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A model for all? Disputes over the concept of recidivism risk assessment

Abstract: The Risk-Need-Responsivity Model developed in Canada has met with a number of objections and concerns from rehabilitation theorists and practitioners. This text is an attempt to approximate the ongoing discussion in the world, which hinges on the question of whether one can estimate the risk of re-offending, and if so, what criteria should be used and how they should be corrective intervention treatments be constructed so that they are efficient and effective. **Keywords:** RNR Model, estimating risk of recidivism, Good Lives Model, criminogenic needs, prevention, social rehabilitation treatments.

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In searching for the causes of criminal behavior, modern researchers direct their attention toward the multi-factorial theory,¹ which permits the capture of a person “in action” and to see not only the influence of bio-psychological factors but also of socio-cultural, economic and other factors. A linear approach to the causes of crime is not sufficient, because it is static and ignores the many processes occurring both in the life of an individual as well as in their environment, and these processes can increase the likelihood of an offense being committed.² A mul-

¹ Cf. further et al. B. Hołyst, *Criminology*, Warszawa 1994, pp. 438–517; R. Opora, *Ewolucja niedostosowania społecznego jako rezultat zmian w zakresie odporności psychicznej i zniekształceń poznawczych*, Gdansk 2009, pp. 183–186; G. Barak, *Criminology: An Integrated Approach*, Lanham 2009.

² Cf. further: G. Barak, op. cit., p. 288.

ti-factorial approach has also become the way to eliminate competition which appeared between supporters of different theories and was aimed at demonstrating the undeniable superiority of one stream over others. In an integrated approach, research efforts are focused on a better and more comprehensive understanding of the processes that lead to criminal behavior.³ One of the first models that combined several theoretical trends, including the theory of stress, social learning and social control, was that introduced by DS Elliott S. S. Ageton and RJ Canter.⁴ This grouping was also joined by Canadian researchers, who are recognized as the creators of the well-known RNR (Risk-Need-Responsivity) model based on a complex concept of the general theory of personality and social learning (GPCSL).⁵ According to the researchers, there are two approaches within this general model – the social psychology of personality (GPSPP) and the highlighting of the role of individual, interpersonal and social factors in the generation of human behavior (PIC-R).⁶ The first refers to the popular psychological concept of “personality” which has entered into the mainstream of social learning through J. Bonta and DA Andrews. They see that an individual acts not only under the influence of what they think, but also how they think and what beliefs, expectations, and goals they have.⁷ An individual does not, however, carry out their self-regulation in a vacuum. A major role is played by situational factors that may enhance anti-social behavior or act as protective factors.⁸ In order to better understand the differences among those who fall into conflict with the law, Canadian researchers make use of the PIC-R approach which introduces components related to motivation and social control. Moreover, it enables the identification of individual factors, interpersonal and social, which may increase the risk of coming into conflict with the law. In view of this, we draw attention to the differences in causative power of given risk factors that affect the individual to a varying degree.⁹ This approach, according to J. Bonta and D.A. Andrews also gives the opportunity to create diagnostic tools

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³ Cf. S.E. Brown, F-A. Esbensen, G. Geis, *Criminology: Explaining Crime and Its Context*, Waltham 2013, p. 413.

⁴ Cf. further ibidem, p. 414, and also D.S. Elliott, S.S. Ageton, R.J. Canter, *Integrated Perspective on Delinquency*, [in:] *Encyclopedia of Criminological Theory*, t. I, F.T. Cullen, P. Wilcox (eds), Thousand Oaks 2010, pp. 288–291.

⁵ Cf. further D.A. Andrews, J. Bonta, *The Psychology of Criminal Conduct*, New Providence 2010, pp. 131–155.

⁶ Cf. further D.A. Andrews, *A personal, interpersonal and community-reinforcement perspective on deviant behaviour (PIC-R)*, 1982, <https://www.ncjrs.gov/pdffiles1/Digitization/89816NCJRS.pdf> [date: 19.02.2014].

⁷ Cf. D.A. Andrews, J. Bonta, op. cit., pp. 136.

⁸ Cf. ibidem, pp. 136–137.

⁹ Since the PIC-R refers to the concept of rewards and costs, D.A. Andrews and J. Bonta pay attention to the inter-individual differences – the same issues will not be rewards for everyone but potential losses which they may suffer do not have to relate to the values prized by them, so one should recognize (in the diagnostic process) an individual’s endeavours, and establish their system of values in order to better adapt the social rehabilitation treatment, cf. further: D.A. Andrews, J. Bonta,

that are the basis for designing effective and efficient social reintegration operations.¹⁰ According to the creators of the RNR model, general theory of personality and social learning leads to the conclusion that the probability of committing an offense falls when there are more rewards for non-criminal behavior, when the costs involved in committing a crime go up, when the costs associated with the non-criminal behavior go down, and when the number of rewards associated with criminal behavior go down.¹¹ Indeed, this approach gives a broader perspective than pure behaviorism – despite the fact that the behavior of the individual is subject to “releasers” – external and internal predecessors, yet according to the cognitive concept the unit? learns how to react to these stimuli, in other words, learns the control.¹² According to Canadian researchers, in order to construct an effective and efficient process of social integration, we must be guided in our actions by three principles which are included in the RNR model, namely risk, needs and responsivity.

