

Canada's Work to Assist the Development of Community Corrections in China: Significant and Long-lasting Results¹

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Summary

Dr. Vincent Yang of the ICCLR explains the ground-breaking role played by Canada in assisting China in the legal and policy development leading to the establishment of community corrections since 2002 and the introduction of the Community Corrections Law in China in 2019. The CIDA-funded Canada-China projects were initiated in 1997 and continued for over ten years. The Vancouver-based ICCLR and the China Prison Society organized high-level exchange visits, workshops and joint research publications for the sharing Canada's best practices on community corrections. Two books of comparative studies were jointly authored and published by experts in Canada and China on community corrections. While the Canadian and Chinese systems clearly have fundamental differences, the long-lasting positive impacts of sharing Canadian best practices with Chinese reformers are significant and should never be understated, as evidenced by the rapid expansion of community corrections in China in the past two decades.

Many Chinese know this old dictum: *If you can't be friends with Canada, you probably can't be friends with anyone.*

Indeed, Canada has always been a most helpful friend to China. Everyone in China knows the story of Dr. Norman Bethune. Those who have learned the true history will remember the assistance China received from Canada -- 50 million dollars for obtaining military aid in WWII, 6 million tons of wheat and barley during the Great Famine in 1960-1962, and nearly 800 million dollars worth of development aid from the former Canadian International Development Agency (CIDA), to help China's modernization during the 1980s – 2014. In the 1990s-2000s, the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR), a Vancouver-based think tank at the University of British Columbia, delivered a program to assist reforms in China's criminal justice system, including projects to facilitate the development of community corrections.

¹ This article was published in the Canadian Criminal Justice Association's *Justice Report*, Vol.37, No.1, pp.45-48.

Canada's work to assist China's development of community corrections as an alternative to incarceration started in 1997, when ICCLR's President Daniel Prefontaine, QC, Director of Corrections Programme Brian Tkachuk, and myself met with President Jin Jian of the China Prison Society (CPS), a national association of correctional officials and scholars, and Xiao Yang, the Minister of Justice of China. Chief Justice Xiao is considered an open-minded reformer because of his decisions to privatize the Chinese legal profession, create a legal aid system, set up anti-corruption agencies, and initiate court reforms. During a visit to Vancouver in 1997, Minister Xiao gave ICCLR's China program his endorsement.

In 1998, the first Canadian delegation – organized by ICCLR – visited correctional facilities in China. Among the delegates were Senior Deputy Commissioner of the Correctional Service of Canada (CSC), Lucie McClung, who later became Commissioner of CSC, and other senior officials from both the federal and B.C. provincial correctional services. Later, a first Chinese delegation of correctional experts came to Canada. This delegation, led by CPS Vice President Wang Fei from Shanghai and consisting of high-level officials from Beijing, Shanghai, and two coastal provinces showed great interest in Canada's community correctional services. After the visit, the delegation submitted a report to both the Ministry of Justice and the Shanghai Municipal Political and Legal Affairs Commission, proposing to borrow Canada's best practices and launch a pilot project of community corrections. Based on this proposal and feasibility studies, the Commission formally launched the pilot project and created China's first community corrections service in 2002.² Today, this decision is considered "the first important landmark in the development of community corrections in China".³

In 2003, four top-level agencies in the Chinese justice apparatus, namely the China's Supreme People's Court (SPC); the Supreme People's Procuratorate (SPP); the Ministry of Public Security (MPS); and the Ministry of Justice (MOJ), jointly issued a set of national guidelines to expand the pilot project to six provinces.⁴ Two years later, they expanded the project to twelve more provinces.⁵ In 2014, the project expanded to all remaining provinces in China.

² Shanghai Municipal Political and Legal Affairs Commission, 2002, "Opinions regarding the Launch of Community Corrections Pilot Project". During meetings with ICCLR delegates in 1998-2002, Wang Fei and his CPS colleagues kindly advised ICCLR of their proposal to the Commission and the Ministry of Justice.

³ Wu, Zongxian, 2020, "Important Landmarks in the History of Community Corrections", *Chinese Criminology Review*, Issue No. 3 of 2020, p.2; Wu, Zongxian, 2020, "Important Values of Our Country's Law on Community Corrections", *Justice of China*, Issue No. 2 of 2020, accessed at www.cnki.com.cn. Prof. Wu is the Director of the Corrections Research Center at the College of Criminal Law Science, Beijing Normal University.

