

# RESOURCE MATERIAL SERIES

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**REPORT for 1993**  
**and**  
**RESOURCE MATERIAL**  
**SERIES NO. 45**

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155501

U.S. Department of Justice  
National Institute of Justice

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**UNAFEI**

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FOR 1993**

**UNAFEI**

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## MAIN ACTIVITIES AND EVENTS

### I. Report of the Main Activities and Events of the Year 1993

It is a pleasant duty for us to present the annual report for the year of 1993 on the activities of the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI).

This year, UNAFEI conducted one 5-week international seminar (93rd) and two 3-month international training courses (94th and 95th), which were regular training programmes conducted at UNAFEI's facilities in Fuchu, Tokyo. A total of 83 government officials engaged in criminal justice administration from 31 countries, mainly in Asia and the Pacific region, participated in these regular training programmes.

Appendix 1 shows a breakdown of these participants by country. Appendix 2 shows a breakdown of all the participants at UNAFEI by professional background and country.

UNAFEI also organized and conducted an overseas joint seminar.

Besides these activities, UNAFEI endeavoured to perform research activities, provide information services and promote cooperation among related agencies, institutions and organizations.

The main activities and events of the year 1993 are summarized hereafter.

#### A. *The 93rd International Seminar*

##### I. Duration

From 1 February to 5 March 1993

##### II. Main Theme of the Seminar

The main theme of the Seminar was "Policy Perspective for Organized Crime Suppression." Explaining the main theme for this Seminar, I will utilize an excerpt of the Seminar Rationale:

The alarming threat and acknowledged gravity of the offences committed through organized crime have been urging many countries to reform their administration and legislation in various segments of criminal justice. Facing its transnational nature, the world community has also been required to establish more effective mechanisms in international co-operation to combat this heinous crime.

Needless to say, it is the law enforcement which plays the most crucial role in combatting organized crime. However, criminal investigation by law enforcement agencies is sometimes being hampered by insufficiency of the staff and its training, lack of investigatory technique, and inappropriate legislation.

One of the most important and effective investigative methods is the following of the money trail of organized crime syndicates. However, law enforcement agencies sometimes face difficulty in achieving their purpose because banks and other financial institutions, in some cases, resort to the principle of secrecy.

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Report and testimony by victims or other witnesses are indispensable in investigating organized crime. However, these are also, in some cases, hard to obtain because they are usually reluctant to give necessary co-operation to investigative and other authorities, being afraid of the threat of organized crime. Schemes for the protection of ordinary citizens against violence and intimidation need to be urgently explored to gain more support from the community. These schemes may include the provisions for ways of shielding the identities of witnesses from the suspect or accused, accommodation and physical protection, relocation and monetary support.

Organized crime members have been strengthening their unity by their extremely strict rules which sometimes include death against a betrayer of the organization. Therefore, it is extremely difficult to get the necessary information from them on criminal offences as well as on their organization. Of course, criminal justice administrators should make every effort to persuade them to part from their organization. However, the introduction of other relevant and appropriate measures, such as interception of telecommunications or use of electronic surveillance, should be also explored with due consideration for human rights safeguards.

Emphasis should also be placed on the application of technical and organizational measures designed to increase the effectiveness of the prosecutorial and sentencing authorities. More effective rehabilitative measures of organized crime offenders should be examined.

Although organized crime is expanding its activities into more sophisticated and complicated acts which deserve criminal sanctions, some of them have been left uncriminalized because of the lack of due consciousness on the part of criminal justice legislators. Such acts may include, in some countries, money laundering, computer crime, acts of opening and operating accounts in false names and so forth. Organized crime is sometimes committed through institutions, corporations or enterprises.

However, many countries have not yet established appropriate measures that would prevent or sanction such criminal activities. Forfeiture of the proceeds of crime represents one of the most significant developments in

many countries. However, the range of this sanction is limited to the specific offence in some countries.

Additionally, as organized crime can be seldom suppressed by criminal sanctions alone, there may be a need for reform in civil, fiscal and administrative legislation relating to the control of organized crime which would compliment the criminal justice methods in controlling organized crime.

The world community has been endeavouring to facilitate efficient international cooperation for the suppression of organized crime activities by utilizing various measures, such as the International Criminal Police Organization (Interpol) activities, bilateral and/or multilateral treaties on extradition and mutual legal assistance and other forms of international cooperation, including international conferences and meetings among criminal justice practitioners in charge of organized crime control. The Multinational Asian Organized Crime Conference has been organized annually since 1991 among circum-pan-Pacific Countries for the expansion of international cooperation in this field. However, the transnational dimensions of organized crime require the further development of new and effective co-operative arrangements on a more comprehensive basis. Therefore, the possibility of other measures should also be sought, for instance a universal and/or regional register of sentences for organized crime, a data base system containing law enforcement, financial and offenders' records, and comparative research and data collection related to

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organized crime.

Against such a background, it is an urgent task for criminal justice administrators to explore efficacious and appropriate policy perspectives for the suppression of organized crime.

### Discussion Topics:

- 1) Efficacious and appropriate criminal justice policies for organized crime control including:
  - (a) effective investigation and prosecution of organized crime;
  - (b) appropriate trial procedure and adjudication for organized crime offenders;
  - (c) proper treatment of organized crime offenders;
- 2) Innovative legislation for organized crime suppression;
- 3) Development of international cooperation for organized crime control and the role of the United Nations.

### III. People Concerned

#### 1. *Participants*

In the Seminar we welcomed 23 overseas participants and six domestic participants, who shared UNAFEI's dormitory life together. They included 13 police officers, seven public prosecutors, four judges, and other high-ranking officials representing 23 countries from Asia, the Pacific, Latin America, Africa and Europe. The countries were: Bangladesh, Brazil, China, India, Indonesia, Kenya, Korea, Malaysia, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, the Philippines, Poland, Singapore, Sri Lanka, Thailand, Saudi Arabia, Swaziland, Uganda and Japan.

A list of the participants is found in Appendix 2.

#### 2. *Visiting Experts*

The Ministry of Justice of Japan invited eleven distinguished experts from overseas countries to take part in the Seminar. They were (in the order of their arrival): Mr. D. M. Hodson, Chief Superintendent, Chief Staff Officer, Crime Wing Headquarters, Royal Hong Kong Police, Hong Kong; Dr. Kanit Nanakorn, Deputy Attorney General, Office of the Attorney General, Thailand; Dr. Johann Peter Wilhelm Hilger, Ministerialdirigent, Federal Ministry of Justice, Germany; Mr. Paul E. Coffey, Chief, Organized Crime and Racketeering Section, Criminal Division, U.S. Department of Justice, U.S.A.; Mr. Thomas Snow, Deputy Director, Office of International Affairs, U.S. Department of Justice, U.S.A.; Mr. Andrew Bruce, Senior Assistant Crown Prosecutor, Legal Department, Prosecutions Division, Attorney General's Chambers, Hong Kong; Mr. John G. Valentin, Commander, Officer in Charge, Strategic Intelligence Division, Australian Federal Police; and Mr. Yoo, Chang-Jang, Senior Public Prosecutor, South Branch, Seoul District Public Prosecutor's Office, Korea.

We had also three overseas course counsellors in the Seminar. They were: Mr. Hj. Azahar bin Hj. Abd. Kadir, Assistant Commissioner, Royal Malaysia Police, Malaysia; Mr. Rogelio F. Vista, State Prosecutor, Games and Amusements Boards, Department of Justice, the

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Philippines; and Mr. Saroj Phoonkeao, Inspector of Interpol Section, Foreign Affairs Division, Royal Thai Police, Thailand.

### IV. Programmes

It is the course participants who should play the main role in every programme, according to our established methodology for our international training courses and seminars. For this reason, we arranged in the Seminar to have various participant-centered activities such as comparative study, general discussions and other programmes in which all the participants took part actively and constructively.

Another principle of our course arrangements is an integrated approach to study issues. Taking full advantage of the variety of professions of the participants, we organize cross-sectoral discussions from the practical viewpoint of finding viable solutions. We wanted to give the participants opportunities to discuss various practical issues related to the main theme of the Seminar from as wide an angle and as broad a perspective as possible.

Among the various programmes of the Seminar, special emphasis was placed upon presentations by each participant and subsequent general discussions with regard to the main theme, which invited active participation by the participants utilizing their knowledge and experience to the fullest extent.

#### *1. Comparative Study Programme*

Individual Presentation Sessions were organized to discuss the above-mentioned topics through comparative study. Each overseas participant was allocated 40 minutes, and each Japanese participant was allocated 20 minutes for presenting his or her paper, which introduced the actual situation, problems and future prospects in his or her country. This series of presentations offered an opportunity for the participants to understand and identify the problems and interests that each participant is facing.

The themes of the individual presentations are listed in Appendix \*.

#### *2. Lectures*

Among the various programmes, a series of lectures rendered by Visiting Experts enlightened the participants and faculty members on the issues related to the main theme. The lecturers also contributed a great deal by guiding discussions after the lectures as well as through conversations with the participants on informal occasions during their period of stay at UNAFEI.

The themes of the lectures are listed in the Appendix 3.

#### *3. General Discussion Sessions*

During the Course, general discussion sessions were conducted for further examination and discussion of each of the above-mentioned topics. Based on the information obtained through the individual presentation sessions and lectures of the visiting experts and the UNAFEI faculty, all the participants exchanged their views vigorously.

For each general discussion session, a chairperson and rapporteur as well as several keynote speakers were selected from among the participants and they created discussion guides for the session with the guidance of UNAFEI staff. After the general discussion sessions, participants drafted three extensive reports on the above-mentioned topics.

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The summarized contents of these reports are as follows:

### **Topic 1: Innovative Legislation and Methods for Organised Crime Suppression**

#### *Sub-topics*

- (1) Legislation which directly suppresses the formation of or affiliation to an organized crime group and regulates its activities
- (2) Legislation against money laundering and illicit proceeds of organized crime
- (3) Methods for effective information collection regarding organized crime

#### *Outline of the Report:*

The above topic was assigned to Discussion Panel 1 which initiated the discussion under the above mentioned sub-topics. The participants all took part in the general discussions. The discussions were chaired by Mr. Ganesh Prasad Bhattarai of Nepal. Mrs. Christine Mulindwa-Matovu was the rapporteur. The other members of the panel were Mr. Mohd Nawawi Bin Ismail from Malaysia, Mr. Motoyoshi Nishimura from Japan, Mr. Shuzo Yamamoto from Japan, Mr. Ceferino Ynsfran Figueredo from Paraguay, Mr. Abdulaziz S. Al Ahmad from Saudi Arabia, Mr. Mirosław Andrzej Rozyński from Poland and Mr. Dulindra Weerasuriya from Sri Lanka.

The Report is divided into 3 parts according to the following subtopics under which the general discussions were held:

- (a) Legislation which directly suppresses the formation of or affiliation to an organised crime group and regulates its activities.
- (b) Legislation against money laundering and illicit proceeds of organised crime.
- (c) Methods for effective information collection regarding organised crime.

The creation of the legal framework within which law enforcement and the judiciary can work, is very essential in the fight against organised crime. States must therefore enact the necessary legislation to facilitate their law enforcement agencies to take action against organised crime in order to neutralise it or attempt to eradicate it completely.

The report covers the proposed areas for legislation under each sub-topic. It also covers the considerations to be taken while creating the legislation. In addition it covers some of the problems which could be encountered and how they could be overcome. In brief the recommendations include the creating of legislation to allow the following:

- (a) The Prohibition of the usual crimes committed by organised crime groups including the crime of money-laundering.
- (b) Imposition of severe sentences for the prohibited crimes especially crimes such as drug trafficking, armed robbery, kidnapping for ransom, etc.
- (c) Facilitating investigations through the relaxation of banking regulations to waive bank secrecy laws; legalising certain investigative techniques like electronic surveillance including wiretapping; decoy operations; controlled delivery; the use of computers to gather information, etc.
- (d) Changing the rules of criminal proceedings to allow for witness protection, judicial protection and for certain presumptions in particular circumstances, thus shifting the burden of proof to the accused person to rebut the presumptions.
- (e) Deprivation of the proceeds of crime through confiscation, seizure and forfeiture.

- (f) Cooperation among countries in criminal matters to allow for exchange of information, service of documents, examination of witnesses, extradition of fugitives, etc.

**Topic 2: Improvement of Efficiency of Law Enforcement  
in Combating Organised Crime**

*Sub-topics:*

- (1) Strengthening the structure of law enforcement agencies and cooperation and coordination between different agencies related to organized crime control
- (2) Improvement of the ability of law enforcement officers in the fight against organized crime
- (3) Prevention of corruption inside criminal justice agencies related to organized crime control

*Outline of the Report:*

The above topic was discussed under the Chairmanship of Mr. Ramsey L. Ocampo of the Philippines. The rapporteurs were Mr. Khalil Ur Rahman Ramday of Pakistan and Mr. Satish Sahney of India. The other members of the panel were Ms. Stella Maria Mendes Gomes de Sa Leitao from Brazil, Mr. Zulkarnain Yunus from Indonesia, Mr. Asad Mahmood Alvi from Pakistan, Mr. Alberto Manuel Soto Cajar from Panama, Ms. Ana Marina Santa Cruz Villanueva from Peru, Mr. Pongsakon Chantarasapt from Thailand and Mr. Minoru Suzuki from Japan.

The topic was divided into three parts, viz. (1) Strengthening the structure of law enforcement agencies and cooperation and coordination between different agencies related to organized crime control; (2) Improvement of the ability of law enforcement officers for the fight against organized crime; (3) Prevention of corruption inside criminal justice agencies related to organized crime control. On each of the above three parts a report was prepared which contains the gist of the views, suggestions and recommendations of the panel members as well as those of the participants. Important recommendations in brief are:

- (1) That each Law Enforcement Agency must have an infrastructure with capabilities to fight organized crime.
- (2) It is necessary to have an efficient and reliable intelligence network and the intelligence collected by one enforcement agency must be shared with other enforcement agencies so that a multi-pronged attack could be launched.
- (3) Every law enforcement agency must have a modern infrastructure to impart professional training to its personnel.
- (4) There should be a research wing to continuously examine the existing legislation and procedure. It should suggest modification and improvement whenever necessary.
- (5) Enforcement agencies must have special investigative groups having specialised knowledge for investigating a particular type of crime.
- (6) Every law enforcement agency must have adequate modern equipment and a Central Data Bank.
- (7) Recruitment into the enforcement agencies must be done very carefully after

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thoroughly scrutinizing the background of the individual and his personality traits.

(8) The personnel of the law enforcement agencies must be paid well with a view to retaining and attracting quality personnel.

(9) The public support must be sought by keeping the public informed about the activities of the law enforcement agencies & the work being done by them in the interest of the society.

(10) All efforts must be made to fight corruption within the law enforcement agencies. If necessary undercover technique should be used to fight corruption. Besides, the public should be made aware of the impact of corruption on day to day life through adequate publicity.

(11) The best method of rooting out corruption from the Criminal Justice agencies is through enhancing their morale and pride as has been done in Japan.

### **Topic 3: Enhancement of Public Participation for the Eradication of Organised Crime and Protection of Witnesses**

#### *Sub-topics*

- (1) Methods to obtain support from the community in preventing and controlling organized crime offenders
- (2) Role of the community in deterring young delinquents from becoming members of organized crime, enhancement of secession from organized crime, and the rehabilitation of organized crime offenders
- (3) Protection of witness from the threat of organized crime

#### *Outline of the Report:*

The discussion was chaired by Mr. Peter Mwendwa Mbuvi of Kenya. The rapporteur was Mr. Vincent Hoong of Singapore. The other members of the discussion panel were Mr. Showkat Hossain from Bangladesh, Mr. Wang Lixian from China, Mr. Kim Je-il from Republic of Korea, Mr. Hela Emanuel from Papua New Guinea, Mr. Elias Vilakati from Swaziland, Mr. Koichi Furusawa, Ms. Masako Suzuki and Mr. Hiroshi Torii from Japan.

The Report is divided into three parts, with each part focussing upon a specific area of discussion, related to the main topic. They are:

- a) Methods to obtain support from the community in preventing and controlling organised crime offences;
- b) Role of the community in deterring young delinquents from becoming members of organised crime, enhancement of secession from organised crime and the rehabilitation of organised crime offenders.
- c) Protection of witnesses from the threat of organised crime. The need for public participation in the eradication of organised crime cannot be overemphasised as the efforts of the law enforcement agencies would be negated if the public does not come forward as informants, witnesses or as volunteers to assist in the rehabilitation of offenders. Furthermore, it is through public participation that the roots of organised crime are attacked. It is due to public indifference that organised crime is able to flourish.

The report deals with all the various aspects of public participation as enumerated in the above. The views, suggestions and recommendations of the panel members as well as those

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of the participants are summarized in the report.

In brief some of the recommendations include:

- 1) The community must be properly and fully informed of the results of their participation. If a member of the public volunteers information to the police which eventually leads to the prosecution of an accused person, the outcome of such prosecution must be conveyed to the informant.
- 2) It is important that the community be educated on the benefits of their participation. They must be made to realise that their participation is for their own benefit and not simply to make the job of the law enforcement officers easier.
- 3) The law enforcement agencies must not be corrupt and the community's faith and confidence in their integrity and effectiveness must be ensured.
- 4) Any plan of action to mobilise the community's support and participation must be well formulated and long-term in nature. It should never be transient in nature or a knee-jerk reaction.
- 5) Juvenile delinquents must be given special care and attention. Activities should be organised for them in order that their excess energy can be channelled to more constructive activities, for example Police Boy's Clubs.
- 6) In order to encourage organised crime offenders to secede from their organisations, job opportunities must be offered by their communities.
- 7) Special legislation must be enacted to protect witnesses who testify against organised crime.

These reports were published in the UNAFEI Resource Material Series No. 44.

### *B. The 94th International Training Course*

#### I. Duration

From 12 April to 2 July 1993

#### II. Main Theme of the Course

The main theme of the 94th International Training Course was "Current Problems in Correctional Treatment and their Solution."

#### *Excerpt of the Course Rationale:*

The correctional administration in the world has been developing and attaining excellent

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results. In Asia and the Pacific region, the ultimate objective of correction is the rehabilitation of offenders. There are some effective measures being used as a part of institutional treatment of prisoners in these countries.

All of these countermeasures should be expected to contribute to the reduction and control of crime primarily by way of facilitating the resocialization of offenders.

However, correctional administrations in Asia and the Pacific region are confronted with many problems which hinder the implementation of the Standard Minimum Rules for the Treatment of Prisoners; for example, overcrowding of prison populations, increasing numbers of drug related prisoners and aged prisoners, shortage of treatment specialists such as psychologists, psychiatrists, social workers, vocational and educational instructors.

In this course, therefore, efforts will be made to facilitate the development of treatment measures in correctional institutions through (a) analyzing current systems and practices of custodial treatment in the respective countries, (b) searching for appropriate solutions to problems confronted, (c) examining the main factors which disturb the effective implementation of the Rules.

Overcrowding is one of the serious and chronic problems to be tackled by correctional administrators in the region. This is a complex problem, and may not be solved by only the endeavor of correctional administration. It should be discussed from a wide perspective such as prompt disposition of criminal procedure, development of non-custodial measures, and decriminalization of minor offence, etc.

Almost 40 years have passed since the Standard Minimum Rules for the Treatment of Prisoners were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955 and approved by the Economic and Social Council of the United Nations in 1957. The Rules play an important role in development of correctional administration in the world. However, it seems that many countries in Asia and the Pacific region are faced with many problems which prohibit the implementation of the Rules. Therefore, the actual situation of implementation of the Rules should be discussed and the factors which impede the implementation of the Rules should be analyzed in order to solve these problems.

It is desirable that the offenders should be treated in accordance with their specific characteristics. Recently, in many countries, drug related prisoners, aged prisoners, women prisoners and foreign prisoners are increasing in correctional institutions. It is advisable that these offenders should be categorized scientifically, and be treated based on their characteristics.

Correctional work is based on human resources, and in this sense, staff training is absolutely indispensable. An effective and efficient system for the training of correctional personnel should be established in order to overcome the ever-increasing difficulties as mentioned above.

The importance of staff training must be always kept in the mind of policy-planners in criminal justice administration. Well-trained staffs with professional skills and knowledge are certainly the indispensable fundamentals, based upon which successful administration of correctional treatment can be developed and implemented. Therefore, staff training is another momentous issue which needs thorough and joint examination. In addition, in order to develop correction, wide areas of research on correctional work is also indispensable. It can be said that establishment of a scientific classification system for prisoners, development of effective treatment technology, investigation of the correctional treatment of prisoners etc. are needed.

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The aim of this training course is to provide participants with an opportunity to study and discuss various contemporary problems concerning the treatment of offenders in correctional institutions and their effective development.

### *Topics for discussion:*

- 1) Practical measures to alleviate the problem of overcrowding;
  - (a) actual situation of overcrowding and its analysis
  - (b) construction of new facilities
  - (c) application of community-based treatment
  - (d) prompt application of criminal procedure
  - (e) other effective policies
- 2) Extent of implementation of the Rules
  - (a) actual situation of implementation of the Rules
  - (b) factors of disturbance for the implementation
  - (c) effective countermeasures for the implementation
- 3) Current trends of prisoners and appropriate treatment
  - (a) drug related prisoners
  - (b) aged prisoners
  - (c) foreign prisoners
  - (d) women prisoners
  - (e) others
- 4) Staff training and development of research
  - (a) recruitment and training system
  - (b) international co-operation for staff training
  - (c) research in development of treatment skill
  - (d) research methods of measurement of effect of correctional treatment
  - (e) application of result of research for correctional treatment

### III. People Concerned

#### *1. Participants*

In the Course we welcomed 17 overseas participants and ten Japanese participants, who shared UNAFEI's dormitory life together. They included six police officers, two public prosecutors, three judges, nine correction officers and other high-ranking officials representing 17 countries and territories from Asia, the Pacific, Africa and Europe.

The countries and territories were: Negara Brunei Darussalam, Republic of Fiji, Hong Kong, Republic of Hungary, India, Republic of Indonesia, Republic of Kenya, Republic of Korea, Malaysia, Mongolia, Kingdom of Nepal, Papua New Guinea, Republic of the Philippines, Republic of Singapore, Democratic Socialist Republic of Sri Lanka, Kingdom of Thailand and Japan. In this Course, for the first time in a UNAFEI course, we had participants from Mongolia and Hungary.

Normally, overseas participants are invited to take part in the UNAFEI course under the financial arrangements by Japan International Cooperation Agency (JICA). In this Course, we were joined by an additional Malaysian participant under a fellowship given by the Shizuoka Branch of the Asia Crime Prevention Foundation (ACPF), which is the sister organization of the Malaysia Crime Prevention Foundation (MCPF).

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### *2. Visiting Experts*

The Ministry of Justice of Japan invited seven distinguished experts from overseas countries to take part in the Course. They were (in the order of their arrival): Mr. Cheng Chi-Leung, Assistant Commissioner of Correctional Services, Hong Kong; Mr. Omer Archambault, Judge of the Provincial Court of Saskatchewan, Canada; Mr. Peter Rogers, former Director of Drug Division, Correction Bureau, Malaysia; Mr. Satyanshu Kumar Mukherjee, Director, Research and Coordination, Criminal Justice Commission, Australia; Mr. Hetti G. Dharmadasa, Commissioner of Prisons,

Sri Lanka; Mr. Mohammad Shoaib Suddle, Director, Federal Investigation Agency, Pakistan; and Mr. Bernard R. Calibo, Editor-in-Chief, Criminal Justice Journal and Chief, Secretariat, National Police Commission, Department of the Interior and Local Government, the Philippines.

### IV. Programmes

#### *1. Lectures*

During the first two weeks of the Course, UNAFEI faculty members and a lecturer from the National Police Agency of Japan gave a series of lectures entitled "Criminal Justice System of Japan" to introduce Japanese criminal justice administration. Also, domestic ad hoc lecturers from various governmental agencies spoke on the related topics from their own viewpoints.

Each visiting expert stayed at UNAFEI for several weeks and lectured on issues related to the main theme, enlightening both the participants and faculty members. The lecturers also contributed to the Course by guiding discussions after their own lectures, participating in the discussions in the other programmes, and through conversing with the participants on informal occasions.

The lecturers and lecture topics are listed on Appendix 4.

#### *2. Comparative Study Programme*

Comparative Study Programme was organized with the same objectives as the 93rd Seminar. The titles of the individual presentation papers are listed in the Appendix 4.

#### *3. Group Workshop*

During the Course, Group Workshops were conducted to further examine and discuss sub-topics (1), (3) and (4) of the main theme, and to discuss effective and appropriate means for police administration. The participants were divided into four groups taking into account their professional expertise and interests based on the responses to a questionnaire. The participants exchanged their views based on the information and knowledge obtained through the individual presentations and lectures as well as supplementary interviews with non-member participants. Each group selected from among the members a chairperson and rapporteur to organize the discussion. A total of four sessions for the group discussions were allocated and two plenary sessions were conducted for reporting back of the results.

The following are outlines of the reports of the Group Workshop, which were summarized

by the rapporteurs. The full text of the reports was included in the UNAFEI Resource Material Series No. 44.

### **Group 1: Practical Measures to Alleviate the Problem of Overcrowding**

#### *Sub-topics*

1. Actual situation of overcrowding
2. Causes of overcrowding
3. Solutions to overcrowding

*Chairperson: Mr. Narendra Kumar Shrestha (Nepal)*

*Rapporteur: Ms. Rahab Wairimu Mwangi (Kenya)*

*Members: Mr. Hasanuddin (Indonesia)*

*Mr. Gunasena Thenabadu (Sri Lanka)*

*Mr. Tetsuo Koderu (Japan)*

*Mr. Tetsuro Sugiyama (Japan)*

*Mr. Kotatsu Uchibori (Japan)*

#### *Outline of the Report*

The report was divided into three main sections according to the three sub-topics.

Overcrowding in penal institutions plays a big part in hindering the implementation of the U.N. Standard Minimum Rules for the Treatment of Prisoners. This is a problem faced by most of the countries represented in this Course. The members of the group therefore agreed to discuss the issue based on the above mentioned sub-topics.

However, it was agreed that each country will have to look for practical solutions to prison overcrowding with regard to the social, cultural, political and economic circumstances particular to it.

The following were discussed.

#### 1. Actual situation of overcrowding

A survey was conducted among the 17 countries represented in this Course to determine which countries were faced with overcrowding. Eleven countries were found to be experiencing overcrowding while six countries were not. Overcrowding was determined by comparing the total authorized capacity of the prisons and the total number of inmates that they now accommodate. The number of convicted and unconvicted was also found out.

#### 2. Causes of overcrowding

Based on the results of the analysis as stated above the following are some of the common causes of overcrowding:

- (a) Increase of criminality
- (b) Age of the penal institutions
- (c) Delay in judicial disposition of cases
- (d) Lack or limited use of alternatives to imprisonment.

#### 3. Solutions to overcrowding

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Possible solutions to overcrowding were discussed by categorizing the prisoners into unconvicted and convicted.

### 1) Unconvicted prisoners

The possible solutions discussed were:

- (a) Prompt investigation and diversion from formal procedure
  - (i) Application of voluntary investigation
  - (ii) Suspension of prosecution
- (b) Expeditious judicial disposal
  - (i) Application of summary order procedure
  - (ii) Limitation of detention period
- (c) Bail

### 2) Convicted Prisoners

The possible solutions discussed were:

- (a) Fine  
Members discussed the problem of imprisonment of fine defaulters and agreed on the following possible alternatives:
  - (i) Payment of fine by installments
  - (ii) Offenders to be fined according to their financial capability
  - (iii) Offenders who cannot pay the fine, to be given community service order
- (b) Probation
- (c) Parole

## Group 2: Police Community Relations in Crime Prevention

*Chairperson: Mr. Waisake Talakuli Saukawa (Fiji)*

*Rapporteurs: Mr. Resham Singh (India)*

*Mr. Juanito B. Vaño Jr. (Philippines)*

*Members: Mr. Mohamad Fozi Bin Md. Zain (Malaysia)*

*Mr. Pisan Mookjang (Thailand)*

*Mr. Toru Matsumura (Japan)*

*Mr. Masanobu Tanimoto (Japan)*

*Mr. Shigehiro Tomimatsu (Japan)*

### *Outline of the Report*

The report is divided into three parts, considering three major elements harmful to police-community relations.

#### 1. Inefficiency and Ineffectiveness of Police

Some of the inabilities affecting efficiency and effectiveness are as follows: (a) negative response to complaints and low clearance rate; (b) slow response; and (c) incapable of preventing crime.

The group further identified the following factors affecting the efficiency and suggested certain countermeasures:

- i) Insufficient training and investigative expertise

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Possible countermeasures are: (a) more rigid recruitment methods; (b) in-service training to all without exception; (c) posting of motivated and dedicated experienced staff in training institutions; and (d) including in the training curriculum all aspects of technical and scientific investigation, social sciences, legal procedure and case law.

ii) Inadequate manpower

Possible countermeasures are: (a) provision of more funds and other resources; and (b) operational cooperation among other law enforcing agencies.

iii) Inability to deliver basic services

Possible countermeasures are: (a) increase in visibility; and (b) introduction of Koban or Japanese Police Box System.

iv) Lack of Motivation

Possible countermeasures are: (a) adequate pay; (b) creation of good working conditions; (c) justifiable recognition and reward; and (d) security of service.

### 2. Abuse of Powers

The group discussed some factors indicating abuse of powers by the police and countermeasures to check this tendency:

i) Corruption and graft

ii) Improper handling of complaints and investigation

iii) Unlawful arrest

iv) Police involvement in criminal activities

Possible countermeasures are:

- a) Upgrading the salary and other benefits to prevent police from becoming vulnerable to the vicious temptations of corruption;
- b) Severe punishment for those found guilty of corruption or other charges of abuse of power;
- c) Proper education of police officers regarding abuse of power; and
- d) Educating the police officials about the U.N. Code of Conduct for Law Enforcement Officers.

### 3. Lack of Awareness on the Part of the Community in its Role in Crime Prevention

The group identified certain reasons regarding lack of awareness by the public and suggested certain countermeasures:

i) Lack of legal consciousness

ii) Lack of community oriented programmes

iii) Loss of sense of responsibility by the citizens towards community welfare activities

Possible countermeasures are:

- a) Educating the public through mass media;
- b) Continuous dialogue with the police;
- c) Introduction of Koban System;
- d) Adoption of police school programmes;
- e) Printing of newsletters, handouts indicating police activities;
- f) Setting up of ACPF in all the member countries;
- g) Community policing;
- h) Involvement of police in community problem solving programmes; and
- i) Seeking of feedback through survey, etc.

The group concluded that police organisation should become more efficient to cope with

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rising crime and that each country holds its own views on crime prevention depending on the socio-economic conditions of each country. Attempts to overcome financial obstacles in maintaining an effective and efficient police organisation are met with difficulty. The group realised that the police alone cannot prevent crime without the involvement of the community and thus police must be in tune with the people, understand the people, and draw its strength from the people.

### **Group 3: Current Trends of Prisoners and Appropriate Treatment**

#### *Sub-topics*

1. Treatment of drug-related prisoners
2. Situation of foreign prisoners
3. Countermeasures against drug-related prisoners
4. Conclusion

*Chairperson: Mr. Md. Noh Bin Tan Sri Murad (Malaysia)*

*Rapporteur: Mr. Shek Lui, Bailey (Hong Kong)*

*Members: Mr. Abd Manan Bin Haji Abd Rahman (Brunei)*

*Mr. Kang Dong-Woon (Korea)*

*Mr. Nobuyuki Kawamura (Japan)*

*Mr. Shigeru Takenaka (Japan)*

#### *Outline of the Report*

The group concentrated its discussion on the above-mentioned subtopics after each participant had given a brief description of the actual situation concerning the problems in their respective countries.

The group agreed that corrections and prison administration play only a passive role in the overall policy of illegal entry or overstay of foreigners in the respective countries, except in custodial care after conviction and sentencing by the court. Therefore the possible countermeasures against the increasing number of foreign prisoners was not discussed, except to recommend more foreign language training for staff in order to reduce the language barrier in their daily encounters with foreign prisoners.

The countermeasures taken by participating countries against drug-related prisoners from the stage of admission till their release were discussed.

The group concludes that given the different political, cultural, social, economic and geographical backgrounds and constraints of participants' countries, it is generally felt that there is no universal solution to the problems encountered.

However, it is the consensus of the group that the following ideas are worth pursuing:

1. As far as resources and security permit, it is preferable to separate all drug related prisoners from non-addicts and to centralize them in designated institutions for participation in drug treatment programmes.
2. Inmates need some meaningful occupation so as not to dwell on the restraints imposed by an institutional life. Men basically want to keep themselves occupied doing something useful and constructive, and this can be utilized for the good. The more

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professionally orientated and rigorous is the programme of industrial and vocational training, the better will be the result, not only for the offenders but also for staff, by putting minds and energies to good use during incarceration.

3. Exchange programmes amongst senior officers of participants' countries should be encouraged in order to broaden their knowledge on correctional work in the Asia and Far East region.
4. Training of correction service staff to understand more foreign languages and cultures will reduce the problem of communication gap and misunderstanding in handling foreign prisoners.

### **Group 4: Training and Development of Research in Prisons**

#### *Sub-topics*

1. Recruitment and selection of correctional personnel
2. Training system of correctional personnel
3. Existing problems in staff training in prisons
4. Suggested possible solutions
5. Development of applied research

*Chairperson: Mr. Peter Ruzsonyi (Hungary)*

*Rapporteur: Mr. John Romoke Tara (Papua New Guinea)*

*Co-Rapporteur Mr. Peck Tiang Hock (Singapore)*

*Members: Mr. Boldbaater Jigjidsuren (Mongolia)*

*Ms. Chizuko Hanada (Japan)*

*Mr. Takashi Yamaura (Japan)*

#### *Outline of the Report*

The methodology used in compiling and formulating the report was through discussion and personal interviews with the course participants. Previous reports and library resource materials were consulted only for the purpose of observing the general guidelines for the discussions.

The group's research and discussions established that staff training and research development is a vital part of any organisation and that the prisons are no exception.

The general principles are outlined here on the issues discussed in the sub-topics.

#### **1. Recruitment**

Production and productivity in jobs depend on the availability of highly qualified workers who should have necessary knowledge of the job and be the underlining factor of the recruitment procedure and process.

#### **2. Appointment and Selection**

All selections and appointments of suitable candidates vying for a job must be processed through a selection board comprising psychologists and prison experts.

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### 3. Training System of Correctional Personnel

The two aspects of training apart from the need for proper and adequate training facilities must be observed.

- i) Pre-service and induction training or professional job-oriented training must be imparted to the trainees.
- ii) Refresher and development training courses on promotion and advanced professional training courses must be identified and made available and they must be updated over time.

### 4. Problems

Common problems and obstacles affecting development have been identified, including:

- a. Lack of qualified and capable trainers
- b. Lack of adequate training facilities
- c. No standardized training manual, curriculum or training programmes, or they are outdated
- d. Lack of financial and logistic support
- e. Lack of community and government support

### 5. Possible solutions

- Formulate and establish new recruitment, selection and appointment and training policy and procedure.
- Improve the conditions of service to be attractive to qualified candidates, and also minimize the turnover rate of expert and experienced personnel.
- Establish information units to conduct public awareness programmes by sponsoring positive prison programmes in the communities, government offices, and public places.

The group in principle agreed that the prisons, being a sensitive area, must include a research unit or be able to utilize research institutes. It was acknowledged that only through regular research can we identify and measure the development and the extent of "loophole" over time.

### *General Discussion Sessions*

After the Group Workshop, General Discussion Sessions were conducted on the above mentioned Sub-topic (2) related to the implementation of the relevant U.N. Rules. The objective of the general discussion was to gain a wider perspective by involving all the participants in the discussion.

The U.N. Rules which were taken up were: (1) the United Nations Standard Minimum Rules for the Treatment of Prisoners (hereinafter referred to as S.M.R. for the Treatment of Prisoners); (2) the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules); and (3) the United Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles).

Before entering the general discussion sessions, we organized special workshops on the U.N. Rules. During the workshop Sessions 1 and 2, Mr. Mukherjee gave lectures on the

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Tokyo Rules and chaired the discussions. On the S.M.R. for the Treatment of Prisoners, Sessions 3 and 4 were organized by Mr. Dharmadasa and Session 5 was jointly conducted by Mr. Dharmadasa and Mr. Rogers.

In the General Discussions, we had eight sub-topics and each one was allocated one session (two hours). For each Topic, a chairperson and rapporteur(s) as well as several keynote speakers were assigned from among the participants. They formed working panels for the preparation of the respective sessions. Before the sessions, the working panels created discussion guides and encouraged all the participants to contribute to the discussions.

After the sessions, the participants drafted three reports on the above-mentioned topics based on the discussions. The outlines of these reports summarized by the rapporteurs are as follows. The full texts were included in the Resource Material Series No. 44.

### **Topic I: Issues on United Nations Standard Minimum Rules for the Treatment of Prisoners**

#### *Sub-topics*

1. Minimum environment and living conditions  
— accommodation, personal hygiene, clothing and bedding, and food.
2. Institutional treatment  
— prison work and vocational training, education and recreation, exercise and sport, classification and individualization.
3. Rights and obligations of prisoners  
— discipline and punishment, instruments of restraint, information to and complaints by prisoners, and contact with the outside world.

#### *Working Panel*

*Chairperson:* Mr. Shek Lui, Bailey (Hong Kong)

*Rapporteur:* Mr. Peck Tiang Hock (Singapore)

#### *Keynote Speakers:*

*Sub-topic 1:* Mr. Abd Manan Bin Haji Abd Rahman (Brunei)

*Ms. Rahab Wairimu Mwangi (Kenya)*

*Mr. Md Noh Bin Tan Sri Murad (Malaysia)*

*Sub-topic 2:* Mr. Peter Ruzsonyi (Hungary)

*Mr. Hasanuddin (Indonesia)*

*Mis. Chizuko Hanada (Japan)*

*Sub-topic 3:* Mr. Kang Dong-Woon (Korea)

*Mr. Peck Tiang Hock (Singapore)*

*Mr. Shigeru Takenaka (Japan)*

#### *Outline of the Report*

The United Nations Standard Minimum Rules for The Treatment of Prisoners is a guideline for universal standards concerning the treatment of prisoners. It is intended in practice to guard against mistreatment of prisoners in correctional institutions. The report

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concentrated on the sub-topics mentioned above.

The areas listed in the sub-topics were addressed individually and systematically. Each area was examined in terms of;

- i) the existing practices and procedures governing the treatment of prisoners with a view to identifying the inadequacies; and
- ii) making appropriate recommendations in areas requiring change.

The findings and recommendations can be summarized as follows:

- a) To make them less dehumanizing, existing open toilets should be concealed. In addition, a washing basin should be provided in each cell.
- b) A chest-high wall should be constructed around all communal bathing facilities, providing adequate privacy, yet enabling proper supervision.
- c) Guidelines are needed on how often prisoners may be issued items for personal hygiene.
- d) Sufficient food in terms of quality and quantity should be provided to prisoners to maintain good health.
- e) Prison industries are needed which require higher skills than assembly line jobs. Prisoners need to acquire specific skills that will better their chances of reintegrating into society and securing a decent job.
- f) Prisoners need a wider range of educational opportunities to better their chances of employment upon release.
- g) Rehabilitative treatment needs of the prisoners should be taken into account at the time of classification. The assessment of these needs should also be made with the help of psychologists or psychiatrists.
- h) A system of discipline must be maintained to ensure proper control and order in correctional institutions. Any form of personal punishment of prisoners by prison officers is unlawful, constituting a breach of discipline and should not be condoned.
- i) Instruments of restraint must only be used in situations which warrant their use and not be applied as a form of punishment.
- j) Prisoners should be given information and assistance on how to express their grievances and complaints.
- k) Prisoners need channels for contact outside of prison. The prison law should regulate visits and letters to prisoners. Access to radios, television, newspapers and periodicals should also be permitted to keep prisoners informed of the latest changes in the outside world.

### **Topic II: Issues on the U.N. Standard Minimum Rules for Non-custodial Measures**

#### *Sub-topics*

1. Non-custodial Measures at the Pre-Trial Stage
2. Non-custodial Measures at the Trial Stage and Sentencing Stage
3. Non-custodial Measures at the Post-Sentencing Stage

#### *Working Panel*

#### *Chairpersons:*

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*Sub-topics 1, 3: Mr. Resham Singh (India)*  
*Sub-topic 2 : Mr. Gunasena Thenabadu (Sri Lanka)*  
*Rapporteurs: Mr. Juanito B. Vano Jr. (Philippines)*  
*Mr. John Romoke Tara (Papua New Guinea)*

### *Keynote Speakers:*

*Sub-topic 1 : Mr. Resham Singh (India)*  
*Mr. Juanito B. Vano Jr. (Philippines)*  
*Mr. Tetsuo Koderu (Japan)*  
*Sub-topic 2 : Mr. Narendra Kumar Shrestha (Nepal)*  
*Mr. Gunasena Thenabadu (Sri Lanka)*  
*Mr. Toru Matsumura (Japan)*  
*Mr. Takashi Yamaura (Japan)*  
*Sub-topic 3 : Mr. John Romoke Tara (Papua New Guinea)*  
*Mr. Tetsurou Sugiyama (Japan)*

### *Outline of the Report*

The general discussions were conducted on the U.N. Standard Minimum Rules for Non-custodial Measures popularly known as the Tokyo Rules, in particular, their application in various countries and suggestions on how to reduce the overcrowding in prisons, reduce costs, etc.

#### 1. Pre-trial stage

The Tokyo Rules emphasize the following measures as alternatives to pre-trial detention with the proviso that while applying these Rules the interest of the victim, society and the offender be taken into consideration and that the authorities applying the rules must have clear-cut procedures and guidelines.

(a) Non-arrest; (b) Admonition/Warning; (c) Caution; (d) Discharge; (e) Personal guarantee / Conditional release; (f) Release on recognizance; (g) Village Panchayats / Conciliation Board; (h) Suspension of Prosecution; (i) Bail; (j) Restitution.

#### 2. Trial and Sentencing Stage

(a) Warning and Discharge; (b) Bond for good behaviour; (c) Deferred sentence; (d) Conditional sentence; (e) Fines; (f) Probation; (g) Community Service Order; (h) Compensation; (i) Home detention and electronic monitoring, etc.

#### 3. Post Sentencing Stage

(a) Amnesty/Pardon; (b) Home detention; (c) Furlough; (d) Parole; (e) Remission; (f) Open institution and others

The above-mentioned alternatives to custodial sentence were discussed in detail and a report was prepared. This report was discussed in the seminar with free and frank deliberations. Some of the participants, visiting experts and faculty members suggested some modification which was then made.

These measures were suggested for liberal application by all countries where possible to reduce overcrowding in the prisons and thus save a substantial amount of national budget and for rehabilitating the offender as a useful member of society. The need to educate the public in this regard was also stressed in the general discussion.

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### Topic III: Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

#### *Sub-topics*

1. Protection of rights at the stage of arrest and detention
2. Right to counsel and communication with the outside world
3. Right to a speedy trial and release on bail

#### *Working Panel*

*Chairperson:* Mr. Waisake Talakuli Saukawa (Fiji)

*Rapporteur:* Mr. Mohamad Fozi Bin Md. Zain (Malaysia)

*Keynote Speakers:*

*Sub-topic 1 :* Mr. Pisan Mookjang (Thailand)

Mr. Boldbaatar Jigjidsuren (Mongolia)

Mr. Shigehiro Tomimatsu from (Japan)

*Sub-topic 2 :* Mr. Mohamad Fozi (Malaysia)

Mr. Shigehiro Tomimatsu (Japan)

Mr. Kotatsu Uchibori (Japan)

#### *Outline of the report*

During the general discussions, the above sub-topics were chosen by the work panel to be discussed by all the participants. Main principles of the Body of Principles pertaining to the above sub-topics were selected to enable the participants to share their knowledge and experience in relation to the implementation of the Body of Principles in their respective countries.

The report is divided into two parts. The first part covers the discussion during the 7th session in relation to Principles 10, 11, 13 and 14 of the Body of Principles. Several important rights of persons under detention were discussed, mainly:

- (i) Right to be informed of the reasons of arrest
- (ii) Right to be produced before the court for further detention
- (iii) Right to remain silent and to make statement
- (iv) Right to the service of an interpreter
- (v) Remedy for the violation of the above rights

Principles 15 to 19 and Principles 38 and 39 of the Body of Principles were the main focus during the 8th session of the general discussion. These principles are in relation to several basic rights of those persons under detention such as:

- (i) Right to counsel (in general)
- (ii) Right to counsel during investigation
- (iii) Right to communicate with family members, friends and others
- (iv) Right to a speedy trial and release on bail

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It is highly commendable to conclude that, throughout the discussions on all the subjects, most countries have specific laws and regulations protecting the rights of arrested persons and those under detention, although it may vary from country to country. Despite the efforts by most countries to conform and adhere to the guidelines and standards promulgated by the United Nations in the Body of Principles through the necessary laws and regulations, these rights must be respected by fully observing and implementing them in our respective countries.

### *C. The 95th International Training Course*

#### I. Duration

From 13 September to 2 December 1993

#### II. Main Theme of the Course

The main theme of the 95th course was "Effective Countermeasures against Crimes Related to Urbanization and Industrialization — Urban Crime, Juvenile Delinquency and Environmental Crime."

#### *Excerpt of the Course Rationale:*

Recent rapid development of industry has brought about improvement of socio-economic conditions and living standards for the people of every country. On the other hand, however, we see an increase of urban crime and destruction of the natural environment following in its wake.

Regarding the phenomenon of urbanization, we see more or less similar processes in each country even though the period of time and degree of effect may be different. That is to say, as a result of industrialization a large and rapid movement of the population from villages to cities has occurred without necessary and proper planning. Therefore cities are experiencing social problems including poverty, unemployment, insufficient education, lack of proper housing, racial discrimination, etc. These directly and indirectly have caused the development of the new types of crime, which could be classified generally as urban crime.

Concerning the various types of urban crime, increases in street crimes including pickpocketing, extortion, robbery, and violent crimes including assault, injury, murder, kidnapping, etc. have been cited. Existence of slums and amusement districts have caused property crimes and sexual crimes. There is an increase in crimes whose victims are the particularly vulnerable including the aged, women, children, etc. Also taking place are economic crimes which utilize the economic system, such as credit card fraud. Organized crime and profit-making crimes such as drug trafficking are other features of urban crime. In terms of the modus operandi, urban crime offenders tend to utilize telecommunications and transportation systems and cause extensive and serious damage to the victims.

Generally speaking, cities are places where citizens are for the most part indifferent to each other and therefore can act anonymously. To prevent urban crime, we must recognize the conditions which facilitate commission of such crime as well as examining its direct and indirect causes. Another important factor is cooperation among the various departments

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and agencies related to crime prevention such as urban planning, private security service and the mass media, as well as education, employment, social welfare, etc. as pointed out in the resolution on "Prevention of Urban Crime" adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Regarding the investigation of urban crime, offenders tend to be sophisticated and well prepared to destroy evidence and to flee. On the contrary the public has become more indifferent and less cooperative towards the investigating agencies. The investigation field is experiencing increasing difficulties in the detection and investigation of offences and in collecting evidence including discovery of witnesses. Also urban crime has caused various difficulties in prosecution, court proceedings and other areas of criminal justice administration.

Juveniles are the most vulnerable to the worsened urban environment. Family and community ties which had been playing important roles in sound development of juveniles have been loosening, and public education and other related fields are trying to fulfill that need. However, there have been increasing problems in juvenile delinquency including the declining in age of delinquents, and the pleasure oriented motivations of their offences. It is important to discuss further improvement in juvenile justice administration taking into account the relevant United Nations guidelines.

The development of industrialization has made possible a world of more convenience. On the other hand, the importance of protecting the natural environment and the earth has been recognized on a global scale.

To control environmentally hazardous activities, administrative and civil measures have been taken in many countries. It is up to the legislators whether or not to establish criminal sanctions for violation of laws controlling environmentally dangerous activities. Bearing in mind that which conduct should be criminalized is a matter of the policy of a sovereign individual country, it is important to know the statutes and the situations of environmental crime in each country. Also, as criminal justice administrators, it is important to examine what type of crimes should be effectively punishable, the expected role of criminal sanctions and how they relate to other sanctions, etc.

### *Sub-topics for the discussions:*

#### 1. Crime Prevention Activities

- (1) Actual Situations and Characteristics of Urban Crime
- (2) Conditions Which Facilitate Urban Crime
- (3) Effective Activities to Prevent Urban Crime

#### 2. Effective Investigation of Urban Crime

- (1) Conditions and Problems Which Make the Investigation Difficult and How to Cope with Them
- (2) How to Ensure Public Cooperation

#### 3. Urbanization and Juvenile Delinquency

- (1) Actual Situation and Features of Urban Delinquency
- (2) Effective Administration of Juvenile Criminal Justice  
— from Investigation to Rehabilitation

#### 4. Role of Criminal Justice in Protecting Environment

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- (1) Environmental Criminal Law in each Country
- (2) The Role of Criminal Sanctions in Relation to Civil and Administrative Sanctions
- (3) Substantive Issues
- (4) Procedural Issues

### III. People Concerned

#### *1. Participants*

In the Course we welcomed 16 overseas participants and eleven Japanese participants, who shared UNAFEI's dormitory life. They included seven police officers, eight public prosecutors, four judges, four rehabilitation officers and other high-ranking officials representing 16 countries from Asia, the Pacific, Africa and Latin America. The countries represented were: Peoples's Republic of Bangladesh, Republic of Bolivia, People's Republic of China, People's Democratic Republic of Ethiopia, Republic of Fiji, Republic of Korea, Malaysia, Kingdom of Nepal, Islamic Republic of Pakistan, Papua New Guinea, Republic of the Philippines, Republic of Singapore, Democratic Socialist Republic of Sri Lanka, Kingdom of Thailand, Republic of Venezuela and Japan.

The list of the participants is found in Appendix 5.

#### *2. Visiting Experts*

The visiting experts from overseas countries were:

Mr. Khoo Boon Hui, Director, Criminal Investigation Department, Police Headquarters, Singapore; Mr. Prathan Watanavanich, Professor, Faculty of Law, Thammasat University, Thailand; Mr. Edgar B. Aglipay, Police Senior Superintendent, General Headquarters, Philippine National Police; Mr. Panteleon Dumlao Jr., Police Director, Deputy Chief for Operations, Philippine National Police Headquarters; Mr. Graham Martin, Head of Fraud Division, Crown Prosecution Service Headquarters, United Kingdom; Mr. David Biles, Deputy Director, Australian Institute of Criminology, Australia; and Mr. James O. Finckenauer, Senior Professor, School of Criminal Justice, Rutgers Campus of Newark, State University of New Jersey, United States of America.

### IV. Programmes

#### *1. Comparative Study Programme*

As has been described in the previous part of this report, a Comparative Study Programme was arranged for the participants. The topics of the participants' papers are listed on Appendix 5.

#### *2. Lectures*

Visiting experts, ad hoc lecturers and UNAFEI faculty members rendered a series of lectures. The lecturers and lecture topics are listed on Appendix 5.

#### *3. Group Workshops and General Discussions*

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The following are outlines of the reports of the Group Workshop, which were summarized by the rapporteurs. The full texts are included in the Resource Material Series No. 44.

### Group 1: Crime Prevention Activities

#### *Sub-topics*

1. Actual situation and characteristics of urban crimes and juvenile delinquency
2. Conditions which facilitate urban crimes and juvenile delinquency
3. Countermeasures to prevent urban crimes and juvenile delinquency

*Chairperson:* Mr. Wong Chee Kong (Malaysia)

*Rapporteurs:* Mr. K. S. J. De. Abrew (Sri Lanka)

Mr. Eiji Nakashima (Japan)

*Members:* Mr. Basu Dev Olee (Nepal)

Mr. Stephen Kuu Nakandio (Papua New Guinea)

Mr. Chanvut Vajrabukka (Thailand)

Mr. Mauricio Salas Perez (Venezuela)

Mr. Seiji Yonezato (Japan)

Mr. Yoshikazu Yuma (Japan)

#### *Outline of the Report*

Economic and industrial development is the prime concern of most countries in the world today with the aim to improve the standard of living and quality of life for their people. However, with industrialization and urbanization, there is also an increase of incidence of crimes of new form and dimension brought about by urbanization as a result of the change of social and economic structures in urban areas.

For the purpose of this group paper, the members have agreed to focus the attention on eight categories of crimes which the members interpret to constitute urban crimes.

- i) Crimes against people
- ii) Crimes against property
- iii) Economic crimes
- iv) Sexual crimes
- v) Environmental crimes
- vi) Drug related offences
- vii) Illegal immigrants
- viii) Juvenile delinquency

#### 1. Actual situation and characteristics of urban crimes and juvenile delinquency

Research was done on 16 countries represented in this course to analyse the characteristics and crime trends of the above mentioned eight categories of crimes in each country. The study showed that there were two distinct patterns of correlation between urbanization and crime trends. In most of the 16 countries, there was an upward trend of the mentioned crimes with increased rate of urbanization. However, Japan and Singapore showed a reverse pattern. With increased urbanization, crime trends in these two countries in fact

showed a downward trend.

## 2. Conditions which facilitate urban crimes and juvenile delinquency

Based on discussions and research, the group members arrived at the consensus that the conditions which facilitated urban crimes and juvenile delinquency are as follows:

- a) overcrowding caused by migration from rural areas
- b) the changes of socio-economic structures brought about by urbanization
- c) psychological problems
- d) poor physical layout of building/setting
- e) special features

## 3. Countermeasures to prevent urban crimes and juvenile delinquency

Possible countermeasures were discussed based on participants' experiences and suggestions of the visiting experts. Some of the countermeasures identified were as follows:

- a) five pillars of criminal justice system (police, prosecution, court, corrections and community)
- b) criminal laws
- c) crime prevention through education
- d) crime prevention through environmental design
- e) international cooperation
- f) mass media
- g) social and economic upliftment
- h) decentralization

## 4. Conclusion

The group concluded that for any meaningful countermeasure, active participation from the community and general public is most important. Crime prevention is not the sole responsibility of sectors/services labelled as "criminal justice", but of all sectors, which need to combine and make the coordinated effort to eliminate criminogenic factors, so that society will be more capable of development with less interference from crime.

### **Group 2: Effective Investigation of Urban Crime**

*Chairperson: Mr. Mario Guariña III (The Philippines)*

*Rapporteur: Mr. Ng Chee Kok (Singapore)*

*Members: Mr. Chen Liang (China)*

*Mr. Haider Ali Shikoh (Pakistan)*

*Mr. Hiromichi Ohtsubo (Japan)*

*Mr. Toshiro Yonemura (Japan)*

Urban crimes may be viewed as crimes committed in an urban area, and crimes which result from problems associated with the population growth and development of urban areas. From this perspective, the major crime categories are ordinary crimes, white-collar crimes, crimes which take advantage of modern technology, drug-related crimes, crimes committed by foreigners and organized crimes.

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In many countries, problems arise from the poor investigative abilities of some police investigators. Urbanization leads to the social indifference of people, making it difficult for the police to investigate crime. This is aggravated by inadequacy in the material resources and logistics available to the police. The police also have difficulties with foreigners due to language differences and due to their mobility. Within the police organization, manpower shortage, the transfer or resignation of police investigators, and the lack of coordination with the prosecutors are areas of concern.

White-collar crimes are commonly fraudulent practices and dealings by and among individuals, and companies, private and public. These crimes are expected to increase with economic maturity and sophistication. The large amounts involved, complexity of the transactions, delay in reporting, and the use of modern technology and equipment by criminals, make investigation in this area difficult.

Drug-related offenses are a source of major concern in all the countries surveyed. The detection of drugs is difficult, and calls for considerable intelligence and surveillance work. The drug traffic is controlled by organized crime, which has spread as well to other areas, such as kidnapping, robbery and extortion. In many places, the crime increase is not matched by a corresponding build-up of police resources to match the threat.

In order to effectively investigate urban crimes, a number of measures have been recommended, whenever applicable and feasible. Manpower should be increased, motivated and efficiently utilized. Skills should be upgraded through training. Modern technologies must be used in aid of investigation. As the need arises, special units may be organized to counteract specific criminal activities, especially those of organized crime. A network of sources and informants, coupled with undercover work, must be in place to provide the police with crucial, up-to-date information. This will be a necessary support for police operations, be they raids or strict entry and exit controls. In this connection, the cooperation of the various law enforcement agencies will be seen to be indispensable. Finally, there is need for proper legislation and crime prevention and education programs to be propagated to all levels of society.

In order to secure public cooperation, investigative agencies must be clean and honest. There must be more community policing to secure the trust and confidence of the community. Victims and their witnesses must be adequately protected. In this way, they will be encouraged to expose criminals, and assist the police in stopping the menace of crime.

### **Group 3: Comparative Study of the Administration of Juvenile Justice Systems in Some Countries of Asia, Africa, Oceania and South America**

*Chairman: Mr. Rakuita S. Vakalalabure (Fiji)*

*Rapporteurs: Mr. Alfredo Dubravcic Vaca (Bolivia)*

*Mr. A.K.M. Shamsuddin (Bangladesh)*

*Members: Mr. Masayoshi Takahara (Japan)*

*Mr. Hiroshi Yamaguchi (Japan)*

*Mr. Ryoichi Yamaguchi (Japan)*

*Mr. Hirokazu Goda (Japan)*

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This report highlights the various Juvenile Justice systems of the countries under study. It deals mostly with Juvenile Justice Systems in the developing countries of Asia, the Pacific, Latin America and Japan.

It has been found that there are many similarities among the various systems, and also significant differences. Most of the similarities are rooted in some universal principles that transcend the different societies, for example the acknowledgement that Juveniles are to be treated differently when they breach the Penal Code. Other similarities in the Administration of Juvenile Justice Systems are attributed to the historical background of the Legal Systems of the various countries, for example, similarities between countries that developed out of the English Legal System or of the Civil Law Systems of Continental Europe.

However each country has also developed significant variations in its system. For example, in Japan the office of the Public Prosecutor cannot prosecute in the Family Court, where Juvenile cases are mostly dealt with.

There is also the finding that the effectiveness of any of the Juvenile Justice Systems depends wholly on whether or not the Juvenile Laws are implemented. In some countries there is a difference between what the statutes provide and what is done in practice. This is mostly due to the lack of facilities and funding to allow the complete implementation of the laws.

Most significant, however, is that the Beijing Rules has to some extent caused significant development in the Administration of Juvenile Justice Systems. For example, in Nepal, where the Juvenile Justice System is very limited, a new statute is now being considered specifically covering Juvenile Justice. Also, in Bolivia a new law has been adopted establishing a comprehensive Juvenile Justice System.

### **Group 4: Countermeasures against Environmental Crime**

#### *Sub-topics*

1. The Present State of Threats to the World Environment
2. Criminal Sanction against Environmental Crime
3. Non-criminal Sanctions against Environmental Crime
4. Public Cooperation to Protect the Environment

*Chairperson: Mr. Yun Jung-Sok (Korea)*

*Rapporteur: Mr. Fasil Tadese (Ethiopia)*

*Members: Mr. Prapot Klaisuban (Thailand)*

*Mr. Orihiko Murata (Japan)*

*Mr. Masao Nobuta (Japan)*

The group concentrated its discussion and survey on the countermeasures to prevent environmental pollution, and therefore tried to present a brief account of actual situations and related issues highlighting the problems encountered in each country and the policies adopted by nations in seeking solutions. After classification of countermeasures into criminal sanctions, non-criminal sanctions, and public cooperation, we researched the actual situations of our members' countries namely Japan, Republic of Korea, Thailand, and Ethiopia, and then pointed out the problems of the present operation of legal systems, and what should be done in the future.

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The question of how to respond effectively to environmental pollution is very delicate and complicated because of the differences in the situations and related problems or standards of cognizance regarding environmental law among developing and developed countries. But we could share the consensus that drastic steps should be taken right away to preserve the earth, which is the home of all living things and the basis of all life, for ourselves and also for future generations.

### 1. The Present State of Threats to the World Environment

The actual situation of environmental problems in each country and global environmental problems were described using related statistics such as on deforestation, soil degradation and desertification, air or atmospheric pollution, water pollution, and other pollution problems.

### 2. Criminal Sanctions against Environmental Crime

The typical penalty for an environmental offence is imprisonment and/or fine, and each country also uses appropriate combination of these penalties. We surveyed the actual operation of environmental law and the investigation system of each country, with the enumeration of major crime types added in the appendices. Then we specified the legal issues to be solved in the future such as the definition of environmental crime; supplementary nature of criminal sanction; jurisdiction of international pollution relating to more than two countries; criminal liability of non-physical persons; causation; defense regarding justification and excuse; strict liability; development of new kinds of sanctions; and problems related to investigation.

### 3. Non-criminal Sanctions against Environmental Crime

We discussed the actual situation and problems of each country concerning civil and administrative sanctions. Each country should endeavor to put the existing environmental law in order to improve the legal system for the effective control of environmental pollution and compensation of victims.

### 4. Public Cooperation to Protect the Environment

We classified the public into three groups, namely enterprise, non-governmental organizations, and citizens. After surveying the actual situation of our members' countries, we tried to define the characteristic roles of each sector of society in the protection of the environment. The importance of public participation and cooperation should be emphasized. The enterprises should realize their role as a supporter of environmental protection, and the activities of NGOs should be supported by the states and public. All citizens are required to change their extravagant consumption patterns and to make an effort to reduce pollution in their daily lives.

## *Forum*

### 1) Group Forum

In this Course, we designed a new programme called Group Forum. We organized the following four groups for Group Forum based on the participants' professional backgrounds: Group A (Police), Group B (Prosecutors), Group C (Judiciary) and Group D (Rehabilitation).

One of the objectives of Group Forum was to offer opportunities for discussion of practical

and theoretical issues that the participants face in everyday work. Also they shared some of the problems and successful experiences of their careers.

In addition to these topics, during the Forum each Group was required to discuss at least one of the United Nations Norms and Standards relating to its professional field. Group A took up "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials." Group B studied and discussed "Guidelines on the Role of Public Prosecutors." Group C took up "Basic Principles on the Independence of the Judiciary." Group D discussed "United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)."

## 2) Plenary Forum

Because the members in each Group were limited to the same profession in criminal justice administration, the discussions were conducted in a deep and intensive way.

There were also, however, basic but interesting topics to be discussed with the participants from the other professions, as the opinions on these issues may differ among the various sectors of criminal justice administration. For this purpose, the Plenary Forum was created.

During the Plenary Forum, Groups A, B and C presided over the discussions in turn. The members of Group D participated from the floor. All the members of the presiding Group took the front seats. The members of the other groups sat together, which was different from the normal seating arrangements. The presiding Group selected one moderator from among its members for the Plenary discussion. Several members of the session's group spoke about the issues at the beginning as keynote speakers.

The Topics for the Plenary Forum were as follows:

### Group A;

- Police Functions being Too Many
- Sentencing Policy
- Basic Principles on the Independence of the Judiciary

### Group B;

- Preventive Effect of Severer Punishment
- Role of Prosecutors
- Confessions as evidence

### Group C;

- Confessions as evidence
- Sentencing Policy

## *D. International Meetings and Overseas Joint Seminar*

UNAFEI conducted overseas joint seminars with host governments in Asia in response to a request, which had been frequently expressed in various international conferences as well as by an increasing number of former participants, to provide more training opportunities to criminal justice personnel in the countries of the region. In 1993, UNAFEI

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conducted two overseas joint seminars.

### *1. Joint Seminar in Malaysia*

The Joint Seminar between the Malaysian Government and UNAFEI entitled "Effective Countermeasures Against Organized Crime" was carried out from 10 to 23 January 1993 in Kuala Lumpur, Malaysia under the financial auspices of Japan International Cooperation Agency (JICA).

This Seminar was a continuation of the previous Joint Seminar in Malaysia, which was conducted jointly by the Royal Malaysia Police and UNAFEI in 1984. The participants in the Seminar were policy-makers, high-ranking administrators and other experts working in the field of criminal justice administration: the police, the prosecution, the judiciary, the corrections, the probation services and academia.

The Seminar was planned so as to provide the participants with a discussion forum where they could share their views and jointly seek solutions to various problems related to organized crime facing the criminal justice administrations of both Malaysia and Japan. The sub-topics for discussion were the actual situation of organized crime in each country; issues related to investigation of organized crime; issues related to prosecution of organized crime; trial and sentencing regarding organized crime; innovative countermeasures against organized crime; international cooperation in controlling organized crime; participation of community in suppressing organized crime; and rehabilitation of organized crime offenders.

Prior to the beginning of the Joint Seminar, the UNAFEI delegation was given opportunities to visit and discuss various contemporary issues with officials of a number of criminal justice agencies in Malaysia including the police, public prosecutors offices, courts, prisons and probation officers headquarters. These experiences helped the Japanese delegation understand the Malaysian situations very much and enhanced the discussions in the Seminar.

During the Seminar, various pressing problems in every field of criminal justice were discussed by the approximately 200 participants from every segment of the criminal justice system and academia.

In the Opening Ceremony, Mr. Junsaku Koizumi, Resident Representative JICA, Malaysia and Tan Sri Mohammed Haniff bin Omar delivered addresses. Dato' Syed Hmid bin Syed Jaafar Albar, Minister of Law, Malaysia made the opening and keynote speeches.

The topics and people concerned were as follows:

#### **DAY 1/ Session I: "Actual Situation of Organized Crime in Each Country"**

##### *Session Chairman:*

*Mr. Tan Sri Mohamed Haniff bin Omar, Inspector General of Royal Malaysia Police*

##### *Co-chairman:*

*Mr. Atsushi Nagashima, Chairman of the Board of Directors, ACPF, former Justice of the Supreme Court and former Director of UNAFEI*

##### *Speakers:*

*Mr. Datuk Mohd. Zaman Khan Bin Rahim Khan, Director of Criminal Investigation Department, Royal Malaysia Police*

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*Mr. Takashi Watanabe, Director, UNAFEI*

**Panelists:**

*Mr. Tan Sri Hj. Zulkifli Mamood, Director General, Anti-Corruption Agency, Malaysia*

*Mr. Dato' Stanley Isaac, Director, Criminal Prosecution, Attorney General's Chambers, Malaysia*

*Mr. Datuk Abdul Rahman Ismail, Retired Director of CID, Royal Malaysia Police*

*Mr. Akira Kawada, Vice President of National Police Academy, Vice President for ASIA ICPO former Director of International Research and Training Institute for Criminal Investigation*

*Dr. Koichi Miyazawa, Professor of Keio Gijuku University, Director of ACPF*

**DAY 1/ Session II: "Issues Related to Investigation of Organized Crime"**

**Session Chairman:**

*Mr. Justice Datuk Hj. Wan Mohamad bin Wan Muda High Court, Malaysia*

**Co-chairman:**

*Mr. Takashi Watanabe, Director, UNAFEI*

**Speakers:**

*Mr. Datuk Mohd Jamil Johari, Commissioner of Police, Sabah, Royal Malaysia Police*

*Mr. Akira Kawada*

**Panelists:**

*Mr. Datuk Yahya bin Yoep Ishak, Retired Director, CID, Royal Malaysia Police*

*Mr. SAC I Salleh bin Mat Som, Deputy Director CID (CCIB), Royal Malaysia Police*

*Mr. Susumu Uemura, Public Prosecutor, General Affairs Department of Sendai High Public Prosecutors Office, former professor of UNAFEI*

**DAY 2/ Session I: "Issues Related to Prosecution of Organized Crime"**

**Session Chairman:**

*Mr. Justice Datuk Visu Sinnadurai, High Court, Malaysia*

**Co-chairman:**

*Mr. Koichi Miyazawa, Professor of Keio Gijuku University, Director of ACPF*

**Speakers:**

*Ms. Chirstine Lee Oil Kuan, Attorney General's Chamber, Malaysia*

*Mr. Susumu Uemura*

**Panelists:**

*Mr. Jagjit Singh, Senior Advocate and Solicitor*

*Professor M. Rajendran, Faculty of Arts and Social Sciences, University of Malaya*

*Mr. Takashi Watanabe*

**DAY 2 / Session II: "Trial and Sentencing Regarding Organized Crime"**

**Session chairman:**

*Mr. Datuk Dr. Zakaria bin Mohd Yatim, High Court, Malaysia*

**Co-chairman:**

*Mr. Takashi Watanabe*

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### *Speakers:*

*Mr. Justice Tan Sri Haruh Hashim, Supreme Court Judge, Malaysia*

*Mr. Makazu Ikeda, Presiding Judge, Hachioji Branch, Tokyo District Court*

### *Panelists:*

*Professor Tan Sri Ahmad Ibrahim, Dean, Law Faculty, International Islamic University*

*Mrs. Bhupalan F.R.*

*Mr. Atsushi Nagashima*

## **DAY 3/ Session I: "Innovative Countermeasures Against Organized Crime"**

### *Session chairman:*

*Mr. Datuk Zulkifli Abdul Rahman, Director, Special Branch, Royal Malaysia Police*

*Mr. Takashi Watanabe*

### *Speakers:*

*Mr. Datuk Mohd Ghazali Yaacob, Director, Internal Security / Public Order, Royal Malaysia Police*

*Mr. Katsuyuki Nishikawa, Professor of UNAFEI*

### *Panelists:*

*Mr. Datuk Shamsuri Arshad, Chief Police Officer, Perak*

*Dr. Yeap Kim Seng, Deputy Director CID (CAD), Royal Malaysia Police*

*Mr. Masaharu Yanagimoto, Professor of Asia University, former Professor of UNAFEI*

## **DAY 3/ Session II: "International Co-operation in Controlling Organized Crime"**

### *Session Chairman:*

*Mr. Tan Sri Ahmad Kamil Jaafar, Secretary General, Wisma Purtra, Kuala Lumpur*

### *Co-chairman:*

*Mr. Atsushi Nagashima*

### *Speakers:*

*Mr. Tan Sri Abdul Rahim Mohd Noor, Deputy Inspector General*

*Mr. Takashi Watanabe*

### *Panelists:*

*Mr. Cik Ainum bt. Mohd Saaid, Head, International Division, Attorney General's Chambers*

*Mr. Tee Tua Ba, Commissioner of Police, Singapore*

*Mr. Akira Kawada*

## **DAY 4 / Session I: "Participation of Community in Suppressing Organized Crime"**

### *Session Chairman:*

*Mr. En. Zainuddin bin Abdul Bahari, Director, Anti-Dadah Task Force, Malaysia*

*Mr. Takashi Watanabe*

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### *Speakers:*

*Mr. Lee Lam Thye, former member of Parliament, Malaysia*

*Mr. Noboru Hashimoto, Professor of UNAFEI*

### *Panelists:*

*Mr. Ismail bin Che Rus, Chief Plice Officer, Johor*

*Mr. Tan Sri Ramon Navaratnam, Bank Buruh Malaysia*

*Mr. Tasuo Hagiwara, Professor of Japan College of Social Work, former Professor of UNAFEI*

## **DAY 4 / Session II: "Rehabilitation of Organized Crime Offenders"**

### *Session Chairman:*

*Professor P. Balan, University of Malaya*

### *Co-Chairman:*

*Mr. Takashi Watanabe*

### *Speakers:*

*Mr. Datuk Mohd. Yassin bin Jaafar, Director General, Prisons Department, Malaysia*

*Mr. Tomiyoshi Kawahara, Fukuoka Regional Correction Headquarters, former Professor of UNAFEI*

### *Panelists:*

*Professor Abd. Hadi Zakaria, Deputy Dean, Faculty of Arts and Social Sciences, University of Malaya*

*Mr. Datuk Dr. Abu Bakar b. Datuk Sulaiman, Director General, Ministry of Health, Malaysia*

*Mr. Hisashi Hasegawa, Osaka Regional Correction Headquarters and former Professor of UNAFEI*

Minister, Ministry of Home Affairs, Malaysia made closing remarks.

## **2. Joint Seminar in Korea**

The Joint Seminar on "The Present Situation Of and Countermeasures Against Drug Offences and Organised Crime" was held in Seoul, Korea from 14 to 16 July 1993.

This Seminar was jointly organised by the Supreme Public Prosecutors' Office of Korea and UNAFEI under the financial auspices of Japan International Cooperation Agency (JICA). In the other previous overseas joint seminars, the Japanese presenters were mainly from UNAFEI, but for this Seminar, taking into consideration the special relation between the two countries, UNAFEI asked the Ministry of Justice and the Supreme Public Prosecutors' Office of Japan to dispatch lectures to the Seminar.

The participants were from various areas of criminal justice administration totaling about 100.

There were five sessions whose themes and the people concerned were as follows:

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### **Topic I : Current Status of Drug Offences and Organised Crime**

- Chairperson:* Mr. Kenji Nakai, Director, Security Division, Criminal Affairs Bureau, Ministry of Justice, Japan
- Presenters:* Mr. Sung, Nak-hap, Director, Crime Investigation Division, National Police Headquarters, Korea  
Mr. Hiroshi Ohbayashi, Deputy Director, UNAFEI
- Panelist:* Mr. Cho, Sung-sik, Senior Prosecutor, Taegu District, Prosecutors' Office, Korea

### **Topic II : Forfeiture of Earnings from Drug Offences and Organised Crime**

- Chairperson:* Mr. Hiroshi Ohbayashi
- Presenters:* Mr. Moon, Young-ho, Senior Prosecutor, Pusan District Prosecutors' Office, Korea  
Mr. Seimei Nakagawa, Prosecutor attached to the Criminal Affairs Bureau, Ministry of Justice, Japan
- Panelist:* Mr. Lee, Sang-cheol, Judge, Incheon District Court, Korea

### **Topic III : Effective Methods for Investigating Drug Offences and Organised Crime**

- Chairperson:* Mr. Shin, Sang-kyu, Chief, Wonju Branch Office, Chunchon District Prosecutors' Office, Korea
- Presenters:* Mr. Kim, Joon-gyu, Chief, Jechon Branch Office, Chongju District Prosecutors' Office, Korea  
Mr. Kenji Nakai
- Panelist:* Mr. Lee, Kee-ho, Professor, Police University, Korea

### **Topic IV : Correction and Rehabilitation of Drug Abusers and members of Criminal Organisations**

- Chairperson:* Mr. Lee, Young-gun, Professor, Kyungki University, Korea
- Presenters:* Mr. Jeong, Dong-jin, Correctional Officer, Correctional Bureau, Ministry of Justice, Korea  
Mr. Choi, Sang-sub, Director of General Mental Disease Division, Gongju Therapeutic Detention House  
Mr. Goro Udo, Researcher, Research and Training Institute of Ministry of Justice
- Panelist:* Mr. Oh, Young-kun, Professor, Hanyang University, Korea

### **Topic V : Plans for the Mutual Cooperation between Korea and Japan concerning Regulation of Drug Offences and Organised Crime**

- Chairperson:* Mr. Kim, Seung-nyun, Director, Violent Crime Division, Supreme Prosecutors' Office, Korea
- Presenters:* Mr. Moon, Hyo-nam, Chief, Chungju Branch, Chongju District Prosecutors' Office, Korea

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*Mr. Mitsuhiro Hasegawa, Prosecutor attached to the Criminal Affairs Bureau, Ministry of Justice, Japan*

*Panelist: Mr. Cho, Byung-in, Senior Researcher, Korean Institute of Criminology*

The results of the seminar were recorded and compiled into a book entitled "The Present Situation Of and Countermeasures Against Drug Offences and Organised Crime" partly in Korean, in Japanese and in English.

### *3. International Seminar on Organized Crime in Asia*

A seminar entitled "International Seminar on Organized Crime in Asia" was held on 18 and 19 February 1993 at UNAFEI. It was planned jointly by the Criminal Affairs Bureau of the Ministry of Justice, Japan, the Criminal Investigation Bureau of the National Police Agency, Japan and UNAFEI.

An international conference sponsored by the U.S. Department of Justice, entitled "Multinational Asian Organized Crime Conference" was held in San Francisco, U.S.A., from 24 to 26 September 1991 in which the following countries participated: Australia, Canada, Hong Kong, Japan, Republic of Korea, Malaysia, Netherlands, New Zealand, Singapore, Thailand and U.S.A. This special seminar was a joint meeting of those coming from the participating countries of the multinational conference and the participants of the 93rd International Seminar of UNAFEI.

The main theme of the seminar was "Effective International Cooperation to Suppress Organized Crime in the Asian Region."

All the UNAFEI visiting experts and UNAFEI participants attended the special Seminar. Other attendees were from: Australia, Hong Kong, Republic of Korea, Malaysia, Netherlands, New Zealand, the Philippines, Thailand, U.S.A. and Japan.

On the first day, following the Opening Ceremony, Mr. Paul Coffey, Chief, Organized Crime and Racketeering Section, Criminal Division, U.S. Department of Justice, U.S.A., made a presentation on "Outline of the Multinational Asian Organized Crime Conference in San Francisco." Then a series of presentations were made focusing on "Current Situation of Organized Crime, in particular, its International Aspect" and "The System of Mutual Legal Assistance of Each Country."

On the second day, discussion was carried out on "Prompt and Effective Legal Assistance about Organized Crime," for which the moderator was Mr. Paul Coffey, and on "Exchange of Information about Organized Crime," for which the moderator was Dr. Kanit Nanakorn.

### *4. Regional Training Course on Drugs in Bangkok*

"Regional Training Course on Effective Countermeasures against Drug Offences and Advancement of Criminal Justice Administration" was The meeting was organized by the Office of the Narcotics Control Board (ONCB) in Bangkok. This project was originally planned by UNAFEI with the financial assistance from Japan International Cooperation Agency (JICA), within the framework of its Third Country Training Programme.

For the Course, the issues on implementation of the U.N. Vienna Convention in 1988 was the focus. The first meeting of this series of the Course was held in Bangkok, Thailand from 8 to 19 March 1993.

The participants were from Bangladesh, Brunei, Cambodia, China, Hong Kong, India, Indonesia, Korea, Laos, Malaysia, Nepal, Pakistan, Papua New Guinea, the Philippines,

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Singapore, Sri Lanka, Thailand and Viet Nam. From UNAFEI, Mr. Osamu Ito, Chief, Training Division, was despatched as a lecturer.

The second meeting was conducted from 15 to 26 November 1993. The participants were from Bangladesh, Brunei, Hong Kong, Korea, Laos, Malaysia, Pakistan, Papua New Guinea, the Philippines, Singapore, Sri Lanka, Thailand and Viet Nam. From UNAFEI, Mr. Tatsuya Inagawa, Professor, was despatched as a lecturer.

### *E. Other Activities and Events*

#### *1. Research Activities*

UNAFEI conducted various research activities based on its experience in preparing and presenting UNAFEI training courses and seminars.

In order to provide new and exact information on the crime and prison situations in Asia, and to provide reference materials for research relating to all criminal justice organizations in the region, the Training and Research Institute of the Ministry of Justice in Japan and UNAFEI have compiled the "Asia Crime Report" Series.

UNAFEI is also conducting a survey on drug offences in Asia, in cooperation with the Office of the Narcotics Control Board in Thailand.

UNAFEI, in cooperation with the Australian Institute of Criminology (AIC), is planning to analyse the responses from Asia and the Pacific Region to the Fourth United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies.

UNAFEI is also planning to compile criminal justice profiles to supplement the Fourth United Nations Survey, in order to present accurate, up-to-date information on the structure and functions of the main criminal justice agencies in some countries in the region.

#### *2. Information Services*

During the year 1993, UNAFEI published Resource Material Series No. 43 and No. 44. Number 43 consists of the Annual Report for 1992 and the articles and the reports which were produced in the 92nd International Training Course. Number 44 contains papers produced in the 93rd International Seminar and the 94th International Training Course. Three Newsletters were published at the end of each course to provide summary information on the Seminar and Training Courses for the people concerned, and were sent to the alumni members later.

UNAFEI also published "Asia Crime Report No.1" with the Research and Training Institute of Ministry of Justice and Asia Crime Prevention Foundation. Its purpose is to provide statistical description of crime trends and actual situations of prisons and prisoners in the following countries: Hong Kong, Indonesia, Japan, Republic of Korea, Malaysia, Sri Lanka and Thailand.

"Computerization of Criminal Justice Information Systems" edited by Dr. Richard Scherpenzeel, summarizes the results of the special workshop entitled "Computerization of Criminal Justice Information" which was included in the 92nd International Training Course in 1992.

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As in previous years, UNAFEI endeavoured to collect statistics, books and other materials on crime situations and criminal and juvenile justice administration not only in Asian countries but also in other countries. In addition to collecting information, UNAFEI made every effort to disseminate the information and to respond to requests for information from many agencies and individuals.

### *3. Public Lecture Programme*

The Public Lecture Programme was jointly sponsored by the Asia Crime Prevention Foundation, the Japan Criminal Policy Association and UNAFEI.

Mr. Thomas Snow, Deputy Director, Office of International Affairs, U.S. Department of Justice, and Dr. Johann Peter Wilhelm Hilger, Ministerialdirigent, Federal Ministry of Justice, Germany, who both were visiting experts for the 93rd International Seminar at UNAFEI, gave public lectures at the main conference hall of the Ministry of Justice, on the afternoon of 16 February 1993. The public lecture programme was organized under the auspices of the Asia Crime Prevention Foundation, the Japan Criminal Policy Association and UNAFEI.

Mr. Snow rendered a lecture entitled "The Roles of Criminal Lawyers in the United States: A March by Adversaries Toward Justice?" and the topic of the lecture given by Mr. Hilger was "Measures to Fight Organised Crime and Related Problems from the View of the German Constitution and the Law of Criminal Procedure." Over one hundred-and-thirty attendants including the Seminar participants assembled and found both very informative and interesting.

## **II. Work Programme for the Year 1994**

In 1994, UNAFEI will conduct two international training courses and one international seminar for public officials mainly from Asia and the Pacific region. UNAFEI will also be involved in other important regional and inter-regional projects. Most of these activities have been planned in line with UNAFEI's continuing policy to make every effort to contribute to international endeavours regarding matters of urgent necessity in close cooperation with the United Nations, the governments of Asia and other regions, and related organizations and institutions. The following are several work programmes for the year 1994.

### **I. Regular Training Programmes**

#### *1. The 96th International Seminar*

The 96th International Seminar will be held from 31 January to 4 March 1994. The main theme of the seminar is "Promotion of International Cooperation in Criminal Justice Administration." The following is an excerpt from the Seminar Brochure:

With the rapid developments in transportation and communication in recent years, the world has become a much smaller place, and crime is no exception to internationalization, spreading rapidly throughout the world in accordance with political, economic and social changes.

In many countries, transnational crimes such as drug trafficking, money laundering,

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illicit arms dealing, human trafficking, international fraud, counterfeiting of currency, and heinous crimes including hijacking committed by international terrorist groups have been the most urgent problems which criminal justice organizations have had to combat. These transnational crimes are usually committed by the international organized crime groups, whose members try to flee from one jurisdiction to another enabling them to continue their criminal activities. Taking full advantage of newly developed facilities of international communication and transportation as well as the bank secrecy system, they hide and launder their illegal proceeds, thus expanding their influence worldwide. Even in traditional crimes such as murder and robbery, the international aspect has been increasing. For example, the suspects, victims or witnesses may be foreigners or the offender may flee the country, or important evidence may exist in another country.

On the other hand, with the increase of foreign offenders and prisoners, assurance of human rights such as the right to interpreter and counsel, and humane treatment of foreign prisoners, taking into consideration their cultural, social, and religious differences have also become a pressing problem in criminal justice administration.

Combatting transnational crimes, and dealing appropriately with foreign offenders and prisoners requires not only the endeavor of our own criminal justice system but international co-operation between the relevant organs of the respective countries as well. However, in many countries the necessary domestic laws for international co-operation have not been fully enacted, which could be attributed to many factors such as: the issues of national sovereignty and jurisdiction; the difference of legal systems and philosophies regarding international co-operation especially concerning reciprocity; dual criminalization; the non-extradition rule regarding a country's own nationals or political offenders; and the difference in degree of necessity for international co-operation and development of an appropriate legal system; as well as the lack of information about criminal legislation of other countries.

In this respect the activities of the United Nations in recent years should be paid full attention. The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), adopted in December 1988, has established a legal framework for the control of money laundering, deprivation and forfeiture of illicit proceeds, controlled delivery and other related international co-operation. At present, in order to ratify or enforce the Convention many countries are proceeding with enactment or amendment of their domestic laws. In addition to this, the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted several outstanding treaties such as "Model Treaty on Extradition", "Model Treaty on Mutual Assistance in Criminal Matters", and "Model Treaty on the Transfer of Proceedings in Criminal Matters". The United Nations Crime Prevention and Criminal Justice Branch has also conducted an international survey since 1976 in co-operation with regional institutes of crime prevention, including UNAFEI, regarding the crime situation and criminal justice systems in various countries, in order to provide member states with necessary information in improving their own criminal justice systems. The Branch is now conducting its fourth survey.

Today, with the internationalization of crime, legislators and high-ranking policy makers in criminal justice administration of each country are expected to improve their own criminal justice systems and to push on with international co-operation while taking into account the relevant United Nations guidelines and surveys, and analyzing the up-to-date information and data.

Accordingly, the following items will be among the major topics to be covered in discussions:

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- (1) Actual situation of crimes and criminals requiring international co-operation in criminal justice administration of each country
- (2) Extradition of fugitives
- (3) International co-operation in combatting current international drug syndicates or other transnational crimes
- (4) Treatment of foreign offenders in criminal procedure and humane treatment of foreign prisoners
- (5) Effective measures for collecting and exchanging information and data; actual crime situation, criminal justice system, legal system for international co-operation, etc.

### 2. *The 97th International Training Course*

The 97th international training course will be held from 11 April to 1 July 1994. The main theme is "Effective Treatment of Drug Offenders and Juvenile Delinquents." The following is an excerpt from the Course Brochure.

A. The world community has been recently confronted with a rapid increase in the number of drug addicts, including those among younger age-groups, and the increase of crimes which are committed by addicts or with the motive to obtain drugs. As a result, the rates of recidivism and the prison population of drug offenders in many countries have been soaring, thus making the eradication of drug offences a global and urgent issue.

Among various countermeasures against the drug problem, the task of effective institutional and non-institutional treatment of drug offenders has become an important one, particularly from the viewpoint of preventing recidivism and sensitizing public awareness to the danger of drug offences.

To deal with this issue, the following matters should be examined on the basis of the experiences of participating countries: a) effective treatment in accordance with the category of the type of offences and offenders' characteristics; b) promotion of non-institutional treatment which will assemble national resources and public participation; and c) various issues surrounding correctional administration.

In order to conduct effective treatment of drug offenders, it is necessary to recognize, for instance, the actual situation of drug offences, to examine whether the punishment of drug addicts is needed or what kind of punishment is appropriate. Moreover, taking into consideration the fact that recently drug offences are often committed by organized crime groups, the examination should also include exploring the effective measures of prevention and investigation of drug offences, such as making use of controlled delivery, control of money laundering and so on.

B. In many countries the high ratio of juveniles among drug offenders has become an alarming phenomenon and it may have an interaction with an increase of juvenile delinquency, including those in lower age-groups, and the growing atrociousness in the nature of offences. Accordingly, the problems of treatment of juvenile delinquents should be considered along with the treatment of drug offenders.

In general terms, much importance should be placed on: creation of a sound environment which assists rehabilitation, the wide use of diversion which takes notice of the plasticity and the need for protection of juveniles, elaborate treatments in institutional and non-institutional programmes, and close coordination among the agencies concerned.

On the other hand, the speciality of treatments of drug offenders and drug addicts should be considered. Proper balance between the protection of juveniles and the protection of

## WORK PROGRAMME FOR 1994

society or compensation to victims should also be considered.

In this regard, special attention should be paid to the United Nations Norms and Standards, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines); and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

Accordingly, the following items will be among the major topics to be covered in discussion:

- (1) Control of drug offences and countermeasures aimed at prevention of drug addiction
- (2) Effective treatment of drug offenders in institutional and non-institutional environments
- (3) Prevention of juvenile delinquency and protection of juveniles, especially consideration of their human rights
- (4) Effective treatment of juvenile delinquents

### *3. The 98th International Training Course*

The 98th International Training Course will be held from 12 September to 4 December 1994. The main theme of the Course is "Economic Crime and Effective Countermeasures against it". The following is an excerpt from the Course Brochure.

In many countries, the sphere of business has expanded rapidly in accordance with the briskness of economic activities and the progress of technical innovation.

On the other hand, economic crime, which is closely related to business activities and economic transactions, is becoming more large-scale, wicked, and skillful, and is permeating into a broader area of society, hindering the wholesome growth of the national economy and the stability of civic life.

Some enterprises cause a very serious dent in their nation's economy and shake the foundation of national finance through tax evasion, violation of foreign currency regulations, and corruption; disruption of fair and free economic competition through price-fixing cartels, bid-rigging, and unfair restraint of trade; infringement of patent and copyright, surreptitious use of other companies' secrets and so forth.

Some enterprise leaders abuse their positions on the pretext of business, and inflict a great loss on their investors and customers through commitment of fraud, breach of trust, embezzlement, and insider dealing of shares.

Enterprises can also be the victims of economic crime. They can suffer serious damage from the use of forged checks or bills, insurance fraud, misuse of the credit card system, and computer related offences, and as a result, some of them go into bankruptcy.

Economic crime, furthermore, preys on large numbers of consumers under the guise of legitimate trade in the form of stock exchange, trading in futures, real estate transactions, speculation of currency, and others.

Recently, organized crime groups have extended their activity into the field of economic transactions, and, disguised as lawful enterprises, have profited through loansharking, collection of debts, intervention in civil disputes, and so forth.

In general, economic crime is carried out skillfully and systematically, and with the use of special expertise and sophisticated devices, it often goes undetected. The offenders hide

and launder their illegal proceeds through various business activities at home and abroad. The extent of the damage caused by such illegal activities becomes a grave social concern, as it erodes the credibility of the nation's social and economic structure.

Hence, the prevention of economic crime is an urgent and important problem confronting many countries. Various countermeasures have been implemented such as enactment or amendment of laws; strengthening of administrative control; public activities including warnings; reinforcing and specializing of criminal investigation agencies; and inflicting heavier punishments.

In particular, thorough investigation and financial deprivation by way of seizure and forfeiture of illegal proceeds are indispensable to the suppression of economic crime.

It is necessary to enhance the techniques used in obtaining information related to economic crime, collecting evidence, and tracing illegal proceeds through the barrier of strict bank secrecy regulations, and so forth.

In addition, with the internationalization of economic crime, it is also important to pursue means of promoting international cooperation, through the exchange of relevant information and evidence, extradition of offenders, and other kinds of mutual legal assistance.

The aim of this training course is to provide the participants with an opportunity to study and discuss contemporary problems concerning economic crime and to seek effective countermeasures against it.

Accordingly, the following items will be among the major topics to be covered in discussions:

- (1) actual circumstances of economic crime in each country;
- (2) effective countermeasures to prevent economic crime;
- (3) strategies of investigation and financial deprivation against economic crime;
- (4) international cooperation in combatting economic crime.

## II. International Meetings and Overseas Joint Seminars

### 1. The Sixth and Seventh Regional Seminars on Drug Problems held in Costa Rica

The Sixth Regional Seminar on "Effective Measures Against Drug Offences and Advancement of Criminal Justice Administration" will be held from 7 to 18 March 1994, in San Jose, Costa Rica. It will be organized by the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), and jointly sponsored by the Government of Costa Rica, Japanese International Cooperation Agency (JICA), United Nations Drug Control Program (UNDCP) and UNAFEI.

Since April 1988, and under the five year agreement between ILANUD, the Government of Costa Rica, JICA and UNAFEI, the Seminar had been conducted once a year. Because of the substantial contributions of the Seminar, the second agreement covering fiscal years 1993 to 1997 was established. The Sixth Seminar will be organized in March.

From 25 July to 5 August 1994, the Seventh Seminar will be conducted in the same manner.

The purpose of the Seminars is to identify and analyze current problems, exchange relevant information, propose specific solutions on issues related to treatment, prevention and education as integrated processes in the drugs field, and to evaluate methods of international co-operation for the prevention of drug-related crime.

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The participants will be jurists, psychologists, psychiatrists, counsellors and senior policy-making government officials involved with prevention and treatment programmes in the drug field and criminal justice administration.

### *2. Expert Group Meeting to Prepare for the Workshop on Computerization*

The Expert Group Meeting will be held at UNAFEI from 9 to 11 June 1994. This is a preparatory meeting for the planned Workshop on Computerization in the 9th United Nations Congress. The Meeting will be jointly conducted by UNAFEI and the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI). Dr. Richard Scherpenzeel, HEUNI Scientific Coordinator, Computerization of Criminal Justice Information organized the Meeting.

### *3. The Overseas Joint Seminar in Pakistan*

UNAFEI is preparing for a Joint Seminar between the Pakistan Police Academy and UNAFEI, which is planned to be held in March 1995.

### *4. The Third Regional Training Course on Drugs in Bangkok*

The Third Regional Training Course on Effective Countermeasures against Drug Offences and the Advancement of Criminal Justice Administration will be held in November 1994 in Bangkok, in the same manner as in previous courses.

## III. Conclusion

It is a great honour for the Director of UNAFEI to submit this report summarizing the Institute's endeavours during 1993. I hope this will be accepted with much satisfaction by the United Nations and the Government of Japan, and that further advice will be furnished so UNAFEI may improve its programmes.

Since its establishment 33 years ago, UNAFEI has made the utmost efforts to meet the needs of the region as well as the international community in the fields of crime prevention and the treatment of offenders.

Due to the close cooperation and assistance given by the United Nations, the Government of Japan, the Japan International Cooperation Agency (JICA), the Asia Crime Prevention Foundation (ACPF), governments inside and outside the region, visiting experts, ad hoc lecturers, former participants and various other organizations, UNAFEI has been able to attain its aims and has gained a favourable reputation within the international community.