The principle of risk refers to the belief that it is possible to estimate the probability of an offense being committed by an individual. Research conducted around the world, together with the increased attention being given to the multi-factorial theories, means that risk is understood as a set of external and internal factors.¹³ The construct of risk has, according to J. Gierowski, three characteristics: contextuality, dynamics and intensity,¹⁴ so risk depends on situational factors, varies in probability and can be of greater or lesser significance (risk continuum). Since these three elements are ever present, they can be analyzed in the course of diagnostic tests. This requires reliable tools with which we can differentiate between offenders of low, medium and high risk.¹⁵ The type of social reintegration, degree of control, and mix of educational perpetrator groups can be decided on the basis of the results. According to the researchers, the type of social reintegration should only be aimed at perpetrators of medium and high risk groups,¹⁶ as encompassing perpetrators from minimal risk groups can have a counterproductive effect (increasing the probability, instead of reducing it).¹⁷ It should al-

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op. cit., p. 147. S. Górski draws attention to similar issues, *The methodology of resocialisation*, Warsaw 1985, pp. 163–164.

¹⁰ Cf. D.A. Andrews, J. Bonta, op. cit., p. 141 oraz D.A. Andrews, op. cit., pp. 44–53.

¹¹ D.A. Andrews, J. Bonta, J.S. Wormith, *The Risk-Need-Responsivity (RNR) Model: Does Adding the Good Lives Model Contribute to Effective Crime Prevention?*, “Criminal Justice and Behavior” 2011, Vol. 38, No. 7, pp. 744.

¹² Cf. D.A. Andrews, J. Bonta, op. cit., pp. 143–148.

¹³ Cf. J.K. Gierowski, *Czynniki ryzyka i opiniowanie przemocy u adolescentów*, “Farmakoterapia w Psychiatrii i Neurologii” 2005, No. 2, p. 117.

¹⁴ Cf. ibidem.

¹⁵ J. Bonta, D.A. Andrews, op. cit., p. 5.

¹⁶ Cf. V. Poels, *Risk Assessment of Recidivism of Violent and sexual Female Offenders*, Rotor 2005, s. 22.

¹⁷ Cf. B. Stańdo-Kawecka, *O koncepcji resocjalizacji w polskiej literaturze naukowej polemicznie*, “Pro-bacja” 2010, No. 1, p. 117. Cf. further results reinforcing the idea that offenders with a low risk of

so be noted that educational groups should not contain offenders with different levels of risk.¹⁸

The principle of needs applies to factors correlated with crime. Studies conducted, among others, by D.A. Andrews and J. Bonta, indicate that these factors include the so-called Big Four and Moderate Four, which together form the Central Eight. According to researchers, the factors that have been included in the Big Four have the most significant impact on the behavior of the individual.¹⁹ These are: a history of anti-social behaviour, antisocial personality, antisocial attitudes and anti-social associates.²⁰ In the Moderate Four, researchers identify the factors as family/marital situation, school /work situation, inability to manage leisure/ /recreation time and substance abuse/addiction.²¹

Researchers emphasize the role of dynamic risk factors that can be modified in the course of social reintegration. In the Central Eight the only static factor is anti-social behavior in the past and that is a given. If in the course of studying people we were to only seek such unalterable requirements in an individual, we would have to conclude that the impact of penal institutions is unnecessary, and that the lack of “social reintegration success” results from the roots of criminality, which cannot be changed. But this is not the case, as indicated by research on risk factors.²² This gives hope to both theorists and practitioners of rehabilitation that they might be able to create a comprehensive, effective treatment interventions tailored to the needs of the individual, which would modify the factors deemed conducive to the commission of offenses.

The Canadian researchers emphasize that an individual's life is also influenced by factors/needs not directly influencing criminal behavior, which should be remembered, as in this way we can better motivate the offender to change. These needs are called non-criminogenic, and among them are: happiness, self-confidence, openness to new experiences, fear and grief, spirituality as well as others.²³

The principle of responsivity refers to two concepts: general and specific responsivity. According to D. A. Andrews and J. Bonta interventions/programs of

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recidivism must be protected against the effects of social rehabilitation institutions: J. Bonta, S. Wallace-Capretta, J. Rooney, *A Quasi-Experimental Evaluation of an Intensive Rehabilitation Supervision Program*, “Criminal Justice and Behavior” 2000, Vol. 27, No. 3, p. 324.

