

BIROn - Birkbeck Institutional Research Online

Kury, H. and Sato, Mai (2013) Volunteers in the probation service: a comparison between Germany and Japan. In: Durnescu, I. and McNeill, F. (eds.) Understanding Penal Practice. Routledge Frontiers of Criminal Justice. Routledge, pp. 92-108. ISBN 9780415635813.

Downloaded from: <https://eprints.bbk.ac.uk/id/eprint/55338/>

Usage Guidelines:

Please refer to usage guidelines at <https://eprints.bbk.ac.uk/policies.html> or alternatively contact lib-eprints@bbk.ac.uk.

Volunteers in the Probation Service: A Comparison between Germany and Japan

Helmut Kury¹ & Mai Sato²

Introduction

Probation – in its rudimentary form - has a long history in both countries dating back to the 1800s in Germany and 1888 in Japan. At a theoretical level, both Germany and Japan seem to uphold similar principles in probation. Examining the relevant legislation in both countries, for example, shows that both systems treat the primary purpose of probation as rehabilitation – preventing re-offending and reintegrating the offender in the community. For Japan, Article 1 of the Offenders Rehabilitation Act 2007³ states that:

The purpose of this Act is...to prevent them from re-offending or eliminate their delinquencies and assist them to become self-reliant as sound members of society and improve and rehabilitate themselves by treating them properly within society...

In Germany, rehabilitation is seen as the primary aim of prison law. Article 2 of the German prison law 1977 ('Strafvollzugsgesetz') states that during imprisonment, prisoners should be trained to be able to organise their life responsibly in society, without committing further crimes.⁴ Public protection is only specified as a secondary aim of imprisonment.⁵

Though the same principles are enshrined in the legislation in both countries, the actual operationalisation of the probation system in practice is very different. One of the significant differences is the role of volunteers in managing and maintaining the probation system. In Germany, the probation system is a highly professionalised service run by government-employed

¹ Professor at the university of Freiburg and senior researcher at the Max-Planck-Institute for Foreign and International Penal Law in Freiburg (both retired). First Director of the Criminological Research Institute in Lower Saxony from 1980 to 1988.

² Research Fellow, Institute for Criminal Policy Research, Birkbeck, University of London; Research Associate, Centre for Criminology, University of Oxford, UK; and currently a visiting researcher at Max Planck Institute for Foreign and International Criminal Law, Germany.

³ Offenders Rehabilitation Act replaced and combined the Offenders Prevention and Rehabilitation Act 1949, and the Act for Probationary Supervision of Persons Under Suspension of Execution of Sentence 1954.

⁴ Article 2 in German states: 'Im Vollzug der Freiheitsstrafe soll der Gefangene fähig werden, künftig in sozialer Verantwortung ein Leben ohne Straftaten zu führen (Vollzugsziel).'

⁵ However, it should be noted that the process of federalisation of the prison law, the protection of the public became an important issue, due to the intensive public concern about security.

probation officers.⁶ Japan is at the opposite end the spectrum where volunteers mainly oversee probationers with a small minority of government-employed probation officers in mainly managerial positions.

This chapter focuses on this difference. A brief historical overview of each country's probation system focusing on the role of volunteers – or the lack thereof – is given. This is followed by a discussion exploring why there is such a difference in the use of volunteers, looking at historical developments, and public attitudes to 'experts' and 'informal control'. This chapter also touches on the effectiveness of probation. It should be noted that it is not our goal to propose possibilities of 'policy transfer' by depicting one country as a 'model' for running a probation service. Rather, the aim is to understand how and why the systems operate differently concerning volunteers, and what challenges face each country.

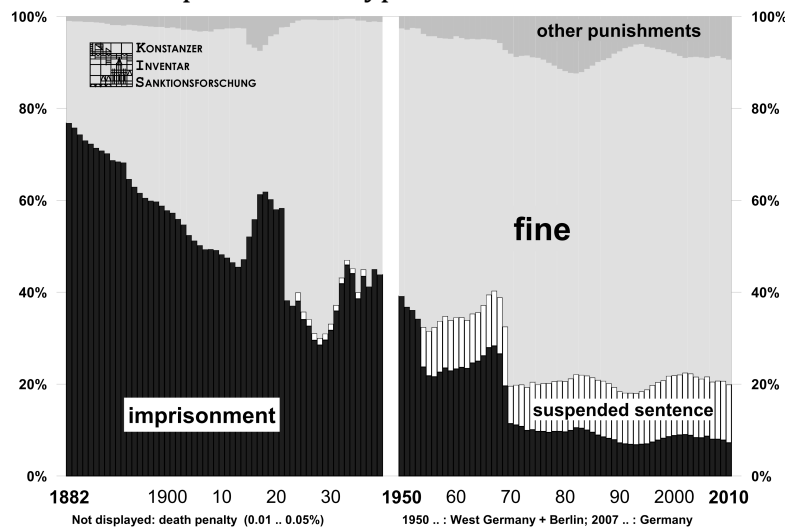
German Probation System and Volunteers

Probation plays an important role in the German penal system. (In this chapter, 'probation' refers both to supervision as an alternative to custody and post-release supervision or 'parole', otherwise specified). The German probation system focuses primarily on the re-integration of the offender into the community without subjecting the offender to imprisonment in order to avoid separation from the family, losing their job, or being drawn into the prison subculture. The current probation system was established in 1951 by 'Bewährungshilfe e.V.', and nationwide probation service statistics on probation has been available since 1963 ('Bewährungshilfestatistik', see <https://www.destatis.de>). Under the German criminal law, custodial sentences of up to two years are subject to post-release probation supervision. The length of the probation period can be from two to five years for adults, and for juveniles from two to three years, but for special cases it can range from one to four years (Article 22, Juvenile Penal Law).

