
VISITING EXPERTS' PAPERS

COMMUNITY-BASED ALTERNATIVES TO INCARCERATION IN THAILAND: CURRENT TRENDS AND FUTURE PROSPECTS

*Kittipong Kittayarak**



I. INTRODUCTION

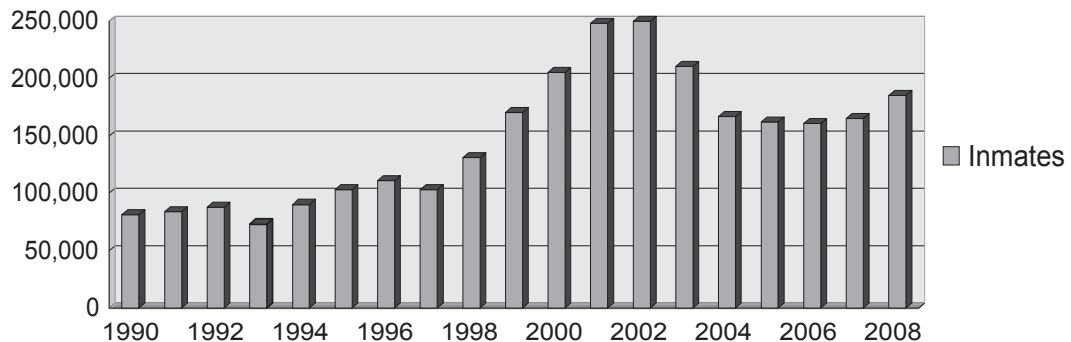
Criminal justice systems around the world have been coping with increasingly difficult challenges amid rapid changes in our political and socio-economic systems. Imbalanced development has weakened our social mechanisms, rendering them less effective in coping with economic hardships, which can contribute to the increased number of crimes. New trends also become visible where criminal activities are more and more technologically sophisticated. Failure to cope with these new challenges could have serious consequences as the functioning of the criminal justice system is at stake. Effectiveness in the treatment of offenders is one of the key indicators of healthy functioning of the criminal justice system. In order to avoid the serious issues of case backlog and overcrowding of correctional facilities, it is imperative that offender treatment systems are continuously improved and further developed.

This paper will begin with the assessment of current trends and the situation of institutional corrections in Thailand. The discussion will then focus on the community-based treatment of offenders, where current measures including drug diversion programmes whose implementation have been co-ordinated by the Department of Probation, have played a key role in reducing the number of inmates in correction facilities. The next section will discuss the role of the volunteer probation officers and community networks as key initiatives to enhance the treatment of offenders through community-based alternatives to incarceration. Finally, I will share my views on the key challenges of enhancing community-based alternatives to imprisonment in Thailand and the way forward.

II. CUSTODIAL TREATMENT OF OFFENDERS IN THAILAND: CURRENT TRENDS AND SITUATIONS

One of the most significant issues facing the criminal justice system in Thailand is coping with the extraordinary rise in prisoner numbers. From 1996 to 2002, correctional facilities in Thailand had to deal with an unprecedentedly large number of inmates. The number, which was 103,202 in 1996, jumped to 250,000 by the end of 2002. In Figure 1 the prison population for the period of 19 years is shown. Compared to other countries in the Asia and Pacific region, the number of inmates in Thailand remains high – 253 inmates per 100,000 – as shown in Table 1.

Figure 1. Prison Population in Thailand from 1990 to 2008



Source: Inmate Statistics Center, Policy Planning Division, Department of Corrections.

* Permanent Secretary Ministry of Justice, Thailand.

The rate of increase at this scale was quite unusual and cannot be accounted for under normal functioning conditions of the criminal justice system. The disproportionate increase in the inmate population since 1998 could be attributed to Thailand’s criminal policy which criminalized offences related to drug use, especially amphetamines, to deter drug-related offenders.

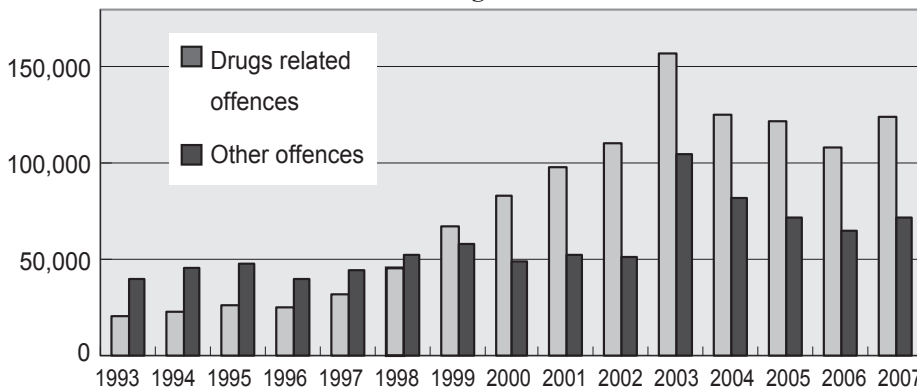
Table 1. Prison Population across Seven Countries in Asia and the Pacific in 2007

Country	Total number	Total number (per 100,000 people)	Portion of Female Inmates (percent)	Portion of Child Inmates (percent)
Indonesia	128,876	56	4.7	0.4
Macao	797	174	22.1	6.1
Malaysia	50,305	192	28.7	2.2
Myanmar	65,063	126	15.0	1.6
Sri Lanka	25,537	121	1.4	0.04
Singapore	11,768	267	10.0	4.7
Thailand	165,316	253	15.1	3.9

Source: International Centre for Prison Studies, 2008.

Figure 2 shows that the number of inmates convicted of drug-related offences has almost doubled in 15 years, while the statistics for other offenders remain mostly unchanged, leading to a conclusion that the large number of drug-related offenders is the result of severe measures while the contribution from the increase in criminal activities themselves might be only secondary.

Figure 2. Number of inmates convicted of drug offences versus other offences from 1993- 2007



Source: Inmate Statistics Center, Policy Planning Division, Department of Corrections.

There are two possible explanations for the increased number of inmates. It could signify the enhanced effectiveness of the criminal justice system in bringing those who commit the crime to justice. The implication of this interpretation is that the drug problem in Thailand has been properly taken care of since 1997. Another explanation is that by over-criminalizing the possession or consumption of amphetamines, the demand for the now drug is even higher than before, leading to higher prices and more profit-making, thus more people who are willing to risk trading them. This graver theory signifies that severe punishment as a deterrence measure has been far from achieving its policy objectives.

