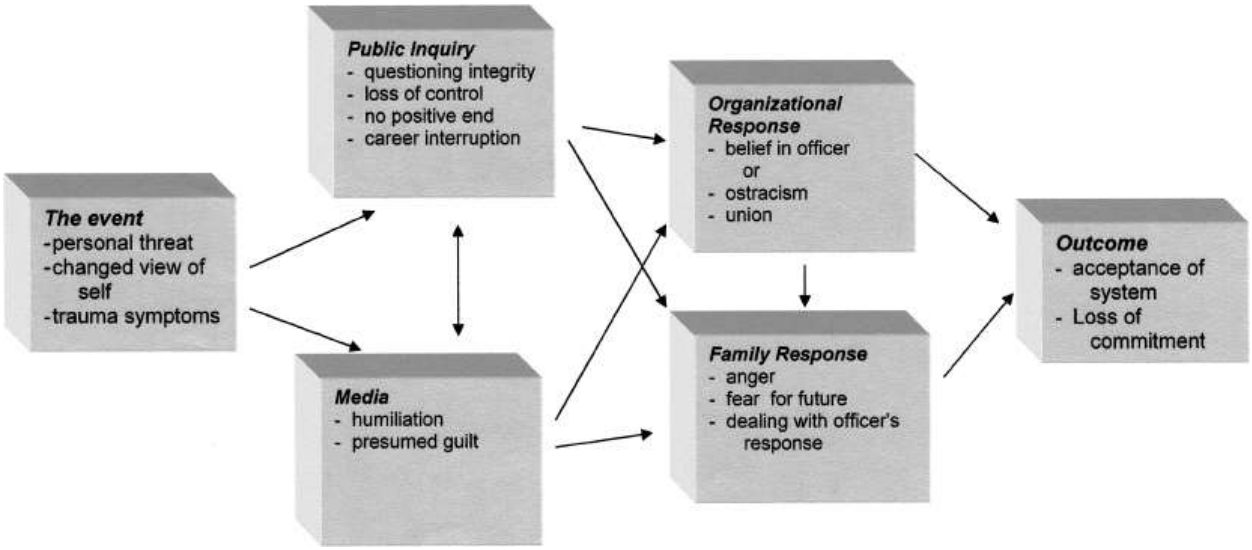
According to the Constitution of The Republic of South Africa, 1996, the responsibilities of the South African Police Services are as follows:

- To protect and secure the inhabitants of the Republic and their property;
- To maintain public order;
- To uphold and enforce the law;
- To prevent, combat and investigate crime;
- To prevent anything that may threaten the safety or security of any community;
- To create a safe and secure environment for all people in South Africa;
- To participate in efforts to address the causes of crime; and
- To investigate any crime that threatens the safety or security of any community and to ensure that criminals are brought to justice.

The following figure shows how the reality of police work comes into conflict with the expectations of the public.

Figure 2: police work and conflict with the expectations of the public

Source: Adapted from https://www.researchgate.net/



2.8.1.2 The structure of the South African Police Service

"The South African Police Services is structured in a way that allows it to function in the local, provincial and national compass of the government. The power and functions of the Police Services are established by the National Legislature. These powers and functions allow the Police Services to discharge its responsibilities effectively according to the requirements of the provinces" (Clack, Du Preez & Jonker, 2008: 13). South African Department of Safety and Security (1998: 26) outlines the structure of the South African Correctional Services as follows:

- **The National Police**

The National Government is responsible for the establishment of the national vision and outline of crime prevention. It pledges to bring together and expedite crime prevention programmes by assisting the Provincial and Local Government with technical guidance, training and information sharing as well as managing and coordinating the prevention of certain priority crimes. The National Police is also responsible for organising other departments which have a role to play in crime prevention initiatives such as the Department of Welfare and Public Services and Administration.

- **The Provincial Police**

The objective of the Provincial Government is to pledge social crime prevention and to coordinate the Government function with those stakeholders such as the Department of Human Settlement, Environment Affairs and the Local Government who are responsible for crime prevention. Introduction and coordination of resources aim to help the Local Government together with helpless areas to decrease crime. For the Provincial Government to achieve the above objectives, it has to control or supervise the performance of police and promote the cooperation between the police and involved parties in assessing the needs for improvement in policing departments within the province. According to the White Paper on Safety and Security (1998: 30), the Provincial Police provide the mandated role of the provincial structure as outlined in the Constitution (Section 206: 3) as follows:

- To promote good relations between the police and the community;
- To assess the effectiveness of visible policing;
- To monitor police conduct;
- To oversee the effectiveness and efficiency of The Police Service including receiving reports on The Police Service; and
- To liaise with the Cabinet member responsible for policing with respect to crime and policing in the province.

- **The Local Police**

The Local Government is charged with empowering the local policing authorities and with the role of aligning the resources to priority areas under its jurisdiction. Crime prevention within the Local Government consists of the coordination of crime prevention advantages operating within the areas to avoid duplication and also comprises of effective enforcement of by-laws to ensure a safer and cleaner environment that is less conducive to crime, e.g., by fencing parks, maintaining street lighting and the environment and to prevent crime on municipal belongings.

According to the White Paper on Safety and Security (1998: 32), the focus on the empowerment of the local policing aims to ensure that different needs of society at large are met by advanced responses from the South African Police Station Commissioners. The Local Police empower Stationer Commissioners to self-govern over their human resources and policing priorities, asset management and strategies implemented to meet them.

Local Government consider ways in which the visible policing resources of the South African Police Services can be supplemented as a result of public fear of crime. Nxumalo (2000: 62) maintains that "the crime prevention function of municipal police services is primarily exercised through the visible presence of law enforcement officials by means of point duty, foot, vehicle or other patrols".

2.8.1.3 The South African Police Services Professional Code of Ethics

Every member of the South African Police Services must ensure that they understand and adhere to a professional code of ethics. The code of ethics or conduct is a written undertaking that each member of the South African Police Service is compelled to uphold to bring about a safe and secure environment for everyone within the County (South African Police Services, 2006). Nxumalo (2000: 65) also emphasises that ethics is concerned with how a police officer should behave regarding both and means that it is also concerned with the police officer's moral duties. Nxumalo (2000: 68) mentioned and Whisenand and Rush (1998: 375) emphasised that ethics is the eternal struggle between the two principles of right and wrong. According to the South African Police Service (2006), all members of the South African Police Services must perform their duties according to the following principles:

- Integrity – Employees of the South African Police Services must regard the truth as being of the utmost importance.
- Obedience of the law – Employees of the South African Police Services must respect and uphold the law at all times.
- Respect for diversity – Employees of the South African Police Services must acknowledge the diversity of the people of our country and treat every person with equal respect.

- Service excellence – Employees of the South African Police Services must work towards services excellence.
- Public approval – Employees of the South African Police Services must always work with and for the approval of the community.

It is therefore the responsibility of the senior police officer to ensure that police officers understand the code of conduct and ethics and realise that the effects of years of hard work by all police officers at all levels can be devastated by a humiliating action of disrespect or selfishness. Therefore, all police officers should be led to increasingly greater accountability of both what they do and how they do it (Nxumalo, 2000: 69).

2.8.1.4 Challenges faced by Police Officers

Nxumalo (2000:23) stated that pressure groups both within and outside of the police organisation all require that police carry out the law and play their role in a specific manner. The police are expected to maintain the value and laws of a changing representative society; yet they, like many other citizens, do not always find themselves in agreement with old laws and values or new ones. Some pressure groups have the legal authority to mandate police toeing the line to legal command, whereas other groups do not. The latter has only the burden of their principles in the manner police perform their duties. The remaining result of all the differing views of police work is that officers are under pressure from courts, police departments and the community at large.

Policing in South Africa face many challenges including political volatility, everyday criminal justice policy changes and rapid technological change, all of which introduce new complications and hesitations into the policing surroundings. The intensity and degrees of crime in the country largely extends beyond the parameters of normal law enforcement, whereby civil society has an important role to accomplish in crime prevention and the investigation of crime (Govender, 2015: III). The fact of the matter is that most police officers do their work fairly and reasonably. Policing streets expose the police officers to an environment of uncertainty, where they have no clear rules to help them deal with every situation that confronts them (Nxumalo, 2000: 23).

2.8.2 The role of courts and prosecutions

2.8.2.1 The National Prosecutions Authority (NPA)

The purpose of institutions such as the National Prosecutions Authority (NPA) plays a primarily reactive role in relation to crime (Matthews, 2009: 99), and it also seeks to address the accountability and professionalism of government departments and civil society groups that provide services to victims (Faull & Mphuthing, 2009: 131). Section 179 of the Republic of South Africa's Constitution of 1996 (Act No. 108 of 1996) established a single National Prosecution Authority (NPA) Act (32 of 1998) which stated the legal basis for the establishment of the National Prosecution Authority (Matthew, 2009: 99).

The National Prosecution Authority (NPA) is headed by the Office of the National Director of Public Prosecution (Adv. SK Abrahams). Four Deputy National Directors (Mr W Hofmeyr, Adv. Njibe, Adv. N Mokhatla and Dr S Ramaite) and several special directors report to the National Director of Public Prosecutions. The National Prosecutions Authority is divided into seven primary business units, all maintained by a corporate service unit. Matthews (2009: 99) listed seven business units as follows:

1. The National Prosecutions Unit (NPS);
2. The Integrity Management Unit (IMU);
3. The Asset Forfeiture Unit (AFU);
4. Sexual Offences and Community Affairs (SOCA);
5. The Specialised Commercial Crime Unit (SCCU);
6. The Witness Protection Unit (WPU; and
7. The Priority Cries Litigation Unit (PCLU).

There are nine Provincial Directors of Public Prosecutions (DPP), which are responsible for prosecutions in both higher and lower courts of South Africa. In 2005, the NPA introduced the Uniform Protocol for the Management of Victims, Survivors and Witnesses of Domestic Violence and Sexual Offences (UPVM) (Faull & Mphuthing, 2009: 131).

The National Prosecuting Authority Act offers the Prosecuting Authority the authority to introduce criminal proceedings on behalf of the State and to exercise anything necessary relating to this function. This has to do with supporting the investigation of a case or discontinuing criminal proceedings where necessary. "The South African NPA is the first prosecuting authority known to include crime prevention within its mandate. This extension of its mandate is often challenged by prosecutors used to the more traditional approach" (Matthews, 2009: 99). In England and Wales, it was only in 1986 when the government established the National Crown Prosecution Service (CPS) with a brief to conduct prosecution in the lower courts and to commission and brief barristers to conduct cases in the higher courts. Before 1986, the prosecution was a police function and prosecution rates varied widely as different police forces all exercised discretion in their own way. Prosecutors are state lawyers; public officials who represent the people of a particular jurisdiction in a criminal case (Nxumalo, 2000: 24).

2.8.2.2 The Courts

In terms of Section 165 of the Constitution, the courts are independent and subject only to the constitution and the law and the Judicial Authority of South Africa is vested in the courts. Therefore, an order or decision made by a court of law binds all organs of the state and persons to who it applies and by no means, no person or organ of state may interfere with the function of the courts (Nxumalo, 2000: 112). Before we discuss the different courts in South Africa, we first have to understand how the court functions. Therefore, we need to understand what administration of justice and the doctrine of precedent means courts, especially criminal courts, are considered to be the core element in the administration of justice (Nxumalo, 2000: 26).

2.8.2.3 Administration of Justice

The concept 'administration of justice' holds all those procedures by means of which courts of law as recognised organs of state intervene in order to adjudicate both civil and criminal cases (Clack, Du Preez & Jonker, 2008: 15). Nxumalo (2000: 113) emphasised that, in the

administration of the criminal system, the criminal court is considered by many, to be the core element. The courts as the judicial authority are responsible for the administration of justice. The courts assume the role of a referee within the state, not only with regards to disputes between the organs of government and subjects of the state but also with regards to disputes between the subjects of the state themselves and between organs of government themselves. The courts fulfil a controlling function that demands particular independence on their part. The courts influence both lives and institutions by means of handing down judgements and making orders and imposing sentences (Clack, Du Preez & Jonker, 2008: 16).

There are two types of cases that the courts adjudicate namely: criminal cases and civil cases. In a criminal case, it must be decided whether a crime or offence has been committed and if so, who committed the crime and what proper punishment would be given to the offender. In a civil case, a party approaches the court for assistance or relief or for the making of a specific order to make sure that it will either provide or pay something to the person who instituted legal proceedings or to do something for the benefit or on behalf of the person who approached the court, or not do something which distresses or upsets such a person (Clack, Du Preez & Jonker, 2008: 16).

2.8.2.4 The Doctrine of Precedent

To achieve uniformity in the application of legal rules and as well as to ensure a greater measure of legal certainty, one has to consider what is known as the doctrine of precedent which is primarily the reason for its existence. The doctrine of precedent holds that where a particular court hands down a particular judgement, such court, and courts subordinate to it, must hand down the same judgement where the same point has to be decided in future. Once a judge has decided on the appropriate legal rule in a specific case and has interpreted such rule, such interpretation must be adhered to in similar cases in the future (Clack, Du Preez & Jonker, 2008: 17).

There are two most important requirements which the doctrine of precedent stipulates: The courts' hierarchy is in a manner that courts must be divided into a specific rank order so that each

court is a subordinate to the court above it and there must be an effective system of court reporting so that courts which are lower in the rank order can ascertain what the courts above them have decided (Clack, Du Preez & Jonker, 2008: 17).

2.8.2.5 The Different Courts and its Categories

Section 96 of the Constitution of The Republic of South Africa (1993), states that the judicial authority of the Republic shall vest in the courts. The categories of courts are discussed as follows:

The Constitutional Court

The Constitutional Court is the highest in all constitutional matters and is based in Johannesburg. The President of the Constitutional Court is appointed by the President in consultation with the Cabinet and after consultation with the Chief Justice in terms of Section 98(1) of the Constitution, the Constitutional Court. The Constitutional Court makes the final decision whether a matter is a constitutional matter or whether an issue is connected with a decision on constitutional matters.

The Constitutional Court has jurisdiction in the Republic of South Africa as the concluding court of the last request in respect to all matters involving the interpretation, protection and enforcement of the provisions of the constitution of the Republic. Therefore, the Constitutional Court has an emotional impact on every South African individually (Nxumalo, 2000: 118). In terms of Section 98 (2) of the Constitutional Act 108 of 1998, it provides that the power of the Constitutional Court includes, *inter alia*, the following (Nxumalo, 2000: 118):

- Any enquiry into the constitution of any law including an act of Parliament, irrespective of whether such law was passed or made before or after the commencement of the constitution of the Republic of Africa;

- Any disagreement over the constitutionality of any executive or administrative act or conduct or threatened executive or administrative act in conduct or any organ of state;
- Any dispute of a constitutional nature between organs of state at any level of government;
- Any alleged violation or threatened violation of any fundamental right entrenched in the constitution;
- The determination of questions whether any matter falls within its jurisdiction; and
- The determination of any other matters such as may be entrusted to the court.

The following characteristics are the commitments of the Constitutional Court:

- The circumstance upon which the Constitutional Court may be apprehended of any matter within its jurisdiction and all matters relating to the happenings of and before the court shall be synchronised by rules approved by the Constitutional Court President in referring with the Chief Justice, which rules shall be published in the Gazette; and

- The Constitutional Court rules may make provision for direct access to the court where it is in the interest of justice to do so in respect of any matter over which it has jurisdiction (Nxumalo, 2000: 119).

Supreme Court of Appeal

The Supreme Court of South Africa consists of an Appellate Division and the Provincial and Local Division. The President together with the Cabinet is responsible for the appointment of the Chief Justice of the Supreme Court of South Africa after the consultation with the Judicial Service Commission (Nxumalo, 2000: 120). According to the Constitution of 1996, the Supreme Court of Appeal consists of a President, a Deputy President and the number of judges of appeal determined in terms of an Act of Parliament.

The Supreme Court of Appeal has jurisdiction to hear and determine any appeal against any decision of the High Court. Within the respective areas of jurisdiction of the relevant divisions of

the High Court, the decisions of the court are binding on all lower courts and the decisions of the High Court are binding on Magistrate's Courts (South African Courts, Accessed 2006/07/20).

The Supreme Court within its area of jurisdiction, subject to the constitution, provincial or local division of the Supreme Court, shall have authority in respect of the following additional matters such as:

- Any enquiry into the constitutionality of any law applicable within its area of a jurisdiction other than an Act of Parliament, irrespective of whether such a law has passed or was made before or after the commencement of the constitution;
- Any dispute over the constitutionality of a bill before a Provincial Legislature;
- Any dispute over the constitutionality of any executive or administrative act or conduct of any organ of the state;
- Any dispute of a constitutional nature between local government or between a local and provincial government;
- Any alleged violation or threatened violation of any fundamental right;
- The determination of questions whether any matter falls within its jurisdiction; and
- The determination of any matters as may be entrusted to it by an Act of Parliament (Nxumalo, 2000: 120).

The Supreme Court usually assembles in sections of three or five judges depending on the nature of the appeal. The structure of the panels differs for each case. On each panel the senior judge chairs in that case. If there is a difference of judgement, there may be more than one judgement in a case. The majority decision is the court's decision. Judge and counsels are robed in the Court (South African Courts, 2015).

The Supreme Court of appeal consists of five natures of appeal: civil appeals, criminal appeals, referral by the minister and the appointment of judges. The types of appeal are briefly discussed below (South African Courts, 2015):

- **Civil Appeals:** The Supreme Court of Appeal has no right of appeal. Leave to appeal is required. When the appeal is against the decision of the High Court on appeal to it, special leave of the Supreme Court of Appeal is required. Leave of that court is required to appeal to the Supreme Court of Appeal. In all other cases of an appeal against a decision of the High Court, whether sitting as a court of the first instance or as a court of appeal, should leave be refused, an application for leave may be made to the Supreme Court of Appeal.

- **Criminal Appeals:** The Supreme Court of Appeal is the court of appeal in respect of appeals and questions of law reserved in connection with criminal cases heard by the High Court, except in cases where a court granting leave to appeal is satisfied that the appeal does not require the attention of the Supreme Court of Appeal. There is no automatic right to appeal, but leave to appeal is required of the court:
  a. If the intended appeal is against the decision of a full court, special leave to appeal to the Supreme Court of Appeal is required.
  b. If a special entry of an irregularity or illegality in the proceedings is made on the record, the person convicted has a right to appeal to the Supreme Court of Appeal.

Questions of law arising in the High Court may be reserved by that court or at the behest of the State or the accused for consideration by the Supreme Court of Appeal. The Director of Public Prosecutions may appeal to the Supreme Court of Appeal against the sentence imposed on an accused by the High Court but requires to leave in accordance with the relevant legislation and the Director may also be given leave to appeal on questions of law decided by the High Court.

- **Referral by the Minister**: The Minister for Justice and Constitutional Development may submit the decision or the conflicting decisions to the Supreme Court of Appeal and cause the matter to be argued before that court so that it may settle the matter whenever a decision in a criminal case on a question of law is given in any division of the High Court which conflicts with a decision given by another division of the High Court, or whenever the Minister has any doubt as to the correctness of a decision by the High Court in a criminal case on a question of law. Whenever there are conflicting decisions on civil matters in

different divisions of the High Court, the Minister for Justice and Constitutional Development may submit the question to the Chief Justice, who must cause the matter to be argued before the Constitutional Court or the Supreme Court of Appeal to settle the matter.

- **Appointment of Judges:** The President of the Republic is responsible for the appointment of judges of the Supreme Court of Appeal with the advice of the Judicial Service Commission. The President of the Republic, before appointing the President and Deputy President of the Supreme Court of Appeal, must refer to the Judicial Service Commission. Any person who is suitably qualified and is an appropriate and right person may be appointed as a judge. By agreement, judges of the court are appointed from the ranks of High Court judges. When judicial officers are appointed, the need for the judiciary to reflect broadly the racial and gender composition of the country must be considered.

- **Procedure before the Court:** Witnesses do not appear before the court, and the parties need not be present during the hearing of an appeal. The court decides cases upon the record of the proceedings before the lower court and after considering the written and oral arguments presented. A written judgment is usually handed down shortly after the argument.

High Court

The decision made by High Courts is a significant source of law, just as decisions made by the Constitutional Court and the Supreme Court of Appeal. High Courts must ensure that it upholds and enforce the constitution. High Courts are superior courts of law in South Africa. It is divided into seven provincial divisions. Each High Court division has general jurisdiction over a defined geographical area in which it is located and within its area of jurisdiction, the decision of a division is binding on Magistrate's Courts. High Courts hear any appeal or review from Magistrate's Courts and other lower courts. It also has jurisdiction over all matters, but it regularly only hears civil matters involving more than R100 000 and serious criminal cases. The decisions made by High Courts are binding on Magistrate's Courts within the respective areas of jurisdiction of the divisions (South African Courts, 2016).

The courts and its divisions are constituted in their current form by the superior form by the Superior Court Act 2013 and replaced by the previous separate High Courts, which in turn replaced the provincial and local division of the former Supreme Court of South Africa and the Supreme Court of the TBVC States (South African Courts, 2016).

Magistrate Courts

The Magistrate Courts are the lower courts that deal with less serious criminal and civil cases. All Magistrate Courts in South Africa fall outside the domain of the Chief Magistrate. Magistrate Courts aim to strengthen the independence of the judiciary (Clack, Du Preez & Jonker, 2007: 19). Magistrate Courts may not enquire into or rule on the constitutionality of any or any conduct of the President. Magistrate Courts and all other courts may decide on any matter determined by an Act of Parliament (The Constitutional Act 108 of 1996). According to Nxumalo (2000: 122), the Magistrate Court was introduced to lighten the load of the Supreme Court of South Africa in these cases which are not of such a serious nature.

Regional Courts

Regional Courts have a higher panel of jurisdiction than Magistrate Courts; however, an accused person cannot appeal to the Regional Court against the decisions of a District Court. This can be done through a High Court. These Regional Courts are established at one or more places in each regional division. The Regional Court aims to deal with matters within their jurisdiction. The penal jurisdiction of the Regional Court is limited by legislation (Clack, Du Preez & Jonker, 2007: 18). Nxumalo (2000: 122) mentions that a Regional Court may impose fines of more than R20 000 and/or impose sentences exceeding more than ten (10) years

Criminal Jurisdiction

If or when an accused person is charged with any offence committed within any district or regional division, that offender may be tried by the court of that district or the court of that regional division. The High Court may try all offences such as treason, murder and rape, but the Magistrate Court may also try all offences except offences mentioned above. The Regional Court has jurisdiction over all offences except treason (South African Courts, 2006).

Other Criminal Courts

In terms of Statutory Law, jurisdiction may be conferred upon by the Chief of Headman or his deputy to punish an African person who has committed an offence. The offence must fall under Common Law, Customs Law and Indigenous Law, except certain serious offences specified in the relevant custom. The jurisdiction conferred upon a Chief and a Magistrate does not affect the jurisdiction of other courts competent to try criminal cases (South African Courts, 2006).

2.8.3 The Department of Correctional Services

The most crucial aspect of the criminal justice system is correction as this will be explain in this section. While there are various punishments that can be applied, corrections are the most common. It is responsible for enforcing the decisions of criminal courts and parole boards. Within the criminal justice system, corrections perform the following functions (Cavadino & Dignan, 2007: 4):

- **Maintaining institutions:** As part of the criminal justice system, corrections have to maintain institutions to be able to receive convicted offenders sentenced to periods of incarceration by the courts.

- **Protect law-abiding members of the society**: The custody and the kind of security that corrections provide keep sentenced offenders removed from society for them not to commit further crimes within the society.

- **To reform offenders:** Corrections has the responsibility to provide and develop programmes that will assist offenders to reform. In addition, during their time of incarceration, offenders must be prepared for their return to society after the end of their sentence. All correctional programmes are made up of activities designed to remove the conditions that led to offenders' illegal behaviour.

- **To deter crimes:** Not only does corrections develop programmes to reform offenders, but it is also responsible for encouraging incarcerated and potential offenders to lead law-abiding lives through the experience of incarceration and the denial of freedom to live in society.

The aim of the department is "to contribute towards maintaining and protecting a just, peaceful and safe society by enforcing court-imposed sentences, detaining offenders in safe custody whilst upholding their human dignity and promoting the social responsibility and human development of all offenders and persons subject to community corrections" (South African Department of Correctional Services, 2006: 12).

2.8.3.1 The role and structure of correctional services

The Department of Correctional Services must fulfil the purposes of the Correctional Services Act 111 of 1998 and complete all the work required for its effectiveness. There are three main categories in the criminal justice system in which the Department of Correctional Services plays a role. These categories are safe custody, the treatment function and correctional supervision.

Safe Custody: "Safe" implies that the correctional officials are compelled to protect the prisoner against any form of treatment, whether the offender work with dangerous machinery such as building side or is assaulted by other offenders. "Custody" means that the offender must be

guarded by the Correctional officials in such a way that he or she cannot escape, but guarded in such a way on his or her release the offender leaves the correctional centre in the same physical condition as he or she was admitted.

There are two types of custody: passive custody and active custody. In passive custody, the correctional official must, in his or her custody function, ensure among other things that the offender is properly locked up that they are handcuffed correctly whenever necessary, that correctional officials on duty are equipped with the necessary means to prevent escape, and so on. Active custody is what the Department of Correctional Services is encouraging correctional officials to partake in. Active custody is when the correctional official is intensively concerned with the offender. For example, the offender is meaningfully involved in education and training this will eliminate the factor for much unlawful behaviour of the offender. In this way, offender attention is taken off negative activities such as escape and gang activities violence (Coetzee & Gericke, 1997: 44).

Safe custody can also imply ensuring the safe custody of the offender to protect society against crime. Over the world, the safety and security functions have been prioritised at the expense of other functions in most correctional systems. Safety and security must be upheld at all times since correctional services operate 24 hours per day. The safety and security of those who work and live-in correctional centres are dependent upon the knowledge of and adherence to all rules, policies, and procedures by staff and offenders alike (Clack, Du Preez & Jonker, 2008: 61). In terms of the Correctional Services Act 111 of 1998, the Department of Correctional Services must take the necessary steps to ensure the safe custody of every offender and to maintain security and good order in every Correctional centre. According to Labane (2012: 61), safe custody does not only mean that escape must be prevented, but also that the offender must be held in safe conditions. Section 4 of the Act provides that custody must satisfy these requirements:

- It must be commensurate with the purpose for which it is applied.
- It must be applied in such a manner that the prisoners are not affected to a greater degree or for a longer period than is necessary (Jonker, 1997: 81).

- Correctional officials must ensure that rehabilitation is a point of departure during the custodial function (Coetzee & Gericke, 1997: 43).

Treatment function: According to Coetzee and Gericke (1997: 43), this fanction basically means that treatment aims to rehabilitate the sentenced offenders and train them in habits of industry and labour and the creation of opportunities for the offender to facilitate their reintegration into society. Labane (2012: 242) explains that the Department of Correctional Services is not only obliged to detain convicted offenders but to apply such treatment as to change offenders and probationers as may lead to their reformation and rehabilitation and to train them in habits of industry and labour, as far as practicable. The offender is developed by the treatment in his/her attempts to recognise the change, and treatment is also aimed at arranging for offender reintegration into society. The Department of Correctional Services treatment function comprises of different specialist disciplines that make independent contributions, e.g., social workers, educators and psychologists, and their activities are also carried out independently of other treatments such as gratuities and privileges in the depth classification. The main aim of improving the life skills of the offender is to ensure that the offender will not re-offend (Labane, 2012: 242).

Correctional supervision: The offender serves his or her sentence in the society instead of in the prison. The main aim of correctional supervision is to work out supervision and control over offenders and probationers and parolees who have been sentenced to or placed under correctional and parole supervision in the community (South African Department of Correctional Services, 2001). The implementation of correctional supervision should ensure that offenders abide by the conditions imposed upon them to protect the community. Coetzee and Gericke (1997: 43) explain the advantage of correctional supervision as follows:

- The associated overpopulated and growing correctional centre population in South Africa place a heavy burden on the taxpayer. Cheaper sentence option, correctional supervision has a particular advantage to relieve the burden.
- It protects the offender against the negative and criminal influences of the hardened offenders in the correctional centre.

- The overpopulation in correctional centres is relieved, which means that those offenders who must be held in correctional centres can live more dignified custody circumstances.
- Offenders are offered the chance to be treated in more favourable circumstances and remain economically active and can fulfil their responsibility towards their family and society.
- As part of the criminal justice system with correctional supervision, the South African Correctional Services is in line with the international development in this regard.

2.8.3.2 Correctional programmes

The department's activities are divided into seven budget programs. The after-care program, which has been renamed social reintegration, has been used by the government to provide a full synergy of services from admission through the sentence plan and up to and including release and reintegration (Labane2011;219). The department now offers the following seven budget programs (South African Department of Correctional Services, 2006:12):

- **Administration** is considered as the first program**:** The goal of this program is to ensure that all administrative, management, financial, information technology, service assessment, investigative, and other critical support functions for the department's service delivery are provided.

- **Security** is the second programmes**:** This program aims to protect everyone touched by Correctional Services' actions, including offenders, workers, and the general public, without jeopardizing offenders' human dignity.

- **Corrections** is the third Programmes: The goal of this program is to ensure that offenders' sentences are tailored to their specific needs, as well as that programs aimed at their development are tailored to their specific needs. Criminal profiles, security risks, and the nature of the offender's crime must all be taken into account

- **Care** is the fourth Programmes: Correctional Assistance's mission is to give all offenders the essential care, including better diet, psychiatric services, and health care, among other things.

- **Development** is the fifth Programmes: The goal of this program is to provide all offenders with programs that will aid in their personal development.

- **Social Reintegration** is the sixth Programmes: The goal of providing personal development programs to offenders is to prepare them to live a normal life after their release. This will be ensured through the department's monitoring of their reintegration into society.

- **Facilities** are the seventh Programmes: The goal is to ensure that all correctional facilities are under safe and humane circumstances and that offenders receive treatment and development, as well as prison management.

2.8.3.3 Key objectives of the Department of Correctional Services

The South African Department of Correctional Services published a white paper on correctional services in 2005 (South African Department of Correctional Services, 2005:73) that detailed the department's key objectives. The following are the primary goals of the correctional system:

- **Breaking the cycle of crime:** The goal of correctional services is to protect the general public, promote social responsibility, and enhance human development in order to avoid repeat offences or re-entry into the criminal justice system. The essence of confinement is not just a deterrent, but also rehabilitation, or the positive attitude that crime is not rewarded. offender rehabilitation will eventually stop the cycle of crime, resulting in a crime reduction. The term "rehabilitation" refers to a sentence that is centred on treatment rather than punishment. Offenders are expected to develop valuable work skills and participate in educational programs to enable their successful reintegration into society (Balfour, 2003:46).

- **Security risk management:** The Department of Correctional Services is responsible for establishing proper processes to ensure that the public is safeguarded from offenders. Information on custody classification and community correctional supervision classifications of offenders is provided by security risk management and needs-based correction. The principal goal of the department's security services is to keep offenders in safe custody under humane conditions until they are legitimately discharged from the correctional system and returned to society as law-abiding citizens (South African Department of Correctional Services, 2002:64). Security classification is governed by Section 2(a) of the Correctional Services Act of 1998. In February 2005, the Department of Correctional Services produced the White Paper on Corrections, in addition to the legislative requirements. Aspects of safety are included in this.

- **Implementation of sentences of the courts:** The Department of Correctional Services is compelled to make correctional and developmental opportunities available to all offenders. It should also make sure that the offenders have a positive commitment to active participation and internalisation of the lessons of such opportunities. The result of this is that the Department of Correctional Services should ensure that the offenders in the correctional system understand and accept the need to be corrected and rehabilitated. The Department of Correctional Services should build up a personal offender-specific correctional sentence plan that will be based on the total needs of the specific offender. Such a sentence plan will take the exact correctional setting, correctional centre or probation or community correctional supervision into account (South African Department of Correctional Services, 2005b).

- **Providing an environment for controlled and phased rehabilitation interventions:** The purpose of imprisonment or correctional supervision is to provide a regulated environment for concentrated and needs-based rehabilitation, correction, and development, as well as to promote public safety. The Department of Correctional Services is required by section 2 of the Correctional Services Act to not only detain convicted offenders but also to provide such treatment to offenders and probationers as may lead to their reformation and rehabilitation, as well as to train them in industrial and labour habits, as far as possible (Labane 2012: 242).

- **Providing guidance and support to probationers and parolees within the community:**

  The goal of community corrections is to offer a different path to recovery. Offenders spend their sentences in society rather than in a penitentiary facility. Community corrections also ensure that criminals' reintegration back into society is a closely monitored procedure. Community correctional supervision guarantees that an offender has access to the assistance he or she needs to reintegrate successfully. Bruyns, Du Preez, Jonker, Kriel, Van der Merwe, Bruyns, Du Preez, Jonker, Kriel, Mnguni, Ramabulana, (2008:IV) , state The ultimate purpose of community-based sentences is to allow offenders to live a socially responsible and crime-free life both during and after their sentence. To protect the community, community-based sentencing should be implemented to guarantee that offenders follow the terms imposed on them.

- **Reconciliation of the offender with the community:** The Department of Correctional Services must prioritize the offender's rehabilitation into society. The Department of Corrections must also help the offender heal his or her relationship with the victims. These activities are a crucial part of the offender's rehabilitation. Recidivism becomes more likely if there is no reconciliation, and the criminal remains alienated from society. This, according to Plaatjies (2008, ii), can be accomplished through a procedure known as restorative justice, which involves working with condemned offenders. Restorative justice can help with the aftermath of a crime, and it's more usually used as a presentence option and a way to separate from the criminal justice system and incarceration. Victims and offenders must participate voluntarily, with community support (Plaatjies 2008, 9).

- **Promotion of healthy family relations:** The Department of Correctional Services should ensure that there is contact between inmates and their families. The success in rehabilitating an offender is built on well family relationships.

- **Assertion of discipline within the correctional environment:** The goal of correctional discipline is to reinforce the rehabilitative and correctional goals. Through a restorative justice approach to all offenders, it should foster self-discipline. Within the correctional setting, disciplinary procedures should take the shape of community service focused on other inmates.

2.9 RELATIONSHIP BETWEEN THE COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM

According to Reid (1990: 6), “There are two ways in which a person can start his or her journey through the criminal justice system: The society can report the crime that was committed. The police can arrest the person who has allegedly committed the crime”. The process of the criminal justice system starts with the police and ends with the department of corrections. Corrections is the last chain of the criminal justice system. Since is at the receiving end of the whole process, how the activities in other components of the criminal justice system affect corrections will be discussed here. As confirmed by Muthapuli (2012: 30), corrections department inherits any inefficiency, inequity and improper discrimination that may have occurred in an earlier step of the criminal justice process, because it receives its clients from other components of the criminal justice system. Blackburn, Fowler and Pollock (2014; 87) explains correction as compelling a person to change, and entry into a correctional institution is best described as the social process by which once free citizens are transformed into offenders. Because none of the system's components are mutually exclusive, whatever is done in one impacts the others. Police apprehend the suspect, who is then prosecuted, acquitted or convicted, and sentenced by the courts, as well as removed, punished, and/or rehabilitated by correctional authorities. (Muthaphuli, 2012: 30). The following are the discussion of the impact of the police on corrections of the impact of the courts on corrections as described by Muthaphuli (2012: 31-32):

2.9.1 The impact of police on corrections

According to Muthaphuli, (2012: 31). Because of their responsibility to enforce the law and maintain order, cooperation between the police and corrections is critical if the criminal justice system is to function effectively, even though they may appear to be the two components of the criminal justice system that are the farthest apart in terms of their operations and attitudes toward crime and offenders.

Correctional officials often take a longer view. Correctional officials are hoping that an offender will not commit further crimes after release, unlike the police who are often confronted with the victim and the emotions surrounding the crime, the police are hoping to achieve a short-range objective which is to arrest a criminal. "Corrections, with its long-range perspective, is required, if not always willing, to take short-run risks. The release of an offender into the community always contains some risks, whether it is at the end of his sentence or at some time before. These risks, although worth taking from the long-range perspective, are sometimes unacceptable to the police in the short run. In the long run, the failure of the correctional process leads to misunderstandings between police and corrections because the so-called parole violator or the individual who fails to reintegrate successfully adds a burden to police resources again" (Muthaphuli, 2012: 31).

The police are the first point of contact with the law for law violators, they exercise broad discretion to arrest. Exercising such discretion determines, to a large extent, the clientele of the correctional system. Therefore, the impact of police practices on corrections is important and often critical to the correctional system's ability to properly perform its functions. Today, corrections have their own independent department, but the responsibility to take care of offenders who are awaiting trial has not been transferred to the police (Clack, Du Preez & Jonker, 2008: 41). A better working relationship between police and corrections can be achieved if both parties recognize that they are performing mutually supportive rather than conflicting functions.

2.9.2 The impact of the courts on corrections

The courts have an impact on corrections since they judge who is guilty and who is not, as well as whether a person should be freed from detention for all or part of the period before prosecution and imposing sanctions. While the courts assess the legitimacy of incarceration conditions in other countries, they also serve as correctional agencies in administering the probation system. However, the relationship between the courts and corrections involve

sentencing. Sentencing forms an important part of the court procedure because a wide range of sanctions can be imposed on an offender who is found guilty (Muthaphuli, 2012: 34).

2.10 OTHER ROLE PLAYERS IN THE CRIMINAL JUSTICE SYSTEM

From an official point of view, the different role players in the criminal justice system are those state organs that are involved in the administration of justice. These role players are the following: South African Police Service, courts, the Department of Social Development, the Department of Correctional Services and the Judicial Inspectorate of Prisons. Earlier, the researcher has discussed the components of criminal justice which includes three role players: Police, the courts and the Department of Correctional Services. In this section, we will discuss the three role players in criminal justice and the roles assigned to each of these organs in the administration of justice: the Department of Social Development, the Judicial Inspectorate of Correctional Services and the offender as the most important role player in the criminal justice system. These role players are discussed below:

2.10.1 The Department of Social Development

Before July 2000, the Department of Social Development was known as the Department of Welfare. In the criminal justice system, the Department of Social Development makes provision for the placing of youth in conflict with the law under the supervision of private role players. These private role players are responsible for places of safety and secure facilities which they administer according to certain minimum requirements. The Department of Social Development is also involved in the detention of youth delinquents. The Department of Social Development manages places of safety and secure facilities in which youth in conflict with the law can be placed. This is done according to the Children's Act 38 of 2005 (Clack, Du Preez & Jonker, 2008: 21).

The core functions of the Department of Social Development (Snyman, Dangor, Molewa, & Madonsela, 2010: 13) :

- **To provide comprehensive social security systems:** This comprises the development of comprehensive social security policies that focus on income support to vulnerable groups and seamless social assistance service delivery through the South African Social Security Agency (SASSA) and Appeals Tribunal.

- **To provide developmental social welfare services**: This comprises the creation of an enabling environment for the delivery of equitable developmental welfare services through the formulation of policies, standards, best practices, and support to social service professional bodies and delivery partners.

- **To provide community development services:** This comprises the development of an enabling environment for empowering the poor and vulnerable through the promotion and support of community development work, the strengthening of institutional arrangements, and dialogue with civil society

Through its provincial partners, public institutions, statutory bodies, and civil society, particularly nongovernmental organizations, the Department of Social Development will assist in the provision of these services (NGOs). In support of the broader results mentioned in the President's State of the Nation Address for 2010, (Snyman, Dangor, Molewa, & Madonsela, 2010: 13) the following main targets have developed:

- Vulnerable populations, such as children, women, and persons with disabilities, are cared for and protected.
- Families and communities are being strengthened.
- Changing social connections, with a focus on gender equality and victim empowerment.
- Providing a safety net for the poor and comprehensive social security, including income support.
- Building institutional ability to provide high-quality services.

- Participation in important bilateral and multinational projects that help poverty reduction is being bolstered.

2.6.2 Judicial Inspectorate of Correctional Services

The Judicial Inspectorate of Correctional Services (JICS) is an independent statutory body that was established in terms of Section 85 of the Correctional Services Act 111 of 1998. JICS is a vital watchdog body that oversees South Africa's correctional system, mandated to inspect and report on the treatment of inmates. The correctional system faces many challenges such as overcrowding, high levels of HIV and Tuberculosis (TB), violence, and short staffing. The mass corruption and administrative struggles of the Department of Correctional Services (DCS) that were documented in the 2006 report by the Jali Commission of Inquiry highlighted that the situation was so dire that the Department was arguably no longer governable (Judicial Inspectorate of Correctional Services, 2016).

The primary object of the Inspectorate is to facilitate the inspection of correctional centres so that the Inspecting Judge may report on the treatment of inmates and conditions in these centres. The Inspectorate's mandate implies that the office is an oversight body over correctional facilities and/or the DCS, thus ensuring that the rights of offenders enshrined in Section 35(2) of the Constitution 13 are upheld. The Inspectorate seeks to achieve this through its offender's complaints system, investigating complaints, inspecting correctional facilities and monitoring the mandatory reporting system. The following provisions in the Correctional Services Act 14 are identified as affecting the independence of the Inspectorate of Correctional Services:

- Section 88 of the Correctional Services Act (CSA) states that the CEO of the Inspectorate is appointed by the National Commissioner of the DCS after the Inspecting Judge has identified a suitably qualified and experienced person**.** This section implies or creates the perception that the Inspectorate is not an independent body in that the executive head of the oversight body is appointed by the DCS, the same Department it is mandated to oversee.

- Section 90 of the CSA requires the Inspecting Judge to submit a report on each inspection to the Minister and the relevant Parliamentary Committees on Correctional Services. This section affirms the Inspectorate's independence in that the Inspecting Judge submits these reports to the Parliamentary Portfolio Committee on Correctional Services and not the DCS.

- Section 91 of the CSA states the DCS is responsible for all expenses of the Inspectorate. This section has huge implications for the overall structural and operational independence of the Inspectorate as an oversight body, which has filtered down the effect on its effectiveness in fulfilling its mandate.

The Inspectorate of Correctional Services strives to achieve the following set objectives namely (Clack, Du Preez & Jonker, 2008: 27):

- To ensure that the treatment of offenders is humane;
- To deal effectively with complaints received from offenders and their families;
- To contribute to the improvement of the conditions of correctional centres;
- To provide accurate, high-quality information about the treatment of offenders and the correctional centres' conditions; and
- To promote community involvement in matters concerning correction.

Section 90 of the Correctional Services Act 111 of 1998 also described duties of the Inspectorate of Correctional Services as follows (Clack, Du Preez & Jonker, 2008: 27):

- The Judicial Inspectorate of the Correctional Services has to deal only with complaints submitted by: the National Council, the Minister, the Commissioner, a Visitors Committee, an Independent Prison Visitor (in case of urgency), of own volition deal with any complaint.
- The Judicial Inspectorate of the Correctional Services has to inspect correctional centres to report on: how the offenders are treated in correctional centres, how the correctional centres' conditions are if there are any corrupt or dishonest practices in the correctional environment.

- During an investigation, the Judicial Inspectorate of the Correctional Services has to make inquiries and hold hearings.

- The Judicial Inspectorate of the Correctional Services has to submit a report to the Minister after each inspection, an annual report should be submitted to the President and the Minister.

- The Judicial Inspectorate of the Correctional Services can delegate any of its functions (except hearings) to inspectors appointed in terms of Section 87 of the Correctional Services Act 111 of 1998.

- The Judicial Inspectorate of the Correctional Services can perform any other function ascribed to the Inspectorate in the Correctional Services Act 111 of 1998.

2.10.3 Offender as an important role player in the criminal justice

Crowther (2007: 139) mentions that justice in this perspective means ensuring a person who committed unlawful conduct is punished fairly and rehabilitated, activities of various agencies in attempting to detect, prosecute, convict, punish and possibly rehabilitate offenders. Significantly all of these activities with the omission of rehabilitation are bound by the rule of law. There are two ways in which a person can start his or her journey through the criminal justice system (Clack, Du Preez & Jonker, 2008: 27):

2. Society can report the crime that was committed.
3. The police can arrest the person who has allegedly committed the crime.

The most important role player in the criminal justice system is the offender. Many alleged offenders also leave the criminal justice system for different reasons, such as that the police do not have enough evidence to charge the alleged offender and therefore has to let the person go free, or the alleged offender is not found guilty by the court. The suspect should be treated innocent until proven guilty beyond a reasonable doubt. Even though a suspect may turn out to be guilty of a particular offence, a police officer cannot assume this without collecting evidence.

The court has to produce robust evidence and prove beyond all reasonable doubt the guilt of the accused (Crowther, 2007: 143-311). However, once an alleged offender has been found guilty, he or she will only be allowed to leave the criminal justice system after the sentence has been served satisfactorily since all offenders belong to society. This route is known as the administration of justice (Clack, Du Preez & Jonker, 2008: 27).

2.11 THE PROCESS OF THE CRIMINAL JUSTICE SYSTEM

Cole and Smith (2001: 27) mentioned that the criminal justice system consists of thirteen steps that cover the stages of law enforcement, adjudication and corrections. The structure appears like an association route when resolutions are prepared about the accused person as the raw material of the process. Each agency is responsible for a part of the decision-making system. The police, prosecution, courts and corrections are assured collectively through a sequence of give-and-take relationships. These steps are as follows: Reporting crime is the first stage in which police are responsible for decision making. This stage entails (1) investigation, (2) arrest, (3) booking, (4) charging, (5) initial appearance, (6) preliminary hearing, (7) indictment or hearing, (8) arraignment, (9) trial, (10) sentences, (11) appeal, (12) corrections and (13) release. All the above steps are known as the flow of decision making in the criminal justice system.

Gaines and Miller (2005: 16) state that the criminal justice process has a continuous balance act between its formal and informal nature therefore that should become clear. The abovementioned natures are briefly discussed below:

- **The Formal Criminal Justice Process**: Involves a series of routinized operations whose success is gauged primarily by their tendency to pass the case along to a successful conclusion.
- **The Informal Criminal Justice Process**: Each step has the authority to choose between and is surrounded by alternative courses of action which leads to the development of the informal criminal justice process. Each step described in the fold-out poster is the result of a series of decisions that must be made by those who work in the criminal justice system. Each

component has to decide whether to apprehend the culprit, prosecutors decide whether to prosecute the perpetrator and the judge or magistrate may decide whether the accused is guilty or not

2.11.1 The complainant determines that a crime has been committed

The first thing people call the police for is when a crime has been committed against them on the premise that there ought to be a law. This is done by logging a charge in one of two ways: either by meeting the police at the scene of the crime or by the complainant going to the police station. An example of the police attending would be burglary; the necessary components compulsory to sustain the crime may be the breaking and entering the house of a person with the aim to commit a serious crime within. This means that the police officer must have the knowledge and an understanding of breaking and entering and intent or any other incident such as a car accident or an incident of violence. The officer may have been called to the crime scene by the complainant or another party. The complainant may report the crime to the police station in the area where the crime was committed or any police station.

The police officer will take the statement at the scene of the crime or the complainant will go to the police station to open a case, making sure that he/she is well prepared by having all possible documents or evidence relevant to the crime available. The police officer will take the statement of the complainant by means of asking him/her to relate the story or version of events. After the police officer has completed writing down the statement, the complainant reads the statement carefully to understand and accepts what has been written down. After that, the complainant will be asked to sign the statement. The statement that the complainant signed will be used as the basis of possible future court proceedings and he/she will be held to this statement. The police and prosecutor work with one another to regulate the charges to be brought against the defendant. After the detention, and again before the trial, the decision must also be made about regulating the culprit's capability towards the outlook of the trial, setting bail and plea bargaining (Fagin, 2007: 402).

2.11.2 Investigation of Crime

A criminal investigation begins when the crime is discovered by or reported to the police. (Nxumalo, 2000: 71). If a crime is reported to the police by the complainant, a docket should be opened. A docket is essentially a file that consists of all the evidence collected, together with the statement of the complainant. The prosecutor will be furnished with this file. This file will be allocated a specific reference number called a case number. This case number is not the case number allocated by the Court when the case is enrolled and will be assigned to a specific investigation officer from the detective branch.

Investigating a crime needs specific dedication and skill. This process requires nine stages to be successful. Omar (2009: 69) outlines the nine stages involved in the investigation of crime. The following are the nine stages of investigating a crime:

1) **Opening a case docket**: A case docket must be opened and maintained by the detective. Each docket is separated into three sections to arrange for easy right to use the information for a Prosecutor or Detective Commander. "A" are evidence material relating to the case statement by the complaint/s and witness, identity parade forms, photographs and fingerprint forms, search warrants and arrest warrants, reports from evidence analysis and J88 or examination form of the District Surgeon.
   Documents filed under "B" are correspondence and administrative. These documents include information on wanted persons, stolen property and replies from other police stations and media clippings relating to a case.

   Documents filed under "C" are investigation diary details such as the first member report, details of the crime scene, modus operandi, clues pertaining to the case, a search of premises, victim and suspect details and whether the victim was insured.

2) **Registering a case docket**: The case docket must be registered by the police officers on duty in the crime administration system at the Community Service Centre. The case may also be

registered by the Detective who attended to a complaint in his/her office or attended a crime scene.

3) **Transfer of case docket:** The case docket must directly be despatched to the detective who registered the case docket or the Detective Unit by the official on duty at the community services or the crime officer.

4) **First information inspection:** The Detective Commander or Crime Office Commander must recognise acceptance of the case docket by signing for it. The Crime Office Commander or Detective-Commander must at that moment conduct the first information of crime inspection.

5) **Assigning the case to a detective:** The Detective Commander or Crime Office Commander must allocate the docket to either the detective who attended the crime scene and registered the docket or another detective imminent on different issues such as the experience of the Detective or the number of cases a particular detective is investigating. A docket can be re-allocated when the detective takes leave or when his/her position has been changed.

6) **Investigation commences:** Depending on the information necessary for a particular case. The detective allocated to the case leads and manages the investigation. In cases such as suspect records or previous sentences, that would be obtained from the Criminal Record Centre. General practice within South African Police Services is that one detective is assigned per case. A team of detectives will be involved in difficult cases such as one containing a crime syndicate.

7) **24-hour docket inspection:** A 24-hour docket inspection will take place after the detective commences the investigation. Further docket inspections may also take place over the course of the investigation.

8) **Dockets sent to Court:** The docket will be sent to a public prosecutor for a decision on whether to prosecute or not. There is no time limit with regard to the preliminary

investigation and the prosecutor receiving the docket. The period is determined by the evidence of each case, such as the priority of a specific case being investigated by the detective, whether the detective has obtained all the witness statements and the case-load of the detective. The docket will be placed on the court roll and the court case ensues.

9) **Further investigation and feedback:** The complainant must be provided with feedback on the case by the detective investigating the case during the investigation process.

Nxumalo (2000: 75) mentioned that crime investigation is a regular exploration of the certainty of a crime. For the South African Police Service to ensure that they obtain factional information about allegations, circumstances and relationships, they should make investigation a way of making observations and enquiries. The investigation, in reality, involves the assessment as well as the collecting of information. The legal culpability which practises the source of any verdict is subject to whether or not the factual evidence has been gained and offered in accordance with the relevant legal provisions. The legal provisions consist of the following (Nxumalo, 2000: 70-75):

- **A determination that a crime has been committed:** This takes place by means of the complainants laid charge or people who called the police on the premise that there ought to be a law.

- **Crime scene investigation:** This is the process when a crime is committed which is discovered by the police. Crime scene investigations consist of three general objectives such as; to contribute to defining that a crime has been committed and the proof of identity of what specific crime it is; to protect evidence that is provided which is relative to the planning of the crime and to identify the criminal.

- **The preliminary investigation:** This has to do with guarding the scene of the crime, stabilising the crime scene, searching the scene for evidence, wrapping evidence and transferring it to the crime laboratory, interviewing witnesses and organising a

comprehensive investigation report that will be advanced to the Detective Division for the crucial follow-up investigation.

- **Identifying the culprit/s:** This is the preliminary objective of the investigation and is enabled by information by the victim and witnesses. The culprit may also be identified by physical evidence and it plays an essential part in contemporary law enforcement. It provides the investigator with basic leads or clues to the person/s responsible for the act of crime.

- **Arresting of the culprit/s:** The arrest may take place on the scene after the commission of a crime. According to Gaines and Miller (2005: 227), most arrests are made on the scene without a warrant. Arrest warrants are not always required.

2.11.3 Arrest

According to Gaines and Miller (2005: 227), most arrests are made on the scene without a warrant. Arrest warrants are not always required. There are four elements that must be present for an arrest to take place (Gaines & Miller, 2005: 224-225):

1) **The intent to arrest:** For this type of arrest there is no arrest. There is no intent on the part of the law enforcement officer to put the suspect into custody or bring about minor suitability for a short custody period.
2) **The authority to arrest:** In this case, the police officer has the authority to arrest the suspect under custodial arrest or take him/her or them into custody.
3) **Seizure or detention:** "A necessary part of an arrest is the detention of the subject. Detention is considered to have occurred as soon as the arrested individual submits to the control of the officer, whether peacefully or under the threat or use of force."
4) **The understanding of the person that has been arrested:** The police officer must explain to the suspect that he/she has been placed under arrest. The suspect will understand that the arrest has been made if he/she has been forcibly subdued by the police, handcuffed and placed in a patrol car unless the suspect is intoxicated, insane or unconscious that person won't understand.

Cole and Smith (2001: 197) mentioned that the objective of arrest is to hold the accused for a Court proceeding and the police must be able to show that there is a possible reason to have confidence in that a law-breaking act has been committed. The arrest will be conserved to be unlawful should the police officer not inform the suspect of the grounds for arrest (Nxumalo, 2000: 74).

2.11.4 Booking of the perpetrator

The police officer must ensure that they make the positive identification of the suspect before he/she is actually placed in custody. This will take place after the arrest of the perpetrator at the prison where he/she is booked (Nxumalo, 2000: 74). According to Inciardi (1993: 152), the perpetrator's name and address, the time and place of arrest and the arrest charge/s are registered into the police log during the time of booking. This process involves taking off the perpetrator, fingerprinting him/her and taking his/her photograph. This stage is considered the first point at which the perpetrator can drop out of the criminal justice process without additional criminal happenings. Charges may be dropped if there was a procedural error by the police, illegal search and seizure or lack of probable cause for arrest or may also be dropped if the perpetrator has been arrested for a minor misdemeanour.

In the case of a procedural error, someone of high ranking in the police system or assistant prosecutor may decide to drop the charges. Booking is also the first phase at which some defendants can be released on bail. During custody, the custody officer must ensure that the perpetrator arrested is conscious of his/her rights to legal advice as well as to inform him/her of the fact/s of his/her arrest (Nxumalo, 2000: 75).

2.11.5 Prosecuting the case

According to the Guide to the South African Criminal justice system for Refugees and Migrants (15). When the SAPS presents the prosecutor with a criminal docket, he or she becomes involved

in the case. Cole and Smith (2001: 288) mention that prosecutors are influenced by the police to be responsible for both the suspects and the evidence needed for the offender. Once the suspect/s has been arrested and is in custody, the police should have investigated the crime sufficiently to link a suspect to the offence and the police have a legal obligation to take the accused to court within 45 hours of the arrest. Members of the legal profession must ensure that justice is done even if it means that the accused is not sentenced. Prosecutors must do everything they can to win a sentence (Cole & Smith, 2001: 282). The prosecutor monitors cases to conclude which should be prosecuted and which should be dropped, subsequent to arrest. During the first court appearance, the prosecutor will make sure that all defendants are informed of the charges laid against them and the prosecutor also takes part in the bail decisions.

During preliminary hearings, the prosecutor establishes probable cause and makes a formal entry in the record by which he/she declares that the/she will not further prosecute the case and have the additional task of giving formal notice of charges and participating in bail decisions. The prosecutor will prepare the information report that establishes possible grounds and predicaments for bringing and accused over for trial. The recommendations to the bench and arguing for rigid or lenient sentencing disposition are made by the prosecutor (Inciardi, 1993: 351).

During the prosecution of the case, the accused will be regularly free on bail and be told to appear in court on a certain day and at a certain time since the criminal justice system treats the accused as if they are innocent until they are proven guilty. The accused will forfeit his/her bail if they fail to appear in court as scheduled. There is no guarantee that all accused parties will have an accurate chance of being free on bail before trial (Smith & Cole, 2001: 325, Dyson, 2016: 15). The complainant is ordinarily not included or referred to during the prosecution of the case. However, whatever the result, it should be communicated to the complainant by the investigating officer. The complainant has access to the prosecutor and also has a right to information and reasons for decisions made regarding the case and may consult the prosecutor for such information. Should it happen that the complainant does not know which prosecutor is dealing with his/her case, he/she should consult the Senior Public Prosecutor or Control Prosecutor for assistance. The prosecutor will decide to put down the case for trial and a court date will be

scheduled on the court roll. The Prosecutor will arrange the objection which comprises the name of the person and the offence that the person has committed and is charged with. All these processes take place if the prosecutor decides to prosecute (Nxumalo, 2000: 134).

The second step is to take the offender to appear before a magistrate without unnecessary delay. The magistrate will let the accused know of the charge laid against him/her as well as his/her constitutional rights comparative to the charge and the criminal justice procedure. The accused will also be informed of his/her rights to legal counsel as well as his/her rights for the preliminary examination. Should it appear that the accused is destitute, the magistrate or court may appoint counsel for the accused or suspect. The magistrate may also set bail at the preliminary arrival of the accused or suspect (Nxumalo, 2000: 135).

2.11.6 The process of trial

If the case goes to trial, the prosecutor may be involved in ensuring that interpreters, intermediaries and other role players who may also be required for the hearing are arranged. The prosecutor must also prepare by evaluating the evidence, consulting, researching and securing the attendance of the state witness or witnesses. The following necessary steps are prepared by the prosecutor for the trial (Matthews, 2009: 105-106):

- Evaluating the evidence in the case docket received from the South African Police Services;
- Accessing with the investigation officer concerning the evidence, investigation, availability of the witness or witnesses and possible exhibitory evidence;
- Drafting a charge sheet;
- Accessing with the casualty, witness or witnesses and others who may be required to testify in court;
- Preparing documentary evidence that may have to be presented during the hearing such as documents, photos, reports, files and statements;
- Organising and handling procedures to guarantee that the witness or witnesses are subpoenaed for the hearing;

- Investigative and questioning into and previous criminal behaviour of the accused person, through the South African Police Services 69 record provided by the police;
- Securing reveals for hearing dates;
- Organising an address or argument to present to the court at the conclusion of evidence;
- Referring with the defence about potential appeals in terms of Section 105(a) of the Criminal Procedural Act or potential admissions in terms of Section 220 of the same Act in an effort to expedite the trial.

The trial will begin with by statement by the prosecution and defence. The prosecutor will read out the charges to the accused that will be required to plead to the court of law. At this stage, the accused will be allowed to state to the court what the basis of his defence will be. The prosecutor must establish a case proving that the accused is guilty by presenting its case by calling the witness (Dyson, 2016: 16). Witnesses at the trial must be legally knowledgeable. Witnesses with insufficient intellectual or mental difficulty may not be regarded as qualified to present testimony. The judge may find it compulsory to determine whether the witness whose testimony is challenged has the intelligence to tell the truth and the ability to recall what was seen (Cole & Smith, 2001: 368). According to Gaines and Miller (2005: 337), the prosecutor and defence attorney may request an expert witness when the problem in question requires scientific, medical or technical skill beyond the scope of the normal person. Expert witnesses have professional training or considerable understanding which qualifies him/her to testify on a certain subject matter.

Prosecutors and defence attorneys may also call key witnesses to testify on factual matters that would be understood by the typical person. During the process of trial, the witness will be called into the court to testify and this may occur over several different trial dates. The witness will be entitled to the services of an interpreter if he/she does not fully understand the language. The witness should always try to remain calm and respectful and should listen carefully to all questions asked of him/her in court and answer all questions to the best of his/her ability (Dyson, M. 2016:17; Fagin, 2007: 431). The prosecutor will ask the witness to give testimony. This process is known as the direct examination of the witness. He/she cannot ask the witness for

information that the witness is not qualified to provide and he/she cannot direct or coach the witness to get certain answers. The ultimate determination behind the witness' testimony is to create what took place in reality, not what the trial Attorney would like the court to believe happened (Gaines & Miller, 2005: 346). During the interviewing of the witness, the prosecutor and the defence attorney will ensure that the witness' statement is based on the witness's own knowledge and not what someone heard or what someone else said. This is known as hearsay and is not admissible as evidence (Gaines & Miller, 2005: 340).

After the prosecutor has directly examined the witnesses, the defence counsel will also cross exam the witness. The purpose of the defence is to prove that the defendant is innocent of the charge/s lodged against him/her (Nxumalo, 2000: 147). For example, the defence may challenge to show that with not enough light, the witness was too far away to recognise the defendant (Fagin, 2007: 431). Cross-examination allows the defence attorney to examine the honesty of the opposite witnesses and usually brings about determination to create doubt in the jurors' minds that the witness is trustworthy. It is also linked to the problems accessible by any testimony provided in court about a statement made by someone else (Gaines & Miller, 2005: 341). After the cross-examination of the witness by the defence attorney, the prosecutor may again question the witness to repair any damage that the defence may have done to the witness' credibility. This process is known as redirect examination. After this, they will be given the opportunity for recross-examination. The defence doesn't need to cross-examine or recross-examine a witness. The defence attorney and the prosecutor cannot introduce new evidence in the process of recross-examination and redirect examination. The prosecutor rests when he has presented all its evidence and witnesses. The court may allow a short break and may proceed to the first defence witness (Fagin, 2007: 431).

2.11.6.1 Evidence in the trial

The role of evidence orders what kinds of facts may be obtainable in a court for deliberation by the judge or magistrate and also governs the facts that may be admitted into court for the judge or magistrate (Smith & Cole, 2001: 368). The court has difficult rules about what type of evidence

may be accessible and how the evidence may be presented during the trial (Gaines & Miller, 2005: 336). Within the demands of the court procedures and rules of evidence, the prosecution has the burden of providing, beyond a reasonable doubt, that the person named in the indictment, committed the crime by presenting evidence to the magistrate or judge. The prosecution must institute a case showing that the defendant is guilty (Cole & Smith, 2001: 368).

Fagin (2007: 430) mentions that there are four types of evidence that the state should provide and Gaines and Miller (2005: 336) claim that evidence can be broken down into two categories such as testimony and real evidence. The four types of evidence as mentioned by Fagin (2007: 430) are real evidence, testimonial evidence, direct evidence and circumstantial evidence, which are discussed as follows:

- **Real evidence:** Obtainable to the court in the form of physical evidence such as a murder weapon or a bloodstained DNA match, piece of clothing, business records, fingerprints, stolen property and photographs. This evidence must have a reasonable explanation of what the evidence is, how it was collected and how it connects the defendant to the offence.
- **Testimonial evidence:** This is an example of the explanation of real evidence. This type of evidence may be provided by key witnesses or expert witnesses. Key witnesses may testify only to what they directly experienced, saw, felt, heard or smelled. They cannot provide second-hand information about events. They only heard from others. Expert witnesses, on the other hand, may base their sentiments on three types of information (1) specifics or statistics of which they have personal information, (2) measurable accessible actuarial information and (3) hearsay evidence provided to the expert outside the courtroom.
- **Direct evidence:** This is any real or testimonial evidence that connects the accused to the crime.
- **Circumstantial evidence:** that depends on an implication to connect it to a conclusion of fact such as fingerprint at the crime scene.

2.11.6.2 The accused or offender

An accused person is conveyed beforehand at a criminal court after being placed under arrest by the police or by being summoned by the clerk of court to appear in court. If he/she is in custody they may only be detained for 45 hours. The magistrate or judge will explain their Constitutional rights to the accused person once he/she appears before the court. At this point, he/she will also be told about his/her legal right to representation as well as his/her right to apply for bail. The accused person will be entitled to a copy of the charge sheet so that he/she knows what charges he/she is facing and is also entitled to know what evidence is that the prosecution will be presenting against him in the trial. The prosecution will supply him/her copies of the statement in the police docket (Dyson, 2016: 18-19).

The accused must wisely contemplate whether to plead "guilty" or "not guilty". If the accused pleads guilty, the judge or magistrate will choose whether the plea is made voluntarily and whether the person has a full understanding of the consequences (Cole & Smith, 2001: 26). Pleading guilty comes with its own consequences in that the court will most likely pass a much lighter punishment if honest remorse is revealed (Dyson, M. 2016: 19). There is no need for trial and the judge or magistrate will carry out a punishment when a guilty plea is accepted as knowing and voluntary in the US (Cole & Smith, 2001: 26).

2.11.6.3 Bail

Bail is an eye of the criminal justice process which allows for the restricted release of an untried and un-sentenced offender, permitting them to remain in the community rather than to be imprisoned (Duff & Hutton, 1999: 131). Bail is a procedure of security assuring that an offender in a criminal proceeding will appear and attend the court at all required times. In return for being released from jail, the accused promises his/her upcoming attendance by placement capitals or some extra method of security with the court (Inciardi, 2002: 379). Dyson, (2016: 22) mentions that "Bail is a legal mechanism used in order that accused person can be released from detention before his/her case being concluded so long as certain conditions are met. These conditions are

meant to ensure that the accused person return to court and does not run away. It usually involves paying a certain Rand amount as security as well as the requirement to report to the police regularly or the surrender or travel documents lay a passport". The police decide whether to release or confine the accused person as are indicated to the prosecutor. The prosecutor may not agree with the indication however the prosecutor's action will need to relate to the original police decision (Duff & Hutton, 1999: 131).

For more serious offences, the judge or magistrate may decide to either release the accused person on bail or direct that he/she remains in custody if a case has been postponed (Crowther, 2007: 185). The prosecution will have to show to the court that there are valid grounds for the court to disagree with the bail. There are sufficient reasons for the court to deny bail when the court has substantial grounds to believe (1) that the accused person might be a flight risk, (2) fail to attend Court, (3) commit further crimes, (4) will become a danger to the public if released from custody or will interfere with the witness or witnesses. If the accused person is alleged to have committed chargeable offences while on bail, additional bail would not be granted. Bail would only be granted if there were exceptional circumstances in which the accused has committed a more serious offence, such as previously being convicted of a homicidal rape (Crowther, 2007: 186, Dyson, 2016: 23).

The granting of bail governed by Chapter 9 of the Criminal Procedure Act 51 of 1997 was amended. The new Section 60 set out in detail both the substantive and procedural issues relating to bail in 11 specific sub-sections. Section 60 also lists specific lines of enquiry a court should reflect on when assessing the interest of justice for each of the five sufficient reasons for not granting bail. These lines of enquiry are not comprehensive and the court must keep in mind its decision to make an appropriate order on a case-by-case basis (Chaskalson & De Jong, 2009: 88). For the court to properly consider the bail criteria such as the constitutional requirement that the accused person has to be brought before the court without unreasonable delay, usually it needs to know the correct identity of the arrested individual and his/her previous criminal record (Chaskalson & De Jong, 2009: 90).

2.11.6.4 Plea Bargaining

Plea bargaining may take place at any time in the criminal justice but it is likely to be completed before or after arraignment (Smith & Cole, 2001: 27). The accused is permitted to plea bargain with the prosecution and this carries further advantage to the accused as he/she will be able to discuss with the prosecutor and will have a clearer picture of the consequences. On the other hand, the accused is permitted to dispute any, or all, of the charges the prosecution charge compared to him/her. Various rights protect the accused person's interests during the trial such as the accused person's right to present and challenge the evidence, to remain silent and to have a public trial. The court will then set a trial date if the accused is pleading not guilty and the court will issue all witnesses to the offence (including the complainant) with a subpoena to attend by the court. The investigation officer will deliver this subpoena to the witness to sign for it (Dyson, 2016:27).

2.11.6.5 Guilty and not guilty

Crowther (2007: 187) points out that the burden of proof in most cases rest on the prosecution and it must prove guilt beyond a reasonable doubt. The accused is not required to show that he/she did not commit the crime. The accused person is presumed innocent until proven guilty. The preceding sentence will be disclosed to the magistrate after they have determined the guilt of the accused. The decision taken by the magistrate or judge will be based on evidence overheard from the legal argument from the prosecutor on the accused and any witness for the accused, the prosecution's witness as well as the defence witness and evidence from the clerk of the court.

2.11.6.6 Sentencing

According to Section 73 to 83 of the Correctional Services Act 111 of 1998, all offenders who are sentenced to incarceration in safe custody will be released from prison in the future some earlier than others, the aftercare plan focuses on social reintegration of the individual into the community. In some cases, offenders who have served their sentences are released. Offenders

come from society therefore they need to return to society as better people. Neser (1993: 49) emphasises that early release of offenders in some countries, certain classification of offenders may be considered for release after completing one third or half of their sentence, in some European countries after completing two thirds and in the American Federal system after completing 85 per cent of their sentence.

Once the defence has closed its case, both the prosecutor and defence are entitled to present arguments as to why the accused should or should not be sentenced (Dyson, 2016: 24). The prosecution will lodge a summary of the evidence of the case and inform the court of any previous convict/s. This process will take place if a guilty plea is entered. The legal representative acting for the accused person will inform the court of the accused person's view of the offences and mention any personal circumstances that might affect the sentence.

Before the magistrate of judge decides on the sentence, he/she must consider all information presented to the court, such as the advice of the clerk, court guidelines, reports, mitigation and guidance from the higher courts (Crowther, 2007: 187). As soon as the legal representative acting for the accused has secured the case, both the prosecutor and defence are entitled to present arguments s to whey the accused should not or should be sentenced. The magistrate or judge will then announce sentence beefing and evaluate the evidence and thereafter find the accused guilty or not guilty. The judge or magistrate must consider an appropriate sentence if the accused has been found guilty. The court can take into account several factors and generally has very broad discretion in what sentences to pass (Dyson, 2016: 24). The magistrate and judge must take into consideration specifics of the occasion since sentencing is an argumentative and difficult process (Crowther, 2007: 187).

Terblanche (2008: 193) mentions that the general principles of sentencing have a pure retributive. Clause 2 of the sentencing framework bill states that the purpose of sentencing is as follows:

- To punish the sentenced offender for the offences of which he/she has been convicted.

- The sentence will have to be proportionate to the seriousness of the offence, not in the abstract, but relative to other offences.
- The seriousness of the offence is further refined in the following terms (c13[2]): "The seriousness of the offence committed is determined by the degree of harmfulness or risked harmfulness of the offence and the degree of culpability of the offence for the offence committed".
- Based on these primary principles, every sentence should attempt to find an optimal combination of restorative justice, the protection of society and a crime-free life for the offender.

The appropriate earlier verdict may reasonably increase the proportionate sentence. These basic principles are to be used for the determination of all sentences, whether or not sentencing guidelines have been set for the particular crime (Terblanche, 2008: 193).

a) Sentence Council

In South Africa, the Minister of Justice is responsible to appoint members of the Sentence Council for five years at a time, after which they can be reappointed. The following are the membership of the Sentencing Council (Terblanche, 2008: 194):

- Two Judges – Appointed on recommendation by the Judicial Services Commission (The body normally recommending the appointment of the Judges to the President);
- Two Magistrates – Appointed on recommendation by the Magistrates Commission;
- The National Director of Public Prosecutions or his Nominee;
- The Director of the Council;
- A member of the Department of Correctional Services – Appointed after consultation with the Commissioner of Correctional Services; and
- A sentencing expert, not in the full-time employment of the state.

The Minister of Justice may also be permitted to remove a member based on incompetency, incapacity or misconduct as this will be proposed by legislation. Only the core of the sentencing system should be represented in the Council itself (Terblanche, 2008: 194).

b) Goals and objective of Sentencing

Champion (2008: 2) mentions that there are six important goals of sentencing in the criminal justice system namely; to provide fair punishment for the crime, to protect the community from sentenced offenders, to reveal the seriousness of the crime, to prevent the offender from future unlawful conduct, to promote respect for the law and to be responsible for rehabilitative opportunities to the offender. The above-mentioned goals play the most important function in sentencing in the criminal justice system and are briefly discussed as follows:

1. **To provide fair punishment for the offence:** Within the criminal justice ideal, the sentence is regarded as the most important objective punishing the elimination of parole, the abandonment of rehabilitation ideal and determinate sentencing. There has been a shift in sentencing policies to reflect the justice model which legitimises the power of the state to administer sanctions.

2. **To protect the community from sentenced offenders:** There is a belief within the public that all offenders should be locked up for some long period to shelter a vulnerable public from them. Through offender imprisonment, the community is assured that they will not come into contact with the criminal offender. Society will not be victimised for a longer period if offenders receive longer sentences.