⁴ SPC, SPP, MPS and MOJ, 2003, "Notice regarding the Launch of Community Corrections Pilot Projects", at: http://sft.gd.gov.cn/sfw/zwgk/zcwj/content/post_3571779.html

⁵ SPC, SPP, MPS and MOJ, 2005, "Notice regarding the Expansion of Community Corrections Pilot Projects", at: http://sft.gd.gov.cn/sfw/zwgk/zcwj/content/post_3571774.html

During 1998-2010, with technical support from the CSC, the National Parole Board (NPB) and BC Correctional Services, ICCLR implemented several CIDA⁶-funded projects to systematically introduce Canada's best practices. The Executive Vice Chairperson of NPB, Renée Collette, was one of the Canadian pioneers in this discourse. She and many other Canadian experts delivered seminars to hundreds of Chinese correctional officials and scholars. Chinese delegates from the China Prison Service and correctional services of six provinces visited the CSC, NPB and Canadian correction facilities. They had detailed discussions with the hosts regarding key aspects of Canada's system and its operation, such as its legal and regulatory framework, funding and costs, institutions and programs, non-governmental organization, (NGO) involvement, case management, offender risk assessment and management, progress and lessons learned.

A focus of the ICCLR's projects was the sharing of Canadian best practices to assist China's legal and policy development. In 2001 and 2008, Canadian and Chinese experts jointly authored two books on the comparative studies of community corrections. These were the first major Chinese publications to focus on the correctional system and community corrections in a foreign country. The 2001 publication was a lengthy, 184 pages, introductory-level comparative study of the correctional systems in China and Canada. Some 20 Canadian and Chinese experts contributed.⁷ The 2008 publication was a 510-page overview of community corrections in both countries.⁸ The chapters in this book were written by some 30 Canadian experts and 7 teams of Chinese experts. The Canadian essays for this book were translated into Chinese. Thousands of copies were distributed throughout China. The impact is far-reaching and will last for generations. In 2002, ICCLR published the original Canadian essays from the 2001 book.⁹

The ICCLR Directors of Corrections Programme during 1997-2008, Brian Tkachuk and Robert Brown, played key roles in leading the Canadian teams in these projects. Both were CSC experts seconded to ICCLR, with great passion and rich experience in both corrections and international assistance. From 2006 to 2012, as Rong Rong, Director General of Chaoyang District Bureau of Justice of Beijing, acknowledged in her speech at the Canada-China Symposium of Promoting Criminal Justice Reform, Robert Brown was appointed the first and only International Advisor to China's first halfway house, the Sunshine Halfway House in Chaoyang District of Beijing.¹⁰ With his help, the Sunshine

⁶ Canadian International Development Agency (CIDA) was established in 1968 and merged into Global Affairs Canada in 2013.

⁷ Wang, Zengduo, Lan Jie, Xu Jungang, Vincent Cheng Yang (eds.), 2001, *A Comparative Study of the Chinese and the Canadian Correctional Systems*. Beijing: The Law Press. ISBN7503633662/D.3084.

⁸ Wang, Jue, Wang Ping and Vincent Cheng Yang (eds.), 2008, *An Overview of Community Corrections in China and Canada*. Beijing: The Law Press. ISBN9787503683923.

⁹ Tkachuk, Brian, and Vincent C. Yang, 2002, "Corrections and Conditional Release in Canada", in ICCLR, 2002, *Breaking New Ground – A Collection of Papers in the International Centre's Canada-China Cooperation Programme*. ISBN 0973043210. pp.419-488.

¹⁰ Rong, 2007, "Promoting Community Corrections in China: Resource Consolidation and System Development", in ICCLR, 2007, *Promoting Criminal Justice Reform – A collection of Papers from the Canada-China Cooperation Symposium*. ISBN9780973043259. p.457.

Halfway House established a partnership with its counterparts in Vancouver and Toronto for the sharing of work experiences. It also joined the International Corrections and Prisons Association (ICPA).

In 2011, at the ICPA Conference held in Singapore, the Association's Community Corrections Award was presented to Director Rong Rong on behalf of the Sunshine Halfway House. The Award is presented annually for exceptional work and innovative approaches in supporting sentenced offenders in the community. It is also to acknowledge the vital role played by community corrections in the work of the Association.¹¹

Furthermore, in 2011-2012, ICCLR implemented a project to facilitate a Chinese legislative study on community corrections. ICCLR's Senior Associates, Professors Maureen Maloney, QC, and Yvon Dandurand, delivered seminars in China. With an endorsement from the China Law Society (CLS),¹² the Chinese project team of professors developed an annotated academic "Community Corrections Law" in 2013, primarily based on comparative studies of the Chinese and Canadian systems.¹³

The ICCLR-China community corrections projects were among the most successful examples of Canadian initiatives to assist law and justice reforms in China.

