

# Probation in Japan: Strengths and challenges and likely new tasks

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## Abstract

Origins of the probation service in Japan, its administrative structure, the respective roles of Professional Probation Officers (PPOs), hogo kansatsu kan, and the nearly 50 times more numerous Volunteer Probation Officers (VPOs), hogo-shi, are described. Recruitment of VPOs, their backgrounds, increasing age, methods of work and training is outlined, followed by activities of local VPO Associations and Offender Rehabilitation Support Centres. Strengths of the distinctive Japanese VPO system are analysed, followed by challenges it faces. Chief amongst them being the introduction of partly suspended sentences coupled with probation for drug offenders and the need to build adequate medical, psychological, accommodation and employment support to prevent their reoffending and aid recovery. Consequences and new tasks for probation of the widely expected lowering of the age of criminal adulthood are also considered.

## Keywords

Challenges, Japan, probation, strengths

## Introduction

Although an understudied field of inquiry, research, literature and discussion is accumulating about the increasing presence of the voluntary sector and volunteers in a more heterogeneous criminal justice landscape (Hucklesby and Corcoran, 2016; Tomczak, 2014; Tomczak and Albertson, 2016). Volunteers are significant in many countries. In developing scholarship in our jurisdictions, it is important to observe their role and relationship with rehabilitation professionals in others. This study was conceived for that purpose and seeks to explain the central, and generally accepted, role of volunteers in Japanese probation and rehabilitation, to describe the greater responsibility being placed

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on them in dealing with the persistent problem of recidivism related to illegal drugs and the substantial changes and new tasks that may result if, as widely predicted, the age of criminal adulthood is lowered from 20 to 18. It was also an aim to update with fresh developments a key article written by Ellis et al., published in *Probation Journal* seven years ago, which examined probation within the wider Japanese criminal justice system, presented thoughts on its future direction and asked whether there were lessons for, or links with, England and Wales (Ellis et al., 2011).

### **Methodology**

This article draws on materials available in English from various sources. It is also based on discussions, loosely structured interviews and correspondence with: professional probation officers (PPOs) in Tokyo, Osaka and Kyoto, Voluntary Probation Officers (VPOs) in those cities; workers in half way houses in Tokyo, officials of the Rehabilitation Bureau of the Ministry of Justice in Tokyo; academics at Osaka City University, Doshisha University, Kyoto, Ritsumeikan University, Kyoto, Rissho University, Tokyo and Chuo University, Tokyo; attorneys in Kyoto and Wakayama and members of the Ministry of Justice Legislative Council. All participants in this study generously gave their time during the writer's period at Osaka City University as a visiting scholar during the summer time of 2016 and 2017. This cannot claim to be a scientific qualitative sample. However, the article hopes to accurately present what information was gathered.

### **Some features of the modern probation system**

Organized rehabilitation of offenders is clearly traceable to the late 19th century, however the present system arose after the Second World War. (Rehabilitation Bureau, 2015: 2–4). The Offenders Rehabilitation Law 1949, part of sweeping reforms of pre-war criminal procedure in Japan by the mainly American “General Headquarters of the Allied Powers”, which operated until 1951 (Oda, 1999: 29–31: 423), introduced a modern rehabilitation system to protect society, promote the welfare of the public and aid the reformation and rehabilitation of offenders<sup>1</sup>.

There are 50 probation offices, 3 branches and 29 local offices throughout Japan (Akashi, 2015: 5), administered by the Rehabilitation Bureau, one of six departments within the Ministry of Justice. A striking feature of the Japanese probation system is how few Professional Probation Officers are appointed compared to the large number of Voluntary Probation Officers (Ellis et al., 2011: 336–337). Figures supplied by the Rehabilitation Bureau show that at the end of 2014 there were approximately 1000 PPOs, employed as civil servants by the Ministry of Justice, in the field (additionally some 112 PPOs work for Regional Parole Boards) and over 48,000 VPOs, who support them by providing offenders with additional supervision and assistance. The foremost duties of PPOs in both adult and juvenile cases are supervision of probationers and parolees that requires close working with VPOs; inquiry into domestic circumstances for purposes of possible parole from prison or Juvenile Training School; aftercare for discharged offenders who apply for it (this may include financial assistance for accommodation, meals, transport and clothing (Rehabilitation Bureau, 2015: 30); liaison with halfway houses

run by voluntary organisations to obtain accommodation for persons released from prison or Juvenile Training School; promoting crime prevention activities and investigation and application for individual pardons (Rehabilitation Bureau, 2015: 32). A further important task is organising and conducting training for VPOs and staff in halfway houses.

Although Family Court Probation Officers, employed by the Supreme Court in the Family and High Court, investigate and prepare reports for judges on juveniles' social and family circumstances, attitudes to offences committed and offending generally, there is no equivalent in adult courts – an obvious difference to England and Wales – and judges rely on information supplied by the prosecution and the defence.

An offender placed on probation or released on parole is required to report immediately to a probation office for an interview with a probation officer during which how probation or parole supervision operates is explained. The probation officer then designs a treatment plan based on the interview, relevant records and an assessment of need and risk (Akashi, 2016: 31–32). Unlike England and Wales, a range of actuarial and clinical assessment tools are not employed.

