

# *Communities of Communities: International Standards and Co-operation in Probation Work*

**Presentation at the 3<sup>rd</sup> World Congress on Probation,**

**- *Development of Probation and the Role of Community* -**

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## **Communities of Communities: International Standards and Co-operation in Probation Work**

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**SLIDE 1**

Ladies and gentlemen, colleagues, good afternoon. It is an honour and a pleasure to be presenting to you here today, at the 3<sup>rd</sup> World Congress on Probation, in the beautiful city of Tokyo, in this wonderful country – Japan.



- Introduction – incl. Irish Probation Service.
- ‘Communities,’ supranational bodies, organisations and networks.
- Role in standards.
- The PC-CP. (Current work programme).
- Ireland’s role, input and benefits.
- Future possibilities
- Questions & Answers

## SLIDE 2

The concept of ‘community’ is clearly – and by definition – a significant one in the field of *community* sanctions, including probation. Nevertheless, the term ‘community’ can also be a contested one, with subtle differences of meaning, depending on where one comes from, among other things. ‘Community’ can imply a shared geographical space, but also shared experience, identity, or shared interests. The term can have somewhat negative, as well as positive connotations. I want to talk to you today about what is perhaps a different type of ‘community’ to the more commonly understood meaning of the term. In particular, I will speak about what are known as ‘supranational bodies,’ and their role in the development of standards for probation work. In that sense, the ‘meta-communities,’ or collectivity of ‘communities’ that I will describe, are about developing and incorporating values, through agreed international standards, into how we

organise probation, and in the services we deliver. Before I do that, I will say a little bit about my own background and the work we do in the Irish Probation Service. I will move on then, in the context of supranational bodies and the communities in which they originate, and which they can create, to consider the work of the Council of Europe's Working Group on Penological co-operation, the PC-CP. I will briefly describe the Working Group's current work programme, and the input that I, and Ireland more generally, make to this group and others, and consider the future possibilities for such international 'communities' in the future, insofar as probation work is concerned.



### SLIDE 3

Ireland, as you will be aware, is a small country of less than five million people, on the North-Western fringe of Europe. Although we are small, we have a long history of dedicated commitment to working with our neighbours, in various

fields, to improve the lives and the conditions and the outcomes for all our citizens. While that history of positive and developmental Irish involvement on the international stage, extends back over the last century at least, it can be argued that it extends even much further back, over many centuries; but that is for another day. Suffice to say that Ireland dedicates considerable energy and resources to the establishment and development of these international co-operative relationships, not least in the field of probation.



### **Irish Probation Service – Overview:**

- ✓ **400 staff**
- ✓ **€46+ million budget**
- ✓ **40 office locations**
- ✓ **All 13 prisons**
- ✓ **8,500 offenders in the community**
- ✓ **1,500 (of 3,700) in custody at one time**



## **SLIDE 4**

Regarding my own ‘community:’ the Irish Probation Service, as an organisation, is an agency of the Department of Justice and Equality, with a national remit and coverage. We have around 400 staff based in forty office locations right across the country, including in all of the country’s prisons. Our budget for 2017 is over

€46 million. On any one day we are working with around 8,500 offenders in the community and with around 1,500 of those in custody at any one time.



### Irish Probation Service – Role:

- **Manage court orders**
- **Reduce risk of harm**
- **Reduce likelihood of reoffending**
- **Make good the harm caused by crime**



### SLIDE 5

The role of the Probation Service in Ireland can be summarised as being to: manage court orders, reduce the risk of harm and the likelihood of reoffending posed by those under our supervision, and to make good the harm caused by crime.



- **“Community”/“Communities”?**
- **Supranational Bodies**
- **Council of Europe...**



## SLIDE 6

As I said earlier, the concept of ‘community’ – outside of so-called ‘common sense’ understandings – can be contested and nuanced. The Council of Europe’s Annual Conference of Directors of Prison and Probation, in 2016, addressed the theme of ‘community’ in work in prisons and probation. In one of the keynote presentations then, Dr. Beth Weaver, citing Calhoun (1998), pointed out that: “Community life... is not a place, or simply a small-scale population aggregate, but a mode of relating, variable in extent.” There are of course, various other definitions and conceptualisations of ‘community,’ in general, as I have already mentioned earlier.

