

GROUP 2

ENHANCEMENT OF COMMUNITY-BASED ALTERNATIVES TO INCARCERATION AT THE SENTENCING STAGE OF THE CRIMINAL JUSTICE PROCESS

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I. INTRODUCTION

The group considered the topic of enhancing community-based alternatives to incarceration at the sentencing stage of the criminal justice process for discussion and the preparation of a report. The group consisted of eight participants from five countries. It was composed of four Japanese officials including an assistant judge, public prosecutor, probation officer, and a specialist in psychological assessment from Japan, a judge from Indonesia, two police officers from India and Maldives respectively and one correctional official from South Africa. It was assisted by advisors from Canada and Korea.

The group discussed available community-based alternatives at the sentencing stage of the criminal justice process as illustrated by current practices in each country. In addition, the group critically examined the advantages and disadvantages of various community-based alternatives. There will always be cases where custodial measures will be necessary as well as cases where community-based alternatives would be the most appropriate choice at the sentencing stage. Judges grapple with this issue daily in deciding which of the available alternatives to invoke. Therefore, this paper also seeks to suggest how to enhance community-based alternatives at the sentencing stage of the criminal justice process.

II. COMMUNITY-BASED ALTERNATIVES

A. What are Community-Based Alternatives?

Definitions of community-based alternatives are many and varied. In this paper, the term is defined broadly as referring to *any court-ordered sanction that occurs in the community, particularly where it provides an alternative to a custodial sanction*. Such programmes often include supervision of convicted offenders, provision of various services to them, monitoring, encouraging and enforcing compliance with sentencing conditions such as payment of fines, victim compensation, community service and restitution orders and provide for an element of punishment through increased control and accountability while in the community.

The term community-based alternatives includes many of the measures identified in the U.N. Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules, 1990) which were promulgated to encourage Member Nations to use non-custodial measures in appropriate cases. Those non-custodial measures refer broadly to sanctions for an offence that require an offender to remain in the community and to comply with certain conditions.

From the foregoing definitions, it is clear that there are many forms of community-based alternatives to incarceration. What they all have in common however, is a belief that prison is not the best way to deal with many offenders, particularly those who pose a low or manageable risk of re-offending.

B. What are the Purposes of Community-Based Alternatives?

There are various purposes of community-based alternatives among which are:

- a. To reduce overcrowding in prisons and prevent escalation of detention costs;
- b. To ensure public safety and security through effective supervision and control over offenders who serve their sentences in the community;
- c. To prevent or reduce offender stigmatization;
- d. To enhance rehabilitation and reintegration of offenders into the community in order to strengthen their ability to live peacefully with others in the community setting;
- e. To permit the offender to contribute towards his or her family in particular and to society by working instead of being confined in prison or jail;
- f. To avoid the risks of family break-up due to separation during incarceration;
- g. To avoid an escalation in deviant behaviour when new offenders are mixed with hardened criminals;
- h. To monitor and supervise offenders in order to ensure compliance with court –ordered conditions and programme requirements.

III. ANALYSIS OF THE CURRENT ADMINISTRATION OF COMMUNITY-BASED ALTERNATIVES

The current utilization and administration of community-based alternatives at the sentencing stage was analysed. Advantages and disadvantages were also identified. Please refer to the appendix for the available community-based alternatives in the participating countries.

A. Verbal Sanctions such as Admonition, Reprimand and Warning

Where permissible courts, may pass verbal sanctions such as admonition, reprimand, warning or caution to the offender instead of sentencing him/her to any punishment.

This option is usually imposed on the offender whose offence is trivial and risk of recidivism is low such as a first time offender, traffic violator and juvenile delinquents who the court believes can be rehabilitated by him/herself. It is assumed from the beginning that he/she would not receive a sentence of imprisonment. Therefore, strictly speaking verbal sanctions may not be community-based alternatives to incarceration. However, these measures are widely used at the sentencing stage as well as at the pre-sentencing stage in some countries such as India (Admonition and warning) and South Africa (Caution and a discharge). In Canada, Admonition is not so widely used because usually those cases, which are suitable for verbal sanctions, are already diverted from the criminal justice process at the pre-sentencing stage or receive unconditional discharges following a finding of guilt.