As well as general conditions that apply to all supervisees, including attending interviews and residing at an agreed address, special conditions may also be imposed such as avoiding contact with a certain person or group, attending a special programme on preventing sex offending, violence or stimulant drug taking and, since 2015, participating in social contribution activities, a form of community work (Rehabilitation Bureau, 2015: 22).

### *Supervision by voluntary probation officers*

The Director of the Probation Office assigns a VPO as the day-to-day supervisor of the offender. Regular meetings take place, two or three times a month, with the VPO, usually at his or her home, but visits to offenders' homes are made also sometimes. In accordance with the treatment plan, the VPO visits and works with the supervisee's family and provides guidance and practical support for him or her, often helping to obtain and keep employment. The VPO submits a monthly progress report to the PPO who, if necessary, intervenes with the offender and can begin procedure to revoke parole or probation (Akashi, 2015: 10).

If thought unsuitable to be assigned to a VPO, a probationer or parolee may be supervised directly by a PPO. He or she may be allocated to more than one VPO in certain circumstances.

Another key task undertaken by VPOs is visiting families of those serving custodial sentences to investigate their domestic circumstances. Information about family relationships, accommodation and employment prospects is then sent to PPOs who make it available to Regional Parole Boards. In the course of these duties, VPOs write to inmates or visit them to confirm information and ascertain their future plans. It is not unusual for a VPO who has already contacted a prisoner to be appointed as his or her supervisor on release.

It is not inaccurate to say that in some ways the level of responsibility undertaken by VPOs equates with that of paid Probation Service Officers in Community Rehabilitation Companies in England and Wales.

Legally defined, VPOs are non-permanent government officials and remain private citizens. As such, they are not prohibited from political activities or bound by the civil service code of ethics. The maximum age of appointment is 66. Although their term of office is two years, they can be continuously reappointed until a retirement age of 76. More than half all VPOs have served for more than eight years, nearly a quarter 15 years and over a tenth 20 or above years. (Minoura, 2015 :3). They are not paid a salary but are entitled to be reimbursed for expenses necessary to perform their duties up to set limits in approved categories. VPOs are also eligible for compensation for injury sustained during their work. The scope of compensation was expanded in 2012 to include damage to property and injury to family members and damage to their property due to the acts of probationers, parolees or their families (Minoura, 2015: 9).

### *Recruitment of voluntary probation officers*

The Voluntary Probation Officer Act, 1950 requires VPOs to be: thought of highly for their character and conduct; enthusiastic and have sufficient time to accomplish their necessary duties; financially stable; and healthy and active.

On the basis of information supplied by the VPOs' Association for the area covered by the office, or from other sources, the first stage in VPO recruitment involves listing candidates by the probation office director. Candidates are usually recommended by present VPOs. The director then seeks an opinion on each candidate's suitability from the VPOs' Screening Committee, established at each probation office under the VPO Act, made up of representatives of the courts, prosecutors, local bar association, correctional institutions, other public associations in the community and learned citizens. Candidates found to be acceptable by the Committee are then recommended to the Minister of Justice for appointment (Minoura, 2015: 3–4; Muraki, 2015: 2–3).

The maximum number of VPOs permitted by the VPO Act is 52,500 nationwide. Statistics kindly provided by the Rehabilitation Bureau show that on the 1 January 2015 the actual number was 47,872 of whom 26% were women. The average age of VPOs was 64.7 years.<sup>2</sup> The majority (51.4%) were 60 to 69 years old, followed by 70 years of age and above (28.5%), 50 to 59 years old (15.7%) and under 50 years (4.5%). Drawn from various occupational backgrounds, the largest group (27.1%) was persons in unpaid employment, including housewives, followed by employees of companies or other organisations (22.6%), members of religious professions (11.1%), persons in commerce service industries (9.2%), those working in agriculture, forestry or fisheries (7.6%), and other occupations, which included manufacturers, schoolteachers and those engaged in social welfare (Otsuka, 2015: 2).

VPOs are allocated to a 'probation district' and become involved in activities within it. Probation districts are administrative areas created by subdividing the territory of each probation office. As of 1 January 2015, there were 886 probation districts. Professional Probation Officers are assigned to one or more probation districts. Acting as district case managers they are responsible for supervision of those on probation or parole within them.

*VPO Associations and training.* VPOs in each probation district are required, by an amendment to the VPO Act in 1998, to establish a VPOs' Association (similar organisations

existed in many areas on a voluntary basis before this). Associations each year hold a general meeting and elect a chairman, vice chair and board members. Their various activities include: providing assistance to individual VPOs from those who are more experienced; offering VPOs opportunities to meet others and “network”; training that may comprise holding seminars for newly appointed VPOs, organising case study meetings, visiting penal institutions and inviting police officers, school teachers and lawyers to deliver lectures; maintaining relationships with probation offices and other organisations such as local authorities; and organising community activities, publicity, social events and the circulation of a newsletter (Otsuka, 2015: 4–5).

