

GROUP 3

THE PARTICIPATION OF THE PUBLIC AND VICTIMS FOR MORE EFFECTIVE ADMINISTRATION IN THE TREATMENT OF OFFENDERS

Chairperson	Mr. John Isaac Odongo	(Kenya)
Co-Chairperson	Mr. Takehiko Mukaigawa	(Japan)
Rapporteur	Ms. Pornpit Norapoompipat	(Thailand)
Co-Rapporteur	Ms. Chikako Nakajima	(Japan)
Members	Mr. Mansa Ram	(Fiji)
	Mr. Tai Kin Han	(Hong Kong)
	Ms. Noriko Komori	(Japan)
	Mr. Matthew Peter Himsa	(Papua New Guinea)
	Mr. Young-Hoon Ha	(Republic of Korea)
	Advisers	Professor Akihiro Nosaka
	Professor Hiroshi Tutomi	(UNAFEI)
	Professor Shinya Watanabe	(UNAFEI)

I. INTRODUCTION

We know that the effective treatment of offenders cannot be achieved through the efforts of governmental agencies alone, we require public participation and co-operation in order to effectively rehabilitate offenders and re-integrate them into society. At the same time, the treatment of offenders can be enhanced by the participation of victims, so that it can satisfy the needs of victims as well as those of offenders.

This group was assigned the topic: "participation of the public and victims for more effective administration in the treatment of offenders." Since there are two forms of offenders' treatment i.e, institutional treatment and community-based treatment, this topic was divided into three issues:

- (1) Participation of the public in institutional treatment:
 - (a) prison labor
 - (b) rehabilitation programs

- (2) Participation of the public in community-based treatment
- (3) Involvement of victims in the treatment system of offenders

II. PARTICIPATION OF THE PUBLIC IN THE INSTITUTIONAL TREATMENT OF OFFENDERS

A. Prison Labor

It is noted that many countries have been facing the problem of overcrowding and the supply of inadequate amounts of prison labor for prisoners. Consequently, it is often seen that many prisoners do nothing in prison, which brings undesirable results in the administration of the treatment of prisoners. The main point which we have discussed is how prison labor can be stabilized and promoted by means of public participation.

1. Actual Situation

Some countries have been successful in increasing public participation in running prison industries, as a form of the stabilization of idle prison labor. In doing

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so, it is believed that public participation in running prison industries, inside prisons, can contribute to a decrease in the recidivism rates of both adults and juveniles delinquents.

It is very interesting to take particular note of how religious organizations play an important part in the stabilization of prison labor in some countries like Fiji, Hong Kong, India, Kenya, Malaysia, Pakistan, Papua New Guinea, the Philippines, the Republic of Korea and Thailand. Another interesting situation, which will soon come into reality, is the establishment of privately managed prisons in both Malaysia and Korea in the near future.

Hereunder, we will observe the actual situation of public participation in prison labor in Japan, Korea and Thailand. Making an effort is essential to preparing satisfying prison labor, to make prisoners constructive human beings.

In Japan, a style of public participation in prison labor is the CAPIC (Correctional Association Prison Industry Cooperation). As a result of the stringent fiscal situation of the State, the raw materials budget for the operation of prison work was forced to be substantially curtailed. Consequently, the Corrections Bureau of the Ministry of Justice adopted the "third sector system" as a countermeasure. Specifically, the Prison Industry Cooperation Division, which provides raw materials for prison work and markets for these products, was set up within the Japanese Correctional Association (JCA) in 1983, with the State providing subsidies for five years. Since the discontinuance of the subsidies, it is self-funding and manages its own accounts.

In Korea, the State Use Law for Products by Prison Industry was enacted in 1962. Under the Law, industrial plants have been established at correctional institutions

across the country, with the participation of private contractors. Industrial work consists of 27 different kinds of work, such as carpentry and printing. An average of 21,600 prisoners are working at these factories per day.

In Thailand, the Department of Corrections has promoted offender's treatment through mass media by encouraging the private sector to set up workshops in prison. Now, most prisons in Thailand have made contracts with private contractors for producing goods or using prison labor.

2. Obstacles

The following points are recognized as problems in public participation in the stabilization of prison labor, and these are;

- (a) Lack of public interest and appropriate information getting across to the general public or business sector, to help or assist prison administrators in the rehabilitation process by way of setting up small-scale industries within prisons to stabilize prison labor.
- (b) Security risk is a contributing factor as prison administrators cannot guarantee the safety of the public in the prison. Lack of tight security allows easy access for prisoners to attack or take civilian participants as hostages, or to escape from prison.
- (c) Inadequate land or space for expansion of the prison impedes businesses who are interested in setting up small-scale industries in prison.
- (d) Quality of productions cannot be competitive in open markets on the grounds that goods and items produced in prisons are considered to be of poor quality and of no open

market value, as compared to the same kinds of products produced by well recognised manufacturing companies.

- (e) Difficulty in securing qualified and well-trained prisoners constantly exists, because offenders may be released: early; on their normal due date of release after serving out their full imprisonment term; released on amnesty; extra-mural release or on parole.
- (f) Lack of official certificates for attainment of certain levels of work skills, issued by authorized labor institutes, to help discharged offenders in securing employment with private business firms/ institutions after their release.
- (g) No legal provisions in place for the use of prison labor or liberalization of the market in a number of countries. Therefore, it is difficult for those countries with no legal basis to improve their prison labor engagement by the public.

3. Countermeasures

The following points are thought to be the countermeasures for the obstacles to public participation in the stabilization of prison labor:

- (a) Strengthen the activities of public relations through media and public seminars on the various activities undertaken inside the prison, so that they (the public) can meaningfully contribute, in whatever possible form, to the stabilization of prison labor.
- (b) Improve security capability or measures in prison in order to accommodate and protect the well-being of public participants working inside the prison and its surroundings.
- (c) Establish intensive and functional workshop units (put together) in

prison by making use of limited land as much as possible, to accommodate more public participation in prisons for the stabilization of prison labor.

- (d) Upgrade the quality productivity of prison products through more modernized instruments, with the help of private sectors.
- (e) Teach prisoners, affirmative guidance, or instruction for work skills (with the help of the private sector), and utilize the evaluations of a classification system more effectively.
- (f) Skills gained through prison labor should be geared towards the issuing of trade test certificates.
- (g) Active movement for appropriate legislation by appealing to the necessity of public participation in prison labor.

B. Rehabilitation Program

The main point of our discussion is how rehabilitation can be more fruitful and effective by means of public participation. Rehabilitation programs should be treated as the most important factor because they are regarded as one of the most effective programs for offenders.

1. Actual Situation

The search for effective measures for the rehabilitation of prisoners has led the criminal justice system to look beyond the walls of the prisons for programs in the community that effectively complement the rehabilitative efforts in prisons. It is noted that prison authorities run rehabilitation programs in two ways, either by the prison management themselves or with assistance (by introducing public participation in helping with the implementation of programs conducive to the suitability of a particular prison environment). Some countries have developed many effective rehabilitation programs throughout their correctional

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history, and are trying to develop more effective rehabilitation programs nowadays.