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The common practice is that notice of the verbal sanction is given to the offender as an official document. Whether a record will be created however, differs among countries.

In India, these records are not provided to the public. Hence, they cannot be used against offenders. In South Africa, if the court warns the offender, the conviction is recorded as a previous conviction. In Canada, a discharge does not result in the creation of a record.

One of the advantages of these measures is that the offender continues to lead a normal community life with minimal intervention by the criminal justice system. He/she can maintain his/her productive employment and contribute to the economy of his/her community.

Disadvantages are that some offenders may not be supervised properly after verbal sanctions by the court. Nevertheless, it is believed that there is a deterrent value for the offender to be given a verbal sanction by the judge. These measures are most suitable when imposed at an early stage in terms of the offender's interests and costs.

In Japan, a similar measure is operated for juvenile delinquents. The family court has the primary jurisdiction over dispositions of all juvenile cases. When the family court considers that admonition and advice by the judge and the family probation officer is sufficient for his/her rehabilitation, the case will be dismissed after hearing.

Participants recognized verbal sanctions as a useful sentencing option for countries to consider.

B. Economic Sanctions and Monetary Penalties, Such as Fines

The courts may order the offenders to pay a certain amount of money as a criminal penalty.

This option is usually used for offenders convicted of wide range of minor offences including traffic violations. This option (fine) is widely used in all participating countries.

In South Africa, the court may sentence a person to imprisonment with the alternative option of paying a fine. The court will stipulate the amount of the fine and the date by when it should be paid. The court may also suspend the payment of the fine for a stipulated period on condition that the accused person is not convicted of the same offence during that period. In addition, the Criminal Procedure Act allows the court, in cases of imprisonment for a period of three months or less to combine it with a fine to reduce the term of imprisonment.

In all countries, default of payment of a fine normally results in a specified period of imprisonment.

One of the advantages of this option is that it punishes the offender by taking money from him/her, without resorting to incarceration. This option needs comparatively less manpower and budget to implement, although there may be a problem in collecting payment when the offenders do not pay. In the final analysis, however, fines and monetary penalties are a revenue source for the state. In Japan like some other countries, heavy monetary penalties are imposed to deter profit motivated economic and environmental crimes.

A disadvantage is that the offender may be made to serve a term of imprisonment when he/she cannot pay his/her fine. But in Canada, the offender can be offered the option of performing community service work instead of paying a fine. In South Africa, a community service order is available for similar cases. In some European countries, a system of day-fines is used which gears the amount of the penalty to the income of the offender.

Where they exist, community service orders and a system of day-fines are effective options to avoid incarcerating minor offenders who cannot afford to pay a monetary penalty.

Participants viewed economic sanctions as a useful sentencing option for countries to consider.

C. Restitution or a Compensation Order

The court may order the offender to pay compensation to the victim of crime for any personal, loss and damage resulting from the offence.

The present criminal justice systems in a majority of the countries, focus primarily on actions to be taken against an offender who has committed a crime and limited consideration is given to the victim. Often the victim is the only affected person who has suffered psychologically, physically and economically. Hence, it is incumbent on the offender, society and criminal justice system to recognize and provide appropriate compensation to the victim to reduce the harm they have experienced. This restorative philosophy has been accepted by some of the countries as an important element in their criminal justice systems.

These measures are used in both India and South Africa. In India, when the court directs the release of an offender on probation, if it thinks fit, it can direct the offender to pay compensation for loss or injury caused to any person by commission of the offence. It can also direct the payment of costs of the proceedings as the court thinks reasonable. To assess the quantum of compensation, it is purely the discretion of the court to allow compensation and costs as it thinks reasonable in a particular case. However, there is limited application of the provisions of the Probation of Offenders Act, 1958. In South Africa, a court can impose a sentence of imprisonment or the payment of compensation.

The major advantage of these measures is that the victim of the crime can be assisted and better satisfied with the judgment thus reducing the chance that they will continue to feel aggrieved.