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APPENDIX

Distribution of Participants by Country (93rd - 95th)

Country	93 Seminar	94 Course	95 Course	Total
Bangladesh	1		1	2
Burnei		1		
Bolivia			1	1
Brazil	1			
China	1		1	2
Ethiopia			1	1
Fiji		1	1	2
Hong Kong		1		
Hungary		1		
India	1	1		
Indonesia	1	1		
Kenya	1	1		
Korea	1	1	1	3
Malaysia	1	2	1	4
Mongolia		1		
Nepal	1	1	1	3
Pakistan	2		1	3
Panama	1			
Papua New Guinea	1	1	1	2
Paraguay	1			
Peru	1			1
Philippines	1	1	1	3
Poland	1			
Saudi Arabia	1			1
Singapore	1	1	1	3
Sri Lanka	1	1	1	3
Swaziland	1			
Thailand	1	1	2	4
Uganda	1			
Venezuela			1	1
Japan	6	10	11	27
Total	29	27	27	83

## MAIN ACTIVITIES AND EVENTS

### Distribution of Participants by Professional Backgrounds and Countries (1)

(1st Training Course-95th Training Course: 2 U.N. Human Rights Courses and 1 Special Course)

* Region	Country	Judicial and Other Administration	Judges	Public Prosecutors	Police Officer	Correctional Officers (ADT)	Correctional Officers (JUV)	Probation Parole Officer	Family Court Investigation Officers	Child Welfare Officers	Social Welfare Officers	Training & Research Officers	Others	TOTAL
* Asia														1135
	Afghanistan	7	8	5	3									23
	Bangladesh	12	8		11	4		4			5		1	45
	Brunei	3				1								4
	Cambodia		2	1	2	1								6
	China	8		4	6							5		23
	Hong Kong	12			4	21	3	9		1	3			53
	India	12	10		32	6	1	1			2	6	2	72
	Indonesia	15	18	12	19	11		3			4		1	83
	Iran	5	11	8	8	6						2	1	41
	Iraq	5	3	3	5	5	5					2		28
	Jordan				2									2
	Korea													
	Laos	11	3	42	5	14	4					3		82
	Malaysia	3	4	3	9									19
	Myanmar	14	1	2	33	26	7	3		1	5	3		95
	Nepal	3			1									4
	Pakistan	12	8	2	14	7	1	2				2	1	49
	Philippines	16	6	17	27	8	3	8	3	1	4		5	98
	Saudi Arabia	3			5	3						1	1	13
	Singapore	10	17	4	11	10	3	10			3	1	1	70
	Sri Lanka	21	13	8	17	17	1	10		1	2		1	91
	Taiwan	12	4	2	2	1								21
	Thiland	18	25	27	10	13	7	9	1		8	4	1	123
	Turkey	1	1	1										3
	United Arab Emirates	1												1
	Vietnam	10	5	2	1						4			22
	Mongolia				1									1

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Distribution of Participants by Professional Backgrounds and Countries (2)

(1st Training Course-95th Training Course: 2 U.N. Human Rights Courses and 1 Special Course)

* Region	Country	Judicial and Other Administration	Judges	Public Prosecutors	Police Officer	Correctional Officers (ADT)	Correctional Officers (JUV)	Probation Parole Officer	Family Court Investigation Officers	Child Welfare Officers	Social Welfare Officers	Training & Research Officers	Others	TOTAL
<b>* Africa</b>														89
	Botswana				2									2
	Egypt											1		1
	Ethiopia	3			1									4
	Ghana				2									2
	Guinea			1	2									3
	Kenya	4			6	6		2				2		20
	Lesotho				1			2						3
	Liberia											1		1
	Mauritius		1											1
	Morocco			1	4									5
	Mozambique					1								1
	Nigeria	1			2	5							1	9
	Seychelles							1						1
	Sudan	2		1	13	1						2		19
	Swaziland				2									2
	Tanzania	3	3	3	1	1								11
	Uganda												1	1
	Zambia		1		1									2
	Zimbabwe				1									1
<b>* The Pacific</b>														85
	Australia			1				1			1			3
	Fiji	4	1	7	13	9								34
	Marshall Islands				2									2
	Micronesia							1						1
	New Zealand	1			1									2
	Papua New Guinea	7		2	8	6		1			1		1	26
	Solomon Islands	1			1									2
	Tonga	2	1		5	2						1		11
	Western Samoa	1			1			1					1	4

## MAIN ACTIVITIES AND EVENTS

### Distribution of Participants by Professional Backgrounds and Countries (3)

(1st Training Course-95th Training Course: 2 U.N. Human Rights Courses and 1 Special Course)

* Region  Country	Judicial and Other Administration	Judges	Public Prosecutors	Police Officer	Correctional Officers (ADF)	Correctional Officers (JUV)	Probation Parole Officer	Family Court Investigation Officers	Child Welfare Officers	Social Welfare Officers	Training & Research Officers	Others	TOTAL
* North & South America													86
Argentina	2	2											4
Barbados				1									1
Bolivia		1											1
Brazil	2		3	8					1				14
Chile	1			1	2								4
Colombia	1	1	2						1			1	6
Costa Rica	2	3	2								1	2	10
Ecuador			1	4		1							6
Guatemala					1								1
Honduras				1									1
Jamaica	3				1								4
Panama				2								1	3
Paraguay				7									7
Peru	4	8	2								1	2	17
Saint Lucia	1				1								2
Venezuela				3								1	4
U.S. A. (Hawaii)								1					1
* Europe													2
Poland				1									1
Hungary	1												1
* Japan	92	104	172	73	61	56	137	50	38	2	41	30	856
Total	371	285	345	424	251	92	205	55	44	44	80	57	2253

## THE 93RD INTERNATIONAL SEMINAR

### List of Participants

- Mr. Khondaker Showkat Hossain  
(Bangladesh)  
Metropolitan Magistrate, Dhaka  
Metropolitan Magistracy, Ministry of  
Home
- Ms. Stella Maria Mendes Gomes de Sa Leitao  
(Brazil)  
Regional Chief, Pernambuco Immi-  
gration Bureau, Federal Police  
Department
- Mr. Wang Lixian (China)  
Chief of International Division and  
Deputy Director of Foreign Affairs  
Department, Ministry of Justice
- Mr. Satish Sahney (India)  
Special Inspector General of Police,  
Criminal Investigation Department,  
Maharashtra State
- Mr. Zulkarnain Yunus (Indonesia)  
Assistant to Director of Criminal Law,  
Ministry of Justice
- Mr. Peter Mwendwa Mbuvi (Kenya)  
Officer of Criminal Investigations  
Department, Coast Province, Kenya  
Police Force
- Mr. Kim Je-il (Korea)  
Senior Public Prosecutor, South  
Branch Office of Seoul District  
Prosecutor's Office
- Mr. Mohd. Nawawi Bin Ismail (Malaysia)  
Officer in Charge of Criminal Invest-  
igation Department, Royal Malaysian  
Police, Sabah
- Mr. Ganesh Prasad Bhattarai (Nepal)  
Chief District Officer, District Admin-  
istration Office, Morang, Ministry of  
Home Affairs
- Mr. Justice Khalil Ur Rahman Ramday  
(Pakistan)  
Judge, Lahore High Court for the  
Province of Punjab
- Mr. Asad Mahmood Alvi (Pakistan)  
Member, Prime Minister's Inspection  
Commission
- Mr. Alberto Manuel Soto Cajar (Panama)  
Director, Metropolitan Police,  
National Police of Panama, Ministry  
of Government and Justice
- Mr. Hela Emanuel (P.N.G.)  
Superintendent in Charge of Police  
Operation, Royal Papua New Guinea  
Constabulary
- Mr. Ceferino Ynsfran Figueredo (Paraguay)  
Commissioner of Police Station, Loma  
Pyta, Capital Police Force
- Ms. Ana Marina Santa Cruz Villanueva  
(Peru)  
Public Prosecutor, Public Ministry
- Mr. Ramsey L. Ocampo (the Philippines)  
Deputy Director for Administration  
of Criminal Investigation Service  
Command, National Philippine Police
- Mr. Miroslaw Andrzej Rozynski (Poland)  
Manager, Department of Crime Police,  
Gdansk

## MAIN ACTIVITIES AND EVENTS

- Mr. Abdulaziz S. Al-Ahmad (Saudi Arabia)  
Department of Civil Rights, Ministry  
of Interior
- Mr. Vincent Hoong Seng Lei (Singapore)  
District Judge, First Deputy Registrar
- Mr. Dulindra Weerasuriya (Sri Lanka)  
State Counsel, Attorney General's  
Department
- Mr. Matsendzele Elias Vilakati (Swaziland)  
Senior Superintendent, Police  
Headquarters 2I/C Operations, Royal  
Swaziland Police Force
- Mr. Pongsakon Chantarasapt (Thailand)  
Provincial Chief Public Prosecutor,  
Nakonsrithammarat Province
- Ms. Christine Mulindwa-Matovu (Uganda)  
Acting Director, Legal Department,  
Ministry of Foreign Affairs
- Mr. Kyoichi Furusawa (Japan)  
Deputy Director, Investigation and  
Liaison Division, Rehabilitation  
Bureau, Ministry of Justice
- Mr. Motoyoshi Nishimura (Japan)  
Presiding Judge, Tokyo Family Court
- Ms. Masako Suzuki (Japan)  
Principal Specialist, Yokohama  
Juvenile Classification Home
- Mr. Minoru Suzuki (Japan)  
Professor (Senior Public Prosecutor),  
1st Training Department, Research  
and Training Institute, Ministry of  
Justice
- Mr. Hiroshi Torii (Japan)  
Superintendent of Police, Deputy  
Director, Security Planning Division,  
Security Bureau, National Police  
Agency
- Mr. Syuzou Yamamoto (Japan)  
Senior Public Prosecutor, Special  
Investigation Department, Tokyo  
District Public Prosecutors Office

### List of Participants' Papers

- 1) Mr. Khondaker Showkat Hossain  
(Bangladesh)  
Organized Crime: Situation in  
Bangladesh
- 2) Ms. Stella Maria Mendes Gomes  
de Sa Leitao (Brazil)  
Policy Perspectives for Organized  
Crime Suppression in Brazil
- 3) Mr. Wang Lixian (China)  
Policy Perspectives for Organized  
Crime Suppression
- 4) Mr. Satish Sahney (India)  
Important Aspects of Organized Crime  
in India
- 5) Mr. Zulkarnain Yunus (Indonesia)  
Policy Perspectives for Organized  
Crime Suppression
- 6) Mr. Peter Mwendwa Mbuvi (Kenya)  
Policy Perspectives for Organized  
Crime Suppression
- 7) Mr. Kim Je-il (Korea)  
Policy Perspectives for Organized  
Crime Suppression
- 8) Mr. Mohd. Nawawi Bin Ismail  
(Malaysia)  
Issues Related to the Investigation of  
Organized Crime

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- 9) Mr. Ganesh Prasad Bhattarai (Nepal)  
Policy Perspectives for Organized  
Crime Suppression in Nepal
- 10) Mr. Justice Khalil Ur Rahman Ramday  
(Pakistan)  
Organized Crime in Pakistan and  
Measures Taken to Control It
- 11) Mr. Asad Mahmood Alvi (Pakistan)  
Suppression of Organized Crime:  
The Pakistan Perspective
- 12) Mr. Alberto Manuel Soto Cajar (Panama)  
Crime and Crime Rate in Panama
- 13) Mr. Hela Emanuel (P.N.G.)  
Crime Prevention in Papua New  
Guinea
- 14) Mr. Ceferino Ynsfran Figueredo  
(Paraguay)  
Physical and Emotional Mistreatment  
of Minors
- 15) Ms. Ana Marina Santa Cruz Villanueva  
(Peru)  
Policy Perspectives for Organized  
Crime Suppression
- 16) Mr. Ramsey L. Ocampo (Philippines)  
Organized Crime in the Philippines
- 17) Mr. Mirosław Andrzej Rozynski  
(Poland)  
Policy Perspectives for Organized  
Crime: Polish Experience
- 18) Mr. Abdulaziz S. Al-Ahmad  
(Saudi Arabia)  
Organized Crime in the Kingdom of  
Saudi Arabia
- 19) Mr. Vincent Hoong Seng Lei (Singapore)  
Organized Crime: The Singapore  
Experience
- 20) Mr. Dulindra Weerasuriya (Sri Lanka)  
Policy Perspective for Organized  
Crime Suppression
- 21) Mr. Matsendzele Elias Vilakati  
(Swaziland)  
Current Situation of Organized Crime  
in Swaziland
- 22) Mr. Pongsakon Chantarasapt (Thailand)  
Existing International Cooperation in  
the Fight against Organized Crime
- 23) Ms. Christine Mulindwa-Matovu  
(Uganda)  
Organized Crime in Perspective to  
the Criminal Justice System in  
Uganda
- 24) Mr. Kyoichi Furusawa (Japan)  
Community-Based Treatment and  
Boryokudan Offenders in Japan
- 25) Mr. Motoyoshi Nishimura (Japan)  
Juvenile Delinquency as One Aspect  
of Organized Crime
- 26) Ms. Masako Suzuki (Japan)  
Treatment of Organized Crime  
Offenders in Japanese Correctional  
Institutions
- 27) Mr. Minoru Suzuki (Japan)  
Effective Countermeasures against  
Organized Crime:  
The Viewpoint of Public Prosecutors
- 28) Mr. Hiroshi Torii (Japan)  
Organized Crime Groups in a  
Borderless Age
- 29) Mr. Syuzou Yamamoto (Japan)  
New Act for Prevention of Organized  
Crime and its Application in Japan

### Lecturers and Lecture Topics

#### *1. Visiting Experts' Lectures*

- 1) Mr. D. M. Hodson,  
Chief Superintendent, Chief Staff  
Officer, Crime, Royal Hong Kong  
Police, Hong Kong  
Issues for Organized Crime Control
- 2) Dr. Kanit Nanakorn,  
Deputy Attorney General, Office of  
the Attorney General, Thailand  
Mutual Assistance as a Means to Combat  
Organized Crime: The Thai Experience
- 3) Dr. Johan Peter Wilhelm Hilger,

## MAIN ACTIVITIES AND EVENTS

- Ministerialdirigent, Federal Ministry of Justice, Federal Republic of Germany
- Recent Legislation in Germany with the Aim of Fighting Organized Crime (Public Lecture)
- Measures to Fight against Organized Crime and Related Problems from the View of the German Constitution and the law of Criminal Procedure.
- 4) Mr. Paul E. Coffey,  
Chief, Organized Crime and Racketeering Section, Criminal Division, U.S. Department of Justice, U.S.A.  
Present Issues for Organized Crime Control
- 5) Mr. Thomas G. Snow,  
Deputy Director, Office of International Affairs, Criminal Division, U.S. Department of Justice, U.S.A.
- 1) Some Unusual Features of the U.S. Criminal Justice System
- 2) The Impact of Federalism on International Criminal Matters and the Plea Bargaining System (Public Lecture)
- The Roles of Criminal Lawyers in the United States: A March by Adversaries Toward Justice?
- 6) Mr. John Geoffrey Valentin,  
Commander, Officer in Charge Strategic Intelligence Division, Australian Federal Police, Australia  
Present Issues for Organized Crime Control: The Australian Perspective
- 7) Mr. Yoo, Chang-Jong,  
Director-General, Special Investigation Department, South Branch Office, Seoul District Prosecutors' Office, Republic of Korea  
Present Issues of the Organized Drug Crime Control
- 8) Mr. Hj. Azahar bin Hj. Abd. Kadir,  
Assistant Commissioner, Royal Malaysia Police, Malaysia  
Present Issues for Organized Crime Control
2. *Faculty Lecture*
- 1) Professor Hiroshi Nakajima  
Deputy Director  
The Practice of Criminal Justice in Japan

## The 94th International Training Course

### List of Participants

- Mr. Abd Manan bin Haji Abd Rahman  
(Burunei Darussalam)  
Superintendent, Al-Islah Drug Rehabilitation Center
- Mr. Waisake Talakuli Saukawa (Fiji)  
Police Superintendent, Community Affairs and Development Research
- Mr. Shek Lui, Bailey (Hong Kong)  
Senior Superintendent, Correctional Services Department
- Mr. Peter Ruzsonyi (Hungary)  
Researcher, Section Head, Hungarian Prison Administration
- Mr. Rasham Singh (India)  
Assistant Inspector General, Central Industrial Security Force, Ministry of Home Affairs
- Mr. Hasanuddin (Indonesia)  
Superintendent of Ujung Pandang Prison

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- |                                                                                                                                                |                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Ms. Rahab Wairimu Mwangi (Kenya)<br>Superintendent of Prisons, Prison<br>Department                                                            | Ms. Chizuko Hanada (Japan)<br>Senior Psychologist, Hachioji<br>Juvenile Classification Home                                   |
| Mr. Kang, Dong-Woon (Korea)<br>Correctional Supervisor, Correction<br>Bureau, Ministry of Justice                                              | Mr. Nobuyuki Kawamura (Japan)<br>Officer, Immigration Bureau,<br>Ministry of Justice                                          |
| Mr. Md. Noh Bin Tan Sri Murad (Malaysia)<br>Senior Superintendent of Prison,<br>Seremban Prison, Prison Department                             | Mr. Tetsuo Kodera (Japan)<br>Public Prosecutor, Kyoto District<br>Public Prosecutors Office                                   |
| Mr. Mohamad Fozi Bin Md. Zain (Malaysia)<br>Senior Assistant Registrar, High<br>Court of Malaya, Kuala Lumpur                                  | Mr. Toru Matsumura (Japan)<br>Assistant Judge, Numazu Branch,<br>Shizuoka District Court                                      |
| Mr. Boldbaatar Jigjidsuren (Mongolia)<br>Senior Teacher of Police Academy,<br>State Police Department                                          | Mr. Tetsuro Sugiyama (Japan)<br>Probation Officer, Nagoya Probation<br>Office                                                 |
| Mr. Narendra Kumar Shrestha (Nepal)<br>Government Advocate, Office of the<br>Attorney General                                                  | Mr. Shigeru Takenaka (Japan)<br>Officer, Correction Bureau, Ministry<br>of Justice                                            |
| Mr. John Romoke Tara (Papua New Guinea)<br>Assistant Commissioner, Welfare and<br>Rehabilitation, Correctional<br>Services Department          | Mr. Masanobu Tanimoto (Japan)<br>Narcotic Control Officer and Technical<br>Officer, Kinki Regional Narcotic<br>Control Office |
| Mr. Juanito B. Vaño Jr. (the Philippines)<br>Police Chief Inspector, Office of the<br>Directorate for Personnel, Philippine<br>National Police | Mr. Shigehiro Tomimatsu (Japan)<br>Public Prosecutor, Tokyo District<br>Public Prosecutors Office                             |
| Mr. Peck Tiang Hock (Singapore)<br>Senior Rehabilitation Officer, Head<br>(Administration) of Tampines Prison                                  | Mr. Kotatsu Uchibori (Japan)<br>Assistant Judge, Tokyo District Court                                                         |
| Mr. Gunasena Thenabadu (Sri Lank)<br>Superintendent of Police, Director of<br>Recruitment, Training and Planning,<br>Police Headquarters       | Mr. Takashi Yamaura (Japan)<br>Probation Officer, Kyushu Regional<br>Parole Board                                             |
| Mr. Pisan Mookjang (Thailand)<br>Instructor, Police Cadet Academy,<br>Police Department                                                        |                                                                                                                               |

## MAIN ACTIVITIES AND EVENTS

### List of Participants' Papers

- 1) Mr. Abd Manan bin Haji Abd Rahman (Brunei)  
Current Problems in Institutional Treatment and Their Solution
- 2) Mr. Waisake Talakuli Saukawa (Fiji)  
Current Problems in Institutional Treatment and Their Solution
- 3) Mr. Shek Lui, Bailey (Hong Kong)  
A Brief Outline on the Treatment of Special Categories of Offenders in Hong Kong
- 4) Mr. Peter Ruzsonyi (Hungary)  
Report on Hungarian Corrections
- 5) Mr. Rasham Singh (India)  
Prevention of Crime and Treatment of Offenders
- 6) Mr. Hasanuddin (Indonesia)  
A Glance of the Directorate General of Correction and Treatment of Convicts in Indonesia
- 7) Ms. Rahab Wairimu Mwangi (Kenya)  
Problems Affecting Penal Institutions in Kenya
- 8) Mr. Kang, Dong-Woon (Korea)  
Practical Measures to Alleviate the Problem
- 9) Mr. Md. Noh Bin Tan Sri Murad (Malaysia)  
Current Problems and Countermeasures to Overcrowding in Malaysia Prisons
- 10) Mr. Mohamad Fozi Bin Md. Zain (Malaysia)  
Criminal Procedure in Malaysia Delayed Trials: Reasons and Solutions
- 11) Mr. Boldbaatar Jigidsuren (Mongolia)  
Current Problems in Crime Prevention in Mongolia
- 12) Mr. Narendra Kumar Shrestha (Nepal)  
A Critical Study of Prison Reformation in Nepal
- 13) Mr. John Romoke Tara (Papua New Guinea)  
Papua New Guinea Correctional Service
- 14) Mr. Juanito B. Vaño Jr. (the Philippines)  
The Role of Corrections in the Philippine Strategy Towards Effective Crime Prevention Crime Suppression and Public Safety
- 15) Mr. Peck Tiang Hock (Singapore)  
Current Problems in the Treatment of Offenders in Singapore and Their Solutions
- 16) Mr. Gunasena Thenabadu (Sri Lanka)  
Practical Measures to Alleviate the Problem of Overcrowding in Prisons in Sri Lanka
- 17) Mr. Pisan Mookjang (Thailand)  
Current Problems in Institutional Treatment and Solutions in Thailand Introduction
- 18) Ms. Chizuko Hanada (Japan)  
The Classification System and the Training of Classification Specialists in Japan
- 19) Mr. Nobuyuki Kawamura (Japan)  
Coping with the Issue of Illegal Foreign Workers
- 20) Mr. Tetsuo Kodera (Japan)  
Characteristics and Treatments of Recidivists in Japan
- 21) Mr. Toru Matsumura (Japan)  
Vocational Training for Juvenile Offenders
- 22) Mr. Tetsuro Sugiyama (Japan)  
The Parole Supervision in Japan
- 23) Mr. Shigeru Takenaka (Japan)  
Implementation of Standard Minimum Rules for the Treatment of Prisoners
- 24) Mr. Masanobu Tanimoto (Japan)  
The Increase of Drug-related Crime by Non-Japanese Nationals in Japan and

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the Problems of Carrying Out Related Criminal Investigation  
25) Mr. Shigehiro Tomimatsu (Japan)  
Practical Work of Non-Custodial Measures in Japan

26) Mr. Kotatsu Uchibori (Japan)  
Aging Society and Correction  
27) Mr. Takashi Yamaura (Japan)  
Practical Work of Parole Investigation in Japan

### Lecturers and Lecture Topics

#### 1. Visiting Experts' Lectures

- 1) Mr. Cheng Chi-leung,  
Assistant Commissioner of Correctional Services Department, Hong Kong
  - a) The Administration of Criminal Justice in Hong Kong
  - b) Development in the Treatment and Rehabilitation of Offenders: The Hong Kong Experience
- 2) Mr. Omer Archambault,  
Judge of the Provincial Court of Saskatchewan, Canada  
Sentencing Policy and Early Release Procedures in Canada: Restraint in the Use of Incarceration: An Elusive Goal
- 3) Mr. Peter Rogers,  
Former Director of Drug Division, Prison Headquarters, Malaysia
  - a) Effective Treatment of Drug Abusers
  - b) The Protection of Basic Human Rights among Prisoners in Relation to the Standard Minimum Rules
  - c) Advancement and Effective Programmes for the Rehabilitation of Offenders in Accordance with United Nations Standard Minimum Rules
- 4) Mr. Satyanshu Kumar Mukherjee,  
Director, Research and Coordination, Criminal Justice Commission, Australia  
Current Trends in Correctional Research
- 5) Mr. Hetti Gamage Dharmadasa,  
Commissioner of Prisons, Sri Lanka  
Standard Minimum Rules for Prisoners and the Extent of Their Implementation (1), (2)
- 6) Mr. Mohammad Shoaib Suddle, Director

Federal Investigation Agency, Pakistan

- a) The Police System of Pakistan
  - b) Current Problems in Institutional Treatment and Their Solution
- 7) Mr. Bernardo R. Calibo,  
Editor-in-Chief Criminal Justice Journal and Chief, Secretariat National Police Commission, Department of the Interior & Local Government, Philippines
    - a) Current Problems in Institutional Treatment and Their Solution
    - b) Non-Custodial Measures at the Pre-Trial Stage

#### 2. Ad Hoc Lectures (in order of lecture)

- 1) Mr. Keisuke Iwai,  
Consultant, Youth Rehabilitation and Welfare Center and Correctional Services Foundation, former Member of the Kinki Regional Parol Board  
Parole as an Interdependent Variable of Institutional Population
- 2) Mr. Kiyohiro Tobita,  
Director-General Correction Bureau Ministry of Justice, Japan  
Correctional Treatment in Japan: Recent Trends and Current Issues
- 3) Mr. Shinichi Ebara,  
Professor, International Research and Training Institute for Criminal Investigation (IRTICI), National Police Agency, Japan  
Community Relationships in Japan Police
- 4) Mr. Hiroyasu Sugihara,  
Director-General Rehabilitation Bureau Ministry of Justice, Japan

## MAIN ACTIVITIES AND EVENTS

- Some Aspects of the Criminal Sanction and Community-Based Corrections
- 5) Mr. Yuki Furuta,  
Assistant Deputy Vice-Minister, in Charge of Criminal Affairs Bureau, Ministry of Justice, Japan  
Role of Public Prosecutors in Criminal Justice in Japan
3. *C.J.S.J. Lectures*
- 1) Mr. Tatsuya Inagawa, Professor, UNAFEI  
The Criminal Justice System in Japan (1): Investigation and Prosecution
- 2) Mr. Osamu Ito, Professor, UNAFEI  
The Criminal Justice System in Japan (2): The Courts
- 3) Mr. Takeshi Koyanagi Professor, UNAFEI  
The Criminal Justice System in Japan (3): Education for Drug Abusers in Correctional Institutions
- 4) Mr. Noboru Hashimoto,  
Professor, UNAFEI  
The Criminal Justice System in Japan (4): Probation and Parole
- 5) Mr. Shinichi Ebara,  
Professor, International Research and Training Institute for Criminal Investigation (IRTICI), National Police Agency, Japan  
The Criminal Justice System in Japan (5): The Police

## THE 95TH INTERNATIONAL TRAINING COURSE

### List of Participants

- Mr. A. K. M. Shamsuddin (Bangladesh)  
Superintendent of Police, Moulavi-bazar District, Bangladesh
- Mr. Alfredo T. Dubravcic Vaca (Bolivia)  
Judge, Superior Court of Justice-Beni
- Mr. Chen Liang (China)  
Director, Criminal Investigation Office, First department, Criminal Police College of China
- Mr. Fasil Tadese Aba-selfa (Ethiopia)  
Deputy Assistant Attorney General of Ethiopia, Office of Central Attorney General
- Mr. Rakuita Saurara Vakalalabure (Fiji)  
State Prosecutor, Director of Public Prosecution Office
- Mr. Yun Jung-Sok (Korea)  
Senior Prosecutor, Seoul High Public Prosecutors' Office
- Mr. Wong Chee Kong (Malaysia)  
Assistant Director, Anti-Corruption Agency, Wilayah Persekutuan, Kuala Lumpur
- Mr. Basu Dev Olee (Nepal)  
Superintendent of Police, Nepal Police
- Mr. Haider Ali Shikoh (Pakistan)  
Assistant Commissioner/ Sub-Divisional Magistrate, Services and General Administration Department, Government of Balochistan, Quetia, Pakistan
- Mr. Stephen K. Nakandio  
(Papua New Guinea)  
Assistant Secretary - Inspection & Supervision, Village Courts Secretariat
- Mr. Mario Guarina III (Philippines)  
Presiding Judge, Regional Trial Court

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of Manila (Branch 13)

Personnel

- |                                                                                                                                                    |                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| Mr. Ng Chee Kok (Singapore)<br>Chief Investigation Officer, Investigation Branch, Tanglin Police Division Headquarters                             | Mr. Masao Nobuta (Japan)<br>Public Prosecutor, Maebashi District Public Prosecutors' Office                     |
| Mr. K. S. J. De Abrew (Sri Lanka)<br>State Counsel (Public Prosecutor), Attorney General's Department                                              | Mr. Hiromichi Otsubo (Japan)<br>Public Prosecutor Amagasaki Branch, Kobe District Public Prosecutors' Office    |
| Mr. Prapot Klaisuban (Thailand)<br>State Attorney, Attached to the Attorney General, Office of the Attorney General                                | Mr. Masayoshi Takahara (Japan)<br>Judge, Tokyo District Court                                                   |
| Mr. Chanvut Vajrabukka (Thailand)<br>Assistant Commissioner, Office of Police Narcotics Suppression Bureau                                         | Mr. Hiroshi Yamaguchi (Japan)<br>Probation Officer, Osaka Probation Office                                      |
| Mr. Mauricio Arturo Salas Perez (Venezuela)<br>Commissioner of Disp (Management Office of Intelligence and Prevention Services), Police Department | Mr. Ryoichi Yamaguchi (Japan)<br>Family Court Probation Officer, Nagoya Family Court                            |
| Mr. Hirokazu Goda (Japan)<br>Probation Officer, Takamatsu Probation Office                                                                         | Mr. Toshiro Yonemura (Japan)<br>Public Prosecutor, Nagoya District Public Prosecutors' Office                   |
| Mr. Orihiko Murata (Japan)<br>Maritime Safety Officer, 7th Regional Maritime Safety Headquarters                                                   | Mr. Seiji Yonezata (Japan)<br>Researcher, National Research Institute of Police Science, National Police Agency |
| Mr. Eiji Nakashima (Japan)<br>Senior Psychologist, Osaka Branch, Training Institute for Correctional                                               | Mr. Yoshikazu Yuma (Japan)<br>Chief Specialist (Senior Psychologist) Yokohama Juvenile Classification Home      |

**List of Participants' Papers**

1. *Urban Crime and Juvenile Delinquency*
- 1) Mr. A. K. M. Shamsuddin (Bangladesh)  
Bangladesh—Its Socio-Political-Economic Background, Crime Situation, Police Force and Criminal Justice System
- 2) Mr. Alfredo T. Dubravcic Vaca (Bolivia)  
Bolivia: Children in Situation of Risk. Main Features of the Situation in Penitentiaries. Fighting Drug Production and Trafficking.

## MAIN ACTIVITIES AND EVENTS

- 3) Mr. Chen Liang (China)  
Outline of the Criminal Justice System and Current Situation of Juvenile Delinquency in China
- 4) Mr. Fasil Tadese (Ethiopia)  
Urban Crime and Juvenile Delinquency in Ethiopia
- 5) Mr. Rakuita Saurara Vakalalabure (Fiji)  
Urbanization and Juvenile Delinquency
- 6) Mr. Yun Jung-Sok (Korea)  
Urbanization and Juvenile Delinquency in South Korea
- 7) Mr. Wong Chee Kong (Malaysia)  
Effective Countermeasures Against Crimes Related to Urbanization & Industrialization - Urban Crime, Juvenile Delinquency & Environmental Crime
- 8) Mr. Basu Dev Olee (Nepal)  
Effective Countermeasures Against Crimes Related to Urban Crime, Juvenile Delinquency
- 9) Mr. Haider Ali Shikoh (Pakistan)  
The Causes and Countermeasures of Urban Crimes and Juvenile Delinquency in Pakistan
- 10) Mr. Stephen Kuu Nakandio (Papua New Guinea)  
Utilization of the Village Courts System as an Effective Countermeasure Against Crimes Related to Urbanization and Industrialization in Papua New Guinea
- 11) Mr. Mario Guarina III (the Philippines)  
Urban Crimes and Juvenile Delinquency: The Philippine Assessment
- 12) Mr. Mauricio A. Salas Perez (Venezuela)  
Criminal Justice System - Urban Crime in Venezuela
- 13) Mr. K. S. J. De Abrew (Sri Lanka)  
Effective Countermeasures Against Crimes Related to Urbanization and Industrialization - Urban Crime, Juvenile Delinquency, and Environmental Crime
- 14) Mr. Prapot Klaisuban (Thailand)  
Urban Crime and Juvenile Delinquency in Thailand
- 15) Mr. Ng Chee Kok (Singapore)  
The Situation of Urban Crime, Juvenile Delinquency and Environmental Crime in Singapore
- 16) Mr. Seiji Yonezato (Japan)  
An Analysis of Trends of Juvenile Delinquency  
- Does Urbanization in Japan Relate to Juvenile Delinquency?
- 17) Mr. Hiromichi Otsubo (Japan)  
The Problem and the Solution of Urban Crime
- 18) Mr. Masayoshi Takahara (Japan)  
Foreign Defendants' Cases in Trial
- 19) Mr. Hiroshi Yamaguchi (Japan)  
Urbanization and Volunteerism
- 20) Mr. Toshiro Yonemura (Japan)  
Some Issues of Juvenile Justice System in Japan
- 21) Mr. Ryoichi Yamaguchi (Japan)  
Juvenile Delinquency in Urbanization
- 22) Mr. Hirokazu Goda (Japan)  
Rehabilitation of Juvenile Training School Parolee in Japan
- 23) Mr. Eiji Nakashima (Japan)  
Urbanization and Juvenile Delinquency in Japan

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- 24) Mr. Yoshikazu Yuma (Japan)  
Urbanization and Juvenile Delinquency in Japan
2. *Environmental Crime*
- 1) Mr. Fasil Tadese (Ethiopia)  
The Role of Criminal Justice in Protecting Environment in Ethiopia
- 2) Mr. Ng Chee Kok (Singapore)  
\*See 1-12
- 3) Mr. K. S. J. De Abrew (Sri Lanka)  
Environmental Crimes and Environmental Law in Sri Lanka
- 4) Mr. Yun Jung-Sok (Korea)  
The Actual Situation of Environment in Korea
- 5) Mr. Alfredo T. Dubravcic Vaca (Bolivia)  
Bolivia's Institutional and Legal Framework for the Environmental Sector
- 6) Mr. Masao Nobuta (Japan)  
The Problem and the Solution of Illegal Disposal of Industrial Waste
- 7) Mr. Orihiko Murata (Japan)  
Maritime Safety Agency and Surveillance and Control of Marine Pollution

### Lecturers and Lecture Topics

1. Visiting Experts' Lectures
- 1) Mr. Khoo Boon Hui,  
Director, Criminal Investigation Department, Police Headquarters, Singapore  
Urban Crime and Criminal Policy in Singapore
- 2) Mr. Prathan Watanavanich,  
Associate Professor, Faculty of Law, Thammasat University, Thailand
- a) Crime in Bangkok: Aggravating Social Problems and Prevention Strategies
- b) Juvenile and Family Court System in Thailand: The Development and Experience
- 3) Mr. Edgar B. Aglipay,  
Police Senior Superintendent, General Headquarters, Philippine National Police  
Problems Faced in the Administration of the Juvenile Justice System in the Philippines in the Context of Urbanization
- 4) Mr. Pantaleon G. Dumlao Jr.,  
Police Director, Deputy Chief for Operations, Philippine National Police Headquarters  
An Analysis of the Crime Situation in Metropolitan Manila
- 5) Mr. Graham Martin,  
Head of Fraud Division, Crown Prosecution Service Headquarters, U.K.  
Effective Countermeasures Against Crimes Related to Urbanization and Industrialization
- 6) Mr. David Biles,  
Deputy Director, Australian Institute of Criminology  
Effective Countermeasures Against Crimes Related to Urbanization and Industrialization - Urban Crime, Juvenile Delinquency and Environmental Crime
- 7) Mr. James O. Finckenauer, Senior Professor, School of Criminal Justice, Rutgers Campus of Newark, State University of New Jersey, USA  
The Police Response to Juvenile Crime in Urban America
2. *Ad Hoc Lectures (in order of the lecture)*
- 1) Mr. Noboru Matsuda,  
Director-General, Correction Bureau, Ministry of Justice, Japan  
Correctional Treatment in Japan - Recent Trends and Current Issues
- 2) Mr. Tadashi Watanabe,  
General Senior Family Court Probation Officer, Tokyo Family

## MAIN ACTIVITIES AND EVENTS

- Court, Japan  
Juvenile Delinquency after World War II in Japan
- 3) Mr. Yuki Furuta,  
Assistant Deputy Vice-Minister,  
Criminal Affairs Bureau, Ministry of Justice, Japan  
Role and Problems of Public Prosecutors in Criminal Justice Administration in Japan
  - 4) Mr. Hiroyasu Sugihara,  
Director-General, Rehabilitation Bureau, Ministry of Justice, Japan  
Crime and Justice in the Context of Urbanization
  - 5) Mr. Ikuo Toishi,  
Public Prosecutor Attached to Criminal Affairs Bureau, Ministry of Justice, Japan  
A Brief on Japanese Legislation on Environmental Crime
  - 6) Mr. Kensuke Itoh, Professor, Nagoya University School of Law, Japan  
Some Thoughts on "Crimes against the Environment"
  - 7) Mr. Manuel J. J. Lopez,  
Researcher, National Research Institute of Police Science, Japan  
Urban Crime Prevention Strategies: A Dutch Perspective on CPTED
  - 8) Mr. Kenji Kiyonaga,  
Chief Researcher, National Research Institute of Police Science, Japan  
History of Urbanization and Crime Prevention in Japan
- Criminal Justice System in Japan (1):  
The Police; "Outline of the Japanese Police System"
- 2) Ms. Tomoko Sasaki, Professor, UNAFEI  
The Criminal Justice System in Japan (2): Investigation and Prosecution
  - 3) Mr. Osamu Ito, Professor, UNAFEI  
The Criminal Justice System in Japan (3): The Courts
  - 4) Mr. Yoshinaka Takahashi,  
Professor, UNAFEI  
The Criminal Justice System in Japan (4): The Correction
  - 5) Ms. Masako Saeki, Professor, UNAFEI  
The Criminal Justice System in Japan (5): Parole and Probation "Community-Based Treatment of Offenders in Japan"
  - 6) Mr. Tatsuya Inagawa, Mr. Osamu Ito, Mr. Takeshi Koyanagi, and Mr. Noboru Hashimoto, Professors, UNAFEI  
The Criminal Justice System in Japan (6): The Juvenile Justice System in Japan

### 3. Director's Lecture

Mr. Takashi Watanabe, Director, UNAFEI  
Crime Control in Japan

### 4. C.J.S.J. Lectures

- 1) Mr. Shingo Yamane,  
Professor, International Research and Training Institute for Criminal Investigation (IRTICI), National Police Agency, Japan

**RESOURCE MATERIAL SERIES**  
**No. 45**

**UNAFEI**

## Introductory Note

I am pleased to present No. 45 in the Resource Material Series including materials from the 95th International Training Course.

This issue contains materials produced during the 95th International Training Course on the main theme of "Effective Countermeasures against Crimes Related to Urbanization and Industrialization—Urban Crime, Juvenile Delinquency and Environmental Crime" conducted at UNAFEI from 13 September to 2 December 1993.

Section 1 of Part I consists of papers contributed by visiting experts.

Mr. Khoo Boon Hui, Director, Criminal Investigation Department, Police Headquarters, Singapore, in his paper entitled "Urban Crime and Criminal Policy in Singapore," introduces the crime situation in Singapore, and organized crime in particular. He describes its social and economic environment, and then explains the programmes adopted: community policing, enhanced operational capability and efficient manpower utilization.

Professor Prathan Watanavanich, Professor, Faculty of Law, Thammasat University, Thailand, in his paper entitled "the Juvenile and Family Court System in Thailand: Development and Experience," discusses various aspects of juvenile justice in Thailand, focusing on historical developments, definitions, and characteristics and jurisdiction of the juvenile and family court.

Mr. Edgar B. Aglipay, Police Senior Superintendent, General Headquarters, Philippine National Police, in his paper entitled "Problems Faced in the Administration of the Juvenile Justice System in the Philippines in the Context of Urbanization," analyses various effects of urbanization on the five pillars of juvenile justice in the Philippines and countermeasures to minimize those effects.

Mr. Panteleon Dumlao Jr., Police Director, Deputy Chief for Operations, Philippine National Police Headquarters, in his paper entitled "An Analysis of the Crime Situation in Metropolitan Manila," introduces the organization and functions of the Philippine National Police, and analyses the crime situation and crime prevention activities in Manila.

Mr. Graham Martin, Head of Fraud Division, Crown Prosecution Service Headquarters, United Kingdom, in his paper entitled "Effective Countermeasures Against Crimes Related to Urbanization and Industrialization," examines the crime situation in the United Kingdom, introduces the roles of various criminal justice agencies, and discusses appropriate countermeasures.

Mr. David Biles, Deputy Director, Australian Institute of Criminology, Australia, in his paper entitled "Effective Countermeasures Against Crimes Related to Urbanization and Industrialization—Urban Crime, Juvenile

## INTRODUCTORY NOTE

Delinquency and Environmental Crime," describes background factors influencing the measurement and incidence of crime; gives some general ideas about the relationship between urbanization and industrialization and the incidence of criminal behavior; summarizes a report done by AIC on the operation of juvenile justice systems in the Asian and Pacific Region; and examines environmental crime.

Professor James O. Finckenauer, Senior Professor, School of Criminal Justice, Rutgers Campus of Newark, State University of New Jersey, United States of America, in his paper under joint authorship with Professor Dennis Jay Kenney, Associate Professor of Criminal Justice, University of Nebraska, entitled "The Police Response to Juvenile Crime in Urban America," describes the problems that American police in big cities face in dealing with juvenile offenders, analyses police discretion and decision making, and examines innovative ideas and programmes to overcome the problems the police are facing.

Section 2 contains papers selected from among those submitted by the participants in the 95th International Training Course.

Section 3 presents Summary Reports of the Course.

I regret that we did not have enough space to publish all the papers submitted by the participants of the courses, nor enough time refer the manuscripts back to their authors before publication. I request the authors' indulgence and understanding.

In concluding the Introductory Note, I would like to pay tribute to the contribution of the Japan International Cooperation Agency (JICA) for providing indispensable and unwavering support for UNAFEI courses and seminars from which these materials were produced. I also would like to express my gratitude and appreciation to all who so willingly assisted in the publication of this volume by typing, printing, proofreading and performing various other tasks.

Finally I would like to take this opportunity to express my deepest appreciation for the continued financial and other supports rendered by the Asia Crime Prevention Foundation (ACPF) for various UNAFEI projects, including the publication of this Resource Material Series.

December 1994

*Kunihiro Horiuchi*

Kunihiro Horiuchi  
Editor  
Director of UNAFEI

**Materials Produced during  
the 95th International Training Course on  
"Effective Countermeasures against Crimes  
Related to Urbanization and Industrialization  
— Urban Crime, Juvenile Delinquency and  
Environmental Crime"**

SECTION 1: EXPERTS' PAPERS

Urban Crime and Criminal Policy in Singapore

by Khoo Boon Hui\*

Introduction

Singapore is an island republic with a land area of 639.1 sq. km. Of this, 312.4 sq. km., or almost half of our total land area, comprises built-up areas. With a 1992 population of 2.8 million people, our population density has risen from 3,762 residents per sq. km. in 1981 to 4,381 residents per sq. km. in 1992.

In addition to its population, Singapore received 6 million visitors, or double its population, in 1992. Singapore is indeed, very much an urban state.

Crime Situation

How then, does the crime in an urban state like Singapore compare to various cities around the world?

Over the twenty years from 1973 to 1992, most countries around the world have seen a steady increase in crime. Singapore was no exception. However, whilst crime in many countries continued to increase after 1988, crimes in Singapore started to decrease for 4 consecutive years in 1989, 1990, 1991 and 1992; from 57,846 (or 2,226 per 100,000 population) seizable offences in 1988 to 51,392 (or 1,824 per 100,000 population) seizable offences in 1992.

Looking at the incidence of major crimes in Singapore, one can conclude that they are well under control. Indeed, according to the World Competitiveness Report 1993, which

ranks 37 developed and newly industrialised economies (based on survey of business and economic leaders), Singapore ranked the highest (9.5 out of 10) on the confidence people had that their person and property were protected (Table 1).

Table 1: Confidence among people that their person and property is protected

Developed Countries	Points
1. Japan	9.1
2. Austria	8.0
3. Finland	8.0
4. Denmark	8.0
5. Australia	7.7
6. Canada	7.5
7. Switzerland	7.5
8. Portugal	7.2
9. Norway	7.1
10. Germany	6.8
11. Sweden	6.6
12. Ireland	6.0
13. New Zealand	5.9
14. USA	5.8
15. Belgium, Luxemburg	5.5
16. Netherlands	5.3
17. Greece	5.2
18. United Kingdom	5.1
19. Turkey	4.7
20. France	4.5
21. Spain	4.4
22. Italy	4.4

Developing Countries

1. Singapore	9.5
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\*Director, Criminal Investigation Department, Police Headquarters, Singapore

2. Malaysia	8.0
3. Hong Kong	7.7
4. Taiwan	6.7
5. Thailand	6.5
6. Korea	6.1
7. Indonesia	6.1
8. India	5.5
9. Chile	4.2
10. Mexico	3.6
11. Hungary	2.6
12. Brazil	2.2
13. South Africa	2.2
14. Pakistan	2.0
15. Venezuela	1.5

Source: The World Competitiveness Report 1993

In Singapore, murders registered an average of 57 (or 2.2 per 100,000 population) cases annually between 1983 and 1992, of which an average 70% were solved. In 1992, there were only 42 murders, the lowest murder figure for the last 10 years.

Rapes average 94 (or 3.7 per 100,000 population) cases annually, of which 63% were solved. The number of rapes reported in 1992 was the second lowest in 10 years, after a 12 year low in 1991.

Robberies have been declining since 1988, averaging 1,542 (or 61 per 100,000 population) cases annually over the past 10 years, with a 25% clearance rate. In 1992, robberies dropped to 1,066 (or 38 per 100,000 population) cases, the lowest level in the last 14 years.

In an urban area, housebreaking is inevitably high, averaging 3,396 (or 134 per 100,000 population) cases annually, of which 23% were solved. The 1992 crime for housebreaking stood at 3,039 cases, the lowest in 5 years.

Thefts of motor vehicles averaged 3,805 (150 per 100,000 population) cases over the last 10 years. 1992 saw 3,491 motor vehicles stolen, the second lowest number in 10 years, with the rate in 1991 being the lowest.

As the international economy develops

commercial crimes become a growing area of concern. However, Singapore has been able to curb the number of commercial crimes reported in 1992 to its lowest in 9 years.

Extrapolation of statistics available for the first half of 1993 has indicated that a fifth consecutive year of decline in crime rate in Singapore is likely.

### Social and Economic Environment

The socio-economic situation in Singapore plays a very important role in defining the concerns which shape its policing policies.

Educational levels in Singapore have steadily increased over the years. With greater consciousness of legal rights and expectations of professionalism, police actions must not only be fair, they must be seen to be fair.

Growing population and materialism have resulted in increasing signs of juvenile delinquency as exhibited in youth groups and gangs. This trend is likely to continue.

Maintaining an open door policy to trade, coupled with the continued growth of Singapore as a transportation hub and tourist destination, have led to greater accessibility for foreigners.

As developing countries in Asia rapidly grow, there is a greater demand for quality consumer goods to improve the standard of living of its residents. Goods which are too expensive or not readily available would naturally be smuggled into these countries to meet the black market demands. Conversely, arms and explosives widely used by military and para-military units will find their way out of these countries as they open up to the rest of the world.

Major construction projects continue to be initiated in Singapore and Southeast Asia. The demand for equipment related to the construction industry will similarly grow and thefts of such equipment may rise. There is a need to speedily solve such cases before

## URBAN CRIME IN SINGAPORE

they become a profitable and syndicated activity. Dissemination of crime prevention advice to potential victims is also necessary.

Unskilled foreign workers will also continue to flow into development areas in search of employment. On one hand, they fill up the lower end of the job market vacated by a more educated population; on the other, their presence in an unfamiliar society and especially in large numbers, pose a potential law-and-order threat.

The rapid advances in technology have also given a new dimension to crime. White-collar crimes are expected to increase with economic maturity and criminals will become more sophisticated as compared to the past, and the present. The Police must be able to stay one step ahead in terms of its technological sophistication.

### Crime Concerns

More specifically, the Singapore Police is very concerned with syndicated crimes, traditionally related to secret societies, vice, gambling and drugs.

The successful suppression of secret societies in Singapore has been possible through its tough preventive detention laws. The rationale for adopting such measures is that victims have, in the Police's experience, been unwilling to report cases to the Police for fears of retribution. In some countries, witnesses and even judges have been known to be persuaded to give false testimonies or have been assassinated to discourage a fair trial of the accused persons. However, sufficient safeguards and checking mechanisms are in place to prevent the abuse of such a system. In fact, the World Confidence Report 1993 shows that Singapore attained a score of 8.5 out of 10 for confidence in fair administration of justice (Table 2).

**Table 2: Confidence in the fair administration of justice in the society**

Developed Countries	Points
1. Switzerland	8.1
2. Norway	8.1
3. Denmark	8.1
4. Finland	8.0
5. New Zealand	8.0
6. Ireland	7.9
7. Australia	7.9
8. Austria	7.8
9. Germany	7.8
10. Canada	7.5
11. Sweden	7.5
12. Netherlands	7.4
13. Japan	6.9
14. USA	6.4
15. Belgium, Luxemburg	6.3
16. United Kingdom	6.2
17. Portugal	5.8
18. Italy	4.7
19. France	4.6
20. Greece	4.4
21. Turkey	3.9
22. Spain	3.7
Developing Countries	
1. Singapore	8.5
2. Hong Kong	7.6
3. Malaysia	7.2
4. Chile	5.6
5. Hungary	5.6
6. South Africa	5.4
7. India	5.3
8. Taiwan	5.2
9. Thailand	4.8
10. Korea	4.1
11. Indonesia	3.9
12. Brazil	2.9
13. Mexico	2.8
14. Pakistan	2.0
15. Venezuela	0.9

Source: The World Competitiveness Report 1993

With its open door economic policies, foreign crime syndicates are often tempted to establish a foothold in Singapore. The Police therefore has been vigilant and is taking stringent enforcement action to prevent foreign criminals, especially those with links with triads and organized crime syndicates, from establishing themselves in Singapore.

The successful suppression of secret societies in Singapore has allowed the Police to focus its attention on youth gangs. These are loosely-knit street corner gangs comprising mostly youths, who have only very weak, or no links with the traditional secret societies. The involvement of youths in secret societies and street corner gangs is recognised to be a passing phase in the lives of particular social groups. The Police has therefore adopted an approach of counseling and education of youths to deter them from such activities. They include:

- a) Activities organised through the Police Boys' Clubs;
- b) Talks to schools;
- c) Production of a video tape on the evils of secret societies released to all schools;
- d) Counseling of youths detected to be involved in secret societies; and
- e) A Prison Visit Programme targeted at wayward youths to expose them to the realities of prison life.

The Singapore Police is aware that overseas secret societies have been traditionally known to be involved in organized crimes. Other than drugs, secret societies are often known to operate public entertainment outlets, and vice and gambling rackets, which generate funds for their maintenance and expansion. These activities are present in any urban environment and tight control must be exercised to ensure that they do not fall into the wrong hands.

Prostitution control is another major pre-

occupation of the Police. In tackling vice activities, the Police has acted untiringly to suppress and eradicate the abuse of children, teenagers and vice slavery. These cannot be tolerated. With the increasing spread of AIDS around the world, policies must also be targeted at protecting the population from infection through rampant vice activities.

Gambling syndicates, too, are strongly suppressed so that funds are not raised and channeled through their traditional links with syndicates. Like vice, the Police recognises gambling as a social ill that cannot be totally eradicated. In order to provide the opportunity for legitimate gambling in Singapore, the Bukit Turf Club (public race course and betting outlets), the Totalisator Board and a public lottery have been established under Government control.

However, the growing use of sophisticated technology and equipment by organized gambling syndicates to avoid detection is a major area of concern. The Police is adequately equipped and supported by effective legislation to deal with this threat.

Drugs are another area of concern, not only from the health perspective but also the crimes of opportunity committed by desperate addicts. Deterrent legislations are in place to counter the growing international increase in supply and demand for drugs. At the same time, a comprehensive programme has been established to rehabilitate drug addicts and readmit them into society.

### **Policies and Programmes**

Policies in 3 areas have been instrumental in controlling the crime rate in Singapore. These areas are:

- a) Community Policing
- b) Enhanced Operational Capability
- c) Efficient Manpower Utilisation

where the policies adopted have been supported by programmes and legislation.

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### *Community Policing*

In Community Policing, the Singapore Police implemented a policy to garner public support, co-operation and involvement of the community in the fight against crime and disorder by narrowing the physical and psychological gaps between the Police and the community. Community policing policies are also targeted at solving problems at their source, rather than battling the symptoms, which are likely to resurface if the root cause is not identified and eradicated.

The support of the community is encouraged through programmes such as the Neighborhood Watch Group, crime prevention exhibitions and talks, Police Boys Clubs and the Crimewatch programme on television. The Police is also actively involved as a representative on Resident Committees and in community service.

The foundation of Community Policing in Singapore is the Neighborhood Police Post (NPP) System which was initially modelled after the Japanese Koban System but has since been modified to suit the local environment. The first NPP was officially opened on 3 Jun 1983. There are now 90 NPPs strategically located in populated areas all over Singapore, bringing the Police and our services physically closer to the people. The involvement of the Police in community programmes, Residents' Committees and other activities organized by community has projected the Police as a much friendlier personality whom the community can approach at any time for assistance.

The success of Community Policing in Singapore is evident from the following:

#### a) Better Rapport with the Community

The conducting of foot, bicycle and scooter patrols, house-visits and the performance of non-traditional policing tasks have led to more contacts between the residents and the police and fostered better understanding between the two parties. The close rapport between the residents and the NPP officers

has engendered the provision of information on crimes by the residents to the NPP officers.

#### b) More co-operation

NPP officers meet the grassroots leaders on a regular basis to discuss and take action to upgrade the security of the neighbourhood. Such concerted efforts to deal with crime reflect the close co-operation between the two parties.

#### c) Crime Prevention

NPP officers are well informed on the crime situation in the neighbourhood. This has enabled the police officers to focus on the prevailing problems in the community and give more advice to the generally receptive residents. It has raised the level of crime prevention awareness amongst residents.

#### d) Quality Arrest

The NPP system has enhanced the number of arrests for preventable crimes. These arrests, either by NPP officers or through information provided by members of the public, has not only contributed to a reduction in crime but also contributed significantly to a more secure environment.

#### e) Crime Rates

Around 1988, when the majority of the NPPs had been established and the NPP system gained maturity, crime rates began to fall. Through community policing programmes, the public were better informed of the methods used by criminals around their neighbourhoods and of the necessary preventive measures to adopt. The level of public assistance in arrests is very high. Over the past five years, 34% to 40% of all arrests for major crimes were made with the assistance of the public. These are all very significant and can be attributed to community policing efforts.

### *Enhanced Operational Capability*

In order to be able to detect and deter crime, the Police must have the capabilities

to respond to crime in an effective and professional manner. The acquisition of a comprehensive and modern command, control and communications system is being planned.

As technology advances and new products become more accessible to the public, criminals have begun to use advanced technology in committing crimes. Criminals have been found to use Closed Circuit TV to monitor activities outside their premises, reinforced barriers at doors and windows to delay police entry, soluble paper to destroy evidence, advanced equipment for counterfeiting currency and credit cards and computers to store coded databases, reprogramme magnetic strips on charge cards and make illegal electronic fund transfers.

State-of-the-art technology in crime prevention and detection are therefore adopted by the Singapore Police Force. As examples, the Automated Fingerprint Identification System (AFIS), Polygraph and DNA Profiling are advanced equipment and methods used to aid investigations. Plans are also underway to acquire an image management system and a computerized investigation management system.

Effective legislation and timely amendments to existing legislation to deal with new trends in crime ensure that the Police has effective control over crime by nipping potential problems in the bud. For example, minimum sentences and mandatory caning for certain serious offences have successfully reduced serious crimes by deterring potential offenders and incarcerating those convicted for sufficiently long periods. Recently, the already strict laws against firearms offences were enhanced in anticipation of the threats posed to Singapore by the growing availability of illegal firearms in the region.

Many countries have become increasingly aware of money laundering activities around the world. The entertainment industry is a sector attracting investments of ill-gotten gains by criminals. Legislation allows the

Police to make stringent checks before allowing entertainment outlets licenses to operate. The Computer Misuse Act also came into operation in August 1993 and will address the increasing international use of computers to commit crimes through, amongst others, unauthorized access and amendments to computer systems and programmes.

Legislations with death penalties are also in place to deter would-be criminals from committing serious crimes and to punish those who commit them. Such legislations include murder, drug trafficking, armed offences and kidnapping. The availability of preventive detention without trial has also ensured that secret societies and gang activities are kept to a minimum.

Licensing is another means of exercising control over criminal activities. In Singapore, licensing is stringently controlled over the possession and use of firearms. This has also controlled the availability of firearms for committing crimes. Licensing is also exercised over public entertainment, martial arts, massage parlours and secondhand goods dealers to ensure that persons of dubious characters do not operate such outlets and trade.

Development of close links, international co-operation and sharing of intelligence with foreign counterparts are becoming increasingly important as criminals become increasingly mobile and engage in cross-border activities such as money laundering, alien smuggling, drug trafficking and the use of counterfeited currency and credit cards.

#### *Efficient Manpower Utilization*

As the private sector in Singapore continues to grow rapidly, demands for qualified manpower affect the recruitment and retention of officers in the Police. The Police has therefore adopted training and manpower development policies to ensure efficient use of manpower. More effective deployment of National Servicemen, reservists and volunteers to complement the regular Police is

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crucial to ensure that Police presence on the ground is not compromised.

Officers are also being trained to become more attuned to the ground situation and given more discretion to make decisions. These will enhance the quality of police officers deployed to police the country.

Labour saving devices, especially computerized and automated systems, such as the Automated Fingerprint Identification System and the Electronic Monitoring System, are continually evaluated and acquired.

### Conclusion

In conclusion, it must be recognized that every country has its own peculiarities, priorities and constraints, which will dictate the way that policing policies and programmes are drawn up. Singapore has found its criminal policies workable and has established an infrastructure which facilitates police operations and the criminal justice system. This has resulted in a relatively safe urban environment for its citizens and visitors. However, it cannot afford to be complacent as criminals are becoming more sophisticated and mobile in their activities. Cross-border crimes will increasingly be a cause of concern. Police forces must be able to work closer together and stay ahead of these criminals.

As countries around the world become more developed and the population, including criminal elements, more sophisticated, urban crimes will continue to be the primary area of concern. However, with sound policies and programmes, and a modern and effective Police force, urban crime can be controlled.

## The Juvenile and Family Court System in Thailand: Development and Experience

by Prathan Watanavanich\*

### Introduction

Historically, the law concerning juvenile delinquency, as far as I found, can be traced back to the ancient law of "Dhammasattham"<sup>1</sup> which is derived from the code of Manu.<sup>2</sup> It was compiled in the revised code of 1804 during the reign of King Rama I. This Compilation of the Dhammasattham in the Ayuthya period and of the existing decrees and edicts was undertaken by the Royal Law Reform Commission. The code is known as the Law of the Three Great Seals.

In pursuance of the code on the specific title called, "the Law of Quarreling," under section 10 provided that fighting among children shall be intervened and settled by their parents, etc. On criminal responsibility "the child at age seven or the old person of seventy who commits an offence shall be deemed mentally weak. They shall not be denounced, beaten, fined or punished, but the head of the village or town shall be mediator on his behalf for conciliation to the injured party."<sup>3</sup> The penal code of 1908 also provided that a child who has not attained the age of seven years shall not be criminally responsible for his act. It is worth noting that the present penal code of 1957, section 73 states that "a child not yet over seven years of age shall not be punished for committing what the law is provided to be an offence." However, the child shall be held accountable for his act.

Prior to the establishment of the juvenile court, special measures were also imple-

mented to deal with dependent and neglected children as well as juvenile delinquency. Laws on welfare for children and young persons have been provided in the primary education act of 1936, the juvenile and school children control act of 1937 and the act on supervision and training for certain classes of children of 1936.

Juvenile justice, as a system distinct from the adult system, has been created by legislations: the act instituting juvenile courts, B.E. 2494 (1951) and the juvenile court procedure act, B.E. 2494 (1951). As a result, the Central Juvenile Court and the Observation and Protection Centre were established by virtue of the act in 1952. For the eleven years that followed, the acts were amended to extend the juvenile courts' jurisdiction and their powers regarding civil matters and to bring to speedy trial in criminal cases in the interest of the child or young person.

Recently, the act instituting juvenile and family court and its procedures relating to juvenile and family cases of 1991 has superseded all thirteenth juvenile court laws and amendments. The new act has extended the court jurisdiction to cover all family matters as provided by the family law, the civil and commercial code. In criminal proceedings and the welfare of juveniles, the law has clearly defined and revised certain provisions to protect the rights of children and young persons.

Moreover, in considering the law concerning juvenile delinquency and welfare of children and young persons, there have been several legislations involved, namely the primary education act of 1936, the

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training school for certain groups of children act of 1936, the law on the supervision of students and school children of 1972, the child care law of 1972 and the adoption act of 1979. These laws are under the jurisdiction of Ministries of Justice, Interior, Education and Public Health. However, the welfare approach legislations shall be enforced and implemented mainly by the Ministry of Interior.

### 1. Definition of Juvenile Delinquency

In general, the concept of crime and delinquency is similar, but definition of the behavior differs in respect to age and certain conduct of the offender. The status offence, however, is not widely known and it has never been formally dealt with under the juvenile justice system. In Thailand, juvenile delinquency has been understood as juvenile misconduct and as ordinary criminal offences.

### 2. Characteristics of the Juvenile and Family Court

The aim and objective of instituting the juvenile and family court can be found in the act itself which states "it is expedient to constitute juvenile and family court for the welfare of children and young persons". To elaborate on the provision, a former chief justice of the Central Juvenile Court, who was in charge of all courts and observation and protection centres throughout the Kingdom, has made further clarification on the courts' philosophy. Children and young persons should not be regarded as responsible as adults. When they are alleged to have committed what the law considers to be an offence and if they enter the criminal justice process just like an adult offender, it may greatly affect their state of mind and health and eventually cause them to despair and prevent them from rehabilitation. It is therefore necessary to institute special procedures for dealing with them.<sup>4</sup>

Although the law concerning juvenile

delinquency followed the English, Children and Young Persons Act of 1933, in certain respects, substantive as well as procedural laws have remarkably departed from the original model.<sup>5</sup> The child and young person may be dealt with informally and non-punitively under the juvenile and family court provisions, but proceedings are still to be called criminal instead of social and non-criminal procedure.

After the Central Juvenile Court had been functioning for a decade, the Ministry of Justice gradually established juvenile courts and observation and protection centres located in 9 geographical regions. The courts now have jurisdiction and power to render welfare and protection for children and young persons in Bangkok and nine large cities and provinces in every region. A juvenile and family court section will be later established under the provincial court throughout the country.

All juvenile and family courts have similar comprehensive structure. They consist of two separate but coordinating parts; judiciary and administration. The court is staffed by career judges and associate judges, (lay judges). A quorum consists of two career judges and two associate judges: at least one of the associate judges must be female. The court adjudicates all family and criminal cases and handles other legal matters involving children and young persons. The administration is divided into (1) office of the courts' registrar; (2) the observation and protection centre. The centre is staffed by professional personnel, for instance, probation officer, social worker, physician, psychiatrist, scientist and educator.

### 3. Jurisdiction of the Juvenile Court

The juvenile and family court is the court of first instance; it is governed by the law for the organization of courts of justice of 1934 and under the law, "all courts of justice shall be under the Ministry of Justice."

The court has jurisdiction and power simi-

lar to a provincial court in the following cases.<sup>6</sup>

1) Any criminal case in which a child (whose age is over 7 but does not exceed 14) or young person (whose age is over 14 but not yet 18) is alleged to have committed what the law has provided to be an offence and any criminal case transferred from the court having power to try ordinary cases under section 11 of the juvenile court law.\*

2) Any family case shall be filed or applied for any proceedings involving any minor (whose age is under 20) which is governed by the Civil and Commercial Code. These cases usually involve:

- (1) A minor applying for permission to carry on his own business.
- (2) A case filed by a husband or any person who has interest in the case to repudiate a child.
- (3) A case filed for action on legitimation of a child.
- (4) A case applying for legitimation of a child.
- (5) A case filed for guardianship of a child.
- (6) A case applying for representing a child to perform juristic acts on behalf of the child.
- (7) A case applying for appointment or discharge of a guardian.
- (8) A case of divorce, alimony and guardianship.

3) Any proceedings whereby the court must rule or issue an order involving a child or young person under the specified jurisdiction of the juvenile court.

#### 4. Juvenile and Family Court System

An overview of juvenile justice in Thailand shall be described in pursuance of the juvenile law and criminal procedures.

##### *Pre-adjudication Process*

Under the criminal procedure code, any injured person may file complaint to the

police against a child or young person. When a child or young person is alleged to have committed an act against the law, his case shall be commenced and investigated by an inquiry police officer, as required by ordinary criminal cases, but the handling of a juvenile offender is more informal and lenient.

A competent inquiry police officer, who is assigned to a case, has power to conduct an investigation within his territorial jurisdiction: (1) where an offence has actually been committed; (2) is alleged or believed to have been committed; and (3) the offender is residing or has been arrested within his territorial jurisdiction.

##### 1. Arrest

In principle, a child shall not be arrested under an allegation that he has committed an offence, unless a flagrant offence, or an injured person identified and insisted on the arrest, or a warrant of arrest is made in pursuance of the criminal procedure code. A child shall not be arrested on suspicious grounds or circumstantial evidence as in an adult case. However, this protection does not include a young person.

After apprehension, the police officer in charge of the case, or who keeps the child or young person in custody is required by law to notify the director of the observation and protection centre, his parent, guardian or a person with whom he is residing.

##### 2. Investigation

The officer shall conduct an initial inquiry and is required to complete this within 24 hours from the time a child or young person has arrived at his office. He will then refer him to the observation and protection centre. Further inquiry, if needed, may proceed under the law.

##### 3. Detention and Provisional Release

In general, a child or young person may be detained during investigation at the police station or in the custody of the centre. The

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director of the centre may, if he thinks fit, keep him in custody. Under the law, a request for provision release of the arrestee shall be made to the custodial authorities as the case may be.

### 4. Examination and Compilation of Facts (Pre-hearing Investigation)

The centre is empowered and vested by law to perform three main functions.

- (1) Preparing a social investigation report concerning a child or young person; for instance, historical background, family, occupation, education, character and othersocial data.
- (2) Preparing a report on both physical and mental examinations.
- (3) Preparing an observation report in the case of a child or young person who has been detained in remand home.

A social investigation report is required in every case, except pre-hearing investigation is not necessary in a trivial case. The Supreme Court has ruled that "in order to find appropriate measures for a child or young person, the court has to consider all social environments relating to him, including causes of delinquency".<sup>7</sup> In this precedent setting case, the probation officer did not give his opinion on causes of delinquency on the grounds the accused had denied the charge. It may raise the further issue that it is desirable to offer such arbitrary opinion without reasonable proven causes. In practice, the director of the observation and protection centre will submit the report together with his routine recommendation on causes of delinquency to the juvenile court.

In theory, pre-hearing investigation is central and vital to the juvenile justice system in that care and rehabilitation are the main objectives. In the general process a probation officer who is in charge of the case will deliver an investigation report to the police within 18 days. The officer, usually, will conclude his case in 6 days, then forward "an

inquiry file" attached with the report to the public prosecutor. Under the "opportunity principle" the public prosecutor has discretionary power to decide in pursuance of the procedural laws whether to enter or drop the charge.<sup>8</sup>

### 5. Prosecution and Deferred Prosecution

If the public prosecutor decides to institute prosecution, he has to enter a charge in the juvenile court within thirty days as from the day on which a child or young person has been arrested. In case of necessity where the charge against the offender cannot be filed within the mentioned period, the police officer or public prosecutor who is responsible for the case shall apply by motion to the court for deferment.

This deferment provision, as I found, provides the authority to stay a case for a lengthy period. Furthermore, when compared to the existing laws for adults, the juvenile provision has a longer range for keeping a child or young person, in case of detention, than the maximum period prescribed under ordinary criminal or magistrate court's procedures.<sup>9</sup>

In case of a grave offence where the minimum imprisonment is five years or over, the court may, if it thinks fit, grant longer deferment. These provisions permitting such extended detention power by the authorities has brought the juvenile law under criticism and calls for the present reform, (section 51).

### 6. The Question of Age Limits upon Entering Charge

In a landmark precedent case, a young person was alleged to have committed an offence at age seventeen, but the public prosecutor entered the charge when the accused was eighteen years old. The Supreme Court has set a precedent that the juvenile court shall not have power or jurisdiction to adjudicate the case. The court in its strong

argument is of opinion that the main objective of the juvenile court is for the welfare of children and young person. It has special provisions on investigation, trial, adjudication and training facilities so that procedures differ remarkably from those of an ordinary court.

Under the juvenile laws, this court is competent to try a criminal case which a child or young person is alleged to have committed what the law considers to be an offence. If the accused has attained eighteen year or over, he shall no longer be a young person in the meaning of the law.<sup>10</sup> The decision is debatable and it has remained so ever since. The new law has resolved this problem; it specified that the offender's age is deemed at the time of committing an offense, (section 5).

#### *Criminal Trial*

Criminal proceedings for offences committed by children or young persons will proceed as in an ordinary court, unless juvenile and family court procedure provides otherwise. These juvenile measures may be summarized in general as follows:

- (1) No fetters will be used against a child, except where an offense is punishable with ten years imprisonment or over.
- (2) The court may, by its own discretion, order the director, parent, guardian and the person involved to be present at the trial.
- (3) The juvenile court procedure will be informal and simplified for the interest of a child or young person. The judge in charge of the case may call the accused for questioning or explain the proceedings in order to assist him.
- (4) The trial is held in private. The persons present at the trial are the accused, parent, guardian, legal adviser, witness, prosecutor, members of the court and other persons permitted by the court.
- (5) Photographs, reports or facts presented at the inquiry proceedings

are not to be released to the public.

- (6) An attorney shall not be appointed in the juvenile court, except a legal adviser. If a child or young person has no legal adviser, the court shall appoint one for him if it considers desirable.

#### *Adjudication*

After the trial being completed, prior to a judgment or an order being given; the court will hear the report and opinion of the director, including his recommendation for measures to be taken.

The judgment and order shall be given in pursuance of the provision of juvenile laws with the emphasis on community treatment and welfare of the child and young person in lieu of punishment.

### **7. Empirical Data on Juvenile Delinquency**

An analysis of statistics and data of the Central Juvenile and Family Court in Bangkok will give an inside view of the legal process. For the purpose of critical analysis, the data will be rearranged and classified into three broad categories. In 1993 the observation and protection center of the central juvenile and family court received 3,139 children and young persons.

#### **1) Offences Committed by Children and Young Persons.**

They are divided into three main categories:

- (1) Property. Offences against property were the most widespread offences committed by children and young persons. In 1993, as recorded in ordinal number, these were theft, gang robbery and snatching.
- (2) Life and body. These were assault, indecent act and rape.
- (3) Others. They were offences relating to public peace, such as drugs, volatile solvents, gambling, criminal association,

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**Table 1: Selected Offenses Committed by Juvenile Offenders from 1988-1992**

Offenses	1988	1989	1990	1991	1992
Theft	1,060	1,077	893	976	1,094
Assault	145	170	167	177	222
Snatching	83	82	98	104	82
Gambling	36	21	27	42	39
Indecent & Rape	33	58	43	25	64
Firearms	58	104	87	83	83
Criminal Association	119	109	184	169	186
Robbery	69	49	56	64	180
Drugs	194	178	187	226	272
Volatile Substances	-	-	238	307	207
Others	380	406	296	488	710
<b>Total</b>	<b>2,177</b>	<b>2,254</b>	<b>2,276</b>	<b>2,661</b>	<b>3,139</b>

Sources: Central Juvenile and Family Court, Annual Report 1992

assembling in group of more than ten persons to do or threaten to do an act of violence or to do anything to cause a breach of the peace.

For some offences the statistics are unreliable and fluctuate widely in accordance with the handling by police against children and young persons. These offences were indicated in (3). The juvenile statistics may be marginally high or low in certain years.

For offences indicated in (1) and (2) the statistical data has been stable and they have a tendency to be high in all recorded years. These include theft (34.8%), drugs (8.7%) assault (7.1%), volatile solvents (6.6%), criminal association (5.9%), and others (36.91%), see Table 1.

### 2. Disposal by the Police and Public Prosecutor

In 1992, a number of juvenile cases have been disposed of by an inquiry police official and public prosecutor under the pre-adjudication process mentioned. Of the 3,139 cases, the police and public prosecutor disposed of 999. The main reasons for the disposal of the cases are:

- (1) the inquiry officer is of the opinion that the case ought not to proceed;
- (2) the public prosecutor decides not to institute charge;
- (3) referred to another court;
- (4) no prosecution was made under the time limits, or the court dismissed a deferment motion. 2,140 juveniles were actually prosecuted in the central juvenile and family court.

### 3. Adjudication and Measures to be Taken by the Court

In 1992, about 31.8 percent of the cases were disposed of in the pre-adjudication stage, the remaining were processed in the juvenile court. According to statistics, besides serious offenses, the most likely offences to be entered into the court were; theft, drugs, assault, fire arms and other serious offenses. 1,757 offenders were found guilty or 82 percent of the cases which entered the court.

#### *A judgment of Guilty and Measures to be Taken*

In pursuance of the penal code, section 74, "no punishment shall be imposed upon a

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child under fourteen." However, the juvenile court almost always take the following measures.

- (1) Admonish the child or young person and then discharge him, (n=154).
- (2) Discharge the child or young person to his parent or guardian, (N=202).
- (3) Place the child or young person under care of person or organization the court thinks desirable.
  - (a) Suspended Judgment with probation order, (N=640).
  - (b) Suspended Judgment without probation order, (N=40).
- (4) Commit into training institution, (N=263).
- (5) Substitute imprisonment to commit into training institution, (N=357).
- (6) Suspension of judgment with

- probation order, (N=63).
- (7) Fine, (N=21).
- (8) Imprisonment, (N=17).
- (9) Total, (N=1,757).

In short, a study on the social status of juvenile offenders reveals some significant data.

1. Age: Firstly, in the seven to fourteen age group, most offenders fall in the range of twelve to thirteen years. Secondly, the over fourteen to eighteen age group, the offender are concentrated among those sixteen to seventeen years old.

It may be pointed out that a child or young person has a tendency to commit an offense from age 12 upwards.

**Table 2: Statistics on Psychological Diagnoses**

	1990	1991	1992	(%)
Number of Juvenile Diagnoses	1,050	810	847	
Personality Disorder or Insecure	277 (26.4)	286 (35.5)	224 (26.4)	
Having a Record on Drugs:				
Marihuana	221 (21.1)	263 (32.5)	282 (33.3)	
Heroin	42 (4)	87 (10.7)	101 (11.9)	
Volatile Solvents	348 (33.1)	304 (37.5)	310 (36.6)	
Misbehavior and Criminal Tendency				
Smoking Cigarette	765 (72.9)	652 (80.5)	679 (80.2)	
Drinking Liquor or Other Intoxicants	526 (50.4)	461 (56.9)	532 (62.8)	
Going Around at Night or Visit				
Entertaining Places	346 (33)	248 (30.6)	279 (32.9)	
Premature Sexual Behavior	298 (28.4)	306 (37.8)	272 (32.1)	
Family Difficulties	440 (41.9)	409 (50.5)	328 (38.7)	

Source: Psychological Section, the Central Juvenile and Family Court, 1991

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**Table 3: Showing Residence of Juvenile Offenders Classified by Areas, 1992**

Community & Areas	Number			Percent		
	Male	Female	Total	Male	Female	Total
Slums	545	82	627	17.4	2.6	20.0
Industrial	45	6	51	1.4	0.2	1.6
Commercial	168	26	194	5.3	0.8	6.1
Residential	1,324	156	1,480	42.2	54.0	47.2
Agricultural	230	33	263	7.3	1.0	8.3
Welfare Housing	99	6	105	3.2	0.2	3.4
Private Housing	11	4	15	0.4	0.1	0.5
Others	80	8	88	2.5	0.3	2.8
Not Identified	292	24	316	9.3	0.8	10.1
<b>Total</b>	<b>2,794</b>	<b>345</b>	<b>3,139</b>	<b>89.0</b>	<b>11.0</b>	<b>100.0</b>

Source: The Central Juvenile and Family Court, 1992

**Table 4: Showing the Recommendation on Causation, 1992**

Causation	Number			Percent		
	Male	Female	Total	Male	Female	Total
Family Pressures and Psychological Problems	874	121	995	27.8	3.8	31.6
Bad Companion (Peer group)	840	137	977	26.8	4.4	31.2
Financial and Economic Problems	690	50	740	22.0	1.6	23.6
Physical and Mental Problems	83	22	105	2.6	0.7	3.3
Others	307	15	322	9.8	0.5	10.3
<b>Total</b>	<b>2,794</b>	<b>345</b>	<b>3,139</b>	<b>89.0</b>	<b>11.0</b>	<b>100.0</b>

Source: The Central Juvenile and Family Court, 1992

**Table 5: Showing Recidivist Rates, Percentage and Sex of Offenders, 1992**

Recidivist Number of Times	Number			Percent		
	Male	Female	Total	Male	Female	Total
One	237	7	244	77.7	2.3	80.0
Two	31	5	36	10.2	1.6	11.8
Three	9	2	11	2.9	0.7	3.6
Four	3	3	6	1.0	1.0	2.0
Five	4	1	5	1.3	0.3	1.6
Six	2	0	2	0.7	0	0.7
Seven (or over)	1	0	1	0.3	0	0.3
<b>Total</b>	<b>287</b>	<b>18</b>	<b>305</b>	<b>94.1</b>	<b>5.9</b>	<b>100.0</b>

Source: The Central Juvenile and Family

**2. Family Status (Number)**

- (1) Resided with parents: 1,504
- (2) Broken home; resided with father,  
resided with mother: 277
- (3) Resided with others: 650
- (4) Neglected or abandoned: 89

**3. Education**

- (1) Uneducated: 95
- (2) Primary. (Grade 1-6): 1,752
- (3) Junior high school (Grade 7-9): 973
- (4) High school. (Grade 10-12): 211
- (5) Others: 108

**4. Occupation**

- (1) School children: 607
- (2) Assist his parent: 247
- (3) Waged worker: 984
- (4) Carrying miscellaneous trades: 77
- (5) No work: 1,156
- (6) Carrying on illegitimate  
activities: 18
- (7) Skilled worker: 38
- (8) Unskilled worker: 12
- (9) Others: 41

**8. Discussion**

The statistics on children and young persons who have been arrested and referred to the Central Observation and Protection Centre, the Central Juvenile and Family Court in Bangkok from 1988 to 1992 pointed out that juvenile crimes were increasing. Most crimes committed by juveniles were theft, violations of volatile solvents law, drug laws, assault and criminal association. It is alarming that the offense against volatile substances is on the rise. Violent crimes, robbery, gang robbery, snatching, criminal homicide and forcible rape are also increasing. To a certain extent, this may be due to the expansion of the juvenile court jurisdiction to cover all crimes for all juvenile age groups.

The causes of juvenile crimes are also concentrated in the following concomitant factors, such as family setting, mental and psychological problems, bad companion and economic deprivation. Social investigation reports have also mentioned that more than 35 percent of juvenile offenders came from unhappy families, separation, neglect, divorce, quarreling, irresponsible parenting and so on. Psychological diagnoses have found

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that 25 percent of the offenders were inadequate and insecure, including weak or susceptible personalities. These offenders have inclined to indulge themselves into consumption of cigarettes, alcoholic beverages, drugs, going out at night or having inappropriate sexual relationship, such as having sex with prostitute, premature marriage, or engaging in prostitution.

A number of offenders have records on drugs, heroin, marihuana and volatile substances.

The central Juvenile and family court and its related treatment agencies have put more effort and resources in community treatment, commitment to training school and rehabilitation. It is worth mentioning that the new juvenile training facilities in Nakhon Pathom Province which will be open in 1995 were conceived by initiation and cooperation of the central Juvenile and family court and the Japanese Government to improve and strengthen existing rehabilitation programs for the benefits of juvenile offenders.

The new treatment program consists of living guidance, general education, vocational training, health and physical education and extracurricular activities. Vocational training is a career oriented program offered to promote skilled workers. Besides ordinary programs, it includes technical training, such as welding and sheet metal work, automobile maintenance, electrical wiring, wood carving and wood work, machining, printing, air conditioning and construction vehicle operation. These skill trainings will be needed for the shortage of mechanical and skilled workers in the lucrative labour market.

The proposed training program will be divided into 3 stages to suit demands, relevant training period and needs of the offenders: introductory, one month, intermediate, ten months and pre-release, one month. All programs require 12 months training except construction vehicle operation which requires 6 months.

## 9. Conclusion

Under the legal framework, the juvenile justice system which aims at rehabilitation and welfare for a child or young person is actually mixed with treatment and punishment model.<sup>11</sup> The juvenile proceedings have focused on proven guilt as well as care. Measures taken by juvenile courts may be summed up as:

1) Community treatment; warning, parental control and probation.

2) Institutional treatment; committed in a training or an annex of a training school which is a place for incarceration other than prison and, in extreme case, imprisonment.

In 1992 post-adjudication statistics indicated the court employed institutional treatment for 36.25% and community treatment 63.74% of the children and young persons found guilty.

In principle, the development of juvenile courts in Thailand is originated from *parens patriae* which characterizes care and protection of children and young persons from undesirable environments, such as broken family, bad companions, economic deprivation and so on. Paradoxically, the measure taken by the court may take a child or young person from one bad situation to another. A training institution which is actually a minimum security detention facility is not a preferable or an alternative place. Alternatives to the problem rather emphasize care and social proceedings rather than criminal proceedings. Diversion from juvenile justice to a non-punitive juvenile shelter administered by a welfare agency or private organization would be another. Institutional treatment should not be a routine recommendation or adjudication process, but a measure imposed as a last resort.

Finally, in my previous studies I found that socio-economic status, such as poverty, peer group, family, education, occupation and neighborhood on the one hand contribute to the juvenile's criminalization, and on the

other hand deprive him considerably of a chance to survive the juvenile justice process. He is likely to be deserted by his family, incarcerated longer, or without bail and finally he will be committed to a training school. Indeed it is a vicious cycle for the child and young person.

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## Problems Faced in the Administration of the Juvenile Justice System in the Philippines in the Context of Urbanization

by *Edgar Batalla Aglipay\**

### Introduction

This paper was prepared not only to share with you what the Philippine government has done regarding our problems in the administration of the Juvenile Justice System, but also, to get your involvement in the care and protection of the innocent youth who is the hope of mankind's future.

Before I discuss my topic, I would like to take this opportunity to bring to your attention one instance of youth exploitation and abuse that happened in an urbanized tourist town just 2-hour drive away from Manila. This town is a part of the province of Laguna, a province adjacent to Manila which is a major area of the *CALABARZON*, a developing urban and industrialized center.

This is with regard to the town of Pagsanjan, location of the world-famous Pagsanjan Falls where hundreds of tourists flock daily and, even in thousands during summertime. This gruesome example of youth exploitation and abuse was reported to me by a concerned citizen in my capacity as Provincial Director of Laguna many years back. What caught my attention was that it was not the victims or the parents of the victims or even their relatives or the local officials who reported the matter to me, but, it was a disinterested party, an ordinary citizen. She brought the problem to me because she felt that this moral degeneration could lead to a "grimmer" situation worse than the drying up of the Pagsanjan

Falls which is the major source of income of Pagsanjan.

Once known as the "Athens of Laguna" and the former provincial capital, the town can boast of having been the native town of famous and highly respected figures in government service, politics and academics as well as in the military field.

Now, Pagsanjan is being beset by probably one of the worst forms of sexual deviation called *PEDOPHILIA*. *PEDOPHILIA* is not an easy subject for discussion. This is not a legal term either, and it may be defined as a preference or addiction by an adult to sexual practices in which a child under the age of puberty is the other party. Homosexuality is sometimes associated with *PEDOPHILIA* which has attracted the attention of research workers and medico-legal experts.

To the homosexuals or gay communities abroad, the town of Pagsanjan is known as a haven for their activities as published in magazines, such as: *The Australian Support Group of Pedophile Newsletters* in Melbourne and Sydney, Australia and the *Spartacus* in Amsterdam, Holland.

*Spartacus International Gay Guide* in 1970 issued in Amsterdam an advertisement, as quoted in part:

"...Pagsanjan was already our number one target.... the world's ultimate paradise for gays including pedophiles...."

"...We assure you of the holiday of a lifetime in this tremendous paradise and as there are no laws governing homosexuality, sex with boys of all ages is quite legal...."

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\*Police Senior Superintendent, Deputy Director for Operations, General Headquarters, Philippine National Police

"...Most boys in Pagsanjan are available though not all of them are gay. One could say that the boys of Pagsanjan are rental industry themselves...."

What I have brought to your attention is the gruesome truth about child abuse and prostitution. I hope this truth will develop a firm commitment leading to an international concerted effort to fight child abuse and prostitution.

Let me now proceed to the discussion on the topic assigned to me which is "THE PROBLEMS FACED BY THE JUVENILE JUSTICE SYSTEM ADMINISTRATION IN THE PHILIPPINES IN THE CONTEXT OF URBANIZATION".

For purposes of understanding better my presentation, let me outline my topic into four parts:

PART I – The Administration of the Juvenile Justice System in the context of Urbanization: A Situationer.

PART II – The Effects of Urbanization on the Five Pillars of the Juvenile Justice System.

PART III – Countermeasures to Minimize the Effects if not Totally Eradicate the Problems.

PART IV – The Philippine Experience.

### **PART I – The administration of the juvenile justice system in the context of urbanization**

How Does Urbanization Affect the Administration of the Juvenile Justice System? The bad effects of urbanization on the administration of the juvenile justice system are as follows:

#### *Ecological Strain:*

During urbanization, there is a tendency for people to mushroom near the source of livelihood. Thus, land spaces for recreational facilities like playgrounds, botanical and wildlife parks where city children may com-

mune with nature become limited. The children's interest is limited if not totally sacrificed in favor of spaces for offices and houses. As we all know, children who are restricted and confined to living in small spaces and in non-recreational environments are more violent and predisposed to crime. Only animals, such as dogs, are confined to limited spaces in order to make them viscous and estranged from human beings.

#### *Psychological Influences:*

The psychological requirement for city dwellers in order to prevent anarchy is for them to respect the rights of others for life, property, and family values. However, this notion has created a negative effect on the campaign to report child abuse and prostitution. People are so afraid to infringe on the rights of others to the point that they even shy away from giving information on any violations. Probable witnesses are wary of countercharges from people they report. As such, they even go to the extent of buying themselves out of becoming a witness.

#### *Sociological Influences:*

Urbanization to most city dwellers means the following:

a) Cosmopolitan rather than parochial outlook. When this happens, people tend to look at life as universal rather than local. When one attempts to solve a problem taking into consideration the universal interest, it will be next to impossible to arrive at a solution because there are too many variables to consider. Whereas, if the problem is localized, the variables will be few and it will be easier to find a solution. This is true in the solution of juvenile delinquency problems.

b) The relations among people are impersonal and utilitarian rather than personal and sentimental. Children who are exposed to an impersonal world are left to fend for themselves and in the process become more predisposed to crime. The youth in the rural areas are personally attached to their environment, where everything including

the people around them are part of their lives and so the possibility of committing a crime against their own friends is remote.

c) The people are more rational rather than superstitious. In an urban setting, the people including the youth have reasons for all their actions. As long as they can rationalize their actions, to them the ill effects of their wrongdoing are lost, as contrasted to the non-urban areas where the youth stick more to proven traditions.

d) Urbanization means more emphasis on achievement and success, rather than health and family life. The maddening rush for success even to the detriment of health and family life is one of the disadvantages of urbanization. Many families have been broken and many children lost to crimes and drugs because their parents have forgotten them in their quest for personal achievement and financial sufficiency. While in the non-urban areas, the parents have all the time to take care of their children.

#### *Population Growth:*

a) "Population explosion" describes the remarkable acceleration in the rate of population growth. The rate of growth most of the time is not matched by the needed government services. The priorities are political and economic activities. The social aspect of development is left to the community. The problem is that the community is also as busy in reaping the bounties of urbanization and industrialization. As a result, the social development does not occur in step with the other factors that fuel continuing development.

b) "Population implosion" refers to the increased concentration of the world's people in relatively small areas of the earth. When this happens, there is a mad scramble for food, space, work, services, shelter and everything, including recognition. Thus, the weaker members of the society, the youth, carry the brunt of the ill effects of this development. Some, if not most, are not only deprived of basic care but are even maltreated

by their parents who have succumbed to the pressure. Thus, some youths stay away from home only to be abused and exploited by unscrupulous adults.

c) "Population differentiation" refers to the increasing heterogeneity of the people sharing the same geographical location and the same economic and political activities. People who come from different cultures will experience the following when they stay together in one place:

– There are bold actions to prove one's race is superior over the others and more often force will be used to achieve it. This use of force will always result in violence and the children will be the innocent victims. Children who are exposed to violence will also become violent.

– There is a tendency to learn first those that are considered bad traits and actions from the other groups. It is the characteristic of most young people to want to learn what can hurt. Thus, the first thing a youth does is to learn the words from the other groups which mean or result in bad things. The youth from the group who is out playing with the kids from the other groups will surely experience the above results.

– The tendency to interact only with one's group could occur. Thus, the solution of a community problem is a multitude of individual solutions from each group. The problem is that some solutions might even contravene each other. The youth being the weakest member of the community will suffer the effects of this disorganized and inefficient way of solving the problem.

There are also effects of urbanization that are beneficial to the administration of the juvenile justice system:

#### *Industrial Development:*

Urbanization and industrialization result in a bigger labor force. A bigger labor force necessitates a division of labor and this will result into specialization. As the population grows so does the number of policemen in the

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police station. Instead of assigning the administration of juvenile delinquency cases to one officer who is also handling other responsibilities, the Station can now afford to establish a separate youthful offender's office which specializes in the problem.

### *Technological Developments:*

The development of fast and efficient communications and transportation will go a long way in improving the parents' means of monitoring the activities of their children. Video and TV, if used properly, can be a good medium to educate the youth. The availability also of modern equipment such as computers will facilitate the recording of data.

## **PART II - THE EFFECTS OF URBANIZATION ON THE FIVE PILLARS OF THE JUVENILE JUSTICE SYSTEM**

The Philippines considers the administration of Juvenile Justice as work to be done not only by two agencies of the government but the whole government and the populace. Specifically, they are known as the five pillars of the Juvenile Justice System and are as follows:

a) The Community - Where all the sectors of the society interact. It includes the parents who nurture the child from birth to adulthood, his neighbors who give great bearing to his environs, his teachers and classmates in his school where his knowledge about his world are increased and honed, his parish or ministry where his soul is refreshed with godly words and deeds and everybody that he meets in his day-to-day life.

b) The Police - These are the law enforcers who maintain peace and order in his community either by preventing crimes from happening or suppressing them. This group may cross a child's path not only during moments when he goes out strolling with his friends but also when he commits a crime or

he is the victim of a crime. It is the duty of a policeman to inform the parents or guardian of the youth when he is involved in a case or crime. Additionally, he should bring the youthful offender for a physical and medical examination; release the child on recognizance to the custody of the Department of Social Welfare and Development or a respected member of the community; and provide detention for the youth which is separate from adult offenders.

c) The Prosecutors - They are the state prosecutors/attorneys who file the case for the aggrieved party, which is usually the State in cases which are non-civil in nature.

d) The Court - The courts so designated by the State to hear cases against youthful offenders.

e) The Correctional and Rehabilitation Centres - This is where a youthful offender is committed when the court so orders it.

### *Effects on the community efforts:*

Urbanization has also affected the efficiency and effectiveness of the five Pillars of the Justice System in the administration of Juvenile Justice.

a) The community during urbanization focuses its efforts more on sustaining the economic growth unfolding before its very eye. Thus, there is a tendency for the community bread earners who are mostly working parents to concentrate on their jobs and relegate to the background the required parental attention that their children need.

b) The neighborhood is similarly situated as the family and it is also lured to the lucrative vehicle to self-sufficiency afforded by the unfolding economic boom. Everybody in the community is busy with their work to a point that even people in the same building do not have time to talk to each other. The residents' participation in community youth-related projects are left to the concerned government agencies to attend to. This includes establishment of the facilities for the youth such as playgrounds, schools and sum-

mer camps and many other things where the participation of the community is needed. Without the participation of the community, these facilities might not address the real problems of the youth of the community.

c) The national and local officials who are part of the community will most always favor the use of scarce resources for the needed economic structures to hasten and sustain the development. The social structures will receive only minuscule support, if any.

d) The community has the tendency to leave to the schools and the church the care and attention that the children need during their youthful development. When the schools have many children to attend to, the care given is sometimes commercialized and impersonal. This kind of a treatment is rejected by a growing youth. When he is bored in school his energy is diverted to some unproductive activities which are more often related to drugs and crimes.

e) The much-improved technologies that go with urbanization, however, bring facilities that draw the family closer. For one, the improved communication facilities gives the parents a better way to monitor, entertain and keep their children away from bad company.

*Effects on Police Efforts:*

1) During urbanization, the tendency is for the police to concentrate on crimes usually perpetrated by adult criminals rather than petty crimes usually perpetrated by youthful offenders. With lots of money circulating around, criminal activities become lucrative. This is coupled with the sophistication on the part of the criminals in terms of vehicles, firearms and communications. The police has to match this criminal sophistication, otherwise they will not be able to apprehend any of the offenders. Thus, police efforts and resources are concentrated on these high crimes and petty crimes occur unchecked and sometimes unattended to and unnoticed. The result is that the offend-

ers of petty crimes who are mostly the youth graduate to more serious crimes.

2) Members of the press, especially those in the Philippines who are much involved during urbanization, also direct their criticism on the inability of the police to solve celebrated criminal cases. They make it appear that a lot of these crimes are going unsolved. The poor police chief, to keep his station off the press hook, has to concentrate its efforts on these high crimes and relegate again the petty crimes to the background. It is common knowledge that most, if not all, high crimes are perpetrated by adults.

3) The much publicized drug problem has also taken away the resources left in solving juvenile delinquency cases. The government has become preoccupied in putting up structures to stop drug addiction. Thus, some resources intended for juvenile projects are diverted to anti-drug addiction projects. It is good that some of these facilities are also intended for curbing juvenile delinquency.

4) The police look at their participation in curbing juvenile delinquency as a tedious and delicate job. Thus, the scarce number of policemen who possess the qualities and qualifications to handle juvenile delinquency cases shy away from the assignment. Sometimes, if not most of the time, a lesser qualified policeman is assigned to the job.

5) There are some benefits that the police also derive from urbanization that can help them in the administration of Juvenile Justice. One of these is the forced specialization that the police undergo when their stations grow in number which usually happens during urbanization. In the case of the Philippines, it is a must for a police station of an urban area to set up a child/youth relations office. It is easy for police stations of urban areas to do this because they are given priority in the number of personnel.

*Effects on Prosecution Efforts:*

1) Most of the witnesses for the prosecution during urbanization are busy people who would not like to be absent from their

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job because this will prevent them from earning money. The people feel that the time spent in testifying might cost them their work or contract. Thus, the prosecution has a hard time getting witnesses.

2) Parents who are supposed to file the case on behalf of their children who are victims shy away because court cases are long and protracted. What they gain in pursuing the case is lesser vis-à-vis the opportunity lost for all the time they will use to follow up and attend it. Most of the time, instead of pursuing the case, they opt for a settlement because it is more convenient and financially viable.

3) The prosecution, as a result of urbanization is also saddled with prosecuting many cases beyond their human capability. Thus, sometimes, petty crimes involving youth are haphazardly filed.

4) There is more of an increase of cases involving adults than those involving youthful offenders. Thus, most of the prosecutors' training and experiences are concentrated on adult cases. Training for the prosecution of youthful offenders is very limited. Prosecuting a case involving youth not only involves knowledge of the law but also possession of knowledge about child psychology, indicating why there should be training in this area as well.

5) The expertise of the law enforcers during urbanization is also concentrated on more commonly violated penal cases, and resources are directed at such efforts. This being the case, the police does not gain the proper expertise to assist the prosecutors in juvenile cases.

### *Effects on the Courts' Efforts:*

1) During urbanization, there is clogging of the court dockets of civil cases. This stems from cases filed as a result of the so many transactions happening during this period. Thus, the hearing of the cases involving youth and other cases is delayed. The common adage that "A justice delayed is a justice denied", may describe the situation. Worst,

the victim may take the law into his own hands and exact his revenge on the youthful offender.

2) Since there are few juvenile cases, there have also been fewer studies regarding the problem. Thus, sometimes there has been a very minimal amount of materials to serve as reference. The judges are not afforded the same quantity and quality of references which are available to adult cases. Thus, making decisions or providing help to juvenile offenders is harder for the judge.

3) Some judges shy away from hearing cases involving youth. This is so because aside from the fact that said cases are tedious, they also require continuous coordination with other agencies. Thus, new judges are assigned to hear these cases. Lacking in experience, the new judge sometimes fail to come up with a sound decision and to provide the necessary consideration to the youth involved in the case.

4) The lawyers are also busy during urbanization. Thus, when they serve as counsels to a case being tried, they usually ask for postponement. Continuous postponement sometimes results in the dismissal of the case because of the non-interest on the part of the plaintiff whose lawyer is continuously absent.

5) During urbanization, the judges become busy not only with their jobs but also because of invitations given to them to serve as speakers. This additional activity gives the judge less time and concentration for his work which not only includes making decisions but also following up the rehabilitation given to youthful offenders.

### *Effects on the Correctional Institutions' Efforts:*

1) To rehabilitate a youthful offender, the tasked agency needs the help of the biological parents or at least a willing foster family. During urbanization, everybody is busy and most of the time the tasked agency cannot get the cooperation of the parents or even get a foster family to assist in helping the youth-

ful offender assume active and mature roles in the conduct of his life.

2) Networking to get more agencies involved in rehabilitating a child also becomes hard during urbanization. The other agencies are also busy with their own assigned tasks. Since this is the case, the office tasked to do the job cannot provide the required help the youthful offenders need.

3) There is not much interest coming from the community to come up with joint intervention programmes to bring the youthful offender back into a normal life situation. The community is given priority to the requirements of economic development.

4) The rehabilitation centers are most of the time congested. Thus, these facilities cannot provide the physical, social and educational needs of all the resident youthful offenders or youth inmates. This being the case, the youthful offenders suffer physically and emotionally.

5) There is the usual problem of the lack of trained staff to help in the rehabilitation of the youthful offenders. The staff cannot even afford five minutes of individual time with each youthful offender. As a result, the youthful offender becomes more psychologically imbalanced.

### **PART III - COUNTERMEASURES TO MINIMIZE THE EFFECTS OF URBANIZATION ON THE JUVENILE JUSTICE SYSTEM**

After examining the effects of urbanization on the five pillars of the juvenile justice system, I am of the view that the following are the factors that affect the Juvenile Justice System during urbanization:

a) Increase in population – necessitating increased requirements for peace and order services;

b) The normal urge for the parents to ride on the economic boom – making them so busy in their jobs that they leave the respon-

sibility of caring for their children to others;

c) Lack of training to handle juvenile delinquency cases – leaving inexperienced officials with the responsibility to take care of cases involving the youth;

d) Lack of funds to support projects – resulting in ineffective care of youthful offenders;

e) Lack of sufficient laws for the care and protection of the youth – resulting in gray areas in the treatment of youth offenders;

f) Presence of local traditions that contravene situations during urbanization – preventing the infusion of modern and tested ways to treat the youthful offenders; and

g) Lack of one responsible agency to look after the welfare of youthful offenders – making it hard to pinpoint responsibility.

With the above factors that affect the administration of the Juvenile Justice System, the following are the suggested countermeasures to negate the effects of these factors;

1) As a matter of national policy, the State should treat and enforce the policy "Children First";

2) Congress should set aside a fund solely for the administration of the Juvenile Justice System;

3) If there is no law pertaining to youthful offenders, then, one should be passed;

4) The government should set up or assign one (1) government agency to oversee the Administration of the Juvenile Justice System;

5) The youth should be made to participate in the administration of the government and they should be represented in every forum that pertains to their welfare and rights;

6) All government agencies should have an office where the interest of the youth is looked after or cared for; and

7) There should be a yearly training regarding youth development at the Development Academy of the Philippines (DAP) which all those involved in the administra-

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tion of the Juvenile Justice System should be required to undergo.

### PART IV – THE PHILIPPINE EXPERIENCE

The Philippines has a very young population. About forty-seven percent are below seventeen years old and about the same percentage of eighteen- to twenty-five year olds compose the voting population.

During the late sixties, student and youth activism rocked the country. The students took to the streets and made it a venue to air their grievances. The issues they generated were not only good copy for the press but also built pressures which not only reverberated in the halls of congress and the presidential palace; these issues likewise became a common topic within the *Filipino* homes.

What were the youths' concerns? They wanted the following to be done:

- a) That enacted laws should always redound to their favor and should be futuristic;
- b) That they should participate not only in making laws but also in implementing said laws;
- c) That the budget in all government agencies should always have a part in the development or care of the youth;
- d) That there should be a government agency which would be responsible for looking into the welfare of the youth;
- e) That steps should be made to stop the destruction of the natural resources of the country and that they should be conserved for future generations;
- f) That steps should be taken to develop the vast human resources of the country; and
- g) That at their very young age, they should be taught a vocation where they can start earning a living. The government cannot lend a deaf ear to these worthy desires of the youth. Even the authoritarian Marcos

government had to give way to their desires. In a national youth conference, the following was what Marcos said in his address to the youth: "I ask each and every one of you to write and inform me of what you are thinking about, not only on government but on society in general and about policies, international, foreign and domestic. If there is any type of involvement for you that I can think of, I will write you and ask you to participate. Don't think that you are going to escape now, you cannot. Now, I am going to ask your opinion perhaps about some of the problems that will be confronting me and through you, I hope to be able to obtain a cross section of the opinion of your generation. I will be asking you about the symptoms throughout the land, the symptoms that you see and feel. Is there any ailment or sickness that needs immediate remedy? Are the symptoms significant? Do they require surgical treatment or do they require medical treatment only? What are the clinical studies? Do we need to study the blood system of the patient?"