(a) *Vocational Training*

Vocational training programs are organized so as to serve a constructive purpose in the treatment of offenders. The objective is not only to provide offenders with vocational knowledge, but also to strengthen their individual will to work and learn new skills. On the other hand, vocational training can be seen as part of prison work. Nevertheless, these should be more skill orientated in the sense that training helps very much in enhancing the complement of prison and public joint venture projects situated in prisons.

In Hong Kong, the public participates by supplying the prison with raw materials and vocational training examination documents for the offenders to make finished products, and to sit for vocational training examinations endorsed and certified by the Vocational Training Council for Offenders, respectively.

In Japan, many vocational training programs are conducted with the participation of the public who have qualifications in teaching those programs. In Kenya, qualified skilled personnel from the public participate actively with the offenders in finishing products.

In the Philippines, the Correctional Bureau, in cooperation with non-government organizations, has intensified the conduct of livelihood training programs for offenders through the effective agro-industrial livestock productivity program. The continuous conduct of religious activities, recreational programs, as well as educational (both formal and non-formal), and training programs are given by concerned non-governmental organizations.

In Korea, since 1969, public vocational training centers have been established with authorization from the Ministry of Labor Affairs throughout the 30 correctional institutions amongst the nation. At each training center, six month to two year training courses are provided for 54 different types of jobs, such as architecture, mechanics, electrical fields, etc. For the training, many volunteers teach their skills to prisoners with the assistance of professional vocational training teachers. Some religious members or rehabilitation members financially support the expenses needed for vocational training. Amongst the trainees, those who have exceptional skills are selected to participate in national and local skills contests, with other students or civil participants. If they win prizes from the contest, occupational guidance is provided by the prison or public, and they are given priority for such privileges as release on parole.

In Thailand, the public supply raw materials, together with training equipment, for offender rehabilitation programs. Qualified skilled personnel are also sent into the prison to assist in finishing production of the goods/items supplied to the prison.

(b) *Educational Training*

In countries like Hong Kong, Japan and the Republic of Korea, services receive good financial support from their respective governments, as seen in the form of government-funded basic education/literacy, English and mathematics programs. As far as higher education is concerned, a large number of the participating countries facilitate correspondence courses for offenders, with the assistance of the public. In most cases, the government meets the cost for long-term sentenced offenders who undertake such correspondence courses. Likewise, in

some cases, public assistance also comes from NGOs and church organizations.

(c) *Life Guidance*

Volunteer visitors, psychologists, and respectable religious instructors participate in life guidance programs to provide counseling, role playing and spiritual guidance to offenders. In this way, offenders will know that they are not left alone in prisons without public care. Offenders are human beings and therefore they are to be cared for and treated humanely as another fellow human being.

(d) *Work Release*

In order to facilitate offenders' smooth re-integration into society upon discharge, many countries adopt work release programs with public participation, especially with the help of the private sector, by employing offenders at their workplace outside of the prison.

Work release programs contribute to the reduction of institutional operation costs, or allows assistance for victims, when some amount of offenders wage is paid for prison food or bed expenses, or remitted to a victim or his/her family.

In Japan, offenders are selected to go on work release programs in factories producing building materials and ship building. The offenders commute to their work place either by foot or institutional transportation, with supervision provided by prison officers. In fact, work release offenders are selected under strict conditions, and work is accorded only to offenders having six months of an imprisonment term left to serve.

In Korea, the work release program has been in force since 1984. Under this program, selected model prisoners commute to their workplace in the community's (private industry) and receive

a salary according to their work. In February 1992, the number of prisoners participating in work release programs was 400 offenders, and this number has gradually increased, so nowadays the number of prisoners participating in work release programs are 1064, from 25 prisons in 54 private industries.

In Sri Lanka, according to the administrative regulation concerned, the work release program is defined as "a scheme under which selected offenders are allowed to get themselves employed in the open community, unescorted during day, and return to prison for the night". The work release program may be applied to those offenders who have successfully completed part of their prison term (two years or more) and who have a remainder of two years or less imprisonment. Among these offenders, some are selected for the program when resources for implementation are available. This program was inaugurated in May 1974. Under this program, offenders for whom suitable employment can be found in the community are sent to work, either from a prison or from a work release center, where they return in the evening. Therefore they are technically still a custody. The prisoners receive normal wages, which they can send to their families or which they can collect on their discharge. In the process, the offender gets accustomed to conditions and regulations prevailing in the workplace. Prison welfare officers occasionally visit the workplace to meet employers and to monitor the progress of inmates. Offenders who perform poorly can be withdrawn from the program. Work release is applied to about one hundred offenders each year.

2. Obstacles

The following points are regarded as obstacles:

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- (a) Negative public perception of participating in rehabilitation programs. The public want the offender to do hard labor for the punishment of the crime committed, rather than be assisted by way of education and vocational training programs given by both the prison and the public.
 - (b) Shortage of specialists or qualified staff suitable for implementing the required rehabilitation programs run in prisons.
 - (c) Shortage of effective or practical vocational training programs such as data processing, motor mechanics, welding, electrical work, boiler making and tailoring.
 - (d) Security risks in prison whereby there is less manpower to carry out the supervisory role of offenders undergoing rehabilitation programs.
 - (e) Protection of privacy of offenders. Offenders privacy needs be protected at all times whenever public participants are participating inside the prison.
 - (f) Less employment opportunities in work release programs. When an ex-offender approaches businesses seeking employment, he/she is outrightly rejected from employment due to their criminal background.
 - (g) Responsibility for injuries to prisoners in work release programs makes employers hesitate to accept offenders. When an offender sustains any serious or minor injuries while undertaking a work release program, there is still difficulty in solving who is supposed to meet the medical expenses or workers compensation for the offender.
- (a) Strengthen the activities of public relations through print and electronic media, and public seminars educating the public on the importance of their role in participating and involving themselves in rehabilitation programs.
 - (b) Encourage the participation of experts from private fields, such as institutes or universities, to make use of retired staff or reformed ex-offenders who have become good citizens of society. This kind of effort can make rehabilitation programs more fruitful.
 - (c) Introduce more modernized and practical vocational training programs which meet the needs of society, with the assistance of public participation.
 - (d) Improve security capability or measures in prison by improving the current prison manpower strength, in order to encourage the public that their security is guaranteed if and when assisting the offenders in rehabilitation programs.
 - (e) Set up effective regulation for privacy protection, describing that violators leaking privacy information to the public shall be disqualified and given sanctions.
 - (f) Find and encourage cooperative employers in cooperation with job placement offices, where government needs to take the initiative in making an effort to give private contractors benefits such as reducing corporate or income tax.
 - (g) Give cooperative employers the opportunity to make use of the medical insurance system applied to the case of injury in order to reduce their responsibility.