A disadvantage is that it is often difficult for a criminal court to determine the appropriate amount of compensation to be paid to the victim of crime for damages and loss. In addition, when an offender cannot afford to pay compensation to the victim, the court may have no option but to impose another sentence involving incarceration.

During the group workshop, it was generally agreed that restitution and payment of compensation are very important measures but require suitable legal authority to be implemented in the legal systems of participating countries.

D. Suspended Sentences

Most participating countries utilize some form of suspended sentence. The Court may impose a sentence of imprisonment upon an accused found guilty of a crime and may suspend execution of the sentence in some cases with/without conditions. In Indonesia, suspended sentence with conditions that are unsupervised are referred to as a Conditional Sentence. Probationary supervision when ordered as one of the conditions will be discussed later.

In all countries the minimum conditions are that the offender does not commit a similar new offence during the suspension period. The sentences that may be suspended and duration of the suspension period are set out in the following table.

Country	Maximum Sentence	Minimum suspension period	Maximum suspension period
India	10 years	Unlimited	3 years
Indonesia	1 year	Unlimited	2 years
Japan	3 years	1 year	5 years
Maldives	3 months	Unlimited	1 year
South Africa	Unlimited	1year	5 years

In all participating countries, when a court convicts a person of an offence it may pass a sentence but suspend the operation of the entire sentence for a period of up to five years, usually on some

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condition. Most often, the court suspends the sentence on condition that the person does not commit another offence during the suspension period.

Suspended sentences allow the offenders to continue their normal activities in the community, maintaining family contacts and meeting social obligations. The offenders are also protected from possible negative effects of imprisonment and are given a chance of becoming a law-abiding citizen. Suspended sentences mean that the offenders remain in society without restrictions. Normally rehabilitation and reintegration is expected based on the offender's character and social resources.

Suspended sentences help reduce overcrowding of prisons although some view them as inappropriately lenient particularly where suspended sentence are used without thorough screening.

Nevertheless, the participants agreed that suspended sentences are useful sentencing options which could be expanded in those countries where their use is limited.

E. Probation and Correctional Supervision

Probation and Correctional supervision are methods of implementing a wide range of community-based alternatives to incarceration. They allow sentences of detention in correctional institutions to be suspended with specific conditions including supervision. They facilitate the implementation of a wide range of community-based sentencing options.

Offenders, who are placed under probation supervision, are guided in the observance of specific conditions and given support and surveillance by probation officers, while leading lives in society. In the case of a violation of the conditions of probation during the probationary period, the court may revoke the probation order and set a sentence for the original offence or for the offence of "breach of probation" or may render some other decision resulting in incarceration.

These measures are used widely in many countries including India, Japan and South Africa. However, the use of these measures varies from country to country.

In India, as per the provisions of the Probation of Offenders Act, 1958, these measures can be applied to offenders who have committed minor crimes for the first time. They can be released on probation with the supervision of probation officers. Offenders may be released on probation without the supervision of probation officers on condition that they promise to conduct themselves well. However, due to its limited enabling statutory framework these measures are seldom used in India.

In Japan, these measures apply to offenders where execution of the sentence has been suspended on condition of probation. They are put under probation supervision from the date of the final adjudication until the end of the suspension of execution of the sentence.

Suspended sentence with probation may be given to a repeated offender, if the sentence of imprisonment with or without labour is for not more than one year, and if he/she committed a second offence during a previous suspension period only when the previous suspension was not accompanied by probation.

A further suspended sentence is not allowed for offenders who were given a previous suspended sentence with probation. Therefore, a suspended sentence with probation is considered to be a heavier sentence than the one without probation. These sentences may be used in a step by step fashion according to the mitigating/aggravating circumstances and the risk of re-offending. Thus in some cases suspended sentences with probation might not be reflected from the necessities of rehabilitation in the community.

As per the statistics for 2000, the number of persons who were sentenced to imprisonment in Japan in ordinary trials was 66,526. The number of persons who were given probation was 4,429 (about 6.7%). Japan makes extensive use of volunteer probation officers to supervise offenders effectively.