Tables 2, 3 and 4 illustrate the inmate population profile according to their categories, types of offences and terms of imprisonment. Based on these current statistics, it is clear that a large portion of Thailand’s correctional resources is being used to provide custodial treatment for convicted offenders, while suspects awaiting trial or final judgment constitute the second largest group of the population, contributing to the current rate of imprisonment prior to conviction of nearly 30%. This rate implies that the criminal process

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has not yet been able to provide a timely response to those awaiting trial and who must be assumed to be innocent. Table 5 provides regional comparative data on this category of inmates, which shows that Thailand is among the countries at the top of the list for having a large percentage of inmates on remand. When viewed by type of offence, inmates who have been convicted of offences related to drug use constitute the largest group, almost 60%. It should also be noted that about half of the total population in prisons are currently those serving relatively short terms (less than five years).

Table 2. Overall population of the Thai prison system according to major categories (As of 1 September 2008)

Categories	Male	Female	Total	Percentage
1. Convicted	112,464	18,594	131,058	70.825
2. On-remand	44,744	7,538	52,282	28.25
2.1 pending appeals	22,354	3,541	25,895	13.99
2.2 awaiting trial	9,576	1,495	11,071	5.98
2.3 awaiting investigation	12,814	2,502	15,316	8.28
3. Children and youths under detention	401	3	404	0.22
4. Relegated persons	11	1	12	0.01
5. Detainees	1,128	185	1,313	0.71
Total	158,748	26,321	185,069	100

Source: Inmate Statistics Center, Policy Planning Division, Department of Corrections.

Table 3. Prisoners Statistics by Type of Offences

Type of Offences	Male	Female	Total	Percentage
1. Offence against property	25,911	1,647	27,558	22.25
2. Offence against narcotics law	56,689	15,349	72,038	58.16
3. Offence against life	8,798	277	9,075	7.83
4. Bodily harm	3,552	83	3,635	2.93
5. Offence against social security	216	11	227	0.22
6. Others	5,031	496	5,527	4.46

Source: Corrections in Thailand 2008 - an annual report published by the Department of Corrections, Thailand.

Table 4. Prisoners Statistics by Sentence Terms

Sentence Term	Male	Female	Total	Percentage
Less than 3 months	899	96	955	0.77
3- 6 months	2,889	382	3,271	2.53
6 months – 1 year	7,930	1,263	9,193	7.12
1 – 2 years	16,164	3,173	19,337	14.97
2 – 5 years	32,700	4,274	36,974	28.63
5 – 20 years	38,018	6,836	44,854	36.22
20 – 50 years	10,149	2,142	12,291	7.83
Life imprisonment	1,653	218	1,871	1.51
Death penalty	113	7	120	0.09

Source: Corrections in Thailand 2008 - an annual report published by the Department of Corrections, Thailand.

There are numerous factors that contribute to the current picture of correctional treatment in Thailand. Lack of coherent and effective criminal policy has been one of the key factors, hindering any systematic attempt to implement alternative approaches for parties of conflicting interests to get access to justice. Social norms, as can be seen from the public attitude towards offenders, tend to be negative, and there is a strong inclination among

Thais to rely on formal criminal processes or legal action as means to solve their problems. These factors also play significant parts in shaping the current situation of the Thai correctional system. Further, at the root of the problem, the symptoms of which can be seen from the severe drug problems and high rate of crime, is the inability of the society to cope with the negative impact of globalization. Various institutions such as family, community, educational systems, and spiritual faith have been faced with new types of challenges and threats.

Table 5. Numbers of offenders awaiting trial in several countries in Asia in 2007

Country	Total Number of Inmates	Total Number of Inmates On-Remand	Percentage of Inmates On-Remand
Indonesia	128,876	387	0.3
Iran	158,351	39,271	24.8
Macao	797	176	22.1
Malaysia	50,305	14,438	28.7
Myanmar	65,063	7,417	11.4
Mongolia	6,593	1,305	19.8
Hong Kong	10,440	1,409	13.5
Japan	81,255	9,751	12.0
Taiwan	60,346	7,181	11.9
Brunei	486	35	7.2
Laos	4,020	40	1.0
Singapore	11,768	812	6.9
Thailand	165,316	43,313	26.2

Source: International Centre for Prison Studies, 2008.

Lack of co-ordinated effort to systematically deal with these challenges has put the entire criminal justice system under considerable pressure. The overcrowding problem has not only affected the corrections system, but also the police, the prosecutors, and the courts. The burden caused by the anomalously sharp rise in inmate numbers has been enormous. Despite the attempt to allocate new budgets to expand or build new prisons, most very soon become crowded, worsening the living conditions for prisoners in terms of space, hygiene and overall prison environment.

Despite the overcrowding situation, the number of correctional staff has remained almost the same, even during the peak period of 1997-2006, and the current ratio of corrections officers to inmates is 1:32, while the international standard is 1:5. This leads to a heavy workload for staff, which affects both their morale and the quality of work to meet the treatment needs of inmates.

In order to respond to problems faced by the corrections system, especially the serious issue of overcrowding, various measures to introduce community-based alternatives to imprisonment have been considered and put to work under the management of the Department of Probation. In the next section some of these key measures will be highlighted to illustrate the current situation and the direction for future development.

III. COMMUNITY-BASED NON-CUSTODIAL TREATMENT IN THAILAND: CURRENT TRENDS AND SITUATIONS

In Thailand, probation measures for adult offenders were provided for by the Penal Code of 1956 but they were not actively implemented due to the lack of a specialized agency or probation officers to carry out the court order. In 1979, the law on probation was proposed and a specialized agency was created and probation officers were appointed to carry out court orders imposing conditions for the supervision and rehabilitation of offenders under suspended or deferred sentences. This law thus marked the beginning of the community-based treatment of offenders in Thailand, under the responsibility of probation officers, volunteer probation

officers, and civil organizations based in the community. In 1992, the Department of Probation was established to handle all adult probation nationwide.

During the first two decades of its operation, the Department of Probation focused its work on providing probation programmes for offenders whose imprisonment terms were suspended. The programmes mainly consisted of the supervision of offenders which could be combined with other types of support such as education, counselling, rehabilitation, community service, and other social welfare. The overall objective of these activities is to assist offenders in their effort to rehabilitate and successfully reintegrate into society to become productive members of society without lapsing into reoffending.

Although the Department of Probation has done excellent work in providing successful adult probation programmes, it was unable to expand its scope of work to cover new, community-based alternatives to incarceration. Lack of overall criminal justice policy planning, lack of interagency co-operation and co-ordination among key actors, and inadequate funding were among the major reasons hampering the successful introduction of community-based treatment as an alternative to the long-held practices based mostly on retributive, custodial measures.

The overhaul of the criminal justice system which began in 1996 and culminated in 2002, when the Ministry of Justice was reorganized and repositioned as the focal point for justice administration, also paved way for the application of community-based treatment. In addition, changing policy on drug problems had also opened the way for community-based treatment of drug abusers, who constitute more than half of the number of defendants in criminal cases and inmates in correctional facilities. The government recognized the necessity of a new policy which took into account both the rehabilitation needs and the need to lessen the pressure within the criminal justice system.