These statements were given by Marcos at the height of student activism where he saw that it was futile not to listen to the young. What happened after this was the institution of laws for the youth which are the following:

- a) The establishment of the *Kabataang Barangay*, a youth council from the lowest unit of government up to the highest level. The *Kabataang Barangay* was even given a seat in Congress by appointment and in the executive department too;
- b) Laws were passed to stop all activities that will use up the natural resources. The clamor was for it to be conserved for the youth;
- c) The Department of Social Welfare and Development (DSWD) was given as one of its three primary tasks to look into the development and care of the youth especially those who are less-privileged and involved in crimes;

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d) The National Youth and Manpower Development Institute was established to provide training for the youth especially the out-of-school and for them to have vocational jobs.

e) Laws were enacted to give privileges to the young, such as paying less transportation fare, low interest rates, loan for tuition fee payment and the like; and

f) All government agencies especially those that deal with juvenile justice were directed to put up offices that specialize in youth affairs.

It is against this backdrop that the government came up with specific guidelines and procedures for the five pillars of the Juvenile Justice System in handling situations involving the protection and promotion of the welfare of youthful offenders:

### 1. The Community:

1.1 Upon the child's apprehension by the *Barangay Tanod* or by the police, he or she shall be referred to the *Barangay* Chairperson. The *Barangay* Chairperson, in turn, shall notify:

1.1.a. The *Barangay* Council for the Protection of Children (BCPC), if such is existing; or

1.1.b. The social worker of the DSWD; or

1.1.c. The social worker of the Local Government Unit or a Non-Government Organization/church group/task force or committee working with youthful offenders.

1.2 If the child is homeless, the community—through the DSWD, Non-Government Organization (NGO), civic groups, etc. shall provide temporary shelter and other services while trying to locate his family or nearest relatives;

1.3 The *Barangay* Chairperson shall initiate conciliation/mediation between the child and his parents, on one hand, and the offended party/ies, on the other;

1.4 If the problem is not settled during the conciliation, the *Barangay* Chairperson shall

convene the *Lupong Tingapayapa* or Adjudication Body, for further action or resolution of the problem;

1.5 If the problem is settled at the *LUPON* or upon return of the child from the detention or rehabilitation center, after-care services shall be provided either by:

— A social worker/welfare assistant; or

— A concerned citizen; or

— An appropriate agency in the community.

1.6 If the case is with the office of the prosecutor, the community shall seek legal assistance on behalf of the child; or

1.7 If the case is filed in court, the community's role shall be supportive during its pendency, whether the child is at the detention center or under the custody of his parents or of a responsible person.

### 2. The Police/Law Enforcement:

#### 2.1 On Prevention

2.1.1 The Station Commander shall schedule regular *UGNAYAN* among *Barangay* officials, community leaders, parish members, representatives of welfare agencies, school teachers and parents. Specifically, he or his representatives shall give the necessary orientation on policies and procedures regarding the legal protection of the youthful offender.

2.1.2 In coordination with the community, the police shall also plan and implement athletic and other relevant programmes to encourage the participation of the youth and to provide wholesome recreation activities for them.

#### 2.2 On Treatment and Rehabilitation

2.2.1 Upon apprehension, the child shall undergo physical and mental examination, in accordance with Article 190 of P.D. 603;

2.2.2 The police shall contact the parents/guardians of the child to inform them of the child's apprehension and notify the DSWD;

2.2.3 In the meantime, the child shall be sheltered at the police detention center, and the police shall see to it that the child is separated from adult detainees. If a detention center is not available, the child shall be

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entrusted to the temporary care of the DSWD, an appropriate social welfare agency or individual, in the community;

2.2.4 A lawyer shall be designated to represent the child while the social worker extends the necessary assistance to the child and his parents;

2.2.5 After the investigation, the police shall submit to the office of the prosecutor or fiscal the following:

- Booking sheet and arrest report prepared by the police;
- Statements of the offended party and of the witnesses; and
- Intake case study prepared by the social worker.

### 2.3 On Custody

2.3.1 The police shall provide detention facilities for minors separate from adult suspects;

2.3.2 If no case is filed against the minor, the child shall be released to his parents or guardian, or referred to an appropriate child or youth care agency for shelter and care; and

2.3.3 If the child has to be committed, he must be personally conducted to the rehabilitation center.

### 2.4 On Linkages

2.4.1 The police shall obtain assistance of the social worker of the DSWD, Office of the Prosecutor and other workers of child and youth welfare agencies during the investigation phase. All efforts to divert him from entering the criminal justice system shall be made;

2.4.2 For preventive programmes and services, the police shall refer the youth offenders to the DSWD, Task Force/Working Committee on Youthful Offenders and other government agencies working with the youthful offenders such as the *Tahana* Outreach Projects and Services (TOPS), *Tanglaw* Family Health Project (TFHP) and *Send en Home* in Metro Manila; and

2.4.3 The police shall extend necessary

assistance to licensed child and youth welfare agencies on networking for youthful offenders.

### 3. The Prosecution:

3.1.1 The case shall be referred to an Inquest prosecutor who has had the necessary orientation/training on youthful offenders;

3.1.2 The prosecutor shall require the submission of the following:

- Certification that the child has undergone physical and mental examination, including a copy of the results of the examination; and
- Certification that the case has been referred to the social worker with the case study enclosed;
- Certification that the child's parents and the *Barangay* Chairperson in the child's place of residence have been notified; and
- Evidence that a *prima facie* case exists.

3.1.3 The following shall be the possible disposition of the case;

- The case is filed with the court;
- The child is assisted in a diversion programme; or
- In the absence of a *prima facie* case, the case is dismissed.

3.2 For cases filed directly by the offended party.

3.2.1 Before the case is scheduled for investigation, the child shall be referred to the social worker by the Prosecutor's office. The social worker shall then contact the child, his parents and legal counsel and prepare a social case study report;

3.2.2 The case shall be assigned or raffled among the prosecutors who have had the necessary orientation/training on youthful offenders; and

3.2.3 An investigation shall then be conducted.

### 4. The Courts:

#### 4.1 On Prevention

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The courts shall be expected to:

4.1.1 Disseminate information/data concerning youthful offenders to enrich current knowledge on their situation; and

4.1.2 Orient judges, prosecutors, police officers and the members of the court staff on the situation, needs and problems of youthful offenders.

### 4.2 On Treatment and Rehabilitation

4.2.1 Upon filing of the information and where warranted by justifiable circumstances, the court shall immediately order the transfer of the custody of the child to the Department of Social Welfare and Development (DSWD) or to any appropriate child welfare agency. Upon receipt of the favorable report/s of the social worker concerned, the case can be dismissed if warranted by the attendant facts.

4.2.2 If the case is not dismissible, it shall be set for pre-trial diversion in accordance with the rulers. This shall be done in the presence of the parents or the counsel of the child for purposes of clarifying the issue/s or counseling, amicable disposition of the case, etc.;

4.2.3 If the case cannot be settled amicably and indication shows that the child needs rehabilitation, the court shall proceed with the arraignment and hearing;

4.2.4 A counsel *de officio* shall be appointed to assist the child in all steps of the proceedings. If the prosecutor and counsel cannot appear, they shall notify the court in advance so that substitutes can be appointed accordingly;

4.2.5 The court shall adopt a separate calendar for cases involving youthful offenders. The conduct of trials of minors inside the jails shall be avoided. A "home" atmosphere will minimize traumatic effects on minors who need help, not recrimination;

4.2.6 During the proceedings, each child shall be tried individually in chambers or *in camera* in the presence of his parents/guardians and of his counsel. The judge shall treat him with compassion, without prejudicing

the dignity of the court;

4.2.7 If the court finds that the child committed the offence, it shall suspend the promulgation of the sentence upon motion of his counsel. It shall place the child in the custody of his parents/guardians or any DSWD rehabilitation center, using the report of the social worker concerned as reference;

4.2.8 The court shall visit the detention or rehabilitation center involved. In this connection, the judge shall counsel the child so that he can earn the dismissal of his case. If the judge is unable to visit personally, he may assign the social worker concerned or counsel *de officio* to represent him; and

4.2.9 The court may authorize recreational activities such as parties, picnics or outings that will give significance and meaning to the youthful offenders' rehabilitation and dismissal of their cases. The protection and welfare of the children shall be the basic consideration of the court.

### 5. The Corrections:

5.1 In preparation for legal assistance, the social worker shall:

- Conduct intake interviews;
- Conduct home visitations and make the necessary preparations for the eventual return of the child to his family;
- Conduct corollary interviews/contacts with schools, churches, hospitals, industries, *Barangay*, etc.; and
- Prepare and submit social case study reports.

5.2 When necessary, the child shall be referred to the following for legal assistance:

- 5.2.1 Government Organizations
  - Department of Justice; Public Attorney's Office and the Office of the Prosecutor
  - Commission on Human Rights
- 5.2.2 Non-Government Organizations
  - Integrated Bar of the Philippines (IBP)
  - Filipino Legal Assistance Group (FLAG)
  - U.P. Women's Lawyer's Circle (WILOCI)

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- Women's Lawyers Association of the Philippines (WLAP)
- Movement of Attorneys for Brotherhood, Integrity and Nationalism, Inc. (MABINI)
- Sapphire Four

And this should be our juvenile justice — making children live to learn and find love in this world.

5.3 While in custody, a comprehensible rehabilitation programme is provided;

5.4 Follow-up and monitoring shall be done through:

- 5.4.1 Liaison with the legal office handling the case;
- 5.4.2 Preparation of progress reports in collaboration with the legal office;
- 5.4.3 Preparation of the final reports on the disposition and termination of the case; and
- 5.4.4 Referral for after-care services upon discharge to parents and community.

At this juncture, let me share with you some quotations for the youth which I hope will remind us of the situation of neglect and abuse our children are suffering around the world. With these quotations, I hope to forever get your commitment:

"Babies come into this world with a message for mankind: Take care of me, or I shall die, I am your hope, your future, your chance of immortality, if I die, it is as if you never lived".

"Children learn from how they live. If a child lives with criticism, he learns to condemn. If a child lives with hostility, he learns to fight. If a child lives with ridicule, he learns to be shy. If a child lives with shame, he learns to feel guilty. If a child lives with tolerance, he learns to be patient. If a child lives with encouragement and confidence, he learns confidence. If a child lives with praise, he learns to appreciate. If a child lives with fairness, he learns justice. If a child lives with approval, he learns to like himself. If a child lives with acceptance and friendship, he learns to find love in the world".

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## An Analysis of the Crime Situation in Metropolitan Manila

by Pantaleon G. Dumlao, Jr.\*

It is indeed a privilege to be with you today, to discuss with you the crime situation in metropolitan Manila, the center of commerce in my country, the Republic of the Philippines. My discussion will evolve on the following: The Philippine Criminal Justice System, Organization and Functions of the Philippine National Police at the provincial and city/municipal levels, the crime situation, crime prevention activities, and conclusion.

In the Philippine setting, the Criminal Justice System plays a vital role in the control, prevention and suppression of criminality. The criminal justice system is composed of the:

*Community* – A group of persons living in the same place to earn a living; it is in this area where crimes are committed, where people residing thereat are victims, and sometimes, even the perpetrators of the crime themselves. It is likewise in this place where the offender may return, as part of their community, after his rehabilitation.

*Law Enforcement* – A group tasked to implement the law; to prevent and control crimes, and to bring the offender before the judicial authorities for a fair trial. In the Philippines, it is the Philippine National Police which is solely tasked to enforce the law. They are at times assisted by the National Bureau of Investigation, the Presidential Anti Crime Commission, the Bureau of Immigration, the Department of Energy and Natural Resources and the Bureau of Customs.

*Prosecution* – A body where Law En-

forcement Bureau refers infraction of the laws, so they can conduct legal proceedings against the offenders; they are either the provincial or municipal/city prosecutors. There are however cases in municipalities where when the municipal prosecutor is not available, a municipal mayor is authorized to act in his behalf.

*Judiciary* – The part of government that administers justice. They determine the guilt or innocence of a person who is suspected to have violated the law and promulgates punishment therefore; these are the municipal circuit trial courts, the regional trial courts, the court of appeals, and the supreme court.

*Correctional Institutions* – A place where criminals are confined to prevent them from being threats to society, for them to be rehabilitated and eventually become worthy and acceptable to the community where they belong.

Metropolitan Manila experienced rapid industrialization in the late 1960's. While before, Metropolitan Manila was simply the hub of trading, where people meet to discuss requirements and find out from where they can buy them, the late 1960's and onward saw the mushrooming of industries in the metropolis. From candy factories to steel mills, paper manufacturing companies to textile factories, name it, metropolitan Manila has it. This rapid industrialization saw the conversion of agricultural lands to factory sites and housing subdivisions. Hundreds of thousands of farm hands became idle. These are now among the people which the government finds hard to accommodate into skilled labor necessary to run the factories, not to mention white collar jobs that

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may be opened in industries. Because of their educational deficiencies and knowhow of technology, these are likewise the people that are prone to commit crimes, either due to necessity, or those who may be induced to commit crimes while under the influence of liquor, or prohibited drugs.

Allow me to give you an overview of how the Philippine National Police functions. The mission of the Philippine National Police is to enforce the law, prevent and control crimes, maintain peace and order, ensure public safety and internal security with the active support of the community. At the national level, the overall commander is called the Chief, Philippine National Police. He holds the rank of director general, which is equivalent to a four star general in any armed force. Directly under him are two deputies, the deputy chief for administration, who oversees the functions of the directorate for personnel, logistics, comptrollership and plans, while the deputy chief for operations, the position where I am currently assigned, oversees the functions of the directorate for intelligence operations, and civil military operations. Below our position is the chief directorial staff who sees to it that the seven directorates function in accordance with the guidance given to them by the chief Philippine National Police, and in furtherance to the mission and functions of the organization. Below the directorial staffs are administrative and operational support units that give assistance to the command and the lower units when so directed. Following the pattern of line and staff organization, the regional commands are headed by a regional director with a rank of chief superintendent, equivalent to a one star general. He likewise has a staff patterned after that at the national level, and directly below him are the provincial directors who oversee the functions and duties of district mobile forces and the city and municipal or city executives. Chiefs of police are being selected by the city or municipal executive from a list of five recommendees that provincial directors

submit to them. The city or municipal police forces are the front liners in the enforcement of laws, may it be national laws or municipal or city ordinances. Municipal or city ordinances are laws promulgated by municipal or city councils which are the law-making bodies of cities and municipalities. Likewise, provincial directors are selected by provincial governors from a list of three recommendees submitted by the regional directors. The provincial directors assist the city and municipal police forces in the enforcement, suppression and prevention of crime in the municipality or city, within its political jurisdiction. In cases where municipal or city police forces cannot cope with the crime situation in their respective areas, the provincial directors may assign additional forces thereat, or cause the relief of personnel found incompetent in the performance of their duties.

The Philippine National Police is guided by dozens of standard operating procedures and guidances which are published from time to time, and/or specific instructions from higher echelons of command, the revised penal code and other special laws enacted by congress and promulgated by the president of the republic in the enforcement of law. Among those mentioned, the revised penal code, consisting of 365 articles, and divided into 14 titles, is the bible of the Philippine National Police. Of the 14 titles, crimes against persons, against property, and against chastity are considered index crimes, they being the barometer of the peace and order condition in a particular area.

The last five years (from 1987 to 1992) shows metropolitan Manila, composed of four cities and 13 municipalities, has an average annual crime volume of 20,539. 1989 shows the highest crime incidence for the period under review, with 22,993 crimes committed. Since 1988 however, criminality in the country has continuously declined.

Of the 20,539 cases reported, an average of 5,581 theft cases was registered, or 27.17

percent for the period under review. An in-depth study of the situation tends to point to poverty as among the major causes for the commission of the offenses of the approximately 8.7 million inhabitants of metropolitan Manila, with a floating population of roughly 5.9 million. Statistics show that **0.025 percent** or 559,000 are unemployed, while **0.083 percent** or 1.225 million are living below the poverty line. The presence of transients in the metropolis, either to do business or simply enjoy the atmosphere of the city, adds up in tempting criminals to do their trade. Very often, these people are not aware of the modus operandi being used by criminals in the city, as compared to those who do their nefarious trade in provinces. Likewise, economic dislocation, where people are forced to come to the city with the belief that it is here where the opportunity lies, and where very often, they hear about news of their provincemates making it rich in the city, that lures people to sell their assets in the provinces and venture into the city, only to find out later that they will be gypped by syndicates, and their hopes put to naught. These people later lay their hands on things though not their own, if only to let their family live, and service the ordeals in the city.

With this situation at hand, compounded by the lack of manpower of law enforcement units, not to mention the ill equipment in motor vehicles and crime detection capability of law enforcers, criminals are left to do their trade to the prejudice of their victims.

In the Philippines, the Philippine National Police is covered by civil service laws, where policemen are covered by the eight hours duty regulation. In times of emergencies however, or when the situation demands, members of the Philippine National Police may be asked to render extended tours to 12 hours per shift. The present strength of the Philippine National Police capital regional command of 14,000 men and a compliment of 1,200 officers, divided into three shifts to make the 24-hour policing duty, leaves a

meager 4,666 policemen on duty at any one time, overseeing the safety of roughly four million people in the streets.

It is in the light of this predicament that the Philippine National Police which initially organized the Barangay Tanods, or the neighborhood crime watch group in the Barangay level, the lowest political subdivision in the Philippine setting, has once again started to revitalize the organization at its Barangay within metropolitan Manila. The people in the Barangay are carefully selected to compose patrols that will go around the Barangay to check not only the peace and order situation, but also see to it that no resident of the Barangay loiters in their area during unholy hours or early mornings. This way, commission of crimes are prevented, and residents are assured of their safety. During times when they are not on patrol, they are taught livelihood projects to augment the meager income they receive. Residents of the community who are not tapped for patrol work, are convinced to assist the Tanods by contributing to the well being of those who are tasked. This way, people in a community are brought closer together, thereby living a harmonious community life. On some occasions, the Barangay Tanods are not only utilized in community policing, they are also tapped for Barangay disaster operations in times of calamities. Because they are a closely knitted organization in the community, we usually find this group opposing any move that may be detrimental to a member of the community, or the entire community, as the case may be. The Barangay Tanods are authorized by law to make arrests of persons suspected of having committed crimes, under rule 113, section 5 of the revised penal code which specifies, and I quote... Arrest without warrant, when lawful - a peace officer or a private person may, without a warrant, arrest a person:

1. When in his presence, the person to be arrested has committed, is actually commit-

ting, or is attempting to commit an offense;

2. When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it;

3. When the person to be arrested is a prisoner who has escaped from a penal institution or a place where he is serving final judgment.

Another factor that contributes to the commission of crime is drug dependency. Although not yet at a very alarming level, the Philippine National Police has noted that some individuals who are being indicted in theft cases are under the influence of prohibited drugs. This usually happens when an individual is already a drug dependent, wherein the dependent, to sustain his capability to purchase drugs, resorts to thievery, before he graduates to a more sophisticated form, robbery. Persons apprehended in this situation are either made to suffer the prison term in a theft case, or are subjected to rehabilitation, if the offender so desires and volunteers to be rehabilitated for drug dependency.

There are also instances when during the pendency of a case, an individual is introduced to new forms of felonies/crimes. Take the case of a person who may be in jail for temporary detention, probably due to his failure to post bail on a lighter offense, say physical injuries. Very often, these individuals, because they are usually merged with hardened criminals, are thought to steal from other inmates within the prison cells. This way, they are introduced to the criminal world, and when eventually released, commit things they have learned while under detention.

The Philippines, being a developing country, does not just have, as of the moment, the financial capability to segregate individuals in detention centers based on the types of offense they have committed, not to mention their age bracket, to prevent them from being mixed with hardened criminals, and

prevent the escalation of the criminal world.

All remedial measures however, at this point in time, are already in planning tables, being meticulously scrutinized, to remedy the situation and expect a better, less crime prone country to live in, in the years to come.

The following areas are given preferential attention and consideration in setting up priority projects and activities for incorporation in the 1993 National Crime Prevention Program:

A. Structuring a Sound Administrative System for Improved Efficiency and Effectiveness

An important element in promoting efficiency and effectiveness in any organization is a sound administrative structure. An organizational structure must provide an atmosphere for synchronized operations, effective project implementation as well as minimal economic costs in order to achieve desired goals.

The criminal justice system is a complex organization. Criminal justice administration is an intricate process involving different agencies representing the five pillars. Each has its distinct roles and goals. The network of relationships among these pillars must reflect meaningful and continuing cooperation. Various problems, conflicts and issues characterize this relationship. Careful allocation of scarce resources is imperative to rationalize the system's intricacies.

The improved capability of the criminal justice system also depends on the improved quality of its activities. This is derived from well-trained personnel, better intra- and inter-agency human relations and broader support from the community for its various activities.

A focal concern to improve the criminal justice infrastructure is the system of unified and coordinated planning. Organic planning units in every pillar and in every agency can effectively coordinate crime prevention

activities that are planned on short-term, medium-term or long-term. A necessary requisite for planning and in the effective administration of criminal justice is the availability of reliable and timely data or information on criminal offenders, their modus operandi, records of conviction and other relevant data. The National Crime Information System is one project intended to enhance coordination among agencies involved in the criminal justice administration and crime prevention.

#### B. Hastening Fair and Humane Delivery of Criminal Justice Services

Delay in the delivery of criminal justice services still confront the system despite significant reforms that have already been instituted. Thus, many still experience prolonged detention, thereby adding to the problem of congestion and worsening the already inhumane conditions in jails.

In order to expedite the delivery of justice, streamlining of operations and procedures at every level of the justice system seems a most practical remedy. Monitoring of cases of detainees is another measure.

#### C. According Respect for the Basic Rights of Both Offender and Victim

The administration of justice extends to both the offender and victim of crime. The present constitution is explicit on a number of rights aside from the fundamental civil and political rights in the bill of rights. There are new provisions guaranteeing free access to the courts and quasi-judicial bodies and adequate legal assistance; the right to a competent and independent counsel; non-waiver of the right to silence and counsel except in writing and in the presence of counsel; prohibiting secret detention places, solitary, incommunicado or other similar forms of detention; directing penal and civil sanctions for violation of the rights of persons undergoing investigation; as well as compensation to and rehabilitation of victims of torture or similar practices, and their

families; and prohibiting detention by reason of political beliefs and aspirations; as well as the employment of physical, psychological or degrading punishment against prisoners or detainees or the use of substandard or inadequate penal facilities under subhuman conditions.

#### D. Minimizing Graft and Corruption and Cultivating Higher Standards of Ethics and Accountability

Moral recovery is essential if the country is to attain economic recovery and to sustain economic growth. Policies that are aimed at improving government service through a system of awards and incentives as well as stricter enforcement of discipline in the ranks continue to be introduced by the civil service commission. Government agencies also issue policies to govern the professional conduct of their individual employees.

Officials and employees who are involved in the administration of justice are more open to public scrutiny. Justice is not served by corrupt personnel in the criminal justice system. The public loses faith in a system that is unable to serve justice to its clientele credibly and creditably. Hence, measures have to be instituted to restore the credibility of the agencies involved in the delivery of justice by weeding out the incompetent, the inept and the corrupt, and at the same time by attracting and retaining the most competent and the best qualified, upgrading the service of key personnel in the criminal justice system means cultivating higher ethical standards and promoting a genuine sense of commitment to public accountability.

#### E. Enhancing Citizens' Awareness and Participation in Crime Prevention

People empowerment is a prevailing philosophy of the government. Public participation and community involvement in the various developmental activities give realization to people empowerment.

The success of the criminal justice system

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in the prevention and control of crime depends on the pervasive and diversified roles of the community. Informed citizens can have a decisive influence on the successful prevention, detection, prosecution and trial of cases, particularly in integrating offenders into the community as law-abiding and productive citizens, thus, crime prevention programs and strategies of the country have been realigned to facilitate active community involvement in the prevention of crime.

To realize these goals, the national leadership envisions to immediately implement the following:

### A. Law Enforcement Pillar

– Continue the present strategy it is presently implementing, and improve police image to foster discipline in the ranks.

Several activities aimed at producing better, more effective, more equipped, more visible, friendlier and more approachable police force. Activities in this regard includes the following:

#### 1. Administrative Changes/Reforms

To enhance the efficiency and effectiveness of police personnel, the law enforcement pillar has lined four activities, namely:

a) Police personnel administration system

This program of action will strictly implement (1) rank adjustments; (2) promotion system; personnel audit; and (4) personnel policy circulars.

b) Specialized training program

Under the specialized training program, police personnel shall be retrained on human rights education and police operations, including counterinsurgency. The police shall also be retrained on the handling of drug-related cases with emphasis on criminal procedure and criminal evidence.

As regards counterinsurgency operations, the development of counterinsurgency capability shall also be given emphasis.

c) Strict implementation of the police code of ethics

To help enhance the image of the PNP, the widest dissemination of the police code of ethics and professional conduct to all law enforcers shall be pursued. Another activity is the pursuit of a more expeditious dispensation of police administrative cases.

d) Granting of benefits/recognition to PNP officers and men

To motivate PNP members in performing their duties and to work for the enhancement and professionalization of the organization, the law enforcement pillar will give awards and decorations to deserving PNP officers and men, and will establish the retirement/separation and benefit system.

e) Nationwide Uniform Crime Case Report (NUCCR)

To provide direction to and facilitate crime case reporting at the local levels of the PNP, the use of the Nationwide Uniform Crime Case Report (NUCCR) system will be strictly implemented and monitored based on the findings of the National Crime Information System (NCIS) study being undertaken by the PNP.

In this connection, the training of police personnel and the procurement of necessary equipment will be pursued.

#### 2. Operational Effectiveness

a) Enhancement of patrol tactics and strategies

To increase police visibility in crime-prone/insurgent-affected areas, the law enforcement pillar has lined up several action programs, to include assigning of more PNP members to patrol duties, conducting of foot and mobile patrols especially in crime-prone areas, and the organization and equipment

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of counterinsurgency units.

### b) Improving crime solution efficiency

To increase crime solution efficiency rates, the scheme of having dedicated case personnel with adequate mobility and communication will be initiated. In addition, dedicated case personnel with adequate mobility and communication network in metro Manila shall be intensified.

### c) Busting of organized or syndicated crime groups

One of the top priorities of law enforcers in their operational activities is the campaign against criminality. Several measures in pursuit of this project are: identifying and neutralizing 238 organized crime groups, upgrading technical intelligence capability in support of the campaign against criminality, and intensifying the campaign against organized crime groups especially drug traffickers and carnappers.

### d) Arrest of "Wanted" persons

The arrest of "Wanted" persons is another project. Under this area of concern are two activities, namely: increasing the service of outstanding warrants of arrest and apprehending at least one of the ten most "Wanted" criminals in Area of Responsibility (AOR) per station per quarter.

### e) Reduction of loose firearms in the hands of unauthorized persons

The commission of crimes can be minimized by reducing the supply of loose firearms. Thus, the confiscation of loose firearms and the filing of charges against those in possession thereof will continue in order to help improve the peace and order situation.

Moreover, there should be an intensified campaign against loose and illegally-possessed firearms.

### f) Widest effective police coverage

For 1993, the law enforcement pillar shall

continue to fill up existing vacant positions indicated in the plantilla and to maximize the employment of police aides and auxiliaries, including use of auxiliaries for office/service support work.

To provide mobility, the acquisition of transportation facilities and ammunition equipment is another activity under this program.

Also, the implementation of reaction 166 will be intensified and expanded for the public to have easy access to police assistance.

### g) Administration of drug test to new applicants and suspected drug abusers among policemen and those within their reach

To address this problem, the administration of drug test to new applicants and suspected drug abusers among policemen shall be continued. To rid the service of potential misfits/scalawags and to intensify the screening of all suspected drug users, three activities are line up, namely: (a) improving counterintelligence capability for early detection of drug abusers in the police service; (b) conduct of regular random drug test of PNP personnel; and (c) initiating a massive drive against indiscipline through the adoption of new policies, revision of existing rules and directives and their strict enforcement.

## 3. Enhancing CJS Credibility

To restore public trust and confidence in the police and to regain the luster of its credibility, two activities are to be undertaken:

### a) Improving police-community relations

Improved police-community relations are viewed in terms of organizing/strengthening PNP community relations divisions/units in every station or substation; jointly formulating and undertaking police-community relations programs such as regular police visits to the Barangay; conducting dialogues among community

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members; working closely with civic organizations for social welfare and community development projects/activities; adopting a police-school program to allow the school children to meet a policeman as a friend; information work through the printing of a regular police newsletter or handouts on crime prevention, acknowledging community members/PNP men who are outstanding in the field of crime prevention; conducting anti-drug abuse programs and the like; and conducting a survey on public perception of the police.

b) Assisting the Barangay in organizing and operationalizing the "Neighborhood Support Group"

To enhance police-community relations, the "Neighborhood Support Group" was created pursuant to memorandum circular No. 105. This operates under the Barangay captain. MC 105 as it is commonly called, shall support policemen assigned to the community and shall monitor their performance.

With the birth of the Presidential anti-Crime Commission (PACC), the law enforcement pillar deems it necessary to coordinate its efforts in several activities that shall continue to be implemented in 1993. These activities include the busting of organized/syndicated crime groups, improvement of crime solution efficiency, arrest of wanted persons, and enforcement of special laws.

### *B. Prosecution Pillar*

For 1993, the prosecution pillar has lined up new projects, to include:

1) Establishment of "Task Force Katarungan."

The task force will be headed by the regional state prosecutor of each region. The major area of concern will involve the identification or monitoring of at least five

controversial or significant cases annually.

2) Reactivation of the National Prosecution Service performance audit team to spot-audit prosecution offices nationwide.

3) Implementation of case tracking system in NCR offices and key cities nationwide to ensure more expeditious action on all cases handled by the prosecution office.

Along with its other continuing projects, the prosecution pillar will endeavor to accomplish these new projects in the light of the pillar's thrusts of bringing about a more efficient and effective administration of the prosecution process, and inculcating a deeper sense of dedication, competence and integrity among prosecution personnel.

### 1. Strengthening Organizational Capability

a) Conduct of a continuing legal education program for prosecutors

To sustain the professional development of public prosecutors and to improve their efficiency in investigation, adjudication and trial work, the DOJ-NPS, in cooperation with the national prosecutors league of the Philippines, has programmed the conducting of at least three live-in seminars/trainings for prosecutors. The regional seminars shall cover subject matters relating to the latest legislations and jurisprudence on criminal law and procedure, the law on arrest, search, seizure and evidence, among others.

b) Filling-up of vacancies in the National Prosecution Service

For 1993, the DOJ-NPS has marked its target of 100 to 300 prosecutor appointments. The recruitment of additional prosecutors to vacant positions as well as to new chambers of judges to be created by the supreme court is in line with the prosecution pillar's continuing thrust of enhancing the efficiency and capability of the National Prosecution Service.

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### c) Construction of halls of justice

A joint undertaking of the DOJ-NPS and the supreme court, the construction of court houses, which includes offices of prosecutors as well as chambers of judges, is aimed at improving adequate and dignified infrastructure on justice administration.

Already regarded as a relatively successful project, this continuing activity of the prosecution and courts pillars has made possible the speedy construction of a number of quality courthouses throughout the country.

As in the previous years, linkages with the Department of Public Works and Highways (DPWH) and the Department of Budget and Management (DBM) will be made.

### d) Augmentation of office equipment and vehicles

Adequate logistical support is necessary in facilitating and expediting the handling of investigation and preparation of resolutions.

In this regard, the DOJ-NPS, through the Department of Budget and Management (DBM), has programmed for 1993 the purchase of an additional 200 typewriters, 200 filing cabinets and 60 computers to be distributed to 135 provincial/city prosecution offices nationwide.

## 2. Improvement of Information Network

### a) Computerization of prosecution data in the NPS

A continuing project of the prosecution pillar, the computerization of the prosecution data was temporarily shelved in 1992 due to financial constraints and the refocusing of priorities by the DOJ-NPS.

For 1993, the DOJ-NPS has programmed the computerization of at least 30% of provincial and prosecution offices in major urban centers throughout the country.

### b) Expansion of communication between the DOJ and the various provincial/city

### prosecution offices

To facilitate communication flow between the provincial/city regional prosecution offices, thereby ensuring a faster monitoring of cases and speedy dispensation of justice, the DOJ-NPS shall continually work for the link-up of provincial/city prosecution offices with the regional offices. At least 10 communication networks are to be established in 1993.

## 3. Facilitation of Case Disposition

### a) Establishment of "Task Force Katarungan"

To be spearheaded by the regional state prosecutor of each region, the "Task Force Katarungan" will be created to expedite and ensure successful prosecution of significant cases.

Specifically, the regional task force shall identify and monitor at least five controversial/significant cases in the region and shall aim to terminate prosecution of at least three out of five cases identified annually.

### b) Reactivation of the NPS performance audit team

To encourage performance efficiency of all prosecution offices, the NPS performance audit team will be reactivated to spot-audit the 135 prosecution offices nationwide. In the process, prosecution offices with low performance level shall be identified and monitored.

### c) Implementation of the case tracking system in NCR offices and key cities nationwide

Envisioned to be a continuing project of the prosecution pillar, the case tracking system to be initiated by the DOJ-NPS is one way of ensuring expeditious action on all cases handled by prosecution offices. Annual target from 1993 to 1998 are set at 10 cities, or a total of 60 cities within the next five years.

#### 4. Systematization of Procedure

a) Preparation of a compilation of all DOJ circulars and issuances and publication of criminal case digest

Aside from the manual for prosecutors, the prosecution pillars is venturing to publish, to aid prosecutors in the daily discharge of their duties; a compilation of DOJ circulars and issuances of the justice secretary started in 1992 and is expected to culminate by the end of 1993. The handbook on DOJ circulars which is scheduled for publication in 1993, will keep the various rulings and trends on criminal justice, as well as the current administrative changes and developments in the department.

b) Publication of digests of resolution of the Secretary of Justice on appealed cases and adjudication of administrative cases

Another compilation hoped to be published by the end of 1993 is a collection of digests of resolutions made by the DOJ secretary on appealed cases and adjudication of administrative cases. This will serve as a guide for prosecutors in the preparation of draft resolutions on appealed cases and administrative cases, as well as insure uniformity in the recommendation for the imposition of administrative penalties. This will henceforth be a continuing project of the DOJ-NPS.

c) Advocacy and follow-up on the passage of the following bills:

—Preparation of a draft bill and/or support for the passage of an administration bill for the imposition of the death penalty for heinous crimes. The prosecution pillar shares the general view that the reimposition of capital punishment is a strong deterrent to the commission of heinous crimes. The immediate passage of a bill reimposing death penalty is therefore imperative.

Hence, the DOJ-NPS, along with the Napolcom Technical Committee on Criminal

Justice (TCCPCJ) and UNAFEI Alumni Association of the Philippines, Inc. (UAAPI) shall recommend to the president as urgent the certification of an administration bill which would reimpose capital punishment for heinous crimes.

Passage of said bill into law is expected to be realized before the end of 1993.

—Bill for the Creation of Special Dangerous Drugs Courts.

In recognizing the problem of the very slow and tedious process of hearing and promulgating decisions on drug and drug-related cases, the DOJ, in cooperation with the Supreme Court, shall work for the passage of the bill for the creation of special dangerous drugs courts to decide violations of republic act No. 6425, as amended, otherwise known as dangerous drugs act of 1992.

With proper representation in congress, the bill is hoped to be passed into law also before the end of 1993.

#### 5. Enhancing CJS Credibility

a) Participation in the annual selection of outstanding prosecutors and judges

A continuing activity of the DOJ-NPS and the supreme court, the annual selection of outstanding prosecutors and judges gives due recognition to prosecutors and judges who have excelled in their field of responsibility. For the prosecution pillar, the DOJ-NPS shall spearhead the screening of candidates and conferment of awards to three outstanding prosecutors by March 1993. As in the previous years, the foundation for judicial excellence shall sponsor the annual affair.

b) Enhance personnel discipline and work ethics

The Complaints, Information and Assistance Division (CIAD), set up in various provincial and city prosecution offices in 1992, shall continue to submit reports to the

National Prosecution Service. This is viewed as a stop-gap measure to rid the NPS of misfits and grafters and motivate its personnel to render honest and efficient service to the public.

c) Institutionalization of qualifying examination requirements for appointment as prosecutors

This will insure recruitment of more qualified and better prepared prosecutors in the service.

### *C. Courts pillar*

For 1993, the courts pillar shall continue to implement its line-up of major projects which have been prioritized during the past few years.

These include projects and activities addressing the following major areas of concern:

- 1) Conduct of a continuing judicial education program for trial judges;
- 2) Monitoring of vacancies in some levels of the judiciary;
- 3) Construction of courthouses;
- 4) Personnel professional development;
- 5) Monitoring the progress of pending cases in the courts;
- 6) Proposing, monitoring and following up bills filed in congress; and,
- 7) Upgrading the disciplinary and ethical standards in the judiciary.

#### 1. Administrative Changes/Reforms

To upgrade the trial skills of judges and promote prompt disposition of cases, the Supreme Court in coordination with the Institute of Judicial Administration (IJA) shall conduct continuing orientation seminars for newly appointed judges, and career enrichment training programs for incumbents to produce highly trained, effective and competent trial judges.

The Supreme Court shall continue to moni-

tor and follow up on vacancies in some levels of the judiciary to reduce the volume of backlog of cases in courts. In this regard, representations will be made with the Judicial and Bar Council (JBC) for the filling up of existing vacancies in the judiciary to increase manpower capability for faster disposition of cases.

One priority project for this year which would be of significance only after the release of appropriate funds, is the activation of newly created Regional Trial Court (RTC) Chambers under Republic Act No. 7154. This year, the Supreme Court, together with the Judicial and Bar Council, shall make proper representations with the Department of Budget and Management (DBM) for funding support to construct twelve new RTC Chambers.

The construction of courthouses conducive to trial proceedings had proved to be a successful joint undertaking of the Department of Justice (DOJ), the Department of Public Works and Highways (DPWH) and the Supreme Court for the past few years. For 1993, not only will new courthouses be constructed but existing court chambers will be improved as well. This continuing activity is aimed at improving and providing adequate and dignified infrastructure on justice administration.

In addressing the need to upgrade the skills of court support staff in view of recent technical/schematic developments in criminal justice administration, the supreme court shall continue to hold more seminars, workshops and training programs for court support personnel. Specifically, an ongoing activity of the courts pillar is the training of court stenographic reporters in the use of stenotype machines. The Supreme Court shall be assisted by the following agencies in the conduct of these varied training programs: Office of the Court Administrator (OCA), IJA, Office of the Ombudsman, Civil Service Commission (CSC) and the Integrated Bar of the Philippines (IBP).

The Supreme Court is currently monitor-

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ing the progress of pending cases in courts. The quarterly reporting format which requires statistics/specification of cases under PD 603 (Child And Youth Welfare Code). RA 6425 (Dangerous Drug Act, as amended), violations of tax laws, a number of temporary restraining orders issued, a number of preliminary injunctions issued, and administrative cases filed against court personnel, among others, shall be used in 1993. The adoption of the new quarterly reporting scheme is envisioned to work favorably for speedy delivery of justice and faster processing of records.

### 2. Operational Effectiveness

Sound legislations on the criminal justice system administration are safeguards to a more responsive and effective criminal justice system. As such, the courts pillar shall continue to propose, monitor and follow up on CJS-related bills in congress. While reform measures will be proposed to enhance the criminal justice system, the number of bill/laws that have criminogenic effects and with imprisonment as punishment are hoped to be reduced or eliminated.

The University of the Philippines Law Center (UPLC) shall continue to spearhead this activity with support from the supreme court, DOJ, Department of the Interior and Local Government (DILG) and the Napolcom Technical Committee on crime prevention and criminal justice.

### 3. Improved CJS Credibility

The courts pillar is not remiss in implementing measures to upgrade the disciplinary and ethical standards in the judiciary, particularly with regard to ridding the bench of reported undesirable judges. Hence, the Supreme Court, in coordination with the Office of the Ombudsman, shall continue to program the following activities:

- a. Holding of judicial training programs

with judicial discipline and legal ethics as part of the curriculum:

- b. Monitoring of litigants/attorneys complaints;
- c. Visitation of courts; and
- d. Monitoring of courts by the Office of the Court Administrator as the Complaints Action Center (CAC).

This activity has a two-pronged objective: to encourage aggrieved citizens to file complaints of corruption in the judiciary, and to improve and enhance the public image of judges.

### *D. Correction Pillar*

The projects and activities of the corrections pillar for the year 1993 shall continue towards strengthening of organizational capability; improvement of administrative operation; improvement of living conditions in city and municipal jails; effective and efficient implementation of rules in the rehabilitation of national prisoners; and effective administration of the parole and probation system.

#### 1. Strengthening organizational capability

- a) Strengthen the administrative and operational capability of the Bureau of Jail Management and Penology (BJMP)

For a more effective direction, coordination, control and supervision of activities in district, city and municipal jails, the Bureau of Jail Management and Penology (BJMP) shall work for the restructuring of its organization at the national, regional, provincial and district/city/municipal levels. Towards this, the bureau shall recruit and train additional jailguards and lateral entrants prior to their deployment to different jails. For the first half of 1993, 200 jailguards and 190 lateral entrants in the NCR shall be trained in cooperation with the Philippine Public Safety College.

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In pursuit of this project, the BJMP personnel is challenged to carry out the effective implementation of existing rules and regulations relating to security, custody and handling of inmates. Monthly troop information and education is intended to enhance awareness of these rules.

b) Strengthen coordinative mechanisms of the BJMP with other correctional agencies, government organizations and nongovernment organizations

In line with establishing more responsive rehabilitation and correctional programs and services for inmates, the BJMP shall introduce small-scale livelihood projects and community-based programs in coordination with the NMYC and nongovernment organizations (NGOs).

### 2. Improvement of Administrative Operation

a) Human resource development

To improve staff and line services, the BJMP shall continuously conduct training of all jail personnel to professionalize the jail service, one officer basic course will be conducted and foreign or graduate schooling will be encouraged among qualified candidates.

b) Computerization of data on movements of and violations committed by parolees/pardonees

To carry out the computerization program of BPP, the Department of Justice shall continuously sponsor the project of BPP/BUCOR regarding the transmittal of records of prisoners to BPP for processing, evaluation and review as soon as their parole eligibility of executive clemency dates are reached.

### 3. Improvement of living conditions in city/municipal jails nationwide

a) Decongestion of city/municipal jails nationwide

Congestion in city and municipal jails is

an acute problem, hence, one major area of concern is to decongest these jails. To reduce jail population to a manageable level, the BJMP shall undertake the following:

— Provision of adequate living space for inmates through repair/renovation of existing jails and/or construction of new ones;

— Transfer of insular prisoners who are still confined in city/municipal jails to NBP, CIW and other penal institutions;

— Classification and transfer of prisoners sentenced to three years imprisonment or below, to the Metro Manila Rehabilitation Center, Tagig, M.M.;

— Follow-up and coordination with the courts regarding release of prisoners.

Along with this concerted report, the corrections pillar intends to pursue more vigorously the following:

- i) Application of BP BLG. 85 which calls not only for the early release of finally convicted prisoners but also for detainees through recognizance for those who have already served the maximum penalty imposable by law;
- ii) Work for the expansion of the coverage of republic act No. 6036;
- iii) PD 1508; and
- iv) Maximum application of parole and probation law.

Inadequate prison vans, handcuffs, firearms and ammunition are problems that mainly hamper the transfer of these inmates, hence, the BJMP plans to purchase necessary equipment and to repair all vehicles that need immediate repair.

b) Inspection of city/municipal jails

One of the BJMP's continuing projects is the periodic inspection of city/municipal jails nationwide, preferably overcrowded ones that need immediate repair and additional facilities. This is intended to assess and evaluate conditions prevailing inside jails with a view to instituting appropriate

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corrective measures. Targeted for inspection are 58 city and 75 municipal jails, including all NCR jails.

c) Improvement of physical facilities of city/municipal jails

Poor physical facilities in city/municipal jails invite opportunities for escape among inmates. To preempt this, the repair of 150 of the most dilapidated jails will be pursued and P50 million of the required funding will be sought to carry this out.

d) Establishing a computer-based program in evaluating inmates records

The project calls not only for evaluating inmates records but also for gaining access to and improving the process of releasing inmates. Encoding of data on a monthly basis will be undertaken.

e) Improvement of jail custodial and security services

Following the issuance to all units of policy guidelines and procedures on 1) the admission and commitment of minor offenders to city municipal jails; 2) the search of jail employees/visitors; and 3) custody, security and control of offenders to prevent jailbreaks will be monitored by the BJMP to improve jail custodial and security services.

f) Development of rehabilitation-based correctional industries

Monthly monitoring of productive workload will be conducted by BUCOR every month to redirect industrial efforts toward the rehabilitation of inmates.

g) Recovery program for escaped prisoners

Considering the threats to peace and security of escaped prisoners, a recovery program involving the assistance of the AFP, the PNP, the PACC, and the NBI in the surveillance of escaped prisoners will be vigorously undertaken.

### 4. Effective and Efficient Implementation of Rules in the Rehabilitation of Prisoners

a) Operational agro-industries

Training of prisoners on industrial and agricultural techniques and providing them a source of income while in confinement is programmed by the BUCOR and the BJMP, in coordination with the NMYC, in order to equip prisoners with required skills necessary in enhancing their socio-economic development. This will enable them to attain meaningful, a fruitful and satisfying way of life upon release from prison.

b) Psychological services

Volunteers are encouraged to extend monthly assistance for the psycho-social development of inmates in the form of clinical, psychological and social services.

c) Educational program (formal and non-formal)

To provide opportunities for inmates to continue their education while in prison, the Bureau of Corrections and the Bureau of Jail Management and Penology Plan to extend this program in coordination with the Department of Education, Culture and Sports (DECS). A total of 1,050 inmates are targeted beneficiaries.

d) Provision of services to prisoners

To provide religious and socio-cultural activities, the BUCOR shall continue to coordinate with parish priests and other religious groups in the locality where the jails are located to attend to the spiritual needs of the inmates. Aside from this, medical/dental services, physical fitness, guidance and counselling, and para-legal services shall be a continuing program for inmates while in confinement.

### 5. Enhancement of Service Delivery to Youthful Offenders in Rehabilitation Centers

a) Direct services

In order to strengthen and enhance center-based programs and services for youth offenders and their families, the DSWD shall continue to conduct a three level evaluation conference on community-based programs and services for youth offenders in 10 regional rehabilitation centers for youth (RRCY). Linkages with the national council for social development shall be tapped.

b) Advocacy and social mobilization

Activities/programs that intensify community awareness on the rights of the child especially the rights of juveniles deprived of their liberty shall be continuously implemented and from time to time shall be reviewed. Additionally, the DSWD shall advocate for the establishment of separate detention centers for youth offenders through provision of adequate funds by congress.

6. Effective Administration of Parole and Probation System

a) Correction and rehabilitation programs for penitent offenders

The Parole and Probation Administration (PPA) shall continue to pursue the establishment of innovative, financially and technically feasible projects for the moral, spiritual educational, medical and economic upliftment of probationers and pardonees. Available community resources shall be utilized to effect their rehabilitation and eventual reintegration into society. The PPA intends to extend the benefits of rehabilitation to 80% of the total supervision caseload.

b) Management information system

To develop a more efficient and up-to-date system for the collection, collation and analysis of data relative to parole and probation statistics, the PPA shall devise computerized forms of clientele records to reflect useful statistics for the criminal justice system and the PPA. For 1993, half of the clientele records are targeted for

computerization.

c) Investigation of petitioners for probation

For 1993, the PPA shall create three additional offices to facilitate investigation of petitioners for probation. Accordingly, the administration shall develop a feedback scheme to validate and monitor the entries reflected in the new Post Sentence Investigation Report (PSIR) form in order to further provide adequate and relevant information and recommendation for the proper disposition of the petition for probation.

d) Pre-parole and executive clemency investigation

For 1993, the PPA shall effect the full implementation of the pre-parole and pre-executive clemency investigation. This shall involve the investigation and evaluation of the physical, mental and moral records of prisoners confined in the national penitentiary, in penal colonies and in city jails in order to determine who is eligible for parole and executive clemency.

The implementation of pre-parole and executive clemency investigation purports to:

— Provide the BPP with necessary and relevant information in determining the prisoner's fitness for parole, or any form of executive clemency.

— Provide jail and prison wardens with a useful tool for better understanding of their wards and for identifying the most appropriate programs for their rehabilitation.

— Provide the client's supervising officer with adequate information necessary in formulating the most appropriate supervision and rehabilitation plan.

In pursuit of these triple objectives, a technical service is envisioned to be fully established.

The administration shall also work out linkages with BJMP, BPP and provincial

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governors to facilitate the conduct of pre-parole and executive clemency investigation.

### e) Evaluation of policies

A periodic review of the probation and parole law and its implementing rules shall be done so as to reconcile the same with the evolving realities in the field. The PPA shall integrate the revisions necessary to update the probation law and the like.

### f) Information drive

Through a systematic public information program, the PPA shall generate greater public and inter-agency support for parole and probation.

The communication resources of the administration will be strengthened at the regional and provincial level by making available educational print materials, posting of probation-related materials in courtrooms, and tapping local leaders and key persons who are recognized in the community as information agents to the people.

## 7. Enhancing CJS Credibility (Improved Implementation of Treatment and Rehabilitation Services for Prisoners)

### a) Continuous research on correctional trends and practices

To formulate policy, review reports and assess performance, BUCOR shall continuously research and evaluate on correctional trends and practices for the first quarter of 1993.

### b) Redefining correctional standards and programs

Monthly update on regular correctional programs shall be made by BUCOR for the first quarter of 1993 to improve the educational, medical, spiritual and vocational programs for prisoners.

## *E. Community Pillar*

Efforts of meeting the challenge of crime are a continuing activity by concerned agencies but public perception persists that much more has to be done. The incidence of heinous crimes, and the rampant kidnapping and drug trafficking, collectively create a negative impact not only on peace and order but also on economy. This is further aggravated by the involvement of law enforcers in such crimes. Foreign investments and tourism programs of the government are most affected. Thus, the need to include in the national conference a strategy to reduce crime as one of the major thrusts of the community pillar.

### 1. Strengthening organizational capability

#### a) Implementation of the peace and order council (POC) activities

This will involve the introduction of organizational standards and requirements which are attuned to the security thrusts of the government as well as the operational capabilities of the peace and order council in their respective areas of jurisdiction. The DILG, through its regional and sub-regional offices, and in coordination with the PNP, NAPOLCOM and member-agencies, will extend the necessary technical and administrative support to the councils in the formulation and implementation of their plans, programs and projects.

It is expected that these projects/activities shall have been implemented by the end of June 1993.

#### b) Strengthening the organizational and functional effectiveness of the People's Law Enforcement Boards (PLEBs)

Building up people's confidence and institutionalizing discipline in the police organization are effective deterrents to crime. Through the PLEBs, the concept of democratic governance and people empowerment are made manifest, thereby,

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complementing the work of the courts pillar in the administration of justice. To expedite the adjudication of cases brought before the PLEBs, the DILG and Napolcom shall accelerate the organizational setup of PLEBs in all Local Government Units (LGUs) and shall institute the measures that will ensure the effectiveness thereof. LGUs will be mobilized to provide logistical and administrative support and office spaces to the PLEBs. The DILG will monitor and evaluate the PLEBs all over the country.

A nationwide information campaign regarding the provisions of memorandum circular 91-002, shall be spearheaded by the NAPOLCOM, with the support and assistance of the DILG, LGUs, media, NGOs and other private sector groups.

### c) National crime prevention conference (Social Defense)

The second national conference on the strategy to reduce crime is expected to be undertaken before the end of 1993. This will provide a forum for criminal justice policy-makers, program planners and implementors to assess the strengths and weaknesses of criminal justice administration in the country. The conference purports to:

- Determine the extent and magnitude of the crime problem;
- Assess various efforts taken by criminal justice agencies towards the reduction of crime;
- Establish priorities of action in crime reduction efforts of criminal justice agencies; and
- Set quantified crime reduction goals against which accomplishments shall be periodically assessed.

The DILG is mandated under RA No. 6975 to promote peace and order, ensure public safety and further strengthen local government capability aimed towards the effective delivery of basic services to the citizenry within a just social order and vision

of peaceful, self-reliant and progressive communities. The NAPOLCOM is also mandated under the same law to "Recommend to the President, through the Secretary, a National Crime Prevention Program."

### d) Asia Crime Prevention Philippines Inc. (ACPPI)

The philosophy that governs the ACPPI is to conduct or to help finance surveys, research, training and similar activities that would redound to the improvement of crime prevention, treatment of offenders and criminal justice administration, with the end in view of accelerating socio-economic prosperity in the Pacific area.

To enhance solidarity and cooperation among those involved in crime prevention and criminal justice administration, the following projects have been lined up for 1993:

- Updating of the 1988 compilation on Philippine legislations and projects;
- Publication of a 4-page ACPPI bulletin;
- Preparations for the meeting of the International Board of Directors to be held in Manila in 1994; and
- Lobby for certain legislative reforms on corrections.

### e) Creation of Citizens Anti-crime Assistance Group Inc. (CAAG)

The creation of CAAG signifies law enforcement support towards achieving socio-economic stability. This is a non-stock corporation whose objectives are:

- To maintain networking through information gathering on any crime and/or criminal elements;
- To acquire, operate and maintain radio communication network to service the organization in data gathering activities;
- To coordinate and cooperate with the government law enforcement agencies in the prevention of crimes and in the apprehension and prosecution of criminals; and

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- To train its members in gathering intelligence data, its control and dissemination to the proper agencies concerned.

The CAAG will also provide instructions on the proper, safe, skillful and lawful handling, keeping and shooting of firearms and airguns.

### 2. Conducting of Seminar-Workshops/Skills Training

a) Barangay Crime Prevention Council (BCPC) and Student Crime Prevention Council (SCPC) Seminar-workshops

The primary objective of these projects is to generate more active community/school involvement in crime prevention activities through intensified crime and drug information campaign and conducting of preventive education. Organized councils will be monitored and evaluated to determine their effectiveness.

Conducting of the seminar-workshop is usually upon the request of concerned school/barangay after which monitoring activities are undertaken after three months.

b) Functional Local Development Councils (LDCs)

The LDCs serve as tools for advancing the merit of rural development by allowing the citizens to participate in deciding priority projects in their communities. The DILG, through its subregional offices, has to work closely with LGUs in providing administrative and technical assistance to LDCs. LDCs should ensure that their annual plan of activities are achieved within the agreed time frame.

c) Katarungang Pambarangay program (PD 1508)

The conduct of skills training on the dynamics of mediation and conciliation for the Lupon Tagapayapa is a continuing project of the DILG. The settling of disputes at the

community level and the establishment of an effective referral system between the courts and the Lupon improves the delivery of justice services to the community. The participation of NGOs in the training of Lurons is also solicited. The DILG, through the Bureau of Local Government Supervision (BLGS), shall also launch the economic and incentive awards for outstanding Lurons.

d) LGU civil defense program (Disaster Preparedness)

The civil defense program has been traditionally coordinated at the national level by the Department of National Defense (DND) through the Office of Civil Defense (OCD) [created under PD 1 and implemented by Loi No. 19 on 31 July 1973]. With the local government code of 1991, the DILG, as the lead agency, is responsible for improving the capability of LGUs in managing and coordinating relief operations in their respective areas of responsibility during disasters and emergencies.

The DILG, in coordination with the DND, shall assist LGUs in establishing immediately their respective civil defense programs.

e) Advocacy and social mobilization

The DSWD shall advocate for the passage of legislations promoting the welfare of children and youth, e.g., restoration of the juvenile and family courts, amendment of PD 603 and decriminalization of vagrancy and other offenses.

Dialogues with LGUs, NGOs and GOs are also included in the DSWDs program of intensifying community awareness on the rights of the child and in operationalizing the Philippine plan of action for children.

All these activities are programmed for the whole year of 1993.

f) Direct services

The DSWD is expected to undertake the following activities to strengthen community-based programs and services for youth

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offenders, delinquent youths and street-children and their families:

— Conduct follow-up study on adjustment of released youth offenders in the community. This will be conducted in NCR and regions VII and XI.

— Conduct a pilot project on psychological interventions for street children who are abused and exploited by drug users and for those who are in conflict with the law. Pilot regions will be selected in April 1993.

— Conduct a continuous monitoring and evaluation of action plans of police officers trained in the management of CEDC cases.

The DSWD shall also pilot test the utilization of volunteers called "Community Liaison and Rehabilitation Officers" (CLRO) for the prevention of juvenile delinquency and supervision of youth offenders. This activity will be piloted in NCR and regions VII and XI in the second quarter of 1993.

Pursuant to memorandum circular NR 92-010 providing for the guidelines on the establishment of a Child and Youth Relations Sections (CYRS) in all NCR and highly urbanized city police stations and/or designation of a Child and Youth Relations Officer (CYRO) in other police stations and, the adoption of the handbook for police officers in management of children in especially difficult circumstances (CEDC), there will be continuous monitoring and evaluation of action plans formulated by the police officers during the training in the management of CEDC. Likewise, the DSWD, in collaboration with the PNP and, will assess the activities of the established CYRUs.

Also programmed during the first and second quarters of 1993 is the integration of the CEDC in the PNP program of instruction.

Meanwhile, a continuous implementation of proven effective service interventions for street children and out-of-school and delinquent youths and their families will be pursued.

g) Human resource development

To enhance and enrich the knowledge, skills and attitude of staff in the management of cases of CEDC, particularly out-of-school youths and street children, the following shall be continuously conducted:

- Staff development program
- Case conference
- Seminars/trainings
- Follow-up training of volunteers
- Monitoring and evaluation

These activities are targetted to be conducted monthly in each region.

### 3. Improved CJS credibility

One of the two important documents in the area of planning and development which was adopted by the seventh UN congress on the prevention of crime and treatment of offenders held in Milan in 1986 is the Milan plan of action.

The Milan plan of action is a set of basic recommendations for consideration by the UN general assembly which was intended to strengthen crime prevention activities world-wide.

The two of the more important recommendations included in the OLAN provide that:

— Major efforts should be launched to control or eradicate drug trafficking, drug abuse and organized crimes.

— Member states should continue to strengthen their research capacity and develop data bases on crime and criminal justice.

The community pillar's major thrusts are aligned with the UN recommendations. The projects included in pursuit of this are:

#### *A. Youth Education and Outreach Projects:*

- 1) Youth Outreach Program Against Drug Abuse (YOPADA)

## CRIME IN MANILA

This is a continuing project of the dangerous drugs board (DDB) which aims to train a core group of youth leaders from registered youth organizations. These youth leaders will be trained in drug abuse prevention programs to enable them to come up with activities catered to their peers. They will also be tasked to plan community/school oriented action programs which will be utilized from different modalities and approaches to drug abuse prevention.

### 2) Growth Center For Youth

This is an alternative intervention service for drug dependents which is envisioned to provide growth opportunities for the youth including rehabilitated drug dependents. Through this project, meaningful involvement and awareness of responsibilities among them is hoped to be generated. The target clientele of this project are to 15 out-of-school youths in selected communities in metro Manila and six other regions, and youths who have been discharged from rehabilitation centers.

### 3) Drug Abuse Prevention Program For Streetchildren

Streetchildren in selected metro Manila areas will be the recipients of this program. It aims to provide them with task alternatives to make their lives fruitful, to make them aware of their capabilities in implementing drug abuse prevention projects, and to help them plan for their future reintegration into society.

## *B. Parent Education Projects:*

### 1) Systematic Training for Effective Parenting (STEP)

Two cities in metro Manila and four other regions will be the pilot areas for this program, step will be a forum for parents to undergo systematic training on how to discipline their children and to enable them to relate better with their children.

### 2) PTA movement against drug abuse

This aims to prevent and control drug abuse among the youth through the cooperations of the school, home and community. It will likewise expand the organization of PTA networks where parent core programs will be formed.

## *C. Local Government Programs*

### 1) National Congress of Drug Abuse Councils

This aims to strengthen community actions among anti-drug abuse council officials to improve existing drug abuse programs. Workshops and panel discussions will be conducted to formulate effective plans and programs suitable for implementation in their area of concern.

### 2) Regional Consultative Conference of Drug Abuse Councils

This primarily aims to develop regional plans that will respond to the particular needs of a region. Appropriate strategies will be identified for implementation to attain certain goals.

Four regions will be chosen as pilot areas of implementation starting January 1993.

### 3) Strengthening Participation of Local Governments in Drug Abuse: Drug Free-community

Action committees on drug abuse prevention will be established to harness local government workers' participations in drug abuse prevention and to maximize participation and involvement of parents and youths in the creation of drug-free communities.

## *D. Intensification of the Strategies for the Prevention and Control of Drug Abuse*

This is a continuing project of the DDB aimed to prevent drug abuse through education and information dissemination. The drug demand reduction strategies will be implemented through:

1. Integration of school-based drug education programs into major subject areas;
2. Design of community-based drug abuse prevention programs to enhance the knowledge of Barangay officials in the fight against drug abuse; and
3. Design of school-community oriented programs to harness the potentials of the youth.

*E. Conducting of Surveys/Researches Projects*

1. A comparative survey on the public perception of the police in areas covered/not covered by project: "Polis Patrol Lingkod Bayan" (Nationwide)

A joint project of and PNP, the survey will evaluate the effectiveness of the PPLB in area where this project was implemented nationwide.

The evaluation/assessment of police performance will be based on the following aspects:

- a) Police image;
- b) Impact of delivery of services;
- c) Community reporting of crime;
- d) Police-community relations; and
- e) Peace and order

2. Victimization Survey (Nationwide)

Iloilo city is the target area of the survey to be conducted in 1993. Previous surveys were conducted in Quezon city and Cavite city. The study purports to make available baseline information on unreported crimes and subsequently identify the reasons why some crimes committed are not reported to the police. From this, crime reporting system is expected to be improved.

With this programs lined up for the country, we are assuring the international community that the Philippines will be a pleasant place to stop by, not only to relax, but to do business, and probably enjoy the rest of your lives.

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# Effective Countermeasures Against Crimes Related to Urbanisation and Industrialisation

by Graham Martin\*

## Introduction

The role of the Crown Prosecutor in England and Wales is to take over the conduct of prosecutions commenced by the police. The prosecutor may tender advice but does not direct the investigation which remains the responsibility of the police.

Whilst the prosecutor needs to be aware of powers of sentence and sentencing policy when making the decision whether to prosecute and in selection of charges, the prosecutor has little role in the sentencing process itself. In particular the prosecutor is not permitted to address the court upon sentencing or to recommend any particular sentence. The prosecutor has no power to impose any penalties outside the court system.

Whilst this paper will touch upon the role of a number of Agencies in combatting urban crime essentially the standpoint is that of the independent prosecutor seeking to make an informed decision as to whether there should be a prosecution at all and, if so, how such prosecution might be most effectively conducted.

The United Kingdom covers England, Wales, Scotland and Northern Ireland but in view the differences in aspects of the Criminal Justice System for Scotland and Northern Ireland statistical information has been limited to England and Wales so that the valid comparisons may be made.

\*Head of Fraud Division, Crown Prosecution Service Headquarters, the United Kingdom

## 1. Scale of the Problem

### Population

The table below sets out the distribution of population in England and Wales.

TABLE 1:

<u>England and Wales Population</u>		
	<i>(Thousands)</i>	
Persons	Males	Females
49,155	23,873	25,281
<u>Geographical Distribution</u>		
Urban Areas	37,324 (76%)	
Rural Districts	11,687 (24%)	
<u>Conurbations</u>		
Greater London	6,696	
West Midlands	2,244	
West Yorkshire	1,682	
South East Lancashire	2,245	
Merseyside	1,127	
Tyneside	738	
	14,732	

### Measurement of Crime

It is difficult to estimate the full extent of crime in England and Wales. Two main measures are available but each in its own way under-records crime.

The first is offences recorded by the police. This measures only a proportion, and for many of the less serious offences a small proportion, of the total number of crimes

## EXPERTS' PAPERS

committed. Only if the public report a crime to the police and the police record it as such is an even  $\frac{1}{2}$  counted. Recent changes, for example, in the reporting by women of sexual offences and domestic violence, and in the recording by police of such incidents, have lead to an increase in the levels of recorded crime for such offences. Crime surveys suggest that there does not seem to be corresponding increase in the number of such crimes committed.

The other measure is a crime survey, which asks victims to report their experiences of crime. The British Crime Survey (BCS) undertaken in 1987 is such a survey.

It is limited by its coverage of offences, by its sample, (around 10,500 interviews) and by restrictions on the members household interviewed (aged 16 and over).

Table 2 below sets out the notifiable offences recorded by police in 1981 and 1991.

Studies conducted by the Home Office indicate that about half of the crimes recorded by the police are in the large Metropolitan areas. Relative to the population the crime rate was generally much higher in Metropolitan than in non Metropolitan areas – 9.8 and 6 crimes per hundred population respectively.

**TABLE 2**

### NOTIFIABLE OFFENCES RECORDED BY POLICE

TYPE OF OFFENCE	1981	(Thousands) 1991
Violence against the person	100.2	140.3
Sexual offences	19.4	29.4
Burglary	723.2	1,219.5
Robbery	20.3	45.3
 Theft and Handling		
Stolen Goods	1,603.2	2761.1
Fraud and Forgery	106.7	174.7
Criminal Damages	386.7	821.1
Other Offences	89	34.6

The figures for reported crime do not tell the whole story and the British Crime Survey indicates that  $\frac{3}{5}$ ths of all crimes recorded by respondents had not been reported to the police and  $\frac{3}{4}$  of all such crimes had not been recorded by the police. The extent of reporting and recording varies considerably between offences. Theft and Criminal damage are less likely to be reported than household

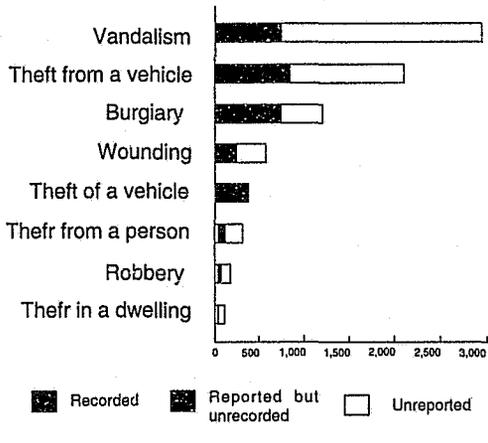
burglary and vehicle theft. The fact that many respondents were insured for burglary and vehicle theft and that reporting the offence to the police was a prerequisite of making an insurance claim may account for the higher level of reporting of these offences.

Table 3 below sets out the levels of recorded and unrecorded crime in 1987.

## CRIME AND URBANISATION IN THE U.K.

**TABLE 3**

### Levels of recorded and unrecorded crime 1987



Source: The 1988 British Crime Survey, P. Mayhew, D. Elliott and L. Dowds (Home Office Research Study No. 111)

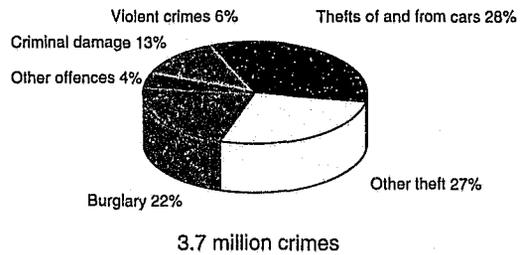
### 2. Categories of Crime

Experience suggests that the following offences are associated with the Urban environment.

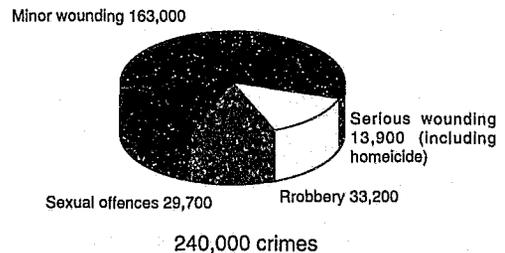
- Theft from the person
- Robbery
- Burglary
- Assault
- Murder
- Sexual offences
- Criminal damage
- Public Order Offences
- Drug offences
- Deception offences (credit cards & cheques)
- Blackmail

The Metropolitan Police in their corporate strategy for the years 1993/94 to 1997/98

### Crimes recorded by the police 1989



### Crimes of violence recorded by the police 1989



Source: Criminal Statistics, England and Wales (HMSO)

identify a need to target armed robberies, sexual offences, burglary, street robbery, motor vehicle offences and drug offences as part of their drive to tackle crime in Greater London.

Some 94% of recorded crimes were property offences i.e. burglary, theft and criminal damage.

About one half of the theft offences and one quarter of all recorded crime are thefts of and from cars.

The pie chart below shows the types of offence recorded by police and gives a more detailed breakdown in relation to crimes of violence.

Nearly a third of all incidents reported by victims in the 1988 British Crime Survey involved theft of or from or damage to vehicles.

Other thefts accounted for 28% of the incidents. Burglaries formed 9% of the Survey crimes.

Household crimes are an urban phenomenon and rates are highest in the Inner City areas.

The better off tend to be more vulnerable to burglary than those of average or below average income. However, the highest burglary rates are clustered in the poorest housing estates and in high status non family areas adjacent to poor areas which are typical of the Inner City environment. The distribution of crime measured by the British Crime Survey is set out in the pie chart below.

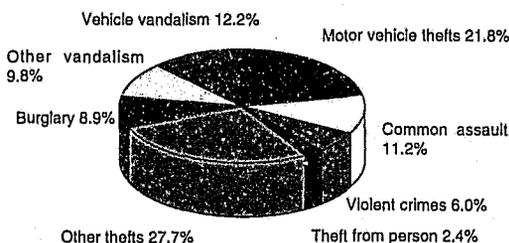
### 3. Victims

In 1988 it was estimated that one in five of the population of England and Wales were the victims of one or more crimes.

Age, gender and life style are largely the main determining factor in whether a person is a victim of crime. Males and young men in particular are more prone to violence and robbery. Women are more likely to be the victims of sexual assault, domestic violence and theft from the person.

Excluding sexual attacks, the likelihood

Crimes measured by the British Crimes Survey 1987



of being assaulted is highest to those who are male, under 30 years old, single, spend several evenings out each week, drink heavily or assault others.

About 60% of assaults against men take place in or around a pub or in the street.

More than half of assaults against women were by members of their household or family.

Ethnic minorities may be more at risk. Compared to whites, Afro Caribbeans are markedly more vulnerable to assaults and Asians are more at risk of being threatened. Both groups are likely to be victims of robbery and theft from the person. When factors other than race are taken into account (e.g. living in inner city areas) the ethnic differences are largely, but not entirely, explained.

The British Crime Survey attempted to set out some offences in more detail set against the ethnic origin of victims as follows:

BRITISH CRIME SURVEY  
(Percentage who were victims each year)

	White	Afro-Caribbean	Asian
Household vandalism	5	4	8
Burglary	6	10	6
Vehicles vandalised	9	9	14
Vehicle thefts	18	26	20
Bicycle theft	4	8	2
Theft	6	6	8
Assault	3	7	4
Threats	2	4	5
Robbery/Theft from person	1	3	3
Other personal thefts	4	6	3
Sample sizes (numbers)	9,874	733	966

Source: The 1988 British Crime Survey, P. Mayhew, D. Elliott and L. Dowds (Home Office Research Study No. 111)

**4. Offenders**

It is not possible to measure the total number of offenders who commit crimes nor is it known when the unsolved crimes were committed by the same offenders or by offenders unknown to the police. Neither is it known whether the increase in recorded crime results from more crimes being committed by the same people or more people committing crimes.

Offending can be measured by the total number of people who are either convicted or cautioned. Using this measure it appears that the vast majority of offenders are male and young, the peak age being the mid-teens (15 to 18) boys and 15 girls.

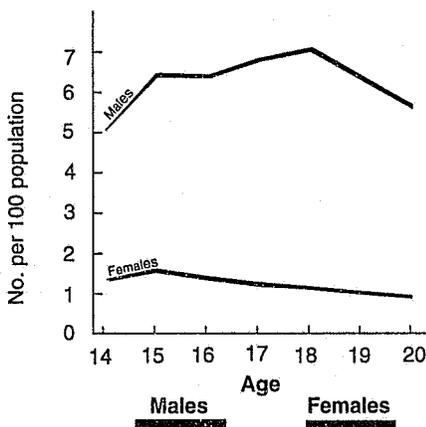
The vast majority of offending is committed by a small percentage of males. Offending is also predominately young male occupation to a large extent carried out in a relatively short period in a persons life.

The graph below shows the peak age of known offenders.

**Peak age of known offenders**

- The peak age of known offending for males is among boys in their mid-teens (15-18 years).
- The peak age of known offending females is fifteen.

**Peak age of offending England and Wales 1989**



Source: Criminal statistics, England and Wales (HMSO)

**5. Elements of The Criminal Justice System in England and Wales**

*1) The Police*

There are 43 regional police forces and a number of forces which have a specific function such as British Transport Police who have responsibility for railway systems and the London Underground.

The regional forces are all headed by a Chief Constable who is responsible to the local police authority save for the Greater London Area which has a Commissioner of Police who is directly responsible to the Home Office. The Government Minister with responsibility for the police is the Home Secretary.

*2) The Prosecutor*

The Crown Prosecution Service (C.P.S.) was established by the Prosecution of Offences Act 1985.

The Service is headed by the Director of Public Prosecutions and employs about 2,000 Crown Prosecutors who must be qualified barristers or solicitors.

There are 13 C.P.S. Areas each headed by a Chief Crown Prosecutor.

The duty of the C.P.S. is to take over the conduct of the cases commenced by the police. The cases are reviewed in accordance with the Code for Crown Prosecutors published pursuant to Section 10 of the Act. The Code requires that no prosecution shall be commenced or continued unless the Crown Prosecutor is satisfied firstly that there is sufficient substantial, reliable and admissible evidence to give a realistic prospect of securing a conviction and, secondly, that the public interest requires a prosecution.

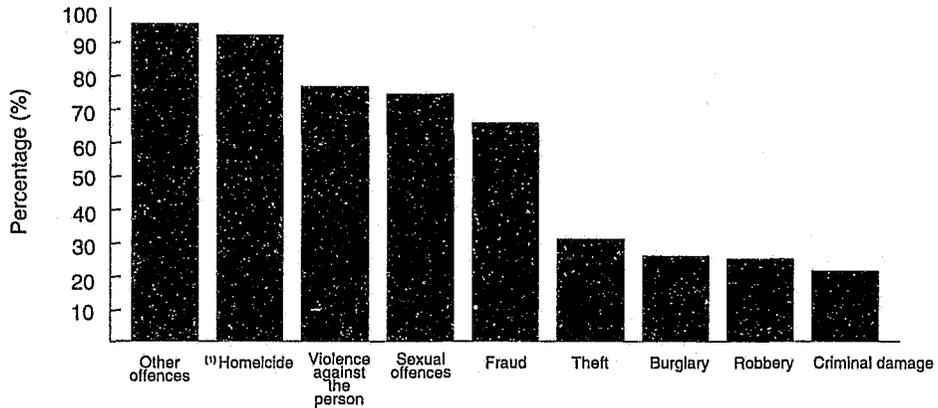
Crown Prosecutors present most of the cases heard before Magistrates Courts but do not currently have rights of audience in the higher courts. Barristers from the independent bar are instructed by the C.P.S. to present these cases.

The Government Minister responsible for the C.P.S. is the Attorney-General.

**Crimes recorded by the police: clear-up rates**

• About 34 per cent of offences recorded by the police in 1989 were cleared up. Clear-up rates were highest for homicide (92 per cent), violence against the person and for sexual offences (both about 75 per cent). This contrasts with low clear-up rates for burglary (27 per cent), robbery (26 per cent) and theft (31 per cent).

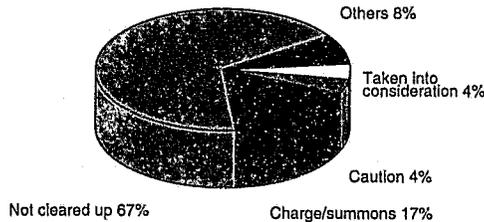
**Proportion of recorded crimes cleared up by the police by offence group**



(1) Mainly drug offences, going equipped for stealing and public order offences which are recorded only when a suspect is apprehended.

• It is estimated that in 1989 about 21 per cent of recorded offences were cleared up; by 'primary means' i.e. charge, summons or cautions and 13 per cent by 'secondary means' i.e. by being 'taken into consideration' by the courts or by other means (including visits to convicted prisoners).

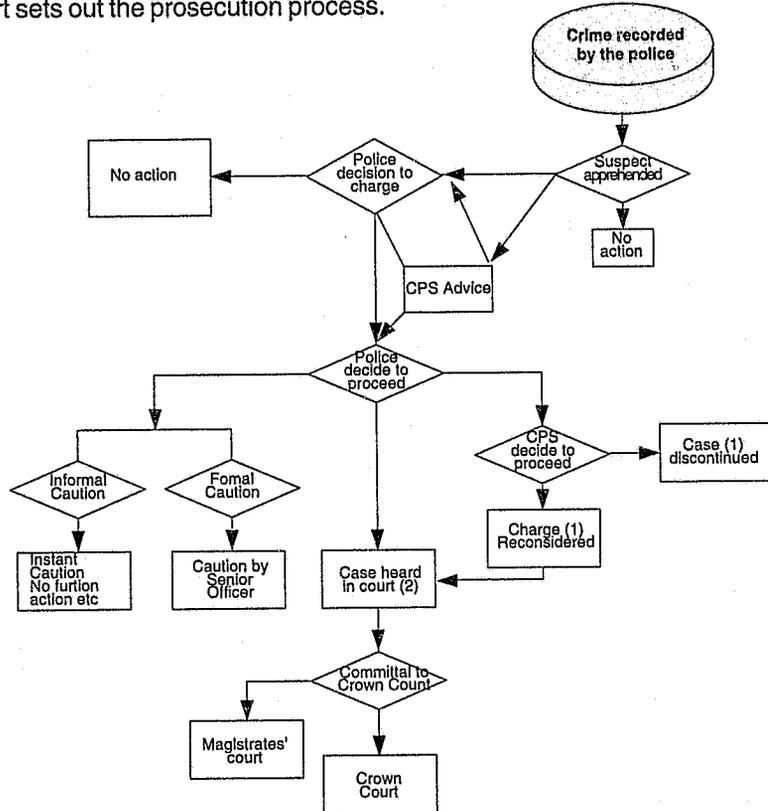
**Crimes cleared up as a percentage of recorded crime 1989**



Source: Criminal statistics, England and Wales (HMSO)

The Prosecution Process

The chart sets out the prosecution process.



(1) Case will be under continual review, and may be discontinued at any stage before the hearing, withdrawn at court or the prosecution may simply offer no evidence. In addition, the charge may be altered up to the final decision of the court.

(2) Although the majority of prosecutions are now handled by the Crown Prosecution Service, certain offences are still prosecuted by the police, while some are prosecuted by private organisations (including Government agencies such as the inland Revenue).

## 6. The Courts

### *The Magistrates Courts*

These courts deal with the majority of criminal cases. There are some 28,700 by magistrates who are advised on the law by salaried clerks. In addition there are 64 stipendiary magistrates who are solicitors or barristers.

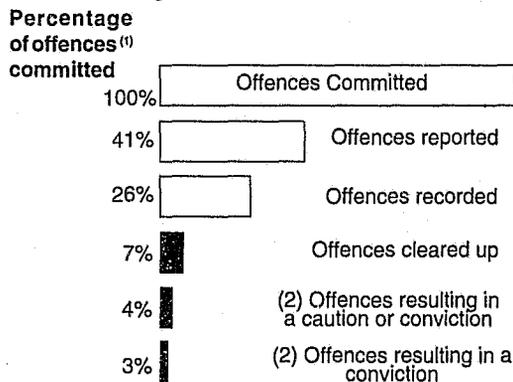
### *The Crown Courts*

These courts deal with the most serious criminal offences and cases are heard by a Judge with a jury of 12 ordinary members of the public.

### Attrition within the Criminal Justice System

— The majority of crimes do not come into the Criminal Justice System.

— Crime Surveys suggest that about 3 in 100 offences committed resulted in a criminal conviction and 4 in 100 in offender being convicted or cautioned.



(1) Criminal damage; theft of a motor vehicle; theft from a motor vehicle; theft in a dwelling; bicycle theft; burglary; wounding; robbery; sexual offences and theft from the person

(2) Estimates include additional findings of guilt at any court appearance and offences taken into consideration

Source: The 1988 British Crime Survey, P. Mayhew, D. Elliott and L. Dowds (Home Office Research Study No. 111) and Criminal statistics, England and Wales (HMSO)

## 7. Costs of Crime Prevention: Government Expenditure

The Home Office spent approximately £11.5 million on crime prevention in 1989/90. The Department of Environment supports a range of crime prevention activities, many of which are carried out in high density housing areas and involve improving security. The Employment Department Group is involved in crime prevention work through, for example, Employment Training and the prevention of benefit fraud. Separate figures on the costs of these activities are not available. Projected spending in 1988/89 by the Department of Transport on crime prevention work on the London Underground was £5 million.

## 8. The Public and the Criminal Justice System

In seeking to combat urban crime the police and the court depends upon the co-operation of the public. Such co-operation is not always easy to secure particularly in Inner City Areas where poor housing, low educational aspirations and unemployment may lead to a feeling of alienation.

The Metropolitan Police Service has always acknowledged that successful policing in the United Kingdom relies upon public consent.

Their corporate strategy for 1993/94 to 1997/98 identifies 7 principal strands, the first of which is expressed as follows:

It is our intention to remain a visible, predominately unarmed, approachable police service in order to provide a reassuring presence across London. This, our overriding policing style, has its roots deep in the community.

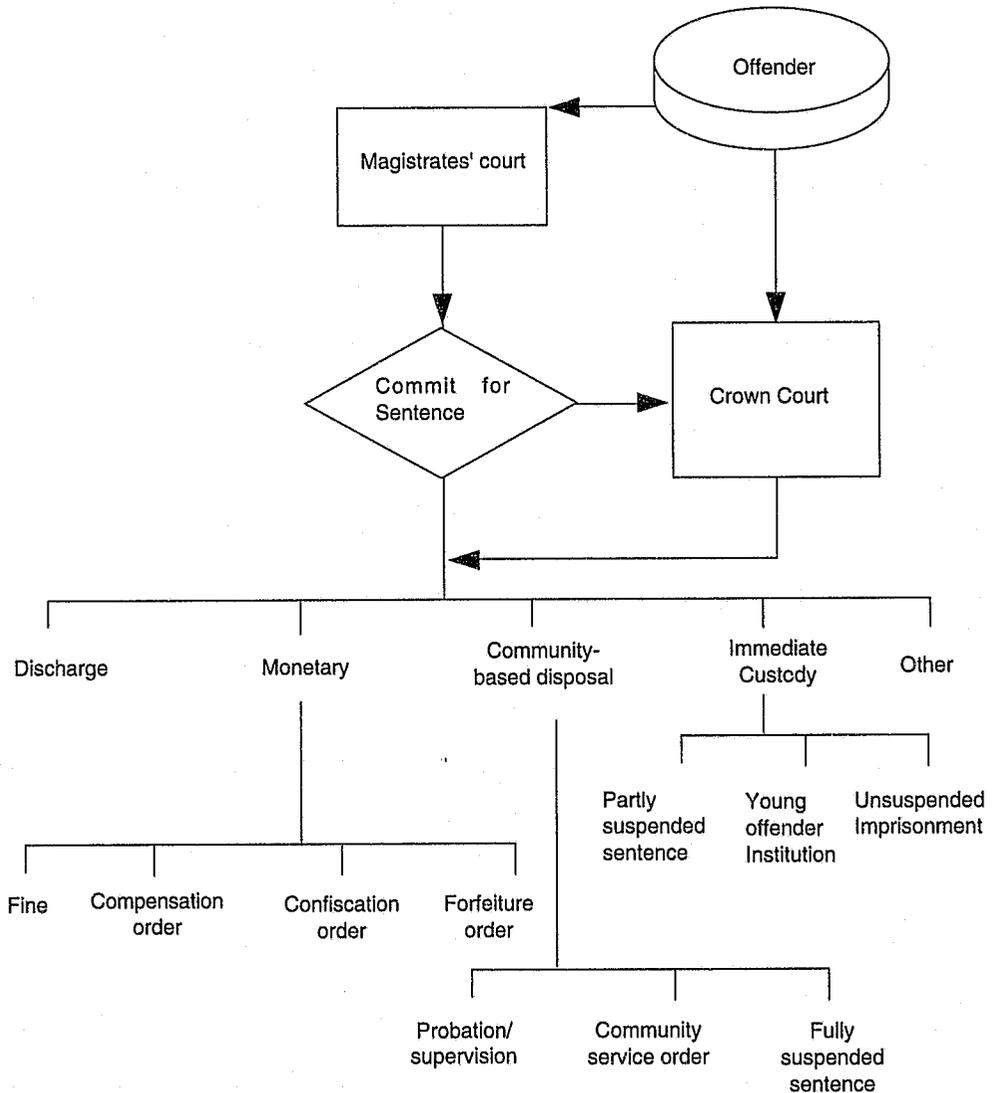
In relation to public security, safety and reassurance the strategy includes the following commitment.

We will confirm our role as a supportive community service by developing a community based policing style (sector

## CRIME AND URBANISATION IN THE U.K.

\*The diagram below sets out the sentencing process.

### The Sentencing Process



- (1) Magistrates' courts and the Crown Court differ in their powers to award monetary and custodial penalties
- (2) May either be the sole penalty or in association with another disposal
- (3) Includes care order and attendance centre order

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\*Table 4 below sets out the number of offenders cautioned by offence group.

**TABLE 4**

**ALL OFFENDERS CAUTIONED: BY OFFENCE GROUP**

<u>INDICTABLE OFFENCES</u>			
	1981	1991	(Thousands)
Violence	5.6	19.4	
Sexual offences	2.8	3.3	
Burglary	11.5	13.3	
Robbery	0.1	0.6	
Theft/Handling	79.2	108.5	
Fraud/Forgery	1.4	54.6	
Criminal damage	2.1	3.8	
Other (excluding motoring)	1.2	25.3	
<u>SUMMARY OFFENCES</u>			
Assaults	0.2	1.6	
Criminal damage	8.5	17.3	
<u>PERSONS UNDER 17 CAUTIONED (INDICTABLE)</u>			
Violence	3.8	8.1	
Sexual offences	1.4	1.2	
Burglary	11.2	11.0	
Robbery	0.1	0.5	
Theft/Handling	68.2	55.1	
Fraud/forgery	0.8	1.2	
Criminal damage	1.9	2.4	
Other (excluding motoring)	0.3	3.8	

CRIME AND URBANISATION IN THE U.K.

\*Table 5 below sets out the number of offenders found guilty by offence groups in the Magistrates Courts and the Crown Courts.

**TABLE 5**

**ALL OFFENDERS FOUND GUILTY BY OFFENCE GROUP  
MAGISTRATES COURT AND THE CROWN COURT**

INDICTABLE OFFENCES

	1981	1981 Thousands
Murder	0.1	0.2
Manslaughter	0.3	0.2
Wounding	48.7	45.5
Other offences of violence	1.7	1.2
Sexual Offences	6.9	5.5
Burglary	76.4	46.1
Robbery	4.1	4.8
Theft/handling	232.2	133.5
Fraud/forgery	25.7	21.2
Criminal damage	11.8	10.2
Other offences (Except motoring)	29.0	34.4

SUMMARY OFFENCES

Assaults	11.2	16.5
Criminal damage	37.8	28.5

PERSONS AGED UNDER 17 FOUND GUILTY INDICTABLE OFFENCES

Violence against the Person	7.3	3.2
Sexual offences	0.6	0.3
Burglary	25.8	5.9
Robbery	1.0	1.0
Theft/handling	44.6	8.6
Fraud/forgery	1.1	0.2
Criminal damage	3.1	1.1
Others (excluding motoring)	0.7	0.6

SUMMARY OF OFFENCES

Criminal damage	7.1	1.4
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EXPERTS' PAPERS

**TABLE 6: Number of offenders sentenced for indictable offences by type of offences and type of sentence**

Offenders sentenced for indictable offences by type of offence and type of sentence.

	Discharge	Probation Supervision	Fire	Community Service Order	Fully suspended Order	Custody under 5 years	Custody Over 5 years	Other	Total sentence (1000s)
Violence	21	8	31	8	9	15	1	7	47.1
Sexual	10	17	21	2	8	30	9	3	5.5
Burglary	12	20	12	16	7	28	-	5	45.6
Robbery	5	10	1	6	2	53	16	7	4.8
Theft/ Handling	25	13	36	8	6	9	-	3	132.5
Fraud/ Forgery	22	12	29	10	11	13	-	3	21.1
Criminal Damage									
Drug 24 Offences	17	25	8	4	11	-		10	10.1
Motoring	13	6	57	4	5	12	2	1	23.3
Other	5	4	69	6	3	12	0	1	33.8
Total	13	4	57	5	5	12	-	4	11.3
Indicted	19	11	35	9	6	14	1	4	335.0

**TABLE 7: The Rise in Victim Support**

	<u>VICTIM SUPPORT</u>	
	1981/82	1991/2
Victim Support schemes (Numbers)	114	385
Referrals (Thousands)	28	620
Volunteers (Thousands)	-	7.5
Funding (£ Thousands) Current prices	15	5,670

## CRIME AND URBANISATION IN THE U.K.

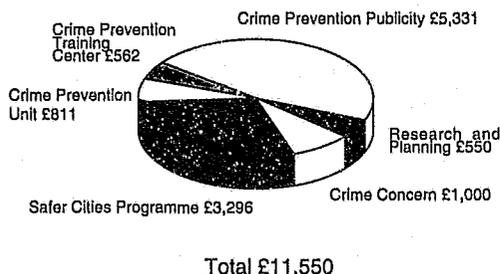
policing), extending the partnership approach, supporting vulnerable groups and contributing positively to creating "safer streets" to improve the quality of life in London. The Metropolitan Police service will also take positive action to reduce the unwarranted fear of crime through local consultation, media influence and other communications with the public.

Four specific areas of development are identified, all of which involve the element of co-operation with the general public or other agencies as follows:

*i) To develop sector policing throughout the Metropolitan Police Service*

The development of a community-based policing style (sector policing) is the most significant strategic initiative being undertaken by the Service, providing local officers who will become known to their communities. It involves moving from a time-based or shift-based policing system to a geographic system and is a style of policing which, without broad guidelines, can be closely tailored by divisions to meet local needs. In planning and implementing the new structure, each divisional commander has taken account of local concerns for a uniformed presence, in particular locations at particular times, balanced against the need for an effective response in emergencies.

### Home Office expenditure specifically allocated to crime prevention 1988/90 (£ thousands)



Source: Crime Prevention Unit (Home Office)

As the smaller local teams develop, they will pay further attention to the specific needs of their own designated parts of the community and develop relationships with local residents.

Management information systems are being explored and developed to provide a better account of local policing activity and its costs implications.

*ii) To make best use of our resources in improving the quality of life through partnership with local authorities*

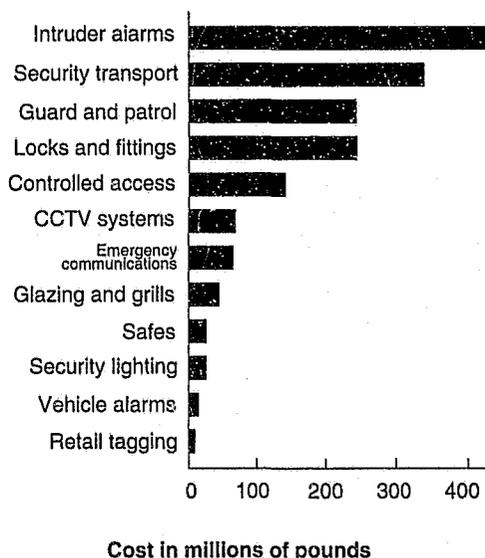
Police and local authorities have an

\*The diagram sets out the Costs of Crime Prevention: Private Sector Security

### Costs of crime prevention: Private sector security

• The total amount of money spent on security by the public was estimated at £1,600 million in 1988. Two thirds of this was on security equipment.

### Private sector security expenditure



Source: Report on the Cost of Crime to Standing Conference on Crime Prevention (1988)

important role, through the Partnership Approach, in improving the quality of life within communities in the capital city. We recognise that community safety is a mutual concern requiring strategic planning between police and local authorities and the setting of joint objectives. In many boroughs, this is now being achieved through the establishment of formal meetings between senior personnel where priorities can be identified and resources shared to better effect. There is now an encouraging number of examples where the problems faced on inner-city estates and in town centres, or created by domestic violence, racial attacks or street robbery, have been successfully tackled through such fora. This will continue to develop and the implications of moving towards alignment of divisional and borough boundaries are receiving particular attention. The significance for community based policing of close working relations with the local authorities will also be considered and we are examining those areas where an overlapping responsibility exists.

*iii) To increase the support given to vulnerable groups*

Domestic violence units and child protection teams are now well established to deal with increases in reported crimes of this nature. Our treatment of rape victims has been improved through training and the provision of special accommodation. Increased satisfaction without service in this area has been confirmed through a survey of such victims. We recognise that young people are responsible for a disproportionate amount of crime, and that they are particularly vulnerable victims of accidents, criminal activity and abuse. We will continue to co-operate with parents and families, schools, local communities and other agencies, working together to resolve the problem of juvenile offending and victimisation, and to promote the concept of active citizenship. We will join with local authorities, agencies and community groups to tackle policing

issues arising from our multi-cultural society. We will support initiatives to tackle attacks upon and harassment of all minority groups. Monitoring procedures to meet the requirements of Section 95 Criminal Justice Act 1991 are being introduced. Additionally, we are coordinating a multi-agency approach to develop initiatives to support the elderly who are particularly vulnerable to theft and confidence tricksters.

*iv) To introduce initiatives to reduce the unwarranted fear of crime*

The fear of crime is sometimes out of proportion to the actual threat. However, it is a real and worrying perception within the community. We are continuing to establish the reasons for this, and then work with others to reach effective solutions. Attention to local concerns and criminal behaviour on the streets will enhance the feeling of safety. We will highlight our good work and successes to reassure the public of our consistent and solid performance over a whole range of activities. The Director of Public Affairs and Internal Communication is developing a proactive role in the projection of strategies and statistics to reduce the unwarranted fear of crime.

In relation to management of crime reduction and investigation the police see crime prevention measures taken by individuals and organisations and the whole range of educational programmes which stimulate those measures as being important again the need for co-operation with the public and other agencies is stressed in the following objective.

*i) To seek reduction in crime through partnership with other agencies*

Public participation in problem identification and solution is becoming well established through our working closely with Consultative and Sector Working Groups, Crime Prevention Panels and Youth Crime Prevention Panels. This multi-agency involvement, complementing the

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Partnership Approach with local authorities, will be developed in order to examine and review all aspects of crime prevention. The roles of sector officers, crime prevention officers, schools involvement officers, community liaison officers and senior police officers will be refocused to improve the Metropolitan Police Service's contribution to crime reduction; the concept of "designing out" crime will also be further promoted. In addition, we are taking into account the implications of the National Audit Office on reducing crime in London.

### *ii) To improve the collection and presentation of police evidence*

The public's perception of police competence and integrity has been adversely affected by a number of well publicised cases in both the criminal and the civil courts. The quality and integrity of our input to the criminal justice system is crucial and must be seen to be by all personnel. The Evidence Project Implementation Committee (EPIC) has already implemented stage one of a four stage process which has introduced new practices relating to the quality and supervision of police arrest evidence and evidence given by private security personnel. Redesigned training programmes have been established for officers at all levels. Scientific, forensics, technical and expert aids will continue to be further developed.

Culturally it is not always easy to secure the flow of information which the police and the criminal justice system needs. People are wary of being labelled as "informers", "spies" or "tell tales". Others may be under social or family pressure not to become involved whilst at the extreme end, some people may genuinely fear reprisals.

The police may be expected to receive information from a number of sources which may be categorised as follows:

#### i) Informants

These are members of the public who provide information about their suspicions

without considering themselves as potential witnesses.

#### ii) Registered informants

These informants are usually paid and are often involved on the fringe of crime and, indeed, in some cases participate in the offence in relation to which they provide information.

#### iii) Witnesses

These are members of the public who provide statements about specific offences who may anticipate a need for their evidence to be given in Court.

#### iv) Victims

In addition to being witnesses victims may be seen as having a role in initiating and maintaining police/prosecution activity.

#### v) Helpers

People who assist the police by, for example, allowing their homes to be used for surveillance operations.

In securing co-operation from people within these categories the Criminal Justice System faces a dilemma. Persons from all categories are likely to be most helpful when they are treated sympathetically and afforded a high degree of confidentiality.

On the other hand the interests of justice generally require open justice and that means the defendant having access to information which might be important to the conduct of the defence.

The police seek to encourage the flow of information by supporting neighbourhood watch schemes, making media appeals for information about specific offences or making media appeals for general information about crime.

The value of general appeals may be illustrated by the crime stoppers programme which was introduced in 1988 to give the public the means to report crime through an easily identifiable and widely published free-phone number.

In 1992 over 50,000 calls were made leading to 1,764 arrests and the recovery of goods worth nearly £4 million. Most commonly reported crimes were theft and

burglaries but there is an increasing number and variety of calls with over 20% of calls in 1992 being drug related.

The police often wish to promise strict confidentiality and members of the public in categories i, ii & v above do not regard themselves as potential witnesses and often will be horrified at the prospect of the defendants learning of their involvement.

In order to be effective the Criminal Justice System has to be able to set the right balance between confidentiality and ensuring that the defendant has the information which is required to secure a fair trial.

Over the last few years the Criminal Justice System in England has been left reeling by the a number of high profile cases where miscarriages of justice are said to have occurred against a background of the prosecution having failed to disclose material which would be of value to the defence. The Attorney General has issued guidelines on the prosecutions obligations of disclosure but the Court of Appeal has set even wider boundaries by its decision in the case of Judith Ward. There is now an obligation upon the prosecution to disclose the defence all material which may have some bearing on the offence or the surrounding circumstances of the offence charged.

Apart from difficulties of confidentiality victims and witnesses have not always been well served by the Criminal Justice System. There is plenty of anecdotal evidence that any one asked to give evidence in a British Court would probably not wish to do so again. The overriding scheduling imperative for case listing has been that the court must not be kept waiting. With some justification there has been little reliance placed by courts upon prosecution or defence estimates for progress of cases with some prosecutions being withdrawn at the last minute and many defendants entering guilty pleas at the eleventh hour. The result is that, particularly in the Crown Court, witnesses are brought to court at short notice disrupting their working arrangements and then have

to wait for long periods of time before giving evidence. Witness expenses to compensate for loss of earnings could hardly be described as generous.