3. **To reveal the seriousness of the crime:** One of the objectives of criminal sentencing is that punishment should be comparative to the seriousness of the crime. If the crime is too serious then the sentence should be longer of the punishment should be harsh. Therefore, property offenders are usually not punished more harshly than violent criminals because, with property crime, the property can be replaced, unlike violent crime resulting in serious bodily harm or death. Therefore, the punishment should be harsher. The punishment or sentence should match the seriousness of the offence.

4. **To prevent the offender from future unlawful conduct**: Offenders will be prevented from committing future criminal activities by imposing punishment that fits the crime. Should the offenders re-offend, their sentence length increases even if the same offence is repeated in a later separate crime.

5. **To promote respect for the law:** Through sentencing, the offender, judges or magistrates are sending a strong message to the criminal society, however, if the sentence is too light, then the criminal society might consider that offenders will not be punished severely and therefore involve themselves in additional criminal activities. By imposing sentences that are equal to the crime committed, judges or magistrates are promoting the respect of the law. The message to the criminal society is that if the law is violated, those who violate it will be punished. In that way, the law will be respected and those who want to offend would be discouraged.

6. **To provide rehabilitative opportunities to the offender:** Rehabilitation, as one of the goals and objectives of sentencing, is grounded on the perception that any planned involvement that is aimed at decreasing additional criminal activities by an offender comprises of rehabilitation and that sentenced offenders should be treated the illness of criminality by implementing the ideal treatment plan and by recommending the proper kind of treatment (Bartollas, 2002: 4) while incarcerated offenders should not be in passive custody. They should be in active custody which provides them with educational and vocational programmes to lead a law-abiding life after their release.

c) The objective of sentencing

Muthapuli (2012: 239) stated that the following are the seven common objectives of sentencing which include punishing offenders that were ranked by the Judges and Magistrates:

1. Assist offender rehabilitation;
2. Deterring others from crime;
3. Punishing the offender;

4. Deterring the offender, re-offending;
5. Expressing community disapproval;
6. Separating offenders from society; and
7. Compensating victim/s and/or society.

Table 1 displays how the respondents or Judges and Magistrates ranked the objectives of sentencing.

Table 1. the objectives of sentencing.

Table 1 Objectives of sentencing									
Objectives	**Ranking of objectives: rank 1-7**								
Frequency Row Pct	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**Total**	**Rank**
Punishing the offender	4 12.90	5 16.13	6 19.35	4 12.90	6 19.35	4 12.90	2 6.45	31	3
Separating offender from society	1 3.23	5 16.13	4 12.90	4 12.90	6 19.35	6 19.35	5 16.13	31	6
Expressing community disapproval	1 3.23	3 9.68	5 16.13	8 25.81	6 19.35	6 19.35	2 6.45	31	5
Assist offender rehabilitation	20 64.52	3 9.68	4 12.90	0 0.00	3 9.68	1 3.23	0 0.00	31	1
Deterring others from crime	2 6.45	11 35.48	3 9.68	5 16.13	5 16.13	3 9.68	2 6.45	31	2
Deterring offender, re-offending	3 9.68	4 12.90	6 19.35	6 19.35	1 3.23	11 35.48	0 0.00	31	4
Compensating victim(s)/community	0 0.00	0 0.00	3 9.68	4 12.90	4 12.90	0 0.00	20 64.52	31	7
Total	31	31	31	31	31	31	31	217	
Fisher's Exact Probability (Chi-square = 182.90) < 0.0001***									

Source: Muthaphuli (2012: 239)

Crowther (2007: 188) mentions that there are four key considerations underpinning sentence policy, namely; (1) issue of public protection, (2) needs to punish the offender, (3) ensuring that the offender makes amends and (4) aim to reduce crime. These four sentencing policies will now be discussed.

- **Issue of public protection:** Offenders pose various degrees of danger to the public and commit all types of offences. The judge or magistrate, before sentencing the accused person, must at all times consider the offence criteria and classify the offender and weight of the crime committed. Even when a serious crime such as homicide is considered, different offenders pose different degrees of risk. The court must take into account the different degrees of danger or risk when passing sentences.

- **Needs to punish the offender:** In a manner that is fair and appropriate, that sentence will likely take into account the age of the offender who is underdeveloped and too young to understand that what he/she is doing may be controlled by other forms of social controls and his/her motivation or perhaps cannot be applied to a person who is mentally challenged or incompetent.

- **Ensuring that the offender makes amends:** Passing sentence aims to ensure that the offender makes amends for the offence. A sentence should make the offender feel remorseful and repentant for what he/she has done and the punishment or sentence is the aim that requires that every offender experience embarrassment. Sentencing is the process of trying to make sure that as far as possible, the guilty person repairs the damage done. The sentence is not automatically directed at recompensing the victim in most instances (Crowther, 2007: 188).

- **Aim to reduce crime:** The sentencing policy plays a part in reducing re-offending and in particular more generally aims to reduce crime by different ways and different sentencing. The accused will be selectively incapacitated so that the rate of crime will be reduced by aiming at the offender who is regarded as high risk. He/she will not be able to commit more crimes, at least while he/she is in safe custody. “By punishing an offender to imprisonment, the offender is incapable of committing a crime during the period of imprisonment” (Walker, 1991: 34). This idea of reducing crime through incapacitation may attempt to change offending behaviour on the other side, with the over-arching aim of stopping them from committing a crime.

According to Section 276(1) of the Criminal Procedure Act of 1977, the sentences that may be imposed by the judge or magistrate, if an accused person is found guilty are as follows:

- Imprisonment, including imprisonment for an indefinite period or life imprisonment;
- Periodic Imprisonment;
- Committal to an institution established by law;
- A fine;
- Correctional supervision;
- Imprisonment from which the offender may be assigned correctional supervision with the discretion of the Commissioner or Parole Board.

An accused person who is sentenced to a term of imprisonment will receive a warrant for imprisonment. This type of warrant is also known as a warrant committal which is issued by the court in all criminal cases for a person incarcerated to serve the sentence imposed by the court in any correctional centre in the country (South African Department of Correctional Services. Department Orders, Section B).

d) Philosophy underpinning sentencing

Crowther (2007: 188) stated that deterrence, rehabilitation and incapacitation are the first three philosophies and consequentialist or reductionist approaches and that retribution as the fourth philosophy is non-consequential. The above philosophies underpinning sentencing are briefly discussed as follows:

- **Deterrence:** Deterrence aims to keep people who have been penalized from committing other crimes, as well as to make potential offenders aware of the consequences of their actions (Labane 2012: 29). Deterrence also deters individuals in general or other criminals from committing crimes since the punishment given by the Court of Law serves as a warning to others about what will happen if they participate in the same act. The possibility of being sentenced as a punishment may deter people from engaging in illegal activity in

general. If people are sufficiently afraid of what will happen to them if they commit a crime and are detected, they will think twice about committing a crime (Crowther 2007: 189). (Cilliers 2008: 21) claims that the continuation or extension of punishment can have an educational and formative effect on society's moral training. One of the issues with deterrence, according to Cole & Smith (1998), is that it is not obvious how the criminal justice system influences the effect of deterrence through the speed, certainty, and harshness of the allocated penalty. The objective of deterrence is defeated if there is a low chance of being apprehended for some crime.

- **Incapacitation:** Incapacitation has to do with the process whereby the judge or magistrate sentenced the accused person to a prison correctional centre. The offender can be kept under control so that they cannot violate the rules of society (Cole & Smith, 1998: 166). For example, the Nkululeke Fabba-Habedi murder trial. Judge Solly Sithole found the accused, Mangele, guilty of the murder of rapper Nkululeko "Flabba" Habedi and sentenced him to serve 12 years in a correctional centre. Matetoa (2012: 59) explains that the idea was to confine an accused person's movement, either for the time being or forever and forbid him/her from committing an additional crime. Stinchcomb (2005: 43) mentions that incapacitation basically emphasizes retraining the offender to decrease his/her opportunities to commit additional crimes. Such restrain is traditionally accomplished through isolation from society in a secure correctional facility or restraining through incapacitation may take place in a form of the community-based controls imposed through probation, home confinement or electronic monitoring. However, it is imprisonment that most strictly reveals the fundamental intent of incapacitation. The ideology of incapacitation can prevent the offender from committing a crime in a society that is not to say that criminal acts do not take place behind bars (Matetoa, 2012: 59).

- **Rehabilitation:** Rehabilitation is the most interesting contemporary justification for use of the criminal sanction. The accused should be treated and re-socialised while under the care of the Department of Correctional Services (Cole and Smith, 1998: 166). Rehabilitation is the result of that which combines the correction of offending behaviour, human development and

the promotion of social responsibility and values. It is the desired outcome or process that involves the departmental responsibilities of government and the social responsibilities of the nation (Department of Correctional Services, 2005: 71). Matshaba (2011: 44) stated that offender rehabilitation programmes are intended to provide basic education, equip the offender with the necessary life, social and work skills and challenge the offending behaviour of offenders. All these programmes are intended to provide purposeful activities for the offenders once they are released back into society, to become law-abiding citizens. According to Labane (2012: 80), voluntary participation is required from the offender with regard to the rehabilitation of the offender through treatment. This will only be possible if the offender himself/herself first accept their own disposition attitude and behaviour. These types of philosophies underpinning sentencing aims to provide treatment for those offenders who can be helped or cured. The type of treatment will depend on the assessment of the causes of the offence. If the offence that was committed was caused by a lack of basic skills, the Department of Correctional Services will offer a social form of rehabilitation that focuses on issues such as education and training. If the type of offence is explained in psychological terms, the treatment will focus on the offender's mind and will consist of therapy or counselling. Biological approaches may also focus on the brain and the production of chemicals such as hormones. Many criminals are seen to require rehabilitation since they may not have been taught how to behave appropriately (Crowther, 2007: 189). For example, the Nkuleko "Flabba" Habedi murder trial. Judge Solly Sithole sentenced Sindisiwe Mangele to 12 years imprisonment and the judge indicated that Mangele should not be granted parole until she has served eight years in a correctional centre as this will give her enough time to go through the rehabilitation programme.

- **Retribution:** Retribution falls in the non-consequential list. It functions as the basis of the hypothesis that every case of the same type needs to be treated the same so that offenders are treated consistently and with confidence, meaning that offenders get their "just desserts". The principle of "just desserts, for example, implies that the right punishment reflects the seriousness of the offence, which proceeds explanation of the damage caused by the offender and the degree to which he/she was culpable (Crowther, 2007: 189). It is unlikely for the

principal to offer the victim the chance to get revenge against the crime committed even though the state court demands revenge on behalf of the victim. Labane (2012; 28) and Matshaba (2011: 40) mentions that justification of retribution is usually based on the following three basic principles:

1. The sentence should be carried out on a person who committed the offence;
2. The rashness of the sentence should match the seriousness of the offence; and
3. The degree of sentence indicated is sovereign of the real and the predicted penalties of the disciplinary act for the reason that the social order suffers when the offence takes place. Society is also a victim.

e) Court Sentencing – Community-Based

Bruyns, du Preez, Jonker, et at. (2008: 7) mentioned that before the judge or magistrate can sentence an offender or accused person to a community-based sentence, he/she must think through the merits of the case before the sentence and the suitability of sentencing the accused person to correction within the community. The courts made available a range of non-custodial orders such as; home confinement, community services and restitution. According to Crowther (2007: 191), when considering a community-based sentence, community sentences aim to chain a component of punishment with a comprehensive goal to change offending behaviour. There may also be an attempt from the offender to voluntarily participate in the restorative justice process. Community sentencing is where determinations are also made to assist with discouraging offenders from any personal factors that may cause them to commit offences such as drug abuse.

Factors considered by the judge or magistrate before a community-based sentence is made are as follows:

1. The risk the offender poses to the community;
2. The degree of effective control that is possible over the offender;
3. The eagerness of the offender to contribute to community-based sentences and programmes;
4. The individual conditions of the offender e.g., behaviour, family, employment etc.

These four philosophies or principles underpinning sentencing may be divided into two groups. According to Bing (1998: 186,), the four classic sentencing principles may be divided into two groups. The first group are sentenced reflecting retribution and deterrence. These sentences, imprisonment, fines and detention for young offenders, should reflect a tariff or be proportionate to the seriousness of the offence. In the group are individualised sentences such as probation or hospital order which are not to be proportionate or are aimed at prevention (hospital) or rehabilitation (probation). The choice between these two groups of sentencing is the primary choice although the first and most important aspect at choosing is to consider the seriousness of the offence and therefore a tariff or proportionate sentence is likely to be considered before an individualised sentence.

f) Link between Community Based Sentence and goals of punishment

A community-based sentence is a possible solution for all reasons of punishment such as retribution, deterrence, rehabilitation and pre-rehabilitation. This is contained in processes such as victim compensation and community service. Offenders remain in their community to perform productive work to support themselves and others and to pay back victims for damages suffered (Campion, 2008: 72; Meshane & Krause, 1993: 5).

- **Deterrence:** It prevents offenders from committing a crime using strict enforcement of conditions such as home confinement, supervision, treatment and counselling of offenders, submission to a test for substance use, restriction to a particular area and attendance to specialised programmes.
- **Protection (alternative incarceration):** Protection of the community is obtained through effective observation of the offenders through monitoring and supervision. These restrictions are designed to confine the movement of high-risk offenders in the community through increased intensive supervision and home confinement (Bruyn, du Preez, Kriel, et at. 2008: 9).

- **Rehabilitation:** Community-based sentences are intensely established on the rehabilitation impression. This entails some kind of positive behavioural change, which is the result of treatment and development of the offender within the community with the help of community participation, to assist the offender to offer a suitable location for the treatment of substance abuse problems by employing, counselling and treatment staff.

The abovementioned link between community-based sentences and goals of punishment is also known as goals of community-based sentences.

g) Advantages of community-based sentences

In the first place, the courts have their reservations about the effectiveness of community-based sentences as a credible sentencing option. The purpose of community-based sentences is to protect society's safety, especially that of victims, by ensuring that restrictions and requirements are imposed on offenders by the courts and are adhered to and that their offending behaviour is motivated through relevant correctional programmes. These sentencing practices are also expected to be more effective in setting and appropriating punishment for offenders and assisting in their rehabilitation.

According to the Jenkins, Annandale, & Morrison-Saunders, (2003), the cost of the community-based sentence is less than that of imprisonment. It generally costs far less to supervise offenders in the community than to provide care within the institution. Since many correctional institutions have problems with over-crowding, community-based sentencing reduces over-crowding in correctional centres. This type of sentence also assists offenders to play productive roles in their neighbourhoods and communities. The notions of mercy and compassion combined with consideration of human dignity began to infiltrate sentencing practices and correctional decision making, along with the growth of the humanitarian movement in corrections, rehabilitative programmes and activities within the community that have effective ties with the local government. The sentence is generally rehabilitative rather than a punitive nature and can include

arrangement with educational employment, social and clinical service delivery systems (Inciardi, 2002: 591).

Bruyns, Du Preez, etc. (2008: 12) state that community-based sentences have the following benefits for society and the offender:

Benefits for society

- With correctional supervision, there is improved rehabilitation vision than with traditional incarceration.
- It is more cost-effective in terms of community-based sentences than traditional imprisonment.
- The family of the offender can continue to provide support to their loved ones since he/she can remain close to them.
- The community is involved in the punishment and rehabilitation of the offender/s.
- Offenders live at home and government is not responsible. For any basic needs such as food, clothing and health services.
- Correctional centres have space available for habitual criminals and offenders who do not qualify for community-based sentences.
- The law is enforced, which served the purpose of providing adequate punishment, and it is also hoped that it will serve as a deterrent to all potential offenders.

Benefits for offenders

- The family life and employment of the offender can continue.
- The sentence provides avenues for rehabilitation for the offender that gives access to several educational, vocation and treatment programmes.
- The sentence minimises the negative effects of extended terms in correctional institutions.
- The offender is not exposed to the negative influence of the prison culture and is allowed a second chance.

- The sentence is less insensitive than imprisonment and can be applied in cases where a fine would be inappropriate.
- The required attendance of specialised programmes can be beneficial in developing the social skills of the offender.

h) Sentenced to imprisonment

Sentenced to imprisonment is one of the most general forms of punishment. An accused person who is sentenced by the court to a term of imprisonment will receive a warrant for imprisonment. This type of warrant is also known as a warrant for committal, which is issued by the court for an offender's imprisonment in a correctional centre to serve the sentence imposed by the court (Clack, Du Preez & Jonker, 2008: 6). Toury and Hatlestand (1997: 125) mention that each sentence carried out on an accused person is damage imposed by society. In prison, harm is inflicted daily. Because the total of damages imposed is an objective measure of aggregate severity, the total of days of imprisonment imposed of retributive, a court may impose a prison sentence. Should the court believe that only such a sentence would be sufficient to protect the public from severe harm from the offender, such sentence may be longer than would be balanced to the seriousness of the crime committed. The court of law imposes a person who is found guilty of an offence to imprisonment to serve a particular duration of time. For sentenced offenders, prison is the last step in the process of a case (Muntingh, 2009: 202; Matshaba, 2007: 7). The main difference is found in the period of the sentence and the process which is to be followed when the offender is released (Terblanche, 1999: 45).

According to the Correctional Services Amendment Act 25 of 2007, as stated in Section 30(6), only offenders serving a sentence of longer than 24 months must be assessed by the Case Management Committee and a sentence plan must be developed in consultation with them.

According to Crowther (2007: 195), when the court imposes a prison sentence, it may decide that a custodial sentence is the only or best way of protecting society. A custodial sentence is the toughest penalty the courts can impose. The length of a sentence is the maximum amount of time

a person can spend locked up. Prison is the last step in the process of a case for sentenced offenders (Muntingh, 2009: 202). Crowther (2007: 195) states that an individual can only be sent to custody if the offence is so severe that no other option is applicable.

According to Muntingh (2009: 181), "Section 51 of the Criminal Law Amendment Act states in broad terms, that a Court (High Court or Regional Court) has convicted a person of an offence specified in the schedules to the Act, then it shall impose a minimum term of imprisonment unless it can find substantial and compelling reasons to impose a lesser sentence".

2.11.6.7 `Appeals in Respect of Higher Courts

The process of appeal is one of the symbols of the judicial system. An appeal is an objection to a Superior or High Court of an unfairness done or a mistake made by the magistrate, whose judgement or decision the higher court is called upon to resolve or reverse. The higher court is asked to assess and check the correctness of the lower court's decision (Inciardia, 1993: 484; Dyson, 2016: 27). Duff and Hutton (1999: 161) mention that "the appeal process may be inadequate in addressing wrong decisions on conviction and sentencing made by the court of the first instance or most appeals may be weak in that there may be no legitimate grounds of appeal because the court of the first instance has incorrectly decided the case. The most significant reason for the low rate of successful appeals is the level of cases abandoned either before or during the appeals hearing".

All accused persons have a right to appeal a case if he/she is not satisfied with either the verdict or sentence made by the lower court (Dyson, 2016: 27). In terms of the Criminal Process Act, every accused person who wishes to appeal must submit a notice of appeal in writing within 14 days of the date of sentencing to the Clerk of the Court where the case was heard and in which the accused must clarify and specifically explains the grounds for his/her appeal as stipulated by the court (Department of Correctional Services. Department Orders, Section B). Before an appeal is introduced there must be a leave to appeal. This means that the accused person's legal representative must display to the Appeals Court that there are valid grounds, that an Appeals

Court may consider, in granting the appeal (Dyson, 2016: 27). Applications for a notice of appeal cannot be rejected by the Head of the Correctional centre and must, without exception, be forwarded to the relevant court.

The following procedure should be followed with regards to appeals in respect of the higher courts (South African Department of Correctional Services. Department Orders. Section B):

The offender who has been sentenced may apply verbally to appeal approximately once after the imposition of sentence. There must be some clarity on what grounds an accused person's application is based. The court must record such grounds, together with the ruling of the court regarding the application. If the sentenced person did not apply verbally to appeal, he/she may direct a written application to the court a quo within 14 days of the sentence. The sentenced offender must also direct his/her application by means of a petition to the Registrar of the Appeals Court to obtain leave to appeal within a period of 21 days, starting from the date on which his/her application was refused. This petition must, as far as is practically possible, comply with the request of Rule 4 of the Court Rules. An accused person, who has been convicted of an offence in a higher court, may also apply to the trial court for leave to appeal within a period of 14 days after imposition of the sentence. If the accused person applied late, the late application should be accompanied by an application for condonation of its late submission.
The Criminal Procedure Act provides that, if a sentenced offender believes that any of the proceedings taking place in association with or during his/her trial before the high court were unbalanced or in an encounter with the law, a sentenced offender may apply for an appeal on the grounds of special entry within a period of 14 days after his/her conviction during the trial or within a longer period which may, on good cause, be allowed. The application of appeal, on the grounds of special entry, should speak to the Registrar of the Court for a proposal to the judge who chaired the trial if the Judge is accessible. In the case of a conviction by a Circuit Court which is not in session, to another judge of the same local or provincial partition of which the original judge was a member when he/she chaired. The sentences person may request that the Chief Justice is in attendance if there should be a refusal. The same procedure should apply when the sentenced offender requests the Appeals Court or receives a rejection of the leave to appeal.

2.11.6.8 Admission and Release of Sentenced Offenders

The admission unit is where offenders are admitted to Correctional Services. The admissions unit's mission is to admit criminals to a correctional facility. It could, however, be utilized to keep the offender in custody until he or she is moved. The admittance unit cell should not be included in the prison's official accommodations and should be available at all times. Even though it may be combined with the orientation and evaluation units, the admission unit is a separate entity (Labane 2012: 221).

The Department of Correctional Services is responsible for ensuring that every criminal is lawfully confined in any correctional facility and held in safe custody until he or she is officially discharged or released into society. As a result, every correctional facility must ensure that the incarceration of offenders is an absolute must. Any imprisonment of an offender is lawfully provided through a legitimate warrant, and the Head of the Prison may not admit any person to prison unless a warrant or written instruction from the Court or other authorised person is issued, and for this reason, the Head of the Prison's Department must ensure that the offender is admitted. A warrant must meet the following requirements, according to Section 6 of the Correctional Services Act:

- It must be addressed to the relevant Head of the Correctional Centre
- It must be signed by a knowledgeable individual
- It must include the name of the issuing Officer
- It must include the date the warrant was issued
- The offender's name and thumbprint must be provided in all situations;
- The warrant for the detention of a young offender must specify that no other adequate place of safety was available;
- The offence or reason for detention must be provided; and
- Any revisions must be verified by a signature (South African Department of Correctional Services)

The admission process itself should include a warm welcome for the criminal into the Correctional Services family. Some offenders require particular treatment right away after being admitted to a correctional facility. Even if the processes for various situations will differ, it is required to refer to the most common form, such as (Bales 1997: 113):

- **Suicide Risk**: Newly admitted offender migrants are overwhelmed by emotions such as anxiety and tension; others may face pressure from fellow offenders, and the humiliation of prison is almost unbearable for some. During admission and orientation, the Department of Correctional Services is responsible for recognizing signs of depression or pre-suicidal behaviour.

- **Medical Isolation Cases:** If a newly admitted criminal demonstrates or reports any significant change in their physical condition or unusual medical history, correctional officials must notify the medical doctor as soon as feasible. A medical criterion for screening and isolating incoming patients is required.

- **Protective Custody:** Some offenders believe they are in need of protective custody because they are fragile. When accurate information is available, specific supervision by the Correctional Official should be made during admission. Newly admitted offenders may be subjected to security precautions until the level of risk is assessed and the offender is moved to a safe, secure area if appropriate.

- **Special Management of High-Security Cases:** Ultra-high security cases are newly admitted prisoners who are considered violent offenders or high-risk escapees. For this type of offender, a large number of correctional officers must be involved, such as extra correctional officers, the use of chains, and, in most cases, a modified orientation program for them while they are in detention.

- **Parole Violators:** Offenders who have returned to the Correctional Institution for violation hearings or who are in the institution following such hearings must use the short-term orientation program regularly.

a) Placement and Release of Sentenced Offenders

Neser (1993: 45-446) states four core aspects of the release policy of the Department of Correctional Services. That is remission of sentence, day parole, release on parole and correctional supervision. The above-mentioned characteristics are described below:

Remission of Sentence

Offenders who qualify for remission of a sentence are the ones who serve determinate sentences. Determinate sentencing is regarded as a sentence of imprisonment for a fixed period of time but with possible reduction by parole (Inciardi, 2002: 430). "Within determinate sentencing, the legislature established a presumptive range of confinement for various categories of offences which allows the Judge to impose a fixed number of years from within the range and the offender will serve the term minus time off for good behaviour" (Muthaphuli, 2012: 89). The institution committee is the one that decides whether an offender earns remission and it can only be granted with the approval of the Commissioner of the Correctional Services. It is linked with an offender who obeys the rules and co-operates with officials. They accumulate good behaviour during imprisonment. Neser (1993: 446) and Padfield, Van Zyl Smit and Dünkel (2010: 245) mention that in Ireland prisons, an offender serving a determinate prison sentence is granted remission that has been preserved in new prison rules enacted in 2007. A person serving a determinate prison sentence of one month or longer may, by good conduct earn remission not more than part of the sentence. This type of remission is also known as standard remission. Up to one-third remission for offenders who have shown further good conduct by appealing in authorisation structured activity to such an extent as to please the Minister that, as a result of this engagement, they are less likely to re-offend and will be better able to reintegrate into society.

Neser (1993: 446) states that the following are the calculations that remission of a sentence is based on in the Republic of the South African Correctional Services:

- A maximum of one third for offenders who are being sentenced in prison for less than two years and have no verified earlier sentences; offenders who have earlier been convicted to six months or less, with or without the fine alternative; or offenders who have earlier been convicted to longer than six months with or without the fine alternative and have been found guilty of no additional offence of a period of ten years calculated from the expiry of the previous sentence to the imposition of the present sentence;
- One third for offenders with sentences of two years or those without previous convictions; and
- One quarter for offenders with a sentence of imprisonment for a fixed period of time and longer and with previous convictions.

Neser (1993: 446) further states that the remission of a sentence is not granted for offenders sentenced for:

- An offence under the common law or any other legal provision, offence committed during any period when such offender was incarcerated lawfully in a correctional institution;
- An offence that has to do with escape and/or an offence committed during and escape;
- An offence committed which is in the Act on Correctional Services;
- An offence committed under the prison regulations; and
- Other offences as specified from time to time by the Minister of Correctional Services.

In Ireland, offenders who are serving a life sentence or offenders committed to prison for misconduct of the court or for not acting in accordance with a court order are not qualified to be granted remission (Padfield, Van Zyl Smit & Dünkel, 2010: 246).

Day Parole

The Department Order, Section B mentions that day parole is a placement alternative that is used to make sure that all sentenced offenders who are not yet ready in all respects for placement on

parole are effectively controlled. It is primarily directed at the successful reintegration of the sentenced offenders into society. During this period of day parole, the offender is bound to return to the correctional centre after hours and may not commit any crime or use alcohol (Louw, 2008: 7). Successful reintegration of offenders into the community has to do with the emphasis on jobs and inclusion in the preplacement programme which must start as soon as possible after the placement of a sentenced offender on day parole has been approved (Department Order, Section B). Louw (2008: 70) lists four reasons why day parole is aimed at the successful reintegration of offenders into society:

1. The offender progressively becomes adapted to societal life;
2. He/she is progressively exposed to greater responsibilities;
3. Effective supervision and control are exercised over the offender during the period of day parole; and
4. Constant experience to criminal elements together with separating the effect of institutionalisation is reduced.

The following are categories of offenders who could qualify as candidates for day parole (Louw, 2008: 70):

- Offenders who have become institutionalised;
- Offenders with a doubtful prognosis and who is regarded as high risk; and
- Offenders with practical resettlement or adaptation problems.

Release and Parole

Louw (2008: 92) mentioned that the following are the positive factors that the correctional supervision and Parole Board in South Africa consider when recommending and deciding the conditions for parole selections:

Positive (Mitigating) Factors:

- Participation in programmes dealing with offending behaviour;
- Acquisition of skills, e.g., artisan's certificate or particular technical skill;

- Improvement of self-control demonstrated by good behaviour and sound work habits;
- Meritorious behaviour or outstanding performance rendered for correctional services;
- Acceptance of new responsibilities;
- Assistance with the maintenance of order in correctional centres;
- Constructive use of leisure or recreation time;
- Positive support systems (regular visits);
- Rendering exceptional service to the community;
- Positive attempts to develop community's auxiliary resources;
- Studying further and acquisition of academic qualification;
- Voluntary performance of work assignment;
- Significant participation and visible progress in social, psychological or self-help programmes;
- Actual improvement in personal circumstances which were the cause of the crime; and
- Change in circumstances, e.g., social, economic or environmental factors which led to the crime.

According to the Department of Correctional Services (2004: 3), released on parole is "a period whereby an offender who has served the prescribed minimum detention period of his/her sentence in a correctional centre is conditionally released to serve the remaining sentence in the community under the supervision and control of the Department of Correctional Service" (Louw, 2008: 14).

A sentenced offender, after ending off half of his/her actual sentence reaches his/her date of consideration for parole, the degree to which the sentenced offender has adjusted to the correctional centre rules and has contributed to the multidisciplinary programme play a role. The following are other factors that are always duly taken into account on the placement of a sentenced offender on parole:

- The nature of the crime;

- Remarks made by the Court at the time of imposition of sentence;
- The sentenced offender's crime prognosis;
- The available support system in the community; and
- The degree to which the sentenced offender poses a threat to society (Department Orders Section B).

Parole is an issue to scientific inspection and selection. It does not mean the automatic or arbitrary release of offenders who have served the minimum period of imprisonment. The philosophy, guidelines and application of parole are constantly adapted (Neser, 1993: 447).

Department Orders, Section B state that with a sentenced offender who is considered to be negative (aggravating), factors for placement on parole is incarceration in a correctional centre until his/her sentence comes to an end and he/she is released on the date after having served he/her total sentence. This type of offender is not subject to any stipulation after his/her release from the correctional centre. The offender who is released on parole starts to experience adjustment problems in society and may be referred to the Halfway House. For him/her to avoid withdrawing parole and sustain the expense of returning him/her to the correctional centre, the offender is again subjected to intensive treatment and supervision in the house programme (Neser, 1993: 376).

Placement on Correctional Supervision

The parole board must consider all sentenced offenders who qualify for placement under correctional supervision upon achievement of dates for placement by sentenced offenders. Sentenced offenders who are not considered clearly for placement under correctional supervision or the sentenced offender who declined the appointment of correction supervision must be considered for placement on day parole or parole in the recommended way at the recommended period. The Department of Correctional Services is responsible for a sentenced offender for the time during which he/she is placed under correction supervision (Departmental Order, Section B).

Other categories of release in the South African Correctional Services are briefly listed as follows (Departmental Order, Section B):

- Placement/release of a sentenced offender with a physical disability;
- Release of the mentally ill sentenced offender;
- Persons awaiting trial or sentence;
- Periodical incarceration;
- Determinate sentences with the option of a fine;
- A person under Community Corrections who have been reincarcerated without (an) additional sentence/s;
- Correctional supervision cases reincarcerated;
- Temporary transfer of sentenced offender to the South African Police Services (SAPS);
- Release on bail; and
- Placement on medical grounds.

3.12 THE RELATIONSHIP BETWEEN GOALS OF PUNISHMENT AND THE COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM

In criminal justice, there are four major objectives. Various authors offer their unique interpretations of philosophy and goals. These four major goals in Criminal Justice belong to one of two groupings, namely absolute theory or relative theory, Schmalleger (2003:391) says. The difference between the two theories is that, unlike absolute theories, which find justification for punishment in the past, relative theories find justification in the future. Punishment is an end in and of itself in the absolute theory, whereas it is just a means to an end in the relative theories. Only one absolute theory, retribution, exists, whereas three relative theories, deterrence (prevention), incapacitation, and rehabilitation, exist (Muthaphuli, 2008:47). The following are the theories of punishment explored in relation to the component of criminal justice:

3.12.1 Retribution and the Criminal justice system

Since the purpose of the criminal justice system is to ensure that order is maintained employing prevention and control so that retribution is a goal of criminal justice is warranted by the need to impose the law and maintain social order (Conklin, 2010; 315). Retribution is considered as the primary justification for criminal law and the law is broad-spectrum (Matetoa, 2012: 56). This theory of punishment has to do with the type of conviction and should match the nature of the offence. The conviction should be carried out on the individual who has violated the criminal law of the country without justification or explanation. The degree of conviction started should be independent of the actual or predicted consequences of the corrective measure (Labane, 2012: 28).

Muthapuli (2012: 201) stated that within the retributive theory it is believed that justice is served by punishing the guilty and then the just deserts of the offender not only give the state the right to punish him or her but also the duty to do so by taking over the victimization of the society, the state has the responsibility of working out the appropriate punishments, from a perspective which is more than simply vengeance. Criminal justice happens in order to prohibit citizens from taking the law into their own hands because the ideas of vengeance and personally inflicted retribution are seen as most likely to be disproportionate to the actual offence.

2.12.1.1 Retribution and the Police

Retributive considerations influence the way the police respond to apprehend suspects, with arrest and prosecution more likely than release if the offence is a harmful one and the suspect has a criminal record and thus seems blameworthy. Police departments include detectives that specialize in the investigation of the most serious offences and they are allocated resources based on the seriousness of the offence. However, because crime is expensive in terms of resources and its seriousness, it is in this stage that the police may seek retribution (Conklin, 2010: 377).

Kirkham and Wollan (1980: 84) mention that patrol officers handle and resolve the criminal situation in public, whereby community members witness the crime scene, and officers attend the scene during the act of crime or while the crime is in progress and arrest perpetrators in that instant. In contrast, investigators perform an extensive variety of tasks such as identifying and arresting the wrongdoer whose identity and allocation are primarily unidentified, cross-examining victims and witnesses, collecting and preserving physical evidence related to a crime, recuperating and returning stolen property and making sure that the perpetrator is convicted in the court of law by means of priding quality evidence that can assist in terms of the prosecution. In this sense, retribution influences how both these departments deal with criminal situations.

If a rule of law has been violated or the balance of the scales of justice has been disturbed, the only means by the police can restore it is through fair retribution because, in the public eye, the man who rapes, kidnaps, murders or steals deserves to be punished. Such essence of punishment cannot be explained without reference to retribution. Therefore, the theory of retribution is based on the principle that the commission of a crime disturbs the balance of the legal order which will only be resolved once the offender has been punished for his or her crime; it will always have an impact on police work (Muthapuli, 2012: 207).

2.12.1.2 Retribution and the Courts

Retribution and the courts have been the motivation for modifications in the supervision of juvenile offenders and taking decisions about how to prosecute defendants and in judging decisions about how to sentence convicted offenders (Cocklin, 2010: 373). The courts will make sure that through retribution consequences are definite and just.

Cocklin (2010: 373) mentions that prosecutors believe that the perpetrators should be punished appropriately by the criminal justice system since they assume that the offender is guilty. Therefore, the District Attorney believes that due to the harmfulness of the offence and the criminal record of the defendant, the offenders are usually punished according to the "just desserts" principle. For the prosecutor to determine appropriate penalties, different methods of

crime that have been committed in the society resulting in unexpected results must be considered. The different methods of crime that have been committed in society are used by the prosecutor to determine the appropriate penalties in the court of law. Most prosecutors do not regard white-collar crime as a serious problem therefore they believe that white-collar crime should not be considered to have extreme forms of punishment and that the degree of punishment specified should be independent of the actual consequence of the punitive measure. This study was done by Cocklin (2010: 374).

A judge's decision making on punishment depends on the influence of the nature of the crime that has been committed and previous offender records. The indeterminate sentence may also be modified at any period by means of classification decisions due to an adjustment in the individuality of the offender concerning external or internal safety risk assessment or a change in the offender's needs such as treatment for medical issues (Blackburn, Fowler & Pollock, 2014: 126). Even though the judge has issues on sentencing, in which the amount of time the offender should save, however, the sentence length would be determined by some other authority within the correctional institution such as the Case Management Committee, social workers, psychologist, educationalist and religious worker or even the parole board (Blackburn, Fowler & Pollock, 2014: 53), however, this will depend on whether the offender has received treatment that has brought the desired basis on changes in their value, attitudes and skill that will prevent them from reoffending and returning to prison. For example, the decision for release is up to the parole board. According to Muthaphuli (2012: 88), "indeterminate sentencing is viewed in relation to the individual inmate based on his/her criminal act".

A sentence can even be affected by extra-legal dynamics such as sex, race, age and income. The judge can predict most sentences from legal factors such as the blameworthiness of the offender and the harmfulness of the offence. Schmalleger Smykla (2001: 37) mentions that the offender gets what he/she deserves.

Cocklin (2010: 374) explains that justification for retribution in the United States of America Courts is usually based on the four basic sentences as (1) determinate sentence, (2) indeterminate

sentence, (3) mandatory minimum sentence and (4) truth in sentence and sentences guidelines. The abovementioned sentences are discussed as follows:

- **Indeterminate sentence:** The judge has most of the power and elasticity in setting the sentence of the offender (Fagin, 2003: 349). Most sentences range in years of incarceration in prison. The parole board is the one to determine the definite date of release. The particular number of years of a sentence would be regulated by the offender's behaviour and progress towards rehabilitation and the parole board will be the one who will be responsible to set the actual release date, based on whether the offender has successfully gone through the process of changing his/her criminal behaviour through some form of vocational, educational or therapeutic treatment in order not to resort to crime again (Cocklin, 2010: 374).
- **Determinate sentence:** This sentence can sometimes be bargained by acknowledgement for the moral or decent behaviour of the offender during detention (Cocklin, 2010: 374). Offenders may collect three types of good performance recognitions such as statutory good time, offender developing good and admirable good time and offender developing good behaviour. These are recognised by serving their time without problems or incidents. Within cleared good time, offenders develop good behaviour recognitions by undertaking more than just refraining from problems or misconduct. Offenders have to take part in educational and self-improvement programmes. Good behaviour recognition is received by extraordinary performance or service area, within admirable good time. For an offender to produce all three types of recognition while serving their sentence in a correctional institution is conceivable (Champion, 2008: 7; Muthapuli, 2012: 89). The variety of sentences in this type of sentencing is so broad in a manner that the Judge's decision goes unregulated which in turn results in disparities since a form of sentencing abolishes judicial decision, each sentence is established by a statute for a particular offence (Branhan & Krantz, 1994: 85; Muthaphuli, 2012: 90).

- **Mandatory sentencing** is when the judge is not expected to reflect on anything other than the value of the type of crime involved. Sentencing in this approach depends on conviction for a charge by a prosecutor, therefore sentencing shifts discretion from the judge to the

prosecutor (Spohn, 2002: 241). "Mandatory sentencing limits individual sentencing and restricts sentencing disparity. It also ensures that offenders who committed the same crime, regardless of the age, sex or any other characteristics, are treated equally" (Muthaphuli, 2012: 91). The Judge will make sure that the offender who has committed a certain kind of offence will be sentenced for a specific amount of time in custody (Cocklin, 2008: 374). Mandatory sentencing does not allow the judge to have authority to change the sentence based on mitigating circumstances since the sentence for the crime is specified by the Law. For example, if the law stipulates that the prison term for committing a crime with illegal gambling is five years, therefore the Judge must sentence the offender to five years in prison custody (Fagin, 2003: 350).

- **Truth in a sentence:** This type of sentence compels the Judge to sentence the offender to serve a certain percentage of their conviction in safe custody. The offender must serve at least 85 per cent of the sentence before becoming entitled to release to society (Fagin, 2003: 352).

- **Sentence guideline:** A Judge is allowed to adjust the sentence given the circumstance of either the mitigating aggravating circumstance, whether upwards or downwards. To determine the sentencing guideline, the Judge has to balance the mitigating and aggravating circumstances. If the mitigating factor prevails over the aggravating factor, the Judge may exhibit greater leniency. If the aggravating circumstance prevails over the mitigating circumstance, this will compel the judge's decision to intensify the severity of the sentence. Aggravating factors may perhaps take account of whether the crime involves death or injury to one or more victims or whether the offender was on parole during the commission of the crime, amongst others and the sentence regulates ruthlessness of retribution. Mitigating factors can support the decrease of the ruthless of the misconduct and may include whether the offender was provoked or whether the offender was suffering from mental incapacitation (Adleretal, 1994: 344; Muthaphuli, 2012: 90). Sentence guideline is also known as the presumptive sentencing since their approach is aimed at implementing pronounced judgement on inconsistencies; such as abolishing offender procedures. For early release, to

eliminate the rashness of punishment, to permit special sentences for offenders when circumstances are clearly exceptional, to produce a reasonable justice system, to detain only serious offenders, to carry out the sentence that the offender is required to serve, to limit judicial discretion without exactly abolishing it and to create a contribution in rehabilitation programmes by offenders stringently and voluntarily (Muthaphuli, 2012: 91).

Sentence guidelines also have their criticisms. Judges claimed that the system forces them to hand out unreasonable harsh punishment and also shifts decisions from judges to the prosecutor, who influences sentences by the seriousness of the charges they bring against the defendants. Court backlogs were attributed to the guidelines which are too complex and too mechanistic, leading to excessively severe penalties that did not take into account such offender characteristics such as family ties and employment records. Some judges furthermore indicated that they believed that the implementation of sentence guidelines will lead to harsher sentences which in turn will lead to overcrowding in correctional Institutions (Muthaphuli, 2012: 91).

Just like rehabilitation, retribution does not automatically prime offenders to more severe punishments. Retribution theory suggests that if punishments are definite and just, offenders can maintain their dignity while serving their punishment, compared to the rehabilitation made which can lead to longer sentences, which are reasonable by the need to remedy offenders (Cocklin, 2010: 380).

2.12.1.3 Retribution and the correctional system

"Imprisonment can be regarded as retribution depending on how it is employed but it is not the function of the correctional officials to exact retribution through the infliction of physical pain, mental pain or excessively unpleasant conditions" (Matetoa, 2012: 57). The accountability is to the person who committed the crime. Retribution can be seen as a punishment for the offender. The offender is offered a second chance to give an explanation and to show remorse. Retribution in the prison concept has to do with reconciliation of the offender with the state and the community through suffering affected by punishment by means of incarceration (Matshaba, 2011: 39).

According to Conklin (2010: 377), an offender who is considered to have committed a more serious offence or has a far-reaching criminal record is detained in prison for a period of a long time. Detaining the offender for a period of a long time is more to be expected. The offender may feel there is nothing left to be unable to find by making an effort to escape or potential harm the offender can cause to the community (Blackurn, Fowler & Pollock, 2014: 126). Retribution in terms of prison is determined by the blameworthiness of the offender. The degree of punishment specified is independent of the actual or predicted consequences of the punitive measure to the offender employing four categories such as (1) an offender who is considered to be exceptionally dangerous to society and who may be a danger to national security, (2) an offender who is not considered to be needing the highest security classification however he/she might still be a danger to society if they discharge him/her unlawfully from the correctional facility, (3) those who are not trusted in completely free situations but who do not have the motivation or possessions to make unwavering attempted escape and (4) offender who is trustworthy to serve their sentence in the community. All of the above indicate that retribution in prison ensures that the extreme form of punishment should make the state offence that the offender can pretence to the society (Labane, 2012: 28, 196, 197).

According to Conklin (2010: 377), the degree from the harmfulness of the offence for which their behaviour during their conviction, their previous criminal record and the manner in which they have been imprisoned is largely based on retributive reflection, even though the decision is hypothetical to be established on whether an offender has a change of attitude about what they have done and reformed in order not to commit crime again.

Sentencing to imprisonment covers a range of years. The decision as to how long an offender stays in imprisonment remains with the parole board and not the court as soon as the sentence commences. Such decisions are determined by the harmfulness of the offence, the offender's prior criminal record and the offender's conduct while incarcerated. As a result, the decision about how much of a court-imposed sentence the offender serves are mainly based on retributive

considerations, even though such a decision is supposed to be based on whether an offender has been rehabilitated or not (Muthapuli, 2012: 2010).

Deterrence involves a crime control strategy that scares potential offenders from violating the Law and is also the strategy that is used to prevent others from committing similar offences (Brown, S.C., Esbensen & Geis, 2007: 9). It is the use of punitive sanctions to dissuade persons from committing criminal offences in the future (Brown, S.C., Esbensen & Geis, 2007: 11). Labane (2012: 29) mentioned that deterrence is categorised into two general and specific types. General deterrence aims at punishing the offender to show others an example of what will happen to them if they are involved in crimes that are similar to the crimes which were committed by an offender so this will discourage other would-be offenders. Specific deterrence aims to teach the individual who is being punished a lesson to prevent that individual from committing additional offences in the sense that it will prevent him/her from engaging in any other offences because of the bad experience of his/her preceding offences.

2.12.2 Deterrence and the Criminal justice system

As mentioned earlier in Chapter 2, the criminal justice system is a system developed by self-governing governments to preserve peace through the apprehension of criminals and the prevention of crime. In general, the criminal justice system includes those components that are involved in the enforcement (police), prosecution, defence, adjudication, punishment (courts) and rehabilitation processes in criminal law (correctional system). The criminal justice system is itself massive in cost, size and complexity. Not only does the criminal justice system of any country aim to reduce the incidences of criminal acts amongst its citizens but also to assure the equal protection, under law, of the rights of victims and the accused and to increase the efficiency, effectiveness and productivity of all those in the system. However, it should be noted that the criminal justice system alone cannot prevent crime; hence, the responsibility is shared by the family, schools, churches and so on.

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The state will punish by means of deterrence if a person deliberately violates the criminal law of the country without justification or explanation therefore punitive measures will be taken. It is aimed at discouraging future wrongdoings whether by others tempted to follow an offender's example (Conklin, 2010: 353). The opposite relationship between conviction of sentence and the rates of crime in the criminal justice system and the conviction of the sentence could affect the rate for offence as much as the rate of offence affects the conviction or sentence (Conklin, 2010: 358).

Deterrence involves a crime control strategy that scares potential offenders from violating the Law and is also the strategy that is used to prevent others from committing similar offences (Brown, S.C., Esbensen & Seis 2007: 9). It is the use of punitive sanctions to dissuade persons from committing criminal offences in the future (Brown, S.C., Esbensen & Seis, 2007: 11).

2.12.2.1 Deterrence and Police

South African citizens or any law-abiding citizen and lawmakers usually turn to the police to deal with crime. However, we are not sure whether the province or cities with more police officer manpower can or may result in decreasing the rate of offence or crime in any city. Cities with a large police force have lower crime rates compared with cities with a limited number of police officers. On the other hand, having more police officers per city might affect the crime rate. No evidence shows that having more police officers in the city or province is an actual method of the reduction of violence or crime. The high crime rate may increase as a result of

very insufficient Police officers in the city or province. Steven Levitt conducted a study by using the timing of the elections to examine crime rates, and established that a low increase in the police force leads to lower crime rates. Similarly, a study was also conducted by Di Tella and Schargorodosky (2004) to look at the effects of more policing on crimes following a terrorist attack in Buenos Aires. This confirms a large body of research has explored the police–crime relationship due to the substantive importance of the question of whether police levels affect crime since the 1970s.

However, there have been other studies that found that within the range of officers that exist per capita, cities with larger police forces do not have lower crime rates than cities with smaller police forces. For this reason, Eck and Maguire (2000: 214) concluded that there is a lack of a consistent body of evidence indicating that hiring more police is an effective method for reducing violent crimes (Muthapuli, 2016: 160).

Conklin (2010: 359) assumed that crime is deterred by police officers by means of arresting the perpetrator/s. The violent crime rate arrests are higher than that of property crimes rates. According to the Institute for Security Studies of South African Crime (Gould, Burger, & Newham, 4: 2012), in South Africa, in the 2010/11 to 2011/12 financial year, the total of property-related crime increased by 0.3% while the total violence-related crime decreased by 2.3%. The murder rate remains high with 30.9% of South Africans in every 100 000 being victims of homicide, despite a 54 per cent decrease in the number of murders since 1994. Conklin (2010: 359) stated that violent crime is usually expressive in nature and they take place in private settings to which the police officers have limited access, therefore it is difficult to deter. Crime against property is resolved occasionally and more is expected to consist of particular reflections of risks and rewards and is consequently difficult to deter. It is not yet clear whether the risk of arrest is associated with the crime rate.

Burger (2007: 14) believes that deterrence in policing has to do with the activities which are aimed at unfavourable offenders from offender from committing of offence by the problem and make a distinction between two types of deterrence in policing as a structured domestic force of

the country, concern with looking after law and order, namely general and direct deterrence. General deterrence is achieved through effective law enforcement, the existence of certainty or a belief that the crime commission will be followed by discovery and apprehension and all this will take place by means of Law enforcement. Direct deterrence involves obstruction of possible chances using security guards, security systems, electronic equipment, visibility of police officers and neighbourhood watch (Burger, 2007: 14).

2.12.2.2 Deterrence and the Courts

There is a reflective pressure between a need of governments to confirm that the work of the criminal justice components such as the courts, namely adjudication and sentencing, contribute to reducing the offence problems in South Africa and other parts of the world (Nxumalo, 2000: 26-27). The reduction of crime can also cause other major problems to some components of criminal justice such as the last chain of correctional services, the South African criminal justice process can be in a way that is unavoidable in circles of time between the arrests of the offender and his/her succeeding trial and that state of affairs is responsible for the overcrowding of offenders in the South African correctional system (Nxumalo, 2000: 32). According to Matetoa (2012: 58), the theory of deterrence is believed to be one of the most significant theories as it is demonstrated by the pronouncement of our courts. There is a contrary affiliation between the threat of sentence and that of the rate of offence as mentioned by Conklin (2010: 361). A lesser rate of offence is connected with higher sentencing rates. Lesser sentence risk might increase the rate of crime however sentences can make a higher crime rate less likely. The risk of sentencing can be reduced by the rate of crime (Conklin, 2010: 261).

According to Muthapuli (2016: 162), the statement that increased expected punishment caused serious crime to decrease. Expected punishment is the function of the probabilities of arrest, conviction after such arrest and being sentenced to imprisonment after conviction as well as the time spent by those who were sentenced to imprisonment. The rate of serious crime decreased when the punishment expected by criminals increased is in line with the findings mentioned

earlier that, for punishment to be effective, it should be certain, swift and severe. It is at the sentencing level that the balance between reform and deterrence becomes most difficult.

2.12.2.3 Deterrence and the Correctional System

Conklin (2010: 361) mentioned that advanced incarceration rate as a way of keeping criminals off the streets to reduce crime, reduced crime rates in consequent years in the United States of America through a combination of deterrence and incapacitation by means of detaining a person who had committed a crime and thus preventing him/her from committing an additional crime. This was also mentioned by Livingston (1996: 476). Even after the mutual effect of crime rates on keeping the people who have been found guilty by the court of law, rates are taken into account. An increase in prisons is likely the main reason why homicide declined in the United States of America after 1990.

In the Republic of South Africa, according to the Institute for Security Study (South African Crime Quarterly, No 421/2012), in the financial year of 2010/2011, it is recorded that the total number of violent crimes decreased by 2.3%. The South African Police Service recorded that in the financial year of 2011/12, a total of 15609 murders took place, representing a decline of 3.10% from the previous financial year was recorded. Conklin (2010: 361) stated that it is estimated that the decline in the violent crime rate from 2011/12 would have been less if the prison population had not increased. The increase in incarceration can make a major impact on the reduction in rates of serious crime during the financial year between 2011/12. An important question is whether the cost of reducing crime through incarceration is worth the benefits.

In the United States of America, deterrence is also used by the prison authority as a means to control crime. Strategies that use deterrence make potential delinquents aware of the consequences of crime and is not only aimed at preventing the delinquent who has been punished from further criminal behaviour. “One strategy that has been tried as a deterrent to delinquency is the ‘shock sentence’, with offenders being given a taste of the bars to keep them from further wrongdoing. Scared straight is a programme that brings young people into prison to listen to

inmates talk about the unpleasantness of prison life" Conklin (2010: 361). This programme serves as a two-way general deterrence for the youth. It ensures that the threat of being incarcerated may prevent the youth in general, from becoming involved in criminal activities and secondly, the continuation of being incapacitated may have an educational and formative influence on the moral conditioning of youth in general (Labane, 2013: 29-30).

In conclusion, it remains difficult to estimate the effectiveness of imprisonment as deterrence to recidivism founded on the character of the offender and his or her reaction to being convicted and punished rather than the type of sentences he or she receives (Muthapuli, 2012: 162).

2.12.3 Rehabilitation and the Criminal justice system

Offenders' behaviour can and should be changed has had a substantial impact on the criminal justice system. Should the offender be released from the correctional institution without being properly rehabilitated, this can lead the offender to resort to crime again. As a result, the process of criminal justice replicates once again to the same offender. This will have a significant impact on the criminal justice system (Conklin, 2010: 380). According to Muthapuli (2016: 93), all rehabilitation programmes are made up of programmes that are intended to remove conditions that are in the offender and that have led to his or her offending behaviour. The criminal justice system, with all its problems, has the responsibility to immobilize dangerous and seriously disturbed criminals in the community.

2.12.3.1 Rehabilitation and the Police

The rehabilitation standpoint impacts how the police deal with suspects. It is not generally reflected as a function of the first chain of criminal justice (police). The police do not deal with the convicted person; however, they deal with people suspected of breaking the law and it would seem to infringe the legal principle that suspects are to be assumed not guilty until be responsible for guilty if the police were to try to rehabilitate them Cocklin (2010: 380). "The police function is not generally considered rehabilitative because police deal with those people who are

suspected rather than those convicted of breaking the law. It will be difficult for police to attempt to rehabilitate suspects because they have to wait until they are proven guilty" (Muthapuli, 2012: 94).

Police are most likely to consider rehabilitation when dealing with youths. They have the potential to prevent the development of criminal behaviour. The rehabilitation of offenders' perspective influences how they deal with suspects. The police work out agreements between juvenile offenders and their parents to report to the police regularly attend school and make restitution which leads to juveniles avoiding incarceration and court appearances. Police might suggest that an offender enrols in some counselling or training programme rather than arresting him or her (Muthapuli, 2012: 94). Cocklin (2010: 380) also mentions that how the police deal with the juveniles is influenced by the rehabilitation, in the sense that police might most likely not arrest a young suspect if he/she will register in a counselling or training programme. There will be an informal agreement with the juvenile concerned and he/she must attend school and their parent or guardians must report to the police regularly. Such procedures can prevent the juvenile from the legal stigma of having to attend court and being institutionalised.

In the United States of America, the State of Tennessee and the County State called Memphis, the Memphis Police Department have been offering programmes that are most likely to consider the possibility of rehabilitation in dealing with the community and the reduction of juvenile violence since 2011 and this programme became active on 10 March 2012. The Department offers programmes such as; Black History Knowledge Bowl, Hoops Challenge, Real Talk, School Supply Drive and Neighbourhood Watch. The Memphis Police Department consists of a crisis intervention team that is responsible for recognising a special population that deserves special care, treatment and service. Since the CIT programme began in Memphis, the citizens and the criminal justice of Memphis have experienced significant benefits of the programme such as arrests and use of force has decreased, less "victimless" crime arrest, decrease in liability for healthcare issues in the jail, decrease in arrest rates for the mentally ill and resulting low rate of mental illness in jail (Memphis Police Department, 2014).

Muthapuli (2012: 94) stated that the police do not make the laws, they are involved with dealing with a suspect and working out a decision. An officer might think that one suspect will avoid crime in the future if exposed to the tremor of arrest and court attendance. Police have to understand that arresting, convicting and detaining a person may launch an individual on a criminal career. They must be able to use their preference to monitor people out of the system. For example, such officials can recommend a diversion. With that in mind, one can conclude that the police select who the other subsystems of the criminal justice must deal with. In addition, police officials need to be trained in understanding basic human behaviour for them to be able to make wise decisions at the intake phase of the police operation (Carney, 1979: 34).

2.12.3.2 Rehabilitation and the Courts

The functioning of the courts in the rehabilitation of offenders is crucial. In the United States of America, pre-trial component programmes give district attorneys authority to keep suspects from obtaining criminal records and criminal identities. Attorneys can recommend to a judge that criminal proceedings be suspended while a suspect partakes in treatment (Cocklin 2010: 381). Nxumalo (2000: 134) mentioned that "in this instance, the defendant may have a competency hearing before a judge and be placed in a secure treatment facility until he/she is ready to stand trial or the prosecutor may waive further action so that the defendant can be placed in a special treatment programme such as detoxification unit at a local hospital".

Cocklin (2010: 381) mentions that the sentence to which judges and district attorneys reach an agreement in exchange for pleas as an essential first step in the rehabilitation process is fairly the creation of their philosophies about the kinds of sentences that are likely to rehabilitate offenders. Judges' punishment decisions are influenced by their philosophies about deterrence retributions, as well as by their philosophies about rehabilitation. Judges consider the prospective outcomes on an offender of spending some time on probation, making restitution or paying a fine (Cocklin, 2010: 381). They think through the possible assistance of the different treatment programmes available in the community and the correctional institution. Since correctional institutions do not differ much in their treatment programmes, judges usually have few

sentencing alternatives and many offenders cannot be fined or placed on probation because the law prohibits it, or for the reason that the public or judges' wisdom "just desserts" would not agree to.

Pre-trial diversion programmes are efficient with the juvenile system in reducing young offenders' repeat offending. Any young offender system's ultimate aim is to ensure that youth become law-abiding adult citizens and gauge whether pre-trial diversion programmes can remove an offender from recidivism, thus reducing recidivism (Muthapuli, 2012: 95).

Cocklin (2010: 381) believe that the sentences that are carried out by the courts in exchange for the offender's guilt are the product of the judge's beliefs that the kind of sentence is more likely to rehabilitate the offenders, therefore the effectiveness of the courts in the rehabilitation of offenders is critical. "When determining a sentence, judges depend on their beliefs as to whether the person will be rehabilitated or not. After studying pre-sentence reports, judges decide whether a person will be best suitable for various treatment programmes available in the community or correctional institutions. In the report, an analysis of the offender's motives and emotional make-up as well as the offender's social, psychological, vocational, educational and delinquency history - which may have had an impact on the offence in question - are outlined. Based on this, the judge determines the most suitable sentence for the offender which will make rehabilitation possible" (Muthapuli, 2012: 95).

2.12.3.3 Rehabilitation and the Correctional System

Correctional institutions were first developed to provide a more humane alternative to corporal or capital punishment. In line with their Quaker-initiated origins, they were viewed as a place where inmates could read the bible, reflect on past wrong-doings and ultimately repent for their sins (Stinchcomb, 2005: 183). The National Prison Association, which is currently known as the American Correctional Association, believed that prisons and other total institutions could be used to change human beings for the better. The association understood how prisons operated and they were motivated by humanitarian concerns (Stinchcomb, 2005: 183).

The American Correctional Association's ideals are founded on the following: (Labane 2012: 41):

- The purpose of prisons should be to provide penal treatment and thus reformation.
- The correctional system should provide rewards for good behaviour;
- The correctional system should have education and religion as the most important agents of reformation in order for the prison to gain prisoner cooperation and maintain their self-respect;

The ideals listed above are some of the ones that the association embraced in 1870. Offenders might be assigned to a variety of programs to contribute to the most accessible programs that meet the needs of the offender. It has been observed that rehabilitated offenders do not commit new offences after being released and do not return to jail, however, it is unclear whether the Department of Correctional Services' rehabilitation programs can truly change offenders' behaviour (Labane 2012: 69),

The primary goal of imprisoning an offender should be to rehabilitate them. Within the rehabilitative ideal, the major goal of all correctional programs is to effect changes in the offenders' personalities, attitudes, and undesirable conduct, resulting in the welfare and satisfaction of society as a whole (Allen, 1981: 2). Pollock (1997: 167) defines rehabilitation as the process of modifying and eliminating criminal behaviour in offenders.

The following factors are included in rehabilitation programs: (1) they have specific goals, (2) they are based on clear theory concepts, (3) they have specific structure and methods, (4) they are intense and time-consuming, (5) they have a track record of success, and (6) they are run by trained counsellors and consist of professionals such as psychiatrists, psychologists, social workers, and educationalists, and they are offered to those who can benefit from them (Conkly 2010: 382).

Rehabilitation programmes are also known as treatment programmes and take many forms such as individual therapy and group therapy. Individual counselling is carried out by psychiatrists, psychologists or psychiatric social workers. Individual therapy usually includes any range of counselling such as rational emotive therapy as part of a large treatment programme. The caseworker approach is focused on preparing the offender to understand that they can change, teaching them how to adapt to reality, showing them how to solve problems of daily living and informing them of community resources that can assist them to reform (Conkly 2010: 382).

Most of the time family intervention programmes focus mainly on treating the juvenile offenders' family rather than just the offender who has committed the offence. The programme tries to change the behavioural forms within the whole family and alter the way the parents manage their children and strive for developing communication and expression of feelings.

Many prisons emphasise the principle of individualisation. Education and work programmes focus on individual educational needs. Some prisons' educational programmes range from literacy courses to tertiary extension courses (Nxumalo, 1997: 112). Many prisons offer educational programmes that give offenders a chance to work towards a high school correspondence degree or courses for college credits. According to (Coetzee and Gericke 1997: 96), "Education programmes aim to give all sentences offenders, who are illiterate and wish to further their education, the opportunity to increase their level of education". "Prisons offer the offender work that can give him/her enough experience to ensure that he/she is fully rehabilitated and can be productive after he/she is released" (Labane, 2012: 257).

2.13 CONCLUSION

This chapter provided an overview of the criminal justice system as state organs that are involved in the administration of justice, to protect society and maintain law and order by preventing and controlling crime, to ensure to press full co-existence surrounded by members of the society, the discussion has been made with regards to the goal and the characteristics of

criminal justice. The research also discussed the relationship between the role players of the criminal justice system as well as the of process criminal justice where the police, prosecution, courts and corrections are assured collectively through a sequence of give-and-take relationships. This chapter has reflected each role player is responsible for a part of the decision-making system. The concept of crime is explained and that the act can only be classified as a crime only if certain elements of a crime are present or certify certain requirements.

This chapter has reflected a broader perspective of four major goals in criminal justice belonging to one of two groups, namely absolute theory or relative theory and how these goals relate with the components of criminal justice. Criminal justice happens in order to prohibit citizens from taking the law into their own hands because the ideas of vengeance and personally inflicted retribution are seen as most likely to be disproportionate to the actual offence. The opposite relationship between conviction of sentence and the rates of crime in the criminal justice system and the conviction of the sentence could affect the rate for offence as much as the rate of offence affects the conviction or sentence and that poor rehabilitation will have a significant impact on the criminal justice system. All this are discussed in this chapter.

CHAPTER 3
THE PHILOSOPHY OF THE EXISTENCE OF NON- GOVERNMENTAL ORGANISATIONS

3.1 INTRODUCTION

Non-Governmental Organisations NGOs are grass-root populations, groups and institutions that spontaneously emerged from the society's heart, performing non-profit and voluntary activities to solve social problems and to serve the general public, and considering their own highest advantage as being independent of government. Nelson Mandela (1996) "Non-Governmental Organisations played an outstanding role during the dark days of apartheid. Today, many people who received their training within the NGO sector play important roles in government" (Habib & Taylor, 1999: 80). This chapter aims to uncover the definition of NGOs in broad prospect, more emphasis is placed on studies of societal actors, and try to capture the term while examining more specifically the composition and functions of NGOs. The importance is placed on the legal status of NGOs from the national perspective and their effects on international law.

The study analyses the development of NGOs or voluntary organisations before and after the second world war. NGOs can be dated back, depending on the viewpoint, to some decades or even to some centuries ago. The history of NGOs is deep-rooted since the time of voluntarism. After World War II, the United Nations professionalized non-State actors further in addition to giving NGOs their names. The aim and objectives of NGOs will be explained in detail, considering that different NGOs come up with their own vision and characters. The purpose and objective of each NGO can be also understood by their orientation and level of operation and they are also classified according to the type of work they perform.

An attempt is made in this chapter to discuss the role played by NGOs in the criminal justice system and how NGOs contribute in performing tasks that require high professional knowledge

and skill to alleviate the demands made on the time of professional people and they also share the challenges and obligations of the criminal justice system.

3.2 DEFINITION OF NON-GOVERNMENTAL ORGANISATION

Sharma, (2015: 135) mentions that NGOs are any type of isolated organisation that is independent of government and may be funded by businesses, foundations, private persons or the government. NGOs believe in the cause for which they have been involved and most of them have knowledge and expertise which can benefit the individual organisation or community in which they are interested. They participate in various projects within the community or organisation with the aim of humanitarian objective, interest in the organisation and disposition towards community responsibility. NGOs are also regarded as a stakeholder of the Department of Correctional Services. The World Bank define NGOs as private organisations that pursue activities to relieve suffering, protect the environment, undertake community development, provide basic social service or promote the interests of the poor (Sharma, 2015: 136). By the same token, Symaco (2016: 194) describe NGOs as private institutions which are involved in different sectors of society, from helping to eradicate poverty, eliminating HIV/AIDS incidence, to fighting for democracy.

Khan (1995: 19) mentions that NGOs is reserved to mean organisations that have all of the four key defining characteristics:

1. **Voluntary**: Implies there will be an element of voluntary participation in the organisation: whether in the form of small numbers of board members or large numbers of members or beneficiaries giving their time voluntarily, they are formed voluntarily: there is nothing in the legal, statutory framework of any country which requires them to be formed or prevents them from being formed.

2. **Independent**: Within the laws of society, they are measured by those who have formed them, or by boards of management to which such people have delegated, or are required by law to delegate, responsibility for control and management.

3. **Not-for-profit**: They are not for personal private profit or gain, although, NGOs may engage in revenue-generating activities. They do not, however, distribute profits or surpluses to shareholders or members. They use revenues generated solely in pursuit of their aims. NGOs may have employees, like other enterprises, who are paid for what they do. But in NGOs, the employers – boards of management – are not paid for the work they perform on boards, beyond (most commonly) being reimbursed for expenses they incur in the course of performing their board duties.

4. **Not self-serving** in aims and related values. The aims of NGOs are: to act on concerns and issues which are negative to the well-being, circumstances or visions of people or society as a whole and/or to improve the circumstances and prospects of disadvantaged people who are unable to realise their potential or achieve their full rights in society, through direct or indirect forms of action.

"NGOs are formal (professionalized) independent societal organisations whose primary aim is to promote common goals at the national or the international level" (Martens, 2002: 282). Martens (2002: 272) explored in more detail to approximate a definition of NGOs and some semantic alternatives and following older traditions of differentiation in international relations, two major tracks of NGO interpretations are distinguished: the juridical approach and the sociological perspective. From a sociological perspective, the emphases are placed on studies of societal actors and try to capture the term while examining more specifically the composition and functions of NGOs. With regarding juridical studies, the importance is placed on the legal status of NGOs from the national perspective and their effects on international law. The following two main ways of NGO interpretations are discussed in detail below (Martens, 2002: 272):

3.2.1 Juridical approach

According to Martens (2002: 273), NGOs have been heavily involved in the formulation and implementation of international laws and standards. In the field of human rights protection, NGOs have been identified as contributing to the advancement of international standards. Jeremy McBride a visiting professor at Central European University and chairs the Expert Council on NGO Law of the Council of Europe's Conference on International Non-Governmental Organisations. He organised the creation of an alliance of human rights NGOs in anticipation of the United Nation in the 1968 International Conference on Human Rights in Teheran, where he also represented Amnesty International. The coalition of human rights NGOs become a permanent subcommittee of the conference of NGOs in consultative status at the UN in government-organized NGO (CONGO) (Clark, 2001: 7). Human rights NGOs have continuously gathered information on human rights abuses and put forward proposals on the development and the implementation of human rights law, for example, during the drafting of the Convention of the Rights of the Child, experts from Amnesty International were participating during the establishment and writing processes of the Convention of the Abolition of Torture (Martens, 2002: 273) and "Amnesty International established its loyalty to principles early, with a focus on the prisoner of conscience, the term Amnesty's founder coined to refer to any person who physically restrains (by imprisonment or otherwise) from expressing (in any form of words or symbols) any opinion which honestly hold and which does not advocate or condone person violence" (Clark, 2001: 12).

The idea of human rights NGOs challenges State sovereignty by imposing international standards of protection for individual citizens from cruel or arbitrary treatment by the government (Clark, 2001: 10). NGO input on advancing international standards to protect the environment has been of much import in the field of environmental protection**.** However, although this increasing participation of NGOs in processes of universal politics, it has yet not been obviously identified what symbolises a human rights NGOs' legal terms *(*Martens, 2002: 273). Human rights NGOs can also influence the behaviour of multinational corporations.

Winston (2002: 71) list five factors that have contributed to human rights NGOs' interest in the business sectors:

- Lack of social and environmental accountability of multinational corporations (MNCs) under existing national and international laws;
- A separate adaptation of power from nation-states to MNCs and international financial institutions such as the world bank and the International Monetary fund;
- A need on the part of some people in the NGO world to enlist MNCS and business;
- The growing anti-corporate-globalisation movement; and
- A conclusion on the part of large, international human rights organisations is that they have been too focused on traditional categories of civil and political rights while neglecting economic, social, cultural rights.

Martens (2002: 272) explain that juridical approaches base their clarification of internationally operating NGOs on UN recognition and the national acknowledgement of NGOs. In juridical approaches, NGOs can be discussed in two perspectives such as United Nations and the International law perspective. The following two perspectives are discussed below:

3.2.1.1 The United Nations perspective

According to Martens (2002: 271), researchers first primarily applied the term NGOs only when referring to those societal actors which are (because of UN criteria) international bodies and engage within the UN context. The term Non- Governmental Organisation was first coined when the United Nations was established in 1945 (Sharma, 2015: 1). The UN Charter was delivered simply for the ECOSOC (Economic and Social Council) to consult with NGOs for particular resolutions when the latter deal with matters falling under the proficiency of the UN (Martens, 2002: 272**)**. ECOSOC launched to implement the requirements of the Statute by issuing the two resolutions (288B/1950 and 1968/1296) that created the mechanism of acknowledgement and appreciation, required for being consulted (Irrera, 2013: 25). Upon recommendation, the ECOSOC Committee on NGOs consists of 19 Member states. There are three distinct categories of status in this process (Venne, 2013: 81):

1. **General consultative status** is reserved for large international NGOs whose are of work cover most of the issues on the agenda of ECOSOC and its subsidiary bodies (For example, the World Federation of United Nations Associations).
2. **Special consultative** is approved to NGOs that have a special ability in, and are specifically with, only a few of the fields of activities covered by the ECOSOC.
3. The **Roster** lists NGOs that ECOSOC or the UN Secretary-General consider can make occasional and useful contributions to the work of the council or its subsidiary bodies. Organisations that apply for consultative status but do not fit in any other categories are usually included in the Roster. According to (Irrera, 2013: 25**)** all the remaining organisations are consulted occasionally.

The United Nations Department of Public Information (UNDPI) is responsible for maintaining a relationship with all the NGOs. Certain criteria should be followed by NGOs to be associated with the (UNDPI). The following criteria are discussed by Sharma (2015: 136):

- The NGOs must support and respect the principle of the Charter of the United Nations;
- Must be recognised nation or international standing;
- Should preferably have a satisfactory record of collaboration with UN Information Centres/Services or other parts of the UN System before association;
- Must have the commitment and the means to conduct effective information programmes with its constituents and to an out broader audience about UN activities by publishing newsletters, bulletins and pamphlets; organising conferences, seminars and round table; or enlisting the media attention;
- Should operate solely on a not-for-profit basis and have tax-exempt status;
- In the case where the NGOs has no record of collaboration but the DPI Committee on NGOs approves its applications, it will have a provisional association status of two years until which it can establish a partnership with the relevant UICs/UISs or UN system organisation;
- The NGOs should have statutes/bylaws providing for a transparent process of taking decisions, elections of officers and members of the board of directors;
- Should provide an audited annual financial statement indicated in US currency, and conducted by a qualified, independent accountant; and

- Should have an established record of continuity of work for a minimum of three years and should promise sustained activity in the future.