3. Countermeasures

Based on examining the actual situation and problems, the following countermeasures are recommended:

III. PARTICIPATION OF THE PUBLIC IN COMMUNITY-BASED TREATMENT

The main task of the group was to exhaustively explore how participation of the public in the community-based treatment of offenders could be enhanced to achieve good results. In this regard, the group was to evaluate the performance of existing, conventional community-based methods of treatment of offenders like probation, parole, halfway houses, probation hostels, community work programs, mediation and fines, and also to give an insight into other community-based treatment programs which may be used as supplementary methods of the restorative justice system. The group also looked into the obstacles affecting these methods and the countermeasures which may be used to secure more public participation in the community-based treatment of offenders.

In so doing, we opened the discussion by expressing the importance of participation of the public in the community-based treatment of offenders as a crime prevention method. The forms of public participation may vary from country to country, depending on the diverse socio-cultural and economic practices inherent in specific countries. Some countries may have less crime, while others have a greater number and more serious crime. However since the commission of crime is as dynamic as technology, the growth of urbanization, moral decadence, and economic difficulties take centre stage. Even countries who are currently enjoying a situation of public safety might find themselves entangled in an environment where they have to grapple with complicated crimes.

We further said that in approaching the subject of participation of the public in the community-based treatment of offenders, we need to focus our attention on non-

custodial measures. The advantage of non-custodial measures are many and varied, as they range from benefits to the offenders in particular, and to government and the community in general. The following were considered as some of the most important benefits derived from non-custodial measures in the treatment of offenders.

A. Advantages

1. The liberty of the individual is maximized to prevent the possible violation of human rights.
2. It is less disruptive on family life. The offender is still allowed to continue contributing towards his/her family in particular, and society in general, by working instead of being confined in prison.
3. The rehabilitation of the offender is enhanced by continuing normal community life.
4. The criminogenic effects of custodial measures are avoided, thus removing a factor that often complicates the reintegration of the offender into the community and avoids offender stigmatization.
5. Non-custodial measures are cost effective. They cost much less than custodial measures.
6. The number of prisoners entering the prison is reduced, thus facilitating the administration of prisons and the proper correctional treatment of those who remain in prison.
7. It is more conducive to social integration, thereby reducing recidivism and increasing the crime control effects of the criminal justice system.

The kinds of non-custodial measures in the treatment of offenders, as well as the obstacles and countermeasures of participation of the public in these measures, are considered as outlined below.

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B. Probation and Parole

1. Probation

Probation is a community-based method in which a juvenile delinquent or an adult criminal offender, who has been found guilty by the process of judicial criminal hearing or on their own plea of guilt, is released into the community (particularly the family or halfway house) by a sentencing court, without being sent to prison or a juvenile institution. Such an offender will be subjected to specific conditions imposed by the court and shall be under the supervision of a probation officer. In countries like Fiji, Hong Kong, Japan, Kenya, Papua New Guinea, the Republic of Korea and Thailand, probation services have almost similar arrangements and are used as an alternative to imprisonment. The application of actual supervision by a probationer seems to be the same in the above mentioned countries, including the Seychelles and India.

In Hong Kong, Japan, Papua New Guinea, the Philippines, the Republic of Korea and Thailand, the services of government probation officers are supported by Volunteer Probation Officers (VPO). However the VPO systems vary from country to country.

In Hong Kong, the role of VPOs is minor. They may assist the probation officers in the overall supervision of the probationers. They accompany the probation officer during the time of actual visits to a probationer. In Hong Kong, the probationer directly reports to the probation officer and not to the VPO. The VPO may only assist the probationers in organizing some social activities in the home area of the probationer. VPOs are usually members of NGOs under the Social Welfare Department. The VPO may also be an ex-offender with a proven record of good conduct, or university students studying behavioural sciences who are on

vacation and have an interest in assisting probationers.

In Japan, the probation officer assigns a VPO as the day-to-day supervisor of the probationer. The assignment is based upon the probation officer's judgement, matching the VPO's personality with that of the offender, so that the most effective supervision of him/her will be materialized. Most VPOs are familiar and keep close relations with community residents, groups and organizations. They utilize these relationships in helping offenders rehabilitate. Also there are two forms of public participation in the treatment of probationers in Japan. First, Big Brothers and Sisters (BBS) is an organization of youths who befriend juvenile probationers, and encourage their desistance from delinquency. Their activities include organizing sporting events and outdoor activities, accompanying juveniles in volunteer work in homes of the aged and discussing probationers' views of their life and future. Second, the Cooperative Employers Scheme helps probationers by offering stable employment.

In Papua New Guinea, there are about 500 active VPOs who assist probation officers. In urban areas, they are retired public servants, missionaries, NGOs, Young Men's Christian Association (YMCA), Young Women's Christian Association (YMCA). In rural areas, they are village elders, councillors, literate middle-aged men/women.

In the Philippines, probation is a disposition of the court that allows a convicted offender to serve their sentence in the community/outside prison, but under the supervision of a parole and probation officer and subject to certain conditions contained in the Parole and Probation Order. Dedicated members of the community are tapped as volunteers to

ensure the success of the parole and probation system. These volunteers are screened and trained. Each volunteer supervises a maximum of five clients and keeps all information about the parolee, probationer or pardonee in strict confidence. S/he works in close coordination with the Chief Probation and Parole Officer in providing counselling and in placement assistance.

In the Republic of Korea, previously there were three types of VPO groups: rehabilitation members, who were in charge of halfway houses; protection members who assist juvenile offenders; and crime prevention members, who were generally acting as crime prevention agents. The coordination of the activities of the above groups became fairly cumbersome. Therefore in 1996, the three groups were integrated into one body called Crime Protection Members. To make their activities become more effective, and to achieve efficient communication and understanding amongst the members.

In Thailand, there are two types of VPOs. One works for the Department of Probation. Another works for the Department of Corrections. The main responsibilities of VPOs in the two departments are similar, i.e to examine the background of offenders and supervise them. However, their target groups are different. The probationers are those who have never been imprisoned before and have committed minor crimes, but the parolees and the sentence remissioners are prisoners who are conditionally released. So the work of VPOs in the Department of Corrections is tougher and requires more skill. Moreover, the way they are trained is different.

In general, it is not easy to decide whether integration of the system of VPOs is better than a separate service, because

the decision to integrate or not will be determined by the local conditions prevailing in each country.

2. Parole

Parole is a system which has been used over the years in many countries as a community-based method of treatment for offenders. In this system, a prisoner is given a certificate of discharge from prison to detention in the community under the supervision of a probation officer. While the actual application may vary from country to country, the principle behind parole remains the same. The parole system is granted to a prisoner who has a remaining sentence to serve, subject to good conduct, previous criminal record and length of the sentence. The parole system is used in Hong Kong, India, Japan, Kenya, Pakistan, Papua New Guinea, the Republic of Korea and Thailand.