¹⁸ J. Bonta, D.A. Andrews, op. cit., p. 5.

¹⁹ Cf. further meta-analysis results D.A. Andrews, J. Bonta, op. cit., pp. 65.

²⁰ Cf. further ibidem, pp. 58–59.

²¹ Cf. ibidem, pp. 59–60.

²² Cf. ibidem, pp. 61–69, also P. van Voorhis, E. Salisbury, A. Bauman, K. Holsinger, E. Wright, *Classifying Women Offenders: Achieving Accurate Picture of Risk and Identifying Gender Responsive Needs*, <http://www.uc.edu/content/dam/uc/womenoffenders/docs/ICCA%20ADDRESS.pdf> (date: 14.02.2014); D.P. Farrington, *Developmental and Life-Course Criminology: Key Theoretical and Empirical Issues – The 2002 Sutherland Award Address*, “Criminology” 2003, Vol. 41, No. 2, pp. 221–256.

²³ Cf. further D.A. Andrews, J. Bonta, op. cit., pp. 60–61.

proven efficacy (overall responsivity should be put to good use). They refer here to the very popular in recent years approach called *evidence-based practice*.

The second concept of this principle is specific responsivity relating to the individual himself. The impact of social integration should be adapted to the offender,²⁴ including his learning style, motivation, cognitive limitations, but also to socio-demographic characteristics such as age, gender and origin. Responsivity continues to be developed as one of the tools in the risk assessment of recidivism.²⁵ D.A. Andrews and J. Bonta focus their interests on a model developed by J. Prochaski and C. DiClemente, who draw attention to the need to examine what stage of change a perpetrator has reached in order to select corrective interventions that are appropriate to that individual.²⁶

Research on the RNR Model has helped create tools recognized in Canada, the United States and Great Britain for their reliability, accuracy and capability of predicting the risk of re-offence. These tools have been modified²⁷ over the years, so that today we have their third and fourth generation. The success of many years of work on a tool is achieving its objectification and separation from the subjective judgments of “specialists”. The most famous tool is the Level of Service Inventory-Revised (LSI-R), and the latest, already classified as a fourth generation, is the Level of Service/Case Management Inventory (LS/CMI), which apart from being used to diagnose a perpetrator, also contains the means for planning interventions tailored to their level of risk, criminogenic needs and real capabilities. In this way, it shifts the balance from “risk assessment” to creating effective and efficient corrective interventions directly related to the diagnosis of the perpetrator.²⁸

The RNR model has its many supporters among theorists and practitioners of rehabilitation but also its opponents. Proponents point to the predictive power of the tools for linking diagnosis to the design of social rehabilitation, for recognizing the needs and capabilities of the perpetrator and thereby the tailoring of treatment interventions, as well as for effectively reducing the level of crime reversion while continuing the idea contained in the risk principle of embracing offenders in interventions from high-risk groups.²⁹

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²⁴ Ibidem.

²⁵ D.A. Andrews, J. Bonta, J.S. Wormith, op. cit., pp. 743.

²⁶ D.A. Andrews, J. Bonta, op. cit., p. 289, cf. further also J. Chojecka, *Kobieta w więzieniu i jej resocjalizacja – zamierzenia a rzeczywistość*, Poznań 2013, pp. 82–87.

²⁷ Cf. further: B. Stańdo-Kawecka, op. cit.; M. Sztuka, *Efektywność oddziaływań w zorientowanym korekcyjnie modelu instytucji penitencjarnej. Doświadczenia amerykańskie*, “Czasopismo Prawa Karnego i Nauk Penalnych” 2007, No. 1, pp. 313–326; M. Sztuka, *Anachronizm i aktualność. Idea resocjalizacji w sporze o nowoczesność*, Cracow 2013, pp. 236–243, D.A. Andrews, J. Bonta, op. cit., pp. 310–321.

²⁸ Cf. further D.A. Andrews, J. Bonta, op. cit., pp. 317–321.

²⁹ With very intense corrective treatment the recidivism rate was 31.6% in the high-risk group. cf. J. Bonta, S. Wallace-Capretta, R. Rooney, op. cit., p. 324.