According to Martens (2002: 273), within the UN, NGOs are primarily understood as being international bodies, because the Article explicitly states that national NGOs are only considered under special circumstances. In accordance with Article 71, subsequent resolutions have set out in detail how the interaction between the two types of organisations are regulated. However, these resolutions on the consultative relationship between the UN and these NGOs focus more on the principles and objectives of this relationship than providing a precise definition of the characteristics of NGOs. One characteristic NGOs share is the fact that they are non-profit status means they are not delayed short-term financial objectives. As a result, they can apply themselves to the subject which occur across longer time perspectives, such as climate change, malaria prevention or global ban on landmines. Public surveys reveal that NGOs often enjoy a high degree of public trust, which can make them a useful - but not always sufficient - a proxy for the concerns of society and stakeholders (Sharma, 2015: 2).

Sharma (2015: 2) mentions that the UN, acting as an inter-governmental organisation, complete it possible for convinced appropriate specific international non-state agencies. The term NGOs in the UN was later used more broadly. At the moment, the term NGO, according to the United Nations, refer to any kind of private organisation that is independent of government control can be termed an NGO as long as it is non-profit, non-criminal and not simply an opposition political party. By the same token, Carr and Outhwaite (2011: 620) state that **"**the United Nations defines an NGO as (a) any non-profit voluntary citizens' group which is organised on a local, national or international level, perform a variety of service and humanitarian function, bring citizen concerns to government and encourage the political participation of civil society stakeholders at the community level."

In the present resolution, the term NGO also refers to organisations at the national, regional and international levels - resolutions before 1996 (similar to Article 71) considered only international NGOs, in contrast to earlier resolutions. However, despite the expansion of the term to societal

actors on other levels than the international one, the UN fails to deliver more accurate content for characterizing NGOs. And the term NGOs remains. "An awkwardly negative title coined by the United Nations to describe a vast range of international and national citizen's organisations, trade unions, voluntary associations, research institutes, public policy centres, private government agencies, business and trade associations, foundations, and charitable endeavours" (Martens, 2002: 274). According to Berger (2003: 18), "the use and definition of the term "Non-Governmental Organisation" in Article 71 of the UN Charter to denote a consultative relationship between its organs and NGOs provided the necessary political space for the emergence of a new breed of organisation". In short, Martens (2002: 277) argues that the United Nations has set up some rather unspecified criteria for NGOs that focus on their composition and reputation.

3.2.1.2 International law perspective

Martens (2002: 277) explains that in international law only limited progress has been made to define NGOs sufficiently. Instead of developing a body of criteria for NGOs, international law focuses on the status of NGOs under national jurisdiction. To define NGOs and to classify their legal status, there is as up till now no extensively adopted international resolution on the nature and law of NGOs, irrespective of several efforts since the beginning of the twentieth century. In the French context, international lawyers and social scientists have placed great emphasis on developing an international codification of NGO status for several decades. The only NGO which takes up a special position in international law as an organism *sui generis* (means an independent legal classification) Red Cross. As an alternative, international law can generally be said to use UN criteria for NGOs (Martens, 2002: 274). Non-Governmental Organisations (NGOs) have applied a profound influence on the enforcement of international law; contribute to the development, interpretation, judicial application, scope and dictates of international law. For example, NGOs helped to develop the "Siracusa Principles" in 1984, on the meaning and scope of the derogation and limitation provisions of the International Covenant on Civil and Political Rights. Theodor Meron noted that by championing a broad construction of the Fourth Geneva

Convention, the International Committee of the Red Cross (ICRC) clarified that rape is a crime under international humanitarian (Charnovitz, 2006: 348, 352 & 353).

The discussion on the legal personality of NGOs can also be traced back to attempts made as early as 1910 when statements about the codification of the status and the personality of NGOs in the international context were made at a session in Paris the Institut de Droit International which brought forward a draft convention on NGOs. Others followed at another session in Madrid in 1911. A first treaty draft on the international legal personality of NGOs was further developed in 1912 (Martens, 2002: 274).

The activities of NGOs in contemporary international law can be divided into two different kinds of fields: 1) their participation in the international decision-making process concerning the codification and progressive development of international law, and 2) their activities in the enforcement of international law and the promotion of the public interest. Apart from these functions, there is also the International Olympic Committee, which has created a legal order independent from State jurisdiction (Nowrot, 1999: 598).

Nowrot (1999: 598) calls the influence of international NGOs in the implementation of international law. A useful example in this reverence is the Brent Spar episode, where Greenpeace forced Shell to refrain from scuttling oil rigs in the North Sea.

Within the international law background, restricted improvement in the classification of NGO personality has lately been made on a regional level. The European Convention on the Recognition of the Legal Personality of International NGOs can be reflected in an international agreement on NGOs. It provides for the general recognition of the legal personality of an NGO in any state party to the convention (Martens, 2002: 276).

3.2.2 Sociological approaches

According to Martens (2002: 277), sociological works are based on studies of societal actors and try to capture the term while examining more specifically the composition and functions of NGOs. The definition of NGO in sociological studies in some countries is translated as "anti-government" or "against the government". Therefore, there is no agreed-upon common NGO definition in sociological studies. Sociological approaches to NGOs mainly define them by referring to what NGOs are not. In Sociological approaches, NGOs can be discussed in three perspectives namely: The "Non" in Non-Governmental Organisation, the "Governmental" in Non-Governmental Organisation and the "Organisation" in Non-Governmental Organisation.

3.2.2.1 The "Non" in Non-Governmental Organisation

NGOs are very often referred to as non-profit making entities, interested in progressing their chosen objectives, such as the interests of their members or general entitlements (Martens, 2002: 278). NGO activists combine their skills, means, and energies in the service of shared ideals, unlike nonstate actors, such as multinational companies, whose primary aim is to make a profit. NGOs are self-governing sovereign bodies, voluntary in nature, and tend to participate in both their supporters and constituency-based on values or some shared interest or concern, and have a public benefit purpose (Kilby, 2006: 952). They are expected to give expert information or advice on problems in which they have special skills and to express views in representing important elements of public opinion in a large number of countries (Van Boven, 1989: 3).

"Traditionally, the function of Non-Governmental Organisations in private activities has been to fill gaps between governmental social services and actual need. In other words, the private individuals and groups have provided service to people in need when governmental agencies did not" (Nxumalo, 2000 45). Neser (1993: 394) mentions that NGOs influence government actors by means of volunteers to assist in the community integrating offenders and make special contributions by improving the task of professional personnel. They also pursue to influence governmental actors, such as states or to implement policies in their field of concern. The money

they make with fundraising, publications and selling is used to pay for activities and staff to support their aims and goals more successfully (Martens, 2002: 279).

In this context, NGOs have often been referred to as "voluntary organisations," in which people engage for idealist purposes and "good" causes in their free time and have often also been described as having unprofitable claims and being non professionalized societal groups (Martens, 2002: 279). Jones (2003: 11) described NGOs as aiming to be self-governing based on their own constitutional provisions. They are private in that they are separate from the government and cannot direct societies or require support from them. They are not distributing or business of making a profit. They are volunteer-governed on the board of organisations formulate the goals and policies in which professionals can implement these decisions.

The term NGO as to international societal actors cut across national boundaries. "It works on NGOs with a national focus, instead, it is the opposite: NGOs are primarily understood as national actors and, in fact, NGOs with a radius of activity beyond the national domain need to be specifically indicated with labels such as 'international' or 'regional'. However, in this context, the implications of 'international' are controversial. For some, it means that their members must be from more than one country, others require that an international NGO must act in different countries" (Martens, 2002: 279).

3.2.2.2 The "Governmental" in Non-Governmental Organisation

Most important, governments or governmental components are excluded from the definition of NGOs. NGOs are generally understood as being organisations that do not include governmental representatives. NGOs are normally referred to as civil servants that do not include governmental representatives. They are made up of individuals or national groups (which contain only individuals) and not official representatives of national governments (Martens, 2002: 279).

"While most NGOs that work in development will argue that they are part of civil society, and can play both an empowering and representative role, they generally are not membership-based,

governed, or financed. Rather, these NGOs are largely guided and driven by staff, self-appointed boards, or very small numbers of formal members; and the driver for their work emerges generally from a religious or ethical base - their values. The role of these NGOs is in advancing" (Kilby, 2006: 953). Mawlawski (1993: 392) describe NGOs as "private organisations" since they include collectives of private persons only or individuals.

NGOs must not be dependent significantly on governments for financial and moral support (Rosenau, 1998). The factors that influence donors on aiding NGOs can result in three negative causes such as:

1. Many poorest NGOs depend on external finance for over half of their organisational budgets; this will give government donors strong influence over these NGOs policy choices if they dependent meaningfully on governments for financial support.
2. Threatening to withhold essential funds and debt relief unless the NGOs implement the recommended measures is an abuse of power (Okwanga, 2012: 138).

The factors that influence donor decisions on aid to NGOs are the same in the funding of recipient countries (government receiving donors from developed countries) for their humanitarian work (Okwanga, 2012: 138). Many NGOs in Sub-Saharan Africa reflect these definitions of financial vulnerability as they struggle to meet community needs with limited resources. Dependence on international sources of funding among NGOs in the Global South creates doubt and threatens organisational independence. These resource dependencies may exert additional, undesirable effects such as goal displacement and funding disruptions. NGOs may focus more on structural changes by modifying missions and activities to align with funding opportunities (Despard et al., 2017). "NGOs that have turned to play the part of watchdog over democratic practices have been supported by a range of donors (such as the U.S. Agency for International Development [USAID]) concerned about strengthening civil society through "democracy and governance" programmes" (Habib &Taylor, 1999: 76).

According to Despard et al. (2017), with short funding periods from international funders, NGOs in sub-Saharan Africa (SSA) may face difficulty replacing grant funds with domestic sources such as individual or government donations. Consequently, NGOs may have no other choice but to reduce services to the communities they serve and/or the number of people served and may lack the core resources needed to recruit and retain well-qualified staff. “NGOs may receive financial contributions from governmental sources, but only to a limited extent so that they are capable of maintaining themselves in case governmental contributions are withdrawn. However, there are limits to this. For example, many NGOs become increasingly dependent on the government when they accept government funding and become subcontracted by official institutions for specific purposes. As a result, many Organisations rely on contributions from state institutions as one of their major sources of income” (Martens, 2002: 280).

3.2.2.3 The “Organisation” in Non-Governmental Organisation

They provide avenues for people to participate in development and social change in ways that would not be possible through government programmes since they are "non-governmental." They create a'space' in which it is feasible to think about development and social transformation in ways that would not be achievable through government programmes because they are 'not governmental. **(**Lewis, 2009: 5). NGOs are thus formal institutions with self-governing constitutional arrangements.

According to Martens (2002: 281), NGOs have their origins in the communal movement territory, as formerly unstable groups which have gradually developed permanent structures. On an international level, these organisations have been referred to as transnational social movement organisations which are - among other attributes - characterized by some formal structure The definition of NGO as the “Organisation” in Non-Governmental Organisation distinguishes NGOs as distinct from other forms of collective action with less permanent organisational structure, such as public protests. For example, during the Apartheid regime, there were an ever-increasing number of Non-Governmental Organisations (NGOs) concerned about thought-provoking the

South African government and promoting a non-racial democratic society, these organisations underwent profound changes (Habib & Taylor, 1999: 73).

While the UN introduced a "negative" term (*Non*-Governmental Organisations) solely to encompass a variety of actors, most sociological approaches similarly circumscribe NGOs by applying a "method of disqualification": they tend to emphasize what is excluded from the NGO sector rather than elaborating "positive" characteristics of NGOs. In conclusion, NGOs can be defined as formal (professionalized) independent societal organisations whose primary aim is to promote common goals at the national or the international level (Martens, 2002: 282).

3.3 THE PURPOSE AND OBJECTIVE OF NGO'S

Symaco (2016: 14) mentions that the founders of an NGO are likely to set not only its aim and objectives but also its characters and vision. Therefore, different NGOs come up with their own vision and characters. The purpose and objective of NGOs can be also understood by their orientation and level of operation and usually exist for a variety of reasons, to further social and political goals of their members or founds, such as improving the welfare of the disadvantaged, or encouraging the observance of human rights, representing a corporate agenda or improving the state of the natural environment (Sharma, 20015: 2-5). NGOs are expected to carry out two functions.

NGOs have a variety of goals and often work for the promotion of society members' political or social goals, such as improving environmental conditions, encouraging people and groups to respect Human Rights, raising the welfare level of the poor, and offering collectively cooperative programmes (Varvaii, Mohamadi & Nourian, 2016: 111).

The role of Non-Governmental Organisations in improvement takes on more real proportions when seen as mechanisms of authorization as mentioned below by Zhang (2005: 36):

- Justifiable, participatory development is a partnership between grassroots communities and NGOs, whether this role is satisfied will depend on whether NGOs maintain a demonstrative belief in the potential of the people they work with, respect their indigenous knowledge base, allow them to establish ownership of the development initiative, and acknowledge their contribution to the maintenance and revitalization of society.

- The role of NGOs is to help initiate a process of collective reflection, decision-making and action not to issue people with ready-made, prior-existing knowledge and solutions. This requires the social or "soft" skills necessary to elicit participation and also technical or so-called "hard" skills.

- The final role of NGOs is to raise questions and provide a wider perception through the provision of their knowledge and expertise in the establishment of a mutually productive relationship with grassroots communities.

NGO have five objectives to exist such as –building civil society, by means of taking various activities such as implementing various social development programmes, campaigning and working in the areas of endangered species of life, promoting human rights idea of good governance and advocacy work on behalf of disadvantaged groups of society (Telake, 2005: 44).

Irrera,(2013: 2) emphasized that NGOs are involved in the human intention that acts as a system defined as the set of principles, actors, policies practices, rules and procedures that shape interventions in harmony with modern international development.

NGO ascends from the role they play in preparing, shaping and empowering social movement and community-based organisations responsible for raising awareness of the urban poor, assisting them to understand their rights in gaining access to needed services and providing such services. They usually pursue the services of community-based organisations and other grassroots organisations such as self-regulatory organizations (SROs) to reach the targeted section of society. They promote the government and advocate on behalf of women and other

underprivileged groups to change laws and policies that have an undesirable attitude on the groups they lobby for.

- Legal Non-Governmental Organisation as a note of civil society.
- NGOs creation of social capital.

The creation of social capital is believed to be a contribution of NGOs. Since they encourage the society to organize and act more collectively, NGOs encourage people to develop trust in modern social institutions other than relatives and friends for their social and economic necessities. Social capital has to do with the strengths of family responsibilities, community voluntarism, selflessness, public or civic spirit. All this entity consists of some aspect of social structure and they facilitate certain actions of actors, within the structure (Telake, 2005:46).

Symaco (2016:13) mentions that NGOs work under diverse headings such as the Sun City Foundation Charity Council or trust, generally sharing the collective article of being non-profit organisations with regard to larger organisations. Most of the minor NGOs are more likely to specialize in one area such as education, some may provide small grants for university students, may focus on preschool or nursery education and others may support the development of local languages. Most NGOs are involved in predominantly large-scale service delivery and /or become more subject to official funding, one might anticipate some fall in their flexibility, speed of response and capability to revolutionize. Even though organisational groups can be managed successfully, bureaucratization poses problems for any organisation, as do the complex appraised and reporting requirements which accompany official aid (Edwards & Hulme, 1996:8).

According to Malena (1995:13-14), NGOs follow the interest of the underprivileged, protect the environment and provide basic social services and undertake community development. They offer the opportunity of alleviating the problems of absorptive capacity which is most serious with governments in poor countries characterized as they are by over-inflated and inefficient bureaucracy. They are inspired by a longing for considerate and rising humanity and as such:

- Their programmes are designed and implemented in a method that addresses societies sensed needs such as success in addressing societies sensed needs can be outlined to their capability to correctly identify the need of poor society;

- The ability to explore locally available resources or adapt technologies developed elsewhere to local conditions (Okwanga 2012:13).

Biggs and Neame (1996: 39) stated that NGOs are instruments for services delivery democracy or inputs and outputs and NGO interventions. Vahard (2014: 135-142) pointed out the intended role and function of NGOs are to act as: watch functions, advocacy and campaigning, social mobilization as a universal principle of shared values, engaging in cross-border and transformation issues. Watch functions ensure government compliance with human rights obligations to protect, respect and fulfil the rights. They entail monitoring and reporting on violations of human rights and formulating a recommendation to address breaches of human rights law and prevent a recurrence. Usually, this function is performed by human rights NGOs in African countries by organisations such as International Federations of Human Rights Leagues, Amnesty International and Human Rights Watch. Human rights NGOs has an obligation to ensure that it complies accountability by means of addressing.

Styger and Cameron (1992) pointed out different activities and roles that could be achieved by NGOs, which could be linked with the different needs of the South African citizens as tabled by Zhang (2005: 39):

- Raising the volume and efficiency of local societies, thereby increasing their independence, as well as their capability to initiate, finance, control and evaluate the achievement of development activities undertaken to meet community needs.

- Making demonstration models of proper improvement processes aimed at persuading government or other proper agencies to sustain and replicate these on a wider permanent basis.

- Increasing local administrative ability and increasing the volume for the effective participation of local communities in the development process, enabling them to make the decisions needed to plan and implement activities affecting them.

- Facilitating the mobilization of local savings and ensuring their investment in productive services.

- Increasing the access of local communities to information, training, resources and opportunities needed to meet their basic needs by widening their information and resources base by means of establishing linkage with all appropriate institutions.

- Reaching a credible and influential advocacy role by establishing organisational efficiency and effectiveness, by attaining financial independence, and by creating firm multi-level links with proper agencies of government, the private sector and other important stakeholders, aiding to forge international links with other countries.

3.3.1 Classification of Non-Governmental Organisation

Nzimakwe (2008: 97) classifies two sides of NGO activities; firstly, service to improve the general welfare of people, and secondly involvement in government institutions which entails contributions and efforts they make to involve government institutions.

The characteristics of an NGO can be used to classify it. Telake (2004:36) states that many authors describe NGOs in their own way, with some authors categorizing NGOs as regional, international, or community NGOs. Farington and Bebbington distinguish between Northern (member nations of the Organisation for Economic Co-operation and Development) and emerging country NGOs.

Overflowing between membership and non-membership organizations has been suggested by Fowler (1991) and Carroll (1992); nevertheless, due to the various nature of NGOs, precise

classification of NGOs may be difficult. NGOs recognized various generations, each with its own set of traits.

Telake (2005:38) mentions that there are twofold classifications of Non–Governmental Organisations. They include those who are advocacy organisations and those who engage in relief work. Some organisations might engage in two of these activities, since the strict application of this classification system is not easy, according to Okwanga (2012;129), Telake (2005) and researchers such as Smillie (1995:27) and Korten (1990).

NGOs are classified according to the type of work they perform. Okwanga (2012:129) mentions that there are four generation typologies based on the evolutionary process in the development and growth of NGOs. These four-generation typologies based on four distinctive orientations are as discussed below (Telake, 2005:37):

- **Relief and welfare:** International NGOs like Corporate Social Responsibility (CSR), CARE, Save Children, World Vision and national NGOs such as Building, Resources Across Communities of Bangladesh (BRAC) started as a service that provides relief and provision of welfare to the needy and bringing lifesaving health programmes to millions of the world poorest people. At this point, the attention of the NGOs was the direct justification of the problem caused by natural disasters and man-made disasters. This generation of NGOs is involved largely in the distribution of emergency items. An example of this is the operations of Save The Children in developing countries.

- **Second-generation:** Refers to mall-scale, self-reliant NGOs focussed on local development through small-scale community empowerment projects, with the intent that trust benefits would be sustained beyond the period of NGO assistance.

- **Third generation:** These NGOs focus on sustainable system development and seek to power the broader policy framework. The NGOs of this generation evolved from the importance of subjects or problems of impact, recurrent cost recovery and sustainability.

> "Above all, a growing number of NGOs came to realize that achieving sustainable development called for a supportive policy environment". NGOs of this generation are involved in addressing relevant policy subjects according to Korten (1987:149), who emphasized that these three generations do not characterize specifically defined classifications and are more appropriately applied to individual programmes than the whole organisation.

Okwanga (2012:129) acknowledges the fact that the concept of fourth-generation NGOs does not really exist. Instead, he wrote that They are made up of loosely connected social or human development movements that are motivated not so much by budget or organisational structures as by ideas and vision for a better society. While such categories are valuable for understanding NGOs and how they work, it is uncommon for an NGO to fall somewhere in between the categories. The strict application of this classification system is not simple, since some organisations might involve in two or perhaps in all three or four of these activities (Telake, 2005:38) irrespective of which classification they are involved in, NGOs are committed to their noble cause (Okwanga, 2012:125).

Vahard (2012:127) lists and explains different types of NGOs in West Africa as follows:

1. They may have registered through agreement with the regulatory framework and laws in place in a particular country, and have been issued a certificate of registration. They may not be registered but still exist and be effective. There is a number of NGOs that operate and are recognized by their communities as driving forces for change, especially in semi-urban and rural settings. They also contribute to the general welfare without any formal registration. Vahard (2012:128) believes that unregistered NGOs should be considered as recognized since they are not involved in illegal activities.

2. There are NGOs that are not perceived as government-friendly and those that are government-friendly. Those that are not critical of government performance, face extensive and bureaucratic procedures during the processing of their formal organisation.

NGOs not perceived as government-friendly, through their hard, work often win public recognition over a relatively extensive period. They distinguish themselves by characteristics such as speedy registration and are recommended by the government to its partners for financial support. They are referred to by government circles as success stories and having a public profile.

3. Some NGOs are pro-opposition and some are pro-government. Those NGOs operate as the government or the opposition of the day or as mouthpieces and defenders of the government. During the presidential elections of the Ivory Coast, the polarization of human rights NGOs became very apparent and contributed to the post-electoral emergency. The separation of NGOs along the political lines challenges the protection and promotion of human rights.

4. Some NGOs are not associated with international NGOs. Those that are associated with international NGOs such as the International Federation of Human Rights Leagues and Amnesty International, while other NGOs remain unknown outside their communities and have limited or no access to external funding such as in the case of limitless NGOs that are mostly dynamic in the provinces to organize impact and promote the exchange of best practices. It is desirable to combine local relevance with international exposure

5. There are NGOs formed by victims under families of victims or formed by individuals or groups of individuals around a common ideology. They operate as registered NGOs as an impulsive organisation with the principal aim of trying to find justice redress. These include international NGOs such as Oxfam, Save The Children, CARE, the Rockefeller Foundation and the WWF. Amnesty International was formed by individuals sharing the common ideal of environmental sustainability, human dignity, equity without being direct victims or acting on behalf of their relatives.

Internationally, there are many different classifications of NGOs in use. The maximum collective emphasis is on orientation and level of operation and NGOs or their orientation refers to the type

of activities it takes on. These activities might include human rights, environmental, or development work. They are organized on community, national and international levels to serve a social or political goal such as humanitarian causes or the environment (Sharma, 2015:1-2).

According to Sharma (2015:3), the following are the types of NGOs that can be classified by their orientation which is Charitable, Service, Participatory and Empowering (PESC):

- **Participatory** orientation is categorized as self-help projects where local people are involved mainly in the implementation of a project by contributions to materials, land, tools, labour, money resources etc. Classical community development projects begin with the need definition and continue into the planning and the implementation stage.

- **Empowering** orientation aims to help underprivileged people develop a cleave of understanding of the economic, political and social factors affecting their lives, and strengthen their awareness of their potential power to control their lives. There is a determined contribution of the beneficiaries with NGOs acting as facilitators.

- **Service** orientation consists of NGOs with accomplishments such as the provision of education, health or family planning services in which the programme is considered by the NGOs, and a community is expected to be involved in its implications and receiving the service.

- **Charitable** orientation general includes a top-down effort with little contribution by beneficiaries. It consists of NGO activities directed at meeting the needs of the poor.

The following are the types of NGOs understood by their level operation, as explained by Sharma (2015:3):

- **Community–based organisations** (CBOs) ascend out of people's own initiatives. They can be responsible for helping and nurturing the conscience of the urban poor to understand their rights in accessing needed services.

- **City-wide organisations** include organisations such as chambers of coalition businesses, education groups, commerce and industry, ethic and associations of community organisations.
- **National NGOs** include national organisations such as the professional associations, Samriddhi Foundation and YMCAs /YWCAs. Some have state and city branches and assist local NGOs.

- **International NGOs** are collected from world organisations such as religiously motivated groups, the Ford Foundation, Save The Children, CARE, OXFAM and the Rockefeller foundation. These organisations can be responsible for financing institutions and projects and local NGOs and implementing projects. Sharma (2015:3) emphasized that there are various or overlapping terms in use, such as voluntary organisations (VD), grassroots organisation (SO), non-profit organisations (NPD), sector organisations, civil society organisations (CSO), social movement organisations (SMO), non-state actors (NSAs), private voluntary organisations (PVO) and self-help organisations.

There are governmental related organisations/NGOs that are a heterogeneous group are classified by different organisation acronyms such as (Sharma 2015:3):

- BINGO; Business, friendly, international, NGO or big international NGO e.g., Red Cross.
- TANGO; Technical assistance NGO.
- TSO; third-sector organisation.
- National NGO; an NGO that exists only in one country.
- NNGO; Northern NGO.

- TNGO; Transnational NGO this includes NGOs that is confined to bullying one country but exist in two or more countries.
- GONGO; Government–operated NGO (set up by governments to look like NGOs in order to qualify for aid or promote).

Clark (1991: 40-41), highlights the development of NGOs and classifies them into six schools viz relief and welfare agencies (RWA), technical innovation organisations (TIO), public service contractors (PSC), popular development agencies (PDA), grassroots development organisations (GDO), and advocacy groups and networks (AGN). This classification is useful for its very specific categories. However, it may also serve as one of its weaknesses. Given the dynamic nature of the range of activities covered by NGOs, this classification may be insufficient in accounting for certain NGOs. Furthermore, it is too simplistic to assume that each NGO will fit neatly into any of the categories. An NGO may combine the characteristics that cut across different categories.

Shivji (2007: 38- 40) identify the significant types of NGOs in the African context:

1. A large number of African NGOs were originated during the time of the neo-liberal aggression which began to open up some space for freedom of association. One of the features of the statist period was the organisational hegemony of the state. In the first flush of the opening up of organisational space, NGOs proliferated without critical examination of the place and role of NGOs and their underlying ideologies and premises. The anti-state stance of the so-called donor community was the real push behind the upsurge in NGO activity.

2. NGOs are run by and mostly consist of the educated few, found in metropolitan areas and well-informed in the philological and language of transformation. Generally, there are three types of NGOs in this category that can be identified as follows: (1) The category that includes the radical special that was previously involved in political struggles with an explicit vision for change and transformation but which found itself suppressed under the statist domination. Many of these elites took the opportunity to express themselves politically

within the NGOs. They saw NGOs as an imaginable ground of struggle for change. This section of the elite is fundamentally politically motivated without being necessarily involved in limited, party-politics. (2) The 2nd group comprises well-intentioned individuals driven by humane aims to better the surroundings of their fellow human beings and nationals. This group is honestly motivated. (3) The 3rd group is the ordinary exclusive, which occasionally includes former government bureaucrats, who shifted to the NGO world once they found out that that is where the donor funding was directed. This type of NGO is quite simply careerist. It is motivated by material gains rather than any humane motives. It is personally motivated.

3. An overwhelming number of NGOs do not have any independent source of funding. They are donor-funded and have to seek donor funds through the usual procedures set by the funding agencies. In this respect, the degree of individuality they can exercise relative to donor programmes differs from NGO to NGO depending on the standpoints of its leadership. In practice, though, as would be readily acknowledged by even the most radical among them, their scope of action is limited. Even though some NGOs may be fairly involved and valued by the public whom they reason to serve, eventually NGOs, by their very landscape, derive not only their legitimacy from the donor community but also sustenance.

4. By far the greatest numbers of NGOs are advocacy groups that focus on specific regions of activity such as the environment, governance, human rights, gender, development, etc. It is also true that a substantial number of NGOs are set up to respond to what is perceived to be in vogue among the donor community at any particular time, although there are always NGOs set up by politically or morally motivated individuals with a genuine desire to 'do something', and which are genuinely meant to respond to the need of the people, The most dominant NGOs are donor motivated NGOs. NGOs have come to play a major role in the 'aid and development industry'. In the NGO world, it is not at all ironic that a Non-Governmental body is assigned by the government to perform a governmental occupation subsidised by a donor agency which is an outfit of a foreign government. USAID may fund a gender NGO to raise awareness among women on the new land law whose terms of reference are set by a government ministry.

5. Most NGOs may introduce in their licenses a vision or a mission statement. These are unclear, unstructured (for example 'poverty-reduction') and often worthless. In any case, they are quickly forgotten and what takes over are the so-called strategic plans and log-frames which can be tabulated, quantified and ticked for triennium reports and proposals for more funding. The 'successes' of an NGO are measured by how efficiently it is managed and run and the criteria for measuring efficiency are borrowed from the corporate sector. Training NGOs are set up to train NGO managers in 'strategic framework analyses, in charting 'inputs' and 'outcomes' tables, and in setting indicators.

3.4 THE HISTORICAL DEVELOPMENT OF NGO's OR VOLUNTARY ORGANISATIONS

Nowrot (1999: 581**)** mentions that the presence on the international prospect of precursors to present NGOs, as well as to other nongovernmental activism like international organisations, can be dated back, depending on the viewpoint, to some decades or even to some centuries ago. During World War I and World War II, new NGOs devoted to humanitarian and development goals emerged, including Save the Children Fund in 1917, the Oxford Committee for Famine Relief (now Oxfam) in 1942, and CARE in 1945. To be sure, NGOs have played a growing role in development since the end of World War II.

3.4.1 The development of voluntary organisations or NGOs before the Second World War (1939)

The history of NGOs is deep-rooted and stems from the time of voluntarism in India. According to Inamdar (1987: 420- 422), During the ancient and mediaeval periods, voluntarism operated freely and solely in the fields of education and cultural promotion, and it even served as a lifeline in times of crisis such as droughts, floods, diseases, and foreign invitations. The dawn of the nineteenth century witnessed enormous non-governmental activity, which promoted humanitarian activity. Rajaram Mohan Roy, Eshwarachandra Vidyasagar, Swami Vivekananda,

Mahathama Phule and Maharshi Karve, are some of the important personalities who brought social change to India through voluntary agencies (Srinivas, 2015: 28).

The practice of private foreign aid dates back to the mid-seventeenth century; the involvement of irreligious voluntary activities in development began in the mid-nineteenth century. Although they were time and again related to missionary activity, European NGOs did not, even then, confine themselves only to the 'good works of charity and welfare. Urging governments and other advocacy work of NGOs is not just a recent affair; for example, it can be found in their opposition and rallying against the slave trade (Fowler, 1991: 6). “Voluntarism and collectivism have been identified with human society for quite a long time. Individuals and communities have sought to promote their interests under the umbrella of organisations because of their effectiveness. Organisations outside the state have, in the past, been formed either as a hedge against the state’s excesses or to pursue other collective aspirations. Thus, NGOs and grassroots organisations (GROs) are not novel” (Obiyan, 2005: 302).

Vahard (2014: 119) tried trice to back the origin of NGOs in sociological approaches during ancient times. He explains that a good society lived together ordinarily and peacefully and where capable of voluntarily gathering for a common cause in peace, and that human beings are inherently coherent and collectively shape the nature of their society. This can also be seen as the concept of NGO in sociological approaches in our modern days**.** Lewis (2009: 3) also emphasised that NGOs operated at an international level from the eighteenth century in Western countries, during the abolition of the slave trade and movements for peace, when national level issue-based organisations focused on the abolition of the slave trade and movements for peace. NGOs were first discovered and then celebrated by the international donor community as bringing fresh solutions to longstanding development problems characterized by the inefficient government to government aid and ineffective development projects.

The first memories which can be seen as the direct dynasties of today's NGOs give the impression of the late eighteenth century when private individuals with shared interests created issue-oriented organisations to influence policymaking (Nowrot, 1999: 582). According to

McFarland (1988: 13), in 1787, the Society for Effecting the Abolition of the Slave Trade was formulated by Granville Sharp, Thomas Clarkston, William Wilberforce and nine Quaker leaders. For the next twenty years, they struggled to win British public support, against the economic interests of the slave traders, and for the British Parliament to outlaw the trade. By 1807, they had won the moral argument, and Parliament voted to abolish the trade and to use the British navy to enforce its abolition. This was the beginning of the human rights movement. It also predicted a pattern for the movement that has followed: Concerned citizens, usually led by a few passionate individuals, organize to try to advance human rights more broadly or end specific human rights violations. They form NGOs to rally public support for essential legislation. They almost always face heavy opposition, both from governments and from others with vested interests in continuing the abuses. At the beginning of their campaigns, they often find massive public indifference. But, like the Society, they persevere, mobilize support, and in time win great victories for human rights.

Prabhakar, Latha and Rao (2010: 111) state that at the beginning of the 19th century, NGOs in India provided services in the field of religion and social reform to the underprivileged and weaker sections of society. According to Irwin (2015), early NGOs thrived because of the support they received from the world's great powers. For example, in 1803, the Royal Jennerian Society advanced a direct solution to the smallpox epidemic: society-wide inoculations. Rather than toiling at the margins of political life, the Society's scientific expertise led to partnerships with governments around the world, including fourteen European monarchs, the Ottoman Sultan, the Mughal of India, the Pacha of Baghdad, the American President, and the Pope. Even more influential was the anti-slavery movement, spearheaded by the Quaker-inspired Pennsylvania Society for the Relief of Free Negroes Unlawfully Held in Bondage, which created a network of moral activists that advocated for anti-slavery legislation on both sides of the Atlantic Ocean. In addition to playing a role in crafting the British Slave Trade Act of 1807, the movement influenced a series of international conferences that effectively ended the Atlantic slave trade during the mid-nineteenth century. NGOs in the late 19th century also did pioneering work in the field of social welfare (Prabhakar, Lathar & Rao 2010: 111). "These NGOs started to become transnational and connected across borders in their efforts in the middle of the nineteenth century

by organizing international conferences like the International Anti-Slavery Conference in London in 1840" **(**Nowrot, 1999: 583).

"During the second half of the 19th century, nationalist consciousness spread across India and self-help emerged as the primary focus of socio-political movements. Numerous organisations were established during this period, including the Friend-in-Need Society (1858), Prathana Samaj (1864), Satya Shodhan Samaj (1873), Arya Samaj (1875), the National Council for Women in India (1875), and the Indian National Conference (1887). The Societies Registration Act (SR A) was approved in 1860 to confirm the legal status of the growing body of nongovernment Organisations (NGOs). The SR A continues to be relevant legislation for NGOs in India, although most state governments have enacted amendments to the original version" (Civil Society briefs, 2009: 1).

In the early years of the 20th century, NGOs' relations were supporting their distinctiveness and agendas at national and international levels. For example, "at the World Congress of International Associations in 1910, there were one hundred and thirty two international associations represented, dealing with issues as varied as transportation, intellectual property rights, narcotics control, public health issues, agriculture and the protection of nature, and NGOs became prominent during the League of Nations after the First World War, active on issues such as labour rights". But from 1935 onwards, the League of Nations became less active as growing political tensions in Europe such as the rise of dictatorship in Germany and Italy led towards the second world war and NGO participation in international affairs began to fade away (Lewis, 2009: 3-4). According to Nowrot (1999: 584), "The Covenant of the League of Nations of 1919 established no formal rules governing the relationship between the League of Nations and NGOs. Rather, it referred in Article 25 only to the national Organisations of the Red Cross.29 In 1921, the League Council attempted to give Article 24,30 which addressed the relationship with other international organisations, a wide interpretation to incorporate NGOs in this Article.31".

By the start of the 20th century, NGOs were also involved in various fields like labour welfare, education and health, besides rehabilitation programmes and relief in times of natural calamities

floods, earthquakes and famines. The government encouraged NGOs to embark on social welfare programmes under the grant-in-aid programme and set up independent bodies like the Central Social Welfare Board, Indian Council of social welfare (Prabhakar, Lathar & Rao, 2010: 111).

3.4.2 The development of NGOs or voluntary organisations after the Second World War (1945-2015)

Irwin (2015) mentions that Non-Governmental Organisations (NGOs) is a term created in the mid-1940s. After World War II, the United Nations professionalized non-State actors further. In addition to giving NGOs their name, the United Nations, which replaced the League of Nations as the world's dominant international organisation after 1945, invited citizen-based organisations to participate in its Economic and Social Council, which was tasked with recognizing cross-border solutions to the world's environmental, social, economic problems. According to Lewis (2009: 3-4), "In 1945, Article 71 of the UN Charter formalized NGO involvement in UN processes and activities, and some NGOs even contributed to the drafting of the Charter itself. UNESCO and WHO both explicitly provided for NGO involvement in their charters". By the mid-twentieth century, NGOs had carved a role: they promote mutual practical proficiency with governments and sophisticated mutual principles among U.N members **(**Irwin, 2015). But then again, NGOs started to lose influence, disadvantaged by the influential weakness of the UN Economic and Social Council (ECOSOC) and Cold War tensions.

During the 1950s, NGO cooperation agencies supported the develop mentalist ideology being promoted by the reforming privileged of Latin America. Having experienced processes of import-substitution economic development, countries such as Brazil, Argentina, and Mexico had begun to develop heavy industry. While some countries continued - as today - experiencing the classical structural dependence of agrarian economies, others were already entering a new phase of industrialization (Landim, 1987: 31).

According to the Civil Society Briefs (2009: 2), the government of India decentralized development activities throughout the 1950s. In 1953, the Central Social Welfare Board NGOs

was established to promote social welfare activities and support people's participation programmes through NGOs. The establishment of CSWB proved to be ground-breaking in the history of NGOs. One of CSWB's main aims was to finance NGOs to develop and strengthen them it also, gave grant-in-aid to set up new NGOs. As a result, there was a rapid increase in the number of NGOs during the 1950s. The number rose by 117 per cent during 1953-1961. A further study of the growth of NGOs reveals that among 6 000 organisations added by the Board, as many as 3000 were established after the Board was set up. In the succeeding plan, the government put more inputs into the NGOs sector (Srinivas, 2015: 28). The recognition led to a growing body of professional NGOs. The establishment of the National Community Development Programme and the National Extension Service were early steps in this direction. In 1958, the Association for Voluntary Agencies for Rural Development (AVARD) was founded as a consortium of major voluntary agencies. International NGOs entered India in significant numbers to provide drought relief during two consecutive agricultural seasons, 1965–1966 and 1966–1967. Many of them established permanent local operations thereafter. Moreover, foreign funds began flowing to domestic NGOs in India, changing the character of civil society once more (Civil Society briefs, 2009: 2).

During the 1960s, anti-apartheid NGOs, casting themselves as the true representatives of South Africa's non-white population, successfully established a voice at the UN's General Assembly and Secretariat. Since that breakthrough, like-minded organisations - including the Palestinian Liberation Organisation, Greenpeace, and numerous others - have equally used the United Nations to legitimize political claims and challenge the nation-state's control over international diplomacy and once more various refugee actors, for instance, rejected their marginalization from political arenas such as the UN's (General Assembly & Security Council; Irwin, 2015). "The 1960s and 70s brought on confrontational approaches by the NGOs addressing not only issues of war and famine but through lobbying and campaigning they began bringing attention to the causes these. Amnesty International, MSF, Christian Aid and Oxfam became vocal critics of states, multilateral organisations and their positions on war and violent conflict. It was not until the 1990's that international humanitarian NGOs, whose primary role has hitherto been seen as

providing humanitarian aid and protection on the outskirts of violent conflicts evolved and changed significantly" (Potapkina, 2009: 9).

In the 1970s, NGOs gain momentum, roles again build up and played key roles within a succession of UN conferences from the Stockholm Environment Conference in 1972 to the Rio Environment and Development (UNCED) in 1992, where NGOs were active in both the groundwork and the actual conference itself, which approved a series of policy statements relating to the role of NGOs within the UN system in policy and programme design, implementation and evaluation (Lewis, 2009: 3-4).

During the 1970s, India witnessed a rapid increase in and modification of the NGO sector as a response to the national political situation and increasing concern about poverty and marginalization. NGOs began to be formally recognized as development partners of the state. Their work was increasingly characterized by grassroots interventions, advocacy at various levels, and mobilization of the marginalised to protect their rights until the 1980s (Civil Society briefs, 2009: 2).

In recent times the political environment opened, and the entry of funds - particularly from Scandinavian countries, the European Union, and U.S. foundations - encouraged a rise of anti-apartheid NGOs during the 1980s. Generally, the result was a massive growth in the NGO sector to the point where, by 1990, it was estimated that some 5 000 NGOs were pursuing developmental work in South Africa (Bernstein, 1994: 55-60). According to Habib and Taylor (1999: 75), during the 1980s, most anti-apartheid NGOs experienced some degree of opposition from the government. NGO leaders and activists were subjected to banning, arrests, detentions without trial, death threats and assassination attempts, and having their homes and cars petrol bombed. NGOs were subjected to general Security Police harassment by having their telephones tapped, post intercepted, meetings disrupted, and structures infiltrated. as the transition unfolded, a number of NGOs shifted their attention to policy research, first for the ANC and subsequently for the Government of National Unity during the 1990s.

According to Zhang (2005: 40-41), from 1994 in South Africa, NGOs have had to cope with new challenges such as:

- The establishment of a democratic and legitimate state allowed those who were opposed to the apartheid regime to work in the new state. It was, after all, the patriotic responsibility of politically aware persons with the necessary abilities to enter the new state and help it evolve. Many of the former "comrades" inexorably followed this path. As a result, the capacity of NGOs, community-based organizations, and labour unions was reduced.
- Service providers in the civil society sector have relied on donors for funding in the past and will continue to do so in the future. Many donors ceased recognizing South African NGOs as legitimate recipients of cash after 1994. Instead, many funders preferred to form bilateral relationships with governments. As a result, non-governmental organizations (NGOs) have had difficulty continuing their operations. Many NGO employees departed for more stability in the state sector as a result of financial uncertainties.
- The NGOs' strategic emphasis became muddled and scattered. Many non-governmental organizations (NGOs) focused on organizing and supporting resistance against the apartheid state before 1994. When a democratic dispensation was established, many NGOs were rudderless.
- Clients or target groups of NGOs encountered similar obstacles when working in a new context, and civic organizations, in particular, occasionally found themselves in conflict with local ANC sections. Civics, on the other hand, helped to unblock local development processes. The current development nexus necessitates the creation of a new development vehicle, and local communities are actively participating in local development programs and
- The adoption of the macro-economic strategy (GEAR), the non-disbursement of funds allocated to the National Development Agency (NDA) and those raised through the national lottery, and the Government's pronouncements on HIV/AIDS and the availability of retroviral drugs have all caused tensions between progressive civil society organizations and the government.

In July and August 1995, the government released two versions of a Draft Non-Profit Bill which was intended to coordinate and manage state NGO relations in post-apartheid South Africa. Both versions of the bill forced turmoil from NGO activists and leaders because it provided the government with the authority to summons employees and intervene in the management of NGOs where there was some evidence of misconduct or mismanagement (Kane-Berman, 1996).

A new Non-Profit Organisation Bill was submitted to the cabinet in August 1997 and enacted in December 1997. One of the more significant features of the new Act was that it abolished the 1978 Fundraising Act, which gave NGOs limited abilities to raise funds. The Act provided benefit allowances for NGOs and community-based organisations (CBOs) and a system of voluntary registration. It also established a Directorate for Non-Profit Organisations, which was to be responsible for the coordination of, development and implementation of policies in the non-profit sector. Finally, the Act required NGOs to keep a proper book of accounts and to submit audited statements to the government. The Act thus goes some way toward creating a positive legal environment for NGOs in South Africa. Today, formerly progressive NGOs face the danger of being seen as agents of control, of being co-opted to neoliberal agendas, becoming the "community face" of neoliberalism (Habib & Taylor, 1999: 80). According to Zhang (2005: 18), “The future challenge for NGOs and people concerned with the development and restructuring of the new South Africa is not only to work together but how people are going to work together in future”.

NGOs played an increasingly important role in the transformation and development of South Africa and the following initiatives were established during the late 1980s and early 1990s (Zhang 2005 19):

- The National Development Forum and Regional Development Forums in 1989. ·
- The Consultative Business Movement and the Convening of the National Development Workshop in June 1991 and 1992.
- The formation of the South African Health and Social Services Organisation (SAHSSO) in July 1989, as the unified body representing the major progressive health and welfare organisations in South Africa. This was the result of the unification of 5 health organisations,

namely the South Africa Health Workers' Congress (SAHWCO), the National Medical & Dental Association (NAMDA), the Organisation for Appropriate Social Services Association (OASSA) and the Health Workers' Society and the Overseas Mediate Graduates Association (OMEGA).

- The South African Federal Council on Disability in August of 1990, combined and representing a number of national welfare bodies.
- The National Housing Forum on August 1986.
- The National Education Conference (NEC) in 1990.
- The first session of the National Economic Forum will take place before the end of February 1991.

In 1998, the South African government ratified the UN Convention against Torture (UNCAT) and submitted its initial report to the Committee against Torture (CAT), in 2005. The report was considered at the 37th session of CAT in November 2006. Three submissions from South African organisations were made to CAT, in addition to three submissions from international organisations. The submission by CSPRI focused exclusively on Correctional services, whereas the submission by the Centre for the Study of Violence and Reconciliation (CSVR) covered some aspects of prisoners' rights. The submissions were well received by CAT, and an assessment of the submissions and the Committee's concluding remarks165 found that there was a high level of congruence between the concerns raised by the NGOs and those highlighted by the Committee. After 2004, NGOs turned their focus to international human rights law as a result of the DCS being generally unresponsive to the NGOs' efforts aimed at improving the human rights situation in correctional services (Muntingh, 2012: 407).

Non-Governmental Organisations accepted different strategies to advocate for prison reform after the Transformation Forum on Correctional Services (TFCS) was dissolved. These three different strategies are explained below (Muntingh, 2012: 410):

Firstly, NGOs found a useful platform in Parliament and developed a mutually beneficial relationship with the Portfolio Committee on Correctional Services from 2004 onwards.

Secondly, where it concerned fundamental rights, litigation was used concerning the right to vote and the rights to equality and primary health care.

Thirdly, NGOs has been drawing increasingly on international human rights law to advance prisoners' rights, focusing on the absolute prohibition of torture.

However, the DCS has remained true to character – a preserving and inward-looking organisation, resisting outside influences and changing tack only very slowly and begrudgingly (Muntingh, 2012: 410).

"The National Institute for Crime Prevention and Reintegration of Offenders (NICRO) started in 1992 with a programme of diverting juveniles from the formal justice system. NICRO started pilot projects of Victim Offender Mediation within the Restorative Paradigm. Together with other community-based organisations, these two Non-Governmental Organisations (NGOs) initiated and piloted programmes, which brought dramatic changes in the Juvenile Justice System in South Africa. These efforts and others were aimed at keeping children out of courts and out of prisons" (Skelton & Frank, 2001: 107-108).

According to Irwin, (2015) today, NGOs are somewhat mysterious. The number of NGOs has increased more than before, and they continue to flourish in the space between nation-states, engaging in activities that range from sustainable development to human rights. However, despite this continuity with the past, the recent growth of NGOs has prompted questions among activists and scholars:

- Do NGOs affect change?
- Why have they proliferated so quickly since the 1970s?
  Have they advanced or checked European imperialism?

Regardless of the answers, NGOs will remain as important to the study of international society as national states **(**Irwin, 2015).

3.5 THE ROLE PLAYED BY NGOs IN THE CRIMINAL JUSTICE SYSTEM

In the previous chapter, the researcher explained the purpose of criminal justice. Fargin (2003: 44) stated that the purpose of criminal justice is to protect society and maintain law and order by preventing and controlling crime. To ensure that press full co-existence surrounded by members of the society, the criminal justice system must create order. NGOs in the criminal justice system are regarded as an open system since it primarily concerns the human system. NGOs in the criminal justice system are proactive since they interact with the community as a system, criminal justice as a system and the offender as a system (Jones, 2003: 66).

NGOs as voluntary organisations play an integral role in a wide variety of settings across Europe's courts, prisons, and probation systems. Voluntary organisations work with (ex) offenders, families and victims of crime, although the form and scale of this contribution vary significantly (Matt, 2015: 6). Lohne (2017) highlighted the fact that international criminal justice relies upon retributive and expressive undertones, it does not appeal to punitive sensibilities, a fact which is understood in light of the close relationship between international criminal justice and human rights NGOs.

The intervention of NGOs in criminal justice can improve problems of excessive caseload for professionals such as parole officers and probation (McShane, 1993: 391) Nxumalo (2000: 16) mentions that during the 1990s, the criminal justice system came under public scrutiny and criticism that there are serious flaws in the criminal justice system, such as poor investigative procedures; unquestioned reliance on the statement and data such as crime statistics provided by members of South African Police Services (SAPS) and oppressive interrogation by the police officers. With regards to the prosecution component, there is a failure to disclose evidence by the prosecution. The court component's failure to assess properly the weight of evidence and unwillingness of the Appeal court to admit that things have gone wrong, being too lenient or instances when confessions have been excluded from evidence and the defendant has been acquitted, the correctional component fails to deal with the offender as human or disrespect of offender's rights. The role played by NGOs in criminal justice can reduce the problem that

Nxumalo has mentioned in all components of the criminal justice system. According to Neser (1989: 289), NGOs as a concerned community share the challenges and obligations of the criminal justice system. They can also contribute in performing a task that requires a high professional knowledge and skill to alleviate the demands made on the time of professional people.

Nxumalo (2000) lists three advantages of NGOs intervention in criminal justice:

1. NGOs can bring new talents, ideas, energy, and resources, such as community goodwill and influence to the agency.
2. They can augment the jobs of the agency personnel by providing support services, such as clerical and reception services.
3. NGOs can be used to compile presentence reports for the courts.

According to McGuire and Clamp (2016: 2), the need for involvement of NGOs in criminal justice stems from a fourfold crisis of the criminal justice process:

1. **Effectiveness**: Increased recorded crime rates have placed growing pressure upon criminal justice institutions.
2. **Efficiency**: There has been a 'crisis of penal modernism'.
3. **Cost:** Traditional modes of crime control place an increasing financial burden upon the public purse.
4. **Confidence:** Public attitudes towards criminal justice has become more critical and less deferential.

Nxumalo (2000: 46-48) lists the following skills as crucial for any successful NGO programme:

- Skill to accept a person without personal involvement, with neither punitive nor sentimental views, much the same as a physician views a patient - this does not mean complete detachment, but rather an empathic relationship.
- Skill to say no, with reasons when necessary, and the ability to say yes, with equal reason.
- Skill to understand and withstand provocative behaviour without becoming punitive.
- Knowledge of on-the-job counselling techniques.

- Willingness to augment and support the staff of the agency or institution.
- Development of objectivity in accepting relationships with all clients in a non-judgemental manner, without either punitive or emotional involvement.
- Skill to observe and accurately record:

1) Individual behaviour as pathological or manipulative and which consequently might need a referral to professional staff.
2) Group behaviour signalling the beginning of a potentially dangerous association.
3) Miscellaneous behaviour that may be part of illegal activity or regression to earlier behavioural patterns.

- Skill to assess community and family attitudes toward the offender.
- Skill to interpret constructively agency or community attitudes.
- Skill to serve as an upward communicator from the offender to the agency or institution to improve services and policies.
- Skill to exert external controls by persuasion on individuals who need containment.
- Knowledge of specific procedures that might be modified or elaborated in training programmes, consultations or other ways by which the agency or institutional staff can assist the volunteer in understanding situations and desirable policy.
- Knowledge of the constitutional and civil rights of persons on the caseload and the ability to incorporate that knowledge into the supervisory process.
- Ability to interpret the system of justice, including the laws of arrest, judicial procedure, and a total correctional process, to answer correctly questions, put by the offender.

3.5.1 Roles played by NGOs in Police Services

NGOs do not play any major significant role in Department of Justice and South African Police Services. It is also noticeable that Non-Profit Organisations, as well as the private sector, play a noticeable inter-agency support role to each other (Muntingh, 2008: 11). According to Rakgoadi, (1995) The role of civil society in promoting the development of CPFs should be viewed in the context of its long-term participation with communities through a variety of projects and

programmes aimed primarily at empowering underprivileged groups. They are sensitive to the environment and culture of their surroundings. As a result, civil society organisations have a plethora of expertise dealing with groups of people. The South African Police Services, tertiary institutions and NGOs working in the policing field have established networks, forums in attempts to maximise the impact of their work by sharing resources such as expertise and information, thus mitigating against overlap and circumventing duplication of work and unnecessary competition for already scarce resources (Rakgoadi, 1995).

The South African Police Service (SAPS) and Community Police Forums (CPF's) work in partnership and played a central role in developing the Community Based Victim Support Programme and established victim friendly facilities and NGO networks at all police stations, to assist all victims of crime and violence to cope and deal with their traumatic experiences and circumstances. This service is the initial point of entry into the criminal justice system and in the majority of cases is therefore responsible for ensuring that the victims of crime are provided with an effective victim-friendly service. The Victim Empowerment Programme (VEP) works in partnership with NGOs and Community Based Organisations (CBOs) to improve services to victims of crime and violence (Zedner,1997). Therefore, the role of NGOs goes far beyond the mere establishment of community police forums. The NGOs have played and continue to play a crucial and indispensable role in the setting up of CPFs as mechanisms through which community policing can be implemented at a local level (Rakgoadi, 1995). According to Nxumalo (2000: 103), the energy of NGOs is channelled into activities that help to combat crime and can try to promote the concept of citizen involvement, which includes reporting crimes when they are observed and not being afraid to get involved. Several communities have experimented successfully with concerted campaigns to impress upon citizens the urgency of reporting promptly to the police all relevant information about crime and suspicious incidents A team of dedicated NGOs work on a 24Hr (365 days) reserve schedule and offer their support, personal time and resources to victims of crime ((Zedner,1997). The main concern of NGOs has been to assist the poor and disadvantaged communities because that is where the need for assistance is the greatest (Rakgoadi, 1995).

Non-governmental organizations (NGOs) can raise funding to launch a "secret witness" or "silent observer" program that rewards people for reporting crimes they might not have reported otherwise. If a person reports a crime under such a scheme, he is not required to testify in court if he does not choose to. These groups can also start programs to dissuade employers from discriminating in hiring or promote bond issues that encourage greater education. Certain organizations may be able to fund children's and teachers' recreation programs. Young people are less likely to be drawn into illegal activities if they are kept active and have good leadership in recreation programs (Nxumalo, 2000: 104).

According to Epphr (2004: 7), in Europe, cooperation between police and human rights NGOs has a twofold result: to overcome the mistaken impression that complying with human rights standards curtails police effectiveness and to acknowledge that human rights play a central role in policing. In the investigation of crime, the police must be aware that the rights of victims to physical reliability and property have been violated. They should protect people's rights from threats posed by known individuals or groups. They also protect the right to freedom of speech, assembly and safeguard people involved in public protest. On the other hand, the key issue is how can the police protect and respect human rights while also investigating and preventing crime. For many in the police, there is an essential inconsistency between these two requirements (Epphr, 2004: 7).

Wernham, Geerinckx and Jackson (2005: 72) identify six roles of the police in the prevention of crime:

1. Early identification of any developing problems/issues with particular children;
2. Develop relationships with agencies and NGOs;
3. Arrange meetings with relevant agencies and NGOs so early intervention can occur and the situation does not escalate;
4. Refer at-risk children to social services and NGOs;
5. Put families in touch with social services or NGOs who could help them in times of difficulty; and
6. Coordinate with social services and NGOs in family reunification.

According to (Epphr, 2004: 14-17) there are five main advantages for the police in cooperating with human rights NGOs:

1. NGOs are a source of proficiency, advice, expert knowledge and in the area of human rights, and they possess valuable knowledge of how to ensure the protection of human rights at the local, national, regional and international levels that may be of use in the police's operational functions. They can also supply country-specific knowledge for officers serving in peace missions or other international roles. Police can analyse, evaluate and revise police policy, procedures and operations accordingly and as a result, benefit from the opportunity to exchange knowledge on human rights issues. NGOs can provide background knowledge of victims of domestic violence.

2. An important first step for the police on their way to building trust with the wider community is engaging with human rights NGOs. Co-operation with human rights NGOs provides the police with more credibility and increases the public's trust in their work. An important reason for the police to engage with human rights NGOs is to receive assistance in achieving neutrality in their relations with wider society. Teamwork with human rights NGOs can benefit the police target their policing at groups that are hard to reach, e.g., ex-offenders, dispossessed people, economically deprived people, members of ethnic minority groups, lesbian, members of the gay, drug addicts, prostitutes, and transgender community or victims of domestic abuse. As a result of negative past experiences, these groups may hesitate to report a hate crime to the police or to look for police protection - but may more readily contact human rights NGOs.

3. NGOs can assist the police with the development of a human rights ethos. Co-operation sensitises the police to weaknesses in their human rights compliance. NGOs can for instance assist the police in developing effective training interventions and identifying mechanisms to provide for an accountable policing service. The police conduct self-monitoring to address weaknesses and deal with allegations of misconduct. However, such mechanisms are

generally internal and not independent. External civilian monitoring mechanisms are still rare and are usually aimed at dealing with exceptional circumstances. Regular contact with grassroots human rights NGOs would provide an opportunity for the identification of threats to human rights compliance and allow for solutions to be identified.

4. Teamwork with NGOs can lead to access to new resources and opportunities for the police. In our resource-strapped world, this is a feature to be welcomed. There is important knowledge within the NGO community on police-related matters which the police are not making use of.

5. Co-operation with human rights NGOs allows for a deeper understanding of the NGO and thus provides for the rejection of common generalisations, exaggerations and myths surrounding some NGOs. Closer police cooperation with NGOs can help dispel myths and falsehoods about NGOs.

Epphr (2004: 18) highlighted the disadvantages/threats for the police in engaging with the humanitarian NGOs and the disadvantages/threats for NGOs in engaging with the police as follows:

The disadvantages/threats for the police in engaging with the human rights NGOs. There is a possible danger of an NGO explicitly politicising the police, e.g., if police officers become associated with the ideology of a particular NGO, resulting in the alleged loss of the police's objectivity. This may also result in some police officers within the service may feel threatened (or even betrayed) by seeing the police co-operate with those NGOs that usually criticise the police. However, another threat appears if the police try to play safe and only offer those NGOs loyal or less critical of the police. This can result in fewer opportunities for the police to add value to their own policy and practice.

The disadvantages/threats for NGOs in engaging with the police. The main concern for human rights NGOs is whether engagement with the police is possible without compromising

their impartiality, legitimacy, independence and therefore their credibility. This situation could arise should the police attempt to use their relationship with an NGO merely as a public relations ploy to legitimise their conduct without introducing genuine human rights reforms into their organisation and practices. NGOs may also find it difficult to combine their monitoring role with maintaining close involvement in developing a human rights strategy for the police. NGOs may at times issue critical statements about police non-compliance with human rights and therefore need to take on a 'split personality': it might be necessary to speak with two perhaps contradictory voices at the one time – criticise the police, when necessary, while at the same time continue with its developmental work with the police.

3.5.2 Role played by NGOs in courts

The involvement of NGOs as volunteers in court processes provides an opportunity for an interchange between the courts and the community. NGOs can assist in the criminal justice system through their work in courts. In serving the courts, the NGOs offers the judicial system valuable information. In return, the courts serve to educate the community and provide society with a voice in the courts. When NGO members work along with judges and court staff, it increases the collection and choice of programmes the courts will be able to offer and give the community a physical stake in the court system. Through NGO programmes in courts, communities and courts can work together in partnership to improve how courts respond to the needs and interests of the people they serve. NGOs allow the courts to provide services that are not available and open wide the doors of the courts to the community (Jones, 2003: 104-105). According to Terry (2000: 17), NGO programmes help make court processes more accessible, understandable, and visible.

Terry (2000: 3-16) mentions that there are 12 types of court-related programmes that are offered by the NGOs in Wisconsin: Alternative Dispute Resolution Programmes, Courts information assistance programmes, Courts Ombudsman, Family services, Domestic Violence and Sexual Assault, Juvenile Services, Mentoring Programmes, Guardian Services, Victim Services, legal

Services, Probation/ Parole/ Community services and Jail and Detention centre. These programmes are discussed in the following section:

Alternative Dispute Resolution Programmes: Alternative resolution aims to reduce court caseload, and save complainants money and time. A judge may call for disputants to seek settlement by means other than a court trial. NGOs are used to assist disputants to settle their differences. According to Wright (1991: 76), NGOs as mediators are frequently better than professional mediators in individual mediation cases because they are more readily available out of working hours. There are three advantages of making use of NGOs to assist as mediators in alternative dispute resolution in a court trial. These are as follows:

1. **Benefits for individuals in dispute** because an individual can discover underlying issues without lawyers and the constraints of legal procedure as a better way of handling conflicts,
2. **Benefits to the community** by improving the quality of life through individual participation in major life decisions; enhance community power by teaching citizens new techniques for solving problems collectively and reduce community tensions through effective conflict resolution,
3. **Benefits to the justice system** using diverting cases from the courts and thus releasing them to focus on more serious cases. According to Jones (2003: 134), the courts save a great deal of time and money when NGOs are involved as a mediator in Alternative Dispute Resolution Programmes court cases.

Courts information assistance programmes: NGOs in Wisconsin are involved in programmes that help judges with legal research, drafting memos, committee work, and special projects also provide information about criminal justice issues and court proceedings to court users. They direct individuals to the correct court or government office. NGOs at the victim/witness programmes of Brown and Dane Counties offer advocacy and support to victims and witnesses. and provide information about court proceedings

Courts Ombudsman: NGOs attend intake hearings and record the victim's name, the charges filed, and the time and location of the next hearing. This information is then reported to the Legal

Advocacy Programme, which tracks cases. Similar court watch programmes are operating in Iowa, Jackson, and Lafayette Counties. The role of the ombudsman is to examine complaints against employees and state government agencies.

Family Services: "Family services programmes tend to be educational and preventive or supervisory and custodial in nature". Surrounded by the educational programmes in Wisconsin, NGOs assisting the Real Life: Marriage and Divorce Programmes, educate high school students on marital issues.

Domestic Violence and Sexual Assault: NGOs working within the area of domestic violence and sexual assault programmes, their primary function is to assist individuals to obtain injunctions, monitor court proceedings, attend court hearings with victims, provide shelter, offer volunteer training, and provide support in the form of counselling, domestic violence information, and referrals.

Juvenile Services: In these programmes, members of NGOs serve as role models for children whose parents are often unavailable for them. They can also assist first-time young offenders to understand the impact of their actions, learn how to control their anger, make good decisions, and become law-abiding citizens in their communities by volunteering to serve as mentors. The main focus of these programmes is to fight the cycle of crime before it starts.

Guardian Services: The NGOs of the Volunteer Guardianship Programme provide services to and monitor the financial and medical matters of individuals unable to handle their own affairs. NGOs monitor compliance with juvenile court orders by making home and school visits, monitoring restitution and community service hours, and reporting non-compliance to the court they also work with youth under court-ordered intensive supervision and meet one-on-one with youth who are being integrated back into the community from corrections.

Victim Services: NGOs at the Victim/Witness Programme of Dodge County provide support to victims and witnesses as they work through the court system. At the Pierce County

Victim/Witness Programme, they also notify victims and witnesses of court hearings. NGOs act as court escorts, prepare witnesses for court hearings and testimony, and provide information about court proceedings to victims and witnesses.

legal Services: Attorneys as volunteers, volunteer their time and expertise in many ways. Several agencies provide mentoring services to both adults and juveniles, especially in association with probation programmes, including the Dane County Volunteers in Probation Project and the Outagamie County Volunteers in Probation Programme. Three organisations in Wisconsin provide free or low-cost legal services to low-income residents: Legal Action of Wisconsin, Inc., which serves 11 counties throughout the state; Wisconsin Legal Services; and Judicare.

Probation/ Parole/ Community services: Many NGOs assist to arrange, monitoring, and supervising community service obligations. Volunteers mentor juveniles, work inside and outside prisons, and are sometimes involved with victim impact projects. Probation, parole, and community service programme activities tend to overlap those provided by juvenile services programmes. As a condition of a sentence in the position of jail time, defendants are allowed to do community service.

Jail and Detention centre: NGOs monitor jail conditions, and assist the same populations served by probation and parole programmes. They also provide mentoring services to offenders and people on probation and parole that are similar to those provided to non-inmate populations.

Although some NGOs cannot offer programmes to the court, "Today, the International Criminal Court (ICC) is a pronounced example of NGOs' participation in criminal proceedings at both domestic and international levels. Information such organisations submit to ICC can be effective in preparing and filing criminal cases so that historical examination of ICC suggests a close relationship between ICC formation and NGOs which can help the Prosecutor obtain supplementary information" (Varvaii, Mohamadi & Nourian, 2016: 11).

NGOs can ensure that they participate in some court proceedings by ensuring that they are present at the trial. such as participating in court proceedings before, during, and after an investigation. Kippenberg, Kambale and Des Forges (2004: 14-18) offered guidelines on how NGOs can work with courts, the interaction between NGOs and courts and the way NGOs can contribute to its efforts. These guidelines are as follows:

- NGOs can deliver information on misconducts that they collected in the course of their normal work to the court.
- NGOs can play a central role before, during, and even after an investigation in three main ways:
    1. **Providing information to the court:** NGOs can inform the Office of the Prosecutor about a particular case, misconducts committed, the capacity or will of a state to investigate or prosecute crimes or the historical and political context of human rights abuses. This information could help the prosecutor decide whether or not to open an investigation.
    2. **Telling others about the court:** NGOs can play an important role in informing the media and the general public about the court through radio, leaflets, posters, conferences and information sessions. They may want to use materials produced by the court itself or this guide since most NGOs are often close to the victims and witnesses.
    3. **They can serve as a link between the court and victims and witnesses**: They can play an essential role by advising victims and witnesses about procedures at the court and accompanying victims and witnesses throughout the process of providing evidence to the Office of the Prosecutor and preparing their work with the court for example by informing them about security risks, helping them to take action collectively, and putting their information into a form most easily used by the Office of the Prosecutor.

- NGOs can send submissions to any of the chambers in a legal document called an Amicus Curiae ("friend of the court") brief that brings to the attention of the court relevant matters not already brought to its attention by the parties. This may be of considerable help to the court. NGOs can sometimes submit information directly to other branches of the court on a number of issues such as directly addressing the court to represent victims. Ordinarily,

persons from outside the court will be in touch with the Office of the Prosecutor rather than other branches of the court. Moreover, they can also apply to participate in the proceedings when they have suffered a crime themselves. In addition, NGOs can represent victims who want to submit information regarding the prosecutor's decision not to investigate a case.

- Since NGOs regularly publish reports on human rights crimes that may fall under the jurisdiction of the International Criminal Court. They can also help in introduction proceedings before the court. They should send the securest reports on the most serious crimes to the Prosecutor if they believe that the offences, they have documented are serious enough to merit investigation by the court. NGO reports have already played a role in encouraging the investigation in The Democratic Republic of the Congo (DRC). The Prosecutor received six communications regarding the situation in Ituri, among them "two detailed reports from Non-Governmental Organisations". Evidently, the reports from the NGOs prompted the prosecutor to identify the situation in Ituri as "the most urgent situation to be followed". However, NGOs should refrain from sending the Office of the Prosecutor every piece of information they have, to avoid the Prosecutor getting swamped and paying less attention to reports he receives.

- NGOs can send information on crimes regarding individual cases or patterns, providing as much detail as possible to provide the prosecutor with a better understanding of the situation. NGO reports could explain the historical and political context of the crimes investigated. By reporting on the will of a state or capacity to investigate or prosecute crimes, NGOs can also assist the prosecutor to determine whether a case falls under the jurisdiction of the Court or should be left to the national courts. NGOs could also inform the prosecutor about the practical feasibility of investigations. It is not possible to give a precise list of all the kinds of information that NGO reports might include, but when an NGO sends information about human rights crimes, it should include the following:
  - Possible reasons for the incident,
  - Nature of crime (i.e., torture, rape, killings), and methods used,
  - Time, date, and duration of the incident,

- The sequence of the incident,
- The identity of the victim (name, age, gender, occupation, address, relevant information about ethnicity, religion, or other affiliation),
- Identity of alleged perpetrators,
- A list of the evidence available such as photos, written records.

- On request by the office of the prosecutor. NGOs can deliver information on crimes which they collected in the course of their ordinary work. They are not expected to act as prosecutors.

- The representatives or members of NGOs can testify. The prosecutor or the defence lawyers can call NGOs to testify and NGOs also might have to answer questions about the information collected on crimes or about the circumstances of their research. Such testimony might include elements of information collected by researchers that were not previously made public – and NGOs could be compulsory to disclose information that they intended to keep confidential.

- A court chamber can invite a state, organisation, or individual to submit a written statement on a specific topic, a so-called Amicus Curiae brief. NGOs can submit legal analysis or policy arguments in an Amicus Curiae, a legal document accepted by one of the court chambers (it means "Friend of the Court"). NGOs can also submit information in an Amicus Curiae such as the ability of national courts to prosecute a case. The Amicus Curiae allows NGOs to be heard on a number of legal and practical issues they can also contact a chamber and propose to submit an Amicus Curiae.

The "International Criminal Court (ICC) is a pronounced example of NGOs' participation in criminal proceedings at both domestic and international levels. Information such organisations submit to ICC can be effective in preparing and filing criminal cases so that historical examination of ICC suggests a close relationship between ICC formation and NGOs which can help the Prosecutor obtain supplementary information. Under Clause 2 of Article 15 of the ICC

statute, the prosecutor evaluates the importance of obtained data when he initiates investigations personally based on the obtained information. During this step, prosecutors can ask NGOs to assist and help" (Varvaii, Mohamadi & Nourian, 2016: 113).

3.5.3 Role played by NGOs in the Correctional Services

The NGOs as a community is accepted as active participants in the criminal justice system in the modern world. The NGOs role in the Department of Correctional Services may be:

- **Indirect** by means of participation in the ordinary political processes,
- **Direct** by means of committees that become involved in the management of different correctional matters, or by way of direct contact with individuals in the external work environment. **The direct** relationship can be advanced divided into **formal** and **informal** liaisons.
    - **A formal direct relationship** is structured and follows specifically defined channels, for example, committees. A particular person at a particular post level is usually appointed to fulfil this role on behalf of the Department. This person is usually someone in a senior post or someone who is an expert in a particular field.
    - **"Informal direct relationship** takes place when individuals coordinate informally with the external environment. Think, for example, about the role of a switchboard operator, the correctional officials who control the entrance gates to the correctional centres or who work in the correctional centres, and the correctional officials who accompany an offender to court. These people come into contact and communicate with people on the outside. The value of this external communication must never be underestimated. How these people communicate with the external parties they come into contact with reflects the standards maintained within the organisation. These officials project a specific image to the outside world of how disciplined, informed and professional they are, what their general attitude to their work is, and so on" (Bruyns, Gericke, Kriel & Malan, 2005: 48).

Commonwealth Human Rights Initiative,(2008: 9) writes that offenders are sentenced to correctional institutions to ensure the safety of the public and to reform the offender in

preparation for his or her release into society. Offenders are not sentenced as a form of punishment. The aim sentencing should not be to punish offenders but to change the person for the better through treatment programmes such as vocational or occupational training, and the absence of rehabilitation or family/community re-integration programmes.

According to Muntingh (2008: 10), The Department of Correctional Services' major role in providing access to their offenders who are still in custody, assisting with the selection of programme participants, and providing programme settings, as might be assumed, is also the responsibility of external role player. The Department of Correctional Services on its own cannot be effective if it is solely responsible for rehabilitation. It must therefore recognise the significant involvement that the external role player can make (Labane, 2012: 90). Due to the insignificant extent of the Department of Correctional Services, it must increase its capacity and facilitate delivery through NGOs (Muntingh, 2008: 10).