In Japan, a parolee who has been conditionally released from a prison or a juvenile training school shall be placed under the supervision of the VPO for the remaining term of the sentence, as is the case of a probationer. Parolees get assistance from BBS and Cooperative Employers.

In Kenya, parole or after-care service is extended to long-term offenders. Long-term offenders are those offenders who are committed to life imprisonment or long confinement, but on serving part of their sentences, usually ten years or above, they may be considered for early release. For this category of prisoners, the officer in charge is expected to submit periodical reports on the conduct and behaviour of such a prisoner to be placed before a discharge board. The discharge board is composed of the Attorney General as the chairperson, Commissioner of Prisons as the secretary, the Director of Probation Services, Director of Medical Services,

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Permanent Secretary to the Minister Responsible for Prisons, and two other prominent members of the public who are appointed by the Minister Responsible for Prisons. The discharge boards' main responsibility is to review the prisoners records with a view to making recommendations for early release under the supervision of probation officers.

For ex-Borstal inmates, the law provides that a youthful offender between the age of 15 and 18 years who has committed an offence punishable by imprisonment, who may not be rehabilitated by the probation services, is ordered to undergo three years Borstal training. During their residence in the Borstal Institution, the offenders are taught some useful vocational training in addition to academic education. On completion of one year, the inmates are released on license to their communities under the care of a responsible person, who is usually a community leader, village elder, businessmen, retired public servant or from organizations like religious groups or NGOs offering welfare services to needy cases and charitable organizations. While on license out of institutional treatment, they remain under the supervision of a probation officer. So the number of opportunities available for such youthful offenders to be released on license will depend on the number of people willing to live with and take care of such offenders in the community. During this period, they may continue with formal education or technical training in local polytechnics. While they are out in the community, they are required to be of good conduct and avoid associating with bad characters.

The Papua New Guinea members are appointed from the public by the Minister for Justice. Appointment is based on the following conditions:

- (a) Experience in social welfare.

- (b) Active involvement in community affairs.
- (c) Maturity and integrity.
- (d) Good standing in the community.
- (e) Appreciation and understanding of social issues and problems: interest or background in working with people in need of rehabilitation.

The Minister may therefore nominate the Chairman, who must be a lawyer by training, another person is nominated by the Commissioner of Prisons and another person nominated by the Departmental Head.

3. Obstacles

- (a) Negative public attitude towards offenders.
- (b) Limitation of activities like less employment opportunities.
- (c) Inadequate trained staff and VPOs.
- (d) Some parole board members are incompetent in making useful decisions.
- (e) Insufficient budget to meet the needs of VPOs.
- (f) VPOs supervise by means of their humane interests and their strong sense of responsibility, but sometimes it is difficult for them to supervise offenders like sex offenders and drug offenders.

4. Countermeasures

- (a) Encourage the public to cooperate in the community-based treatment of offenders.
- (b) Introduction and improvement of VPO training in supervisory duties.
- (c) Governments to provide more funds to improve the services of VPOs.
- (d) Diversify community-based treatment methods by involving various community groups like NGOs, Drug Addiction Rehabilitation Centers, Alcoholic Anonymous.

C. Halfway Houses and Probation Hostels

1. Halfway Houses

Halfway Houses can be defined as community-based centers to which offenders are sent with the view to maintaining or facilitating social integration. Halfway houses serve those placed under supervision following institutional treatment and those who have completed serving their sentences. They are provided with the basic necessities like food, shelter and clothing and, where possible, help seek employment opportunities for ex-offenders preparing themselves for re-integration into the community. In Hong Kong, Japan, the Philippines, the Republic of Korea and Thailand, halfway houses are privately managed. On the other hand, Hong Kong halfway houses managed by its government.

In Japan, all halfway houses are run by a non-profit organization called the Juridical Persons for Offenders Rehabilitation Services (JPORS). The Law for Offender Rehabilitation Services was enforced in 1996 to legally improve the financial status of the JPORS by introducing a tax-reduction specifically applied to it.

2. Probation Hostels

In Kenya, probation hostels are residential institutions providing temporary residence for some special categories of probationers. Some probationers commit crimes which necessitate their removal from society for fear of reprisal or revenge as a result of hostility displayed by the victims of their crimes. Other crimes like infanticide or abortion, incest or manslaughter may create family hostility among close family relatives. It is therefore necessary to remove them, through a court order, into a probation hostel for a period not exceeding

12 months. During their stay in the probation hostel, they are involved in various occupational training courses under the supervision of probation officers. The charitable organizations and NGOs voluntarily donate items like bedding to be used by inmates and also tools to be used in vocational training courses.

3. Obstacles

- (a) Inadequate accommodation space in halfway houses and probation hostels in developing countries due to insufficient funds.
- (b) Lack of community support and negative public perception.
- (c) Lack of public awareness due to lack of education.
- (d) Vulnerable groups like the aged, disabled, and the sick, who may need assistance, cannot be accommodated in halfway houses.
- (e) Inmates with poor records like gang members, and drug or sex offenders may not be accepted in halfway houses.

4. Countermeasures

- (a) Seek alternative accommodation like from the church and non-government agencies.
- (b) Developing countries which are not capable of expanding halfway house programs should seek donor funds to facilitate the administration of these programs.
- (c) Community education programs should be provided so that the community gains a better understanding of community corrections issues to accept and support halfway houses/probation hostels within their localities.
- (d) The private sector should be encouraged to make contributions to these programs by way of incentives.
- (e) The programs for the treatment of residents of halfway houses should

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involve various community resources such as medical officers, teachers, psychologists, sociologists, psychiatrists, community leaders and business executives.

- (f) Halfway houses should be more vigorous in reciprocating services to the public like cleaning in the community, actively assisting the events held by neighbourhood associations, renting parking lots to neighbors at a lower price, and allowing cultural groups to have meetings in their premises.
- (g) Halfway houses should be encouraged to make positive contributions to the community by availing their programs. They should avoid operating as closed institutions.
- (h) The government should support halfway house in recognition of the important role they play in the intensive treatment of offenders in the community.
- (i) Pre-release programs to make integration easier.

D. Community Work Programs

The community work program is a system in which prisoners and probationers perform public work within their community. It is the type of work which benefits the whole community. In this program, offenders perform such work like the up-keep of the streets, cutting grass, clearing bushes, putting-out fires, maintenance of school buildings, assisting the aged or disabled people in social welfare institutions. The rationale underlying Community Work Programs is for offenders involvement in community work and for such performance to be acknowledged by the community.

Community work programs include community service orders by courts, pre-release by correctional institutions, community participation programs by

probation offices or by prisons. Including countries, community work programs are also an alternative to imprisonment and a means to alleviate prison overcrowding. It is a reparation method for offenders to pay back the community for the offences they have committed. It is a program that enables a prisoner to become accustomed to social life within their community, build self-worth, achievement and eradicate guilt or stigmatization.