The growing interest in the concept of restorative justice is another factor that has a direct impact on the promotion of community-based treatment of offenders in Thailand. As restorative justice emphasizes informal methods of dealing with crime, particularly with the increasing the roles of victims, offenders, and the community, it supports community-based treatment options.

One of the key milestones for such development was the cabinet resolution of 10 July, 2001 which specified clear guidelines on how to reduce case backlogs and overcrowding. The so-called "July 10 Resolution" recommended several non-custodial and community-based treatment measures as desirable approaches, and thus served as a road map for future development of community-based treatment measures in Thailand. Some of the key initiatives include the setting up of community mediation centres to settle certain kinds of disputes within communities; the encouragement of the use of prosecutorial discretion not to prosecute, subject to certain kind of conditions; the initiation of drug diversion programmes; and the expansion of the scope of probation to include juvenile offenders as a new target group. The new policy has proved effective not only by introducing new approaches for diversion of cases from the formal criminal justice process, but also by providing alternatives to imprisonment that are more efficient in returning the offenders to society.

The Department of Probation, under the Ministry of Justice, has been the key organization in the implementation of the July 10 Resolution. Its scope of work has been expanded to include probation programmes for all types of offenders: juveniles and adults. Its probation programmes now cover all stages of the criminal process, including the pre-trial, trial, or post-conviction stages. With a specialized agency in charge of all the probation work for the suspect and offenders at all stages of the criminal process, the probation system in Thailand is more focused and can benefit more from unified policy objectives, compared to the past.

With the expanded scope of probation work from traditional probation based on investigation of information about offenders and supervision, to the new frontier of prevention and diversion, the Department of Probation has been forced to come up with innovative ideas to carry on its new assignments and, at the same time, maintain the quality of its traditional functions. Apart from its original work of providing community-based programmes for only adult probationers, after the 2002 reform it has become a key agency administering community-based rehabilitative measures and aftercare services to youth and adult probationers and parolees, providing compulsory treatment programmes for drug addicts, and working to promote effective crime control and prevention through local community networks.

Figures 3 and 4 indicate the clear growth in the responsibility of probation officers in recent years, as seen from the change in the total number of cases handled by probation officers during the past 30 years and the number of offenders who enter the probation system in comparison with those put in the custody of prisons for the same period.

Figure 3. Number of cases handled by the Department of Probation in the past 30 years. The number represents cases coming from all types of work except community justice.

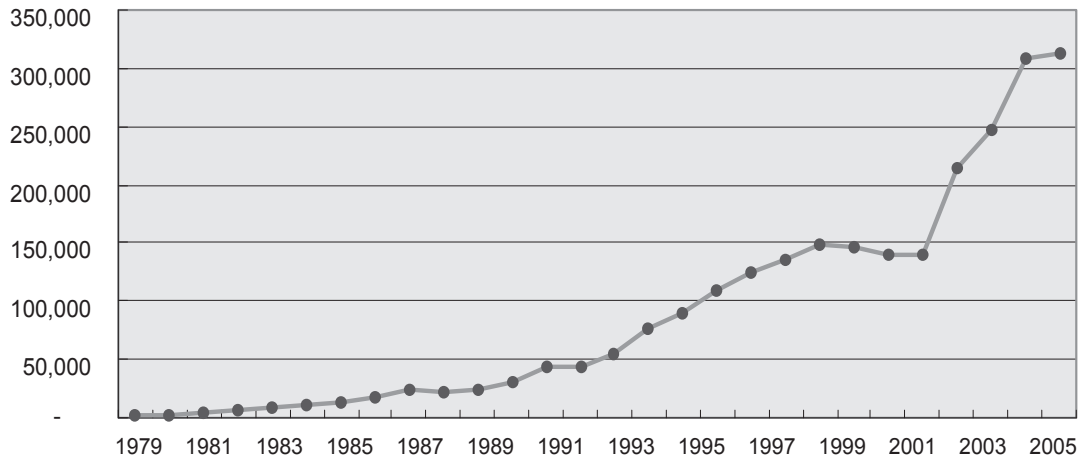
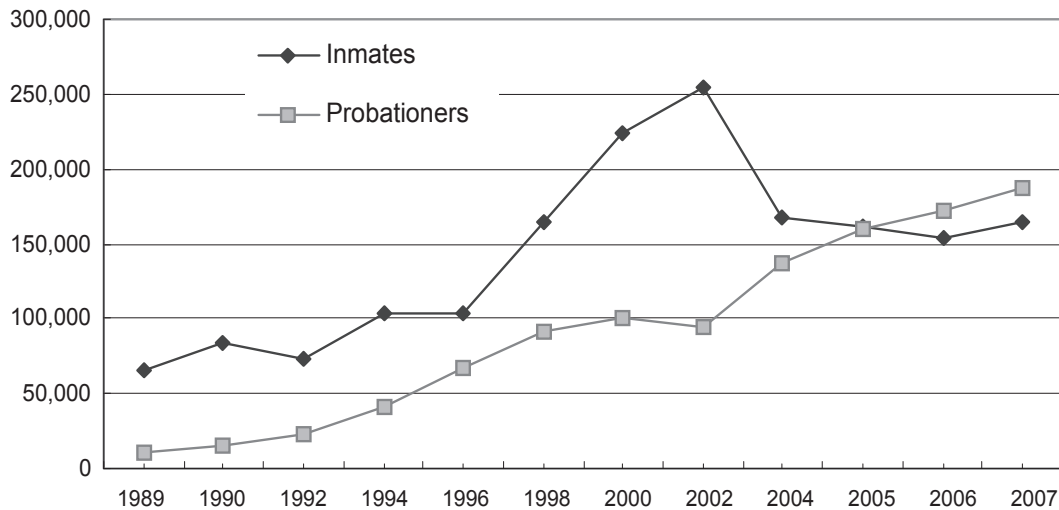


Figure 4. Number of offenders entering the probation system versus that of offenders placed under custody for the past 30 years.



From its moderate inception in 1979, the probation system has now overseen more than 1.5 million offenders, with less than 20% recidivism after probation, indicating that most of the offenders who have been through treatment programmes can successfully reintegrate into society (see Table 6 for more detailed statistics).

Table 6. Numbers of offenders who reoffended under probation programmes during 2004-2007.

Year	Total number of offenders under probation	Number of reoffenders under probation	Percentage of reoffenders under probation
2004	176,799	23,867	13.50
2005	126,974	10,590	8.34
2006	128,954	16,622	12.89
2007	137,178	20,988	15.30

Source: Annual Reports of the Department of Probation for the period of 2004-2007.

IV. SELECTED COMMUNITY-BASED MEASURES CO-ORDINATED BY THE DEPARTMENT OF PROBATION

Here are some of the community-based treatment measures that have been implemented by the Department of Probation.