Before looking at criticism of the RNR model, it is worth noting the difficulties associated with the estimation of risk.³⁰

One of these is the difficulty of identifying the factors correlated with criminal behavior and to determine the predictive power of individual factors. According to H. Kemshall, it is not only a matter of examining whether certain factors exist in the life of an individual, because they can be laid in a hierarchical range specific to a given individual and interactions³¹ may occur between them and it is these that the researcher should be interested in discovering. Moreover, those risk factors should be sought which trigger the anti-social behavior of an individual, as the arrangement of these factors is neither fixed nor unchangeable.³²

Another issue considered as problematic is “statistical error”. Since actuarial tools are used in the assessment of risk, we must remember that the results from the research group are to be carried over onto the individual. Whether a prognosis is created on the basis of a few hundred or a few thousand cases only tells us something about the statistical probability, not about the real risk of pertaining to a given offender.³³ This makes it necessary to look more closely at the assigning of offenders to groups at risk (is it still justified in a given case?), and forces us to reflect on the concept of risk continuum, where we find minimal risk at one end and maximum risk at the other. H. Kemshall questions the predictive power of actuarial tools.³⁴

Another difficulty, about which H. Kemshall writes, is anticipating “rare” events. Due to the sheer volume of data to be analyzed in actuarial tools, data that appears incidentally is lost.³⁵ Thus, the result may lead to an erroneous estimation of the risk of recidivism, and the wrong choice of treatment intervention.

It is also worth taking note of J. Gierowski’s words which indicate that focus on risk factors without reference to “the functioning of the tested perpetrator’s personality significantly hinders the creation of a full clinical diagnosis, which in an individual way, and at the same time in an overall (holistic) and functional way, would describe the personality of an offender in biopsychosocial terms”.³⁶

K. Hannah-Moffat draws attention to the broader context of the difficulty arguing that the RNR model is often only restricted to the principles of risk, and the efforts of theorists and practitioners only relate to the diagnostic tools, on the basis of which decisions are made about the length and type of sentence.³⁷

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³⁰ Cf. further H. Kemshall, *Understanding Risk in Criminal Justice*, Berkshire 2003, pp. 64–67.

³¹ Cf. *ibidem*, pp. 64–66.

³² Cf. *ibidem*.

³³ Cf. *ibidem*, pp. 65–66, and also M. Sztuka, *Anachronizm i aktuaność...*, p. 250.

³⁴ Cf. H. Kemshall, *op. cit.*, pp. 64–66.

³⁵ Cf. *ibidem*, pp. 66–67.

³⁶ J.K. Gierowski, *Risk Factors...*, p. 119.

³⁷ Cf. K. Hannah-Moffat, *Actuarial Sentencing: An “Unsettled” Proposition*, http://www.albany.edu/scj/documents/Hannah-Moffatt_RiskAssessment.pdf [date: 15.02.2014], pp. 1–4; about excessive focus on the conceptualization phase writes also M. Sztuka, *Anachronizm i aktualność...*, p. 238.

The author points out that most practitioners using the diagnostic tools have a limited knowledge of actuarial³⁸ technology, which means that they often subjectively decide what information about the individual “counts and becomes part of the official report.”³⁹ Such practices can lead to an offender being incorrectly classified to a risk group, and to the wrong choice of measures as a result of an over or under estimation of risk⁴⁰ (which is determined through the analysis of an offender’s criminogenic needs!).

T. Ward, J. Melser and P.M. Yates have gathered the allegations presented against the RNR Model by various researchers into a general whole. They point out that: “a) it is difficult to motivate offenders if we focus primarily on risk reduction; b) the Model RNR does not place sufficient emphasis on the role of personal and social identity or on actions (e.g. sole and intentional acts committed in order to obtain valuable goods) that are in the process of change; c) is based on limited knowledge of human nature, and ignores the fact that as a developed biological organism an individual is naturally looking for and in need of basic goods to ensure that they can live in a complete and satisfactory manner; d) places little emphasis on therapeutic cooperation or on the so-called non-criminogenic needs such as a person’s suffering and low self-esteem, which are important beyond their potential consequences in the context of an offender’s responsivity [...]; e) RNR is a psychometric model and focuses on the risk profile of the offender (or attributes) and downplays the importance of contextual and ecological factors in the rehabilitation of the offender; f) In practice, RNR is used as a “model for everyone”, individual needs and values are overlooked. In effect, RNR ignores its own principle of responsivity and at best makes it difficult to adapt to the specific characteristics of the offender. In its least appropriate form, RNR is realized in a psycho-educational manner, where the perpetrators are “taught” information which is presumed to be important; g) RNR is not a coherent theory, and the three main principles are not sufficiently grounded in theory.”⁴¹

D.A. Andrews, J. Bonta, and S. Wormith refuted the above criticisms in the article *The Risk-Need-Responsivity (RNR) Model. Does Adding the Good Lives Model Contribute to Effective Crime Prevention?*⁴² In response to the first criticism they point out that motivating the offender to change is always a difficult task,⁴³ but this is not ignored, only taken into account under specific responsivity. Our investigators are relying on the concept of “stages of change” to adjust the form and

³⁸ Cf. further S. Case, K. Haines, *Understanding Youth Offending, Risk Factor Research, Policy and Practice*, Cullompton 2009, pp. 14–15.

³⁹ Ibidem, p. 22.

⁴⁰ Cf. further H. Kemshall, op. cit., pp. 65–66.