In Japan, many volunteers like VPOs, WARA and BBS participate in this program. The effects of the program are:

- (a) to develop a client's sense of responsibility as a member of society and enhance their sense of self-worth;
- (b) to know different types of people in their living space and learn their way of life and values as identifiable role models;
- (c) to learn about sound relationships with others;
- (d) to learn sound ways of spending leisure time.

Community work programs are found in Fiji, Hong Kong, Japan, Kenya, Papua New Guinea, the Republic of Korea and Thailand (prisoners only).

1. Obstacles

- (a) Insufficient trained staff to perform supervisory duties.
- (b) Lack of equipment like vehicles to transport probation officers to supervise work.
- (c) Lack of placement like social welfare institutions and cooperative employers.
- (d) Negative public attitudes in accepting offenders to work in their communities.
- (e) Unwillingness by the offenders to work in the community where they reside.

- (f) Danger of offenders getting injured in the course of performing public work.

2. Countermeasures

- (a) Improve public perception through education programs. The public should come to understand and appreciate offenders as fellow human beings who need care and love. A person does not cease to be a human being by becoming an offender.
- (b) Encourage more public involvement in the community work programs through the media, public education and public meetings.
- (c) Use the services of part-time supervisors like retired police, prison officers, army officers, probation officers, churches, non-government agencies, and civil servants including university students (studying social sciences) during their vacation as Volunteer Probation Officers.
- (d) Publicity of the work or services provided by the offenders like tree planting, building of temporary wooden bridges, digging of water canals, cleaning parks.
- (e) Motivate offenders to perform community work and gain community responsibility.

E. Aftercare Services

The definition may vary from country to country, for example with the existence of supervision, application or obligation, but this form of system was found in Hong Kong, Japan, Papua New Guinea, the Republic of Korea, and Thailand. In countries like Japan, after-care services are provided only to those who specifically apply for them in person at the probation office. The probation officer will then conduct a background investigation and screen each individual in light of the urgency and priority, and the offenders' willingness to rehabilitate themselves. The

offenders who take after-care services are mainly as follows: termination of execution of sentence, granted suspended execution of sentence, granted suspended prosecution. Such ex-offenders are provided meals, clothing or fares for travel. Some of these services are aided by the Juridical Person for Offenders Rehabilitation. When lodging is necessary, ex-offenders can live in halfway houses run by the Juridical Person for Offenders Rehabilitation.

1. Obstacles

- (a) Unreceptive community not wanting prisoners.
- (b) Slim employment opportunities for ex-offenders.
- (c) Inadequate supervisory staff - use of volunteers.
- (d) Difficulty in coordinating the services of other government departments and organizations like NGOs and social welfare institutions.

2. Countermeasures

- (a) Encourage educational activities through public meetings, seminars to create public awareness on the value of human life.
- (b) Encourage private sector participation by incorporating prominent businessmen and members of the community and volunteers.
- (c) Set up community agency networks through education and a better understanding of roles and responsibilities.

F. Mediation

Mediation is a method that has been used as a means of solving disputes and personal damages in many countries in the world. Mediation has been used in solving minor conflicts in which basically both parties, the offender and the victim, come to some form of compromise through a

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neutral group comprising of village elders or respectable persons in the community acting as mediators in the restorative justice system, without necessarily seeking the intervention of the judiciary.

Mediation programs bring the offender and the victim together in face-to-face meetings to negotiate a restitution settlement. The objective is to appease the social situation which has been disturbed by the offender. Mediation procedures are different from criminal judicial proceedings. A mediation session is only arranged with the consent of both the victim and the offender. During a reconciliation session, the two parties can bring up the social conflict which might have been the cause of the delinquent act. This approach attempts to address the economic, as well as the psychological, injuries in such way that the offender is able to comprehend the full impact that the crime has had on the victim. The advantages of mediation are:

- (a) The victim is not treated as a mere witness but has the opportunity to digest what has happened to them by expressing their shock and bewilderment.
- (b) The offender is made to reflect upon the injuries done to the victim and to accept responsibility by engaging in constructive actions. This is deemed to have a high value of rehabilitation.
- (c) The offender gets less stigmatized.
- (d) The victim obtains financial and emotional restitution quickly and in an informal way.
- (e) There is higher involvement of the community in the solution of conflicts, which is supposed to have a positive impact on deterrence.

However, due to modernization, these systems have been disregarded as outmoded methods of solving disputes

between parties like land cases, damage caused to crops by cattle, and minor disputes within the community. It is absurd that the present generation does not appreciate traditional laws, which they presume to be orthodox and authoritative. In our view, these methods should be revived and activated to settle minor cases in society and avoid offenders being taken to court, and eventually entering prison.

Mediation may take place in three stages, at pre-trial, during trial and at post trial. For the purpose of our discussion, we focused on mediation at post trial. In our view, we would like to recommend the possibility of mediation as a form of community-based treatment of offenders.

In the community-based treatment of offenders in Japan, it is taken into consideration whether the offender makes restitution to their victim or not, and whether he or she has the willingness to make amends or not. It is important for offenders to apologize with sincerity and to make restitution after trial for their successful entry into the community. When probation officers conclude that it is necessary for parolees and probationers to make restitution or to apologize to their victims, they supervise through the following means:

- (a) Including victim measures in the treatment plans made by probation officers.
- (b) Including victim measures in any special conditions to be observed.
- (c) Asking about the progress conditions of victim measures or discussing their necessity.

Victim measures by offenders reduce the hostility of the public, allowing the offender to re-integrate more easily. Furthermore, this helps the offender to develop the willingness to rehabilitate and, in doing so,

continues to prevent crime. That is why the development of mediation after trial has an important role in the treatment of offenders.

In many instances, mediation after trial is not enough. However, from the viewpoint of the re-integration of offenders and crime prevention, many countries felt it more desirable that we expand public participation and promote mediation at the post-trial stage.

1. Obstacles

- (a) No guidelines defining the use of mediation in penal matters. There are no guidelines to address the conditions for the referral of cases to the mediation service, nor procedures to handle cases following mediation.
- (b) Mediators lack training, resulting in unfair and biased decisions.
- (c) Offenders/victims are sometimes unwilling to appear and uphold the ruling by the mediator.
- (d) No selection and assessment procedures for mediators.
- (e) Mediation services do not have autonomy in performing their duties, making it difficult to issue certified documents. In India and Pakistan, mediation is legislated and required as a lawful method of settling a dispute.
- (f) No public awareness as to the usefulness of mediation.

2. Countermeasures

- (a) Legislation facilitates mediation in penal matters. There exists clear guidelines explaining the use of mediation in penal matters.
- (b) Mediators must have basic qualifications and receive training in mediation skills. Training programs should be made available for the betterment of the mediation system, for the smooth and effective disposal

of disputes. Before assuming office, mediators receive initial training in mediation duties, as well as inservice training. Their training aims at providing for a high level of competence, taking into account conflict resolution skills, the specific requirements of working with victims and offenders, and basic knowledge of the criminal justice system.

