

SENTENCING AND CORRECTIONS PROGRAM 1998/2000

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**International Centre for Criminal Law Reform
and Criminal Justice Policy**



DECEMBER 1998 PROGRESS REPORT

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PURPOSE OF THE REPORT

In May 1998 a Memorandum of Understanding (MOU) was signed between the Correctional Service of Canada (CSC) and the International Centre for Criminal Law Reform and Criminal Justice Policy (the Centre), in support of the Centre's continued work in the area of sentencing and corrections and the joint program of work established between the CSC and the Centre for the years 1998-2000.

This is an interim report, the purpose of which is to outline the progress and the results achieved on the activities which were agreed upon by the CSC and the Centre for the 1998/99 fiscal year, as outlined in the proposed program of work submitted to the CSC in April 1998. This report also seeks a further transfer of funds from the CSC, as agreed upon in the MOU; to support the Centre's continued work on the agreed upon program and the activities currently underway.

BACKGROUND OF THE PROGRAM

The worldwide need for action to bring about reform in the administration of justice, particularly in the field of sentencing and corrections, resulted in the development of a co-operative program of work between the CSC and the International Centre. This work builds on the two earlier international symposia on the *Future of Corrections*¹ and promotes, through technical assistance, the use of a strategic approach to the implementation, in the field of sentencing and corrections, of recognised human rights and other criminal justice standards and norms. The emphasis is on the provision of technical assistance to countries that request it.

The Centre's current activities and program of work reflect priorities that were identified through a series of national and international consultations. These consultations revealed not only the presence of a very real and urgent need for assistance in developing countries, particularly in Africa, Latin America and in parts of Asia, but also the near absence of a concerted effort on the part of developed countries to address this need. Priorities for technical assistance were shown to include staff development and training, management training, policy development, bail and/or pre-trial detention reform, conditions of youth in detention, community corrections and the promotion of public awareness and participation. The major issue to be addressed, however, is one, which transcends all components of the criminal justice system. It is that of prison overcrowding. Although this particular problem is faced by many nations, no where is it more severe than in developing countries where the conditions are often such that the most basic human needs of prisoners cannot be met. In developing countries and often also in countries said to be

¹ *First International Symposium on the Future of Corrections, Ottawa 1991* - Sponsored by the Correctional Service of Canada and the Society for the Reform of Criminal Law; *Second International Symposium on the Future of Corrections, Popowo, Poland 1993* - Sponsored by the Correctional Service of Canada, the Polish Ministry of Justice and the International Centre for Criminal Law Reform and Criminal Justice Policy.

“in transition”, the challenges faced by correctional administrators are so monumental and complex that they cannot possibly be met without outside, sustained and strategically deployed technical and financial assistance.

1998-2000 PROGRAM OF WORK

As agreed upon in the proposed program of work which was submitted to the CSC in April 1998, throughout 1998-2000 and beyond, and because of the need identified through our earlier consultations, concrete technical assistance² projects are the main focus of the Centres program of work in the areas of sentencing and corrections. Its main objective is the promotion, through technical assistance, of a strategic approach to the implementation of international human rights standards, norms and principles as they relate to corrections and the treatment of offenders. The Centre, in co-operation with other members of the United Nations Crime Prevention and Criminal Justice Programme Network of Institutes, continues to actively promote genuine sentencing and correctional reform in developing countries and assists in matching the needs of some jurisdictions with the opportunities offered by others. Several of the Centre’s projects have been in development for some time and, in most instances, are nearing the stage of implementation. Other projects continue to be developed based on a systematic identification of the needs of the requesting jurisdictions, as well as on the knowledge of some of the resources which can be mobilized to meet these needs.

REPORT ON 1998-2000 ACTIVITIES

Bi-lateral

China

As the first major activity to be completed under the “Corrections” component of the China Phase II *Criminal Law and Criminal Justice Program*, funded by the Canadian International Development Agency (CIDA), a delegation of 6 Canadian correctional officials travelled to Beijing China on May 30 - June 7, 1998. The delegation was comprised of individuals from the Correctional Service of Canada (CSC), British Columbia Ministry of the Attorney General - Corrections Branch, and the International Centre for Criminal Law Reform and Criminal Justice Policy. The document “Towards Improved Corrections”³ was translated into the Chinese language and was a focal point

² Unless otherwise stated, “*technical assistance*” refers to the provision of basic direction and guidance, and to policy analysis and development, which will serve to promote a sustainable correctional or otherwise stated program. Inherent in the technical assistance are measures which will specifically address the issue of treatment, safety and the humane custody of special needs offender groups, including juveniles and women.

³ *Towards Improved Corrections: A Strategic Framework* - The International Centre for Criminal Law Reform and Criminal Justice Policy.

for discussions with Chinese officials. A detailed summary of the Canadian Delegation's visit to China is attached to this report (Appendix I).