A. Probation of Adult Offenders

The current adult probation system in Thailand consists of:

1. Social Investigation

Social investigation in Thailand, in accordance with the Penal Code 1979 (B.E. 2522) Section 56, is conducted by probation officers in the pre-trial phase. Probation officers then have to prepare a pre-sentence report required by the court before a sentence is imposed. The overall aim of social investigation is basically to gather facts related to the offender and offence, and to make recommendations for courts on appropriate sentences.

A report contains the offender's social background, circumstances of the offence, the risk the offender is likely to pose to the public and advice on suitable probation measures for individual offenders. The likelihood of individual reform is also taken into account. Another essential part of the social investigation is the Risk/Need Assessment to be included in the pre-sentence report.

During the social investigation, as a result of need assessment, probation officers may address the offender's needs and provide assistance, where appropriate, such as helping them with bail matters, meal allowance, transportation assistance, etc. More importantly, at that stage, probation officers may also work with victims of crime to give them a voice in the process, and provide them with support based firmly on restorative justice principles.

2. Supervision

The supervision of adult offenders is an offender rehabilitation process. Probation officers will apply many different techniques. Those include:

- (i) The supervision of adult probationers with the use of counselling techniques as a rehabilitative tool;
- (ii) The use of community-based rehabilitation programmes that are appropriate to individual offenders; and
- (iii) Provision of assistance.

Supervision is a procedure to supervise, treat, support, and give counselling to probationers within the community. Probationers will be given a helping hand to amend their habits, assist them to reintegrate into the community as law-abiding citizens, and discourage them from reoffending or continuing their criminal lifestyles.

When courts impose suspended sentences or suspension of sentence with probation conditions, probation officers will make an arrangement with the offender to fulfill the court order. The arrangement is based largely on the outcome of risk and need assessment of each offender. The conditions could be modified or reduced or the probation may be terminated early before the specified date. Probation officers will comment on this when reporting the progress of probation. Additionally, the probation and supervision plan will be reassessed every three to six months. The supervision is also to give offenders an opportunity

to compensate for the harm done by the crime they commit, and to be encouraged to stop reoffending.

3. Specific Rehabilitation Programmes

Concerning treatment programmes, the Department of Probation has initiated a wide range of rehabilitative interventions and activities. The strength of our rehabilitation is the way in which probation rehabilitative practices are integrated with local resources and work in partnership with other government and non-government agencies. Various constructive programmes have been implemented. Explicit examples include 'Buddhist Ordination', 'Dharma activities' (religious training), 'Ethical Camps', 'Anti Drink-Driving Campaign', etc.

In attempting to create innovative rehabilitation programmes, the department encourages probation officers to work jointly with multi-agencies, volunteer probation officers (VPO), psychologists, social workers, social welfare officers, religious organizations (Buddhist, Islamic, Christian), etc. Moreover, the department also works closely with the Victims of Drunk Driving Club whose members are seriously-injured or handicapped victims of drunk-drivers.

4. Basic Assistance

Probation officers are to provide basic assistance for all offenders - the offender under social investigation, adult probationers, juvenile delinquents, parolees, and ex-probationers, including ex-prisoners. Basic assistance will be provided in accordance with the result of need assessment.

Basic assistance is generally to do with vocational training, helping with higher education, job finding, job application, and other matters beneficial for rehabilitation. This is for the offenders to be able to support themselves and manage to integrate back into society.

B. Probation of Youth Offenders

The probation of juvenile delinquents in Thailand is the responsibility of two agencies: the Department of Juvenile Observation and Protection and the Department of Probation. The Department of Juvenile Observation and Protection deals with the social investigation of young offenders and oversees those in the delinquent detention centres. The Department of Probation supervises young offenders subject to probation orders imposed by the courts and those released from detention centres nationwide for a specific period of time. Since 2004, the Department of Probation has run the Juvenile Rehabilitation Program which incorporates a number of related projects aimed at strengthening co-operation with community civil society organizations, empowering the family and the community, and capacity building for the probation officers in their work for the children. To provide a venue for counselling and for creative activities by the children within the community, a number of community centres for juveniles have been established to serve as a forum for co-ordinating help and support for the children in the community as well as for introduction of useful programmes and activities for the children in the community.

C. Probation of Parolees

After serving one third or at least 10 years of an imprisonment period, inmates may be given a parole or remission order. Also, those who have been serving a sentence of life imprisonment are eligible for early release if the Parole Board so agrees. Before the decision is made, probation officers will propose a post-sentence investigation report to the Parole Board. A report consists of relevant information about the inmate and his/her behaviour during the imprisonment and details of supporters. Probation officers may also include in the report the views of the victim, the offender's neighbours, and the community leaders.

The supervision of parolees has its own purpose, and practices principles similar to the supervision of adult probationers. However, what makes it different is the way in which parolees are approached, and the programme requirements. This is partly due to the fact that they have been in custodial institutes for some time, and certain inmates find it rather difficult to adapt back into their community and even their own family.

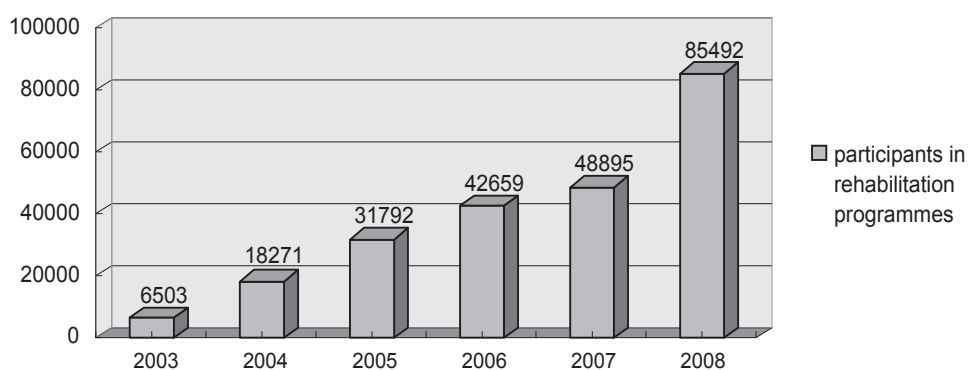
D. The Compulsory Rehabilitation of Drug Addicts: A Major Scheme to reduce Overcrowding in Thailand

Since 2002 the Thai government has adopted a new policy to tackle narcotic drug problems. The new emphasis is on the enhancement of preventive measures. Under the policy, drug users and drug addicts, who previously had been prosecuted as criminal offenders, are to be regarded as patients who need rehabilitation

treatment. In 2002, the law on Drug Rehabilitation was revised to provide a new legal framework for the integrated treatment of drug-related offenders in Thailand. Under the new scheme, all related government agencies have to work closely together to provide integrated responses to the treatment of drug offenders. These agencies include the Office of the Narcotic Control Board, the Royal Thai Police, the Department of Corrections, the Department of Juvenile Observation and Protection, the Courts of Justice, the Royal Thai Army, the Royal Thai Navy, the Royal Thai Air Force, the Ministry of Public Health, the Ministry of Interior, and the Bangkok Metropolitan Administration, with the Department of Probation serving as the focal point.