What are termed ‘supranational bodies’ referred to by Jones and Newburn (2007, p.7) in the context of *policy transfer* between countries or jurisdictions, include bodies such as the United Nations (UN), the European Union (EU), and the Council of Europe (CoE). I suggest that such supranational bodies might, for the

purposes of the present presentation, be considered as international ‘communities’ – of countries or jurisdictions. While the relative influence of all these bodies is not necessarily easy to gauge, Rob Canton (2014) has suggested – in relation to policy transfer – that: ‘A principal stimulus here, which is likely to become still more compelling, is the increasing influence of supranational influences’, and that ‘several treaties and conventions’ have ‘given a mandate for supranational entities – for example, the Council of Europe – to concern themselves with the penal practices of their member states. Penal policy, in short, is no longer the sole concern of the nation state’ (p.2631).

I would suggest that to the list of formal ‘supranational bodies’ might be added, for the purpose of the present exercise, such other representative bodies as the Confederation of European Probation (CEP), Europris, the International Corrections and Prisons Association (ICPA), and the International Community Corrections Association, among many others, as well as a range of lobbying or advocacy non-governmental organisations (NGOs), for example. These less formal bodies can exercise considerable influence in promoting policy change and development. Although they may lack the force of international, political treaties and conventions, they can exercise influence, for example in developing or adding value to the existing international probation ‘community.’

The CEP, for example, was founded over thirty years ago. It has served, and continues to serve, as a powerful voice for the probation profession and organisations around Europe. Ireland was a founding member of the CEP. Our former Director, the late Mr. Martin Tansey, was a CEP President. The current President of the CEP is my colleague and Assistant Director, Mr. Gerry McNally.

Another example of the increasing global connectivity, and sense of community, in the world of probation, is the World Congress on Probation itself, first held in

London in 2013. The second of these biennial events was held in Los Angeles in 2015, with the third being here in Japan, right now. The benefit of gatherings such as this, may be symbolic as much as practical. Nevertheless, they do, as far as I am concerned, demonstrate the real connectivity and shared reality of probation across the world. They also bring inter-jurisdictional communication and knowledge sharing to a level not otherwise possible outside the more usual exchanges bilaterally between friendly countries, within regions or continents, or across shared historical or other bonds. Here, we really can *all* learn from each other.

I will return though, to the Council of Europe and its constituent bodies, specifically the PC-CP. The PC-CP Working Group has an agenda very firmly rooted in the ongoing development of prison and probation standards, policy and practice, in the forty-seven CoE Member States. The work of the CoE in this regard has been significant since its establishment, but particularly, from my perspective, over the last three decades. Instruments such as the European Probation Rules, the European Prison Rules, and the European Rules on Community Sanctions and Measures, as well as some others that deal with specific themes or areas of work, including Electronic Monitoring (EM), and dangerous offenders, set the shared international standards, across the CoE area, for work in these fields.

It is my contention that supranational bodies, such as the Council of Europe, can and do function as communities – or even as *communities of communities* - in how they seek to create a mode of relating and a sense of shared belonging, in this case as far as how we collectively aim to manage those in our care, under our supervision, in the community and in custody.





## SLIDE 7

The Council of Europe itself comprises forty-seven Member States, as highlighted here on the map. A number of others have observer status, including The Holy See, the USA, Canada, Japan, Mexico and Israel. In addition, over forty-five non-members are parties to various conventions of the Council of Europe.



- CoE: Established 1949.
- European Convention on Human Rights (1950).
- European Court of Human Rights (1959).
- European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT - 1989).
- Rule of Law > CDPC > PC-CP

## **SLIDE 8**

The Council of Europe was established in 1949 and its work is built to a large extent on the European Convention on Human Rights, which was finalised in 1950. The European Court of Human Rights was established in 1959 and is a key institution of the Council. There are of course a number of bodies within the Council of Europe structure, which have key roles in the development and monitoring of standards with regard to the treatment of offenders. One such body, for example, is the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment – known as the CPT - which was established in 1989. The Council for Penological Co-operation, or the PC-CP, falls under the Rule of Law pillar of the Council, with the European Committee on Crime Problems (the CDPC) being its “parent” committee.