In recent decades, courts have increased their use of probation. Since the 1970s, probation (suspended sentence) has been used more frequently than imprisonment (See Figure 1). Kaiser (1996: 1003) described this increasing reliance on probation as: 'one of the most significant transformations of sanctions in the last four decades.' For example, the number of probationers in 1963 was 27,400; by 2010 it had grown to 180,000 – a six-fold increase. The increase for females is more significant with a 11-fold increase between 1963 and 2010 (from 1.800 to 20.800).

⁶ There are also institutions operated by volunteers but they do not play a comparable role than in Japan.

Figure 1: Distribution of punishment type



Source: www.ki.uni-konstanz.de/kis

Probation as an ‘outpatient penalty’ has enjoyed popular support. Public punitiveness decreased after the WWII in Germany, and combined with the growing prosperity of an ‘economic miracle’ in the 1960s and 1970s, the public were less concerned about public safety and crime (cf. Kury and Shea 2011). Even today with growing punitiveness of the German penal law (Kury and Shea 2011), public support for community penalties is still relatively high scoring very close to the European average. According to the European Crime and Safety Survey - EU ICS, respondents were asked to select their preferred penalty for a 21-year-old repeat offender who stole a TV. On average, among the 18 countries who participated in the survey, 24 per cent opted for a prison sentence and 49 per cent for community service. Support for community sentence was the lowest in the UK with 52 per cent favouring a prison sentence, and 29 per cent opting for a community service. Germany was in the middle range with 19 per cent support for imprisonment and 50 per cent for community service (Dijk et al. 2007).

Shifting our focus to the official probation workforce, the German probation service is staffed almost solely by professional probation officers who are college educated, mostly specialising in social work/policy, pedagogics, and other social science subjects. There are approximately 2,500 probation officers supervising around 180,000 offenders. Out of the 2,500, around 900 are social workers dealing with offenders in the community, and 200 are occupied with court assistance tasks (European Organisation for Probation 2008). This means that the caseload per probation officer is 70 to 100 probationers to be supervised (Ibid.) This is a very large caseload, especially when taking into consideration the increase in more serious offenders given probation. While it is the job of the probation officer to act as a supervisor – who must regularly report to the court – as well as a helper, by guiding and supporting the probationer, having 70 to 100 caseloads, it is not possible to offer individualised treatment for each probationer. This has led to ‘extremely low contact intensity’ (Kaiser 1996: 1009) and is feared that the current status of the probation service is likely to

reduces the successful integration of the probationer back into the community (Kaiser 1996; Bockwoldt 1982).

The use of volunteers in probation is limited in Germany. In Germany, approximately 17 per cent of the population are involved in voluntary activities, but only one per cent of the volunteers are involved in criminal justice related work (Lehmann and Möller 2005). There is no centrally organised volunteer system (in contrast to Japan, as we shall see). What we see in Germany is a sporadic existence of local NGOs, often with unstable funding. For example, there is a nationwide umbrella organization called 'Bundesarbeitsgemeinschaft für Straffälligenhilfe' that deals generally with criminal justice matters from offender reintegration to services provided to victims of crime.

Legally, under Paragraph 5, Article 56d of the German criminal law allows the use of volunteers in probation, stating that 'the work of probation officer may be undertaken by a full-time employee or a volunteer'. However, this provision has not been fully exploited, and there have only been intermittent pilot initiatives by various federal states to incorporate volunteers in the criminal justice system. For example the use of volunteers in prisons in North Rhine-Westphalia (Wevering 2002); the use of volunteers for prisoners and ex-prisoners in Hamburg Welfare Association (Schwitters 2002); and the initiative in Ravensburg (Schwarz 1990).

The lack of government initiatives on volunteers may be changing. Stelly and Thomas (2008) emphasise how the probation service in Germany is under considerable pressure to change, marked by budget cuts. While some academics criticise the privatisation of probation (see Sterzel 2007; Kötter 2004; Gasch 2004; Meyer 2004), Jesse and Winkler (2012: 248) argue that 'given increasing lack of financial resources the engagement of volunteers could be in the future not only be seen as support of public engagement but also become absolutely necessary as a way of discharging the responsibilities of the states.'

There is a pilot project where a third sector – not-for-profit- organisation has taken some responsibility for probation work in the district of Baden-Württemberg. The NPO, Neustart – a 100 per cent subsidiary of Neustart Austria – was brought in with the primary aim of reducing caseloads of probation officer from 100 to 60 (see, their website in English: <http://www.neustart.org/de/en/>). They are currently employing approximately 440 full-time and 470 non-executive employees in the probation service, supervising about 21,000 probationers. In three of their projects, about 120 volunteers have supervised about 150 probationers, hence on average one or two caseloads per volunteer.