The Probation Office provides training for VPOs within its area. New appointees must attend an initial course that mainly covers basic information about the system of offender rehabilitation. This is followed by a course, run annually, for VPOs who have served less than two years, on basic treatment skills. VPOs with between two and four years of experience, attend a training course, also presented each year, designed to reinforce their abilities of leadership and, like the previous course, to expand their practical knowledge and skills. Special training courses, delivered usually by probation officers specialising in these areas, are also taken on treatment for sex offenders, drug offenders and the mentally disordered. In addition to the training already outlined, guidelines issued by the Rehabilitation Bureau of the Ministry of Justice oblige Professional Probation Officers (PPOs) to provide regular training for VPOs at each probation district. Held about every three months, they cover various themes and are designed to develop VPOs knowledge and practical skills (Akashi, 2016: 13; Muraki, 2015: 4–5; Otsuka, 2015: 5).

*Volunteers with close ties to probation.* Volunteers, some of whom are also VPOs, play an important role in managing Halfway Houses of which there are 103 throughout Japan. Founded in the late 19th century, they remain privately run but are supervised by the Ministry of Justice and receive much of their budget from the government (Akashi, 2016: 17). They accommodate and help the rehabilitation of persons released from prison or Juvenile Training School. The average stay is three months. Staff help offenders cope with the sudden change of release from highly disciplined and regimented custodial regimes, foster a sense of self-reliance and assist them to find housing and employment in co-operation with public employment offices and employers who are members of the Cooperative Employers Organisation (a national non-profit making body of employers willing to employ former offenders). Additionally, in recent years social skills training and programmes for drug and alcohol abuse have been developed. The Ministry of Justice is currently carrying out training courses for halfway house staff on treating these conditions. Some halfway houses collaborate closely with Nihon DARC, a nationwide voluntary organisation that holds self-help meetings and provides residential and day centre treatment for drug addicts and alcoholics.

Other voluntary organisations give considerable support to adult and Juvenile offenders. The Women’s Association for Rehabilitation (WARA) is a large organisation that works with VPOs in supporting and encouraging probationers and parolees, promotes the idea of offender rehabilitation amongst the public, mounts crime prevention activities and assists young mothers experiencing difficulties in raising their children. In 2015,

WARA had 170,066 members and 1293 branches (Akashi, 2016: 19). It is almost a convention that the wife of a male appointed as a VPO will join WARA. Many women who are appointed as VPOs joined WARA earlier in their lives.

Big Brothers and Sisters Association (BBS) is a youth organisation with 50 local branches, including in universities and high schools, and a membership of about 4500. Members try to relate to juveniles similar to a responsible older brother or sister to deflect them from crime. Members take part in “befriending activities”, such as sports, karaoke, barbecuing and talking and studying together, to gain their trust, give them a greater sense of stability and act as positive role models. BBS intervention is usually requested by PPOs, who suggest the approach to be taken for each young person. Some BBS members are interested in becoming PPOs or VPOs later in life (Watson, 2017).

## **Strengths and challenges**

### *Strengths*

The VPO system has undoubted strengths including: geographical closeness between supervisees and VPOs enabling them, if necessary, to intervene rapidly; social resources and useful practical assistance, including introductions, an important form of social capital, that can be offered to supervisees (research on probation in Europe indicates the value in desistance from offending of access to social capital as well as developing offenders’ human capital – capacities and skills (Canton, 2016 : 76–78)); supervisees and their families frequently see VPOs more like neighbours, or in the case of juveniles similar to unthreatening and helpful uncles and aunts, rather than government officials and may be more responsive to them; many VPOs demonstrate genuine concern for supervisees helping offenders to re-gain respect, or gain it for the first time, and identify with a law-abiding and pro-social culture; and, in contrast to PPOs who are moved to different offices every two or three years, provide continuity of support that sometimes extends beyond the period of supervision adding to stability in the lives of former offenders (Akashi, 2016: 15; Otsuka, 2015: 4). Continuity of contact is contributed to by the fact that over half the number of VPOs have been in that role for more than eight years. To the best of the author’s knowledge, published research on VPOs’ opinions on their role does not yet exist, but would be valuable, as would studies on offenders’ experience and perceptions of VPOs.

It is worthy of note that the VPO system in Japan has been a major influence on probation services in a number of other countries including Kenya, Malaysia, Philippines, Singapore, South Korea and Thailand.

### *Challenges*

A common view exists that the number of probationers and parolees with diverse and complicated problems, including drug and alcohol addiction, aging, mental illness and developmental disorders has increased. Especially in large cities family ties and local community bonds have weakened resulting in fewer supervisees receiving support from their families. Further making the task of rehabilitation more difficult are limitations on

supervisees' job prospects caused by prolonged economic recession (Minoura, 2015: 9–10).

*Filling positions.* Turning from what might be called broad external challenges to those internal to the VPO system, although 90% of VPO positions are filled, since 2008 there has been a slow but consistent decline, especially in urban areas (White Paper on Crime, 2014: figure 2-5-3-1). In Tokyo, the percentage is about 80% (Muraki, 2015: 1–2). The average age of VPOs has risen to 64.7. Almost 80% of VPOs are over 60 and only 4.3% under 49. Approximately 60% of offenders are under 20 years old. The number of VPOs who retire within the first five years of their appointment has grown to almost 15%.