- (c) Recruitment and appointment of mediators should be done from all sections of society, and such people should generally possess a good understanding of local culture and the norms of the communities.
- (d) The public be educated to appreciate mediation as a means to resolve disputes. Before agreeing to mediation, the parties should be fully informed of their rights, the nature of the mediation process, and the possible consequences of their decision.

G. Fine Payment

In many countries, monetary penalties are usually awarded, and in default of payment, the offender suffers imprisonment. Fines are mostly awarded for petty and traffic offences. That is, if the offender can pay the fine s/he secures their liberty, but if s/he fails to pay the fine they suffer imprisonment. Fines are a common form of non-custodial sentence. Fines are economical because their management involves less money and less manpower. They are regarded as humane, since they cause minimum social damage to the offenders. Fines therefore aim to achieve the objectives of punishment in terms of retribution, deterrence and rehabilitation.

In a number of cases where fines are imposed, the court may consider the following basic pre-requisites:

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- (a) The gravity of the offence and the circumstances under which the offence was committed.
- (b) The financial ability of the offender.
- (c) The offender's family background.
- (d) Offender's occupation.
- (e) The health condition of the offender.
- (f) The previous criminal history of the offender.

In determining the amount of fine, the court may also consider the offender's financial position, whether s/he can pay on demand, be allowed more time for payment or order the payment by installment. In Fiji, when the offender is given monetary penalty and the offender does not have sufficient money to meet the amount required, s/he may be given more time, usually thirty days, to go and look for the money, or the offender may be allowed to pay by installment until s/he completes the fine.

In quite a number of situations, the offender may not be able to pay the fine due to poverty or other adverse economic factors surrounding the offender. In such a case, we may ask the public to offer the offender opportunities to pay the fine due. For example, the community can provide work to the offender so that he/she can fulfill the responsibility of paying the fine. Also the work to be performed by such an offender can benefit the whole community. The community, which is aware that non-custodial sentences are better than imprisonment for the re-integration of the offender into the community, can help with the rehabilitation of the offender.

1. Obstacles

- (a) Poor status of the offender in the immediate community.
- (b) Unwillingness by the public to contribute towards the payment of the fine.
- (c) Award of fine sentences is at the

discretion of the sentencing courts.

2. Countermeasures

- (a) Educate the public to learn to assist disadvantaged members of the community by pulling their resources together.
- (b) Educate and counsel members of the community to be law abiding.

H. Summary

In the past, not much attention has been focused on the community-based treatment of offenders as a mean to achieve the rehabilitation and reformation of offenders. However, considering that governments are now experiencing huge budget deficits, to the extent that not many governments can now afford to be over-burdened with the provision of other than basic services, public participation in the community-based treatment of offenders is vital. There is, therefore, the need to strengthen cooperation between government agencies like local government, law enforcement agencies and correctional agencies, social welfare departments, non-governmental organizations (NGOs), donors and the private sector.

IV. INVOLVEMENT OF VICTIMS IN THE TREATMENT SYSTEM FOR OFFENDERS

Involvement of victims in the treatment system for offenders is very important for both victims and offenders. By involving victims in the treatment of offenders, offenders can be sensitized to the victims' feelings and agony. Also, offenders' genuine feelings of guilt are promoted. Programs previously described in this paper promote understanding between offenders and victims, and prompt reconciliation. Victims are encouraged to be more forgiving.

A criminal justice system that is intended to restore social relationships is

called 'Restorative Justice'. The aims of the restorative justice are:

- (i) To repair the harm that has been done to the victims and the community;
- (ii) To involve the victims and other members of the community as active participants in the process;
- (iii) To help communities to reintegrate victims and offenders;
- (iv) To rebuild communities that have been weakened by crime and other social ills;
- (v) To deal with the needs of the victims, offenders and community.

So, restorative justice systems require the involvement of victims in the treatment of offenders.

A. Restorative Justice Programs

We classified restorative justice programs into the following five categories and organized our discussion according to these categories.

1. Mediation (direct/indirect)

There are two types of mediation programs; one which requires face-to-face contact between the victim and the offender (direct mediation), and one which does not involve face-to-face contact between the victim and the offender (indirect mediation).

(a) Victim-Offender Mediation

Victim-Offender Mediation Programs (VOMP), also known as Victim-Offender Reconciliation Programs (VORP), bring offenders face-to-face with the victims of their crimes, with the assistance of a trained mediator (usually a community volunteer). The value of these programs in restoring all those affected has been proven in communities throughout the world. Through the process, crime victims are given an opportunity to have their

questions answered, and restitution and emotional needs are met. The person responsible for the crime is held accountable for his/her actions and given an opportunity to make things right. The community becomes involved in the process of restorative justice.

A basic case management process in North America and in Europe typically involves four phases:

- (i) Case referral and intake;
- (ii) Preparation for mediation;
- (iii) The mediation itself; and
- (iv) Any follow up necessary e.g., enforcement of restitution agreements.

Often, a case is referred to VORP after a conviction or formal admission of guilt in court; but some cases are diverted prior to such a disposition in an attempt to avoid prosecution. Studies have concluded that these programs have high client satisfaction rates, victim participation rates, restitution completion rates, and result in reduced fear among victims, and reduced criminal behavior by offenders.

(b) Serious Offence Mediation

Program for serious offenders were carried out in Anchorage, Alaska. Mediations were conducted with juvenile offenders and their victims for offences as serious as manslaughter and attempted murder. While mediation for minor property offences has the goal of obtaining restitution, the primary goal of serious offences mediation is to help in the healing process. Participation in mediation did not result in more lenient dispositions for the offenders, most of whom were already serving their penalties at the time of the mediation. Most participants reported that mediation was successful in meeting the goals of reconciliation, accountability, and closure.

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Several projects involving prison-based mediation have been done with adult offenders. As with the young offender program, the goals are somewhat different from those of community-based programs, in that they emphasize sharing information and healing rather than restitution. They involve voluntary meetings held between victims and offenders in an institutional setting. Typically, they explicitly exclude offender benefits such as parole release. Immarigeon's (1996) assessment of several prison-based programs found that hundreds of victim-offender reconciliation meetings have been held with a great deal of success, and with no negative consequences.

Such violent offenses are usually mediated upon the initiation of the victim, and only after many months (sometimes even years) of work with a specially trained and qualified mediator, collaborating with the victim's therapist and/or other helping professionals. Participation must be completely voluntary, for both the victim and the offender.

(c) *Assessment of Mediation Programs*

Victim-Offender Mediation Programs have been mediating meaningful justice between crime victims and offenders for over twenty years. There are now over 300 such programs in the US and Canada, and about 500 in England, Germany, Scandinavia, Eastern Europe, Australia and New Zealand. Remarkably, consistent statistics from a cross-section of the North American programs shows that about two-thirds of the cases referred resulted in face-to-face mediation meetings; over 95% of the cases mediated resulted in a written restitution agreement; over 90% of those restitution agreements are completed within one year.