Volunteers under Neustart must be at least 25 years old, and be willing to give time and commitment, and be able to communicate in difficult situations with vulnerable probationers. Volunteers work under the guidance of an experienced professional probation officer, and if a case is determined to require intensive care, the volunteers are expected to have two or three contacts per month with the probationer. Sexual and violent offenders are supervised not by volunteers but by trained social workers. The outcome of the Neustart initiative

in utilising volunteers is yet to be evaluated; however, the introduction of volunteers has partially been met with criticism by the professional probation officers. (Even though the initiative was precisely to help and relieve these officers' caseloads, it could also be construed as a threat to the profession.) We will turn to this issue in more detail in the discussion section.

Japanese Probation System and Volunteers

The Japanese probation system is managed by professional probation officers (hereinafter referred to as probation officers) and voluntary probation officers (hereinafter referred to as VPOs). Probation officers are full-time government officials employed by the Japanese Ministry of Justice, and in order to become one, they are required to pass a state examination (Japanese Ministry of Justice Website, n.d. 1). VPOs are also classified as part-time government officials, but they are unpaid volunteers recruited from the general public. (See Hamai and Ville (1005) for a short summary of Japanese probation system.)

The Volunteer Probation Officers Act 1950 and the Offenders Rehabilitation Act 2007 provide the aims and responsibilities as a VPO. Under Article 1 of the Volunteer Probation Officers Act 1950, VPOs are expected 'in the spirit of volunteer social service, to assist persons who have committed crimes and juvenile delinquents to improve and rehabilitate themselves, and to enlighten the public on crime prevention, thereby enhancing the local community and contributing to the welfare of both individuals and the public.' Turning to the Offenders Rehabilitation Act 2007, the role of a VPO seems marginal: the Act states that their role is to '*supplement* the work not covered sufficiently by probation officers' (Article 32, emphasis added).

However in reality, the Japanese probation system is heavily reliant on VPOs for the supervision of both juvenile and adult offenders (Miyazawa, 1991; Ellis et al. 2012). First, while it is probation officer that makes the initial treatment plan, regular supervision and reporting are carried out by VPOs (Japanese Ministry of Justice, 2008). A point to note is that in Japan, supervision – with meetings several times a month – often takes place in the probationer's or VPO's home. Secondly, the government's reliance on VPOs is clear from the ratio of probation officers to VPOs, and the variety of offenders they supervise. In 2005, there were only 853 probation officers, but around 48,600 VPOs (Japanese Ministry of Justice 2005: 4 and 9).⁷ Up-to-date statistics for probation officers in 2012 are not available but the number of volunteers in 2012 is unchanged (Japanese Ministry of Justice 2012).

VPOs supervise both adult and juvenile offenders, including those on parole. The workload breaks down into: 'juvenile parolees from juvenile training schools'; 'juveniles placed on supervision by the decision of the family court'; 'adult parolees from prison'; and 'adults placed on supervisory probation who

⁷ The maximum number of volunteer probation officers is set at 52,500, according to Section 2, Article 2 of the Volunteer Probation Officers Act 1950.

are on suspended sentence'. In 2010, there were in total 48,861 offenders under probation (including post-release supervision). Out of these, just over half (53%) were juveniles placed on supervision orders by the family court, 30 per cent were adult parolees, 12 per cent juvenile parolees, and lastly 8 per cent adults placed on supervisory probation who are on suspended sentence (Japanese Ministry of Justice, 2011).

In addition, VPOs deal with various offences ranging from traffic offences to murder, although the majority of offences that VPOs regularly deal with are theft, drugs, and injury. For adult parolees from prison and adults placed on supervisory probation who are on suspended sentence, theft and drugs are the top two offences for both men and women comprising around half of all types of offences. Theft (35%) and drugs (35%) are particularly high for female adult parolees reaching up to 70 per cent of all offence types that fall under the VPOs' supervision. As for juveniles, theft is the most committed offence comprising around 40 per cent for both juvenile parolees from juvenile training schools and juveniles placed on supervision by the decision of the family court. There is a difference for juveniles on parole for girls and boys: while theft is still the most committed offence for both sexes, for boys causing injury (16%) comes second and armed robbery (9%) comes third, whereas for girls drugs is second in line (21%) followed by status offence or regulatory offence (13%).

No educational qualifications are needed to become a VPO, but the following criteria must be met: be highly evaluated in terms of character and conduct in the community; be enthusiastic and have enough time available to accomplish the necessary duties; be financially stable; and be healthy and active (all specified under Section 1, Article 3 of the Volunteer Probation Officers Act 1950).⁸ The VPOs are appointed by the Minister of Justice through the recommendation from the director of the probation office, who needs to receive recommendation from the Probation Officers' Screening Commission (Article 3). Once, appointed as a VPO, the initial term of office is for two years but this can be renewed (Article 7) and many VPOs serve for ten years and longer. The training of the VPOs is not included in the legislation, but the Japanese Ministry of Justice website states that there is intensive training for new VPOs and continuous training for more experienced VPOs, though the exact frequency and the length of training is not specified (Japanese Ministry of Justice, n.d. 2).