The chief reason put forward for the lack of younger people who apply to become VPOs is scarcity of time. Because of the persistent economic recession, persons employed by companies are increasingly expected to work unpaid overtime and often face long commuter journeys. The economic climate has made it harder for the self-employed to take time off. Persons who might have retired earlier work longer. In interviews with members of the Ota City (Tokyo) VPO Association, it was stressed that the understanding of businesses should be cultivated so they would allow younger people time off to become VPOs. It was suggested that central and local government show a lead. A VPO interviewed in Kyoto thought attempts should be made recruit from civil servants who he believed had more time available than those in the private sector. A criminal procedure professor at Osaka City University thought that the government could legislate to give people a right to time off to be a VPO, although, given work pressures, he wondered how many people would exercise it.

*Traditional recruitment methods.* Although not widespread, there is criticism of the quality of some VPOs. It was reported the amount of commitment varies from the very highest to those who do the bare minimum. Traditionally, recruitment involved a VPO heading towards retirement requesting, sometimes repeatedly, someone known to him or her in the community to be a replacement. His or her name was sent to the President of the local VPO organisation and then onwards for consideration by the screening committee at the probation office. It was said that some who permitted their names to be put forward did so out of a sense of duty or obligation (*giri*) to the person who had nominated them rather than out of genuine desire to be a VPO. Accordingly, their dedication might have not been great and they retired early. Nomination and appointment of people with lives radically different from supervisees may result in difficulties in relating to each other. An example given to the writer was of a retired former successful business woman in her late 50s who after encountering such difficulties resigned as soon as possible.

*VPO candidate information meetings.* Because of greater movement of population and anonymity of modern urban life, weakening social bonds and personal relationships, the effectiveness of traditional methods of identifying suitable VPOs came to be seriously questioned.

From 2008, to obtain capable candidates and to make the process of recruitment more transparent, some VPO Associations set up "VPO Candidate Information Meetings". These involve local government officials, members of neighbourhood associations, child

welfare workers and voluntary workers presenting information about persons who might be approached with a view to nomination. Since 2013, such meetings take place in all probation areas. Members of Ota City VPO Association considered this had led to a marked improvement. It was mentioned that female members of Parent Teacher Associations whose children were soon to leave school were quite frequently identified at meetings.<sup>3</sup>

*Publicity and payment.* Suggestions have been made that in order to widen further the pool of potential VPOs, advertisements should be placed in the press. An editorial in the Japan Times (12 December, 2012) proposed the government should consider paying VPOs salaries to help increase recruitment and retention. This idea was strongly opposed by VPOs, as well as PPOs, interviewed in Kyoto and Tokyo who emphasised that the spirit of voluntary service was essential and thought that payment would alter the whole dynamic, including the way supervisees regard VPOs and their working relationship with PPOs, deter applicants and reduce retention.

Tens of thousands who become VPOs runs against the limited tradition of volunteering noted in Japan. An explanation may be that people feel more comfortable doing so within a state rather than a voluntary organization. The officer responsible for planning and co-ordination for Ota City VPO Association had read in the *Japanese Journal of Offenders Rehabilitation* about the use of volunteers in for profit Rehabilitation Companies (CRCs) in England and Wales. Considering he spoke for most VPOs, in correspondence with the writer, he saw the profit element in CRCs as very different from the spirit of social service and protection of the community motivating probation volunteering in Japan (Nukata, 2016).

*Lack of domestic space and Offender Rehabilitation Support Centres.* One reason identified for reduced recruitment is limited domestic space, especially in urban areas where apartments and houses are small, to hold interviews with supervisees. Worry by family members about their visits is also a factor (Muraki, 2015: 7–8). Partly to deal with these concerns, local VPO Associations were encouraged by the Ministry of Justice to open Offender Rehabilitation Support Centres (ORSC) where interviews can be conducted instead of at home. By March 2015, some 345 were open. Located in buildings rented from local government, or other public bodies, they are staffed on weekdays by experienced VPOs. VPOs' Associations may use ORSCs to hold meetings, cooperate with related agencies and consult with the public (Nukata, 2016). It was reported that about 20% of VPO interviews in the Ota probation district in Tokyo now take place at the ORSC. Whilst ORSCs have helped raise the profile of VPOs locally and may aid recruitment, members of a panel of VPOs assembled to assist the writer agreed their work was still not generally understood.<sup>4</sup> One VPO referred to television drama portrayals of them as special people doing special things. He wished the reality of ordinary people doing ordinary things would be shown instead, so that watchers could believe they might become VPOs.

*Other challenges.* The number of cases undertaken by VPOs varies but is usually subject to a maximum of five. At times in certain areas, where crime is very low, they may



have none. Waiting for the first case, and long gaps between cases, may be unfulfilling and contribute to early retirement. To avoid this, PPOs are now urged to allot supervisees to VPOs early in their career. If a shortage of cases prevents this they are recommended to jointly assign a case to “veteran” and a new VPO so that the latter will gain experience and advice.