The tide is now starting to turn and there follows examination of some of the steps which have been taken to assist the witnesses who are so important in the fight against crime.

## 9. Vulnerable Witnesses

### *Women*

Women are particularly vulnerable in relation to sexual offences and offences of domestic violence.

So far as sexual offences are concerned police have sought to improve the treatment of victims through training and the provision of special accommodation to alleviate some of the trauma of the medial examination which may be involved. There has been an increase in the recorded number of sexual offences which is felt to be attributable to a more responsive attitude by the police to such complaints.

A trial can still be an ordeal for a victim through assistance from volunteers in rape crisis centres and victim support organisations has helped. Courts are being encouraged to provide separate waiting facilities for vulnerable witnesses and there are restrictions on publishing the identity of a victim in rape cases. There are also restrictions upon the right of the defence to cross examine a victim on her previous sexual history.

Most police forces have established domestic violence units and changed the culture to a point where assaults against a domestic background are to be regarded just as serious as any other assault. There remains a high incidence of victims of domestic assault wishing to withdraw complaints but efforts are made to investigate the reason for withdrawal and to provide the full background to the prosecutor before a decision

whether to abandon a case is made.

### *Children*

Children are particularly vulnerable to assault and sexual offences many such offences being committed within their home environment.

Many police forces now have specialist child protection teams who work together with Social Services Agencies in gathering evidence and making decisions as to whether help, protection or criminal proceedings are required.

Attempts have been made to reduce the trauma experienced by children who have to give evidence including the use of screens to protect them from direct confrontation with the defendant. The Criminal Justice Act 1988 introduced video links which made it possible for children to give evidence from the security of a video link room. The Criminal Justice Act 1991 has made a number of changes of benefit to child witnesses.

Section 52 of the Act removes the previous requirement for any special test of competence of children. As with adults, children must nevertheless demonstrate a basic ability to understand and communicate in order to function as a witness.

Section 53 of the Act provides for transfer to the Crown Court of sexual offences and offences of violence and cruelty where there is a child victim or witness without the need for Magistrates to consider evidence.

Section 54 of the Act enables a prerecorded video of an interview with a child witness to be admitted at the trial in the Crown Court or Youth Court in place of child's evidence in chief. The child will still need to be available for cross examination though this can take place using video link facilities.

The key to effective protection of children is a close working relationship between the professional agencies concerned and agencies have worked together in the production of a memorandum of Good Practice covering video interviews with children and the handling of the material thereby obtained.

## 10. Frightened Witnesses

Witnesses can generally be compelled to attend Court and failure to give evidence can be punished as a contempt of court. There have nevertheless been a number of instances where witnesses have chosen to be dealt with for contempt rather than run the risk of reprisal by giving evidence. This is a particularly prevalent problem in relation to gang land killings and killings arising from disputes between drug dealers. In early 1993 in a case of murder arising from the Moss Side area of Manchester a witness refused to give evidence even though eventually imprisoned by the Order of the Judge. The case itself had to be dropped.

There are witness protection schemes in more serious cases but resources are limited and, in any event, the impact of such a scheme on a witness is drastic in that the witness may be required to relocate and not make contact with family and friends.

Section 23 of the Criminal Justice Act 1988 makes admissible a written statement made by a witness if it can be shown that the person who made it does not give oral evidence through fear or because they are kept out of the way. On the face of it this provision looks like the answer to the problem but Section 26 of the Act provides that the leave of the Court is required and such leave should not be given unless the Court is satisfied that the statement ought to be admitted in the interests of justice. The Court is particularly directed to the need to assess any risk that the admission or exclusion of a statement will result in unfairness to an accused. In practice it is often difficult to demonstrate that a witness's fears arise from any direct action by a defendant. Judges are reluctant to deprive a defendant of a right of cross examination of crucial witnesses and the rate of success of application under Section 23 is not high.

In a case tried at the Old Bailey in 1993 which concerned a drugs related killing the

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trial Judge was pursued to adopt a different approach. Witnesses as to identification gave evidence that they were in fear and the Judge allowed them to give evidence behind screens and their identity was not revealed in open Court and the press were directed not to publish any details which might lead to the identification of the witnesses. In the event the defendant was acquitted but the defence had argued that where evidence is given in this way there is a risk that witnesses whomay have a grudge against the defendant are giving evidence and the defendant will not be able fully to explore that possibility because of lack of information as to their identity.

### *Informants*

Since the ruling upon disclosure in the Judith Ward case it has not been appropriate for the prosecution to keep material from the Court. The Court of Appeal has, however, approved a procedure for information which may attract public interest immunity such as that relating to informants, which does not involve immediate disclosure to the defence. Application may be made to the trial Judge, in exceptional cases without the knowledge of the defence, for the Judge to consider the material in the hands of the prosecution and to rule upon disclosure. If the initial ruling is that the prosecution need not disclose, that position is kept under review by the Judge throughout the trial.

In informant cases and other cases involving sensitive material it is absolutely vital for the police to be frank with the prosecutor so that an agreement is reached upon the degree of sensitivity of a piece of information and the course of action which is to be taken.

Agreement has been reached between the Crown Prosecution Service and the police forces in England and Wales for the provision of schedules listing material which is non sensitive and sensitive. The most extremely sensitive material is not the subject of listing in this way but may be conveyed by hand and is the subject of strict security procedures.

The "bottom line" in every informant case or case involving an undercover officer must be established before the matter goes to Court. In the event that a Judge rules in favour of disclosure it must be agreed between police and prosecutor whether such disclosure should be made or whether the balance of the public interest lies in protecting the informant or undercover officer and the case should be dropped.

The issue will not arise in the vast majority of cases but it has been estimated by the Commissioner for the Metropolitan Police that since January 1992 at least 60 major cases of drug trafficking, armed robbery and other serious crimes where the accused are actually caught in possession of firearms or other weapons have had to be dropped by the prosecution because of problems with disclosure.

### *Witnesses*

Generally a requirement that the address of all witnesses must be included in witness statements which may be served upon the defence has now been removed. There is a Courts Charter and all the agencies in the Criminal Justice System are being asked to consider the service which they provide to witnesses and victims of crime. Measures to be considered include helpful information to be provided about a Court attendance, proper waiting facilities for prosecution witnesses segregated from defendants and their witnesses, targets for maximum waiting times to Court and targets for payment of witness expenses.

## **11. Inter-agency Co-operation and Training**

There has been little in the way of systematic approach to responding to crime. The law enforcement and justice organisations have developed separately but no overall authority has been created to plan strategic management of the system as a whole. The allocation of resources and the

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need to protect areas of influence sometimes militate against co-operation between agencies.

The Criminal Justice System alone cannot make a substantial impact on the reduction of crime. There is a need to consider the allocation of resources to all agencies including those able to reduce opportunities for criminal behaviour in the physical environment and to reduce motivation in the social environment.

At a local urban level it is important to gather information about agencies which may need to work together to tackle problems.

The following are a list of influences on crime which might be identified.

Environmental  
Direct influence.  
Surveillance  
Secure car parks  
Cars locks  
Close circuit television

Indirect influence  
Building design  
Transport schemes  
Estate management

Social  
Direct influence  
Policing  
Sentencing  
Probation

Indirect influence  
Youth clubs  
Anti-poverty measures  
Unemployment schemes

The list below covers a range of bodies that might need to be included in running an overall response to crime in an urban community.

Police Force  
Crown Prosecution Service  
Magistrates Courts

Probations Services  
Local Authority Departments

Social Services Departments (Juvenile Offender Schemes)  
Education Departments  
Education Welfare Service  
School Physiological Service  
Units for disruptive pupils  
Housing Departments  
Council Estates Management  
Leisure and Recreation Department

Area or District Health Authorities  
Drugs/alcohol Schemes  
Voluntary Projects and Services

Crime Prevention Schemes/Panels  
Rape Crisis Centres  
Victim Support Schemes  
Juvenile Offender Projects  
National Charities providing local projects  
Solicitors  
Law Centres

There have been signs of such co-operation in England and Wales though there is still a long way to go. Most police forces recognise the need to maintain links with local authorities and there are signs that the Criminal Justice Agencies have recognised the need collaborate and to recognise each others' needs. A Working Group on Pre-Trial Issues has produced a report which has gained Ministerial approval which covers such areas as the quality of information submitted by the police to the Crown Prosecution Service, target times for stages in Court proceedings, the need for Pre-Trial hearings to identify issues and arrangements for the calling of witnesses.

### 12. Juveniles

The age of criminal responsibility in England and Wales is 10. In order to secure a conviction against a child between the age of 10 and 14 years it is necessary in addition

to proving that the child admitted the crime that he knew what he was doing was seriously wrong.

Cases involving offenders between 10 and 18 years of age are dealt with in Youth Courts.

Young offenders may be required to appear before Magistrates Courts where they are jointly charged with adult offenders or before Crown Courts where they are so charged or where the offence alleged is one which carries a penalty of 14 years imprisonment or more and the Court is of the opinion that there is no other suitable method of disposal than a period of detention.

Every Court in dealing with a child or young person is required to have regard to the welfare of the child or young person and to take steps to remove him from undesirable surroundings and/or securing proper provision is made for education and training.

The Code for Crown Prosecutors recognises that there may be positive advantages for the individual and for society in using prosecution as a last resort and in general there is a strong presumption in favour of methods of disposal which fall short of prosecution unless the seriousness of the offence or other exceptional circumstances dictate otherwise. The objective is to divert juveniles from Court whenever possible and prosecution is regarded as a severe step.

The Home Office has issued Guidelines to the police on cautioning juvenile offenders and where police are unable to make an immediate decision to caution the Guidelines suggest that there may be advantages in their seeking the advice and views of other Agencies such as the Social Services Department, The Probation Service and the Education Welfare Service. The rise in the percentage of persons aged 10 to 17 who are cautioned is shown in Table 8 below which covers the period 1980 to 1990.

The range of sentences open to a Youth Court are as follows:

- Absolute and conditional discharge
- Compensation
- Fine
- Recognizance of parent or guardian
- Attendance Centre
- Supervision Order
- Probation (16 and over)
- Community Service (16 and over)
- Combination Order (16 and over)
- Detention in a Young Offender Institution (15 and over)

### 13. Specific Offences

#### *Burglary*

Offence of burglary is prevalent in urban areas accounting for approximately for 22% of crime recorded by the police.

The offence of burglary is defined by Section 9(1) of the Theft Act 1968.

Though most offences have theft as a motive, burglary of houses represents a personal violation, particularly for the elderly, which goes way beyond the simple loss of property.

There have been a number of media advertising campaigns directed at encouraging people to secure their homes. Elderly people are particularly susceptible to persons gaining entry by pretending to be on official business, e.g. repairmen, representatives, electricity or gas companies or local authority public health inspectors. Advertising campaigns have targeted the elderly encouraging them to seek identification and, in the event of doubt, to insist on contacting the authority concerned to verify the reason for the visit.

Commercial premises are often protected by alarm systems and security guards. Shop premises have recently been the targets of "ram raiders" driving stolen vehicles straight through shop windows and loading goods before making an escape. Shops have had heavy metal shutters installed and, in some cases, have sought the assistance of local authorities in placing bollards or other obstructions which will prevent vehicles from

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TABLE 8

YEAR	MALES			FEMALES		
	CAUTIONS	GUILTY FINDINGS	CAUTIONED	CAUTIONS	GUILTY FINDINGS	CAUTIONED
1980	63600	80400	44	21900	9800	69
1981	64800	77400	46	22800	9300	71
1982	67000	73100	49	26000	8700	75
1983	69500	66000	51	25100	7400	77
1984	75300	63700	54	23700	6400	83
1985	82400	57200	59	30100	5900	84
1986	69900	43800	61	23600	4200	85
1987	74000	38600	66	21700	3400	86
1988	72900	33300	69	17000	3200	84
1989	57800	23900	71	15000	2500	86
1990	66400	22200	75	19700	2500	89

\*There has also been an increase in the use of cautioning for persons aged 17 to 21 as shown in Table 9 below.

TABLE 9

YEAR	MALES			FEMALES		
	CAUTIONS	GUILTY	CAUTIONED	CAUTIONS	GUILTY	CAUTIONED
1980	3200	106100	3	700	14700	5
1981	3400	113900	3	800	14600	5
1982	3500	119600	3	1000	15100	6
1983	4400	115300	4	1100	14800	7
1984	5700	114000	5	1600	14400	10
1985	7500	114000	6	2100	14800	12
1986	10500	98900	10	3500	12700	22
1987	14300	99900	13	4200	12700	25
1988	15000	97200	13	4200	11500	27
1989	16700	83000	17	4700	10700	31
1990	22500	84700	21	6650	10800	38

\*Seventeen-year-olds were only brought into the Youth Court System from the 1st October 1992 and it may be that this will result in a further increase in cautioning amongst that group though figures are not yet available.

being driven directly at the premises.

The Metropolitan Police have targeted burglary offences for intensive police action, their plans being named "Operation Bumblebee". The Operation is based upon gathering intelligence on suspected offenders and tracing all associates. This may mean holding back for a period on arresting an offender who has been identified by fingerprints until they have been the subject of surveillance and other enquiry. Once intelligence has been gathered, co-ordinated raids are carried out simultaneously, premises are searched and arrests made of both burglars and receivers of stolen goods.

As part of once such Operation police infiltrated and operated a shop which purchased stolen goods. Police Officers posing as "fences" were able to obtain information concerning the origin of property being offered for sale. All conversation with sellers were recorded on video.

When arrests and prosecutions followed, the defence tried to challenge the admissibility of the evidence upon the basis that as the police officers were interviewing the sellers as suspects, the legal requirements of the Police and Criminal Evidence Act 1984 such as cautioning before questioning and the offering of legal representation should have been followed.

The Appeal Court supported the police approach. It was recognised that the officers would have to ask certain questions to maintain their own cover. It was held that provided the conversation did not go beyond what might be expected in such circumstances the Police and Criminal Evidence Act did not apply. It was also apparent that the Court took into account that the integrity of the evidence had been preserved by the recording process.

#### *Theft of and from motor vehicles*

These types of offences account for over 1/4 of all recorded crime.

The offence of theft is defined in Section

1(1) of the Theft Act 1968.

The full offence of theft tends to be committed by professional car thieves who "ring" the vehicle by changing colour, number plates and other identifying marks. Forged ownership documents may be provided for vehicles which have been written off in accidents and are purchased, giving thieves access to genuine vehicle registration documents. The colour and identifying marks of the stolen vehicle can then be tailored to match these documents.

Expensive and high performance cars are particularly vulnerable with some vehicles being stolen to order.

Many police forces have specialist stolen vehicles squads experienced in tracing vehicles and parts back to source.

Theft from vehicles may be purely opportunist or target particular items such as credit cards which may have been left in the vehicle or expensive stereo/radio systems.

Clearly manufacturers can contribute greatly to prevention by the use of more sophisticated locking systems, immobilising systems, security alarms and the etching of parts such as windows with the original vehicle details. Stereo radio units can be coded so as to be useless once removed from the vehicle itself.

Members of the public have been targeted by publicity campaigns in which car thieves have been portrayed as hyenas preying on vulnerable vehicles. The message has been not to leave valuables on display in a vehicle and to ensure that vehicles are locked and fitted with security systems.

Some insurance companies have made it a condition of insurance that the more exotic performance cars are fitted with a security system.

Some police forces have purchased special vehicles of a type known to be attractive to car thieves. The vehicles is then parked in a place where car theft is prevalent. If stolen the vehicle will travel only a short distance before it becomes completely immobilised with all its doors locking thus trapping the

offender.

Other forces have tried to address the problem of theft from cars by following the adage that if there were no receivers of stolen goods there would be no thieves.

The original police Operation emanated from the Merseyside force and was designated "Operation Radio Active". Officers on routine patrol were encouraged to take particulars of all vehicles which have stereo systems which seemed to be out of keeping with the vehicle itself in terms of make or value. Arrangements were then made to trace and interview the vehicle owner. Substantial amounts of stolen property were recovered and many owners were prosecuted for handling stolen goods. Even where there was insufficient evidence to prosecute the police felt that they were sending a clear message that they were on the lookout for equipment purchased cheaply or in suspicious circumstances and in this way were able to damage the market in stolen vehicle stereo/radios.

Far more prevalent than vehicle theft is the authorised "borrowing" of vehicles either for specific journeys or so called, "joy riding". It is difficult to prove a theft in these cases because it cannot be shown that there is an intention permanently to deprive the owner of the vehicle. To meet this problem Section 12(1) of the Theft Act 1968 created a specific offence in relation to taking, driving or riding in conveyances without lawful authority. The offence is punishable with a maximum of 6 months imprisonment and carries a discretionary disqualification. There has, however, been concern over recent years that the offence may not be adequate to meet the overall criminality of "joy riding" incidents.

Those involved in such incidents are frequently young offenders who are inexperienced drivers and who have not passed any formal test in competence to drive. Their use of a vehicle will not be covered by the compulsory insurance to compensate members of the public who suffer damage or injury as a

result of the manor in which the vehicle is driven.

Many such offenders become involved in high speed or reckless driving and there have been instances of deliberate flaunting of stolen vehicles before police patrols in an effort to provoke a chase. Police Officers frequently face the dilemma of meeting the need to apprehend offenders balanced against the need to avoid endangering the general public in car chases.

There has been a response to this concern in two ways. The first is the creation of an offence of aggravated vehicle taking which focuses upon the manor in which the vehicle is used. The second response has been an increase in penalties in relation to the more serious consequences of reckless driving. In 1992 the maximum penalty for causes of death by reckless driving was increased from 5 to 10 years imprisonment. Judges are showing an increased willingness to impose higher penalties, the most recent example being in October 1993 when a youth received 7 years imprisonment in relation to the taking and driving of a car which resulted in the death of a 4 year old girl pedestrian.

Motor vehicles remain a temptation for the young. Courts have generally resisted the imposition of long periods of disqualification from driving on the basis that there is likely to be a high level of breach of such orders and the lack of a driving licence can have an adverse effect on employment prospects.

Some sentencing options have allowed young offenders to participate in "Wheels Projects" where they can learn how to properly service and repair vehicles and have an opportunity for off-road driving. Critics of the schemes see them as training grounds for improving the skills of car thieves but supporters stress the value of providing legitimate access to vehicles to channel the interest of young people away from the unauthorised use on public roads with all the attendant risks.

In the campaign in relation to theft of and

from cars police found difficulty in securing convictions for attempted theft or attempting to take motor vehicles without consent in relation to persons who were caught in the act of trying to enter vehicles but whose activities were not sufficiently advanced to make it clear which offence was intended.

To meet this problem an offence of vehicle interference was created by Section 9(1) of the Criminal Attempts Act 1981. Provided the Court is satisfied that an offender is interfering with a motor vehicle with the intention of either stealing the vehicle or of stealing something from the vehicle or of taking the vehicle without consent this will be sufficient to found a conviction and it is immaterial that it cannot be proved exactly which offence was to be committed. The offence carries a maximum of 3 months imprisonment.

#### *Theft generally*

There are obviously many ways in which theft can be committed. A particular problem in the urban environment is pickpocketing. Thieves thrive in busy streets, stores, wine bars and public houses and on public transport systems. British Transport Police have a specialist squad of plain clothes officers which keep watch on the underground system in order to detect pickpockets. Poster campaigns target the Underground and other public places warning that pickpockets are a particular threat. Whilst cash is always welcome the main target for pickpockets are credit cards.

The association for payment clearing services (APACS) was set up by the major banks in 1985 to manage the payment clearing systems in the United Kingdom. The organisation estimates that the plastic card fraud losses for 1992 amounted to £165 million. Of the cards used fraudulently only some 7% were counterfeit or resulted from fraudulent application; 18% were new cards intercepted whilst the remaining 75% were lost or stolen. Fifteen percent were used outside the UK and 7% at banks in the UK.

The remaining 78% were used at retail outlets in the UK.

APACS have embarked on a cardwatch campaign aimed at encouraging reporting by the public and targeting training of retail staff in spotting suspicious transactions and behaviour of those presenting cards. In 1992 some £7 million was spent in rewards to vigilant shop staff.

APACS together with the Home Office have commissioned a study to gain a criminal's perspective of plastic card fraud and a better understanding of the motives for such crime.

Technology may assist with the problem with photographs, personal identification numbers and biometrics as options to assist with cardholder verification at the point of sale. Watermarks, hologramatics and "smart" cards which have the capacity to store and check information unique to the cardholder are also being considered.

Prosecution of card offences is usually brought under Section 15(1) of the Theft Act 1968 for obtaining property by deception. Proving the totality of involvement of offenders can be difficult involving fingerprinting or handwriting analysis which can be very time consuming.

#### **14. Public Order**

The fact that people have a good chance of remaining anonymous in the urban environment can facilitate the commission of general public order offences. This can take the form of groups behaving in a rowdy way in town or can focus on specific events such as football matches. There have also been instances of police officers attending a relatively minor incident on a difficult estate or area and then being surrounded by youths shouting abuse, throwing stones, etc. so that the incident becomes more serious. At the top end of the scale there have been major incidents particularly in areas where there have been racial tensions such as the Brixton area of London and Handsworth area of

Birmingham.

The Public Order Act 1986 created a number of offences including riot, violent disorder, threatening behaviour and disorderly conduct. Whilst in major incidents it has been necessary to prosecute for the more serious offences in order to reflect the overall criminality of a defendant in general it has been far more effective to prosecute for offences at the lower end of the scale. It is particularly important in offences of this kind to conclude the prosecution whilst matters are fresh in the mind of all concerned. Thus the charging of offences which can be dealt with quickly in the Magistrates Court has generally been seen to be more effective than charging more serious offences which may take a substantial amount of time before they are tried in the Crown Courts.

The use of video or photograph evidence is effective in combatting the element of anonymity. Without such assistance it is unlikely that offenders other than those caught in the act will be traced. Some football grounds and shopping centres have video camera facilities and there is generally little difficulty in gaining access to such material though quality may be variable.

More difficult is the issue of material held by the media who may have covered some of the more serious incidents. Experience suggests that the press are extremely reluctant to be seen as an arm of state in gathering evidence and fear that if they are seen as such their ability to gather news will be affected. There have been instances of television crews being attacked during the course of outbreaks of disorder. Conversely there have been occasions when it has been felt that offenders are "performing" for the media.

There are powers under Schedule 2 of the Police and Criminal Evidence Act 1984 which enable the police to apply to a Judge for access to material held by the media. Such applications are only appropriate where more serious offences have been committed but, provided the prosecutor can persuade the

Judge that the balance of the public interest lies with the investigation of serious offences, there has not been too much difficulty in obtaining such Orders.

## 15. Prevention of Crime

In certain areas of urban crime it is useful to have categories of offences which enable police to step in and prevent the possible commission of more serious offences. Three examples of such offences are set out below.

Section 1 of the Prevention of Crime Act 1953 prohibits the carrying of offensive weapons in any public place. Some weapons such as flick knives are always regarded as offensive weapons and unless a defendant can demonstrate lawful authority or reasonable excuse, a conviction will follow. Other items will only fall into the category of offensive weapon if the defendant intends that they be used for causing injury to the person.

It is often difficult to prove the requisite intent for an offensive weapon charge and, owing to increasing public concern about the carrying of knives, Section 139 of the Criminal Justice Act 1988 created an offence of having an article with a blade or point in a public place. Folding pocket knives are exempt unless the cutting edge of the blade exceeds three inches and there are also exemptions for articles for use at work, carried for religious reasons or as part of a national costume.

The third example of an offence aimed at prevention of crime is the offence of going equipped for stealing contrary to Section 25 of the Theft Act 1968. The offence is directed at any person who, when not at his place of abode, has any article for use in the course of any burglary, theft or cheat.

## 16. Drugs Offences

The supply of drugs in urban areas is an increasing problem. The Misuse of Drugs Act 1971 restricts the production, possession

and supply of controlled drugs.

Housing estates present opportunities for drug dealers to be able to operate whilst affording the police little opportunity for surveillance. Dealers store drugs and are rarely arrested on the street in possession of quantities greater than those which might be associated with purely personal use.

Flats on estates may be used for the production of such drugs as crack cocaine, and frequently such premises are vacant so that even when police raids are carried out it is difficult to prove who is responsible for the premises and the production of drugs as opposed to being visitors seeking supplies for personal use.

It has been recognised that an important weapon in the fight against the supply of controlled drugs is an ability to confiscate the proceeds of crime. The Drug Trafficking Offences Act 1986 requires a court to determine the extent to which a defendant convicted of drug trafficking has benefited. The court can then make a compensation order. The act provides powers for a Judge to grant orders giving a Constable access to material held for the purpose of an investigation into drug trafficking. There are also provisions for restraint orders on property to prevent defendants from disposing of assets pending the outcome of a prosecution.

### Reference

*Prevention of Crime Act 1953*  
(1 & 2 Eliz. 2. c. 14)

An Act to prohibit the carrying of offensive weapons in public places without lawful authority or reasonable excuse. [6th May, 1953.]

Prohibition of the carrying of offensive weapons without lawful authority or reasonable excuse

1. (1) Any person who without lawful authority or reasonable excuse, the proof whereof shall lie on him, has with him in any public place any offensive weapon shall be

guilty of an offence, and shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding [£2,000]<sup>1</sup> or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.<sup>2</sup>

(2) Where any person is convicted of an offence under subsection (1) of this section the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.

(3) [Subsection repealed by Police and Criminal Evidence Act 1984, Sched. 7, Part I.]

(4) In this section "public place" includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise; and "offensive weapon" means any article made or adapted for use for causing injury to the person, or intended by the person having it with him or such use by him [or by some other person].<sup>3</sup>

1 Maximum fine increased by Magistrates' Courts Act 1980, s.32(2).

2 Criminal Justice Act 1967, s.92(8)(d) removed the limit on the fine on indictment.

3 Inserted by Public Order Act 1986, Sched. 2.

*Police Act 1964*  
(1964 c.48)

An Act to re-enact with modifications certain enactments relating to police forces in England and Wales, to amend the Police (Scotland) Act 1956, and to make further provision with respect to the police.

[10th June, 1964]

Assaults on constables

51. (1)1 Any person who assaults a constable in the execution of his duty, or a person assisting a constable in the execution of his duty, shall be guilty of an offence and liable [on summary conviction to imprisonment for a term not exceeding six

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months or to a fine not exceeding level 5 on the standard scale or to both.]<sup>2</sup>

(2) [Subsection omitted.]

(3) Any person who resists or willfully obstructs a constable in the execution of his duty, or a person assisting a constable in the execution of his duty, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding one month or to a fine not exceeding [level 3 on the standard scale] or to both.

1 See also Firearms Act 1968, s. 17(2), Sched. 1.

2 Amended by Criminal Law Act 1977, s. 15, Sched. 1 and Criminal Justice Act 1982, s. 46.

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## **Effective Countermeasures Against Crimes Related to Urbanisation and Industrialisation – Urban Crime, Juvenile Delinquency and Environmental Crime**

*by David Biles\**

### **Introduction**

In this lecture I will try to present some general ideas related to the topic that has been assigned to me that may be of some general interest and also of assistance to you in your professional work. I would like to say at the outset, however, that even though I have been a criminologist for approximately 30 years, I do not claim to have all of the answers about how to prevent crime. I have plenty of ideas, but do not claim to have the solutions. For that reason I would like this lecture to be as informal as possible and therefore I invite you to ask questions at any time and also to make any comments on the issues that have been raised.

I propose dividing up the lecture in the following way. First of all I will present a fairly detailed and lengthy introduction which includes a number of background factors about the measurement and incidence of crime. I will use a number of overhead transparencies in this section of the lecture to illustrate the points which I believe are important. Towards the end of the introduction I would like to give you my personal view of an appropriate structure for thinking about how one might go about developing an integrative strategy for the prevention of crime.

After the introduction I will endeavour to give you some general ideas about the relationship between urbanisation and industrialisation and the incidence of

criminal behaviour. Again I will present some overhead transparencies to illustrate the points I am making. Later I will give you some general observations under the heading of juvenile delinquency and within this context I will give you a summary report of a major study which has recently been completed by the Australian Institute of Criminology on the operation of juvenile justice systems in the Asian and Pacific Region. Next I will endeavour to give you some thoughts about environmental crime or crime against the environment and finally I will endeavour to draw the threads of the lecture together in a general conclusion. Let me repeat that I would like this lecture to be informal and friendly and therefore please do not hesitate to express any points of view that you would like to express at any time during the next hour or so.

### **The Picture of Rising Crime**

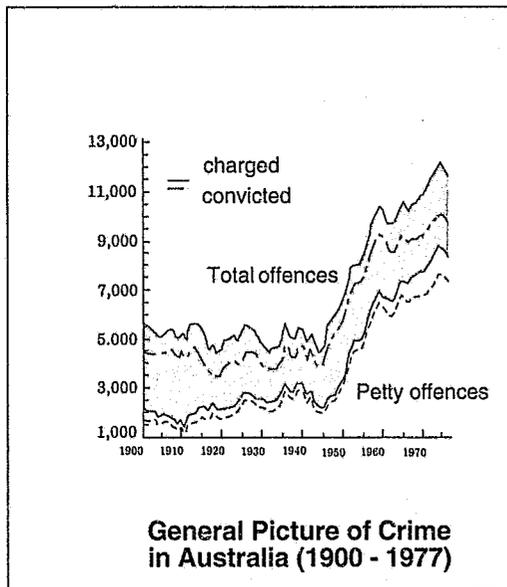
Over the past 30 or 40 years throughout the English-speaking world there seems to have developed a general assumption that the rates of all types of crime are increasing exponentially. In other words crime rates are increasing faster and as time goes on. This is certainly not true in countries like Japan but it is certainly the image that is painted in countries like the United States, Canada, England and continental Europe, and in Australia and New Zealand.

The picture of rising crime has very profound consequences for the citizens of any community. Whether the picture reflects the reality or not citizens who believe that crime is constantly rising will make many

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adjustments in their lives which will have social, psychological and also economic consequences. I would like to discuss the consequences of crime in more detail later but first I would like to present just one side which gives a dramatic picture of the increasing crime.

This overhead shows the general picture of crime in Australia between the year 1900 and 1977 and draws distinction between total offences and petty offences and the charges laid and the number of convictions recorded. You will note that for each year the graph expresses the offences per 100,000 of the population. I would like to start by suggesting that this picture would be virtually the same in other similar countries such as the United States and England.

What we can see in this graph is that between the turn of the century and the end of the Second World War the level of total crime was reasonably static. The picture changes dramatically, however, from 1945 during which time there is a rapid increase in the total offences. The graph shows that over that period of 30 years the rate of charges being laid more than doubled. This

is the sort of picture which causes great alarm and distress. When one looks at the graph more closely, however, one can see that virtually all of the increase is accounted for by an increase in petty offences rather than an increase in more serious offences which are shown in the dotted area. In other words, the increase in crime which has undoubtedly occurred since the Second World War may to a significant extent simply reflect more active police forces pursuing less serious offences as well as a community which is more inclined to bring less serious offences to the notice of police.

I would not in any way want that graphic to be interpreted as suggesting that the crime is nothing to worry about because certainly for many areas of serious crime there have been real increases over the past decade or more. I refer particularly to offences such as housebreaking, robbery and motor vehicle theft. Before going into the details of those offences I think it would be wise if I spent a few minutes talking about crime reporting and clearance.

### Crime Reporting and Clearance

There are essentially two different methods that can be used to measure the extent of crime in a community. In the first place one can simply count the number of offences that are reported to the police and compare those numbers from place to place and time to time. We refer to crime rates derived from this methodology as producing 'official crime rates'. The second approach is to ask citizens what has happened to them in relation to crime over the past six or 12 months. We call this approach the victim survey approach and it frequently produces quite different results from those that emerge from police statistics.

It has been established from victim surveys that slightly less than half of all offences that occur in the community are reported to the police. We will consider in more detail shortly why crime victims do not report offences to

the police but for now let us accept the reality of a massive number of offences unreported, sometimes referred to as "dark figure" of crime. Of the offences that are reported not all are recorded by the police and of those that are recorded only a minority are actually cleared through the arrest of an individual or by establishing that the offence took place but an arrest was inappropriate. Of the offences that are cleared and where persons are arrested there are a significant proportion of cases where the matter does not go to court, or even if it does go to court the individual who is charged is not convicted. Finally of the people who are convicted of criminal offences in the courts only a very very small proportion actually go to prison. The estimates vary widely, but conservatively I would suggest that for every one person in prison at least 100 serious offences have occurred that could have resulted in an offender being imprisoned.

This diagram figuratively shows the relationship between the overall proportions of events that occur throughout a criminal justice system. Again, I must emphasize that this is a generalised picture and the details would be significantly different in different cultures. I would suggest, however,

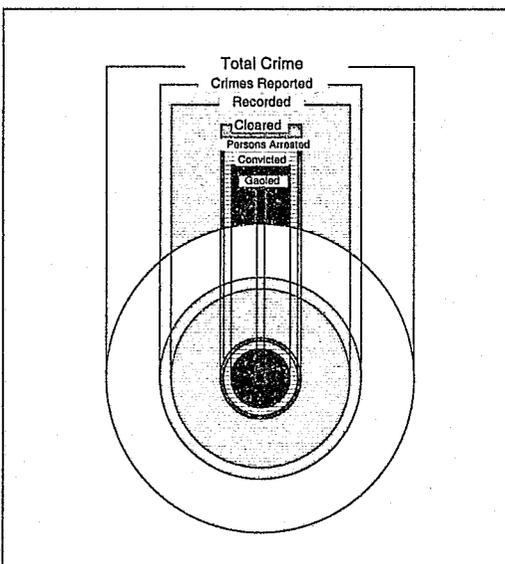
that the general picture would have wide applicability.

This diagram may be used to illustrate the fact that it is futile to attempt to seriously reduce the incidence of crime by imposing harsher penalties on that relatively small proportion of offenders who are convicted. Just imagine if we had a very very efficient police force, a superb prosecution service as well as judges who imposed harsh penalties so that one was able to double the number of people in prison in a society. If one imposed that consequence on the diagram one can still see that it is only a tiny proportion of the offences that take place in a community that result in imprisonment. It would be naive I would suggest to imagine that such a change would have a serious impact on the level of crime in the community, even though it would of course have some impact.

This diagram can also be used to ask the question whether it is desirable in the interests of the community to endeavour to reduce the totality of crime that occurs in the community or to simply increase the proportion of that crime that is reported to the police. I think that it could be argued that increasing the proportion of offences reported would be desirable whether or not the authorities were able to convict more offenders. If that did happen, however, the official crime rates would seem to be much higher than would otherwise be the case.

I would now like to show another chart which gives some detail about the reasons for crime victims not reporting offences to the police.

This chart shows the principal reasons for not reporting a number of property offences in Australia. It can be seen that the reasons vary from offence to offence but generally speaking the most common reason for not reporting is that the victim thought the offence was not particularly serious. In cases of car theft however the victims believe that they can solve it themselves, perhaps because they believe they knew who the thieves



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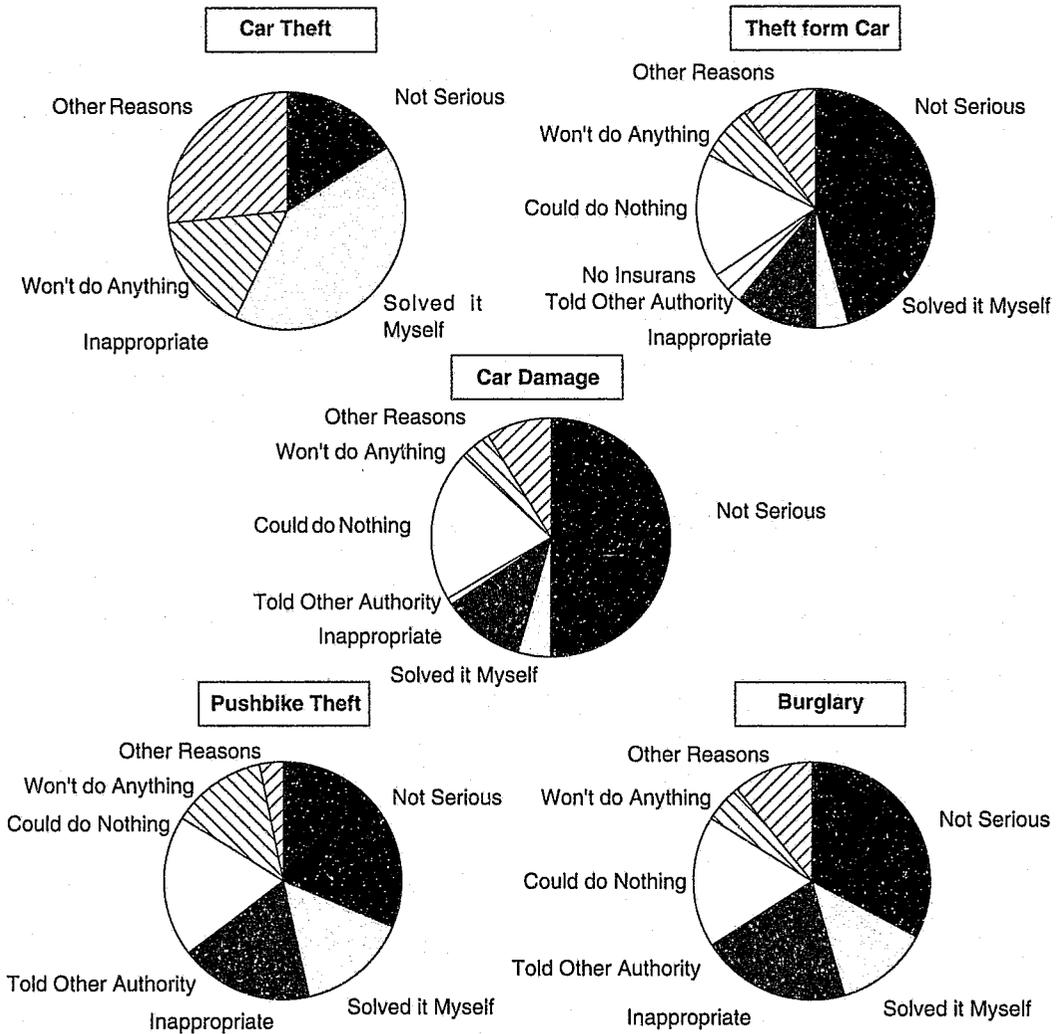


Figure 3: Principal Reasons for Not Reporting to Police, by Type of Incident-Australia 1988

were. In other cases it can be seen that some victims did not report the offence because they believed that the police would not or could not do anything about it or that they thought it would be inappropriate in the circumstances to inform the authorities. Perhaps that would be the case when a parent knows that his own motor vehicle has been taken by an adolescent son or daughter without the parents permission.

I do not have an overhead to illustrate this but other evidence that we have accumulated in Australia shows that male victims of assault often do not report the offence because they believe that they can solve the problem themselves, while female victims of assault

tend not to report the offence because they believe it was a personal and not a criminal matter or that they did not want harm to come to the offender. That difference is, I believe, one of very great significance and tells us a great deal about how men and women regard crime and perhaps how they regard the world in general, in different ways.

### The Characteristics of Crime Victims

I would like now to devote just a few minutes to giving you some information about who are the people who become victims of crime.

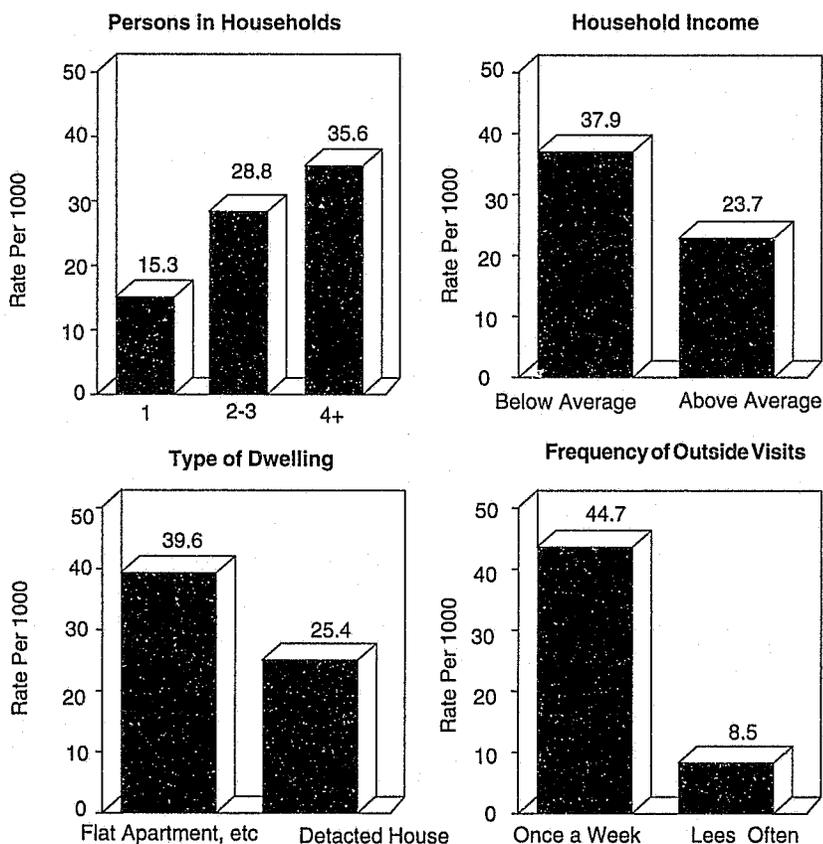


Figure 4: Estimated Incidence Rate of Car Theft, by Key Characteristics of the Household Per 1000 Households-Australia, 1988

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This chart illustrates some of the characteristics of the victims of motor vehicle theft in Australia. It can be seen from this chart that these victims are more likely to come from large families than small or single person households. Also they tend to come from below average income households. That might come as of a surprise. They are more likely to live in flats or apartments than detached houses and also they are people who tend to have more outside visits than

those who are not victims. In other words they are sociable types of people.

If we look at the characteristics of victims of sexual assault we can see that they tend to predominantly very young, specifically in the age range 16 to 19 years. They are also more likely to come from a household which comprises two or more adults rather than a household that has adults and children or a household that comprises a single adult. As with motor vehicle theft, victims of sexual

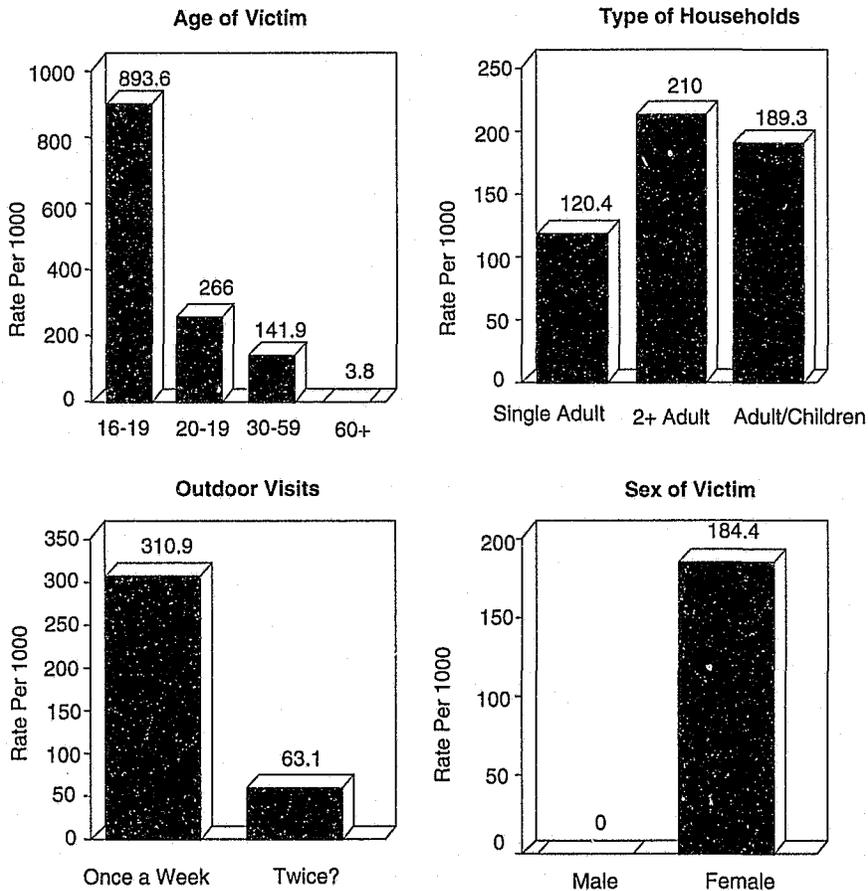


Figure 5: Sexual Incidents Estimated Incidence Rates of Selected Personal Crimes, by Key Victim Characteristics

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assault tend to have a relatively high number of outdoor visits, and finally one can see they are totally female.

We can now compare the characteristics of the victims of sexual assault with the victims of other common non-sexual violence. From this overhead we can see that, again, the victims tend to be in a relatively young

age group but this pattern is not as clear as it is with sexual assault. There is also a major difference in the types of household they come from. Victims of non-sexual violence tend to predominantly come from single adult households. Again, they are more likely to have outdoor visits, more than once

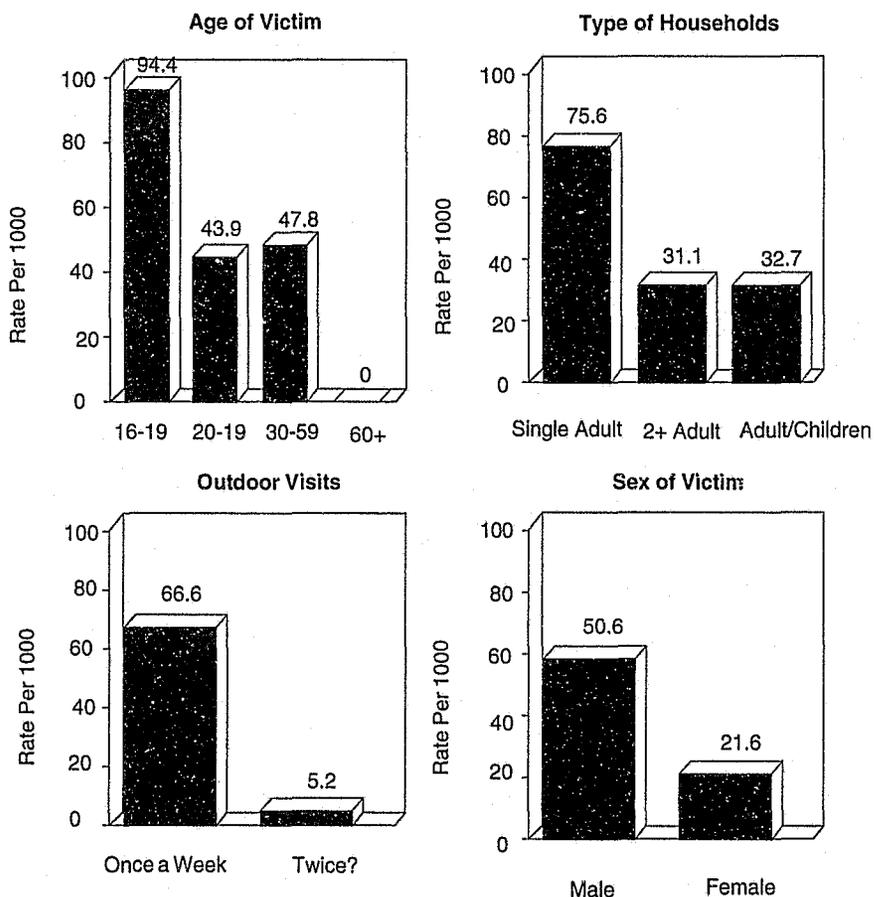


Figure 6: Other Actual Violence Estimated Incidence Rates of Selected Personal Crimes, by Key Victim Characteristics

a week than not, but here there are more than twice as many male victims than there are female victims.

This sort of information can lead to the conclusion, quite validly, that different sorts of offences tend to be committed against different types of people. In other words crime is not a general phenomenon that places all people equally at risk. If we were asked to paint a picture of a typical crime victim we would say something like he is male rather than female, he is young rather than old, he is poor rather than wealthy, he lives in a large city rather than in the country, he is more likely to be unemployed than employed, he generally has a lesser than average education and he may well have had some treatment for psychiatric disturbances. In other words, the typical victim of crime in modern society tends to be something like the typical offender who is also more likely to be male, young, a city dweller, ill-educated, unemployed, etc.

On both sides of the equation there are of course many exceptions to the picture that I have painted. There are many crime victims who are wealthy and older and female etc., and there are also many offenders who do not fit into that pattern but it is of interest to note that for the vast majority offenders and victims tend to have much more in common than the general public would believe.

### **A General Strategy for Crime Prevention**

I would like at this point to give you a very brief outline of what I consider to be the three major considerations that need to be borne in mind if one is to develop an integrated strategy for the prevention of crime. At this point this will be the briefest possible outline of an extremely complex subject.

In the first place if one is to take crime prevention seriously it is essential that one has a legal system and criminal laws which reflect the predominant values of the society. If this principle is not followed the criminal

law will not be supported by the total community and crime prevention will be impossible. There are numerous examples throughout history where attempts have been made to use the criminal law in an inappropriate manner. The criminal law has been used, for example, to enforce sexual morality, especially in relation to homosexuality, adultery and abortion. The criminal law has also been used in some circumstances in an attempt to prevent the consumption of alcohol, in the prohibition area in the United States for example. In many parts of the world today the criminal law is used to try to prevent the use of certain drugs, such as cannabis, against the wishes of the majority of the community. The criminal law can only be effective if it has the strong support of the majority relevant community.

The second principle in a crime prevention strategy I would like to suggest is that every reasonable effort must be made to reduce either the motivation or the opportunity that potential offenders have for committing offences. This is generally referred to as primary prevention and involves quite different programs of activity in relation to motivation or opportunity. The reduction of a motivation towards criminal behaviour is extraordinarily complex but clearly it is related to the sort of education programs we offer in our societies, the sort of values which are developed within family settings and the sort of attitudes that develop among groups of adolescents in particular.

The second leg of this principle, the reduction of opportunity is much easier than the reduction of motivation and involves what is often referred to as 'target hardening'. In other words, if cars and houses are more difficult to break into then fewer of them will be victimised. Similarly the provision of effective street lighting, the design of houses such that offenders are likely to be observed, etc. all reduce the opportunity for offences to occur. It must be remembered that an offence will only take place if both motivation and

opportunity are present.

The third leg of the crime prevention strategy refers to an effective criminal justice system. Even though I have said that locking up more people in prison is unlikely to make a large impact on the incidence of crime, it is nevertheless essential that when offences do occur every reasonable effort must be made by the police prosecutors, courts and corrections authorities to impose appropriate penalties in order to deter others from offending and also to take whatever steps can be taken to reduce the probability of that particular offender from offending again in the future. Whether an offender is simply fined or given a non-custodial order, such as community service or probation, or is sentenced to prison every effort must be made to ensure that that person does not return to crime. This approach to crime prevention we can refer to as secondary prevention and it is generally seen as more difficult than the primary prevention that I briefly outlined above.

**Urban Crime**

It is now generally accepted that there is a clear link between urbanisation and industrialisation and the incidence of crime. In those societies or nations where there is a high level of urbanisation and industrialisation one might expect the crime rates to be higher than would otherwise be the case. One of the famous sayings of my old friend the late Bill Clifford was 'as the high rise buildings go up so does the crime rate'. There are, of course, exceptions to that general rule but that picture is generally found to be true throughout the whole of the western world. Australia has one of the highest levels of urbanisation in the world and also has a relatively high crime rate which is illustrated in the next overhead.

This overhead shows the relationship between the level of urbanisation in 13 different nations that contributed to two international crime surveys and the

Overall Victimisastion vs. Level of Urbanisation

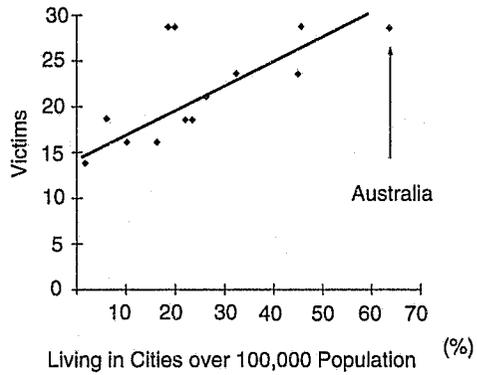


Figure 7: Urbanisation and Crime Victimization. 13 Countries from the International Crime Victims Surveys, 1988 and 1992,

proportion of the community who were identified as victims of crime. The overall relationship between urbanisation and crime victimisation is shown by the dark line, but it must be pointed out that there are some nations with relatively high proportions of crime victims who do not have particularly high levels of urbanisation. The general relationship is however shown quite clearly. Even more dramatically we can show the relationship between city size and the steps

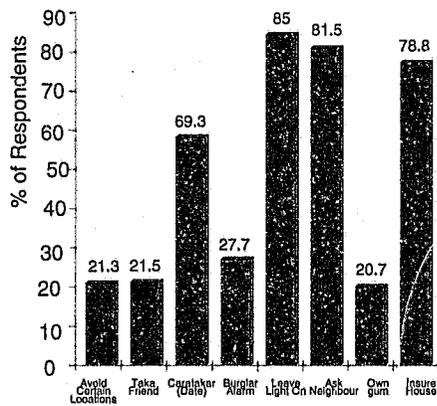


Figure 23: Percentage of Respondents using Various Crime Prevention Measures

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that citizens take to prevent crime. This is shown in the next overhead.

Here we are not referring to the actual incidence of crime but simply the use of crime prevention measures by people in cities of different sizes. The relationship is most clearly illustrated by looking at the proportions of people who use a burglar alarm in their houses. Fewer than 5 per cent of people living in cities of under 10,000 population use burglar alarms whereas that percentage increases dramatically to over 20 per cent for people who live in cities of over one million. This sort of relationship tends to be true for all types of crime prevention measures with the exception of owning guns where the tendency is in the other direction. I think that the explanation here is that country people tend to have guns for purposes of farming and the shooting of game rather than for the prevention of crime. Perhaps in a large city one is safer not to have a gun.

From this overhead we can also see that there is a clear relationship between city size and the perceptions of citizens of safety when they are walking alone after dark. It is quite clear that the proportion who feel very safe decreases with city size and the proportion that feel very unsafe increases with city size. Perhaps surprisingly slightly more people feel very unsafe in the second largest rather than the largest category of cities shown on the chart.

The final overhead I would like to show simply illustrates the relative use of a variety of crime prevention measures by respondents to an Australian crime victim survey. This graph shows that most commonly people do very simple things to prevent themselves becoming victims of crime. They most likely, for example, leave lights on, ask neighbours to keep an eye on the house and of course ensure that their houses and contents are insured. We can perhaps take some comfort from the fact that relatively few people own a gun for the purposes of preventing crime.

It is generally believed that the principle reason for large cities to be associated with

higher crime rates is the relative anonymity of city life. The informal mechanisms of social control which predominate in small communities where all people know each other are lacking in large cities. In other words, where citizens feel they belong to a particular community and are a part of that community they are less likely to commit offences, and become the victim of offenders, than would otherwise be the case. This line of thought has led many social theorists to argue that city life should be developed in such a way that it becomes equivalent to a series of urban villages or small communities. If we all felt that we belonged to a small community which was part of a city and we were all seen as a part of our workplaces, sporting or recreation clubs then offences may be less likely to occur. That line of thought perhaps provides a hint as to the sort of development that must be borne in mind if we are going to break the cycle of urbanisation and crime.

### Juvenile Delinquency

So much has been said and so many books have been written over so many years about juvenile delinquency that it is rather difficult to think of anything original to say on the subject. Nevertheless there have been a few different types of developments in different parts of the world in recent years which suggest that we need not be pessimistic about preventing or at least significantly reducing the numbers of juvenile offenders in any community.

Let me start by saying the term juvenile delinquency is very much being replaced by the term juvenile crime or juvenile justice. For some years in the United States it was possible for a young person to be charged with being a delinquent without necessarily being charged with committing a criminal offence. Such a person may be a truant from school, smoking or drinking below the legal age, etc. That approach to the control of young people's lives through the criminal

law has been replaced by one which is based on equality of responsibility before the law regardless of age with education being used as the major weapon for encouraging conformity to social norms.

Apart from that change in terminology and approach, one of the most interesting developments in juvenile crime prevention in recent years is called the Bon Maison approach. This was developed in France by the mayor of a provincial city called Gilbert Bon Maison and essentially encouraged local communities to develop crime prevention strategies which were appropriate to their particular needs. As far as young people were concerned the Bon Maison approach encouraged the use of adventure camps and weekend outings which were likely to prevent bored young people breaking the law. Essentially, the idea is to provide young people with challenges which they take seriously and are seen as filling gaps in lives that otherwise would be to some extent empty and lacking in direction. Referring back to the crime prevention strategy that I outlined earlier, the Bon Maison approach through the use of intense youth activities is a classic example of primary prevention which aims at reducing motivation. Within the same framework one would see significant efforts to reduce opportunity towards criminal behaviour as well as the attempts at the reduction of motivation.

Another interesting development in juvenile crime prevention is in the secondary prevention field and has occurred in New Zealand. In that country large numbers of young offenders are being dealt with through a process of family group conferencing rather than formal appearances in the court. This approach is claimed to be particularly successful largely because it involves the extended family of the offender as well as the victim. In New Zealand a disproportionately high number of offences are committed by Maoris, the indigenous occupants of the land. Maori family group relationships are very strong and, under this system, a young Maori

offender will be asked to appear at a conference with his or her extended family and the victim and his or her family as well as police and social workers. In essence the conference aims at seeking a resolution to the problem, which may well involve some form of financial or other restitution, rather than simply punishing the offender by sending him or her to detention or imposing some other penalty.

The idea of family group conferencing as a way of dealing with juvenile offenders has also been developed in Australia. In a small town in southern New South Wales called Wagga Wagga family group conferencing has been used over a number of years and is currently being evaluated. The preliminary evidence suggests that it is more effective in reducing reoffending than is the traditional approach to dealing with juvenile offenders and it is also considerably less expensive. One of Australia's leading criminologists, Professor John Braithwaite, has argued that the family group conferencing process results in a type of shaming of the offender which leads to his or her reintegration back into society rather than the sort of shaming which is associated with an appearance in court and which may result in the exclusion of the offender from society.

As is the case in New Zealand, in Australia the indigenous people, known as the Aboriginal people, have very high rates of involvement in both adult and juvenile crime and a number of special programs have been developed to try to overcome this situation. In particular, in times of high unemployment it is most important to make every effort to ensure that young people are able to gain a sense of self worth by participating in constructive activity. To that end in a number of Aboriginal communities in Australia, rather than paying unemployment benefit to individuals for doing nothing a scheme has been developed, known as the community employment program, whereby young people are required to work on projects of value to a community, such as the construction of

recreation equipment or even maintaining public property in as clean and orderly fashion, without being paid any more than the normal unemployment or dole allowance. This program seems to be having some positive results but obviously needs to be expanded to ensure that non-working hours are also occupied with constructive activity.

Also in Australia and many other parts of the world there are a number of programs which aim to ensure that young people will continue in full-time education for much longer periods than was common in the past even though the education that they receive may not be necessarily aimed towards academic achievement. It is now recognised that education and living skills such as managing a budget, common domestic cooking and personal hygiene are equally important, perhaps more so, than traditional education in mathematics or science as far as large numbers of young people are concerned.

Whatever programs or approaches are used, it is most important that every effort be made to keep juvenile offending to the lowest possible level as in a significant number of cases adult crime has its beginnings in relatively minor offending by juveniles. While it is now clearly recognised that the majority of juvenile offenders do not proceed to adult crimes, it is nevertheless the case that the majority of adult offenders have started their criminal careers in their juvenile years. Therefore any reduction that can be achieved in the proportion of juveniles involved in law breaking will have benefits which will last for many years into the future.

### **Juvenile Justice in Asia and the Pacific**

In 1992 the Australian Institute of Criminology was approached by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) and asked to undertake a study of juvenile crime and justice in the Asian and Pacific region. The

request was based on concerns related to the rapid urbanisation and accompanying increases of juvenile crime and also a concern related to the extent to which the United Nations mandates in relation to juvenile justice were being followed in the region. These mandates are the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the United Nations Standard Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Standard Minimum Rules for Non-Custodial Measures. This project was undertaken by a small team of researchers led by Ms. Lynn Atkinson, a Criminologist at the Australian Institute of Criminology.

The project was undertaken by means of a questionnaire which was circulated to 46 nations in the region. Responses were received from 28 nations, but four of these responses were received too late for inclusion in the report. The following 24 countries are therefore covered by this survey: Bangladesh, China, Cook Islands, Federated States of Micronesia, Fiji, Guam, Hong Kong, India, Indonesia, Japan, Kiribate, Korea, Macau, Malaysia, Marshall Islands, Mongolia, Myanmar, Nepal, Pakistan, Papua New Guinea, Philippines, Singapore, Sri Lanka and Thailand. Even though by no means complete coverage was obtained, this is certainly the largest survey of its type ever conducted in this region.

The questionnaire that was circulated aimed to develop a picture of juvenile crime in each country and also a picture of the juvenile justice system in theory and the juvenile justice system in practice in each of the nations covered. Persons who completed the survey were asked to nominate which categories represented particular juvenile crime problems in their country. The following types of juvenile crime were seen as of particular concern in the countries named.

- Violence in Schools (Bangladesh,

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**Table 1: Percentages of Respondents using Crime Prevention Measures by Type of Measure and City Size (1992)**

<u>Crime Prevention Measures</u>	<u>City Size</u>				
	<10,000	10 < 50,000	50 < 500,000	500,000 to 1 Million	Over 1 Million
<u>Around the House</u>					
A burglar alarm	4.9	7.4	9.2	13.2	20.3
Special door locks	35.8	46.5	49.7	58.3	77.1
Window, door grilles	17.8	29.0	33.1	38.0	37.0
Dog to deter burglars	47.9	39.0	37.7	30.5	33.0
A high fence	16.5	22.5	20.1	27.0	26.4
Own a gun	39.2	18.6	22.0	12.0	8.5
None of these	18.8	18.6	18.5	16.4	9.4
 <u>Walking Alone After Dark</u>					
Very safe	45.5	33.1	33.0	21.1	21.2
Fairly safe	38.1	36.0	39.9	37.4	42.4
A bit unsafe	11.9	19.1	17.0	20.1	19.1
Very unsafe	4.6	11.8	10.1	21.4	17.3

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China, Guam, Indonesia, Marshall Islands and Thailand);

- Illegal Child Immigrants (India, Papua New Guinea, Pakistan and Thailand);

- Drug Taking (nearly all countries responding to the survey listed drug taking as a juvenile crime problem, the exceptions were Cook Islands, the Federated States of Micronesia, Kiribate and Myanmar);

- Drug Dealing (Bangladesh, Fiji, India, Indonesia, Nepal, Papua New Guinea, Pakistan, the Philippines and Thailand);

- Prostitution (Bangladesh, China, Fiji, Hong Kong, Marshall Islands, the Philippines and Thailand); and

- Property Crime (virtually all countries mentioned property crime as a juvenile crime problem but this was not the case in Guam, Hong Kong, India, Korea and Nepal).

In describing the types of juvenile justice systems, the survey found overwhelmingly that the nations in the Asia and Pacific region had juvenile justice systems which were based on the notion of welfare or treatment. In some countries, for example, Malaysia and Pakistan, the systems did not allow the formal legal language to be used and references to conviction and sentence that one would expect in adult courts. Also, in Japan, China and the Republic of Korea, the survey showed that juvenile justice systems in those countries were seen to have a pedagogical or educative role in support of the basic values of the relevant societies.

A second major feature of the findings of this survey was that detention was used very widely for young offenders in the region, perhaps because of the orientation towards treatment, rehabilitation or reeducation it was thought necessary for young offenders to be detained in special institutions even though the United Nations requires that detention be used only as a last resort. Unfortunately the survey was not able to show comparable statistical material about the use of detention in different nations but

the Australian experience over the last 10 or 12 years has been one of rapid decline in the numbers of young people who are held in institutions. It would be of great interest to see whether this trend is followed in other countries of the region.

The results of the survey tend to suggest that young women or girls were more likely to be detained in institutions for their protection than were young men who committed offences. The notion of protective welfare seemed to predominate in a number of situations involving young females. A number of nations in the region reported having special anti-prostitution legislation which resulted in young females being held in detention. It is obviously a matter of intense debate and differences of opinion as to whether detention should be used simply for protection. I would certainly be most interested to hear from participants in this course as to the trends and the use of juvenile detention in your own countries. In commenting on the early results of this survey, the principal author, Ms. Atkinson, has written 'given the rapid economic development in the region and the unequal distribution of wealth which is a by-product of this development it seems clear that the problems of urbanisation and youth and poverty are likely to get worse, and by implication youth offending [will also worsen in the region]'. The full results of this survey should be available within the next few weeks.

### **Environmental Crime**

This is the last substantive topic which I would like to address in this lecture. The first point to be made about environmental crime is that as recently as 20 or perhaps even 10 years ago the concept of crimes against the environment would have seemed strange to most people in the world. It may well have been thought undesirable for people to pollute the environment but to conceive of such pollution as a breach of the criminal

law is a development which has only crystallised in the last few decades. Furthermore recent public opinion surveys tend to show that citizens who are asked what would be the appropriate penalty for a factory owner who releases toxic material into a river, for example, the answer frequently is that the penalty should be just as severe as the penalty that is imposed upon an offender who breaks into a house or steals a car. In other words the average man in the street today regards environmental offences as every bit as serious as the more classic and traditional offences which we have always thought of as crime. It may well be that the reason for this clear expression of opinion in relation to crimes against the environment is the development of public consciousness that has resulted from the conservation movement. Throughout the world today the notion of ecologically sustainable development has clearly taken precedence over the notion of development at any cost. We now all realise very clearly that there are strict limits on the extent to which development can occur without irreparable damage caused to the whole of the world.

At an Australian national conference on environmental crime that was recently held in Hobart, Tasmania, some of the experts present expressed the view that the environmental protection movement had been particularly successful over the past 10 years or so with the effect that the world was now cleaner and less polluted than it had been previously. Needless to say, other experts at the same conference took the opposite view and suggested that the rate of damage being done was greater than the rate of repairs or corrections being effected.

Regardless of whether the world is ecologically better or worse now than it was a few years ago, an interesting question is who should have the responsibility for enforcing environmental protection laws. In many nations around the world special authorities, generally known as

Environmental Protection Authorities (EPAs) have been established for that purpose. EPAs always have on their staff a number of experts in ecological matters as well as inspectors who are familiar with the practices and procedures in different types of industries. They generally aim to achieve compliance with the relevant law through persuasion rather than through prosecution and that, itself, is a matter of widespread debate and controversy. Some people argue that EPAs have been far too soft and should not hesitate to take offenders to court even if the result of such action results in factories being closed and hence larger numbers of unemployed people being created.

Another dimension of the debate about the work of EPAs is the suggestion that they should be abolished and that the enforcement of law relating to the environmental protection should become the responsibility of the normal law enforcement agencies, that is the police. Even though there are some strong supporters for that point of view, my personal opinion would be that it is preferable to retain the specialist EPAs as the police already have far too many special tasks and their role would be made impossibly difficult if we place additional burdens upon them. Nevertheless I would be happy with an arrangement whereby each EPA had added to it a small number of regular police who could assist with the prosecution of cases in the courts. Furthermore I believe that infringements of environmental protection laws should result in more creative penalties than simple imposition of fines or the closure of factories. For example, environmental offenders should and could be required to repair the damage that they have caused and also contribute in other ways to the betterment of the communities of which they are a part.

One aspect of environmental protection that causes great difficulties is that of noise pollution. The question arises of whose responsibility should it be to take action against persons who, deliberately or not,

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create noises which are intolerable to the bulk of the community, even if some segments of the community regard those noises as pleasurable. For example, who should take action to save the sanity of residents of houses close to a jazz rock concert the music from which has been heavily amplified. I do not claim to have the answers to this sort of question but I believe that attempts to use civilian authorities to control noise pollution have not been particularly successful and therefore this is one area where it may be necessary to ask the police to accept responsibility in the same way they do in relation to other social or public nuisances.

There are a large number of other issues which could be discussed in relation to the developing field of law and the environment. I will mention just a few of these without attempting to reach any conclusions. Perhaps some of these issues might be further considered in general discussion. In the first place, the question could be asked of what is an appropriate mix of criminal law and civil law as far as the protection of the environment is concerned. There are certainly some attractions in regarding offences against the environment as breaches of civil law rather than criminal law as generally a much lower standard of proof is required for civil offences. Also, civil offences do not attract the same degree of public disapproval as do convictions for criminal offences.

There is a parallel issue in countries such as France and Germany which are referred to as civil law nations, as opposed to common law nations such as England. In civil law nations there is no tradition which allows for corporations to be defined as legal persons and therefore to be liable for any sort of offences. In those nations only individuals, rather than corporations, can be convicted and punished. It might be suggested that the whole notion of punishing a corporation such as a mining company or a factory is somewhat unusual as one obviously cannot send a corporation to prison. Corporations can, however, be required to pay for

advertisements in the newspapers, for example, which will draw attention to the offences which they have committed and also have the effect of informing the public of the need for environmental protection.

Another issue which might be discussed in relation to environmental crime is whether or not private citizens should be given any particular role in the initiation of prosecutions or the negotiation of acceptable solutions to environmental problems. If, for example, a noisy and dirty industry is to be developed in close proximity to residential housing, it would seem reasonable for the citizens in those houses to have a say about what they would see as acceptable in terms of discomfort or damage to their lifestyles. Perhaps in a way that is parallel, but on a much larger scale, to the development of family conferencing in relation to juvenile offenders I would like to suggest that negotiation and mediation could possibly become, in the future, the most commonly used measure for reaching solutions in relation to environmental crime. It would certainly be interesting if informal mediation replaced the formality of court hearings for both large corporations and for juvenile offenders.

Before moving on from this subject of environmental crime I would like to briefly mention two international projects with which the Australian Institute of Criminology has been involved on this subject. I am indebted to one of my colleagues at the Institute, Ms. Jennifer Norberry, for the following information.

The first study was organised jointly by the United Nations Institute in Rome and the Australian Institute and involved gathering information from eight nations, most of whom could be described as developing nations. The nations involved were: Argentina, Australia, Brazil, China, Czechoslovakia, Tunisia, India and Nigeria. This project involved a study of the statutes or legal framework in each country relating to the prevention of crimes against the environment and the sanctions or

punishments that were available in each nation. This study found that for most nations, including Australia, the law was in a fragmented state in that it needed bringing together in a single statute which was clearly understood. The study also found that there was considerable conflict in developing nations between the notion of economic development and protection of the environment. The results of this study will be published later in 1994 in a book which is to be produced by both of the sponsoring institutes.

The second international study is currently underway. This involves 11 nations, both developing and developed: Australia, Brazil, Tunisia, Nigeria, Japan, Poland, Italy, Germany, Canada, China and Sweden. The study is aiming to define the limits of the criminal law in the protection of the environment. It will involve a series of case studies which will examine in detail the use, or failure to use, the criminal law in three different types of environmental offences. These are:

- offences involving a number of different nations, referred to as trans-boundary pollution;
- serious offences within nations, that is offences which cause substantial harm; and
- minor offences within nations, that is offences which are relatively localised in their impacts.

It seems fairly clear that different legal solutions are needed for different types of situations. The results of this particular project will be reported within a workshop at the Ninth United Nations Congress on Preventative Crime and Treatment of Offenders which is scheduled for 1995. As it can be seen, there currently is a great deal of research and thought being put in to the whole question of how best to protect the environment.

Environmental crime is certainly a matter

of increasing concern, increasing debate and increasing action. I believe that this development should be seen as a most welcome sign, not because more offences are being committed but because there is more concern and more effort to prevent environmental degradation than was the case in the recent past. Thus, in my view, is a development which indicates the increasing civilisation and progress of mankind.

### Conclusions

In this lecture I have endeavoured to present some of the basic facts as I understand them relating to the measurement and reporting of criminal behaviour by reference to the results of crime victim surveys. I have also tried to spell out, in very simple form, a three-pronged strategy for the prevention of crime which involves a detailed consideration of the law, the reduction of motivational opportunities for crime and the provision of an efficient criminal justice system. I have also presented some of the basic facts which relate to urbanisation and crime and reviewed some of the recent developments in relation to the prevention of juvenile crime. I have also given a synopsis of the results of a recent survey of juvenile justice in the Asia and Pacific region and have concluded with a brief consideration of environmental crime and its prevention.

These are all interesting topics but I should point out that I have said nothing about what is probably the greatest crime threat to the world, that is the expansion of international organised crime. Organised crime with its control of the illicit drug trade and its penetration of seemingly legitimate business in many parts of the world is in my view a major threat to the well-being of mankind which surpasses all of the other threats many times over. The steps that need to be taken to control or reduce international organised crime may well in the future result in the reduction of the

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human rights of individuals as freedom to travel, freedom to transfer money between nations and the freedom to conduct business without surveillance may all well be subjected to restrictions if any impact is going to be made on this threat to the well-being of the world society.

Apart from international organised crime, in this lecture I have also said nothing about the insidious forms of crime such as political corruption and crimes by and against business corporations. These are particular dimensions in the pattern of crime throughout the world that will need special prevention and correction methods. I mention these other types of crime simply to draw attention to the fact that the traditional approaches we have pursued in relation to the traditional forms of crime will not serve all of our needs in the future.

I would like to conclude this lecture by offering my warm thanks and express my deep appreciation to the Director and staff of UNAFEI. I am greatly honoured to be here and it is a great joy to me to be able to share my experiences with you and the staff of UNAFEI. This Institute and its work are greatly admired throughout the world. UNAFEI is one of the Institutes in a network which covers the whole world and includes my own Institute, the Australian Institute of Criminology. We see ourselves as close relatives and it is a great joy to me to work together with such dedicated and professional colleagues. Thank you for your attention.

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## The Police Response to Juvenile Crime in Urban America

by James O. Finckenauer, Ph.D.\*

### Background

American criminal justice agencies, particularly the police — and most particularly the police in big cities — are being asked to confront increasingly serious challenges in dealing with juvenile offenders, especially serious juvenile offenders. The latter are defined as those who are involved in violent crimes; those committing serious property crimes such as burglary, or the relatively new form of auto theft known as carjacking; and/or those who are chronic or habitual offenders.

Evidence of the increasing challenge facing urban police departments can be found in the national statistics on juvenile arrests. Between 1981 and 1990, according to research sponsored by the national Office of Juvenile Justice and Delinquency Prevention (Snyder, 1992), youth arrests increased substantially for nonaggravated assault (up 72 percent), murder and nonnegligent manslaughter (60 percent), aggravated assault (57 percent), weapons law violations (41%), and forcible rape (28%). Just between 1989 and 1990, youth arrests for Violent Crime Index offenses (murder, rape, robbery, and assault) increased 16%.

Embedded in these overall figures, which are troubling in themselves, are some even more troubling specifics. For example, in 1980 the rate of drug abuse arrests for white and black youth in the U.S. were about the same. The arrest rate for white drug abusers in subsequent years actually declined (by a

third between 1980 and 1989). In contrast, the arrest rates for black youth were constant until 1984, but then increased by 200 percent between 1984 and 1989. Thus, in 1989 the black arrest rate was nearly five times the white arrest rate (Snyder, 1992). This turnaround, this increase, did not take place in rural America. It took place predominately in America's largest cities, and it has become a major part of urban crime in the United States. The drug problem consumes an inordinate amount of criminal justice resources, and presents major concerns for prevention, enforcement, and treatment and rehabilitation.

There are indications that there are small groups of chronic juvenile offenders in urban neighborhoods who are more violent than their earlier counterparts. They begin offending at an earlier age. Drug selling and drug using are often major criminal activities. And, they use guns whose firepower permits them to literally terrorize certain big city neighborhoods. These serious, often habitually offending youths appear to be largely undeterred (and unrehabilitated) by the various efforts of the juvenile justice system.

As the gatekeepers to the criminal justice system, police agencies are the primary (and often only) point of contact for juveniles with that system. In addition, the police serve as the principal source of referrals to the juvenile court, as well as investigators of cases of missing and runaway youth, status offenses, and crimes in which juveniles are victims. Despite their central role in dealing with youths, however, there is a surprising lack of information about not only police policies and procedures for handling juveniles, but also about police dispositions for different

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types of juvenile offenses and offenders who are taken into their custody.

There is a dire need to fill this information gap. As a modest step in that direction, this paper will undertake a systematic review of the diverse methods being used by American police, particularly big city police, in handling juveniles. It will identify the problems that police officers face in dealing with juvenile offenders, and it will attempt an assessment of what might be the reasonable expectations for the effectiveness of various strategies and interventions.

### **The Police Role in Handling Juveniles**

There is little consensus on the appropriate role of the police in dealing with juveniles. Some experts maintain that the police should adopt a strict law enforcement stance toward juveniles and focus on their violations of the criminal law — making arrests when they encounter such violations. Others suggest that the police should adopt a more crime prevention role, and stress handling juveniles through informal means. The International Association of Chiefs of Police (IACP) has taken a middle of the road approach, suggesting a need to combine these law enforcement and delinquency prevention roles.

In the United States during the 1980s, police methods of handling juveniles became less distinguishable from the methods used with adults. This is undoubtedly due, at least in part, to the erosion of the *parens patriae* philosophy of the juvenile court (McDermott and Laub, 1987). As Kelling (1987:211) described it:

A variety of forces have given rise to the shift in police handling of juveniles: the changing police organizational strategy; continued liberalization of manners and mores; increased civil liberties of youth; increased police self-consciousness about the validity of the values they represent;

antagonism between police and social service; and uncertainty about the effect of police on youth.

As a consequence, two opposing approaches to juvenile justice have emerged. In the first, minor offenders are diverted and deinstitutionalized while more serious offenders are subject to adult-like punitive measures. The scope of police juvenile specialists in handling juvenile offenders, therefore, has been greatly reduced, as patrol officers and detectives investigate and routinely refer serious offenses committed by youths to juvenile court. At the same time, officers make far fewer arrests of minor offenders.

The second approach is the recently emerging multi-agency police response. It focuses on achieving interagency agreements with prosecutors, courts, public and private community service agencies, and with school officials. The approach includes an emphasis on involving patrol officers in addressing juvenile problems and on minimizing the use of "counsel and release," and an emphasis on systematic analysis and improved informational exchange — both across units and within a single police department, and among the many other agencies with responsibilities for juveniles. The improvements in analysis and information exchange most often are directed towards identifying those juveniles most "at risk" of becoming serious offenders. Recognizing that only a small number of juveniles, and even of juvenile offenders, become serious offenders, the ability to successfully identify the at risks early permits a more effective and efficient targeting of scarce criminal justice resources.

Although most police officers emphasize one or the other of these general approaches depending on the situation, their often conflicting goals produce role conflicts for them in their exercise of discretion. When, for example, should they fully enforce the law and when should they consider "the best

interests of the child?" How do official actions influence a child's future? In dealing with juveniles, police also often find themselves caught in the dilemma of enforcing laws that conflict with the basic lifestyles of youths. For example, most police-juvenile encounters involve confrontations brought about by so-called "soft crime," i.e., loitering, disturbing the peace, and rowdiness. In dealing with groups of disorderly youths, officers face the risk of either overly aggressive enforcement that may escalate a minor incident into a major one, or under-enforcement which encourages continued violations.

### **Police Discretion and Decision Making**

Regardless of a particular department's overall approach, individual police officers nonetheless retain broad discretion in dealing with juveniles. Bordua (1967), for example, found that of over 100,000 "encounters" or "interviews" between Detroit patrol officers and juveniles, only 5,282 resulted in an arrest. Others (Black and Reiss, 1970; Williams and Gold, 1972; Lundman et al., 1979) have also found that the police are inclined to avoid arresting juveniles who might otherwise be sent to court for formal action. Even after an officer has taken a juvenile into custody, several options for disposition of the matter remain. These include:

- (1) an outright release with no further action;
- (2) "treatment" by the police department alone, consisting principally of supervision on a voluntary basis agreed to by the juvenile's parents;
- (3) a treatment program necessitating the services of a number of social service agencies (e.g., alcohol/drug treatment program); or
- (4) referral to juvenile court. Court referrals are in many jurisdictions used only as a last resort, and in most instances are

primarily a reflection of the seriousness of the offense itself.

As a result of discretion and the availability of other options, during 1986, for example, only 62 percent of juveniles arrested in the U.S. were referred to juvenile court jurisdiction. Another 30 percent were handled within the police department and released, 6 percent were referred to criminal or adult court, 1 percent were referred to other police agencies, and just under 2 percent were referred to a welfare agency (Sourcebook, 1987). Unfortunately, no national data are available linking either the specific offense or characteristics of the juvenile with those dispositions. Juvenile court statistics for 1988 do show that the majority of juvenile court referrals were for property offenses (59 percent). Only six percent were for violent offenses, and another seven percent for drug offenses. These same statistics show that approximately 85 percent of the referrals to juvenile court were made by police agencies.

### **Factors Affecting Police Decisions**

Studies of police decision making indicate that decisions involving the handling of juvenile offenders are influenced by a variety of factors that vary greatly among departments and also among individual officers. For example, one factor that strongly influences police dispositions is the seriousness of offense. Most studies indicate that referral rates, while varying among communities, are generally higher for serious (felony) offenses than for misdemeanor or status offenses (Black and Reiss, 1970; Wolfgang et al., 1972; Smith et al., 1989).

The juvenile's prior record also affects police decision making. Still, disagreement exists as to how important a record is and what kind of prior record — number of offenses or types of previous dispositions — most affects subsequent decisions.

Two other situational factors that affect police decisions are the victim's preference

and the juvenile's demeanor (Black and Reiss, 1970; Terry, 1967). In those cases where the victim insists on official action, or the juvenile displays a particularly defiant (or deferential) attitude, the likelihood of arrest is significantly greater (Piliavin and Briar, 1964)—especially when the offense itself is minor. In other words, police discretion is least when the offense is serious, and greatest when the offense is minor.

The impact of other personal characteristics of the juvenile are, however, less readily interpretable. A review of studies of the role of race, ethnicity, and socioeconomic status reveals great diversity of findings. In some studies no differential handling of juvenile offenders was found (Terry, 1967; Black and Reiss, 1970; Lundman et al., 1979). In others, differential handling was apparent but was attributed to factors other than discrimination; while in some studies differential handling was observed and attributed to prejudice on the part of the police (Thornberry, 1979). This led Smith et al., (1980) to suggest that the differences between studies are actually reflecting differences between departments and communities.

Although conventional wisdom suggests that gender is an important criterion in police decision making about juveniles, there is no strong empirical evidence supporting the presumption that females are treated either more leniently or more severely than males, when offense and prior record are taken into account. Nor is the role of a juvenile's age entirely clear. While some studies have shown that younger juveniles are referred to court less frequently than older ones, with two exceptions (Terry, 1967; McEachern and Bauzer, 1967) virtually all studies were unable or failed to control for offense seriousness and prior record. And finally, the few studies that examined characteristics of individual officers indicate great disparity in the types of dispositions most often used, but no simple relationship between officers' personal attitudes toward

delinquents and delinquency and their preferred dispositions (Smith et al., 1980).

### **Innovative Ideas and Programs**

Any effort to develop programs and strategies for use by police agencies confronting juvenile crime must account for the differing departmental philosophies and goals. For example, approaches oriented to agencies seeking multi-agency responses might not be applicable in those communities committed to the use of adult-like punitive measures. Since little empirical support exists to indicate that one focus is preferable to others, we should begin with an understanding that any program ideas must be capable of accommodating differences in agency perspectives. First, however, this requires that we more clearly identify the varied theoretical frameworks available to police decision makers.

In considering this issue, it has been suggested that to understand police intervention policies for dealing with juvenile offenders, one must look at the goals of the specific agency as well as the statutory or legal context in which "idea systems" or rationales get expressed. Additionally, the assumptions about human behavior underlying the police policy and the means available for achieving the goals must also be considered. An examination of the goals, assumptions, and means known to be available to police decision-makers suggests, in fact, that among the conceptual approaches which are currently in place are one which we will call accountability/deterrence, and a second which we will call reorientation/prevention.

### **Accountability/Deterrence**

The assumption underlying the accountability/deterrence approach is that minor delinquent behavior will escalate if it is not stopped early and treated seriously. The police goal, therefore, is deterrence, and having the juvenile accept individual responsibility for their own behavior. The primary

means used to achieve this goal are close monitoring of offenders in order to exert control over their behavior through detection and incapacitation, and also restitution and community service projects. There is as well an emphasis on speed, certainty, and severity in responding to juveniles. The research literature indicates quite clearly that it is certainty (the probability or risk that the juvenile will in fact incur some meaningful consequence) which is the most influential element in the deterrence equation. The accountability/deterrence approach most closely fits with the professional juvenile case processing model.

Numerous studies suggest that a disproportionately small number of juveniles engage repeatedly in violent acts. Further, those who do commit repeat violent offenses also tend to be frequent non-violent offenders as well (Rojek and Erickson, 1982; Hamparian et al., 1978; Fagan et al., 1983). Over the past decade, there have been a number of initiatives designed to intensify apprehension and prosecution of these repeat or serious juvenile offenders. The following are descriptions of some examples of this approach.

Serious Habitual Offender/Drug Involved Program. To focus on serious juvenile offenders, the U.S. Office of Juvenile Justice and Delinquency Prevention created the (juvenile) Serious Habitual Offender/Drug Involved program (SHO/DI) as a research, test, and demonstration project in five major police departments across the country. The SHO/DI program was established as an information and case management program which was intended to allow the police, the prosecutor, social service agencies, schools, and correction authorities to focus additional resources on juveniles who were repeatedly committing serious crimes (Pindur and Wells, 1986). Its goal is to focus police resources on serious habitual offenders in an effort to reduce the crime they commit, to expedite prosecution and treatment of targeted

youths, to increase interagency cooperation, and to reduce pre-trial delays, plea bargaining, case dismissal, and sentence reductions.

In discussing the evaluation of the program, Pindur and Wells (1986) described the typical SHO/DI youth as a 17-year-old male who lived with one parent, had a history of running away from home, used drugs and/or alcohol, did not attend school regularly, and had an average of 14 contacts with police, mostly for property crimes. Unfortunately, limitations in the evaluation and differences across jurisdictions do not permit us to reach any generalized conclusions about the overall effectiveness of this strategy.

Serious Habitual and Violent Juvenile Offender Program. In addition to the SHO/DI program, OJJDP also created the Serious Habitual and Violent Juvenile Offender Program (SHVJOP) for prosecutor's offices in 13 urban jurisdictions. This program involves vertical prosecution, limited charge and sentence bargaining, state representation at all phases in juvenile case processing, assistance to victims and witnesses, and special correctional services for convicted youths. Like SHO/DI, the SHVJOP projects varied widely due to statutory constraints, resource levels, and the nature of juvenile crime in the different jurisdictions. Even so, some consistency in the juveniles targeted did exist with each site including those arrested for robbery, burglary, rape, aggravated assault, or homicide coupled with at least one prior adjudication for a similar offense.

The evaluation of the program indicated that among the approximately 2,500 SHVJOP cases, 80 percent resulted in a finding of guilt — 69 percent on the most serious original charge. At least 58 percent received a custodial sentence to a training school or to the department of juvenile corrections (Cronin et al., 1987). The findings also suggest that the program positively affected the juvenile justice system by increasing communication between components of the system, enhancing predisposition reports, improving the

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treatment of victims and witnesses, and providing model selective prosecution procedures that could be implemented in other jurisdictions (Cronin et al., 1987:10).

**Juvenile Repeat Offender Program.** In addition to these two national efforts, many local police agencies have created innovative programs along the lines of the accountability/deterrence model on their own. For example, the Baltimore County Police Department, which serves a large exurban area, developed the Juvenile Repeat Offender Program (JROPE). To become a target of that program, the Baltimore Department's criteria required that the juvenile be involved in a violent offense and have four or more previous felony charges (Behan, 1987).

To assess the impact of the JROPE unit, the department conducted a 14-month tracking period for 63 juveniles who met the selection criteria. Their findings gave support to the premise that only a small number of juvenile arrestees who commit serious crimes are repeat offenders. Of the 1,462 felony charges filed against all juvenile offenders, 19 percent were filed against the 63 juveniles identified as repeat offenders. Moreover, those 63 juveniles had a combined total of 723 prior police contacts, of which 46 percent involved violent delinquent offenses. Other findings of the JROPE unit assessment included the following:

- 46% of the cases were petitioned to the juvenile court while another 31% were waived to adult court.
- Of those petition cases, 94% were found delinquent. 72% of the cases waived to adult court were prosecuted.

**Gang Intervention.** One final program type exemplifying this approach is intended to deal with youth gangs. In a survey of 60 large city police departments (Needle and Stapleton, 1983), 45 percent of the responding agencies reported the presence of youth gangs in their respective jurisdictions. Fifteen (15

percent) of these police departments had specialized units to address the gang problem in their cities. Surprisingly, the survey revealed that the majority of those specialized units operated without benefit of written policies or procedures, and that officers assigned to those units often had no formal, professionally administered training in the handling of youth gangs.

Chicago (Illinois) is one of the cities which is attempting to combat gang violence. The Chicago Police Department created a Gang Crime Section that works in collaboration with the state and local corrections agencies, with probation and parole, and with the State Attorney's gang prosecution section. Initially, the Gang Crime Section performed intelligence-gathering only. Later its functions were expanded to include investigations and the provision of training for officers who respond to gang-related incidents.

One additional component within the Section is the Gang Target Program that identifies active gang members for appropriate prosecutorial dispositions. When an officer arrests a targeted gang member, that juvenile's name is entered into the police department's computer system which in turn notifies the Gang Crime Section and other appropriate agencies of the apprehension.

In an effort to help police, prosecution, probation, school, and community agencies design coordinated responses to the gang problem, OJJDP sponsored the Youth Gang Suppression and Intervention Project. That project conducted a police gang symposium in which police from 11 jurisdictions met to share information about gang problems and to describe what they were currently doing in conjunction with other agencies or community groups. The symposium identified two key police approaches to the gang problem—suppression and cooperation with alternative programs (Chance, 1988)—as well as a variety of community-based programs in which the police were actively involved. These included school anti-gang education programs, crisis intervention

teams, alternative education programs (e.g. general equivalency diploma or higher education), vocational job training/ placement, the pairing of gang members with local businessmen who serve as positive role models, and parent education classes. Although promising, none of these activities have, unfortunately, been systematically evaluated as to their effectiveness in preventing or controlling gang activity.

### Prevention/Reorientation

The prevention/reorientation approach assumes that delinquency results from either behavioral and mental health problems or is symptomatic of the context of a juvenile's behavior, and is thus treatable. The goal of programs using this approach is rehabilitation and community reintegration, as well as the enrichment of potential offenders' environments. The means to achieve these goals include counseling and/or providing family support (either by police department counselors or by referrals to a variety of agencies), diversion, agency networking, and mobilizing and strengthening community resources. The models most closely associated with these approaches are social service processing and community-oriented policing.

**School-Based Programs.** School-Police liaison programs assign police officers to schools to function primarily in a preventive, pro-active role. They address the problems of youth with a variety of alternatives. For example, some officers are responsible for investigating incidents in schools, such as thefts. In addition, officers may advise students, faculty, staff and administrators on problems related to law enforcement while working to enhance police relations with students. Other activities of the liaison officer may include participating in extracurricular activities (e.g. field trips), assisting with instruction in law-related classes, assisting school counselors, and working in cooperation

with the courts and social workers to investigate suspected cases of child abuse. In what are sometimes called "Officer Friendly" programs, uniformed police officers go into grade schools in urban areas to discuss police work and demonstrate police equipment for youngsters who may come from family and community settings which are hostile to the police.

**School Resource Officer Programs.** School Resource Officer programs (SRO) are similar to liaison programs in many respects. Like the liaison officers, the responsibilities of the SROs are to identify and counsel problem youth; where possible, to divert youths from the juvenile justice system; and to make referrals of youths in need to appropriate agencies—i.e., drug and alcohol programs, counseling, and community service programs. Unfortunately, as with the earlier mentioned evaluations, studies of these school-based programs do not clarify the extent to which officers in the schools actually reduce school crime (Millen, 1968; Templeman, 1979). Even if it were shown that they did not reduce crime, these programs can nevertheless still be valuable since the officers themselves can benefit from a better understanding of juveniles as a result of the closer association inherent in such duty assignments.

Many police departments also combat juvenile crime by focusing on truancy and the numerous problems associated with it. The common assumption is that truancy is a "predelinquent" behavior that may lead to subsequent and more serious forms of delinquency. Traditional police responses to the problem of truancy include returning the student to school, transporting him or her to the police station where parents can be notified, or, as a last resort, booking the truant for formal case processing. Some police departments have begun to take a more aggressive approach to the problem of school truancy by implementing various programs designed to prevent and/or reduce juvenile

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delinquency as it relates to school truancy. Ideally, such police responses should be devised and implemented with the school authorities in their respective communities.

**Project HOPE.** The Inglewood, California Police Departments' Project HOPE—"Helping Others Pursue Education"—is a multi-agency truancy control program (Rouzen and Knowels, 1988). The project is a cooperative effort of the school district, the county probation department, the county social service agency, and the police department. Project HOPE's twin goals are to ensure that students stay in school and to reduce daytime crime.

Under Project HOPE, police officers are assigned to assist school security personnel in picking up and transporting truants to a center for initial processing with a counselor. Students are then placed in a program of intensive counseling and make-up class studies. In addition, the counselor examines family problems that may have led to the truant behavior and counsels the parents. The center also serves as a referral agency for families that need counseling in mental health, parenting, and welfare. In the event that these efforts fail, the youth is referred to juvenile court for further action.

An evaluation of Project HOPE compared daytime crimes (e.g., burglaries, auto theft, robberies) during the year preceding the project to the first year of its implementation. The analysis indicated a significant decrease in daytime crimes which may have been a result of the project's efforts. One cannot conclude unequivocally that the project produced this result because there was a failure to control for the influence of other factors. The apparent success was attributed to the collaborative efforts of the agencies involved in the operation of the project.

**School Task Force.** Another effort to address the problem of truancy is the Houston, Texas Police Department's School Task Force

Program (Martin et al., 1988). This program is an attempt to encourage youths to remain in school; to improve communications among agencies dealing with juveniles; to reduce the opportunity for the adult offender to "prey" on juveniles (e.g., selling narcotics); and to reduce incidents of juvenile related criminal activity. The school task force is a cooperative effort between the school district's law enforcement personnel, school principals, and the local police department. For their part, police officers maintain proactive patrols on and around school campuses as well as conduct constant "sweeps" of truants around the school.

To assess this program's efforts, two types of data have been used in analysis—a pre/post survey of school personnel and the recorded arrest activity of the police involved in the program. While the results of the survey indicated favorable attitudes towards the program, the results did not show much effect on criminal offenses.

Traditionally, school drug programs have involved the police in intermittent presentations, drug displays, and handouts. Recently however, some departments have assumed a more active role in several comprehensive school-based drug prevention programs. In Los Angeles and New York, for example, programs have been developed jointly by local school systems and the police departments to provide police officers as classroom instructors throughout the program.

**DARE.** In 1983, the Los Angeles Police Department and the Los Angeles Unified School District began a pilot program in the schools. Ten police officers were assigned to five elementary schools as substance abuse officers. The officers spent one day a week at each school making presentations primarily to 5th and 6th grade classes. The resulting program, titled Drug Abuse Resistance Education (DARE), focuses on peer pressure resistance techniques as well as on self-management skills and value decisions regarding respect for law and personal safety.

The 17 classroom sessions use a variety of activity-oriented techniques to involve students in role-playing exercises and group discussions. The initial favorable reviews by students, parents, teachers, and principals have led to a vast expansion of the program in both the Los Angeles school system and by police departments in many other cities.

One of the early evaluations of DARE, for example, assessed the impact of the program on the knowledge, attitudes, and behavior of seventh-grade students who had received DARE in the sixth grade (DeJong, 1986). In comparison to a group of students who did not receive the DARE program, the results indicated that DARE students reported significantly lower use of alcohol, cigarettes, and other drugs since graduating from the sixth grade. It appears, however, that other more recent evaluation results do not replicate these positive findings.

Because of the wide popularity of DARE, and because its effectiveness has become a matter of controversy, the U.S. Department of Justice recently arranged for an independent review of DARE studies to assess whether or not it works. The Research Triangle Institute (Durham, North Carolina) analyzed eight studies involving approximately 9,500 children. Their preliminary report suggests that DARE does have positive effects on knowledge and attitudes about drugs. It also enhances the social skills necessary to resist drugs. But as to actual drug use, DARE has limited effects in some instances and no effects in others. Thus, if DARE's main purpose is to reduce the use of alcohol and drugs by children, according to current research it appears to be failing.

Reorientation programs use diversion as their principal approach. Diversion includes the informal referral to other social agencies or release of juvenile offenders by the police — both of which serve to avoid further official action. The police divert an overwhelming number of youths with whom they come

into contact—estimates are that as many as 85 percent of these youths are processed informally by patrol officers (Black and Reiss, 1970; Lundman et al., 1979; Black and Smith, 1981). Officially at least, the intent is to minimize the stigma of "deviance" by avoiding official reaction to minor juvenile offenses.

As with so many programs, the effect of diversion programs on recidivism is also unclear. Dunford et al., (1982) used the juvenile's self-reported behavior in their National Evaluation of Diversion Programs to examine the ability of four diversion programs to reduce further involvement in delinquency. Their results indicated that recidivism rates for diverted youth were no lower than the rates found with youths who were either released outright or who were formally processed in the juvenile justice system. Conversely, Altschuler and Lawrence's (1981) evaluation of seven police diversion programs reported a reduction of recidivism rates for most programs of between 15 and 30 percent. When the latter evaluations were reconsidered using an experimental design, however, the reported reductions in repeat offending disappeared.