The NGOs as external role players must be at the centre of the rehabilitation process because it is both the place of origin and return for the offender for rehabilitation to be effective. The sub-directorate of community involvement is responsible for the issues of the involvement of NGOs in correctional services. The sub-directorate aims to ensure that it encourages co-responsibility for offender management shares responsibility for offender rehabilitation and crime prevention reintegrates offenders into the community as well as maximises the use of public and private forums (Labane, 2012: 89). According to (Commonwealth Human Rights Initiative, 2008: 9), the involvement of NGOs in corrections is a corporation between the community, correctional officials and the offenders undergoing punishment, to assess, identify and implement the areas and possibilities of reform in corrections. The involvement of NGOs in corrections will ensure that the gap between the expectations of correctional officials and that of NGO members can be associated by taking along the two in close contact and initiating a meaningful dialogue about the mutual problems and concerns in correctional centres. Until this is concluded, both NGOs and correctional officials will continue to develop an unfriendly attitude towards each other. For the corporation between NGOs and corrections to be fruitful, it is essential that the NGOs are well structured with professional staff and that there is good collaboration with the Department of

Correctional Services (this could be in the form of a written contract) as well as commitment from individual Correctional managements. NGOs have an important and valuable role to play in the provision of treatment programmes for offenders and in providing a bridge between the Department of Correctional Services and the community (McDonald, 2005: 9). (Commonwealth Human Rights Initiative (2008: 13) explains that NGOs involved in the Department of Correctional Services requires the active and voluntary participation of the public, and it requires correctional officials to respond adequately. Unless the correctional officials are made aware of the importance of community participation, they will always look upon NGOs involvement as an intervention in their workplace. According to Feve, & Dean, (2020) "Many NGOs working to prevent human rights abuses inside prisons are international NGOs working as partners of local NGOs with similar objectives. Under this special category of NGOs, one may find international and regional recognised organisations, such as Human Rights Watch, the Association for the Prevention of Torture (APT), Amnesty International (AI), the Centre for Justice and International Law (CEJIL), and others".

According to Kin-man., (2000: 216) there are more than twenty NGOs involved in the work of the correctional system in Hong Kong. One of the largest NGOs dedicated to the field of corrections is the Hong Kong Society for the Rehabilitation of Offenders (SRO). Several NGOs have a religious background. A few are dedicated to providing services to offenders. Services provided by the NGOs range from practical reintegration support to prisoner visits, or evangelistic activities. To further improve rehabilitation programmes for persons in custody through community involvement, Correctional Services Department (CSD) officers work closely with over 80 non-governmental organisations (NGOs) to coordinate a variety of activities ranging from counselling services and religious sacraments to large-scale cultural ventures and recreational projects in correctional institutions.

The Department of Correctional Services supports the participation of NGOs in correctional matters through the following means (Bailey & Ekiyor, 2006: 27):

- The department encourages greater community participation as a means of reducing crime, thereby promoting good relationships amongst community members.

- The department drafted a community participation policy that outlines the guidelines for community involvement, which are in line with the departmental rehabilitation strategy.
- It offers support to both offender and the victim.
- In all activities, it aims at integrating offenders into the community.
- The department ensures active involvement in the definition of offender obligations.
- It offers offenders opportunities for remorse, forgiveness, reconciliation and for offenders to make amends.
- The department aims to ensure that relations are restored for the successful reintegration of offenders.

External role players in the Department of Correctional Services such as NGOs can support the predicament of correctional officials by guiding, better allocating human and material resources and suggesting innovative ideas of engaging offenders for their long-term benefits. It is, therefore, the need of the day that the Department of Correctional Services seeks and plead with the services of the community to Commonwealth Human Rights Initiative, 2008: 11:

- Educate the society about what correctional services can or cannot do;
- Make the functioning of correctional services transparent;
- Protect, educate and advocate offender' rights and duties;
- Adhere to international human rights standards in the treatment of offenders; and
- Ensure better allocation of resources.

Muntingh (2008: 10) identifies six types of contributions made by NGOs in the Department of Correctional Services. These are as follows:

1. To facilitate access to prisons and programme participants,
2. Provides a venue for a programme,
3. Works directly with officials,
4. Provides important information on prisoners,
5. Assists in the selection of participants, and

6. Provides security.

McDonald (2005: 10) mentions that NGOs plays a key role in correctional services by providing services and support for offenders in a range of activities, such as the reintegration of prisoners, through care, counselling and support, therapy and rehabilitation, HIV prevention, provision of harm-reduction information, harm reduction, programmes and training staff and offenders.

Commonwealth Human Rights Initiative (2008: 12) states that the Guiding Notes on Prison Reforms, list the forms that civil society involvement can take as follows:

- Assisting with prison activities such as education and sport;
- Using the law to protect prisoners' rights;
- Simple befriending;
- Monitoring adherence to human rights standards;
- Providing humanitarian aid to prisoners, such as food and medicines;
- Assisting the social reintegration of released prisoners;
- Carrying out non-partisan campaigning; and
- Providing public education.

The involvement of NGOs in corrections can be two-fold, a partnership between NGO members and correctional officials and secondly, NGOs created rehabilitation programmes for deviants Commonwealth Human Rights Initiative, 2008: 12

1. **The partnership between Non-Governmental Organisation members and correctional officials**

   The community needs to be informed about the purpose of incarceration, correctional programmes, rehabilitation of offenders and efforts made by the institution for the reintegration of offenders into the community. While building partnership, emphasis should be placed on the needs of the community and that of the offenders. The partnership between NGO members and correctional officials is a direct relationship between NGOs as community members and correctional officials in such correctional environment treatment

programmes in which correctional security is not affected. Mutual interchange of information between the NGOs and correctional authorities will be the keystone of assist in clearing biases, assumptions of both concerned and a long-term partnership between both organisations. This will also inspire better approval from both sides. The partnership between NGO members and correctional officials is direct encouraging for offenders' rights, monitoring adherence to human rights standards, educating the correctional officials about amendments to existing law, sharing international best practices and innovative success stories with the correctional officials and co-operating with other like-minded external role players to ameliorate the reform process (Commonwealth Human Rights Initiative, 2008: 12-13).

2. Non-Governmental Organisations created rehabilitation programmes for deviants

This process is also known as community-based rehabilitation programmes for deviants in corrections can range from humanitarian approaches helping them build a strong foundation for themselves, targeting spiritual development, physical and mental health, education and job placement, and involvement in community services. This involves direct interaction of NGOs with the Department of Correctional Services. Programmes can be customised for children, juveniles, adults and the elderly. NGOs have also involved themselves in providing family counselling and providing means of an easy transition for the prisoner back to society. This includes performing a need-based assessment of the offenders and providing them with the appropriate training and skill that might become a sustainable means of livelihood when he reintegrates into society. NGOs can also educate members of society to make them more accepting of ex-offenders. The Mulla Committee Report identifies the need for this when it mentions: "The principal objective is that an inmate should be imparted such skills and attitudes as can facilitate his resettlement in society after his release" (Commonwealth Human Rights Initiative, 2008: 12-13).

NGOs not only play a critical role in partnering in the rehabilitation of inmates but in many ways influence or even drive change or reforms within correctional systems, at the local or national levels.

3.6 CONCLUSION

This chapter outlined the definition of NGOs and its theories in broad prospect as private institutions which are involved in different sectors of society, more emphasis on the concept of NGOs is explained as an organisation that participate voluntary, which is independent within the laws of society, not-for-profit and not self-serving in aims and related values. The development of NGOs or voluntary organisations before and after the second world war was also outlined in this chapter. The chapter has reflected a broader perspective of the aim and objectives of NGOs. The purposes and objectives of each NGO are also understood by their orientation and level of operation and they are also classified according to the type of work they perform and that different activities and roles that could be achieved by NGOs, which could be linked with the different needs of the South African.

The research also discussed the role played by NGOs in the criminal justice system in that NGOs as a concerned community share the challenges and obligations of the criminal justice system. The advantages for the police in cooperating with human rights NGOs, the guidelines on how NGOs can work with courts, the interaction between NGOs and courts and the way NGOs can contribute to its efforts and types of the contribution made by NGOs in the Department of Correctional Services are also outlined this chapter.

CHAPTER 4
THE ROLE OF NON-GOVERNMENTAL ORGANISATIONS IN THE STRUCTURE OF THE UNITED NATIONS

4.1 INTRODUCTION

This chapter will outline the role of NGOs in the structure of the United Nations. The history of the UN is briefly discussed as a point of departure to understand the origin and structure of the UN.

To understand how non-governmental organisations function within the United Nations, it is useful to understand the United Nations structure and all six main organs of the UNs such as the General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice, and Secretariat are explained in detail. ECOSOC remains the only main UN body with a formal framework for NGO participation. ECOSOC is one of the six main organs of the United Nations that make suitable arrangements for consultation with NGOs which are concerned with matters within its competence. Such arrangements may be made with international organisations and, where appropriate, with national organisations after consultation with the Members of the United Nations concerned.

The alliance between the United Nations and Non-Governmental Organisations increases UN effectiveness and better performance, make the United Nations more in concurrence and responsive to citizens' concerns and enlist greater public support. In the present day, NGOs are also involved in processes at the UN level during which they function as policy advisors, information providers and policy formulators. As part of a 'new humanitarianism', relief NGOs, too, have been integrated more closely into policy-making forums where they can influence the agenda of humanitarian action. This chapter also outlines the significance of the Committee on Non-Governmental Organisation in Economic and Social Council (ECOSOC). The role of the NGOs in the Economic and Social Council (ECOSOC) Commission will also be discussed in

this chapter. An attempt is made in this chapter to discuss the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and its origin.

4.2. ORIGIN AND THE STRUCTURE OF THE UNITED NATIONS

Before the establishment of the UN, there were several existing international organisations whose functions were to control conflicts. These organisations' primary functions were to maintain a harmonious relationship among nations of the world. These include the ICRC and The Hague Conventions of 1899 and 1907 (Muftau, 2016: 154). "In 1899, the first International Peace Conference was held in The Hague to elaborate instruments for settling crises peacefully, preventing war and codifying rules of warfare. It adopted the Convention for the Pacific Settlement of International Disputes and established the Permanent Court of Arbitration, which began work in 1902 (Ki-moon, 2008: 3). As a result of much loss of lives in the 1st World War, the Paris peace conference established the League of Nations. Therefore, this work is an attempt to put into perspective the emergence of the UN in 1945 (Muftau, 2016: 154).

According to Ki-moon (2008: 3), the League of Nations was an organisation perceived in similar situations during the 1st World War and in 1919, under the treaty of Versailles, promoted international cooperation to achieve peace and security. The prime minister of South Africa J Smuts took some responsibility for framing, contained no provision for human rights, apart from references in Article 23 to 'fair and humane conditions of labour' for everyone and to 'just treatment' of the native inhabitants of dependent territories (Blom-Coope QC., 2013: 43).

The League of Nations' main objective was to keep world peace. However, not every country joined the League. The United States, for example, was never a member. Others that had joined later quit, and the League often failed to take action. Though it did not succeed, the League ignited a dream for a universal Organisation. The result was the United Nations (United Nations Department of Public Information, 2008: 4).

The development of the League of Nations was therefore not accidental. However, some of its shortcomings could not allow it to last longer and so could not achieve the desired objectives (Muftau, 2016: 155). Eloranta (2015: 2) highlighted the failures of the League of Nations:

- The league fails to provide adequate security guarantees for its members, thus encouraging more aggressive policies, especially by the authoritarian states and leading to an arms race.
- Fails to achieve the disarmament goals it set out in the 1920s and 1930s, such as the imposition of military spending countries, such as including the aggregate explanation of the weaknesses of the League of Nations, have not been explored adequately by the extensive literature on the interwar economic and political turmoil.

"The League of Nations did not survive, but many of its structures were refined and reproduced in the United Nations. The central purpose of the United Nations, stated in the preamble to the Charter, is to prevent the scourge of war through a commitment to collective security and human rights" (United Nations Department of Public Information, 2008: 4).

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4.2.1 History of the UN

Originally, the outbreak of the 2nd World War was the result of the establishment of the United Nations. On 12 June 1941, a meeting was held at the ancient St. James's Palace and a declaration was signed by the representatives of Great Britain, Canada, Australia, New Zealand and the Union of South Africa; the exiled governments of Belgium, Czechoslovakia, Greece, Luxembourg, the Netherlands, Norway, Poland and Yugoslavia; and General de Gaulle, leader of the Free French. During that period, London was the home of nine exiled governments. The resilient British capital had already been through months of the war, and in the bomb-marked city, air-raid sirens wailed all too frequently. Practically most of Europe had fallen to the Axis Powers and ships on the Atlantic carrying vital supplies sank with grim regularity. But in London itself and among the Allied governments and people's faith in the ultimate victory remained unshaken**.** "Two months later, United States President Franklin D. Roosevelt and British Prime Minister Winston Churchill met somewhere at sea—the same sea on which the desperate Battle of the Atlantic was being fought and on 14 August 1941, issued a joint declaration known in

history as the Atlantic Charter" (United Nations, 2012: 5). In 1941 the Prime Minister of the Union of South Africa, J.C. Smuts, was also directly involved in Britain's grim resistance to Nazi Germany; declaring South Africa at war with Germany. Smuts in the following became instrumentally involved in the United Nations (Blom-Coope QC, 2013: 43). The Atlantic Charter of August 1941 and the declaration of the United Nations of January 1942 committed the Allies to multilateralisms such as to maintain international peace and security, to fight Fascism and also to foster post-war economic growth and social stability (Weiss, 2015: 1223).

According to Roosevelt and Churchill (1941: 3), the Atlantic Charter state the fundamental principles which the president of the United States and the prime minister of Great Britain hope will guide international policies in the present world crisis. These principles include freedom from fear and want; better social justice for all people; better economic prosperity for all nations; an end of the war and the reign of spiritual force in the councils of the nations of the world. The following are the eight main points, the Atlantic Charter outlines according to United Nations 2012: 6):

1. No territorial gains were to be sought by the United States or the United Kingdom.
2. Territorial adjustments must be in accord with the wishes of the people concerned.
3. All peoples had a right to self-determination.
4. Trade barriers were to be lowered.
5. There was to be global economic cooperation and advancement of social welfare.
6. Participants would work for a world free of want and fear.
7. Participants would work for freedom of the seas.
8. There was to be disarmament of aggressor nations and post-war common disarmament.

According to the United Nations (2012: 5), representatives from 50 nations assembled in San Francisco in the spring of 1945. They represented over 80 per cent of the world's population and were determined to set up an organisation that would preserve peace and help build a better world **(**Heyns & Gravett, 2017, 590) The day before the conference in San Francisco at which the United Nations was established, J.C. Smuts consider the proposed text of the Charter drafted at Dumbarton Oaks. The Prime Minister of the Union of South Africa (J.C. Smuts) at that time

was approaching the end of his career, therefore he drafted a proposal for a Preamble to the Chapter that would be an "eloquent declaration of human hope and faith". Jan Smuts recommended to the Dominion prime ministers the insertion of, *inter alia*, the provisions as follows:

- We declare our faith in basic human rights, in the sacredness, essential worth and integrity of the human personality, and affirm our resolve to establish and maintain social and legal sanctions of safeguarding the same.

- We believe in the practice of tolerance, in the equal rights of individuals and individual nations large and small, as well as in their inherent right to govern themselves without outside interference, in accordance with their customs and way of life.

- We believe in the enlargement of freedom and promotion of social progress, and in raising the standards of living, so that there may be freedom of thought and expression and religion, as well as freedom from want and fear for all.

- We believe in nations living in peace intercourse with each other as good neighbours, and renouncing war as an instrument of national policy.

The UN has developed into a complex organisation with a global presence, from modest beginnings. Membership has grown from 51 to 192 states, represented in three main governing bodies, namely the General Assembly, the Economic and Social Council (ECOSOC), and the Security Council. The budget amounts to approximately USD 20 billion annually with a secretariat staff of 70,000 in 2010 (Muller, 2010: 30).

Muftau (2016: 154) mentions that the United Nations was formally established on 24/10/1945 at the UN Conference on International Organisations in San Francisco, California. In attendance were 51 nations and some NGOs and so came into being on 24th/10/45 after the ratification of the Charter. With this ratification, it was expected that the horrors of the world wars would not

be repeated in future. It's a unique organisation of independent countries that have come together to work for world peace and social progress. (United Nations Department of Public Information, 2008: 3). According to the Charter of the United Nations, membership in the organisation "is open to all peace-loving States that accept the obligations contained in the United Nations Charter and, in the judgment of the Organisation, can carry out these obligations" (United Nations Department of Public Information, 2008: 7).

4.3 THE STRUCTURE AND FUNCTION OF THE UNITED NATIONS

The UN structure was further explained through new articles and UN research and training institutes in the coming decades. This included the establishment of a number of programmes and funds such as the United Nations International Children's Fund (UNICEF), which was set up in 1946 (Muller, 2010: 30). To fully understand how Non-Governmental Organisations function within the United Nations, it is useful to understand the United Nations' structure. The work of the United Nations is acknowledged all over the world and is performed by six main organs namely the General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice, and Secretariat. All these organs are based at UN Headquarters in New York, except for the International Court of Justice. This Court has its seat at The Hague, Netherlands. Related to the United Nations are 15 specialized agencies that coordinate their work with the UN but that are separate, autonomous organisations. They work in areas as diverse as health, agriculture, telecommunications and weather. In addition, there are 24 programmes, funds and other bodies with responsibilities in specific fields. These bodies, together with the UN proper and its specialized programmes, compose the United Nations System (United Nations Department of Public Information, 2008: 7). At the United Nations, the official languages used are Arabic, Chinese, English, French, Russian and Spanish. The working languages at the United Nations Secretariat are English and French (United Nations at a Glance, 2012: 19). The United Nations' six organs are briefly explained in the following section.

4.3.1 General Assembly

The General Assembly (GA) is at the centre of the UN system and consists of 193-members, including seven main committees and several subsidiaries and related bodies. Although the decisions of the GA have no binding legal force upon member-states, they do carry the weight of the moral authority of the world community. The GA serves primarily as a forum for discussing general issues such as international peace and security and international collaboration in economic, social, cultural, educational, and health fields. The GA is also able to establish committees and other bodies to study and report on specific issues (Chang, 2018: 4).

General Assembly (GA) is the main decision-making and representative assembly in the UN. It is composed of all member states, headed by a President, elected from the member states and meets from September to December of each year. It can make recommendations on any matter, except issues bothering on peace and security, which are under the purview of the United Nations Security Council. It is expected to vote on important issues based on 2/3 majority of those present. These include the election of members to the organisation, admission, suspension, expulsion of members, and budgeting. All other issues are based on the majority vote (Muftau, 2016: 155).

According to the United Nations Handbook (2017-18: 17), the General Assembly meets in regular session each year starting on the Tuesday of the third week in September at UN Headquarters in New York, unless the General Assembly decided at a prior session to change the location of a majority of UN members has requested a change, counting from the first week that contains at least one working day. The discussion usually opens the following Tuesday and is held without disruption for nine working days. The first regular session opened in 1946. the GA has been officially considered as being "in session" for the entire year, Since its 44th session (1989–90). The session consists of two distinct parts, Part 1 is called the "main part of the session" the period from mid-September to the Christmas break in December and is the most intense period of work. It includes the general debate and the bulk of the work of the Main Committees. Part 2 is called the "resumed part of the session". The period is from January to

September. Most thematic debates, PGA-led consultation processes, and working group meetings take place during that period (Frankel, and Regan, 2011: 14).

The General Assembly elects its President and 21 Vice-Presidents regarding reasonable geographical representation, as detailed in the Assembly's Rules of Procedure, in the months before the beginning of each annual regular session. The President and Vice-Presidents hold office from the start until the close of the session, for which they were elected **(**United Nations Handbook, 2017-18: 17). The President is elected at least three months before formally assuming office, usually in mid-June. This allows him/her to prepare and to assemble a team before the GA session begins in September and it is elected by a simple majority vote of the GA. Usually, the Member states of a regional group agree on one candidate and present a clean slate. In such cases, the election can take place by acclamation. The GA requests that PGA candidates submit a vision statement and has decided to conduct hearings with them (General Assembly Handbook, 2017: 16). According to Frankel, and Regan, (2011: 17), the Vice-Presidents formally assume office at the opening of the GA session. The five permanent members of the Security Council are always among the Vice-Presidents to ensure balanced geographical representation, like the elected President of GA. The role of the Vice Presidents is called upon to assume the role of "acting President of the GA," with the same mandate and responsibility as the PGA. Vice-Presidents from permanent members of the Security Council (P-5) do not usually assume this role.

The United Nations Handbook (2017-18: 17) mentions that at the request or concurrence of a majority of UN members or the request of the Security Council the General Assembly may call upon special sessions. Unless the date for a special session has been fixed by the General Assembly, it must be held within 15 days of the Secretary-General receiving the request or notification of concurrence. The Secretary-General must notify members at least 14 days in advance of the opening of a special session summoned at the request of the Security Council; otherwise, 10 days' notice is required (Frankel, and Regan, 2011: 14). The General Assembly special session is referred to as "UNGASS" (UN) General Assembly Special Session). Special sessions are often high-level events with the participation of Heads of State and Government and

government Ministers. A special session deals with one issue only and its agenda is very short. A special session usually adopts one or two outcome documents, for example, a political declaration, a strategy or an action plan.

According to the United Nations Handbook (2017-18: 17), emergency special sessions must be called together within 24 hours of the Secretary-General receiving a request from the Security Council, on the vote of any nine of its members or after a request or notification of concurrence from a majority of UN members. Members must be given at least 12 hours' notice. "An emergency special session is the only time the GA takes decisions on issues that are under the exclusive mandate of the Security Council. There have been ten emergency special sessions to date, six of them pertaining to the situation in the Middle East. The full list of emergency sessions is available on the GA website". (Frankel, and Regan, 2011: 14).

The United Nations Handbook (2017-18: 17) states that the Assembly's Rules of Procedure established its General Committee (a procedural committee comprising the President and Vice-Presidents) and six Main Committees, and provide for other committees and subsidiary organs as the Assembly deems necessary. According to Frankel, and Regan, (2011: 14), the following are the Six Main Committees that roughly correspond to the GA's major fields of responsibility:

1. Disarmament and International Security Committee (First Committee)
2. Economic and Financial Committee (Second Committee
3. Social, Humanitarian and Cultural Committee (Third Committee)
4. Special Political and Decolonization Committee (Fourth Committee)
5. Administrative and Budgetary Committee (Fifth Committee)
6. Legal Committee (Sixth Committee)

According to the United States. President (1945-1953: Truman), under the Charter, the functions and powers of the General Assembly include:

- Receiving and considering reports from the Security Council and other United Nations organs;

- Bearing in mind and making recommendations on the principles of cooperation in the maintenance of international peace and security, including the philosophies governing disarmament and arms regulation;

- Debating any question concerning to international peace and security and, except where a difference of opinion or situation is being discussed by the Security Council, making recommendations on it;
- Making recommendations for the peaceful settlement of any situation, irrespective of origin, which might damage friendly relations among nations;

- Bearing in mind and approving the United Nations budget and allocating the contributions among members;

- Debating and, with the same exception, making recommendations on any question within the scope of the Charter or affecting the powers and functions of any organ of the United Nations;

- Initiating studies and making recommendations to promote international political cooperation, the development and codification of international law, the realization of human rights and fundamental freedoms for all, and international collaboration in the economic, social, cultural, educational and health fields;

- Electing jointly with the Security Council the judges of the International Court of Justice; and, on the recommendation of the Security Council, appointing the Secretary-General;
  Electing the non-permanent members of the Security Council, the members of the Economic and Social Council and additional members of the Trusteeship Council (when necessary);

4.3.2 Security Council

Baccarini (2018: 98) mentions that the Security Council initially consisted of 11 members, the USA, the UK, France, China, Russian federation are regarded as five permanents. The non-permanent seats are rotated among members of the UN, with annual elections held among half of the non-permanent members at a time to ensure an equitable geographical representation. these five nations are delivered with the special position to veto resolutions of the Council, while the 10 non-permanent members are elected by the General Assembly for a two-year term. The Security Council takes the lead in defining the existence of a threat to peace or acts of aggression. It calls upon the parties to a difference of opinion to settle it by peaceful means. In some cases, the Security Council can enforce sanctions or even authorise the use of force to maintain or restore international peace and security. The UN Charter imposes certain responsibilities on the Security Council (SC), the most important of which was the maintenance of international peace and security (Ahmad & Haron, 2015: 252).

The originators of the UN Charter considered that these five countries would continue to play important roles in the maintenance of international peace and security. So, the "big five" were given a special voting power known as the "right to veto". It was agreed by the drafters that if any one of the "big five" cast a negative vote in the 15-member Security Council, the resolution or decision would not be approved (United Nations Department of Public Information, 2008: 16).

In carrying out this critically important instruction, the Security Council, which according to the Charter must be able to meet at any time if circumstances so require, has adopted over 2,000 resolutions relating to conflict and post-conflict situations around the globe (Sievers, & Daws., 2014).

United Nations (2012: 27) states that the General Assembly can discuss any world concern, the Security Council is primarily responsible for questions of peace and security, The Security Council is the principal organ that:

- investigates any dispute or situation that might lead to international conflict,
- recommends methods and terms of the settlement,
- recommends actions against any threat or act of aggression,
- recommends to the General Assembly who should be appointed as Secretary-General of the United Nations.

According to Chang (2018: 4), the Security Council is capable of directing the use of economic sanctions and military force. Under Article 24 of the UN Charter, the members of the UN conferred on the Security Council primary responsibility for the maintenance of international peace and security (United Nations Handbook, 2017-18: 90).

The functions of the Council fall mainly under two headings:

- Pacific settlement of disputes,
- Action with respect to threats to the peace, breaches of the peace and acts of aggression.

"Article 30 of the Charter stipulates that the Security Council shall adopt its own rules of procedure, and in 1946 the Council adopted its Provisional Rules of Procedure (S/96). Subsequently, the Provisional Rules of Procedure were modified on several occasions; the last revision was made in 1982 (S/96/Rev.7) in order to add Arabic as the sixth official language, in conformity with General Assembly resolution 35/219 of 17 December 1980" (The Security Council Working Methods Handbook, 2012: 3).

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In 2001, the Security Council established the Counter-Terrorism Committee (CTC) which was adopted consistently on 28 September 2001 in the wake of the 11 September terrorist attacks in the USA. CTC consist of all 15 Security Council members. The Committee was tasked with monitoring implementation of the resolution, which requested countries to implement measures intended to enhance their legal and institutional ability to counter terrorist activities at their respective countries, in their regions and around the world, including taking steps to criminalise the financing of terrorism, freeze without delay any funds related to persons involved in acts of

terrorism, deny all forms of financial support for terrorist groups, suppress the provision of a safe haven, sustenance or support for terrorists, share information with other governments on any groups practising or planning terrorist acts, cooperate with other governments in the investigation, detection, arrest, extradition and prosecution of those involved in such acts (United Nations Handbook, 2017-18: 96).

The delegation from the United Nations Security Council visited the South African Correctional Services Kgosi Mampuru II Management area on 09 May 2018. The visit was part of Security Council work as a council that includes assessing the counter-terrorism frameworks in place in all member states of the United Nations, and also learning best practices in offender treatment, rehabilitation and social reintegration. The Security Council Mission on Terrorism is interested in learning about good practices in correctional facilities, particularly because treatment of offenders and rehabilitation is a big part of counter-terrorism work (Department of Correctional Services, 2018).

4.3.3 Economic and Social Council (ECOSOC)

The UN Charter established ECOSOC in 1945 as one of the six main organs of the United Nations. Economic and Social Council is the significant policy for promotion debate and innovative thinking, forging consensus on ways forward, and coordinating efforts to achieve internationally agreed goals. It is also responsible for the follow-up to major UN conferences and summits. It is at the heart of the United Nations system to advance the three extents of sustainable development – economic, social and environmental (United Nations Economic and Social Council: Undated). It is also known as the principal organ to coordinate economic, social, and related work of the 14 United Nations specialized agencies, functional commissions and five regional commissions (Davaadorj, 2011: 5).

According to the Department of Economic and Social Affairs (Undated), the Economic and Social Council consist of 54 Members of the United Nations elected by the General Assembly. ECOSOC coordinates economic, social, and related work of the fourteen United Nations

specialized agencies, functional commissions and five regional commissions. It serves as the central forum for discussing international economic and social issues, and for formulating policy recommendations addressed to the Member states and the United Nations system.

Truman (1945: 18) stated that the Functions and Powers of Economic and Social Council, according to Article 62, are as follows:

- The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and the specialized agencies concerned.
- It may make recommendations to promote respect for, and observance of, human rights and fundamental freedoms for all.
- It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.
- It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

The United Nations Department of Public Information (2011: 12) stated that the functions and powers of the Economic and Social Council are as follows:

- Serving as the central forum for discussing international economic and social issues, and for formulating policy recommendations addressed to member states and the United Nations system;
- Making or initiating studies and reports and making recommendations on international economic, social, cultural, educational, health and related matters;
- Promoting respect for, and observance of, human rights and fundamental freedoms;
- Assisting in preparing and organizing major international conferences in the economic, social and related fields and promoting a coordinated follow-up to these conferences;
- Coordinating the activities of the specialized agencies through consultations with and recommendations to them as well as to the general assembly.

ECOSOC plays a key role in expanding international cooperation for development and in setting main concern for action throughout the UN system, Through its discussion of international economic and social issues and its policy recommendations (United Nations Department of Public Information, 2011: 12).

The UN is charged by its Charter with promoting the economic and social fields. United Nations Handbook (2017-18: 136) mention these fields as follows:

- Higher standards of living, full employment, and conditions of economic and social progress and development.
- Explaining to international economic, social, health and related problems, and international cultural and educational cooperation.
- Universal respect for, and observance of, rights and fundamental freedoms for all, without distinction as to race, sex, language or religion.
- Responsibility for discharging these functions is vested in the General Assembly and, under its authority, the Economic and Social Council (ECOSOC).

According to the Department of Economic and Social Affairs (Undated), ECOSOC in carrying out its directive, contacts with more than 3,200 registered NGOs business sector representatives and academics. The Council's work is directed through a number of sessions and preliminary meetings, round tables and panel discussions with members of civil society throughout the year, to deal with the organisation of its work. it meets for a four-week substantive session in July once a year, alternating between Geneva and New York. The annual session is organized in five segments which include: 1) the High-level segment; 2) the Coordination segment; 3) the Operational Activities segment; 4) the Humanitarian Affairs segment; 4) the General Segment.

United Nations Department of Public Information (2008: 17-19) mentions that the Economic and Social Council considers reports from several specialized agencies, funds and programmes, each of which is a separate organisation with its own membership, budget and headquarters. The followings are specialized agencies, funds and programmes, which ECOSOC considers it reports:

- The United Nations Environment Programme (UNEP) delivers leadership and inspires partnership in caring for the environment. It supports environmental monitoring, assessment and early warning.

- The International Labour Organisation (ILO) formulates policies and programmes to promote the basic human rights of workers, improve working and living conditions and enhance employment opportunities**.**

- The United Nations Children's Fund (UNICEF) is the main UN Organisation defending, promoting and protecting children's rights. It also works towards protecting the world's most disadvantaged children.

- The United Nations Development Programme (UNDP) is the UN's global development network, advocating for change and connecting countries to knowledge, experience and resources to help people build a better life. UNDP is on the ground in 166 countries, working with them on their own solutions to global and national development challenges

- The United Nations High Commissioner for Refugees (UNHCR) provides legal protection for refugees and seeks durable solutions to their problems, either by helping them to return voluntarily to their homes or to settle in other countries.

- The International Monetary Fund (IMF) ensures that the global monetary and financial system is stable. It advises on key economic policies, provides temporary financial assistance and training, promotes growth and alleviates poverty.

- The United Nations Population Fund (UNFPA) promotes the right of women, men and children to enjoy a healthy life. UNFPA supports countries in using population data for policies and programmes to reduce poverty and to ensure that every pregnancy is wanted, every birth is safe and every girl and woman is treated with dignity and respect.

- The World Bank provides low-interest loans and interest-free credits and grants to developing countries for education, health, infrastructure, communications and other purposes.

- The World Tourism Organisation (UNWTO) promotes the development of responsible, sustainable and universally accessible tourism, intending to contribute to economic development, international understanding, peace, prosperity and universal respect for, and observance of, human rights and fundamental freedoms. It pays particular attention to the interests of developing countries in the field of tourism.

- The United Nations Educational, Scientific and Cultural Organisation (UNESCO) promotes international cooperation and facilitates the exchange of information in the fields of education, science, culture and communications.
- The International Civil Aviation Organisation (ICAO) assures the safe, secure, orderly and sustainable development of international air transport while minimizing the adverse effect of global civil aviation on the environment

- The Food and Agriculture Organisation (FAO) works to eradicate hunger and malnutrition and to raise levels of nutrition. It also assists its member states in the sustainable development of their agricultural sector.

- The World Health Organisation (WHO) directs and coordinates international health work. It also promotes and coordinates research on preventing disease.

- The World Meteorological Organisation (WMO) coordinates global scientific activity on the state and behaviour of the Earth's atmosphere, its interaction with the oceans, the climate it produces and the resulting distribution of water resources**.**

- The International Maritime Organisation (IMO) is responsible for safe, secure and efficient shipping on clean oceans and the prevention of marine pollution from ships.

- The International Fund for Agricultural Development (IFAD) provides direct funding and mobilizes additional resources for programmes designed to promote the economic advancement of the rural poor. 800 million women, children and men live in rural areas and depend on agriculture and related activities for their livelihoods.

- The International Telecommunications Union (ITU) works with governments and the private sector to coordinate the operation of global telecommunications networks and services. From broadband Internet to latest-generation wireless technologies, from aeronautical and maritime navigation to radio astronomy and satellite-based meteorology, from phone and fax services to television broadcasting, ITU helps the world communicate.

- The World Intellectual Property Organisation (WIPO) ensures that the rights of creators and owners of intellectual property are protected worldwide and that inventors and authors are, thus, recognized and rewarded for their ingenuity.

- The Universal Postal Union (UPU) fosters the sustainable development of quality universal, efficient, accessible postal services to facilitate communication among the people of the world**.**

- The United Nations Industrial Development Organisation (UNIDO) helps countries improve their national development policies and regulatory frameworks. Its tailor-made programmes support market access and access to finance for micro, small and medium scale agro-industrial development.

- The World Food Programme (WFP) supplies food to sustain victims of manmade and natural disasters, improves the nutrition and quality of life of the most vulnerable people at critical times in their lives, and promotes self-reliance of people and communities.

- The United Nations Human Settlements Programme (UNHABITAT) promotes socially and environmentally sustainable towns and cities to ensure adequate shelter for all.

- The United Nations Development Fund for Women (UNIFEM) provides financial and technical assistance to innovative programmes and strategies to foster women's empowerment and gender equality and acts as a catalyst to ensure the appropriate involvement of women in mainstream development activities.

4.3.4 Trusteeship Council

"The ultimate goal is to give the Trust Territories full statehood... A successful Trusteeship System will afford a reassuring demonstration that there is a peaceful and orderly means of achieving the difficult transition from backward and subject status to self-government or independence, to political and economic self-reliance." This was the declaration that was announced by the UN Secretary-General At the opening conference of the Trusteeship Council on 26 March 1947 (Parker, 2003: 12).

According to United Nations (2012: 31), the Trusteeship Council is consisting of the permanent members of the Security Council (China, France, the Russian Federation, the United Kingdom and the United States). Each member has one vote, and the majority makes decisions. The United Nations Handbook (2011: 16) states that Trusteeship Council was originally established by the *Charter* under chapters XII and XIII to offer international administration for 11 Trust Territories placed under the administration of seven member states, and to ensure that adequate steps were taken to prepare the Territories for self-government or independence. It carried out this work for forty-nine years. The Council's role was originally to consider reports submitted by the administering authority of the trust territory, accept petitions and examine them in consultation with the administering authority, provide for periodic visits to the territory and take other actions in conformity with the trusteeship agreements (United Nations Handbook, 2017-18: 198).

Through a 1994 resolution, the Council amended its rules of procedure to drop the obligation to meet annually and agreed to meet as occasion required - by its decision or the decision of its President, or at the request of a majority of its members or the General Assembly or the Security Council. Subsequently, on 1 November 1994, on 1 October 1994 the Trusteeship Council postponed operation following the independence of Palau, the last remaining UN trust territory (United Nations, 2011: 16).

Since the last Trust Territory - Palau, formerly administered by the United States achieved self-government in 1994 and became a Member State of the United Nations, the Council formally suspended operations after nearly half a century. It will meet again only as the need arises (United Nations, 2012; 31).

"The former Secretary-General recommended in both his 1994 report on the work of the organisation and his 2005 report, In Larger Freedom, that the General Assembly proceed with steps to eliminate the Trusteeship Council in accordance with article 108 of the Charter. World leaders endorsed this recommendation at the 2005 World Summit and recorded in the Outcome Document their agreement to delete chapter XIII of the Charter and references to the Council in chapter XII" (United Nations Handbook, 2017-18: 198).

4.3.5 International Court of Justice

The International Court of Justice situated at The Hague (The Netherlands), is the principal judicial organ of the United Nations. The Statute of the Court is an integral part of the Charter of the United Nations. The General Assembly and the Security Council can ask the court for an opinion on any legal question. The court was charged with settling legal disputes between states and giving advisory opinions to the United Nations and its specialized agencies. Other organs of the United Nations and the specified agencies, when authorized by the Assembly, can ask for advisory opinions on legal questions within the scope of their activities. The court is open to all states that are parties to its Statute, which includes all members of the United Nations. Only states, however, may be parties in contentious cases before the court and submit disputes to it.

The court is not open to private persons and entities or other international Organisations. The court does not have criminal jurisdiction to prosecute individuals, a civil court of law (United Nations, 2011: 16 & 17).

According to the United Nations Handbook (2017-18: 200), the court consists of the following functions:

1. Firstly, it decides, in accordance with international law, cases that are submitted to it by states. It is directed to apply: International conventions establishing rules expressly recognised by the contesting states, international custom, as evidence of a general practice accepted as law, the general principles of law recognised by civilised nations and Judicial decisions and the teachings of the most highly qualified international law experts as subsidiary means for the determination of rules of law.

2. Secondly, the court provides advisory views to the General Assembly and Security Council on legal questions and advisory opinions to other organs of the UN and specialised agencies that are authorised by the General Assembly to request them.

According to the United Nations (2012: 33), the General Assembly and the Security Council has the power to elect 15 judges of which no two judges should be from the same country and a majority of nine judges make a final decision. A Registry, its administrative organ, assists the court. The court assigns its own officers. It elects its Registrar and Deputy Registrar by secret ballot from candidates proposed by members of the court. For seven years terms may be renewed. The Registrar and all his or her team are accountable to the court itself and not to the UN Secretary-General (United Nations Handbook (2017-18: 200).

According to the United Nations Handbook (2017-18: 200), the members of the court elect the President and Vice-President every three years by secret ballot and may be re-elected. An absolute majority is required when the election of the President and Vice-President is held on the date on which members of the court elected at a triennial election are to begin their terms of office or shortly after. There are no conditions with regard to nationality.

Among other things, the court's advisory opinions have dealt with membership admission to the United Nations, reparation for injuries suffered in the service of the United Nations, the territorial status of Western Sahara and the legality of the threat or use of nuclear weapons (United Nations, 2012: 33). Chang (2018: 5) mentions that previously, the court has made such significant decisions as pronouncing in 2007 that, in response to the situation in Serbia, states can be held responsible for genocide.

4.3.6 Secretariat

The Secretariat, which is also one of the main organs of the UN, is established along departmental lines, with each department or office having a different area of action and responsibility. Offices and departments match up with each other to ensure unity as they carry out the everyday work of the organisation in offices and duty stations around the world. At the head of the United Nations Secretariat is the Secretary-General (United Nations, undated).

"The UN Secretariat consisting of staff representing all nationalities working in duty stations around the world—carries out the diverse day-to-day work of the organisation. Calling upon some 44 000 staff members worldwide, the Secretariat services the other principal organs of the United Nations and administers the programmes and policies established by them. At its head is the Secretary-General, who is appointed by the General Assembly on the recommendation of the Security Council for a renewable five-year term" (United Nations, 2011: 16 & 17).

The Secretariat is accountable for numerous administrative and clerical duties such as running the logistics of peacekeeping processes and making investigations. A Secretary-General, who is assisted by a staff of international civil servants, leads the Secretariat. The Secretariat is the basis of the HMUN staff structure (Chang, 2018: 5).

The functions of the Secretariat as the principal organ are to:

- Ensure that it administrates peacekeeping operations, mediates international disputes and organizes humanitarian relief programmes;
- Review economic and social trends prepare studies on human rights, sustainable development and other areas of concern, and publishes a variety of publications that positions the groundwork for international agreements;
- Report to the world - the media, governments, NGOs research and academic networks, schools and colleges and the general public about the work of the United Nations assist in carrying out the decisions of the United Nations;
- Organize international conferences on subjects of vital concern for humankind, and
- Interpret speeches and translate documents into the six official languages of the United Nations.

4.4 THE ROLE OF NGOs IN THE UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL (ECOSOC)

According to United Nations (2011: 2), the Economic and Social Council (ECOSOC) has been the central access theme into the UN system for NGOs, since the start. ECOSOC remains the only main UN body with a formal framework for NGO participation. Department of Economic and Social Affairs (Undated) states that in 1945, 41 NGOs were granted review positions by the council. By 1992, more than 700 NGOs had attained the consultative status and the number has been steadily increasing ever since with more than 5 000 organisations today. The first venue by which NGOs took a role in formal UN deliberations was through the Economic and Social Council (ECOSOC). ECOSOC is one of the six main organs of the United Nations. "Article 71: The Economic and Social Council may make suitable arrangements for consultation with NGOs which are concerned with matters within its competence. Such arrangements may be made with international organisations and, where appropriate, with national organisations after consultation with the Member of the United Nations concerned" (Davaadorj, 2011: 5).

Article 71 of the Charter is specified by Economic and Social Council Resolution 1996/31 on the consultative relationship between the United Nations and NGOs, which offer a comprehensive set of that will guide the work of the NGO Committee (Aston, 2001: 946). Iejam (2003: 32) mentions that in fulfilling Article 71, ECOSOC adopted Resolution 1296 to regulate the giving way of consultative and observer status to certain NGOs. Since 1968, rules and procedures concerning NGO consultative status with ECOSOC and its subsidiary bodies have been governed by the provisions of ECOSOC Resolution 1296 (XLIV). "With the revision of NGO status in 1996, the single paragraph that related to NGOs at world conferences was extended to 14 paragraphs, including the change that NGOs "shall, as a rule, be accredited" (Sadoun, 2007: 5).

The United Nations (2011: 16) mentions that the United Nations sees NGOs as significant companions and valuable links to civil society. Consulted regularly on matters of mutual concern in policy and programme, NGOs in growing numbers around the world work together daily with the UN community to help achieve its objectives. Indeed, under the Charter of the United Nations, the Economic and Social Council may consult not only with member states but also with NGOs concerned with matters within its competence. At the end of 2010, 3 051 NGOs had consultative status with the Council. The Council identifies that these organisations should have the chance to express their understandings and that they possess special knowledge or technical knowledge valuable for their work.

President Kamal of ECOSOC approved Resolution 1996/31, which set up "a new regime for NGOs that widened their role and opened the door to influential national-level organisations for the first time" (Paul 2012: 69). He wanted to widen the role of NGOs beyond ECOSOC and ensure their participation in the General Assembly, but his efforts were met with strong resistance by member states (UN, 2003). Nevertheless, Resolution 1996/31 is of significance as it summarises the circumstances and consequences of obtaining consultative status with the UN up until today. These include representation from developing countries and those countries that have transitional economies. "Once an NGO has obtained consultative status, the ECOSOC Committee on NGOs monitors the contributions made by the NGOs to the work of ECOSOC. A

major requirement for NGOs in status is the submission of a report to the Committee, through the NGO Branch, every four years that includes a brief description of the Organisation's activities, particularly highlighting their contribution to the work of the United Nations, including the Millennium Development Goals and other internationally agreed goals" (United Nations, 2011: 37).

The Economic and Social Council Resolution 1996/31 encourages involvement from NGOs in consultative status with ECOSOC to submit statements during Council meetings. Statements can be submitted to the Council in two formats: written statements, circulated by the Secretary-General of the United Nations to the members of the Council; and oral presentations, given during Council meetings (Department of Economic and Social Affairs, Undated). The United Nations (2011: 19) states that NGOs are often encouraged to submit written statements to address subjects under the different areas of work of the Council. ECOSOC needs and wants expert opinions, ideas and suggestions from NGOs. According to ECOSOC Resolution 1996/31, Part IV, paragraph 30, the written statements is as followed: "Written statements relevant to the work of the Council may be submitted by organisations in general consultative status and special consultative status on subjects in which these organisations have a special competence. Such statements shall be circulated by the Secretary-General of the United Nations to the members of the Council...". Only one oral statement is allowed for each organisation. Topics for oral statements must relate to the Council's focal theme for the particular year and it may also be made to the functional commissions. The NGO Branch will notify NGOs regarding the deadline for submission of oral statements to ECOSOC (United Nations, 2011: 22).

Davaadorj (2011: 6) mentions that some NGOs that has consultative status with the ECOSOC is given the chance to submit a written or oral statement. Currently, there are around 3 400 NGOs who have consultative status with ECOSOC. Consultative status provides NGOs with access to not only ECOSOC but also to its many subsidiary bodies, to the various human rights mechanisms of the United Nations, ad-hoc processes on small arms, as well as special events organised by the President of the General Assembly (United Nations, 2011: 7). Davaadorj (2011: 6) states that an NGO with consultative status can:

- Attend international conferences and events;
- Make written and oral statements at these events;
- Organize side events;
- Enter United Nations premises;
- Have opportunities to network and lobby.

The UN Charter was delivered simply for the ECOSOC (Economic and Social Council) to consult with NGOs for particular resolutions when the latter deal with matters falling under the proficiency of the UN (Martens, 2002: 272).

The Secretary-General has often declared the significance of NGOs to the United Nations. Over and again, he has referred to NGOs as "indispensable partners" of the UN, whose role is more important than ever in helping the organisation to reach its goals. He has acknowledged that NGOs are partners in "the process of deliberation and policy formation" as well as in “the execution of policies”. The same ideas were also stated by other top UN officials, as well as many delegations. Germany, speaking recently for the European Union, affirmed that NGOs are crucial partners for government and the international community and spoke of their capacity to "participate constructively in policy-making and implementation”. NGOs have an increasingly vital role to play in the United Nations. NGOs participate vitally in the international system. They contribute valuable ideas and information, provide essential operational capacity in emergencies and development efforts, advocate effectively for positive change, and generally increase the accountability and legitimacy of the global governance process (Comments for the Report of the Secretary, 1999; Abramov, 2013: 4). The Secretary-General is certified to bargain United Nations services to NGOs in consultative status, including:

- Arrangement of informal discussions on matters of special interest to groups or organisations;
- Access to United Nations press documentation services;
- Accommodation for conferences or smaller meetings related to the work of ECOSOC;

- Appropriate seating arrangements and facilities for obtaining documents during public meetings of the General Assembly that deal with matters in the economic and social and related fields;
- Prompt and efficient distribution of documents related to ECOSOC and its subsidiary bodies as the Secretary-General deems appropriate;
- Use of United Nations libraries.

Ejami (2003: 30-31) states that the UN system has asked NGOs to take a specific action. "NGOs have contributed to the drafting of the International Bill of Rights and are currently monitoring the implementation of the obligations contained thereof". NGOs were also influential in drafting the two human rights covenants approved by the General Assembly in 1966.

Comments for the Report of the Secretary (1999) mentions that the United Nations must discover means to extend and make more significant the entrance of NGOs to the organisation and its intervention and decision-making processes, and ways that strengthen and also transcend the framework laid down in Economic and Social Council (ECOSOC) Resolution 1996/31, adopting the spirit of Decision 1996/297.

The United Nations (2011: 11) states that NGOs that are qualified with ECOSOC can participate in a number of events, including, but not limited to, the regular sessions of ECOSOC, its functional commissions and its other subsidiary bodies. At these sessions, which usually take place once a year, NGOs may:

- Attend official meetings;
- Submit written statements before sessions;
- Make oral statements;
- Meet official government delegations and other NGO representatives;
- Organize and attend parallel events that take place during the session;
- Participate in debates, interactive dialogues, panel discussions and informal meetings.

According to Martens (2006), the legal basis for NGO participation at the United Nations is Article 71 of the UN Charter. This allows ECOSOC to entertain consultative relationships with NGOs. The details of the currently valid participation rights are set out in an ECOSOC resolution passed in 1996.1 The resolution envisages far-reaching participatory opportunities for national and international NGOs within ECOSOC and its Functional Commissions, such as the Human Rights Commission and the Commission on Sustainable Development (CSD). The resolution also details the participation of NGOs at international UN conferences.

According to the Department of Economic and Social Affairs (Undated), before NGOs decide to apply for consultative status with ECOSOC, they must consider the following basic facts about ECOSOC status: Since 2016, more than 5 083 NGOs enjoy active consultative status with ECOSOC. There are three types of consultative status: General, Special and Roster. Most new accreditations are in the Special category. Consultative status provides NGOs with access to not only ECOSOC but also to its many subsidiary bodies, to the various human rights mechanisms of the United Nations, ad-hoc processes on small arms, as well as special events organized by the President of the General Assembly. ECOSOC accreditation is separate and distinct from NGOs who are associated with the UN Department of Public Information (DPI). General and special status NGOs are required to submit a 'quadrennial report' every four years. The Committee on NGOs reviews new applications for consultative status twice a year, in January ('regular session') and in May ('resumed session'). The Committee does not decide but recommends. These recommendations, contained in one report for the January session and one report for the May session, are reviewed by ECOSOC in April and July respectively. In most cases, ECOSOC decides to approve the recommendations. In very rare cases, it does not. The deadline for applications is 1 June of the year before the Committee reviews the application (Department of Economic and Social Affairs, Undated).

Iejam (2003: 33) mentions the role of these three types of consultative status as follows: “Organisations in general consultative status (Category I) are those concerned with most of the activities of ECOSOC. Organisations in special consultative status (Category II) are those which have a special concern for only a few of the fields of activity covered by ECOSOC, and which

are internationally known within those selected fields. Category III is comprised of other organisations, which have to be included in the so-called 'Roster'". NGOs with general and special consultative status have the right, among other things, to designate authorised representatives to be present at public meetings, submit written statements, and make oral presentations.

There is an important difference between NGOs with consultative status and those on the ECOSOC roster. NGOs on the roster can contribute only upon invitation, while NGOs with consultative status have a political relationship with ECOSOC and therefore have rights and obligations, "NGOs in the third category, 'Roster Category'" are thematically more limited and may provide "occasional and useful contributions to the work of ECOSOC or its subsidiary bodies". They might participate but without the right to speak or submit statements. In addition, they are not urged to report to the United Nations" (Sadoun, 2007: 5). NGOs in the third category may give statements only if requested by the Secretary-General or ECOSOC and/or its subsidiary bodies (United Nations, 2011: 22). "Each NGO in consultative status with ECOSOC can designate representatives to obtain annual passes granting them access to UN premises, which are valid until 31 December of each year. A maximum of five such passes for each NGO can be issued for New York, five for Geneva and five for Vienna, in addition to passes for the Chief Administrative Officer (CAO) and the President or Chief Executive of each NGO, for a total of seven passes. Short-term passes for one day and/or for up to three months are also available for specific events" (United Nations, 2011: 8).

According to Abramov (2013: 4-5), the responsibilities and obligations of NGOs in consultative status comprise of Quadrennial reports and Suspension and withdrawal of consultative status. The following two responsibilities are briefly discussed below:

- **Quadrennial reports:** I) As per ECOSOC resolution 1996/31, once every four years Non-Governmental Organisations in general and special consultative status are required to submit a report on the activities of their organisations in support of the work of ECOSOC and the United Nations. This requirement is reinforced through ECOSOC resolution 2008/4 on

"Measures to improve the quadrennial reporting procedures. II) Non-Governmental Organisations are advised to keep detailed records of participation in United Nations meetings and events, as well as cooperation with United Nations funds and agencies for inclusion in subsequent reports, In the intervening periods between submission of quadrennial reports.

- **Suspension and withdrawal of consultative status**: I) If an NGO fails to submit their quadrennial report by the due date, the ECOSOC Committee on NGOs shall recommend immediate suspension of consultative status for the organisation for one year, as per resolution 2008/4. II) In teams of to the ECOSOC resolution 2008/4, NGOs whose consultative status has been suspended due to an outstanding quadrennial report will be required to submit the report within the period of suspension for the Committee on NGOs to consider and take note of the report. If an NGO fails to submit the report within the stipulated period, the ECOSOC Committee on NGOs shall recommend to the Council the immediate withdrawal of consultative status. Once the consultative status has been withdrawn by the Council, the NGO will no longer be entitled to the benefits and privileges of the relationship. II) The organisation concerned will only be permitted to re-apply for consultative status after a period of three years, following the effective date of withdrawal of status. 111) "Furthermore, consultative status of NGOs can be suspended for up to three years or withdrawn by the decision of the Economic and Social Council on the recommendation of its Committee on Non- Governmental Organisations in the following cases": (a) If an Organisation, either directly or through its affiliates or representatives acting on its behalf, clearly abuses its status by engaging in a pattern of acts contrary to the purposes and principles of the Charter of the United Nations including unsubstantiated or politically motivated acts against Member states of the United Nations incompatible with those purposes and principles; (b) If there exists substantiated evidence of influence from proceeds resulting from internationally recognized criminal activities such as the illicit drugs trade, money-laundering or the illegal arms trade; (c) If, within the preceding three years, an Organisation did not make any positive or effective contribution to the work of the United Nations and, in particular, of the Council or its commissions or other subsidiary organs.

NGOs have participated beyond the restrictions of ECOSOC, including active consultation with the General Assembly (GA), its Main Committees, Subsidiary Bodies and a variety of other forums since the earliest years. NGO representatives have even spoken to the GA (though formally the session was temporarily suspended) and GA committees regularly find means to hear the views of NGOs (Comments for the Report of the Secretary, 1999).

The United Nations Handbook (2011: 7) mentions that despite the fact that ECOSOC has the opportunity to expert advice and avail itself of valuable from NGOs, the NGOs in turn also have the opportunity of influencing the work of the Council and expressing their views. NGOs have specialized competence, hands-on experience and flexibility that is of excessive significance to the UN. For instance, by having consultative status, an NGO could:

- Provide expert analysis on issues directly from its experience in the field;
- Serve as an early warning agent;
- Help monitor and implement international agreements;
- Help raise public awareness of relevant issues;
- Play a major role in advancing United Nations goals and objectives;
- Contribute with essential information at organisation events.

"The United Nations has been working to strengthen cooperation with NGOs across the entire United Nations system and in all areas of its work. As a result, United Nations entities are identifying new modalities to promote increased and more strategic participation of NGOs" (United Nations, 2011: 2). According to Iejam (2003: 33), NGOs have developed knowledge, which in a number of areas, have become vital to the work of the UN, both at the operational and policy levels. National NGOs' beginning at the intern level has enhanced and added depth to the work of NGOs at the UN, while the development of NGOs based in developing countries, and their active participation in international meetings and conferences, has made NGO presence as a whole more representative of civil societies worldwide. In light of these and other developments, Resolution of (1996/31) updated the ECOSOC Resolution 1296. Under this amended Resolution, national, sub-regional and regional NGOs including national affiliates of NGOs, are allowed to accede to consultative status. According to Sadoun (2007: 9), consolidation of the relationship

between the United Nations and NGOs can lead to increased UN effectiveness and better performance, make the United Nations more attuned and responsive to citizens' concerns and enlist greater public support. In the present day, NGOs are also involved in processes at the UN level during which they function as policy advisors, information providers and policy formulators. As part of a 'new humanitarianism', relief NGOs, too, have been integrated more closely into policy-making forums where they can influence the agenda of humanitarian action (Martens, 2006).

According to Martens (2006), Kofi Annan's report contains a set of reasonable proposals on how to develop United Nations and NGOs relations further, including:

- Improving country-level engagement by UN representatives with NGOs;
- Establishing a trust fund to support financially the participation of representatives of NGOs from developing countries at UN events;
- Formally opening the General Assembly to NGO participation;
- Simplifying the NGO accreditation process;
- Establishing a "Partnership Office" in the UN Secretariat and integrating the UN-Non-Governmental Liaison Service (NGLS), up to now independent, into this office;
- Holding interactive hearings between Member states and NGO representatives prior to major events, as well as prior to the opening of the General Assembly each year;
- Formulating a code of conduct for NGOs, as one instrument to ensure that NGOs commit themselves to the aim of the charter and act in a manner that reflects the intergovernmental charter of the organisation.

The outline of NGOs admission set by the United Nations has been copied to different degrees by the succeeding inter-governmental organisations with proficiency in the field of human rights, such as the Council of Europe and the OAU. In this regard, NGOs with observer status with the OAU were not able to make effective use of their status for the promotion and protection of human rights (Iejam, 2003: 31).

The role and work of the United Nations Non-Governmental Liaison Service were recognized and endorsed by the UN General Assembly in 1982 and even today, the General Assembly recognized the value of UN-NGLS's work. For over forty years, the United Nations Non-Governmental Liaison Service (UN-NGLS) has played a major role as part of the UN system's machinery for engaging with NGOs and civil society by providing a UN system-civil society interface and facilitating a number of innovations to the UN system policies and practices towards its Non-Governmental constituents. The United Nations Non-Governmental Liaison Service is part of the United Nations effort to strengthen multi-stakeholder dialogue and engagement in UN processes. UN-NGLS encourages active partnerships between the United Nations and civil society organisations. By providing expertise, advice information, and consulting and support service, and is part of the United Nations effort to strengthen multi-stakeholder dialogue and engagement in UN processes (United Nations Non-Governmental Liaison Service, 2015).

"It is argued that CSOs [Civil Society Organisations] can make the UN more transparent because they strengthen public awareness of UN processes and policies. In addition, CSOs can make the UN more consultative, since they often contribute to policy formulation. CSOs can also evaluate the implementation of UN policies, as they monitor and assess the execution of agreed measures and make stakeholders aware of non-compliance. By criticizing unsuccessful policies and programmes, CSOs may in addition help to correct the UN when its activities go awry and cause harm" (Martens, 2011: 43).

4.4.1 Committee on NGOs in Economic and Social Council (ECOSOC)

Heywood (2013: 9) mentions that the committee on NGOs was established in 1946. The NGO Branch of the United Nations Department of Economic and Social Affairs, a subsidiary body of the ECOSOC, consist of 19 Members States**.** The NGO Section of the Department of Economic and Social Affairs (DESA) prepares guidelines for all NGOs and entities. The members of the Committee on NGOs are elected by the Council based on equitable geographical representation, in accordance with the relevant Council resolutions. The 19 members of the committee are

elected based on equitable geographical representation consists of five members from the African States; four members from the Asian States; two members from the Eastern European States; four members from Latin American and the Caribbean States; and four members from Western European and other States. The Committee on NGOs is a standing committee of the Economic and Social Council (ECOSOC). It reports directly to ECOSOC, and the two reports of its annual regular session (usually at the end of January) and resumed session (in May) include draft resolutions or decisions on matters calling for action by the Council. The term of office of its members is four years. In its proceedings, the Committee is guided by the rules of procedure of the Council. (Committee on Non-Governmental Organisations, 2018: 26).

According to the Committee on the Peaceful Uses of Outer Space (2011: 2), twice a year the Committee on NGOs meets and decide which NGOs applying for consultative status and make recommendations to the ECOSOC Council. During its meeting, the Committee on NGOs may ask questions to the NGO. Such questions are directly sent to the NGO by the Secretariat and should be replied to by the NGO as firm as possible to help the Committee on NGOs make a decision and avoid getting deferred to prospect meetings.

The Committee on NGOs' recommendations is published in a report and submitted to the next ECOSOC meeting for final approval. Official notification is sent to all reviewed NGOs, informing them about the Committee's recommendation. The Committee on NGOs may decide to submit an application review until the next meeting, pending clarifications and answers to questions asked to the NGO. When the Council finally approves the Committee on NGOs recommendation to grant consultative status to an NGO, official notification is sent by the Secretariat **(**Committee on the Peaceful Uses of Outer Space, 2011: 3).

According to Evans (2015: 8), the Committee is responsible for monitoring the relationship between NGOs and the UN with the main tasks of the Committee Being the Resolution 1996/31 of 25 July 1996 set out the current terms of reference of the Committee. In its proceedings, the Committee is guided by the rules of procedure of the Council. The main tasks of the Committee are as follows according to the Committee on Non-Governmental Organisations (2018: 26):

- Consideration of applications for consultative status and requests for reclassification submitted by NGOs;
- Consideration of quadrennial reports submitted by NGOs in General and Special categories;
- Implementation of the provisions of Council resolution 1996/31 and the monitoring of the consultative relationship;
- Any other issues which ECOSOC may request the Committee to consider.

4.4.2 The role of the NGOs in Economic and Social Council (ECOSOC) Commissions

According to the United Nations (2011: 6), the accreditation framework of ECOSOC remains the only main UN body with a formal framework for NGO participation that benefits both the United Nations and the NGOs. As stated by Resolution 1996/31 on the "Consultative relationship between the United Nations and Non-Governmental Organisations". The Economic and Social Council has many commissions to administer the extensive collection of issues that fall within its purview. Among them, the Commission on Narcotic Drugs, the Commission for Social Development, the Commission on Population and Development, the Commission on the Status of Women, the Statistical Commission, the Commission on Crime Prevention and Criminal Justice, the Commission on Sustainable Development, the Commission on Science and Technology for Development and the United Nations Forum on Forests (United Nations Department of Public Information, 2008: 17-19).

United Nations Office on Drugs and Crime, a practical guide for NGOs participants (Undated) states that NGOs in consultative status with the ECOSOC can be qualified to participate in the sessions of the Commission as observers. NGOs are able, among other things, to:

- Attend and observe all proceedings of the Commissions with the sole exception of informal meetings for the Member states;
- Submit written statements to the Commissions;
- Make oral interventions at the sessions of the Commissions;
- Participate in special events and panel discussions, and
- Organize side events on issues relevant to the work of the Commissions.

The United Nations Office on Drugs and Crime, a practical guide for NGOs participants (Undated: 5) mentions that an NGO in consultative status with ECOSOC planning to attend a session of the Commissions must send a letter of request for authorization to the Secretariat, signed by the head of the organisation. The letter should be sent well in advance of the relevant session and at the latest one week before the start of the session. Only a maximum of 10 people per NGO can be accredited to any session. NGOs in consultative status with ECOSOC may consolidate a side event of relevance to the work of the Commissions. Side events can be organized in accordance with the guidelines for side events for the respective session of the Commission United Nations Office on Drugs and Crime, A practical guide for NGO participants (Undated: 10).

4.4.2.1 NGOs involvement in Commission on Crime Prevention and Criminal Justice

The Commission was preceded by a more technically focussed Committee on Crime Prevention and Control, formed in 1971 to replace an earlier expert advisory committee and tackle a broadened scope of UN interest in criminal justice policy. It ascended from a ministerial meeting held in Versailles in 1991, is a subsidiary body of the Economic and Social Council. (Department of Economic and Social Affairs, Undated). Since 2006, the Commission has also been authorized to act as the governing body of UNODC and to support the budget of the United Nations Crime Prevention and Criminal Justice Fund **(**United Nations Office on Drugs and Crime, A practical guide for NGO participants, Undated: 2).

"The Commission usually meets for its main annual session for one week in May and holds a reconvened session for two days in December (one day jointly with the CND). Informal meetings and special events take place throughout the year" **(**United Nations Office on Drugs and Crime, A practical guide for NGOs participants, Undated: 2).

According to the United Nations (2011: 11), the Commission provides policy guidance on crime prevention and criminal justice as the central body within the United Nations system. The

Commission on Crime Prevention and Criminal Justice (CCPCJ) formulates international policies and recommendations on criminal justice issues, including trafficking in persons, transnational crime and aspects of terrorism prevention. The following are its assigned priority areas:

- Crime prevention in urban areas, including juvenile crime and violence;
- Promoting the role of criminal law in protecting the environment;
- International action to combat national and trans-national crime, including organized crime, economic crime and money laundering;
- Improving the efficiency and fairness of criminal justice administration systems.

Mahfouz and Smith (2017) mention that within the Commission on Crime Prevention and Criminal Justice, there is an NGO Alliance dedicated to crime prevention and the improvement of criminal justice. The NGO Alliance advocates respect for the dignity and rights of victims of crime and abuse of power, and those in conflict with the law, and advance the protection and restoration of the well-being of all persons and communities affected by crime and inspires international cooperation and multidisciplinary approaches. The NGO Alliance on Crime Prevention and Criminal Justice encourage humane policies that nurture the development of effective and transparent crime prevention and criminal justice strategies and practices domestically, regionally and globally. Its Prevention, Victims, Restorative Justice and Crime Congress working parties report, initiate and organize events and contributions in relevant settings. According to the Alliance on Crime Prevention and Criminal justice of NGOs (2018) its mission is:

- To enhance the collective role of the Alliance members through cooperation among affiliated Organisations with regard to programmes, research projects, publications, conferences and other activities of mutual interest.

- To encourage the flow of information and consultation among the international NGO community, the UN Secretariat, national UN delegations, and UN bodies responsible for international policies and programmes for crime prevention and criminal justice, including the Centre for International Crime Prevention, the Commission on Crime Prevention and

Criminal Justice, and the Office of the United Nations High Commissioner for Human Rights.

- To bring together in one worldwide and multi-disciplinary coalition representatives of NGOs engaged in research, teaching, practice, advocacy and reform in the fields of crime prevention and criminal justice.

- To encourage scholarly, scientific and practical exchange and cooperation among the diverse NGOs engaged and interested in crime prevention and criminal justice throughout the world.

- To foster worldwide criminal justice research, scholarship, education, training and advocacy within inter-governmental and governmental institutions as well as in academic and other public organisations and agencies.

- To assist the UN in the identification of existing and emerging crime and justice issues, in the initiation of research studies and recommendations for action, and in supplying technical assistance in specific areas of Alliance competence.

"The NGO community has also contributed significantly to the formulation of the UN Convention against Transnational Organized Crime and its protocols addressing trafficking in persons, smuggling of migrants and firearms control. The work of the Alliance is strongly supported by the Austrian Ministry of Justice and by the UN Crime Prevention and Criminal Justice Programme" (Alliance on Crime Prevention and Criminal Justice of NGOs, 2018).

4.4.2.2 NGOs involvement in Commission on Narcotic Drugs

According to the Department of Economic and Social Affairs (Undated), the Economic and Social Council established the Commission on Narcotic Drugs (CND) in 1946 as the central policy-making body of the United Nations in drug-related matters. The Commission enables Member states to monitor the implementation of the three international drug control conventions

and is empowered to consider all matters pertaining to the aim of the conventions, including the scheduling of substances to be brought under international control. It also analyses the global drug situation, provides follow-up to the twentieth special session of the General Assembly on the world drug problem and take measures at the global level within its scope of action.

United Nations Office on Drugs and Crime identifies the need to encourage strong partnerships with NGOs in dealing with the complex issues of drug abuse and crime, which weaken the good society. The active involvement of civil society, which includes NGOs, faith-based Organisations, charitable Organisations, labour unions, community groups, indigenous groups, professional associations and foundations, is essential to help UNODC carry out its global mandates (United Nations Office on Drugs and Crime, 2018).

The Vienna NGO Committee is a vibrant link between NGOs and international agencies involved in drug policy, strategy and control and the key intergovernmental involved in drug policy, strategy and control, and the International Narcotics Control Board the Commission on Narcotic Drugs (CND), and the United Nations Office on Drugs and Crime (UNODC) (Vienna NGO Committee on Drugs, 2016: 1).

"The Vienna NGO Committee on Drugs (VNGOC) is an NGO registered in Austria. It was founded in 1983 and has worked to provide and develop the link between NGOs and the international drug control bodies based in Vienna. Its objective is to support NGOs collaborate with the United Nations (UN) system on matters related to drug policy, strategy or practice. It has around 200 members, including large international NGOs with millions of members and specialist NGOs at international, national and local levels providing a wide range of interventions to prevent illicit/harmful drug use and related problems" (Hörnberg, 2018: 1).

"The Vienna NGO Committee on Drugs and UNODC Civil Society Team organized a side event to present the role of civil society in the implementation of the UNGASS 2016 outcomes. This took place on the 14 March 2018 - on the margins of the 61st session of the Commission on Narcotic Drugs" (United Nations Office on Drugs and Crime, 2018).

Hörnberg (2018: 8) states that the Vienna NGO Committee on Drugs was established to support NGOs in their commitment with the international drug control organisations based in Vienna. As well as constructing this Guide, it formulates an Agenda for the CND annotated for NGOs and contains information about the CND meeting, side events on an extensive series of topics and social events open to attendance by NGOs.

The opportunities that are there for NGOs to contribute to the work of the Commission on Narcotic Drugs (CND) are as follows: They can serve as important contributors to local, national and international efforts to reduce drug-related problems. In the resolutions adopted by NGOs at Beyond 2008. the Vienna NGO Committee on Drugs called upon the Member states "to support NGOs and seek their contributions on a more systematic basis by including them in matters related to the work of CND when appropriate". NGOs can raise their concerns with relevant policymakers and contribute their experience and expertise as national delegations prepare for the Commission. NGOs can also seek comment from the Commission and work with policymakers to implement relevant resolutions adopted by the Commission, as well as the Political Declaration and Plan of Action adopted in 2009 and the UNGASS Outcome Document adopted in 2016 (Hörnberg, 2018: 8).

The New York NGO Committee on Drugs, in engaging with the United Nations system on international drug policy and practice, aims to support civil society organisations (CSOs) and facilitates the exchange of information between civil society organisations and UN agencies, member states, and other relevant UN bodies. The New York NGO Committee on Drugs is a global civil society committee established in 1984 under the Conference of NGOs in Consultative Relationship with the United Nations (CoNGO) (Haase, 2016).

4.4.2.3 NGOs involvement in Commission on Sustainable Development

The United Nations Commission on Sustainable Development (CSD) was established by the UN General Assembly in December 1992 to ensure effective follow-up of the United Nations

Conference on Environment and Development (UNCED), also known as the Earth Summit. (Department of Economic and Social Affairs, Undated). According to the United Nations (2011: 11), the world leaders signed the Framework Convention on Climate Change and the Convention on Biological Diversity in Rio de Janeiro, Brazil, the Forest Principles and endorsed the Rio Declaration, and adopted Agenda 21, a 300-page plan for completing sustainable development in the twenty-first century. The CSD encourages broad NGO participation. The CSD meets annually (at the end of April - beginning of May) in New York, in two-year cycles, with each cycle focusing on clusters of specific thematic and cross-sectoral issues. "The Commission on Sustainable Development consistently generates a high level of public interest. Over 50 ministers attend the CSD each year and more than one thousand NGOs are accredited to participate in the Commission's work" (Commission on Sustainable Development, 2002).

The U.S Department of State (2009) stated that The United Nations Commission on Sustainable Development (CSD) has delivered a principal idea for universal deliberative discussions on critical sustainability issues. The annual CSD meetings seek to influence development programmes around the world, by promoting the idea to respect the future need for a healthy environment. According to Dodds, Gardiner and Hales et al. (2002: 3), the Rio Earth Summit witnessed the unique involvement of NGOs in the foundation process and the Summit itself. Agenda 21 comprises nine chapters dealing with the role of NGOs, or as it calls them "Major Groups". In the Commission's mandate, governments recognised the important role that NGOs would have in the realisation of Agenda 21. The mandate of the CSD also gives the NGOs the greatest opportunity for involvement of any UN Commission. The Commission on Sustainable Development's responsibility (Resolution 1993/207) is as follows:

- To review the adequacy of financing and the transfer of technologies as outlined in Agenda 21;
- To enhance dialogue with NGOs, the independent sector, and other entities outside the UN system, within the UN framework;
- To monitor progress in the implementation of Agenda 21 and activities related to the integration of environmental and developmental goals by governments, NGOs, and UN bodies;

- To monitor progress towards the target of 0.7% GNP from developed countries for Overseas Development Assistance;
- To receive and analyse relevant information from competent NGOs in the context of Agenda 21 implementation;
- To provide recommendations to the General Assembly through the ECOSOC.

One of the examples that have been identified is that NGOs are claimed to have had an impact on the sustainable development in rural areas of developing countries and the Bangladesh Rural Advancement Committee (BRAC) as emphasized by Hassan and Forhad (2013: 59). Hassan and Forhad (2013: 68) mention that the activities of NGOs like BRAC have been found more effective in a way that its programmes are partly responsible for sustainable development and preventing the unemployment situation in Bangladesh.