One of the great advantages of the use of volunteers is that they are free labour (Miyazawa, 1991). As noted above, the VPOs are unpaid under Article 11 of the Volunteer Probation Officers Act 1950.⁹ The only payment the VPOs will receive is in the form of expenses.¹⁰ For supervising one probationer, a VPO will receive ¥5,620 (approx. £40) per month (Ministry of Justice 2005). Additional

⁸ Citizens who are under curatorship or who have been imprisoned cannot become a VPO (Article 4 of the Volunteer Probation Officers Act 1950).

⁹ Section 1, Article 11 states that no salary shall be paid to volunteer probation officers.

¹⁰ Section 2, Article 11 states that volunteer probation officers may, pursuant to the provisions of Ordinance of the Ministry of Justice and within the limits of the budget, be reimbursed for the expenses needed for the performance of their duties, in whole or in part.

travel expenses are given for one off trips, for example, to inspect the environment where probationers will be living when they are released from prison or in juvenile training schools (¥1,650 per trip, which is approx. £11), or for attending training sessions provided for VPOs (¥1,100 per attendance, which is approx. £8) (Ibid.). It is clear that the amount that the VPOs receive as expenses is small considering the supervision, reporting, and training that they are required to do. It is also evident that this creates a huge saving for the government, especially taking into consideration that supervision is often carried out at the VPO's or the probationer's home without the need of a probation office.

VPOs seem motivated largely by altruism. A survey¹¹ of VPOs across Japan showed that an overwhelming majority of respondents were against the idea of providing salaries (91%) (Japan Volunteer Probation Officers Association 2005: 20). The 91 per cent of those who did not wish to be paid a salary for the work they do were comprised of 73 per cent who thought 'salaries were unnecessary but an improved expense payment should be introduced', and the remaining 18 per cent were those who considered 'salaries as unnecessary and also satisfied with the current expense system' (Ibid.). The following quote – though not intended to describe Japan in particular – sums up the spirit of VPOs and its organisation well:

Inspiration is one of the important things volunteers offer, but you'd better have a good organisation behind that inspiration, if you want it to work massively in program-level interventions. (Scheier, 1970: 14)

Lastly, caseloads for VPOs are much smaller than those handled by German professional probation officers. One or two probationers per VPOs is the norm, but caseloads differ in each probation districts depending on the demand and the supply of VPOs, and in certain areas VPOs are having to handle ten cases (Japanese Cabinet Office, 2010).

Discussion

We have seen that the German and the Japanese probation systems are very different when it comes to the use of volunteers. In Germany, the probation service is operated by professionals comprised of social workers with a minimum entry requirement of a college degree, with a small number of volunteers. In Japan, the VPOs are vital to the running of the probation service. They do not operate like European NGOs, which tend to operate either independently of government on private or charitable funding or at arms' length from government, working on contract. Rather they are fully integrated into a highly centralised government probation system. The fact that there is a specific law dedicated to VPOs, as seen in the previous section, highlights its centrality. In this section, we explore the factors behind the differences in the use of volunteer

¹¹ Out of a total of 906 probation districts in Japan, there were 818 responses from 818 districts.

probation officers. We do this by looking at historical development, public attitudes to experts and informal control, and the effectiveness of probation.

Historical development

There are many similarities between the Japanese and the German criminal law. In addition to both countries being civil law jurisdictions, the Japanese criminal law borrows heavily from Germany, including the current Penal Law, which was introduced in 1907. When it comes to probation, however, there was not such 'transfer' from Germany to Japan or vice versa.

Starting with Japan, the simplest explanation as to why Japan has a volunteer-based probation system is historical development (Miyazawa 1991; Ellis et al 2012). Volunteer probation officers existed long before the influences of the German criminal law. According to the Japanese Ministry of Justice, the history of probation in Japan in fact 'began' with volunteers back in 1888 (Japanese Ministry of Justice n.d. 1). A vice-governor of a prison in Shizuoka prefecture – outside of Tokyo – found out that one of the released prisoners committed suicide because he did not have a family or a home to go back to. This realisation led the vice governor, together with some colleagues, to establish an organisation helping released prisoners. This movement promoted religious groups – mainly Buddhist and Christian – and non-religious groups to set up similar organisations all across the country. The expanding volunteer-based enterprise for released prisoners slowly became incorporated into the state system over the years, and was formally recognized as a state organisation in 1939. Therefore even though the Volunteer Probation Officer Law was established only in 1950, it could be argued that this law simply formalised a pre-existing volunteer system (Ellis 2010).

The beginning of probation in Germany was also more or less volunteer-based. The roots of the German probation system goes back to the 18th and first part of the 19th century which dealt with aftercare for released prisoners provided by charitable and religious institutions (Kalmthout and Durnescu 2009). Tögel (1990) argues that in 1783, we see the first regulation which defines that the community is responsible for the integration of the offender, and a more formalised help system for released offenders in the 1920s (Busch 1980). It was after the WWII that the German national probation system became operationalised. While local probation services did appear in various locations during the first decade of the 20th century, these services were stopped during the 1933-1945 National Socialist period (Kalmthout and Durnescu 2009). The probation service in its current form – operationalized by professional probation officers specialising in social work – was formally recognised under in 1953 under the German Penal Code and the Juvenile Court Act implemented.