In 2011, China's National People's Congress (NPC), amended its Criminal Law by incorporating "community corrections".¹⁴ This was the first recognition of community corrections in the national law of China. In 2012, the SPC, SPP, MPS and MOJ jointly issued Implementation Methods for Community Corrections.¹⁵ In the same year, the NPC amended the Law of Criminal Procedure, recognizing the status of "community corrections agencies".¹⁶ In 2019, China finally enacted the Community Corrections

¹¹ Brown, Robert, "Revisiting Singapore with the Spotlight on the Yellow Ribbon Project", in *Perspectives American Probation and Parole Association* 37(1): pp. 72 – 86, 2013..

¹² The China Law Society (CLS) is a national association of law and justice professionals, including professors and legal practitioners in the judiciary, prosecution services, justice departments, police departments, and practising lawyers. The CLS plays important roles in China's legal and policy development, legal education and training of legal professionals. See the CLS website: <https://www.chinalaw.org.cn/>. Unlike the law societies in Canada, the CLS and local law society in China are not regulatory bodies of practising lawyers. In China, the justice bureaus of the government directly administer the exams and licensing of legal professionals. However, it is mistaken and disrespectful to assume that the Chinese law societies are, as Lynne Cunningham, a former member of the Immigration and Refugee Board in Vancouver, announced in a decision, "little more than various clubs", see IAD File No. / No de dossier de la SAI : VA9-02915, paragraph 149.

¹³ Zhao, Bingzhi, Wu Zongxian and Liu Zhiwei, 2013, *Community Corrections Law of the People's Republic of China (Expert Proposal)*. Beijing: China Legal Publishing House. ISBN9787509348512.

¹⁴ The Eighth Amendment to the Criminal Law, adopted by the National People's Congress on Feb. 25, 2011, at: http://www.gov.cn/flfg/2011-02/25/content_1857448.htm

¹⁵ SPC, SPP, MPS and MOJ, 2012, "Implementation Methods for Community Corrections", at: <https://baike.baidu.com/item/%E7%A4%BE%E5%8C%BA%E7%9F%AB%E6%AD%A3%E5%AE%9E%E6%96%BD%E5%8A%9E%E6%B3%95>

¹⁶ Decision of the NPC to Amend the Law of Criminal Procedure, adopted by the National People's Congress on March 14, 2012.

Law.¹⁷ Six months later, this Law became effective, together with a set of updated Implementation Methods.¹⁸ The formation of a national legislative and regulatory framework for community corrections has been completed.

The new system has worked reasonably well in its operation. In 2007, when the population of prison inmates in China was roughly 1.5 million, only 65,153 offenders were serving their sentences in community corrections nationwide, and a total of only 100,000 had served their sentences in communities. Chinese experts urged even more rapid expansion of community corrections, using the ratios of prison inmates vs. people serving sentences in communities in Canada and other Western countries to support this recommendation.¹⁹ In 2014, at China's first national conference on community corrections, it was reported that the accumulated number of people who had served their sentence in community corrections increased to 1,847,000. By 2020, according to the Director General of the Community Corrections Bureau of MOJ, this number jumped to 5 million.²⁰ In Canada, the community corrections population is roughly 110,000, including those in community under CSC supervision (about 10% of the total) and those sentenced to provincial/territorial probation and conditional sentences (about 90% of the total).²¹ It will be interesting to compare the statistics when China releases more detailed data of the offender population.

Comparing the Chinese and Canadian systems of community corrections, I would point out some of the main differences and similarities. First and foremost, as I wrote in 2002, unlike the Canadian system, the entire Chinese legal and justice apparatus is a centralized system under the Party's leadership and governed by the Party-State ideology of "socialism with Chinese characteristics".²² The Chinese system of community corrections undoubtedly shares this feature. At the operational level, one must recognize some important differences. Compared with the Canadian system, the Chinese system is less transparent. Official statistics about funding, programs, staff, and offenders in community corrections are not detailed and systematically published. Corruption in decision-making is a real challenge in China. And, although community corrections services have expanded rapidly in the past two decades, the vast majority Chinese citizens convicted of a crime are still sentenced to prison and only a minority of these are released before the completion of their sentences. Like in Canada, the rates

¹⁷ The Law of Community Corrections, adopted by the Standing Committee of the National People's Congress on Dec. 28, 2019, at:

http://www.moj.gov.cn/pub/sfbgw/jgsz/jgszjgtj/jgtjlfyj/lfyjtjxw/202009/t20200928_127675.html

¹⁸ SPC, SPP, MPS and MOJ, 2020, "Notice regarding Methods to Implement the Law of Community Corrections", at: file:///C:/Users/profv/Downloads/2021_07_23_11_9_4_167_1_b.pdf

¹⁹ *China Daily*, July 19, 2007, "Experts of Justice: Community Corrections have Significant Impact on Improvement of Prison Overcrowding", at: http://www.chinadaily.com.cn/hqzg/2007-07/19/content_5439709.htm

²⁰ Jiang, Aidong, 2020, "Community Corrections Law has Landmark Significance", at:

<https://ksfxzx.cn/index/index/view/id/6987.html>.