Lack of self-assuredness among new VPOs in dealing with supervisees has been identified as a reason for early leaving. Jointly allocating a case to a new and an experienced VPO may promote confidence. In those areas that have established ORSCs, the possibility of conducting interviews, with experienced VPOs on hand, may also positively contribute.

The majority of supervisees are under 20 years old. Difficulties do exist in relating to them because of age differences, although it was explained by VPOs interviewed it is possible to exaggerate them. Systematic training to help VPOs understand the younger generation has been proposed (Akashi, 2015: 16).

Failure, said to be increasing, by supervisees of all ages to attend meetings may be frustrating and demoralising and may lead to early retirement.

Inability, because of work or other voluntary commitments, to keep up with training sessions may lead some VPOs to consider leaving. To prevent this, and increase training attendance generally, additional training sessions are provided at Tokyo Probation Office for persons who could not attend them in their local district. There is discussion about holding local training at the weekend and in the evening, but this presents difficulty for persons busy at those times (Muraki, 2015: 8).

The Offenders Rehabilitation Act, 2007 sought to clarify the roles of PPOs and VPOs to avoid over-dependence on VPOs and enable both to take advantage of their respective strengths. However, the relationship between the two has not since been free from critical examination. One academic reported some PPOs overzealously guard their cases and fail to pass on useful information, while another<sup>5</sup> said there was insufficient coordination between the two and referred to 70% of VPOs in a survey conducted in 2012 who said they wanted to deepen cooperation with professional probation officers (*Japan Times*, 29 December 2012). VPOs interviewed in Ota said they would prefer PPOs to be moved to different parts of the country after three rather than two years to allow greater continuity.

## **Partly suspended sentences and drug misuse**

A major challenge facing the probation service is the introduction in 2016 of partly suspended sentences with probation for rehabilitation of drug offenders. For example, under the new law a court could pass two years imprisonment with six months suspended for two years on probation. After one and a half years the offender will be released and two years supervision begin. Partly suspended sentences are intended to be used by judges where an immediate full sentence of imprisonment would otherwise be imposed. A suspended sentence is usually passed for a first offence of possession and use of drugs. If compelling reasons exist, a second offence may result in another suspended sentence plus probation; however, an immediate custodial sentence is more likely.

The object of this law is reduction of repeat drug offending by adding probation supervision to custodial sentences. It is a recognition of the importance of sustained rehabilitation in the community, the role of probation in this and of the limitations of measures in the artificial conditions of prison (*Waseda Bulletin of Comparative Law*, 2015: 28–31).

The law has not met universal approval. Reconviction, perhaps the consequence of failing just one drugs test administered by the probation service, within the period of probation, which may be up to five years, will result in an offender serving the unexpired period of imprisonment plus another sentence. In this respect, reference was made by a criminology professor at Rissho University Faculty of Law (a strong proponent of a social welfare, rather than a criminal approach, to drug addiction)<sup>6</sup> to Foucault's theory of the expansion of the carceral net, a notion discussed in England and Wales in the somewhat different context of supervision after release, under the Offender Rehabilitation Act 2014, of those sentenced to custody for over one day and up to two years (Tomczak, 2017).

Drug misuse in Japan is significantly lower than in many countries. However, offenders arrested for breaking the Stimulants Control Law have a high recidivism rate that increases with age. Since the Second World War, drug taking has been dominated by stimulants – methamphetamine and amphetamine – *kakuseizai* or *shabu* in Japanese (Wada, 2011: 63–64; Sato, 2009: 151–153).

According to the 2015 White Paper on Crime, 49% of those released for stimulant control law offences returned to prison within five years between 2010 and 2014, whereas the rate of re-imprisonment of persons who committed other types of offences was 36% during this period. About a quarter of prison inmates are convicted of drug offences. Others are incarcerated for offences related to the need to buy drugs such as theft, deception and robbery.

Unlike many western countries that favour harm reduction – such as access to clean needles and methadone substitution – and diversion from the system of criminal justice, policy in Japan has been prevention, strict enforcement of the law, “no tolerance”, and custodial sentences regardless of the level of criminality. Although sentencing is more severe by most European standards (Sato, 2009: 148), it is considerably less so when compared to many other Asian countries (Balasegaram, 2006).

The relatively minor scale of drug addiction in Japan is said to have contributed to a lack of interest among medical professionals in treatment for addicts, sometimes labelled as troublesome and problematic (Suh and Ikeda, 2015: 68). The main focus in hospitals has been upon detoxification and dealing with psychotic symptoms. Because taking drugs is a crime, some doctors, although not legally or ethically obliged, call the police, undermining the relationship with patients and deterring others from seeking help.

In recent years, a small number of psychiatrists and clinical psychologists have introduced specialized treatment such as motivational interviewing, anger management, social skills training and Cognitive Behavioural Therapy (CBT) (Tanibuchi et al., 2016: 38–54).

According to a survey conducted by the Ministry of Justice, just 3% of persons on parole and probation with drug dependence received specialized hospital treatment. Only about 40 hospitals provided specialist treatment for drug dependence and there were none in 24 of the country's 47 prefectures (Tominaga, 2016).