Kalmthout and Durnescu (2009) explain that in many European countries including Germany, almost all rudimentary forms of probation work were originally offered by volunteers, but they argue that this changed throughout the 20th century with the 'modern movement' in criminal law. The shift is

characterised by the change from focusing on the criminal act – with retaliatory measures and deterrence with imprisonment as the main penalty – to focusing on the criminal offender. Criminal law became more individualised and began to pay more attention to rehabilitation and paved the way for the development of the modern criminal justice including the professionalised probation system.

Attitudes to experts and information control

Historical development of the probation system – one with a volunteer-based one, and the other switching to a professionalised approach – provides some explanations as to why the current probation system in two countries differ for their use of volunteers. However, as we have seen, history is not static and how probation developed many years ago does not always stay the same simply because of the way it started. In the case of the Japanese probation system, in order to maintain nearly 50,000 volunteers to act as probation officers without pay obviously requires *continued* cooperation from the public. In this section, we attempt to understand the societal differences between Germany and Japan that supports – or more indirectly embraces – the current two approaches, one based on informal control by way of citizen participation and one that treats probation as a specialised body of knowledge to be handled by professionals.

First, we explore how ‘professional’ and ‘volunteer’ probation officers are conceived and differentiated at an organisational level. The distinction between the two boils down to whether probation is seen more as a ‘profession in which professionals deploy a body of knowledge’ or whether it is seen more as a ‘craft requiring technical skills’ (Hough 2010)¹² The Council of Europe (2010), published a Commentary to Recommendation CM/Rec (2010) 1 on the European probation rules to member states. In this Recommendation, they differentiate the function of a professional probation officer and a volunteer by separating the responsibilities between the two (‘volunteers should not normally be asked to undertake work which demands the skills of employed staff’) and referring to the volunteer-probation relationship as ‘less formal’ than probation officer-probationer relationship.

What we find in Japan is that for the VPOs, words such as ‘experts’ or any areas of expertise are not found in the legislation.¹³ This suggests that in Japan, the work of probation is seen as a ‘craft’ which does not require a formal

¹² Hough (1997: 114) is of the opinion that probation is more of a craft. He argues that: ‘there is a limit to the extent to which this art can be ‘trained’ into people...one possibility that deserves serious consideration is that the precise content of the training is less important... I believe that it is confidence and sense of purpose which is the central ingredient of successful training.’

¹³ On the other hand, probation officers in Japan are treated as ‘experts’ at least in the wording of Article 31 of the Offenders Rehabilitation Act. It states that: ‘based on medicine, psychology, pedagogy, sociology and other expert knowledge relating to rehabilitation, probation officers shall engage in the work of probation, research, coordination of the social circumstances and other work relating to the rehabilitation of persons who have committed crimes and juvenile delinquents, and the prevention of crime.’

qualification or a certain specialisation to carry out. It is therefore not surprising for Germany with a limited number of volunteers to also view probation as a 'profession'. A German academic describes its probation officers as having an 'expertise': 'probation officers are trained in social work and social science and use many methods of help including social casework, group counselling and group treatment.' (Wahl, 1981: 124).

The understanding of probation work as a 'profession' in Germany may be one of the factors causing the tension between probation officers and volunteers. Probation officers may feel that their 'expertise' is being taken away and undermined by the introduction of volunteers (Hansi 1980). In this case, the reluctance from the professional probation officers to embrace the volunteers could be a problem, if Germany were to expand the use of volunteers beyond the pilot. This is because the successful introduction of volunteers in Germany would require the collaboration and training of volunteers by the professional probation officers, unlike Japan where the voluntary probation was already established from the beginning. The Japanese probation is not without its challenges either. If Japan were to continue with the volunteer-based system, the government must soon act upon the decreasing number of VPOs and the increased difficulty in recruitment, due to urbanisation and increasing fear of crime and punitivity (Ellis et al. 2011).

Secondly, we examine if there are any differences between Germany and Japan public in their attitudes to experts and informal control. Jiang, S., Lambert, E.G., and Saito, T. (2011), using a convenience sample of 267 Japanese college students, examined their perceived relative importance of 'formal' and 'informal' crime control. 'Formal crime control' was defined as legal control implemented by official or governmental controlling organisations such as the police, and 'informal crime control' was defined as crime control carried out by unofficial controlling groups based on morality such as family, neighbourhoods. In the study, VPOs were considered to be part of informal control because they are volunteer-based and have had to shown their connection and respect from the community to become one. They found that respondents considered both formal and informal controls were effective deterrents, but informal control was perceived as more effective. While the focus of the study is interesting, the difficulty in generalising the finding should be mentioned: the sample was made up of students whose average age ranged between 18 and 24, all majoring in criminology, and were predominantly male (72%).