The Drug Rehabilitation Act 2002 can be regarded as a revolutionary piece of Thai legislation. The 2002 Act makes clear that drug addicts are not 'criminals', but 'patients' who are in need of effective treatment. The enforcement of the Act undeniably contributes to thousands of drug cases being diverted from courts, and shifting the public view of drug dependents in Thailand. After assuming the responsibility, the Department of Probation did not hesitate to take a more holistic approach by introducing various drug rehabilitation programmes to assist drug addicts in rebuilding a new life. The number of drug addicts who have been treated under the scheme from 2003 to present is shown in Figure 5.

Figure 5. Number of participants in compulsory rehabilitation programmes from 2003 - 2008



The 2002 Drug Rehabilitation Act stipulates that the person charged with “drug addiction”, “drug addiction and possession”, “drug addiction and possession for disposal”, or “drug addiction and disposal,” if the amount of possession is less than the limitation of the law, is to be transferred to the court within 48 hours, and in the case of young persons 24 hours. The court then will be able to divert the case from the traditional criminal justice system and refer the person to designated facilities for drug assessment. The evaluation will be conducted by the regional Sub-committee of Narcotic Addict Rehabilitation, chaired by the chief provincial public prosecutors, who will make a decision on whether the person is a drug addict. Apart from this, the committee is given statutory power to supervise drug abusers/addicts during the assessment and rehabilitation, refer the person to drug rehabilitation centres, consider the extension or reduction of the rehabilitation period, and grant temporary release during detention. If the evaluation result shows that the person is a drug abuser/addict, he or she will be required to attend treatment programmes for a specific period of time.

If he or she is assessed as being addicted, the prosecutor will suspend the prosecution and the person has to undergo one of the two compulsory systems: the “custodial” or “non-custodial” rehabilitation programme.

E. Custodial Rehabilitation

There are two types of custody options available for the participants of the rehabilitation programmes, depending on the needs to limit freedom of each participant: the full custody arrangement, and the partial custody arrangement. In either case, the first four months into the rehabilitation scheme are dedicated to the intensive medical treatment of each drug addict. The difference is the differing degree of custody during that period. At present, there are two designated facilities that are equipped to run rehabilitation programmes under full custody treatment: the Lat Lum Kaeo Community Treatment Center in Pathum Thani province, and the Jirasa Air Force Base Center operated by the Royal Air Force. In case of partial custody requirements, the four-month rehabilitation programmes are based on the integration of four key

components, namely: family, alternative treatment activities, self-help, and therapeutic community, or FAST MODEL, and are available at facilities under various government agencies, including military camps, naval camps, and the medical treatment centres of the Ministry of Public Health. In case of partial custody, there is more variety depending on the emphasis and available resources of the participating agencies.

Upon completing the intensive rehabilitation programme, each participant will be released and allowed to live within his or her community under probation for another two months. The Department of Probation is the central agency overseeing this process where emphasis is placed on preparing each participant for reintegration into society. After completing probation, the participants will be periodically monitored by the volunteer probation officers or the volunteer public health officers for another 12 months to evaluate if they are successfully rehabilitated. Successful participants on the scheme are then exempt from criminal prosecution.

F. Non-Custodial Rehabilitation

In the case where no custody is required during the intensive treatment, participants who are diagnosed as addicts may or may not be admitted as patients at hospitals or other rehabilitation centres, to receive the appropriate treatment. This step lasts from four to six months. In the case where the participants are deemed merely drug users, they will receive treatment provided by the Department of Probation for six months. The remaining two-month probation period and the one-year monitoring period are implemented in the same way as the scheme for rehabilitation under custody.

In addition to the implementation of the rehabilitation scheme, the Department of Probation has also come up with a number of initiatives to assist drug-related offenders in their effort to successfully reintegrate, such as the following:

1. Basic Educational Support

The idea is to provide the drug addicts who undergo the rehabilitation programme with the opportunity to receive basic education. The programme is run by the Department of Probation in collaboration with the Ministry of Education, where special curricula equivalent to that of the regular elementary or primary schools are provided to each participant depending on his or her needs. It is hoped that by fulfilling the educational gap for these drug-related offenders, they will be in better shape for future employment in the real world or to pursue higher education of their choice upon the completion of the programme.

2. Enhancement of Family Support

The initiative involves educating family members of drug addicts on how to support the rehabilitation effort, and counselling services for family members as well as the participants of the rehabilitation programme. The rationale for this initiative is that the rehabilitation will be effective only when it extends to cover all stakeholders and that therefore family members of each drug addict can play significant roles. In order to ensure the smooth and happy reintegration of offenders back into society, support and understanding on the part of his or her family is deemed indispensable.

The initiative has proved very effective in equipping both the rehabilitants and their families with understanding of the importance of the community-therapy, the fostering of bonds among family members, and the importance of having the right mindsets in dealing and supporting the rehabilitation of the offenders. It was found the participants whose family members also took part in the initiative had a higher rate of successful rehabilitation.

3. Buddhist Teaching for Drug Addicts

This initiative aims at applying relevant Buddhist principles and guidelines to help the drug addicts in developing their mental strength to rehabilitate. The Department of Probation has been able to gain support from three Buddhist temples willing to provide a pilot programme under the initiative.

G. Restorative Justice Interventions

In Thailand, there are several criminal justice agencies implementing restorative justice interventions. To begin with, the Department of Juvenile Observation and Protection has been implementing a restorative justice conference since 2003. It is taken in form of a 'Family and Community Group Conference' (FCGC), conducted in the pre-trial stage as a channel of diversion. From the beginning of the programme in June 2003

to February 2008, there were 21,490 cases where an FCGC was conducted, of which 18,128 cases were approved for non-prosecution by public prosecutors. In addition, the Department of Probation also has also initiated programmes on restorative justice intervention since 2003. The programme is known as 'Restore-Relationship Conferencing', conducted at the pre-sentence/social investigation stage. Due partly to the legislative limitation, the initiative does not place an emphasis on diversion. Rather, the outcome of restorative justice conferences proves beneficial for judges in giving appropriate sentences. This is particularly when judges examine the extent to which offenders feel guilty and if any reparation is made for the committed crime.

Restorative justice has begun to gain wider acceptance in Thailand. Recently, the Criminal Court has also initiated a pilot project on criminal mediation based on restorative justice principles. Draft legislation on diversion of small criminal cases at the police and prosecutors stages have also been proposed for consideration by the parliament.

1. Restorative Justice in Response to Domestic Violence

In recent years, domestic violence (DV) has been recognized as another serious issue that threatens the stability of the family in Thai society. The traditional view is that domestic violence is a private matter and it is inappropriate for outsiders to interfere. This has resulted in the situation where domestic violence tends to be closely related to violence against women, since the female counterparts, who are normally the victims, are reluctant to bring the matter to the authorities. This has in some cases resulted in repeated incidents of DV by the male partners.