⁴¹ T. Ward, J. Melser, P.M. Yates, *Reconstructing The Risk-Need-Responsivity Model: A Theoretical Elaboration and Evaluation*, “Agression and Violent Behavior” 2007, Vol. 12, Issue 2, p. 210.

⁴² D.A. Andrews, J. Bonta and S. Wormith, op. cit.

⁴³ Cf. ibidem, p. 742.

content of the social reintegration of individual phases in which an offender finds himself. In the LS/CMI risk assessment tool is focused on two issues, on “motivation as a barrier” and “engagement in denial and minimization”,⁴⁴ which ought to be spotted in the course of diagnostic tests so that the intervention plan can be created and adjusted accordingly. The researchers emphasize that the purpose of diagnosis is to identify dynamic risk factors as well as the offender’s strengths, his potentials and experiences – those related to violence, of which he was the victim, and those associated with emotional difficulties, interpersonal or social.⁴⁵ The aim is to understand the situation of the subject as fully as possible and to adapt the treatment of his actual needs and capabilities. In every case attention should be paid to the non-criminogenic factors, because the offenders attention can be the focused fully on them which is why treatments should be devised in such a way as to address those factors (but not only those factors!).

The second criticism the authors of the RNR model rebut by explaining that GPCSL is a theoretical approach that also includes self-regulatory elements. “The model can recognise [...] active, conscious and deliberate self-regulation which occurs as a result of a continuing process requiring self-control, comparison of current behavior and its consequences with accepted conduct, internal dialogue, consideration of consequences and their analysis in order that behaviour be modified to accepted standards.”⁴⁶

The Canadian researchers do not agree with the third claim, in which representatives of the Good Lives Model (GLM – created among others by T. Ward) criticize their ignorance of human nature. According to D. A. Andrews and his colleagues, that although GLM combines a psychodynamic approach with stress theory and with common terms derived from cognitive psychology,⁴⁷ the causes of crime should, however, be looked at more broadly, ideally from a GPCSL perspective, and that leads us to the RNR Model.⁴⁸

The Canadian researchers also refute the complaint relating to therapeutic relationships. They indeed recognize the importance of therapeutic contact, which should have a professional character. They emphasise training for diagnosticians and persons conducting treatment in order to equip them with, among others, active listening skills, the ability to set goals and to provide feedback without judgment.⁴⁹ The creators of the RNR model also distance themselves from allegations that non-criminogenic needs were not reflected in the construction of social reintegration treatment. They insist that “the treatment organizers need to build on strengths and remove obstacles to effective participation. Responding to

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⁴⁴ Cf. *ibidem*, p. 743.

⁴⁵ Cf. *ibidem*.

⁴⁶ *Ibidem*, p. 745.

⁴⁷ Cf. *ibidem*.

⁴⁸ Cf. *ibidem*.

⁴⁹ Cf. further *ibidem*, pp. 745–746.

non-criminogenic needs can additionally improve offender motivation and build a more effective therapeutic space.”⁵⁰

Criticism of the RNR Model’s *psychometric* measures is taken as a compliment by the Canadian researchers. They state that all social integration treatment should be based on data from research (*evidence-based practice*).⁵¹ Referring to allegations that the RNR Model allegedly lacked ecological theory, its authors suggest that GPCSL is an approach which not only pays attention to the characteristics of the individual, but also to his functioning within different social settings – family, school/work and reference group.⁵²

The lack of customization and of respect for individual differences is also a matter of concern to D.A. Andrews and colleagues. That is why they pay attention to the moment when the model is put into practice, to the meticulousness of those who implement it, to awareness of the actual assumptions underlying the model’s concepts, to the necessity of analysing not only needs, but also the detailed responsiveness of offenders, and to close attention to individual differences, which undoubtedly exist even between individuals with the same level of risk of recidivism. These difficulties, according to the researchers, lie not in the model itself but in the implementation and practical use, especially at the stage of intervention treatment preparation.⁵³

The last criticism refers to the RNR model’s theoretical basis and the lack of consistency between different streams. T. Ward and his colleagues wonder if these theories are arranged hierarchically, and whether such a multitude of them (Psychology of Criminal Conduct – PCC, The Social Psychology of Personality – GPSPP and the Theory of Individual, Interpersonal and Social reinforcements – PIC-R) does not create difficulties in the evaluation process. For we do not know exactly what approach concerning the etiology of criminal behavior has been taken in the RNR model, so how can the adequacy of this model be checked?⁵⁴

According to D.A. Andrews and colleagues GPCSL refers to the general concept of personality and psychological social learning theory. “General” means that it refers to all people and their behavior, both pro and antisocial, regardless of gender, age, ethnicity and social class.⁵⁵ This theoretical perspective allows the focus to be on the main risk factors and on the impact of the events of everyday human behavior, but also allows recognition of the influences of social rehabilitation and therapy by means of a cognitive-behavioral approach to the behavior of the individual.⁵⁶

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⁵⁰ Ibidem, p. 746.