4.4.2.4 NGOs involvement in Commission for Social Development

"Originally known as the Social Commission but renamed in 1966, the CSocD was established by ECOSOC Res. 10 (II) (1946). Its purpose was to advise ECOSOC on social policies of a general character and, in particular, on all matters in the social field not covered by the specialised inter-governmental agencies. The Commission's mandate was further developed by ECOSOC Resolutions 830J (XXXII) (1961), 1139 (XLI) (1966) and 1996/7. Since 2006, the Commission has taken up key social development themes as part of its follow up to the outcome of the Copenhagen Summit "(Department of Economic and Social Affairs, Undated).

According to Perell and Reilly (2017), the Non-Governmental Organisation Committee for Social Development is focused on reviewing the outcome of the World Summit on Social Development, and also committed to raising consciousness and holding conferences on social development issues taken up by the United Nations (UN) System, in particular by the UN Commission for Social Development. The Committee also advocates on social development problems in other environments such as the Commission on the Status of Women, Economic and Social Council (ECOSOC), High-Level Political Forum on Sustainable Development and

General Assembly. Committee members keep one another informed and deliver group statements to the UN voicing ideas and positions on key social development issues. The NGO Committee on Social Development is a coalition of organisations dedicated to working towards people-centred social change and development through the United Nations. The Committee on Social Development holds monthly meetings for discussion, planning and networking. Its main activities include organizing the Civil Society Forum which precedes the UN Commission for Social Development, participating in the Commission itself, advocating and other associated events, such as breakfast meetings (NGO Committee Social Development, 2018).

4.4.2.5 NGOs involvement in Commission on Population and Development

A Population Commission was established by the Economic and Social Council in its resolution 3 (III) of 3 October 1946. In its Resolution 49/128 of 19 December 1994, the General Assembly decided that the Commission should be renamed the Commission on Population and Development.

The Assembly decided that the Council and the Commission should establish a three-tiered intergovernmental mechanism. The mechanism will play the primary role in the follow-up to the implementation of the Programme of Action of the International Conference on Population and Development. The Commission, as a functional commission assisting the Council, would assess, monitor, review and implement the Programme of Action at national, regional and international levels and advise the Council thereon (Department of Economic and Social Affairs, Undated).

According to Commission on Population and Development Fifty-First session (2018**),** The representatives of NGOs, in consultative status with ECOSOC, can attend sessions with the Commission on Population and Development. Several months before each session, NGOs in Consultative Status with ECOSOC are allowed to register their representatives using the online registration system, Indico. Names of NGOs that register their participants are also recorded in the official report of the Commission. The registration process also helps the UN plan its security measures and logistics. **"**NGOs may: Attend official meetings; Submit written statements before

sessions; Make oral statements; Meet official government delegations and other NGO representatives; Organize and attend parallel events that take place during the session; Participate in debates, interactive dialogues, panel discussions and informal meetings" (United Nations, 2011: 11).

4.4.2.6 NGOs involvement in Commission on the Status of Women

The Commission on the Status of Women is a functional commission of the United Nations Economic and Social Council (ECOSOC) it is the basic universal policy-making body, committed absolutely to gender equality and advancement of women. The representatives of member states gather at United Nations Headquarters in New York to evaluate progress on gender equality, identify challenges, set international standards and formulate solid policies to support gender equality and advancement of women worldwide, each year (Department of Economic and Social Affairs, Undated).

According to the United Nations, (2011: 11), the active participation of NGOs is influential in shaping the current global policy framework on women's empowerment and gender equality. They continue to play an important role in holding international and national leaders accountable for the commitments they made in the Platform for Action. The participation of NGOs in the commission on the Status of Women is a critical element in this. NGOs have been - the Beijing Declaration and Platform for Action.

4.4.2.7 NGOs involvement in United Nations Forum on Forests

According to the Department of Economic and Social Affairs (Undated), Resolution 2000/35 of the Economic and Social Council of the United Nations (ECOSOC), in October 2000, established the United Nations Forum on Forests (UNFF), conservation and sustainable development of all types of forests. The key purposes of this new Forum were to promote the management, conservation, and sustainable development of all types of forests, and to support the political obligation to that end. The principal functions to be performed by the UNFF include,

among others, the promotion of international cooperation on forest-related issues, and monitoring and assessment of progress. It was also decided that the Forum should consider the prospects of a legal framework on forests within five years (Nilsson, 2001: 6).

The Forum welcomes and encourages the active participation of forest-related stakeholders who within the context of the Forum are referred to as Major Groups such as NGOs. The Partnership NGOs has embarked on joint resourcefulness on financing for sustainable forest management, forests and climate change and forest degradation. The Collaborative Partnership on Forests is also continuing to develop and expand existing joint initiatives relating to the global forest expert panels, the streamlining of forest-related reporting, a global forest information service, and the Partnership website (Department of Agriculture and Water Resources, 2016).

4.5 THE UNITED NATIONS STANDART MINIMUM RULES FOR THE TREATMENT OF PRISONER (THE NELSON MANDELA RULES)

The history of standard minimal role for the treatment of prison began in October 1870 in Cincinnati by a group of individuals interested in prison reform met and adopted 37 principles in the first meeting of the National Prison Association. Labane (2012: 40) pointed out from Stinchcomb and Fox (1999: 105**)** that in 1870, the sad plight of American prisons recaptured public notice, with attention no longer diverted by wars. In the very same year, there was an assembly in Cincinnati, which was to form the National Prison Association. Reform-minded prison administrators, members of Congress and provincial citizens held the meeting. This assembly was later known as the American Correctional Association. In these meetings, the speakers presented new and progressive ideas from the USA and abroad, such as providing prisoners with educational opportunities and religious instruction. Clear and Cole (1997: 59) state that among these public figures were Gaylord Hubbell, a warden who in 1863 had observed the Irish system in operation, Enoch C. Wines, the New York Prison Association Secretary and Franklin Sanborn from the Charities Massachusetts State Board (Labane, 2012: 40). Issues such as corporal punishment, overcrowding and the physical condition of prisons were some of the important concerns that were dealt with by this association (Carlson & Garrett, 1999: 11). These

penologists understood how prisons operated and they were also motivated by humanitarian concerns. The Association advocated a new design for penology in its famous declaration of principles: that prisons should be operated on a philosophy of inmate change (Labane, 2012: 40). Hill (2016) mentions that The Cincinnati meeting was the beginning of a lasting national Organisation that eventually became the American Correctional Association.

According to Hill (2016), the American Correctional Association was also the inspiration for the establishment of the International Penitentiary Commission (IPC). "When the League of Nations was formed in 1919, the work of IPC was included in its mandate to promote the rule of law in the international community. In 1926, work by IPC on an early version of the SMRs began; the rules were revised in 1933 and 'noted' by the League of Nations in 1934. When the U.N. was created in 1945, it incorporated crime prevention and standards of criminal justice into its policy-setting role. In 1949, the rules were further updated by an Ad Hoc Committee of Experts."
"The Standard Minimum Rules for the Treatment of Prisoners was adopted by the First United Nations Congress on the Prevention of Crime and Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its Resolutions 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13 1977 (UN,1955)" (Stephens, 2018: 129). According to the United Nations General Assembly (2015: 8), the Standard Minimum Rules (SMRs) for the treatment of prisoners have been the important value and influence, as a guide, in the development of correctional laws, policies and practices significant value and influence. The SMRs has been the universally recognized minimum standard for the detention of prisoners since their adoption by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in 1955. The General Assembly, channelled by the principal purposes of the United Nations, as set out in the Preamble to the Charter of the United Nations and the Universal Declaration of Human Rights. Considering established concern of the United Nations for the humanization of criminal justice and the protection of human rights and emphasizing the fundamental importance of human rights in the daily administration of criminal justice and crime prevention (United Nations General Assembly, 2016: 1).

According to the United Nations Office on Drugs and Crime (2011: 7), the Standard Minimum Rules (SMRs) for the treatment of prisoners also address issues applicable to both men and women prisoners, including those relating to some medical services, parental responsibilities, searching procedures and the like, even though the rules are mainly concerned with the needs of women and their children. However, as the focus includes the children of imprisoned mothers, there is a need to recognize the central role of both parents in the lives of children. Accordingly, some of these rules would apply equally to male prisoners and offenders who are fathers. As the United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners were adapted in 1955, it was certainly time for it to be revised. In 2015, new United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners were agreed upon (Mackay, 2017: 279).

The United Nations General Assembly (2015: 3) stated that "Reaffirmation by the United Nations General Assembly as extracted from the Nelson Mandela Rules (hereafter to be referred to as the Rules):

"In the context of the adoption of the revised rules, that the preliminary observations to the Nelson Mandela Rules, underscores the non-binding nature of the Rules, acknowledges the variety of Member states' legal frameworks, and in that regard recognizes that the Member states may adapt the application of the Rules in accordance with their domestic legal frameworks, as appropriate, bearing in mind the spirit and purpose of the Rules" (paragraph 8 of the rules).

The UN General Assembly adopted the revised rules unanimously on 17 December 2015 and set out the minimum standards for good prison management, including ensuring that the rights of prisoners are respected and the adoption includes the following (United Nations General Assembly, 2015: 8):

- Agreement of the recommendation of the Professional Collection that the Rules should be known as "the Nelson Mandela Rules", to honour the legacy of the late President of the Republic of South Africa, Nelson Rolihlahla Mandela, who spent 27 years in prison in the course of his struggle for global democracy, human rights, equality, and the promotion of a culture of peace; and

- Invitation to the Member states, regional Organisations and Organisations of the United Nations system to celebrate appropriately the Nelson Mandela International Day, observed each year on 18 July as follows:
  (i) to promote humane conditions of imprisonment;
  (ii) to raise awareness about prisoners being a continuous part of society; and
  (iii) to value the work of prison staff as a social service of particular importance.

According to the United Nations Office on Drugs and Crime (2017: 1), the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) are the only utmost central fixed of international standards that "set out what is generally accepted as being good principles and practice in the treatment of prisoners and prison management". One of the reasons for this revision was so that international prison standards would reveal "advances in correctional science and best practices**"** and the Mandela Rules are outstanding for being prison standards that aim to improve both human rights and prison safety (Peirce, 2018: 264- 293).

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) document is classified into two sections, the Rules of General Application and the Rules applicable to Special Categories. The rules are listed below (also see Annexure: A).

4.5.1 Rules of General Application

The Rules of General Application covers the general management of prisons and is relevant to all types of prisoners, criminal or civil, untried or sentenced, including prisoners subject to "security measures" or corrective measures ordered by the judge (General Assembly, 2016: 7). According to the United Nations, Office on Drugs and Crime (2016: 2-26), the Rules of General Application consist of:

- **Basic principles** are covered by Rules 1 to 5. "All prisoners shall be treated with respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or

punishment, for which no circumstances whatsoever may be invoked as a justification" … According to Wallace (1997: 15), this implies that prisoner is also human born equal they can never be discriminated against any person. They should all enjoy all rights included in the declaration equally simply because the rights were set out for everyone to be prevented from any sort of discrimination and not for some citizens to have an advantage over others. For a prisoner to participate in rehabilitation programmes they should have equal opportunity. Since offenders are human beings, like anybody else, and have been sentenced by the court already it is not necessary for the prison to increase the punishment (Muthaphuli, 2008: 81).

- **Prisoner file management** is covered by Rule 6 to 10. No person shall be admitted to prison without a lawful commitment order. The prison authority may not admit any person, or another authorised person can be produced. Such a warrant or order must be made out to the relevant prison and must be kept safely for the duration of the inmate's incarceration. The head of the correctional centre, or his/her delegate, must ensure that the stipulations of all valid warrants are meticulously executed. The prison authority should also ensure that every prisoner who is lawfully in incarceration is kept in safe custody until he or she is lawfully released or removed (Departmental Orders, Section B).

- **The separation of categories** is covered by Rule 11**.** Under no circumstances must men and women be detained in the same facility. Sentence and unsentenced prisoners' children must also be considered (Fields, 1995: 577). The separation of categories systems must develop and rehabilitate the offender. The prison administrator must ensure that prisoners are grouped according to custody requirements and programme needs (Clear & Cole, 1997: 360). This should include a means of assuring that custody assignment is imposed consistently, and never as a form of punishment. The systems must try to differentiate between offenders based on their needs, attitudes, motivations and attributes, and then provide the necessary programmes to bring about the desired changes in values, attitude and skills (Walsh, 1997: 165).

- **Accommodation** is addressed by Rule 12 to 17. The rule has to do with the physical care of prisoners. According to The White Paper on Corrections in South Africa (2005: 131), care is referred to as "needs-based services aimed at the maintenance of the well-being of persons in the departmental care, providing for their physical well-being in the form of nutrition and health care, the maintenance and establishment of social links with families and societies, their spiritual well-being and moral well-being, as well as their psychological well-being". Basic needs such as nutrition, accommodation, personal hygiene, clothing and bedding, and medical services to support the dignity of such prisoners.

- **Personal hygiene** is covered by Rule 18. For a prison to meet the basic needs regarding accommodation, food, clothing and the provision of better medical care, it is important that it first maintains the minimum conditions of prison hygiene (Van Zyl & Smit, 1992: 164). Prisons must provide the necessary means that will ensure that prisoners, as well as their clothing, bedding and cells, are clean at all times. Cleanliness must be encouraged among all prisoners. it is essential to provide them with the necessary products such as soap, towels and extra clothes to ensure that they are always clean (Department of Correctional Services. 1998).

- **Clothing and bedding** are covered by Rule 19 to 21. Prisoners must be delivered with clothes that are clean and can withstand the prevailing climatic conditions. For example, offenders have to be provided with warm clothes in winter. Failure to do so may lead to diseases related to the cold conditions, which can lead to an unhealthy offender population.

- **Food** is covered by Rule 22. Prison authorities should recognise the right to adequate nutrition, this also applies in the Constitution of the Republic of South Africa, 1996. Section 8 of the Correctional Services Act mentions that offenders must be supplied with adequate food and that those with specific nutritional requirements, such as children and pregnant women, must be provided with whatever it is that they require.

- **Exercise and sports** are covered in Rule 23**.** This role implies that exercise and sport ensure that every prisoner becomes part of the rehabilitation process through exercise and sport as recreational programmes. The most important thing is that even physically disabled prisoners can partake in activities such as arts and crafts, music and table games. Failure to provide exercise and sport for prisoners can lead to conditions such as physical and emotional conflict among offenders ranging from sexual assaults to personal depression.

- **Health-care services** are covered in Rule 24 to 35. The rules make sure that all prisons should make provision for prisoners' medical care. There should be appropriate medical treatment for all sentenced prisoners. Prison authorities must establish that in each prison, prisoners have daily access to nursing/medical services in an orderly and organised way.

- **Restrictions, discipline and sanctions** are covered by Rule 36 to 46, Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and well-ordered community life. Every restriction and discipline must be in accordance with humanity.

- **Instruments of restraint** are covered in Rule 47 to 49. Authorities shall not be allowed to use chains, irons or other instruments of restraint, which are inherently degrading or painful as a measure of restriction, discipline and sanctions. In the event of the imposition of instruments of restraint, prison authorities should consider principles stipulated in accordance with Paragraph 2 of rule 47 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

- **Searches of prisoners and cells** are addressed in Rule 50 to 53. This rule implies that searches of prisoners and cells should be conducted in accidence with human dignity. The laws and regulations governing searches of prisoners and cells shall be in accordance with obligations under international law and shall take into account international standards and norms**.** Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner’s privacy.

- **Information to and complaints by prisoners** are covered by Rule 54 to 57. During admission, every prisoner shall be promptly provided with written information. According to Muthapuli (2008: 138), the right to information supports the prisoner to participate in any decision-making that affects his or her rehabilitation process. As long as there is any information, that prisoner must access any information which can lead to rehabilitation. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.

- **Contact with the outside world** is dealt with by Rule 58 to 63**.** Prisoners come from society therefore they will return to society after being released from prison. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals. A prisoner should be kept up to date to what is happening to the outside world, therefore the use of media must be encouraged to prisoners. NGOs and other external groups should offer training and education to prisoners. A prisoner should have contact with the outside world (Muthapuli, 2008: 103).

- **Books** are covered in Rule 64. Every prison shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it. A lack of books in prison as learning resources can severely limit the effectiveness of education in prisons. Prisoners must be encouraged to read. Prisoners can receive study material of their choice from outside the prison or access those in the central library.

- **Religion** is dealt with from Rule 65 to 66. This rule implies that religion has always played a key role in the rehabilitation of the prisoner. They have the right to attend religious services of their own choice as long as it does not affect security in the prison (Seiter, 2002: 128). Religion can also form vital protection against crime in society; this can also apply in prison. Religious programmes are a basic and critical part of every prison (Coetzee & Gericke, 1997:

101). Prison authorities should encourage the practising of religion provided that prisoners have the right to practise the religion of their choice.

- **Retention of prisoners' property** is addressed by Rule 67. Prison authorities shall make sure that all money, valuables, clothing and other effects belonging to a prisoner which he or she is not allowed to retain under the prison regulations, is returned to the prisoner upon his or her release from prison. Any money or effects received by a prisoner from outside shall be treated in the same way. The physician or other qualified healthcare professionals shall decide if a prisoner can bring in any drugs or medicine for him or her to use.

- **Notifications** are dealt with by Rule 68 to 70. Every prisoner shall have the right, and shall be given the ability and means to inform immediately his or her family, or any other person designated as contact person, about his or her imprisonment, about his or her transfer to another institution and any serious illness or injury. The prison director shall at once inform the prisoner's next of kin or emergency contact about the event of a prisoner's death. The prison administration shall inform a prisoner at once of the serious illness or death of a near relative or any significant other.

- **Investigations** are covered in Rule 71 to 72. The prison director shall report, without delay, any custodial death, disappearance or serious injury to a judicial or other competent authority that is independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases and completely liaise with that authority and ensure that all evidence is conserved (See Annexure). **(**Annexure A), The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

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- **Removal of prisoners** is covered by Rule 73. Prisoners shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form. When they are being removed to or from an institution, the transport of prisoners in transportations with insufficient air circulation or light, or in any

way which would subject them to unnecessary physical hardship, shall be prohibited. The transport of prisoners shall be carried out at the expense of the prison administration and equal conditions shall apply to all of them.

- **Institutional personnel** are addressed by Rule 74 to 82. These rules provide that all prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a professional manner. Since prison staff are involved in security, guiding, mentoring, facilitating, developing and inspecting offenders., professional staff need knowledge in the following areas for the rehabilitation process to be successful: knowledge of the prison services, knowledge of their prison policy and prescriptions, knowledge of job content, academic knowledge and knowledgeable about offenders**.** It is very important for professional staff to have self-knowledge and communication skills, and to promote teamwork and dealing with conflict, etc. since they interact with people every day (Coetzee & Gericke, 1997: 68). A professional staff work attitude is based on the following values in terms of the rehabilitation of the offender: humanity, respect for human potential, relationships, partnerships and accountability. The prison administration must value the professional character of its staff, such as knowledge, skills and attitude (Coetzee & Gericke, 1997: 71). **"**Prison staff working with violent extremist prisoners require a good combination of personal qualities and technical skills. They need personal qualities that enable them to deal with all prisoners, including the difficult, dangerous and manipulative, in an even-handed, humane and just manner" (United Nations Office on Drugs and Crime, 2016).

- **Internal and external inspections** are covered by Rule 83 to 85. There shall be a double system for consistent inspections of prisons and penal services. Inspectors shall have the authority. Every inspection shall be followed by a written report to be submitted to the competent authority. The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection (See Annexure A).

4.5.2 Rules applicable to Special Categories

According to the General Assembly (2016: 7), the rules applicable to special categories comprises rules relevant only to the special categories dealt with in each section. On the other hand, the rules under Section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in Sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit. (See Annexure A)

4.5.2.1 Prisoners under sentence

This rule is known as the rules under Section A which consists of guiding principles that cover Rule 61 to 90, treatment is covered by Rule 91 to 92, classification and individualization are covered by Rule 93 and 94, privileges consist of Rule 95, work covers Rule 96 to 103, education and recreation cover Rule 104 to 108, social relations and aftercare cover Rule 109 and 110. These Rules are explained briefly below as follows:

- **Treatment:** The treatment shall be such as will encourage their self-respect and develop their sense of responsibility. Direct treatment is meant as a series of interviews approved to bring to mind or reinforce the approach favourable to maintaining emotional balance, making positive decisions and to growth or change to the offenders. Counselling is the most ordinary term of direct interviewing treatment, which is intentional to help offenders to deal with the issues of their situation in a rational manner (Van Hove, 1962: 132-134). All appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his or her social and criminal history, physical and mental capacities and aptitudes, personal temperament, the length of his or her sentence and prospects after release.

- **Classification and individualization:** Rules intended to explain that there are two separate ways that prisoners' classification prison should measure: The classification is merely the separation of types of offenders in different institutions or programmes. The concept of individual treatment approaches for the assignment of individual offenders to different programmes according to their needs within the institution or system (Hippchen, 1975: 3). Classification of prisoners as a means of division of prisoners into groups according to individualities they share in general (Stinchcomb & Fox, 1999: 226). Classification can also be regarded as a good mechanism for grouping types of prisoners, which belong together. Successful classification systems may ensure good safe custody and proper administration of rehabilitation programmes (Cilliers et al., 2008: 104).

- **Privileges:** Every prison shall ensure that systems of privileges are appropriate for the different classes of prisoners and the different methods of treatment, in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of prisoners in their treatment.

- **Work:** This rule implies that prisons must offer the prisoners work that can give him/her enough experience to ensure that he/she is fully rehabilitated and can be productive after release (Labane, 2012: 257). A prisoner must be provided with productive work, which is based on considering the nature of the offence as well as the characteristics of the prisoner, should contribute toward the human development of the offender, work should be provided with proof so that it can increase their chances of being employed after they have been released from correctional facilities.

- **Education and recreation:** This rule entails that the prison administration must ensure that special attention shall be paid for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and young prisoners shall be compulsory and special attention shall be paid to it by the prison administration. Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.

- **Social relations and aftercare: "**Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both" (See Annexure. **(**Annexure A), The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

4.5.2.2 Prisoners with mental disabilities and/or health conditions

Prisoners with mental illnesses should never be admitted into prison. Prisoners with mental health problems require special treatment from the prison and they should be able to have access to that treatment whenever they need it. If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified healthcare professionals.

4.5.2.3 Prisoners under arrest or awaiting trial

Persons arrested or imprisoned because of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as "untried prisoners" hereinafter in these rules. Young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions. Untried prisoners shall sleep singly in separate rooms, with the reservation of different local customs in respect of the climate. **(**Annexure A), The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

(The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules))

4.5.2.4 Civil prisoners

"In countries where the law permits imprisonment for debt, or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall be not less favourable than that of untried prisoners, with the reservation, however, that they may be required to work."

4.5.2.5 Persons arrested or detained without charge

Without bias to the requirements of Article 9 of the International Covenant on Civil and Political Rights, individuals detained or imprisoned without charge shall be rendered the same protection as that rendered under Part I and part II, Section C, of these rules. Applicable provisions of Part II, Section A, of these rules shall likewise be applicable where their application may be conducive to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.

4.6 CONCLUSION

The UN Charter was delivered simply for the ECOSOC (Economic and Social Council) to *consult* with NGOs for particular resolutions when the latter deal with matters falling under the proficiency of the UN. The term Non-Governmental Organisation was first conjoined when the United Nations was established in 1945. This chapter outlined the role play by Non-Governmental organisations in the United Nations. Before the role of NGOs was discussed, a brief history of the UN was given, detailing how the UN was established and the structure and function were also mentioned for one to understand where NGOs apply in the UN. Since the study is about the role played by NGOs in the rehabilitation of offenders, the researcher also explained the United Nations Standard Minima Rules for the Treatment of Prisoners. This is to give a clear understanding that UNs plays a very important part in assisting in good governance

in prisons as an international body. The Standard Minimum Rules (SMRs) for the treatment of prisoners also address issues applicable to both men and women prisoners, including those relating to some medical services, parental responsibilities, searching procedures and the like, even though the rules are mainly concerned with the needs of women and their children. The role of NGOs in the Economic and Social Council (ECOSOC) Commissions was also discussed in this chapter.

CHAPTER 5
THE ROLE OF NON-GOVERNMENTAL ORGANISATIONS IN THE REHABILITATION AND REINTEGRATION OF OFFENDERS IN THE INTERNATIONAL CORRECTIONAL SYSTEM

5.1 INTRODUCTION

According to United Nations, every prison or correctional centre must practice or adapt the Standard Minimum Rules (SMRs) for the treatment of prisoners. The Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) are the only utmost central fixed of international standards that "set out what is generally accepted as being good principles and practice in the treatment of prisoners and prison management. all appropriate treatment means shall be used including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his or her social and criminal history, physical and mental capacities and aptitudes, personal temperament, the length of his or her sentence and prospects after release".

This chapter covers international correctional services of three countries namely Canada, the United States and Namibia. The researcher analyzes how these three countries' rehabilitation and reintegration efforts align with the United Nations' Standard Minimum Rules for the Treatment of Prisoners. This chapter also explains the role of NGOs in the rehabilitation and reintegration of offenders in the Canadian Correctional Services, the United States and Namibia correctional system, how each country make use of external role players such as NGOs in the rehabilitation and reintegration of offenders in correctional systems. Several correctional institutions depend on NGOs to assist personnel in various programmes for the rehabilitation and reintegration of the offender. NGOs in Canada, the USA and Namibia are available to provide training, goods, and services to the prison population including education, vocational training, spiritual counselling,

family and marriage issues, substance abuse counselling, health education, blankets, and food in US corrections. Each country outlines the involvement of NGOs in the rehabilitation and reintegration of offenders

5.2 THE CORRECTIONAL SERVICES IN CANADA

Lowman and MacLean (1991: 130) mention that the Correctional Service of Canada contributes to the protection of society by actively encouraging and assisting offenders to become law-abiding citizens while exercising reasonable, safe, secure, and humane control, as part of the criminal justice system. According to the Corrections and Conditional Release Act (1992), "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 the community" **(**Gisler, Pruin & Hostettler, 2018: 20).

The Federal Correctional Service of Canada is under the political control of the Solicitor General (Luyt, 1999: 58). Gisler, Pruin and Hostettler (2018: 18) explain that the respective provinces and territories are responsible for offenders who are sentenced for less than two years and through the Minister of the Solicitor General, provincial jurisdictions also have exclusive responsibility for sentenced offenders who are convicted to probation (American Correctional Association, 1997: 613). Each of the 13 provinces and territories has its own correctional services organisation administrating sentences of less than two years, as well as their probation sentences and juvenile corrections, whereas, a federal government agency is responsible for offenders who are sentenced for two years or more and conditional release supervision (Gisler, Pruin & Hostettler, 2018: 18).

The responsibility of the Correctional Services of Canada generally involves the management and handling of the offender at various security institutions, as well as supervision over released offenders into society on full parole, day parole, temporary absent leave authorised by the

national parole board, or offenders who are released under compulsory supervision to serve out the last part of their conviction in society (Labane, 2012: 159). It's the national parole board that has the obligation for all offenders sentenced to two years or more (American Correctional Association, 1997: 613). The offender will only be sentenced for a period of imprisonment which puts him/her under the jurisdiction of either the federal or the provincial correctional system (Labane, 2012: 159).

Mackenzie and Johnson (2003: 8) state that when an offender is admitted in the correctional institution, during the intake process offenders are classified on a four-point scale to specify the offender's level of need in each of the following areas: associates, attitude, community functions, family/marital, employment, personal/emotional, and substance abuse. On admission of an offender to a federal institution, a branch of the admission procedure involves an assessment of the offender's overall level of need to produce a correctional plan (Labane, 2012: 160).

Historically, federal prisons in Canada have adopted an accustomed list of goals namely: incapacitation, deterrence, retribution, punishment, rehabilitation, although the emphasis given to each has shifted several times over the past 160 years. In illustrating these changes, Lowman and MacLean (1991: 130), also emphasised by Ekstedt and Griffiths (1988: 73-74), identify six periods of prison philosophy in Canada:

1. A "pre-institutional phase" (1700-1830), with various kinds of corporal and capital punishment;
2. A pre-Confederation period (1830-1867), in which the Auburn-style prison system, based on a philosophy of punishment and penitence, was introduced;
3. A post-Confederation period (1867-1938), during which there was continued faith in prisons but ongoing criticism of the type of prison regime that held sway;
4. A "rehabilitation era" (1938-1970), in which a medical model of criminality gained ascendency and a "treatment" philosophy prevailed;
5. A "reintegration era" which stressed the value of community corrections in opposition to the prison; and

6. The most recent period, which marks a return to the principle of "reparation", which stresses victims' rights and prisoner responsibility

Before the rehabilitation era (1938- 1950), in which a medical model of criminality gained ascendency and a "treatment" philosophy prevailed in Canada throughout the 1950s and 1960s, the rate of incarceration of adults was one of the highest in the world, and – at 240 per 100,000 – exceeded that of the United States by 20 per cent. Furthermore, while it was officially recognised that rehabilitation was most effective where penal conditions matched those of the outside world, a large proportion of those prisoners in 1959, 54% of them were held in maximum security conditions. by the end of the 1960s, this figure had declined substantially to 35%, although rates of imprisonment still exceeded those of the United States, as a result of keeping with the increasing emphasis on rehabilitation (Meyer & O'Malley, 2013: 6).

5.2.1 The rehabilitation and reintegration of offenders in Canadian Correctional Services

According to the Corrections and Conditional Release Act (1992), "the purpose of the federal correctional system is to contribute to assisting the rehabilitation of offenders and their reintegration into the community as law-abiding, citizens through the provision of programmes in penitentiaries and the community" (Gisler, Pruin & Hostettler, 2018: 20).

Gisler, Pruin and Hostettler (2018: 19) mention that the rehabilitation and reintegration programmes of offenders are mainly important concerns in long-term sentences in the Correctional Service of Canada.

Correctional Service of Canada (2009: 127-28) mentions that offenders who are in prison or on parole can be given a diversity of qualified programmes that CSC offers. These programmes address the attitudes and thinking that led to the offender committing the crime. The programmes are also geared to help the offender develop social skills and advance their education. Correctional Services of Canada deliver programmes that focus on the following main capacities:

- Aboriginal specific-programme
- Education and personal development
- Ethnocultural
- Family violence
- Living skills/counter-point/alternatives, attitudes and associates
- Sex offender
- Substance abuse
- Violence prevention
- Programmes for women offenders

The following are four major parts of programmes within Canadian Correctional Services that have been recognised by Goff (1999: 173):

1. Educational programmes – this is critical since most offenders lack basic education and/or literacy skills.
2. Vocational programmes - these aim to prepare women offenders with occupational requirements for them to become employable after they are released.
3. Rehabilitation programmes - these have to do with drug therapy and psychological treatment programmes and also programmes involving medical care
4. Maintenance programmes – this programme includes women offenders in clerical, food service and cleaning roles.

According to Correctional Service (2000), in 2000-2001, the Correctional Services of Canada offer every offender with essential health care, and reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and successful reintegration into the community "and to deliver essential health services comparable to provincial and community standards, notwithstanding the constraints inherent in the correctional environment as stipulated by Legislation" (Correctional Service of Canada, 2002a: 2-4). Gisler, Pruin and Hostettler (2018: 20) also emphasise that the Correctional Service of Canada's health care obligations are concerned with essential health care, containing medical, dental and mental health care, as well

as sensible access to non-essential health care, which contributes to the inmate's rehabilitation and reintegration (CCRA Sections 85 and 86).

It also provides correctional programmes to federal offenders for $85.7 million. These programmes range from substance abuse treatment, living skills and family violence programmes to education and employment programmes. Offenders are also provided with post-secondary education in all federal institutions with provincially accredited or certified programmes that meet their identified education needs to assist them to reintegrate into the community as law-abiding citizens (Meyer & O'Malley, 2013: 10).

According to the Correctional Service of Canada (2001c**),** offenders are offered a wide variety of dietary accommodations that allow offenders the freedom to practice a special diet if they so choose and ethnocultural spiritual support programmes, a spiritual outlet for offenders. (Correctional Service of Canada, 1999b: 1). There are occupational development programmes premised on supporting time management skills, pro-social behaviours, and marketable skills for reintegration (Correctional Service of Canada, 2004).

Gisler, Pruin and Hostettler (2018: 22) explain that The Solicitor General of Canada has developed the so-called Custody Rating Scale as well as regular security review and reclassification procedures of inmates, during Intake assessment. Custody Rating Scale stipulates that CSC "use the least restrictive measures consistent with the protection of the public, staff members and offenders". The more information the CSC obtains on an offender during intake assessment, the more it can identify their criminogenic needs and individualize the correctional plan. Depending on the specificity of an offender, offender assessments help to classify inmates along a broad spectrum, within the security classifications of the CCRA Subsection 30(1) and CCRR Subsection 18 which advise the CSC to establish minimum, medium and high-security classifications. 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

According to the research by the Department of Correctional Services of Canada (1998), treatments that match offender needs and the use of behavioural training techniques have been shown to reduce reoffending by 50 per cent on average. On the other hand, the "get tough" programmes that rely primarily on incarceration have not been shown to produce reductions in reoffending effective correctional treatment requires a careful match between the needs of offenders and programmes that address these specific needs. Programmes aimed at teaching behaviour skills are most effective (Luyt, 1999: 139).

Correctional Services Canada delivers its correctional programs through educational, social, and vocational programs, as well as cultural, physical, and leisure activities, as well as access to a library with books addressing offender's needs for recreational, cultural, spiritual, educational, and informative materials, including information on laws and regulations, religion, ideology, and spiritual knowledge (Gisler, Pruin & Hostettler, 2018: 23).

According to Gisler, Pruin and Hostettler (2018: 24), Correctional Services of Canada programmes are also meet the specific needs of a variety of groups such as Aboriginals and women offenders. "Subsection 4(G) of the CCRA states that "correctional policies, programmes and practices [must] respect to 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". These groups have special needs that require cautious, intentioned programmes. Some programmes assist the families of offenders and the victims of crime. The spiritual needs of offenders are tackled by the chaplaincy programmes. The Carson Report that was initiated by the Solicitor General of Canada addressed special needs offenders as requiring increased support (Winter Dyk, 2004: 69). Meyer and O'Malley (2009: 11) mention that separately from these general programmes and privileges, there are many programmes to meet the "special needs" of Aboriginals, women, and offenders serving long sentences. Aboriginal offenders, which are overrepresented in Canada's Federal Penitentiary System, have officially received extensive attention over the years to the point that there is now an Aboriginal Initiatives Branch in the Correctional Service of Canada (Correctional Service of Canada, 2003b). The Canadian

correctional services have made progress in meeting the requirements of Aboriginal offenders in light of their history in Canada, their treatment by successive governments, and the high levels of poverty and unemployment in most Aboriginal communities. The Royal Commission on Aboriginal People has made a recommendation on the development of Aboriginal justice systems as an element of the fundamental right to self-government (Van Zyl Smit and Dunkel 2001:146)

Section 77 of the Corrections and Conditional Release Act (CCRA) now requires the Correctional Services of Canada to provide programmes designed particularly to address the needs of female offenders and to consult regularly with women's groups and those with expertise on and experience in working with female offenders.

The Correctional Services of Canada (2015) state that the variables considered in decisions about releasing offenders to the community to understand offender reintegration are as follows:

- Collects all the relevant information about the available offender, including items such as the judge's reasons for sentencing and any victim impact statements;
- Assesses the offender's risk level (the likelihood that he or she will re-offend) and criminogenic needs (life functions that lead to criminal behaviour);
- Reduces the offender's risk level by increasing his or her knowledge and skills, and changing the attitudes and behaviours that lead to criminal behaviour;
- Develops and implements programmes and individual interventions that effect change in areas that contribute to criminal behaviour;
- In cooperation with the offender, develops a plan to increase the likelihood that he or she will function in the community as a law-abiding citizen;
- Motivates and helps the offender follow the correctional plan and benefit from correctional programmes and interventions;
- Monitors and assesses the offender's progress in learning and changing;
- Makes recommendations to the national parole board as to the offender's readiness for release and the conditions, if any, under which he or she should be released;

- After release, helps the offender respect the conditions of the release and resolve day-to-day living problems;
- Makes required programmes and interventions available in the community;
- Monitors the offender's behaviour to ensure that he or she is respecting the release conditions and not indulging in criminal behaviour; and
- If required, suspends the offender's release, carries out specific intervention, and reinstates or recommends revocation of the release as appropriate.

Gisler, Pruin and Hostettler (2018: 19) explain that the successful reintegration of an offender depends on the social acceptance and compassion of the general population to reintegrate offenders into society on the other and measures are taken to support their gradual return to society during the stay in correctional centres.

5.2.2 The role of NGOs in the rehabilitation and reintegration of offenders in Canadian Correctional Services

Community involvement in the rehabilitation and reintegration process is an important factor in the Correctional Services of Canada (Griffiths, Dandurand, & Murdoch, 2007). Positive offender reintegration involves the sustenance of citizens and communities (Correctional Services Canada, 2013: 2). Canadian communities and citizens are a fundamental part of the Correctional Service of Canada's (CSC) mandate of protecting the public and encouraging and assisting offenders to become law-abiding citizens (Correctional Sservices of Canada, 2011a).

According to the Correctional Service of Canada (2009: 18), in response to the Government's pledge to build local solutions to problems Canada is facing in the public, the Minister of Public Safety declared the formation of the National Volunteer Association (NVA) in November of 2001. The Association represents volunteers active in all of CSC's operational units (both in institutions and the community). The NVA is consist of all volunteers working within CSC. The purpose of this organisation is to provide a voice for the volunteers across the country as well as

acknowledge and assist those who volunteer within the federal correctional system. The main objective of the National Volunteer Association is to:

- Improve and maintain open discussion between the volunteers and community partners such as the John Howard Society, Prison Fellowship Canada, Canadian Association of Elizabeth Fry Societies, LifeLine, etc.;
- Enhance CSC's ability to ensure volunteers are an integral part of the reintegration process;
- Promote volunteers' contributions and efforts in the institution and the community;
- Engage more citizens to volunteer;
- Represent all CSC volunteers on a national level;
- Promote professional development, sharing of information, training and best practices with the volunteers; and
- Generate a networking structure and a support system for volunteers.

According to Correctional Services Canada (2010), Correctional Services of Canada encourages NGOs as community members to be involved effectively in the delivery of its programmes and services, as well as in the reintegration of offenders into society. The involvement of the Non-Governmental Organisations in the Correctional Services of Canada contributes to the offender reintegration process. A number of NGOs are involved through creativities subsidized under the Outreach Fund that address the themes of current issues/community safety; enhancing the role of Aboriginal communities; building relationships with new or existing stakeholders; cultural diversity; and mental health (Correctional Service of Canada, 2014-15: 38).

Correctional Services Canada (2013: 24) states that NGOs as Community partners provide programmes that contribute to the safe reintegration of offenders into the community through the establishment of community programmes, services and housing. The relationship between NGOs and Correctional Services of Canada ensures an obvious criminal justice system and promote public awareness of correctional activities. Correctional Services Canada (CSC) involves NGOs and volunteers to work concerning the collective goals of public safety and the safe reintegration of offenders into the community. With the majority of offenders being eventually released back into the community (90%), (Correctional Services of Canada, 2009a), it is vital for Correctional

Services Canada not only to establish positive and reciprocal relationships with NGOs but to sustain these relationships. The CSC collaborates with the community through forms of NGOs where the community can share their skills and talents as volunteers at the institutions, in outreach events or by actively advising the CSC through Citizen Advisory Committees (Gisler, Pruin & Hostettler, 2018: 19).

Edgar, Marshall and Bassett (2006: 10) explains that Corrections Canada and the various NGOs that they partner with, formed a Task Force on Community Corrections, identifying the changing nature of corrections in Canada. The Task Force had representation from the Correctional Service of Canada and a number of NGO representatives. The terms of reference for the Task Force included addressing the respective roles and mechanisms required for effective involvement of the NGOs in providing community-based corrections, reviewing and making recommendations on methods of service delivery and examining issues related to funding. This results in a stunning jointly produced draft document summaries core values, strategic objectives, accountability relationships and a clear articulation of what each partner contributes to the other in the relationship. This document was known as "Towards a principles-based Relationship".

According to the Correctional Service of Canada (2014-15: 52), "Correctional Services Canada has federally operated residential facilities and contracts with numerous NGOs to provide services, support and monitoring of offenders on release". NGOs operate the Community Residential Facilities contracted by the correctional Services Canada. Through The Community, Residential Facilities NGOs promote the successful reintegration of offenders and ensure public safety by providing supervision, intervention, support, monitoring and accommodation for offenders on release. The Community Residential Facilities sub-sub-programme includes all activities related to the provision of accommodation for offenders in what is commonly referred to as halfway houses as well as hostels, private home placements and treatment centres (Correctional Service of Canada, 2014-15: 53). It also includes all activities associated with the delivery of a structured and supportive environment during the gradual reintegration process through the provision of accommodation for offenders on parole, statutory release, temporary absence or Long-Term Supervision Order (Correctional Service of Canada, 2014-15: 52).

Correctional Services of Canada consists of a Citizen Engagement Division which advances communication between the Correctional Service of Canada (CSC) and the community by creating opportunities for external role players such as NGOs to become involved, and by inspiring communities to address correctional problems (Correctional Services Canada, 2010). Correctional Services Canada (2013: 9) mentions that the Citizen Engagement Division delivers leadership through the service for the implementation of stakeholders such as NGOs and community relations, including victims of crime. It increases the understanding of the federal correctional process and enhances partnerships with the citizens of Canada. According to Correctional Services Canada (2010), the following are the principles associated with citizen engagement:

- To link correctional challenges openly and proactively;
- To generate opportunities to be involved in the delivery of key services
- To promote a better understanding of the correctional process and more specifically, CSC's role in it;
- To highlight the role of citizens in making communities safer;
- To consult with the community when Correctional Service Canada is developing policies, programmes and/or services and;
- To foster an environment where citizens can participate in decisions and actions that will
- shape communities.

CSC's website also includes information on the organization's volunteer activities, such as an overview of the role volunteers play in the correctional process, the types of programs and services in which volunteers participate, the process of becoming a volunteer, and a number of volunteer resources, such as a volunteer reference handbook and links to the websites of other volunteer organizations (Correctional Services of Canada, 2007; Correctional Services Canada, 2013: 29).

The Correctional Services of Canada recognise the value that NGOs as volunteers play in corrections and encourage them to be more involved in keeping in touch with the community and

become aware of issues surrounding its facilities. The Corrections and Conditional Release Act provides direction to CSC and clearly states that "the service will facilitate the involvement of members of the public in matters relating to the operations of the service" (Correctional Service of Canada, 2009: 17). Within the Correctional Services of Canada, the NGOs can achieve the following:

- To serve as the bridge between institutions and the community by bringing the community into prisons, which can lessen inmate isolation;
- Support with positive reintegration of offender to the society;
- Service to create helpful relationships between CSC and the public; and
- Contribute to reforms in the CSC and help start new programmes.

The Correctional Service of Canada (2009: 17) states that NGOs contribute to offender reintegration in correctional services of Canada by means of the following:

- Being a positive role model;
- Providing mentorship;
- Helping deliver a wider array of programmes to more offenders;
- Helping make the links to offenders from diverse ethnocultural and socio-economic backgrounds; and
- Providing community contacts and continued support to offenders in the community.

According to the Correctional Service of Canada (2009: 18), the following are programmes, activities and assignments in which NGOs contribute to the Correctional Services of Canada as part of rehabilitation and reintegration of offenders:

- **Education**; Tutoring, literacy training, computer skills, and creative writing and vocational skills.
- **Native Liaison;** Involvement in programmes that are directed towards the issues faced by Aboriginal peoples, healing circles, feasts, and alcohol and substance abuse programmes.
- **Multicultural and Ethnic Programmes;** contribution in cultural activities for groups such as Black Brotherhood & Black Sisterhood, and Jewish, Muslim, Punjabi and others groups as

well. Also, providing advice on ethnic and cultural issues and often acting as translators and interpreters.

- **Non-Security Escorts;** escorting offenders to meetings, appointments and support groups in the community. This is a vital contribution as these support groups help the offender successfully re-enter society.
- **Health Care;** Assistance with HIV/Aids awareness, palliative care, and suicide prevention.
- **Chaplaincy;** Providing fellowship, worship services, faith-based activities and interventions. These NGOs bring continuity of care from community to institution and back to the community. Community chaplains and volunteers are involved in this endeavour.
- **Social/Recreation;** Directing, organizing, and participating in sports activities, theatre events, quilting groups, family social events and holiday projects.
- **Parole Offices;** These NGOs that have special skills (i.e., mental health professionals or teachers) may be assigned to an offender who requires assistance in the volunteer's area of expertise, under the direction of a parole officer. Trained NGOs provide offender classification services, post-sentence reports and case management assistance to parole officers.

5.2.3 Overview of the NGOs involved in rehabilitation and reintegration of offenders in Correctional Services Canada.

The conversion of an offender to the community is most probable to be positive when communities and NGOs sustain joint relationships in the delivery of tools and assistance for an adequately supported transition (Gisler, Pruin & Hostettler, 2018: 27). Some community organisations assist in offender rehabilitation and reintegration of offenders in the Canadian Correctional Services. The Correctional Services of Canada has agreements with NGOs such as Prison Fellowship Canada, Citizen Advisory Committees Canadian Association of Elizabeth Fry Societies, COSAs, John Howard Societies, LifeLine, Aboriginal Communities and COCAN. All these NGOs are discussed in detail as follows:

5.2.4.1 Prison Fellowship Canada

Prison Fellowship Canada (2017) states that its vision is to be a national community of reconciliation and restoration to prisoners, ex-prisoners, their families and victims using a faith-based approach to transformation based on the life and teachings of Jesus Christ. Its primary mission is to use a restorative justice approach based on the life and teachings of Jesus to bring about transformation to those who have been incarcerated. As well as to mobilize and equip the Canadian Christian community in response to the issue of crime and the restoration of offenders. NGOs such as Prison Fellowship Canada offers a pen pal programme connecting offenders to volunteer writers to stay connected with the outside world as part of rehabilitation programme (Gisler, Pruin & Hostettler, 2018: 21)

5.2.4.2 Citizen Advisory Committees

Citizen Advisory Committees (CAC) are lawfully authorized by the Corrections and Conditional Release Act to involve society in problems relating to its operations and (CAC) attached to most operational units in each of the regions. Its members are appointed for a period of two years by the Deputy Commissioner of the region, based on the recommendation of the designated CSC Warden or District Director of Parole Offices, and in consultation with the specific CAC involved. Correctional Services of Canada is responsible for training members of (CAC) Local CAC members must be representative of the community and reflect its needs and demographics (e.g., ethnic composition, gender, age, language, etc.). The goals of CACs are to promote public knowledge and understanding of corrections through communication among offenders, CSC staff and the public; contribute to the overall development of correctional facilities and programmes; foster public participation in the correctional process, and participate in developing community resources designed to support correctional programmes (Correctional Service of Canada, 2009: 19).

The role played by the Correctional Services Canada (2013: 32) is critical in assisting CAC to operate with openness and integrity. They act as impartial observers on daily operations and they

are the link between CSC and the public, working to build understanding and support for the correctional process (Correctional Service of Canada, 2009: 28). CACs provide feedback to CSC on the implementation of some of the recommendations from the Review Panel Report and are regularly consulted on various subject areas including the parole process and reintegration of offenders; dangerous offenders and long-term supervision orders; the role of Victim Services; and, offenders with mental disorders (Correctional Services of Canada, 2010b). The Correctional Service of Canada (2009: 19) states that its members represent various social, cultural, and demographic backgrounds and occupations, and usually reside in proximity to the operational unit for which the committee serves (Correctional Service of Canada, 2009: 28). This NGO is a citizen-based committee that delivers advice on the implementation and development of correctional facilities and programmes, act as impartial observers, and act as a liaison between offenders, CSC staff, and the public (Correctional Service of Canada, 2009: 19).

According to Correctional Services Canada (2013: 31), the roles and responsibilities of CACs as defined in Commissioner's Directive 23: Citizen Advisory Committees are to serve as:

- Advisors: who provide impartial advice to CSC managers on the operation of correctional facilities and their impact on surrounding communities;
- Observers: who provide impartial feedback on the day-to-day activities and operations of CSC;
- Liaisons: who liaise with CSC staff and offenders and their representatives, other Organisations including criminal justice and advocacy groups and the community to address correctional issues; and,
- Supporter: who educate the public about CSC, address public concerns, and build community support for the correctional process.

5.2.4.3 Canadian Association of Elizabeth Fry Societies

The Canadian Association of Elizabeth Fry Societies (CAEFS) was established in 1969 and was integrated as a national NGO in 1978. Currently, there are more than 25 member societies across Canada. CAEFS is integrated according to the provisions of the Canada Corporations Act. Local

societies are incorporated under provincial statutes (Arsenault, 2020). Correctional Service of Canada (2009: 28) mentions that this organisation offers a number of programmes and services tailored to the needs of female offenders. This support begins when a woman is incarcerated and continues until she is released from correctional institution and reintegrated into society. Life skills, counselling (for concerns such as abuse, employment, and financial aid), dispute resolution, accommodation, drop-in centres, court assistance, and emotional support are just some of the services available. They also keep an eye on upcoming changes in the legislation and government policies that could have an impact on women's rights. .

James (2013: 32-37) observed some of CAEFS Ottawa and Toronto programmes that are available to criminalized women between the ages of 18- 65 and use these programmes as a baseline for analysis. The following are the programmes in which the Canadian Association of Elizabeth Fry Societies Ottawa consists of:

- **Counselling and Public Education**: The goal of this programme provides is to assist women and young women in the form of casework counselling, support groups, crisis counselling, legal and justice service information, advocacy, life skills, and referrals. There are three structured programmes offered to women in conflict with the law: Anger Programme (10 weeks), Theft Prevention Programme (10 weeks), and Relapse Prevention Programme (10 weeks). Counselling and Public Education also deliver One-on-one support as needed, including trauma and abuse counselling and relationship counselling they continue to use an integrated case-management approach in all of their services. Canadian Association of Elizabeth Fry Societies in Ottawa recommendations to their services are made by the criminal justice system, social workers, social assistance workers, lawyers, medical professionals, and self and community referrals

- **Aboriginal /Peer Support Programme:** Their programmes offer individual and group peer support to criminalized women who are struggling to reintegrate back into society. This Programme consists of two groups; the Peer Support group and the Aboriginal Support group. The Peer Support group takes place once a week and is open to all criminalized

women. The Aboriginal Support group also meets weekly and assists Aboriginal clients to get back to their cultural roots. Individual counselling is also provided giving the women an opportunity to talk about various issues and to gain practical one-on-one assistance from the Aboriginal Liaison/Peer Support Worker. The Aboriginal Liaison/Peer Support Worker also works at the Elizabeth Fry Society of Ottawa office at the Ontario Provincial courthouse weekly to assist with court release and cell block visits.

- **Health Promotion Programme:** This programme offers women and young women access to support and education around nutrition, physical recreation, self-esteem building, and addiction and relapse prevention. It offers both individual counselling, as well as several groups for both adult and young women. The groups, which last 10 weeks, offer women a non-judgmental environment where open discussions are facilitated. Groups also provide an opportunity for women to make connections with others to reduce isolation. The group allows for a hands-on cooking experience and weekly visits to the gym for all participants.

- **SEX Trade Support Services – Hooked Up and Gateway:** Hooked Up is a support programme that offers non-judgmental support to adult women and transgendered individuals who are, or who have been, involved in the sex trade. Programmes include one-on-one counselling and support, weekly educational groups (Gateway), court support and advocacy, and life skills coaching. Gateway is a follow-up programme to the Salvation Army's three-day Sex-Trade Education Programme (STEP). The programme is delivered in a safe, supportive environment, includes light meals, guest speakers, and resource sharing and is also open to women who have not participated in the STEP programme. Group topics include street safety, healthy relationships, sexual health, addictions, self-esteem and self-care, anger, and communication.

- **The Direct Accountability Programme:** This is different from prosecution for qualified individuals 18 years of age or older, with no prior (or limited prior) involvement in the adult court system, and who have been charged with minor criminal offences. Qualified individuals are referred to the Community Justice Worker who will complete an assessment of the individual and discuss with the participant the sanction(s) to be imposed and the time

limit for completion of the agreed-upon sanction(s). Sanctions may include: attending a programme or seminar, restitution, an apology letter, community service or a charitable donation. Using community-based sanctions is an effective way of holding individuals accountable for minor offences. By successfully completing their sanction(s), individuals can have their charge(s) withdrawn by the court.

- **Community Justice Initiatives Programmes: "**In an effort to offer community-based programmes to the participants in the Direct Accountability Programme, the Elizabeth Fry Society received funding from the Ministry of the Attorney General to deliver Community Justice Initiative Programmes in the areas of Anger Management for Women, Alcohol and Drug Awareness for Women, and Stop Shop Theft for Women and Men."

- **Court Release Programme:** The Court Release Programme was created in July 2009, functioning out of the Ottawa Elizabeth Fry Society office situated in the Ottawa Provincial Courthouse. 747 seven hundred and forty seven individuals participated in this programme, Between April 1, 2010, and March 31, 2011. The programme is designed to help women and men upon their release from the Provincial Courthouse Cellblock, is carried out by volunteers of the Elizabeth Fry Society of Ottawa and is a non-funded programme. Offenders are released from the Courthouse Cellblock without money, wallet, winter coats, identification, identification or outdoor footwear, on daily basis.

- **Counselling Support to Adult and Youth Mental Health Court:** Staff members participate in Adult and Youth Mental Health Court counsel pre-trial. During pre-trial staff members routinely assist in creating treatment and community reintegration plans for clients and they also participate in the court proceedings for Youth Mental Health Court. They advocate for clients and provide resources to both crown and defence attorneys to assist clients. More than 65 offenders were referred to Elizabeth Fry Society of Ottawa programmes, Between April 1, 2010, and March 31, 2011, through adult and youth mental health court and pre-trial, and many more were assisted in the Courthouse by way of triage, case management, and advocacy.

- **In-Reach to GVI, Joliette:** The Elizabeth Fry Society of Ottawa received funding from the Correctional Service Canada to provide in-reach services to women in custody at Grand Valley Institution for Women and Joliette Institution, both of which are multilevel Federal Institutions. This programme has now been running for more than 2 years.

- **Housing Retention and Eviction Prevention:** "Housing support is offered by the Elizabeth Fry Society to assist clients who are living on the street, in the shelter system, in temporary accommodations, and those who are already housed. In-reach services are also provided to women who are incarcerated at Grand Valley Institution for Women, Vanier Institution for Women, and Joliette Institution for Women in preparation for their release into the community. Some of the services offered include public education on landlord-tenant rights and responsibilities, providing information and resources to clients searching for affordable housing, assistance with landlord/tenant disputes, support and advocacy, and assistance with housing retention."

- **In-Reach Services at the Ottawa-Carleton Detention Centre:** This programme offers advocacy, support, crises counselling, and housing support to women incarcerated at the Ottawa-Carleton Detention Centre (O.C.D.C.). More than 210 Offenders have participated in this programme, from April 1, 2009, and March 31, 2010. The decrease in the number of clients participating in this programme in 2012 was mainly due to the fact that OCDC underwent major renovations during the year, which regrettably limited the amount of client contact. Offenders use to meet one on- one with a worker while they are incarcerated, to create a release plan that addresses their individual needs while networking with suitable community supports to facilitate successful community re-integration.

- **J.F. Norwood House:** The purpose of the programme is to encourage an environment where women can focus on education and employment, help facilitate successful reintegration into the community by offering a safe and have access to other Elizabeth Fry services and wider

community supports. Essentially is a transitional housing programme offering a supportive living environment for women.

The following are the programmes that James, (2013: 32) identified from the Canadian Association of Elizabeth Fry Societies to be available to criminalized women between the ages of 18- 65 in Toronto:

- **Community Programmes:** Offer programmes such; Partner Abuse Response Programme • Healing from Abuse • Parenting • Theft & Fraud • Anger Management • Drug & Alcohol Counselling • General Counselling Results. The goal of this programme is to provide counselling and psycho-educational services for women (16 years old and up) who are, have been or are at risk of conflict with the law both in the community and in correctional centres. All programmes are free and do not have catchment areas. The programmes provide the first stage of healing. Canadian Association of Elizabeth Fry Societies offers one-on-one or group counselling in a series of 8-12 sessions, a combination of a maximum of 24 sessions and one-day workshops.

- **Homelessness & Outreach Programmes:** Offer programmes such; Post Incarceration Housing Programme Project OWN-outreach & education, Newcomer Programme, BEST Pre- Employment Programme, and Work Safe Programme- sex worker HIV/ STI prevention. The goal of this programme is to provide a range of education and support programmes to homeless women and at-risk women in the community and prison. All programmes are free and serve women who are or intend to live in Toronto.

- **Prison & Court Services:** This programme aims to provide a range of services intended to distract women from the criminal justice system and at a prison to aid with reintegration upon release.

- **COSA** is a post-incarceration programme for sex offenders and involves volunteers in the reintegration process. It has gained a large amount of international attention in recent years.

The COSAs, which originated in Canada in the mid-1990s, in each city have their own specific structure, and they all have the same Organisational structure and are based on the principles of restorative justice (Gisler, Pruin & Hostettler, 2018: 27). Wilson, Picheca and Prinzo (2005: 1-2) mention that its Mission Statement is "to substantially reduce the risk of future sexual victimization of community members by assisting and supporting released men in their task of integrating with the community and leading responsible, productive, and accountable lives and its goal is "to promote successful integration of released men into the community by providing support, advocacy, and a way to be meaningfully accountable in exchange for living safely in the community.

According to Wilson, Cortoni and McWhinnie (2009: 426), COSA is an excellent example of a positive approach by the community used to increase offender accountability and community safety. It delivers positive social influences, real support with intellectual and other problem solving, and helps counteract the social isolation and feelings of loneliness and rejection associated with sexual reoffending. They offer real support such as meeting practical needs like housing or work and offering an established network of emotional support. In addition, they support offenders in developing their pro-social strategies, offering solutions to common and daily problems. An offender's participation in COSA is based on their voluntary commitment without any judicial mandate (Gisler, Pruin & Hostettler, 2018: 27).

As always, results show that the rates of reoffending in men who were involved in a COSA were significantly lower than those of similar high-risk offenders who did not participate in a COSA. After an average follow-up time of 4 years, COSA Core Members may have had a 77% reduction in sexual recidivism compared to controls. (Elliott, Zajac & Meyer, 2013: 6).

5.2.4.5 John Howard Societies

The Correctional Service of Canada (2009: 28) states that the John Howard Societies are part of an international movement that works with people who have come into conflict with the law and

advocates for change in the criminal justice process. They are dedicated to understanding and responding to problems of crime and the criminal justice system. The John Howard Societies are very active in educating the public on matters relating to criminal law and its application. They actively promote crime prevention through community and social activities. Societies recognize that the problem of crime and its prevention is as much the responsibility of the community as it is of the government**.** "Each of the John Howard Societies has volunteer programmes that place volunteers in a number of areas including courtroom assistance, youth worker assistance, tutors, and leisure and recreational assistance" (Council, E.S.P., 2002. 2001: 1).

According to the John Howard Society of Canada (2015: 1), its mission statement entails effective, just and humane responses to the causes and consequences of crime. In continuance of its mission, the Society is to:

1. Reviews evaluate and advocates for changes in the criminal justice process;
2. Works with people who have come into conflict with the law;
3. Engages in public education on matters relating to criminal law and its application, and
4. promotes crime prevention through community and social development activities.

John Howard Society of Alberta (2000: 1) states that the active role played by Alberta John Howard Societies in the criminal justice process, accompanied by a general portfolio of programmes supported by community-based organisation. Programmes listed include those for the community, offenders and ex-offenders, young offenders and families of offenders. John Howard Society of Alberta (2001: 1**)** mentions that the values that they share are as follows:

1. Every person has the right to live in a safe, secure and peaceful environment;
2. Each individual has inherent dignity and intrinsic worth and must be treated fairly and compassionately; and
3. The individual as a person must always be accepted since every person has the potential to become a responsible citizen, while negative behaviour is rejected.

The John Howard Society, in partnership with CCS Community Services, is committed to developing programmes that can benefit both individual and group development. These

programmes assist in developing leadership that include the type of protective factors youth at risk need to experience. Programmes can enhance the ability to maintain or regain health and can offset the effects of risk factors and thus reduce vulnerability (The John Howard Society of Canada, 2015: 18).

According to the John Howard Society of Alberta (2001: 1-3), guided by their values, the various societies play an active role in the criminal justice process by providing a variety of programmes and services for offenders and ex-offenders. The John Howard Society provide programmes such as Community Assessment and Parole Supervision, Substance Abuse, Anger Management, Community Reintegration, Literacy/Vocational. All these programmes and services are explained in detail as follows:

- **Community Assessment and Parole Supervision:** This programme is delivered by the Edmonton John Howard Society. The Society conducts Community Assessments to determine available supports for offenders eligible for release, and provides supervision of Federal and Provincial offenders on conditional release in South-eastern Alberta, under contract with the Correctional Service of Canada.

- **Substance Abuse:** This programme is provided by the Calgary John Howard Society. It is also known as Choices Substance Abuse Programme. This programme works to keep offenders who have problems with alcohol and/or other drugs out of prison.

- **Anger Management:** The programme is offered at the Edmonton Attendance Centre, it is an educational programme that helps adults to understand and change the thoughts, responses and actions that often lead to anger and to learn how to deal with anger more effectively.

- **Community Reintegration:** This programme consists of four sub-programmes such as 1) Release Support Programme which is an offer by the Calgary John Howard Society. It aims to assist individuals who need help integrating into the community are assisted direct service and those who have come into conflict with the law. 2) Community Reintegration

Programme (CRP) which is an offer by the Edmonton John Howard Society. 3) Client Services Programme this programme is delivered by The John Howard Society of Grande Prairie. The goal of this programme is to meet the needs of clients by way of information, support and referral services. Offenders and ex-offenders receive essential direction and support in the community. 4) Release Assistance Programme; this programme is offered by the Lethbridge John Howard Society. Its main aim is to make sure that offenders receive compulsory social assistance and establish links with other social programmes in the community at the time of their release by carrying out intake work at the Lethbridge Correctional centre.

- **Literacy/Vocational:** This programme is run by the Calgary John Howard Society and the society operate in four ways programmes such as 1) Drop-In School it is available to offenders and ex-offenders as well as to youth at risk by means of assisting students in the areas of Literacy, Academic Upgrading, GED Preparation, High School exam preparation and computer skills. 2) Learning Education Enhancement Programme (LEEP) Aimed to service people who have a criminal record, lack of training and experience, communication difficulties or a low income as an employment training programme. 3) The Learning Opportunities Centre enables students to pursue academic upgrading and educational goals in all core subject areas to the Grade 12 level, on a full or part-time basis in the day or evening. Volunteer tutors allow students to pursue their education at no cost. 4) The Literacy Programme "provides offenders and ex-offenders the opportunity to improve their literacy levels by matching them with volunteer tutors who assist them in meeting their learning goals in the areas of reading, writing, mathematics and other areas of interest".

The John Howard Society also provide services such as Institutional Visitation, Pre-Release Planning, Transportation, Intake, Counselling and others. These services are explained in detail as follows by the John Howard Society of Alberta (2001: 4-7):

- **Institutional Visitation:** This service is offered by the Calgary John Howard Society. Offenders are interviewed on an individual basis and Services include counselling, advocacy,

referrals and pre-release planning. These services are offered for offenders who are incarcerated at the Calgary Correctional centre, the Bow River Correctional centre, the Calgary Remand Centre and the Forensic Unit at the Peter Lougheed Hospital. Volunteers provide community contact, information and support to youth and adults incarcerated at the Medicine Hat Remand Centre

- **Pre-Release Planning:** This service is offered as part of its Institutional Visitation service for offenders who are incarcerated at the Calgary Correctional centre, the Bow River Correctional centre, the Calgary Remand Centre and the Forensic Unit at the Peter Lougheed Hospital to receive assistance with pre-release planning.

- **Transportation:** Clients are assisted through information, referral and counselling intended to facilitate successful integration into the community. Therefore, Medicine Hat John Howard Society may arrange transportation as part of its Client Services. Recommendation to and support with other community services provide for basic needs, transportation, employment, legal services, education and other needs.

- **Intake:** The John Howard Society of Calgary offers intake and emergency referral services as part of its Release Support Programme. The John Howard Society of Lethbridge provides post-release services. These services include low-cost living information, employment readiness consultation, private consultation and referrals to other community agencies and services to offenders.

- **Counselling:** The John Howard Society of Calgary, as part of its Release Support Programme, offers addictions, employment, career and personal counselling. This service can lead to the development of stability and independence of the offender.

The programmes that they offer for young offenders and youth at risk are as follows: Literacy/Vocational, Youth Advocacy and Youth Justice Committees. The John Howard Society of Alberta (2001: 8-9) explains these programmes and services as follows:

- **Literacy/Vocational:** This programme is also known as the Drop-In School run by the John Howard Society of Calgary. The Drop-in School is registered above in the section entitled "Programmes, Services and Facilities for Offenders and Ex-Offenders" and below in the section entitled "Community Programmes and Services" because it is available to offenders and ex-offenders as well as to youth at risk.

- **Youth Advocacy:** The John Howard Society of Calgary delivers Youth Advocacy and Support. Support and advocacy services are offered to youth, young adult and their caregivers in the areas of education, employment, housing and conflict resolution. The Society works in cooperation with the Alberta Youth in Care and Custody Network (AYICCN). Its goals are to voice the observations and opinions of youth in care, promote the improvement of services for these youth, provide support and advocacy and hold the Child Welfare system accountable for its actions.

- **Youth Justice Committees:** The John Howard Society of Calgary works in partnership with the Calgary Youth Justice Society. The Calgary Youth Justice Society provides support to communities to establish and operate Youth Justice Committees (YJCs). Volunteers work with young offenders and their families, victims and the community to find meaningful consequences for youth in conflict with the law. The John Howard Society also provide services for young offenders such as facilities.

The John Howard Society of Canada is nowadays a member of the Canadian Centre on Substance Abuse (CCSA)'s once more formed Working Group on Offender Substance Abuse intended to promote best practices in supporting successful community reintegration for offenders with a history of substance use problems (The John Howard Society of Canada, 2015: 5).

5.2.4.6 LifeLine

Correctional Services of Canada (2015) explains that LifeLine is the first efficient effort to address the needs of lifers both on their incarceration and during their reintegration back to the community. “Lifeline’s mission is to help offenders make a successful, supervised, gradual reintegration into the community “(Correctional Service of Canada, 2009: 29). A contribution from the Donner Canadian Foundation empowered St. Leonard's House, with the Correctional Service of Canada and the National Parole Board, to develop a ground-breaking programme for long-term inmates (Correctional Services of Canada, 2015). LifeLine is a social programme delivered through a partnership between CSC, National Parole Board (NPB) and community-based sponsoring agencies. This programme is designed for the men and women serving life sentences in federal penitentiaries or the community (Correctional Service of Canada, 2009: 29). According to Correctional Services of Canada, (2015), the LifeLine Project started with the In-Reach Programme, which was aimed to make a positive influence on the lifer in the early stage of the long sentence. It provides a residential programme for lifers for up to three years - in other words, for the full period between eligibility for day parole and full parole.

John Braithwaite guided the cooperative process to articulate the three fundamental elements of the LifeLine Project: this was originally challenged for St. Leonard's (NGOs) to do something for the 25-year lifer. The following are three fundamental elements of the LifeLine Project (Correctional Services of Canada, 2015):

1. The In-Reach Programme aimed to work with lifers in organisations;
2. The LifeLine Centre, a residential and resource centre designed to provide gradual and supervised reintegration into the community; and
3. The application of the LifeLine Project to other communities across Canada.

Through this social project, paroled lifers who have been successfully living in the community for at least five years return to institutions to offer support to incarcerated lifers throughout their sentence (Correctional Service of Canada, 2009: 29).

5.2.4.7 Aboriginal Communities

Correctional Services of Canada (2006-2011: 7) states that in 1997, Canada's Executive Committee approved the strategy to enhance the role of Aboriginal communities in corrections as one of its major objectives. This Framework was successful in 1999. In partnership with the then Department of the Solicitor General and the National Parole Board, the role for Aboriginal communities formed the basis for the development of an "Effective Corrections Initiative". Aboriginal communities are interested in developing healing lodges, many lacked the capacity and/or expertise to engage in the planning, development and implementation of community-based alternatives. "Many offender reintegration initiatives involve members of Canada's Aboriginal communities. These volunteers teach native culture, traditions and spirituality along with advice to offenders, staff and members of the NPB. Aboriginal community members are also involved in visiting programmes, social and recreational activities and many other programmes and services to offenders" (Correctional Service of Canada, 2009: 29).

The main concern for rural and remote communities, including the North and urban centres, were focused on more immediate needs such as health, housing, and economic development. Urban centres Main concerns were issues related to the social marginalization of Aboriginal people (Correctional Services of Canada, 2006- 2011: 7).

According to Correctional Services of Canada (2006- 2011: 7), an inspection of results in 2002 of offenders who had been released from curative lodges, found higher rates of reoffending than for Aboriginal offenders released from CSC minimum-security institutions (19% versus 13%). CSC lacked Aboriginal-specific programmes in institutions to help offenders prepare for the healing lodge environment. An audit of access to spiritual and cultural services in 2000 had indicated that only 3 per cent of Aboriginal offenders were identified.

5.2.4.8 CORCAN

The CORCAN Corporation was created in 1980 to serve as the production and marketing arm of the Correctional Service of Canada (CSC). In 2001, CORCAN employed forty thousand 4000 offenders and its programmes operated in over half of the federal correctional facilities across Canada. CORCAN (2009: 3) is a Special Effective Organisation within the Correctional Service of Canada (CSC) with the obligation to reintegrate offenders into society after they are released from the correctional environment. According to the John Howard Society of Alberta (2002: ii), CORCAN was granted the title of Special Operating Agency (SOA) in 1992, which offers certain organisations the opportunity to become more productive, efficient and competitive. In 2001, CORCAN operated within the following business areas: manufacturing, construction, services and textiles and agribusiness. Each business area is responsible for providing services or products that range from agriculture commodities to computer data entry and database creation services (John Howard Society of Alberta, 2002: ii). The Correctional Service of Canada (2016: 51) mentions that "The CORCAN Employment and Employability Programme contributes to public safety by helping offenders develop and enhance their employment skills to meet the specific demands of the labour market, thereby improving their chances of employment and safe release into the community".

CORCAN achieves its obligation by providing employment training and employability skills to offenders while they are inside incarceration and for a short time after release, as well as a range of employment services to help offenders find and keep a job once they are released from correctional services, to reduce the risk of re-offending (CORCAN, 2009: 3). According to the Correctional Service of Canada (2016: 51), their programmes are designed to allow offenders to obtain skills and develop the pro-social attitudes and behaviours that are valued by employers, which represents a key part of CSC's efforts to actively support offenders to become law-abiding citizens. "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. In line with this, the CSC also allows work releases, which afford an offender a release of a specific duration for work or community service

outside the penitentiary. Offenders receive payments for their participation, enabling them to take responsibility and save for their reintegration" (Gisler, Pruin & Hostettler, 2018: 25).

5.3 THE CORRECTIONS AND PRISON SYSTEMS IN THE UNITED STATES OF AMERICA

5.3.1 Types of correctional systems in the USA

Otero, Brownfield, Posner and Jacobs (2012, 9) mention that in the USA there are no national prison services. Corrections in the United States are a collection of a number of local, county, state, tribal and federal organisations**.** Correctional departments are in charge of all 50 states' prison systems. In addition to state-run prisons, twenty-nine states use privately run contract prisons. (Holt, 2015: 8). Labane (2012: 182) mentions that the USA has three correctional systems: federal prisons, state prisons and country jails as this was stated by (Clear & Cole, 1994: 240). Correctional systems and prison systems are not the same things, and jails are not prisons (Otero, Brownfield et al., 2012: 5). There are numerous distinctions between the jail and prison environments that create unique obstacles and necessitate novel approaches to re-entry. (Solomon, Osborne, LoBuglio, Mellow & Mukamal, 2008: 19). These three correctional systems are discussed below:

5.3.1.1 County jails and local facilities

American states build their own state prison systems. The local government in these states build their own jails designed to incarcerate the pre-trial inmate, those sentenced awaiting transport to prison, and those sentenced to a short period of time, mostly less than a year (Kerle, 1998: 11) Additional categories of jail offenders include probationers awaiting hearings, offenders sentenced to state prisons for whom there is no space but who cannot be released, federal offenders awaiting marshals' pick up, and mentally ill offenders for whom there are no other services, according to Labane (2012: 183).