In South Africa, the court may impose a sentence of correctional supervision for up to three years. The sentence of correctional supervision must include the following conditions:

- placement under house arrest;
- performance of Community Service for a certain number of hours in a community project;
- participation in treatment programmes, for example, treatment for drugs or alcohol abuse or participation in a training programme which will help him/her find work; and
- the payment of victim compensation.

The court may also order additional conditions at its discretion.

In South Africa, a probation officer or a correctional official must submit a pre-sentence evaluation report before sentencing. In India and Canada, a pre-sentence assessment report is prepared by the probation officer at the direction of the court, whereas in Japan and in Indonesia pre-sentence assessment reports are used for juvenile cases only. In Maldives, there is no provision for such reports.

A pre-sentence (evaluation) report is widely used in some countries, such as South Africa and Canada. However, in India, it is not so widely used because of a shortage of human resources and limited application of the Probation of Offenders Act, 1958. In Indonesia and Japan, it is widely used in the case of juvenile delinquents.

The supervising probation officer may take action to ensure compliance with court ordered conditions in some countries. In the case of non-compliance with a probation order, it may be revoked and replaced with another sentence, in South Africa. However, in other countries such as Canada and India, when a probation order is revoked, it will result in incarceration.

Probation is less costly than prison while providing a significant degree of assistance and support to the offender in the community.

Although failure to observe conditions that do not involve a new offence may lead to incarceration, some critics consider probation as too lenient. In addition, some countries lack well-trained probation officers due to budgetary constraints.

Participating countries agreed that adequate probation services are essential to the enhancement of community-based alternatives.

F. Community Service Order

A community service order is an order of a court that punishes offenders in the community. The court may order offenders to perform a specified number of hours of unpaid work for the benefit of the community instead of sentencing them to a term of imprisonment. Before making a community service order the court must clearly explain to the offender the following:

- the purpose and effect of the order,
- the consequences which may follow if he/she fails to comply with any requirement, and
- the court will review the order if there is any change in circumstances.

A community service order is imposed on offenders who have committed offences punishable by imprisonment. Additionally, this measure may be used in cases of default of payment of monetary penalties and those who have committed minor or petty offences. In South Africa, this option can be used as an independent sentencing alternative to short-term imprisonment. In some countries such as Canada and Korea, a community service order can be used as supplementary to other sanctions such as imprisonment, fine or probation. This option is used widely in the above countries.

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The administration of community service orders varies from country to country. In both Canada and Korea, probation services are charged with the responsibility of supervising offenders who serve community service orders. Supervision by the probation service is obligatory for community service orders. This kind of supervision entails a duty to check on the fulfillment of the obligation to work. Minor first time violations of the conditions may lead to a warning by a probation officer. On the other hand, the court will hand out more serious penalties if it is satisfied that the breach is serious. In South Africa in some cases, the direct supervision of offenders on community service orders is done independently by the supervising agencies and not by the Department of Correctional Services. This arrangement has reportedly proven to be insufficient to ensure that conditions of the order are met.

In most countries such as Canada, Korea and South Africa, failure to comply with this order will constitute a breach of probation or a community service order. In cases of a breach of a community service order, the court may issue a warrant for the arrest of the offender. If the court is convinced that the offender has failed without reasonable excuse to comply with the order, it may fine him/her or commit him/her to imprisonment.

The advantages of community service orders are: the community can benefit because some form of restitution is paid by the offender, offenders benefit because they are given an opportunity to rejoin their communities as a law-abiding and responsible member, the courts benefit because sentencing alternatives are provided and offenders sentenced to community service orders may be individually placed where their skills and interests can be maximized for community benefit.

A community service order can be a valuable alternative in cases where a monetary penalty such as a fine, restitution or compensation order is not practical due to the limited income of the offender. It also offers unique therapeutic opportunities both in terms of involving the offender in regular work patterns which may be unfamiliar to him or her, and in a wider array of pro-social models and relationships than he or she may have previously had access to.

The disadvantages of community service order include amongst other things: the court may impose a custodial sentence if offenders do not satisfactorily comply with this order; the administration of community service orders require administrative oversight that may exceed the capacity of non-governmental organisations to provide and public exposure may result in stigmatization.