In France in 1993 and in Germany in 1994, after the assessment of these experimental programs, victim-offender mediation has been fully recognized in criminal procedure. In France, the prosecutor is entitled to arrange for mediation before the decision of whether or not to prosecute. The mediation is directed to the compensation of the victim and the rehabilitation of the offender.

2. Disclosure of Offender's Information

Recently, a victims' need to be notified of their offenders' information is increasing. Since criminal procedures, criminal justice systems, and cultures differ among countries, there is no definite answer to the question "Who/which agency (e.g. police, public prosecutors office, the courts, correctional institutions, probation office, etc) should disclose the offender's information?". In principle, victims should be notified of their right of access to the offender's information, and the agency which is most convenient to victims should be available to them, so that they will have the least trouble in requesting the offender's information. However, such disclosure may endanger the rehabilitation of the offenders, and therefore, the criminal justice agencies should be allowed to exercise discretionary power, in case they foresee such a danger.

3. Involvement of Victims' Opinion in Decision-making Concerning Offender's Status

In some countries, victims provide input about the impact of the crime (and sometimes parole violation) at the parole hearings, in person, via audiotape or videotape, by teleconferencing, or in writing. Their statements give the parole authority crucial information about the crime's financial, physical and emotional impact on the victim. To make this meaningful however, parole authorities must notify victims and their families of

the hearings (in advance), and schedule time during the hearing to allow them to describe the crime's impact on their lives.

4. Education

(a) *Victim-Offender Confrontation Programs and Similar Programs*

- (i) **Victim-Offender Confrontation Programs:** Programs in which offenders and victims of other offenders, usually groups of victims or their families, meet in the correctional setting to discuss the impact of crime from both perspectives. This program's goal is to sensitize offenders to the pain and suffering of victims and can give offenders the opportunity to deal with remorse and guilt (for example, Alberta Seven Step "Surrogate Perpetrators Program", a program for sex offenders in Fort Saskatchewan).

- (ii) **Victim-Offender Panels:** Victim-Offender Panels (VOP) can be attributed to the rise of the victims' rights movement in the last decade, and in particular to the campaign against drunk driving. They were developed as a means of giving convicted drunk drivers an appreciation of the human cost of drunk driving on victims and survivors, with the intention of decreasing the likelihood of repeat offences. It also offers victims and survivors a forum in which to express their experience and thereby restore some sense of power to the victims of crime.

One notable example of a VOP in application is the Victim Impact Panel (VIP) organized by Mothers Against Drunk Driving (MADD). This panel provides an

opportunity for offenders to express the impact that drunk driving has had on their lives.

A VOP is comprised of unrelated victims and offenders, linked only by a common kind of crime, not the particular crimes that involved others. It thus provides an opportunity for indirect encounter when either the victim or offender is unwilling or unable to meet the other.

With the VIP operated by MADD, for example, judges or probation officers will often require convicted drunk driving offenders to attend a panel as an element of their sentence or probation. Attendance is monitored, with sanctions applied for failure to attend.

(b) *Victim-Awareness Program*

This type of program sensitizes offenders to the needs of victims, without direct contact with them. This type of program is important because we may not be able to find victims who are willing to participate in programs involving contact with their offenders. The following are the list of programs which are currently utilized in Japan:

- (i) Essay writing.
- (ii) Imaginary letter.
- (iii) Role playing.
- (iv) "Naikan" meditation therapy.

5. Community Service

Community service requires offenders to perform some beneficial community service. These services are beneficial to victims in several ways. First, some victims may want to humiliate offenders by having them engage in community

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work. Second, some victims may want offenders to engage in community work believing that experience such as working in an elderly person's home may help offenders be aware of the plight of victims. Third, since crimes offend the feelings of the public, including the victims, community service works as "symbolic restitution".

B. Actual Situation

Table 1 shows the actual situation of the countries of this group. Mediation programs (including programs which are similar to mediation) are implemented in Fiji, Japan, Kenya and Papua New Guinea. Who takes the role of mediator is different amongst these countries. In Japan, probation officers and VPOs take the role of mediator. In other countries, mediators are voluntary chaplains and elderly persons who are trusted by the community.

The disclosure of offenders' information to victims is implemented in Hong Kong, Kenya and the Republic of Korea. In Hong Kong, upon the victim's request, the Commissioner of the Correctional Service is required to provide information as needed in respect of the offender. In Kenya and the Republic of Korea, the offender's information is disclosed to victims by the police and welfare officers.

The consideration of the victim's opinion in decision-making concerning the offender's status is implemented in Fiji, Japan, Kenya, the Republic of Korea and Papua New Guinea. In these countries, the victim usually does not attend the parole hearing. Only a document describing the victim's opinion is submitted to the parole board (e.g, the report of probation officers to the board).

Victim-offender confrontation programs and similar programs are not implemented in all countries of the group . Victim

awareness programs are implemented in Japan, Papua New Guinea, and Thailand. In Papua New Guinea, voluntary chaplains come to prisons or juvenile training schools and talk about the feelings and agony of the victims. In Thailand, meditation is implemented as one victim awareness program. Thus, the involvement of victims in the treatment of offenders in many of the group's countries seems to have been successful.

C. Obstacles and Countermeasures

1. Mediation

(a) *Obstacles*

- (i) In some participating countries, programs are being conducted without any legal backup. In that no monitoring system is in place, the neutrality/quality of the mediator is not guaranteed. Hence, the rights of the victim and the offender can hardly be protected.
- (ii) In general, the public do not have a full understanding of the objectives and the value of these programs.
- (iii) Public opinion is accustomed to the retributive model of justice, i.e, geared to the punishment of offenders. As such, public support and participation in mediation programs difficult.
- (iv) Usually, the victims do not want to meet offenders as they are either afraid of being re-victimized or choose to forget the harm/trauma that the offender has done to them.
- (v) The role of the mediators is so demanding that it is quite difficult to recruit sufficiently competent mediators.
- (vi) Face-to-face contact of offenders with victims can be quite dangerous, i.e, not easy to control (security administration

problems).

(b) *Countermeasures*

- (i) Relevant laws have to be enacted in the implementation of mediation programs, in order to protect the rights of the victims and offenders.
- (ii) The public has to be made aware of the objectives and values of such programs by providing them with all the necessary information (e.g, using the mass media).
- (iii) Offenders and victims need to be encouraged to participate in programs by educating them on their objectives and values.
- (iv) Government and NGOs should take the lead in organizing the training of mediators, and invite suitable citizens to become mediators.
- (v) Appropriate programs, such as psychological counselling, should be set up to assist victims and offenders to be prepared for mediation.

2. Disclosure of Offender's Information

(a) *Obstacles*

- (i) In many participating countries, there is no legislation to govern whether it is lawful to provide offender's information to their victims.
- (ii) Offenders may object to having their information being disclosed to their victims, as it would infringe on their privacy.
- (iii) Offenders get disadvantaged as their victims may plan retaliation against them after their discharge, by knowing their date of discharge and other information such as place of residence.