On September 7-14, six officials representing the China Prison Society and the China Prison Bureau travelled to Canada (Vancouver and the lower mainland) in order to survey and gain an understanding of Canada's corrections and conditional release system. This was the second activity to be completed under the International Centre's "Sentencing and Corrections" component of its China Phase II *Criminal Law and Criminal Justice Program* and follows the Canadian correctional delegation's visit to Beijing China in May 1998. The activities for the delegation's week-long visit were carried out with the generous support and participation of the CSC, NPB, the British Columbia Ministry of the Attorney General, and the University College of the Fraser Valley (UCFV). A summary report of the Chinese delegation's visit is also attached (Appendix II).

The discussions which took place during these exchange visits resulted in the development of a Memorandum of Understanding between the China Prison Society and the International Centre. Key components in the draft Memorandum of Understanding, which will be carried out with the approval and assistance of the CSC and other relevant Departments, include:

- i. Exchange of materials and information relating to key aspects of corrections, including research results;
- ii. Exchange visits (hosted) involving practitioners and researchers from the various organizations involved.
- iii. "Self-sponsored" (non-hosted) visits.
- iv. The joint preparation of symposia and/or conferences of a bi-lateral, multi-lateral and international as well as the hosting of subject experts to present at other events which may be organized.
- v. Accommodate opportunities for training in specific issues relating to corrections and/or the correctional officer training programs.
- vi. Joint production and publication on Chinese/Canadian comparative corrections. This activity will include the Correctional Service of Canada, the International Centre for Criminal Law Reform and Criminal Justice Policy, the China Prison Society and the Ministry of Justice of the People's Republic of China Research Institute for Criminal Prevention.
- vii. Facilitate exchange visits by individual experts with approvals from all parties of the agreement; and
- viii. Give consideration to the development of other mutually agreed upon activities for the improvement of respective correctional practice.

The Centre is also currently involved in another major project in China, providing assistance to the Chinese Ministry of Justice in the development of a national legal aid

system. One component of the project deals specifically with the issue of the legal representation of convicted offenders in correctional institutions.

Hong Kong

On December 17 and 18, 1998 the International Centre co-ordinated a number of activities during a visit by the Chief Executive of the Society for the Rehabilitation of Offenders, Hong Kong. The activities included visits to two CSC institutions in the Pacific Region, a community residential centre and meetings with Executives from both the John Howard Society of the Lower Mainland and the BC Borstal Society. The focus of this visit was to investigate the vocational training opportunities available to offenders within Canadian institutions and the employment services provided to them by aftercare agencies in the community.

Uganda

The Centre continues to be involved in a number of activities in Uganda:

As a follow-up to the seminar entitled "*Alternatives to Incarceration: Their Applicability and Practice in Uganda*", the International Centre, in collaboration with the Netherlands Support to Public Prosecutions Project, the Danida (Danish) Judiciary Programme and Ugandan criminal justice officials, is developing a pilot program entitled the "Chain Linked Project". The aim of the project is to demonstrate the benefit of a greater integration and co-ordination of roles, functions and activities of the various components of Uganda's criminal justice system.

On November 30 - December 2, 1998 the Centre both contributed to and participated in a workshop held in Masaka, Uganda. The purpose of the workshop, which was attended by approximately 40 people including representatives of the police force, the Prisons Service, Public Prosecutions, the Judiciary, Probation, the Uganda Law Society and local government officials, was to give all stakeholders an opportunity to contribute to the preparation of the project plan that will form the basis of the proposals to potential donors, including CIDA and the Dutch and Danish equivalent agencies.

Preliminary indication has been received from CIDA officials that the project, as currently conceived, is a viable and valuable one under the CIDA Good Governance and Democratic Development Program. CIDA will be formally requested to fund one third of the pilot project.

In addition, the Centre provided advice and assistance to the Uganda Prison Service in the development of a new policy (mission statement) document. This document is consistent with the principles articulated in the strategic framework for corrections document international standards in corrections and takes into consideration the current corporate priorities of Uganda Prisons Service. The document was finalized and signed by the Commissioner of the Uganda Prison Service in September 1998.

The Centre was also consulted and provided feedback and comments to the Community Service Legislation, which is currently before the Ugandan Parliament.

New partnerships have also been established. The Centre has recently collaborated with a number of agencies to mobilise funds for the training of Ugandan Prison staff. The Centre, on behalf of the Uganda Prison Service and the Foundation for Human Rights Initiative, has developed and submitted two funding proposals to the CIDA officials in Uganda. The proposals seek the funds necessary to provide professional development and basic management training for correctional staff of the Uganda Prison Service. Tecknikon SA, a higher education institution from South Africa, has also collaborated in the development of these proposals and will provide the training, which is part of their correctional management program. Indications are that both the proposals have been discussed favourably by CIDA officials.