Participants regard community service orders as meaningful sentencing option, if probation services or correctional services and any other governmental agencies are involved in the administration and management of community service orders. Therefore, community service orders should be considered by those countries, which are not applying them yet. Finally, countries, which have applied these measures, should further enhance them to be more effective and efficient alternatives.

G. House Arrest

This is a form of punishment that requires the offender to remain in his/her own home with certain restrictions.

This option is widely used in South Africa and Maldives as an alternative to incarceration during the pre-sentencing stage but there is no common practice of this option in these two countries.

In South Africa, house arrest is used as a condition of correctional supervision. It is not an independent sentencing option if a person is under house arrest. He/she can work, earn income, visit people and receive visitors with prior approval from the supervisor. However, in Maldives this option is an independent sentencing option. If an offender is placed under house arrest his /her movement is restricted to his/her home only and he/she cannot go out to work or far away, except in medical emergency cases. Therefore, this is a more strictly controlled alternative sentence to incarceration than other community-based sentences.

The offender placed under house arrest may continue his/her normal life with a family and help to reduce prison overcrowding.

House arrest strictly restricts the offender's movement. Finally, it prohibits his/her association with undesirable elements but also can lead to job losses.

It is recommended that the laws, which are currently governing this measure, be made sufficiently flexible to allow positive social interaction and ensure that it is an actual community-based alternative to incarceration.

H. Referral to a Treatment Center

In Maldives and South Africa, a court may order an offender to undergo treatment at a rehabilitation center. He/she may perform work, undergo physical training or attend education classes and as far as possible he/she may avoid interference with working hours or school attendance.

This option generally is used for the offender who abuses drugs.

In South Africa, to require the offender to undergo treatment, several requirements must be met. There must be evidence of an offence and a probation officer's report recommending treatment. In Maldives, it is not necessary to meet such requirements.

In South Africa, the court can postpone the order of treatment for a period, but not in Maldives.

The advantage of this option is that offenders are able to undergo treatment and are encouraged to abstain from using drugs/alcohol.

However often there are few rehabilitation centers due to lack of resources.

Treatment orders are a desirable concept, but to implement them member nations will have to consider the availability or creation of treatment centers.

I. Banishment

In Maldives, banishment is an available sentence, which occurs in the community and is widely used. The court may order the offender to be re-located to an inhabited island from his/her native island for a specified period. His/her movement is free within that island and the chief of the island has the responsibility to monitor him/her for the duration of the sentence.

One of the advantages is that banished offenders can continue to lead a community life and some offenders would be able to establish new relationships with the local community. On the other hand, although the chief of the island monitors offenders, professional supervision and guidance such as counselling is usually unavailable. Sometimes, banished offenders may impact negatively on the local community by continuing to commit crimes. Therefore, this measure is currently under debate by the concerned authorities.

In Japan, some juvenile delinquents leave their community and live in their employer's house for a certain period under the tentative probationary supervision by the family court probation officer. Sometimes a change of residence is a good opportunity for an offender to improve his/her lifestyle and social relationships but removal from one's home community can seriously disrupt established positive social relationships and should be used with great caution.

IV. RECOMMENDATION FOR THE ENHANCEMENT OF COMMUNITY-BASED ALTERNATIVES AT THE SENTENCING STAGE

The safe use of community-based alternatives to incarceration for appropriate offenders, offers the general advantages that they:

- Reduce upward pressure on prison populations and costs
- Protect public safety as effectively as prison
- Reduce stigmatization
- Promote social reintegration of offenders

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- Prevent recidivism.

To develop and maintain a successful system of community-based alternatives, a criminal justice system should have:

- A wide array of community-based alternatives programmes available in the community
- A wide array of flexible sentencing options available to the court
- A system to assess offenders and available community-based programmes to assist the court in matching appropriate offenders with appropriate sentencing options and community-based alternatives
- A system to effectively coordinate, administer and supervise the sentences of offenders in the community.

An adequately resourced probation service helps achieve the foregoing by coordinating community-based alternatives programmes, providing pre-sentence assessments to the court to assist with sentencing decisions and to provide assistance and supervise compliance with conditions while offenders are under probation supervision. Together with the development of innovative community-based alternatives like Community Service Orders, Member Nations can realize significant improvements.