⁵¹ Ibidem.

⁵² Ibidem.

⁵³ Cf. further, pp. 746–747, also S. Case, K. Haines, op. cit., p. 14.

⁵⁴ Cf. T. Ward, J. Melsner, P.M. Yates, op. cit., p. 210.

⁵⁵ Cf. D.A. Andrews, J. Bonta, S. Wormith, op. cit., p. 748.

⁵⁶ Ibidem.

“The main difference between the RNR and GLM is in orientation. It is said that the RNR focuses on deficits (i.e. criminogenic needs) and GLM is based on strengths (i.e. primary goods). Yes, it is true that we have been insisting that treatment programs target criminogenic needs, and the evidence clearly supports this recommendation [...] Of course, the welfare of higher risk cases may be targeted. This is in line with the ethical, professional, humane and decent practice. Yet for the purpose of reduced criminal victimisation, GPCSL and the research evidence suggests that adherence with RNR model is primary.”⁵⁷

T. Ward along with his colleagues emphasizes that the introduction into practice of the rehabilitation RNR Model has brought positive effects by “reducing the rates of recidivism and increasing public safety.”⁵⁸ Therefore, according to these researchers one should not reject the entire model but take steps to eliminate perceived shortcomings (as was mentioned earlier), which lie in three areas – theory, procedure and practical use.⁵⁹ These difficulties can be resolved by “the development of theory, or through communication with the other social rehabilitation theories, such as the Good Life Model.”⁶⁰

Why should the RNR model take advantage of the achievements of GLM? Among other things, because its creators perceive significant inter-personal differences that escape risk managers. This model presupposes that there is no single way of life to which we should encourage offenders to implement. This is why T. Ward emphasizes that we are talking about “good lives” and not “a good life”.⁶¹ This view of the path leading to the commission of offenses and of the ways of achieving goals in life requires putting a greater emphasis on reliable diagnoses that are highly individualized. This is reason for the preliminary collection of information about the perpetrator – the researcher should be interested in the direct and indirect paths that lead to crime (including past life, lifestyle before the offense as well as direct and indirect actions taken by the individual). Man is guided by certain goals/goods. According to the GLM authors 11 primary goods can be distinguished, they are: life and health, knowledge, excellence in the organization of free time, mastery at work, perfection in action (behavior control and autonomy), inner peace, personal relationships, relationships with the wider social groups, spirituality, pleasure and creativity.⁶² A person can attain these thanks to secondary goods, instrumental ones, which protect the primary goods. According to T. Ward and associates, these goods are linked together horizontal-

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⁵⁷ Ibidem, p. 749.

⁵⁸ T. Ward, J. Melsler, P.M. Yates, op. cit., p. 226.

⁵⁹ Cf. ibidem.

⁶⁰ Ibidem.

⁶¹ Cf. further T. Ward, *Good Lives and the Rehabilitation of Offenders Promises and Problems*, “Aggression and Violent Behavior” 2002, 7, p. 514.

⁶² M. Purvis, T. Ward, G. Willis, *The Good Lives Model In Practice: Offence Pathways and case management*, “European Journal of Probation” 2011, Vol. 3, No. 2, p. 7.

ly and vertically. Horizontal coherence indicates links on the basis of reciprocity – some goods enable the existence of others. Vertical coherence denotes a hierarchical system, specific to each individual. It decides which goods are valued above others.⁶³ Recognition of these systems makes it possible to construct social rehabilitation treatments/interventions. Incongruity between the goods leads to frustration, anxiety, loss of meaning in life. You can, therefore, in the course of an intervention become aware of these values and their interconnectedness, so as to teach a person how to better conduct themselves. An individual may perhaps aim to attain cherished social values, but chooses the wrong ways to achieve this goal. This depends among others on their internal and external abilities (in the RNR model these are called dynamic risk factors). For the researcher, it is important to determine the level of ability (competence), because any deficiencies in knowledge and skills can be effectively removed as well as psychological barriers, thus increasing the possibility of the offender acting in accordance with socially valued goods. External capabilities include social support, access to employment and education. Their lack represents an external barrier in the process of rehabilitation.⁶⁴ In other words, criminogenic needs are internal and external obstacles that block the ability to acquire essential goods. Such an approach makes it possible to take specific action. One should focus on the identification of obstacles, and then equip the individual with the skills, beliefs, values, and support needed to neutralize these barriers.⁶⁵

K. Biel writes, “The RNR model, based on a very rich empirical material, provides a basis for estimating the risk of recidivism and thus opens the way to propose effective rehabilitation programs. In contrast, the GLM model, focusing on the strengths of individuals, is more likely to pragmatically strengthen offenders, and this manifests itself in satisfying primary goods in accordance with the law.”⁶⁶

One thing is not in doubt – the RNR model and the diagnostic tools developed on its basis cannot be reduced to only the management of risk strategies.⁶⁷

If this were to happen, the hope of effective and efficient social rehabilitation that comes with the RNR model would be lost, and instead we would get a tool for segregating and repressing the perpetrators of (yet to be committed) crimes.⁶⁸ The question that one should ask of oneself is “whether it is better to

⁶³ Ibidem, p. 10.