In addition, using the European Social Survey data Round 5, we compared the Japanese and German public's attitudes to experts.¹⁴ We wanted to know if the German public were more likely to regard formal control – in this case the police – as an authority which should be obeyed, and if so to what extent. The questions asked the importance to obey the police 'even if' you disagreed or

¹⁴ The main dataset used for analysis is Round 5 of the European Social Survey (ESS), which was administered in 2010/11 with 28 countries (data being available at present in 2012 for 26 of these). The survey in Japan was administered by a Japanese company Chuo Chosasha in 2011, organized by Prof. Koichi Hamai at Ryukoku University. (<http://www.crs.or.jp/backno/No650/6501.htm>)

were mistreated by them. First question measured whether respondents thought that there was a 'duty to back decisions made by the police even if you disagreed', the second question asked if there is a 'duty to do what the police say even when you don't understand or agree', and the last question asked if you thought that there was a 'duty to do what the police say even if you were treated badly'. All three questions were measured on a 11 point scale ranging from 'not at all my duty' = 0 and 'completely my duty' = 10: higher the score, higher the perceived level of duty to obey. In all three questions, the German public considered it more important to obey the police than the Japanese respondents. The largest gap was seen in the 'duty to do what the police says even when you don't understand or agree'. In this question, while the Japanese public only scored 3.6, the German public scored 6.7. The average mean for the whole dataset including 26 countries was 5.6.

'Effectiveness' of Probation

So far, we have examined the factors that underlie the different models of probation service focusing on the utility of volunteers, without referring to how successful these models are. Is the Japanese model with a lower caseload prove to be more successful in preventing reoffending, or is German model with professional probation officers with specialised knowledge, a better model in preventing reoffending? ¹⁵

There is only few research comparing the effectiveness of volunteer with professional probation due to the limited utilisation of volunteers in Germany. There are more studies comparing probation with imprisonment. A study conducted by Jehle et al. (2003), examined re-conviction rates for those punished or released from prison in 1994 following them up until 1998, with a sample of nearly one million people in Germany. The authors found that those who were imprisoned were more likely to re-offend and those on suspended sentences did better. The 'Zweite Periodische Sicherheitsbericht' (Bundesministerium des Innern 2006: 690) also concluded that according to our empirical knowledge, alternatives to imprisonment have more or less the same effects than imprisonment. The sanctions are more or less exchangeable.

Similarly for Japan, figures are limited and the evidence is patchy (for a review of the small number of 'work works' findings in Japan, see Ellis et al. 2012: 338-339).¹⁶ Ellis et al. (2012: 339-340) notes that:

¹⁵ A quasi-experimental study conducted in Oklahoma city compared probation officers with reduced caseloads of 54 probationer per officer, and other probation officers maintaining caseload averaging 106 probationers per officer. Using survival analysis, they estimated that the smaller caseload reduced the rate of recidivism during probation by roughly 30%. (Jalbert and Rhodes, 2012)

¹⁶ The exception are: 2008 Ministry of Justice White Paper on Crime, which has a chapter on reconviction analysis; and 2010 Ministry of Justice White Paper on Crime which also has a chapter on juvenile re-offending.

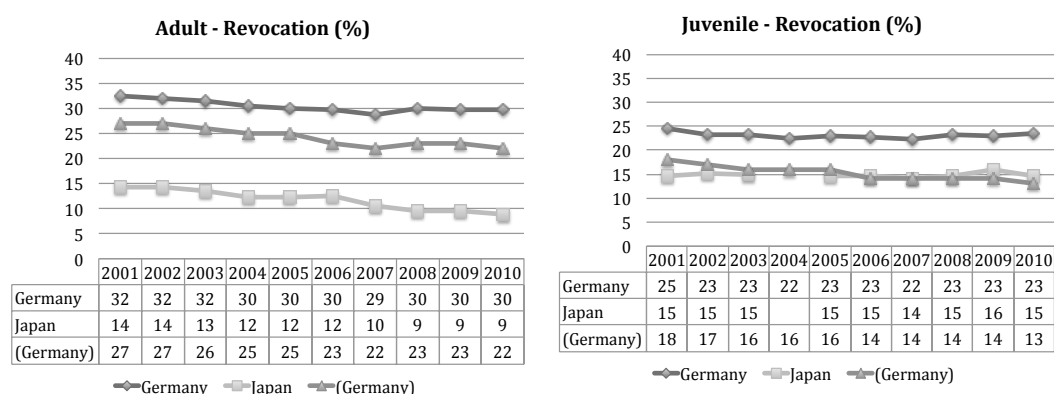
[T]he JMoJ's flagship series of White Papers on Crime, which are otherwise extremely comprehensive, do not include reconvictions analyses...There is no easy link between Japan's low crime rate and its probation supervision organisation and practice. There is also a dearth of reconviction or other impact studies to show its effectiveness in this way.

Perhaps the partial answer to the lack of reconviction analysis in Japan is the cost savings on the heavy reliance on volunteers: any result which is damaging to the way in which the current probation system operates may not be beneficial to the Japanese Ministry of Justice.

In this section, we compromise by compare to the revocation rates as a proxy for the success of the probation regime for Germany and Japan for the last ten years from 2001 to 2010 for adults and juveniles (Figure 2). Germany appears twice in the same Figure: this is because the last row for Germany (written in brackets) are the proportion of those who committed new crime during probation. The rest of the data shows new crime and/or violation of an order. Overall, we find that the revocation rates for both countries are stable, with the exception for Japanese adults. Differences in rates between Germany and Japan are around 20 per cent for adults and 10 per cent for juveniles, with Japan consistently showing lower revocation rates. These results must be interpreted with caution because there are big differences between Japan and Germany in terms of crime rates, and attitudes to offenders.