²¹ See Public Safety Canada, 2020, 2019 Corrections and Conditional Release Statistical Overview. ISSN: 1713-1073. At: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2019/index-en.aspx#c1>

²² Yang, Vincent C., 2002, "The Study and Comparisons of Chinese and Canadian Correctional Systems", in ICCLR, 2002, *Breaking New Ground – A Collection of Papers in the International Centre's Canada-China Cooperation Programme*. ISBN 0973043210. pp.409-418.

of re-offending while serving sentences in community corrections in China are much lower than those serving full sentences in prisons.²³ However, it is hard to compare the statistics in this aspect, given that the basic profiles of offenders are very different.

The Chinese and Canadian systems do share important similarities. Both systems are to protect public safety, assist offender rehabilitation and prevent crime. Under the Chinese Community Corrections Law, the operation of community corrections must adhere to the law and respect human rights. The Law prohibits infringement upon the lawful rights of lawbreakers and discrimination in employment, education and social security. The Law requires all levels of governments to fund community correction services and give funding to community-based organizations. The Law also requires that community correction services provide not only surveillance and supervision but also education and assistance. Case management should be based on individualized correction plans.²⁴ Therefore, the Chinese system has indeed incorporated some of the common values and general principles of community corrections that are recognized in Canada and by the United Nations.²⁵

Canada's best practices are undoubtedly helpful to Chinese professionals in rethinking and reshaping their entire correctional system. In 2006, at the invitation of the China Prison Society, a five-person Canadian delegation, including correctional experts and a representative of the Canadian Association of the Chiefs of Police, delivered a series of presentations in both Guangzhou and Beijing on the rights of offenders serving sentences, offender risk assessment, parole board decision making and offender community supervision. The discussion continued in 2007, when the Director of the Prison Administration Division of Beijing Prison Bureau attended an ICCLR symposium on the promotion of criminal justice reforms. Amongst the priorities of the Chinese reforms, he reported, were to establish a "quality assessment system" in corrections, recruit more "expert-like" correctional officers, "change the traditional concepts of enforcement," and "build a harmonious rehabilitation relationship between the police and offenders" that would demonstrate "fair and civilized administration" and respect of lawful rights of sentenced people.²⁶

Public opinions on China have changed tremendously in recent years. Sadly, some commentators have jumped to a conclusion that Canada's work to assist China's reforms in the past decades was a complete failure, with the ICCLR projects being examples of what they called a failed Canadian "plot".²⁷ Indeed, it was discouraging to

²³ According to government reports, the national rate of re-offending among those serving sentences in community corrections is only 0.2%. In Shanghai, it is 0.09%. See Liu, Xueyan, *Liberation Daily*, Sept. 22, 2021, "Assistance and Corrections outside of High Walls", at: <https://j.eastday.com/p/163226302377015008>

²⁴ Articles 1-7, Community Corrections Law.

²⁵ See United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), 1990.

²⁶ Gong, Jingshun, 2007, "Focusing of Offender Rehabilitation in advancing Prison Reforms in Beijing", in ICCLR, 2007, *Promoting Criminal Justice Reform: A Collection of Papers from the Canada-China Cooperation Symposium*. ISBN9780973043259. pp.447-452.

²⁷ Hampson, F. O. and Mike Blanchfield, *The Globe and Mail*, Oct. 8, 2021, "The two Michaels were just new characters in a Sino-Canadian drama whose decades-long plot is as twisted as ever", at:

see that the “bilateral and multilateral human rights dialogues” between Canada and China failed to produce any significant and visible result in the 1990s-2000s.²⁸ However, during the same years, thanks to the long-term vision of ICCLR’s former President, Daniel Prefontaine, and the Canadian government, warm-hearted Canadians were able to work with open-minded Chinese legal and criminal justice professionals in effectively pushing ahead their reforms. This cooperation did produce far-reaching and long-lasting results that are still visible today.

The ICCLR China community corrections projects were among the most successful examples of Canadian initiatives to assist law and justice reforms in China. ICCLR and its experts were always upfront in declaring the intention and objectives, which were to promote the rule of law, human rights, and good governance. The Canadian pioneers neither underestimated the difficulties and risks when working with China nor dreamed about making a regime change through these technical assistance projects. It is nothing strange years after to have setbacks and pitfalls. No matter how much China has changed, the good work that Canadians did will never be wasted and forgotten.

<https://www.theglobeandmail.com/opinion/article-the-two-michaels-were-just-new-characters-in-a-sino-canadian-drama/>.

²⁸ *The Globe and Mail*, “China isn’t listening”, at:

<https://www.theglobeandmail.com/opinion/china-isnt-listening/article730153/>