The Department of Probation, in co-operation with the Royal Thai Police, the Rama Hospital, the Bangkok Metropolitan Administration, the Women Empowerment Association, (an NGO which provides emergency shelters for female victims of violence), and the Friends of Women Foundation, has designed an integrated DV response system where the concept of restorative justice is used in conjunction with the law enforcement and rehabilitation programmes organized by the interdisciplinary professional organizations to provide assistance to the victims of such violence, and to the offenders in their effort to change their behaviour and stop using violence.

The restorative justice concepts have proven effective in providing a suitable ground for resolving disputes within the family in a way that tries to maintain the relationships among the family members. In bringing the parties in conflict to dialogue and trying to reach an agreement, emphasis is placed on responding to the needs of the victims as well as holding the offenders accountable. Restorative justice has therefore provided an effective alternative to the formal criminal justice process in response to DV.

When violence occurs between a married couple, the partner who has been the victim of violence can exercise his or her right to bring a criminal case against the offender by first reporting it to the police. Under the restorative justice initiative, he or she can request that a dialogue with the partner be arranged with mediation by a probation officer, a psychologist, or a social welfare worker. If the two sides can reach an agreement, the charge against the offender will be suspended on the condition that he or she participates in a rehabilitation programme under the supervision of the probation officer for an agreed upon period of time. During that period, the participants will be able to receive various kinds of assistance from the Department of Probation, including legal aid counselling, occupational training, and accommodation support. If the participant has been well behaved and not violent, the charge will be completely dropped. Within the prescription period of the offence, if the attempt proves unsuccessful, the victim can at all times request that the prosecution against the partner will be resumed.

H. Aftercare Services

Certain offenders under probation are considered socially disadvantaged and they have also lost their potential to abide the rule of law. Aftercare services aim to regain their reformatory potential and self-improvement. These are available for ex-probationers who have completed the probation term within one year.

For aftercare services, Department of Probation has applied the use of 'halfway house' to help offenders in need of accommodation. Halfway houses are there to help them adjust and be prepared to get back to their family/community. As a temporary accommodation, there are a variety of routine activities and programmes in the halfway houses including occupational training, spiritual counselling, and various skill development

programmes. In running the temporary residences, Department of Probation attempts to integrate various sciences, local and traditional know-how, traditions, cultures, and religions, altogether. Thus the halfway house can be considered as a boundless work among the probation departments, religious institutes, and the community at large.

At present, there are several halfway houses operated by the Department, which are located in provinces such as Nakhon Sawan, Amnat Charoen, Maha Sarakham, Kamphaeng Phet, and Phatthalung, providing services for not only offenders under probation orders, but also drug addicts under the diversion initiative. Various activities are offered, including Buddhist therapy, drug rehabilitation programmes, and supervised community service.

While new initiatives are considerably more diverse and group-specific, to implement such treatment programmes effectively on a large scale requires enormous resources which is far beyond the normal capacity of any government agency. Therefore, recruitment of volunteers and active participation by the community itself are of great importance as they provide sustainable resources for implementing the community-based correctional programmes. It is also important to empower each community to develop its own mechanism of crime prevention by means of knowledge sharing. Some of the ongoing initiatives aimed at community empowerment are the topics of the next section.

V. INITIATIVES TO PROMOTE COMMUNITY-BASED TREATMENTS

A. Community Participation: A Key to Success

The Department of Probation recognizes the importance of community networks as valuable community-based resources for sustainable correctional programmes. It is important to empower each community to develop its own mechanism of crime prevention. Therefore, the Department has emphasized equipping the communities with knowledge before engaging them in taking an active role in crime prevention and community-based rehabilitation of offenders. Some of the ongoing initiatives aimed at community empowerment are the following:

1. Volunteer Probation Officers Programme

The initiative to allow community members to actively take part in probation service has been in place since 1986. From the beginning, the volunteer probation officers have had an integral role in the probation system since they provide a linkage between the State and the general public. They also serve as multiplying factors in the attempt by the Department of Probation to reach out to the community, either through various schemes to disseminate information, to educate people, or to sensitize the public to various issues, including certain types of criminal offences. One of these important roles is to provide effective monitoring for the offenders who are serving the probation orders within the community to ensure their conduct is in accordance with the conditions set by the court.

In performing such duties, these volunteers are also responsible for providing help to, and assessing the progress made by these offenders – an indispensable element of a successful probation system. Thus, the volunteer probation officers make an invaluable contribution to foster effective reintegration of the offenders back into society, in particular through their roles in narrowing the gaps that exist between the life of offenders and that of normal citizens, and helping offenders to overcome the alienation they feel upon their return to society.

The following list comprises the basic qualification requirements for those interested in joining as a volunteer. Candidates must:

1. Be at least 20 years of age;
2. Live in a permanent residence;
3. Be literate;
4. Be a person of integrity and honesty;
5. Have suitable income;
6. Maintain law-abiding behaviour;
7. Have completed required training courses as provided by the Ministry of Justice;
8. Have no criminal record except for petty offences or negligence.

As of 30 September 2008, there are about 9,430 volunteers currently registered throughout the nation. In 2008, the number of offenders under the supervision of volunteer probation officers who have successfully completed the probation programmes without reoffending is as high as 98.9 percent, supporting the claim that volunteer probation staff have become a vital contributing factor in the success of the reintegration scheme by Thailand's probation system.

To encourage community of practice among the volunteer probation staff, an Association for Volunteer Probation Officers has been established under the support of the Ministry of Justice to provide assistance to volunteer probation officers as well as to foster networking and sharing of information among the volunteers.

2. Community Justice Networks

Starting from 2003 as a pilot project, the initiative has been the first attempt by the Department of Probation to put the theory of community justice into practise. This kind of network developed because the Department of Probation felt the need to have a broader base of community support to be able to cope with much more demanding responsibilities, especially in the rehabilitation of drug addicts. Through the concept of 'community justice' where the community can work in 'partnership' with the government, it was hoped that the community could join hands to help during rehabilitation and reintegration of drug addicts into society. The pilot project proved successful and the idea of working in 'partnership' with the community has been expanded to other areas beyond drug rehabilitation.

In rural Thailand, the concept of people in the community joining hands with the authorities in law enforcement and providing justice has long been a tradition. This tradition was neglected once the modern criminal justice agencies were established. The pilot project initiated by the Department of Probation has been successful in utilizing this hidden strength of the community. It was found that through the unity and bonding between members in the community, it was possible to bring about positive outcomes in terms of helping and caring for the needy in society. By empowering the community to be more active and get involved in day-to-day justice activities, community resources and social capital can be fully utilized to achieve the end result.