The main source of rehabilitation and social care for released prisoners, or those discharged from hospital, are organisations run by recovering addicts. Chief amongst these is Nihon Drug Addiction Rehabilitation Centre (DARC) established in Tokyo in 1985 (Kobayashi, 2002). Based on the 12 steps approach adapted from Alcoholics Anonymous, DARC now has 57 branches with 78 centres throughout Japan. Every branch is autonomous and separately funded and has established its own support network of doctors and hospitals to help members with medical and psychological problems (Sato, 2009: 152–154).

### *Need for resources and co-ordination with other bodies*

Shortly after the passage of the new laws in 2013, the value of supervision alone to deal with the complexity of drug dependency and integration into society was questioned by some, for example by Professor Hiroko Goto of Chiba University (Osaki, 2013a), who emphasized additional needs for treatment, accommodation, employment and practical skills to survive. At a fundamental level, they called for much expenditure to develop resources for medical and psychological treatment of addiction, with which the probation service may work. This was seen vital not only for the success of the new partly suspended sentence coupled with probation but also for the effectiveness of suspended sentences and probation and parole in reducing re-offending rates and promoting individual rehabilitation.

To improve and extend drug dependency treatment, the Ministry of Justice and the Ministry of Health, Labour and Welfare plan closer collaboration between probation officers, hospitals and voluntary bodies such as DARC, to be managed and coordinated by local mental health welfare centres (Council for Promoting Measures to Prevent Drug Abuse, 2013: 11–15). Members of the Rehabilitation Bureau interviewed in Tokyo considered such cooperation vital and helping to build it a major challenge ahead.<sup>7</sup> Securing more money to do so may not be without difficulty. The Rehabilitation Bureau's budget is considerably less than the Prosecutors and Prisons bureaux in the Ministry of Justice, but now has a case for a substantial uplift.

### *Demands on PPOs and VPOs*

If partially suspended sentences and probation are used extensively extra demands will be made on both professional and voluntary probation officers. PPOs will assess the needs of those to be released on probation, allocate them to voluntary probation officers, whilst still retaining overall responsibility for their supervision, coordinate medical and psychological assistance, organize stimulant drug offender treatment programmes, test probationers for drug use and train voluntary probation officers about drug addiction and the help they can offer. Unlike candidates for parole who, before they can be released, must show they have accommodation and a guarantor to assist them in various matters, persons freed on probation under partially suspended sentences are not subject to such requirements. As a consequence, PPOs may find themselves much involved in obtaining accommodation for probationers and, perhaps, acting as their guarantors. PPOs interviewed in Tokyo and Osaka<sup>8</sup> believed working with drug offenders on parole, probation and on partly suspended sentences would be helped by an increase in their numbers.

Volunteer Probation Officers (VPOs) questioned in Kyoto and Tokyo<sup>9</sup> said some VPOs had anxieties about the uncertain number of offenders involved, periods they will require supervision, given probation in a partly suspended sentence can range from one year to five, and the possibility of facing people who might be uncommunicative and behave erratically. There was, however, no disagreement amongst the VPOs interviewed about the concept of the new sentence as a means of rehabilitation in the community. Several spoke about the need to intensify efforts to recruit and retain VPOs, especially in the large urban areas where this is most difficult and the majority of drug offenders live. In this respect, it was seen as helpful that many probation districts now have Offender Rehabilitation Support Centres where VPOs may meet and interview clients, rather than in their own home, or those of their clients, and can readily call on assistance and expertise from other VPOs. Working closely with PPOs in specific cases was seen as important, as was, if necessary, supervision of demanding cases by more than one VPO. One VPO said that in his experience drug offenders were not particularly difficult to supervise and assist, but problems and re-offending began after probation and parole. He wondered what support could be given subsequently. All the VPOs agreed that it would be beneficial to have more training about drug addiction and methods of dealing with it from PPOs, hospitals and organisations such as DARC. It was suggested that certain VPOs could be selected and specially trained to supervise and assist drug offenders.

## **Adjusting to a new age of adulthood**

“Essentially a mirror of the US Juvenile system of the day” (Ellis and Kyo, 2017a: 5) the Juvenile Act 1948, which governs the treatment of young offenders, was substantially influenced by American social work welfare approaches to juvenile delinquency and is based on the principle education and rehabilitation are preferable to criminal punishment.

Despite some changes earlier this century, on a cross-national continuum of juvenile justice with a welfare model at one end and a justice model at the other (Hazell, 2008: 23–24), Japan still most closely resembles the former. The primacy of social welfare over criminal justice considerations may be seriously disturbed if proposals are adopted to reduce the age at which the Juvenile Act applies from 20 to 18, especially as 18- and 19-year-olds commit nearly half of all juvenile offences.<sup>10</sup> They will be dealt with in the adult courts, rather than the Family Court, which at present hears the vast majority of juvenile cases. The drivers for altering the age of criminal adulthood are continuing concern about fear of juvenile crime, although in reality it has dropped steeply over the last decade, and the effects of lowering the voting age to 18 in 2015 (Ellis and Kyo, 2017b: 16–17).