A. Probation Services

The creation or expansion of probation services may appear to be deceptively costly. However, when measured against the social and financial cost of not doing so they may be seen as a wise investment, particularly where extensive use of volunteer probation officers is feasible. Their costs are easily offset by avoidance of the over-reliance on incarceration due to the lack of sufficient community and sentencing alternatives, more successful outcomes of effective matching of offenders with sanctions and the improved quality of pre-sentence information on which courts can base their decisions without increasing (or even decreasing) the workload of prosecutors and other court officials.

In addition to counselling, monitoring and managing the cases of individual offenders, probation services can engage in community development work. They can be instrumental in mobilizing existing community resources and establishing new community correctional programmes like halfway houses, recreational, social programmes and specialized correctional treatment programmes in areas such as substance abuse and domestic violence. As well as contributing to the treatment of offenders, such programmes can help reduce the pressure on police who often end up by default working with unsupervised offenders in the community.

Well managed and properly trained probation officers also provide a valuable service to courts in making sound decisions about the appropriate sentencing options and community-based alternatives for certain offenders.

B. Information to the Court and Pre-Sentence Assessment

Courts often have limited relevant information about the circumstances of offenders that appear before them. Even when they have considerable information before them it is often assembled for a purpose other than sentencing i.e. to determine guilt or innocence during an adversarial process. Sometimes such information will contain an objective assessment of the risk posed by the offender or about the availability of feasible treatment options that the court may consider. Probation services typically have the skills, training experience and knowledge that allows them to provide such information to the court, when requested to do so.

On the one hand the risk posed by the offender can be systematically assessed even using specialized actuarial risk-assessment techniques and on the other the availability and appropriateness of various community alternatives can be assessed and balanced against custodial options. In countries where pre-sentence reports already are in use, their expansion and improvement should be considered since their usefulness is often compromised when full investigations cannot be conducted due to insufficient resources. Pre-sentence reports can help reduce the burden on prosecutors and the court while improving the ability of judges to make appropriate and proper sentences.

In such countries where pre-sentence reports are not available now, they are encouraged to review their system and make it more effective to collect information for the courts to arrive at an appropriate sentence.

It is also suggested that there is a further need for better coordination through regular meetings/conferences and the exchange of information among police, prosecutors, judges and probation officers regarding information about the offender.

C. Community Service Orders

Community service orders are an example of an innovative community-based alternative that can be facilitated by the probation services and in which pre-sentence reports can help judges to decide whether and when to use them.

To be successful community-based alternatives require a network of participating organisations with which liaison must be maintained and a method to coordinate the assignment of offenders to these work placements, to monitor their work performance, to counsel offenders and adjust assignments as necessary and to report reliably and objectively to the court. This is usually done by a probation or correctional official. Other models that rely on unsupervised work assignments, such as one model practiced in South Africa, may be unreliable and therefore not credible in the eyes of the court and others.

Canada reported good success with community service order systems that are managed by the probation services. Although community service order programmes are comparatively more work intensive than simple probation supervision, they are the less costly alternative where incarceration would be the only other alternative to pay a fine. Canada reported the introduction of community service orders originally as a “fine option program” to help reduce the number of offenders in custody due only to defaulting on the payment of a fine.

Other nations reported the lack of community service orders in their systems but there was general agreement that such a mechanism would be a welcome addition to the statutory options available to their courts. Those who already have probation services might find it easier to introduce such measures. Those countries that do not now use pre-sentence reports would have to consider ways to provide reliable and timely information to sentencing courts on the availability of suitable programmes that match the particular circumstances of particular offenders.

Whether considering the introduction, development or expansion of community service order programmes, participants raised questions about the availability of resources to do so. In general, the expanded use of community service orders should prove to be cost-beneficial to criminal justice systems by helping ease the over-reliance on imprisonment. However there is not now an abundance of cost analyses or evaluations of such programmes and each country would need to examine its own situation to confirm the steps that would be required to effectively implement community service orders. At the same time further research on the effectiveness of these measures is required.