In other words, the community justice network is an important initiative by the Department of Probation with an aim of strengthening public participation in the field of criminal justice by creating a network of civil society groups within the community to work closely with the government. Key activities include training for probation officers so they can develop the necessary skills to work with or within the community to promote community justice; educating the general public so that they are aware of the roles and functions of various agencies within the criminal justice system, the importance of surveillance in crime prevention, how to file complaints, how to protect their rights and liberties guaranteed by the law; alternative dispute resolution including mediation; as well as various approaches - such as community workshops - for the community-based treatment of offenders.

Under the initiative, a community justice centre is established within the community where the members are recruited from the general public as volunteers. These volunteers will receive training from the Department before they get together to commence their functions, such as hearing complaints and organizing meetings to deal with disputes. Community justice newsletters and other periodicals, combined with frequent exchange of site visits, are used to strengthen and maintain the close relationship between the networks and the Ministry of Justice. From 2005 to present, community justice networks have grown into a large network of 56,433 volunteers who can join their efforts through various activities organized around the 530 community justice centres all over the country.

B. Making Probation Work More Visible

1. Drink-Don't-Drive Campaign

The Drink-Don't-Drive Campaign is one of the most popular nationwide campaigns aimed at reducing the numbers of deaths and injuries caused by road accidents during long vacations such as the New Year and *Songkarn* (Thai traditional New Year) holidays. During such holidays, a large number of people may return home or travel. According to statistics, during the five to seven days of the *Songkarn* holidays of 2002-2004 there were more than 35,000 injuries and around 550-650 deaths as result of road accidents. Statistics showed that around 35 percent of the accidents were caused by drunk driving. Although drunk driving in

Thailand is a criminal offence punishable by up to six months' imprisonment, in reality, where there is no major injury involved, the drivers would normally receive only a fine. Such light punishment does not deter drivers from repeating the offence.

In 2005, the Department of Probation joined the campaign. It has successfully persuaded the courts to put drunk drivers on probation. In this initiative, drunk drivers were given suspended sentences and put on probation with the requirement that they perform community service. The Department of Probation selects community service activities designed to sensitize drunk drivers to the kinds of injuries they might cause themselves or others. They include assisting victims of car accidents, working in hospitals, volunteering for road accident emergency rescue units, and campaigning against drunk driving during the New Year holidays and *Songkarn* Festival.

The initiative combines a specific type of community service with public education in co-operation with a network of civil society organizations to create an effective campaign against drunk driving in Thailand. The Department of Probation works closely with the Thai Health Promotion Foundation, the Drink-Don't-Drive Foundation, the Department of Disaster Prevention and Mitigation, the Road Accidents Prevention Network, and the Traffic Police Head Quarters, to educate drivers, the general public, and the mass media, and sensitize them to the damage caused by traffic accidents, including the criminal offence of drunk driving. The campaign also aims at instilling a sense of social responsibility among drivers.

The Drink-Don't Drive campaign, with the message "Drunk drivers will not only be fined but will also be put on PROBATION" was one of the most successful campaigns. The campaign received wide media coverage: news of the campaign was on the front pages of every newspaper and on primetime TV across all stations. As a result of working hard to get the campaign's message to the public, a poll conducted in 2006 by Assumption University in Bangkok found that 91 percent of those polled agreed with the idea that drunk drivers should receive community service orders. When asked whether they had heard of the Department of Probation, once the least known organization in the criminal justice system, 83 percent of the respondents said yes, a steep rise from the 48 percent in a 2000 survey.

VI. KEY CHALLENGES AND WAYS FORWARD FOR COMMUNITY-BASED TREATMENT IN THAILAND

In order for community-based treatment to serve as an alternative for the treatment of offenders, it is important that well-focused criminal justice policy regarding the non-custodial treatment and reintegration of offenders across the criminal justice process is in place. It is also highly desirable that all stakeholders and responsible government agencies, especially the Department of Probation, continue their efforts to improve and enhance the capacity of their staff. This entails providing the staff with training and opportunity to acquire and develop new skills to cope with their expanding responsibilities; improving work conditions; and enhancing the overall efficiency of the work system. This is particularly important when one considers the fact that there will always be a certain degree of constraint at the high policy level to reduce the size of the bureaucratic system, making it very difficult for the public agencies to employ additional staff to match the increased workload.

It can be said that the community-based approach has begun to take root in the criminal justice system, and Thai society. Yet, for this new alternative approach to survive and attain more maturity, a number of key challenges will have to be adequately dealt with. Here are some of the challenges and ways forward.

A. Explosive Growth in Scope of Work

Figure 4 shows the number of cases that fall under the responsibility of the probation officers, while Figure 5 traces the number of probationers entering the system during the past 30 years. Here the explosive growth in responsibility of probation staff in recent years is clearly visible.

The increase is not only in the quantity of work, but also the variety of missions. New laws that have been in force in recent years have paved the way for the expanded scope of probation work from the traditional intensive probation based on investigation and supervision of offenders, to the new frontier where probation work becomes an essential instrument for diversion and crime prevention. The introduction of

innovative techniques, such as electronic monitoring for treatment of offenders in the community, has also led to a significant increase in the workload of probation officers. The expanded scope of work has had a considerable impact on the probation staff already stressed by chronic under-staffing. So far, the Department of Probation has introduced numerous measures to improve the working system, including the introduction of information technology and innovative approaches with an aim to enhance the efficiency of work. Still, all this will not be enough to effectively address the overwhelming problem of workload increases and its impact on the morale of the staff, unless the government takes this issue seriously and comes up with a systematic way to provide sufficient support. What is needed is sufficient funding and support to cope with the expanded scope of work with the guarantee that the quality of the probation programme will not suffer.

B. Need for Enhanced Visibility

Probation work, where most of the activities take place within the community, tends to be less visible in the eyes of the general public compared to institutional treatment. One serious implication for this relatively low visibility is the difficulty in trying to convince the decision makers, who might not be able to see the tangible results of probation work, to provide essential support both in terms of policy advocacy and financial support.

Thus, in order to gain the understanding and appreciation of the general public, the Department of Probation will have to make more strategic efforts to ensure as clear and concrete as possible outcomes to the probation programmes. So far, the Department has been successful in raising the visibility of probation treatment for drunk-drivers. The campaign was successful in sending out a clear message to the public that community services, such as working in hospital or providing care for victims of drunk-driving accidents, are more effective as a means to help the offenders to reconsider the impact of their action and refrain from repeating it, and thus a more effective enforcement of the law against drunk driving. The Court was also convinced to make more use of community service orders as alternatives to fines. More needs to be done to increase the visibility of probation work with respect to more types of offences.