If the Family Court deems them necessary protective measures may be imposed on juveniles (Guide to the Family Court of Japan, 2013). In 2014, the Family Court found protective measures were necessary in approximately 23.5% (22,245) of cases referred to the Family Court in 2014 (White Paper on Crime, 2015: Part 3, Chapter 2, Section 2).

The main protective measures are juvenile probation and committal to a Juvenile Training School.

## *Juvenile Probation*

Unlike probation for adults, which may be attached to a suspended sentence, or form part of a partly suspended sentence, juvenile probation is a sentence in its own right. In 2014, 19,750 juvenile probation orders were made, representing nearly 21% of orders made in the Family Court during that year (White Paper on Crime, 2015, Part 3, Chapter 2, Section 2). Reflecting falling levels of crime in Japan, the number of juvenile probation orders has decreased annually since 2000. Young people placed on probation by the Family Court are the largest group supervised by the probation officers, amounting to 46% of the probation service's caseload (Judicial Statistics, 2014). The maximum period of supervision is until the probationer's 20th birthday or at least two years, whichever is longer.

Upon recommendation of the Family Court, juvenile offenders considered to have low criminal tendencies may be placed on "Short-term Traffic Probation" or "Short-term Juvenile Probation". While legally the duration of supervision is no different from ordinary probation, they operate on the assumption probation will terminate early if certain requirements are fulfilled. Short-term Traffic Probation requires juvenile probationers to attend group lectures and discussions, often about driving, and to submit monthly reports on their daily lives. Those who satisfy these requirements are usually discharged from probation after three to four months. Juveniles placed on Short-term Juvenile Probation are also obliged to present monthly reports of their activities and to complete certain tasks individually assigned to them including social contribution activities such as helping in neighbourhood cleaning and tidying and assisting in homes for the elderly.

## *Attendance at Juvenile Training School*

In 2014, 2872 juveniles entered 52 Juvenile Training Schools (JTS), of whom 219 were female. Corresponding with the decreasing crime rate in Japan, the number of JTS inmates has been dropping since 2005. Most minors were detained because they had committed theft, fraud or assault. Smaller numbers were committed for robbery, sexual offences, homicide, causing death by dangerous or reckless driving and other serious driving offences, and drugs offences. In 2014, approximately 43% of those sent to JTS were "senior juveniles", 18 and 19 years old (Ministry of Justice, 2017: 18; White Paper on Crime, 2015, Part 3, Chapter 2, Section 4). Juvenile Training Schools take a very different approach than prisons, where the prime purpose is punishment through forced labour. Individual treatment plans are drawn up on admission. Corrective education that follows consists of "living guidance", programmes, including much individual counselling, to address offending behaviour; vocational training; academic education; health and physical education; and "special activities", including voluntary work and club activities (Justice in Japan, 2014: 43–45). As with probation, it is considered highly successful in bringing about rehabilitation, although statistics were not publicly available until very recently from the Ministry of Justice on the rate of re-admission to JTS or prison. These statistics show that after five years 22.4% of the 3440 juveniles who left JTS in 2012 either re-entered JTS or, as adults, had been sentenced to prison.<sup>11</sup>

Lowering the age of criminal majority would exclude 18- and 19-year-olds from probation or JTS. Some who had committed serious offences would be sentenced to prison, where they would mainly receive punishment through work. The great majority would be dealt with by suspended prosecution, suspended sentences, fines and the police minor offence procedure. Because they would no longer be assessed for Juvenile Training School and probation, with their acknowledged rehabilitative success, concerns exist that they would be more likely to reoffend and overall crime would increase (Ueno, 2017: 4). The Ministry of Justice Legislative Council (MJLC), which first met in February last year and is predicted to issue recommendations this year upon which the government will legislate, has accepted the principle of lowering the age of criminal majority to 18, but wishes to maintain the rehabilitative welfare spirit of the Juvenile Law for 18- and 19-year-olds who will be classified as adults. To this end, it is examining introducing deferred sentences during which a person would be supervised by the probation service during the period of deferment, greater use of suspended sentences coupled with probation, suspended prosecution by prosecutors, a condition of which would be supervision by the probation service and introducing community service as an independent sentence, rather than as a condition of probation as at present. Radically, it is also considering redefining sentence of imprisonment regardless of age to remove obligatory labour, thus making more room for rehabilitative measures assessed according to individual need. The Rehabilitation Bureau of the Ministry of Justice, for submissions to the MJLC, is studying sentences and facilities in foreign countries.<sup>12</sup> Amongst those under examination from England and Wales are Deferred Sentences, Senior Attendance Centres, Approved Premises and Deferred Prosecution, being piloted in the Midlands and commended in the Lammy Report, 2017.