A second issue of diversion research focuses on whether the practice has the unintended effect of increasing the number of juveniles receiving formal attention from the criminal justice system. This is referred to as net-widening. Evidence supporting this finding is widespread (Palmer, 1979; Bohstedt, 1978; Blomberg, 1980). For example, in his extensive review of diversion and deinstitutionalization, Klein (1980) found support for the notion that excessive numbers of juveniles being referred into diversion programs had no other basis for inclusion in the justice system.

In their meta-analysis of juvenile treatment programs, Whitehead and Lab (1989) found that "system diversion," which they defined as diversion to programs which were extensions of the formal justice system, was the most effective disposition. Apart from this, the research on the effectiveness of

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diversion programs is pretty unclear. Nonetheless many police departments operate such programs for juveniles who commit first time and/or minor offenses. These programs not only focus on diverting the juvenile from formal actions but also seek to provide special counseling services for both the juvenile and parents to prevent further delinquent acts.

### Conclusions and Implications

The two conceptual models which have been described and illustrated, are reflected in both law and police department policy. But they are often not clearly articulated as such. In practice, the approaches described are more likely to be employed by individual police officers who perhaps profess and support their tenets but only infrequently use them systematically or tie them to appropriate kinds of youth and case characteristics. This appears especially likely when we recall the earlier research that was unable to clearly establish the criteria upon which police officers base their decisions concerning juvenile offenders. Instead, it is more likely that through experience officers have come to know the "going rate" for different juvenile offenses — the level of seriousness of offense at which prosecution or other official action is likely. It does little good and is very frustrating, for example, for an officer to invest substantial time and effort requesting action from agencies that are unable to respond, or that are unwilling to take action because they are committed to very different goals and approaches. Thus, while the approaches presented above can be articulated and systematically associated with appropriate procedures as the basis for building conceptually based (and even organizationally adopted) models of juvenile policing, we should constantly remind ourselves that the police play but one role in a complex system. And that system has multiple and conflicting philosophies and goals.

Juvenile crime in urban America is entangled with most of the country's other urban ills — bad schools, dysfunctional families, drugs, poor health care, and so on. Prevention and reduction of youth crime cannot be accomplished in a vacuum — in isolation from the solutions to these other problems. It also cannot be accomplished by either the police or the entire criminal justice apparatus working alone. Juvenile crime, in the end, is not a law enforcement or criminal justice problem. It is a societal problem.

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## SECTION 2: PARTICIPANTS' PAPERS

**Urbanization and Juvenile Delinquency in South Korea***by Yun Jung-Sok\****I. The Urbanization Process in South Korea**

The two characteristics of modernization are industrialization and urbanization. And they have produced many changes in the composition of population, the structure and the function of family, the socio-economic frame, and have brought about the change of the social control system especially in the criminal justice department.

Along with industrialization and urbanization, there occurred the inflow of the rural and small town population into cities on a large scale and this has caused a rapid increase in the crime rate in the urban areas. We can roughly say that the elements which facilitate the occurrence of crime in the city are the distinction of social and physical environment, and the circumstances surrounding an offender which aid and abet the crime.

To begin with, I would like to survey the urbanization process of South Korea and the characteristics and peculiarities of Korean

society compared to the western or other countries.

Korea has experienced rapid social transition during the past few decades. The confusion accompanied by the liberation after World War II and the experience of the Korean War, the growth of population and concentration in the city, and rapid industrialization after the middle of the nineteen-sixties have greatly changed the appearance of our society and our everyday life and raised various social problems.

Empirically the crime problem, the rate and the patterns of the crime, may be related to the change of social structure. By the unit of Korean administrative district, the number of cities in South Korea was 15 in 1945 (the year of liberation), and 13 percent of the whole population lived in cities. In 1966, the number of cities increased to 32, and the ratio of the city population increased to 28 percent. This was due to the refugees' concentration in large cities (during the Korean War many people came from the northern part of Korea) and population migration from rural areas to urban area on a large scale. This migration into the cities occurred abruptly without any preparation of basic facilities, therefore an absolutely

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**Table 1. The Urbanization Trend, 1960-1985**

(thousand persons, %)

Year	Number of cities	Population	Urban residents ratio	Annual average increasing ratio of cities
1960	27	6,997	28.0	4.42
1966	32	9,780	33.5	5.74
1970	32	12,929	41.1	6.98
1975	35	16,770	48.4	5.20
1980	40	21,409	57.2	4.80
1985	50	26,418	65.4	4.20

deficient situation brought about critical adaptation problems of life style and employment. The rapid urbanization trend continued in the 1970s with the progress of industrialization. In 1980, the ratio of city population exceeded 50 percent and by the year 1985 more than 65 percent of the entire population were residents of cities. Thus our country has changed to an urban-centered society from the traditional agricultural rural-centered society.

Concerning the criminal phenomena, approaching the latter half of the 1980s, the crimes become sharply more violent and gradually have come to resemble the peculiar aspects and patterns of crime in Western advanced countries, that is, becoming more sophisticated, organized, and ferocious.

The actual trend displays a gradual increase in violent crimes such as criminal homicide, robbery and rape, assault, juvenile delinquency, and organized crime. Crimes related with drug abuse have become most significant and have attracted public attention.

And the feeling of security among urban residents has been diminished, so the government itself proposed the war against crime as an urgent issue and has concentrated on taking drastic action.

But the crime problem does not appear to be as serious in Korea as in most of other advanced countries, both in terms of quality and quantity. In retrospect of the last decade, the general social change has not progressed in the direction of the increase of crime. Rather our society has managed to control the increase of crime efficiently and crime control policy has more or less maintained consistency in spite of the drastic social transitions.

Also, the unique characteristics of Korean society relevant to the control of crime are worth mentioning. First, is the maintenance of ethnic homogeneity of Korea. In Korea there are few differences in cultural background and all the people generally

hold a common unified value structure. These factors are advantageous terms for the social unification compared to other multi-ethnic societies and serve for the low crime rate. And we have been traditionally under the influence of Confucianism in the area of life culture, so everyone has been educated to have rather strong morality through formal or informal education. Though the society has greatly changed along with modernization, the deep impacts of cherishing the ideas such as humanity and justice, loyalty and filial piety, courtesy and intellect have been effective in restraining people from committing illegalities.

Second, Korea has maintained a relatively strong government during the social development since liberation and this enables active operation of administrative agencies relating to social securities such as police and prosecution.

Third, is the enthusiasm for higher education and accomplishment among people. The excessive heat of education has incurred somewhat negative effects concerning juvenile delinquency, but on the whole it has contributed to controlling the increase of crime and to promoting the standard of cultural environment.

Finally, the legal prohibition and unavailability of deadly weapons such as guns are also positive factors against the occurrence of crime. These factors have been shown critical in curbing drug-ring or violent organizations.

## II. General Characteristics of Urban Environment

Before surveying the situation of juvenile delinquency in the Korean urban area, let me briefly examine the common characteristics of the urban environment.

The first distinction of a city is the heterogeneity of its population. The large population concentrated in a city has individual differences in terms of occupation, stratum, the educational and family back-

ground, tradition, and this makes the standpoint and thoughts different among the city population. This may be the cause of conflicts between people and disorganization of community.

The second distinction of a city is anonymity and impersonality. For persons residing in rural areas, the arena of interaction is limited; that is, there are a limited number of people with whom to interact. Also, the interactions that do occur in rural areas are commonly face to face relations. Their relations are continual, many-sided, intensive interaction, involving personality and humanity. Population increases lead to an anonymous setting due to the biophysical limitation that a person can know only so many people (approximately 10,000 persons). As population size increases, persons become more transient and fluid, making it even harder to get to know people. With the general shattering of small-group life, the city can be seen as "a conglomerate of strangers"; to live in a city is to live surrounded by large numbers of persons whom one does not know.

The process of urbanization and industrialization is disruptive of traditional values and institutions. An individual's bond to society through attachment to others is broken and disrupted.

In these anonymous settings of cities, persons are released from bond to the society. Anonymity, characterized by stranger to stranger relationships, acts as a releaser of deviant or criminal behaviors which were previously held in check. These behaviors are released as a result of the absence of interpersonal checks in the social network. The lack of a coercive element is another factor. In large cities, despite the high density, surveillance of other's behavior is reduced.

The function of a community in regulating behavior in public places through face to face contact has disappeared. The urban problem is the failure of community to control improper behavior in public places.

Therefore, not only does the anonymous setting lead to a release of the bonds but individual surveillance is reduced as well and an essential coercive element is missing in the urban community.

### III. The Situation of Juvenile Delinquency in South Korea

To serve the purpose of this topic exactly, data about the situation of juvenile delinquency in the urban area is necessary. But unfortunately I could not find this kind of data. Because the notion of urbanization is not a legal term and its meaning is a little abstract, the exact division of urban, suburban, rural area is difficult. But the statistical trends concerning juvenile delinquency as a whole might be regarded as the same in an urban area.

The Juvenile Law in Korea (amended 1988. 12. 31) names the following three categories of delinquents as its subjects;

— Juvenile offenders, i.e. juveniles aged 14 to 19 years who have committed an offence;

— Law-breaking children, i.e. children aged 12 to under 14 years who have violated a penal statute or ordinance;

— Pre-delinquent juveniles, i.e. juveniles who are deemed at risk of committing an offence or violating a penal statute or ordinance in the future in view of their personality or environment, based on the existence of one or more of the factors listed in the law, such as habitual disobedience to the reasonable commands of parents or guardians, or running away from home without justifiable reason. (But these cases have been rarely reported officially.)

#### 1. Recent Trend of Juvenile Delinquency

The statistical trend over recent years has been somewhat unstable and juvenile delinquency in Korea has fluctuated between a narrow range of increase and decrease.

Concerning the Penal Code offenders (the national statistics on offenders are reported

separately for Penal Code Offenders and other special criminal law offenders, the latter usually concerns traffic accident or other executive irregularities), the proportion of juvenile offenders aged 14 to 19 years among all offenders has remained roughly within 12–18 percent during the 1980s and the year of 1991 showed 12.4 percent. Generally speaking the trend showed a slight gradual decrease.

The figure below shows the transition of the number of juvenile offenders who committed Penal Code Crimes.

**Table 2. The Number and Proportion of Juvenile Offenders**

Years	Number	Juvenile Ratio*
1982	99,382	19.1
1983	93,365	18.0
1984	90,569	17.2
1985	88,298	16.8
1986	89,206	16.7
1987	80,025	14.9
1988	80,641	16.1
1989	85,428	18.1
1990	82,446	14.8
1991	72,413	12.4

\* Juvenile Ratio = Juvenile Offenders / Total Offenders

In 1991, by the type of offence among juveniles who committed Penal Code Crimes, 57.1 percent were involved in violence such as aggravated assault, simple assault, or bodily injuries. The next most frequent category was property crime such as larceny, theft, fraud, embezzlement, and acquisition of stolen property, at about 35.5 percent. It was followed by extreme violence such as robbery, burglary, forcible rape, arson, murder as the rate of 4.9 percent.

## *2. The Course of Dealing with Juvenile Delinquent Cases in South Korea*

Juveniles and children who have commit-

ted delinquent or predelinquent acts are subject to the Juvenile Law and fall under the jurisdiction of the family court as a part of the judicial system.

There are two different systems concerning disposition of juvenile cases; one policy is compulsory remand to family court without exception or discretion of police and prosecution adopted in Japan, and the other is selective remand to family court with the discretion of police and prosecution adopted in Korea.

The juvenile offenders who commit crimes are dealt with by the police in the same way as the adult criminal. Investigation without physical detention is the legal principle, but practically the culprit might be arrested when the case is serious or there is possibility of defection or destruction of evidence. The criminal procedure law is applied to a juvenile case as it is to an adult case. After police investigation, the case should be transferred to the prosecution. After thorough examination of the case, at the conclusion of prosecutorial investigation, the prosecutor decides whether the juvenile offender should be prosecuted or not.

Although incriminating evidence against the offender is enough, a public prosecutor may decide to suspend the prosecution if the prosecutor believes the offence is a comparatively petty one and/or the offender showed sincere repentance and/or there exist other mitigating circumstances which deserve to be taken into account. This measure is called "suspension of indictment".

For the treatment of juvenile offenders, a special measure is adopted. This measure is entitled "The Suspension of Prosecution of Juvenile Offender on the Fatherly Guidance Condition" and is directed toward the juvenile offender under the age of 18 years. The public prosecutor is empowered with the discretion to evaluate whether a juvenile is likely to commit an offense again. This factor rather than the seriousness of the offense committed by the juvenile is the basis of the prosecutor's decision. In addition, the juvenile

must agree to be protected and guided under the custody (direction) of a 'Sundowiwon' (a Fatherly Guidance Member living in the same community with the juvenile offender).

The juvenile offender who is given this disposition must generally be protected and guided by the Sundowewon for a period of six months. If they observe all the rules and directions during the period, they will be exonerated from prosecution and released from the protective supervision. Violation of the rules under this measure or committing another offense during that period will bring about the revocation of the suspension of prosecution. This special measure has been enforced across the nation by the Ministry of Justice since 1978.

The Sundowewon are nominated among the respected persons in the community. Some are entrepreneurs and some are retired educators or retired public officials. They are selected through rigid screening by the prosecution. As of 1993 there are about 7,000 Sundowewons in Korea. They proudly provide their volunteer services. They materially and morally help the juvenile offender to improve his conduct and to become a good citizen. As a guidance counselor, they make it a rule to meet and guide the protected juvenile once or more a month.

This program has worked very effectively in that the well respected persons who have acquired various experiences in their life and a high standing in the community can give the juvenile offenders the benefit of their wisdom and essence of their life administrative ability. This success also seems to be attributed to the traditional respect for the aged and the voluntary participation of the Sundowewons dedicating themselves to the mission of initiating and guiding the younger generation.

If the case is more serious, it would be sent to the juvenile division of a family court. And the remaining serious case will be prosecuted, but during court trial it shall be referred to the juvenile division of a family court after reexamination.

#### **IV. The Social Environmental Changes Related to Juvenile Delinquency with the Urbanization in South Korea**

##### *1. Changes in Character and Attitudes of Juveniles*

Recently the character of juveniles who live in urban areas has shown some aspects which might promote delinquency. Among these are manifest self-centeredness, emotional instability, aggressiveness, a strong sense of inferiority, disregard for social norms and values and a lack of compassion. In the past years, Korean young people have shown certain changes in their attitudes and ways of thinking, resulting in a greater prevalence of apathy, indifference, lack of motivation and impaired self-control.

And another worrisome phenomenon is the reckless, blind reception of the latest fashion and life patterns of foreign advanced countries, such as the United States and Japan. Especially the impact of Japanese young people's life pattern has had a most significant effect on the Korean juvenile's life and thinking. For example, the hot-rodders, who operate motor vehicles in defiance of speed restrictions, committed by small groups or individuals, was rare in the late 1980s when this problem received significant social attention in Japan. But since 1990, the number of young hot-rodders has greatly increased and nowadays it becomes a significant social problem in the urban areas of Korea. Also the speed of imitation or import of a foreign country's youth culture has accelerated and usually the fashions of young people are internationally simultaneous with the development of communication. The recent open policy of the Korean government in the economic and cultural areas will have impacts on the juvenile delinquency pattern in the future.

##### *2. Family Environment*

The family exerts the most profound

influence on every youth's personality. In the urban area, most of the family structures are so-called nuclear family. In a nuclear family with few children, parents almost inevitably tend to be overly protective or to interfere excessively in the lives of their children. As a result, children are likely to be self-centered or to lack initiative and self-reliance. Moreover, parental problems, including marital discord and conflicting standards of discipline, are prone to have a direct impact on children.

The rise of the nuclear family has been paralleled by a weakening of the educational function of the family. The role of father has been decreased to that of a mere economic supporter because of time limitation and the busy schedule at his workplace. Some parents seem to content themselves with providing their children with material objects and monetary funds while leaving the responsibility for the care and education of their children to the school or other agencies.

On the other hand, rapid growth has increased family income significantly so that Korean families enjoy greater affluence, improved living conditions and enhanced opportunities for recreational activities. The reverse of this, however, has been the increase of undesirable influences in society such as an inordinate desire for material objects on the part of juveniles and the development of wasteful spending habits, intensified by all-pervasive advertising and abundant displays of consumer goods.

### 3. School Problems

Augmented family incomes have enabled parents to increase expenditure for their children's education and this has led to a considerable growth of interest in higher education. An unfortunate byproduct of this trend has been the phenomenon of parents — out of enthusiasm over the prospect of advanced education for their children — spending excessive amounts of money on schooling without regard for their children's abilities and preferences. It has also precipi-

tated other undesirable results, such as intense competition in entrance examinations, and tighter control of the contents of public education for the entrance examinations, all of which repress the individuality of children. These are thought to be at the root of many social problems such as school violence, truancy and bullying among students.

In this context, the pressure to study is found to be one of the important factors which influence juvenile delinquency according to the empirical analysis. Concerning this factor, the juveniles from the middle or upper economic status are more likely to commit delinquencies than those from the lower economic status. A Korean youth may feel the pressure to study if he (or she) fails to meet the expectation of his parents in his academic achievements. The guilty feeling resulting from the pressure may lead to the alienation of the child from his parents, and as a result he may find companionship with another juvenile who experiences the same misfortune. Failure in entering one of the major universities of Korea means failure in one's life. Having almost no hope for the future, the students may indulge in the trivial and minor delinquencies such as smoking, drinking, etc., and may yield themselves to the more serious crimes like gang fighting, robbery, etc. This is a conspicuous phenomenon in the urban areas.

### 4. Juvenile Gang Problem

Adolescence is a period of increased dependence on peer relationships. Delinquent acts tend to be committed in the company of companions. Delinquent association is one of the major factors which causes delinquency.

In the transition from simpler forms of social life to the complex life of the city, role problems of the adolescent male probably are more serious than are the problems of other age groups. With the exception of the school, for which he may not be adequately prepared, no meaningful conventional insti-

tutional setting is available to him in urban communities. If the adolescent male fails in school or drops out, or for other reasons finds school roles unsatisfactory or unplayable, he finds himself in an institutional void. He is not wanted in industry or commerce, he is too young for military service, and odd jobs traditionally available to his age group are decreasing in numbers. The result is that youth gangs in the city may include both boys and young men.

In this context, the juvenile gang has been one of the major social problems in Korea, especially in urban areas. According to the empirical study concerning the etiology and the dynamics of the juvenile gang structure in Seoul, the juvenile gangs can be classified into three distinct groups, namely 'troublesome youth group', 'delinquent youth gang', and 'the substructure of criminal organization'. Every block of Seoul has at least one delinquent youth gang, and one particular block has a 14-member delinquent youth gang. It was estimated that there is a minimum of one juvenile gang in each secondary school and each block in Seoul although the level of organization and activity of the gang may vary. Contrary to their American counterparts, Korean juvenile gang's domain is mainly concentrated not in slum areas but in the amusement centers. And their own territory is not so important to Korean juvenile gangs.

The following is an excerpt from a report base don sampling research.

— 'Troublesome youth group' usually has 20 members, and consists of youth of similar ages. It was found that they have the loosest group boundaries and the least membership qualifications. They seldom have a formal leader, and informal leaders organize daily activities. Their main concern lies in seeking pleasure, not in money and violence.

— 'Delinquent youth gang' usually consist of 30-50 members who are 13 to 20 years old. The age composition is broader than that of troublesome youth group, and sometimes adults are involved in the gang as a

leader. They tend to be active around the school, not around the neighborhood. The requirements for membership are well established. A qualifying test for membership is frequently found among this type of gang and severe sanctions usually follow for the members who want to leave the group. Most of the gangs have a well organized group structure with a formal leader. Some neighborhoods have several delinquent gangs conflicting with each other. A high school student may fear this type of gangs more than the other two types.

— Third type of juvenile gang, 'the substructure of criminal organization' usually has over 100 members, and the age composition of this type of group is from late teens to early twenties. In many cases, the role of members are clearly defined by the rule of the organization. There is a formal leader and the hierarchy of the organization is very strict. Drug abuse, robbery, and any personal violence are usually prohibited. Violence is limited to gang fight with other competing groups.

##### *5. The Situation of Juvenile Victimization*

Juvenile victimization in crimes such as robbery and assault around the school, has been a serious problem in Korea, especially in large city areas. Because the official crime statistics are limited in revealing the true incidence of crime, it is meaningful to examine the results of a victimization survey for better knowledge of the actual situation. Though official crime statistics provide primarily important information about crime, they have some important problems: that is, i) that there are many unreported hidden crimes, ii) that legal definitions and their interpretation could change with time and region, iii) that law enforcement and crime control can be selective toward certain kinds of crime and certain classes of offenders, iv) and the lack of information about the victim.

Here I would like to cite the results of a study which researched the extent and nature of juvenile victimization around schools

through a victimization survey of 5,587 student in Seoul. The major findings of this survey are worth mentioning. They are as follows:

1) About 36.1 percent of students experienced victimization of violent crime, and 42.5 percent experienced property crime during the last 1 year (89.9- 90.9). The degree of victimization in all crimes including violent crime and property crime appeared to be very high. About 58.3 percent of students experienced victimization in some kind of crime during the past 1 year. Middle school students are more likely to be victimized than high school students, and boys are more likely to be victimized than girls.

About 37.8 percent of girls were victimized in sexual offenses, but most of the offenses were less serious ones such as indecent behavior. In the case of sexual offenses, high school girls are more likely to be victimized than middle school girls.

2) In any type of victimization, students were easily victimized more in the summer than in any other season, and more on weekdays than on the weekend. The most vulnerable time of victimization for the students was from 8 AM to 6 PM. But the places where victimization frequently occurred differed by the type of crime. In the case of violent crime, the most frequent place of occurrence was an alley of a residential street, the next was on the street near school, and the third most frequent was in-school. But in the case of property crime, these were most easily committed in the classroom, and in the case of sexual offense, a bus or subway, and the alley of a residential street were the most likely places.

The victims of violent crime reported that offenders seemed to be mainly high school students or gangsters. But the victims of sexual offense reported that offenders were not only teenagers but also adults. Besides, when they were victimized, they were likely to report it to their friends more frequently.

But they would scarcely report it to the teacher or to the police.

3) More than half of the students have experienced the fear of crime. About 60 percent of all the respondents answered that they sometimes had fear of victimization around the school. The degree of fears was much higher among girls than among boys.

6. The Regulation on Selling of Spirits or Tobacco to Juveniles

In Korea, according to the Juvenile Protection Law, the selling of spirits and tobacco to juveniles is prohibited. And a distributor who sells alcohol or tobacco to a juvenile knowing that it will be consumed by the juvenile shall be punished by imprisonment for not more than 1 year or a fine not exceeding one million Won (Korean monetary unit, equivalent to some 1,250 US dollars).

But actually this provision is not strictly abided by. Juveniles easily can buy any kind of spirits or tobacco at a grocery or tobacco shop without restraint and the spread of vending machines enables the acquisition even more easily. Strict enforcement of this prohibition is significant and the practice of confirming the age of those who purchase alcohol or tobacco through an identification card, in advance of selling, must be established. But the trend is that the people are becoming more lenient towards juveniles' drinking and smoking and are becoming more indifferent to them when they see juveniles smoking in public.

#### **V. Prospects Concerning Counter-measures for the Prevention of Urban Juvenile Delinquency and the Operation of Juvenile Justice**

There are social controls in the form of social institutional measures to prevent crime and coerce the members of society to abide by laws. The social controls are divided into two areas — the informal, through family, neighborhood, school and church, etc., and

the formal, through conventional criminal justice institutions such as police and other agencies. For the preventive purpose, the role of informal social control needs to be reinforced.

The operation of a conventional criminal justice system is too formal and the effectiveness of the measures on the individual delinquent for correction and rehabilitation has been doubted and criticized from many sides. Now we must turn our attention to our own community movement and the effort by the residents themselves to improve the circumstantial environments surrounding the young people. Whether or not we are to admit it, most delinquent boys reflect all too accurately what they have learned in the process of living in their own communities and their families.

To solve the juvenile delinquency problem is not a statistical issue, even though the superficial effect of improving the social environment is not distinguishable within a short period, we must continually strive to make better economic and social conditions surrounding children in the urban areas.

### *1. Restoration of Moral Principles and Social Order*

Slowly changing social orders tend to be both orderly and restrictive. Rapidly changing social orders barely maintain a precarious balance between change and order. Traditionally Korean culture is based on Confucianism which teaches good social morals and respect for parents and community elders. But with rapid social and economic change, the disruption of traditional social morals has been the most significant problem. There is prevalence of a decadent trend due to mammonism and a proliferation of pastimes harmful to the youth such as pursuit of sensual pleasure or extravagance. The causes of this trend are believed to have come from the confusion of the social value system and retardation of the spiritual culture as a result of the rapid economic development.

As countermeasures to these trends, establishment of the sense of value through school education and moderation of juvenile sentiments through the family training are presented. The resurrection of traditional culture and stimulation of sound social spirit, and reform of consciousness throughout all aspects of society have been carried out steadily.

### *2. Improvement of Delinquency-Producing Characteristics of Communities by the Residents Themselves*

Those kinds of programs must be developed that are oriented toward the encouragement of participation in neighborhood and community life by the persons who live in the problem areas; by its efforts to help these persons increase the educational, recreational, and occupational opportunities of children and young people; and by its efforts to encourage and help local residents to reach the offender through the efforts of those who know his problems and his world.

One of such measures is the "Crime-Free Village Movement" which was taken in Korea at the initiative of the public prosecutor's office. This movement is to stimulate the spontaneous effort by the residents of small communities by the unit of "Dong" (administrative division which means a village) to prevent crime and to formulate the crime-free tradition of a village. If there is no resident who commits a crime for one year, the village is selected as a crime-free village and receives many special privileges such as financial support from the government, and the credit of crime-free village is regarded as a precious one. The point is to give a motive to the residents of communities which can ignite the spontaneity, traditional values and sense of law and order, and to restore the power of social control within the small community. Utopia were historically small communities, while cities were viewed as sources of evil and disorder. Today remedies for social evils should be placed in the format of re-organization or re-design of our cities

which can restore the sense of solidarity of one small community.

### 3. *The Impact of Mass Media on Youth*

Future research needs to focus on the impact on youth of mass media of communication, particularly as related to mass entertainment, fashion, and values and practices related to them. The impact of mass media is not so much the cause of crime and delinquency as it is the means by which youth in many parts of the world are stimulated to participate in common fads, fashions, and causes. In Korea, the syndrome of Americanization, the uniformization of youth subculture brought on by American motion pictures or music etc., has been an important problem. And recently the syndrome of Japanization, imitation of the Japanese youth culture, has been another problem.

### 4. *The Operation of Juvenile Justice*

Year after year, large cities send to the courts an undiminished line of juvenile offenders. Year after year, society continues to organize or construct new agencies or institutions designed to reduce the number of these offenders and to rehabilitate those who have already broken the law. But everyone feels unsatisfactorily about the results of these treatments and some scholars stress the failure of conventional criminal justice institutions to serve juvenile offenders adequately and to prevent delinquency. In this context, it is meaningful to examine some new trends in our juvenile justice system.

1) Welfare (rehabilitative, therapeutic) model or justice (due process) model?

Generally speaking, the modern juvenile justice system of Korea was formed through the influence of the model adopted in the U.S.A. which focuses on the protection of the juvenile. According to the doctrine of this model, the minor is regarded as a deprived individual in need of care rather than a delinquent deserving punishment. The aim of the intervention is to establish the cause

of maladjustment so as to help, educate and socialize the minor rather than to establish his guilt and inflict a just punishment. The court's jurisdiction could extend to a large number of juveniles, criminal offenders, status offenders and neglected children. According to the treatment model, the child could be removed from the home when he is found in situations detrimental to his welfare; as the aim is an educational one, the length of time to be spent in the institution is not necessarily fixed in advance but rather decided on the basis of the child's progress.

But a systematic assault on the rehabilitative model came from a series of empirical analyses and surveys, and the field of juvenile justice witnessed a considerable turn-around which led away from the rehabilitative model and towards a model which resembled that of adult justice in many countries. The main attacks on the rehabilitative model are that

— the ambiguity of a system which strove artificially to reconcile control with help, and punishment with therapy; a system which tried to cure the minor, even against his will, and which, in practice, extended social control over juveniles.

— the inefficacy of the treatment model in resocializing minors and reducing recidivism.

— under the guise of protection, minors could be punished more severely than adults who committed similar crimes.

— Growing social concern about the problem of criminality prompted calls for policies based on law and order and for tougher law enforcement.

However, since it had been brought about by different motives, in part ideologically conflicting, no clear, coherent, linear model emerged. What did emerge was a rather uncertain, uncoordinated and occasionally contradictory system. However, since these new trends advocating transition from the welfare model to the justice model are based on the results and efficacy of the protection of the juvenile, their new suggestions offer

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useful implications for the improvement of the Korean juvenile justice system..

### 2) Decarceration and Deinstitutionalization

In recent years, the negative side of institutionalization significantly attracts public attention. The often pointed out harmful effects are as follows:

— the high economic cost, the dehumanizing effect, the growth of a pernicious subculture, stigmatization and the difficulty of social reintegration.

— concerning the psychological consequences of detention on minors: reinforcement of feelings of rejection, prolongation of dependence and infantilism, maintenance and indeed even intensification of aggressiveness stemming from fear or sometimes from sadism, and finally the presentation of a world, in its extreme form both shattered and shattering, to individuals incapable of unifying their personalities.

— certain negative attitudes on the part of the staff of institutions for minors. Staff members frequently tend to take responsibility away from the inmate, to limit his access to information, to cut off his ties with the outside world, which may be viewed as a breeding-ground for crime, to control the inmate's behavior rigidly and to harbor a conviction that the youth is different from other people.

Putting an adolescent into an environment where such attitudes prevail during a crucial phase in the acquisition of his personal identity must surely prevent the individual from gaining experiences which are essential to his future development. At the same time, he is locked into a mechanism which can easily lead him to assume a negative identity.

It has been pointed out that prison is an efficient means of social protection. In spite of the great expense involved in running the prison system, recidivism among minors is generally high and the objectives of treatment, resocialization and prevention

of crime are far from being achieved. In consideration of the numerous undesirable consequences of imprisoning minors, the United Nations General Assembly adopted in 1985 the "United Nations Standard Minimum Rules for the Administration of Juvenile Justice". These affirm that the deprivation of a juvenile's freedom should be a disposition of last resort, for the minimum period necessary and should be limited to exceptional cases.

In the future revision of the juvenile justice system, such as legislation and judicial practices, it is necessary to consider limiting the power to imprison minors and reducing all types of institutionalization. But to find the alternatives to the prison system or custody is also another difficult problem.

### 3) Alternatives to Custody

Along with traditional measures such as probation, which has been widely used in the juvenile sector and also adopted in Korean juvenile law, new types of intervention have been developed.

One such example is that of intermediate treatment, and intensive treatment within community, which originated in England. This program follows a middle course between freedom and institutionalization and includes social education, teaching, professional training and recreational activities, the aim being to replace deviant behavior with socially desirable behavior. The activities are carried out at "day centers" which the youth attends during the day or, in some case, at weekends. This Attendance Center Orders system is incorporated in the Korean Juvenile Act as 'an order to attend a lecture' (Article 32 subparagraph 3 of the Act) but the experiences are not sufficient and there are lots of issues to be resolved such as the development of various programs.

Another example are programs that have been developed with a view to replacing judicial intervention with a decentralized social policy aimed at facilitating social integration rather than tackling the problem of

crime directly. One of these programs is to shift the responsibility of running rehabilitation programs from the Ministry of Justice to local authorities, thus creating favorable conditions for innovation and experimentation. Comparing to the traditional procedures which placed young deviants in institutions far from their home environment, the new approach favors handling minors within their local area, with a view to facilitating reintegration into their normal surroundings. In Korea with the implementation of local autonomy system, the activities and functions of the community and local government may rapidly increase in these areas.

#### 4) Community Service Orders

In the search for a form of sanction which would involve not only punishment but also social utility, the British Criminal Justice Act of 1972 introduced Community Service Orders. This program is incorporated by the Korean Juvenile Act of 1988. The related provisions allowed juvenile courts to impose community service order or order to attend a lecture in addition to the protective disposition on 16-year old defendants. This measure obliges the youth to work for the community for a number of hours specified by the court, from a minimum of 40 to a maximum of 200, within a one-year sentence. But when the supervisor for protection executes such order, the normal life of the juvenile concerned shall not be disturbed. (Article 32 subparagraph 3 and Article 34 subparagraph 4 of this Act).

one thing we must bear in mind when we deal with these problems is the difference in cultural backgrounds. It should be a mistake to extend reflections and conclusions of Europe or North America onto our oriental culture and society without proper criticism and modification.

The course of urbanization has usually followed the pattern of advanced western countries, but the solution to urban problems might be found in the searching through of the remains of the traditional native cultures and oriental philosophy.

## VI. Conclusion

As Korea is not a large country, with the progress of development, the urban area is rapidly expanding and the division of urban, suburban and rural areas is becoming less distinct. Recently many researchers and scholars have published studies on the correlation between urbanization and crime, or on the juvenile delinquency problems. But

# Effective Countermeasures Against Crimes Related to Urbanization & Industrialization — Urban Crime, Juvenile Delinquency & Environmental Crime

by Wong Chee Kong\*

## Introduction

Economic and industrial development have always been given top priority in Malaysia National Policies so as to improve the standard of living and quality of life. However, contrary to the common belief that the improvement of socio-economic conditions would automatically reduce crime, development has frequently brought about a high incidence of crime, and often aggravated crime situations.

1.1 Malaysia which is experiencing rapid growth in development is also facing an upward trend in crime as well as being confronted with new forms and dimensions of criminality. Reports of crimes often hit headlines in the newspapers, and the constant Minister and Deputy Minister of Home Affairs' calls to police and public to wage war on crime, and opposition Members of Parliament's dissatisfaction over government's effort in combating crime all testify to the alarming trend of increase in crime.

1.2. This paper will make an attempt to highlight the current crime situation and significant trends in Malaysia and examine briefly some factors contributing to the rise. In addition, this paper will also outline the roles of various agencies involved in the countermeasures against crime and hopefully suggest some recommendations to step up crime prevention efforts.

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## Crime Situation and Trends

2. Available statistics on the incidence of crime are based purely on reports made to the police by the public. The actual number of crimes is not known because some offenses are not reported to the police. Therefore the crime rate based on available statistics might not reflect the true situation. Nevertheless the crime rates thus computed suffice as a guide.

2.1. The statistics shown in Table 1 covers a 10-year period from 1983 to 1992 of violent crimes. Generally there is an upward trend in violent crime in Malaysia. The years—1985, '86, '87, and '88 show a marked increase from 1983.

2.1.2. However, since 1989 the violent crime rate, as a whole, has become stable though the number of crimes has increased.

Years	Crimes	Increased percentage
1985	11,481	40%
1986	12,845	56%
1987	11,321	38%
1988	10,425	27%

### 2.2. Robbery

In view of the alarming trend in robbery during 1985 to 1987, the Malaysian government initiated various programs to counter the incidence, and satisfactory results have been seen in the past four years. Despite that, robbery remains the number one offense (53%) in violent crime.

Some of the factors inducing one to com-

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mit robbery are:

- a) Secret society activities;
- b) Drug addicts in order to get quick money for "kicks";
- c) Unemployed in cities to keep up with the high cost of living;
- d) Attitude of "get-rich-fast". So they resort to robbery.

### 2.2.1. Victims of Robbery

- a) Gold-smith shops;
- b) Commercial banks;
- c) Security vans which carry pay-packets from banks to companies or companies to banks for safe-keeping;
- d) Individuals living in high-class residential areas, individuals in amusement parks, couples in lonely and dark secluded places;
- e) Entertainment centers, e.g., gambling dens, nightclubs, hair salons, etc.

### 2.3. Causing Hurt

The incidence of causing hurt has been on the rise from 2,059 cases in 1983 to 2684 in 1985, an increase of 30% and since then the cases have remained stable up to 1992 with an average of 2,624 cases per year.

2.3.1. Some factors contributing to causing hurt:

- a) Secret Societies are the main contributing factor. The members are willing to murder, rob, hurt, extort, and kidnap to get money. At times, secret society members fight among themselves for territorial expansion and settling gang disputes.
- b) Illegal entry/smuggling of firearms especially along border points between Malaysia and Thailand. During 1986 to 1988, the Malaysian police successfully confiscated 486 unlicensed firearms. This does not include those arms that are reported missing or stolen from the licensed owners. The increased circulation of firearms aggravated the problem.
- c) The influx of illegal immigrants is another factor. The constant unemployment, the high cost of living in cities, the harassment of enforcement agencies, and the willingness to

"risk" making a quick fortune render these immigrants vulnerable to committing petty thefts, extortions, and gang robberies. In the course of these criminal activities they commit hurt. Some who become illegal hawkers engage in fights with the locals for trespass of territory. The table below shows the arrest of illegal immigrants for 1985-1988.

Year	Arrest
1985	26,534
1986	22,917
1987	22,878
1988	84,626

However for every one illegal immigrant arrested many have gone underground. And the actual figures of illegal immigrants are not available. Studies showed that there are an estimated 250,000 illegals presently in Malaysia.

### 2.4. Armed Robbery

There was a marked increase of armed robbery from 950 cases in 1985 compared to 1983 (an increase of 42%), 1,022 cases in 1986 (53%), 848 cases in 1987 (27%). The rise is largely due to the increase of circulation of firearms. Efforts have been stepped up in patrolling especially along the Malaysian and Thailand border. As a result, from 1989 to 1992 there is a significant drop in this offense. In 1989 (-3.5%), 1990 (-3.59%), 1991 (-5.39%) and 1992 (-6.29%).

### 2.5. Rape

There is a distinct upward trend in this offense. In 1983, 460 cases were reported and in 1992, 719 cases, an increase of 56%. In view of this serious phenomenon, Malaysian Women's Organization has pressured the Malaysian Government for stiffer punishment of rapists. Complying with public demand, Parliament sat on March 1989 and amended Section 373 (Interpretation of Rape) and Section 376 (Punishment) of Pe-

## CRIME IN MALAYSIA

### Victims Killed After Rape

Year	Reported case	No. of victims killed
1983	460	7 (1.5%)
1984	470	13 (2.8%)
1985	530	14 (2.5%)
1986	688	11 (1.6%)
1987	668	7 (1.0%)

### Places Where Rape Took Place (1987)

Places	Total case	(%)
a) Public places including shopping complex, rest-house, gardens, estate	275	41
b) Uninhabited house/building	266	40
c) Hotel room	33	5
d) Others include in car, bus & boat	94	14
	668	100

nal Code. One of the important amendments is that the victim's being a consenting female of 16 years and below (formerly 14 and below) cannot be accepted as defense. Punishment is a minimum of 5 years in jail and may extend to not more than 20 years (for-

merly 10 years).

2.5.1. Of late, another new dimension of rape has developed. The rape victim is being killed by the rapist.

### 2.6. Gang-robbery Without Firearms

There is a steady decline in this offense. The highest recorded number was 632 cases in 1985 and it decreased to 345 cases in 1989 (-45%), 334 in 1990 (-47%), 350 in 1991 (-45.7%) and 487 in 1992 (-23%).

### 2.7. Murder

There has been a marked increase in the number of murders in 1991 (415 cases) compared to the lowest number of 293 cases in 1984. Motives for murder show different trends at different periods of time. The table below shows comparative motives for 1986-1988.

### 2.8. Gang-Robbery With Firearms

The data available is too insignificant to chart any pattern or trend. The highest incidence reported was 85 cases in 1988. There is a general decline 58 in 1991 and 57 in 1992 due to tight control of smuggling fire arms into Malaysia from neighboring countries.

### 2.9. Attempt to Murder

The highest incidence reported is 84 cases in 1986 and the lowest reported is 24 in 1989. Data available does significantly re-

Motive	1986	1987	1988	(%)
a) Robbery	101 (26.6)	59 (16.29)	72 (20.81)	
b) Revenge	92 (23.83)	49 (13.53)	35 (10.11)	
c) Quarrel	79 (20.46)	58 (16.02)	63 (18.21)	
d) Unidentified	65 (16.83)	138 (38.12)	120 (34.68)	
e) Jealousy	15 (3.88)	25 (6.9)	13 (3.75)	
f) Unsound mind	13 (3.36)	16 (4.41)	22 (6.35)	
g) Rape	11 (2.84)	7 (1.93)	5 (1.45)	
h) Secret Society	7 (1.81)	7 (1.93)	10 (2.89)	
i) Kidnap	2 (0.25)	2 (0.55)	2 (0.58)	
j) Communist	1 (0.25)	1 (0.27)	-	
	386 (100)	362 (100)	346 (100)	

veal any pattern/trend.

3. The total violent crimes illustrated above represent only 13% (101,029 cases) of the total index crimes in Malaysia for the period covering 1983-1992. The main bulk, 87%, are crimes against property (671,596 cases).

3.1. Statistics in Table 2 show crimes against property. A clear pattern is seen here. There is a steady increase from 1983 to 1988. However from 1989 to 1992 there is a significant drop. In 1989 - 56,596 cases (-14%), 1990 - 59,137 cases (-9.78%), 1991 - 56,421 cases (-13.93%) and 1992 - 62,885 cases(-4%). The most common crime against property is house breaking at night to commit theft (24.88%), and theft of motorcycle (17.32%), whereas the least common are theft of lorry/van (0.86%) and theft of motorcar (4.35%).

### 3.2. House Breaking in Day to Commit Theft

The highest number was 5,171 cases reported in 1986 and the lowest recorded was 3,550 in 1989.

### 3.3. House Breaking at Night to Commit Theft

The highest incidence was recorded in 1985, at 20,413 cases, and the lowest at 13,218 cases in 1991. For offenses of house breaking during the day or at night to commit theft, studies showed that 65% of the cases were reported in the cities, e.g. Kuala Lumpur, Petaling Jaya, Ipoh, Pulau Pinang and Johore Bahru. Studies also revealed that most of the offenders in this category are drug addicts or those without stable/permanent jobs. It is also found that in big cities, stolen properties are easily disposed of due to a large number of unscrupulous middlemen ever willing to buy them at cheap prices. Some unethical pawnshop owners are also found to accept or buy stolen jewelry or gold.

#### 3.3.1. Sources Contributing to This Offense

a) The main source is the negligence of

the victims themselves. The lack of care taken to protect their properties gave rise to the opportunity for the offenders, such as leaving the house without doors locked.

b) The increase of drug addicts in the cities. Central Research on Drug Education in University Science Malaysia carried out a survey and found that as of 1987 there was 128,131 addicts in Malaysia. According to a United Nations study, this number could be multiplied by four to include those undetected. As such the number of 500,000 addicts would be a truer picture. The unemployed in the cities also aggravate this problem.

### 3.5. Theft of Vehicles

This includes theft of lorry/van (4.35%), theft of motorcycle (17.32%) and theft of bicycles (5.11%).

3.5.1. Theft of vehicles, especially motorcars, in Malaysia is being carried out by professionals who have connections with syndicates.

Area	1987	1988	1989
Public parking area	342	316	134
Roadside	643	513	250
In front of owner's house	244	208	91
Hotel parking bay	19	18	7
Shopping Complex parking bay	54	21	19
	1302	1076	501

3.5.2. Places where theft of motorcars usually occurs is at roadside. A case study in Kuala Lumpur for 1987-1989 revealed that the following places are common:

### 4. White-Collar Crime/Commercial Crime

A Seminar sponsored by the United Nations Far East Institute (UNAFEI) held

in Japan in 1986 has accepted the following definition of commercial crime:

"A non-violent act committed by a person for the purpose of obtaining profit or cash by taking advantage of the position or professional knowledge or by other ways which violate the laws and regulations in the national economy and economic system."

4.1. Some of the offenses included in white-collar crimes are:

- i) Corporate fraud;
- ii) Security fraud; market and trading abuses;
- iii) Forgery, counterfeit of currencies, forgery of credit cards;
- iv) Cheating;
- v) Criminal breach of trust;
- vi) Corruption;
- vii) Infringement of Patents Act;
- viii) Evasion of taxes.

This paper will only examine corruption due to inavailability of data.

#### 4.1.1. Corruption

Table 3 shows the total arrest of corrupt offenders for years 1983 to 1992. Members of public arrested account for 39%, politicians 0.7%, and government servants 60.3%.

4.1.2. Common offense committed by members of public is Section 4(b) of the Prevention of Corruption Act 1961, i.e. corruptly giving or offering gratification to an agent of the government for doing or forbearing to do an act.

4.1.3. For government servants the common offenses committed are Section 4(a), i.e. corruptly accepting or obtaining gratification from any person as an inducement to do or forebear to do an act in relation to his principal's affairs. Section 4(c), i.e. knowingly using with intent to deceive his principal any document which contains falsified material particulars.

4.1.4. For politicians, it is section 2(1) Emergency (Essential Powers) Ordinance No. 22 of 1970, i.e. using public office for pecuniary advantage.

4.2. In order to address the problem of white-collar crimes as early as possible, because of the increasing sophistication in the modus operandi of white-collar criminals, amendments to the Penal Code have been made to introduce mandatory jail terms and whipping to deter prospective criminals. Law Minister Datuk Syed Hamid Albar tabled the Penal Code (Amendment) Bill, 1993 to the Dewan Rakyat (Lower House) on March 8, 1993. Under the amendments, criminal breach of trust by a public servant, merchant or agent is punishable with a mandatory 2-year jail sentence and whipping and shall also be liable to a fine. Presently no mandatory jail sentence or whipping is meted out for this offense. For the offense of cheating and dishonestly inducing delivery of property, the amendment seeks to enclose the punishment with a mandatory 1-year imprisonment and a jail term not exceeding 10 years with whipping. Apart from enhancing punishment, the amendments also seek new definitions of "dishonesty" and "document" as stated in the Penal Code to include new areas/dimensions in line with the changing times.

## 5. Drugs

Table 4 indicates the total arrest of drug traffickers in Malaysia from 1985 to 1992. There is a distinct trend of increase from 1986 to 1992. The Malaysian government has imposed a mandatory death sentence for traffickers committed under Section 39B of the Dangerous Drug Act 1952. Despite this, the lure of big & fast fortune does not deter the traffickers. In view of the deadly consequence and the social problems that are brought about by drugs, in addition to the mandatory death sentence the Malaysian Government also introduced the amendment to Dangerous Drug Act 1952 to confiscate the ill-gotten wealth as a result of drug trafficking from the traffickers.

## 6. Prostitutes/Drug Addicts/Secret Society/Alcoholic

As these groups are social phenomena and not crime groups per se, this paper does not intend to dwell on them in detail.

## 7. Role of Government Agencies in Countermeasures Against Crime

### 7.1. Police

The responsibilities of Royal Malaysian Police as described in police Act 1967 are:

- i) To maintain law and order;
- ii) To preserve public peace and security;
- iii) To prevent and detect crimes;
- iv) To apprehend and to prosecute offenders;
- v) To collect security intelligence.

#### 7.1.1. Patrol

In the form of foot patrol, bicycle patrol and mobile police vehicle patrol (MPV) are to deter 'preventable' crimes like theft and house breaking involving property. Patrol also serves to provide police presence with view to instill public confidence.

#### 7.1.2 Raids

Normally carried out on information received that the commission of crimes like gambling and gang fights are about to take place. Raids act as a harassment.

#### 7.1.3. Surprise Checks

Carried out in the form of road-block check. Checks are also made in hotels and lodging houses to flush out criminal elements.

#### 7.1.4. Search

Regular searches on suspicious characters from time to time, especially at night, serve as a deterrence to habitual criminals.

#### 7.1.5. Detention and Restricted Residence

Against organized crime and hardcore criminals, actions are taken to separate them from the rest by detention or placing them in areas away from their usual associates and surroundings. The Restricted Residence Enactment is used against gambling organizers, organizers in prostitution and illegal brewery of cheap wine. "The Emergency Ordinance" No. 5 of 1969 is used against drug traffickers and secret society leaders and members.

#### 7.1.6. Crime Prevention Campaign

i) Holding campaigns and planning programs involving society, government agencies, private sector, organizations and clubs, to disseminate information against crime via exhibitions, mass media and electronic media.

ii) Holding talks/lectures and dialogue sessions of crime prevention in training centers, government departments, schools and the public.

iii) Distributing pamphlets/guides to the public pertaining to crime preventive measures.

### 7.2. Anti-Corruption Agency (ACA)

The main duties entrusted under the prevention of the Corruption Act 1961 are:

- i) Prevention and detection of corruption;
- ii) Investigation into offenses under the Act, and prescribed offenses;
- iii) Prosecution of offenders;
- iv) To curb malpractices, abuse of power and eliminate inefficiency in government machinery as a whole.

7.2.1. It is undeniable that some black sheep exist in most government enforcement agencies including the police. Due to bribery, many criminals or agents of crime go scot-free. The material and worldly influence have increasingly posed a challenge to human weakness. Many have succumbed to greed and connived with the criminals for material gains.

7.2.2. ACA is being entrusted with the 'watch-dog' role to oversee a clean, efficient and trustworthy government by apprehending corrupted government officials through investigations, surprise checks and traps. In her preventive effort, ACA coordinates with the Information Department to disseminate anti-corruption messages to the public via T.V. and radio. Other prevention programs are carried out via national and International Conferences, seminars, lectures, dialogues, exhibitions on topics of preventive measures of corruption and the ills of the menace. Pamphlets, car-stickers, desk diaries, posters containing anti-corruption messages are also being distributed to schools and the public to

raise awareness.

7.2.3. The effectiveness of ACA is somewhat hindered due to shortage of staff. In 1992 there were only 607 investigators including 157 from category A (Degree holder), 250 from category B (Diploma holder) and 200 category C (A-level holder) to oversee a total of 885,000 government officials. A ratio of 1:1,458, let alone the private sector. The presence of ACA therefore could not be felt throughout the length and breadth of the country to carry out her entrusted role effectively.

### 7.3. Prison

In the area of crime prevention, the role of prisons can be geared towards reducing the recidivism rate and enhancing the treatment and rehabilitation programs. In Malaysia however, there is much room for improvements in the following areas:

#### 7.3.1. Prison classification system

Prisoners are being classified with a view to facilitating the rehabilitation of convicted prisoners. In Malaysia, prison inmates are not being interviewed, examined and assessed by professional psychologists and psychiatrists as in Japan and the United Kingdom. Psychological tests are conducted to recognize personality and criminal tendencies of the offenders and to assess their vocal aptitudes.

#### 7.3.2. Community-based Treatment Programs

Punishment of the law, stigma of the crime and the ostracisation by the community will only drive the offenders into development of secondary deviation. Such stresses on the offenders can only be alleviated with concerted effort of both the treatment agencies and community.

#### 7.4. Attorney General

The main function of the public prosecutor is to make the decision whether to press charges against an alleged criminal, and if so, to prosecute at court. Speedy trial proceedings will act as a deterrent factor. In Malaysia, especially in the lower courts, the

prosecuting authorities are obliged to institute prosecution whenever there is reasonable probability of proving guilt and as such the conviction rate is relatively low. The unwarranted prosecution often overloads cases in courts causing a "jam".

7.4.1. As a countermeasure the adoption of suspension of prosecution as practised in Japan can help to reduce the caseload of the courts and shorten the duration of criminal proceedings. Under this suspension scheme certain less serious criminal offenders who have confessed are entitled to suspension prosecution. However, it is conditional upon willingness of the offenders to comply with conditions of probation or supervision to be imposed. During the time of suspension if no further crime is committed, the offender is immune from prosecution for the alleged offense for which the suspension was granted.

7.4.2. Speedy trial with high conviction rate would certainly enhance the deterrent effect. To this end, the legal department of Malaysia must be adequately staffed in numbers and in quality of personnel. The recruitment of the new Deputy Public Prosecutors must be done with care in order to attract only the best members of the legal community.

### 7.5. Court

It is evident that the function of the courts in the criminal justice process is of vital importance. Once the accused has been processed through the system and into the judgment phase, the courts have the heavy responsibility of considering whether to acquit or convict, and if to convict what sentence to impose. Except for certain offenses for which the penalty is mandatory, the courts have discretion to select the penalty that they consider most suitable. The sentence meted out by the courts in Malaysia at times do not reflect public interest on certain categories of crimes for example corruption offenses where punishment provides for imprisonment of not more than five years & fine not exceeding RM10,000. Available

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records show most sentences meted out for corruption offenders is fine with one day imprisonment which hardly served any deterrent to the prospective offenders. It is felt that there is room for increase in modalities of sentencing to curb recurrence of certain crimes.

7.5.1. The delays in hearing of cases at the courts is also cause of concern in the effort to prevent crime. Most cases in Malaysia take more than two years to be heard. The consequence of which are, the material witness could not be located due to migration, complainant turned "cold-feet" due to harassment, some witness being "bought-over" by the accused.

7.5.2. Some of the reasons for the delays in court are:

- a) Backlog of cases;
- b) Frequent postponement of cases;
- c) Shortage of judicial personnels;
- d) Shortage of courts;
- e) Witnesses not showing up in courts.

7.5.3. To ease backlog of cases, the High Court of Malaysia set directions to subordinate courts that criminal cases should not be postponed more than three times or a period not exceeding one year whichever is lesser. Remand cases should not be postponed more than twice or for a period not exceeding six months whichever is lesser.

7.5.4. Regular meetings held between police, judiciary and related agencies in the criminal justice system to assess the administrative procedures to expedite the disposal of cases.

7.5.5. To increase courts and judiciary personnels for speedy trials.

### 7.6. Information Department

It is recognized that mass media is an important instrument in creating public awareness in the implementation of crime prevention strategies. In the Malaysian context, it is felt that the mass media especially television and radio do more to entertain than to educate the general public. Mass media in Malaysia should further be encour-

aged to be involved in crime prevention weeks and to undertake campaigns against specific crimes or offenses such as vandalism and cars theft. In addition, it is felt that much advantage could be derived if the mass media could foster closer liaison/rapprochement with crime prevention agencies with a view of presenting analytical articles on costs and ill-effects of crime and also ideas on prevention, its success or shortcomings.

### 7.7. RELA

This is a voluntary organization which was established in 1972. The members come from rural areas though some of its members are government servants as well as those from the private sector. RELA plays a supportive role to that of police in crime prevention. RELA carries out security patrol duties in conjunction with the police. They are also "eyes and ears" of the Government. They pass information regarding criminal activities in their respective areas. They also assist the local police in operations like rounding up of suspected targets, secret society elements and drug addicts. For this group to be effective in crime prevention, more intensive training in law and law enforcement are required to equip them. It is also recommended that RELA officers and men be vested with auxiliary police powers commensurate with the present rank.

### 7.8. Malaysian Foundation of Crime Prevention

The formation of this foundation is the first integrated approach/attempt to play an important role not only in the effort to prevent crime and improve criminal justice; but to look into aspects of criminal rehabilitation and assistance to victims of crime as well as to raise public consciousness towards crime prevention. Towards this end, the foundation has embarked upon various activities such as:

- a) Sponsoring, co-ordinating and upgrading activities of crime-prevention;
- b) Sponsoring lectures, seminars, work-

shops, conferences, exhibitions and other programs to raise public consciousness for combating crime and strengthening the criminal justice system through printing and distributing magazines and books to explain to public the role of this foundation.

c) Cooperating and coordinating the functions of other similar organizations within or outside of Malaysia with special emphases to UNAFEI in respect of crime prevention and rehabilitation of offenders.

8. Under Section 2 of Juvenile Courts Act 1947 (Laws of Malaysia Act 90), the definition of "Juvenile" means a person who has attained the age of criminal responsibility prescribed in Section 82 of the Penal Code and is under the age of eighteen. Section 82 Penal Code states that nothing is an offense which is done by a child under 10 years of age. As such those above 10 years but below 18 years are termed as "Juvenile."

#### 8.1. Crime Situation and Trends in Juvenile Delinquency

For violent crime (see Table 5) there has been a general decline since 1986. The most remarkable decline is seen in the last three years: 167 in cases in 1990 (-45%), 111 cases in 1991 (-63%) and 229 cases in 1992 (-24%). The most common offenses committed here are causing hurt (43.9%), and robbery (20.1%) while the least common are attempt to murder (1.58%) and gang robbery without firearms (2.76%). The violent crimes committed by juveniles represent only 11% of the total juvenile crimes 16,380 cases covering from 1985 to 1992. Whereas crimes against property represent 59% (9,595 cases), drugs/gambling and secret society/others make up the rest 30% (5,012 cases). Regarding crimes against property and social crimes (drug/gambling & secret society) — (see Table 6), there has also been a general decline since 1987. Remarkable decline has also been recorded in the last three years. In 1990, 1,568 cases (-25.4%), 1991, 1,209 cases (-43%), and 1992, 1,716 cases (-18%). Common offenses are theft (30%) and house

breaking at night to commit theft (15%). Offenses included in "others" are traffic offenses, custom offenses, detention ordinance, Town Council Act, Fishery Act, Poison Ordinance and Explosive Material & Dangerous weapons Act. It is also seen here that 62% of juvenile delinquents are in the age group 16 to 18 (12,917 arrested), 33.9% in the age group of 13 to 15 (6,724 arrested) and 4.1% are 10-12 years old (9,087 arrested). Comparing the total index crimes 775,436 cases committed during 1985-1992, the juvenile delinquents with 16,380 cases in the same years represent only 2.11%. This meager percentage augurs well for the society as a whole in the years ahead.

#### 8.2. Juvenile Justice/Disposal of Juvenile Cases

Table 7 indicates court decisions handed down on Juvenile offenders for periods covering 1985 to 1992. In Malaysia, 8 forms of punishment are meted out for juveniles, i.e.:

- i) Warning;
- ii) Bond without supervision;
- iii) Bond with supervision;
- iv) Probation;
- v) Approved school (run by welfare department);
- vi) Hendry Gurney School (Advanced Approved School run by prison Department);
- vii) Fine/Forfeit;
- viii) Jail.

The most commonly handed down of these punishments is Bond without supervision (44%) and the least common is Hendry Gurney School (5.3%). Only about 8% of the punishment is jail sentence.

#### 8.3. Frequency of Juvenile Offenders in New Cases

Table 8 reveals the new cases committed by juveniles on repetition for periods 1985 to 1992. Interestingly, throughout those eight years, about 91% of the new cases recorded were committed by juvenile first-times. Whereas 1.26% were committed by juveniles

while under supervision/probation, 0.48% were after supervision/probation, 0.9% were while attending Approved School, 0.41% were after Approved School, and 5.2% were second or third timers.

8.3.1. From the crime trends and the rate of repetition of juvenile offenders, it is noted with pride that juvenile delinquency in Malaysia is under control. However, as a social phenomenon, it reflects the type of society that fosters it. The changes in the background of delinquents and the shift in their style and pattern of offending show that this will be a continuing problem for the years ahead. Malaysian authorities are fully aware of this, and steps are being taken in guidance of juveniles, their education, protection and correction in an effort to avert this phenomenon from increasing.

#### 8.4. Some Causes of Juvenile Delinquency

Malaysia is in the midst of rapid industrialization, modernization and urbanization, all of which bring with them related problems.

##### 8.4.1. Rural-Urban Migration

Owing to attraction of city life, rural youth mostly drop out from school and migrate into cities only to join the unemployed due to their limited qualifications and skills. The high cost of living and degradation of moral values in the city forces them to associate with undesirables and to rob, steal, and extort, or prostitute themselves, and to commit other crimes just to survive.

##### 8.4.2. Emphasis on Materialism in City

A Chinese proverbial saying, "you respect the clothes he wears first, then the wearer" best illustrates the attitude of city folk. Respect is weighed against one's material possessions. This is also evident in Malaysian teenagers today in their brand-consciousness in apparel and whatever. Juveniles who want to be "in the wagon" and not be looked down upon by their peers, resort to illegal means to maintain their styles and circle of friends.

##### 8.4.3. City Culture

Drug addiction and gangsterism are two

main features of Malaysian city culture. Studies show that about 76% of drug addicts in Malaysia are teenagers. To sustain addiction, a teenager needs at least RM30.00 (thirty Malaysian ringgit) per day. When it is beyond his means he resorts to theft or becomes a drug peddler to acquire his daily dose. In order to protect themselves, juveniles also form gangs and engage in gangsterism through their usual surroundings/associates, e.g. schools. Some students join gangs in order to project a "hero" image in front of their peers; some join through coercion; others due to bad company. Gangsterism influences students/teenagers to become the "runners" for their "Big Brothers".

##### 8.4.4. Entertainment Centers in City

Snooker centers, jackpot and video arcades are common sights in Kuala Lumpur city. These centers induce teenagers to spend money and time. Seeking money to pay for drug addiction in these centers paves the way to delinquency. Teenagers loitering in these centers are normally from families living in low-income, high-density residential areas in the city. Units in our high-rise flats measure only 550 sq. ft. It is within this small space that an average family of 4-54 are expected to live together. As a result many teenagers prefer to while away their free time among friends in these centers as they too are trying to escape the same cramped living conditions. The same pressure is also felt by youngsters living in squatter areas and low-cost houses in the city.

##### 8.4.5 Lack of Parental Control and Guidance

Although the per capita income of a family in K. Lumpur was RM1,875 in 1989, both parents must work at the same time. This means the children are left on their free will without much parental control and guidance. The teenagers especially at this stage of life need special attention as their physical maturity outgrows their mental maturity. They are vulnerable and easy prey to bad elements who show pretentious care

and concern. Compounding this, the boredom of schooling, and the lack of attention at home, makes the lure of bad company outside the home extra exciting and adventurous. Thus the teenagers become influenced and gradually become delinquents.

#### 8.4.6. School Dropouts

School dropouts, as young as 15 years of age (Lower Certificate Examination Dropouts) which are increasing year by year might have contributed to the increase of juvenile delinquency. This situation was further aggravated when about 14% of total children undergoing primary education dropped out of school and did not reach Form one (13 years and below). Studies showed that in Kuala Lumpur itself, there are about 130,000 youth between 15-18 years. The dropouts with low self-esteem readily become delinquents in the city environment where there is a breakdown of social and moral values.

### 8.5. Countermeasures against Juvenile Delinquency

#### 8.5.1. Police

It is an undeniable fact that the police play an important role in crime prevention. However, their diverse and expanding responsibilities are using up much of their resources. Presently the Malaysian Royal Police are still at the stage of forming a special unit in dealing with juvenile delinquency. Unlike Malaysia, the Singapore police have a Crime Prevention Division that plays an important role in the prevention of juvenile delinquency in addition to normal and general crime prevention activities. To this end, the Director of Criminal Investigation Department (CID) Malaysia Royal Police, Datuk Zaman Khan had recently announced in the press that Malaysia Royal Police College in Kuala Kubu Baru, Selangor, is conducting a special course on juvenile delinquent investigations for police officers. Datuk Zaman Khan also hinted that a specialized unit in the police will soon be set up to gear towards prevention of juvenile delinquency in view of the special nature of

juvenile offenders. Such a unit should closely liaise with schools and other related agencies/organizations towards meeting the objective.

#### 8.5.2. Social Welfare Department

In the prevention of juvenile crime, the Department performs two major functions, i.e. the prevention of commission of the first offense and the prevention of recidivism.

For the first role, the department operates its activities at three levels, viz. the family, the school and the community.

##### i) Family Level

To prevent family breakdown and to prevent children from becoming delinquents due to financial and other reasons, the Department provides various assistance and services such as financial assistance to maintain livelihood, school aid for examination fees, bus fares, uniforms and class tuition to prevent school dropout; apprenticeship; training for school dropouts, financial grants to unemployed youths to carry out small business and voluntary supervision of juveniles who are in need of guidance to prevent them from becoming delinquents. In addition, family counseling services are provided to deal with various problems faced by a family.

##### ii) School Level

At school level, the department has established a school welfare service. The school welfare officer works closely with school authorities in dealing with students who show an inclination toward delinquent behavior so that the students concerned can be helped and assisted before they become delinquents.

##### iii) Community Level

The Department also gets the community involved in crime prevention through the establishment of Juvenile Welfare Committees (JWC) at district levels. These JWC assist the Probation Officer in the supervision of probationers as well as finding jobs and training facilities for probationers and are also involved in crime prevention activities. Other committees involved in such works

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are the Drug Rehabilitation Committee and Board of Visitors in the approved schools and protection centers for women and girls.

For the prevention of recidivism, the Department provides community based programs known as probation and institutional treatment through Remand Homes/Probation Hostel and Approved Schools which serve as places of detention, education, training and rehabilitation of juvenile offenders. Presently the department runs 12 Remand Homes (310 enrollment), 7 Approved Schools (972 enrollment) and 6 Probation Hostels (640 enrollment) through the country creating total enrollment of 1,922 juvenile offenders. However, due to limited resources, the existing services have not yet been fully developed. It is felt that the following areas still have room for improvement:

i) Development of the existing school welfare services so as to provide more intensive behavior modification programs;

ii) Improvement of facilities for institutional treatment particularly in respect of the education, training and rehabilitation of juvenile offenders;

iii) Greater emphasis on community based treatment and with encouragement of volunteer probation officers to do supervision of probationers and to carry out crime prevention activities at the local level.

### 8.5.3. Education Department

Schools and family units are the two major socializing bodies in which the formative years are spent. If schools are to be effective in the area of crime prevention and inculcation of good citizenship, they must be exploited to instill non-violent and cooperative attitudes and to foster the socialization process. In view of the above, it is recommended that:

i) Civics and religion be taught as a subject in school;

ii) More full-time counselors to complement guidance and counseling teachers be made available in schools to help students with personal problems;

iii) More students should be encouraged

to join at least one of the uniformed bodies (scouts/guides, police cadet, army cadet, red-cross society, etc.) in schools to instill in them the importance of self discipline and respect for law and order;

iv) More opportunities be given to secondary students to receive instruction on:

- a) Role of police
- b) Function of lawyers
- c) The court system
- d) Citizen's rights and obligations
- e) Proper use of leisure time.

### 8.5.4. Vocational Training

Regarding the ever increasing number of dropouts from the school system who are unable to get employment or continue their education, no effective and suitably implemented program has been set up; either in vocational training geared towards existing industrial needs or catering for the general employment market. As such, the unemployed or idle juveniles loiter around and become "high-risk" delinquents. The industrial sector also does not have worthwhile institutions that caters to their needs. In Japan, in addition to public vocational training institutions, the establishment of training institutions under the wings of big industrial concerns has greatly contributed towards meeting the need for the semi-skilled or skilled labor force in the country.

It is therefore felt that more government vocational schools should be set up. In addition to the government sponsored schools, the industrial sector is also requested to set up similar institutions.

### 8.5.5. Community Participation

It is commonly observed in Malaysia that there is poor co-operation and liaison on the part of the public regarding preventive activities against juvenile delinquency. In order to overcome such attitudes, some form of appreciation and recognition should be given to the public or organizations who have rendered outstanding voluntary services to the cause. Publicity in the form of mass-media coverage on the exemplary work

done will induce the public's willingness towards participation in voluntary services.

## 9. Crime Prevention in the Context of National Development

At the macro-level, in the context of national development, crimes can be prevented through:

- a) Reduction of criminogenic factors;
- b) Promotion of crime inhibitive factors.

### 9.1. Reduction of Criminogenic Factors

#### 9.1.1. Disparity between the Rich and the Poor

Based on the experiences of many countries, those who suffer from economic disparity and human misery are more likely to be involved in crime. There is a need to bridge the gap between the rich and the poor.

#### 9.1.2. Rural-Urban Migration

To control migration into the major towns, it is necessary that the authority bring commercial activities to the rural areas. The development of new towns or decentralization of new industries would help. In addition, it is felt that rural migrants might be able to avoid a "slum-culture" in the city if they could be guided to certain areas specially planned.

#### 9.1.3. Changes in Life-Style and Value System

Urbanization brings about changes in one's life-style and value system. A "playful" mood (hedonism) tends to prevail in urban areas and often weakens public morality. Abundant goods of higher quality may stir up people's desire for possessions. Anonymity in urban areas will make one feel easy about committing crime. Thus it is of vital importance that steps be taken to reduce these criminogenic conditions.

#### 9.1.4. Unemployment

Unemployment too has a bearing on crime. Government therefore has to create and generate enough employment especially for the youthful population.

### 9.2. Promotion of Crime Inhibitive Fac-

tors

#### 9.2.1. Preservation and Strengthening of Informal Social Control Measures

Strong informal control exerted by families and groups is usually pointed out as one of the major reasons for the low crime rate in Japan. In Malaysia, it is felt that these informal social institutions be fortified and enhanced in crime prevention strategies.

#### 9.2.2. Recreation

In Malaysia studies show that the defective use of leisure time and lack of healthy recreational facilities is the doorway to delinquency. It is worthwhile therefore to make available more swimming pools, youth parks, camping grounds, sports fields and other recreational facilities.

## 10. Physical Planning

It is increasingly being recognized that there is a relationship between crime and physical environment. Attention therefore should be given to the criminogenic consequences of urban planning, the physical arrangement of buildings and the styles of housing. Poor physical planning may encourage commissions of crime, e.g. inadequate street lighting, weak locks on doors, poor window fastenings, poor layout of rooms from which it is difficult to communicate with neighbors. Houses, banks, business premises and office blocks should be designed with security/safety in mind apart from the aesthetic view. If physical planners can build the concept of crime prevention into their designs, opportunities for the commission of crimes may be minimized.

## 11. Research

Criminological research is still very much neglected in Malaysia. This impedes sound decision making and the formulation of effective crime prevention strategies. In connection with research it may be advantageous if criminal justice agencies could seek cooperation with universities. However, the research should be action orientated and pragmatic in line with the existing realities.

### 12. Integrated Approach

The problem of crime and its prevention must be dealt with by the various criminal justice agencies. However, it is indispensable to the paired goals of prevention of crime and treatment of offenders that all these agencies coordinate their activities to produce a smoothly operating unified criminal justice system. In Malaysia, past experience has indicated that these agencies function in water-tight compartments. These agencies seldom pay attention to the possible impact of their activities on other agencies and on the entire system. Hence there is a great need for a body which could coordinate and integrate the policies and practices of the relevant agencies of the criminal justice administration. In this light, the Malaysian Foundation of Crime Prevention was set up at the national level as a coordinating body.

### 13. Intersectoral Approach

Disparity of income, corruption, school dropouts, unemployment impersonal lifestyles, and opportunities for fraud or theft are some of the factors leading to criminal behavior which often can be overcome by concerted attacks from all sectors in national planning operation — not just those services labeled as "criminal justice". If health, education, welfare, industry, commerce, agriculture, and housing as well as criminal justice services were to combine to make a coordinated effort to eliminate the criminogenic factors, society would be more capable of attaining its objectives with less interference from crime.

13.1. In short, to avoid creating criminogenic conditions, national planners who plan for education, agriculture, housing, youth services, etc. will have to plan with crime considerations in mind, for in all these opportunities for crimes, even temptations to commit are being built into our modern society to an extent which perhaps no criminal justice system can later prevent.

13.2. The foregoing implies the need for cooperation among the various government agencies so that an integrated effort can be utilized to conduct effective studies on the ways to prevent crime. It is also felt that collaboration among nations particularly at the regional level be further enhanced and sustained. Both these objectives could be achieved through organization of seminars and workshops where experiences could be shared and knowledge disseminated.

## CRIME IN MALAYSIA

Table 1: INDEX CRIMES IN MALAYSIA 1983-1992

A. Violent Crime	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	Total
1) Murder	303	293	327	386	362	346	322	313	415	410	3,477
2) Attempt to murder	51	63	59	84	37	44	24	32	31	44	469
3) Gang-robbery with fire arms	50	61	55	56	71	85	65	46	58	57	604
4) Gang-robbery without fire arms	376	460	632	576	542	425	345	334	350	487	4,527
5) Armed robbery	668	760	950	1,022	848	770	644	644	632	626	7,564
6) Robbery	4,242	4,710	6,244	7,416	6,146	5,518	4,419	4,793	4,769	4,791	53,048
7) Rape	460	470	530	688	668	611	576	638	706	719	6,066
8) Causing Hurt	2,059	2,163	2,684	2,617	2,647	6,626	2,475	2,583	2,557	2,863	25,274
<b>Total</b>	<b>8,209</b>	<b>8,980</b>	<b>11,481</b>	<b>12,845</b>	<b>11,321</b>	<b>10,425</b>	<b>8,870</b>	<b>9,383</b>	<b>9,518</b>	<b>9,997</b>	<b>101,029</b>

From Royal Malaysia Police Crime Surveillance Division

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Table 2: INDEX CRIMES IN MALAYSIA 1983-1992

B. Theft of Properties	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	Total
1. Housebreaking in day to commit theft	4,392	4,478	5,092	5,171	4,286	3,910	3,550	4,311	4,291	4,967	44,448
2. Housebreaking at night to commit theft	17,385	18,430	20,413	20,373	17,917	15,860	13,410	14,323	13,218	15,780	167,109
3. Theft of lorry/van	242	372	406	558	509	658	595	634	812	912	5,758
4. Theft of motorcar	1,829	2,271	3,140	3,813	3,898	3,442	3,188	2,309	2,545	2,746	29,181
5. Theft of motorcycle	9,600	11,280	13,654	16,056	13,378	12,047	10,286	9,933	9,440	10,671	116,340
6. Theft of bicycle	5,068	5,039	4,673	3,832	3,475	3,158	2,525	2,200	2,039	2,337	34,346
7. Other theft	27,035	27,089	30,305	52,511	30,464	28,989	23,042	25,427	24,076	25,472	274,410
Total	65,551	68,959	77,743	82,314	73,927	68,064	56,596	59,137	56,421	62,885	671,596

From Royal Malaysia Police Crime Surveillance Division.

Table 3: ARREST OF CORRUPTION CASES 1983-1992

	Number of public	Politician	Government Servant	Total
1983	95	1	124	220
1984	91	4	207	302
1985	79	2	183	264
1986	96	-	174	270
1987	125	1	156	282
1988	139	3	179	321
1989	101	-	154	255
1990	87	1	151	239
1991	103	5	118	226
1992	130	2	191	323
Total	1,046	19	1,637	2,702

From Anti-Corruption Agency Research Division.

## CRIME IN MALAYSIA

Table 4: ARREST CASES UNDER SECT. 39B  
DANGEROUS DRUG ACT 1952  
1985 TO 1992

TAHUN	SEK.39B	ADB
1985	528	
1986	456	
1987	525	
1988	561	
1989	680	
1990	779	
1991	744	
1992	765	
JUMLAH	5,038	

From Royal Malaysia Police Anti-Narcotics Division

Table 5: ARREST OF JUVENILE IN INDEX  
CRIMES 1985-1992

Year	Age			Murder	Attempt to murder	Gang Robbery with firearm	Gang Robbery without firearm	Armed Robbery	Robbery	Rape	Causing Hurt	Total
	10-12	13-15	16-18									
1985	93	724	1,665	6	-	1	29	40	75	24	88	263
1986	113	899	1,374	10	-	-	17	39	84	17	135	302
1987	764	1,765		10	1	-	22	20	47	17	85	202
1988	120	847	1,837	11	-	33	2	10	33	33	108	230
1989	73	887	1,732	17	27	-	23	11	47	39	105	269
1980	113	899	1,374	6	-	12	8	8	23	27	83	167
1991	99	727	1,066	7	-	3	6	3	10	24	58	111
1992	243	1,105	1,816	17	-	-	16	7	37	36	116	229
Total	937	6,854	12,629	84	28	49	123	138	356	217	778	1,773

From Royal Police Crime Surveillance Division.

CRIME IN MALAYSIA

Table 6: ARREST OF JUVENILE IN INDEX CRIMES 1985-1992

Year	Housebreaking in day to commit theft	Housebreaking at night commit theft	Theft	Theft of vehicles	Drug	Gambling & secret society	Others	Total
1985	157	292	805	38	232	13	425	1,962
1986	171	374	834	19	217	21	325	1,961
1987	139	302	810	9	193	35	615	2,103
1988	171	365	792	10	157	25	487	2,007
1989	173	354	823	14	173	39	505	2,081
1990	14	243	205	375	163	44	395	1,568
1991	87	230	132	270	135	23	332	1,209
1992	166	311	541	240	97	28	333	1,716
	1,207	2,471	4,942	975	1,367	228	3,417	14,607

From Royal Malaysia Police Crime Surveillance Division.

Table 7: COURT DECISIONS ON JUVENILE OFFENDERS 1985-1992

Decision	Year	1985	1986	1987	1988	1989	1990	1991	1992	(%)
i) Warning		15.6	6.3	4.9	7.4	13.9	5.2	7.7	5.5	
ii) Bond without supervision		37.4	38.4	44	50.3	47.7	46.6	42.7	42.6	
iii) Bond with supervision		16.3	13.5	9.2	4.4	3.5	6.5	5.5	5.5	
iv) Probation		1.7	2.7	7.1	6.5	5.9	8.5	8.6	12.2	
v) Approved School		8.8	9.7	7.3	8	8.4	8.3	9.5	9.6	
vi) Hendry Gurney School Advanced Approved School (run by prison Dept.)		4.8	4.4	5.1	5.6	4.8	6.2	5.7	5.7	
vii) Fine/Forfeit		7.8	10.0	9.7	9.0	8.7	8.9	7.6	7.8	
viii) Jail		6.3	13	10.7	7.8	6.6	6.2	6.6	7.0	
ix) Others (Acquittal, withdrawal)		1.3	1.9	3.1	1	1.4	3.6	6.1	4.1	
Total		100	100	100	100	100	100	100	100	

From Social Welfare Department Statistic Division.

PARTICIPANTS' PAPERS

Table 8: NEW CASES BASED ON REPETITION  
1985-1992

(%)

	1985	1986	1987	1988	1989	1990	1991	1992
i) First Offender	90.6	91.9	91.3	92.3	91.8	91.5	92.2	92
ii) While under supervision/probation	1.9	2	1.3	1.1	1.3	0.8	0.9	0.8
iii) After supervision/probation	0.5	0.6	0.5	0.4	0.5	0.6	0.5	0.2
iv) Whole at Approved School	1.1	0.8	0.6	1.2	1.1	0.7	1	0.7
v) After Approved School	0.6	0.3	0.4	0.3	0.6	0.3	0.6	0.2
vi) Others (while still on bail, 2nd offense/3rd offense, after coming out from jail)	5.3	4.4	5.9	4.3	4.7	6.1	4.8	6.1
	100	100	100	100	100	100	100	100

From Social Welfare Department Statistic Division.

**SECTION 3: REPORT OF THE COURSE**

**Summary Reports of the Rapporteurs**

**Session 1: Crime Prevention Activities**

*Chairperson:*

*Mr. Wong Chee Kong (Malaysia)*

*Rapporteurs::*

*Mr. K. S. J. De. Abrew (Sri Lanka)*

*Mr. Eiji Nakashima (Japan)*

*Members:*

*Mr. Basu Dev Olee (Nepal)*

*Mr. Stephen Kuu Nakandio  
(Papua New Guinea)*

*Mr. Chanvut Vajrabukka (Thailand)*

*Mr. Mauricio Salas Perez (Venezuela)*

*Mr. Seiji Yonezato (Japan)*

*Mr. Yoshikazu Yuma (Japan)*

*Advisors:*

*Prof. Hiroshi Obayashi (UNAFEI)*

*Prof. Yoshinaka Takahashi (UNAFEI)*

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## I. Introduction

Economic and industrial development has always been given top priority for every country's national policy so as to improve the standard of living and quality of life for its people. However, with industrialisation and urbanisation, we also see increase of crimes and the destruction of the natural environment.

As a result of urbanisation, there is generally a large movement of population from rural areas to urban areas to seek better living. Thus, there is a high concentration of population in the urban centres. This has brought about congestion and overcrowding. Along with the general social structure of urban cities the overcrowding leads to commission of a variety of crimes. A scramble for housing, education, and jobs has brought about a high level of illiteracy and unemployment. Such conditions have aggravated crimes against people, property, sexual crimes, and also drug related offences.

In the city where most households are nuclear families, both parents tend to work to cope up with the high cost of living. The working parents therefore spend less time with their children.

Parents in nuclear families cannot depend on their elders to discipline and supervise their children. The lack of parental supervision compounded with the morally declining conditions in the city give rise to juvenile delinquency.

Industrialisation and modernisation also increase the area of economic activities. With modern science and technology, intelligent criminals have been able to circumvent the laws and exploit the economic system for personal gains. Such criminality is capable of disrupting economic progress and threatens the economy as a whole.

Along with industrialisation, factories have mushroomed everywhere. The waste, if not properly managed, could result in

environmental pollution causing harm to mankind. The prosperity of urban centres has also attracted the influx of immigrants to fill the labour shortage in industrial and construction sectors. These immigrants, being foreigners, pose yet another set of problems such as unruly behaviours, fights, and overstay.

For the purpose of this group paper the members have agreed to focus the attention on the following crimes which the members interpret to constitute urban crimes.

- 1) Crimes against People - murder, attempted murder, hurt, bodily injury, assault;
- 2) Crimes against Property - theft, housebreaking, robbery;
- 3) Economic Crimes - cheating, criminal breach of trust, bribery, tax evasion and counterfeiting;
- 4) Sexual Crimes - rape;
- 5) Environmental Crimes - air pollution, water pollution and noise pollution;
- 6) Drug Related Offences - trafficking and drug abuse;
- 7) Illegal Immigrants - violation of immigration laws; and
- 8) Juvenile Delinquency.

In this regard, group members were required to report on the situation in their respective countries as well as researching and reporting generally on the situations of the other participating countries.

## II. Actual Situations and Characteristics of Urban Crimes and Juvenile Delinquency - Brief Outline of the 16 Participants' Countries

### 1. BANGLADESH

The country has about 109.9 million population as of the March 1991 census with an annual growth rate of 2.026 percent.

## CRIME PREVENTION ACTIVITIES

About 16.4 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 6.14 percent for years 1990 to 1995 as compared to 1.93 percent in the rural area. Gross National Product (GNP) per capita in 1989 was about 180 US dollars.

\* Note: The indicators of urbanisation for Bangladesh and the 15 countries hereafter are derived from World Urbanisation Prospects 1990 (United Nations), The World Bank Atlas 1990 and Individual Country Papers.

Murder and rioting are the two main crimes against people. While murder remained stable with an average of 2,384 cases for years 1990 to 1992, rioting showed an increase from 6,365 cases in 1990 to 6,603 cases in 1992.<sup>(1)</sup>

Burglary, dacoity (gang robbery) and robbery are the major offences in crimes against property. Burglary in 1990 recorded 4,884 cases, 1991 - 5,385 cases and 1992 - 5,459 cases. Dacoity recorded 1,055 cases in 1990, 942 in 1991 and 992 in 1992. Robbery accounted for 828 cases in 1990, 949 cases in 1991 and 1,065 cases in 1992.<sup>(2)</sup>

Forgery, fraud, smuggling, tax evasion and bribery are the main economic crime offences. However no data are available to portray the actual situation.<sup>(3)</sup>

No specific law has yet been enacted on environmental crime. A separate "Environmental Division" has been created in the Ministry of Forest for the protection of environment in Bangladesh.

The Traffic Law, Forest Act and Municipal Laws are presently being applied to deal with crimes against the environment.<sup>(4)</sup>

The Children Act of Bangladesh enacted in 1974 has been in enforcement to deal with offences committed by youth and child offenders. From 1983 to 1992, 3,802 youth offenders were sent to Remand Homes and National Correctional Institute for correction. Juvenile delinquency is increasing rapidly in this country.<sup>(5)</sup>

Source: (1) to (5) - Country Paper of Mr. A. K. M. Shamsuddin (95th Course, UNAFEI, 1993)

## 2. BOLIVIA

The country has 6,420,792 population as of the June 3, 1992 census with annual growth rate of 2.11 percent. About 57.5 percent of the total population reside in urban areas. Annual growth rate in the urban areas was 4.16 percent and the rural was 5.09 percent in 1992. Gross National Product (GNP) per capita in 1989 was about 600 US dollars.

Murder is the main crime committed against people. In 1992, there were 252 cases. Homicide (death caused without murderous intention) ranked second with 251 cases.<sup>(1)</sup>

For crimes against property, robbery / aggravated robbery are the main offences with 666 cases in 1992; larceny 326 cases, and theft of livestock 350 cases.<sup>(2)</sup>

Rape and statutory rape together were the main sexual crimes with 617 cases in 1992. However crimes like abandonment of a pregnant woman - 250 cases, and non-fulfillment of family support - 249 cases were also included as sexual crimes here.<sup>(3)</sup>

Bolivia is well-known as a grower of coca leaf trees and producer of cocaine paste. It has been discovered that as late as 1989, some 400,000 persons in Chapare region were engaged in coca leaves cultivation. Bolivian peasants have been using coca leaves for thousands of years for religious and corrective purposes. According to the Ministry of Interior, from January 1985 to July 1993, 87.5 tons of drugs were confiscated. From August 1989 to July 1993, 275 tons of drugs were prevented from being produced. In 1992, drug crimes / trafficking stood at 999 cases.<sup>(4)</sup>

In 1980, during the Garcia Meza dictatorship, the extent of corruption in public administration was widespread. However, since the democratic government took over,

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the condition of corruption has improved to a large extent. Fraud is also a significant offence in economic crime with 332 cases in 1992 followed by 204 cases of cheques written against insufficient funds and 198 cases of falsification of documents. <sup>(5)</sup>

Bolivia's most densely populated cities are La Paz, Santa Cruz and Cochabamba. It is estimated that there are 6,000 street children in La Paz, 7,000 in Santa Cruz and 3,000 in Cochabamba. Street children come from families with crisis (such as disintegration, unbalance of family dynamics, economic problems) that produce frustration, rejection, physical aggression, and no satisfaction of basic needs. These street children range from six to 18 years old. They sleep in the street or in abandoned buildings. The street is their vital space in which they develop survival strategies. They consume some types of drugs, are prostituted, are exploited and become pickpockets and petty thieves. <sup>(6)</sup>

Source: (1) to (6) - Country Paper of Mr. Alfredo Teddy Dubravcic Vaca (95th Course, UNAFEI, 1993)

### 3. CHINA

The country has about 1.139 billion population as of 1990. About 33.4 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 5.41 percent for years 1990 to 1995 as compared to -0.94 percent in the rural. Gross National Product (GNP) per capita in 1989 was about 360 US dollars.

Crimes against people are on the rise. Top on the list is violent injury. In 1987 there were only 21,727 cases but in 1990 it had increased to 53,739 cases. Murder in 1987, stood at 13,154 cases but in 1990 soared to 23,327 cases. <sup>(1)</sup>

Stealing and serious stealing together take up some 80 percent of all criminal cases and have become the most rampant problem in China nowadays. In 1987, they registered 493,896 cases but in 1990, the figures jumped to 1,853,166 cases. <sup>(2)</sup>

Rape is the major sexual offence. However there has been a slight decrease in that trend. In 1987, there were 37,225 cases but in 1990, it dropped to 31,345 cases. <sup>(3)</sup>

The Ministry of Public Security showed that during 1985 - 1989 more than 30,000 drug related cases were uncovered, and in 1989 - 1990 as much as 2,120 kilograms of heroine were seized. Since 1985, about 20,000 suspected drug dealers were arrested and 80 percent have been sentenced. <sup>(4)</sup>

In recent years, the cases of juvenile delinquency took a jump, especially in large and medium sized cities. More and more teenagers were found guilty of offences. Young people constituted an overwhelming proportion of the total criminals. The average age of youngsters involved in crime has become lower and the number of those below 18 years old has rapidly increased. <sup>(5)</sup>

Source: (1) to (5) - Individual Paper of Mr. Ming-Hui Yang (90th Course, UNAFEI, 1993)

### 4. ETHIOPIA

The country has about 55,117,300 population as of 1992. About 14.7 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 5.5 percent for years 1990 to 1995 as compared to 2.64 percent in the rural. Gross National Product (GNP) per capita in 1989 is about 120 US dollars.

Assault is the main crime against people. In 1987 there were 10,599 cases registered. In 1988 - 11,174 cases and in 1989 - 18,543 cases recorded. Murder is the second most frequent offence. In 1987 there were 2,893 cases, 1988 - 3,225 cases and 1989 - 2,566 cases. Attempted murder followed next with 1,591 cases in 1987, 1,664 cases in 1988 and 2,566 cases in 1989. <sup>(1)</sup>

Theft is the major offence against property. There was a marked increase in theft. Cases registered were 8,567 in 1987, 10,431 in 1988 and 13,564 in 1989. Robbery included 1,431 cases in 1987, 1,465 in 1988 and 1,727

## CRIME PREVENTION ACTIVITIES

in 1989. <sup>(2)</sup>

Rape registered 419 cases in 1987, 478 cases in 1988 and 332 cases in 1989. <sup>(3)</sup>

For economic crimes, criminal breach of trust stood as the main offence with 4,078 cases, 312 cases and 3,493 cases for 1987, 1988 and 1989 respectively. Fraud ranked second with 1,577 cases in 1987, 1,423 cases in 1988 and 3,244 cases in 1989. <sup>(4)</sup>

Abuse of drugs is still a minor problem as there were few cases of abuse recorded. In 1987 there were only 31 cases, 35 cases in 1988 and 67 cases in 1989. <sup>(5)</sup>

The concept of environmental protection is still new and the need to improve environmental management only appeared in the mid 70s with the bitter experience of drought and famine at that time. All along, the legislation regulating environmental crimes is the Ethiopian Penal Code 1957. Main offences are deforestation and illegal hunting. In 1987, there were 290 cases of deforestation, 234 cases in 1988 and 251 cases in 1989. As for illegal hunting 48 cases were recorded in 1987, 22 cases in 1988 and 32 cases in 1989. Recently the Ethiopian government established the Ministry of Natural Resources Development and Environmental Protection (MONREP.) Under this ministry, the Environmental Protection Authority (EPA) is tasked to manage environmental problems and formulate comprehensive environmental laws. <sup>(6)</sup>

In the past, the problem of youth crimes in urban areas were mainly of vagrancy rather than serious delinquency. However the trend seemed to change. Offences such as theft and assault slowly replaced vagrancy. Of the total 2,133 juvenile delinquents tried in the juvenile court of Addis Ababa in the years 1985 to 1992, 1,317 cases (62 percent) were accused of theft. Assault accounted for 405 cases (19 percent) during the same period. The number of juvenile delinquents tried decreased in 1991 and 1992 to 75 and 19 respectively because in that two years the police and court systems had not been operating due to change of

government. The figures are not a true indication of decrease in criminality of juvenile delinquents. <sup>(7)</sup>

Source: (1) to (7) - Country Paper of Mr. Fasil Tadese (95th Course, UNAFEI, 1993)

### 5. FIJI

The country has about 750,000 population as of the 1992 estimation. About 37 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 2.21 percent for years 1990 to 1995 as compared to 1.04 percent in the rural. Gross National Product (GNP) per capita in 1989 was about 1,640 US dollars.

The total number of criminal cases which were reported to the police in 1992 was 17,999 and it shows an increase of 11 percent over 1991 (16,216.) This trend is mainly due to the increase in crimes in urban areas. <sup>(1)</sup>

Crimes against people recorded 2,748 cases in 1991 and 3,115 cases in 1992. Assault cases increased from 2,323 in 1991 to 2,628 in 1992. <sup>(2)</sup>

Crimes against property were also on the increase from 9,579 in 1991 to 11,567 in 1992. Theft is the main offence in this category, and the number of theft cases increased by 23 percent from 1991 to 1992. <sup>(3)</sup>

Economic crime cases such as forgery, currency offences, fraud and false pretence decreased by 39 percent (1,704 cases in 1991 to 1,040 cases in 1992.) However, fraud and false pretence cases were on the increase of 47 percent (202 in 1991 to 297 in 1992.) <sup>(4)</sup>

Sexual crime cases have decreased from 216 cases in 1991 to 183 cases in 1992. <sup>(5)</sup>

In Fiji, environmental crimes are dealt with under various provisions of the penal laws. However, there are no specific environmental laws enacted to deal with this category of crimes.

The number of drug related cases doubled between 1991 and 1992 (118 in 1991 to 236 in 1992.) <sup>(6)</sup> It increased the in urban area which includes two major cities, ports, and

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airports. Especially in the western area, cane farmers grow cannabis for the purpose of smoking and larger quantities for trafficking. <sup>(7)</sup>

As for juvenile delinquency, the number of juveniles arrested in 1992 were 176, a decrease of approximately three fourths the previous year when 242 were arrested. <sup>(8)</sup>

Source: (1) to (6), (8) - Statistics of Fiji Criminal Investigation Department

(7) - Country Paper of Mr. Salamisa Bainivalu (86th Course, UNAFEI, 1990)

### 6. JAPAN

The country has a population 123,610,000 of as of 1990. About 77 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 0.5 percent for years 1990 to 1995 as compared to 0.04 percent in the rural. Gross National Product (GNP) per capita in 1989 is about 23,730 US dollars.

Generally the total number of Penal Code offences reported to police had been increasing gradually since 1980 and peaked in 1992 with 2,355,504 cases. However, the rate of Penal Code offences reported to police other than traffic professional negligence has showed no notable fluctuation since 1966. The crime rate in 1966 was 1,300 in 1986 - 1,300 and in 1992 - 1,400. <sup>(1)</sup>

For crimes against people, all offences concerned have shown a downward trend from 1987 to 1992. Bodily injury recorded 21,046 cases in 1987 but in 1992 it dropped to 18,854 cases. Homicide - 1,584 cases in 1987 and dropped to 1,227 cases in 1992. <sup>(2)</sup>

Among property crimes, larceny was the most prevalent offence and showed an increasing trend. In 1987, there were 1,364,796 cases but in 1992 it had increased to 1,525,863 cases. In fact larceny alone accounted for 64.8 percent of the total Penal Code offences in 1992. Most of the theft offences consist of auto/bicycle

theft followed by stealing from cars, pickpocketing and shoplifting.

The appropriation of lost articles also indicated a gradual increase from 42,580 cases in 1987 to 55,997 cases in 1992. While all other property offences, e.g. fraud, stolen property and professional embezzlement showed a decreasing trend. <sup>(3)</sup>

For sexual crimes, rape is slightly on the decrease. In 1991, there were 1,603 cases and in 1992, there were 1,504 cases. However, indecent assault is on the increase. In 1990, there were 2,730 cases; 1991 - 3,176 cases and in 1992, there were 3,505 cases. Public indecency saw a downward trend. In 1990, there were 947 cases; 1991 - 918 cases, but in 1992, it had increased to 1,076 cases. <sup>(4)</sup>

Recently, abuse of stimulants is rampant throughout the country. Apart from stimulants, heroine, cocaine, LSD, marijuana and other drugs are also being abused. In 1991, the number of those involved in violation of drugs control laws were Stimulant Drug Control Law - 21,511 cases; Narcotic Control Law - 327 cases; Opium Law - 96 cases and Cannabis Control Law - 1,714 cases. In 1992, Stimulant Drug Control Law recorded 21,191 cases; Narcotic Control Law - 458 cases; Opium Law - 80 cases and Cannabis Control Law - 1,888 cases. However, the drug problem is deemed not serious because the most prevalent drugs are not hard drugs and there are not too many serious drug addicts. Furthermore, there are no large drug trafficking syndicates which pose a real threat to the country. <sup>(5)</sup>

Yakuza or Boryokudan, organized crime groups in Japan, contributed many serious crimes such as gun fighting and drug dealing. At the end of 1992, about 90,600 Boryokudan were identified by police. Some 32,850 members were arrested for various Penal Code offences and other violations. More than 1,072 handguns were confiscated; and about 7,000 members were arrested for trafficking, possessing or abusing stimulant drugs (amphetamine). <sup>(6)</sup>

Environmental crimes have been steadily

decreasing since 1989. In 1992, there were 3,088 cases compared to 3,386 cases in 1991 and 3,532 cases in 1990. Disposal of waste and marine pollution are the two main offences throughout the three mentioned years. In 1992, there were 1,900 cases of disposal of waste and 1,055 cases of marine pollution.<sup>(7)</sup> Recently a large section of Nikko National Park on the border of Gumma and Tochigi prefectures resembles a part of the Black Forest in Germany, which has been decimated by acid rain. An environmentalist group in Gumma prefecture said a large number of conifers and broad-leaf trees in the park are dying and experts traced the cause to acid rain believed to be caused by exhaust from motor vehicles and factories. The group estimated that the total area affected by acid rain was about 2,200 hectares.<sup>(8)</sup>

Juvenile delinquency in general is considered under control. This is reflected by the decrease in the number of delinquency cases; nearly 80 percent to 90 percent of the Penal Code offences committed by juveniles each year consist of petty offences, e.g. shoplifting, theft and embezzlement of lost-found property; and about 70 percent of the juveniles do not have previous police records. In 1988, there were 231,210 juvenile Penal Code offenders. Since then there has been a constant down trend and in 1992, only 157,167 juvenile offenders were registered. Out of the total 157,167 offences committed, larceny stood at 103,332 cases representing 65.7 percent and embezzlement 30,050 cases.<sup>(9)</sup> However, a recent alarming phenomenon has been discerned in that juvenile delinquency is spreading to the lower aged group (14 to 15 years of age), delinquency among junior high school students is particularly conspicuous and dependence on glue-sniffing has been on the rise.<sup>(10)</sup>

Sources: (1) to (7), (9) - White Paper on Crime 1993, Japan (8) - The Daily Yomiuri (9, Nov. 1993)  
(10) - Mr. Takashi Watanabe (Director UNAFEI)

## 7. REPUBLIC OF KOREA

The country has about 42.793 million population as of 1990. About 72 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 2.31 percent for years 1990 to 1995 as compared to -3.48 percent in the rural. Gross National Product (GNP) per capita in 1989 was about 4,400 US dollars.