Silverman and Vega (1996: 476) state that jails are an incarceration service mostly administered by a local law enforcement agency intended for adults but sometimes also containing juveniles and other offenders awaiting adjudication. Carlson and Garrett (1999: 20) mention that jails should be viewed as the focal point of correctional strategy and public safety policy since this was argued by George Killings and Catherine Coles. Jail**s** are mainly used for prisoners being detained in pre-trial status and, since the profiles of the offenders are incomplete, these operations are focused on containment and prisoner movement to and from court (Otero, Brownfield et al., 2012: 5). They are described by Solomon, Osborne, LoBuglio, Mellow and Mukamal (2008: 4) as the entry point to the correctional system and also the backstop, housing individuals for multiple reasons and multiple agencies and jurisdictions. Jails are designed to serve two purposes: 1) jails also hold individuals who have violated the conditions of their pretrial release and parole or probation supervision; 2) incarcerate inmates for state or federal authorities because of prison overcrowding and temporarily hold inmates sentenced to prison, inmates in transit from one prison to another, and juveniles awaiting transfer to juvenile authorities.

Pollock (2006: 268) mentions that the Bureau of Justice Statistics has emphasised the impotent functions that jails performs as follows :

- Receive people awaiting arraignment and hold them awaiting trial, convictions, and sentencing.
- Readmit probation, parole, and bail-bond violators and absconders.
- The short-term detainment of youths awaiting transfer to young authorities.
- Hold mentally ill persons awaiting their movement to suitable health services.
- Hold people for the military, for protective custody, for disapproval, and the courts as a witness.
- Release sentenced convicts to the community upon completion of sentence.
- Transfer prisoners to state, federal, and other local authorities.
- Incarcerating prisoners for federal, state, or other authorities because of crowding of their accommodations.
- Hand over custody of temporary detainees to youthful and medical authorities.

- Operate community–based programmes with day reporting, home detention, electronic monitoring, or other types of supervision.
- Hold inmates sentenced to short terms (generally less than one year).

Brennan, Wells and Carr, (2013: 6) briefly discuss various goals and several performance criteria in which jail undergo:

- **Staff and inmate safety**: Both inmate and staff safety rely on valid identification, classification, separation, and supervision of inmates. This identification relies on carefully collected, individual inmate demographics, and background and risk factor data (e.g., criminal history, past convictions, arrests, past behaviour problems). An essential role of the jail is to provide valid identification of offenders.

- **Public safety**: The second role of the jail is to provide public safety. This involves operational classification, housing, supervision, and inmate management strategies that reduce the risk of escapes, walkaways from work assignments, new crimes committed while on work release, recidivism, and erroneous community placement.

- **Protection against liability and protection of inmates' rights:** The third role of the jail is to minimize liability and avoid costly lawsuits and monetary awards. Jails must provide a quality of life that ensures access to services and meets the needs of inmates' medical, dental, mental health, nutrition, and clothing needs to provide a safe environment, it is important to collect data that are specific to the limitations of the facility and could result in litigation, such as inadequate space (crowding, poor cell design), poorly maintained or damaged locks, doors, surveillance cameras, inadequate lighting, lack of access to recreation, to monitor performance criteria in these circumstances.

- **Rehabilitation programmes and work assignment**s: Successful jails recognize that an inmate's incarceration is an opportunity to address that person's criminogenic risk factors (that is, those factors that produce or tend to produce crime or criminality). As a result,

inmates' access to rehabilitation programmes is gaining importance on the ground. As re-entry initiatives are implemented and begin to take hold in local corrections plans, inmate programmes are often initiated in the jail and then continued once inmates are released and re-enter the community. This practice saves taxpayer money and it is an important component of good correctional policy and may reduce recidivism. Admission to work assignments of lower-risk inmates also supports effective correctional policy - it keeps inmates busy, permits extra time off their sentence for good behaviour, and gives participants some additional work experience.

The challenges of jails include the broad variety of circumstances under which individuals are housed, their short lengths of stay, their high levels of service needs, and the minimal jail capacity to provide treatment or training in the jail setting. These unique challenges of jails are briefly discussed by Solomon, Osborne, LoBuglio, Mellow & Mukamal (2008: 21):

- **Jails house a varied population**: Local jails serve a range of functions; such as holding persons awaiting trial, conviction, or sentencing; persons sentenced for a crime whose sentence is typically less than one year; and probation and parole violators.

- **Lengths of stay are short:** The vast majority of local jail inmates stay not more than one month, most arrested only for limited days or hours. The majority of jail inmates who have not been convicted are subject to unpredictable release dates, making it difficult for the jail to manage effective release planning.

- **Individual challenges are high; jail service capacity is low**: Jails typically do not have the capacity (or appropriate length of custody) to provide extensive programmes. Most large jails do provide some interventions, such as self-help substance abuse groups and education programmes; however, the extent of services and feasibility for expansion are limited. In a jail setting, the ability to meet challenges such as substance use, mental and physical health, housing, and employment are more limited.

- **Jails are locally run and independently operated**: Because jails are run at the county or city level, policy changes aimed at them are far more difficult to implement than re-entry reform at the state level. Jails have very different resources, needs, and populations, given that the communities in which jails are located differ from urban to rural.

- **There is no designated community-based system in place to facilitate the transition process:** When people leave jail, they often face challenges finding and maintaining employment; accessing necessary medication, addiction treatment, and health care services.

Both prisoners and jail inmates face substantial challenges around substance use, mental and physical health, housing, and employment (Solomon, Osborne et al., 2018: 21).

5.3.1.2 State and federal prisons

Prisons are long-term incarceration accommodations run by a state or the federal government that typically hold offenders with sentences of more than one year (Muhlhausen, 2018: viii). "According to the laws of the state, each state has its system. Prisons are separately operated at the state level. There are many similarities in the way these prisons are managed, even though the state systems differ. The correctional institution contained in the prison is divided into four different levels of security prison. These correctional systems form the central part of most state correctional programmes with the combination of punishment and reform. Correctional officials are expected to transform the conduct of the offender to prevent them from committing offences again, even though most state prisons are running short of finances and personnel (Labane, 2012: 182).

According to the U.S. Department of Justice Federal Bureau of Prisons (2015: 1), the Bureau of Prison protects the general public by confining offenders in prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure. It is responsible for the care and custody of more than two hundred and eight thousand federal offenders. About 81 per cent of these inmates are confined in federal correctional institutions or detention centres, and the

remainder is held in secure privately managed or community-based facilities and local jails under contract with the Bureau.

According to Holt (2015: 8), the federal prison system is operated by the Federal Bureau of Prisons (BOP), an organisation of the Department of Justice, which is accountable for the supervision of all adults convicted of a federal crime. The BOP runs one hunded and twenty (121) organisations of its own and also incarcerates inmates in contract facilities operated by private corporations. There are federal institutions in most of the fifty (50) states as well as the District of Columbia and Puerto Rico. The federal prison system is in control of in-service prisons incarcerating criminals charged or convicted of federal crimes (Otero, Brownfield, Posner & Jacobs, 2012, 9).

The Federal Bureau in the Department of Justice delivers correctional services and offender development at the federal level. The Federal Bureau established a training school of correctional officials with upgrading education, disciplinary and industrial programmes and an inclusive classification programme (Labane, 2012: 181), and ensures that inmates are offered programmes and services to assist them in becoming proactive law-abiding citizens when they return to their communities. Prison work programmes provide inmates with an opportunity to gain marketable occupational skills, as well as obtain a sound work ethic and habits. Medically able inmates are required to work more or less (U.S. Department of Justice Federal Bureau of Prisons, 2015: 1-5).

The federal prison system staff are key to effective inmate management. Bureau prison is committed to the personal welfare and professional development of each employee and to accomplish its mission federal prison ensures that it recognises its staff as the most valuable resource (Silverman, 2001: 256). U.S. Department of Justice Federal Bureau of Prisons (2015: 3) explains that staff are expected to talk with inmates and to be receptive to their concerns. Positive and regular interaction and communication between staff and inmates are critical to maintaining responsibility and ensuring security. According to Silverman (2001: 256), staff share the mutual role as correctional workers, which requires a common obligation for maintaining safe and secure institutions and for displaying society's normal values and norms.

U.S. Department of Justice Federal Bureau of Prisons (2015: 2) mentions that the Bureau operates organisations at four security levels (minimum, low, medium, and high) and has one maximum-security prison for less than one per cent of inmates who require that level of security. Mays and Winfree (2005: 133) explain that maximum-security prisons have highly secure perimeters, usually consisting of walls or strongly reinforced fences. The federal prison system also has administrative facilities, such as pretrial detention centres and medical referral centres, that have specialized missions and confines offenders of all security levels (U.S. Department of Justice Federal Bureau of Prisons, 2015: 2).

5.3.2 The rehabilitation and reintegration of offenders in correctional systems of the United State of America

Retribution, deterrence, incapacitation, and rehabilitation are frequently mentioned as the most important commitments of the corrections sector in the US. Several state corrections systems led by the Ohio Department of Corrections and Rehabilitation have expanded their mission statements to include responsibility for successful re-entry and reintegration (Russo, Drake, Shaffer & Jackson, 2017: 3-4). Silverman (2001: 128) points out that the Handbook of Correctional Standards of the American Correctional Association analysed rehabilitation as the basic aim of correctional institutions. `According to Clear and Cole (2000: 77), in the USA the use of rehabilitation has always been promoted as a key correctional goal in every correctional institution and was the most well-known correctional philosophy for many years as a process of changing the current criminal behaviour of an offender through some form of 31 vocational, educational or therapeutic treatment (Mays & Winfree, 2005: 6). The American Correctional Association has affirmed that a prison system's resistant emphasis on rehabilitation of inmates is the only way to professionally honour its duty to shield society from crimes (Seigafo, 2017: 186). "In the USA over 9 in 10 State prisons provided educational programmes for their inmates. Half of State prison inmates reported they had participated in an educational programme since their most recent admission to prison. About a quarter of State inmates had taken basic education or high school-level courses, and almost a third, vocational training" (Harlow, 2003: 1).

Taylor (2017: 3) mentions that rehabilitation programmes are largely accessible to offenders who are confined in both state prison and county jail, as well as those who are supervised in the community by state parole agents or county probation officers. County jails, where offenders are incarcerated for a shorter period, compromise fewer rehabilitation services than state or federal prisons due to high throughput rates as well as limited resources, major overcrowding, and unsafe conditions requiring frequent lockdowns and cell confinement.

O'Connor (2014: 37) mentions that "Nine out ten states, federal, and private prisons offer educational programmes including GED preparatory classes, high school courses, basic education in reading and math, and even college courses. Additionally, nearly one-third of all state and federal prisons offer inmates job skill vocational opportunities". This was also emphasised by Silverman and Vega (1996: 389) that almost half of all inmates contribute to academic education throughout their imprisonment and nearly one-third are involved in vocational training. Correctional populations comprising State and Federal prison inmates, local jail inmates, and probationers differ extensively in educational accomplishment from persons 18 and older in the general civilian noninstitutional population (Harlow, 2003: 2). Fourteen per cent of jail prisoners, 54 per cent of state prisoners, and 57 per cent of federal prisoners participated in some educational programme during their stay. As reported by the Bureau of Justice statistics just over 22 per cent of federal inmates had obtained a high school diploma. Approximately nine in 10 State prisons and all Federal prisons, provide educational programmes for their inmates (Harlow, 2003: 3).

According to Harlow (2003: 5), women in State prisons are more likely than men to have received a high school diploma or attended an institution of higher learning. Women in State prisons were more to be expected to have completed high school than men and less likely to have passed the GED. Almost half of the female and male inmates had taken part in an educational programme since admission. About 21 per cent of women and 24 per cent of men took high school or GED classes; 30% per cent of women and 32 per cent of men were enrolled in a vocational programme.

According to Carlson and Garret (2008: 84), education programmes depend on the assessment of offender needs, community resources, and the labour market. Intake interviews and presentence investigations frequently reveal critical information about educational attainment previous to incarceration, functional performance, prior skill training, employment history, and past specialised treatment, such as special education services. (Carlson & Garret, 2006: 88). Scaggs, Bales, Clark et al. (2016: 5) state that in the Florida Department of Corrections during the admission of an inmate, inmates are assigned to treatment modalities based on an assessment from the Drug Simple Screening Instrument (DSSI). Inmates are assigned to one of four different treatment modalities such as therapeutic communities; intensive outpatient; aftercare with a work release component; or transitional centre.

Identifying assessment needs determines a level of custody and prison assignment appropriate for an inmate. State prison in most instances, its treatment programmes operate mainly as extensions of security functions. Both state and federal prisons usually place rehabilitation programmes at the centre of their business, with more emphasis on the programme (Snarr, 1996: 72; Kratcoski, 2004: 213). The concept of differential treatment is founded based on the classification treatment rehabilitation arrangements, which implies that the offender's needs and problems and those of probations must be definite and treated on an individualised basis. According to Van Voorhis, (2001: 1), classification models and strategies were addressed by correctional administrators and the legislative body from classification and research offices throughout the 50 states of the USA and the Federal Bureau of Prisons. The offenders are matched with an exceptional treatment programme that addresses their specific problems and needs (Kratcoski, 2004: 213).

According to Hughes (2015: 24), "In 2005 the California Department of Corrections expanded its name, becoming the California Department of Corrections and Rehabilitation (CDCR)". The California Department of Corrections and Rehabilitation offenders are involved in rehabilitation programmes such as education and substance use disorder treatment. These programmes seek to improve the possibility that offenders will lead a productive, crime-free life upon release from prison by addressing the underlying factors that led to their criminal activity. When such

programmes are well-designed and implemented effectively, various studies show that they can reduce the number of offenders who recidivate (or re-offend) and that the resulting savings can more than offset their costs (Taylor, 2017: 3).

Taylor (2017: 4-5) mentions that in the California Department of Corrections and Rehabilitation (CDCR), there are six categories of in-prison rehabilitation programmes in which the state funds. Upon admission to prison, CDCR assesses inmates' rehabilitative needs and assigns them to programmes. These programmes are operated by CDCR employees, other governmental employees, private entities, or NGOs. These categories are as follows:

1. **Academic Education**. Academic education programmes include General Education Development (GED) certification, the high school diploma programme, different college programmes and adult basic education. All inmates who score low literacy is required by the State law to attend adult basic education programmes.

2. **Career Technical Education (CTE).** The programmes offer job training for different career sectors, including masonry, carpentry, and auto repair.

3. **Cognitive Behavioural Therapy (CBT).** These programmes provide various forms of therapy to address rehabilitative needs—such as criminal thinking and anger management—that, if left unaddressed, can increase the likelihood of recidivism. CBT programmes are designed to help offenders change the patterns of behaviour that led to criminal activity.

4. **Employment Preparation**. Employment preparation programmes deliver employment skills, such as job willingness and job search performances, for inmates up to six months earlier to their release to relieve their change back into society.

5. **Substance Use Disorder Treatment (SUDT).** SUDT programmes are different from other rehabilitation programmes in which inmates generally attend voluntarily, The California Department of Corrections and Rehabilitation requires certain inmates who are caught using

alcohol or illegal substances while in prison to attend SUDT programmes. The programmes focus on assisting inmates to treat their substance use disorders, avoid relapse, and successfully reintegrate into society.

6. **Arts-in-Corrections.** Arts-in-Corrections programmes emphasise providing inmates with arts programmes reaching from theatre to creative writing.

7. **Innovative Programme Grants**. Innovative programme grants provide limited-term funding to support various volunteer-run programmes - such as prison gardening programmes and mentorship projects - at certain prisons.

O'Connor (2014: 42) mentions that the California Department of Corrections Inmate population consisted of 167 276 inmates in 2013, making up the largest 43 state prison population. The California Department of Corrections and Rehabilitation is responsible for implementing and administering rehabilitation programmes. As soon as the inmate is transferred from the reception centre to the institution where he or she will be incarcerated, the inmate meets with a CDCR correctional counsellor to discuss the results of the risk and need assessments and whether the inmate is interested in particular rehabilitation programmes**.** After this preliminary conversation with the inmate, the institution's Unit Classification Committee (UCC), which consists of correctional counsellors and representatives from state-funded rehabilitation programmes, meets to regulate the inmate's specific housing assignment and rehabilitation programme assignment. The following are the top five rehabilitation needs that are identified by Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) (Taylor, 2017: 7).

In Texas state prisons, there is the so-called Project Reintegration of Offenders scheme. The scheme functions largely through the school operating within the prisons, namely the Windham School District. The school offers offenders services such as employability and life skills projects, job readiness training, changes programmes, assessment and testing and documentation (Schmalleger & Smykla, 2001: 363).

According to The U.S. Department of Justice (2015: 5-7), the Federal Bureau of Prisons delivers various programmes, aimed to assign inmates and address their needs such as education, mental health treatment, anger management, substance abuse treatment, parenting and more. Whereas, work programmes arrange for inmates an opportunity to obtain marketable occupational skills, as well as obtain a sound work ethic and habits. Several work projects are connected to vocational training programmes and may lead to formal apprenticeships. These programmes keep inmates constructively occupied and contribute to positive lifestyles and self-improvement. Federal prisons provide the following programmes to offenders:

- **Federal Prison Industries** (FPI) and **Vocational Training** as one of the most important correctional programmes.

- **Education programme individually**: Inmates who participate in education programmes for a minimum of six months are less likely to recidivate when compared to similar inmates who did not participate in these programmes.

- **Recreation programmes**: Recreation programmes support imparts inmates to make positive use of relaxation time to reduce stress, improve their health and develop hobbies they enjoy.

- **Inmate Faith-Based Programmes**: The Bureau offers inmates the opportunity to participate in a range of faith-based services and programmes and Inmate programmes include spiritual counselling. Federal prisons offer religious diets that meet the dietary requirements of various faith groups, such as the Jewish and Islamic faiths. Inmates are allowed permission to wear or preserve various religious items, and accommodations are made to observe holy days.
- **Residential Substance Abuse Treatment:** These programmes (RDAPs) are offered at more than seventy seven (77) bureau institutions, providing treatment to more than 18 000 inmates each year. RDAPs deliver serious half-day programmes, five days a week, for 9-12 months. Inmates in RDAP are accommodated in a single accommodation unit that functions as a modified therapeutic community. Inmates who complete RDAP are 16 per cent less likely to

recidivate and 15 per cent less likely to have a relapse to drug use within three years after release. Nonviolent offenders who complete the programme are eligible to have their sentence reduced by up to one year.

- **Pro-Social Values Programmes:** The Federal Bureau of Prisons implemented a number of programmes which considerably reduce institutional misconduct and these programmes are encouraged by residential drug abuse treatment programmes positive results, comprising the Challenge Programme for high-security inmates, which treats inmates with a history of substance abuse or mental illness, the BRAVE (Bureau Rehabilitation and Values Enhancement) Programme for younger, newly-designated offenders, which addresses anti-social attitudes and behaviour; the Secure Mental Health Treatment Programme, which treats inmates with serious mental illness and histories of significant violence.

- **Programmes for Female Offenders:** The Federal Bureau of Prisons continue to refine strategies on the most effective initiatives to assist women with their re-entry and self-improvement needs. Female offenders are considered a speciality population and The Resolve Programme consists of evidence-based protocols individually tailored to help women heal from trauma. The Bureau identifies the significance of the connection experienced between mother and child and offers programmes for women who will give birth while incarcerated. Video visitation, another initiative that helps female inmates connect with their children and social support network, is being implemented at all-female federal institutions.

The Reintegration programme of offenders in the Federal Bureau of Prisons is known as Preparing Inmates for Release. According to the U.S. Department of Justice (2015: 8), Bureau prisons encourage inmates to participate in the Release Preparation Programme. This programme takes place near the end of the inmate's sentence. Preparing Inmates for Release includes presentations by representatives from community-based organisations that help former inmates find employment and training opportunities after release. It also includes a series of classes regarding daily living activities in the community including employment, job search strategies,

job retention, banking, and resume writing. The Bureau inspires inmates to sustain and develop ties with their children through parenting programmes that include specialized activities such as day camps and workshops. Inmates maintain bonds with their family and friends through visiting, mail, email and the telephone with the assistance of the Federal Bureau.

"The Bureau's Inmate Transition Branch helps inmates prepare release portfolios that include a resume, education and training certificates and transcripts, diplomas, and other significant documents needed to secure employment" (U.S. Department of Justice, 2015: 8).

Duwe (2017: 19) mentions that in the United States of America Federal Bureau of Prisons has introduced the so-called prisoner re-entry, formerly known as the Pre-Release Programme**.** Prisoner re-entry has attracted a great deal of interest for a few key reasons, since the turn of the 21st century. The prisoner re-entry concept has been broadly applied by the federal bureau of prison to any programme that attempts to reduce recidivism for offenders released from prison. In general, however, programmes given the "prisoner re-entry" label tend to focus on improving the delivery of services and programmes across multiple areas such as housing, education, employment, and substance abuse treatment. The federal government has sponsored several major initiatives that have led to the implementation of community-level prisoner re-entry projects across the country (Duwe, 2017: 20).

Jannetta (2007: 23) states that the California Department of Corrections and Rehabilitation provide Re-Entry Education. Re-Entry Education is a competency-based classroom programme of Correctional Education. All inmates who have an Earliest Possible Release Date within 180 days are qualified to take part in Re-Entry Education. This programme is voluntary for Inmate to participate and be trained upon accessibility of programme space. This programme prepares inmates for successful re-entry to their communities by reviewing resources available to them and instructing them in daily living skills. The goal of this programme is to deliver a curriculum that centres on employability skills, communication skills, money management skills, community resources and parole resources. By undertaking so, the programme pursues to

improve life skills essential for success on parole and to acquaint, prepare, and assist inmates for successful re-entry in the community.

5.3.3 The role of NGOs in the rehabilitation and reintegration of offenders in correctional systems of the United State of America

According to Williams (n:: 68), Because of the large number of persons in need of services and the intensity of their service demands, government agencies in the United States rely on community-based organisations to help provide re-entry support to the justice-involved population. Brownfield (2014: 22) claims that civil society, local and international NGOs may collect and proclaim information about prison conditions in partner countries. They may also be available to provide training, goods, and services to the prison population including education, vocational training, spiritual counselling, family and marriage issues, substance abuse counselling, health education, blankets, and food in US corrections. A great number of correctional institutions depend on NGOs to assist personnel in various programmes and everyday jobs (Tewksbury & Dabney, 2004: 173).

According to Carlson and Garret (2006: 391), correctional administrators increase the public's acceptance of the facility by fostering a strong volunteer programme in which society becomes involved with inside programmes which improve the well-being of inmates. NGOs work as education tutors, religious discussion coordinators, and leaders for current event discussion groups. The society also is called upon to serve on the detention facility's community relation board. The Community Relation Board (CRB) can be made up of advocacy groups, media relations, professional association membership for the senior staff jails and prisons.

Prisons or jail administrators use the Community Relation Board (CRB) to improve communication with the local community. CRBs support the development of community involvement in institution programmes. Also, benefit community members too and improve the facility's programme through supporting volunteer programmes. The CRBs trained very effectively by volunteers who compete as individuals or teams participate in training officials, or

serve as coaches or fans. The CRB encourage volunteer participation to extend the facility's programmes; inmates will realize that there are people other than correctional staff who honestly cares about them (Carlson & Garret, 2006: 393-4). Most correctional institutions have Community Relations Boards that assist information exchange between the facility and the local community, advancing public awareness and an understanding of any issues of concern at the prison. Community volunteers help inmates adapt to imprisonment and prepare for their return to the community (U.S. Department of Justice, 2015: 10).

Kort-Butler and Malone (2014: 518) emphasises that correctional systems in the United States carry on to depend on and even expand their reliance on NGOs as volunteers. Given that inmate programmes could not be maintained without volunteers from NGOs, recruitment and retention need to understand why people volunteer and what their experiences are like. In the lack of healthful physical environments in Californian prisons, NGOs such as PEP uses words to inspire and empower inmates (Reese, 2017: 16).

In 2004, the governor of California acknowledged that there was a high percentage of inmates who were drug-addicted and, without access to treatment, would resume the use of illegal drugs upon their release from prison. The US government decided to carefully choose three NGOs to provide services that started inside the prison and supported a seamless transition to the community no matter where the inmates were released within the state of Illinois. Treatment Alternatives for Safer Communities (TASC) provided case management services, WestCare Foundation provided substance abuse treatment services, and Safer Foundation delivered employment services (Williams, n: 64).

Abrams, Hughes, Meek and Inderbitzin (2015: 3) mention that in the USA, the NGOs sector has had a long-standing relationship with prisons and prisoners. NGOs have played an important role in providing programmes for inmates as well as in shaping the culture of penal institutions themselves, starting with prison chaplains and later expanding to education, work training, and a range of rehabilitative services, community volunteers and NGOs can act to confirm or reaffirm

pro-social identities such as student, or a person of faith, that can help to replace the stigmatized prisoner or criminal identity for a person who is incarcerated (Hughes, 2015: 39).

According to Robison (2015: 277), prison NGOs provide volunteer labour and social capital to prisons. The joint charities of volunteers are a superficially appreciated advantage at a time in the United State of America when decreasing budgets create the need to do more with less in prisons. Volunteers with specialized skills, such as educational training, should be very appealing to prison administration as prison education budgets have been dramatically cut over the last five years before 2015. Kort-Butler and Malone (2014: 509) mentioned that the correctional system at federal and state levels depend on NGOs to complement facilities and programmes and to provide direct services for inmates that the facilities cannot offer due to costs and resource limitations. Volunteers described a shift in how they thought about inmates and about the system itself (Kort-Butler & Malone 2014: 519)

Substantial federal funding initiatives such as the Second Chance Re-entry Act and the Severe and Violent Offenders Initiative have offered competitive grant opportunities for NGOs to establish and implement successful re-entry programmes. These NGOs also address issues of structural discrimination and racism while they tackle their main goal of preparing former inmates for employment (Lea III & Abrams, 2015: 219-220). Kort-Butler and Malone (2014: 508) mention that the Federal Bureau of Prisons (2009) states that more than ten thousand (10,000) people volunteered four or more times in federal facilities during the fiscal year 2009 are involved in training inmates in health and nutrition; teaching employment, finance, and consumer skills; and providing assistance in accessing community resources. Volunteers also provide religious, counselling, parenting, recreational, educational, vocational, and release preparation programmes in the federal system. They spend time visiting with and mentoring inmates, as well as guiding leisure-time activities.

Most NGOs had been involved at the correctional institution for an extensive period of time. The longest period of time has been volunteering is five years and one month, with fully one-half of all NGOs having been involved for more than three years. Only one in five (21.4%) NGOs had

been doing so for one year or less. Moreover, volunteers were typically involved on a fairly regular basis, with the normal volunteer being in the institution one day per week for 2.8 hours (Tewksbury & Dabney, 2004: 175).

The impact of a comprehensive programme of volunteer services is very positive. The result of volunteers' efforts may be seen in many areas in the United States correctional, including religious services, recreation, staff training, social services, substance abuse treatment, and pre- or post-release. The following are areas that are offered by volunteers are discussed below by Carlson and Garret (2008: 295) and Tewksbury and Dabney (2004: 179):

- **Religious services:** the majority of NGO**s** are involved in religious programmes working under chapels in DCS. The vast majority (91%) of the volunteers chose to contribute their services to the religious programmes (Tewksbury & Dabney, 2004: 179). O'Connor (2004: 19) states that This breakdown of volunteers suggests that religious and/or spiritual considerations drive the majority of persons who are willing (or can be mobilised) to help in a correctional context. Religious programmes are the most traditional and largest area of volunteering in jail or prison. This is one of the oldest types of volunteer programmes in American corrections practice by Non-Profit Organisations (Carlson & Garret, 2008: 295). Jones (2003: 154) mentions that this can be traced back to the most primitive effort. There is a historical link between religious ideals and the use of prison to rehabilitate offenders. Religious organisations such as the Quakers Pennsylvanian, view imprisonment as an opportunity to rehabilitate offenders, rather than simply punishing them. Even current American correctional institutions provide religious programmes through chaplains and NGOs. Members of clergy first become involved in prison programmes in the 1700s and 1800s. In most cases, the staff chaplain handles the overall coordination of the volunteers. Volunteers may make a difference in whether an agreement can be accomplished and upheld (Carlson & Garret, 2008: 295).

- **Recreation programme:** Leadership and sportsmanship are thought to be very effective by volunteers who compete as individuals or teams participate in training officials, coaches or

fans. This organisational component of most institutions is often unsupported by appropriation and therefore depend on volunteer involvement (Carlson & Garret, 2008: 295). According to McShane (2008: 222), NGOs such as National Correctional Recreation Association (NCRA) that assist many prisons at athletic programmes believe that the goal of sports is to raise inmate morale through healthy activity and unstill social acceptance attitudes and conduct as well as to develop inmates' interest in recreation so that they will continue there is a type of activity following their release from prison.

- **Social services:** Offender education programmes require support to provide service to any significant number of inmates who need to develop academic and vocational skills. The volunteers can work in literacy, adult basic education, and job skills development programmes. Education is a cornerstone of any programme to reduce recidivism by improving opportunities for legitimate employment after release. Education also is traditionally underfunded. Reese (2017: 9) mentions that some NGOs visit correctional services and present Academic Orientation presentations, Career Development workshops, or tutor inmates to assist offenders prepare to pass the General Education Development test.

- **Staff training:** Represents an often-overlooked area where volunteers can contribute. Many institutions do not have sufficient staff or funds for the outside contractors to provide training in areas such as cultural diversity, employment law, management and supervision practices, and technical medical and mental health issues. The professional development of staff is a good way to involve the community in the institution.

- **Substance abuse:** Without volunteers, the ability of facilities to provide broad-based programmes of substance abuse education would be severely diminished. Alcoholics Anonymous and Narcotics Anonymous have a long, widely heralded record of accomplishment in correctional institutions. The commitment of individual volunteers, many of whom have previously conquered substance abuse problems, is a significant factor in this success (Carlson & Garret, 2008: 295). The next largest group of volunteers (14%) belongs

to spiritually based drug and alcohol programmes such as Alcoholics Anonymous and Narcotics Anonymous (O'Connor, 2004: 19).

- **Pre-release and post-release programmes** are other examples of critical areas that receive too little budgetary support given their importance in meeting correctional goals. Volunteers fill this gap. They provide service – not just enrich that which is already provided. Community support to the released offender is frequently the only support available. Involvement begins at the institution with education in a pre-release setting about how to access services. The involvement continues after release, with volunteers serving as mentors and providing guidance and support.

5.3.4 Overview of the NGOs involved in rehabilitation and reintegration of offenders in correctional systems of the United State of America

According to Jones (2003: 148), for offenders to be helped to recognise and accept their responsibility for criminal acts, NGOs provide most correctional programmes geared towards effecting an internal change in them. Once the offenders have recognised their responsibility, support is needed to affect a behaviour change. There is number of NGOs involved in the correctional system of the US to assist in bringing change to a number of incarcerated persons as well as to assist staff to rehabilitate and reintegrate offenders. The researcher briefly discusses a few NGOs involved in US correctional system, these NGOs or volunteers are as follows: The Prison Education Project, Osborne Association, Faith-based and community organisations, The Safer Foundation.

5.3.4.1 The Prison Education Project

Snarr (1996: 176) claims that since the opening of the Walnut Street jail in Philadelphia in 1790, education and prison have been connected. According to the Connect Network (2016), The Prison Education Project Organisation (known as PEP) functions out of California. PEP has serviced approximately 4,000 inmates in their facilities with the help of 700-university student

and faculty volunteers' facilities since 2011. PEP is the largest volunteer-based prison education programme of its kind in the United States. The Prison Education Project (PEP) is a model prison NGO programme. The prison education project (PEP) is the main NGO prison education programme of its kind in the United States (Reese, 2017: 6). Garcia (2013: 5) mentions that the essential objective of PEP is to improve and shape the intellectual skills of the inmates that contribute to the programme so they can become functional and productive members of society, as a result decreasing reoffending. PEP's mission is to support the California Department of Corrections and Rehabilitation (CDCR) in decreasing reoffending in California. If such a mission is accomplished, the state would save roughly $44 million.

"The Prison Education Project (PEP) was developed by a team which included five prison administrators from the California Institution for Men in Chino, a representative of the California Department of Corrections and Rehabilitation's Assistant Superintendent for Correctional Education, the Dean of the College of Education and Integrative Studies at California State Polytechnic University at Pomona" (Reese, 2017: 6).

The Washington University Prison Education Project was established when a group of talent, who were concerned in education exclusive academy courses in prison, initiated a meeting in 2011. In 2014, they protected capital from the Confederation for the Liberal Arts in Prison and commenced education for-credit, college-level classes at the Missouri Eastern Correctional Center (MECC) in Pacific, Missouri. In 2015, PEP was also financed by the Office of the Provost at Washington University. In 2016, PEP is the only programme of its kind that is largely financed by the university. In addition to offering courses for incarcerated students, PEP also offers courses for correctional staff (Prison Education Project 2019).

The Prison Education Project (2019) mentions that the Washington University Prison Education Project (PEP) is a reasonable generous arts degree programme accessible at the Missouri Eastern Correctional Centre (MECC) in Pacific, MO, available to inmate students and correctional personnel. The aim of the Washington University Prison Education Project (PEP) is to convey Washington University's intellectual accuracy and educational standards to their students in the

prison. they offer semester-long college courses, short-term workshops and individual tutoring for incarcerated and staff students. PEP is a completely accredited programme, currently admitting the Associate's Degree in Liberal Arts. Washington University Prison Education Project also anticipate reaching inmates at the Missouri Eastern Correctional Centre (MECC) who are not PEP students by offering reading groups, lectures, and other intellectual opportunities to improve their quality of life and inspire them to continue their education, through PEP or somewhere else.

5.3.4.2 The Safer Foundation

The Safer Foundation of Chicago is an NGO that was established in 1972 with a grant from the Department of Justice by two former priests. One of them, Raymond "Bernie" Curran, as manpower development and training director of a national trade association in Illinois, received a U.S. Department of Justice grant to provide vocational training to prison inmates and to help them enter unions and private industry after release (Finn, 1998: 5). According to the Safer Foundation (2000), its mission is to reduce recidivism by supporting the effort of ex-offenders to become productive, through a full spectrum of services, the efforts of people with criminal records to become employed, law-abiding members of the community.

Williams (n: 68) explains that every year, the Safer Foundation services thousands of people with criminal records choose a new direction of responsibility, education, and productivity. Without involvement, 52 per cent return to prison. The Safer Foundation provides a range of programmes and services to help ex-offenders find employment after they are released from prison. "Organisations such as the safer foundation meet offenders' needs in many areas that assist them towards independence and dignity" (Jones 2003.158). Williams (undated: 47) states that the organisation functions as a customary workers development programme ideal with demand skills training as its newest growing component. While not all of the Safer Foundation's clients have been imprisoned, they have all been found guilty of committing crimes. Like many NGOs, the Safer Foundation's clients are mainly male, minority (in the case of the Safer Foundation, African American), undereducated, coming from high rates of crime, and single-

family households, communities with high rates of unemployment. The Safer Foundation provides a collection of services that include: Case Management, Mentoring, Educational Intervention, Service Learning, Industry Training, Employment Services, Expungement, Follow-Up, and Substance Abuse Treatment.

According to Muntingh (Jones, 2003: 158), one of the foundation's main developments is Programmed Activities for Correctional Education (PACE) at Cook County jail. The programme provides sentenced and un-sentenced inmates with basic education and presents life skills courses. Each volunteer commits to six sequential weeks of training and is provided with a 30-page handbook regarding working with inmates and PACE rules. Most of its volunteers are college students and they receive credits for their college work. Programme Activities for Correctional Education services average 130 inmates of a population of 10 000 at any given time. "To date, the Safer Foundation has helped more than 40,000 offenders to find employment. The foundation is staffed by approximately 200 professionals and 300 volunteers" (Safe Foundation 2000; Jones, 2003: 158).

5.3.4.3 Faith-based and community organisations

According to the National Institute of Corrections (undated), many prisons and jails have separate housing units with a religious focus. Correctional institutions have their own choice to offer rehabilitative offender programme that uses a faith-based model. Correctional institutions, these initiatives are offered in addition to standard opportunities for inmates to observe their own religious practices.

Correctional programmes frequently network to link individuals to the resources needed to re-enter the community successfully. Outreach to inmates and offenders is frequently provided by faith-based volunteer and community organisations are as follows:

- Examples of more recent programmes, such as the Faith- and Character-Based Initiatives in Florida and Indiana, are provided.

- Guides, best practices, toolkits, and studies on the development and effectiveness of faith-based programmes are available both for institutional and community settings.

According to Wilcox (1998 in, Willison, Brazzell & Kim, 2011: 11), thousands of faith-based organisations (FBOs) provide a wide range of services to offenders in prison and those returning to their communities from prisons and jails. Services include mentoring of young adults and children of prisoners, job training, emergency and long-term shelter and treatment for addiction. According to Willison, Brazzell, and Kim, (2011; 11), faith communities surrounding correctional institutions often play a vital role in the provision of spiritual and faith-based services to inmates. Personal development and parenting classes sponsored by faith-based programmes are offered in more than 70 per cent of the systems reporting to the Compendium, and 68 per cent provide meditation groups and marriage classes. All U.S. prison systems offer faith-based worship services and religious programmes; 93 per cent also offer prayer groups (Willison, Brazzell & Kim, 2011: 12). Faith-based prison programmes can be useful not by only making an effort to rehabilitate prisoners, but by attempting to change the prison culture to one that is both conducive to and promotes prosocial behaviour (Johnson, 2012: 62).

Faith-based community actions can assist in mobilising and providing vital aftercare services to convicts upon their release from jail. For example, two of the key areas where IFI aftercare professionals provided crucial assistance were employment and housing. Because these faith-based programmes rely heavily on volunteers, they can help give particularly close supervision and assistance to those who are deemed to be the most likely to reoffend after their release. Engaged IFI mentors were crucial to the aftercare process – an asset and characteristic that is often missing from standard prisoner re-entry programmes .(Johnson, 2012: 62).

Faith-based and community organisations have succeeded on several occasions**.** Yoon and Nickel (2008: 2) mention examples of faith-based and community organisations' successes:

- The Safer Foundation is a large NGO that manages two minimum-security male residential transition centres on behalf of the Illinois Department of Corrections. "A study completed in

2004 found that the three-year recidivism rate for the entire group of individuals released from the department in 2000 was 54 per cent. In contrast, the recidivism rate for clients of the Safer Foundation who received employment services and attained employment was 21 per cent."

- Another example is a faith-based re-entry programme known as the Inner Change Freedom Initiative (IFI). The programme begins 18 to 24 months before an individual is released from prison and provides ongoing mentoring and support for 12 months after release. The faith-based re-entry programme operates in six states across the US. An independent evaluation of IFI found that offenders who have completed the programme were less likely to re-offend within two years of release than those who did not complete the programme (8 per cent vs. 36.3 per cent).

- There is a three-year pilot programme called Ready for Work. This programme operates in eleven major cities across the United States of America. The programme is jointly funded by the U.S. Department of Justice, Public/Private Ventures, and a host of private foundations and administered by the U.S. Department of labour, Centre for Faith-Based and Community Initiatives, and Ready for Work provides employment-focused programmes, which incorporate mentoring, job training, job placement, case management, and other re-entry services, to people released from state prisons. According to Public/Private Projects, only 6.9 per cent of programme contributors were reincarcerated in state prisons as a result of a new offence within one year of their release.

5.3.4.4 Osborne Association

The Osborne Association (2019) mentions that the Osborne Association has an 85-year history of functioning with presently and formerly incarcerated men, women, children and families affected by incarceration. The Osborne Association claims that its mission is to offer opportunities for individuals who have conflicted with the law to transform their lives through innovative, effective, and replicable programmes that serve the community by reducing crime

and its human and economic costs. It also offers opportunities for reform and rehabilitation through public education, advocacy, and alternatives to incarceration that respect the dignity of people and honour their capacity to change.

The Osborne Association based in New York has established a training programme which is provided to teachers and other staff working with children and young people (social workers, psychologists etc.) (Roberts, 2012: 9). It aims to:

- Offer an understanding of the impact of parental imprisonment on children and how this affects their education;
- Service correctional personnel to talk with sensitivity with children about the matter;
- Provide correctional personnel with tools to direct the criminal justice system so that they can communicate with and include incarcerated parents in their children's education; and
- Inform staff about available resources.

Roberts (2012: 10) states that the training offers offenders who have participated with facts and statistics as well as an overview of the criminal justice system and allows them to enter into the stories of children affected by imprisonment through discussion of a set of case studies.

According to the Osborne Association (2019), their programmes draw upon research and evaluation that has confirmed achievement with people involved in the criminal justice system and are designed to be family-focused, supporting offender who partakes within the setting of their family relationships and communities strengthening relationships that are the bedrock of our participants' future success. The Osborne Association works in partnership with individuals, families, and communities to create opportunities for people affected by the criminal justice system to further develop their strengths and lead lives of responsibility and contribution (Osborne Association, 2019).

The Osborne Association offers a wide range of direct services and programmes to criminal justice system-involved people and their children and families. Their programmes and services are an indication- and experience-based and designed to: heal the damage and trauma of crime

and incarceration, reduce crime and reliance on incarceration, and enhance the opportunity for those affected by crime and incarceration (Osborne Association, 2019).

5.4 THE CORRECTIONS AND PRISON SYSTEMS IN NAMIBIA

Namibia gained its freedom in 1990 after many years of apartheid rule by South Africa. The country implemented the UN-Standard Minimum Rules for Non-Custodial Measures (UN, 1977) and in 1995 and the Ministry of Prisons and Correctional Services was established (Johnson, 2015: 45). Chipango (2016: 16) mentions that the Namibian Correctional Service formerly known as the Namibian Prison Service had the most important obligation of being the custodian of offenders lawfully put under its custody, through administering the court-imposed sentences of the offenders.

According to Dissel (2000), "The Namibian correctional service forms part of the criminal justice system which is governed by the Namibian Constitution of the Republic of Namibia". Namibian and South African correctional systems developments are defined as improved more than those of other SADC countries (Chipango, 2016: 15). Ya Toivo and Shikongo (2005: 2) mention that the Namibian Correctional Service as a government organisation responsible for the care and social integration of offenders, does not only administer sentences imposed by courts of law but in the process, we as members of the Service are also required to work with offenders at every stage of their sentences in order to change their behaviours.

According to Mlanguzwa (2003**)**, in Namibia, there is a Ministry of Prisons and Correctional Services and a Namibian Prison Service (NPS). Preserved in the constitution, the aims of these are, among others, to reform the prison system congenital from the colonial government, and the social rehabilitation of offenders. The NPS has about 1500 correctional personnel, some of whom already held their positions before the independence of the country in 1990. The Namibian Correctional Service was established in 1995 after the post-colonial era of the South African government. Before 1995, the Namibian correctional service was under administered the South African Prison Act 1952. The apartheid prisons operated on a theory of retributive

punishment inherited from the German colonial period. Force served as the primary tool of implementing and upholding the punitive philosophy. The Namibian Correctional Service under the criminal justice system has the legal custodial responsibility for correcting the sentenced persons. The Corrections Service Act, No. 9 of 2012, Commissioner General's directives and Chapter 3 of the Constitution, guides the correctional service (Chipango, 2016: 16).

Promulgation of Correctional Service Act, 2012 (2012: 8) states that The Correctional Service consists of:

- The Commissioner-General of the Correctional Service, appointed by the President in accordance with Article 32(4)(c)(cc) of the Namibian Constitution, who is the head of the Correctional Service;
- Such correctional officers as may be appointed under Section 8; and
- Such staff members may be appointed under the Public Service Act, 1995 (Act No. 13 of 1995) and posted to the Correctional Service.

Promulgation of Correctional Service Act, 2012 (2012: 8) states that the functions of the Correctional Service are:

a. To ensure that every inmate is secured in safe and humane custody, within a correctional facility, until lawfully released or removed correctional institution;
b. To render health care to inmates;
c. As far as practicable, to apply such rehabilitation programmes and other meaningful and constructive activities to sentenced offenders that contribute to their rehabilitation and successful reintegration into the community as law-abiding citizens; to supervise offenders who are on conditional release;
d. To perform all work necessary for, arising from, or incidental to, the effective management, administration and control of correctional facilities and community correctional centres; and
e. To perform such other functions as the President may from time to time;
f. Assign to the Correctional Service.

"The Namibian Prison Service Strategic Plan (2003-2007) is derived from the Mission Statement and Policy document of the Namibian Prison Service, and aims at providing "direction and accountability at all levels and services, and will serve as a vehicle in providing the principal means of coordinating the implementation of the Mission Statement and Policy document of the Namibian Prison Service" (Oxche, 2006).

Key objectives are:

- To deliver safe custody to offenders to protect the general public;
- To deliver safe custody to offenders to protect them from themselves;
- To deliver safe custody to offenders to protect prison members and other services.

Providers:

- To deliver safe custody to offenders to provide for the basic needs (health care, food, clothing, shelter, sanitation) of offenders;
- To deliver rehabilitation to offenders to change their criminal behaviour;
- To reintegrate offenders into society as law-abiding citizens.

According to Ya Toivo and Shikongo (2005: 6-9) and the Minister of Prison and Correctional Services and Commissioners of Prisons, Namibian Correctional Services operationalise its mission and vision by adhering to the following organisational values and regulatory principles:

Value 1:

Corrections as a component of the criminal justice system, which has the ultimate influence on the freedoms, liberties and rights of individuals.

- **Principle:** In protecting the rights of the offenders, the Service will build on the base of established international standards and the provisions of the Namibian Constitution. The foremost duty of corrections should be to promote, in Service members and with the public, respect for the inherent dignity, humanity and worth of all individuals, including offenders.

Value 2:

Fundamental to effective corrections and justice systems is a stable obligation to the belief that offenders are responsible for their own behaviour and can live as law-abiding citizens.

- **Principle:** Offenders must be treated as individuals and there must be attention on the particular conditions, individual needs and risk posed by a particular offender and on addressing those needs while responsibly managing the risk.

Value 3:

The majority of offenders can be dealt with effectively in the community by means of non-custodial correctional programmes, imprisonment should be used with restraint.

- **Principle:** Imprisonment should be reserved for those who cannot otherwise be suitably treated in the community, those who pose a serious danger to the community, and those who willfully refuse to comply with non-prison sanctions.

Value 4:

In the interest of public protection, decisions about offenders must be based on informed risk assessment and risk management.

- **Principle:** Assessment of the risk an offender poses should be used as the basis for most decisions within the criminal justice system. Risk assessment tools must be empirically sound, based on research, evaluation and testing.

Value 5:

Effective corrections are dependent on working in close cooperation with criminal justice partners and the community to contribute to a more just, humane and safe society.

- **Principle:** 1) Constructive and positive partnership should be established and maintained locally, nationally and internationally, with those who have an interest, or a role to play, in criminal justice, 2) Effective criminal justice policy will be based upon open, two-way communication among partners within the criminal justice system, 3*)* Identifying and promoting improvements to criminal justice and social policies will lead to a more just, peaceful and safe society.

Value 6: Carefully recruited, properly trained and well-informed Service members are essential to an effective correctional system.

- **Principle:** 1) To meet existing and emerging challenges, recruitment should reflect the diversity within society and service members recruited who share the overall values of the correctional system, 2) The professionalism of all correctional personnel should be recognized and furthered by actively involving them in achieving goals and seeking their views on policies, plans and priorities, 3) It is important to encourage employee initiative, creativity and reliance in self-direction and to support personal responsibility for continued learning and career development.

Value 7:

The public has a right to know the activities taking place in corrections and should be given the opportunity to participate in the criminal justice system.

- **Principle:** 1) It is crucial to enlist public understanding, support and participation in correctional programmes and activities, 2) Communications should foster greater public interest and a better appreciation of the challenges of corrections so as to create more realistic expectations of what corrections can and cannot do.

Value 8:

The effectiveness of corrections depends on the degree to which correctional systems are capable of responding to change and shaping the future.

- **Principle:** 1) A focus on setting objectives, achieving results and continually monitoring performance, will lead to ongoing improvements, 2) Continuous improvements will be achieved through sharing information nationally and internationally; maintaining a strong research and development focus, and establishing effective accountability mechanisms.

According to Chipango (2016: 16), the role of the Namibian Correctional Service develops to the external community where the service administrator post-sentence supervision of the offenders.

According to the Correctional Service Act 9 of 2012, the Commissioner-General is responsible for the regulation of the security levels which is appropriate to correctional facilities, and determine different security levels in respect of different correctional facilities.

Bukurura (2003) mentions that Namibian correctional centres are supervised and stated upon, as a matter of right, by international bodies and agencies, national institutions, and NGOs. This has become necessary has been and made possible because offenders have to be treated humanely and with dignity, like all human beings.

5.4.1 The rehabilitation and reintegration of offenders in correctional systems of Namibia

Chipango (2016: 17) mentions that in 1990, the Namibia Correctional Services or prison services adopted the UN-Standard Minimum Rules for Non-Custodial Measures, and as a result of most correctional agencies international transforming towards the approach of correcting offenders through rehabilitation. The Ministry of Prisons and Correctional Services was established in 1995 (Johnson, 2015: 45).

Ya Toivo and Shikongo (2005: 2) state that the establishment of the Ministry of Prisons and Correctional Services in 1995 came with new political expectations that prisoners in Namibia will have to embark on a range of treatment intervention programmes to provide them with skills and abilities that would positively change their criminal attitudes after release. From 1995 Namibian prison services moved from punitive incarceration to a more humane correctional approach based on rehabilitation. In 2008 the Namibian Correctional Service began developing a correctional strategy of risk management, the Offender Risk Management Correctional Strategy, as its foundation for focusing on offender rehabilitation and the safe and successful reintegration of offenders into the community, which the Namibian Correctional Service regards as the critical correctional goal for any modern correctional organisation (Martin, 2015: 118).

Chipango (2016: 17) states that "Offender Risk Management Correctional Strategy" is embedded within the Risk-Needs Responsivity Model. The offender risk management correctional strategy guides the design and implementation of the rehabilitation process. During admission of an

offender in a correctional institution, an offender has to go through the assessment process to determine the criminogenic risk and need factor. The focus is on addressing these needs through the cognitive-behavioural treatment approaches (Thomas, 2010).

On 20 July 2012, the president signed the Correctional Service Act 9 of 2012 which was brought into force on 1 January 2014 by GN 330/2013 (GG 5365). Important changes are perceived in this act such as the change in organisational name from "Namibian Prison Service" to the "Namibian Correctional Service" and renaming of staff titles from "officers" to "correctional officers" (Chipango, 2016: 17). One of the functions of Correctional Services Act 9 of 2012 states that "as far as practicable, to apply such rehabilitation programmes and other meaningful and constructive activities to sentenced offenders that contribute to their rehabilitation and successful reintegration into the community as law-abiding citizens" (Correctional Service Act 9 of 2012).

According to Namibian Correctional Services (n:), the majority of offenders lack the essential literacy skills to effectively function in the modern-day knowledge-based economy and to gainfully participate in rehabilitation programmes. "The Directorate of Rehabilitation and Reintegration is responsible for providing offenders with rehabilitation programmes. Programmes are a critical component of the Offender Risk Management Correctional Strategy; therefore, the Namibian Correctional Service strives to develop evidence-based programmes that can have a meaningful impact in reducing reoffending." These programmes are classified into two categories as Structured Core Programmes and Support Programmes. The establishment of Support Rehabilitative Activities to offenders in the NCS is premised upon several concerns:

- To be on track with the Responsivity Principle that orders that treatment interventions should reflect individual learning styles of offenders, treatment motivation, age, culture and various barriers to participation. Therefore, offenders who may not be in a position to gainfully participate in Structured Core Programmes due to factors such as unsatisfactory English proficiency or cognitive ability managed by ways and Support Rehabilitative Activities are attached at lower levels of cognitive sophistication.

- To be on track with the Risk Principle that states that the strength of services given to offenders must be balanced with the level of risk offenders pose. Therefore, serious involvement in the mould of Structured Core Programmes is reserved for higher risk offenders while less serious services (Support Rehabilitative Activities) should suffice for lower-risk offenders.

- Namibian correction services may provide Support Rehabilitative Activities to offenders who are serving long sentences, early in their sentence before they become eligible for Structured Core Programmes to start working early on their areas of need. In this respect, support programmes are used to prime offenders for succeeding more intense Structured Core Programmes.

- Support Rehabilitation Activities can also be offered after accomplishment of Structured Core Programmes in occasions where an evaluation of programme outcomes indicates the need for follow-through interventions to combine the learning gains achieved in Structured Core Programmes.

Johnson (2015: 46) mentions that Namibian Correctional Services rehabilitation comprise the structured core programme with two main activities provided for offenders – skills for reintegration and management of substance abuse. “They also have support programmes divided along with main principles in correctional education – risk (risks that offenders pose on society) and responsivity principles (based on treatment interventions). Those with maximum sentences participate in support rehabilitative activities" (Namibia Correctional Service, 2014).

According to the Promulgation of Correctional Service Act, 2012 (2012: 64-65) the Namibian Correctional Services provide a range of rehabilitation programmes designed to address the needs of offenders and contribute to their successful reintegration into society, programmes such as work programmes and a requirement to work, agreements for employment and training of offenders and gratuities for offenders. These programmes are briefly discussed below as follows:

1. **Work programmes and requirements to work:**
    a. Every offender incarcerated in a correctional facility according to a sentence of imprisonment must, subject to the requirements of the Correctional Services Act, the directives of the Commissioner-General and any relevant order of the court- as far as is practicable, be engaged in such work programmes as will promote and nurture the training and industrial skills of such offender to equip him or her to manage his or her life productively after release, and perform such tasks on public works and other duties as may be assigned to him or her by a correctional officer.
    b. Notwithstanding the provisions of the subsection, the medical officer may, on medical grounds, exempt an offender from work or recommend that such offender perform light duties.

2. **Agreements for employment and training of offenders:**
    a. Subject to section 95(1)(a), the Commissioner-General may enter into a contract with any Organisation, individual, or body of persons for the employment and training of offenders who are under a sentence of imprisonment, upon such terms and such conditions as may be determined, generally or specifically, by the Commissioner-General.
    b. As far as is possible, all Ministries and Organisations set out in Schedules 2 and 3 of the Public Service Act, 1995 (Act 13 of 1995) must secure their required articles and supplies from amongst such as the Correctional Service may produce or manufacture.
    c. The Commissioner-General may authorise specific services necessary or expedient in the public interest or for a charitable purpose to be rendered by offenders, gratuitously.

3. **Gratuities for offenders**:
    a. For the purpose of (a) encouraging offenders to contribute to rehabilitation programmes offered by the Correctional Service; or (b) providing financial assistance to offenders to facilitate their reintegration into society, the Commissioner-General may, subject to subsection (2), authorise the payment of gratuities to offenders.

b. The gratuity referred to in subsection (1) must be paid to offenders according to such conditions and such rates as the Commissioner-General may, from time to time, determine.

According to The Namibian Weekender youth paper (2017), a major number of offenders lack the essential literacy skills to gainfully participate in rehabilitation programmes and effectively function in the modern-day knowledge-based economy. Most offenders obtain their Grade 12 qualification and tertiary level qualifications while at the facility.

NCS has succeeded in introducing a well-structured curriculum in its correctional education. Offenders' rights on whether they want to join or not, have been somewhat waived. This allows for all offenders to partake in educational activities, and this ensures that upon their release all offenders have undertaken rehabilitative educational programmes (Johnson, 2015: 46). Namibian Correctional Services (n:) emphasise that education services are therefore designed to inform offenders with functional literacy skills and relevant vocational skills. The NCS education outline is based on three streams namely;

- **Functional Literacy**: The Namibian Correctional Services (NCS) provide educational programmes which involve a range of activities including mandatory functional literacy training for offenders who are incarcerated within 12 months of their commencing serving their sentences. To ensure that all offenders attain literacy skills to enable them to advance to other levels of education. The Namibian Correctional Service (NCS) uses what they call the accelerated methods to learn approach (AMLA) as this was also emphasised by Johnson (2015: 45).

- **Education activities based on interest:** It is the stream of educational activities that are introduced by offenders to develop their levels of educational achievement. These pursuits include studying to attain Grade 12 qualification and other tertiary level education qualifications. The first stream of education enjoys first priority in the NCS because it has a greater bearing on offending and adjustment in the correctional setting and the world outside.

- **Educational upgrading to improve vocational training and employment prospects:** The goal of this stream of education activities is to assist offenders to acquire the appropriate level of education to allow them to qualify to enrol in vocational training programmes, such as prison farms and workshops, with among other skills, horticulture and building construction, respectively. The NCS programmes are incrementally implemented such that every offender must belong somewhere (Johnson, 2015: 45). This is important in view of the fact that in Namibia a minimum of Grade 10 educational achievement is required to access vocational training programmes and other forms of employment. The Correctional Service operates Industries programmes to maintain and expand offender work training programmes that develop marketable occupational skills, instil and promote positive work ethics.

According to the Namibian Correctional Services (n:), there are three types of support rehabilitation activities that Namibian Correctional Services offer to offenders. These are as follows: Needs Orientated Treatment Activities, Voluntary Sector Sponsored Support Activities and Self-help and other Offender Support Initiatives. These types of Support Rehabilitation Activities are briefly discussed below:

- **Needs Oriented Treatment Activities:** Aim to deal with issues of idleness and boredom, frustration and anger and motivation to change and adjust to prison conditions. These activities are given to address specific offender needs that are not appropriate or not intense enough at the point in time to address through Structured Core Programmes.

- **Self-help and other Offender Support Initiatives:** The NCS inspire and support creativities by offenders to support and help each other in their improvement journey. These offender-initiated activities deliver offenders with opportunities to practise and integrate pro-social behaviours. Offender study groups, prayer groups, HIV/AIDS support groups and Alcohol and Drug abuse cessation support groups fall under this category.

- **Voluntary Sector Sponsored Support Activities:** These rehabilitation activities are provided by external role players such as NGOs and Faith-based organisations that assist with the rehabilitation of offenders within the Namibian Correctional services, in instances where the NCS lacks the requisite capacity or its internal resources are strained.

For the rehabilitation process to be successful, it requires religious programmes to enhance the spiritual life of offenders. The NCS allows and encourages offenders to satisfy their spiritual feelings and needs by attending religious services of their choice as well as by promoting their knowledge and practical application of the principles of their distinctive churches creates an important part of the rehabilitation process. The emphasis for NCS religious programmes has evolved from merely attending church services, bible reading and preaching to becoming serious efforts at sparking and sustaining deep seated positive change and long-term desistance from crime. The rehabilitation process focuses on restorative justice and pastoral counselling as the main focus of religious programmes because there is a growing body of research evidence demonstrating their efficacy in promoting desistance from crime (Namibian Correctional Services, undated).

Namibian Correctional Services believed that offenders come from society, and will have to be integrated back into their societies after serving their prison sentences. In Namibia, the focus has shifted to, and emphasis is laid on, using community-based sanctions as a means of treatment (Bukurura, 2003).

5.4.2 The role of NGOs in the rehabilitation and reintegration of offenders in Correctional Services of Namibia

The study did not consider the involvement of non-governmental organizations (NGOs) in the rehabilitation and reintegration of offenders in Namibia's Correctional Services. The researcher was unable to collect information on the role of civil society in correctional issues. There is no information about non-governmental organizations (NGOs) working in the rehabilitation and reintegration of criminals in Namibia's Correctional Services.

The Namibian Correctional Services must provide a presentation to its portfolio committee on correctional services to demonstrate the necessity to alter the Correctional Services Act, 2012 to allow public engagement in convicts' rehabilitation and reintegration into society. Namibia's Correctional Services must firmly encourage NGOs to participate effectively in the implementation of its programs and services, as well as the reintegration of prisoners into society, as community members.

The Namibian Correctional Services must interact with the community through non-governmental organizations (NGOs) where members of the community can volunteer at institutions, participate in outreach programs, or actively advise the Department of correctional services.

According to Mlanguzwa (2003), Namibia was visited by the Special Rapporteur on Prisons and Conditions of Detention in Africa from September 17 to September 28, 2001. Dr Alpha Oumar Sankarela Diallo, Chief Medical Officer, Security and Prison Services, Guinea Conakry; Annie Rashidi, Lawyer at the Commission; and Audrey Pascaud, Assistant, France, recommend that NGOs take a larger role in developing training programs, preparing inmates for release, and so on.

The following are the programs, activities, and tasks that NGOs should contribute to the Namibian Correctional Services as part of offender rehabilitation and reintegration: **Restorative Justice:** This is aimed at ensuring that offenders are accountable for their offence and are capable of coming face to face with their victims and families to work out their issues and move on with their lives, and a program that will be designed to ensure that offenders understand the condition in which they found themselves. **Correctional Education Project**: to develop and shape the intellectual abilities of those who enrol in the program so that they can become valuable and productive members of society, therefore reducing reoffending and **NGOs** that will help to minimize recidivism by assisting ex-offenders in becoming productive members of

society by providing a wide range of services, as well as assisting those with criminal histories in becoming employed, law-abiding members of society.

More needs to be done on the involvement of civil society in Namibian Correctional Services.

5.5 CONCLUSION

This chapter described Canada's, the United States', and Namibia's rehabilitation and reintegration as countries that adhere to the United Nations' Standard Minimum Rules for the Treatment of Prisoners. All appropriate treatment methods are employed, including, where possible, religious care, education, vocational guidance and training, social casework, employment counselling, physical development, and moral character strengthening, in accordance with each prisoner's individual needs, taking into account his or her social and criminal history, physical and mental capacities and aptitudes, personal temperament, and the length of his or her sentence.

This chapter has reflected a broader perspective of the programs and services provided within correctional facilities that promote offenders' rehabilitation and reintegration as a central theme in correctional services, and it can also be handled by involving external role players such as NGOs in correctional systems. The study did not consider the involvement of non-governmental organizations (NGOs) in the rehabilitation and reintegration of offenders in Namibia's Correctional Services.

CHAPTER 6

THE ROLE OF NON-GOVERNMENTAL ORGANISATIONS IN THE REHABILITATION AND REINTEGRATION OF OFFENDERS IN THE SOUTH AFRICAN CORRECTIONAL SYSTEM

6.1 INTRODUCTION

The chapter begins with an attempt to ensure an understanding of a brief history of penology in the African Context, and the approaches that most African countries use to maintain order and prevent crime. It is in this light that this chapter discusses the historical perspective of the correctional system in South Africa during the colonial period up until 1991 and the correctional system in South Africa since 1994, the period in which the Department of Correctional Services has since redeveloped itself into a whole new system which pays attention to the rehabilitation of offenders.

This chapter explains the role of NGOs in the rehabilitation and reintegration of offenders in the South African correctional system. The Department of Correctional Services makes use of external role players such as NGOs in the rehabilitation and reintegration of offenders in correctional systems. Every correctional centre in the country one may come across NGOs involved in presenting programmes or providing services to inmates. This chapter explains that the South African Department of Correctional Services on its own cannot be effective if it is solely responsible for the rehabilitation and reintegration of offenders. There are a number of NGOs in South Africa working both inside and outside of correctional institutions with offenders, ex-offenders and their families. The researcher outlines the NGOs involvement in rehabilitation and reintegration of offenders in Correctional Services of South Africa. The establishment of partnerships between DCS and NGOs to aid in the running of the correctional programmes at correctional centres and community corrections, including the National Institute for Crime Prevention and Re-integration of Offenders (NICRO), which handles the pre-release and "Tough Enough" programmes (which will be discussed later); Khulisa, which runs the

Crime Prevention Programme; and FAMSA, which renders relationship and "Anger-in-Anger out" programmes and other NGOs.

6.2 THE CORRECTIONAL SERVICES IN SOUTH AFRICA

6.2.1 Brief history of penology in the African Context

Qhogwana (2017: 23) mentions that correctional centres were introduced after the advent of colonialism to support the existence of a systematically organised penitentiary system in Africa. In the pre-colonial period penal systems, penal incarceration seemed to have been something rare as no evidence is found to support the existence of a systematically organised penitentiary system in Africa. This argument was also emphasised by Sarkin (2008) who stated that at different times agree that imprisonment as a form of punishment was unfamiliar to the African civilizations, though incarceration was in existence in some African civilizations before colonialism it was not used as a form of punishment (Stephens, 2018: 98).

According to Labane (2012: 31), in Egypt, there is evidence in the Holy Bible of the history of prisons that can be traced back to 2 000 years before the birth of Christ. The book of Genesis contains an account of Joseph's imprisonment in Egypt. An example of arrest is found in Genesis, chapter 39, verses 20-22: "Joseph's master took him and put him in prison, a place where the king's prisoners were confined: and he was there in the prison. But the Lord was with Joseph, showed him mercy, and gave him favour in the sight of the keeper of the prison. The keeper of the prison was committed to Joseph and all the prisoners that were in the prison, and what they did, he was the doer of it". The evidence shows that Egypt was the only place where the person was incarcerated in Africa.

Criminals, prisoners of war and slaves existed but this related to war and was not regarded as a specific form of treatment (Qhogwana, 2017: 23). In the pre-colonial period penal systems, traditional societies were characterised by compensation to the victims for injuries inflicted in all cases of crime and the damage would be determined by the traditional leaders of the society concerned (Petè, 2008). Spiritual sanctions where religious rites were conducted to protect the

community were performed. Ostracism was occasionally used through a mild form of social isolation within the community itself or by the most severe form of total banishment by means of a formal ritual. This could be in form of isolation within the community itself that is the offender is barred from going to specific places or ex-communicated but he or she still lives in the society. Ostracise was main the main punishment in the pre-colonial era in some African countries. This form of punishment was a very severe punishment at that time (Stephens, 2018: 97).

Qhogwana (2017: 23) mentions that the purpose of compensation during the pre-colonial period was always about restoring equilibrium in society and at times, the family of the offender would be collectively held liable for compensation. Penal sanctions were only well-thought-out when the effects of the crime threatened the stability of the community. The approach to handling crime involved a more collective and community inclusive approach than an individualistic approach that seeks to locate and pathologize the crime within an individual. In the latter process, society is excused from solving the problem even though the 'criminal' is a product of the social power imbalances that continue to be perpetuated and reproduced through institutional structures and practices that maintain or even exacerbate the "problem" (Petè, 2008).

6.2.2 Correctional system in South Africa during colonial period up until 1991

During the colonial period, the Cape became the first colonial settlement in South Africa and was initially occupied by the Dutch in 1652 under the control of the Dutch East India Company (Matetoa, 2012: 69). According to Visser (2009: 17), the occupation of the Cape by the Dutch in 1652 became the possession of the Dutch East India Company, who also introduced the criminal procedures of Holland. The philosophy of punishment at that time was deterrence. Importance was to be found on punishment inflicted on the body of the offender. Sentenced offenders were executed by means of a firing squad, tortures and crucifixion after their limbs were broken and they were left to suffer a slow death (Van Zyl Smit, 1992: 7).

"The prison system in South Africa has undergone substantial change since the establishment of the first refreshment post at the Cape in 1652. Before the Union of South Africa was established

in 1910, the current Republic of South Africa consisted of two Boer Republics, namely the Free State and the Zuid-Afrikaanse Republiek (Transvaal), and the two English colonies namely the Cape of Good Hope and Natal" (Shabangu, 2006: 17).

Historically in South Africa as in England, the duty of the correctional centre administration to reform criminals were interpreted to accommodate the economic needs of the age (Van Zyl Smit, 1992: 8). After the British occupation in the Cape, correctional centres were introduced in South Africa by Dutch colonists, and the penal policy, including incarceration, began to take shape (Nel, 2017: 19). Robben Island is assumed to be the first prison to be recognised in the Cape during 1781 (Visser, 2009: 17). The first ten convicts sentenced in the Cape were sent to Robben Island in 1614, to put up a victualling station at the suggestion of Sir Thomas Herbert, a British explorer. Initiated by the British, the island became a place of banishment. The ringleaders of an attempted mutiny were bannished to Robben Island in 1636 by Hendrik Bouwer, a former governor-general from Dutch East India (Van Zyl Smit, 1997: 7–8). By 1848 in the Cape, 22 prisons had been developed. The administration of panel institutions in the Cape was the duty of the Colonial Secretary up until the time the country become a Union. Between the years 1838 and 1842 the first prison was established in Pietermaritzburg (the then Natal). Shortly after 1854 the Orange Free State also built their prison and in 1865 the first prison was constructed in Pretoria. There were already 33 prisons in the Transvaal (Muthaphuli, 2008: 119).

The Prisons and Reformatories Act 13 of 1911 was put in place to regulate not only prisons but also reformatory schools. The Act made provision for the care of sentenced offenders as well as awaiting trial offenders (White Paper on Corrections in South Africa of 2005). The Act was regarded as containing the most modern principle of modern penology by Roos. The essence of the Act was to reform the criminal through religious and moral instruction, based on the belief that every person can change (Plaatjies, 2008: 53). The Prisons and Reformatories Act 13 of 1911 had not established a new period in South African prisons; however, it had been a means of expression for sustaining the earlier harsh and unjust prison system that preceded it (South African Department of Correctional Services, 2005b). According to Nel (2017: 20), the

Reformatories Act of 1911 did not make establishment for changes in the new South African correctional centres).

The Lansdown Commission on Penal and Prison Reforms was established in 1941 and only released its findings in 1947. The Lansdown Commission on Penal and Correctional centre Reform found that the Correctional centres and Reformatories Act of 1911 did not make provision for changes in the new South African correctional centres (White Paper on Corrections, 2005: 26). "The commission finally released its findings and recommendations after a few years of investigations. It made the following recommendations, amongst others: It did not support the hiring of offenders to private institutions or individuals; it emphasised the rehabilitation of offenders and the provision of education and training and it discouraged the military approach to management followed by the department, as this was not conducive to rehabilitation efforts" (Labane, 2012: 14). This was also mentioned by Nel (2017: 20). During 1945, the Landsdown Commission on Penal and Correctional Centre Reform found that the Correctional Centres and Reformatories Act of 1911 did not make running for transformation in South African correctional centres (White Paper on Corrections, 2005: 26) and:

- Held the view that offenders should not be hired out to outsiders;
- Asked for an increase in the emphasis on rehabilitation and the need to extend literacy amongst offenders, in practical black offenders; and
- Was critical of the government's decision to reorganize the correctional centre service on full military lines, which was seen to be an attempt to increase the control it had over correctional centre officials.

The Prison and Reformatories Act 13 of 1911 was replaced by the Prisons Act 8 of 1959 since it failed to maintain the aim of incarceration to start with. The Prisons Act 8 of 1959 was permitted by the standard minimum rules for the treatment of prisoners developed by the United Nations in 1955 (Muthaphuli, 2008: 120). Muthaphuli (2015: 133) mentions that the Prisons Act 8 of 1959 set out the responsibilities of the department as follows:

- Safe custody of offenders;
- Development and rehabilitation of offenders;

- Efficient management of the department; and
- The performance of other duties that can be assigned by the minister.

Some provisions of Act 8 of 1959 conflicted with these rules, even though it attempted to comply with the UN's Standard Minimum Rules for the Treatment of Prisoners. The Act 8 of 1959 also had its shortcomings by failing to comply with Rule 6(1) of the Standard Minimum Rules states that all the provisions should be applied impartially without any discrimination on one or more of the following grounds, namely race, colour, gender, language, religion or other opinions, national or social origin, property or another status.

According to Van Hove (1962: 19), the Prisons Act was regarded as a balance to the Criminal Law Amendment Act of 1959 and presented the impact of the modern views and research about the prison system in the Union. There were two objectives of Act 8 of 1959, namely: Decentralisation of prisons (smaller but very modern institutions for 150 to 300 or 500 offenders throughout the country); and Depopulation of prisons and reform of the criminal. According to Neser (1989: 259), the treatment of offenders was made compulsory by law when the Act of 1959 came into effect, even though the offender classification was regarded as an essential basis for treatment.

The most significant justices arranged down in Act 8 of 1959 were found in 2(2)(b) and 98(1)(c), which specified that offender treatment would, as much as possible, be aimed at their reformation and rehabilitation and in developing self-worth and responsibility. Section 94(1)(w) specified that the Governor-General could make regulations in association with the subsidising and inspiration of institutions, societies and individuals approved by the Minister as furthering the objective of this Act (Van Hove, 1962: 20).