### **Consequences for probation officers in Japan**

At present, in adult courts information about an offender is provided only by prosecutors and his or her attorney (Watson, 2017). It is unlikely that this would be regarded as sufficient for the new sentences under contemplation and an investigation of similar depth to that presently carried out in the Family Court would probably be required. It is uncertain who would undertake these enquiries. A PPO interviewed<sup>13</sup> underlined that currently the duties of PPOs do not include producing reports for the courts to assist sentencing, nor do they receive training in investigative and writing skills comparable to Family Court Probation Officers. In her opinion requiring PPOs, who number only 1000, to conduct investigations on young offenders would require extensive retraining and be a substantial demand on their time. Their workload would also increase if suspended prosecution coupled with probation supervision was introduced as prosecutors would require thorough reports on young offenders to assist them in determining whether or not to suspend prosecution and on what terms. If no longer providing them to the Family Court, and consequently with some spare capacity, it has been suggested that Family Court Probation Officers could be deployed to produce reports on 18- and 19-year-olds in the adult courts. Such a move would represent a major change in their employment previously solely with juveniles in the Family Court and may not be entirely welcome. Producing reports for prosecutors to assist them in deciding whether to suspend

prosecution would not, for constitutional reasons, seem possible because Family Court Probation Officers are officers of the Supreme Court, and not civil servants employed by the Ministry of Justice, unlike PPOs and VPOs.

Deferred sentences with supervision, greater use of suspended sentences with probation, residence at premises with supervision and monitoring, attendance at centres at weekends or evenings for activities and suspended prosecution linked to supervision would involve much input from the probation service with overall responsibility and allocation of cases by Professional Probation Officers and day to day work by Voluntary Probation Officers, for whom additional specialist training would be necessary. Volunteers with close links to probation attached to Halfway Houses could be affected by reducing the age of criminal majority to 18 because fewer juveniles would be sent to Juvenile Training School and require accommodation afterwards. Referrals to the Big Brothers and Sisters Association might also decline as 18- and 19-year-olds would cease to be classed as juveniles.

During 2014, 37,990 parolees and probationers were supervised by the probation service: 10,692 adult parolees, 4,454 juvenile parolees, 5,364 adult probationers and 17,480 juvenile probationers. Related to reduction of reported crime, now at a new post-war low, the number of supervisees has steadily decreased since 2009 when it stood at 48,488. However, by far the biggest fall, over 7,500, has been in juveniles on probation (figures kindly supplied by the Ministry of Justice).

As numbers on probation and parole has declined, especially over the last decade, and because time would no longer be spent supervising probation and parole for 18- and 19-year-olds, the probation service may have overall sufficient capacity and resources to manage the new sentences that have been suggested, although comprehensive training would be necessary before they were introduced and special attention would be necessary in some urban areas with existing pressures on caseloads and recruitment of VPOs (Morikawa, 2015). This at least was the view of a professor of criminal procedure and a member of the Legislative Council interviewed.<sup>14</sup> This calculation, however, could well be upset, and more resources required, if the government was to redefine sentence of imprisonment to end obligatory work and introduce greater rehabilitation in prison, in which it could be reasonably expected the probation service would play an important part.

## **Conclusion**

The aim of this article has been to describe the probation system in Japan, its strengths and current challenges, the greatest being the introduction of partly suspended sentences for drug offenders, requiring sufficient resources and coordination with other bodies to achieve their rehabilitation. It seems very likely that the age of criminal adulthood will be reduced from 20 to 18. If so, probation officers will assume new tasks in sentences designed to preserve the welfare and rehabilitative spirit for that age group. In this regard, the Ministry of Justice is studying sentences in Europe. Debate in Japan may prompt discussion on our continent about the age of criminal adulthood, welfare and rehabilitation in juvenile criminal justice and the place of probation within it.

We on this continent have much to learn from Japan about rehabilitative measures, and about the impressive mobilisation of tens of thousands of volunteers, mostly retired

and in their sixties, to supervise and assist offenders. Whilst not under-estimating differences with European societies, what greater contribution more senior people could make here, and how they might be organised, is worthy of serious study. Focus on the VPO system may remind us that desistance from crime requires probation to work on social capital (fair opportunities, social inclusion, access to resources) with communities and offenders.

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## Notes

1. Article 1. The law relating to probation and parole is now contained in the Offenders Rehabilitation Act 2007, often referred to as the “Basic Law”, replacing both the Offenders Rehabilitation Law (1949) and the Law for Probationary Supervision of Offenders under Suspended Execution of Sentence (1954).
2. In 1953, the average age was 53. By 1974, it had risen to 60. Women constituted 7% of the total number of VPOs in 1953. This had increased to 20% by 1986. White Paper on Crime, 2014, Figure 2-5-3.
3. Interview 26 July 2016.
4. Interview 26 July 2016.
5. Interviews respectively on 12 and 13 July 2016.
6. Interview on 28 July 2016.
7. Interviews 25 July 2016.
8. Interviews respectively on 25 and 13 July 2016.
9. Interviews respectively on 14 July and 26 July 2016.
10. Figures kindly supplied by the Japan Federation of Bar Associations, Nichibenren. In 2015, 47% of offences were carried out by 18- and 19-year-olds, 30% by 16- and 17-year-olds and 20% by 15-year-olds and below.
11. Figures kindly supplied by the Ministry of Justice (Mr T Morikawa) on 21 March 2018.
12. Interviews 26 July 2017.
13. Interview 14 August 2017.
14. Interview 25 July 2017.

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