For the Japanese adult revocation rates, we see a slow decline in revocation rates over the last ten years. While it is tempting to explain the decline as a 'success' of the Japanese probation system, it is more likely to be caused by concern for public security and growing punitiveness (Hamai and Ellis 2008; Yoshida 2011), including the probation service (Ellis et al. 2012). To illustrate the point further, we only need to look at reduction of life prisoners released on parole which is also declining: there were ten lifers (who were sentenced up to 29 years) released in 2003 but this figure kept on declining and reached zero in 2007 and have remained zero to present (Japanese Ministry of Justice, 2011).

Figure 2: Completion rates for probationers for adults and juveniles from 2001 to 2010



Note:

- 1) German Data: Statistisches Bundesamt - De Statist (2011)
<https://www.destatis.de>
- 2) Japanese data: Ministry of Justice, *White Paper on Crime* (2011; 2010; 2009; 2008; 2007; 2006; 2005; 2004; 2003; 2002; 2001; and 2000). 2004 data on juveniles were not available.

Conclusion

We have seen that probation systems emerged in the 18th/19th century as volunteer-based systems grounded partially in religiously-based altruism. However they diverged sharply in the 20th Century. The German system is an exemplar of what might be called 'high professionalism', with an emphasis on the acquisition of a body of professional knowledge and professional qualifications. The Japanese system mobilises a much larger number of unqualified – but altruistically motivated – staff to deploy common-sense craft skills in helping offenders.

Both systems seem to be losing their equilibrium, and face the possibility of change. In Germany, the simple cost of the professionalised model is prompting experimentation with volunteers - in times of restricted budgets like today – although there may be other factors at work too, such as disenchantment with the 'rehabilitative ideal'. On the other hand, sustaining the supply of volunteers in Japan cannot be taken for granted. One might speculate as to whether these very different pressures may bring about a re-convergence of the two systems. Whatever the case, more work is needed both at a theoretical and empirical level to compare the relative value of such different systems. A key factor to assess is whether the offenders themselves are more inclined to confer legitimacy on a professionalised or on a volunteer-based system.

References

- Bockwoldt, R. (1982). *StrafAussetzung und Bewährungshilfe in Theorie und Praxis*. (Sentencing and probation in Theory and Practice). Lübeck.
- Bundesministerium des Innern – Bundesministerium der Justiz (2006). *Zweiter Periodischer Sicherheitsbericht*. (Second Periodical Report about Security). Berlin.
- Council of Europe, Committee of Ministers (2010). *Commentary to Recommendation CM/Rec (2010) 1 of the Committee of Ministers to member states on the Council of Europe probation rules*. Strasbourg: Council of Europe
(http://www.cepprobation.org/uploaded_files/CommentaryRec_2010_1_E.pdf).
- Dijk, J.van, Manchin, R., Kesteren, J.van, Nevala, S., Hideg, G. (2007). *The Burden of Crime in the EU. Research Report: A Comparative Analysis of the European Crime and Safety Survey (EU ICS) 2005*. Brussels: Gallup Europe.

- Durnescu, I., Haines, K. (2012). Probation in Romania. *Archaeology of a Partnership*. *British Journal of Criminology* 52, 889-907.
- Ellis, S. J. (2010) "Japan's Volunteer Probation Officers', E-Volunteerism: A Journal to Inform and Challenge Leaders of Volunteers X(3).
- Ellis, T., Lewis, C., and Sato, M. (2012) "The Japanese probation service: A third sector template?" *Probation Journal*. 58(4): 333-344.
- European Organisation for Probation (2009) Summary information on probation in Germany. Available from http://www.cepprobation.org/uploaded_files/Summary%20information%20on%20Germany.pdf (last accessed on 12 November, 2011)
- Hamai, K., and Villé R. (1995) "Origins and purpose of probation" in Hamai, K., and Villé R., Harris, R., Hough, M., and Zvekic, U. (eds.) *Probation Around the World*. London: Routledge.
- Hamai, K., and Ellis, T. (2008) "Genbatsuka: Growing Penal Populism and the Changing Role of Public Prosecutors in Japan." *Japanese Journal of Sociological Criminology*, 33: 67-91.
- Hough, M. (1997) "Developing a probation capability: assessment, monitoring, evaluation and training" in Villé, R., Zvekic, U., and Klaus, J.F. (eds.) *Promoting probation internationally*. Rome and London: United Nations Interregional Crime and Justice Research Institute. Publication No. 58.
- Hough, M. (2010) "Gold standard or fool's gold? The pursuit of certainty in experimental criminology" *Criminology and Criminal Justice* February 2010 10: 11-22.
- Jalbert, S.K., and Rhodes, W. (2012) Reduced caseloads improve probation outcomes. *Journal of Crime and Justice*. 35:2, 221-238.
- Jiang, S., Lambert, E.G., and Saito, T. (2011) "University students' views of formal and informal control in Japan: an exploratory study". *Asian Criminology*. 7: 137-152.
- Japanese Cabinet Office (2010) *Hogoshiga tarinai – seifu monita ni taisuru kaito* (Lack of volunteer probation officers: answer from the government) <http://www8.cao.go.jp/monitor/answer/h22/ans2210-003.pdf> (last accessed on 6 November, 2012).
- Japanese Ministry of Justice Website (n.d. 1) http://www.moj.go.jp/hogo1/soumu/hogo_index.html (last accessed on 5 November, 2012).
- Japanese Ministry of Justice Website (n.d. 2) http://www.moj.go.jp/hogo1/kouseihogoshinkou/hogo_hogo04-02.html (last accessed on 5 November, 2012).
- Japanese Ministry of Justice (2005) *Kouseihogo no arikata wo kangaeru yushikisha kaigi dai nanakai: handout 1 (7th Expert meeting on probation: handout 1)*, 8 December, 2005. <http://www.moj.go.jp/content/000010020.pdf> (last accessed on 5 November, 2012).
- Japanese Ministry of Justice (2008) *White Paper on Crime*. <http://hakusyo1.moj.go.jp/jp/55/nfm/mokuji.html> (last accessed on 6 November, 2012).
- Japanese Ministry of Justice (2011) *White Paper on Crime* <http://hakusyo1.moj.go.jp/jp/58/nfm/mokuji.html> (last accessed on 5 November, 2012)