(b) *Countermeasures*

- (i) Relevant laws have to be enacted

to specify suitable types of information disclosable to the victim, and the proper procedure in disclosing this information to victims.

- (ii) The public has to be made aware of the objectives of providing offender information to their respective victims.
- (iii) Protection of offenders' privacy and human rights has to be observed. In that, laws should be enacted to prevent the victims from misusing the information provided to them.
- (iv) Cooperation among the police, public prosecutor's office, the courts, and correctional institutions has to be secured in order to ensure that all information provided to the victims is updated and given in good time.

3. Consideration of the Victim's Opinion in Decision-making Concerning the Offender's Status

(a) *Obstacles*

- (i) Victims do not have adequate information about parole hearings, and thus they are unwilling to participate in the hearings either in person or in writing.
- (ii) Most participating countries lack human resources (e.g, probation officers, etc) to approach the victims and explain to them the objectives of the parole hearing, or to give them counseling in securing their participation in the hearing.
- (iii) Most of the victims do not wish to have any further direct or indirect involvement/contact with their offenders. Some of them even refuse to hear anything about their offenders.

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- (b) *Countermeasures*
- (i) Government should recruit more probation officers and invite suitable citizens to be volunteer probation officers.
 - (ii) There is a need to explain the objectives and values of the parole board hearings to the victims and the public.
 - (iii) Education and counselling should be given to victims, informing them that they, their offender and society would benefit from their participation in the parole hearing.
 - (iv) Victims have the right to attend parole hearings so that they can fully realize how the parole hearing is being conducted.
 - (v) If the offenders are to be granted release by the parole board, victims should be protected by imposing certain conditions for the offenders to observe, such as keeping a certain distance away from the victim's residence. In such a way, victims may feel safe in participating in the parole hearing.
4. Education
- (a) *Victim-Offender Confrontation Programs and Similar Programs*
- (1) *Obstacles*
- (a) The general public do not recognize the objectives and value of these programs.
 - (b) Public opinion is deeply entrenched in executing punishment against offenders (retributive sentiment).
 - (c) Victim's unwillingness.
 - (d) Offender's unwillingness.
 - (e) Serving officers are not trained to implement and organize these programs.
 - (f) Offenders can be dangerous to victims (security administration problems).
- (2) *Countermeasures*
- (a) Educating the public by providing them with all the information (e.g. using mass media) regarding the objectives and value of the programs.
 - (b) Educating offenders and victims about the benefits of the programs, and encouraging them to participate.
 - (c) Providing appropriate training for serving officers in implementing and organizing the programs, and seeking cooperation from private experts in providing their professional advice to enhance/improve the qualities of these programs.
 - (d) Assisting victims and offenders to be prepared for participation.
- (b) *Victim-Awareness Program*
- (1) *Obstacles*
- (a) Serving officers are not trained to conduct/organize the programs.
 - (b) Through participation in the programs, some offenders may have their guilty feelings aggravated, i.e. depression.
- (2) *Countermeasures*
- (a) Serving officers should be equipped with adequate knowledge in organizing and conducting programs through in-service training.
 - (b) Cooperation with private experts should be sought in order to obtain their expertise in enhancing the effectiveness of programs.
 - (c) Future-orientation of programs should be emphasized to prevent offenders from

becoming depressed.

D. Problems/Challenges in Using Restorative Justice Programs

Through the above processes, crime victims are given an opportunity to have their questions answered and their restitution and emotional needs met. The person responsible for the crime is held accountable for his/her actions and given an opportunity to make things right. The community becomes involved in the process of restorative justice.

However, some research indicates that victim participation in restorative justice programs places an unwanted burden on the victim himself or herself, beyond what would result from serving only as a witness for the prosecution. In particular, placing the victim in a decision-making role may lead to even more harassment and intimidation by the offender. In some jurisdictions that have introduced mechanisms designed to give victims a more active role in the process, a considerable number of victims have chosen not to exercise such a right.

One of the keys to successful restorative justice projects is the participation and support of the community. In some cases, victims have been unwilling to participate in victim-offender mediation programs, and some surveys have shown a relatively low level of public support for alternative programs. There are several reasons why public support for these programs is by no means automatic :

- (i) People accustomed to the retributive model of justice may be reluctant to support restorative justice programs. However, successful restorative initiatives can lead to a change in public attitudes.
- (ii) Empowering the community to take

control of justice issues can be a major step in community healing. However, it can be a difficult step because the community institutions that must do this - including the family, schools, and religious and economic institutions - may not themselves be healthy. In other words, communities may have too many other problems to deal with.

- (iii) There is also the possibility that community justice may divide rather than unite people. This may happen in small isolated communities where punishment, even when it is intended to reintegrate offenders, may alienate individuals and their friends and relatives from one and other. To prevent this, everyone must understand that restorative justice is in the best interest of the entire community.
- (iv) For programs conducted inside the prison setting, such as Victim-Offender Reconciliation and Victim-Offender Confrontation Programs, they are operated less often than expected. This may be largely due to the lack of additional resources. Under a limited budget, such programs are not given priority.
- (v) Also, offenders must want to participate in these programs for them to be successful. Offenders should not be given rewards (such as reduced punishment) for participating, because the offender must be sincere.
- (vi) Restorative justice programs may be inappropriate in cases of unequal power positions between the victim and offender (e.g, child abuse). Victims might be revictimized by such participation.
- (vii) In mediation programs, the mediator needs to be well trained so that he/she can prepare both the victim and the offender. Victims cannot use the

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session to only express grief or anger (i.e, just yell at the offender). Also, mediation needs to make sure that the expectations of both sides are realistic.

V. CONCLUSION

Participation of the public and victims is imperative in the overall treatment, rehabilitation and re-integration of offenders into society. In order to achieve the desired results, public involvement in the effective utilization of prison labor, enhancing and resuscitating rehabilitation programs available to prisoners, is indeed vital.

Similarly, for the re-socialization of offenders to be effective and pragmatic, emphasis should be given to community-based treatment methods which can be enormously enhanced by active public involvement. The participation of the public in community-based treatment provides an enabling environment conducive to the speedy re-socialization of the offender.

Lastly, no comprehensive treatment program for offenders will ever be complete without the involvement of the victims in the restorative justice system. The actual re-settlement of the offender into the community will be determined by the ability and readiness of the victim to live in harmony with and restore the hope of the offender.

Table 1
Involvement of Victims in the Treatment System of Offenders (actual situation of group members)

		Fiji	Hong Kong	Japan	Kenya	Papua. New Guinea	Republic of Korea	Thailand
Mediation (post trial)	Direct							
	Indirect							
Disclosure of Offender's Information to Victims								
Involvement of Victim's Opinion in Decision-making Concerning Offender's Status								
Education	Victim-Offender Confrontation Programs and Similar Programs							
	Victim Awareness Programs							

... program which can/should be implemented ... program is implemented