The total number of crimes against people covering 1981 to 1990 increased. The most notable increase was robbery, from 2,504 cases in 1981 to 4,195 cases in 1990, an increase of 68 percent. Others like homicide and rape also showed a tendency to rise.<sup>(1)</sup>

Property offences decreased. In 1981, there were 104,221 larceny cases, but in 1990 it dropped to 95,031 cases. However for destruction and damage to properties was a stable. In 1981, 3,036 cases were reported and in 1990 3,099 cases were recorded.<sup>(2)</sup>

There has been a general decline in economic crimes. In 1980, 55,554 fraud cases were reported, and in 1990 it dropped to 43,209 cases. Embezzlement, with 16,913 cases in 1980, also dropped to 13,142 in 1990. Similarly criminal breach of trust had also decreased from 8,513 cases in 1980 to 2,795 cases in 1990.<sup>(3)</sup>

The drug problem is not serious. Among convicted prisoners drug addicts numbered 1,519 persons in 1988. Since then, the numbers have maintained a level of 1,000 persons, up to 1991. The majority of drug users are stimulant drugs abusers. While Methamphetamine abusers (MAP) have decreased since 1989, narcotic addicts, such as opium, heroine, and cocaine addicts, have increased.<sup>(4)</sup>

The number of foreign prisoners showed a gradual increasing trend. In 1992, 142 foreign prisoners were registered, most of whom violated immigration laws. Only 0.1 percent were sentenced to imprisonment, while most of them were fined and deported back.<sup>(5)</sup>

The proportion of juvenile offenders (age 14 to 19 years) among all offenders has

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remained within the 12 to 18 percent range during the period 1982 to 1991. The trend for juveniles in those years show a gradual decrease over the years, from 19.1 percent in 1982 to 12.4 percent in 1991. The most frequent crimes are assault / bodily injury (57.1 percent), and property crimes such as larceny / theft (35.5 percent.) (6 Course)

Sources: (1) to (5) - Asia Crime Report No. 1 - Jan. 1993 Tokyo

(6) - Country Paper of Mr. Yun Jung-Sok (95th)

### 8. MALAYSIA

The country has about 17,891,000 population as of 1990. About 43 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 4.11 percent for years 1990 to 1995 as compared to 0.74 percent in the rural areas. Gross National Product (GNP) per capita in 1989 was about 2,130 US dollars.

Robbery is the major crime against people. It represents 53 percent of this category. Out of 101,209 total violent offences recorded from 1983 to 1992, robbery offences totaled 53,048 cases.

Bodily injury ranked second with 25,274 cases. Though rape with 6,066 cases represents only 0.6 percent, it indicates a tendency of slight increase throughout the ten years under review. <sup>(1)</sup>

Housebreaking to commit theft and 'other thefts' together formed the main bulk of crimes to property. Out of a total of 671,596 offences for 1983 to 1992, housebreaking to commit theft stood at 221,557 cases whereas 'other thefts' recorded 274,410 cases. <sup>(2)</sup>

Report of malpractice in the economic sector surfaced only in 1985. Since then it has averaged 4,300 cases reported per year. The total loss of Malaysian Ringgit (RM) decreased from the peak of 214.2 million RM in 1986 to 108.7 million RM in 1991. Main offences are cheating and criminal breach of trust. <sup>(3)</sup>

Since 1987 the drug situation has

continued to be serious both in terms of trafficking and addiction. There has been an increase in arrests for traffickers from 525 persons in 1987 to 630 persons in 1991. As for addicts, 423 persons were arrested in 1987 and 1,383 in 1991. <sup>(4)</sup>

According to the Department of Environment (DOE), 79.8 percent of air pollution came from vehicle emission, 16.8 percent from industries and 3.4 percent from open burning. For noise, 83 percent came from industrial, 9 percent from construction, 5 percent motor vehicles and 3 percent commercial. As for water, non-industrial sources accounted for 28.4 percent, other industries 22.2 percent, palm oil mill 11.1 percent, textile 6.2 percent, and husbandry 6.2 percent. In 1989 there were 300 cases of environmental crimes and they have increased more than five fold in 1992, to a total of 1,621 cases. <sup>(5)</sup>

Juvenile delinquency is well under control. From 1985 to 1992, total offences committed by juveniles were 16,380 cases, the representing only 2.11 percent of the total offences under review. There is a general decline in violent crime trend from 302 cases in 1986 to 229 cases in 1992. Similarly there is also a slight decrease in property crimes. It has decreased from the peak in 1987 with 2,103 cases to 1,716 cases in 1992. <sup>(6)</sup>

The influx of illegal immigrants has increased almost tenfold from 1985 to 1992. In 1985, about 26,534 illegal immigrants were arrested for various violation of immigration laws. In 1992, there were an estimate of 250,000 illegal aliens living in Malaysia. <sup>(7)</sup>

Source: (1) to (7) - Country Paper of Mr. Wong Chee Kong (95th course)

### 9. NEPAL

The country has 18,943,494 population as of 1991 with growth rate of 2.63 percent per annum. About 9.6 percent of the total population reside in urban areas. Annual

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growth rate in the

urban areas is 6.48 percent for years 1990 to 1995 as compared to 1.85 percent in the rural. Gross National Product (GNP) per capita in 1989 is about 170 US dollars.

Crimes against people showed a decrease from 797 cases in 1990 to 566 cases in 1991 and 668 cases in 1992. In 1992, murder recorded 406 cases, attempt to murder 252 cases and dacoity with murder, 10 cases.<sup>(1)</sup>

Theft is the main property offence. In 1992, theft alone accounted for 805 of the 1,003 offences in this category. Robbery registered 157 cases, showing a slight increasing trend from 1990.<sup>(2)</sup>

Rape is the major sexual crime. Although it is comparatively small in number, 1990 - 112 cases, 1991 - 137 cases and 1992 - 152 cases, there is a clear trend of increase in rape.<sup>(3)</sup>

For economic crimes, fraud and counterfeiting are the two main offences. However, there were only 32 cases in 1990, 54 cases in 1991 and 54 cases in 1992.<sup>(4)</sup>

For environmental crime, Nepal is facing problems of drinking water, sewage system, waste disposal and deforestation. There is no specific act relating to environmental crime.<sup>(5)</sup>

The law of Nepal has not separately defined juvenile delinquency, and aside from concessions on punishment, there is no provision for juvenile delinquents and they are treated in the same court where other adult criminals are treated. Nepal ratified the United Nations Convention on the Right of Child and Adopted comprehensive Children's Act 1992, but the Act has not yet been declared for enforcement.<sup>(6)</sup>

Source: (1) to (6) - Country Paper of Mr. Basu Dev Olee (95th Course)

### 10. PAKISTAN

The country has about 122,626,000 population as of 1990. About 32 percent of

the total population reside in urban areas. Annual growth rate in the urban areas is 4.48 percent for years 1990 to 1995 as compared to 2.06 percent in the rural. Gross National Product (GNP) per capita in 1989 was about 370 US dollars.

No data are available on the criminal trends of recent years.

Crimes against people such as murder, bodily injury, burglary, and those which are caused by shady business dealings, property disputes, hatred for enemies or political rivals are recently rampant.<sup>(1)</sup>

Crimes against property such as theft, robberies, and dacoities are mostly committed by organised gangs. These crimes are their only source of income and livelihood.<sup>(2)</sup>

Drug trafficking, gun running, kidnapping, and various economic crimes are committed by gangs for profit. Drug mafia and organised gangs are also involved in these crimes, but most cases are behind the scenes.<sup>(3)</sup>

For economic crime, it was revealed by the National Taxation Reforms Commission that evasion of income tax alone was costing the nation Rs. 20,000 million - twice the amount the government was collecting as income tax annually. According to a report it has been estimated that black money to the tune of Rs. 500,000 million is currently in circulation in Pakistan (The Jang, Rawalpindi; 12. 5. 1991.) Most of the "drug money," "graft money," "foreign commission money" and money manipulated through under/over invoicing of export/import are termed as black money. In 1988 investment fraud involving some 338 companies deprived hundreds of thousands of investors of their deposits estimated Rs. 10,000 millions in value. According to the report, over 100 of corporative cooperations in Punjab were engaged in dubious operation, depriving thousands of families of huge amounts, possibly exceeding Rs. 20,000 million (The News, Rawalpindi; 30.8.1991.)<sup>(4)</sup>

As for juvenile delinquency, the drug traffickers use young children for trafficking

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as they are less suspected, and also petty thieves use juveniles as informers or for reconnaissance. Also male prostitution has become very common among juveniles. <sup>(5)</sup>

Sources: (1) to (3), (5) - Country Paper of Mr. Haider Ali Shikoh (95th Course)

(4) - Resource Material Series No. 41, UNAFEI, Tokyo

### 11. PAPUA NEW GUINEA

The country has about 3.874 million population as of 1990. About 15.8 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 4.62 percent for years 1990 to 1995, as compared to 2.27 percent in the rural. Gross National Product (GNP) per capita in 1989 was about 900 US dollars.

There are not sufficient statistical crime reports and information available to substantiate and compare the actual crime situation. The crime figures provided by P.N.G. National Police are only for 1991.

There were 2,758 cases of crimes against people. Murder recorded 95 cases, with attempted murder 69 cases and manslaughter 21 cases. Death by dangerous driving constituted 20 cases, and 10 cases were attempted suicide. Assaults recorded 2,308 cases. There remaining 106 cases were offences of abduction, infanticide, kidnapping and child stealing. <sup>(1)</sup>

Crimes to property totaled 13,661 cases. Major offences in this category: unlawfully in or near premises - 2,670 cases, breaking/entering house or dwelling place - 1,778 cases, robbery - 1,450 cases, wilful and malicious damage - 1,318 cases, stealing from shops and stores - 1,527 cases, stealing from a vehicle - 1,386 cases and stealing from the person - 1,025 cases. <sup>(2)</sup>

There were 1,882 cases of sexual crime. Main offences: rape - 1,532 cases, attempted rape - 94 cases, statutory rape - 147 cases, indecent assault on female - 63 cases, incest - 17 cases, unnatural offences and attempts - 16 cases. <sup>(3)</sup>

For economic crimes, there were only 212

cases reported. Major offences were cheating and false pretenses - 104 cases, forgery offences and uttering - 53 cases, fraud valueless cheques - 45 cases, bribery and corruption - five cases. <sup>(4)</sup>

As for drug situation, in 1992, a total of 746 persons were arrested for drug related offences, and 454 of them were convicted whereas 292 were released. In the same year, 481 kilograms of cannabis were confiscated and 1,222 cannabis plants uprooted. <sup>(5)</sup>

It has also been observed that the crime rate for juvenile delinquency is on the rise. For the whole of 1992, the total number of juveniles sent to institutions like remand homes and wards was 555 persons, and total amount of fine paid by juvenile delinquents was 19,480 kina. <sup>(6)</sup>

Source: (1) to (6) - Country Paper of Mr. Stephen Kuu Nakandio (95th Course)

### 12. THE PHILIPPINES

The country has about 62.413 million population as of 1990. About 42.6 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 3.61 percent for the years 1990 to 1995, as compared to 1.22 percent in the rural area. Gross National Product (GNP) per capita in 1989 is about 700 US dollars.

In the beginning of the 1990s, a continuing decrease in crime volume was seen at the national level. Statistics showed that there was a 6 percent decline in crime volume, from a total of 149,702 in 1989 to 140,273 in 1990. The downward trend continued to 1991 with the decline of 19.7 percent with total crime volume of 115,259 cases. Index crimes in 1991 comprised 62.34 percent (71,850 cases) of the total crime volume. Of the index crimes, 51 percent (37,132 cases) was classified as crimes against people; 46 percent (32,890 cases) crimes against property, with remaining three percent (1,828 cases) crimes against chastity. <sup>(1)</sup>

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For crimes against people, physical injuries ranked first, having 21,102 reported cases, followed by 8,250 murder cases and 7,780 cases.<sup>(2)</sup>

Theft is the major property offence, with 20,070 reported cases, followed by robbery with 12,820 cases.<sup>(3)</sup>

Rape showed a downward trend and reported 1,828 cases in 1991. In 1990 there were 1,970 cases.<sup>(4)</sup>

The drug problem is a growing concern as indicated by the number of drug related offences committed and the increasing number of arrests, as well as the seizure of drugs. In 1991, there were 6,633 persons arrested, and more than 10,586,089 marijuana plants / seedings and other prohibited drugs with a total market value of 1.07 Billion Pesos were confiscated.<sup>(5)</sup>

In 1987, theft with 2,879 cases, comprised the highest number of index crimes committed by offenders who were 15 years old and younger. Following closely was murder with 2,329 cases. Robbery saw 1,698 cases, with 1,405 homicide 1,405 cases. 744 youths under 15 years committed offences of physical injury while 227 youths were reported as rapists. Juvenile admission to drug abuse rehabilitation centres had dropped steadily since 1983. From 835 cases in 1983 it had dropped to 460 cases in 1987.<sup>(6)</sup> Recent crime trends in juvenile delinquency cannot be illustrated as there are no reference materials.

In 1992, a total of 942 organized crime groups were identified. 41 were in kidnapping for ransom activities. The Philippine National Police reported having neutralized 72 crime groups:-15 kidnapping, 15 carnapping and 42 drug trafficking rings.<sup>(7)</sup>

Among economic crimes, major offences are writing cheques against insufficient funds and fraud. In a recent operation, the Philippine Police successfully smashed a syndicate responsible for defrauding banks of millions of US dollars with the confiscation of 224 blank traveller's cheques, 46 of which belonged to the Bank of

America, 41 to the Security Bank, and some 130 encashed cheques addressed to various banks in America. It is believed that the syndicate connived with bank personnel in the theft and encashment of the cheques.<sup>(8)</sup>

Sources: (1) to (4) - International Symposium on the Conditions for Prosperity without Crime Tokyo 9 March 1992

(5) - Asia Crime Report No. 1 Jan. 1993, Tokyo

(6) - Monograph on Adolescence and Crime Prevention in the ESCAP Region United Nations

(7) to (8) - Country Paper of Mr. Mario Guarina III (95th Course)

### 13. SINGAPORE

The country has about 2.8182 million population as of 1992. About 99.8 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 1.07 percent for the years 1990 to 1995, as compared to zero percent in the rural. Gross National Product (GNP) per capita in 1989 is about 10,450 US dollars.

Murder is the major offence against people. It registered an average of 57 cases annually between 1983 to 1992. In 1992, there were only 42 murders, the lowest murder figure for the past 10 years.<sup>(1)</sup>

Robbery has been declining since 1988, averaging 1,542 cases annually over the past 10 years. In 1992, robberies dropped to 1,066 cases, the lowest level in the last 14 years. Thefts of motor vehicles average 3,805 cases over the past 10 years. 1992 saw 3,491 motor vehicles stolen, the second lowest number in 10 years. Housebreaking is high, averaging 3,396 cases annually. In 1992, housebreaking stood at 3,039 cases, the lowest in five years.<sup>(2)</sup>

Rape averaged 94 cases annually. The number of rapes reported in 1992 was the second lowest in 10 years, after a 12-year low in 1991 of 74 cases.<sup>(3)</sup>

Generally there is an increasing trend in economic crimes from 1987 with 618 cases to 1990 with 1,572 cases. Counterfeiting is the

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main offence. In 1989, there were 883 cases, 1990 - 805 cases and 1991 - 275 cases. Cheating ranked second with 465 cases in 1989, 547 cases in 1990 and 537 cases in 1991. Criminal breach of trust with 56, 57 and 59 cases for years 1989, 1990 and 1991 respectively.<sup>(4)</sup>

The drug situation is now well under control. The tougher anti-narcotic enforcement measures and innovative drug rehabilitation programs caused the decrease in the inflow of drugs to, and the demand in, Singapore. There was a decline of addicts from 4,523 in 1990 to 4,154 in 1991.

Correspondingly, there was an increase of arrest of traffickers for capital drug offences from 35 in 1990 to 88 in 1991. There was also an increase in the amount of seizure of heroin, opium and cannabis from total 119 kilograms in 1990 to 206 kilograms in 1991.<sup>(5)</sup>

To prevent environmental crimes, Singapore has established three major acts (Water Pollution Control and Drainage Act, Clean Air Act and Environmental Public Health Act.) The number of offences under these acts showed an increasing trend from 1986 and peaked in 1988 with 211 cases. However, since 1989 there was a significant drop. In 1992, only 160 cases were recorded.<sup>(6)</sup>

Sources: (1) to (3) - Mr. Khoo Boon Hui (Visiting Exper for 95th Couese)

(4) to (5) - International Symposium on the Conditions for Prosperity without Crime Tokyo 9 March 1992

(6) - Country Paper of Mr. Ng Chee Kok (95th Course)

### 14. SRI LANKA

The country has about 17.217 million population as of 1990. About 21.4 percent of the total population reside in urban areas. Annual growth rate in the urban areas is 2.19 percent for years 1990 to 1995 as compared to one percent in the rural. Gross National Product (GNP) per capita in 1989

was about 430 US dollars.

Knife assaults are the major offence against people. There was a steady increase from 1980 to 1987 in this offence. However since 1988, a drastic decline is seen. In 1987, there were 9,012 cases

but in 1992 it dropped to 5,750 cases. Homicide ranked second. In the peak year in 1989, there were 8,127 cases, but in 1992 there were only 1,273 cases.<sup>(1)</sup>

Theft and burglary are two main offences against property. There appeared to be a gradual decline from 1980 to 1992 in both these offences. In 1992, there were 10,085 cases of theft and 8,708 cases of burglary. Robbery is the third most common offence. There were 3,234 cases in 1992.<sup>(2)</sup>

For economic crimes, cheating / criminal breach of trust is the main offence. In 1990, there were 2,803 cases. In 1991 - 3,392 cases and in 1992 - 3,329 cases.<sup>(3)</sup>

According to Children and Young Persons Ordinance in Sri Lanka, "Child" means a person under the age of 14 years. Nothing is an offence done by a child under 12 years of age. "Young Person" means a person who is above the age of 14 but below the age of 16 years. The main threat to juveniles here is child prostitution and drug related offences. In 1989, there were 168 child offences and 382 young persons offences. In 1990, there were 98 child offences, 231 young persons offences and in 1991 147 and 335 respectively.<sup>(4)</sup>

The main drug offences are heroine and cannabis. In 1991, the number of drug offences reported were 12,410 cases. Among them heroine offences - 8,148 cases and cannabis - 4,215 cases.

The Quantity of drugs seized in 1991 were heroine - 24.8 kilograms and cannabis - 9,997.7 kilograms.<sup>(5)</sup>

Source: (1) to (4) - Country Paper of Mr. K. S. J. De Abrew (95th Course)

(5) - Asia Crime Report No. 1 - Jan. 1993, Tokyo

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### 15. THAILAND

The country has about 56.961 million population as of 1991. About 22.6 percent of the total population reside in urban areas in 1990. Annual growth rate in the urban areas is 4.02 percent for years 1990 to 1995 as compared to 0.5 percent in the rural. Gross National Product (GNP) per capita in 1989 was about 1,170 US dollars.

Generally, Thailand has enjoyed a decrease in crime trends, in particular in crimes against people, property and sexual offences in 1991.

Annual Report 1990 - 1991 from the Research and Planning Division, Police Department, showed that for crimes against people in 1991, there were 21,730 cases. Assault was the main offence with 12,548 cases. Next was Murder with 5,041 cases. Attempted murder ranked third with 3,625 cases. <sup>(1)</sup>

Crimes against property registered 41,856 cases in 1991. Theft being the major offence recorded with 34,214 cases. Robbery - 2,308 cases, mischief - 2,509 cases, gang robbery - 1,198 cases, and snatching - 1,209 cases. <sup>(2)</sup>

Forcible rape is the main offence of sexual crime. In 1991, there were 2,548 cases registered. <sup>(3)</sup>

Cheating/fraud and misappropriation are the two prime offences in economic crimes. There were 3,440 cases of cheating/fraud and 5,987 cases of misappropriation in 1991. <sup>(4)</sup>

It is in the interest of national security for Thailand to take drastic actions against illegal drug trafficking. Illicit opium and heroin are smuggled from the Golden Triangle in the north and marijuana from north-east enroute Thailand to overseas destinations. In 1991, a total of 224 traffickers were arrested in the country while 85 traffickers were arrested outside the country making a grand total of arrests of 309 traffickers. Total seizure of heroin - 882 kilograms, opium - 53.5 kilograms, and marijuana - 8,432 kilograms. <sup>(5)</sup> Correspondingly a total of 102,696 drug/

narcotic abusers were arrested in the same year. <sup>(6)</sup>

There has been an increase in juvenile offenders from 1988 to 1992. Offences committed by children and young persons can be divided into three main categories. Offences against property were the most widespread. In 1992, theft, gang robbery, and snatching registered 1,356 cases. Offences against people - assault, indecent acts and rape recorded 286 cases. Other offences relating to public peace - drugs, volatile solvents, gambling and criminal association - stood at 665 cases. <sup>(7)</sup>

Source: (1) to (4), (6) and (7) - Mr. Prathan Watanavanich (V.E for 95th Course.)

(5) - Resource Material Series No. 41 UNAFEI Tokyo

### 16. VENEZUELA

The country has about 19.735 million population as of 1990. About 90.5 percent of the total population reside in urban areas in 1990. Annual growth rate in the urban areas is 2.79 percent for years 1990 to 1995, as compared to -2.15 percent in the rural. Gross National Product (GNP) per capita in 1989 was about 2,450 US dollars.

Bodily injury is the major offence against people. This offence has been constantly on the increase since 1974. In 1990, there were 29,621 cases, in 1991, 33,381 cases, and in 1992, 35,482 cases reported. The next most common offence against people is homicide which recorded in 1990 - 2,474 cases, in 1991 - 2,502 cases, and 1992 - 3,366 cases. <sup>(1)</sup>

Theft remains the prime offence against property, especially car theft. In 1990, there were 27,140 cases, in 1991 - 27,339 cases and 1992 - 30,607 cases. Robbery is the second most common offence. In 1990, 25,449 cases reported, in 1991 - 22,696 cases and 1992 - 23,864 cases registered. So far there is no organised crime group. Only small "gangs" are formed and the members commit crimes such as robbery, theft, car theft and fraud. Their members are usually the former

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subversives that had been dismantled by governmental forces in the 1970s and 1980s.<sup>(2)</sup>

Particular attention must be focused upon drug trafficking. Since Colombian authorities took a hard stance against the cocaine lords, Venezuela shifted from being a bridge country for drug traffic into a warehouse for deposit of large quantities of drug by the cocaine lords. There was also an increase of home consumption of drugs by the addicts. At least 80 percent of crimes in Venezuela are drug related.<sup>(3)</sup>

A large proportion of immigrants from the rural areas, many of them young men and women in their teens and already bearing responsibility for a child, are addicts. These addicts initiated a spree of crimes from larceny to homicide, including in the killing of kin.<sup>(4)</sup>

The cocaine lords empowered with large wealth derived from drug business often corrupt the politicians and governmental officials for protection and influence.<sup>(5)</sup>

Among economic crimes cheating is the main offence with 6,695 cases recorded in 1990, 6,486 cases in 1991 and 6,794 cases in 1992. Writing cheques against insufficient funds is the second most common offence in this category. In 1990, 444 cases were recorded, with 361 cases in 1991 and 415 cases in 1992.<sup>(6)</sup>

Sources: (1) to (6) - Country Paper of Mr. Mauricio Salas Perez (95th)

### III. Conditions which facilitate urban crimes and juvenile delinquency

#### A. Overcrowding Caused by Migration from Rural Areas

Movement of the population from rural areas to urban areas may be due to various reasons. The main attractions may be the concentration of public utilities and services as well as health care, education, commerce, industry and the labour market allocated in

urban centres. The building of new industrial areas and factories does not mean the development of new housing areas and facilities for the migrants who are seeking jobs in the new industries. The existing housing areas and facilities which must accommodate the migrants in their stay, are not adequate to receive them. In other words, the cities are not ready to receive the rush of these residents. These migrants will usually reside in the cheapest housing areas. The slums of the city are thickly populated areas marked by poverty. Studies have shown that in Bangkok, Thailand approximately 81 percent of urban poor dwelled mostly in slums and most of them had migrated from other regions or other slums. The poor in Bangkok settled in various state properties and wastelands which have become slum areas. These city dwellers, about 1.7 million of them, earn less than 2,000 Baht (85.00 US dollars) per month, and about 1.5 million live in slums.<sup>(1)</sup> It is therefore not surprising that the "frustrated expectations" that these people could have become another factor favourable to crimes.

It was also a common experience in member countries that many job seekers from rural areas migrated to cities, but due to their lack of qualifications and marketable skills it is difficult, if not impossible, for them to find employment. As they are forced to find ways to support their families, they ultimately end up in crimes, starting with theft and pickpocketing, and eventually moving to serious crimes, like robbery, drug trafficking and homicide.

#### B. Changes in Socio-economic Structures

Another important aspect of urbanisation which relates to urban crime and juvenile delinquency is the socio-economic structure. Many kinds of changes have taken place in this structure, and some of them affect the occurrence of crimes.

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Urban areas are generally characterised by the occupation of their dwellers who are mostly engaged in secondary industries such as wage workers in factories which differ greatly from rural areas where the folks are mostly engaged in agriculture. Thus, factory areas are usually located in urban centres. However, factories inevitably produce waste. Needless to say, if waste is not controlled, it becomes a menace to the natural environment and mankind. This problem was or is serious in almost every developed or developing country. Nowadays, it should be borne in mind that pollution spreads across borders like acid rain or the ozone hole.

Development of secondary industries is normally followed by that of tertiary industries, that is management and service industries. It is because such industries grow in cities, more institutions and governmental organs which deal with such industries are also centralized in cities. Shopping quarters and amusement districts sprawl around the vicinity of city areas as their services are more demanded there. In short, urban centres become the nucleus of both secondary and tertiary industries.

Development of communication technology accelerates in cities where the main vein of the economic activities operate.

One of the most important inventions of communication technology is the computer which can store and manipulate large volumes of information. This also means that anybody who knows a computer system very well can get, change and counterfeit such information without any weapon or violence. Forging of credit cards or pre-paid cards, hacking and computer-viruses must be dealt with much more seriously as we depend more and more on computer systems.

In the stressful working environment in urban areas, in order to seek much more pleasure and fun, some amusements become excessive, immoral and illegal. Usually, such kinds of amusements, especially prostitution and sexual amusements, are profitable

outlets for criminal organisations. For instance, Boryokudan in Japan is a typical one. Boryokudan normally run such entertainment and amusement businesses themselves or extort protection money from the operators of such businesses.

These entertainment centres thereby enrich the wealth as well as spreading the influence of Boryokudan.

Development of secondary and tertiary industries also means that wage workers become the majority of the labour force. They normally do not need a big family as agricultural workers in rural areas do. Therefore, the major family type is the nuclear family in urban areas. In short, it means that children in cities have almost no supervisors except their parents. Once their parents go to work, the children are left unattended. Lack of control and discipline relates to increase of juvenile delinquency.

Wage workers are also subject to changing their residence easily according to the convenience of their occupations. In urban areas there is great mobility of people making personal connections in the community very hard. Lack of neighbourhood watch causes residents to overlook the occurrence of crime and delinquency.

### C. Psychological Problems

Urbanisation, though it provides people with ample opportunities to lead a modernized and convenient life, also creates psychological problems for urban dwellers. The degradation of social conditions brought about by rapid population growth in urban centres such as poverty, unemployment, insufficient housing and education, is a hot-bed for increasing crimes. Apart from this, migration also has brought along racial tension among different ethnic groups causing racial conflicts and violence. The deteriorating social environments in urban areas coupled with unequal distribution of wealth create social and political instability which is likely to drive the disadvantaged

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groups into resorting to crimes as disadvantaged groups may develop a sense of social injustice due to the lopsided distribution of wealth and income.

Urbanisation also brings about changes in one's life style and value system. With modern education and advanced communications, there is a tendency to place emphasis on democracy and individualism based on western culture. Traditional value systems based on a group-oriented society are slowly replaced by an individually-oriented one. Material advancement becomes the main pursuit as a symbol of success in modern-day thinking. Excessive materialism may sometimes lead persons to commit themselves to money-making and ignore or disregard morality in some cases. A "playful" mood (hedonism) also tends to prevail in urban areas. This psychology often weakens public morality. Abundant goods of higher quality are easily accessible in urban centres; the constant advertisements in mass media to attach success and fame with these higher quality products may stir up people's desire for possession. Anonymity in urban areas also makes one feel less reluctant to commit crimes.

### D. Physical Setting

It is increasingly being recognized that there is a relation between crime and physical environment. The way in which a building, street, neighbourhood, ward or city is planned and designed influences the behaviour of potential offenders. Poor physical planning may encourage commission of crimes eg. inadequate street lighting, weak locks on doors, poor window fastenings, poor lay-out of rooms from which it is difficult to communicate with neighbours. Sky-scrapers and condominium-living are common features in urban areas. The high-rise buildings pose problems for security checks. The so-called "dead-angles" in these high-rise buildings are often target areas for

potential offenders to prey on their victims.

### E. Other Special Features

Owing to geographical location, some countries face special sets of circumstances that attract crimes. Nepal has an open border with India and acts of dacoity, murder, black-marketing are not unusual along this open border. Criminals committing the offences in Nepal easily make an escape to India and in the same way, Indian criminals get an easy shelter in Nepal. Countries like Thailand, Malaysia, Singapore, the Philippines, China, Sri Lanka and Venezuela become the transit points for drug pipe-line.

Sri Lanka becomes the major transit point for the south-west Asian drugs routed through India and Pakistan bound for African, European and other Western markets. Drugs like heroin and cocaine from the Golden Triangle are trafficked to the world market through Thailand, Southern China to Hong Kong; south through Rangoon and other Myanmar cities towards Malaysia and Singapore; and westward through India and Bangladesh. Venezuela is used as a transit country for international drug dealers, especially for cocaine from the Andean regions of Bolivia, Ecuador, Peru and Colombia, passing through Venezuela enroute to the U.S.A.<sup>(2)</sup>

## IV. Countermeasures to Prevent Urban Crime and Jevvenile Delinquency

### A. Five Pillars of the Criminal Justice System

#### 1. Police

Primarily responsibility for crime prevention and crime suppression is placed upon the police. A clean, corruption-free and professional image in the police system will instill confidence in and secure cooperation from the public, not only to

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fight crime and deter potential criminals but also to prevent crimes.

Experience has shown that there is no more effective measure to prevent crimes than to maintain police visibility in crime-ridden areas. That the police are easily accessible when trouble arises serves to deter crime to a greater extent than if no immediate assistance can be expected.

The Koban system created by Japanese Police, in which the policeman is in daily contact with local residents while working in the police box, is one cause of the low crime rate in Japan. This system provides local residents with peace and safety in the area. The Koban System is composed of both police boxes and residential boxes covering approximately 15,000 locations nationwide.<sup>(3)</sup>

Adopting this concept of community policing, the Neighbourhood Police Posts (NPP) of Singapore also help to achieve low crime rates. Presently there are 90 NPPs located throughout Singapore. Home visits as well as foot and bicycle patrols have brought closer contact between police and community. The involvement of police in community programmes, Residents' Committees and other activities organized by the community have projected the police as a much friendlier personality whom the community can approach at any time for assistance.<sup>(4)</sup>

As technology advances, new forms and dimensions of criminality have surfaced. The police investigators need to be trained to tackle new criminal behaviours and police departments need specialized units for specialized offences in order to achieve greater efficiency. Anti-narcotic Unit, Commercial Crime Unit, Special Squad Unit, Secret Society Unit, etc. are needed to cope with specialized areas of criminality. State-of-the-art technology in crime prevention and detection are also indispensable, e.g. the Automated Fingerprint Identification System (AFIS), Polygraph and DNA Profiling are some advance equipment and methods used to aid investigation in Singapore.

Similarly, in Japan, sophisticated equipment and scientific and computerized approaches are employed in the investigative system to update and improve the quality of police ability in fighting crimes of new dimensions.

### 2. Prosecution

It is the duty of the police to investigate a crime and arrest the people who are responsible when offences have been committed. This will give the impression to the public that the criminals are not the rulers of the area and nobody is above the law.

Once the investigations are completed, it is the responsibility of the public prosecutor's department to forward the charges or indictments with the least amount of delay. This will undoubtedly create the impression in the mind of the victim that his complaint has been properly investigated. This will also encourage the public to cooperate with the crime prevention activities.

Speedy indictments will not serve any deterrent purpose if there is a low conviction rate. The public prosecutor must be acquainted with all the relevant provisions of the law, trained in the field of prosecution, and constantly be updated on the latest rulings and trends on criminal laws, jurisprudence, and legal ethics. In addition to that, there is a dire need for public prosecutors and police investigators to be constantly exchanging information in order to improve efficiency. A competent public prosecutor will be more able to elicit all relevant evidence for submission to the court with a view to securing convictions.

It is also a common experience in most countries that police officers prosecute in the lower courts, but the number of them are insufficient to cope with the voluminous cases that are pending in the courts. In this connection, steps are to be taken to increase the number of legally trained police officers to conduct cases in lower courts on behalf of the public prosecutors to alleviate the problem.

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Another alternative to lessen the case-load of courts with unwarranted prosecution is the adoption of "the suspension of prosecution" as practiced in Japan and Korea. Although the main intention of this practice is to give a suspect a chance to rehabilitate, it is also aimed at reducing court case-loads. In 1992, 38.1 percent of non-traffic Penal Code offenders were granted suspension of prosecution in Japan.<sup>(6)</sup> In Korea, in 1989, the ratio of non-prosecution of total suspects was 53 percent and among them, 11.1 percent of the cases were suspended. This ratio has been constant throughout the years.<sup>(6)</sup>

### 3. Court

When discussing countermeasures to prevent crimes, it must be remembered that the court must play a commanding role since the people think that the ultimate temple of justice is the court. It must be remembered that not only the victim's party and the defendant's party are watching the proceedings of court but the public is also waiting for the ultimate decision of the court. The defendant whose guilt has been proved beyond a reasonable doubt must be adequately punished. In doing so the age, the circumstances under which the offence was committed, the previous criminal record of the defendant, etc., must be considered. Insufficient and lenient punishment will create the impression among the public that the criminals have not been adequately punished and this may make the people hesitant in reporting crimes to law enforcement authorities.

Further, this trend may open the door for the public to take the law into their own hands and give summary justice without the crime being brought to court. It is observed that on some occasions, the victim's party has retaliated by doing another criminal act when the defendant's sentence of imprisonment is suspended or when a lenient sentence is imposed. Suspended sentences must be suspended only in exceptional circumstances.

It is also necessary to dispose of cases without delay since a long delay will result in the discharge of the defendant. This delay will erase the true picture of the incident and the memory from the witness's mind. Delay will also give the opportunity to the defence counsel to impeach the credibility of the witness. The long delay in hearing the case and frequent postponement of the case will make witnesses reluctant to come to court to testify. It is pertinent to mention that witnesses have to forgo their time to attend to their affairs when they are compelled to attend court cases. It will contribute to a great extent in prevention of crimes if the court can minimize the case load and avoid postponements.

It was also observed that there exists a serious shortage of interpreters in certain countries, which has contributed to the accumulation of cases in court and to delay in disposing of cases. This problem often occurs when the witness cannot understand the language of the court.

To cut down case-loads, some countries have started ingenious measures such as the Small Claim Tribunal in Singapore, the practice of Court Sessions at Night in Singapore as well and the Mediation Board in Sri Lanka.

In 1990, the Small Claim Tribunal disposed of 17,228 cases, and, processed, 24,000 cases in 1991. Night Courts, which begin sessions between 6.30 pm. and 9.00 pm., run for two days in a week, and are assigned to deal with minor cases: like illegal hawking, littering, failure to submit income tax, etc. In 1991, Night Courts attended to 5,512 Traffic cases and 15,833 Departmental cases. Up to the end of October 1991, Mediation Boards were referred a total of 9,778 cases, of which 5,483 cases or 56 percent had been settled without proceeding to mitigation.<sup>(7)</sup>

### 4. Corrections

In urban areas, under the circumstances of increasing population and crime, almost

## CRIME PREVENTION ACTIVITIES

all of the institutions of criminal justice have the problem of overcrowding. It is a matter of common knowledge that overcrowding of institutions causes the contamination of inmates, especially juvenile inmates.

Considering this situation, non-institutional treatment should be requested as an alternative. For example, community-based treatment in Japan is effective. Volunteer probation officers living in the community have a duty to take care of probationers and parolees under the supervision of probation officers. By giving advice about difficulties, helping to look for a job and so on, Volunteer Probation Officers (VPO) help probationers and parolees take root in the society with a law-abiding attitude. And in Japan, almost 100 halfway houses are run by private associations providing room and board and guidance for probationers and parolees. "United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)" describes the placement of a juvenile in an institution as follows. "19-1 : a placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period."<sup>(8)</sup> The example mentioned above suits the spirit of this rule. It also can avoid stigmatization of the offenders, which leads to recidivism, by treating them in real society.

However, if we choose non-institutional treatment, it is indispensable that we classify the offenders precisely and cautiously, otherwise alternative treatment leads to release of dangerous offenders into a vulnerable society. Using the knowledge of social sciences, the offenders must be selected in the best way. Institutional treatment of course should be refined to prevent recidivism, and should classify appropriately within an institution. Also, educational functions should be promoted much more. Rather than indoctrination of morality, training in life skills such as the 3Rs (reading, writing and arithmetic) or in a vocation, which would help offenders to make their living easier and to root into the society,

should be offered.

### 5. Community

In urban areas, the traditional community has been diminished because of migration and overcrowding. The apathetic attitude of the urban community often inhibits and impedes the effort to prevent and suppress crimes. It has been acknowledged that through community involvement, because of its pervasiveness, people can make a significant contribution to the prevention and detection of crimes. In recognition of this fact, urban communities should be reorganized and reinforced to prevent crimes.

In the Philippines, members of the community in each barangay (the smallest political unit of the country) usually organize themselves into neighbourhood action groups called Rondas for purpose of crime prevention activities.

In Malaysia, the formation of "Rukun Tetangga" (Neighbourhood Watch Group) aims at strengthening the tie between government and the people in the maintenance of peace in the community.

In Singapore, the National Crime Prevention Council whose board of directors comprises government officials, reputable individuals and corporate members from various sectors of society, organizes and directs programmes to enhance community awareness and participation in crime prevention.<sup>(9)</sup>

### B. Criminal Laws

Experience has shown that criminal legislation can not be static. As new forms of crime surface with modern science and technology, the government has to penalize and decriminalize these new behaviours to maintain social order and protect collective and individual rights. Many attitudes once considered immoral are now common. The government therefore has an obligation to review and update constantly

## REPORT OF THE COURSE

the criminal laws to cope with new challenges and developments which very often bring about new criminal behaviours. It is therefore imperative that each country should have a permanent study commission to review and update criminal laws. Towards this end, a study in the member countries revealed that Papua New Guinea has a Law Reform Commission.

Criminal Laws however should be based upon the fundamental values of the country. In the other words, the criminal laws must have the support of the total community. Other nations' experiences can be shared but the law enforcement has to be in accordance with each country's ethnic characteristics and traditions. History has shown that attempts being made to use criminal laws in an inappropriate manner do not work. For example, the criminal law has been used to try to prevent the use of certain drugs, such as cannabis in U.S.A. against the wishes of the majority of the community: this renders the laws ineffective for it has no strong support of the majority of the relevant society. <sup>(10)</sup>

### C. Crime Prevention through Education

The concept of crime prevention should be incorporated into the educational curriculum all the way from schools to colleges and universities. School and family units are deemed to be the two major socializing bodies in which the formative years are spent. If schools are to be effective in the area of crime prevention and the inculcation of good citizenship, they must be exploited to instill non-violent and cooperative attitudes and to foster socialization processes. School are also to help the young to achieve healthy attitudes and correct social values towards life. There must be a parallel emphasis on the satisfaction and spiritual development alongside the academic pursuit for future employment.

Education planners need to plan higher

education to avoid an excessive number of students in careers with limited employment opportunities. Unemployed graduates due to unmarketable qualifications and skills will cause frustration as they find themselves without the opportunity to use their knowledge because of the excess of professionals. The frustrated graduates will be the potential source of new criminals. For example, organized crime group in Venezuela - Tupamaru (dismantled in 1982,) Peru - Sendero Luminoso and Colombia - Coordinadora Guerrillera Simon Bolivar.

It is also increasingly felt that more technical and vocational schools should be created so that knowledge is not only academic but also practical.

### D. Crime Prevention through Environmental Design

It is an established fact that committing a crime can sometimes be downright irresistible when these crimes are "created" by opportunity. This is especially the case with offences in the public or semi-public domain, mostly termed "petty crimes" which include vandalism, burglary, theft, assault and the like. It has often been said that "opportunity makes the criminals". Criminals normally actively look for an opportunity. It is therefore possible to a certain extent to design or manage the built environment in an effort to lessen the temptation to commit crime.

This approach to preventing crime through environmental design (CPTED) has proved somewhat successful in the Netherlands. In the Netherlands, such an approach has been used in shopping areas. It was found that it is possible to guide the behaviour of potential offenders and causers of nuisance, to prevent the shopping area from becoming unnecessarily attractive to potential offenders. <sup>(11)</sup> This approach (CPTED) has also proved to be a success in "Aichi Prefecture, Japan, where the police constructed a "model crime prevention street"

## CRIME PREVENTION ACTIVITIES

safe for women to use at night. And as a result, fewer crimes occur in the area of that street. <sup>(12)</sup>

Similarly, along this concept of CPTED, it is also the view of the group that to prevent juvenile offenders, there ought to be sufficient recreational facilities, especially in urban areas so that the young can utilize their leisure time constructively. It is therefore suggested that there be official rulings enforced by the Housing Ministry to encourage every new housing estate to provide facilities such as football fields, playgrounds, multi-purpose halls, parks, etc: to cater to the needs of the young.

### E. International Co-operation

Today is a "GLOBALISATION" era, meaning rapid development in communications and transportation. Crimes are no exception to internationalisation, as some criminal activities are transnational in nature. Thus international cooperation between the criminal justice systems is necessary. In this era, effective co-operation calls for the use of one country's investigative and prosecutorial pillars on behalf of the investigation and prosecution authorities of other countries. Any successful scheme for cooperation in the enforcement of criminal laws must facilitate :

- i) the making available of evidence including documentary and other real evidence;
- ii) the provision of records;
- iii) the location of assistance and suspects;
- iv) the execution of request for search and seizure;
- v) the service of documents;
- vi) the provision of assistance to encourage witnesses to give testimony or country;
- vii) the location, restraining, forfeiture and repatriation for the proceeds of crime. <sup>(13)</sup>

Needless to say, to achieve sound criminal

justice policy, one needs reliable and valid national/international criminal justice data. United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI), with the financial support of the Asia Crime Prevention Foundation (ACPF), are rendering valuable assistance in helping countries of the region to establish their national crime Data Standards and to help restructure their criminal justice systems to better equip themselves for future challenges against crimes. <sup>(14)</sup>

### F. Mass Media

It is recognised that mass the media are an important instrument for creating public awareness about the implementation of crime prevention strategies. If the mass media are carefully employed, they can contribute to gaining public support for crime prevention activities, cooperation in police investigations and involvement in rehabilitation works. Meanwhile, it is also realized that violent television programmes often have a negative effect on crimes, especially those committed by juveniles. In addition, research also proved that pornography adversely affects the mental development of the very young. With the powerful influence of the mass media both in terms of its extensive reach to the masses and its impact, strict governmental censorship and care are needed to ensure that while disseminating crime news to create awareness, there is no over-sensitising the masses (especially the young) about violence.

In the use of mass media for crime prevention activities, Nepal Police started "POLICE REQUEST" programmes on television and bi-weekly police programme on radio. These programmes cover police requests for cooperation and measures to avoid being victimised by crime groups.

The Police Ministry of Papua New Guinea started "LAW AND ORDER" programmes radio and television. The aim of these programmes is to inform the public about

law and order, peace and security, and crimes and criminals, and to get public participation and cooperation. In Japan, the Ministry of Justice conducts yearly programmes called "MOVEMENTS TOWARDS A BRIGHTER SOCIETY" to promote public understanding and cooperation as well as rehabilitation activities. The National Police Agency also delivers telephone-cards stickers and pamphlets containing crime prevention messages to inform the public of the importance of fighting crimes. In Venezuela, the Ministry of Justice and Municipal Police alert the public through television to observe their children and members of the family every evening to find out where they are.

### G. Social and Economic Upliftment

People living in overcrowded urban centres tend to have more stress and frustration. This is one of the main contributing factors to urban crimes. It is especially felt by the young because of their lesser ability to cope with stress and frustration.

Unemployment in the circle of young is common in cities because they do not have job experience and relevant qualifications. The idle youth are the "at-risk" group who are easily turned delinquents. It is important therefore, that governments prepare sufficient workplaces and training institutions for youth. Towards this end, it is felt that at the ministerial level programs like Social Welfare and Youth and Sports be created and budgets allocated to them to provide vocational training, enterpreneurship training, business opportunities, small loan facilities and follow-up extensive services for the youth to engage in some form of trade and vocation, to avert the "at-risk" youth from falling into crime groups. The "Youth Gang" is one of this so-called "at-risk" groups in Singapore who frequently loiter in unhealthy amusement centres thus posing juvenile problems.

For healthy emotional development, there must be some sporting activities for the

young to let off their pent-up emotions due to stress and frustrations. However, in the city set-up where space is limited, facilities such as playgrounds, swimming pools, tennis courts, parks, multi-purpose halls, and soon are too few to cater to the need of the young as well as the adults. It is imperative therefore, the Housing Ministry establish rules to approve any new housing estate, and the developers have to provide such facilities in their housing plan.

### H. Decentralization

One of the main reasons for rural drift is poverty in rural areas. Studies have shown that rural poverty is prominent.

Migration to urban centres in search of better living conditions and quality of life is therefore unavoidable. The effect of such migration causes overcrowding, which in turn produces a variety of crimes. Decentralisation means that the function of urban centres is dispersed around rural areas. Decentralisation is also one of the effective countermeasures to reduce poverty in the rural areas and to stop migration to urban areas. In short, governments develop commercial activities in the suburban areas.

This measure is not directly related to crime prevention activity. But in the long run, when the sub-centres are developed economically, it will certainly reduce the rate of migration to city areas. In Malaysia, governmental efforts were seen in setting up heavy infrastructures in sub-centres to create "FREE TRADE ZONES" to earmark industrial areas for foreign investments and to disperse rural drift to urban centres.

In Papua New Guinea, the government has recently introduced 20 provincial governments for the purpose of transferring government's functions. In Venezuela, the government has enacted a law to transfer factories to suburbs of central areas in Venezuela, e.g. Sant Tereza Del Tuy.

According to the Master Plan of Tokyo 1992, the dispersal of functions throughout

## CRIME PREVENTION ACTIVITIES

the Tokyo Metropolitan Region will be promoted and the structure of Tokyo will be changed from the present overly concentrated centre to a multipolar structure.

The city centre will have major capital and world city functions and inducements will be offered to encourage structural change so that functions which need to be in the city centre will be located there. The sub-centres will serve as bases for business, commerce and culture. Regional cores will also be developed as centres of commerce, culture and entertainment in the areas where people live their daily lives.<sup>(15)</sup>

### V. Conclusion

The group members all share the view that any meaningful countermeasures against urban crimes and juvenile delinquency must include the following three strategies:

- i) a legal system and criminal laws which are acceptable to and supported by the community;
- ii) efforts to reduce motivation for crimes and opportunity for crimes; and
- iii) effective criminal justice system.

The above strategies, call for the active involvement of the community and general public in crime prevention and the rehabilitation of offenders. Failure on this score would, to a great extent, impede the effectiveness of any countermeasures.

Crime prevention and suppression are not the sole responsibility of those sectors labelled as "criminal justice." In fact, if national planners in health, education, welfare, industry, commerce, and housing as well as criminal justice services were to combine to make a coordinated effort to eliminate the criminogenic factors, society would be more capable of development with less interference from crimes.

After studies and research done by the group on the actual situations of urban crimes and juvenile delinquency brought about by urbanisation and industrialisation in the 16 participants' countries, the group members

are of the view that differential degrees of urbanisation have taken place in the 16 countries. Each has faced a unique set of urban crimes and juvenile delinquency both in nature and extent. While most of the countries have surpassed their first facet of urbanisation characterized by "rural-drift," and are now moving into the second stage characterized by "urban-growth," Japan in particular has advanced to the third stage of urbanisation that is characterized "urban-sprawl."

The group members are of the opinion that the countermeasures which are successfully implemented in Japan, such as the Koban system of community policing, may not be as effective in other countries due to differences in political, economic, social and cultural values.

Be that as it may, it is the optimistic view of the group that even though urbanisation unavoidably results in urban crimes, if careful measures are taken, they can be contained and managed, whilst the benefits of urbanisation can be fruitfully exploited. Last but not least, it is also the sincere hope of this group that future UNAFEI participants will furnish more up-to-date crime data pertaining to actual situations of their respective countries. This will enable the enrichment of knowledge as time passes, since sound criminal justice policy can only be built on the accurate and latest information on crime statistics. Further more, in this era crimes are transnational.

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(12) Mr. Kenji Kiyonaga (Ad hoc lecturer for 95th Course)

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(15) Planning of Tokyo 1992

## Session 2: Effective Investigation of Urban Crime

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## REPORT OF THE COURSE

### I. Introduction

1. Urbanization is often seen as symbolic of progress and modernization. Economic and industrial development is the norm of the '90s the world over. This is particularly the case for Asia and the Far East. To support an expanding industrial sector, labour and infrastructure are required on a large scale. Unfortunately, the steady migration of people from rural areas to the cities and the emergence of social problems associated with urbanization have brought about a steady increase in crimes. Urban crimes are generally committed with more sophistication, while the public tends to be uninvolved in matters beyond their personal and immediate concerns. In the context of the relative anonymity and detachment of the urban dweller from his social environment, the rapid development of trade and commerce, and of communications, technology and transportation in the cities has created manifold criminal opportunities, as well as the means for criminals to avoid detection and apprehension by the police. These conditions have posed special difficulties in the investigation of urban crimes that are not readily anticipated under the usual or traditional approaches to crime prevention.

2. In this respect, more effective investigation of urban crime must be timely and appropriate. In fact, the process of investigation is unarguably the most important stage in the criminal justice system because prosecution and trial depend absolutely on the outcome of the investigation. Without effective investigation, there cannot be effective prosecution or a successful trial of a criminal case.

3. To address the issue of effective investigation, a 2-pronged approach is adopted:

i. Conditions and Problems Which Make the Investigation Difficult and How to Cope with Them (Countermeasures)

ii. How to Ensure Public Cooperation.

In the first approach, the main topics for discussion and presentation are:

- a. Ordinary Crimes Including Crimes Committed by Foreigners;
- b. White-Collar (Economic) Crimes;
- c. Technology-Related Crimes; and
- d. Drug-Related/Organized Crimes

4. To present a paper on these areas, it is the consensus among the group members to look at urban crimes as "crimes committed in an urban area and crimes which result from problems associated with the population growth and development of urban areas, such as white-collar crimes, crimes which take advantage of modern technology, drug-related crimes, crimes committed by foreigners and organized crimes".

5. Members of the group are aware that in the discussion of conditions and problems affecting ordinary, white-collar and technology-related crimes, issues on juvenile delinquency and environmental crime are implicit. Be that as it may, the group has decided to study the larger categories mentioned in its concept of urban crime in order to acquire as wide a perspective as is possible on the subject of criminal investigation. At the same time, it has focused on the countries whose members are in this group workshop, namely, the Philippines, China, Singapore, Japan and Pakistan, as they are generally representative of nations facing different stages of economic development.

### II. Conditions and Problems which Make the Investigation Difficult

#### A. Ordinary Crimes

In the Philippines, the most apparent drawback to the capacities of police to investigate crime is their limited power to execute warrantless arrest. Their authority used to be almost as broad as that under

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Anglo-American common law, which is to say that they could arrest on their own initiative when they had probable cause or reasonable grounds to do so. As provided in the common law, probable cause means evidence of crime derived from the personal knowledge of the arresting officer, or from the report of victims and witnesses, reliable information of informers, and such other evidence as may reasonably justify the officer to believe that a crime has been committed, and the person to be arrested has committed it. With the promulgation in 1985 of the revised rules on criminal procedure, the legal basis for warrantless arrests has been reduced to mere personal knowledge of the arresting officer. Situations arise in which the police find it necessary to arrest as a means of further investigation, because they either need to interrogate the suspect, secure his fingerprints, etc., or facilitate identification by the victims and witnesses. A warrantless arrest may also be necessary in cases where the suspect is likely to escape or go into hiding, or is threatening witnesses or otherwise interfering with the investigation. Since it is not always the case that the police have personal knowledge of an offence, legitimate arrest objectives are bound to suffer. As it is, the Philippine police live with the new restriction by not arresting at all, getting judicial warrant on the basis of indictments for other offences, or in many instances, effecting the arrest outright at the risk of having it rejected to in a court of law.

With or without an arrest the quality of the investigation can be affected by the poor investigative abilities of the police investigator. Statements from key witnesses may not be obtained and evidentiary material lost or destroyed through inept handling. Even upon the conclusion of the investigation, it becomes necessary for the investigator to maintain close coordination with the prosecutor, in order that testimonies can be presented at the appropriate time, and the

other proofs turned over to him for presentation in court. Again, negligence or inattentiveness on the part of the investigator may hamper the prosecutor in proving his case, leading to the acquittal of the accused. Great loss of time and money by the government and possible miscarriage of justice result.

As in other countries, urbanization in China is brought about by the movement of populations to areas where industry, trade or commerce is concentrated. People converging on urban centers come from different parts of the country and are generally indifferent to one another's affairs, being themselves preoccupied with their own work and living. Fewer opportunities exist for people to know one another and develop the community sense characteristic of more traditional societies. It has consequently become difficult for the police to investigate crime, track down criminals, locate witnesses, and gather evidence.

With the rapid growth in population, the police also come to deal with an increasing number of cases that outstrip their manpower resources. In some metropolitan areas, law enforcement agencies do not have an effective communications system and computer command center. Due to the inability of the system to communicate crucial information to the line units, for example, the scene of the crime, the identity of criminals, the weapons used, and the like, the police cannot assess the situation correctly and make the proper responses. This inadequacy is part of an overall problem concerning material resources and logistics available to the police. Few and outmoded equipment and poor transportation and communication facilities impede the investigation of crime in a major way. Finally, urban criminals tend to be more sophisticated in their approach and manner of conducting their criminal activities. A good number of them are educated, street-smart, and attuned to advanced methods, techniques and practices

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that make crime a lucrative way of life for them. They engage in detailed planning, and avail themselves of modern weaponry and technology to implement their plans, straining police capabilities to the limit.

Singapore is an urban area, but a relatively safe and orderly one compared to other urban cities. While ordinary crimes in many countries continue to rise, in Singapore, they are well under control and in fact, have decreased for the last 4 consecutive years (1989 - 1992). The figures for the major crimes reported to the police are as follows:

MAJOR CRIMES	1991	1992	COMPARATIVE THE PREVIOUS YEARS
MURDER	50	41	lowest in 10 years
RAPE	74	81	2nd lowest in 10 years
ROBBERY	1,404	1,074	lowest in 14 year
HOUSE-BREAKING	3,520	3,020	lowest in 5 years

Source: Intelligence Department, Criminal Investigation, Department, Singapore Police Force

Although crime is not a serious problem in Singapore and its crime rate is among the lowest in the world, there are conditions and problems which make criminal investigation difficult.

Singapore has a significant foreign presence. Foreign workers, including expatriates, comprise 12% of the work force. It has also a large number of foreign students. The tourist figure for the year 1992 is almost 6 million, and understandably, the participation of foreigners in crime is significant. In 1991, 14.3 % of violent crimes were committed by foreigners. In 1992, the percentage went up to 16%. For

property crimes, it was 10.9% in 1991 and 9.7% in 1992. Foreigners can be victims themselves. Language difference is one of the primary problems, and this is aggravated by the lack of competent interpreters. Time is another problem. Foreign victims and witnesses are often scheduled to leave the country soon after the commission of a crime, and there is insufficient time for the investigator to get complete statements from them. Securing their attendance in court would be difficult once they depart. Even when traced to their respective countries, many of them are not made to return and testify.

There is a general shortage of manpower in the Singapore Police Force. As the economy continues to grow, the recruitment and retention of officers are affected. Whenever an investigator is transferred or has resigned, he leaves behind a backlog of unfinished cases. Such cases would ultimately affect the effectiveness of the investigation. Investigators tend to ignore or "sit" on such cases, further delaying investigations. Another area of concern is the lack of co-ordination between the investigator and the prosecutor. Very often investigators are made to "stand by" in court pending their testimonies. They may have to wait in court for a day or two before being put on the stand. In some cases, they are not even required to testify, but as a matter of precaution they must attend court hearings wasting valuable time in the process.

Japan is a highly developed and urbanized country, and one of the safest in the world. Its crime rate is lower than those of western developed countries, and even of Asian countries. In fact, according to the 1993 World Competitiveness Report, Japan was ranked highest among 22 developed countries on the confidence people have that their persons and properties are protected.

## URBAN CRIME

### CONFIDENCE AMONG PEOPLE THAT THEIR PERSON AND PROPERTY ARE PROTECTED

DEVELOPED COUNTRIES	POINTS(10)
1. Japan	9.1
2. Austria	8.0
3. Finland	8.0
4. Denmark	8.0
5. Australia	7.7
6. Canada	7.5
7. Switzerland	7.5
8. Portugal	7.2
9. Norway	7.1
10. Germany	6.8
11. Sweden	6.6
12. Ireland	6.0
13. New Zealand	5.9
14. USA	5.8
15. Belgium, Luxembourg	5.5
16. Netherlands	5.3
17. Greece	5.2
18. United Kingdom	5.1
19. Turkey	4.7
20. France	4.5
21. Spain	4.4
22. Italy	4.4

Although Japan has a high clearance rate, there are significant problems affecting criminal investigation. One of the more apparent problems is that as society becomes more urbanized, anonymity emerges. The community tends to be indifferent and uninvolved. As a result, investigators have problems conducting inquiries and gathering information. Witnesses are reluctant to come forward except when they have an interest. This attitude enables criminals to avoid apprehension. In particular, nuclear families and single or working women are on the increase in the cities, and it is difficult for police agencies to have strong ties with these groups. This results in little information for the police. In the murder of a prostitute or a homeless person, for example, there is little or no

information about his or her identity on which the police investigators can work.

Urban criminals are taking advantage of these developments and the diversification of communication and transportation. Crimes are committed across a wider area involving various prefectures. This poses a problem to investigators because of police jurisdiction, and the difficulty of knowing the offenses committed by offenders in other prefectures.

Because of urbanization, Japan also attracts a large number of foreigners. Whether they are victims or offenders, investigators will have a difficult time communicating with them, and understanding their diverse backgrounds. The problem is compounded by the shortage of qualified interpreters. Foreign offenders are likely to deny criminal involvement. Foreigners may also be involved as witnesses, but for fear of exposure that they are illegally working in the country, they disappear as soon as a crime is reported.

The lack of co-operation among the investigative agencies of various countries is, finally, another problem area that affects crime. It is presently difficult for a country to obtain information on a foreigner from his country of origin.

In Pakistan almost all urban crimes are defined in the Pakistan Penal Code of 1860. Offenses under the Penal Code, as well as crimes under special laws are investigated, inquired into, and tried according to the provisions of the Criminal Procedure of 1898.

The various types of ordinary crimes in Pakistan are pickpocketing, theft, robbery, serious assault, murder, kidnapping and sexual crimes. There are various factors and conditions that lead to difficulties in the investigation of these crimes. Firstly, the cities and other urban areas are densely populated, and the police and other investigating agencies assigned to them are inadequate in number. Second, police investigators are overburdened with duties such as guard, escort and protocol work.

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They are frequently summoned to courts and made to wait until their testimonies are taken. They also have to produce accused persons in courts to take remand, that is to obtain permission of the court to investigate and have further custody of the accused. For performing work extraneous to their investigative functions, they are unable to look into pending cases properly and expeditiously. They cannot respond to serious occurrences of crime and reach the scene early enough to gather evidence and track down the criminals.

Frequent postings and transfers of police investigators have also created problems. They leave behind unsolved cases that are re-assigned to newly posted officers unfamiliar with the actual case

happenings. Sometimes, officers with little or no investigative experience are assigned to sensitive cases, leading to less than satisfactory solutions.

Socio-economic changes and modernization have brought about a new crime trend. Criminals use sophisticated techniques and weaponry, and plan their crimes well. At times, they resist the police and make good their escape. Tracking them down again poses special difficulties for the police.

Another problem faced by investigative agencies is the reluctance of people to cooperate with them. Coming to the cities from different parts of the country, they become preoccupied their own affairs and are indifferent to one another. Since they do not receive good treatment, victims and witnesses consider attendance at investigation and trial a great inconvenience to them. They are called several times to give their testimonies only to be told that the hearings are postponed or adjourned, at much cost and loss of time on their part.

### **B. White Collar/Technology-related Crimes**

In the Philippines, the growing complexity of urban life, social and economic, has

given rise to new forms of swindling, fraud and exploitation. In all of these activities, the criminals use their special knowledge and connections to defraud individuals, corporations, the government or public. The more egregious examples of these types of urban crimes consist of dishonest trade practices, investments in dubious concerns or projects, misrepresentation in the sale of goods and the like. Recent phenomena involving the massive migration of Filipino workers abroad provides yet another occasion for unscrupulous dealings. Because of the difficulties in the placement of work abroad, many job hopefuls fall prey to the schemes of recruiters who offer for a price the illusion of foreign employment. The number of cases of illegal recruitment filed with the courts of Manila, the premier urban center, averaged 220 annually during the last 2 years. This is about 2% of the criminal caseload.

The banking system continues to be a conduit through which frauds are committed. Many business transactions are consummated through the use of checks which often are not backed up by sufficient deposits. Losses from this type of fraud run into millions of pesos annually. In recognition of the fact that the widespread use of the rubber check undermines public confidence in the check as a bill of exchange, the government enacted B.P. 22, a special law that imposes penalties and makes prosecution of the criminal easier. Still, as an indication that these punitive measures are not enough and need to be enhanced, the circulation of worthless checks goes unabated. In the last couple of years, about 38% of the criminal cases in the courts of Manila were for violations of the aforesaid law, constituting the largest category of complaints entering the judicial system.

The use of stolen or forged bank documents, such as travellers checks, postal money orders and foreign currencies, also raises serious concern because of the large amounts involved and the sophistication by which criminals implement their schemes with the

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involvement of bank or postal employees and some elements of the police. Recently, millions of fake US dollar bills were recovered from syndicate members who were exchanging them for genuine currency through some banks.

Other persistent white-collar crimes in the Philippines are bribery and corruption of public officials, tax evasion, smuggling and gambling.

Offenses characterized by dependence on technology are concentrated in the area of weapons manufacture, the forgery of and/or tampering with currency, credit cards, passports and other commercial documents. Filipinos have for years, been making guns, in a clandestine manner mostly imitations of foreign models. Ironically, despite the lack of government licensing or incentives, the industry has grown considerably, and certain localities in the country have come to be known for their expertise the making of these products, although operations are done, so to speak, in the backyard of homes. The attitude of the government toward this development has been ambivalent. While there were crackdowns on the operations of the factories, the effort has been, at most, sporadic. The manufacture of guns is part of an underground economy that is prevalent in the Philippines, where transactions go unreported, untaxed and unregulated, one reason why despite widespread unemployment Filipinos manage to survive. There have been suggestions to legalize the industry in order to place it under supervision, and to enable the government to derive taxes from its operations. At the moment, it is permissible for private individuals to acquire permits to possess illegally made guns, and a good number of these weapons have found their way into the arsenals of private security agencies. Needless to say, the liberality in the rules on possession has encouraged the manufacture of these guns.

From time to time, fake Philippine pesos enter into circulation, causing much alarm

and damage to the public. These bills are manufactured largely by local printing plants and with such expertise that monetary authorities are obliged to issue instructions to the public on how to distinguish the fake from genuine bills. The problem remains a serious one because with technical know-how, it becomes a matter of time before the economy is again flooded with fake currency. Local counterfeiters are also known to have links with international syndicates in the manufacture and distribution of fake US dollar bills.

White-collar crimes in China are not as significant as in the other countries. However, although the crime volume is low, the incidence of these crimes has increased rapidly in recent years.

Compared to the crime level in 1988, such crimes increased by about 50 % in 1989, and in 1990 by almost 100% over 1989. Emerging in the context of a variety of transactions, public and private, in which fraud or deception enter as a significant element, they pose serious problems for the economy. Of particular concern are insurance fraud, tax evasion, and public corruption.

Several features characterize white-collar crimes in China. The amount of money involved in irregular transactions is becoming surprisingly large by traditional standards. These transactions are committed through the use of expert or special knowledge not commonly shared with the general public. Some white-collar criminals occupy high ranks in society and are well-educated. Skillfully, they are able not only to defraud their victims, but to cover their tracks as well. They devise schemes to shield their ruse from everything but the most painstaking investigation effort. It has become, for these reasons, increasingly difficult for the police and other investigative agencies to detect and prosecute these criminals, unless they are properly equipped and supplied with funds to pursue their

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work on a sustained basis.

White-collar crimes are by their nature complicated transactions involving numerous persons, offenders and victims alike. Considerable effort and dedication are needed, in particular, to identify the illegal aspects of these deals from the veneer of legality that is made to cover them. There are certain recognizable strategies that white-collar criminals employ to escape detection. In some cases, the crime is committed while acting in a legal capacity. In others, legal formalities are used. Often, there is collusion between the criminals and government personnel and other well-placed persons to hide the effects of their crime.

Finally, other offenses or irregular acts are bound to follow with serious consequences for the public good. For example, a person who bribes a government official to support speculative activities, in effect induces malpractice by those whose decisions can affect the economic order of the country.

In Singapore, the main agencies investigating white-collar crimes are the police and the Commercial Affairs Department (CAD) which comes under the Ministry of Finance. Most of the cases are investigated by the police in the divisions, and complex cases are investigated by the Commercial Crimes Division (CCD) of the Criminal Investigation Department. The nature of cases handled by the CAD are more specialized and the work of the CAD and the CCD complement each other. As the international economy develops and Singapore strives to be a vibrant financial center, white-collar crimes become a growing area of concern. These are expected to increase with economic maturity and as criminals become more sophisticated. To ensure that the interest of investors are protected from the educated predator, Singapore has seen the need to maintain a high standard in its financial system. Indeed, according to the 1993 World Competitiveness Report, Singapore ranks highest (9.5 out of 10) among 37 developed and

developing countries on the confidence people had that their persons and properties are protected. The same report shows Singapore with the highest score (8.5 out of 10) for fair administration of justice. In order to maintain public confidence, then, there must be an effective investigation into white-collar crimes, among other measures, and to be effective, there is a need to bring offenders of serious fraud to book expeditiously.

A typical white-collar crime involves long and protracted investigations whereby the investigator plow through volumes of documents and account books. The inexperienced investigator who is not conversant with commercial laws, criminal procedures, practices, terminologies and the mechanism of specialization faces financial institutions who are reluctant to divulge information on account holders.

As technology advances, there are more opportunities for criminals, especially educated predators, to commit technology-related crimes. Singapore, being an international financial center as well as a popular tourist resort, has about 6 million visitors a year. Major foreign currencies are accepted in most large department stores and in many smaller outlets. Licensed money-changers are found everywhere. Hence, it is easy for counterfeit currencies to appear in the country. The more common currencies that are targeted for counterfeiting are US dollars, Singapore dollars and Malaysian ringgit. The quality of these counterfeits is extremely good, which is to say that the technology used is advanced.

Credit card fraud is also an area of concern as Singapore becomes a cashless society and more people are using credit cards. However, credit card offences are generally not technology-related.

But, in a few reported cases, the quality of the counterfeit is better than the genuine credit cards. This again is an indication of the sophistication of white-collar criminals. As Singapore goes full swing

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into computerization, problems are expected to arise. Fortunately, computers used in the country are so advanced that they have adequate built-in safeguards. At any rate, there are enough competent investigators to handle cases of this nature should the need arise.

As a major economic power, it is inevitable that Japan would have its share of white-collar and technology-related crimes. In every kind of economic crime, there is a marked tendency towards latency, enlargement, and sophistication, making investigation in this area difficult. Some of the white-collar crimes are fraud committed by company executives, embezzlement, criminal breach of trust, tax evasion, corruption, violations of the Anti-monopoly law, and violations of Security and Exchange Law. In cases of fraud by company executives, especially cases of real-estate transactions, commodities trading and illegal financing by executives of banks, huge amounts of money are involved. In one recent case, it exceeded 100 billion yen. Investigations into such cases are protracted and complex. Considerable expertise and professional knowledge on the part of the investigators are needed. Some of the white-collar crimes are reported long after the commission of the offences, and this creates a problem in the gathering of evidence. A reason for this is that the victim is elderly. It takes time for him to realize that he has been cheated, and investigators are unable to get a true and complete picture of the case from him.

Tax evasion by operators of pachinko parlors, medical practitioners, and real-estate agents should also be another area of concern for investigators. It is difficult to enquire into cases of this type because the daily transactions are in cash. More often than not, the offenders would falsify accounts to avoid detection. Looking into accounts takes time and requires professional accounting knowledge.

Corruption in many instances has no

visible victims, but it erodes public confidence in the fairness of public services, resulting in the discouragement of the law-abiding spirit. Strong public concern and demand for punishment place pressure on investigators to produce swift and effective results, but large organizations or groups involved in the crime have the capacity to destroy or conceal evidence. Evidence linking the delivery of a bribe to top management is hard to come by, let alone proving the fact of delivery.

With rapid economic development criminals are expected to take advantage of sophisticated technology and equipment. Crimes committed with the use of such facilities are difficult to investigate through conventional methods and existing legislation. In Japan, credit cards are widely used, and credit card frauds are for this reason on the increase. Fake cards are emerging and like those found in Singapore, they are of extremely good quality. Obviously, advanced technology is used in producing them. The problem for the Japanese police is that these fake cards are made not in Japan, but in other countries like Hong Kong and Taiwan. Stolen credit cards are also used on a large scale. The belated discovery and police report of the fraud again affects investigation, because by then it would be too difficult to identify the user.

A technology-related crime unique to Japan is the use of forged telephone cards. It has been hard to identify the sources of these cards and to track down the syndicates responsible for making and distributing them. As in drug trafficking, couriers are employed to sell such cards and even if they are arrested, they are not in a position to assist investigators in tracing or identifying the masterminds. Another problem is identifying the users of such cards. They usually act discreetly, and are unlikely to be exposed by witnesses.

Japan could be considered a fully computerized society. Most companies and government agencies are equipped with

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advanced computers. There are instances when unscrupulous computer experts cause illegal electronic transfer of funds from one account to another in banks and financial institutions. Such illegal acts are difficult to detect because the offender covers his tracks expertly on the computer. Investigators are confronted with the need to understand the system, and to have the knowledge to go through the software thoroughly and meticulously. In this context, the technology of computer systems advances so rapidly that often a system becomes obsolete within a year. By the time an investigator is familiar with a system, it has fallen out of use.

In Pakistan, white-collar crimes are largely committed by the middle and upper classes. The more common cases are fraud by individuals, embezzlement, forgery, criminal breach of trust, corruption, bank fraud, fake passports, illegal recruitment and tax evasion.

White-collar crimes within the ambit of the Pakistan Penal Code are investigated by the provincial police. The investigation of these crimes is generally more complex than that of ordinary crimes as the criminals are professional and usually educated. They plan their activities with such thoroughness that detection is difficult, if not impossible. The cases would surface long after the culprits have benefitted from their misdeeds and gone into hiding.

Falsifications of accounts, frauds and forgery in banks, dealings in fake passports and crimes committed by illegal recruitment agencies are typical of offenses against federal laws, and are dealt with by the Federal Investigation Agency (F.I.A.). This is a body of some 3,000 people under the control of the Ministry of Interior, 130 of whom, plus a supporting staff, form the Economic Crime Wing. Usually, in bank fraud cases, it is difficult for investigators to fix responsibility. It is not rare for bank officials to be involved, and they take advantage of bank regulations, creating a complexity that only the

professional training and knowledge of an investigator can uncover.

Criminals use forged foreign passports to enable immigrants to enter the Gulf States, Europe and the United States. The forgery of a passport is a relatively simple operation involving the substitution of photographs. Its discovery often takes place in another country, and this makes it difficult for the investigating agency in Pakistan to obtain information or evidence. Where consenting parties are involved, the crime is hardly reported to the FIA, and witnesses are generally uncooperative.

### C. Drug-related/Organized Crimes

Despite sustained efforts to contain it, the drug menace in the Philippines remains a serious social problem, and a source of major concern to the government. Reports from various treatment and rehabilitation centers disclose that methamphetamine hydrochloride, or "shabu", has emerged as the most used drug, although marijuana continues to be the most frequently seized in police raids and arrests. There are known marijuana plantations scattered in the mountainous areas access to which is made difficult by the lack of transportation and the presence of armed rebel groups. Cultivation sites in these parts of the country are neutralized mainly through airborne operations.

More difficult to detect simply because they call for considerable intelligence and surveillance work, are the existence and operation of laboratories for the manufacture of hashish and "shabu", and the smuggling and distribution of these drugs to the population. Some raids were made which resulted in the confiscation of pots, pans and other laboratory paraphernalia, but from all indications, the local manufacture of drugs continues. The illegal factories are, however, not yet extensive enough to meet the demand.

There has been marked improvement in the methods used by smugglers to bring

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drugs into and out of the country. A significant amount of marijuana seized in Japan and Hong Kong come from the Philippines concealed in shoes, false-bottomed suitcases, wooden statues and frames, and steel pipes. In one particular case, several grams of compressed dried marijuana leaves were kept in imitation sea shells made of fiberglass with a closed base, and painted with a black substance to avoid X-ray detection.

By chance, some of the drugs are found on routine inspection. Without advanced intelligence information, it is almost impossible for customs authorities in the Philippines to stop the flow of the contraband. Some degree of co-operation has been reached with the Hong Kong police and as a result, seizures of "shabu" have been made in the Philippines. The Philippines is not only a ready market for drugs, but a transit point for their distribution to the United States, Europe and other parts of Asia. Bangkok has been identified as a principal source of drugs transitting the Philippines, but considerable amounts are known to have originated from South or Central America. It is believed that the intercepted shipments constitute only a small fraction of the actual trade.

Philippine police contain drug peddling in the streets by means of buy-bust operations, whereby the peddler is identified from reports of informers, and arrested as soon as he sells the drug to an undercover agent and receives the marked money from him. In many cases that reach the court, the accused plead that they have been framed up, that is, falsely implicated by the police for one reason or another. Since it is often the word of the policeman as against that of the accused, the judges, out of a fear of sending an innocent man to jail, look at the buy-bust with skepticism.

Organized crime in the Philippines thrives on the numerous opportunities for illegal activity in the cities. The more enterprising and daring of the street criminals, after a time, form or become members of gangs that

plan robberies systematically and execute them with characteristic viciousness. They are joined by renegades from the military or police service who use their expertise and connections to flout the law. They prey usually on banks and commercial establishments handling large volumes of money and on owners of luxury vehicles. Lately there has been a rash of kidnapping for ransom incidents, where the victims are scions of wealthy Filipino-Chinese families, and the ransom money collected in any single operation runs into millions of pesos.

The traffic in drugs, gambling and other vices come under the control of syndicates which operate like businesses. They are financed by big capital, and in some instances have the protection of government and police officials who are paid to look the other way. The trade in drugs, in particular, has risen to become probably the largest business in the country, with sales reported by sources in the Philippine National Police (PNP) to be in the neighborhood of 30 billion pesos annually. Drug syndicates in the country are well-resourced and highly organized groups with international connections.

In 1992, a total of 942 organized crime groups were identified to be operating nationwide. Forty-one were in kidnapping for ransom activities, of which 12 - 29 % were based in Metro Manila. The PNP Command reported having neutralized 72 groups, broken down as follows : 15 kidnapping, 15 carnapping, and 42 drug-trafficking rings. Several thousand gang members were put under arrest, and a number slain through violent clashes with the police. The figures for crime groups still in existence indicate the need for a more concerted effort against the problem.

Although the drug situation as a phenomenon of modern times is a relatively new concern in China, it has already brought forth rather intractable problems for the police and the government in general.

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International drug traffickers see China not only as a huge profitable market, but as a crucial passage to Hong Kong and other regions.

Drug crimes appear to be acquiring the features of organized crime as criminal groups become more coordinated and take full advantage of newly developed facilities in transportation, communication and weaponry. In the late 1980s, the government initiated some emergency measures to cope with the growing drug problems, but despite the growing concern, the amount of illicit drugs in circulation appears to be on the rise. As reported by the Mainichi Daily News of Japan (Nov. 12, 1993), the National Drug Prevention Committee (NDPC), has registered 250,000 drug users. Of these, 755 have contracted HIV while injecting drugs. During 1991-1992, 22,050 drug-related cases went to trial, with 6,409 kg of heroin and 4,661 kg of opium confiscated. 15,105 people were arrested for illegal drug use with 11,773 punished and 2,220 receiving either life sentences or the death penalty. The greatest number of drug users live in China's southern provinces of Guangxi and Yunnan, areas which border the infamous "Golden Triangle", the region covering the northern parts of Laos, Burma and Thailand known for its opium poppy cultivation. These facts indicate that even as the police are making great strides in ferreting out the contraband, drug trafficking has become a matter of steadily increasing seriousness.

The growth of the drug crime is not matched in many places by any corresponding increase of police resources, making it exceedingly difficult for them to confront drug operations. Correcting obvious deficiencies, the investigation and apprehension of drug peddlers should be a high priority.

Organized criminal groups are becoming the major source of serious crimes in China. Their presence is most gravely felt in the areas of drug trafficking, robbery and prostitution. Some tend to be in specialized

activities such as those who rob and steal on railways and highways, or engage in hooliganism. The few more powerful and influential ones develop into triads, endangering social stability and the lives and properties of citizens. They make an occupation out of crime, follow strict organizational and management rules, and thrive indefinitely on their unlawful gains and profits. Their authority and power rest, ultimately, on terror and violence, supported in large part by a network of alliances with other underworld groups, businessmen and so on. Dictated by the economics of their trade, organized crime also tends to become transnational in character. In Nov. 1989, public security organs made a dramatic crackdown on a large international drug ring with wide contacts in China, and apprehended 51 of their members, some coming from Burma, Hong Kong and Macao. A sizable amount of heroin, in addition to transportation and communications equipment and firearms, were seized from them.

Reaching peaks of occupational efficiency, organized criminals act with considerable planning and use technology to advance their designs and escape detection and apprehension. Robbery and theft gangs are known to have networks for the disposition of stolen goods and to keep their profits out of the reach of the authorities.

The attitude of the Chinese government toward organized crime is, unambiguously and uncompromisingly, to severely curb its growth through an iron-fist policy. Since 1983, the standing committee of the National Peoples Congress has discussed and adopted decisions to improve criminal legislation relative to the suppression of certain acts, namely, acts which seriously endanger public security, the manufacture and distribution of drugs and pornographic materials and the abduction and selling into bondage of women and children. In all these decisions, severe penalties were prescribed.

It must be pointed out, nonetheless, that

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existing methods, practices and facilities for the investigation of organized crime groups have yet to be upgraded to desired levels. This fundamentally affects the quality of the results of the anti-crime campaign.

Since Singapore is an open city, it is vulnerable to outside influences. The liberal attitude of the West towards drug-related criminals and the easy availability of drugs in neighboring countries remain a constant threat to Singapore. The agencies responsible for the suppression and prevention of drug trafficking and drug abuse are the Central Narcotics Bureau and the Police. One of the responsibilities of the Customs and Excise Department, which is under the Ministry of Finance, is to prevent and detect the smuggling of illicit drugs into Singapore at various entry points. Singapore has always been tough on drug-related criminals. Since 1972, 42 convicted drug traffickers have been hanged. 20 were Singaporeans and the rest were foreigners. In its fight against drug-related criminals, Singapore's strategy is aimed at reducing supply and demand. In the area of supply, which will be discussed here, Singapore faces problems from drug traffickers, transiting drug traffickers, ant traffickers (small time), and street-pushers. Some of these problems are:

- 1) Most drug couriers or traffickers work under the orders of syndicate heads and/or financiers. It is extremely difficult to trace these people. Even when traced, it is almost impossible to link them directly to the drugs or the traffickers;

- 2) It is difficult to detect drugs because of the methods employed concealment. Some drugs are concealed in special compartments of bags, luggage and vehicles, strapped to bodies and legs, and hidden in consumer goods such as rice cookers and even picture tubes inside televisions. Some couriers resort to swallowing packets of drugs or concealing them in their private parts;

- 3) New 'players' are emerging in the drug-trafficking scene. There are now

traffickers or couriers from the African continent, in particular Nigeria and Kenya;

- 4) Drug traffickers or couriers use different routes. They have come mainly from Thailand and Malaysia, but recently some of them have come in from Indonesia;

- 5) Drug dealers, especially the ant traffickers, are becoming extremely careful. They only deal with people whom they trust and know.

In Singapore, there is no organized crime gang that comes close to the Japanese Yakuza or the triad society of Hong Kong. The organized gang is usually a loosely formed group of criminals that is syndicated in nature. Offences committed by them are usually theft of motor-vehicles, house-breaking, pickpocketing and shoplifting. Some of the syndicates are linked to secret societies, vice, illegal gambling and drugs. Occasionally they commit serious crimes such as kidnapping for ransom, goldsmith robberies, drug trafficking and even murders.

With its status as an international city, foreign crime syndicates are tempted to do their bit in Singapore. Some of the more common crimes committed by them are pickpocketing and shoplifting. After having committed crimes, they return to their countries only to re-appear in the near future. Arrested criminals who are prohibited from entering Singapore have found their way in by carrying passports with new identities.

The modern secret societies are no longer well-organized, being loosely-knit street corner gangs who are likely to be from the same neighborhood or school. They have very little or no links with traditional secret societies, but retain the old triad identities. There are altogether seven groups, namely, "08", "18", "24", "36", "108", "Independent" and the "Ji It" Groups. Within each group are several secret society gangs. Their main criminal activities are intimidation, assaults, settlement talks and gang-fights (rioting) which arise out of incidents or disputes over

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trivial matters. Occasionally, the gang fights lead to murder.

The growing use of sophisticated technology and equipment by organized gambling syndicates to avoid detection is also posing some problems to the Singapore Police. Some of the methods employed are the use of close-circuit television to monitor movements and raids of the police, reinforced barriers at entry points to delay and frustrate enforcement action, soluble paper to destroy evidence quickly, and fax machines to communicate with accomplices.

After 1985, stimulant drug offenders in Japan seemed to be on the decline. The number, though, still stood high at 21,452 in 1989 and 19,231 in 1990. In 1991, there was a significant decrease to 16,330. The percentage of the infamous Yakuza or Boryokudan members among stimulant drug offenders was between 42.8% to 45.2% for the years 1987 - 1991. Most of the stimulant drugs are smuggled from Taiwan, the Philippines, and China. The National Police Agency estimated that in 1989 the illegal proceeds from drug trafficking of the Boryokudan was about 35% of a total annual income of approximately ¥1.3 trillion yen (US\$10 billion). Due to the relentless efforts of the law enforcement agencies in Japan, a substantial amount of illicit drugs has been seized. The breakdown for the years 1989 to 1991 is shown in the table below.

Japan shares common problems with other countries in the fight against drug traffickers. Some of these are:

a. Similar to the situation in the Philippines and Singapore, drug traffickers

in Japan are coming up with more and more ingenious ways of concealing their illicit drugs.

b. Syndicate heads or financiers do not involve themselves personally in the trafficking, but engage couriers through third persons. In almost all arrested cases, the couriers do not know who their big bosses are. In such circumstances, it is extremely difficult for investigators to gather sufficient evidence to prosecute the heads and financiers. There is no legislation in Japan to authorize detention without trial unlike in Malaysia, Singapore or Pakistan.

c. Witnesses are difficult to secure, as many people still fear reprisals from members of the Boryokudan who are likely to resort to violence.

d. Like some countries, Japan has laws against laundering of the proceeds from illicit drugs. But this is a rather new area where investigation is extremely difficult, being protracted and complex.

Assets, such as buildings, real estate and legitimate businesses are not readily traceable to ill-gotten wealth.

In the area of organized crime, the most serious problem for law enforcement agencies in Japan is the Boryokudan, which has over the years established itself as a part, though a much unwanted part, of society. Boryokudan members have become so integrated into society that it is extremely difficult to weed them out. In 1991, they are estimated to be numbered about 91,000, spread out into 3,300 different groups. The percentage of major crimes committed by them between 1987-1991 are as follows:

### The Amount of Seized Drugs

Year	Heroin	LSD	Cocaine	Opium	Cannabis	Stimulant
1980	927,669g	280t	13,727g	-	454,872g	199.6kg
1990	9,371g	575t	68,800g	8g	211,102g	249.0kg
1991	25,088g	130,422t	22,501g	10,609g	249,297g	104.2kg

kg: kilograms, g: grams, t:tablets

Source : White Paper on Crime in Japan 1992

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**The Percentage of Boryokudan members  
among Penal Code Offenders  
(1987 - 1991))**

Total	6.0 - 7.4
Homicide	22.9 - 29.9
Robbery	15.9 - 22.9
Bodily injury	22.4 - 24.1
Intimidation	58.8 - 65.2
Rape	15.0 - 20.9
Gambling	35.4 - 50.6

**The Percentage of Boryokudan members  
among Special Law Offenders  
(1987 - 1991)**

Total	13.4 - 16.9
Firearms & swords	30.2 - 32.2
Stimulant drugs	42.8 - 45.2
Horse Race Law	45.9 - 61.8
Bicycle Race Law	41.0 - 70.7

**Inter-gang Conflicts  
(including gang fights)  
(1987 - 1991)**

Death	5 - 18
Injury	10 - 40
Firearms	47 - 164 (918 - 1,540 firearms seized)

Source : White Paper on Crime in Japan 1992

Law enforcement agencies see these difficulties in coping with the Boryokudan threat:

a. There is a strong bond of brotherhood among Boryokudan members. They are not disposed to reveal the identities of fellow members and their involvements in crime. Members are so faithful and loyal to their organizations that to betray one another is rare. It is well-known that the Boryokudan severely punishes anyone of them who does

so. He is either killed, or his finger severed. Interrogators need to have a high level of skill, experience and patience in dealing with them.

b. Today's Boryokudan organizations are camouflaging their operations. On the surface, they appear to be like any other businesses, but behind the legal facade, they conduct illegal activities, such as, gambling, bookmaking, extortion, prostitution, and trafficking in firearms, swords, and stimulant drugs.

c. Boryokudan groups are extending their criminal influence to other countries such as the Philippines, Thailand, Taiwan and the U.S.A. They commit offences in other countries, but orders are issued from Japan. Victims and rival gang members are assaulted or murdered abroad for disputes occurring in Japan. It is difficult to investigate these acts because different countries and laws are involved.

d. Witnesses in Boryokudan-related crimes are often fearful, and therefore reluctant to assist investigators, let alone testify against the Boryokudan. Inadequate laws on the protection of witnesses contribute to this reluctance of the witnesses.

Today in Pakistan, the mother of almost all organized crimes is illicit drug trafficking. Pakistan is located in the narcotics-producing region of Southwest Asia known as the Golden Crescent. Before 1979, it was legal to produce opium gum obtained from the licensed poppy grown in the North Western Frontier Province (NWFP). The production was hardly enough, though, to meet domestic, scientific, medical and quasi-medical requirements.

The clandestine manufacturing of opiates with morphine sulphate started around early 1975. In that year, 2 morphine laboratories were detected and dismantled in N.W.F.P. Heroin manufacturing was detected in Burma and Thailand as early as 1970 and 1971 in an area known as the Golden Triangle, and in the eastern part of Iran in 1974. Following the Iranian Fundamentalist

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Islamic Revolution in 1979, the stringent anti-narcotics measures squeezed the opportunities of clandestine heroin manufacturing. In the same year the poppy crop in the Golden Triangle was adversely affected by climatic conditions. There was a resulting decline in the heroin supply, and the prices of the product rose to an all-time high. Pakistan, however, had a bumper poppy crop of 800 tons. In December 1979, Russia invaded Afghanistan, diverting the opium traffic to the eastern borders of Afghanistan and causing an influx of 3 million Afghan refugees into the tribal areas of Pakistan.

Under these circumstances, the tribal belt between Pakistan and Afghanistan offered the most suitable site for the heroin manufacturers.

The heroin laboratory owners, mostly Pakistani and Afghan tribesman, are maintaining operations in the tribal areas of N.W.F.P. These places are strategically important and politically sensitive, because of their close proximity to the Afghan and former Soviet borders and their special status in the country, as they continue to be largely administered by tribal customs and traditions.

The demand for heroin in the west and reduction of production in the other parts of the world have encouraged heroin production in Pakistan. The drugs are smuggled out of the country by road through Iran and India and by air and sea from Karachi. The traffickers are also using the Gulf States as

transit points to Europe and other places. They are well-organized and have close links with the drug rings of Western Europe, India, the Gulf States, Canada, and the United States. Heroin brought out of Pakistan is concealed in legitimate products. It is odorless, and therefore less susceptible to detection, easy to store and transport, and compared to other drugs of the same bulk and weight, assures a much higher profit from a stable market.

The Government of Pakistan is acutely aware of the magnitude of the problem and its impact on the nation and the international community. In 1973, the Pakistan Narcotics Control Board was constituted, with duties relating to all aspects of the narcotics situation, from law enforcement activities to measures of prevention, education and rehabilitation of drug-dependant persons to coordinating and advising national and international agencies. A number of law enforcement agencies are also engaged in the anti-drug drive, namely Pakistan customs, provincial police force, Pakistan rangers, coast guards, the Excise and Taxation Department and the Airport Security Force.

The anti-drug laws enacted in the country prior to 1979 were not sufficient to deal with the distribution and use of dangerous drugs. In order to curb this menace, the government promulgated the Prohibition Enforcement of Hadd Order 1979, an Islamic law that prohibits the manufacture, use and trafficking of all kinds of toxicants including

Year	Persons Arrested in Pakistan	Heroin Seized in Pakistan (kg)	Heroin Seized Worldwide (kg)
1981	77	431	5,228
1982	378	1,708	5,395
1983	1,117	3,377	9,599
1984	2,913	2,332	6,862

Source : Menace of Opiate Abuse in Pakistan by MALIK MUHAMMAD ASHRAF PSP, QPM

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alcohol. This law was amended in December 1983 through Presidential order of 12/1983 and 33/1983 providing stiffer penalty for heroin and coca traffickers and financiers. Presently, the possession of heroin exceeding 10 grams and opium of one kilogram or more, and trafficking or financing of the trafficking of these drugs are punished with life sentence (25 years) and unlimited fine.

After the promulgation of H.O.1979, law enforcement agencies took concerted efforts to bring drug traffickers to justice. As a result, an increasing number of drug traffickers were arrested and huge amounts of heroin were taken from them, constituting about one-third of the total heroin seized worldwide, as shown in the table on page 252:

The control of heroin production is more complicated. Heroin, as mentioned, is manufactured in the inaccessible and politically sensitive tribal areas between Pakistan and Afghanistan, where improvised mobile laboratories utilize both local and Afghan opium. The problems of law enforcement here are compounded by the political situation arising from the influx of millions of Afghan refugees. Within the law enforcement structure itself, inadequate resources, the higher fallibility of anti-narcotics personnel to financial inducement, the lack of coordination among different agencies, and legal and procedural bottlenecks have restricted performance to less than optimal levels.

### **III. How to Cope With The Problems (Countermeasures)**

To be able to effectively detect and investigate urban crimes, the investigator must have the capabilities to respond to them in a professional manner. The challenges of urban crime must be met with a commensurate improvement of police resources and the upgrading of the skills of the criminal investigator. Effective countermeasures

must be employed to have urban criminals arrested promptly and dealt with expeditiously. Above all, significant steps must be taken to get the public involved in the task of community-wide crime prevention activities.

Some of the effective countermeasures discussed herein are already implemented successfully in some countries, or are in the planning stages in others. Countries who need improved strategies, they are encouraged to employ these measures wherever applicable and feasible.

#### *A. Manpower*

The number of personnel in the investigation department should be raised according to the needs of the day. It is recommended that a careful and fair recruitment process be adopted to select those with better academic qualification and who possess good positive personal qualities and have a flair for investigative work.

Salaries of officers of the investigative agencies should be raised so that they are not tempted by corruption, but encouraged to do their jobs honestly and with dedication. In those countries where investigators are already enjoying high salaries, more recognition should be given so that there are motivation, incentives, and self-satisfaction for them.

There must be efficient manpower utilization in that those who are good in crime work are deployed to investigative work. To ensure that there is continuity in investigation, they should not be transferred frequently.

#### *B. Training*

Full-time criminal investigators should receive good basic training. The training should be aimed at providing them with a sound basic knowledge with a view to prepare them to work independently, professionally and to make prompt and good decisions and

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judgements.

In coping with these difficulties, it may be well to upgrade the skills of police investigators on a periodic basis. At a time when modernization and rapid urbanization bring to fore more problems than can be handled, emphasis must be placed on ongoing programmes for investigators. Although no crime situations are ever the same, investigative manuals containing guidelines for every conceivable investigative situation should be drawn up and periodically reviewed. They should be disseminated to investigators with the opportunity for them to give feedback on problems encountered by them in implementing the guidelines.

Investigators must constantly upgrade their skills and knowledge. In complex cases like white-collar crimes, investigators must know the methods of the various types of business transactions, tradings, business practices, terminologies and the mechanism of operations, etc. The investigators must also familiarize themselves with the various types of the latest modus operandi.

As part of the training programme, investigators must be sent for further training to countries which may have developed a certain expertise against such problems. Investigation courses and seminars, both local and overseas, are extremely beneficial in upgrading the skills and knowledge of investigators.

### *C. Technologies*

In a time of modernization and rapid urbanization where advanced technology is used, the wide implementation of computer technology by some investigative agencies has augmented and enhanced capabilities to meet the challenges posed by urban criminals.

Crime investigators need to stay ahead of criminals, and they should be provided with modern methods and scientific equipment. The Automatic Fingerprint Investigation System (AFIS) will be a tremendous boost to investigative agencies because thousands of

fingerprints can be compared within minutes to those lifted at a scene of crime. This will not only save the agencies many manhours, but will ensure that the culprits are identified speedily.

The polygraph (lie detector) will enable the investigator to know whether a suspect is lying or not, and thus ascertain whether he has the right man before him. A modern unit, such as in an institute for science and forensic medicine, where DNA profiling, among other scientific technologies, is available, will be of immense aid to investigators.

The latest detecting gadgets, such as ultraviolet machine and credit authorization terminal (CAT) for early detection of fake currency notes and credit cards will go a long way in preventing crimes and even apprehending the culprits. Such state-of-the-art machines will eventually save companies or even the States millions of pesos, yuan, dollars, yen or rupees, whatever the case may be.

The One-Way Mirror Identification Room, as a means of protecting victims and witnesses, is another good aid to crime investigators. Such a modern facility will enable witnesses and victims in confrontational crime to overcome their fear of identifying suspects. Unlike the conventional method, they no longer have to face the culprits directly, but behind a one-way mirror.

Installation of Instant Urine Test (IUT) machines for instant testing and results of suspected drug offenders is another advanced technology which is a great asset to drug enforcement agencies. With the IUT, they are able to identify drug abusers instantly, and initiate appropriate action.

### *D. Special Units*

The immediate response to the increase in criminal activities of organized crime is the creation of special or ad hoc units to go after these criminals so that they can produce desired results and win the confidence of the public. While there are some such units in

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place in most countries, more serious and complex cases, for example, technology-related cases and computer crimes, syndicated crimes, complicated white-collar crimes, murders, firearm robberies, corruption case and drug trafficking need special units of their own to enhance investigative functions and specialization. Toward this end, the practice in some countries, like Singapore, of creating special investigative units, with the requisite manpower, equipment and logistics, should be emulated.

An interpreters' unit with a better interpreting system and a sufficient number of competent interpreters must be available to assist investigators. This unit will greatly enable investigators to deal with foreigners, be they victims, witnesses or accused persons.

The upgrading of investigators' knowledge on the traditions and cultures of foreigners is also necessary to give them a better understanding of their subject.

There should be a task force to handle 'left-overs' by officers who are transferred, resign or are on long courses. This will not only lighten the workload of officers who are already bogged down by their own cases, but ensure that such cases are not neglected or delayed.

In specific matters which require coordination of several investigators, such as in the examination of a crime scene, it is advisable to create special teams or units. Setting up of a specialized 'scene of crime' unit to assist investigators in gathering evidence, packaging exhibits and preserving them will not only prevent contamination of exhibits, but will enhance the professionalism of investigative agencies.

### *E. Intelligence*

In investigation, considerable intelligence work is required. A network of sources and informants must be in place to help the police gather more information on the profile of criminals, their modus operandi, movements and connections. In maintaining

all these countermeasures, investigative agencies must have adequate and reliable resources at their disposal. Hence, a modern and efficient intelligence network to streamline information is essential.

There must also be some form of undercover network in investigation to ensure effectiveness in the fight against crime, especially, in drug-related crimes. The use of undercover tactics of penetration is highly successful and effective in many countries, and therefore should not be ignored.

### *F. Legislation*

Tough and adequate laws, effective legislation and timely amendments to existing legislation to deal with the new trends in urban crimes, ensure that investigative agencies maintain their effectiveness. Legislation must provide sufficient teeth for the investigation of gangs and crime syndicates.

For a start, basic arrest powers of the police under the common law should be restored in some countries, if the legitimate objectives of investigation are to be achieved. In response to objections that opportunities for police abuses will increase, it should be noted that in those countries, the police has only a maximum of 36 hours from arrest for serious offences to filing a case in court. Prior to the filing of the case, the suspect may post bail, a right given to him by law.

In some countries, capital punishment is the penalty for offences such as murders, firearm robberies where a gun is used, drug trafficking and the importing/exporting and manufacturing of controlled drugs. There are also mandatory caning and minimal jail sentences for other serious crimes. Preventive Detention Law (Detention without trial) such as the Criminal Law (Temporary Provisions) Act which is normally used against secret society members, heads or financiers in drug-related cases, when it is difficult to link them to their crime evidence-wise, are working effectively

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and remarkably as a deterrent measure.

While money laundering laws were passed in some countries, in others, there has yet to be established an efficient system of tracing drug profits and confiscating the ill-gotten assets of drug traffickers. If necessary, effective legislative or administrative measures should be adopted to equip investigative agencies with the requisite legal authority to pursue these profits and assets. In this way, the financial inducements of the drug trade will be greatly reduced.

If necessary, legislation should be passed to legalize strategies requiring multi-agency participation, such as controlled deliveries, wire-tapping and other undercover operations to expose unlawful transactions not otherwise amenable to conventional investigative techniques.

In countries where there is illegal weapons manufacturing, it is time for the government to have a clear-cut policy on them. Until this is done, the making of guns will continue to thrive. A no-nonsense campaign, supported by tough and effective legislation, to stop the operations of the factories is the only acceptable alternative to uphold the integrity of the law.