Nonetheless it was generally agreed that Member Nations should be encouraged to consider the introduction of community service order programmes.

V. CONCLUSION

Prison crowding is above all the result of over-reliance on sentencing options and sentencing rules that lead inexorably to the prison gates. In some countries this pattern continues in the face of the same declining rates of crime and recidivism achieved by other nations who rely far less on imprisoning their citizens. In some other cases where crime rates appear to be rising, many believe prison to be the only credible deterrent despite decades of research that proves that increased punishment including escalating rates of imprisonment do not result in increased deterrence of crime.

Recent evidence (Gendreau et. al., Canada 2002) confirms that community based sanctions are at least as effective as imprisonment in preventing repeat offending. Indeed, it was found that the highest

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risk offenders receiving the longest prison sentences had their rate of recidivism increased by as much as 7%. Without this knowledge before them, many political and public movements believe that the only effective response to crime is ever-tougher measures despite the social and capital cost of such policies.

The international working group of officials assembled at UNAFEI in Tokyo 2002 concluded otherwise. We concluded that there are many credible and effective community based alternatives to imprisonment, all of which are practiced in at least some of the participating countries, that may be adopted and expanded in nations who are concerned about affordable, humane and above all effective correctional measures.

At the sentencing stage of the criminal justice process where sanctions are determined on a case by case basis, it was seen as imperative to offer a sufficient array of flexible sentencing options that can lead down a path to the community as easily as to the prison in those cases where it is safe to do so. We examined a wide range of community based – or at least non-custodial – sanctions and concluded that they all may be considered as available sentencing options as per the requirements of the individual country. We examined verbal sanctions (including warnings and admonitions), monetary penalties (fines), victim compensation and restitution orders, suspended sentences with and without conditions, probation and correctional supervision, community service orders, treatment orders, house arrest and even banishment in the context of the unique circumstances of Maldives. We concluded that these all (with the possible exception of banishment) have a place in a modern and effective criminal justice system.

They all hold out promise of controlling recidivism when the right offenders are matched with the right sentencing options and when community based programmes are adequately resourced and administered with integrity. We concluded that possibly the most important measure to be considered by any nation is the creation, expansion or consolidation of an adequately resourced and trained probation service. Probation services can be instrumental in both assisting courts in choosing appropriate sentencing options for each offender by providing thorough pre-sentence assessment reports. Moreover, probation services facilitate the creation, coordination and management of community-based programmes and of individual cases to breathe life into the sentence of the court and to help ensure compliance with the court's expectations and conditions. In the final analysis good communication and coordination within and among criminal justice systems is the best guarantee of implementing measures effectively.

Probation services and the community-based alternatives are inexpensive when compared to custodial options. By helping reduce the need to construct and operate new prisons, high capital and on-going costs can be avoided. Social costs can also be avoided by keeping offenders in the community, close to family and employment as well as to a wide range of positive social relationships and influences. As individual failures including re-offending are inevitable, the rate of recidivism – or put another way, the threat to public safety – is as low or lower than that posed by offenders released following prison sentences.

Ultimately the representatives of participating countries concluded that all nations should be urged to adopt community based alternatives that can be utilized by sentencing courts and facilitated by well-resourced and managed probation services.

APPENDIX

Presently Available Community-Based Alternatives

No.	Sentencing stage	India	Indonesia	Japan	Maldives	South Africa	Canada	Korea
1.	Verbal sanctions (e.g. admonition, reprimand, warning, caution)	○	×	×	×	○	○	×
2.	Economic sanctions and monetary penalties (e.g. fine)	○	○	○	○	○	○	○
3.	Restitution or a compensation order	○	×	×	×	○	○	×
4.	Suspended sentences	○	○	○	○	○	○	○
5.	Probation and judicial supervision	○	×	○	×	○	○	○
6.	A Community service order	×	×	×	×	○	○	○
7.	House arrest	×	×	×	○	○	○	×
8.	Referral to a treatment center	×	×	×	○	○	○	×
9.	Banishment	×	×	×	○	×	×	×

○ Available × Not available