Module 3. The Tokyo Rules

These materials will help participants to understand what is a microorganism, and how do viruses differ from bacteria.

3.1 What are the Tokyo Rules

These materials will help participants to understand what are the Tokyo Rules and what are they focus on.

The United Nations Standard Minimum Rules for Non-custodial Measures, known as the Tokyo Rules, are the key international standard on alternatives to imprisonment. The Tokyo Rules are a supplement to the more general Mandela Rules and focus on non-custodial measures that can be applied as alternatives to prison sentences. The Tokyo Rules were adopted by the United Nations on 14 December 1990 (UNDOC, 1990). They provide a 'set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment' (**Rule 1.1** General Principles).

The Tokyo Rules are based on the premise that there are effective alternatives to imprisonment (Penal Reform). The United Nations therefore calls on member states 'to avoid unnecessary use of imprisonment' and "provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions" (**Rule 2.3**). In their decisions, judicial authorities should balance the "rehabilitative needs of the offender, the protection of society and the interests of the victim" (**Rule 8.1**).

In particular, the Tokyo Rules stipulate that 'pre-trial detention shall be used as a means of last resort' (**Rule 6.1**). The document summarises a variety of non-custodial measures that can be applied as an alternative to imprisonment (**Rule 8.2**). The Tokyo Rules state that in their decisions, judicial authorities should take into account a number of factors, including the nature and gravity of the offence as well as the personal characteristics and background of the person who is charged with or convicted of a criminal offence (Penal Reform). Furthermore, the rules emphasise the need for professionally and adequately remunerated staff that can supervise and implement non-custodial alternatives (**Rules 15 and 16**). Public participation should be strengthened, as an important factor for improving the ties between offenders and the community (**Rule 17**). The Tokyo Rules also call for scientific cooperation to expand the range of non-institutional options and facilitate their application across various countries (**Rule 23**).

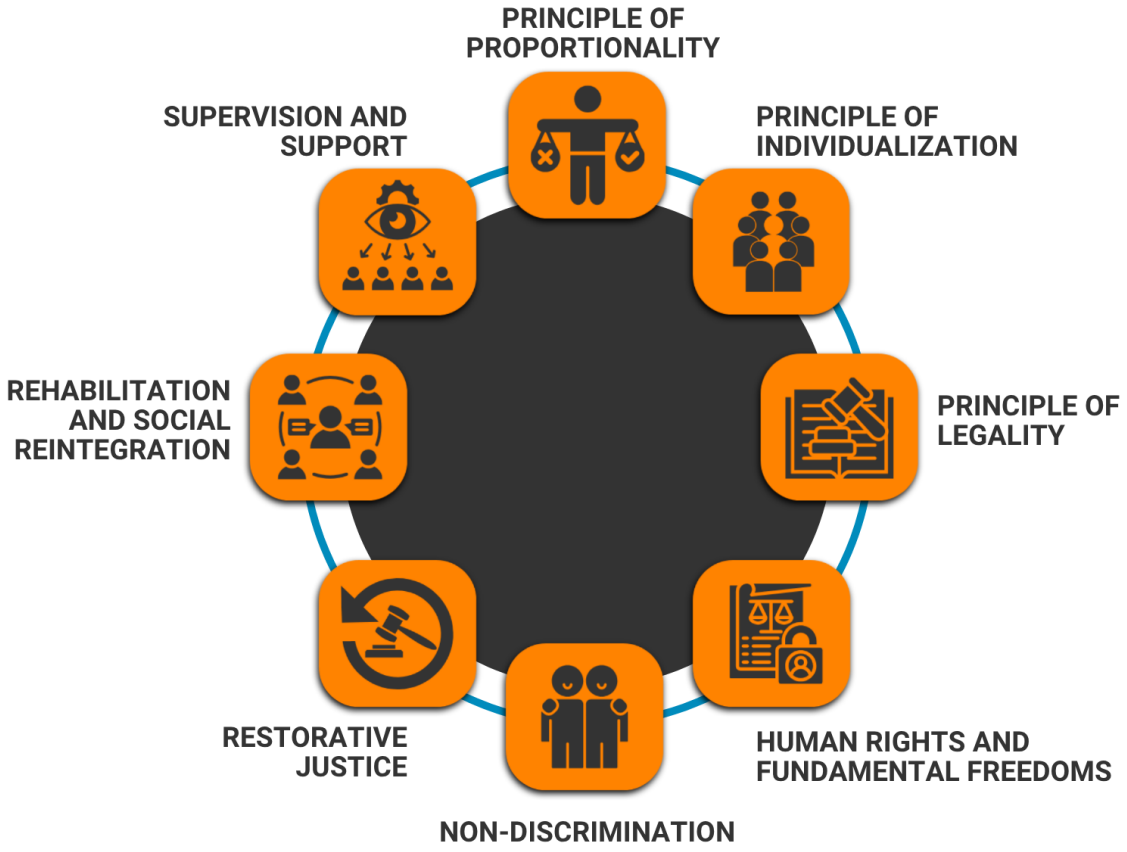
According to the NGO Penal Reform International, the Tokyo Rules are an important international document for promoting alternatives to imprisonment (Penal Reform). The rules result from two considerations. Firstly, many states are struggling with overcrowded prisons (Walmsley, 2005). Non-custodial measures can offer a more cost-effective alternative that takes into account both society's need for security and the offenders' rehabilitation needs. Secondly, there is a growing consensus among researchers that incarceration has harmful social and health consequences and does not reduce reoffending rates (Penal Reform).

3.2 Key principles of the Tokyo Rules

Key principles and provisions of the Tokyo Rules include:

- **Principle of proportionality:** Non-custodial measures should be used in proportion to the offense and the needs and circumstances of the offender.
- **Principle of individualization:** Non-custodial measures should be tailored to the specific characteristics and needs of each offender, taking into **account factors such as age, gender, and cultural background.**
- **Principle of legality:** Non-custodial measures should be applied in accordance with the law and legal procedures.
- **Human rights and fundamental freedoms:** Non-custodial measures should respect and uphold the human rights and fundamental freedoms of the offender.
- **Non-discrimination:** Non-custodial measures should be administered without discrimination based on factors such as race, gender, religion, or social status.
- **Restorative justice:** The Tokyo Rules encourage the use of restorative justice principles and practices, such as mediation and victim-offender dialogue, as alternatives to imprisonment.
- **Rehabilitation and social reintegration:** Non-custodial measures should be aimed at the rehabilitation and social reintegration of the offender, promoting their successful reintegration into society.
- **Supervision and support:** When necessary, non-custodial measures should include appropriate supervision, guidance, and support to assist the offender in complying with the terms of their sentence.

KEY PRINCIPLES OF THE TOKYO RULES



SOLID Social work and strengthening NGOs in development cooperation to treat drug addiction

The Tokyo Rules are supplemented by other standards specific for women and children:

- The UN Bangkok Rules
- The UN Convention on the Rights of the Child

References

Penal Reform (n.d.). Alternatives to imprisonment

United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules)

Walmsley, R. (2005). Prison health care and the extent of prison overcrowding, International Journal of Prisoner Health, 1(1), 3–12.