Finally, on December 22, 1998, the Centre, with the assistance of CSC officials, arranged for a member of the Uganda Foundation for Human Rights Initiative to visit two CSC institutions in the Pacific Region. The Foundation is active in reviewing and reporting on prison conditions in Uganda and regularly publishes their findings in a newsletter entitled "The Prisons Update".

Tanzania

During a recent meeting, the Chief Commissioner of the Tanzania Prison Service asked the International Centre to consider co-organizing an event similar to the alternatives to incarceration seminar held in Uganda earlier this year. The Centre will develop a proposal in this regard and will seek the financial support of CIDA and the Canadian High Commission in Dars-es-Salaam, Tanzania.

Namibia

The Centre has received a formal request from the Commissioner of the Namibia Prison Service to provide comments to their Policy and Mission Document. Specifically, the request asks for input in outlining guiding principles and strategic objectives, as was done in relation to the Ugandan Policy Document.

African Penitentiary Association

The Centre continues to provide assistance to the African Penitentiary Association by gathering and forwarding publications, namely in the areas of research documentation and training, for inclusion in the Association's Documentation Centre.

Research/Policy Development

Institutionalization and Treatment of Mentally Disordered Offenders

On November 16, 1998 a meeting was held with Professor Phillip Beane of the Midlands Centre for Criminology and Criminal Justice in Loughborough, England, on the issue of establishing a joint research project pertaining to the Institutionalization and Treatment of Mentally Disordered Offenders. The Canadian High Commissioner in the UK funded this

visit. It was agreed that in follow-up to this preliminary meeting a working group would be established in early 1999 to review this issue further.

International Penitentiary Regulations

The development of a draft model instrument on basic prison regulations and regulatory practices has become a major activity in the Centre's Sentencing and Corrections Program. This instrument, it is hoped, will both expedite and simplify the process of assisting countries to develop these regulations. The instrument addresses basic operational procedures on all matters such as institutional routine (i.e. movement, counts, and exercise), inmate records and admission procedures, discipline and use of force, visiting, etc. It also includes core components of correctional programming, case management and other services such as health care.

The first phase of this project has been completed. This involved the development of a draft compendium of all of the UN Standards, General Assembly Resolutions, and operational directives from a variety of jurisdictions (federal and provincial) in Canada, as they relate to all the operational areas within prisons.

On December 3-5, 1998 the Centre held an experts meeting in Kampala, Uganda for the purpose of reviewing this draft instrument and revising it as necessary to ensure its relevance and usefulness to developing countries. The meeting involved Prison Commissioners from Uganda, Tanzania and Namibia, as well as other senior correctional officials and non-government agencies from Uganda and South Africa.

The comments and feedback received during this meeting were overwhelmingly favourable, both in terms of substantive content of the instrument and its intended application.

Modifications to the instrument are currently being made and will be followed by wider consultations with potential end users in early 1999.

Children in Prisons

The Children in Prisons study was successfully designed and is currently being conducted with funding from UNICEF. Independent researchers are collecting data from more than 50 countries. The Centre's role is limited to providing data for Canada.

The International Centre is also a member of the International Panel for the Co-ordination of Technical Assistance in the Area of Juvenile Justice. The panel was established as a result of a resolution adopted by the UN Economic and Social Council (1997) and brings together representatives of UNICEF, the UN Crime Prevention and Criminal Justice Programme, the Office of the High Commissioner for Human Rights and the Committee on the Rights of the Child. The next meeting of the panel is tentatively scheduled for New York in early February 1999, hosted by UNICEF.

Needs Assessment Instrument

The needs assessment instrument, developed by the Centre to assist developing countries identify the priorities for technical assistance in the area of sentencing and corrections, continues to be utilized. The National Institute of Justice from Washington, D.C., is currently reviewing the instrument for possible translation and use in conjunction with a proposed project of criminal justice reform, including corrections, in the Ukraine.

Manual on Criminal Justice and Crime Prevention Strategies to Eliminate Violence Against Women

The Centre has been mandated to develop a draft United Nations Manual on the implementation of measures and strategies that can be promoted within the criminal justice system to eliminate violence against women (The *Strategies* themselves were initially proposed by Canada and have been approved by the UN General Assembly in December 1997). The Centre's sentencing and corrections program was involved in developing the part of the manual, which deals with measures that, can be taken with respect to sentencing and corrections.

An international committee of experts, which convened in Vancouver on December 17-19, 1998, reviewed the draft manual. The manual is now finalized and will be presented to the United Nations Commission for Crime Prevention and Criminal Justice in May 1999 and will be further discussed during the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders in the year 2000.