In some crimes, like drug trafficking and gambling in a common gaming house, the burden of proof is on the defendant. It will be a big boost to investigators if such burden of proof is shifted to the defendant in some other cases, for example in the prosecution of corruption cases, where the possession of wealth disproportionate to one's legitimate sources may be the basis of a legal presumption that the wealth is ill-gotten, unless the defendant provides a satisfactory account.

### *G. Operations*

The focus of investigation should be on stopping illegal operations at the earliest stages possible, considering the deleterious effect that some crimes such as massive illegal gambling, corruption and distribution of fake currency, would have on the economy.

Frequent, well-planned and well-coordinated raids must be mounted to neutralize these illegal operations. Relentless raids should be continued without compromise, and offenders should be brought to book expeditiously. Justice must not only be done, but must be seen done. Illegal gambling dens, gang lands, weapons manufacturing premises, drug haunts and plantations, and other undesired areas must be uprooted and destroyed unrelentingly.

There must be strict entry and exit control in every country. Known foreign criminals should not be permitted to enter the country. Convicted criminals who are foreigners should be served with Prohibition Entry Order (PEO) and deported immediately after serving time in local prisons. Local criminals should not be issued passports.

There should also be sufficient investigative aids at entry and exit points. On-line Computer Screening of all suspicious and dubious characters must be made. IUT machines should be installed for quick and easy testing of drug suspects. Use of narcotics-detecting dogs to sniff concealed drugs is essential. This is a highly successful method used by most drug agencies and customs departments.

### *H. Crime Prevention and Education Programme*

There must be crime prevention and education programmes in every country. Nationwide campaigns to alert the community of heinous crimes and the harmfulness of drugs must be held. Through these programmes, the legal implications and consequences of heinous crimes and drug abuse, and information on crimes, including drug-trafficking and crime trends are disseminated to the masses, especially the illiterate. The programmes should extend to schools so as to provide teachers and students with the required information and to increase the awareness of the dangers of crimes. The citizens should take active part in crime prevention and anti-drug efforts. In this

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manner, the government will be strengthening control over deviant behaviour. Publicity campaigns, exhibitions, talks and lectures, television shows and seminars should be widely held, and pamphlets and brochures on crimes should be widely distributed to all levels of society.

### *I. Co-operation*

Considering the international features of many organized crime groups, it must be acknowledged that no country by itself can be effective in neutralizing them. This is particularly true in drugs and gun-smuggling situations which confront many countries with which common borders are shared. What is needed is a transnational approach on the scale that can match the resources and enterprise of the syndicates. Some steps may be taken along these lines which will, in particular, make the investigation of international crime operations more effective. It is important for nations having problems with the same crime groups to share their information on and experiences with these groups. Co-operation in the collection and exchange of evidence against them as well as in plans to stop or curtail their movements across borders, must be supported.

Investigative agencies should work closely with their counterparts, regionally and internationally. Every country should be committed to the United Nations committees, for example, the United Nations Division of Narcotic Drugs and the International Criminal Police Organization (Interpol). The sharing of problems and expertise will benefit all countries. International conferences, such as crime prevention courses at UNAFEI and the Multinational Asia Organized Crime Conference, held in San Francisco (USA) in 1991, and in Japan in 1993, should be held on a more regular basis and opened to more countries.

To prevent criminals involved in illicit arms-dealing, drug trafficking, white-collar crimes like international fraud and organized criminal gangs, from crossing borders and

escaping punishment, there must be international co-operation through extradition. Such procedures should be made simpler and extended to as many countries as possible. The Model Treaty on Extradition which was adopted by the General Assembly of the United Nations in 1991 as a framework to assist countries negotiating and conducting bilateral extradition agreements, is a promising start.

In the local context, there must be mutual assistance and co-operation among various investigative agencies in order to ensure effective countermeasures against urban criminals. The availability of facilities of and information from, other investigative and regulatory agencies within a country enhances investigative capabilities. Such co-operation and coordination should be encouraged in all countries.

There is also a need for a better working relationship and coordination between investigators and prosecutors in the presentation of cases in court. A considerable part of this burden falls on the shoulders of an investigator's immediate superiors. It is not enough that statements of witnesses are taken and the suspect identified and arrested. Statements must be of good quality and should cover all facts surrounding the circumstances of the case. Until the accused is prosecuted and convicted, investigators must not consider the case as closed. Thus, the superior officer should take steps to monitor the case and supervise the involvement of the investigator in the trial process itself. The sense of responsibility of the investigator and even that of the prosecutor will be enhanced. Investigators should be motivated to find pride and satisfaction in their work.

Close links with private and public organizations, such as credit card companies, Retailers Associations, Hotel Associations and grass-roots organizations, for the sharing of problems and information, are becoming increasingly important for investigators. Investigative agen-

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cies should have representatives in their committees, not only to gather valuable information, but also to act as crime prevention advisers.

It has also been suggested that information would be disseminated to the public on the activities of agencies tasked with the regulation of trade and business practices. A greater thrust in this direction is needed. There should be a greater monitoring of the activities of these enterprises by government regulatory agencies. Equally important, the public must also be made familiar with the procedure of filing complaints to the relevant offices in the event that they are victims of crimes.

Community-policing is the order of the day. Law enforcement agencies including investigative agencies the world over, must rely on public co-operation in one way or another. With efficiency and modern technology, supported by sound and practical community-policing policies, law enforcement agencies will prevail over urban crimes.

### IV. How to Ensure Public Co-operation

It is a truism that peacekeeping should be the concern of every person, and that the public should become more involved in crime control activities in order to assist the police in preventing crime and bringing criminal offenders to justice.

Urbanization has made it increasingly difficult for investigating agencies to obtain public trust and co-operation. Urban areas are becoming anonymous in nature. Urban dwellers are indifferent to one other and know little of their neighbors, if anything at all. In such a situation, people are either too unconcerned or reluctant to speak to investigators, and information gathering becomes rather difficult.

Victims and witnesses are usually asked to co-operate with investigations and to testify in court. But they are too preoccupied with

their professions and family commitments to be willing to do this. There is a relatively weak relationship between the police and the community in general that explain why urban dwellers does not sacrifice their time for investigative agencies.

In most countries, the reimbursement of expenses of witnesses is inadequate, and it takes considerable time for the court to process such a claim. In addition, witnesses are summoned unnecessarily to court. If they have to be summoned, they should not be made to wait for long periods to give their evidence. Frequent court postponements and adjournments will only make witnesses lose their interest and confidence in the case. It should be borne in mind that each time a prosecution witness appears in court, he is exposing himself to the hazards of retaliation of the criminal offender; yet their refusal of citizens to come forward to bring charges or to testify against offenders because they are afraid to do so, or are under financial or time constraints, is a significant factor in the miscarriage of justice. Without their co-operation, the police would be hard-pressed in investigating crimes, and the prosecutor in prosecuting the offenders. It is necessary to assist reluctant crime victims and witnesses. In the first instance, we must try to reach out to the people instead of expecting them to come forward. There must be ways to make it easier for the public to make a report and furnish information confidentially.

Some strategies implemented have achieved success in bringing about public co-operation.

#### A. *Clean and Honest Investigative Agencies*

In order for the public to come forward to co-operate with investigative agencies, there must be mutual respect between them. Respect should not be demanded or taken for granted, but should be earned. Investigators must be seen to be professional in their approach, clean and honest in their endeavors, and kind and compassionate.

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Abuse of power, rudeness and brutality, arrogance, graft and corruption, improper handling of complaints, unlawful and ineffective investigation and even delay of investigation can only be detrimental to the reputation of the agencies.

### *B. Community Policing*

Community policing is strongly encouraged and recommended because it has proved to enhance public trust and co-operation. It narrows the physical and psychological barriers between the police and the community. It ultimately garners public support, and involves the community in the fight against crime. Community policemen should be more operationally attuned to the ground situation so that they can identify and eradicate the cause of the problems instead of the symptoms.

Community policing means foot, bicycle and motorcycle patrol, house visits and performance of non-traditional police duties which lead to more contact and closer rapport between the police and the community. The Japanese koban system and Singapore system of Neighbourhood Police Post (NPP) are good examples of community policing. Police boxes or posts are strategically located in populated areas to bring police services and facilities to the doorsteps of the community.

Police should also be represented in grassroots organizations like resident committees and community committees, as they function as a conduit through which citizen and police link up to protect the peace and tranquility in the areas. The police have been able to counteract criminal activities by means of the monitoring and other information-gathering work of these groups. Police representatives not only act as security advisers but also present themselves as friends of the community.

Crime prevention activities should be held frequently with the full participation of these organizations and the community in which prevailing problems, recent criminal cases

and new crime trends in the neighborhood are highlighted. Community policemen should be well-informed of the current crime situation, and must be at hand to offer crime prevention advice as well as receive information from the residents for appropriate follow-up action.

### *C. Protection of Victims and Witnesses*

Victims and witnesses in criminal cases must not only be protected but must have the confidence that they are well protected. This is especially so where they are likely to expose or offend organized gangs, such as, the Boryokudan who will not hesitate to resort to violence or reprisal against them.

In some countries there is security protection for victims and witnesses, such as housing facilities and relocation opportunities, until the threat to their safety disappears or is reduced to an acceptable level.

Information given to the police should be kept confidential. There must be legislation to prevent the courts from compelling informants to appear and testify in court. Their lives should not be unnecessarily put in jeopardy by the fact of their co-operation with the police. In this context, a police hotline with an easily remembered number may be made widely known to all.

Another measure that encourages public co-operation is the granting of some financial indemnity to crime victims who may not have been able to secure a redress of grievances through regular channels, because the offenders are either unidentified or are at large. Another service that the police can provide is the intensifying of police patrol in the vicinity of the residence of the threatened persons. If need be, a 24-hour protection service can be given.

Investigative agencies or the courts should warn accused persons in no uncertain terms to desist from harassing or intimidating victims or witnesses. Severe punishment should be meted out to those who defy such orders with maximum publicity given to deter like-minded persons.

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### V. Conclusion

From the discussions and exchange of views that attended the preparations of this report, it has become obvious that criminal investigation is a task that does not lend itself to easy solutions. We have come up with a set of recommendations in the light of conditions and problems that affect the participating countries in this course, but we are optimistic enough to believe that they have a wider range of application. Crime, as we see it, creates the same basic problems everywhere, and for this reason crime prevention and investigation measures follow the same or similar lines of approach, irrespective of nationality or ideology.

In the first place, we have learned that it is never a wise policy to be nonchalant about crime and the conditions on which it thrives. To be resolute in the defense of social order is a high priority concern that needs to be fostered in the spirits and acts of governments and peoples, if we are to realize the vision of free and safe societies by the next century. In this perspective, we see crime investigation to be in the forefront of our defenses against crime, and it will be necessary to strengthen and upgrade its facilities and capabilities for it to cope with modern developments.

The time has come, in particular, for nations and governments to join hands, in a solid co-operative effort to stop the alliance of drugs and organized crime from destroying the lives of countless people. Separately, nothing much can be done, but through international co-operation and assistance, governments will achieve permanent gains against this menace.

The support of the citizenry, above all, must be the bedrock of crime prevention and control programs. During early times, every member of society had the duty to act as a keeper of the peace.

The demands of modern social life have made this principle of action even more relevant. The community must be viewed as

part and parcel of the criminal justice system, together with the police, prosecutors, courts and corrections, bringing into focus an entire society's effort to combat crime.

In making these recommendations, we do not pretend to have the final say. We consider our role in this course as that of a catalyst to encourage further research along the lines we have indicated. Learning is a never-ending process. It is commendable that UNAFEI has introduced the subject of urban crime and its investigation into its training courses, and we are fortunate to be among the first to be chosen to explore this difficult but stimulating field of study.

**Session 3: Comparative Study of the Administration of Juvenile Justice Systems in some Countries of Asia, Africa, Oceania and South America**

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## Introduction

The objective of this paper is to study the Administration of the Juvenile Justice Systems in the thirteen countries listed above. Its aim is to describe the basic structure of the different systems and follow the sequence of events from the allegation against a juvenile to the final stages of disposal and rehabilitation.

In addition, the paper presents an analysis of the different systems by using the Beijing Rules(1) as a model. The Beijing Rules had its humble beginnings here at UNAFEI where it was first put as a draft in 1981.

The Beijing Rules being a resolution of the General Assembly does not have any binding legal effect on the member states. However, all member countries are encouraged to integrate into their own legal systems the minimum standards covered by the Rules. It is therefore obvious that since these Rules have only just been passed a lot of countries may be in a period of reviewing and changing their own national legal systems to accommodate the new Rules.

The group is aware that there are other United Nations Resolutions and Conventions on Children which are related to the topic of juvenile justice systems, however we will only look at the Beijing Rules in this study.

In achieving our objective the group members were each allocated some countries to study and report back to the group. The group then compiled all the research material on each country and discussed the differences. The group also studied the Beijing Rules. At the end of the research a group analysis and evaluation was carried out and the report was compiled.

The report should not be considered the official view of the countries studied.

### Juvenile Justice System in Thirteen Countries

## 1. Bangladesh

### *Main features of the country*

Bangladesh is situated in the Indian Sub-continent. The country's area is about 148,393 square kilometers but its population is now estimated to be about 110 million. Persons of 15 to 25 years age group make up about 21 per cent of the population.

### *Legal measures to deal with juvenile delinquency*

An act titled "The Children Act" was passed in the country in 1974 to ensure the general welfare of the children and to deal with the crimes committed by the children. According to this Act "child" means a person under the age of sixteen years. According to the provision of the Bangladesh Penal Code a child up to the age of 7(seven) years is immune from any criminal responsibility.

Offences committed by children aged over seven years but below sixteen years are treated as juvenile offences. Status offences of children, like disobedience to parents, teachers, and superiors, and running away from home or school and association with criminals, are also dealt with by this Act. This Act has also provided for the measures for taking care and ensuring welfare of the abandoned, destitute and beggar children who may turn as criminals in course of time.

The Children Act which is now in force in Bangladesh provides for systems of trial, custody, protection, treatment and reformation of the juvenile offenders. As is required by this Act a juvenile court, a remand home and a correctional institute(National Institute for Correctional Services) were set up at Tongi near Dhaka City in 1978. The juvenile court has now jurisdiction throughout the whole country. One full-time First Class Magistrate remains detailed for the court. There is a Probation Officer for the National Correctional Institute. Besides this, there

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are 22 other Probation Officers for the twenty-two greater districts of the country.

In Bangladesh Islamic laws are applied in respect to marriage. In the country a person is eligible to government service and right to franchise when he is 18 years old. Military service is not compulsory. Education up to primary level has been made compulsory.

### *Investigation and Prosecution*

Cases on juvenile crimes may be recorded in a police station, a Magistrate Court or Juvenile Court. When a crime committed by a young person is reported to the police or court the parents or the guardian(s) and the Probation Officer are to be immediately informed of this. The police primarily investigate into the juvenile cases. The police cases may be heard and tried in a First Class Magistrate court but the cases on crimes less grave in nature are generally referred to the Juvenile Court. Many of the juvenile cases (especially petty offences) do not take long because these are compromised or tried by the village committees or "union parishads" which are centuries-old institutions in the country.

When a person apparently under the age of sixteen years is arrested on charge of a non-bailable offence and cannot be brought forthwith (within 24 hours) before a court, the officer-in-charge of the concerned police station may release him on bail. If the child offender cannot be released the officer-in-charge of the police station causes him to be detained in a remand home or a place of safety until he can be brought before a court. If the lower court does not grant bail the offender may apply to higher court for bail. Cases on heinous offences like murder, robbery, rape, and others committed by the youthful offenders are committed to the Sessions Judges court for trial.

### *Trial Procedure*

A child offender cannot be tried jointly with adult offenders. The court must split

up the charges. The trial must be held in a separate building or room. No outsiders can remain present at the place of trial. The parents or competent legal guardians of the offender may remain present. But if the court feels it necessary that the parents or guardians also should remain outside then it can pass an order likewise. No publicity in the press is allowed in respect of this trial. The Public Prosecutor pleads the police cases in the Sessions Judges court. The offender may engage a lawyer to defend him.

The Magistrate of the Juvenile Court tries the cases referred to his court by the police stations and other courts. At the time of hearing of the police cases one police officer from the concerned police station remains present to prosecute the case. The offender may engage a lawyer. His parents or guardians also may remain present.

When a child goes beyond his parental control they may file a case to the Juvenile court seeking an appropriate measure. The Magistrate after hearing the parents/guardians may pass an order to keep the child in the Remand Home and fix a date for hearing. Before that, the Probation Officer holds an enquiry, examines the child and submits a report to the court. If the court is satisfied on enquiry that it is expedient to deal with the child, it may order the child to be committed to the correctional institute or an approved home for a period not exceeding three years.

A Remand Home may be termed as an observation center. The juvenile offender is kept there for an interim period between the taking up of the case for hearing and disposing of the case. During this detention period the Probation Officer interrogates the offender and makes enquiries about his antecedent report.

### *Restriction on Punishment of Child Offender*

The Children Act provides that no child offender shall be sentenced to death, transportation (which is now 20 years imprisonment) or imprisonment. But if

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the offence is found to be very serious in nature and if it is found that the offender is of a depraved nature the court may sentence the child to imprisonment. A youthful offender sentenced to imprisonment cannot be allowed to mix with the adult prisoners. Also, the court may order him to be committed to the Correctional Institute where he is detained for a period not less than two and not more than 10 years, but not in any case extending beyond the time when the child will attain the age of 18 years.

At the trial of a juvenile offender the court has got to take into consideration the mental growth, environmental condition, social and family background of the offender.

For less serious offences the courts generally discharge the child offenders after due admonition, release on probation of good conduct or commit to the care of their parents, or guardians or other adult relatives on execution of bonds.

When a child is convicted of an offence punishable with fine the court may order the fine to be paid by his parents or guardians. In the judgement orders, the courts do not use the words "conviction" or "sentenced" in relation to children or youthful offenders. The punishment suffered by a child offender does not affect his future career in respect of service or employment. The right to appeal is guaranteed.

### *National Correctional Institute*

The main functions of this Institute are to mould the character of the youthful offenders through motivation and correct guidance. In this institute the inmates are given general education up to Secondary level, religious education, physical and vocational training. The juvenile offenders are generally kept here until they are 18 years old. If a juvenile offender sentenced with lengthy term of imprisonment shows improvement in his character and behavior when he attains the age of 18 years he may be released on a President's order.

The government may, at any time, order a child or youthful offender to be discharged from a certified institute or approved home, either absolutely or on such condition as the government may specify.

Parole and probation is also available and may be implemented on the sanction of the authority holding custody of the juvenile. This arrangement may be canceled if the conditions are breached. A medical clinic has also been set up in Dhaka for treatment of the drug-addicted juveniles. There are separate arrangements in some other private medical clinics also for treatment of the drug-addicted young persons. Five more correctional institutes have been planned for the near future.

### **References**

1. The Penal Code Of Bangladesh, 1860.
2. The Children Act Of Bangladesh, 1974.

## **2. Bolivia**

### *Features*

Bolivia's territory has an extension of 1,098,581 square kilometers. According to the 1992 National Census the total population is 6,420,792 inhabitants. People under 15 years old represent 42 percent of the population.

### *General concepts on juveniles*

The new Minor's Code, dated December 18 1993, creates the Minor's Courts, which are still in the process of being implemented. The Minor's Code stipulates that the newly created Minor's Courts are to be created in a maximum period of 120 days and in the meantime the Minors Tutelar Tribunal shall continue with the jurisdiction over minors cases.

The Minor's Code regulates the protection of the minor, the best development of his personality and his integration in the best physical, moral and intellectual conditions to the normal life.

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The Minor's Code does not provide a definition of Juvenile or Juvenile Delinquency. It does not define status offence but article 177 states that a minor is considered in a personal and social situation of risk when he or she:

- a) Does not have a known home or ways of subsistence
- b) Does not receive or is prevented from receiving basic education according to his age.
- c) May be directly or indirectly involved in prostitution or is used for obscene activities.
- d) Frequents or lives in environment damaging to moral development.
- e) Is a victim of maltreatment, oppression, exploitation or sexual abuse.
- f) Is drug or alcohol dependent.
- g) Has serious family and community disorders.

Article 5 of the Criminal Procedure Code states that the Penal Law is to be applied to any person that in the moment of the offense is older than sixteen years. Minors criminally responsible (older than sixteen years old) are to be prosecuted under the ordinary penal law but shall receive the Minors Law necessary protection.

The age of marriage is 21; if the person is younger it is necessary to have the consent of the parents or guardians. Minimum male age is 17 years old and minimum female age is 15 years old, with parental consent. Age of military service is 17 years old. The age of majority and therefore voting in elections is 21 years. Six years of primary education is compulsory.

### *Investigation and prosecution*

Minors jurisdiction is the only competence to know, direct and resolve proceedings referring to minors. Its competence is determined according to the parents' or minors' home location. Minors Judges are

part of the judiciary power. Minors Courts are to be created in each prefecture and province according to the regional needs.

To be a Minors Judge it is required: a) to be a Bolivian citizen, b) to be a lawyer, c) to have demonstrated an outstanding practice as a lawyer for six years or to be a judge for at least 4 years and not to be excluded by law.

Minors Tutelar Services are in charge of the technical treatment of problems referring to minors and depends on the Departmental (Prefecture) Directions. It is made up of five persons and receives the assistance of qualified and multi-disciplinary personnel, such as social workers, psychologists, medical doctors nurses, lawyers and others. Among the responsibilities of the Minors Tutelar Services is to know all the cases in which a minor has an infraction or offense.

A summary proceeding of investigation is established for all cases in which minors are accused of having committed an infraction or offense, according to the following principles:

- 1) It is oral.
- 2) Direct communication between the authority and the minor, parents, tutors, guardians or any other person considered necessary.
- 3) It is reserved.
- 4) It is at State instance (to move the case forward).
- 5) Decisions can be reviewed and modified.

The minors authority that know a case in which a minor is accused as the offender will immediately order a preliminary investigation which is to be carried out by an interdisciplinary team or the National Organization for Children, Women and Family (ONAMFA).

After the information is completed the authority shall set a date for a hearing in

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which will be present the transgressor minor, the parents or representatives, the denouncing party and a person representing of the Public Ministry. In this hearing the minor will first be heard privately and then with the said parties. The Minor's Code does not state expressly the minor's right to remain silent but it is a right granted to adult offenders. Also, the Minor's Code does not mention the right of the minor offender to legal counsel or the right to cross examination.

If, from the information received the minor does not have a serious conduct problem and has a family with the appropriate conditions, he will be trusted to his parents or guardians, subject to the socio-educative measures established in the code.

When it is a serious offense, the authority shall order the interning in a provisional specialized center, where in a period of fifteen days technical information in the psychological and pedagogic area shall be prepared; the minor shall receive in the meantime guidance and support.

The authority that knows the case shall keep in mind the personality of the minor and the conditions of his environment before the nature of the facts. The authority can order the presence of teachers, authorities or any other person whose information may be considered necessary.

In this stage the authority shall order thorough reports to be prepared by the interdisciplinary team of the National Organization within ten days. After the evaluation and analysis of the records the authority shall give the Resolution within three days.

The decision taken by the authority can be:

- a. Admonition
- b. Warning, an act of compromise shall be signed by the parents.
- c. Assisted freedom, under the guidance of a tutor/guide, for a minimum term of one

year and be extended or changed for another measure.

d. Commitment into an open social-psychological and pedagogic program.

Interning in institutions where social-psychological programs are to be developed is applied in cases when offense was committed with serious menace or violence or there is repetition of other serious offenses. This measure does not have a fixed time period and the interning should be permanently evaluated. The interning shall never be longer than two years. Minors shall never be interned in detention centers for adults. The interment shall be carried out in institutions exclusively for young offenders and according to classification by age group and the seriousness of the offense.

The authority can also apply the following measures to the parents or guardian:

- a. Admonition
- b. Warning
- c. Fine
- d. Reparation of the damage caused by the minor
- e. Loss of the guardianship
- f. Arrest

In addition to those legal measures the judge can apply the following measures:

- 1) Order governmental and private programs of family promotion
- 2) Inclusion in alcoholic and drug abuse programs
- 3) Order to receive psychiatric and psychological treatment
- 4) Order to register the minor into school and control his or her attendance
- 5) Order to take the minor into specialized treatment

All information, reports and testimony of the proceedings are reserved. The interned minors have the following rights:

1. to interview personally with his parents or guardian and the National Organization;

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2. to address petitions directly to any authority;
3. to have reserved interviews with his legal counsel;
4. to be informed about the judicial steps or procedures for his case;
5. to be treated with respect and dignity;
6. to be interned in the institution nearest to his parents home;
7. to receive visits;
8. to maintain correspondence with his family and friends;
9. to keep the necessary personal items;
10. to have access to the necessary hygienic and personal services;
11. to receive school and vocational training and to practice religious, cultural and athletic activities.

The interned minor shall never be kept incommunicado.

### *Rehabilitation Institutions*

Throughout the country there are 5 correctional centers for juvenile offenders. Also, there are sixty-six institutions/homes for abandoned children and children with family or conduct problems. Twenty-seven of them are public, twenty-one of them are private and eighteen are mixed.

### **References**

1. Bolivia's Penal Code and Criminal Procedure Code, La Paz, Bolivia 1992.
2. Law 1403 - Código del Menor, La Paz, Bolivia 1993.
3. Conclusions of the Seminar on the Juridical and Social Problems of the Minors in Bolivia, Cochabamba, Bolivia 1989.

## **3. Ethiopia**

### *Features*

Ethiopia is situated in the Horn of Africa. The estimated population in 1990 was 50.9 million. Of this about 68.5% are under the age of thirty and about 48.5% under the age of fourteen years old. In effect, more than 50% of the population can be roughly estimated to be juveniles.

### *Definitions and general concepts*

For the administration of the Juvenile Justice System the Penal Code (1957) has specific provisions which are applied and there is no specific legislation covering this subject. The Code stipulates four relevant age groups as follows:

(a) Infants- those under nine years. They are deemed not liable for any breach of the law.

(b) Young persons- they are between (and including) nine years old and fifteen years old (inclusive of fifteen).

(c) Post juveniles- these are children who are above fifteen years old but below eighteen years old. They are treated as adults under the Penal Code.

(d) Adults- everyone who has attained the age of eighteen years old is an adult.

Therefore under the Penal Code the Juvenile Justice System is only applicable to those who are defined as young persons, that is between the ages of nine (inclusive of nine) and fifteen (inclusive of fifteen) years old. The term "juvenile delinquent" in the context of Juvenile Justice is not used, instead the term "young offender" is used and denotes a young person who has committed a criminal offence.

The age of majority is eighteen years old and as such one is entitled to vote at national elections, marry at will. A female may marry at fourteen years old provided the parents/guardian consent and males may marry at sixteen years old.

Education for the first eight years of school is compulsory. There is no longer any national service scheme as this was abolished in 1990. However prior to this children as young as sixteen were recruited to serve in the army.

### *Investigation and Prosecution*

Once a young person is alleged to have committed an offence he is taken immedi-

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ately to the Worada Court (court of first instance). The allegation can be made to the court by either the parents/guardian, the police, the public prosecutor or the complainant in person.

After the allegation is heard by the court of first instance and if the Worada Court is satisfied that there is a genuine complaint or there is a prima facie case it will record the accusation and order the police to investigate. It must be noted that the police do not have any investigative powers on their own initiative.

Where the offender is below nine years of age at the commission of the offence the public prosecutor is empowered to close the police investigation file. After the investigation no proceedings can be instituted by the public prosecutor except where the court of first instance has so instructed.

If the offence for which the young person is charged is punishable with ten years imprisonment or less, if it was committed by an adult, then the case can be heard by the Worada Court and no formal charges are drawn and the case is prosecuted by the complainant themselves. Where the offence is punishable by ten years or more if committed by an adult then the Worada Court shall instruct the public prosecutor to frame the charge and file it in the High Court. Only the public prosecutor appears in the High Court.

It must be noted that the court of first instance directs the public prosecutor on whether to prosecute or not. It is proper to assume here that the widest discretion on whether to even record and investigate a complain against a young offender, let alone prosecute, lies with the court itself and not the relevant agencies.

During the pre-trial period custody is to be avoided as much as possible. Therefore once an arrest is made and the young suspect is brought before the Worada Court, the parents/guardian are immediately summoned and the court must ascertain the possibility of releasing the suspect on bail or

a bond to the parent/guardian.

The state may appoint a legal counsel for the suspected young person where the offence for which he is charged is punishable with ten years or more imprisonment if committed by an adult and in addition, where the parents can not afford to pay. However in the Worada Court the young person may be represented by his parent/guardian.

### *Adjudication and judgement*

At the Worada Court the case is prosecuted either in private or by the police and the young person may be represented by his parent/guardian if a defence counsel is not available. All proceedings are held in chambers and in an informal manner. It is not open to the public and the only other persons allowed are witnesses, experts, parents and welfare officials.

Once the charge is read a plea is taken and if the young person pleads guilty and the court is satisfied that the young person understands the charge, the court would record what the young person has said and convict him. If the accused however denies the charge and the court is satisfied that he understands the charge, witnesses will be called to prove the charge.

The defence may summon their own witnesses and all witnesses called for the prosecution or the defence shall be examined by the court and be cross-examined by either prosecution or defence. All dispositions are recorded by the court.

When all evidence is concluded, the defence may sum up and thereafter the court shall give judgement. The judgement shall specify the law on which it is based and if the finding is not guilty then the young person must be acquitted and released. If the finding is guilty then the court must impose an appropriate measure or sentence.

Before sentencing, the court must obtain from experts and welfare officials all information and antecedent reports to assist it in arriving at a decision which is in

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the best interest of the child. The defence may reply to all these people and then address the court on sentencing. The court will then award its decision and this is explained to the offender with a warning against further misconduct.

The court can make any of the following decisions:

(i) Admission to a curative institution if in need of medical care,

(ii) Supervised education where the young person is put in the custody of someone or an institution who must undertake to the court in writing to supervise the education of the offender and see that he maintains good behavior,

(iii) Reprimand,

(iv) School or home arrest where the young offender is to be kept in school or at home during free hours and holidays and given extra work, and

(v) Admission to a corrective institution for appropriate discipline and moral training when the antecedent history and character is bad.

The duration of the above measures shall be for such time as deemed necessary by the supervising authority but can not exceed the eighteenth birthday of the young person. A specific duration must be fixed by the court and this may be terminated earlier on the recommendation of the supervising authority.

Where any of the above measures have been applied but has failed, that is in cases of recidivism, the court may award the following penalties:

(1) A fine proportionate to his means and the offence and may be in addition to other penalties,

(2) Corporal punishment not exceeding twelve applied on the buttocks, and

(3) Imprisonment at a corrective institution or to a penitentiary if extremely troublesome and may corrupt others. The term of imprisonment shall not be less than

three years and may extend to ten years. In both institutions the young offender is segregated.

### *Actual treatment-Rehabilitation*

The basis of the above measures and penalties is to allow the young offender to be successfully rehabilitated back into society. How effective are these measures is beyond the scope of this paper.

It is of interest to note that in the case of recidivists the system is quite ready and well empowered to punish these young offenders. There is only one Remand and Training Centre for Boys in Addis Ababa.

### **References**

1. Section II of the Appendix to the CODE ARTICLES APPLICABLE TO JUVENILE OFFENDERS of Ethiopia, 1957.
2. Chapter IV of the JOURNAL OF ETHIOPIAN LAW- VOLUME VII- NO.I page 166.
3. CRIMINAL PROCEDURE CODE of Ethiopia, 1957.
4. PENAL CODE of Ethiopia, 1957.
5. Country Report on Ethiopia titled Urban Crime and Juvenile Delinquency in Ethiopia, presented at the 95th International Training Course at UNAFEI, Tokyo, by Mr. Fasil Tadesse of the Ethiopian Attorney General's Chambers.

## 4. Fiji

### *Features*

Fiji is situated in the South Pacific and is comprised of about 360 islands. The islands are scattered over a vast span of ocean. The population in 1991 was estimated at 750,000 with the under fifteen population representing about 38%. The juvenile population is estimated to be about 40% of the national total. About 39% of the population live in urban centers.

### *Definitions and general concepts*

The Juveniles Act CAP 56 of 1973 is the statute regulating the administration of the Juvenile Justice System. In dealing with persons under seventeen the Act cat-

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egorizes them into the following:

1. Child- has not attained the age of fourteen;
2. Young person- has attained the age of fourteen but under the age of seventeen, and
3. Juvenile- has not attained the age of seventeen.

A juvenile under the age of ten is presumed not to be guilty of any offence. A person above the age of ten but below twelve is not criminally responsible for any act or omission unless it is proved that at the time the offence was committed he had the capacity to know that the act or omission was wrong. The law also deems that a male juvenile under the age of twelve is not capable of sexual intercourse, that is, he is deemed not physically capable to commit rape.

In Fiji the term juvenile delinquent or juvenile offender is not legally used, however the Act only uses the term juvenile to depict a person under seventeen who may be the offender or the victim of crime, or who may be in need of care and protection and is dealt with under its provisions.

The age of majority is twenty-one at which a person is allowed to vote, marry and acquire full legal rights and obligations. A male is permitted to marry at eighteen and a female at sixteen provided the parents or parent consents. Education is compulsory and free for the first eight years of school. Any person who has turned eighteen may join the military or police force.

### *Principle*

The basis of the Act is to ensure that juveniles are treated differently under the law and that special emphasis is put on rehabilitating or reintegrating them into society with a minimum of incarceration.

The approach in dealing with juveniles is two-pronged, firstly those that are for some unfortunate domestic or social reasons not

offered the proper environment to develop and may be prone to become criminals or victims. They have not committed an offence. This approach is compatible to the concept of pre-delinquency in Japan and under the Beijing Rules<sup>(2)</sup>. The second is to deal with those who have committed an offence.

### *Investigation and Prosecution*

Once an offence is committed and reported to the police, the case is immediately transferred to the Juvenile Bureau, which is a specific unit within the police which deals with juveniles. They will carry out the investigation into the offence and into the family, social, school, medical and antecedent background of the child.

A Senior Inspector may decide whether to prosecute the case or to drop charges, in which case the juvenile is reprimanded and the parents reminded of their obligations as parents. About 60% of all cases do not go past the bureau and so far the level of recidivism for this group is about 6%.

Where the offence is serious, that is murder, attempted murder, manslaughter, attempted manslaughter or aggravated assault causing bodily harm, the case is passed on to the Director of Public Prosecutions for prosecution. On all occasions when a case is tried or goes on appeal to the High Court, only public prosecutors will appear. All cases heard in the High Court are held in chambers. Other cases, however, are generally prosecuted by police prosecutors at the Juvenile Court, although public prosecutors also have a right of audience in the juvenile court.

Where a juvenile has not committed an offence but is unruly in character or uncontrollable, or for some reason in need of care and protection, a case can be brought before the juvenile court by the Director of Social Welfare on the request of the Police or the parents themselves, seeking a relevant order for the juvenile. In this case the investigation, if need be, is done by the social welfare official.

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A juvenile is nearly always released on bail once arrested except where the offence is serious, or it is necessary to remove him from associating with undesirable, or if his release will defeat the course of justice, in which case he must be produced in court at the earliest opportunity and a remand in custody order is made by the court. This order must be renewed every twenty-one days. Whilst in remand the juvenile must be segregated from adult offenders and for a female, she must be under the custody of a female official.

It must be noted that the prosecution of all criminal cases, whether juvenile or adult, is the responsibility of the Director of Public Prosecution and as such can call files of cases prosecuted by the police and take over the case.

It must be also noted that the fingerprints and photograph of a child in custody can not be taken unless on the order of a magistrate.

### *Adjudication and disposal*

The Juvenile Court in Fiji is not a separate court but is a Magistrate Court convened specifically to hear a charge against a juvenile or exercise any other jurisdiction conferred upon a juvenile court. The juvenile court can dispose of all cases brought before it except murder and attempted murder, which must be heard in the High Court.

A juvenile may be represented by counsel, but where there is none the parents or a responsible person in society, e.g. the local church minister, may appear for the juvenile. A state appointed counsel is only available where the offence is murder or attempted murder.

The parents or guardian of the juvenile must attend court once he is warned of the case and a failure may result in a court fine. It is to be noted that the presence of a parent or relative is very important as they could assist the court in the case and also be directly told of any shortcomings by the parents or guardian.

Once the charge is read and explained to the juvenile, a plea may be taken. However, even though the juvenile may plead guilty the court can still call witnesses for the complete clarification of facts surrounding the case. All witnesses may be cross-examined and the defence may produce their own. The juvenile may be a witness himself in his defence, in which case he may be cross-examined by the prosecution, or avoid this by merely making a statement.

If the case is proven beyond reasonable doubt then the court will make a "finding of guilt" as a juvenile is never found guilty. He is also never "convicted" or "sentenced". Instead of being convicted "an order made upon such a finding" (of guilt) is made.

Where the juvenile court has made a finding of guilt it may dispose of the case in any of the following manners:

1. Discharge.
2. Order to pay fine, compensation or cost.
3. Order the parents/guardian to pay the fine, compensation or cost.
4. Order the parent/guardian to give security for the good behavior of the juvenile.
5. Making a care order.
6. Making a probation order for a period not exceeding three years or the seventeenth birthday of the probationer.
7. If a young person, order that he be sent to a reform training center.
8. If a young person, order imprisonment to a maximum of two years.
9. Dealing with the case in any other lawful manner.

Before an order is made a pre-sentence report must be made by experts if need be, e.g. psychologist, and also by the social welfare officer. At times this phase of the trial may hold up the case for a period longer than necessary.

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It must be noted that only a resident magistrate (first class) can order the juvenile to a reform school or to prison. No juvenile shall be ordered to undergo corporal punishment.

Apart from the above the juvenile court has jurisdiction to make orders for the juvenile where he is in need of care, protection or control. In this case the juvenile has not committed an offence. This aspect of the jurisdiction is specifically related to the social welfare side of solving the problem and will not be covered as it is ancillary to the administration of the juvenile justice system. It must however, be noted that some measures ordered by the court are compatible to those given for pre-delinquency in some other jurisdictions.

At all stages in the investigation and adjudication of a case involving a juvenile, the media is prohibited to publish any material that may lead to the identification of the juvenile.

### *Rehabilitation facilities*

To date there are two reformatory type centers based at the capital, Suva, one for boys and the other for girls. These institutions are presently being run by Non-Governmental Organizations (NGO's) but financed by the government. They have minimum type incarceration arrangements, as it is possible to attend work and training outside of the institutions.

There is no juvenile prison, but when the need arises the Minister for Home Affairs may designate a facility for such purpose and it will become a prison. In reality certain portions of the adult minimum security prison can be used as a juvenile prison. The juveniles are segregated.

Those on probation are allocated a probation officer and if need be, a medical practitioner, for not more than twelve months. The probation order may be reviewed by the court from time to time.

In situations where the juvenile has been found guilty of murder, attempted murder, manslaughter, or of wounding with intent to cause grievous bodily harm, and the court is of the opinion that other measures are not suitable, then the juvenile may be held in such a place or on such conditions as the Minister for Justice may direct on the court's order. It must be noted that this could include the lengthening of the sentence above the two-year maximum, and the removal to high security facilities of the offender.

### **References**

- 1 JUVENILE ACT CAP.56 of Fiji.
2. Situation Analysis of the Children in Fiji, prepared by the National Child Policy Committee, Government of Fiji (1991).
3. Department of Social Welfare Report- Fiji 1987-1992, prepared by the Director of Social Welfare, Fiji.

## **5. Japan**

### *Features of the country*

According to 1989 statistics, the population of Japan is about 120 million. For our purposes the relevant breakdown of the juvenile population is as follows:

- a. Under six year old about 12,116,000,
- b. Primary school age (6 years to 13 years) is 16,770,000,
- c. Junior high school (13 years to 15 years) is 5,260,000, and
- d. High school age (16 years to 18 years) is 2,280,000.

### *Definitions and general concepts*

Under the Japanese laws, "juvenile" is a person under 20 years of age and the minimum age of criminal responsibility is 14 years. Any Juvenile aged 14 to 20 who is alleged to have committed an offence, or who is under the age of 14 and is alleged to have violated criminal law comes under the jurisdiction of Family Court for adjudication. Another category of juvenile under the jurisdiction (status offender) is a juvenile who is prone to committing an

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offence or violating criminal law in view of his character or environment, based either on habitual disobedience to reasonable parental supervision, repeated flight from home without reasonable ground, association with persons of criminal or dissolute propensity, frequenting places of dubious reputation, or habitual activity harmful to the morals of himself or others. Pre-delinquency is also referred to as status offence.

A man age of 18 and above, a woman age of 16 and above can marry, and a minor child shall obtain the consent both of his or her father and mother in order to marry. A person 20 years and above is eligible vote. School-going age is 6 years and the term of compulsory education is 9 years (6 years-primary 3 years-junior high school). Military service in Japan is not compulsory.

### *Investigation*

The principal investigation agencies are the police and the public prosecutors. The police usually conduct investigation at the initial stage and refer juvenile cases to the public prosecutor. The public prosecutor refers all juvenile cases to the family court. Regarding adult cases the public prosecutor has a power of discretionary prosecution, but regarding juvenile cases the power is restricted.

In some cases when a police officer has arrested a juvenile upon warrant, he shall transfer the juvenile to a public prosecutor within 48 hours, and the public prosecutor if he believes necessary, shall

request a judge to detain the juvenile within 24 hours. When the judge issues a warrant of detention, the duration is 10 days and can be extended to the limit of 20 days with permission of a judge. The juvenile has the right to remain silent during the investigation and hearing, as this right is entrenched in the constitution. The juvenile is detained in the Detention House which has separate cells for juveniles.

Juveniles under 14 years of age are primarily handled by the Child Guidance Center, a children's welfare organ. When they conclude that educative measures should be imposed by family court, the

Prefectural Governor or the Chief of the Child Guidance Center may refer the case to the family court. When the Family Court Probation Officer discovers the delinquent juvenile, he may report to the court, and when any person discovers the delinquent juvenile, he may inform the court of the case.

### *Philosophy of the juvenile justice system*

Japanese juvenile justice system is based on the philosophy of "PARENS PATRIAE" and this philosophy is embodied in the Juvenile Law 1948 such as that delinquent juveniles should be rehabilitated through educative efforts to be made responsible citizens. For this purpose, the family court should render parental care, and the court is responsible for undertaking an investigation as to the juvenile's personal history, family background, personality and social environment to determine the most suitable treatment. But, in practical administration, the court also considers due process of law to guarantee the basic rights of juveniles.

### *Hearing procedure*

#### (1) Family Court

When it is necessary for conducting a hearing, the family court may place a juvenile under supervision by a Family Court Probation Officer (Family Court Pre-sentence Investigator), or commit a juvenile to the Juvenile Classification Home (term shall not exceed 2 weeks, but if necessary, the court may extend the term to 4 weeks).

In doing investigations, every effort shall be made to make efficient use of medical, psychological, pedagogical, sociological and other technical knowledge, especially the result of the physical and mental examination conducted in the Juvenile Classification

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Home, in regard to the conduct, career, temperament and environment of the juvenile, his guardians or of other persons concerned. The Family Court Probation Officer reports the investigative findings to the court, accompanied by recommendations about an appropriate treatment for the juvenile. After the completion of the inquiry and report, a hearing will be held, and at the hearing, the juvenile, the parents or guardians, the attendant, the Family Court Probation Officer in charge must be present, but the public prosecutor cannot be present, and the proceedings shall not be opened to the public.

The usual court proceedings are as follows: The judge reads and explains the alleged delinquent acts to the juvenile, informs him or her of the right to remain silent and after that hears the juvenile's response. If the juvenile does not think fit, parent or guardian or attendant can put any questions to the witness. With respect to the case involving an offence punishable by imprisonment or severe penalty and the juvenile is 16 years of age and over, if the judge finds it proper to put the offender to criminal proceedings in light of the nature and circumstances of the offence, the judge shall send the case to a public prosecutor.

If the judge feels that further and more thorough investigation must be necessary before a determination, the juvenile may be placed under the supervision of the Family Court Probation Officer. During this period of supervision, the juvenile may stay with the person who is charged with his protection (his or her parents or guardians) under conditions imposed by the family court, or he may be placed under the guidance of a suitable institution, agency or individual. This intermediate disposition, taken while the final determination is held, is called tentative probation.

The court makes a final decision based upon the evidence submitted by the investigation agency, the social inquiry report and the result of the hearing. The possible forms

of dispositions are as follows:

(a) Dismissal without or after hearing - Such a decision is reached when the court finds it is unnecessary to make any particular disposition of the child. Actually, often a considerable educative measure such as admonition is carried out by the Family Court Probation Officer.

(b) Referral to the competent Prefectural Governor or Chief of the Child Guidance Center - This action is taken when it is deemed that the minor should be dealt with under the Child Welfare Law rather than be placed under protective control.

(c) Referral to the public prosecutor.

(d) Probationary Supervision.

(e) Commitment to the Child Education and training Home or the Home for Dependent Children. Both of these are provided for under the Child Welfare Law.

(f) Commitment to the Juvenile Training School: This is an institution of the ministry of Justice to give corrective education to juveniles.

If the juvenile or his legal representative or attendant objects to the family court's determination, they may file an appeal in the High Court.

### (2) Juvenile criminal case

On reception of a juvenile case from the family court, the prosecutor is obliged in principle to make a prosecution of the case to the criminal court. This situation is an exception to discretionary power of the public prosecutor. With regard to sentencing, Juvenile Law prescribes for mitigation of death penalty and penalty for life and indeterminate sentence.

According to the law, if a juvenile who is under 18 years of age at the time of an offence is to be punished with death, he shall be sentenced to a penalty of life imprisonment. Penalty for life shall be

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mitigated to imprisonment with or without forced labor for not less than 10 years nor more than 15 years, and whoever is to be punished with imprisonment with or without forced labor of which maximum period is more than 3 years, he shall be given a sentence which prescribes the maximum and minimum periods within the limit of said penalty.

However, in the case where he is to be punished with a penalty of which minimum period is more than 5 years, the minimum period shall be reduced to 5 years. These provisions concerning indeterminate sentence are not applicable when the court grants suspension of execution of sentence.

### *Rehabilitation*

There are 54 juvenile training schools throughout the country, 9 of which are for girls. These schools are divided into four groups, Primary-which care for juveniles under 16 without necessity of medical care, Middle-which care for juveniles 16 and over without aggravated criminal tendencies, Senior-which care for juveniles 16 to 22(inclusive) with aggravated criminal tendencies, Medical-which care for all juveniles 14 to 25(inclusive) who need medical treatment physically or mentally.

There are 9 juvenile prisons throughout the country, which offer vocational training, school education, correspondence courses are encouraged aiming at their intellectual improvement.

Probation is conducted by the Probation-Parole Supervision Office which is an organ of the Ministry of Justice with one office located in the district of each family court. The actual supervision over juveniles is undertaken by the Probation Officer of the district office and he is aided in his work by volunteers from among the public who are called Volunteer Probation Officers. An inmate may be allowed on parole when the superintendent of the Juvenile Training School finds that the inmate has attained

the highest grade of treatment and application to the Regional Parole Board for his release is approved.

### **References**

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2. Guide to the Family Court of Japan; Supreme Court of Japan.
3. Criminal Justice System at Work(Outline of criminal trends, criminal procedure and juvenile justice system in Japan); S.Kurata, 1993.
4. The Criminal Justice System in Japan(3)-The Court; O.Ito, 1993.
5. The Criminal Justice System in Japan(6)-Juvenile Justice System in Japan; T.Inagawa, O.Ito, T.Koyanagi, N.Hashimoto, 1993.

## **5. Republic of Korea**

### *Features of the Country*

Republic of Korea(Korea) is a country with an area of 99,237 square km. In 1989 the population was 42,380,000.

### *Definitions and general concepts*

A person aged 20 and over is eligible to marry and to vote. The marriageable age with the consent of one's guardian, for the male is 18, for the female is 16. Male aged 18 must serve in the military force. Education for the first six years of primary school is compulsory.

In Juvenile Act, a juvenile is defined as a person under the age of 20. Juvenile Act prescribes three categories as juvenile delinquency:

- (i) Juvenile Offenders,
- (ii) Law breaking Children,
- (iii) Pre-delinquent Juveniles.

Juvenile offender is a juvenile aged 14 and over who has committed crimes. Law breaking child is a juvenile of the age 12 and over but less than 14 who has committed acts contrary to criminal laws.

Pre-delinquent Juvenile is a juvenile of the age 12 and over viewed as having a

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high chance to commit crime or delinquency because they may be habitually disobedient, or have run away from home without proper reason, or are in company with criminal and immoral persons and can be an impairment in their own moral nature or that of other persons.

Under Korean law, the minimum age of criminal responsibility is 14 years.

### *Investigation*

Judicial treatment of juvenile delinquents under the age of 20 constitutes two types of proceedings. One is protective and the other is criminal proceedings. Juvenile protective cases are under the jurisdiction of Juvenile Department of the Family Court or a District Court ( here called Juvenile Court).

In case there are Law breaking children and Pre-delinquent juveniles, police shall refer the cases to the Juvenile Court (In case of Juvenile offenders, guardians or head of school and social welfare organizations may notify the Juvenile Court). In case of juvenile offenders, the cases are dealt with adult cases. The public prosecutor presides over the whole investigation at his own discretion, and under direction of the public prosecutor, police is engaged in investigation. Furthermore, the public prosecutor monopolizes authority of prosecution and demand for warrant. When police arrests the suspect, police shall refer the suspect to the public prosecutor within 10 days (the public prosecutor may investigate offender directly at his discretion). At the investigation stage by the police and public prosecutor, with regards to the criminal facts, the suspect may reject his own incriminating statement.

During the investigation the juvenile suspect is accommodated in a detention room in juvenile prison or police office or detention home in separation from adults. At the end of the investigation, the public prosecutor has unfettered discretion in deciding disposal, prosecution, referral to the Juvenile Department or non-prosecution.

As to the case which is not punishable by more than fine or in which there are causes for protective disposition, the public prosecutor shall refer it to the Juvenile Court.

One of characteristics of procedure for juvenile offenders in Korea is that the public prosecutor has a discretionary priority of choosing whether the juvenile should be disposed to criminal or protective disposition.

Furthermore, the public prosecutor has wide discretionary authority in prosecution. He can suspend prosecution even when enough evidence is at hand or when consideration for the best interest of the suspect and the public are paramount. For the disposition of juvenile offenders, suspension of prosecution with supervision is adopted. The Public prosecutor provides the juvenile with a sort of

probationary supervision on the consent of the juvenile. The juvenile must be guided under the custody of a "Sundowiwon" (a Fatherly Guidance Member) living in the community. If the juvenile keeps good behavior for a fixed period under the supervision of the Sundowiwon, the public prosecutor may suspend prosecution.

### *Hearing (Court) Procedure*

In juvenile cases a single judge of the Juvenile Court presides the trial and handles ruling on the disposition. The juvenile has a right to have an "Assistant" who is not necessarily a lawyer at his private expense. The juvenile may cross-examine the witness. The trial shall not be public. Facts or photographs which may identify the juveniles shall not be published or broadcasted, and no one can access the trial documents.

As regards the criminal facts, the juvenile has a right to reject his own incriminating statement. The investigation stage of the Juvenile Court includes social investigation carried out by the juvenile investigators of court. For the investigation or trial of a case,

## JUVENILE JUSTICE SYSTEM

as temporary measures, judges of the Juvenile Department may take measures such as; to place the juvenile under custody of his guardian, proper individuals or institutions; to place the juvenile under custody of hospital; to place the juvenile under custody of a Juvenile Classification Office (The period of time under custody of a Juvenile Classification Office shall not exceed one month in principle; provided, that the period be extended for one additional period). In the Juvenile Classification Office, classification of the juveniles are provided to choose proper protective disposition for them.

After hearing the statements by the juvenile, statements by witnesses, and any opinions expressed by the guardians and Assistant, the Juvenile Court may proceed in one of the following manners:

- (a) Dismissal without hearing;
- (b) Dismissal after hearing;
- (c) Referral to the public prosecutor.

If the Juvenile Court finds that the juvenile is the age of 20 and over, the Juvenile Court will refer the case to the public prosecutor. In case the Juvenile Court finds that the juvenile has committed an offence punishable with imprisonment or death, and deems it necessary in view of the motive of the accused and the nature of the crime committed to impose criminal punishment upon the juvenile, the Juvenile Court refers the case to the public prosecutor.

If the court does not choose to proceed with (a) to (c), then it must decide upon one of the following protective measures for the juveniles:

- (i) Placement of the juvenile under care and custody of his guardian or person who can supervise the juvenile in substitution for the guardian;
- (ii) Short-term probation;
- (iii) Probation;
- (iv) Placement under the care and custody of a child welfare institution;
- (v) Commitment to a hospital or sanato-

rium;

(vi) Short-term transfer to a juvenile training school;

(vii) Transfer to a juvenile training school.

In addition, at the time of placing on a short-term probation and/or probation, a judge may also issue to juveniles of the age 16 and over community service order or attendance center order.

If the juvenile himself, guardian, Assistant or legal representative of the juvenile object to the Juvenile Court's determination, they may appeal to a competent Family Court or the collegiate body of the district court. In addition to that, upon a ruling of dismissing an appeal, a re-appeal may be made to the Supreme Court.

In juvenile criminal cases, a spirit of kindness and gentleness and particular emphasis on the juvenile is needed. The criminal court adopts the method of cross-examination. The juvenile has a right to remain silent and to reject his own incriminating statement as regards the criminal facts. When the accused is a juvenile, if he has no Defense Counsel, the criminal court must assign a Defense Counsel at its own discretion. The trial of the criminal court shall be made public, but regarding the criminal case of the Juvenile Act, facts or photographs which may identify the juveniles shall not be published or broadcasted, and no one can have access to the documents.

After trial, if the criminal court finds the juvenile guilty there are special punishments for juvenile offenders such as follows:

(i) A juvenile offender sentenced to death sentence or imprisonment for life less than 18 years of age when the crime was committed, shall have the sentence reduced to 15 years of imprisonment.

(ii) In case a juvenile offender commits a crime punishable by imprisonment more than 2 years, a sentence shall be pronounced specifying the maximum and minimum within the scope of such a term of punishment: provided, that the maximum term shall not

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exceed 10 years, and the minimum term shall not exceed 5 years.

(iii) The sentence may be reduced.

(iv) As to the case which is not punishable by more than fine or in which there are causes for protective disposition, the criminal court shall refer it to the Juvenile Court.

(v) When the criminal court suspends the accused from sentence, if the accused is juvenile, the criminal court may place the juvenile under probationary supervision in the adjudication.

(vi) When the criminal court suspends the accused from execution, if the accused is a juvenile, the criminal court may place the juvenile under probationary supervision in the adjudication.

After adjudication both an accused and the public prosecutor have a right to appeal twice; first to one of the high courts or to the collegiate branch of the district court against sentence, and secondarily to the Supreme Court against decision of lower court.

### *Actual Treatment*

There are special institutions and community based treatments available to rehabilitate juvenile offenders. There are 11 juvenile training schools which are enclosed. They provide education, vocational training and other forms of guidance for either short-, medium-, or long-term inmates.

Juvenile prison is an institution that accommodates juveniles under 20 year of age disposed to imprisonment and has a function of execution of punishment. There are 2 juvenile prisons.

As to parole, when a superintendent of the juvenile training school or a warden recognizes that correction of a juvenile is satisfactory, the Minister of Justice permits release on probation as confirmed by the probation examination committee.

The non-institutional treatment of juveniles or juvenile offenders is chiefly probation.

Juveniles or juvenile offenders placed under such supervision consist of 4 categories:

(i) a juvenile who has been suspended the sentence under the condition of probation;

(ii) a juvenile who has been suspended the execution under the condition of probation;

(iii) a juvenile who has been released on parole from a juvenile training school or juvenile prison;

(iv) a juvenile who has been placed on probation by the Juvenile Department.

Probation is provided by a probation officer who is either a professional or volunteer. As mentioned above, under the Juvenile Act, in conjunction with probation or short-term probation, a community service order or an attendance center order may be issued to juveniles by the Juvenile Court. A community service order prescribes that a juvenile works without pay for a given period, and an attendance center order mandates that the juvenile attends classes for a certain amount of time. In this respect there are halfway houses used for such purposes.

### *References*

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### 7. Malaysia

#### *Definitions and general concepts*

The population of Malaysia in 1991 was about 16,957,000 of which about 28 percent are between the ages of fifteen and nineteen years old.

"Juvenile" means a person who has attained the age of 10 years and is under the age of 18, "Child" means a person under 14 years, "Young Person" means a person who has attained 14 years and is under 18 years, and the minimum age of criminal responsibility is 10 years.

A juvenile alleged to have committed an offence is arrested, detained and tried in accordance with the Juvenile Court Act, and the terms "delinquency", "pre-delinquency" are not defined in the law.

However, the Child Protection Act 1991, art.13 provides that any protector or police officer who is satisfied on reasonable grounds that a child is in need of protection may take the child into temporary custody, unless such protector or police officer is satisfied that taking of proceedings in relation to such child is undesirable in the interests of such child or that proceedings are about to be taken by some other person, and every child taken into temporary custody shall be placed in a place of safety (means any place or institution declared by the Minister) until he can be brought before a juvenile court.

According to this act, we can say "child in need of protection" includes those considered to be "pre-delinquents".

In the case of civil marriage and Christian marriage, a male aged 16 and above and a female of age 14 and above can marry, but, if either party is a minor and has not been previously married, the consent of the parent or guardian must be obtained. In the case of muslim marriage, there is no minimum age of marriage, and a minor of either sex can enter into a valid contract of marriage through a guardian.

A person 21 years of age and above is eligible to vote. School-going age is 7 years, and the term of compulsory education is 6 years. There is no compulsory military service system in Malaysia.

#### *Investigation and prosecution*

(a) Non-seizable offence (an offence which a police officer may not ordinarily arrest without warrant).

When the information relating to the commission of a non-seizable offence is given to an officer in charge of a police station, he shall refer the informant to a magistrate. The magistrate, as the case may be, may order the police officer to investigate. The public prosecutor may direct the magistrate to take further evidence if need be.

(b) Seizable offence (offence which police officer may ordinarily arrest without warrant).

Any police officer not below the rank of sergeant or any officer in charge of a police station may exercise all or any of the special powers in relation to police investigations given by the Criminal Procedure Code.

Every police investigation shall be completed without unnecessary delay, and the police officer shall forward the report to the public prosecutor.

The public prosecutor has the power of prosecution. The court cannot take cognizance of any offence punishable unless upon compliance of the public prosecutor. But, a Juvenile Court can take

cognizance of a juvenile case when a juvenile is arrested and brought before the Juvenile Court.

The juvenile has the right to remain silent at the investigation.

The place of pre-trial detention is any place provided as or appointed by the Minister to be a place of detention and includes accommodation in a police station, police cell or lock-up separate or apart from

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adult offenders, and a juvenile is detained until he is brought before a Juvenile Court.

### *Hearing Procedure*

#### (1) Juvenile Court

The Juvenile Court is constituted in accordance with the Juvenile Courts Act and sits for the purpose of hearing any charge against a juvenile or for the purpose of exercising any other jurisdiction now or hereafter to be conferred by the act or any other written law.

A Juvenile Court consists of a magistrate of the first class who, in exercise of his functions as a juvenile court judge, shall be assisted by two advisers chosen from a panel of persons nominated by the Minister, and one of the two shall, if practicable, be a woman.

A Juvenile Court shall have jurisdiction to try all offences except offences punishable with death. A capital offence shall be dealt with directly in the High Court.

No person shall be present at any sitting of a Juvenile Court except parties, parents, guardians, advocates, witnesses and such other persons as the Court may specially authorize to be present.

Where a juvenile is brought before a Juvenile Court, the Court shall explain to him in simple language the substance of the alleged offence. After explaining, the Court shall ask him whether he admits the facts constituting the offence. If the juvenile does not admit the facts, the Court shall hear the evidence of the witnesses, and if the Court thinks fit, his parent or guardian can put any questions to the witness.

#### (2) Types of Dispositions

When an offence has been proved, the Juvenile Court will decide to do one of the following:

(1) admonish and discharge the of-

fender,

(2) discharge the offender upon his/her entering a bond to be of good behavior and to comply with such order imposed,

(3) commit the offender to the care of a relative or a fit person,

(4) order his/her parent or guardian to execute a bond to exercise proper care and guardianship,

(5) place the offender under the supervision of a probation officer,

(6) the offender to be sent to an approved school or Henry Gurney School,

(7) order the offender to pay a fine or compensation,

(8) impose a term of imprisonment.

No child shall be sentenced to be imprisoned for any offence. No young person shall be imprisoned if he can be suitably dealt with by other measures. Also a young person sentenced to be imprisoned shall not be allowed to associate with adult prisoners.

Sentence of death shall not be pronounced if at the time when the offence was committed, he was a juvenile.

No media publication of any proceedings in a Juvenile Court shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in those proceedings, either as being the person against or in respect of whom the proceedings are taken.

Any child or young person or his parent or guardian aggrieved by any finding or order of a Juvenile Court may appeal to the High Court.

### *Actual Treatment (Rehabilitation)*

There are 7 Henry Gurney Schools (6 for boys and 1 for girls) in Malaysia, these schools are provided by the Minister for reformation of young persons and the repression of crime.

This H.G.S. is an advanced approved school run by prison department and when

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a young person is found guilty of any offence punishable with imprisonment, the Juvenile Court sends him for three years.

For the prevention of recidivism, the Social Welfare Department provides community based programmes known as probation and institutional treatment through Remand Homes, Probation Hostels and Approved Schools which serve as places of detention, education, training and rehabilitation of juvenile offenders.

Presently the department runs 12 Remand Homes, 7 Approved Schools and 6 Probation Hostels throughout the country.

A probation order shall have effect for such period not less than one year and not more than three years from the date of the order.

The Director General of Prisons may, in his absolute discretion, shorten the period of detention of Henry Gurney School for reason which appear to him to be sufficient or may release on license for such period and upon such conditions as he may deem fit to impose.

### References

- 1 Effective Countermeasures Against Crime Related to Urbanization & Industrialization - Urban Crime, Juvenile Delinquency & Environment Crime, presented at UNAFEI, Wong Chee Kong, 1993.
- 2 Juvenile Courts Act 1947.
- 3 Child Protection Act 1991.
- 4 Criminal Procedure Code 1983.

## 8. Nepal

### Features

Nepal is a country with an area of 147,181 square km. In 1981 the population was 15,022,839. Residents below 15 years numbered 6,211,972, and formed 41.4 % of population. The 1992 population was 18.46 million.

### Definition and general concepts

The age of marriage, voting age and age of

national service is regarded as an index of adult. The male has attained age of 22 years, and the female age of 18 years, they may marry without the consent of their guardians (The marriageable age with the consent of their guardian, for the male is 18, for the female is 16). Persons aged 18 have the suffrage and the qualification to enter civil, army and government service.

On the other hand, term of compulsory education is regarded as an index of child or juvenile. Children aged 6 go through 5 years of formal primary school which is not compulsory but free. The term "Juvenile" is not defined in the law, but in Mulki Ain (Civil Code) there are provisions relating to offences committed by children. As children under 16 year of age who have committed offences are exempted from partial or full punishment, "children" may be defined as a person under 16 year of age. Under Nepali law, there is no definition about "status offence". The minimum age of criminal responsibility is 8 years.

### Investigation

There is no specific juvenile act in Nepalese law. There are no juvenile courts or legal provisions for release and custody of children. The child offender is treated the same as an adult offender.

The investigation procedure starts after a complaint or a report of the criminal offence to the police office. Nepalese police does not have special units to deal with child offenders.

The police has been assigned with the responsibility to investigate and to collect the evidence such as; arresting the suspects, taking the statement of the accused, making on-the-spot enquiry and seizure and so on, whereas the public prosecutor prosecutes suspects. After reception of complaint, police may issue a warrant and arrest the suspect. The public prosecutor does not have authority to arrest or investigate offender directly at his discretion. When the police investigates the occur-

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rence of the crime, police arrests the suspect, even if the suspect is a child. At the investigation stage, as regards the criminal facts, the suspect may reject his own incriminating statement.

The Police must notify the public prosecutor of the arrest. While police takes the statement of the suspect, the public prosecutor must be present to complete the statement and other lawful matter.

Then the suspect should be produced to the district court within 24 hours from his arrest along with his statement and other relevant documents of the case, and police demand the court to detain him for further questioning. After the completion of the investigation, the file is referred to the public prosecutor with the police's opinion.

Examining the available and collected evidence, the public prosecutor must decide whether the case is prosecuted or not within 25 days from the arrest. During the investigation the suspect remains in a police office detention room with no separation between children and adults. The public prosecutor can dispose of the suspect to non-prosecution only by reason of insufficient evidence. If the evidence is sufficient, the case should be prosecuted to the district court along with the charge-sheet.

### *Hearing (Court) procedure*

As mentioned above, there is no juvenile court, so children who commit offences are treated in court procedure as adults. If the offence committed is punishable more than 3 years, the accused is accommodated in a prison. If not more than 3 years, court may admit the accused bail.

The accused has a right to consult with a legal practitioner of his choice and defend himself. If accused can not assign a defense attorney at private expense, he can use court assigned counsel. The court adopts the method of cross-examination, so the accused has a right to examine his witnesses and

cross-examine other party's witnesses. At trial as regards the criminal facts, the accused has a right to reject his own incriminating statement. Trial is made public without exception.

After hearing the statements of the accused and witnesses, and any opinions expressed by the public prosecutor and defense attorney, if the criminal court finds the accused guilty, then the court pronounces the punishment in the adjudication. The kind of punishment is chiefly as follows:

- (i) Imprisonment (for life or for a fixed term);
- (ii) Fine

If there is no evidence, the court may release the accused without bail. Under Nepalese law, the term of imprisonment for life is 20 years and there is no provision for suspension of penalty. But there are some special provisions for maximum penalty of child offender such as follows:

- (i) Below the age of 8, there is no liability made so far;
- (ii) Between 8 and 12, if the crime committed which is punishable by fine, then such child may be rebuked; if the crime committed is punishable by imprisonment, then the child may be imprisoned for a maximum period of two months.
- (iii) Between 12 and 16, then such child may be awarded half of the punishment of an adult convicted of such a crime.

After adjudication both an accused and public prosecutor have a right to appeal twice; first to one of the appeals courts against sentence, and lastly to the Supreme Court against decision of the lower court.

### *Actual Treatment (Rehabilitation)*

There are no special institutions and systems for juveniles such as juvenile training school, juvenile prison, proba-

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tion, parole, community service order, commitment to the care of a fit person.

Juveniles who have been under sentence of imprisonment are all accommodated in prisons with no separation between children and adults.

For drug abuser and children's rehabilitation, there are some institutions of NGOs (Non-Governmental Organizations), but most of these activities are limited and centralized within the capital city or some urban centers.

The General Assembly of the United Nations adopted the "Convention on the Rights of the Child" on 20 November 1989, and Nepal has ratified the Convention. "Children's Act" was established in 1992 but has not yet been declared for enforcement.

The law emphasized that a child will not be qualified from any position or facilities due to an offence committed during childhood. Under this law, the minimum age of criminal responsibility was raised to 10 years of age. If the child is in the age group between 10 to 14 years, they shall be charged minor punishment with a maximum of two months imprisonment. If the child is in the age group between 14 to 16 years, he shall be responsible for 50 % of the punishment of adult criminal for the same offence. Furthermore, the Act prescribes special institutions and disposition, and codes and ordinances related will amend for enforcement of the Act.

### References

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## 9. Pakistan

### *Features*

Pakistan is a federal state having four provinces namely Punjab, Sind, Beluchistan and the North-West Frontier Province. It is a Muslim State having a population of 112.05 million (as of 1992). The country has an area of 796,000 square km. About 75% of the country's population lives in rural areas.

### *Concept of Juvenile delinquency*

The term juvenile delinquency is not mentioned in the Penal Code of Pakistan. Those offences are treated as juvenile offences which are committed by the persons aged between 7 and 21 years. A child below the age of seven years is considered to be incapable of responsible intent in the commission of a crime.

According to section 82 of Pakistan Penal Code, nothing is an offence which is committed by a child under seven years of age. Section 83 of the Act further provides that nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion. So in Pakistan, a juvenile is a person between the ages of seven and twenty-one years.

The marriageable age for girls is 14 years and it is 18 for boys. In this country one gets the right of franchise at the age of 21 years. There is no compulsory national scheme, and the minimum age for defence service in the "commission" rank and civil service is 21 years. The minimum age for service in the lower ranks in the defence and police service is 18 years.

### *Investigation*

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An offence committed by a juvenile is investigated by the police in the normal manner. The accused does not have the right to remain silent. The powers of police to keep custody of an offender is limited to a maximum of 24 hours which is applicable to the cases of other offenders also. The custody could be extended thereafter only upon an order of a competent court. There is a special provision in the criminal procedure to grant bail to an offender under the age of 16 years involved in all sorts of offences except those punishable with death or transportation for life.

The law is very considerate in matters of bail for juveniles and authorizes even the police to release all such delinquents under 14 years of age on bail except those involved in heinous offences. The accused, if not bailed out, is, however, kept in a separate enclosure reserved for the minors in the jail.

### *Hearing or trial*

Legislation of juvenile delinquency is a provisional subject in Pakistan. There are separate laws on the subject in the Province of Punjab and Sind. The Punjab Youthful Offenders Ordinance, 1983 provides for the custody trial and punishment of juvenile offenders.

According to Section 2(a) of this Act, "Child" means a person under the age of 15 years. In this ordinance, "youthful offender" is defined as any child, who has been found to have committed an offence punishable with imprisonment. According to section 4, the powers conferred on a Court of first instance under this Ordinance shall be exercised by a juvenile court and where no such court is established, by a court not below that of a First Class Magistrate.

Higher courts like Sub Divisional Magistrate Court, District Magistrate Court, Sessions Judge's Court, Court of Lahore High Court also can try the juvenile cases. At the stage of trial the youthful offenders are tried by the Magistrates. The proceedings in these cases are usually held in chambers

of the presiding officers. The language used in these proceedings is always simple and the legal phraseology is avoided to make it convenient for the offender to understand it. In these proceedings no outsiders are allowed except those concerned with the particular case.

It is also incumbent on all courts dealing with the cases of youthful offenders to make a preliminary enquiry and to record a finding about the age of the offender, before proceeding further with the case. The offender can engage a lawyer. The offender has the right to cross-examine prosecution witnesses, but he does not have the right to remain silent.

The Punjab prosecutor pleads those cases in the Sessions Court (Judge Court) which are committed to that court from the Magistrate's Courts. In the Province of Punjab the juvenile offences are generally tried by the District Magistrate, who generally does not try other criminal cases. Appeal can be preferred to higher court against the order of the lower court. A child cannot be tried jointly with an adult offender. Matters relating to trial of a youthful offender cannot be published in newspapers. The parents or legal guardian of the offender can remain present in the court.

### *Disposition*

The Ordinance provides that no youthful offender shall be sentenced to death or transportation or imprisonment. But if the court finds that the youthful offender is of so unruly or of so depraved a character that he cannot be corrected otherwise then it may pass an order to keep the offender in the juvenile section of a jail.

According to the gravity of the offence the youthful offender can be admonished, reprimanded, fined or delivered to his parent/guardian upon execution of a bond for good behavior. In cases of serious offences the juveniles can be sent to a Reformatory School (Borstal School)

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where they are kept for a minimum period of 3 years. The Borstal Institution is meant for the recidivists.

### *Rehabilitation*

#### (1) Probation

The trying court, instead of giving any punishment (if the offence is not serious) may order the offender to remain under the supervision of a Probation officer. Probation is an entirely constructive method designed to do lasting good to the character of an offender. The probationer is provided a healthy environment and a habit of hard work is inculcated in him. Pakistan Probation of Offenders Ordinance was promulgated in 1960. The probationer may be kept in his home during the period of probation or elsewhere in a better and healthier environment as required by the court on the merit of each case.

#### (2) Parole

An offender may be released on parole from the Borstal Institute or Reformatory school by the Chief Inspector at any time after expiry of six months of his detention on certain condition (license). The Chief Inspector may at any time revoke this license and order the youthful offender to report back to Reformatory School when he breaks any of the conditions of the license.

### **References**

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2. Punjab Youthful Offenders Ordinance, 1983.
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4. The Punjab Children's Ordinance, 1983.
5. Outlines of Existing Juvenile System and General Trend in

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## 10. The Philippines

### *General concepts and definition*

The Philippines population is estimated to be about 68 million. In 1989, children and youth comprised more than half of the total population, with 52.8% below 20 years of age.

The Presidential Decree No. 603 otherwise known as the Child and Youth Welfare Code was signed into law on December 10th, 1974 and became effective six months after its approval. Two amendments to P.D. 603 were passed on August 15, 1977 (P.D.1179) and October 11, 1977 (P.D.1210). It modified the coverage of those to whom suspension of sentence is available, i.e. from those aged 21 to below 18 at the time of the commission of the offense.

The privilege of suspended sentence is available to a youthful offender except when he has once enjoyed suspension of sentence or is convicted of an offence punishable by death or life imprisonment.

Article 189 of the Child and Youth Welfare Code (PD N. 603) states that a 'A youthful offender is a child, minor or youth, including one who is emancipated in accordance with the law who is over nine years but under the eighteen years of age at the time of the commission of the offense. A child nine years of age or under at the time of the commission of the offense shall be exempted to the care of his or her father or mother, or nearest relative or family friend in the discretion of the court and subject to its supervision. The same shall be done for a child over nine years old and under fifteen years of age at the time of the commission of the offense, unless he acted with discernment.

There is no definition of or concept of pre-delinquency. However, under the Truancy Law (P.D.798) upon verified petition of the youth's parents or guardians or a person in authority in the area where the youth resides, the minor may be ordered by the court to be confined in a rehabilitation center if he does

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not correct his truancy within a period equivalent to two school months.

According to the Family Code (art.5) a male or female, who is over 18 years of age, has the legal capacity to contract marriage. But a marriage contracted by a Filipino below 18 years of age, even with parental consent, is void from the beginning.

### *Investigation*

After the apprehension by the police for an offence, the suspect is referred to the Inquest Prosecutor, who conducts an investigation by examining the offended party and his/her witnesses and the other evidence against the offender. If the inquest prosecutor believes that the evidence presented by the police is not sufficient to establish probable cause to warrant the filing of the case in Court, he orders the release of the suspect and directs the filing of the complaint with his office (the office of the City or Provincial Prosecutor) for regular preliminary investigation. If the Inquest Prosecutor is convinced that the arrested individual committed the offence charge, he files, with the approval of the City of Provincial Prosecutor, an information in Court against the offender.

Upon the filing of the information, the juvenile continues to be detained until he posts bail, or is released by the Court on recognizance in minor cases. Until released, he remains either in the Rehabilitation Center run by the Department of Social Welfare and Development, or in detention facilities separate from those of adult offenders.

The preliminary investigation is an initial inquiry conducted either by the prosecutor or a municipal trial court judge for the purpose of determining whether there is a reasonable ground to believe that an offence has been committed and the accused is probably guilty, so that the accused may be brought to trial.

A pre-arraignment conference is aimed at either facilitating the amicable settlement

or dismissal of the case. Both parties shall be present together with the accused minor's parent or guardian, the arresting officer, the fiscal, the defense counsel and the social worker assigned to the case.

During the arraignment the minor is informed of the nature and cause of the offense against him in the presence of his parent or guardian and with the assistance of his lawyer. He is then asked to enter his plea of guilty or not guilty. If he pleads guilty the possible penalty shall be determined.

If the juvenile does not plead guilty, and previous attempts at conciliation or settlement have failed, the Court may conduct a pre-trial proceeding, with the consent of the accused, in order to simplify the issues for trial. However, should the parties settle their differences at this stage the offended party usually files an affidavit of desistance in which he expresses his reluctance to proceed with the case, and the Court may dismiss the case upon manifestation of the Prosecutor that he is unable to prosecute it any further.

The role of the Public Prosecutor in the prosecution of juvenile cases already filed in court starts from the arraignment and ends at the time of the disposition/adjudication of such cases. Upon the filing or information after an inquest investigation or preliminary investigation, the judge issues the warrant of arrest against the accused and, once arrested, the accused may post the necessary bond for his provisional liberty unless the crime is not bailable.

### *Trial*

The trial proceeds in a regular court but with the observance of "flexibility and humanness". The trial proceeds with the prosecutor representing the government. There are instances, however, when the offended party or complainant may engage the service of a private prosecutor who is allowed to conduct the prosecution of the case under the control and supervision of

## JUVENILE JUSTICE SYSTEM

the trial fiscal. The defense then presents its own evidence. Every youthful offender has the constitutional right to be assisted by counsel at all stages of proceedings.

The law states (P.D. 603) that a youthful offender shall not be held under any provision of law to be guilty of perjury or of concealment or misrepresentation due to his failure to acknowledge a case instituted against him or recite any fact related thereto in response to any inquiry made to him for any purpose. The privilege against self-incrimination is a constitutional right. If the minor is found not guilty, he is acquitted. If he is found guilty, the possible penalty shall be determined, but the court may suspend all further proceedings and commit such minor to the custody or care of the Department of Social Welfare and Development or any training institution operated by the government or to any responsible person, until he reaches the age of twenty-one or for a shorter period as the court may deem proper.

Children below 18 years may be given the benefit of suspended sentence. Minors not entitled to suspended sentence may avail on probation. However, for minors who have actually entered the formal penal system and are within the prison system, there are measures for release such as parole and executive clemency.

The Child and Youth Welfare Code provides that if it is shown to the satisfaction of the Court that the accused minor whose sentence has been suspended has behaved properly and has shown his capability to be a useful member of the community, the Court, upon recommendation of the Department of Social Welfare and Development shall dismiss the case and order the accused's final discharge even before he has reached the age of majority. However, whenever the accused minor has been found to be incorrigible or has willfully failed to comply with the conditions of his rehabilitation program or his continued stay in the training institution be inadvisable, he shall be returned to the committing court for

final judgement.

### *Treatment and Rehabilitation*

Among the programs aimed to alleviate the situation of young offenders are:

(a) intake services - a program in which a social worker of the court investigates the youth's family background and the possible root causes of his involvement in the offence charged. In this period the treatment process begins and, when necessary, referrals are made to specialized agencies. It is also during this period that the court advises the minor to secure the services of a counsel. If the offender has no lawyer, the court provides him with a "de officio" counsel.

(b) Casework services - The case of the youthful offender is assigned to a social worker for a social case study. The report of the social worker will assist the court in the proper disposition of the case.

(c) pre-trial determination - The court clarifies the issues and establishes a climate of peace, amity and harmony among the parties. This is to minimize the adverse effects of court litigation on the minor.

(d) Probation services - If the sentence of the youthful offender is suspended and he is placed on probation, the social worker who is in charge of the minor's case sees to it that the offender receives rehabilitation services.

(e) Psychological services - The minor and his parents undergo psychological tests to identify emotional disturbances, personality disorders or other character conflicts.

(f) Psychiatric services - A psychiatric examination of the youth is made to assist the judge in determining what has gone wrong with the individual, what treatment program is most suitable for him and the appropriate disposition of his case.

Various programs have been launched by the government and non-governmental organizations for the care, control and treatment of youth offenders. Among them are: Special schools for children with behavioral problems and out-of-school

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youths. For minor offenders who are awaiting disposition of their cases, detention homes have been established to segregate them from adult offenders.

### *Community based services*

These have also been actualized for youthful offenders whose sentences have been suspended by the court to facilitate their re-entry into the normal community life. This program is undertaken by the Ministry of Social Services and Development and consists of the following:

(1) Custody on Probation Services - This is a disposition alternative afforded youth offenders in lieu of commitment to a national training school.

(2) Pre-Institutional Care Services - These are designed to prepare the youthful offender and his family for the offender's commitment to a national training school.

(3) After-care services - These are given to prepare the immediate family and peers of the minor and the community as a whole for his discharge from commitment. There are also programs for his reintegration into community life through active involvement in existing community projects.

The Department of Social Service and Development has established ten rehabilitation centers: one is a National Training School for Boys, for male juvenile offenders, one for female juvenile offenders and eight in different regions to serve all juvenile offenders throughout the country.

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## 11. Singapore

### *Definitions and general concepts*

The population of Singapore is 2,818,200 of which those below 15 years of age forms 23.2 per cent. A juvenile is defined as a person under the age of 16. The minimum age of criminal responsibility is 7. The person below the age of 7 is deemed incapable of committing a crime. The Children and Young Persons Act (CYPA) was enacted in 1950. A child is a person under the age of 14 years and a young person is one who is 14 years of age or upwards and below 16 years.

The term delinquency is not defined in law, but the concept of delinquency includes: (a) juveniles in need of care and protection; (b) juveniles whose behavior is refractory, e.g. beyond parental control; (c) juveniles whose offence would be considered criminal, if committed by an adult.

A child generally goes through an average of 10 years of formal education. A person aged 21 and above is eligible to vote. All able-bodied male Singapore citizens and permanent residents aged 18 and above are required to serve a period of two or two-and-a-half-years full time national service, depending on the rank attained.

### *Investigation*

There is no special unit set up in the Police Force to specifically deal with juveniles. But

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in cases involving juvenile delinquents, the Police generally will refer the matter to the Attorney-Generals chambers for a decision as to whether to proceed against the juvenile or not. The Attorney-General is the principal legal adviser to the government and is also the Public Prosecutor. He is empowered to institute, conduct or discontinue any criminal proceedings. Accordingly, he has the discretion not to prosecute against a juvenile.

Generally, a juvenile delinquent who is still attending school and who has committed a minor offence, will be let off with a warning in the presence of his parents or guardians. Children under 10 years are generally not prosecuted unless the offence is serious or of public concern. Whenever a juvenile is arrested, with or without warrant, the Police will inform the juvenile's parents and request them to be present at the police station. At the police station, the juvenile is kept at a holding area which is different from the cell which contains adult criminals. Where a juvenile is arrested, he shall be brought before a Juvenile Court and where he cannot be brought forthwith before a Juvenile Court, the Police Officer making the arrest shall without unnecessary delay (within 48 hours) take or send the juvenile before a Magistrate who shall inquire into the case.

The right to remain silent at the investigation was abolished by parliament in an amendment passed in 1975.

### *Adjudication*

Where a juvenile is charged with any offence his/her parent or guardian is required to attend at the Juvenile Court hearing. It shall be the duty of the Court to explain to him/her in simple language the substance of the alleged offence and to ask the juvenile whether he/she admits the facts constituting the offence. The juvenile offender does not have the right to remain silent at the hearing as the court could call him to the stand. In addition the juvenile has the right to obtain legal counsel, to

cross examine and the right to appeal to a superior court.

The Juvenile Court may be assisted by 2 advisers. The adviser may be an Associate Professor of social work, sociologist, medical doctor, social worker, volunteer probation officer or retired police officer. The function of the Advisers are to advise the court on the treatment suitable for the offender. The court may also before disposing of the case, obtain a pre-sentence report on the juvenile's background and a probation officer's report. For the purpose of obtaining such information or observation, the court may from time to time remand the child and young person or release on bail.

When the Juvenile court is satisfied that an offence has been proved, or when the child or young person admits the charge and facts constituting the offence, the Court has power:

(a) to discharge the offender upon his entering into a bond to be of good behavior and to comply with such order as may be imposed;

(b) to commit the offender to the care of a relative or other fit person; (d) to order his parent or guardians to execute a bond to exercise proper care and guardianship; (e) without making any other order, or in addition to an order under paragraph (b),(c),(d) or

(h), to call for a probation report and to make a probation order placing the offender under the supervision of a Probation Officer or some person, for a period or not less than 1 year and not more than 3 years from the date of the order as may be specified therein;

(f) to order the offender to be detained in a place of detention or remand home for a period not exceeding 6 months; (g) to pay a fine, damages or costs; and (h) to order the young person (offender) to be sent a Young Offenders Section for imprisonment, if any of the other measures is in the court's opinion not sufficient.

In general, no person shall be present at

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any sitting of a Juvenile Court except: a) members of the court; b) parties to the case before the court; c) their solicitors or counsel, witnesses and other persons directly concerned in that case; d) such other persons as the Court may specially authorize to be present. In general, no media report on any proceedings of a Juvenile Court may reveal the name, address or school, or include any particulars to lead to the identification of any juvenile concerned in those

proceedings. Only the Court or the Minister, if satisfied in the interests of justice to do so, by order release such information as may be specified in the order.

### *Actual rehabilitation*

There are special institutions and community-based treatments available to rehabilitate juvenile offenders. Where juveniles are placed on probation, they may be ordered to reside in a Hostel or Boys Home (open institution ; official) as a requirement for probation. The juveniles are allowed to go to work or attend schools on their own. Those who are neither working nor schooling keep themselves busy with carpentry, gardening and maintenance work.

The function of Approved School/Home (closed institution ; official) is to provide rehabilitation training to those detained for a period of 3 to 5 years. But the offenders are not liable for detention beyond 19 years of age. All residents are assessed, classified and segregated according to seriousness of offences and the various stages of rehabilitation. The treatment programme lays emphasis on a strict regimentation of discipline and vigorous vocational or work training.

Young Offenders Section is a section of a prison for the juvenile who is between 14 - 16 years old and is unruly or so depraved in character that it is not desirable for him to be detained in any approved school. The young offenders follow the same regimen as that for adult prisoners. But association between them is strictly controlled.

Probation involves the conditional release of an offender under the supervision of a Probation Officer. To determine the suitability of the juvenile offender for probation, the Court will call for a pre-sentence report. In 1971, a volunteer probation service was introduced to provide an opportunity for concerned citizens to volunteer their services in the rehabilitation of probationers.

A juvenile offender can be considered for release on parole if he has stayed in an institution for 12 months and has made sufficient progress in his training. Juvenile offenders released on parole are being placed under the supervision and personal care of an Aftercare Officer. The Aftercare Officer acts as an important link between residents in the various institutions and their families to ensure that family links are not severed during the period of committal. Whenever residents are discharged from residential care, aftercare officers continue to provide follow-up services for periods ranging from 6 months to 2 years or more depending on the child's progress in reintegrating into the family and society.

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## 12. Sri Lanka

### *General concepts and definitions*

A "juvenile" is defined as a person who has attained the age of 12 years and is under the age of 16. The minimum age of criminal responsibility is 8 years. The Children and Young Persons Ordinance

(CYPO) was enacted in 1939. A child is a person under the age of 14 years and a young person is one who is 14 years of age or upwards and below 16 years. And the youthful person is one who is 16 years of age or upwards and below 22 years.

The term delinquency is not defined in the CYPO, but the concept of the delinquency includes: a) juveniles whose offence would be considered criminal, if committed by an adult; b) juveniles in need of care and protection.

It must be noted that serious offences listed in the schedule to the CYPO is referred to in this report as "scheduled offences". There is no compulsory education system in Sri Lanka. Military service is not compulsory. A person aged 18 and above is eligible to vote and to marry.

### *Investigation*

The power of investigation into juvenile offences is vested in the police and certain public officers (Grama Seva Niladharis). There is no special unit set up in the Police Force which deal with juveniles. Where a juvenile is arrested, with or without warrant, the person making the arrest shall take him to the nearest police station. And the officer in charge of that station shall inquire into the case and shall release him if a recognizance is entered into by him or his parent or guardian.

A juvenile is not released in the following case: a) the charge is in respect of scheduled offence; b) it is necessary to remove him from association with any reputed criminal or prostitute; c) the officer has reason to believe that his release would defeat the ends of justice. The juvenile is detained in a remand home or the residence of any person

nominated by the Minister until he can be brought before the competent court.

The officer in charge of the police station must also inform the Probation Officer of the area to be present in court. Generally, a juvenile case is prosecuted by the police officer, and the right to remain silent is assured.

### *Adjudication*

Juvenile Courts (including Magistrates Courts) sit for the purpose of dealing and determining any case in which a child or young person is charged with any offence other than a scheduled offence (murder, culpable homicide, attempted murder, attempted culpable homicide and armed robbery).

It is the duty of the judge, as soon as possible, to explain in simple language the charge brought against the juvenile and question him as to whether he admits the commission of the offence. The juvenile has a right to remain silent as well as right to legal counsel, cross examination and appeal.

No person shall be present at any sitting of a Juvenile Court except: a) members and officers of the court; b) parties to the case before the court; c) their attorneys-at-law and witnesses and other persons directly concerned in that case; and d) such other persons as the court may specially authorize to be present. Reports of proceeding before a Juvenile Court are prohibited from being published in any manner of newspaper.

In deciding how the child or young person should be dealt with, the Court may consider an information supplied by the Probation Officer. If further information is necessary, the offender can be detained in a remand home for a period not exceeding 3 weeks on each occasion, until such information is obtained.

According to the CYPO, orders of the Court could be classified into two categories. In the case of a young offender, the Court may:

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(a) discharge him/her after an admonition;

(b) order him/her to be delivered to his/her parent or guardian or nearest adult relative, on such person executing a bond, that he will be responsible for the good behavior of him/her;

(c) make an order discharging him/her conditionally, on his/her entering into a bond, with or without sureties to be of good behavior;

(d) order him/her to be placed in charge of some fit person for a period not exceeding 3 years;

(e) make a probation order for a period specified in the order, not being less than one year and not more than 3 years.

(f) order him/her to be committed to custody in a Remand Home for a period not exceeding 1 month;

(g) order him/her to be sent to an Approved or Certified School (provided only for young person);

(h) impose a fine on him/her, and further order that the fine be paid by the parent or guardian of him/her;

(i) where the offender is male, order the infliction of corporal punishment not more than 6 strokes with a light cane or rattan;

If the Court is satisfied that any person brought before the court is a juvenile in need of care and protection, the Court may either:

(a) order his/her parent or guardian to enter into a recognizance to exercise proper care and guardianship;

(b) commit him/her to the care of any fit person, whether a relative or not, who is willing to undertake the care of him/her;

(c) make an order placing him/her for a specified period, not exceeding 3 years, under the supervision of a Probation Officer, or some other person appointed for the purpose by the Court;

(d) order him/her to be sent to an

approved or certified school.

Every order committing a child or young person to the care of a fit person shall, subject to the provisions of the CYPO remain in force until he/she attains the age of 16 years. A child cannot be ordered to be imprisoned for any offence or in default of payment of a fine. The minimum age of a person on whom sentences of death can be imposed was raised from 16 years to 18 years by amendments to Penal Code in 1980 (the period of detention in Remand Home is left to Presidential discretion).

### *Rehabilitation*

The Remand Home (official) is designed to provide detention facilities for children referred there by the courts. One of the principal functions is to provide the courts and Probation Officers with observation reports on the inmates, and to enable a court to identify the most appropriate treatment for a juvenile offender.

At the Approved or Certified School (official), juveniles may receive re-education, training and care to enable them to improve their behavioral patterns and facilitate resettlement in society. One of the Certified Schools where the children are admitted is treated as the Classifying Center from where the children are dispatched to the other schools after investigation of relative suitability. While at these Certified Schools the juvenile attends a school. He is also taught a trade and is allowed a yearly visit to his home for a week at the time of a principal religious feast.

The Probation Officer continues to review all cases at 3 monthly intervals and supplies reports to the Magistrate when they are called for.

Probation is a community based treatment programme available for young offenders to enable the individual to develop his/her life as a useful member in the community.

Though the Approved or Certified School Order is for a period of 3 years the juve-

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nile becomes eligible for release under the Probation Officers supervision after a minimum of one and a half years.

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### 13. Thailand

#### *General concepts and definitions*

The population of Thailand is about 55.5 million. The statutes regulating the administration of the Juvenile Justice System in Thailand is based on the Law abolished the Act Instituting the Juvenile Court, B.E 2494(1951) and the Juvenile Court Procedure Act, B.E 2494(1951). I will later describe the recent statutes. The age of majority is 20 at which one is eligible to vote and assume full legal rights, however one may marry at 17. Military service is compulsory and one joins at the age of 18.

For our purposes a "juvenile" is categorized as follows:

(a) A child (whose age is over 7 but does not exceed 14)

(b) A young person (whose age is over 14 but does not attain the age of 18) Under the Penal Code(1957) a child not yet over 7 of age shall not be punished for committing an offence. However, the child will still be held accountable. This concept is

similar to that of the minimum age of criminal responsibility, as used in other jurisdictions. However it is slightly different from most because the child is still liable for damages.

In Thailand "juvenile delinquency" is understood to mean juvenile misconduct or commission of an offence. "Pre-delinquency" is not directly mentioned however the concept is also found in the statutes in that the system is being able to provide measures for those juveniles who have not committed an offence but for some social reasons are in need of care, protection and control.

#### *New Juvenile legislation*

Under the above mentioned statutes the Central Juvenile Court and the Observation and Protection Center were established in 1952. Being enforced for eleven years, the Acts were amended by the Act

Instituting the Juvenile Court (amendment)1963 and the Juvenile Court Procedure (amendment)1963. The purpose of these amendments was to extend the juvenile court's jurisdiction and their powers regarding civil matters and to bring to speedy trial in criminal cases in the interest of the child or young person.

Recently, The Act Instituting the Juvenile and Family Court and its Procedures relating to juvenile and family cases of 1991 has superseded all thirteenth juvenile court laws and amendments. The new act has extended the court jurisdiction to cover all family matters as provided by the family law, the civil and commercial code. In criminal proceedings and welfare of juvenile, the law has clearly defined and revised certain provisions to protect the rights of children and young persons. At present, the legislation has been promulgated and came into force on the 9th of January, 1992.

#### *Investigation*

##### (1) Role of police

During the investigation the juvenile

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suspect has the right to remain silent. When a child or young person is alleged to have committed an act against the law; his case shall be commenced and investigated by an inquiry police officer, as required by ordinary criminal cases, but the handling of a juvenile offender is more informal and lenient. It is to be noted that specific unit in the police deals with juveniles.

An inquiry Police Officer may keep an alleged child or young person for questioning but not more than a period of 24 hours. To clarify, after arriving at the office of an inquiry Police Officer for 24 hours, the alleged person must be taken to an Observation and Protection Center where the person will either be detained or be released on bail. If not released, the alleged person will be detained in a remand home.

### (2) Role of the observation and protection center

In general, a child or young person may be detained during investigation at the police station or in custody of the observation and protection center. The director of the center may, if he thinks fit, keep him in custody. Under the law, a request for provisional release of the arrestee shall be made to the custodian authorities as the case may be.

The center is empowered and vested by law to perform three main functions:

(i) Preparing a social investigation report concerning a child or young person; for instance, historical background, family, occupation, education, character and other social data.

(ii) Preparing a report on both physical and mental examinations.

(iii) Preparing an observation report in the case of a child or young person who has been detained in the observation and protection center (remand home).

A social investigation report is required in every case, except pre-hearing investigation is not necessary in a trivial case. The Supreme Court has ruled that "in order to find

appropriate measures for a child or young person, the court has to consider all social environments relating to him, including causes of delinquency". In this opinion on causes of delinquency on the grounds the accused had denied the charge. It may raise further issue that it is desirable to offer such arbitrary opinion without reasonable proven causes. In practice, the director of the observation and protection center will submit the report together with his routine recommendation on causes of delinquency to the juvenile and family court.

In theory, pre-hearing investigation is central and vital to the juvenile justice system in that care and rehabilitation are the main objectives. In the general process a probation officer who is in charge of the case will deliver an investigation report to the police within 18 days. The officer, usually, will conclude his case in 6 days; then forward an "inquiry file" attached with the report to the public prosecutor.

### (3) Role of public prosecutors

In the stage of pre-hearing investigation, referring to the final report by a probation officer, it will be included in an investigation of the inquiring officer. Whether acquitting or further processing the case, an approval of a public prosecutor is required. During pre-hearing investigation, public prosecutor have discretion to finish the case by inflicting fine when the offence being investigated, as well as circumstances, is allowable. Under the "opportunity principle" the public prosecutor has discretionary power to decide in pursuance of the procedural laws whether to enter or drop the charge.

### *The philosophy of the juvenile and family court*

It is expedient to constitute juvenile and family court for the welfare of children and young persons. Children and young persons should not be regarded as responsible as adults. When they are alleged to have committed what the law considers to be an

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offence and if they enter the criminal justice process just like an adult offender, it may greatly affect their state of mind and health and eventually cause them to despair and prevent them from rehabilitation. It is therefore necessary to institute special procedures for dealing with them.

At present, there are eleven Juvenile and Family Courts in Thailand; one in the Bangkok area, and the others in the rural. The child and young person may be dealt with informally and non-punitively under the juvenile and family court provisions, but proceedings are still called criminal instead of social and non-criminal procedure.

### *The structure of the juvenile and family court*

It consists of two separate but coordinating parts; judiciary and administration. The court is staffed by career judges and associate judges. A quorum consists of two career judges and two associate judges: at least one of the associate judges must be female. The court adjudicates all family and criminal cases and handles other legal matters involving children and young persons. The administration is divided into office of the courts' registrar and the observation and protection center. The center is staffed by professional personnel, for instance, probation officer, social worker, physician, psychiatrist, scientist and educator.

### *Jurisdiction of the juvenile and family court*

The juvenile and family court has jurisdiction to deal with the following cases:

(1) Any criminal case in which a child or young person is alleged to have committed what the law has provided to be an offence and any criminal case transferred from the court having power to try ordinary cases under section 11 of the juvenile court law.

(2) Any family case shall be filed or applied for any proceedings involving any minor (whose age is under 20) which is governed by the Civil and Commercial

Code.

(3) Any proceedings whereby the court must rule or issue an order involving a child or young person under the specified jurisdiction of the Juvenile and Family Court.

Pursuant to the Thai penal code, section 74, "no punishment shall be imposed upon a child under fourteen. However, the juvenile and family court almost always takes the following measures.

(1) Admonish the child or young person and then discharge him.

(2) Discharge the child or young person to his parent or guardian.

(3) Place the child or young person under care of person or organization the court thinks desirable.

(4) Suspended judgment with probation order.

(5) Suspended Judgment without probation order.

(6) Commit into training institution.

(7) Substitute into imprisonment to commit into training institution.

(8) Suspension of judgment with probation order.

(7) Fine.

(8) imprisonment.

The trial is not public. The persons present at the trial are the accused, parent, guardian, legal adviser, witness, prosecutor, members of the court and other persons permitted by the court. Photographs, reports or facts presented at the inquiry proceedings are not to be released to the public.