- PC-CP: Established in 1980 as advisory body to Committee on Crime Problems (CDPC).
- Since 2011: 9 members, elected by CDPC Plenary. High-level prisons, probation, administration, legal, research experts.

## **SLIDE 9**

The Council for Penological Co-operation (PC-CP) was established in 1980 as an advisory body to the Committee on Crime Problems. Since 2011, the PC-CP Working Group, which I chair, has nine members; all high level prisons, probation, administration, legal, and research experts; elected by the CDPC Plenary Meeting, representing all the Member States, as well as having a permanent member from the CoE Secretariat.

- Standards in prison & probation management / work
- Recent work programme: CSMs, Radicalisation
- Current: Children of Prisoners, RJ, EPR  
Commentary, Prison Overcrowding
- Prison & Probation Directors Conference: CDPPS
- SPACE I & II Statistical Reports
- Web: <http://www.coe.int/en/web/prison/home>

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## SLIDE 10

The PC-CP Working Group generates standards in Prison and Probation management and work, for and on behalf of the Council of Europe. All of the relevant documents developed by the PC-CP are available on our webpage. We also publish, in one single publication, a compendium of relevant standards, guidelines and conventions, related to work in probation and prisons. Some of the most recent work we have been involved in finalising (in the past year) includes updated European Rules on Community Sanctions and Measures, as well as generating guidelines and a handbook on Dealing with Radicalisation to Violent Extremism in Probation and Prison populations. Our current work programme includes the development of standards regarding Children of Prisoners, the use of Restorative Justice interventions in Probation and Prisons, updating the commentary to the European Prison Rules, as well as participating in a Working Group to address prison overcrowding in Europe. We also organise an annual Prison and Probation Directors Conference each year, which is a valuable opportunity for the heads of all Probation and Prison Services in the Council of Europe area to come together annually. In addition, we commission and publish

annual statistical reports on the population in prison and on probation across the Council of Europe area. These are known as the SPACE I and II statistical reports, which are collected and analysed by the University of Lausanne.



- Use of additional external experts
- Expertise and representativeness of WG members
- Not overly political in foundation or approach
- Value base
- Links to the Convention and Court
- Variety/connection of bodies and WGs, incl CPT

## **SLIDE 11**

I believe that there are considerable strengths associated with the way the PC-CP is structured and does its work. This includes the use of external experts, who are drafted in to provide inputs on projects related to their area of expertise. The Working Group itself is relatively small, having just nine elected members. It also comprises a significant range and spread of expertise across Europe and also within the relevant areas of work, particularly Probation and Prisons. We are facilitated in achieving our objectives by not being overly political in the way the group is structured or the approach to our work. Rather, we seek to work in a collaborative and co-productive approach, all the time rooted in the Council's code of fundamental human rights values. The Council of Europe's value base and the links of everything we do to the European Convention and the Court are significant guiding principles for our work as are the variety and the connections

between the various bodies and working groups across the Council of Europe, in particular the CPT for example.



- Like any big organisation/institution
- 'Identity issues'
- Voluntary nature
- Vast area and different cultures etc
- Can be: high expectations and low capacity (and vice versa)
- Part-time activity and group turnover

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## SLIDE 12

As with any large organisation or institution, there are challenges. The vastness of the geographical area covered by the Council and the different cultures, histories, political backgrounds and related contexts, can contribute to identity issues and sometimes a struggle to arrive at shared understandings. The largely voluntary nature of what we are trying to do and our involvement in this work can be a hindrance as well as a help at times. Similarly, we can generate very high expectations for what we can achieve and sometimes have a relatively low capacity to deliver. The part-time nature of the Working Group, where time limits on membership and participation are quite restricted, leading to a certain degree of group turnover, again, can be a challenge. Having said that, I remain optimistic and positive about what has been and can be achieved. The use of the CoE standards by an increasing number of jurisdictions, especially those developing or reforming their probation and prison systems, is evident. Similarly, the



European Court of Human Rights, refers increasingly to PC-CP generated standards in its judgements. And other bodies, including EU bodies, and others, consult with us on penological issues.