⁶⁴ Ibidem, p. 8.

⁶⁵ Cf. further T. Ward, *The Management of Risk and The Design of Good Lives*, “Australian Psychologist” 2002, Vol. 37, No. 3, p. 175.

⁶⁶ K. Biel, *Zła resocjalizacja czy resocjalizacja zła*, [in:] *Resocjalizacja wobec tajemnicy zła*, K. Biel, M. Sztuka (eds.), Cracow 2010, p. 156.

⁶⁷ Cf. further D.A. Andrews, I. Zinger, R.D. Hoge, J. Bonta, P. Gendreau, F.T. Cullen, *Does correctional treatment work? A clinically relevant and psychologically informed meta-analysis*, “Criminology” 1990, Vol. 28, No. 3, p. 377.

⁶⁸ Cf. further M. Sztuka, *Anachronizm i aktualność...*, pp. 249–251 and D. Wójcik, *Stosowanie w postępowaniu karnym narzędzi diagnostyczno-prognostycznych służących oszacowaniu ryzyka pow-*

invest in development, situational prevention, in a greater number of police officers, or in the building of prisons?”⁶⁹ It seems that it is cheaper and more effective to prevent than to cure, so we must therefore endeavor to develop and use developmental prevention in Poland on a large scale,⁷⁰ thanks to which attention will be focused on inhibiting the development of criminal potential, on strengthening protective factors, and on weakening risk factors rather than on situational activities which are ineffective, as evidenced by the statistics.⁷¹

There is one matter that is worth pointing out. Despite the doubts being raised among theorists and rehabilitation practitioners concerning the risk management model, and despite the fact that there are perceived risks arising from the improper use of actuarial tools in judiciary and correctional practice, we are presently dealing in Poland with a rather shocking situation. In two acts of law there were recommendations for the implementation of risk management (and only risk management!).

The documents in question are the new law from 11.22.2013 on the treatment of people with mental disorders that pose a threat to life, health or sexual freedom of other people⁷² and the Regulation of the Minister of Justice on the manner the powers of probation officers should be exercised.⁷³ This Regulation imposes a duty on trustees to assign those in custody to one of three risk groups (A, B or C⁷⁴), without indicating any reliable diagnostic tools that would allow such a division to be made.

The Regulation lists the conditions under which a probation officer can rule on the level of risk. These include: “personal and environmental characteristics and conditions, their current way of life”,⁷⁵ the state of recidivism, drug dependence, mental disorders, offences committed against sexual freedom or family and care,

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rotności do przestępstwa, Warsaw 2012, http://www.iws.org.pl/pliki/files/IWS_W%C3%B3jciek%20Ocen%C3%B3w%20ryzyka%20ponownej%20przest.pdf [date: 16.02.2014], pp. 50–56.

⁶⁹ D.P. Farrington, *Encouraging Policy Makers and Practicioners to make Rational Choices about Programs Based on Scientific Evidence on Developmental Crime Prevention*, “Criminology and Public Policy” 2013, Vol. 12, Issue 2, p. 296.

⁷⁰ Further B.C. Welsh, D.P. Farrington, *Science, Politics, and Crime Prevention: Toward a New Crime Policy*, “Journal of Criminal Justice” 2012, Vol. 40, Issue 2, pp. 128–133.

⁷¹ Repeat offenders in prisons are 52.1% of the prison population, cf. *Miesięczna Informacja Statystyczna*, January 2014, <http://sw.gov.pl/Data/Files/001c169lidz/styczen-2014.pdf> [date: 16.02.2014]. T. Szymanowski’s research indicates that the rate of re-offending in first offenders is 56.6%, while among those previously convicted it increases to 81.8%, cf. further: K. Pierzchała, *Przestępstwo. Probacja alternatywą dla kary pozbawienia wolności*, “Probacja” 2011, No. 4, p. 9.

⁷² The Law of 22.11.2013 on the treatment of people with mental disorders who pose a threat to life, health or the sexual freedom of others, Dz.U.2014 r. Pos. 24.

⁷³ Regulation of the Minister of Justice of 26 February 2013 on the duties and powers of the probation officers in criminal enforcement, Dz.U.2013 r. poz. 335.

⁷⁴ *Ibidem*, § 11.1.