C. More Effective Treatment Programmes

In order for the community-based treatment of offenders to become a viable alternative to incarceration there is urgent need for the Department of Probation to come up with effective programmes of treatment to ensure rehabilitation of offenders and reduction of reoffending. This requires a good system of risk assessment that allows probation and parole officers to effectively distinguish between the high and low risk groups of offenders and apply appropriate rehabilitation programmes that take into account public protection. In this connection, the Department of Probation should put more emphasis on designing effective offending behaviour programmes that enhance thinking or cognitive skills of offenders. There should also be more variety of programmes which should respond to the specific needs of each particular group of offenders, such as anger management, domestic abuse, sex offenders' programmes, etc. As most of the social issues and causes of crime become more and more complicated, there is a constant need for probation staff to improve their efficiency and to acquire new knowledge and skills so that they can cope better with more sophisticated demands when supervising and providing assistance to offenders that effectively addresses their problems at the fundamental level.

In the early days, especially when the Department of Probation was under the direct control of the judiciary, the main responsibility of probation officers was to prepare the so-called social inquiry reports for judges to use as pre-sentencing information. There was less emphasis on turning probation programmes into an effective alternative to the prevalent forms of punishment. So far, the Department of Probation has been successful in developing programmes specific to the treatment of drug addicts as well as drunk driving offenders. More customized treatments will be necessary for quality probation programmes of the future.

D. More Focus on Reintegration

At the heart of any quality treatment is the ultimate goal of reintegration of offenders into society. Measures must be tested and monitored for their effectiveness in terms of providing assistance to offenders so they can attain such a goal. With the reform of 2002, the task of ensuring smooth reintegration of offenders, under both parole and probation, is the responsibility of the Department of Probation. In reality, it is difficult for these socially disadvantaged groups to start a new life without further assistance with reintegration. It is thus important that more attention should be paid to aftercare services which will enable offenders to regain their reformative potential and self-improvement. In this connection, the Department

of Probation has recently applied the use of ‘halfway houses’ to help offenders in need of accommodation. Halfway houses are there to help them adjust and be prepared to get back to their families and communities. As a temporary accommodation, there are a variety of routine activities and programmes in the halfway houses, including occupational training, spiritual counselling, and various skill development programmes. In running the temporary residences, the Department of Probation attempts to integrate various sciences, local and traditional know-how, traditions, cultures, and religions altogether. Thus the halfway house can be considered a boundless work among the probation departments, religious institutes, and the community at large. Currently there are several halfway houses operated by the Department which are located in provinces such as Nakhon Sawan, Amnat Charoen, Maha Sarakham, Kamphaeng Phet, and Phatthalung, providing services for not only offenders under probation orders, but also drug addicts under diversion initiatives. It is important that the Department of Probation continues with this important initiative and puts greater effort into involving all stakeholders, including the community, in this significant mission.

E. More Embrace of Innovations

In many cases, innovative approaches to the treatment of offenders can prove very effective. Currently, Thailand is exploring a number of intermediate sanctions, including intensive probation, home detention, weekend detention, periodic detention or curfew, and electronic monitoring. If such a variety of innovative options are available, it is more viable to extend the use of alternatives to incarceration, such as probation, to a higher risk group of offenders. Additional innovative approaches might include pre-sentencing probation, assistance programmes for victims of crime, and the implementation of restorative justice measures. In this connection, it is necessary that there are amendments to the existing legal framework to incorporate these new sentencing options.

In response to the need to systematically embrace more innovative approaches, some might look for the establishment of a new agency to be responsible for the new demand. Still, in my opinion, it might be more productive to consider assigning such new missions to the Department of Probation, considering that its staff have had considerable real work experience and are equipped with the necessary fundamental knowledge and skills. Each probation officer, provided that they are properly trained, will have at least three significant qualifications, namely: 1) being knowledgeable with respect to law and the criminal justice system; 2) having good background knowledge of psychology and social welfare; and 3) having intensive work experience with all key stakeholders in the criminal justice process - police, public prosecutors, offenders, victims, or the members of the local community. Therefore, we only need to build more on the well-laid foundations.

F. More Partnership and Networking

The Department of Probation’s success in promoting public participation in the criminal justice process of Thailand has inspired decision-makers at the top policy levels to apply this model of volunteers and community justice networks to address other key criminal justice issues, especially to develop a community-based system of responses focusing on alternative dispute resolution and access to legal assistance. So far, the volunteer probation officers’ initiative, as well as the prototyped networking initiatives by the Department of Probation, has had great success in mobilizing public support for and understanding of the work of offender treatment, which results in more effective implementation of treatment programmes and after-release assistance programmes within the community. My experience in working to promote public participation in the treatment of offenders has confirmed the fundamental belief that direct engagement of the community members, either through the form of volunteer probation officers or a broader-based criminal justice network, is indispensable for the effective implementation of alternative treatments. It is the most efficient way to make use of resources within the local community, and other forms of social capital, to support probation work, as well as other functions relating to law and justice. In the context of Thailand’s political system, direct participation from the local community also contributes to on-going efforts with respect to decentralization of administrative power from the central government, as mandated by the Constitution. As present, there are over 6,700 *Tambon* Administration Organizations, the smallest units of local government, throughout Thailand, with increasing independence in terms of policy planning and budget management. The success in promoting community involvement in the treatment of offenders should be expanded to include the form of partnership agreements with these local administrations, which, in my opinion, will provide a more sustainable solution to the chronic problems of budget constraints and lack of support for assistance programmes for the reintegration of offenders into society.

VII. CONCLUSION

Community-based treatment in Thailand has come a long way since it was first introduced 30 years ago as an alternative to custodial treatment for adult offenders. It has become a well-accepted option for diversion of criminal cases from mainstream treatment programmes based on incarceration. There have been a number of new measures for specific groups of offenders to better serve their needs. Public participation and community engagement have become an integral part of a system where rehabilitation and reintegration are the ultimate goals. Some innovative measures, such as restorative justice with an emphasis on a role for the victim, have become increasingly popular. Finally, the working style where community networking and partnership are absolute ingredients of programmes has become the norm. All these are good signs for the sustainable development of the community-based approach.

Since its inception 30 years ago, now is perhaps the most crucial time for community-based treatment measures in Thailand. With stronger support at the policy-making level, and with more important tasks at hand, it is important that the Department of Probation, which shoulders the responsibilities of implementing community-based measures, puts great effort into monitoring and evaluating the outcome of such programmes, while maintaining the quality of work, despite rising demands. Through decades of hard work, the Department of Probation has been successful in introducing and firmly establishing the system of community-based treatment of offenders in Thailand. However, if these community-based alternatives to incarceration are to be more widely accepted and utilized, it is necessary that full support be urgently given to the Department of Probation. Viewed as a cheaper alternative, community-based treatment measures in many countries, including Thailand, are facing the same problems of chronic lack of funding and inadequate personnel resources. Although community-based options may in fact be a cheaper alternative, this does not mean that they can survive without adequate funding and support. To ensure successful results, it is necessary that due consideration be given to providing full support to probation work during this important period for continuing growth and maturity.