- Strong international perspective / commitment
- Influence and be influenced
- A lot to give, and take
- Accountability vital (e.g. Court, CPT, UNCAT)
- Probation / Prison Rules
- Co-operation in policy and practice development
- Uphold values
- Better outcomes

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### **SLIDE 13**

As I mentioned earlier, Ireland has always had a strong international perspective and commitment, despite our small size as a country. I would argue in fact that our small size has been a significant positive factor at times, in terms of what we can help to achieve on the international stage. For example, our credibility can be greatly increased because of our perceived relative lack of historical ‘baggage.’ As a result, we are open to being influenced by thinking and practice from other jurisdictions and equally open to assisting others through our influence.

I believe that every jurisdiction, within the community of the Council of Europe and more widely, has a lot to give, and take, from this co-operation, specifically in the field of probation work. One of the things that we have to take as well as



give, in this regard, is the pro-active accountability, which is vital to the work we do. This is provided, in the supranational body context, through bodies such as the European Court of Human Rights, the CPT and others. This type of accountability is critical in order to make standards, such as the European Probation Rules and the European Prison Rules, real and living. It also facilitates co-operation in policy and practice development, in a process of constant improvement, which can only have better outcomes for all of those we serve. Underpinning all of this is the requirement to uphold the fundamental values and principles as set out for example in the European Convention on Human Rights, and which ultimately will lead to better and better outcomes.



- **Communities of interest – optimism / a guiding star**
- **Some ‘weaknesses’ also strengths**
- **Build strategic connections with practice, policy, and academe**
- **Many contribute – shared understanding**
- **Implementation: the story so far.**
- **Future. (Communities of communities?.....)**

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## **SLIDE 14**

While the term “community” can have different meanings and connotations for different people, in different situations, at different times, I would argue that communities of interest – where we all share a similar goal – are, of their nature, positive and optimistic. When we use those communities of interest to develop shared and agreed standards, we provide for each other a guiding star, which is

fundamental for the direction we take and the journey we complete. The perceived weaknesses of these communities of communities – for example the essentially voluntary nature of our commitment – are also strengths, because they pull rather than push us along the path we need to go. As well as building strong alliances with colleagues in other jurisdictions, I believe it is also fundamentally important to build strategic connections from Probation practice to policy and to the research and academic community. Where those who share our interests and goals, have an opportunity to contribute their own unique expertise, we increase the shared nature of our understanding. The story of the implementation of probation standards so far, in Europe, has probably been mixed. From what I see, some of the best examples of that implementation come from those jurisdictions where they have moved more recently to develop their probation systems. For example, in such situations, organisational leaders may be particularly keen and energetic to use the European Standards in developing their organisations and practice.

So, what does the future hold? As you will have gathered, I am a strong believer in the value of communities of various shapes. It is through our shared values and goals, and developing our connections, that we can and do help to implement more effective practice. Values shaped through bodies like the Council of Europe - a community of communities – help all concerned to both explore and then co-create the foundations and structure of what we do every day in probation. I want to refer briefly to an excellent article, in the current edition of the *European Journal of Probation*, by David Cross (2017). In exploring the link between a human rights-based approach to community justice, which adds value to desistance, Cross concludes that: “...there are common themes between a human rights approach and the desistance framework,” and that: “...an approach that incorporates both human rights and desistance principles can help to balance the legal requirements for objective fairness with the rehabilitative requirement to

meet subjective need. The human rights contribution can facilitate an equal focus on the rights of offenders, of victims and potential victims, and of the wider community.”

Even though the Council of Europe, with its forty-seven Member States, is itself quite a large *community of communities*, I believe there is no limit to the extent of possibilities for this and similar *communities of communities*. Equally, I see the opportunities – including as exemplified in this Conference – for even greater connectivity and the creation of what I might call ‘communities of communities of communities’ right across the globe. In that regard, I particularly welcome the opportunity that this Conference and events like it, provide for all of us to share and learn from each other so that we can, at every level, build the sense and the practice of community, wherever we are, to improve the outcomes for our people. In this way, we can help to ensure that not just Ireland, and not just Europe, but the World can be a safer, a fairer and more inclusive place.



## **SLIDE 15**

Thank you.

ENDS

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