⁷⁵ *Ibidem*, § 11.2.

as well as membership in criminal subcultures and evasion of imposed duties.⁷⁶ Some of the elements that the probation office will have to analyze are static factors that cannot be changed, and some are dynamic factors that require comprehensive support from professionals⁷⁷ (mental health problems, substance abuse). When we look carefully at this regulation, we see that the lack of reliable, standardized diagnostic tools puts us back to square one, where we find ourselves dealing with first-generation tools,⁷⁸ and as a result the fate of offenders will be left to be decided subjectively, based only on the knowledge and experience of probation officers. If, whilst being delighted at the prospect of managing the risk of recidivism, we would like to introduce some changes in a fair and professional way, we should start by developing diagnostic tools for risk assessment (if not our own, then we could perform standardization and normative procedures on existing tools such as the LSI-R or LS/CMI).

There is a similarly difficult situation as a result of the Act on proceedings against people with mental disorders, which gives the opportunity of offering supervisory and treatment interventions to offenders that are considered a threat to the lives, health, and sexual freedom of others. The Act divides inmates into those who with a high risk of offending and those with a very high risk. It does not specify, however, the tools and criteria that should be used to determine these levels of risk. What is interesting is that an offender's risk group allocation is decided by the judge solely on the basis of data obtained during testing by certified psychiatrists. J. Gierowski indicates that we do not have the tools with which to predict with certainty the probability that an offender will commit an offense. Moreover, psychiatrists do not have such precise methods so as to be able to decide on the level of risk, and to confidently divide offenders into those with a high and very high probability of committing an offense.⁷⁹

Since the decision about the form of intervention⁸⁰ and level of control of an individual is made on the basis of their assignment to a particular risk group, reliable tools should be available which would allow these to be estimated. The lack of clear criteria, on the basis of which an individual's rights and freedoms can be intruded upon, may mean that the law contradicts the principle of speci-

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⁷⁶ Ibidem, § 11.3.

⁷⁷ It is worth examining the responsibilities of the probation officer regarding those in custody from different risk groups: *ibidem*, § 12-5.

⁷⁸ Cf. further: D.A. Andrews, J. Bonta, *op. cit.*, pp. 310–321.

⁷⁹ Cf. further conversation with Prof. Józef Krzysztof Gierowski *"Prawo Trynkiewicza" uderzy w terpię więźniów*, "Gazeta Wyborcza" 25–26.02.2014, p. 6.

⁸⁰ Cf. further The Law of 22.11.2013 on the treatment of people with mental disorders..., art. 14.1–14.4.

ficity of the law,⁸¹ so there may be doubts as to whether it is consistent with the Constitution.⁸²

Thinking punitively in rehabilitation does not produce positive results, does not reduce the scale of the acts committed, does not prevent recidivism, and certainly does not improve the quality of life of individuals. This raises the question, what and whom these provisions are really meant to serve? Is the idea to show that Poland and rehabilitation criminological thought is following the changes that are happening in the world? Do we want to begin to manage risk or to give the public a sense (a false one after all) that we can protect them from criminals? Incarcerating the “dangerous” indefinitely in prevention centers for dissociative behavior in favour of situational crime prevention, which is good in so far as “we have the offender,” but what if we do not know of his existence, and his actions, reprehensible actions, are not disclosed? Is it not better to prevent the development of criminal potential of the individual? This is what, among other things, a properly and thoroughly understood RNR model is meant to serve, by allowing the creation of reliable diagnostic tools, and it provides us with knowledge of an individual’s criminogenic needs and puts the emphasis on effects that are personalised and tailored to the needs of the individual. It is about time that the efforts of both theorists and practitioners were directed at discovering the RNR model’s rehabilitation values so that diagnostic tools might be developed in Polish conditions for the creation of effective and efficient interventions that are applicable in penitentiaries and after an offender has been released.

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⁸¹ The importance of the clarity and transparency of criteria is testified to by numerous rulings of the Constitutional Court, which “has repeatedly stressed that establishment of vague and ambiguous laws is a violation of the Constitution, and does not allow a citizen to foresee the legal consequences of his behavior” – Verdict of 22 May 2002, sign. act K.6/02, http://otk.trybunal.gov.pl/otk/teksty/otkpdf/2002/k_06_02.pdf [date: 17.02.2014], p. 5, Verdict of 10 November 1998, sign. act K.39/97, http://otk.trybunal.gov.pl/otk/teksty/otkpdf/1998/k_39_97.pdf (date: 17.02.2014), Ruling of 13.06.1994, sign.S.1/94, http://otk.trybunal.gov.pl/otk/teksty/otkpdf/1994/s_01_94.pdf [data: 17.02.2014].

⁸² Cf. further Conversation with Profesor I. Lipowicz, *I co tu zrobić z “ustawą o niebezpiecznych”*, “Gazeta Wyborcza” 13.02.2014, p. 4.

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