- Japanese Ministry of Justice (2012) *Suugi de miru hogoshi (Voluntary probation officers in statistics)* <http://www.moj.go.jp/content/000101926.pdf> (last accessed on 5 November, 2012).
- Japan Volunteer Probation Officers Association (2005) *Hogoshi seido ni kansuru anke-to: kekka houkokusho (Results concerning the survey on volunteer probation officers)*. Japanese Ministry of Justice. <http://www.moj.go.jp/content/000010021.pdf> (last accessed on 6 November, 2012).
- Jehle, J.-M., Heinz, W., Sutterer, P. (2003). *Legalbewährung nach strafrechtlichen Sanktionen. Eine kommentierte Rückfallstatistik. (Legal behavior after penal sanctions. A commented statistic of recidivism)*. Berlin: Bundesministerium der Justiz.
- Jesse, J., Winkler, J. (2012). „Probation Rules“ unter Bewährung. Professionelles Handeln im Spannungsfeld finanzieller Ressourcen. („Probation Rules“ under proof. Professional work in tension of financial resources) *Bewährungshilfe* 59, 240-250.
- Kalmthout, A.M van, and Durnescu, I. (2009) ‘Chapter 1 European Probation Service Systems: A comparative overview’ in Kalmthout (ed.) *Probation in Europe*. Wolf Legal Publishers. Chapter 1 available from: http://www.cepprobation.org/uploaded_files/1_Chapter_1_Comparative_overview.pdf (last accessed on 12 November, 2012)
- Kaiser, G., Kerner, H.-J., Schöch, H. (1992). *Strafvollzug. Ein Lehrbuch. (Imprisonment. A textbook)*. Heidelberg.
- Kaiser, G. (1996). *Kriminologie. Ein Lehrbuch. (Criminology. A textbook)* Heidelberg: C.F. Müller.
- Kury, H. (1987). *Die Behandlung Straffälliger. (The treatment of offenders)*. Berlin: Duncker & Humblot.
- Kury, H., Shea, E. (Eds.) (2011). *Punivity – International Developments*. 3 Vols., Bochum: Universitaetsverlag Dr. Brockmeyer.
- Miyazawa, S (1991) “The private sector and law enforcement in Japan”, in W.T. Gormley, *Privatization and its Alternatives*. 241-248. Wisconsin: Wisconsin University Press.
- Morgenstern, C. (2012). *Europäische Standards für die Bewährungshilfe. (European Standards for probation)* *Bewährungshilfe* 59, 213-238.
- Scheier, I.H. (1970) The professional and the volunteer in probation: an emerging relationship. *Federal Probation*, 34, 12-18.
- Statistisches Bundesamt – DeStatis (2011). *Rechtspflege – Bewährungshilfe - 2010. (Judicature – Probation)* Fachserie 10, Reihe 5. Wiesbaden: Statistisches Bundesamt (https://www.destatis.de/DE/Publikationen/Thematisch/Rechtspflege/Bewaehrungshilfe/Bewaehrungshilfe2100500107004.pdf?__blob=publicationFile).
- Tomić-Malić, M. (1981) “Introduction” in Cartledge, C.G., Tak, P.J.P., and Tomić-Malić, M. (eds.) *Probation in Europe*. Netherlands: European Assembly for Probation and After-care.
- United Nations (1951) *Probation and related Measures*. Document E/CN.5/230, New York: United Nations.

- Wahl, A. (1981) "German Federal Republic" in Cartledge, C.G., Tak, P.J.P., and Tomić-Malić, M. (eds.) *Probation in Europe*. Netherlands: European Assembly for Probation and After-care.
- Wälzholz-Junius, A. (2012). Die Empfehlung des EU-Ministerkomitees über die Grundsätze der Bewährungshilfe aus der Sicht der Praktiker. Eine Stellungnahme der Arbeitsgemeinschaft Deutscher Bewährungshelferinnen und Bewährungshelfer e.V. (ADB e.V.). (The recommendations of the EU-Ministercommittee about basic rules of probation from the view of practitioners. A commentary of the Working group of the German probation officers) *Bewährungshilfe* 59, 251-254.
- Yoshida, T. (2011). Punitivity Today in Japan. In: Kury, H., & Shea, E. (Eds.), *Punitivity – International Developments*. Vol. 2: Insecurity and Punitiveness. Bochum: Universitätsverlag Brockmeyer, 453-508.