6.2.3 The correctional system in South Africa since 1994

During 1991, the Department of Correctional Services, which was the old Prisons Service, was an independent government department. After 1994, the democratic government of South

African prisons changed its systems of incarceration. The everyday operations of prisons are influenced by these transformations. There have been many transformations in South Africa throughout the years, be they political, economic, social or technological. For example, political control of the past as characterised by the rule of apartheid also extended to the operations of prisons since prisons are government institutions. The separation of white offenders from non-white offenders and the governance of white people in the management of prisons were some of the examples of the apartheid rule (Muthaphuli, 2008: 121).

According to Labane (2012: 218), a new Minister of Correctional Services was appointed in 1996, due to the changes that took place as a result of democracy in the new South Africa and this led to a whole new phase in the correctional system of South Africa. The new government "has decided that programmes should concentrate on the rehabilitation of sentences of the offenders. The Department of Correctional Services has since evolved itself into a whole new system that pays attention to the rehabilitation of offenders. In the mission to do away with the past (Muthaphuli, 2008: 122).

Muthaphuli (2015: 134) mentions that the changes that happened in 1996 with the nomination of a Minister of Correctional Services led to a whole new stage in the correctional system of South Africa. The Department of Correctional Services stated that it aimed to pay attention to the rehabilitation of offenders. In addition, the founding of major organisations such as the Police and Prison Officers Civil Rights Union (POPCRU) and the Correctional Officers Union of South Africa (COUSA), which protect the interests of correctional officials, as well as the South African Prisoners' Organisation for Human Rights (SAPOHR), which promotes offenders' rights, has played a significant role in changing the discriminatory laws of the apartheid regime in the correctional system of South Africa.

The new Correctional Services Act 111 of 1998 was signed on 19 November 1998 by the President and become law. This new Act was adapted in the process of fundamental change of the law and philosophy relating to imprisonment, but only a few of its provisions had been brought into operation by mid-1999, as a new set of regulations had to be circulated and

arrangements needed to be made for the new administrative structure for which the Act provides (Van Zyl Smit & Dunkel, 2001: 594). The Correctional Services Act 111 of 1998, as amended, executes the basic policies of the Department of Correctional Services, as stated in the White Paper. The previous Act, the Correctional Services Act 8 of 1959, declared (in s 2(2)(b)) that it was one of the main functions. The directive of the Department of Correctional Services is presently drawn from the 1996 Constitution of South Africa (incorporating the Bill of Rights), the Correctional Services Act 111 of 1998 and its regulations, subordinate policy and institutional orders, the National Crime Prevention Strategy and the White Paper on Corrections in South Africa (Muthaphuli, 2015: 134).

Bailey and Ekiyor (2005: 22) state that the directive of the Correctional Services Act 111 of 1998 tries to achieve the following strategy:

- To strike a balance between security and rehabilitation, from a punitive to a rehabilitative approach.
- Rehabilitation as a long-term goal to crime prevention.
- The potential of rehabilitation for humanising and democratising social reaction to crime.
- Building offender capacity for social participation and responsibility.
- Offering opportunities that will make a crime-free life a practical option.
- Assisting offenders to assume responsibility and to be active participants in the rehabilitation process.

According to the Department of Correctional Services (2005: 7), the Act of 1998 introduces new policies and procedures, which recognise the rights of inmates, thereby ensuring the effective functioning of the department. In his foreword to the White Paper on Corrections in South Africa),

The Correctional Services Act 111 of 1998 has almost done away with any direct reference to "rehabilitation" (or reform), instead preferring words such as treatment and reintegration into society. For example, Section 2 declares that it is the purpose of the correctional system "to contribute to maintaining and protecting a just, peaceful and safe society" by, inter alia, ensuring

the safe and dignified detention of all inmates and "(c) promoting the social responsibility and human development of all sentenced offenders" (Muthaphuli & Terblanche, 2017: 23). Masina (2019: 93) mentions that the Department of Correctional Services in 2003, partnered with other external role players such as NGOs in the rehabilitation of offenders. The Department regarded this as a strategic move in ensuring that rehabilitation by objectives takes place. This was done to avoid recidivism amongst offenders.

Nel (2017: 20) mentions that according to the white paper on correction the following is needed to happen changes in the personnel and management of the Department of Correctional Services:

- As far as the Department's rehabilitation responsibilities are concerned, they demilitarized on 1 April 1996;
- That the department makes sure that it is effective in the international arena;
- The appointment of an Inspecting Judge to investigate the Department's activities; and
- The immediate transformation.

According to the Department's annual report, the aim of the department "is to contribute towards maintaining and protecting a just, peaceful and safe society by enforcing court-imposed sentences, detaining offenders in safe custody whilst upholding their human dignity and promoting the social responsibility and human development of all offenders and persons subject to community corrections" (South African Department of Correctional Services, 2006: 12).

The following are the seven budgeted programmes that are currently offered by the Department (South African Department of Correctional Services, 2009: 19):

- **Programme 1: Administration**

The purpose of this programme is to provide effective and coordinated alignment of operations strategy, to ensure the provision of all administrative, human resources strategy, information communication technology, service evaluation, knowledge management strategy, improved service delivery, management, financial, investigative and necessary support functions that are important to the delivery of service by the department. and accountability to oversight institutions.

- **Programme 2: Security**

This programme is to provide safe and secure conditions for all persons incarcerated, consistent with human dignity, and thereby provide security for personnel and the public. The programme ensures the safety of everyone affected by the activities of Correctional Services from offenders, personnel and the community at large without hampering the human dignity of offenders.

- **Programme 3: Corrections**

The purpose of this programme is to provide needs-based correctional sentence plans and interventions, based on an assessment of the security risk and criminal profile of individuals, ensure that offenders‟ sentences are planned in relation to their needs and that the programmes related to their development are planned in consideration of their needs. targeting all elements associated with offending behaviour and focusing on the offence for which a person is sentenced to correctional supervision, remanded in a correctional centre or paroled.

- **Programme 4: Care**

The purpose of correctional services is to provide needs-based care programmes and services to all offenders aimed at maintaining personal well-being with the provision of better nutrition, psychological services and better health care services, among other things in the Department's care.

- **Programme 5: Development**

Purpose: Provide needs-based personal development programmes and services to all persons that are incarcerated.

- **Programme 6: Social Reintegration**

Purpose: Provide services focused on offenders' preparation for release, their effective supervision after release on parole, and the facilitation of their social reintegration into their communities. the aim is to prepare them so that they can lead a normal life after their release, as

offenders are provided with personal development services. The department aims to ensure this by monitoring their reintegration into society.

- **Programme 7: Facilities**

The purpose is to ensure that all correctional facilities are in conditions that provide for the safe custody of offenders and are humane and that care and development are provided for offenders as well as administration of the prison. Purpose: Ensure that physical infrastructure supports safe and secure custody, humane conditions, and the provision of corrective services, care and development, and general administration.

The department has lifted from a top-down a classified structure which was characterised by instructions from top management which had to be obeyed by the staff at the bottom levels. There is communication between levels and the system in this day and age also considers the rehabilitation of offenders and the upliftment of their rights as of supreme importance.

The Department of Correctional Services (2005: 28) states that "democratic change in the correctional services was characterised by (inter alia) factors such as the change in the retrospective in management, demilitarisation of the correctional system, alignment to international correctional practices, and appointment of an Inspecting Judge" (Masina, 2019: 93).

6.3 THE REHABILITATION AND REINTEGRATION OF OFFENDERS IN CORRECTIONAL SYSTEMS OF SOUTH AFRICA

According to Khwela (2014: 153) the purpose of corrections in the criminal justice system is to punish, rehabilitate, and ensure public safety. However, corrections include probation, parole, and offender. Therefore, it is its mandate to incarcerate, rehabilitate and reintegrate offenders to their society of origin during and after a term in the correctional centre (Mondlane, 2013: 9).

Reintegration of offenders as part of applying the right suggestion to offenders, education, and other human rights as they are in the bill of rights offers the full opportunity of offender reintegration as another form of rehabilitation of offenders. Offender rehabilitation has to do with structured day programmes, training, professional counselling and vocational skills, Adult Basic Education and Training, and correspondence studies), recreation, arts and culture, education including literacy, and therapy, and providing needs-based personal development services to all offenders. business process mapping exercise, social reintegration, sport. The provision of needs-based care programmes is aimed at maintaining the well-being of prisoners and social reintegration (Herbig & Hesselink, 2012: 31). According to Sekhonyane (2008: 33), the progress of new-generation correctional centres in South Africa promised to reduce crime by improving offenders through rehabilitation programmes aimed at guaranteeing that all offenders could contribute to meaningful correctional activities. However, the circumstances within which the correctional system functions will regulate whether they honestly allow for the rehabilitation of offenders. The exclusivity of the rehabilitation process sets difficulties on all parties involved to ensure that offenders are indeed rehabilitated. Because of their regular contact with offenders, the role of correctional officials, as rehabilitators, cannot be overemphasised (Muthaphuli, 2015: 135).

The rehabilitation of offenders is about assisting them to stop their negative behaviour and change it to more positive behaviour. Offenders must be provided with programmes to help them in their rehabilitation while in correctional centres (Jonker, 2011: 51).

According to Mondlane (2013: 12), the White Paper on Corrections clearly states that the vision and mission of the department place rehabilitation at the centre of all its activities in partnership with external stakeholders through the joined submission and direction of all departmental resources to focus on the correction of offending behaviour, the promotion of social responsibility and the overall development of the person under correction, the cost-effective provision of correctional facilities that will promote correction and care (rehabilitation) security, and development services within an empowering human rights environment, progressive and ethical management and staff practices within which every correctional official performs an

effective correcting and encouraging role. Corrections and rehabilitation are key strategic concepts for the Department (Department of Correctional Services, 2005: 10).

Muthaphuli and Terblanche (2017: 23) mention that the White Paper on Corrections also defines rehabilitation as the results that link the correction of offending behaviour, human development, and promotion of social responsibility and values (Department of Correctional Services, 2005: 28). The key elements of improvement of rehabilitation and reintegration of offenders rely on the implementation of the work of the case management committees and parole processes, Correctional Sentence Plans, and the improvement of professional functions of correctional officials that have been part of the Occupation Specific Dispensation (OSD) process (South African Department of Correctional Services, 2009: 19).

According to the White Paper, the "rehabilitation purpose" referred to in the Act, as described seven of the 10 objectives of the DCS as associated with rehabilitation and defining these as the essential business of the Department (Muntingh, 2005: 4):

- Breaking the cycle of crime;
- Providing an environment for controlled and phased rehabilitation interventions;
- Providing guidance and support to probationers and parolees within the community;
- Provision of corrective and development measures to the offender;
- Reconciliation of the offender with the community;
- Enhancement of the productive capacity of offenders, and
- Promotion of healthy familial relations.

6.3.1 Offender Rehabilitation Path

The Offender Rehabilitation Path (OFS) forms part of the new strategic direction of the Department of Correctional Services towards the rehabilitation of offenders (Matetoa, 2012: 220). According to the South African Department of Correctional Services (2009: 19), the Offender Rehabilitation Path is aimed at ensuring that offenders go through a smooth transition to rehabilitation and reintegration into society. Fitz (2013: 55) further explains that the Offender

Rehabilitation Path explains what happens to an offender during admission to the Correctional centre up until the offender is released from the Correctional centre into society. The Offender Rehabilitation Path (ORP) has therefore been surrounded by the directive of the Department of Correctional Services. (ORP) consist of the following steps: Admission/assessment/orientation profiling in the assessment unit, admission to a housing unit, intervention, monitoring and evaluation, placement and allocation to the pre-release unit(Herbig & Hesselink, 2012: 30). These steps are briefly discussed in the following section :

6.3.1.1 Admission

During admission of an offender into a correctional centre, it is imperative to ensure that the offender's custody is legal or legitimate. The legitimacy of any incarceration of an offender is provided through a warrant (Section 6 of the Correctional Services Act). According to the Department of Correctional Services, orders B, during this process offender personal details are captured as well as the registration number allocated to the inmate, must be entered on the computer. The number of previous convictions is also captured. welcoming; assessment of immediate risks and needs and referral to an assessment unit.

According to Du Preez (2003: 23), every offender admitted to the correctional centre is attended by a body receipt. The body receipt aims to transfer the offender's information from one correctional centre to another. The offender is given a correctional centre number at the first admission and after they have been positively identified. After the admission of an offender is finalised, an identification card with registration number, name, crime, sentence and thumbprint is issued. This identification card must always be in their possession (Labane, 2012: 222).

6.3.1.2 Assessment/orientation/profiling in assessment unit

The is a comprehensive health assessment performed for an offender during orientation/induction. As soon as possible after admission, the head of the correctional centre or the relevant admission officer assigned by the head of the correctional centre must deal with or

explain all new admissions, including fugitive offenders and parole violators, about the orientation process. This process is done by using a tape recording and information from the manual. The following are the rules and regulations that the offender is told about:

- The correctional rules regarding medical treatment availability.
- The process to acquire legal representation, the payment of fines and bail, modus operandi regarding complaints and requests, etc. This must be done daily.
- The basis on which credits can be brought in.
- The process in which the opportunity system functions.
- The consequence of challenging to escape or related wrongdoings and/or bad behaviour.
- The harmful penalties of gang activities.
- The risks of tattooing and hunger strikes, sodomy, AIDS.
- Every rule that is associated with the offender must be provided to the offender with some explanation and in a language which the offender understands or an interpreter must be available to interpret for him/her (Muthaphuli, 2008: 143).
- Information concerning the services that are obtainable by the Department of Correctional Services such as psychological services, educational services, religious care and social work services.
- Other structures which the offender is nervous about such as the procedure of the institution's safe custody classification, committee, parole board, and placement release (Coetzee et al., 1995: 58-59).
- Comprehensive risks/needs assessment; profiling/analysis of assessment outcomes; classification; development of sentence plan; confirmation of the classification and the correctional sentence plan; and allocation to housing unit/transfer to another correctional centre **(**Herbig & Hesselink, 2012: 30).

6.3.1.3 Admission to a housing unit: Includes induction and allocation of offenders to a Case Officer

During the induction of offenders, the assessment of risks, challenges and strengths of each offender is determined (Du Preez, 2003: 73). The result of the assessment will assist in the identification of special category offenders. Assessing offenders ensures that the department establishes the types of services that must be provided to an offender to ensure his/her rehabilitation. For example, programmes designed for older offenders will be made available to older offenders and rehabilitation programmes that include psychological services will be made available for mentally ill offenders (Labane, 2012: 225). Information that is gathered during assessment will help in the classification and allocation of offenders. Offenders with the same classification will be allocated to the same unit. This will support the case manager in drawing up a structured day plan for a housing unit (Du Preez, 2003: 74).

The case officer is directly responsible to the case management supervisor, who allocates several offenders in a specific cell to the case officer to monitor. These allocated offenders are called the caseload of the case officer **(**Du Preez, 2003: 147). Fitz (2013: 55) mentions that case management aims to ensure that all identified interventions as per the correctional sentence plan are rendered within the required time frame. it must ensure the reliability and continuity of the rehabilitation process of offenders by officials. The case management plan also indicates the most suitable facility in which to house the offender, based on security risk, but also with reference to the specific unit within the institution (Plaatjies, 2008: 145).

6.3.1.4 Intervention: Implementation of the correctional sentence plan and case review (progress, updating of correctional sentence plan and offender profile)

The correctional sentence plan sets time frames for activities to take place. It spells out the services and programmes that the offender needs to enhance his/her social functioning. The sentence plan sets time frames for activities to take place. It also makes provision to address the risk and needs of offenders as recognised through the carefully planned risk assessment. It seeks

to spell out what services/programmes are required to target offending behaviour and to help offenders develop skills to handle socio-economic conditions that lead to criminality. It individualises who should ensure that the deliberate services programme is offered to the offender (correctional sentence plan) (Labane, 2012: 239). The Correctional Sentence Plan Review Framework (G 303 E) provides appropriate monitoring tools that the Department of Correctional Service have offered to ensure that involvement is rendered timeously (Fitz, 2013: 55).

The latter focuses on the sentence plan that is developed based on the crime committed by an offender, the type of behaviour that the offender can change, the types of programmes that the offender should participate in, officials to monitor the offender's progress, the offender's cooperation in attending programmes, the offender's preparation for release, the sentence plan to be consistently maintained throughout the programme, and to use the sentence plan as a baseline (Masina, 2019: 102).

6.3.1.5 Monitoring and evaluation

Decisions are made according to the offender's progress or lack thereof, feedback reports and reclassification. Therefore, the offender's attendance and commitment to treatment and rehabilitation programmes, in general, must be monitored. It is also important to be able to track any changes in the behaviour of the offender while he/she is serving a sentence. Correctional Services and even external service providers will have to know if the programmes they offer have any impact on the offender (Plaatjies, 2008: 147).

Du Preez (2003: 74) mentions that there will be a review of the progress made by an offender that will form part of a weekly progress report to the case manager. These weekly reports state the progress of the offender in meeting the targets that were set during the initial meeting. There will be also monthly reviews revisions of the progress made by the offender in meeting targets that will form part of a monthly report that will be forwarded to the case manager. These reports will form the basis for a meeting between the offender, caseworker and case manager. During

that meeting, the sentence plan of the offender will be reviewed. This will determine whether the needs of the offender are still the same or whether they have changed. The sentence plan can be adapted to suit the changing needs, if necessary.

Regarding reclassification of an offender, Reid (1981: 240) mentions that it is very significant that if classification is to be effective, then the classification must change since the offender's needs change. The offender's goals that were set initially may not be real and offenders may be experiencing too much stress or may not be challenged because the goals are easily accomplished. Correctional officials and offenders interact at the regular reclassification review, reviewing the progress toward intended programme goals in research of release. These objectives involve education participation, substance abuse programme or psychological counselling (Seiter, 2002: 162).

6.3.1.6 Placement

According to the Department Orders (Section B), the placement consists of placement of a sentenced offender under correctional supervision, on day parole, on parole means that offenders are placed back in the community from which they came from before serving their overall sentence. During this period, offenders are subject to specific conditions under the supervision and are monitored by members of the Department of Correctional Services until the expiry of their sentence.

- **Placement under correctional supervision:** The parole board must consider all sentenced offenders who qualify for placement under correctional supervision. The recommendation by the parole board to the delegate is made per the prescribed G326 form/memorandum. If the delegate approves the recommendation, the parole board informs the chairperson of the case management committee, thereof. The case management committee then deals with the matter according to directives in this regard. Sentenced offenders who cannot be considered positively for placement under correctional supervision, or sentenced offenders who refuse placement under correctional supervision, must be considered for placement on day

parole/parole in the prescribed manner at the prescribed time (Department Orders, Section B).

- **Placement on day parole:** This is a placement selection that is utilised to ensure effective control over a sentenced offender who is not yet ready in all respects for placement on parole. It is mainly focused on the successful reintegration of the sentenced offender into the community. The delegate decides under which conditions and category a sentenced offender can be placed out on day parole, with due consideration of the recommendation by the parole board. Reintegration actions, with the emphasis on job placement and inclusion in the preplacement programme, must commence as soon as possible after the placement of a sentenced offender on day parole has been approved (Department Orders, Section B).

- **Placement on parole:** The degree to which the sentenced offender has adapted to the rules of the correctional centre and has participated in the multidisciplinary programme is seriously considered on the placement of the sentenced offender on parole**.** Other factors which are always duly considered are e.g., inter alia, nature of the crime, remarks made by the court at the time of imposition of sentence, the sentenced offender's crime prognosis, available support systems in the community, and the degree to which the sentenced offender poses a threat to the community. After the approval of a sentenced offender's placement on parole, the offender will be placed under the stipulations and supervision category as approved by the delegate and accepted by the sentenced offender. From the date of a sentenced offender's placement on parole until the expiry date sentence, the offender will remain under the control of the Department of Correctional Services (Department Orders, Section B).

6.3.1.7 Allocation to the pre-release unit

Offenders are transferred to the correctional centre closest to where s/he will reside six months before placement or release; pre-release assessment occurs during this phase. With regards to preparation for release and reintegration, the Correctional Service Act (Act 111 of 1998: 45)

states that a sentenced offender must be prepared for placement, release and reintegration into society by participating in a pre-release programme.

The offender who is released on parole starts to experience adjustment problems in society and may be referred to the Halfway House. For him/her to avoid withdrawing parole and sustain the expense of returning him/her to the Correctional centre, the offender is again subjected to intensive treatment and supervision in the house programme (Neser, 1993: 376).

6.3.2 Rehabilitation Programmes for offenders

Murhula and Singh (2019: 24) mention that the DCS is responsible for the offering and implementation of rehabilitation's needs-based programmes to offenders imprisoned by the court of law. In terms of Section 2 of the Correctional Services Act, the Department of Correctional Services is not only obliged to detain convicted offenders but to apply such treatment as to change offenders and probationers as may lead to their reformation and rehabilitation and to train them in habits of industry and labour, as far as practicable (Nxumalo, 2002: 60).
The aim of the treatment and training of an offender is to cultivate in him/her the desire to live an honest and industrious life after his/her release from the correctional facilities and to develop self-respect and a sense of responsibility in him/her (Nxumalo, 2002: 60). According to the White Paper on Corrections (2005: 64), sentenced offenders have the right to be involved in the rehabilitating programmes and use the services offered by the Department of Correctional Services and NGOs in partnership with the Department.

Section 41 (1) of the South African Correctional Services Act (Act 111 of 1998) stipulates that all offenders' rehabilitation centres that work under the Department of Correctional Services (DCS) must provide programmes and activities that meet the rehabilitation needs of offenders. (Murhula & Singh, 2019: 24). One offender's needs may be different and various offenders may have different needs. Therefore, to be able to identify a need, it must be determined first and to be able to do this certain need assessment schemes are used. The Department of Correctional Services has developed programmes to satisfy the wide variety of needs for these purposes. The

list of needs of an offender is known as the needs disposition of an offender. The types and number of programmes that must satisfy the needs disposition of the offender are known as the programme profile of the offender. To compile a programme profile of the offender, certain programmes must be selected for the offender and priority for the application of these programmes must be determined (Nxumalo, 2002: 69).

The following goals of a comprehensive programme are given by Jonker (as quoted by Kratcoski, 2004: 201):

- The programme should comprise a comprehensive, individualised assessment and treatment path.
- The offender must accept responsibility for his offence and be aware of his offending behaviour. This was also supported by Cilliers (2008: 68), rehabilitation is only possible if offenders themselves first accept their own disposition, attitude and behaviour. This simply means that voluntary participation is required from offenders (Muthaphuli, 2008: 68)
- The treatment should assist the offender to learn to intervene and break his offence pattern and learn techniques to control, manage and stop this behaviour.
- The therapy must provide re-education and re-socialisation to replace anti-social thoughts and behaviour with positive self-knowledge and new attitudes and expectations for him to have healthy relationships.
- The offender needs parole or correctional supervision to safely test his newly acquired insights and control mechanisms in the community.
- Each offender needs a post-treatment support group and continued post-release access to a therapeutic treatment.

Coetzee et al. (1995: 119 & 120) state: “The programme profile that is compiled after the entire assessment action has been completed is used to determine the priority of specific programmes to which each offender should be exposed”.

Murhula and Singh (2019: 24) state that the rehabilitation programmes include education, skills development, vocational, religious care, psychological services, social work services,

recreational programmes and health services. However, a major challenge is to ensure that all offenders are positively developed and supported whilst they are incarcerated. Muntingh (2009: 21) mentions that it may not be predictable that educational, vocational and rehabilitative programmes delivered to offenders will have a positive result on the level of violence in correctional centres as these are primarily aimed at reducing recidivism after release. "Certain types of offenders may require specific attention as a result of the types of their offences, there are specialized treatment programmes which are offered and these include programmes for substance abuse, sex offenders, mentally ill, offenders with HIV/AIDS, female offenders, the elderly offenders, long-term offenders, physically disabled offenders and juvenile offenders (Muthapuli, 2012: 123). The above-mentioned rehabilitation programmes are discussed below as follows:

6.3.2.1 Educational programme

Coffey (1974: 146) mentions that education has been part of correctional programmes for a long time. According to Nxumalo (1997: 111), education is an important part of the whole treatment programme within the correctional setting. The Department of Correctional Services preserves a good balance in academic, vocational and physical education and recreation. Offenders need to reach their full potential through education. Hence, educational services must be available to all offenders, and education can play a role in less re-offending when offenders are educated (Jonker, 2012: 55). Therefore, education empowers ex-inmates with the skills for employment, social cohesion and a smooth re-integration based on personal needs (Johnson, 2015: 47). "The right to education is based on the values of human dignity" (Muthapuli, 2012: 123). According to Coffey (1974: 146), many offenders who are admitted have so many educational challenges which make it difficult for them to change after they are released to society. Educational programmes that are offered at correctional centres are aimed at ensuring the following:

- It helps the offenders to acquire or develop personal resources and attitudes which in turn help them after their release;
- It helps those offenders who have difficulties in reading, writing and numerical skills so that they can be more competent;

- It helps those offenders who were engaged in either full-time or in regular, part-time education and training, before their convictions, to continue with their studies;
- It provides advice and guidance on the opportunities that are available to offenders after their release (Gowdy et al., 2003: 14).

Educationalists are tasked with tertiary, primary and post-school counselling and education of inmates (Herbig & Hesselink, 2012: 34). Several educational programmes and schooling developments are presented to offenders**.** Muthaphuli (2008: 167) also explains that the Department of Correctional Services offers three programmes of education and training, i.e., general education and training (GET), further education and training (FET) as well as higher education and training (HET).

Within GET, education is offered under pre-ABET literacy tuition and ABET levels 1-4. In this regard, the department adheres to the guidelines set out by the Department of Education regarding ABET (Muthaphuli, 2008: 167). Johnson (2015: 48) explains that different forms of adult education programmes within correctional education debate the three forms of adult education (formal, non-formal or informal), and their benefits to the inmates. For these reasons, the following sections look at formal, non-formal and informal educational activities.
According to Muthaphuli (2008: 167), FET offers offenders free education from Grades 10 to 12 as well as N1-N3 of business studies. Like GET, FET is offered in line with the requirements of the Department of Education for FET. Post-secondary education is offered through distance learning as well as through arrangements with local institutions of higher education.

There are examples of the institutions of higher education such as the University of the Western Cape running successful community law projects with various activities including extensive research done by many known scholars in correctional discourse. Recently a mobile library was provided for offenders in correctional centres in Western Cape. Other institutions like UNISA which, through distance education, provide education for offenders. In 2013, UNISA marked 140 years of its existence and reported on several thousand ex-offenders who are UNISA alumni.

UNISA continues to provide partnerships and collaborations currently (UNISA, 2014; Johnson, 2015: 48).

However, post-secondary education comes with its own problems (Muthaphuli, 2008: 167). Funding for tertiary institutions is the responsibility of the offenders although the department assists inmates to apply for study bursaries (Herbig & Hesselink, 2012: 34). According to Johnson (2015: 48), "There are some stakeholders in society, at community, national, regional and international levels that express their willingness to participate in the provision of prison education but are disgruntled and frustrated by the red-tape and security bureaucracy within the DCS".

6.3.2.2 Skills development programme

Most offenders who end up in correctional centres come from disadvantaged backgrounds and lack marketable skills. Therefore, there is a need for the department to train them. Muthapuli (2012: 124) states that alternatively, life skills programmes provide a wide variety of activities that teaches inmates the necessary skills that most people acquire through the normal socialization process. Most offenders come from society with a number of challenges, and some are identified by the Department of Correctional Services. Some of the identified challenges are to improve the high level of low productivity due to inadequate training, the high level of unskilled workers in the workplace, inadequate opportunities for the upgrading of skills (Mondlane, 2013: 15). Offenders who will be part of the skills development programme are determined mainly by the length of the sentence, interest, aptitude and available facilities (Nxumalo, 2002: 91). The formulation of the Skills Development Act 55 of 1996 was to address the high disparity of skills in the Department of Correctional Services (Mondlane, 2013: 15). According to the White Paper on Corrections (2005), correctional services are also expected to align its strategic objectives to the Skills Development Act in order to capacitate its workforce before it can attempt to develop offenders whilst preparing for their reintegration back into the society

Many offenders are unable to function effectively in society due to many reasons which include, amongst others, deficiencies in basic academic skills which comes with a lack of basic life skills (Muthapuli, 2012: 124). Skill development programmes consist of the elements of proficiency, instruction training, vocational, selection of allocation and (Coetzee et al., 1995: 130):

- **Proficiency training:** Proficiency training represents those fields of training where trade status cannot be obtained. it requires specialised training and where relevant, external organisations issue certificates. External courses are offered by way of instruction from the external training partners or instructors who are trained and approved by the training boards and other external organisations to present training to offenders on behalf of such organisations. External courses, internal courses and in-task training are utilised to improve the labour skills of offenders who are not part of the vocational training, in a market-related manner, thereby promoting entrepreneurship and self-sufficiency.

- **Instruction training:** The training involves the following: electronics, mechanics, furniture manufacturers, assembly work, welding, upholstery, etc. Classes in theoretical technical subjects are presented by qualified technical educationalists. Offenders who are competent artisans are also allowed to be involved in training apprentices. Offenders who also completed their training and are qualified continue to work in prison workshops (Coetzee et al., 1995: 133). Labane (2012: 247) mentions that "Two offenders from Pollsmoor Correctional Facility participated in an international art contest for offenders, 'Discover the Face of Life Arts Competition' and won the prize for the best artworks. Each offender received twelve thousand dollars in prize money" (South African Department of Correctional Services, 2006: 34).

- **Vocational training:** Vocational programmes prepare inmates for productive lives by providing skills and work habits that are seen by the community to which the inmate must ultimately adjust as desirable (Coffey, 1974: 145). This involves the training of offenders in building, hairdressing for women and workshop trade. training offenders in cooking, baking, meat cutting, the operation of power and filtration plants and refrigeration equipment,

automotive maintenance and repairs, carpentry, plumbing, painting, bricklaying, sheet metal work, installation of electrical equipment and internal operations assignments in the hospital, laundry and dry-cleaning and clothing repair plants (Nxumalo, 1997: 119). Training should involve training offenders in the industry to obtain a diploma or certificate from the Department of Labour or the National Training Council on successful completion of the training. A new training system complying with the most up-to-date training developments was implemented in collaboration with various training councils and should be related to the job market (Labane, 2012: 245).

- **Selection and allocation:** The institution committee is responsible for the approval of the selection and allocation of each offender's training and/or work according to their qualifications, previous experience, aptitude, ability, mental and physical health and length of sentence. An institution committee will also be responsible for monitoring the entire process. If an offender does not have the ability for a specific allocation, that offender will be re-allocated in another training direction. If an offender is not fit for any training, he/she will be allocated for constructive labour.

According to the South African Department of Correctional Services (2009: 64-65), the following factors had a positive impact on the number of offenders participating in the skill development programmes: "Many offenders were interested in the newly introduced national certificate (vocational) and moved from formal Education to skill development to enrol for the said programme. This programme enhances the learner's chance of employment. Better and effective marketing of skills programmes through monitoring and evaluation visits. Joint implementation approach on NC (V) by both skill development practitioner and Formal Educators".

6.3.2.3 Psychological services programme

The Directorate of Psychological Services offers psychological services which ensure that offenders are rehabilitated for them to reintegrate successfully into society (Labane, 2012: 251).

It is stated in the White Paper on Corrections in South Africa (Department of Correctional Services, 2005: 132) that psychologists within the Department can, among other things, help cure the causes of criminal behaviour, such as alcohol and substance abuse. They contribute to the aim of reducing re-offending by addressing the problems of those individuals who are highly likely to re-offend. Psychological services programmes are offered by registered psychologists and emphasis the different character types of offenders. Psychologists usually have individual sessions, during which they help offenders to understand themselves and change their own behaviour (Jonker, 2012: 55). "Psychological services aim to offer professional services to offenders, probationers as well as parolees to promote their mental health and emotional well-being" (Labane, 2012: 251).

According to Herbig and Hesselink, (2012: 34), psychological services programmes primarily focus on the mental health functioning of sentenced offenders. The following are the target areas for psychological services:

- Suicide risk management;
- Psychological intervention when requested by a court of law;
- Psychological counselling;
- Risk management of persons under supervision inside the community, and
- Offenders that are guilty of aggressive and sexual offences.

Coetzee, Kruger and Loubser (1995: 128-135) mention that offenders are referred for psychological diagnosis and/or treatment by means of the following mechanisms:

- By the courts, warrants or expert reports;
- Using a need's assessment form;
- Institutional committee references on the recommendation of staff members;
- By the parole board;
- At the offender's own request.

"The psychologists make use of methods such as individual therapy, group therapy and family therapy to ensure that the treatment of the offender is effective, which will, in turn, strengthen

their rehabilitation. These methods are applied to different types of offenders ranging from those with suicidal tendencies to those who request these services themselves" (Muthaphuli, 2008: 160).

6.3.2.4 Social work services programme

According to Herbig and Hesselink (2012: 34), the Department of Correctional Services employed social workers to address family and offender relationship problems among all offenders and probationers. The service is aimed at maintaining and improving social functioning and contributing to reintegration. Nxumalo (2002: 84) also emphasises that the Social Services Unit aims to assist offenders to achieve a better self-image within the social domain of the correctional centre and after being released to a society of law-abiding citizens.

The essential function of social work services in the Department of Correctional Services is to evaluate the offender and provide need-based programmes and services to improve the change, social functioning and reintegration of offenders back into the community (Jonker, 2012: 53). Treatment for social difficulties ranges from supporting services to extensive counselling, which is typically delivered on an individual basis or through case or group work. Social workers serve as a vital link in the maintenance of family and social bonds. The orientation of incarceration, HIV/AIDS counselling, substance addiction, adaption challenges, marriage and family problems, violent and sexual behaviour, support services, trauma debriefing, and preparation, release, and after-care programmes are further topics of concern (Herbig & Hesselink, 2012: 34).

The following typical programmes that social workers present in South African correctional centres were identified by (Prendergast, 2004: 3): life skills, anger management, a substance abuse programme, a sexual offenders' programme and the pre-release programme. Other programmes given, during an interview with head office, are marriage and family care enrichment, youth resilience enhancement and "cool and fit for life" and. All the above-mentioned programmes are briefly discussed below:

- **Life skills programme:** This programme is carried out weekly for two hours over a period of six weeks. Life skills programme focusses on offender problem solving, communication skills, self-image, handling of conflict, and assertiveness. Offenders develop their potential and need to face life and participate in a social setting.

- **Anger management programme:** This programme was carried out for two hours over eight weeks. This programme is for offenders who need some help with the handling of their anger behaviour, as well as violent offenders. Offenders learn skills to change aggressive behaviour. How to handle difficult situations, and keeping an anger diary, are some aspects covered in this programme.

- **Substance Abuse Programme:** The offender's physical, emotional, psychological, spiritual and social well-being is discussed during this eight-week course. Where their offending is related to drugs or alcohol, offenders need to be guided to obtain insight into the negative effects of their behaviour.

- **Sexual offenders programme:** This programme is called the Preparatory Programme on Sexual Offences. This is carried out for two months, in weekly two-hour sessions. The current sexual offenders' programmes are targeted at both child molesters and rapists. Some of the characteristics covered in this programme consist of issues that cause offending behaviour, victim empathy, self-image, communication and conflict handling, and relapse prevention.

- **Youth Resilience Enhancement:** The programme consists of two-hour sessions, weekly over a period of eight weeks**.** Youth offenders are equipped with specific skills to develop resilience and fight the temptations of getting back into criminal activities.

- **Marriage and Family Care Enrichment programme:** The programme is followed weekly and consists of two-hour sessions, over a period of eight weeks. The marriage and Family

Care Enrichment programme focuses on the improvement and restoration of expressive relationships. The difference in female and male roles is discussed.

- **Cool and Fit for Life:** This programme is over a period of six weeks, weekly comprising of two-hour sessions. This therapeutic group deals with attitudes, peer pressure, feelings that a person experience, different beliefs, fears that can rule a person's life, and how to deal with life in general.

"Like psychologists, social workers also have the responsibility to determine the needs of offenders and to ensure that they are placed under programmes which are suitable for their needs. Social workers ensure that offenders are provided with programmes that help them deal with substance abuse, marriage and family, life skills and sexual offending, amongst other things. These programmes contribute positively to the lives of the offenders as they ensure that they move away from their old habits and develop a new life, thereby ensuring their complete rehabilitation" (Muthaphuli, 2008: 163).

6.3.2.5 Religious care programme

There is a diversity of religious and spiritual care employees in correctional centres who assist offenders with personal, religious/spiritual care, and familial support and/or counselling services representative of all denominations (Herbig & Hesselink, 2012: 34). According to Muthaphuli, 2012: 130), religion plays an important role in changing offenders' behaviour in the South African correctional system. There is some form of religious expression in every correctional institution as it delivers many offenders with the internal stability that is compulsory to fruitfully adjust within a correctional system and upon release.

The CAO ensures that all sentenced offenders undergo the risk and needs assessment process after admission. During that assessment, it is determined whether the offender was part of religious practice and actively involved in his/her church and whether the offender needs spiritual support from the church (Labane, 2012: 255).

Barry (2009: 376) outlines that the church's ministry in the definite framework of necessary the wounds of the past, crime, and violence, is to ensure that victims, offenders, and their communities are substances of holistic evangelism. This will mean proclaiming the good news of God's forgiving, redeeming, healing, and transforming love**.** This has to be done in a way that victims can see the future in terms of healing and wholeness, of which forgiveness may be a necessary part; offenders also must be enabled to take responsibility for their actions, make amends and also see the future in terms of reintegration into society, and the building of holistic relationships. This will involve the Biblical dynamic of *metanoia,* repentance. Community ties can support victims, help reintegrate offenders, build relationships, and prevent or reduce recidivism**.**

Coetzee et al. (1995: 128-146) outline the duties concerning the pastoral care of offenders from admission to release as follows:

- Orientation of offenders on admission and before placement/release;
- Reporting onboard offenders to the institutional committee;
- Pastoral care in groups and individually;
- Sick calls;
- Support during the dying hour and funerals of offenders;
- Arranging for religious aftercare for placed/released offenders;
- Consulting with other disciplines, referring offenders to experts in other disciplines for specific attention, and channelling requests of offenders;
- Investigating, in conjunction with social workers, the desirability of the marriage of an offender, and conducting the marriage ceremony;
- Providing offenders with Bibles, other religious books and spiritual literature.

According to Coetzee et al. (1995: 144), the aim of the Department of Correctional Services about religious care is to inspire and allow offenders satisfaction regarding their religious needs and tendencies without interfering in church and belief principles or acts and with due respect for the religious beliefs and practices of other offenders and personnel. there are two aims of

religious care. Firstly, it is a basic right to which offenders are entitled and secondly, it is an essential feature in the successful care of offenders.

6.3.2.6 Recreational programmes

It is a constitutional right for offenders to have access to recreation and physical exercise within security constraints**.** According to the South African Department of Correctional Services, (2006: 34), "The department signed Memorandums of Understanding (MOU) with the South African Football Association (SAFA), Athletics South Africa (ASA), the South African Rugby Union (SARU), Tennis South Africa (TSA) and SA Handball. The agreement is in keeping with the departmental objective of ensuring that development programmes for offenders are accredited and will be to their benefit". Management at Leeuwkop approached the vision of offender rehabilitation through sports (South African Department of Correctional Services, 2010: 21).

Muthaphuli (2012: 130) mentions that rehabilitation programmes and recreational programmes do not involve an offender being able to read or write in order to join in them. Institutional recreational programmes differ from one institution to another. Nevertheless, the general recreational programmes have to do with the following activities according to this outline by Kahler (2006: 97):

- Organized, outdoor, group extramural activities which include football, basketball, baseball and volleyball;
- Organized, indoor, group activities which include card games and choirs;
- Individual activities which include weightlifting, jogging, walking and playing a musical instrument;
- Arts and crafts programmes which include ceramics, painting and leatherwork;
- Television, radio and movies;
- Talent shows and drama productions;
- Entertainment from outside volunteers, including music festivals;
- Club activities.

Young offenders also participate in competitive sports activities such as soccer and athletics, after hours and on Saturdays. The main aim of any recreational programme within corrections is to assist each resident as much as possible to find a recreational pursuit that will occupy his or her free time outside.

6.3.3 Professional correctional officials to rehabilitate an offender

In cases where offenders are feeling worthless and meaningless, it is the duty of correctional staff to make an important contribution to encouraging offenders to admit to the challenges that they are facing within the correctional environment because of their incarceration and to keep offenders busy with meaningful activities such as study, training, construction, reading and hobbies (Coetzee & Gericke, 1997: 97). The role of the correctional official is greatly challenging and broad. They help when offenders need assistance with jobs, or to get along with other offenders, to enter programmes, to interact with staff, or to obtain privileges (Hemmens & Stohr, 2000: 327).

According to Coetzee and Gericke (1997: 63), the Department believes that to accomplish policy, in terms of the White Paper (Republic of South Africa, 1994: 19), the following principles must be adhered to:

- Correctional officials should always be non-partisan and perform professionally;
- Correctional officials must contribute to employee initiate, creativity and reliance;
- The Department of Correctional Services should provide enough information, training and supervision required by the correctional officials to do their jobs in the most effective way;
- There must be a good relationship between correctional staff and labour organisations established through successful communication and mutual respect;
- All professional correctional staff should actively achieve goals and implement policies, plans and priorities of the Department.

According to McAree (2011: 13), there is slight evidence on the correctional programmes set up by the DCS because the DCS runs its programmes through a host of other organisations such as

NGOs and other departments such as Dept. of Labour, Dept. of Education, Dept. of Social Development, Dept. of Sport and Recreation, etc. that are not united with one another. Therefore, it is very difficult to find an exact number of programmes that DCS has set up directly.

6.4 THE ROLE OF NGOS IN THE REHABILITATION AND REINTEGRATION OF OFFENDERS IN SOUTH AFRICA

Van Zyl (2009: 40) states that it is the collective reason that many of the problems encountered in correctional services in our day are extremely complex and consistent. These problems such as poverty, lack of adequate education, poor health care, high crime rates and the like, increase extreme further than the range of one Government department namely Correctional Services. As a result, a complete method must be followed, firstly, in trying to understand and study these problems and, secondly, in search of solutions thereto. Therefore, it is necessary to establish strong relations with as many role players as possible. This requires a conscious effort to share information, knowledge, expertise, experience and, where possible, resources. According to Plaatjies (2008: 250), When communities are active in the criminal justice system, they are empowered when given the chance and obligation to recognise and carry out their role in conflict resolution.

According to Motlalekgosi (2015: 184)**,** Chapter 3 of the White Paper on Corrections of 2005 is dedicated to correction as a societal responsibility. This establishment emphasizes the need for the involvement of the Community in correctional activities with the emphasis on families as a primary role player and the community (schools, churches and NGOs) as the secondary role players. Public support through participation or involvement in rehabilitation programmes of the Department of Correctional Services is emphasised by paragraph 3.3.10 of this White Paper.

The Department of Correctional Services as the last chain of the criminal justice system on its own cannot be effective if it is solely responsible for rehabilitation and reintegration of offenders. As this is also stated by the White Paper on Corrections (2005: 4), for the Department of Correctional Services to be successful in developing and sustaining a correction-focused

correctional system, this mustn't be done in isolation of the Department of Correctional Services and other stakeholders. This is in line with Christie's (1977: 7, 8) belief that the struggle of crime actually belongs to communities. the community is in control to settle down informal disputes and exercise social control. Should that be done successfully then the community will have contributed to crime prevention (Dignan, 2012: 313).

Motlalekgosi (2015: 184) further explains that community participation is essential not only for combating crime but also for ensuring effective offender rehabilitation thereby protecting and promoting the rights of offenders resulting in recidivism. In support of this theory, Tapscott (2008: 2) also emphasises that effective power of any correctional establishment is a function not only of the state's administrative efficiency but also of the extent to which society at large understands and engages in the challenges faced in combating crime and in incarceration and rehabilitating offenders.

Ghai, Duxbury, Linton, et al. (2008) highlight the importance of community participation in correctional matters as follows :

- Educate the society about what prisons can or cannot do;
- Make the functioning of prisons transparent;
- Protect, educate and advocate prisoners' rights and duties;
- Adhere to international human rights standards in the treatment of prisoners;
- Ensure better allocation of resources.

Luyt (2008: 178) mentions that "In 2007, the Department of Correctional Services made a presentation to the portfolio committee on correctional services to motivate why Correctional Services Act 111 of 1998 had to be amended. Amongst other reasons presented is to enable public participation in rehabilitation and reintegration of offenders into the community" (Motlalekgosi, 2015: 188). The mission of the DCS is to ensure that rehabilitation is the main priority in its activities and this mission of DCS can be achieved by working together with (community) external stakeholders (Herbig & Hesselink, 2012: 30). "The White Paper on Corrections in South Africa (2005: 83), which is a policy document for the Department, states

that the role of the community members during incarceration is also of vital importance to ensure that offenders feel a sense of community despite their exclusion" (Mashabela, 2010: 218).

Mondlane (2013: 24) states that a successful rehabilitation and social reintegration programme requires the contributions and inputs of various stakeholders from within and outside the government sphere. Therefore, the Department of Correctional Services must recognise the significant involvement that the external role players such as Non-Governmental Organisations can make (Du Preez & Luyt, 2004: 156). This idea is also supported by the Judicial Inspectorate, as one of its strategic objectives is "the community's interest and involvement in correctional matters" (Van Zyl, 2001: 40). Involving all other stakeholders is important in making the rehabilitation of offenders successful, but also to ensure the cooperation of communities when offenders need support upon release (Bazemore & Erbe, 2004: 35).

The Department of Correctional Services has the so-called Sub-directorate of Community Involvement which is responsible for the issues involving NGOs in correctional services. The objectives of this sub-directorate are to ensure that it encourages co-responsibility for offender management, shares responsibility for offender rehabilitation and crime prevention reintegrates offenders into the community as well as maximises the use of public and private forums (Labane, 2012: 89). Commonwealth Human Rights Initiative, (2008: 9) emphasises that "Community participation in prisons is a partnership between the community, prison officials and prisoners undergoing punishment, to assess, identify and implement the areas and possibilities of reform in prisons". According to Mondlane (2013: 24), the Department of Correctional Services has also tried to reinforce its partnerships by formalising its relationships and entering into service level agreements with the public through its community participation policies. The community should participate more in the correctional matter because unless there is a partnership between correction authorities and the community, problems within the correctional services cannot be solved meaningful way. Commonwealth Human Rights Initiative, (2008: 9) mentions that community involvement in correctional services can ensure it bridged the gap between the expectations of community members and that of correctional officials by taking the two in close contact and initiating a meaningful dialogue about the mutual problems and concerns. If this is

not done, both community and correctional officials will continue to nurture a hostile attitude towards each other. However, Plaatjies (2008: 250) argues that "The role and involvement of communities cannot be overemphasized, especially to make Social Reintegration succeed. Reintegration of offenders could only be successful if they are assisted to find jobs and become self-sufficient".

Correctional Service Chief Deputy Commissioner James Smalberger mentions the diversity of partnerships that the DCS had entered, to aid in rehabilitation efforts. He said the partnerships and Memoranda of Understanding (MOUs) to be outlined were only at a national level. If an NGO is required to be involved at a specific correctional centre, then the application would go to an authorisation committee at that centre. In case an NGO wished to be involved at several centres, it will go to the regional accreditation committees. If the involvement was in three or more regions, then this would go to the national accreditation committee (Motshekga, 2014).

The White Paper on Corrections (2005: 88**)** states that the Department of Correctional Services involves the Community Participation Policy to reach objectives. These objectives are to:

- Build an environment that would permit for the operational participation of the community in the rehabilitation of the offenders;
- Make changes for the founding and maintenance of partnerships between the Department and the community;
- Regulate the inflow of community-based service providers into the Department wishing to render programmes and services to offenders to assist with rehabilitation efforts;
- Formalise common partnerships and networking relationships with the community;
- Integrate and coordinate services rendered by community-based service providers to offenders;
- Involve ex-offenders in rehabilitation efforts;
- Market the Department, its needs and services to the community, and
- Ensure effective reintegration of offenders into the community.

"The DCS had also established partnerships with service providers to aid in the running of the correctional programmes at correctional centres and community corrections, including the National Institute for Crime Prevention and Re-integration of Offenders (NICRO), which handles the pre-release and 'Tough Enough' programmes (will be discussed later); Khulisa, which runs the Crime Prevention Programme; and FAMSA, which renders relationship and 'Anger in-Anger out' programmes" (Motshekga, 2014).

Barry (2009: 376) states that some of the practical, computable and accountable ways in which the external role players such as the Christian community could mobilise its resources may be:

- To work together with other agencies, both government and NGOs, especially with restorative justice initiatives and diversion programmes, one of which, the Fig tree or sycamore tree project, will be discussed in the following subsection.
- To offer a safe environment that will help victims and offenders to grow, learn, tell their stories, forgive, be forgiven, and find strength.
- To promote the principles and practices of restorative justice, e.g., by gathering for reflection, prayer and action.
- To promote work-shops, rallies, and liturgies that bring crime and justice issues into corporate worship.

According to the White Paper on Corrections (2005: 87), the Department of Correctional Services has identified the NGOs, faith-based and community-based organisations as one of its key external relationships. The DCS had established partnerships with faith-based organisations involved in providing services and programmes to offenders and assisting with the management of faith groupings within correctional service centres (Motshekga, 2014). The relationships between the DCS, NGOs and faith-based organisations are essential to the successful achievement of the rehabilitation and reintegration of offenders (White Paper on Corrections, 2005: 87). According to Motshekga (2014), faith-based organisations provided nearly 1 794 spiritual workers rendering services to offenders. Established partners include Shembe Israel Vision, African Traditional Religion, Kara Development Ministries, Rastafarians and which had contributed to the development of spiritual care policy guidelines. Further specific partnerships

include the Bible Society of SA, which annually donates bibles to offenders, and the training of spiritual care personnel by the Theological Department of UNISA.

The Department of Correctional Services has a critical role to play in building strategic collaborations with non-governmental organisations in order to provide high-quality reintegration services. Working in conjunction with NGOs and community-based organisations to strengthen reintegration of offenders as a constitutional right and earn community trust is therefore conceivable. (Mondlane, 2013: 27). Van Zyl (2009: 40) explains that all NGOs attend the stakeholder meetings once per quarter to meet the Independent Visitors and discuss matters of mutual interest in so far as they relate to the treatment of inmates and the conditions in correctional centres.

Every correctional centre in the country may come across NGOs involved in presenting programmes or providing services to inmates. The Minister, Deputy Minister and National Commissioner hosted various "round-table" discussions on topics such as health, gang activities and deaths in correctional centres, have contributed meaningfully to strengthening the links between the role players (NGOs) participating in such discussions, while at the same time informing public opinion regarding the many and varied challenges faced by correctional services (Van Zyl, 2009: 40). Bailey and Ekiyor (2006: 27) state that the Department of Correctional Services supports community participation in correctional matters through the following means:

- The Department signs up a community participation policy that frameworks the recommendations for community involvement, which are in line with the departmental rehabilitation strategy.
- The Department inspires larger community contributions as a means of combating crime, thereby promoting good relationships amongst community members.
- It offers support to both offender and the victim.
- In all accomplishments, it aims at incorporating offenders into the community.
- The Department ensures active involvement in the definition of offender responsibilities.

- It offers offenders opportunities for repentance, forgiveness, reconciliation and for offenders to make restitution.
- The Department aims to ensure that relations are restored for the successful reintegration of offenders.

"The mission statement of the DCS is to place rehabilitation at the centre of all departmental activities, in partnership with (private and public) external stakeholders" (Herbig & Hesselink 2012: 30). According to the White Paper on Corrections (2005: 88), the participation of the community in strengthening and improving rehabilitation is critical. Muntingh (2008: 1) mentions that there are a number of NGOs in South Africa working both inside and outside of correctional institutions with offenders, ex-offenders and their families. NGOs originate from the community. These organisations offer services generally aimed at supporting and promoting offender rehabilitation through some treatment programmes in an attempt to reduce the chances of offender reoffending. It is noted that the services of NGOs are valued higher than the services of the Department of Correctional Services when it comes to the presentation of programmes to offenders (Mondlane, 2013: 26).

According to Du Preez (2003: 237), volunteers who form part of NGOs are very important to the offender's reintegration into the community. This statement was supported by Herbig and Hesselink (2012: 30). NGOs assist DCS with counselling, programme delivery, offender rehabilitation and reintegration services. Prominent NGOs focus on:

- Spiritual guidance and support,
- Education,
- Prevention of crime,
- Diversion of youth,
- Personal development,
- Community-based support for children before/after release from awaiting trial or places of safety,
- Behaviour change,

- Crime awareness,
- Community liaison,
- Violence in relationships and conflict management,
- HIV/AIDS,
- Life skills,
- Pre-release and reintegration,
- Restorative justice,
- Securing employment for inmates about to be released and ex-offenders (economic opportunities project),
- Leadership skills,
- Human rights,
- Community empowerment,
- Upliftment and victim support,
- First aid and self-defence,
- Rape and sexual offences counselling,
- Project design,
- Administration, and study bursaries (Herbig & Hesselink, 2012: 30).

Mondlane (2013: 26-7) mentions that these NGOs are managed by people who are well respected and very much familiar with the challenges and the specific cultures that are facing the community. Offenders believe that partaking in the programmes that are rendered by NGOs will allow them to work towards gaining the trust of the community since they come from the community and that they will be accepted back when released. The training delivered by NGOs are essential because they sometimes expose offenders during their reintegration to the labour market, thus reducing the chances of reoffending. On the other hand, the assessment of the services rendered by NGOs is not an easy task because offenders and their families are often not aware of all the services of the NGOs. Therefore, the NGOs need to have certain qualities to enable them to work effectively with the offender. General requirements for s working with offenders should include having good interpersonal relationships. NGOs must be able to

maintain relationships with the offender to help the offender. Working with offenders in a personal manner requires responsibility and conscientiousness from the NGOs (Du Preez, 2003: 237-238).

"For rehabilitation to be effective, the community must be at the centre of the rehabilitation process because it is both the place of origin and return for the prisoner. The causes that contribute to criminal behaviour also support both the victim and offender. The principle of restorative justice should be initiated by the community" (Labane, 2012: 89). The implementation of NGO programmes is beneficial to the correctional institution from a security point of view. The utilisation of volunteers assists in reducing the evil effects of prison life. Offenders who part. It believes that for inmates participating in NGO programmes, the extent of rule violations is reduced (Jones, 2003: 144). NGOs also represent the community at large in the Restorative Justice process, involving all other stakeholders is important in making rehabilitation of offenders successful, but also to ensure the cooperation of communities when offenders need support upon release (Plaatjies, 2008: 253).

The Department of Correctional Services (2016: 32) stipulates that spiritual care is a component within the Department. The Department signed a Memorandum of Understanding **(**MoU): with NGOs to be in partnerships in spiritual care with the Moral Regeneration Movement (MRM), Institute for Healing of Memories and Christian Revival Church. Spiritual Workers and volunteers of different churches/faiths. They are appointed as well as services providers which inter alia pay attention to building character and inculcating positive values to inmates. On 6 November 2016, the National Commissioner signed an MoU on behalf of DCS with the Christian Revival Church. DCS is currently in partnerships with the NGOs, Heartlines and the Moral Regeneration Movement (MRM), specifically focusing on the development of positive values and norms for inmates and officials in DCS.

The Department of Correctional Services (2016: 33) implement the following dedicated programmes in building character and positive values are implemented and rolled out in correctional centres in partnership with the NGO Heartlines. Officials (Moral and Development

Coordinators) and spiritual workers of different faiths are also trained in conducting the programmes:

- Living Positive Values: discussion on eight values.
- Values for Life: a practical resource for teaching about values for young people.
- Living Godly Values: an eight-week course of inculcating positive values.
- Heartlines for Youth: course specifically dedicated to youth and positive values.
- Values for Money: assisting a person to apply positive values regarding money.
- CHATSEC (Combating HIV and Aids through Spiritual and Ethical Conduct): course assisting inmates in making decisions that are based on positive values and building their character. This programme stems from a partnership with the Chaplaincy of the SANDF.

Prominent NGOs such as NICRO, faith-based entities and Khulisa assist DCS with offender rehabilitation and reintegration services, counselling, programme delivery. These organisations focus on behaviour change, crime awareness, community liaison, education, prevention of crime, diversion of youth, spiritual guidance and support, personal development, community-based support for children before/after release from awaiting trial or places of safety, violence in relationships and conflict management, HIV/AIDS, life skills, pre-release and reintegration, restorative justice, securing employment for inmates about to be released and ex-offenders (economic opportunities project), leadership skills, human rights, community empowerment, upliftment and victim support, first aid and self-defence, rape and sexual offences counselling, project design, administration, and study bursaries. These services are notionally available in all DCS facilities but are usually easier to access at urban centres than rural ones (Herbig & Hesselink, 2012: 35).

According to the White Paper on Corrections (2005: 89), the following are principles relating to community participation and community programmes in the Department of Correctional Services:

- Community participation and programmes shall promote the restoration of relationships and bring about healing and forgiveness;

- All the community projects that are funded by the department shall be managed according to departmental financial procedures and regulations;
- Requests, where programmes and services rendered, do not promote the core business of the department, shall not be approved;
- All community participation programmes and services shall be coordinated and managed at area management level;
- The department shall keenly contribute to community advantages and projects;
- Community participation shall aim to improve in effect reintegration of offenders into society as law-abiding and productive citizens;
- Joint management and sharing of resources shall be encouraged;
- Agreements between the department and the community shall be formalized;
- All applications for community participation shall be subjected to a screening process;
- Any deviation from agreements, as well as policies and procedures of the Department, shall result in the termination of the services of a community-based service provider;
- Programmes rendered to offenders or staff by, and agreements entered into with, community-based service providers shall be evaluated and reviewed from time to time to ensure continuous adherence to, and promotion of, the Department's core business;
- The needs of the Department in respect of programmes and services to enhance rehabilitation of offenders shall be marketed to the community; and
- The Department shall enter into a collaborative partnership with the community and
- Both parties shall share expertise and resources.

The Department of Correctional Services Strategic planning report (2018: 83) states that the Department of Correctional Services Commission on Engagements included the identification of issues in their plans that required stakeholder involvement. A number of stakeholders were identified. The Commission's work to improve and bring into line stakeholders with DCS potentials and strategic objectives still need to be accepted. In the interim, the understanding is that the DCS will engage with identified stakeholders in a structured manner. One of these relevant stakeholders subsequently identified are NGOs.

Most NGOs running correctional support and offender reintegration services began contributing these services very lately (around 2011 to 2012). Of the organisations revised, roughly one third ran their existing service before 2000 and two-thirds established the service after 2000**,** for example, an organisation such as NICRO, that was recognized many years ago, but the current offender reintegration service was established more recently (Muntingh, 2012: 8). According to Motshekga (2014), in a speech by Mr Smalberger, other stakeholders which has a partnership with the Department of Correctional Services to aid rehabilitation and reintegration of offenders are as follows:

- **Department of Basic Education** for accreditation and assistance with education. A number of organisations had donated educational resources, Van Schaik, Oxford, Pearson and Vivlia publishers, has made some donations of books to DCS.
- **National Youth Development Agency** to provide specific training to 2 400 young offenders on career guidance and job preparedness programme.
- **Department of Art and Culture and Sport and Recreation**, and all major sporting federations, including the South African Football Associations and various universities.

Johnson (2015: 66) states that NGOs has played a critical role in several educational and rehabilitation programmes in various correctional centres. Each province has its own repository of organisations and services that are provided for offenders. “Mr Smalberger concluded by detailing a variety of partnerships with DCS had entered into, to aid in the rehabilitation effort. He said the partnership and Memorandum of Understandings (MOUs) to be outlined were only at a national level” (Motshekga, 2014).

6.5 OVERVIEW OF THE NGOS INVOLVED IN REHABILITATION AND REINTEGRATION OF OFFENDERS IN CORRECTIONAL SERVICES OF SOUTH AFRICA

According to McAree (2011: 22), the Department of Social Development is responsible to certify officially all Non-Governmental Organisations in South Africa. For NGOs to get certified, an

organisation needs to apply by submitting a constitution. The constitution of a possible NGO must explain the objectives of the organisation, the proposed places of operation, and how the organisation will be managed and maintained. This includes the establishment of a Board of Management which will run the organisation. All NGOs involved in DCS must comply with the above-mentioned requirements (Department of Correctional Services, 2016: 46). The following NGOs signed MOUs with the Department to train and employ parolees, probationers and ex-offenders:

6.5.1 Khulisa

In response to the need to provide young offenders with an opportunity to use creative arts as a means of self-expression, Khulisa Crime Prevention was established in 1997 at Leeuwkop correctional centre as a non-profit organisation (Khulisa Social Solutions,n:). According to Muntingh (2012: 6), in the Western Cape, Khulisa's started in early 2007 with a programme at the awaiting trial children's section at Pollsmoor prison. The programme focuses on life skills development and self-evaluation. The programme consists of six sessions spread over three weeks, each session lasting approximately three hours. Daily worksheets are kept, and participants receive a certificate upon completion of the programme. Currently this NGO functions countrywide

According to Labane (2012: 92), Khulisa has forged partnerships with local and international bodies, as well as government and departments such as Correctional Services, Education, Foreign Affairs, Health, Justice, Social Development, Community Safety, Housing and Labour. Khulisa Management Services (Undated) states that its mission and vision are based on its core values of integrity and professionalism. Khulisa's mission and vision are briefly discussed as follows:

- **"Khulisa Vision**: Khulisa supports African people and institutions to better demonstrate results and use high-quality data for decision making, to ensure accountability and build knowledge".
- **"Khulisa Mission Statement**: Khulisa aims to achieve their vision by:

- Exceeding expectations through collaborative project management, research, capacity building, and technology.
- Building on best practices whilst encompassing principles of innovation, utility, efficiency, flexibility and responsiveness.
- Creating a learning organisation that fosters an effective working environment with high staff motivation and retention in a diverse, multi-skilled and highly competent team.
- Investing inefficient systems and our human resources.
- Being a responsible corporate citizen committed to equitable development of and investment in all our stakeholders".

Khulisa's first official offender rehabilitation programme was piloted in Leeuwkop Juvenile Prison (Johannesburg) amongst 25 juvenile offenders in 1997 (Khulisa Social Solutions, 1997). The Khulisa programme in Gauteng structure emphasises life skills development, emotional intelligence and instilling good working habits. Its rehabilitation programme marks offenders between the ages of 18-35 years with a Grade 10 level of literacy and an appropriate release or placement date at least two years into the future, or those serving a sentence of five years or less. After induction, an offender profile is drawn up and used in developing a sentence plan. Prisoners who have participated in the rehabilitation programme are offered a pre-release programme (Muntingh, 2012: 6).

The programmes which are offered to offenders in their role in the rehabilitation process by Khulisa are as follows according to Muthaphuli (2008: 174):

- **Restorative Justice:** This is aimed at ensuring that offenders are accountable for their offence and are capable of coming face to face with their victims and their families to work out their issues and get on with their lives. Muntingh (2012: 6) explains that **r**estorative justice is a 10-week programme intervention and links released offenders with DCS community corrections for further support.

- **Discovery, my path:** This programme is designed to ensure that offenders understand the condition in which they found themselves and that they discover themselves. This

programme is known as a self-help programme because offenders are then capable of understanding their emotions, and social, physical and psychological being through this programme. McAree (2011: 15) mentions that the "My Path" programme has three phases: "Understanding the Real Me", "Me and the World" and "Preparation". Phase one comprises facilitated sessions using workbooks in order to allow offenders to learn about themselves and prison life in order to find their own creative abilities. Phase two is focused on the individual in relation to the world and where they see themselves in it when they get out of prison by goal setting, stress management and communication skills. Phase three discusses starting a small business and managing a budget, as well as talking with community members and family. According to Muntingh (2012: 6), the "my path programme" remains the basis upon which behavioural interventions for offenders can be built.

- **Silence the Violence:** Within this programme, the violent conduct of an offender is challenged within 12 days. The offenders come to understand the nature and penalty of their violent behaviour and acknowledge their offence and in that way, they will choose a violence-free life.

In South Africa Gauteng provence , a post-release programme is offered to released offenders who have contributed to the rehabilitation and pre-release programmes. Offenders who are members of these programmes are compulsory to sign a post-release agreement and a case plan is then developed. Efforts are being made to connect individuals to community structures that can render services to released offenders. Community awareness campaigns are also undertaken to create consciousness about ex-offenders, to educate the public and provide feedback on achievement stories. Programme participants are monitored through follow-up visits and where possible, community mentors are assigned (Muntingh, 2012: 6).

In 2017, Khulisa remained in contact with 12 of the original group of offenders, all of who are successful. Research showed between the offenders discovered that 85% did not return to crime as opposed to 15% returning (Khulisa Social Solutions, 1997).

6.5.2 Prison Fellowship South Africa (PFSA)

Charles Colson founded Prison Fellowship in 1976 after spending 7 months in prison for obstruction of justice and becoming a born again Christian. In 2002 Mark Earley became the Organisation's chief executive officer. In 2006, Michael T. Timmis (chairman of PFI since 1997) succeeded Colson as chairman of the board. James D. Liske became the CEO of Prison Fellowship Ministries -including Prison Fellowship, Justice Fellowship and BreakPoint/The Colson Center for Christian Worldview - in 2011. The current president of Prison Fellowship is Garland Hunt. Pat Nolan is the president of Justice Fellowship, and Alan Terwilleger is the president of the Chuck Colson Center for Christian Worldview" (Prison Fellowship South Africa, n:). Zhou (2013: 196) states that the Prison Fellowship links with the feature of the recommended feminist pastoral care approach to rehabilitation, which places of interest the role that churches can play in prisoner rehabilitation, as well as with feature, which underlines the need for psychological healing by involving families and victims.

The Prison Fellowship South Africa (PFSA) aims to enable the intervention process between victims of crime and offenders to bring about restoration, healing, and reconciliation. These sittings could take place either in correctional centres or in the communities (Grobler, 2007: 15). Barry (2009: 377) mentions that the Prison Fellowship South Africa is well respected for its contributions to reconciliation, healing, and transformation and recognised as a leader in crime and care within the restorative justice fraternity, and has adopted and adapted lessons learned from the two models and developed a contextual diversion programme/juvenile crime intervention for South Africa. PFSA offers a faith-based eight-week programme where confession is discussed in small groups, consisting of offenders and victims. Social workers and a psychologist work with the team. The emphasis is placed on an understanding of Biblical views of justice, mercy, and reintegration (Muntingh, 2012: 6).

The PFSA offers a programme known as The Sycamore Tree project. This programme has been provisionally named the Fig tree project. A scriptural foundation for the project and title is found in the parable told by Jesus, which illustrates a twelve-month intervention aimed at saving a

fruitless tree from destruction. The idea and development have been favourably received by representatives of the Correctional Services, and Departments of Justice, the Restorative Justice Centre, Pretoria, and the National Initiative Against Overcrowding in Prisons (Barry, 2009: 377).

A partnership was formed between the Spiritual Care Directorate and the Prison Fellowship South Africa (PFSA) to among others, include offenders in the Sycamore Tree Project (Plaatjies, 2008: 180). Barry (2009: 378) mentions that the facilitation of a preliminary programme started in the Vaal Triangle area in October 2008, and since 2008 hosts the participation of 72 children. This has taken the form of a partnership between PFSA, Prison Fellowship International (PFI), and SASOL. The project is outlined below.

According to Muntingh (2012: 6), the Sycamore Tree Programme is a victim awareness programme that uses restorative justice principles. The programme or project use reconciliation as its fundamental goal to the programme. the project supports offenders to recognize the effect of the misconduct on victims and guide them to take responsibility for their deeds (Plaatjies, 2008: 269), as supported by Zhou, (2013: 197). This effort is to facilitate the healing of broken family relationships. The content is covered in six sessions designed to encourage offenders to accept personal responsibility for their misconduct and points to the need to make amends. It also allows offenders to understand the impact of their crime on victims, families and the community. Surrogate victims come into the prison to tell their stories. offenders are given the chance to take part in representative acts of restitution, At the end of the programme, offenders are allowed to take part in symbolic acts of restitution, the programme is available to all regardless of faith, gender or age and is offered by trained prison fellowship staff and volunteers (Muntingh, 2012: 6).

According to Muntingh (2012: 7), the Prison Fellowship South Africa offers the following eight-session sycamore tree programme to offenders in their role in the rehabilitation process and these sessions are briefly discussed below:

- Session 1: Introduction (to prepare offenders and victims to participate in the programme).

- Session 2: What is a crime? (To discover what the Bible says about God's understanding of crime).
- Session 3: Responsibility (to discover what it means to take responsibility for committing an offence).
- Session 4: Confession and repentance (to understand the meaning, power and importance of confession and repentance).
- Session 5: Forgiveness (to understand the meaning, power and importance of forgiveness).
- Session 6: Restitution (to understand restitution as a response to crime).
- Session 7: Toward reconciliation (to move toward healing and restoration by sharing letters and covenants prepared by both victim and offender participants).
- Session 8: Celebration and worship (to reflect on and celebrate the new awareness that group members have about crime and healing).

According to Zhou (2013: 197), restorative justice must consider the entire gravity of the crimes committed, which is why the sycamore tree program includes an element that highlights the significance of offenders engaging in critical self-reflection about their crime and its effects.

The Prison Fellowship assist ex-offenders with everyday challenges of re-entry into the community, they also function severe 'aftercare' programmes including residential support for parents (Zhou, 2013:197). "The Prison Fellowship South Africa does have a celebration function after completing the Sycamore tree course" (Plaatjies, 2008: 180).

6.5.3 The National Institute for Crime Prevention and Re-integration of Offenders (NICRO)

The National Institute for Crime Prevention and Re-integration of Offenders (NICRO) is one of the largest, most enduring South African NGOs, established in September 1910 **(**NICRO for safe South Africa 2016),. This NGO specialised in Crime Prevention and Offender Reintegration. The NGO has worked with the offender and their families for more than 100 years (Majake, 2015). The following are the Mission, Vision and Core values of NICRO:

- **Mission:** "NICRO, as a national non-profit organisation, regards crime as a threat to democracy and individual rights. Through people-centred development and services to victims, offenders and communities, NICRO strengthens a human rights culture and a safer South Africa. To this end, NICRO engages in lobbying and advocacy, capacity building, direct service delivery and research. NICRO adheres to the principles of good governance and sound environmental practices" (NICRO for safe South Africa, 2016).

- **Vision:** "To build and strengthen a democratic society based on human rights principles through crime prevention and development" (NICRO for safe South Africa, 2016).

The National Institute for Crime Prevention and Re-integration of Offenders (NICRO) believe in the following core values:

- Integrity
- Respect for human f excellence
- Loyalty
- Pursuit of excellence
- Accountability
- Respect for human rights
- Accountability

Mondlane (2013: 27) mentions that NICRO has restructured its reintegration programme with an aim of preliminary another new development, to ensure that there is enough impact on the crime situation in South Africa by ensuring that through it, ex-offenders do take responsibility to be community builders, not destroyers of the social order. Muntingh (2012: 6) states that NICRO has a rehabilitation programme known as the 'Tough Enough Programme'. These programme is very specific and places a lot of responsibility on the offender, creating a supportive environment for maximum growth and participation by the offender and for choosing a constructive and responsible life (Mondlane, 2013: 27). This programme starts almost six months before release

and continues nearly six months after release. A Set of twenty (20) offenders who participated in this programme are engaged and the following phases are involved (Muntingh, 2012: 6):

- Phase 1: Recruitment and assessment.
- Phase 2: Five-day intensive session looking at the individual causes of offending and taking responsibility.
- Phase 3: Defining the skills needed to live a crime-free life, developing a life plan, and acquiring the skills and insights thereto.
- Phase 4: Post-release participants can seek assistance from any NICRO office through support groups or other services.
- Phase 5: Follow-up services.
- Phase 6: Tracking after one year.

The objectives of the 'Tough Enough' programme in the reintegration of offenders are as follows (Mondlane, 2013;28):

- The development of skills;
- The building and improvement of relationships;
- The development of potentials; and
- Motivating actions.

The principles of the programme are:

- Believing in the potential of people to change, to be integrated, and to take responsibilities and make choices;
- Believing in the ability for people to make a positive contribution to society;
- Believing in the basic human rights and responsibilities of every individual; and
- Believing in non-violence (Mondlane, 2013;28).