Draft Policy Framework for Canada's Technical Assistance Initiatives in the Area of Sentencing and Corrections.

The Centre continues to develop, based on consultations it conducted in the last eighteen months or so, a draft policy framework document to encourage a broad discussion, among all concerned individuals and agencies, of the many issues involved in this complex area of activities. The object of the paper will be, in part, to relate current technical assistance initiatives in this area to Canada's broader foreign and international development policies. The paper will also attempt to draw together some of the lessons learned so far by various Canadian individuals and agencies already involved in international co-operation efforts in this field.

Event Participation

The active participation at various national and international events and associations is critical to the development and solidification of various partnerships essential to the success of the Centre's sentencing and corrections program. The Centre has participated in several events including the American Correctional Association Conference, the American Society of Criminology Conference and other events which are the basis of the Centre's work with the Crime Prevention and Criminal Justice Programme of the UN such as the Programme's yearly Commission meetings in Vienna.

Other Collaborative Efforts

Restorative Justice

The Centre continues to receive requests for information and invitations to participate in local and international events on restorative justice. The Centre has responded to these, within its existing resources, and has developed a standard information package to respond to some of the requests.

Preparation for the Tenth UN Congress on the Prevention of Crime and the Treatment of Offenders (Year 2000)

The Centre is co-operating with other members of the Crime Prevention and Criminal Justice Programme Network to prepare for the Tenth Congress. The agenda topics for the Congress are: promoting the rule of law and strengthening the criminal justice system; international co-operation in combating transnational crime, new challenges in the twenty-first century; effective crime prevention - keeping pace with new developments; and offenders and victims - accountability and fairness in the justice process.

On December 7-9, 1998 the International Centre participated in the African Regional Preparatory meeting for the Tenth Congress and will similarly participate in the Central American Preparatory meeting to be held in Costa Rica in February 1999.

International Relations Committee of the American Correctional Association

The International Centre is a member of the International Relations Committee of the American Correctional Association, which was established to provide the exchange of information and expertise between the Association and practitioners in other countries.

Public Consultation and Information

An important, ongoing aspect of the Sentencing and Corrections Program is the provision of information, education, and advisory services to a number of different audiences. These include the general public, non-governmental organizations, government officials, criminal justice and law reform experts and professionals, experts from other areas of social and international development, students and other interested individuals. Responses range from responding to simple requests for a copy of a particular UN declaration or standard, to preparing complex briefs, participating in formal hearings or informal discussion groups, or time consuming efforts to publish articles or proceedings of a consultation meeting.

Sentencing and Corrections Advisory Committee

The Sentencing and Corrections Advisory Committee continues to play a valuable role in providing support and direction to the corrections program and the work of the Centre as a whole. The following individuals, representative of both government and non-government organizations, comprise this committee:

Professor Neil Boyd - School of Criminology - Simon Fraser University
Mr. John Braithwaite, Consultant and former Deputy Commissioner of the CSC
Mr. John Conroy, Barrister - Conroy, Hammond and Company, Barristers and Solicitors
Mr. Don Demers, Assistant Deputy Minister - Province of British Columbia Ministry of
the Attorney General, Corrections Branch
Judge William Diebolt - British Columbia Provincial Court
Professor Michael Jackson, - Faculty of Law - University of British Columbia
Ms. Allison MacPhail, Assistant Deputy Minister Community Justice
Ministry of the Attorney General for British Columbia
Mr. Terry Sawatsky - Assistant Deputy Commissioner - CSC Pacific Region
Mr. Fraser Simmons, Director - National Parole Board - Pacific Region
Ms. Karen Wiseman, Director General Intergovernmental Affairs - CSC

CONCLUSION

Although the vast majority of projects and activities remain ongoing, significant achievements have been realized since we embarked on this important program of work to promote sentencing and correctional reform around the world. The promotion of human rights, democracy, peace and security occupies a central place in Canada's foreign policy objectives. So far, the efforts of the CSC and the Centre, separately and jointly, have contributed to the realization of some of Canada's important foreign policy and international development objectives in this regard. These achievements have not gone unnoticed. Increasingly, agencies such as CIDA are becoming aware of the important role that criminal justice reform activities, including correctional reform, play in the overall democratisation and stabilisation of developing countries. Although resources will forever remain a factor in determining the projects undertaken, the increasing willingness of agencies such as CIDA to fund some of the activities is reassuring. This willingness to do so, however, would not have been realized without the generous support of the Centre by the CSC and for this we remain most grateful. The unique relationship that has been established between the CSC and the Centre allows us to marshal effective working teams that would not otherwise allow us to have such an impact on our technical assistance efforts and projects in developing countries.