Fagan (2003-4: 29) mentions that on 1 and 2 October 2003, NICRO hosted a National Symposium entitled "Offender Reintegration is a Crime Prevention Strategy". It was NICRO together with the Legal Resources Centre that brought the successful application in the

Constitutional Court to affirm the right of sentenced prisoners to vote. In 2002, the National Institute for Crime Prevention and the Reintegration of Offenders made a big contribution to keeping especially juveniles out of prison. Various diversion programmes are in operation in all nine provinces. There are also the Offender Reintegration Programme, Victim Support Centres, the Creative Arts Competition (in prisons) and numerous other initiatives.

The success of the programme for NICRO and the Department of Correctional Services was guided by the following variables (Mondlane, 2013: 28):

- Commitment;
- Accountability and responsibility;
- The choice to be in the programme;
- Measurable impact;
- Detailed planning;
- Contracting; and
- Creating and fostering an environment that will support the programme.

McAree (2011: 14) emphasise that NICRO also has a programme evaluation process and a client satisfaction survey to ensure that offenders and their families are satisfied with the services being provided by NICRO. The organisation has served hundreds of thousands of offenders, many of whom have never offended again (NICRO). "National Institute for Crime Prevention and the Reintegration of Offenders (NICRO) is instrumental in rehabilitation and reintegration programmes for offenders countrywide. They have offices in all provinces in South Africa" (Johnson, 2015: 66).

6.5.4 Young in Prison South Africa (YiPSA)

Young in Prison South Africa (YiPSA) is an NGO established in 2008 and works with youth and children in conflict with the law. This NGO offers rehabilitation programmes to young offenders**.** The organisation works in youth correctional centres in the Gauteng, and Western Cape where it renders Rehabilitation through Creative Arts Programme. In Gauteng, (YiPSA) works in Leeuwkop Correctional centre. In the Western Cape, the organisation delivers their

programme at Pollsmoor, Goodwood, Drakenstein and Brandvlei Correctional centres (Sango Net, 2017).

YIPSA in the Western Cape Province carries their programme at Pollsmoor, Goodwood, Drakenstein and Brandvlei Correctional centres. In Gauteng, they work in the Leeuwkop Correctional centre. Outside correctional centres, YiPSA works with youth who have been recently released from detention and supports them to make a positive transition from incarceration back into society (Young in Prison South Africa, 2017).

6.5.5 Phoenix Zululand

Phoenix Zululand is a Non-Governmental restorative justice Organisation (McAree, 2011: 21). Phoenix was founded by Richard Aitken and Jane Argall in 2003, who both reside in Eshowe KwaZulu-Natal Provence . the organisation's objective is "to promote Restorative Justice". Even though the programme is eventually a restorative justice involvement, it starts with a life skills programme for offenders which uses a manual as a guide. Services are rendered in several northern KwaZulu-Natal correctional centres (Muntingh, 2012: 7). McAree (2011: 23) explains that the NGO has worked in ten different correctional centres s in the Zululand area, and currently runs programmes in eight of them, to carry out these objectives. The following are correctional centres which Phoenix Zululand provide its programmes: Eshowe, Medium B, Qalakabusha, Mtuzini, Malmoth, Nkandla, Vryheid and Stanger.

Groups of eight to ten members are involved in one to two-hour sessions over four to five weeks. Programmes are co-facilitated by a Phoenix employee (who may be an ex-prisoner) and a community volunteer. Each participant receives a workbook for the life skills course to record insights and learning (Muntingh, 2012: 7). McAree (2011: 23) also added that the programmes are run by Phoenix's three types of facilitators, which are peer facilitators (inmates who have excelled in a previous Phoenix programme and are asked to facilitate their own), full-time facilitators (ex-offenders who now run programmes) and community-based facilitators (people who are paid or volunteer their time and skills for a varying length of time depending on the

person) (Phoenix 2). Between the five programmes in the ten prisons, Phoenix serves around 800 participants each year, including the families of offenders who participate in family conferencing. Drawings and art are used extensively to facilitate communication and self-reflection the organisation identifies offenders for family conferencing and facilitates the preparation of participants as well as the logistical arrangements (Muntingh, 2012: 7). According to McAree (2011: 26), this programme brings the families of offenders into the correctional centre to create a space for dialogue. Although the dialogues are loosely structured by Phoenix, participants and families are given the freedom to talk about whatever they need to. This programme aims to set up a plan for offenders and families to make the reintegration process smoother and lessen the chances of reoffending. In addition to the life skills programme and family conferencing other interventions include (Muntingh 2012: 7):

- 'Voice behind the walls': groups of prisoners record radio dramas and storytelling which are used by three local radio stations;
- 'Groundswell' is an environmental learning programme and is not prison-based;
- Arts programme to provide a form of self-expression for an offender.

Eshowe is the first correctional centre Phoenix started working with. The facility has four sections: One for adult males, one for young offender males, one for adult women, and one for all of which host young offender female Phoenix programmes. The correctional centre is a medium-level security facility and offers educational programmes established by the Department of Correctional Services (McAree, 2011: 29).

6.5.6 Prisons Transformation Project

The Prisons Transformation Project (PTP) was introduced in 1998 at the Pollsmoor Admissions Centre in Cape Town when its management requested assistance in the training of young offenders and those correctional officers working with young offenders (Bailey & Ekiyor, 2005: 5). Flanders-Thomas, Giffard and Nair (2002: 27) highlight that the Prisons Transformation Project has been influenced by both the preliminary work with Pollsmoor Prison in 1998 and national imperatives as set out by the Constitution and the recommendations of the Truth and

Reconciliation Commission's (TRC) final report. "The Prisons Transformation Project run by the Centre for Conflict Resolution consists of a four-month training programme of correctional officers focusing on conflict resolution and restorative justice" (Muntingh, 2012: 7).

The PTP's primary goal is to transform prisons by means of capacity-building through training, equipping and empowering correctional officers and offenders (Bailey & Ekiyor, 2005: 5). Flanders-Thomas, Giffard and Nair (2002: 27) further state that the project is to contribute to the transformation of prisons from a militaristic organisational culture to a culture of learning, growth and development, where human rights are respected, and people are treated with dignity and respect. Muntingh (2012: 7) emphasises that the programme is designed to assist correctional officials to deal with everyday prison life and conflicts that may arise. The project may also intervene in certain conflicts with the aim of resolution. The programme is a structured national programme involving managers at the DCS centres of excellence**.**

The Prisons Transformation Project differs from most other correctional programmes aimed at rehabilitation of offenders for this very reason. While most other programmes target sentenced offenders, Centre for Conflict Resolution (CCR's) training programmes target mainly awaiting-trial offenders. The accommodations and services presented to awaiting-trial offenders are very restricted: they have no access to training programmes, social workers, psychologists or a replacement, health care is limited and there is enormous overcrowding in cells. Awaiting-trial offenders are confined in very restricted circumstances (sometimes up to 60 to a cell designed to hold 15 to 20 prisoners) 23 out of 24 hours a day. The Prisons Transformation Project has therefore concentrated its offender training programmes on neglected populations in correctional centres. This is a key intervention sector to reduce recidivism as many awaiting-trial inmates are never sentenced**.** Thomas, Giffard and Nair (2002: 28) mentions that the PTP also facilitates seminars and public education developments to draw on existing and new knowledge in the field and to provide a platform to inform policy. To this end, the PTP hosted a one-day seminar on 6 October 2005. Participants were drawn from DCS, key stakeholders involved in the justice field and ex-offenders who participated in restorative justice programmes while serving their sentence.

The work of the Centre for Conflict Resolution Prisons Transformation Project has now been prolonged to other correctional centres in the Western Cape. The CCR has developed a close working relationship with Voorberg, Dwarsrivier and Brandvlei correctional centres in the Boland area of the Western Cape. the focus is also primarily on the training of correctional officials rather than on offenders. The various successes of the project have encouraged CCR trainers to research and develop new frameworks to understand prison transformation and change in South Africa. For example, the use of a restorative justice approach within the correctional system. The imparting of conflict resolution skills and the encouragement of a conflict resolution ethos are central to the development of these new frameworks (Thomas, Giffard & Nair, 2002: 28).

6.6 CONCLUSION

This chapter focused on the historical development of the South African Department of Correctional Services, which has been recognised to do away with the past and aimed to pay attention to the rehabilitation of offenders. The DCS has placed rehabilitation at the centre of all its activities in partnership with external stakeholders through the joint submission and direction of all departmental resources to focus on the correction of offending behaviour, the promotion of social responsibility and the overall development of the person under correction. This chapter gives a clear picture of South Africa before the 1990s. Changes that have occurred in South Africa since the early 1990s have led to new developments in the functioning of the correctional services and the entire justice system. The researcher outlined the evolution which starts right from the presentation of the Prisons and Reformatories Act 13 of 1911 up to and next to the declaration of the Constitution of the Republic of South Africa of 1996 leading to the representation of the present legislation, Correctional Services Act 111 of 1998 as amended.

This chapter has reflected a broader perspective of the programmes and services provided within correctional facilities that promote rehabilitation and reintegration of offenders as the central theme in correctional services and it can also be handled through making use of external role

players such as NGOs in correctional systems. This chapter also outlined the brief history of penology in the African context.

CHAPTER 7
THE RESEARCH FINAL CONCLUSION AND RECOMMENDATION

7.1 INTRODUCTION

The White Paper on Corrections clearly states that the vision and mission of the Department place rehabilitation at the centre of all its activities in partnership with external stakeholders. Most correctional centre in the country may come across Non Govemental Organisations involved in presenting programmes or providing services to inmates. NGOs are managed by people who are well respected and very much familiar with the challenges and the specific cultures that are facing the community.Therefore, the NGOs need to have certain qualities to enable them to work effectively with the offender. General requirements for working with offenders should include having good interpersonal relationships. NGOs must be able to maintain relationships with the offender to help the offender.

This chapter aims to provide comprehensive conclusions of the research project and to make recommendations against the background of the investigation. This research project is guided by primary aim. In this chapter, the researcher provides findings and recommendations, which were influenced by the literature review. The aims and objectives of this study are measured against the literature. The researcher conducted a literature search which reveal expertise with the literature on the problem, demonstrated the path of previous research and how the existing development to it, and summaries or incorporated what is known.

This chapter can be regarded as a conclusion and summary of findings from Chapters 1, 2, 3, 4, 5 and 6 of the study that focus on the research on the criminal justice system, the philosophy of the existence of Non-Governmental Organisations, the role of NGOs in the structure of the united nations, the role of NGOs in the rehabilitation and reintegration of offender in the international correctional system, and the role of NGOs in the rehabilitation and reintegration of offenders in the South African correctional system. In this study, attention was paid to the choice of subject for research, namely the role of NGOs in the rehabilitation and reintergration of offender .

7.2 FINDINGS

After the discussion of the major findings of the research project, relevant conclusions will be highlighted. The findings of the study will then lead to recommendations being made. The findings are as follows:

7.2.1 Finding 1

In Canada, the Minister of Public Safety declared the formation of the National Volunteer Association (NVA), as was discussed in Chapter 5 of this study which represents volunteers active in all Correctional Services of Canada's operational units. The NVA consists of all volunteers working within CSC. The purpose of this organisation is to provide a voice for the volunteers across the country as well as acknowledge and assist those who volunteer within the federal correctional system. The main objective of the National Volunteer Association is to:

- Improve and maintain open discussion between the volunteers and community partners such as the John Howard Society, Prison Fellowship Canada, Canadian Association of Elizabeth Fry Societies, LifeLine, etc.;
- Enhance CSC's ability to ensure volunteers are an integral part of the reintegration process;
- Promote volunteers' contributions and efforts in the institution and the community;
- Engage more citizens to volunteer;
- Represent all CSC volunteers on a national level;
- Promote professional development, sharing of information, training and best practices with the volunteers; and
- Generate a networking structure and a support system for volunteers.

This study also found that according to Muntingh (2008: 1), there are a number of NGOs in South Africa working both inside and outside of the correctional environment with offenders, ex-offenders their families. As was explained by the researcher in the study, the unfortunate part of this is that the type of services and activities that these NGOs are involved in it has not been

recorded or documented on a national level. On a national level, no category of services and performance of any NGOs have been acknowledged. Please see Chapter 1.

The literature further revealed that according to Johnson (2015: 48), "There are some stakeholders in society, at community, national, regional and international levels that express their willingness to participate in the provision of prison education but are disgruntled and frustrated by the red-tape and security bureaucracy within the DCS" as indicated in Paragraph 1.3.1.1, Chapter 6 of the study.

The Correctional Services of Canada recognise the value that NGOs as volunteers play in corrections and encourages them to be more involved in keeping in touch with the community and become aware of issues surrounding its facilities, as indicated in Paragraph 5.2.2 of Chapter 5 (Correctional Service of Canada, 2009: 17).

7.2.2 Finding 2

The literature further revealed that the Correctional Services of Canada consists of a Citizen Engagement Division which advances communication between the Correctional Service of Canada (CSC) and community by creating opportunities for external role players such as NGOs to become involved, and by inspiring communities to address correctional problems (Correctional Services Canada, 2010). Correctional Services Canada (2013: 9) mentions that the Citizen Engagement Division delivers leadership through the service for the implementation of stakeholders such as NGOs and community relations, including victims of crime. It increases the understanding of the federal correctional process and enhances partnerships with the citizens of Canada (CSC, 2012a) as indicated in Section 5.2.1 of the study. According to Correctional Services Canada, (2010) the following are the principles associated with citizen engagement:

- To link correctional challenges openly and proactively;
- To generate opportunities to be involved in the delivery of key services;
- To promote a better understanding of the correctional process and more specifically, CSC's role in it;

- To highlight the role of citizens in making communities safer;
- To consult with the community when Correctional Service Canada is developing policies, programmes and/or services and;
- To foster an environment where citizens can participate in decisions and actions that will
- shape communities.

7.2.3 Finding 3

A systematic review of the literature reveals that overcrowding is one of the challenges facing the Department of Correctional Services. Overcrowding leads to many problems that the correctional system is currently facing. Muntingh (,2020) argues that overcrowding in South African correctional centres is regularly quoted as the reason for many problems in our correctional system, but the condition is a little more textured than a blanket declaration proclaiming that South African prisons are overcrowded (see Chapter 1). In addition, the use of imprisonment for offenders sentenced for petty crimes and shorter sentences. which is 12 months and less, has also led to severe overcrowding. The problem caused by overcrowding is that it does not create an effective and conducive environment for rehabilitation or enhance the successful reintegration of the offender into the community.

NGOs can assist in the criminal justice system through their work in courts. In serving the courts, the NGOs offers a judicial system valuable information. The involvement of NGOs as volunteers in courts processes gives a chance for an interchange between the courts and community. Through NGO programmes in courts, communities and courts can work together in partnership to improve how courts respond to the needs and interests of the people they serve. NGOs allow the courts to provide services that are not available and open wide the doors of the courts to the community (Jones, 2003: 104-105).

In Chapter 6 it is indicated that the Department of Correctional Services has to ensure that the offender is transferred to a correctional centre that is near to the offender's home six months before preparation for release and reintegration.

The Correctional Service Act (Act 111 of 1998: 45) states that a sentenced offender must be prepared for placement, release and reintegration into society by participating in a pre-release programme. The offender who is released on parole starts to experience adjustment problems in society and may be referred to a Halfway House. For him/her to avoid withdrawing parole and sustain the expense of returning him/her to the correctional centre, the offender is again subjected to intensive treatment and supervision in the house programme (Neser, 1993: 376) (please see Paragraph 6.3.1.7).

7.2.4 Finding 4

A systematic review of literature according to the Correctional Service of Canada (2009: 18), reveals that NGOs contribute to the Multicultural and Ethnic Programmes of Correctional Services of Canada as part of rehabilitation and reintegration of offenders. NGOs also make a contribution to cultural activities for groups such as Black Brotherhood & Black Sisterhood, and Jewish, Muslim, Punjabi and other groups. Also, they provide advice on ethnic and cultural issues and often act as translators and interpreters. NGOs have made progress in responding to the needs of Multicultural and Ethnic programmes offenders regarding the history of Aboriginal people in Canada, their treatment by successive governments and the high levels of poverty and unemployment in most Aboriginal communities (please see Paragraph 5.2.2, Chapter 5 of the study).

The literature further revealed that Aboriginal community volunteers in Canada teach native culture, traditions, and spirituality along with advice to offenders, staff and members of the National Parole Board (NPB). Many offender reintegration initiatives involving members of Canada's Aboriginal communities are indicated in Paragraph 5.2.4.7 of Chapter 5 of the study.

7.2.5 Finding 5

NGOs in the Correctional Service of Canada have special skills (i.e., mental health professionals or teachers) that may be assigned to an offender who requires assistance in the volunteer's area of expertise, under the direction of a parole officer. Trained NGOs provide offender classification services, post-sentence reports and case management assistance to parole officers. This system should also be adapted in South African Correctional Services (please see Paragraph 5.2.2, Chapter 5 of the study).

7.2.6 Finding 6

A systematic review of the literature reveals that even though not all members of NGOs are counsellors; they must frequently communicate with offenders and carefully listen to their complaints and requests. Their duty is to help offenders relieve stress and tension and act as treatment personnel. Most offenders' problems are solved by discussing issues with them (Seiter, 2002: 382). According to Matetoa (2012: 277), "those working in correctional institutions should learn more about their work, the people under their care and components that affect their work and their circumstances".

The White Paper on Corrections (South African Department of Correctional Services, 2005b) states that the services rendered by the Department "are personnel intensive", and "[s]ound personnel practices are, therefore, promoted as a prerequisite to the rendering of professional services". The rehabilitation of offenders needs personnel or people who are working with them to be more professional to accomplish policy, in terms of the White Paper (Republic of South Africa, 1994: 19). As indicated in Section 6.3.2, Coetzee and Gericke (1997: 63) mention that there are certain principles that members who are working with offenders should consider such as:

- Correctional officials should always be non-partisan and perform professionally.
- Correctional officials must contribute to employee initiate, creativity and reliance.

- The Department of Correctional Services should provide enough information, training and supervision required by the correctional officials to do their jobs in the most effective way.
- There must be a good relationship between correctional staff and labour organisations established through successful communication and mutual respect.
- All professional correctional staff should actively achieve goals and implement policies, plans and priorities of the department.

Professional staff need knowledge in the following areas for the rehabilitation process to be successful: knowledge of the prison services, knowledge of their prison policy and prescriptions, knowledge of job content, academic knowledge and knowledgeable about offenders**.** It is very important for professional staff to have self-knowledge and communication skills, and to promote teamwork and dealing with conflict, etc. since they interact with people every day (Coetzee & Gericke, 1997: 68) as indicated in the section on institutional personnel detailing Rules 74 to 82.

This study also found that in cases where offenders are feeling worthless and meaningless, it is the duty of correctional staff to make an important contribution to encouraging offenders to admit to the challenges that they are facing within the correctional environment because of their incarceration and to keep offenders busy with meaningful activities such as study, training, construction, reading and hobbies (Coetzee & Gericke, 1997: 97) (please see Chapter 6, Sections 6.3.2 and 6.3.3 of this study).

7.2.7 Finding 7

A systematic review of the literature reveals that there are NGOs that assist in USA courts. Terry (2000: 3-16) mentions types of court-related programmes that are offered by the NGOs in Wisconsin as indicated in Section 3.5.2 of Chapter 3:

- **Jail and Detention centre:** NGOs monitor jail conditions, and assist the same populations served by probation and parole programmes. They also provide mentoring services to

offenders and people on probation and parole that are similar to those provided to non-inmate populations.

- **Probation/ Parole/ Community services:** Many NGOs assist to arrange, monitoring, and supervising community service obligations. Volunteers mentor juveniles, work inside and outside prisons, and are sometimes involved with victim impact projects. Probation, parole, and community service programme activities tend to overlap those provided by juvenile services programmes. Community service, as a condition of a sentence in lieu of jail time, offers defendants opportune.

7.2.8 Finding 8

A systematic review of the literature reveals that NGOs in the criminal justice system are regarded as an open system since it is primarily concerned with the human system. NGOs in the criminal justice system are proactive since they interact with the community, criminal justice as a system and the offender (Jones, 2003: 66). NGOs as voluntary organisations plays an integral role in a wide variety of settings across Europe's courts, prisons, and probation systems (Justice Involving Volunteers in Europe, 2015: 6). In the South African Criminal justice system, the latter is not applicable.

Nxumalo (2000: 16) mentions that during the 1990s, the criminal justice system came under public scrutiny and criticism that there are serious flaws in the criminal justice system, such as poor investigative procedures; unquestioned reliance on the statement and data such as crime statistics provided by members of South African Police Services (SAPS) and oppressive interrogation by the police officers. With regards to the prosecution component, there is a failure to disclose evidence by the prosecution. The court component's failure to properly assess the weight of evidence and unwillingness of the Appeal Court to admit that things had gone wrong, too lenient or instances when confessions have been excluded from evidence and the defendant has been acquitted correctional component fails to deal with the offender as human or disrespect of offender's rights.

According to Clack, Du Preez and Jonker (2008: 12), the role players in the criminal justice system also involve components of criminal justice and others from an official point of view. The different role players in the criminal justice system are those State organs that are involved in the administration of justice such as the South African Police Services, Courts, The Department of Social Development, The Department of Correctional Services and The Judicial Inspectorate of Correctional Services. The basic principle of the approach of the criminal justice system is a component comprising of a number of fragments such as the independent parts components of a system, that make every effort toward a particular collective objective According to Nesser (1993: 49) and Jones (2003: 50-54), the structure of the criminal justice system is a useful perspective for potential reform and improvement of criminal justice because the goal of system theory is to make systems more effective by detecting problems and challenges.

7.2.9 Finding 9

A systematic review of the literature reveals that according to the United Nations Office on Drugs and Crime (2017: 1) the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) are the only utmost central fixed of international standards that "set out what is generally accepted as being good principles and practice in the treatment of prisoners and prison management". One of the reasons for this revision was so that international prison standards would reveal "advances in correctional science and best practices" and the Mandela Rules are known for being prison standards that aim to improve both human rights and prison safety (Peirce 2018: 264 - 293). As indicated in Paragraph 4.5, Chapter 4 the Rule of General Application covers the general management of prisons, and is relevant to all types of prisoners, criminal or civil, untried, or sentenced, including prisoners subject to "security measures" or corrective measures ordered by the judge (General Assembly, 2016: 7).

The study reveals that Rules 91 to 92 of the Mandela Rules cover the treatment of offenders: The treatment shall be such as will encourage their self-respect and develop their sense of responsibility. Direct treatment is meant as a series of interviews approved to recall or reinforce

the approach favourable to maintaining emotional balance, making positive decisions and to growth or change to the offenders. Counselling is the most ordinary term of direct interviewing treatment, which is intentional to help offenders to deal with the issues of their situation in a rational manner (Van Hove, 1962: 132-134). All appropriate means shall be used, including religious care in countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking into account of his or her social and criminal history, physical and mental capacities and aptitudes, personal temperament, the length of his or her sentence and prospects after release.

The study also revealed that Rules 104 to 108 of the Mandela Rules also cover education and recreation: this rule entails that the prison administration must ensure that special attention shall be paid for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and young prisoners shall be compulsory and special attention shall be paid to it by the prison administration. Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.

A systematic review of literature further reveals that an NGO is an organisation working within the framework of the United Nations (Jones, 2003: 10). According to the United Nations (2011: 2), the Economic and Social Council (ECOSOC) has been the central access theme into the UN system for NGOs. United Nations (2011: 16) mentions that the United Nations sees NGOs as significant companions and valuable links to civil society. According to Article 71, subsequent resolutions have set out in detail how the interaction between the two types of organisations is regulated. However, these resolutions on the consultative relationship between the UN and these NGOs focus more on the principles and objectives of this relationship than providing a precise definition of the characteristics of NGOs. In accordance with Article 71, national NGOs are only considered under special circumstances as indicated in Paragraph 3.2.1.1, Chapter 3 of the study.

7.2.10 Finding 10

A systematic review of the literature reveals that the United Nations Office on Drugs and Crime identifies the need to encourage strong partnerships with NGOs in dealing with the complex issues of drug abuse and crime, which weaken a good society. The active involvement of civil society, which includes NGOs, faith-based organisations, charitable organisations, labour unions, community groups, indigenous groups, professional associations, and foundations, is essential to help UNODC carry out its global mandates (United Nations Office on Drugs and Crime, 2018).

The Vienna NGO Committee on Drugs called upon the member states "to support NGOs and seek their contributions on a more systematic basis by including them in matters related to the work of CND when appropriate". NGOs can raise their concerns with relevant policymakers and contribute their experience and expertise as national delegations prepare for the Commission.

The study further reveals that The New York NGO Committee on Drugs, in engaging with the United Nations system on international drug policy and practice, aims to support civil society organisations (CSOs) and facilitates the exchange of information between civil society Organisations and UN agencies, member states, and other relevant UN bodies.

7.2.12 Finding 11

An extensive literature review has been applied in this study to offer value to future undergraduate, postgraduate students, and researchers. The study covers literature on the role and responsibilities of South African Non-Governmental Organisations (NGOs) that are involved with the criminal justice system, especially within correctional services. The study uncovers the definition of NGOs in broad terms, and more emphasis is placed on studies of societal role players and try to capture the term while examining more specifically the composition and functions of NGOs. Students gain knowledge and insight into the extent to which society at large understands and engages in the challenges faced in combating crime and incarceration and rehabilitating offenders, as indicated in Paragraph 111. Chapter 1 of the study defines the finding

of the researcher that the study can assist society to understand its role in the integration of the offender into the community. Chapter 3 discusses the role played by NGOs in the criminal justice system and how NGOs contribute to performing tasks that require a high level of professional knowledge and skill to alleviate the high demands of scarce professionals.

The study also provides a concrete guideline on how NGOs' existence and rehabilitation with the Department of Correctional Services develop, what implications their existence will cause for the rehabilitation of offenders and DCS, and which background factors can affect NGOs interventions. More information has been provided about the role played by NGOs in correctional services, how NGOs created rehabilitation programmes for deviants, The role of NGOs in the rehabilitation and reintegration of offenders in South Africa, and an overview of the NGOs involvement in the rehabilitation and reintegration of offenders in correctional services of South Africa, the role of NGOs in the rehabilitation and reintegration of offenders in Canadian Correctional Services, and overview of the NGOs involvement in rehabilitation and reintegration of offenders in Correctional Services Canada, the role of NGOs in the rehabilitation and reintegration of offenders in correctional systems of the United State of America, an overview of the NGOs' involvement in rehabilitation and reintegration of offenders in correctional systems of the United State of America is indicated in Chapters 5 and 6 of the study. It is indicated in this study that the NGOs as external role-players is at the centre of the rehabilitation process because it is both the place of origin and return for the offender for rehabilitation to be effective.

7.3 RECOMMENDATIONS

The recommendations originate from the findings of the study and will contribute to criminal justice as well as correctional practices. The researcher made some recommendations as to what the Department of Correctional Services and NGOs can do in South African correctional centres, which can help the NGOs to fulfil their role as rehabilitators working with offenders. These recommendations encompass the following Chapters 1, 2, 3, 4, 5 and 6 and these recommendations are as follows:

7.3.1 Recommendation 1: The formation of the national Non-Governmental Organisation partnership as a voice for NGOs

It is recommended that the system that is in use in Canada also be implemented in South Africa. The Minister of Justice and Correctional Services should formulate a national partnership with Non-Governmental Organisations. The partnership needs to represent all NGOs active in all South African Correctional Services functioning both outside and inside the correctional environment. The partnership will give a voice to NGOs and acknowledge and assist other external role-players who are working at DCS across the country. The National NGOs Partnership should also involve an advisory council which will be responsible for coordination with NGOs with the aim of improving rehabilitation and reintegration of offenders. It is further recommended that National Non-Governmental Organisations Partnership (NNGOP) should focus on making sure that it:

- Improves and maintains open discussion between the NGOs and community partners such as Khulisa, Prison Fellowship South Africa (PFSA), the National Institute for Crime Prevention and Re-integration of Offenders (NICRO), Young in Prison South Africa (YiPSA), Phoenix Zululand, Prisons Transformation Project and Excentre;
- Record or document the type of services and activities that the NGOs are involved in working both inside and outside of correctional centres with offenders, ex-offenders their families. These services and activities are aimed at supporting and promoting offender rehabilitation through some treatment programmes in an attempt to reduce the chance of offender reoffending;
- Limit strict systems which consist of the quality assurance of study material by the relevant QA-Committee to obtain the acknowledgement to operate in the Department of Correctional Services;
- Acknowledge the Non-Governmental Organisation (NGOs) category of services and performance on a national level;
- Recognise the value that NGOs as volunteers play in corrections and encourages them to be more involved in keeping in touch with the community and become aware of issues surrounding its facilities;

- Reduce DCS red tape and security bureaucracy to enable more community, national, regional, and international partners to participate in the provision of prison education.
- Improve South African Correctional Services skills to ensure that Non-Governmental Organisations (NGOs) are a fundamental part of the reintegration process;
- Promote Non-Governmental Organisation (NGOs) contributions and efforts in the institution and the community;
- Engage more citizens to be more involved in correctional matters as volunteers;
- Represent all South African Correctional Services Non-Governmental Organisation (NGOs) on a national level;
- Promote professional development, sharing of information, training and best practices with the NGOs; and
- Generate a networking structure and a support system for NGOs.

7.3.2 Recommendation 2: The formulation of the Community Engagement Division

It is recommended that the DCS must formulate a Community Engagement Division that must ensure that it delivers leadership through the Service for the implementation of stakeholders such as community relations, including victims of crime and should enhance partnerships with the South African citizens. The Community Engagement Division should consult with community or NGOs involved in the rehabilitation and reintegration of offenders when the South African Correctional Service is developing policies, programmes and/or services.

It is further recommended that the Community Engagement Division must develop certain guidelines for NGOs which are in line with the departmental rehabilitation strategy, involved in offender rehabilitation and reintegration. This means that the role of the NGOs in the correctional environment should be outlined and have clear strictures according to which NGOs should function. These guidelines could include the following:

- To engage correctional challenges openly and proactively;
- To promote a better understanding of the correctional process and more specifically, South African Correctional Services' role in it;

- To highlight the role of citizens in making communities safer;
- To foster an environment where NGOs can participate in decisions and actions that will shape communities and generate more opportunities for NGOs to be involved in the delivery of key services in South African Correctional Services;
- To foster an environment where citizens can participate in decisions and actions that will shape communities; and
- To align NGOs strategic objectives to the Skills Development Act to capacitate its workforce before it can attempt to develop offenders whilst preparing for their reintegration back into the society.

7.3.3 Recommendation 3: NGOs as an alternative sentence to imprisonment

It is recommended that the courts should resort to making NGOs an alternative sentence to imprisonment for offenders sentenced for petty crimes and shorter sentences, which is 12 months and less. Such offenders are given parole after having served a quarter of their sentences. Most of these offenders do not have families, therefore the NGO will act as halfway houses where these offenders will be housed in one place. This will help the Department of Correctional Services alleviate overcrowding. Non-Governmental Organisations should be treated as a 'one-stop shop' where offenders can receive programmes that are related to rehabilitation which will enable them to have skills to be used in the outside world and therefore face the world as well equipped so that they do not fall back to crime again. Professionals must be available in these half-way houses to assess offenders and thereafter provide the skills relevant to the comital of their crimes. This will assist in significantly relieving correctional centres of unaffordable overcrowding challenges.

The offender will remain under the control of the NGOs and the Department of Correctional Services. The rehabilitation programmes offered by NGOs at half-way houses should be aimed at nurturing offenders the desire to live an honest and industrious life after they are released from the half-way houses and to develop self-respect and a sense of responsibility. The rehabilitation

programme should offer psychological, educational, social assistance or job training to offenders to make them less likely to participate in potentially criminal activity.

7.3.4 Recommendation 4: Chapter 3 of the White Paper on Corrections should include a paragraph that emphasizes that NGOs should deal with Multicultural and Ethnic Programmes

The demographic profile of offenders in correctional centres reflects diverse ethnic and racial groups. It is therefore recommended that Chapter 3 of the White Paper on Corrections should include a paragraph that emphasizes that NGOs or external role players that must deal with Multicultural and Ethnic Programmes. Programmes must deal with the contribution in cultural activities for a different cultural ethnic group such as Africans in rural areas (Basotho, Pedi, Tswana, Zulu, Xosa, Swazi, Ndebele etc.) Jewish, Muslim, Hindus, and other groups as well. In addition to this, they must also provide advice on ethnic and cultural issues and often act as translators and interpreters. The use of indigenous languages in rehabilitation programmes is limited in a way resulting in a lack of interest and participation of offenders. NGOs in the DCS must make use of African or indigenous approaches in their rehabilitation process in ensuring that offenders are smoothly integrated into the community with knowledge thereof.

7.3.5 Recommendation 5: More NGOs should assist parole boards to assess the readiness of offenders to return to society

Chapter 3 of the White Paper on Corrections (2005: 89) should include a principle that allows the NGOs who has a special skill such as (i.e., mental health professionals or teachers with vocational skills) to be assigned to an offender who requires assistance in the volunteer's area of expertise. It is recommended that he should be performed under the direction of a parole officer. These trained NGOs must provide reports about offenders who are placed on parole and correctional supervision together with the case officials (monitoring officials). NGOs must be treated as places for the development of offenders in terms of rehabilitation by ensuring that

there are specialists available to deal with the assessment of offenders so that they cannot relapse and fall back to prison again.

The researcher recommends that these NGOs should have the obligation to assist the parole board to assess the readiness of offenders to return to society before the expiry of their sentence, based on their rehabilitation and the community commitment to accept them. It should be duty-bound for both NGOs and the parole board to assess the skills level of offenders before releasing them to determine employability within the outside world and the risk to re-offend.

The researcher recommends that Chapter 3 of the White Paper on Corrections (2005: 89) should also embrace guidelines that will assist the NGOs to deal with issues that occur during placement on parole such as the degree to which the sentenced offender has participated in the multidisciplinary programmes which are seriously considered on the placement of a sentenced offender on parole**.** The guideline should involve how NGOs must consider factors such as inter alia, nature of the crime, remarks made by the court at the time of imposition of sentence, the sentenced offender's crime prognosis, available support systems in the community, and the degree to which the sentenced offender poses a threat to the community.

7.3.6 Recommendation 6: Make provision for the NGOs with professional skills and their roles in the Department of Correctional Services

It is the researcher's opinion that there is no provision for NGOs professionalism in the Correctional Services Act 111 of 1998 for NGOs with professional skills. The researcher recommends that the Correctional Services Act 111 of 1998 must be amended to make provision for NGOs with professional skills and their roles in the Department of Correctional Services. For the NGOs to effect rehabilitation of the offender, it must value the professional character of its staff, such as knowledge and the necessary skills to be able to perform better and in a more professional manner, thereby making an important contribution to effectively rehabilitate offenders, and work attitude which is based on certain values in terms of the rehabilitation of the offender, such as humanity, respect for human potential, relationships, partnerships, and

accountability. These values must be reflected in the conduct of the members of the NGO. This will assist them to be professional and deal with offender rehabilitation effectively as external role players. This section must cover aspects like the functions and category of NGOs and their safety while performing their responsibilities.

It is recommended that members of NGOs must be very professional in terms of the following areas for the rehabilitation process to be successful:

Table 2 Professional characters

Professional character of NGOs member	NGOs member role
Knowledge	1. **Knowledge of the Department of Correctional Services:** Members of NGOs must know the latest developments in the departmental vision and mission. This will enable staff to function effectively and professionally 2. **Knowledge of departmental policy and prescriptions:** As set out in the Correctional Services Act. This includes corporate, functional, operational, and legislative policies. 3. **Be knowledgeable about offenders:** Members of NGOs must perceive offenders as people and special beings. This will help them to change their attitude and conduct since members value them as unique and special beings, and 4 **Academic knowledge:** The training of NGO members at university level should be encouraged with the focus areas on the studies of Fundamental Penology, Corrections and Care, Special needs offenders, Restorative justice in corrections, Youth Corrections, Community Corrections and Community Work.
Skills	1. **Self-knowledge**: Accept themselves, have a direct relationship between themselves and their self-concept and be able to be with other people. Offenders will then follow their example and improve their own self-image. 2. **Promoting teamwork**: In terms of problem-solving, the team approach is very imperative. One of the advantages of teamwork is that complex tasks that are too much for one member to deal with are

Professional character of NGOs member	NGOs member role
	more controllable in teams. 3. **Problem-solving and decision making:** NGO members must have the ability to make decisions and solve problems must be an important life skill, and is almost certainly one of the most significant professional skills that members of NGOs must consider for them to participate in offender rehabilitation 4. **Coping with stress:** It is important for NGO members who are working within correctional centres to handle stress effectively. Correctional centres are high-stress environments due to the nature of the work situation. 5. **Communicating with inmates on a professional basis**: Communication with offenders has a major impact on the whole correctional environment. The way NGO members communicate with offenders can also contribute towards offender rehabilitation, as it sets the tone in the environment. Attitudes can create hostility, poor or good communication between members and offenders.
Attitude	1. **Humanity: A** member of NGOs must try to be sensitive to offenders' needs and feelings, respect their point of view and must promote offenders' well-being, without undermining the most important function of safety and security. They must always respect offenders as people and recognise the human dignity of all offenders under all circumstances. 2. **Respect for human potential:** Members of NGOs must always respect the human potential of offenders through their words and actions every day within the work environment. they must recognise that the offenders have the potential to become law-abiding citizens. This will assist in making an important contribution to the rehabilitation process of the offender.

The White Paper on Corrections (South African Department of Correctional Services, 2005b) stated that the services rendered by the Department "are personnel intensive", and "[s]ound

personnel practices are, therefore, promoted as a prerequisite to the rendering of professional services". It is the opinion of the researcher that NGOs must accomplish policy, in terms of the White Paper (Republic of South Africa, 1994: 19),

It is further recommended that NGOs should make use of recruiting unemployed graduates with qualifications such as Criminology, Penology, Corrections Management, Psychology, and Social Work. Academies must educate NGOs who are working with offenders about professional skills development through community engagement.

7.3.7 Recommendation 7: NGOs must assist courts to arrange, monitor and supervise community service obligations

It is recommended that the system that is used in Wisconsin be also implemented in South African courts whereby NGOs provide services such as Probation/ Parole/ Community services and Jail and Detention centres to the courts. South African NGOs that are working with rehabilitation and reintegration of offenders must assist courts to arrange, monitor and supervise community service obligations. Volunteering NGO members must mentor youth offenders, work inside and outside correctional centres, and must sometimes be involved with victim impact projects. Probation, parole, and community service programme activities must correspond with those provided by young offender's services programmes. Community service, as a condition of a sentence, must be in a position of imprisonment time and must offer defendants opportune. It is further recommended that NGOs must monitor correctional centre conditions, with the assistance of the inspecting judge and assist the same populations served by probation and parole programmes. They must also provide mentoring services to offenders and people on probation and parole that are like those provided to non-inmate populations.

7.3.8 Recommendation 8: The establishment of a professional society for NGOs in criminal justice

It is recommended that the Minister of Justice and Correctional Services and Police Services must encourage a professional society for NGOs in criminal justice to register a professional body to ensure that NGOs observe ethical, training and qualification standards and that they function within their professional parameters and/or boundaries. It is recommended that the Minister of Justice and Correctional Services and Police Services must propose national compensation for such a professional body. These registered NGOs should be entitled to the benefit of national compensation in case there is any danger that might have been occurred to them in the performance of their duties.

Such an association will enable to function informal institutions, such as the South African Police Services, courts and Department of Correctional Services, where they will have to adhere to certain rules and regulations and where they can contribute to a multi-dimensional approach in the prevention and control of crime in a society. These guidelines should also determine the role of the community such as NGOs in the South African Police Services, courts and Department of Correctional Services to outline their work descriptions (such as to combat crime and try to promote the concept of citizen involvement, which includes reporting crimes when they are observed and not being afraid to get involved, improve how courts respond to the needs and interest of the people they serve and to provide services that are not available and open wide the doors of the courts to the community, and to be at the centre of the rehabilitation process.

The researcher recommends that NGOs that are registered as a professional body should function as a system for the fact that they interact with the community to ensure that they will reveal important understandings in its structure and functions. The goal of these registered NGOs will make systems more effective by detecting challenges and focusing on organisation and management concerns. NGOs working in the police, courts and correctional services should function as independent parts components of a system that make every effort toward a particular collective objective as this was explained by Nesser (1993: 49) and Jones (2003: 50-54). Every

system functions in a specific environment e.g., NGOs in policing should function in police, in courts should function in court, and corrections should function in corrections. This will allow these NGOs to unite in the form of interacting or independent in which each of these has characteristics.

7.3.9 Recommendation 9: NGOs working in correctional institutions should undergo intensive training courses regarding issues governing The Standard Minimum Rules

The researcher recommends that NGOs working in correctional institutions should undergo intensive training courses regarding issues governing The Standard Minimum Rules (SMRs) for the treatment of prisoners, which is currently known as the Nelson Mandela Rules, and reviewal of policies so that they become acquainted with such policies.

This will assist the NGOs to have a better understanding of their value and influence as guides in the development of correctional laws, policies and practices, adding significant value and influence. NGOs will also have a better understanding of addressing the issues applicable to both men and women prisoners, including those relating to some rehabilitation services, parental responsibilities, and the like, even though the rules are mainly concerned with the needs of women and their children. The rehabilitation programme offered by NGOs in correctional services should always be in line with international standards. All NGOs responsible for the rehabilitation of offenders should be consistently regulated and monitored by the DCS Sub-directorate of Community against compliance with the conditions that are set for them about the Nelson Mandela Rules.

It is further recommended that all NGOs involved with the rehabilitation and reintegration of offenders should make sure that they familiarize themselves with Article 71: The Economic and Social Council. NGOs who are involved in the rehabilitation of offenders in correction centres must have a clear understanding or knowledge of the role of NGOs in the United Nations Economic and Social Council.

An orientation programme must be developed by DCS to assist the NGOs' members to function effectively. One of the key benefits of training is to ensure that members of NGOs are knowledgeable about the relevant legislation, regulations, governing the treatment and rehabilitation of offenders.

7.3.10 Recommendation 10: Partnership with the United Nations Commission on Crime Prevention and Criminal Justice and Commission on Narcotic Drugs

The researcher recommends that NGOs involved in South African Criminal Justice should be part of the United Nations Commission on Crime Prevention and Criminal Justice and Commission on Narcotic Drugs. These NGOs must receive good guidelines on how to tackle issues such as crime prevention in urban areas, including juvenile crime and violence. They will be able to promote the role of criminal law in protecting the environment and improve the effectiveness and equality of criminal justice administration systems. NGOs will also assist in dealing with the complex issues of drug abuse and crime, which deteriorate the morals of society and they can also serve as significant contributors to local, national, and international efforts to reduce drug-related problems.

The DCS as the last chain of criminal justice must identify and refer inmates with previous drug use problems to external NGOs that deal with the rehabilitation of substance abusers. The DCS must identify offenders with previous drug use problems.

It is the opinion of the researcher that it is necessary for NGOs in criminal justice to accept that the exchange of ideas, knowledge and experience is important, both nationally and internationally. NGOs can survive through partnerships at the local, provincial, national, and international levels. Therefore, the NGOs need to have strong partnerships with other sectors in the rehabilitation of offenders.

7.3.12 Recommendation 11: The curriculum of universities in the field of Criminology and Correctional Services must include the role played by NGOs or external role players in the rehabilitation and reintegration of offenders

The researcher recommends that there is a need to include the role played by NGOs or external role players on the rehabilitation and reintegration of offenders into the curriculum of universities. The role played by NGOs on the rehabilitation of offenders in the Department of Correctional Services be consistently taught as part of undergraduate studies in Criminology and Correctional Services courses. It must be formally acknowledged as part of a prescribed textbook that should encompass other countries internationally including South Africa. The purpose of the module will be for students to gain knowledge and insight into the extent to which society at large understands and engages in the challenges faced in combating crime and in the incarceration and rehabilitating of offenders. To understand that a successful rehabilitation and social reintegration programme requires the contributions and inputs of various stakeholders from within and outside the government sphere. Students credited with this module will be able to:

- Explain the purpose and objective of NGOs in general;
- Explain the role played by NGOs in Correctional Services;
- Describe and compare the responsibilities of NGOs regarding the correction of offending behaviour;
- Evaluate offender behavioural change programmes rendered by NGOs;
- Explain how NGOs also represent the community at large in the Restorative Justice process, involving all other stakeholders as important in making rehabilitation of offenders successful and ensuring the cooperation of communities when offenders need support upon release;
- Explain the role and responsibilities of NGOs in the life skills development, emotional intelligence and instilling good working habits of offenders;
- Explain how NGOs created rehabilitation programmes for deviants; and
- outlines the guidelines for community involvement, which are in line with the departmental rehabilitation strategy.

7.4 AREAS OF FURTHER RESEARCH

Recommended areas of further research are essential to any research design as it gives value not only to the academic world but also to the industry and community because it is through research that solutions to problems are found (Motlalekgosi, 2015: 218). This section of study outlines the possible areas of further research as follows:

- It is recommended that further research be conducted through institutions of higher learning to educate NGO volunteers and correctional officials about professional skills development through community engagement to be able to impart their knowledge to the offenders.

- It is also recommended that further research be conducted on the partnership between NGO members and correctional officials as a direct relationship between NGOs as community members and correctional officials in correctional environment treatment programmes in which correctional security is not affected. Mutual interchange of information between NGOs and correctional authorities will be the keystone to assist in clearing biases, assumptions of both concerned and a long-term partnership between both organisations.

- It is also recommended that further research be conducted on the smooth transition of offenders from correctional institutional treatment to community-based, which is the key to achieving effective reintegration into society. This will put more emphasis and assistance on the offender whilst on parole.

- It is also recommended that further research be conducted on NGOs as role players in the connection between goals of punishment (retribution, deterrence, and rehabilitation) and the components of the criminal justice system to prevent and control crime.

- Further research is conducted to evaluate the effectiveness of youth offender rehabilitation programmes that are offered by NGOs inside and outside correctional centres.

7.5 CONCLUSION

NGOs in the criminal justice system are regarded as an open system since it primarily concerns the human system. NGOs in the criminal justice system are proactive since they interact with the community as a system, criminal justice as a system and the offender as a system.

The researcher has noticed that the framework for the role of NGOs in the rehabilitation and reintegration of offenders in the South African Correctional System does not link to any research or empirical data to prove whether it is a working system or not. This should be a cause for concern and therefore this study presented recommendations and suggested areas of further research.

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APPENDIX A: LANGUAGE EDITING CERTIFICATE

Date: 25 February 2022

I, Berdine Smit, ID 7712190011083, hereby certify that the **DOCTOR OF PHILOSOPHY (Ph.D.) in CRIMINAL JUSTICE** thesis by

AARON LABANE:

A PENOLOGICAL STUDY OF THE ROLE OF NON-GOVERNMENTAL ORGANISATIONS IN THE CRIMINAL JUSTICE SYSTEM

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ANNEXURE A: NELSON MANDELA RULES

The United Nations Standard Minimum Rules for the Treatment of Prisoners

(the Nelson Mandela Rules)

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)[1]

This publication has been made possible thanks to a contribution from the Government of Germany.

Preliminary observation 1

The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principles and practice in the treatment of prisoners and prison management.

Preliminary observation 2

1. In view of the great variety of legal, social, economic and geographical conditions in the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.
2. On the other hand, the rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. It will always be justifiable for the central prison administration to authorize departures from the rules in this spirit.

[1] General Assembly resolution 70/175, annex, adopted on 17 December 2015.

Preliminary observation 3

1. Part I of the rules covers the general management of prisons, and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to "security measures" or corrective measures ordered by the judge.
2. Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit.

Preliminary observation 4

1. The rules do not seek to regulate the management of institutions set aside for young persons such as juvenile detention facilities or correctional schools, but in general part I would be equally applicable in such institutions.
2. The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.

I. RULES OF GENERAL APPLICATION

Basic principles

Rule 1

All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to,

and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.

Rule 2

1. The present rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status.
   The religious beliefs and moral precepts of prisoners shall be respected.
2. In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.

Rule 3

Imprisonment and other measures that result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty. Therefore the prison system shall not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

Rule 4

1. The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.
2. To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.

Rule 5

1. The prison regime should seek to minimize any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.
2. Prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis.

Prisoner file management

Rule 6

There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered and signed pages. Procedures shall be in place to ensure a secure

audit trail and to prevent unauthorized access to or modification of any information contained in the system.

Rule 7

No person shall be received in a prison without a valid commitment order. The following information shall be entered in the prisoner file management system upon admission of every prisoner:

(a) Precise information enabling determination of his or her unique identity, respecting his or her self-perceived gender;

(b) The reasons for his or her commitment and the responsible authority, in addition to the date, time and place of arrest;

(c) The day and hour of his or her admission and release as well as of any transfer;

(d) Any visible injuries and complaints about prior ill-treatment;

(e) An inventory of his or her personal property;

(f) The names of his or her family members, including, where applicable, his or her children, the children's ages, location and custody or guardianship status;

(g) Emergency contact details and information on the prisoner's next of kin.

Rule 8

The following information shall be entered in the prisoner file management system in the course of imprisonment, where applicable:

(a) Information related to the judicial process, including dates of court hearings and legal representation;

(b) Initial assessment and classification reports;

(c) Information related to behaviour and discipline;

(d) Requests and complaints, including allegations of torture or other cruel, inhuman or degrading treatment or punishment, unless they are of a confidential nature;

(e) Information on the imposition of disciplinary sanctions;

(f) Information on the circumstances and causes of any injuries or death and, in the case of the latter, the destination of the remains.

Rule 9

All records referred to in rules 7 and 8 shall be kept confidential and made available only to those whose professional responsibilities require access to such records. Every prisoner shall be granted access to the records pertaining to him or her, subject to redactions authorized under domestic legislation, and shall be entitled to receive an official copy of such records upon his or her release.

Rule 10

Prisoner file management systems shall also be used to generate reliable data about trends relating to and characteristics of the prison population, including occupancy rates, in order to create a basis for evidence-based decision-making.

Separation of categories

Rule 11

The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:

(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate;

(b) Untried prisoners shall be kept separate from convicted prisoners;

(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence; *(d)* Young prisoners shall be kept separate from adults.

Accommodation

Rule 12

1. Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.
2. Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the prison.

Rule 13

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

Rule 14

In all places where prisoners are required to live or work:

(a) The windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

Rule 15

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Rule 16

Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

Rule 17

All parts of a prison regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Personal hygiene

Rule 18

1. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.
2. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be able to shave regularly.

Clothing and bedding

Rule 19

1. Every prisoner who is not allowed to wear his or her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him or her in good health. Such clothing shall in no manner be degrading or humiliating.
2. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.
3. In exceptional circumstances, whenever a prisoner is removed outside the prison for an authorized purpose, he or she shall be allowed to wear his or her own clothing or other inconspicuous clothing.

Rule 20

If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the prison to ensure that it shall be clean and fit for use.

Rule 21

Every prisoner shall, in accordance with local or national standards, be provided with a separate bed and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Food

Rule 22

1. Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
2. Drinking water shall be available to every prisoner whenever he or she needs it.

Exercise and sport

Rule 23

1. Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.
2. Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of

exercise. To this end, space, installations and equipment should be provided.

Health-care services

Rule 24

1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.
2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.

Rule 25

1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.
2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.

Rule 26

1. The health-care service shall prepare and maintain accurate, up-todate and confidential individual medical files on all prisoners, and

all prisoners should be granted access to their files upon request. A prisoner may appoint a third party to access his or her medical file.

2. Medical files shall be transferred to the health-care service of the receiving institution upon transfer of a prisoner and shall be subject to medical confidentiality.

Rule 27

1. All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.
2. Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.

Rule 28

In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

Rule 29

1. A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for:

(a) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent;

(b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists.

2. Children in prison with a parent shall never be treated as prisoners.

Rule 30

A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to:

(a) Identifying health-care needs and taking all necessary measures for treatment;

(b) Identifying any ill-treatment that arriving prisoners may have been subjected to prior to admission;

(c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment;

(d) In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period;

(e) Determining the fitness of prisoners to work, to exercise and to participate in other activities, as appropriate.

Rule 31

The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality.

Rule 32

1. The relationship between the physician or other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular:

(a) The duty of protecting prisoners' physical and mental health and the prevention and treatment of disease on the basis of clinical grounds only;

(b) Adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship;

(c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;

(d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical or scientific experimentation that may be detrimental to a

prisoner's health, such as the removal of a prisoner's cells, body tissues or organs.

2. Without prejudice to paragraph 1 (*d*) of this rule, prisoners may be allowed, upon their free and informed consent and in accordance with applicable law, to participate in clinical trials and other health research accessible in the community if these are expected to produce a direct and significant benefit to their health, and to donate cells, body tissues or organs to a relative.

Rule 33

The physician shall report to the prison director whenever he or she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

Rule 34

If, in the course of examining a prisoner upon admission or providing medical care to the prisoner thereafter, health-care professionals become aware of any signs of torture or other cruel, inhuman or degrading treatment or punishment, they shall document and report such cases to the competent medical, administrative or judicial authority. Proper procedural safeguards shall be followed in order not to expose the prisoner or associated persons to foreseeable risk of harm.

Rule 35

1. The physician or competent public health body shall regularly inspect and advise the prison director on:

(a) The quantity, quality, preparation and service of food;

(b) The hygiene and cleanliness of the institution and the prisoners;

(c) The sanitation, temperature, lighting and ventilation of the prison;

(d) The suitability and cleanliness of the prisoners' clothing and bedding;

(e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

2. The prison director shall take into consideration the advice and reports provided in accordance with paragraph 1 of this rule and rule 33 and shall take immediate steps to give effect to the advice and the recommendations in the reports. If the advice or recommendations do not fall within the prison director's competence or if he or she does not concur with them, the director shall immediately submit to a higher authority his or her own report and the advice or recommendations of the physician or competent public health body.

Restrictions, discipline and sanctions

Rule 36

Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well ordered community life.

Rule 37

The following shall always be subject to authorization by law or by the regulation of the competent administrative authority:

(a) Conduct constituting a disciplinary offence;

(b) The types and duration of sanctions that may be imposed;

(c) The authority competent to impose such sanctions;

(d) Any form of involuntary separation from the general prison population, such as solitary confinement, isolation, segregation, special care units or restricted housing, whether as a disciplinary sanction or for the maintenance of order and security, including promulgating policies and procedures governing the use and review of, admission to and release from any form of involuntary separation.

Rule 38

1. Prison administrations are encouraged to use, to the extent possible, conflict prevention, mediation or any other alternative dispute resolution mechanism to prevent disciplinary offences or to resolve conflicts.
2. For prisoners who are, or have been, separated, the prison administration shall take the necessary measures to alleviate the potential detrimental effects of their confinement on them and on their community following their release from prison.

Rule 39

1. No prisoner shall be sanctioned except in accordance with the terms of the law or regulation referred to in rule 37 and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.
2. Prison administrations shall ensure proportionality between a disciplinary sanction and the offence for which it is established, and shall keep a proper record of all disciplinary sanctions imposed.
3. Before imposing disciplinary sanctions, prison administrations shall consider whether and how a prisoner's mental illness or developmental disability may have contributed to his or her conduct and the commission of the offence or act underlying the disciplinary charge. Prison administrations shall not sanction any conduct of a prisoner that is considered to be the direct result of his or her mental illness or intellectual disability.

Rule 40

1. No prisoner shall be employed, in the service of the prison, in any disciplinary capacity.
2. This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

Rule 41

1. Any allegation of a disciplinary offence by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.
2. Prisoners shall be informed, without delay and in a language that they understand, of the nature of the accusations against them and

shall be given adequate time and facilities for the preparation of their defence.

3. Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.
4. Prisoners shall have an opportunity to seek judicial review of disciplinary sanctions imposed against them.
5. In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser.

Rule 42

General living conditions addressed in these rules, including those related to light, ventilation, temperature, sanitation, nutrition, drinking water, access to open air and physical exercise, personal hygiene, health care and adequate personal space, shall apply to all prisoners without exception.

Rule 43

1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

(a) Indefinite solitary confinement;

(b) Prolonged solitary confinement;

(c) Placement of a prisoner in a dark or constantly lit cell;

(d) Corporal punishment or the reduction of a prisoner's diet or drinking water;

(e) Collective punishment.

2. Instruments of restraint shall never be applied as a sanction for disciplinary offences.

3. Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

Rule 44

For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.

Rule 45

1. Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.

2. The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations

standards and norms in crime prevention and criminal justice,[1] continues to apply.

Rule 46

1. Health-care personnel shall not have any role in the imposition of disciplinary sanctions or other restrictive measures. They shall, however, pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff.

2. Health-care personnel shall report to the prison director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons.

3. Health-care personnel shall have the authority to review and recommend changes to the involuntary separation of a prisoner in order to ensure that such separation does not exacerbate the medical condition or mental or physical disability of the prisoner.

Instruments of restraint

Rule 47

1. The use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited.

[1] See rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (resolution 45/113, annex); and rule 22 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (resolution 65/229, annex).

2. Other instruments of restraint shall only be used when authorized by law and in the following circumstances:

   (a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority;

   (b) By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified health-care professionals and report to the higher administrative authority.

Rule 48

1. When the imposition of instruments of restraint is authorized in accordance with paragraph 2 of rule 47, the following principles shall apply:

   (a) Instruments of restraint are to be imposed only when no lesser form of control would be effective to address the risks posed by unrestricted movement;

   (b) The method of restraint shall be the least intrusive method that is necessary and reasonably available to control the prisoner's movement, based on the level and nature of the risks posed;

   (c) Instruments of restraint shall be imposed only for the time period required, and they are to be removed as soon as possible after the risks posed by unrestricted movement are no longer present.

2. Instruments of restraint shall never be used on women during labour, during childbirth and immediately after childbirth.

Rule 49

The prison administration should seek access to, and provide training in the use of, control techniques that would obviate the need for the imposition of instruments of restraint or reduce their intrusiveness.

Searches of prisoners and cells

Rule 50

The laws and regulations governing searches of prisoners and cells shall be in accordance with obligations under international law and shall take into account international standards and norms, keeping in mind the need to ensure security in the prison. Searches shall be conducted in a manner that is respectful of the inherent human dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity.

Rule 51

Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy. For the purpose of accountability, the prison administration shall keep appropriate records of searches, in particular strip and body cavity searches and searches of cells, as well as the reasons for the searches, the identities of those who conducted them and any results of the searches.

Rule 52

1. Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to develop and use appropriate alternatives to intrusive searches. Intrusive searches shall be conducted in private and by trained staff of the same sex as the prisoner.
2. Body cavity searches shall be conducted only by qualified health-care professionals other than those primarily responsible for the care of the prisoner or, at a minimum, by staff appropriately trained by a medical professional in standards of hygiene, health and safety.

Rule 53

Prisoners shall have access to, or be allowed to keep in their possession without access by the prison administration, documents relating to their legal proceedings.

Information to and complaints by prisoners

Rule 54

Upon admission, every prisoner shall be promptly provided with written information about:

(a) The prison law and applicable prison regulations;

(b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;

(c) His or her obligations, including applicable disciplinary sanctions; and

(d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.

Rule 55

1. The information referred to in rule 54 shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.
2. If a prisoner is illiterate, the information shall be conveyed to him or her orally. Prisoners with sensory disabilities should be provided with information in a manner appropriate to their needs.
3. The prison administration shall prominently display summaries of the information in common areas of the prison.

Rule 56

1. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.

2. It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.

3. Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.

4. The rights under paragraphs 1 to 3 of this rule shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility of exercising such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so.

Rule 57

1. Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.
2. Safeguards shall be in place to ensure that prisoners can make requests or complaints safely and, if so requested by the complainant, in a confidential manner. A prisoner or other person mentioned in paragraph 4 of rule 56 must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.
3. Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately and shall result in a prompt and impartial investigation conducted by an independent national authority in accordance with paragraphs 1 and 2 of rule 71.

Contact with the outside world

Rule 58

1. Prisoners shall be allowed, under necessary supervision, to com municate with their family and friends at regular intervals:

(a) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and *(b)* By receiving visits.

2. Where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men. Procedures shall be in

place and premises shall be made available to ensure fair and equal access with due regard to safety and dignity.

Rule 59

Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.

Rule 60

1. Admission of visitors to the prison facility is contingent upon the visitor's consent to being searched. The visitor may withdraw his or her consent at any time, in which case the prison administration may refuse access.
2. Search and entry procedures for visitors shall not be degrading and shall be governed by principles at least as protective as those outlined in rules 50 to 52. Body cavity searches should be avoided and should not be applied to children.

Rule 61

1. Prisoners shall be provided with adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider, without delay, interception or censorship and in full confidentiality, on any legal matter, in conformity with applicable domestic law. Consultations may be within sight, but not within hearing, of prison staff.
2. In cases in which prisoners do not speak the local language, the prison administration shall facilitate access to the services of an independent competent interpreter.
3. Prisoners should have access to effective legal aid.

Rule 62

1. Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.
2. Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

Rule 63

Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the prison administration.

Books

Rule 64

Every prison shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Religion

Rule 65

1. If the prison contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.
2. A qualified representative appointed or approved under paragraph 1 of this rule shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his or her religion at proper times.
3. Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his or her attitude shall be fully respected.

Rule 66

So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the prison and having in his or her possession the books of religious observance and instruction of his or her denomination.

Retention of prisoners' property

Rule 67

1. All money, valuables, clothing and other effects belonging to a prisoner which he or she is not allowed to retain under the prison regulations shall on his or her admission to the prison be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.
2. On the release of the prisoner, all such articles and money shall be returned to him or her except in so far as he or she has been

authorized to spend money or send any such property out of the prison, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him or her.

3. Any money or effects received for a prisoner from outside shall be treated in the same way.
4. If a prisoner brings in any drugs or medicine, the physician or other qualified health-care professionals shall decide what use shall be made of them.

Notifications

Rule 68

Every prisoner shall have the right, and shall be given the ability and means, to inform immediately his or her family, or any other person designated as a contact person, about his or her imprisonment, about his or her transfer to another institution and about any serious illness or injury. The sharing of prisoners' personal information shall be subject to domestic legislation.

Rule 69

In the event of a prisoner's death, the prison director shall at once inform the prisoner's next of kin or emergency contact. Individuals designated by a prisoner to receive his or her health information shall be notified by the director of the prisoner's serious illness, injury or transfer to a health institution. The explicit request of a prisoner not

to have his or her spouse or nearest relative notified in the event of illness or injury shall be respected.

Rule 70

The prison administration shall inform a prisoner at once of the serious illness or death of a near relative or any significant other. Whenever circumstances allow, the prisoner should be authorized to go, either under escort or alone, to the bedside of a near relative or significant other who is critically ill, or to attend the funeral of a near relative or significant other.

Investigations

Rule 71

1. Notwithstanding the initiation of an internal investigation, the prison director shall report, without delay, any custodial death, disappearance or serious injury to a judicial or other competent authority that is independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases. The prison administration shall fully cooperate with that authority and ensure that all evidence is preserved.
2. The obligation in paragraph 1 of this rule shall equally apply whenever there are reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed in prison, irrespective of whether a formal complaint has been received.

3. Whenever there are reasonable grounds to believe that an act referred to in paragraph 2 of this rule has been committed, steps shall be taken immediately to ensure that all potentially implicated persons have no involvement in the investigation and no contact with the witnesses, the victim or the victim's family.

Rule 72

The prison administration shall treat the body of a deceased prisoner with respect and dignity. The body of a deceased prisoner should be returned to his or her next of kin as soon as reasonably possible, at the latest upon completion of the investigation. The prison administration shall facilitate a culturally appropriate funeral if there is no other responsible party willing or able to do so and shall keep a full record of the matter.

Removal of prisoners

Rule 73

1. When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.
2. The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.
3. The transport of prisoners shall be carried out at the expense of the prison administration and equal conditions shall apply to all of them.

Institutional personnel

Rule 74

1. The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of prisons depends.
2. The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.
3. To secure the foregoing ends, personnel shall be appointed on a fulltime basis as professional prison staff and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

Rule 75

1. All prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a professional manner.
2. Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.

3. The prison administration shall ensure the continuous provision of in service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.

Rule 76

1. Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on:

(a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;

(b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or punishment;

(c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation;

(d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.

2. Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.

Rule 77

All prison staff shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.

Rule 78

1. So far as possible, prison staff shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.
2. The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

Rule 79

1. The prison director should be adequately qualified for his or her task by character, administrative ability, suitable training and experience.
2. The prison director shall devote his or her entire working time to official duties and shall not be appointed on a part-time basis. He or she shall reside on the premises of the prison or in its immediate vicinity.
3. When two or more prisons are under the authority of one director, he or she shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these prisons.

Rule 80

1. The prison director, his or her deputy, and the majority of other prison staff shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.

2. Whenever necessary, the services of a competent interpreter shall be used.

Rule 81

1. In a prison for both men and women, the part of the prison set aside for women shall be under the authority of a responsible woman staff member who shall have the custody of the keys of all that part of the prison.
2. No male staff member shall enter the part of the prison set aside for women unless accompanied by a woman staff member.
3. Women prisoners shall be attended and supervised only by women staff members. This does not, however, preclude male staff members, particularly doctors and teachers, from carrying out their professional duties in prisons or parts of prisons set aside for women.

Rule 82

1. Prison staff shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Prison staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the prison director.
2. Prison staff shall be given special physical training to enable them to restrain aggressive prisoners.
3. Except in special circumstances, prison staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, prison staff should in no circumstances be provided with arms unless they have been trained in their use.

Internal and external inspections

Rule 83

1. There shall be a twofold system for regular inspections of prisons and penal services:

(a) Internal or administrative inspections conducted by the central prison administration;

(b) External inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.

2. In both cases, the objective of the inspections shall be to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and corrections services, and that the rights of prisoners are protected.

Rule 84

1. Inspectors shall have the authority:

(a) To access all information on the numbers of prisoners and places and locations of detention, as well as all information relevant to the treatment of prisoners, including their records and conditions of detention;

(b) To freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview;

(c) To conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits;

(d) To make recommendations to the prison administration and other competent authorities.

2. External inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority and shall encompass healthcare professionals. Due regard shall be given to balanced gender representation.

Rule 85

1. Every inspection shall be followed by a written report to be submitted to the competent authority. Due consideration shall be given to making the reports of external inspections publicly available, excluding any personal data on prisoners unless they have given their explicit consent.

2. The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection.

II. RULES APPLICABLE TO SPECIAL CATEGORIES

A. Prisoners under sentence

Guiding principles

Rule 86

The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under preliminary observation 1 of these rules.

Rule 87

Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same prison or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

Rule 88

1. The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.
2. There should be in connection with every prison social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his or her family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

Rule 89

1. The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups. It is therefore desirable that such groups should be distributed in separate prisons suitable for the treatment of each group.
2. These prisons do not need to provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open prisons, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to the rehabilitation of carefully selected prisoners.
3. It is desirable that the number of prisoners in closed prisons should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such prisons should not exceed 500. In open prisons the population should be as small as possible.
4. On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.

Rule 90

The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient aftercare directed towards the lessening of prejudice against him or her and towards his or her social rehabilitation.

Treatment

Rule 91

The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

Rule 92

1. To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his or her social and criminal history, physical and mental capacities and aptitudes, personal temperament, the length of his or her sentence and prospects after release.
2. For every prisoner with a sentence of suitable length, the prison director shall receive, as soon as possible after his or her admission, full reports on all the matters referred to in paragraph 1 of this rule. Such reports shall always include a report by the physician or other qualified health-care professionals on the physical and mental condition of the prisoner.
3. The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted by the responsible personnel whenever the need arises.

Classification and individualization

Rule 93

1. The purposes of classification shall be:

(a) To separate from others those prisoners who, by reason of their criminal records or characters, are likely to exercise a bad influence;

(b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

2. So far as possible, separate prisons or separate sections of a prison shall be used for the treatment of different classes of prisoners.

Rule 94

As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions.

Privileges

Rule 95

Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every prison, in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of prisoners in their treatment.

Work

Rule 96

1. Sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation, subject to a determination of physical and mental fitness by a physician or other qualified health-care professionals.
2. Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

Rule 97

1. Prison labour must not be of an afflictive nature.
2. Prisoners shall not be held in slavery or servitude.
3. No prisoner shall be required to work for the personal or private benefit of any prison staff.

Rule 98

1. So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.
2. Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.
3. Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, prisoners shall be able to choose the type of work they wish to perform.

Rule 99

1. The organization and methods of work in prisons shall resemble as closely as possible those of similar work outside of prisons, so as to prepare prisoners for the conditions of normal occupational life.

2. The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the prison.

Rule 100

1. Preferably, institutional industries and farms should be operated directly by the prison administration and not by private contractors.
2. Where prisoners are employed in work not controlled by the prison administration, they shall always be under the supervision of prison staff. Unless the work is for other departments of the government, the full normal wages for such work shall be paid to the prison administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.

Rule 101

1. The precautions laid down to protect the safety and health of free workers shall be equally observed in prisons.
2. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workers.

Rule 102

1. The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workers.
2. The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of prisoners.

Rule 103

1. There shall be a system of equitable remuneration of the work of prisoners.
2. Under the system, prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.
3. The system should also provide that a part of the earnings should be set aside by the prison administration so as to constitute a savings fund to be handed over to the prisoner on his or her release.

Education and recreation

Rule 104

1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of young prisoners shall be compulsory and special attention shall be paid to it by the prison administration.
2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

Rule 105

Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.

Social relations and aftercare

Rule 106

Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.

Rule 107

From 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.

Rule 108

1. Services and agencies, governmental or otherwise, which assist released prisoners in re-establishing themselves in society shall ensure, so far as is possible and necessary, that released prisoners are provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.
2. The approved representatives of such agencies shall have all necessary access to the prison and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his or her sentence.

3. It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.

B. Prisoners with mental disabilities and/or health conditions

Rule 109

1. Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible.
2. If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals.
3. The health-care service shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

Rule 110

It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric aftercare.

C. Prisoners under arrest or awaiting trial

Rule 111

1. Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as "untried prisoners" hereinafter in these rules.
2. Unconvicted prisoners are presumed to be innocent and shall be treated as such.
3. Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit from a special regime which is described in the following rules in its essential requirements only.

Rule 112

1. Untried prisoners shall be kept separate from convicted prisoners.
2. Young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.

Rule 113

Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.

Rule 114

Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.

Rule 115

An untried prisoner shall be allowed to wear his or her own clothing if it is clean and suitable. If he or she wears prison dress, it shall be different from that supplied to convicted prisoners.

Rule 116

An untried prisoner shall always be offered the opportunity to work, but shall not be required to work. If he or she chooses to work, he or she shall be paid for it.

Rule 117

An untried prisoner shall be allowed to procure at his or her own expense or at the expense of a third party such books, newspapers, writing material and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.

Rule 118

An untried prisoner shall be allowed to be visited and treated by his or her own doctor or dentist if there are reasonable grounds for the application and he or she is able to pay any expenses incurred.

Rule 119

1. Every untried prisoner has the right to be promptly informed about the reasons for his or her detention and about any charges against him or her.
2. If an untried prisoner does not have a legal adviser of his or her own choice, he or she shall be entitled to have a legal adviser assigned to

him or her by a judicial or other authority in all cases where the interests of justice so require and without payment by the untried prisoner if he or she does not have sufficient means to pay. Denial of access to a legal adviser shall be subject to independent review without delay.

Rule 120

1. The entitlements and modalities governing the access of an untried prisoner to his or her legal adviser or legal aid provider for the purpose of his or her defence shall be governed by the same principles as outlined in rule 61.
2. An untried prisoner shall, upon request, be provided with writing material for the preparation of documents related to his or her defence, including confidential instructions for his or her legal adviser or legal aid provider.

D. Civil prisoners

Rule 121

In countries where the law permits imprisonment for debt, or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall be not less favourable than that of untried prisoners, with the reservation, however, that they may possibly be required to work.

E. Persons arrested or detained without charge

Rule 122

Without prejudice to the provisions of article 9 of the International Covenant on Civil and Political Rights,[2] persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part I and part II, section C, of these rules. Relevant provisions of part II, section A, of these rules shall likewise be applicable where their application may be conducive to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.

[2] See resolution 2200 A (XXI), annex.

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