Either party may make an appeal against the judgment to the Court of Appeal except where the appeal is prohibited by the Code or other law. With further restrictions, appeal may lie against the judgment of the Court of Appeal to the Supreme Court whose judgment is taken to be final.

### *Treatment and rehabilitation*

To achieve the goal of rehabilitation, each training school provides the following:

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(1) Academic instructions having 4 levels and issues a certificate for students meeting all requirements, according to curriculum by the Ministry of Education.

(2) Vocational training including carpentry, welding, printing, auto, music, electricity, waterworks, agriculture, arts and crafts, tailoring, barber, photography, repairing air conditioner, and repairing typewriter.

(3) Services for improving health.

(4) Improving habit and mind. Preachers and guests from the Buddhist Association give moral instruction.

(5) Surveillance. To assure safety and welfare of the offenders, each dormitory has officials or permanent employees assuming a parental role. They manage and solve any problems deriving from living together.

In Thailand there is no special institution for juvenile drug users and juvenile prison. But, there are private institutions and public hospitals for treatment of juvenile drug addicts.

Probation is one important non-institutional measure. In practice, juvenile offenders are released under the condition that they meet probation has first been introduced in the Juvenile Justice System; and according to the Penal Code of 1956, Judges of Court of the First Instance have authority to refer to probation as one alternative when sentencing juvenile offenders.

Probation orders have been increasingly laid down by Juvenile and Family Courts. This has resulted in a big caseload and less effective supervision of probation officers. To resolve this problem, it is more practical to use volunteer as assistant of probation officer, rather than increasing a number of probation officers. The Volunteer Probation Services has been officially introduced in Thailand by the Declaration of the Regulations of the Volunteer Probation Services B.E.2528 (1985) of the Ministry of

Justice. This Regulations include purposes, qualifications, duties and authorities, time of validity, and causes of expiration of Volunteer Probation Officers. Since then, there has been training to recruit volunteer probation officers from time to time.

In Thailand, there is probation order after release or after care service. It is similar to parole system. The after care service is based on the idea that it is a responsibility of an Observation and Protection Center to ascertain that the released offender survive satisfactorily in his/her society. Such service is not for every offender; instead, most of the after care services are for offenders being released sooner than the official fixed date. Usually, they are place on probation until the official date of release. In such case, a social worker is responsible for advising the released to follow probation conditions.

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## JUVENILE JUSTICE SYSTEM

### EVALUATION AND ANALYSIS

#### *General*

Among the thirteen countries studied only Nepal did not have, as yet, a Juvenile Justice System. Nepal's new Juvenile legislation are still in the process of approval and implementation. The other twelve countries have in place specific legislation and ordinances regulating the administration of Juvenile Justice. This is indeed one of the underlying reasons for the Beijing Rules, that is, it insists that each member state must have laws that deal with juveniles, and is itself the model stipulating the minimum rules each member state may have.

The concept of the Beijing Rules recognizes the need to treat juveniles separately owing to "their early stage of human development, requirement of care and assistance due to their physical, mental and social development, and that they require legal protection in conditions of peace, freedom, dignity and security".

#### *Age of criminal responsibility*

This is considered to be the minimum age at which a child is held responsible for his acts when he breaches the law. Under the Beijing Rules it is encouraged that this age should not be too low. It must take into account factors such as emotions, and mental and intellectual maturity.

In the countries studied the majority of them had the minimum age at between seven and ten years old. Korea and Japan had higher minimum ages being fourteen for both countries. Bolivia however did not have a cut-off age for criminal liability as the law can deal with any child who has committed an offence.

It must be noted that the Beijing Rules specifically acknowledges the range of minimum ages from one state to another according to the history and culture of each country. However it encourages that this limit should be as high as possible.

#### *Definition of a juvenile*

In our evaluation we have used the term juvenile to describe the age groups which are treated under the juvenile justice system. The term is not universal as separate jurisdictions use different terms. In the majority of the countries the age group falls between seventeen and seven.

In Japan and Korea, however it is higher being all those under the age of twenty. In Ethiopia the range of the age group treated under the juvenile justice system is much smaller, being those only between nine and fifteen.

In Nepal there is no separate juvenile justice system therefore for our purposes, it is the only country that does not use the concept of a juvenile as we have defined it. This is not to mention however that a child under sixteen, does get some leniency under the normal penal system, but only with respect to the duration of the sentence.

It must be understood that in all the countries, except Nepal, those under the minimum age of criminal responsibility may also be dealt with under the juvenile justice system but only to seek appropriate orders and measures for those in need of care, protection or control.

According to the Beijing Rules a juvenile is a child or young person under the different legal systems, that is dealt with for an offence differently from adults. It must be noted that the emphasis is that a juvenile must be treated under a system which is different from that of adults.

Therefore from the countries studied all have integrated into their national legal systems a juvenile system, with the exception of Nepal which is still in the process of implementing a juvenile justice system.

#### *Age of compulsory military service*

Only Bolivia, Korea, Thailand and Singapore have compulsory military service and the age in those countries to comply with the service is eighteen years old. Under the

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Beijing Rules member states are discouraged from taking into service persons under fifteen years of age.

### *Investigation and Prosecution*

#### 1) Investigation agency

The investigation agency is the agency responsible for investigating an offence where the suspect is a juvenile.

In most of the countries the police have the primary role of initiating an investigation once an offence is alleged to have been committed by a juvenile. In Japan, Korea and the Philippines both the police and the public prosecutors have the authority to initiate the investigation.

In Bolivia and Ethiopia the court (Minors and Worada respectively) is responsible for directing the investigation. The police can not investigate on their own initiative in both countries. In the Philippines it is the Inquest prosecutor, i.e. public prosecutor, that is responsible for the preliminary investigation.

In Fiji, Korea, Japan and Thailand the investigation agencies have units specifically designated to handle all juvenile cases. It can be noted here that the most delicate time for a juvenile entering the juvenile justice system is at the investigation stage.

Therefore, as acknowledged under the Beijing Rules, the investigating agency should have personnel with special training in handling such cases. The Rules also emphasizes the importance of managing this first contact in such a way as to respect the rights of the juvenile and to avoid harm with respect to the circumstances of the case.

In addition the process must be carried out without delay and must consider release on bail. The parents or guardian must also be informed immediately where possible.

#### 2) Prosecution

Here we will discuss which agency prosecutes a juvenile that has been charged with a criminal offence. In addition we will also

include a description of which agency can appear seeking an order in the case where the juvenile has not committed an offence but is considered in need of care, control or protection.

In most of the countries the police or the public prosecutor prosecutes in the appropriate juvenile court. In all the countries, except Bolivia, the public prosecutor appears where the offence committed is serious and the penalty is heavy. In this respect the case may be prosecuted in a different court, not necessarily a higher court.

In Japan and Korea the cases are not prosecuted but instead are "referred" to the family court. Though the process that goes on is similar to all the other countries that prosecute, the term used is different. It must be noted that each country use different terms and these differences all evolve from the different philosophies and principles on which their respective systems are based.

It is of interest to note that in Ethiopia a juvenile can not be prosecuted without a directive from the Worada court. When such a directive is received the police would appear in the Worada court but for a serious offence, i.e. punishable with more than ten years if committed by an adult, the public prosecutor appears in the high court.

In all the countries studied, it has been noted that in the case where an order is required to institute measures on a child that is in need of care, control, or protection, the parents themselves, private citizens or some form of social welfare agency will bring the case to the court. This process is specifically used in cases where the juvenile has not breached the law, but is seen as most likely to become a future offender or victim if the court does not intervene and allow the juvenile to be brought up in an appropriate environment.

In Japan this type of case is called "status offence" or pre-delinquency, and is similar to the term used in the Beijing Rules. The Beijing Rules states that the relevant pro-

## JUVENILE JUSTICE SYSTEM

visions of the Rules shall be applied to juveniles who may be proceeded against for any specific behavior that would not be punishable if committed by an adult. It also states that efforts shall be made to extend the principles embodied in the Rules to all juveniles who are dealt with in welfare and care proceedings.

There is a dispute whether it is appropriate or not to maintain the system of status offence. In Canada the provisions allowing status offences was revoked because the view was that "due process of law" does not exist and that the constituent elements of a status offence are not clear.

In each of the countries that did have provisions covering status offence or pre-delinquency in the administration of the juvenile justice system, there were sufficient provisions ensuring the protection of the rights of the juvenile. In Japan this system appears to be very efficient for finding, protecting and educating children at an early age and in the prevention of crime.

### 3) Pre-trial custody

Nepal is the only country where there is no provision stipulating that juveniles be segregated from adults during the investigation and pre-trial stages.

In all the countries studied there are provisions regulating pre-trial custody. The provisions all indicate that the juvenile is to be taken into custody only in exceptional cases, and if taken into custody it must be in segregation from adults. It must be noted that this includes the segregation of the sexes. These policies are in line with the minimum requirements under the Beijing Rules.

### 4) Diversion

This term is used to describe persons or institutions that hold discretionary power to drop charges or take other measures instead of a trial. It is acknowledged that diversion can occur at any stage of the

process prior to the final disposition of a case by the court. The methods of diversion differ from country to country. Generally they include the authority to stop proceedings, order implementations of specific methods of supervision, and the direct removal of the juvenile into a juvenile training or welfare type institution. In Bolivia, Ethiopia and Japan the relevant juvenile court has the greatest discretion in diverting juvenile cases. In the remaining countries the police and the public prosecutor divert most of the cases. However all the jurisdictions have some form of diversion occurring at the investigation, prosecution or trial stages. Only Nepal is different as it does not as yet have any juvenile legislation and so all cases are treated like adult cases, therefore there is no legislated method of diverting juvenile cases.

Some of the interesting methods of diversion are practiced in Korea and Thailand. In Korea, in addition to the norm, a prosecutor could suspend the prosecution and order, with the consent of the juvenile, that he be put under the supervision of a "Sundowiwon" (father figure) for a period of time, at the end of which the charge could be dropped. If the juvenile is not rehabilitated, the prosecutor may continue with the case. In addition to sundowiwon, the court, at the end of a trial, could suspend the pronouncement of the sentence and order the juvenile to probation for a period of time. If there is no improvement in the juvenile, the court may then proceed and pronounce a relevant measure to be undertaken.

In Thailand, the police inquiry officer can order that a fine be paid where the offence is minor, and on payment there are no further proceedings.

Diversion is very important in that it gives the police, prosecutors and the court the authority to deal with a case after taking into consideration all the circumstances of the offence and the juvenile. The welfare and the well being of the juvenile

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must be the first priority so that in cases where the juvenile will be better treated elsewhere, there is no need to go to trial. In which case the juvenile is spared the trauma of being introduced into the system, or the court, and perhaps in the long run will be fully rehabilitated without the stigma of having been to trial or incarceration.

Under the Beijing Rules the emphasis is that where possible the juvenile is to be dealt with without resorting to a formal trial. In addition the referral to a community or welfare service must be with the consent of the juvenile or the parents and must be subject to review by the competent authority.

### *Adjudication and Disposition*

#### 1) Juvenile Court

In the countries covered, juvenile matters are heard in courts not necessarily called juvenile courts, but which are convened specifically to deal with juvenile matters. It was also noticed that the jurisdiction of each competent court and the composition of the bench in each of the countries varied. In some countries the competent court could deal with all matters involving juveniles, while in others, the juvenile court could not hear cases that involved serious offences.

In Bolivia the Minors court has jurisdiction with respect to all matters involving a juvenile. In Thailand the Juvenile and Family court has jurisdiction to hear all matters relating to a juvenile. In Japan the Family Court has the jurisdiction to hear all juvenile cases but if the Family Court thinks that a criminal proceeding or sanction is more relevant, the case is referred to the Public Prosecutor for prosecution in the District Court.

In most of the remaining countries, all serious cases are tried in a separate court. The specific offences which are serious vary from country to country. All other matters in respect of a juvenile are however heard in the competent juvenile court. In

Japan and in Korea, once a criminal case is instituted against a juvenile, the case is tried in the District Court and not the family court.

In the Philippines and Nepal, however there are no separate courts for juveniles as they also attend the "regular court" with the adults. In the Philippines however the juvenile is treated with "humaneness and flexibility" as stipulated under the relevant provision.

It is interesting to note that in Bangladesh and Pakistan adjudication of juvenile cases is also carried out by informal community type bodies. The presiding official is a member of the society who is respected and plays a leading role in the affairs of the community. It is important to note that the cases are dealt with informally but with complete effectiveness as the juvenile is most likely to be personally known in the community and so there is a kind of "shaming" which helps the juvenile reintegrate back into society. It is very likely that, when measures do not work and recidivism sets in, the juvenile or his family may be ostracized from that community.

Under the Beijing Rules the emphasis is that the trial of a juvenile must be by a competent authority and according to the principles of a fair and just trial. The "competent authority" is meant to include all those that preside over courts or tribunals and may include more informal community and conflict resolution type adjudication.

#### 2) Due process of Law

The term "due process of law" is used here to mean the procedures under which a juvenile case is adjudicated by the competent authority. It also denotes the concept of a "fair and just trial" which is the assurance that some minimum basic safeguards of the juvenile are guaranteed. These basic rights may include the presumption of innocence, presentation and examination of witnesses, the right to remain silent, the right to appeal, the right to legal counsel and others. In our

## JUVENILE JUSTICE SYSTEM

research all the countries studied had some form of "due process of law" and the concept of a "fair and just trial" was very much a part of the system. We however also found some interesting deviations which in our view was because of the different emphasis each country put in the Juvenile Justice System.

In Singapore there is no right to remain silent as the suspect can be asked to make a statement in court in his defence.

In Pakistan, it was also noted that there is no right to remain silent at investigation and adjudication.

In Bolivia, the minor has the right to remain silent but the law is silent on the right to counsel and to examine witnesses. The decision of the minors court may be reviewed or modified on the application of interested parties, the public prosecutor or the court itself.

In Korea and Japan an assistant and an attendant appear respectively, instead of a counsel. In this case the attendant or assistant is not necessarily a lawyer. They could examine witnesses and make submissions on behalf of the juvenile. In Thailand a similar system exists whereby a person can be registered at the Juvenile and Family Court, who is not necessarily a legal practitioner, and is allowed to make submissions on the juvenile's behalf.

### 3) Attendance and publication of proceedings

In all jurisdictions, except Nepal and the Philippines, the attendance at the hearing is restricted and not open to the public. In Nepal and the Philippines the court sessions hearing juvenile cases are part of the regular court sittings.

In respect of the publication of proceedings there is also a restriction in all the countries. Basically the restrictions ensure that the juvenile who has been part of a proceeding is not in anyway identified or be put in a position where he can be identified.

The Beijing Rules stresses the importance of protecting the juvenile's right to privacy. The philosophy is that young persons are particularly susceptible to stigmatization. It has been proven that the labelling process has provided evidence of the detrimental effects resulting from the permanent identification of young persons as "delinquent" or "criminal".

In the countries studied this protection is awarded in juvenile proceedings for the same reasons as stipulated by the Beijing Rules, except for the Philippines and Nepal.

### 4) Dispositions

The Beijing Rules encourage that prior to the disposal and sentencing of a juvenile by the competent authority, it must investigate the social background of the child and the complete circumstances of the offence. This is to ensure that the disposition is made from an informed position so as to facilitate a judicious adjudication. In its guidelines the Beijing Rules recommend that:

(1) The award on disposition is proportional to the offence committed, the needs of the juvenile and also that of the society;

(2) Restriction on personal liberty is restricted to the minimum;

(3) Deprivation will only be used in cases where the offence is serious and involving violence, and the likelihood of committing other serious offence is high; and that

(4) The well being of the child shall be the guiding factor.

In all the countries studied the dispositions were carried out along very similar principles. This however is not the case in Nepal where the juvenile on being sentenced is given a portion of the sentence that would have been given if the offence was committed by an adult.

*Corporal punishment and death sentence*

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The Beijing Rule provision against corporal punishment follows the Declaration on the Protection of All Persons from Being Subject to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The provision prohibiting capital punishment, is in accordance with article 6, paragraph 5, of the International Covenant on Civil and Political Rights. Both are guidelines for the adjudication of juvenile and are aimed at providing the due respect to the human rights of juvenile and fair administration of juvenile justice.

Only two of the countries studied had corporal punishment as a likely measure available to the court. These countries are Ethiopia and Sri Lanka. In both countries it is to be applied only to males. The measure is one of those available in Ethiopia specifically where other measures have been applied and failed. In Sri Lanka it is used only where the offence is very serious however this has not been practiced since the early 1970's. None of the countries had the death sentence.

### 5) Composition of the presiding authority (Bench)

The Beijing Rules consider professional competence of all personnel dealing with juvenile cases as an essential element to ensure the impartial and effective administration of juvenile justice. Therefore, professional specialization, in-service training and other modes of instruction of the personnel is emphasized. Also, in the selection of personnel it recommends to take into consideration the participation of women and different minorities according to the diversity of the juveniles to be dealt with under the juvenile justice system.

Three of the countries studied had specific provisions on the composition of the Juvenile Court. In Malaysia the Juvenile Court must be composed of one first-class magistrate and two volunteer advisers, one of which should be, "where practicable", be a women. In Thailand the Juvenile and Family Court

must be composed of two career judges and two associate judges, one of which must be a woman. In Singapore the Juvenile Court may be assisted by two advisers, who should be either an associate professor of social work, sociologist, medical doctor, social worker, volunteer probation officer or retired police officer.

### *Rehabilitation*

#### 1) Institutional and non-institutional treatment

The guidelines given on adjudication and dispositions under the Beijing Rules indicate the emphasis placed on rehabilitation. These measures can either be non-institutional or institutional. Non-institutional treatment includes the use of probation, parole and welfare institutions which may allow the juvenile to get necessary assistance such as lodging, education, vocational training, and others. In addition this may include the help of volunteers and local community resources to help it attain its rehabilitation objective. The Beijing Rules proposes that such non-institutional treatment must be constantly reviewed by a competent authority, not necessarily the court.

Institutional treatment here refers to the use of reformatory type institutions and prisons. According to the Beijing Rules these institutions must be separated from adult institutions or segregated from adults. The objective must be to provide care, protection, education and vocational training. This is to include institutions for medical and psychological assistance, especially in the case of drug addicts and violent young persons. In addition the facilities must also provide special attention to the needs and problems of females. It must ensure that the treatment is fair.

From the research we found that all the countries except Nepal had some facilities for institutional and non-institutional treatment. It is acknowledged that in most cases there are not enough facilities to allow

## JUVENILE JUSTICE SYSTEM

the proper conduct of the rehabilitative measures available to the court. In effect some countries are hampered by the lack of resources.

In Bangladesh there is a state run institution to treat drug addicts. In Thailand and some other countries this type of treatment is available in medical or private institutions.

### 2) Volunteer probation officers

In Bangladesh, Japan, Korea, Malaysia, Singapore and Thailand there are volunteer probation officers that contribute in the rehabilitation of juvenile offenders through the proper orientation and guidance in vocational activities.

Individual volunteer and volunteer organizations in Japan play an important role in the rehabilitation and treatment of juvenile offenders. In Japan community-based organizations such as the Big Brothers and Sisters Association and the Women's Association for Rehabilitation Aid play a commendable role in the rehabilitation of juvenile offenders.

It has also been observed that apart from volunteer probation officials, the community and NGO's provide a lot of support for the rehabilitation programmes in the countries studied. Most of the NGO's are either religiously based or part of some international welfare organizations.

## CONCLUSION

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice have become the guidelines for the protection of the rights of juvenile offenders through the gradual but significant reforms that are being made in the administration of juvenile justice in different countries of the world.

The thirteen countries that were analyzed embrace a wide range of cultural, economic and political differences. In spite of the constraints that some countries face in the

actual implementation of the Beijing Rules, the basic features of their legislation and administration of juvenile justice system reflect concern for the rights of juvenile offenders and their treatment and rehabilitation.

All the countries studied have complied to a large extent with the Beijing Rules. However, it is necessary that further support be provided by the United Nations to those countries that could not implement the guidelines because of the lack of funds and specialized personnel.

Most of the countries studied are non-industrialized, in the process of development and have a young population, therefore further attention should be given in helping to create in their societies more awareness about the importance of rehabilitation of juvenile offenders and their re-integration into society.

The acceptance and understanding of the Beijing Rules should be promoted through dialogue with people in charge of the administration of institutions for juveniles, through judiciary courts and administrative bodies responsible for the protection of human rights and through cooperation of the community-based organizations.

Within the police institutions of the countries studied there is a need of personnel specialized in the treatment of juveniles. Also, it is necessary to enhance the research capabilities and the gathering and distribution of data on juvenile offenders and in this aspect, further support and cooperation should be given to the positive work done by non-governmental organizations that study the situation of juvenile offenders and provide them with moral support and legal advice.

It is necessary to emphasize the importance of avoiding the stigmatization of juvenile offenders and juveniles whose behavior may not be according to the prevailing social values.

The policies of juvenile justice need to

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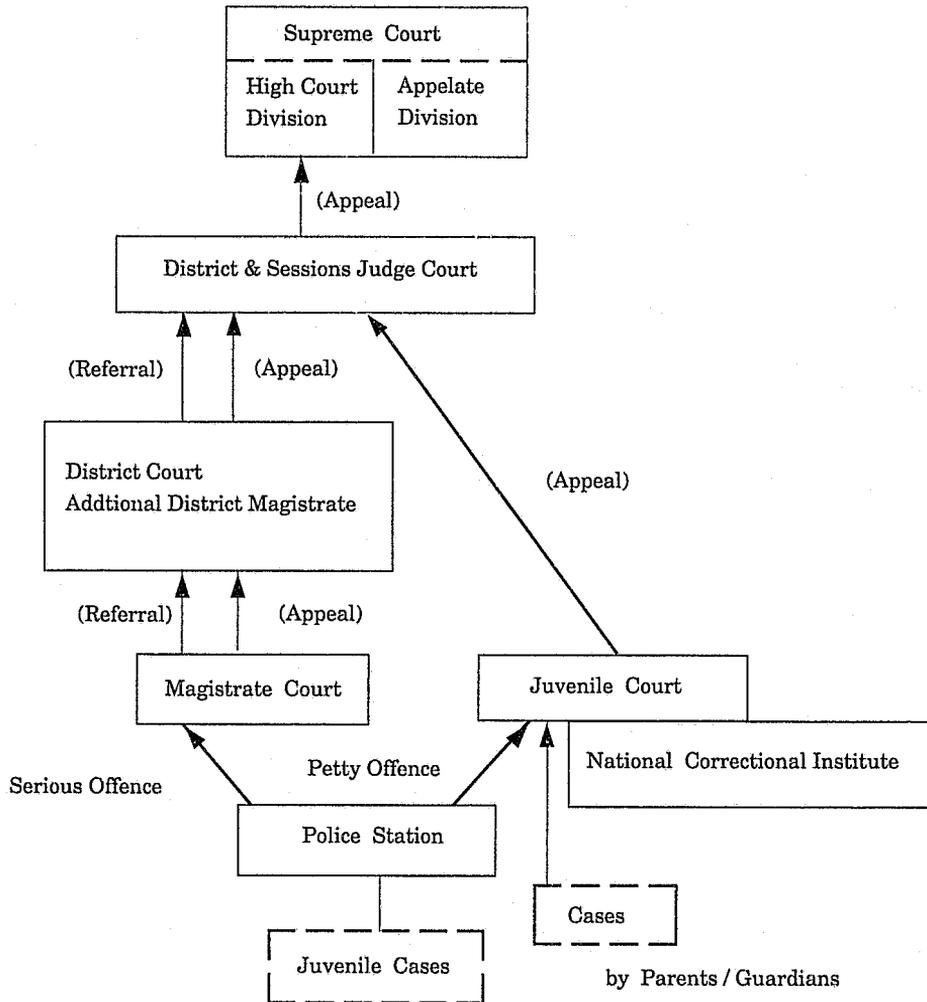
assure in a more appropriate way that no minor is to be subjected to cruelty or degrading punishments.

National policies should assure that no arbitrary treatment is given to juveniles and a greater emphasis should be put on the prevention of juvenile crime through appropriate educative programs and the care and protection of minors in a situation of risk or in need of care, control or protection.

### ANNEXURES

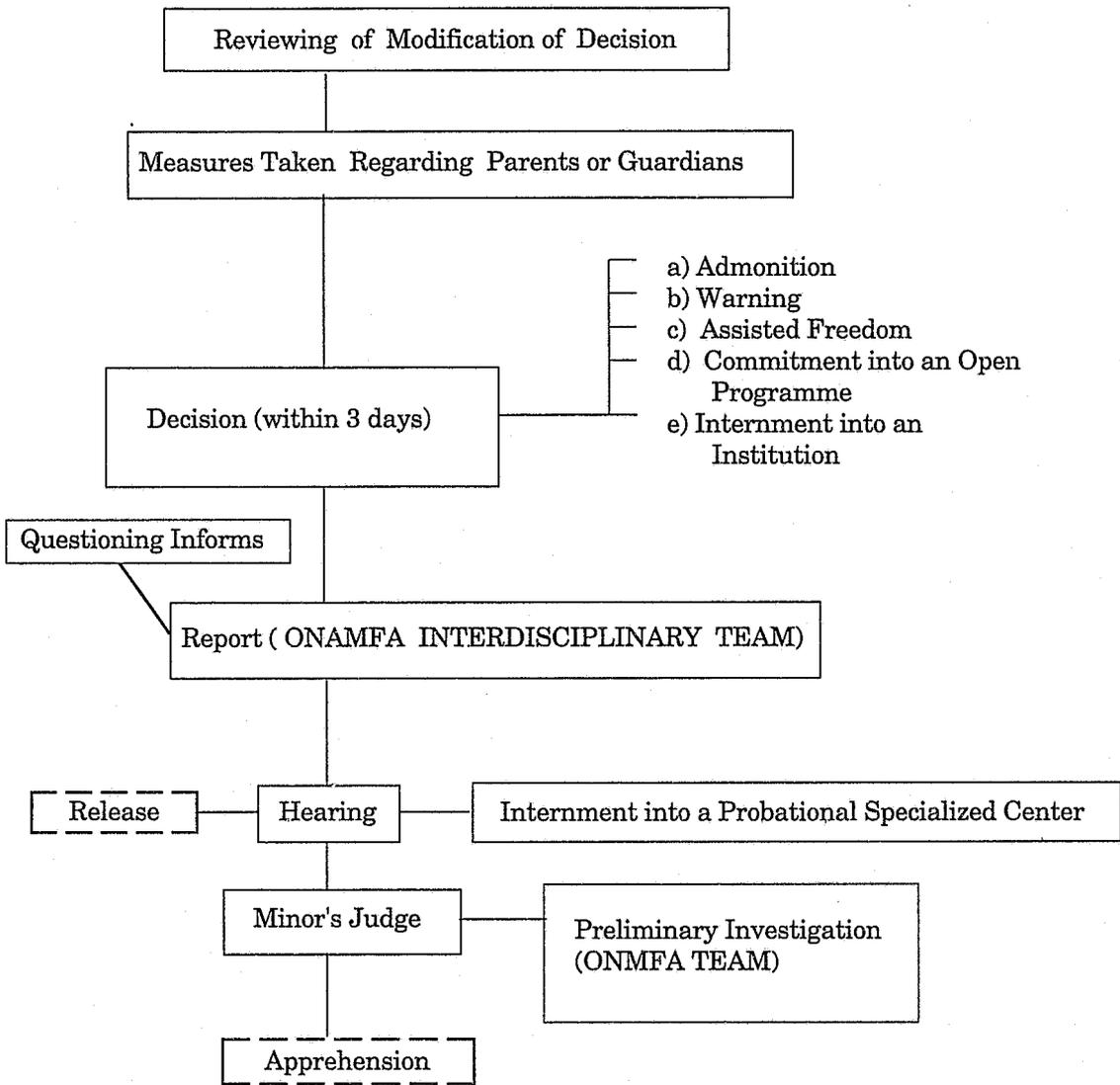
Attached to this report are flowcharts of the different Juvenile Justice Systems of the thirteen countries studied.

ANNEXURE 1: Bangladesh



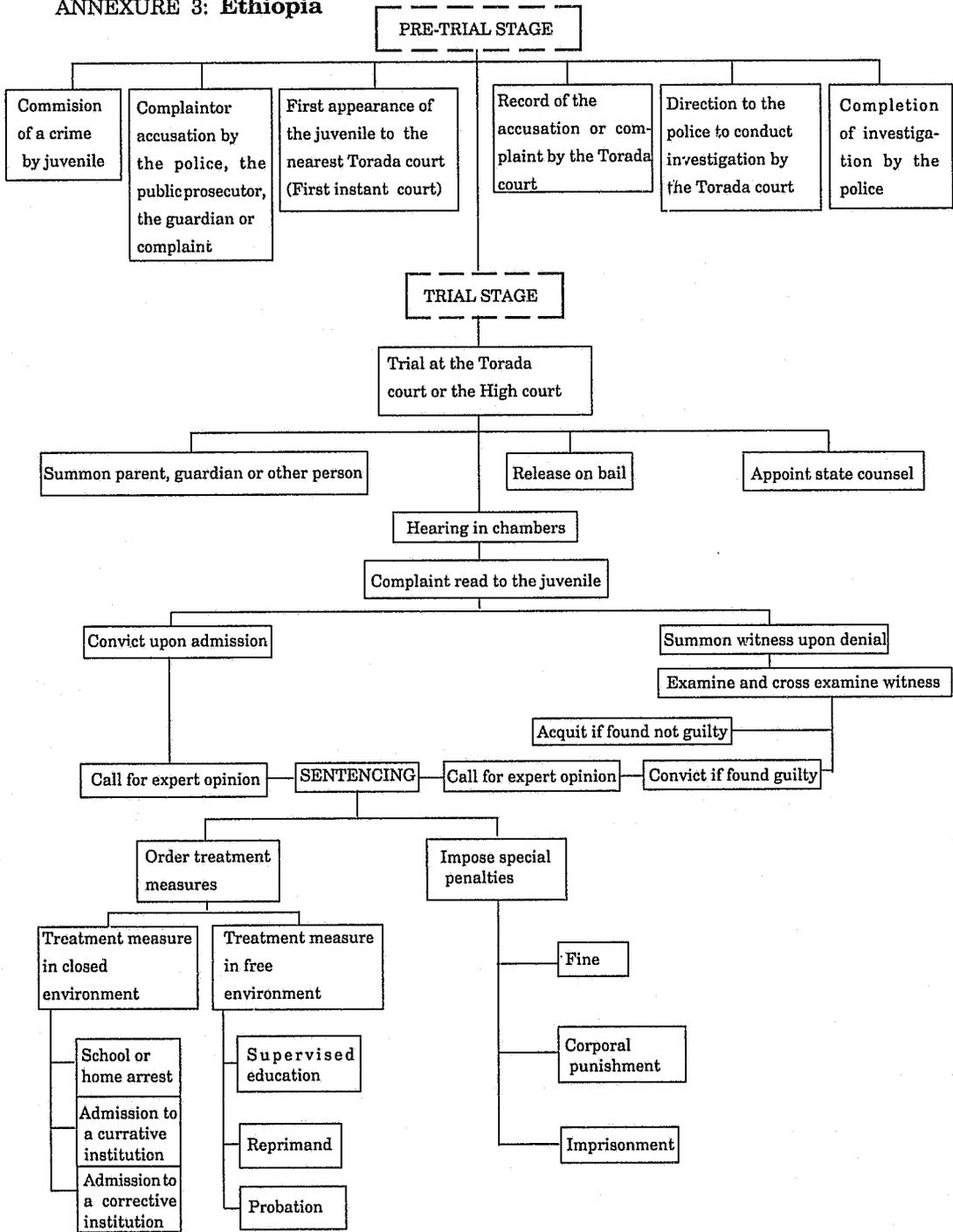
*Flowchart of Juvenile Justice System (Bangladesh)*

ANNEXURE 2: **Bolivia**



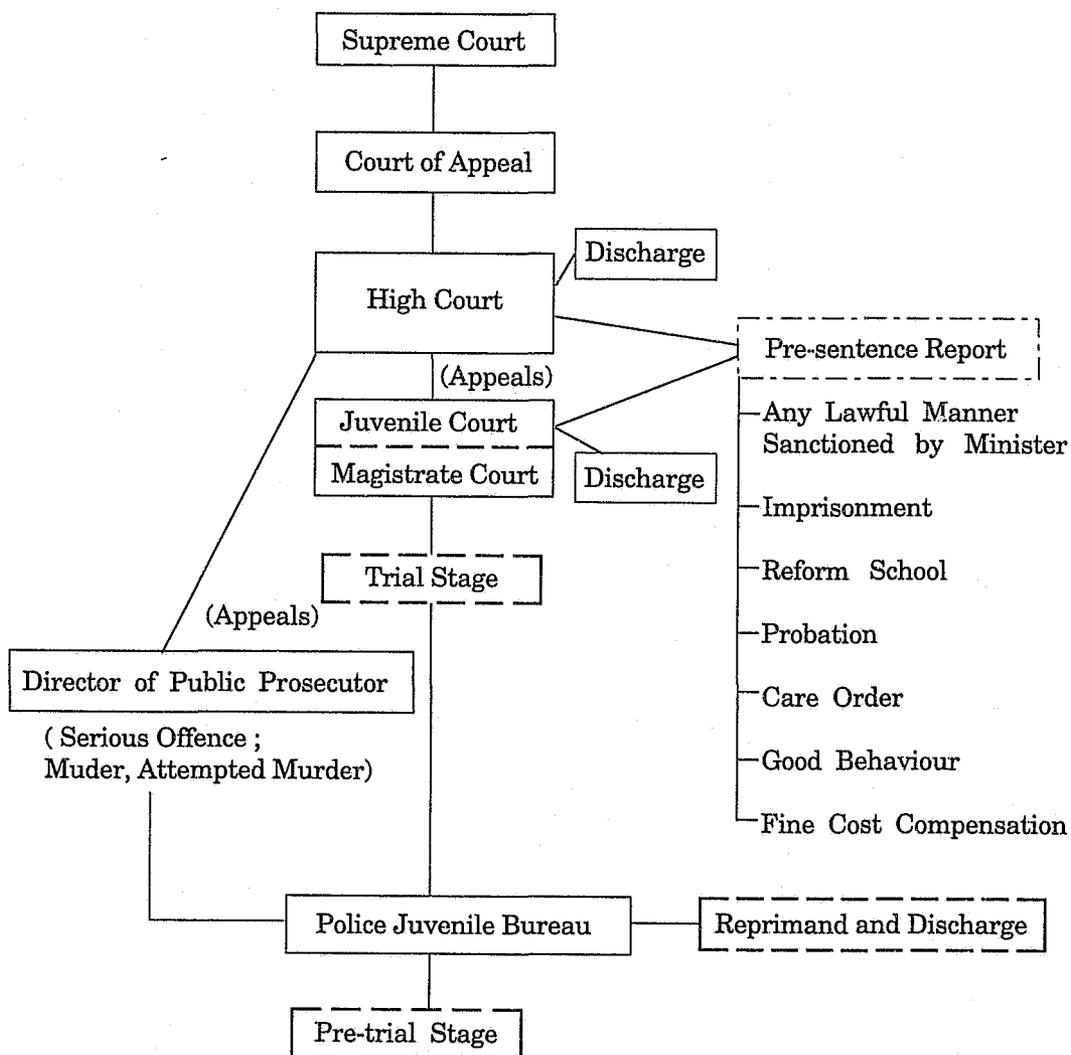
*Flow chart of Juvenile Justice System (Bolivia)*

**ANNEXURE 3: Ethiopia**



*Flowchart of Juvenile Justice System (Ethiopia)*

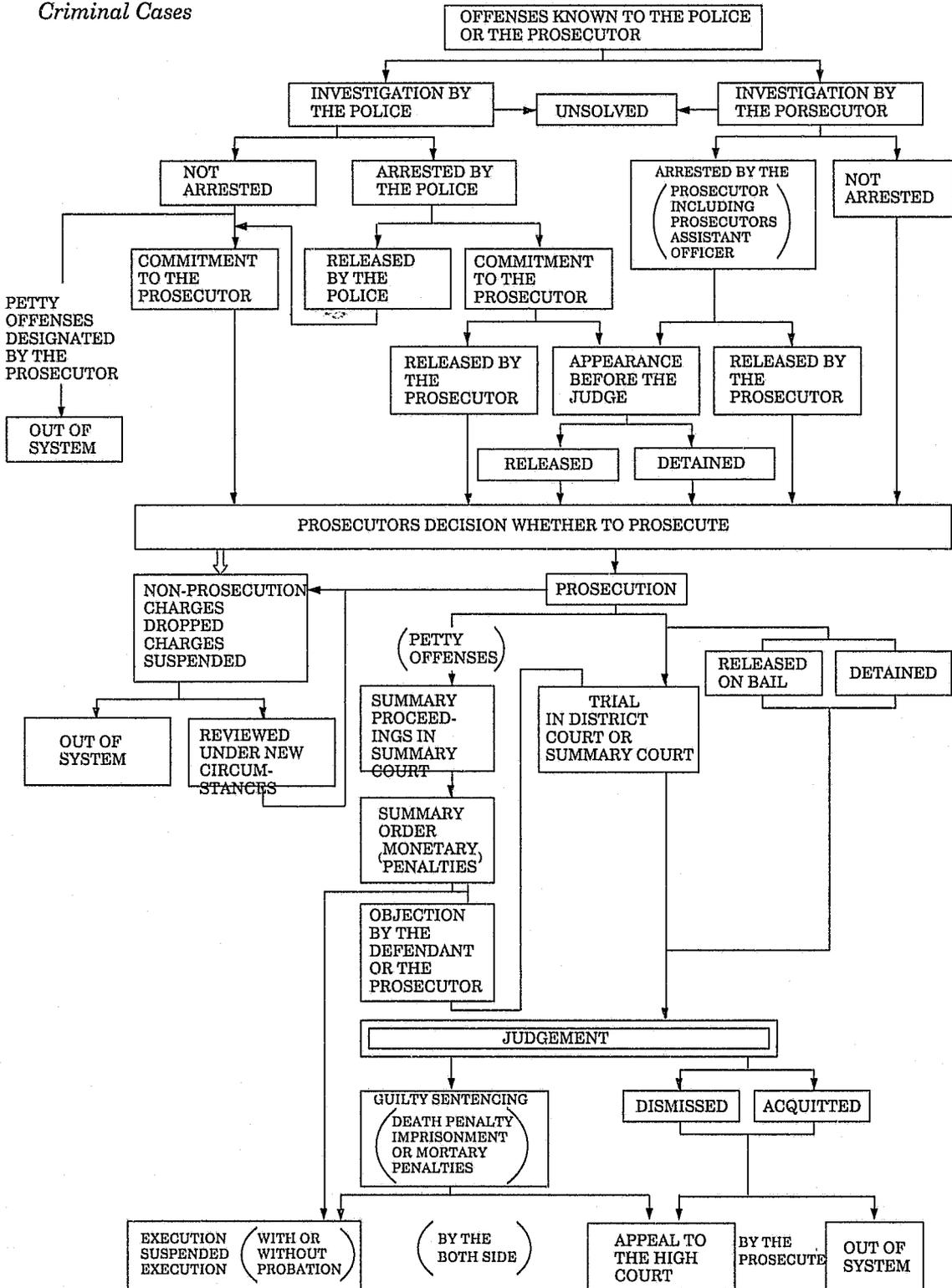
ANNEXURE 4: Fiji



*Flowchart of Juvenile Justice System (Fiji)*

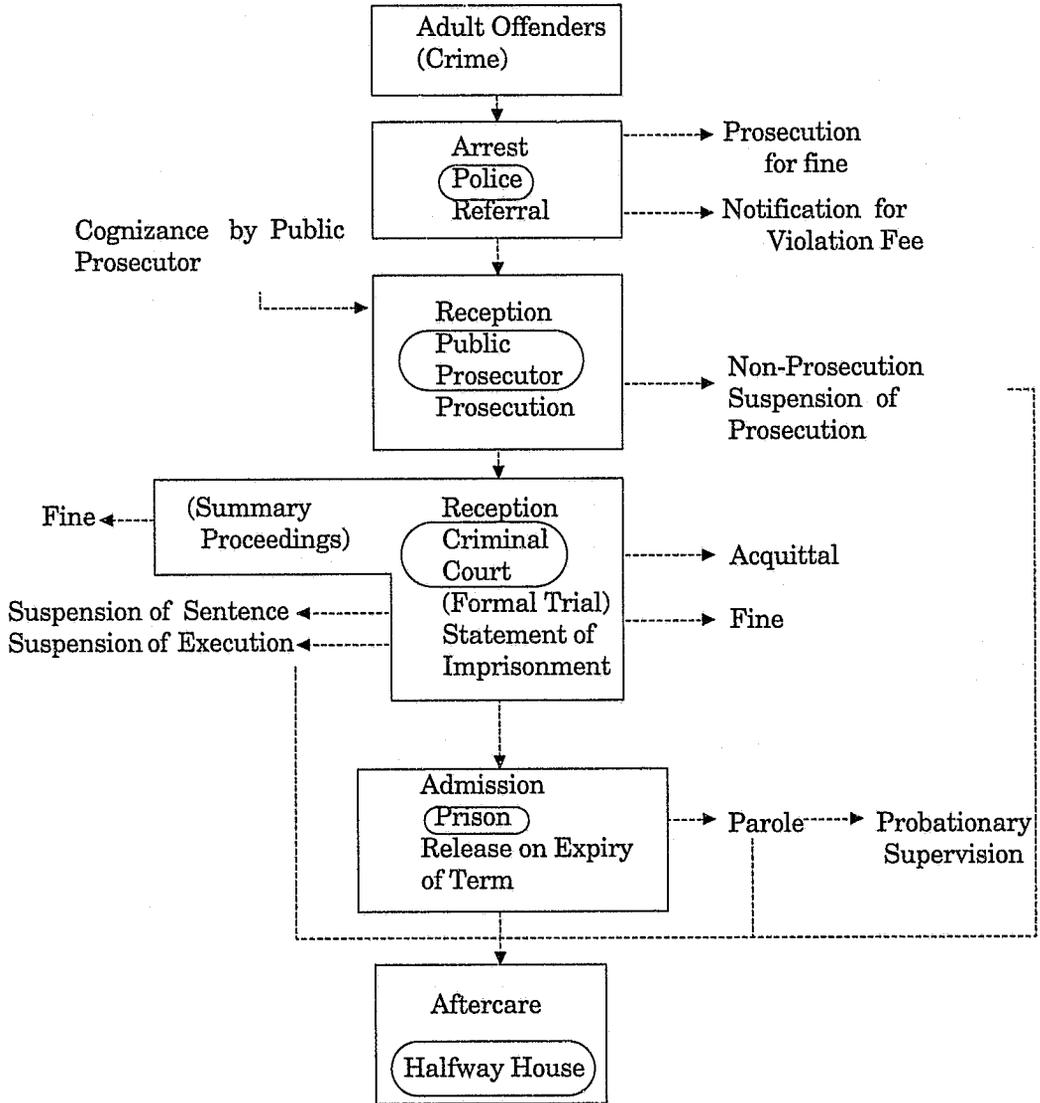
ANNEXURE 5-1: Japan

Criminal Cases



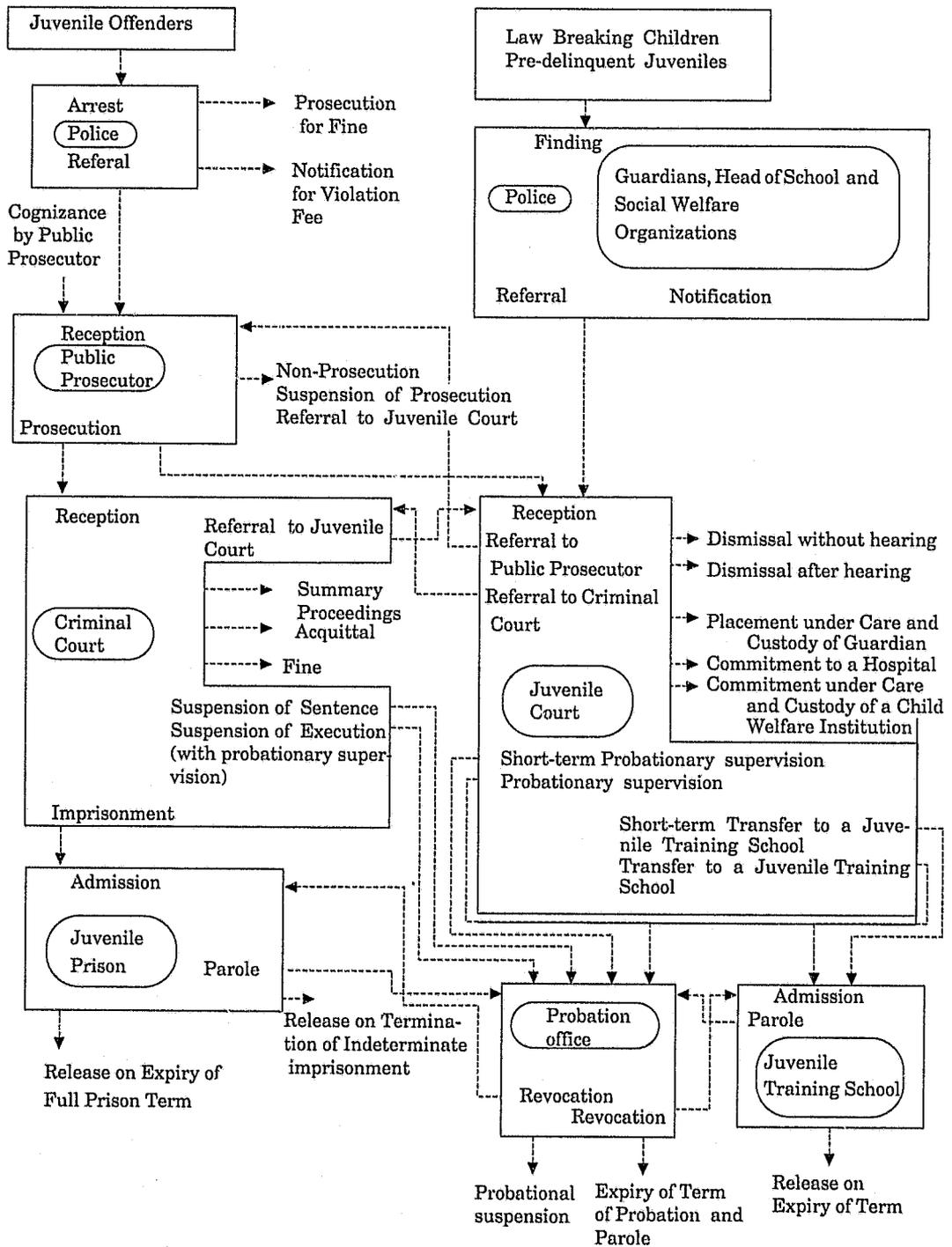


ANNEXURE 6-1: Republic of Korea



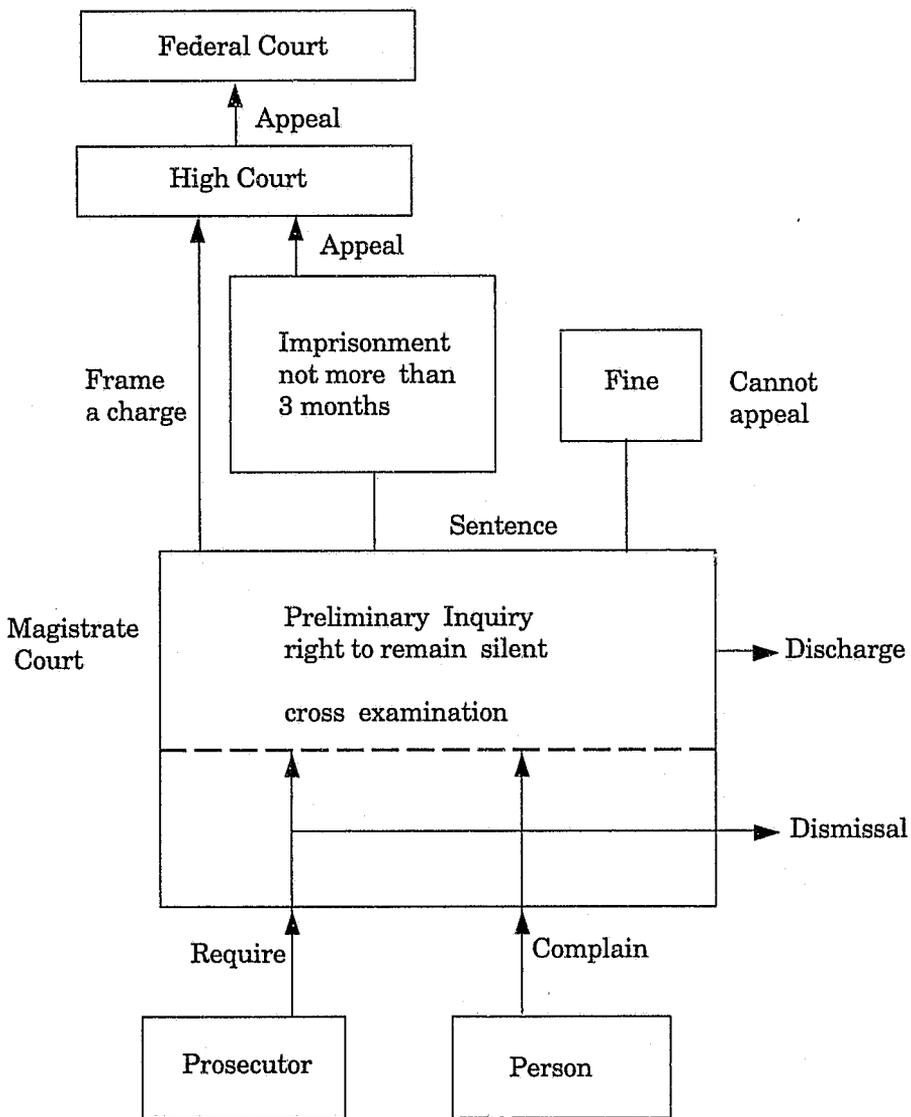
*Flowchart of Criminal Proceedings for Adult Offenders in Korea*

ANNEXURE 6-2: Republic of Korea



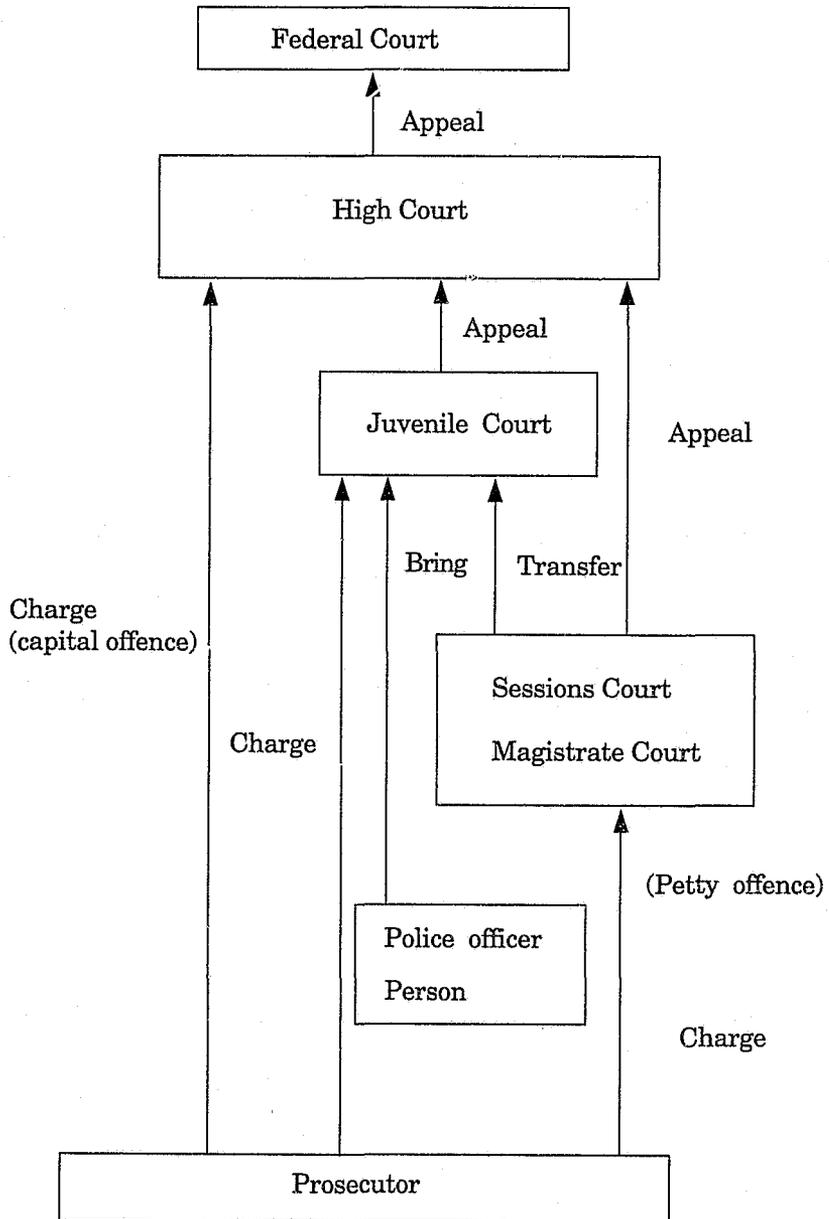
Flowchart of Treatment Proceedings for Juvenile Delinquency in Korea

ANNEXURE 7-1: Malaysia



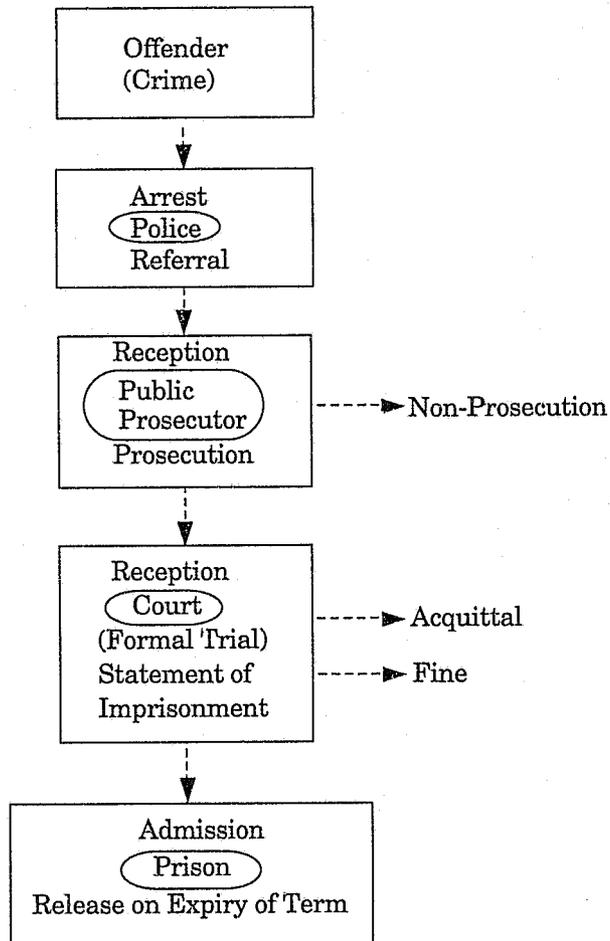
*Flowchart of Criminal Procedure (MALAYSIA)*

ANNEXURE 7-2: Malaysia



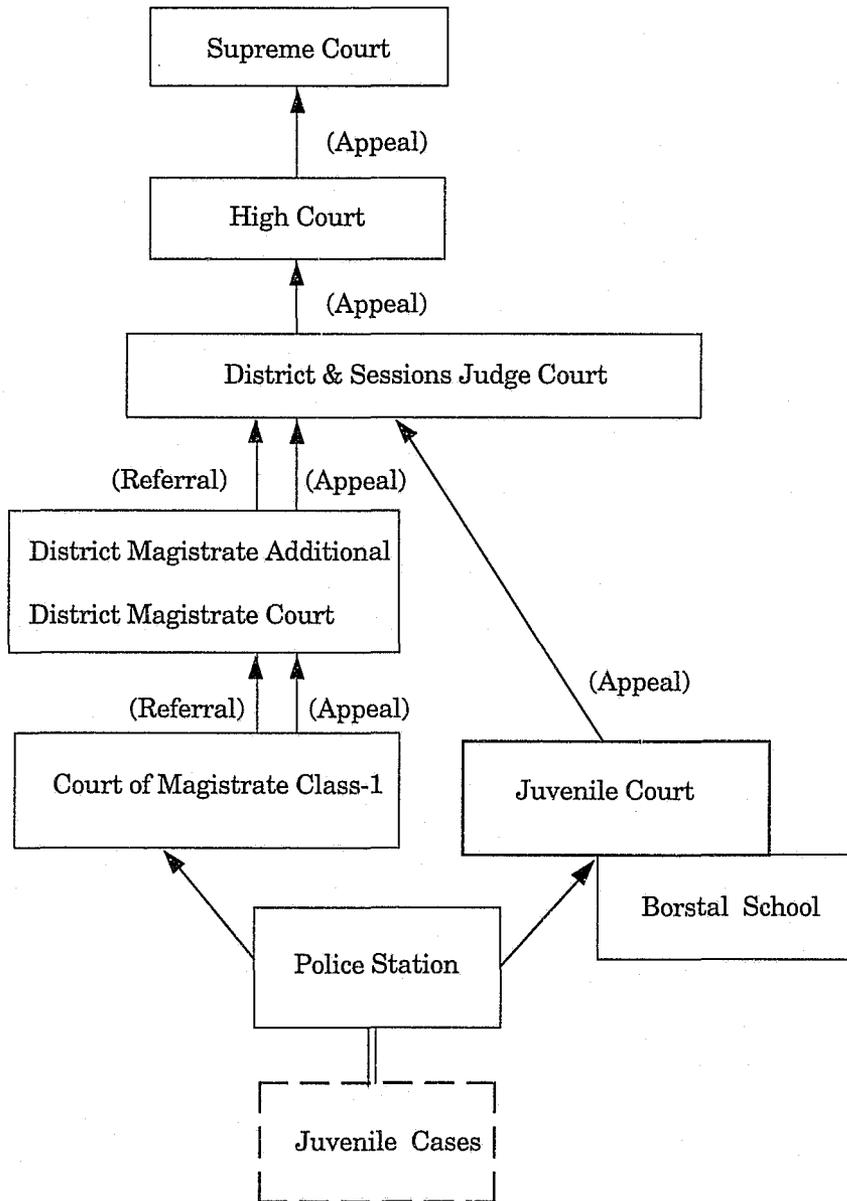
*Flowchart of Juvenile Procedure (Malaysia)*

ANNEXURE 8: Nepal



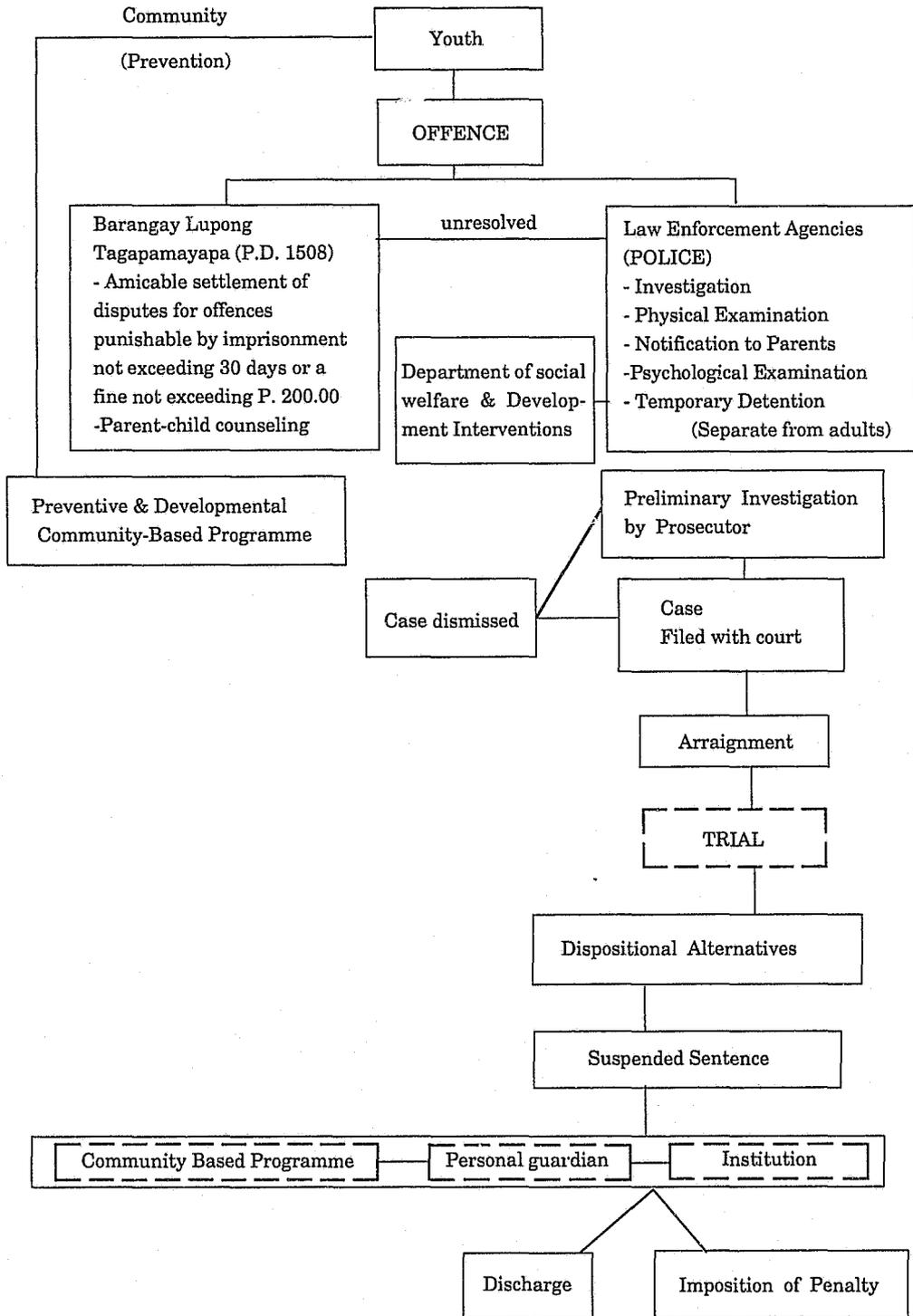
*Flowchart of Criminal Proceedings for Adult and Juvenile Offenders in Nepal*

ANNEXURE 9: Pakistan



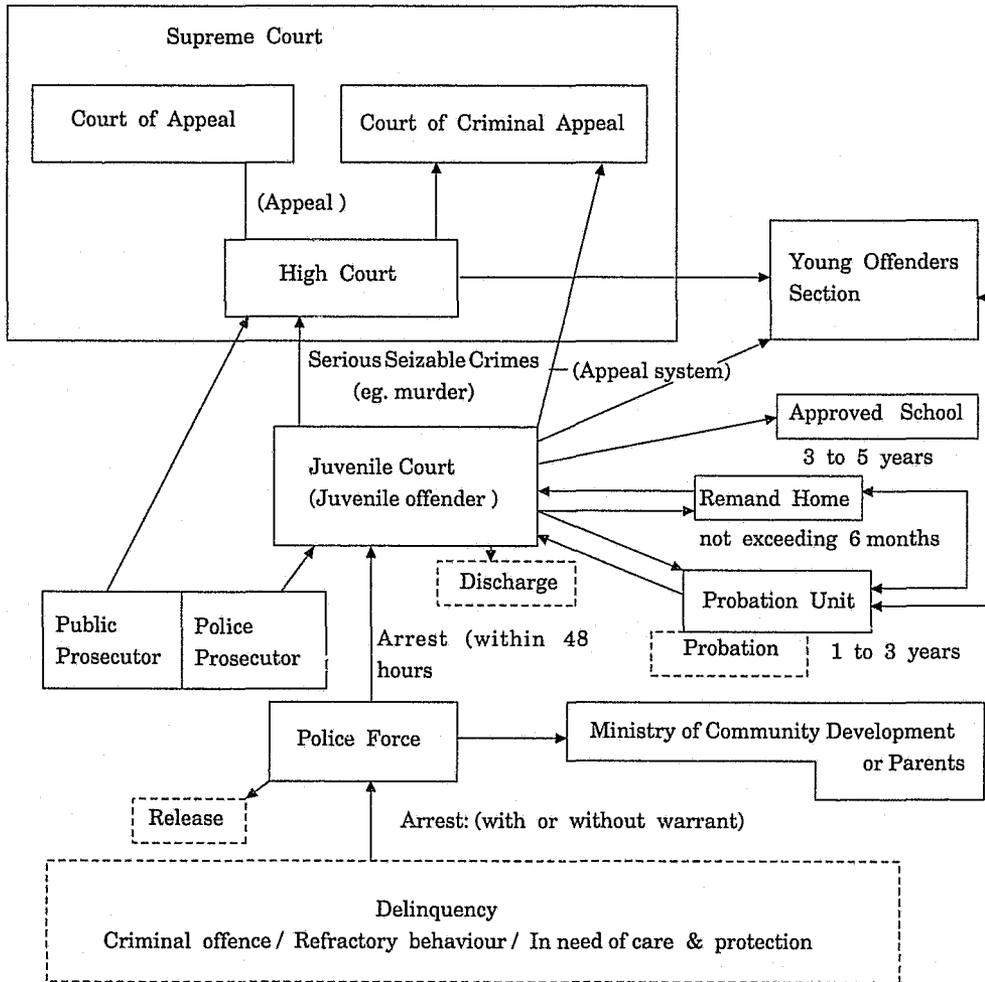
*Flowchart of Juvenile Justice System (Pakistan)*

ANNEXURE 10: The Philippines



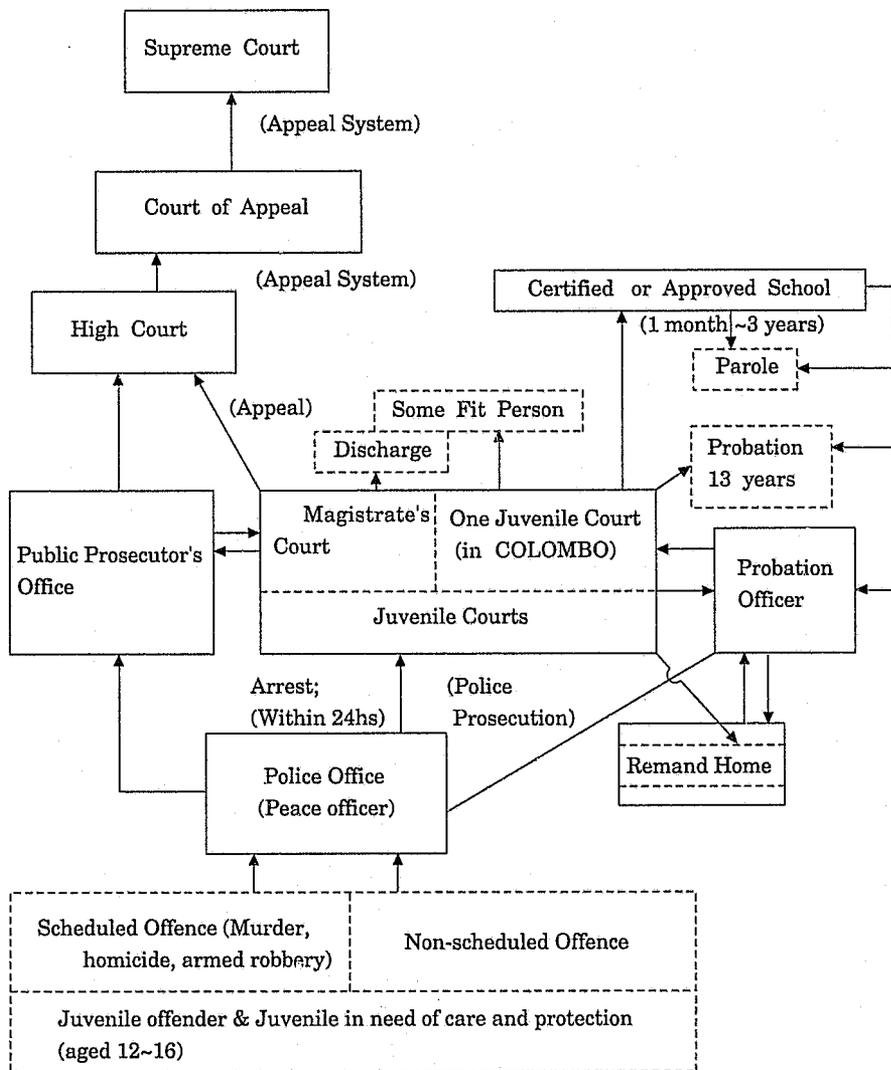
Flowchart of Juvenile Justice System (The Philippines)

ANNEXURE 11: Singapore



Flowchart of Juvenile Justice System (Singapore)

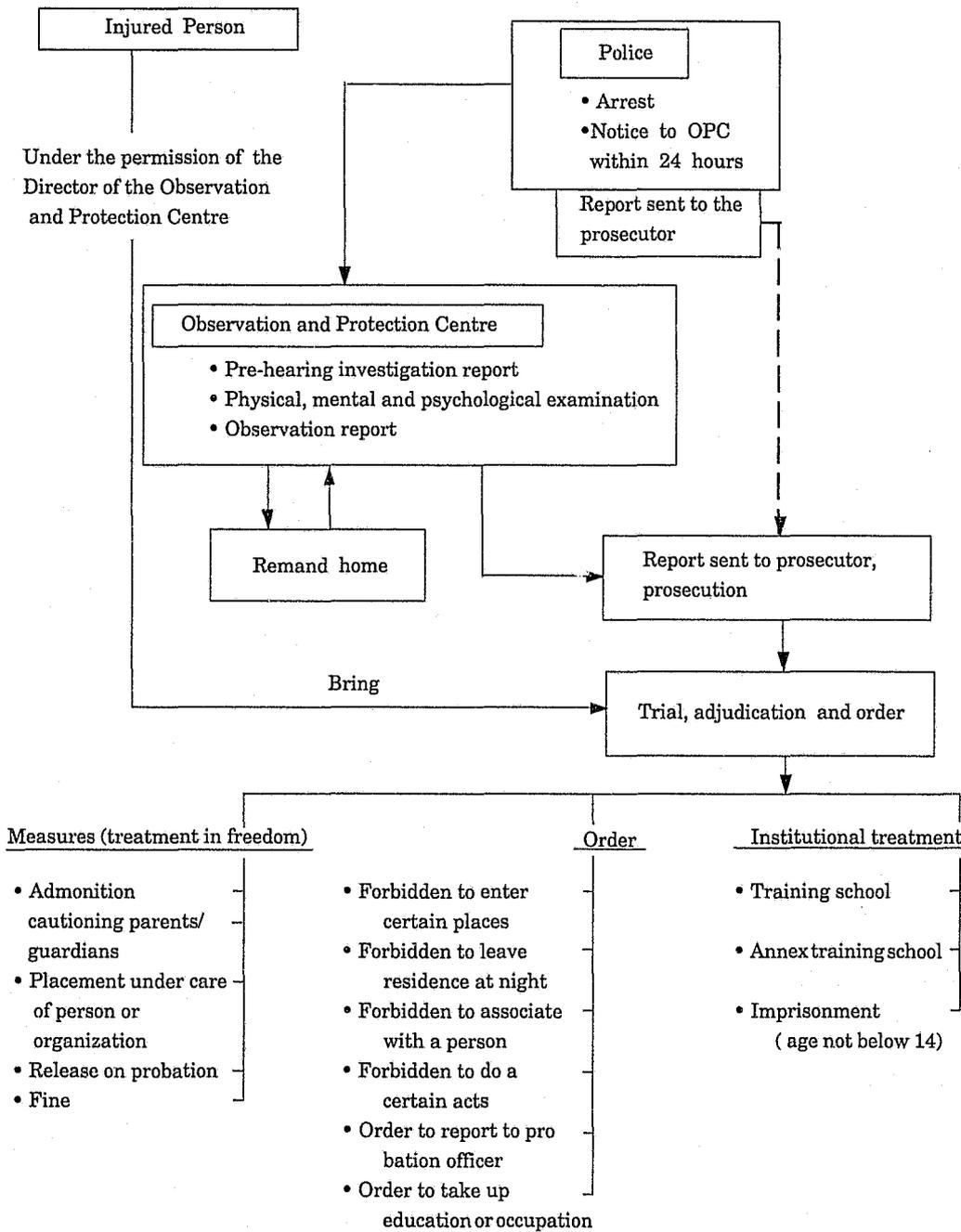
ANNEXURE 12: Sri Lanka



Flowchart of Juvenile Justice System (Sri Lanka)

ANNEXURE 13: Thailand

Thailand Juvenile Justice Administration



## Session 4: Countermeasures against Environmental Crime

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## I. Introduction

"The environment" is an outer physical and biological system in which man and other organisms live. Its components, i.e., rocks, minerals, soil, water, lands, and their present and potential vegetation, and climate, demand positive and realistic planning to maintain balances between human needs and the environment's capacity. However, mankind in activities to satisfy his needs and his aspirations for further development and achieving better living conditions, has created an increasing number of environmental problems.

The world's ecological systems have already been affected by rapid population increase and urbanization, industrialization and modernization which have been the foundation of economic growth. Nutrient-containing topsoil, fresh underground and surface water, unspoiled oceans and rivers and unpolluted air have become scarcer with abuse, overuse and toxification. The global climate and protecting layers of gases in the stratosphere have been adversely affected. The forest covers of the world are decreasing at an alarming rate. Disposed waste products of human activities have rudely shaken the world. Non-renewable resources are being depleted at rates inconsistent with longer-term viability of the world economy and the environment. According to UN Social Council report, "if present trends continue, the world in 2,000 will be more crowded, more polluted, less stable ecologically and more vulnerable to disruption than the world we live in now."

Industrial countries are mostly confronted with pollution problems due to affluence while in developing countries it is usually severe poverty that has been contributing to damage to the environment. Those who are poor and hungry will often destroy their immediate environment in order to survive.

Desertification, deforestation, soil erosion and salinization are common in under-

developed countries as the result of inappropriate agricultural practices used to meet the desperate need for food and fuel.

In the following pages of this report we discuss the major aspects of environmental problems. It is not our intention to give here a detailed description of the problems but to present a balanced brief account highlighting the problems encountered and the policies adopted by nations in seeking solution to them.

## II. The Present State of Threats to the World Environment

### 1. Deforestation

One of the most predominant threats to the world environment is deforestation. According to the UN report, the total global forest area is estimated at about 4,700 million hectares or about 32 percent of the total area. These world's forest cover, however, are disappearing at a rate of 15 million hectares per year with most of the losses occurring in the humid parts of Africa, Asia and Latin America.

The FAO statistics indicate that the total area of the world with forest and woodlands declined by around 60 million hectares during the period 1968 - 1978. The largest decline took place in Oceania (16.6 %) followed by South America (2.1 %) and Africa (1.9 %).

A study carried out by the UN in more than 60 countries during the period of 1980 also indicated that the area covered by tropical forest was declining at the rate of 0.62 percent or at about 16 million - 20 million hectares per annum.

Deforestation has become a common problem for almost every nation of the world.

In Ethiopia, for instance, it is estimated that annually 100,000 - 200,000 cubic meters or 200,000 hectares of forest are deforested. Over the past decade, forests in Nepal have receded to half their original extent. In the Philippines the extent of old growth

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mahogany forests has shrunk from more than 24 million acres in the 1950's to about 7 million acres in 1989. In Indonesia, the rate of deforestation has more than quadrupled, increasing from 500,000 acres per annum in the 1970's to a current level of 2,200,000 acres per annum. In Thailand, generation of logging and agricultural cultivation have removed half of the forest, which now constitutes less than 20 % of the land area declining at a rate of 3 % per annum.

The principal causes of destruction of forests were seen to be the spread of peasant farming, excessive fuel wood collection, shifting cultivation, commercial farming and unregulated logging.

According to one report, if current trends in deforestation continued, thousands and possibly millions of plants and animal species would become extinct over the next two decades.

### 2. *Soil degradation and desertification*

#### a) Soil degradation

Soil erosion ( degradation ) has increased all over the world particularly in developing countries. The main causes are deforestation, overgrazing and overworking of farmland and in appropriate patterns of land use. It has been estimated that about 25.4 billion tons of topsoil from the world's cropland are lost every year. By soil degradation, yield potential is reduced by more than 80% on 17% of the agricultural land in Africa, 16% in Asia, 10% in South America and 6% in Europe. In Africa, alone, useful agricultural land has been severely degraded at a rate of 60,000 to 70,000 square km per year affecting the livelihood of about 60 million people directly. Furthermore, each year some 25,000 square km of African land are being lost because of soil erosion. According to the United Nations report, if present trends continue, the total area of rainfed cropland in developing countries of Asia, Africa and Latin America would shrink by 544 million hectares over the long term because of

soil erosion and degradation.

Soil erosion has been exacerbated in many countries, particularly, by rivers flowing long distance to seas and oceans. The UN report indicated that the world's rivers carry 24 billion tons of sediment to the sea annually. In Ethiopia, annually, 1 - 2 million tons of soil is eroded. The Blue Nile alone is attributed to erode and carry away 50 million cubic meters of soil each year. In parts of Mexico, soil erosion by rivers has reduced corn yields from 3.8 tons per hectare to 0.6 tons and in parts of Nigeria from 6.5 tons a hectare to one.

#### b) Desertification

Desertification is becoming increasingly a worldwide threat. About 850 million people live on 35% of the earth's surface which consists of arid, semi-arid and sub-humid zones at risk of desertification. Of these, 230 million live on lands affected by severe desertification.

The UN environmental program estimated that desertification in 1984 threatened about one third of the world's land surface ( 4800 million hectares ) and affected the livelihood of at least 850 million people. Six million hectares are estimated to turn to desert each year with a further 21 million hectares of potentially productive land rendered economically useless largely as a consequence of human activities.

In Africa, more than half of the area is affected or is subject to desertification. In Latin America, there are currently 25 million persons inhabiting regions suffering from severe desertification, covering an area of 17.5 million square km. In Asia, China, India and Iran are facing increasing encroachment of deserts and deteriorating range lands. In Afghanistan, Bangladesh and Pakistan, desertification is mainly attributed to hydrologic factors and in Nepal, it is connected with deforestation and soil erosion.

According to the World Bank report, if present trends continue, two thirds of Africa's

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non-desert lands, along with one third of Asia's and one fifth of Latin America's non-desert lands could suffer from desertification in the near future. According to one estimate also each year, 6 million hectares of land become desert and an additional 21 million hectares lose their productive potential. (Tolba, 1988)

### *3. Air and/or atmospheric pollution*

Air pollution and/or atmospheric pollution, at large, is also a major problem of the environment. Many varieties of things are responsible for polluting the air. In Asia, Africa and Latin America, the burning of wood dung and agricultural wastes in open hearths cause dangerous gases. Air pollution caused by automobile exhaust is also increasing in developing countries, along with the increasing number of motor vehicles. Recent studies show that cities in developing countries are more polluted with sulphur dioxide and suspended particulate matter than most cities in developed countries. In Latin America, several kinds of pollution stemming from industrial waste have become almost perennial. Some of the most serious problems of chronic pollution are related to production and refining of oil and the petrochemical industries in countries such as Colombia, Mexico, Trinidad and Venezuela.

Air pollution both in rural and urban areas have caused serious health problems. According to WHO report, it is estimated that 1% of the rural population in India and Nepal suffer from chronic heart and lung disease, including chronic bronchitis and emphysema.

In urban centers of developed countries also, air pollution is one of the major environmental problems. In Japan, in previous times, various types of pollution caused damages including some to human health. In that period, the most serious pollution which caused damage was Yokkaichi disease, the result of excessive sulphur oxide in the atmosphere. In Thailand, the most serious air pollution prob-

lem is recorded in the center of Bangkok, the capital city. The more than 1 million cars are causing serious carbon monoxide pollution. In Korea, the high usage rate of bunker C oil and the increasing numbers of automobiles in the cities have caused serious air pollution problems. In Sri Lanka also, air is mainly polluted by the smoke discharged by motor vehicles and factories.

Many forms of atmospheric pollution have also been created. The most worrisome is the widening of the ozone hole. The world Meteorological organization reported, the ozone layer which protects the earth from harmful ultraviolet radiation emanating from the sun, was more than 60% depleted over an area covering about 23 million square km.

According to the UN report, it is estimated that 1% reduction in global stratospheric ozone would lead to an increase of approximately 2% ultraviolet radiation and that each 1% reduction in ozone would lead to a 3.5% increase in skin cancer. Apart from creating an increased risk of human skin cancer from harmful ultraviolet rays, scientists say, continued depletion of ozone layer could also harm crop yields and marine life.

Another form of atmospheric pollution is "acid rain". Acid rain damages vegetation, particularly forests, and also contributes to land and water pollution. In Czechoslovakia, between 20,000 and 30,000 hectares of forests have been damaged or destroyed by acid rain, while in Hungary about 150,000 hectares of forests are reported to have been damaged to varying degrees. In the Federal

Republic of Germany, acid rain has damaged about 50% of the total forest area (3.7 million hectares) with about 56,000 hectares severely damaged or dead. (UN report)

A survey conducted by the Environmental Agency in Japan in the year 1983 indicated that the acid rain observed across the country averaged pH 4.4-5.5 and the fallout of acid

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matter as much as or more than in western countries. In particular, it was observed that the fallout of sulfur ion was great mainly on the side of the sea of Japan in the wintertime. According to the survey, if acid rain continues to fall as at present, it will bring about long-term impacts on land, water, soil and vegetation.

The concentrations of trace gases in the atmosphere as a result of human activities, the so-called "green house gases" is also another major contributing factor for atmospheric pollution. According to the UN report, the United States, the European community and the former USSR are the first, second and third largest net contributors to the atmosphere of "greenhouse gases". The developing countries already account for 45% of emissions of those gases. Brazil, China and India are the largest producers among the developing countries.

Carbon dioxide ( $\text{CO}_2$ ) is the most abundant and the major contributor to the "greenhouse" effect and its release is caused primarily by fossil fuel combustion. Current annual emissions of  $\text{CO}_2$  due to combustion of fossil fuel have been estimated at about 5 billion tons of carbon. The concentration of  $\text{CO}_2$  in the atmosphere by 1985 had increased by 25% since pre-industrial times and it is likely to increase by further 40% by the year 2050 if current trends continue and by 80% if energy use accelerates. It has been estimated that currently the burning of fossil fuels and deforestation contribute to the release of 2 billion to 3 billion tons of carbon per annum. The emission of  $\text{CO}_2$  due to fossil fuel alone might range between 7 and 15 billion tons of carbon in the year 2,000. (UN report)

#### 4. *Water pollution*

Water pollution are most serious problem particularly in developing countries. According to the UN report, in developing countries the disposal of industrial and human waste in rivers has led to some serious health hazards. 1.7 billion people still lack

access to clean water and 1.2 billion to adequate sanitation. A growing number of the urban poor suffer from a high incidence of diseases which are environmentally based.

In Sub-Saharan Africa only 37% of the population have access to safe water. The problem of safe drinking water is exacerbated in the rapidly growing mega-cities in many developing countries where most slum areas have inadequate water supplies and drainage. In Calcutta, India for instance, some 3 million people live in shanty towns and refugee settlements without potable water. In Karachi, Pakistan, only one-third of the households have a piped water connection, and most of the more than 2 million people in squatter settlements must use public stand pipes or buy water from vendors at inflated prices. (UN 1988)

In Ethiopia, poor sanitation together with contaminated water has always been a cause for the spread of disease. Far less than the average percent of the rural population have drinkable water. In South Korea, rapid industrialization and urbanization has brought about the deterioration and pollution of rivers. The pollution of rivers in city area has been aggravated by the shortage of drainage works and sewage disposal facilities. Ports, harbors and peripheral seas are polluted by rivers carrying wastes from factories and business establishments. In Thailand, most of the rivers around the city and industrial zone are polluted by sewage 40% of which is contributed by factories. In Sri-Lanka, most of the villages do not have tapped water and people have to fetch drinkable water from lakes.

Even though, the problem is not as significant as in developing countries, water pollution is also one of the environmental problems in developed nations. In Japan, a check of water pollution of rivers indicates that the level of pollution in urban rivers are high and that there has been little progress in their improvement in recent years. A study carried out in 1989 on marine pollution indicated that out

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of 934 cases, marine pollution by oil accounted for about 65%. In the later half of the 1975-84 period, the pollution of underground water by chemicals spread in various places. In 1968, methylmercury compound discharged from a chemical plant into the Minamata Bay of Kumamoto Prefecture caused Minamata disease in certain villages. As of 1991 almost 3,000 patients were victims of the disease after consuming fish or shellfish contaminated by the chemical. ( EAJ, 1992 )

### 5. Other pollutants

Other threats to the environment are also noise pollution and disposal of wastes. The 1979 Report of the Executive Director of the UN on environmental problem indicated that noise pollution is escalating so rapidly as to become one of the major threats to the quality of human life. According to the report, it has been estimated that there are about 500 professions and occupations which under the present conditions of industrial production involve the danger of impairment of hearing due to noise. In Sweden, 16,000 cases of hearing loss due to exposure to industrial noise were reported in 1977.

Of all present-day sources of noise, the noise from surface transportation, above all, that from road vehicles, is the most diffused. In Europe and Japan, it is this source that creates the greatest problems. The total costs of accidents, absenteeism, inefficiency and compensation claims due to industrial noise was estimated in the U.S.A. at 4 billion in 1971.

Environmental degradation by waste disposal is acute particularly in industrialized countries. According to the UN report, it is estimated that some 325 million to 345 million tons of both nuclear and non-nuclear hazardous waste are generated worldwide each year. Of these, about 300 million tons are generated annually by OECD countries. In industrial countries, an estimated 0.6 to 1.0 kg of garbage is produced by each inhabitant every day.

This figure, however, is higher in some countries and in Japan, for instance, it is 1.0, in England 0.9 and in South Korea 2.2.

### 6. General consideration

So far we have given a general view of the current environmental situation of some countries. If we summarize the characteristics of environmental problems of each country, we might say that each country has environmental problems according to its stage of industrial development.

Developing countries, especially those whose economy is weak and dependant on natural resources, are suffering from the vicious circle of environmental damage such as deforestation due to poverty and population increase, and poverty due to environmental damage. Such countries claim that the most effective way of solving the environmental problem is to end poverty by means of promotion of development.

Therefore, meanwhile developing countries enjoying industrialization, as developed countries also used to do, tend to hasten developing their economy and put less priority on the security of the environment. Due to industrialization without the sufficient protective measures against pollution and urbanization without the sufficient facilities such as drainage, serious water and air pollution problems have arisen. Such countries try to learn from developed countries how to overcome pollution problems and ask them to offer financial and technical assistance.

It can be said that developed countries have nearly overcome pollution problems such as air and water pollution, as well as the destruction of nature, which have occurred in the process of industrialization and urbanization, but those countries should consider that their mass production, mass consumption and mass disposal adversely affect the environment.

Today's environmental problems have taken on global proportions: global warming,

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destruction of the ozone layer, acid rain, destruction of tropical rain forests, border transgression of toxic waste, and so on. It can be said that the cooperation between developed countries and developing countries has become indispensable.

### III. Criminal Sanction against Environmental Crime

A very recent report of the United Nations Commission on Crime Prevention and Criminal Justice indicated that in some developed and developing countries the penalty for an environmental offence is typically a fine and/or imprisonment. Fines are a traditional approach to penalizing environmental offences. In recent times, in some nations, however, attempts have been made to heighten the impact by such means as increasing maximum fines, legislating for minimum fines, subjecting repeat offenders to higher fines, making corporations liable to much higher fines than individuals and providing for daily fines for continuing offences.

The second sanction is imprisonment. In Nigeria and Argentina, breaches of hazardous waste laws may result in incarceration with the maximum penalty for a breach in Nigeria being life imprisonment. In some Australian jurisdictions those found guilty of aggravated pollution may be imprisoned for up to seven years.

In some jurisdictions, officials from environmental protection agencies may be criminally (as well as civilly) liable for environmental degradation which results from breach of statutory duty. In some nations strict liability operates whereby the agency may be held responsible for mistakes.

Apart from private citizens, corporations and their officials, government agencies may be held directly responsible for environmental pollution. Additionally, they may be held indirectly responsible for environmental

degradation through failure to comply with their statutory duty. Under Brazil's Penal Code, a public authority which fails to prevent an activity endangering public safety may be found guilty of a crime. In India, heads of government agencies may be liable for offences committed by their departments.

According to the UN report, in some states, monetary penalties are the most common sanctions applied. Imprisonment is little used. Imprisonment has only been recently incorporated into environmental protection legislation in some nations.

Despite the above UN report, however, we have observed that in some nations longer terms of imprisonment are being imposed, and penalties vary according to the form of offence committed.

Below, we briefly explain the operation of criminal sanctions on environmental crimes of four countries, namely Japan, South Korea, Thailand and Ethiopia. Concerning the detailed penal sanctions such as type of crime and punishment, we add an appendix at the end of this report.

#### 1. Actual situation in each country

##### a) Japan

In Japan, several classical environmental crimes were stipulated in the Penal Code enacted in 1907. After that in accordance with industrialization it became necessary to stipulate the punishment against the new types of environmental crimes, but the Penal Code itself has not been amended. Instead, Law for the Punishment of Crimes Relating to the Environmental Pollution which Adversely Affects the Health of Persons, which was enacted in 1970, stipulated basic punishments against environmental crimes, and other environmental laws also stipulated respective punishments.

Procedure of investigation of environmental crimes in Japan is the same as that of other general crimes. Therefore, regarding marine pollution, the Maritime Agency has the power of investigation. It should be noted that it is difficult to prove the cause and the

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result in investigation of environmental crimes, so the new law adopted some measures to mitigate its burden of proof.

The accessorial nature of criminal sanctions to administration comes from the policy that criminal sanctions should play a supplementary role in relation to the administrative sanctions. That is, whether a specific action violates environmental criminal law or not is to be decided by whether the action is permitted by administrative law or not, or whether the action was conducted in violation of administrative order. Criminal sanctions stipulated in many environmental administrative laws adopt so-called direct-punishment-acts, in which violations against environmental standards stipulated in each administrative law are punished, and also so-called indirect-punishment-acts, in which violations against administrative order such as betterment order are punished.

'Law for the Punishment of Crimes Relating to the Environmental Pollution which Adversely Affects the Health of Persons ( 1970 )' stipulates as crimes actions on the stage of causing danger against public lives and bodies. It treats the occurrence actual damage against them as the grounds of argumentation, since it is most likely to be too late to investigate environmental crimes after the actual damage occurs.

Punishments for numerous negligent acts are stipulated, because public pollution is most likely caused by toxic materials which are negligently emitted by managers of factories.

Under Japanese environmental criminal laws juristic persons such as companies are subject to criminal sanctions as well as their representatives who committed the crime, which is called dual punishment, and the sanctions against juristic persons are the same amount of fine as the representatives.

### b) Republic of Korea

In Korea, penal sanctions are regulated in different specific environmental protection acts. The central and local environmental administrative agencies are in charge of supervision and administration of environmental matters and are also empowered to impose administrative sanctions. The agencies in charge of investigation of environmental crime are the police and the prosecutors office. Recently, an environmental crime investigation division has been established in the Supreme Prosecutors Office with the main duty of setting guiding principles in the handling of various environmental cases for the unified and systematic management of environmental crime investigations.

Various types of environmental crimes in every sectors are prescribed by environmental administrative laws which was newly established or amended.

### c) Thailand

In Thailand, most penal sanctions against environmental crimes are regulated in many special laws and regulations such as The Forestry Act, The Wildlife Conservation Act, and The National Park Act. There are also penal sanctions imposed on the environmental crimes the Section 237 of the Thai Penal Code (1956) and The Enhancement and Conservation of National Environmental Quality Act, B.E. 2535 (1992). The agency in charge of investigation of environmental crime is the police. The Ministry of Science, Technology and Environment administers to the environmental concerns of the country but has no power to initiate investigation. According to section 111 of The Enhancement and Conservation of National Environmental Quality Act, B.E. 2535 (1992), in case the offender who is liable to be punished according to the Act is a juristic person, the directors or managers or such juristic person, or any person who is responsible for the business operation of such juristic person shall be punishable by the same penalties

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prescribed by law for such offences, unless it can be proved that they had no part in the commission of such offence.

### d) Ethiopia

In Ethiopia, penal sanctions on environmental crimes are regulated in the Penal Code of 1957 and in different Proclamations issued by the Ministry of Agriculture.

Article 364(1) (b) of the Ethiopian Penal Code states in general "whoever intentionally violates the provisions and regulations issued by the competent authorities concerning the exploitation of the natural resources of the country, whether of the soil of the sub-soil or their products, of electric power, water, forests, minerals, game or wild animals, where the offence does not come under specific provision prescribing a more severe penalty, with simple imprisonment or fine in addition to the forfeiture of the subject matter of the offence and the withdrawal of any license.

According to Article 804 of the Code also, contravening the rules and regulations for the protection and safeguarding of the national arborescent species, flora and fauna is punishable with fine or arrest. The amount and extent of the fine and the arrest is to be determined by courts taking into account the circumstances and gravity of the offence.

## 2. *The general legal problems concerning environmental crime*

### a) The definition of environmental crime

The field of environmental crime law is a new one, so still there are many disputes about the notions of legal terms and the related issues, especially about the meaning of "environment" and "environmental crime".

Originally the word "crime" means "a morally culpable conduct that is (should be) publicly denounced, deterred, and punished by the imposition of criminal sanctions", but this definition has been blurred by imposition of criminal sanction on the non-observance of established administrative and regulatory standards. Almost all kinds of environmental crime in each country belong to this category

of violation.

There are three kinds of proposed definitions of environmental crime. The first one is anthropocentric view or modern view, which defines environmental crimes as "crimes against life, health, property, etc. through deterioration of environment" and to be a crime it requires harm or, at least, abstract danger to some fundamental human interests to justify the use of criminal sanctions. The second one is the quasi-anthropocentric or quasi-eccentric view, which defines them as "crimes against life, health, property, etc. and the environment", in the form of deterioration of environmental media and it requires some relationship with some human interests to justify the use of criminal sanctions. The third one is the eccentric view or post-modern view, which defines them as "crimes against ecosystem itself" and it requires not any relationship with human interests to justify the use of criminal sanctions.

### b) Supplementary nature of criminal sanction

There are some legal problems about the supplementary nature of environmental crime. To impose criminal sanctions on environmental crime, we usually depend on concepts in administrative laws/rules, administrative/regulatory standards, individual administrative/regulatory acts or decisions. The sanction against environmental crime is executed primarily to ensure the efficiency of environmental administration. This accessorial nature of environmental criminal law to the administration invokes many contentions. There are some suggestions by scholars that, to combat environmental crime and to provide effectual measure of environmental protection, we should recognize the independent character of the environmental crime and the role of environmental criminal law and insert the rules on environmental crime into the penal code.

In cases of non-existence of administra-

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tive laws and administrative standards, or in cases of omission or non-intervention of administrative agencies, there happens the problem of punishability of administrative agencies or agents. In our discussion, the necessity to lessen or abolish environmental crime's accessorial nature is emphasized but the practical proposal to solve this problem is not presented.

### c) Jurisdiction

The exercise of jurisdiction over environmental crimes should be conducted on the basis of national law and international obligations undertaken by states. Concerning international crimes against environment, there are delicate problems. For example, what should be done if there is a discharge of liquid waste or gas in country A that compiles with every law/standard of A, but is a crime in country B where the result of the discharge has materialized? Another example is the dumping of hazardous/toxic wastes on the high seas, without direct effects on any countries, but causing devastating damage to the ecosystem.

The recommendation of the 'Preparatory Colloquium to the 15th International Congress on Penal Law which was held in Ottawa, Canada from 2-6 November 1992, says as follows;

- Where the harm or threat of harm, which underlies environmental offences that are recognized by all the states involved, arises outside the jurisdiction of a state, it should be possible, subject to appropriate safeguards for the accused, to prosecute the offender either in the state where the offence was committed, wholly or partly, or in the state where the effects or harm from the offences are suffered, or in both states.

- Where the harm or threat of harm that underlies an environmental offence and that is recognized as an offence by several states, and arises in a place over which no states as jurisdiction, states should agree on an international convention which would enable

them to prosecute the offender in any state where the offender is found.

- If an international criminal court is created by way of an international convention to deal with international crimes, the jurisdiction of that court should also include the jurisdiction of internationally recognized environmental crimes.

Even though these problems need further discussion, the above recommendations are very thought provoking.

### d) Criminal liability of non-physical persons

As we previously observed, there are differences among legal systems in the use of criminal sanctions against natural and non-physical persons. There is also uncertainty about whether non-physical persons should be punishable independently of the culpability of a human agent implicated in a crime and, if so, whether both should be subject to criminal sanctions. Further discussion is required to solve problems inconsistent with the principles of blameworthiness and self-responsibility.

### e) Causation

Concerning causation, the principle of "beyond a reasonable doubt" is universally adopted in criminal trial, while the principle of "free evaluation of evidence" is popular in civil trial. It is generally suggested that it is necessary to reduce the burden of proof on the side of prosecution. Suggested alternative ideas are related to the presumption of causation or acceptability of scientific proof.

### f) Defense : justification and excuse

There is a special problem with regard to the defense "acting under legal authority". What is the reasonable solution in cases where defendants acted without the recognition of the possible result or in cases where defendants' acts are not formally authorized by the administration but in substance are complying with all laws/rules/standards concerned? According to the recommendation of the Ottawa Colloquium:

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For offences based on the seriousness of consequences or risks, a defence based upon compliance with standards and prescriptions, which are laid down in administrative laws, should be reasonably limited where the offender knows that serious harm will be caused by complying with those standards.

### g) Strict liability

In relation to principles of blameworthiness and self-responsibility, there are some disputes about strict liability, even though it is strongly suggested that it is necessary to adopt strict or absolute liability. The second best way is to put the burden of proof onto defendants in which defendants must prove the unavailability of the result even in the fulfillment of due obligation.

### h) Sanctions

As previously mentioned, some countries adopted the increase of the maximum amount of fine or introduction of the day-fine system. Furthermore it is necessary to develop new kinds of criminal sanctions which might be effective in controlling environmental crime. The suggested sanctions are recovery of environmental damage, confiscation of benefits, public notice of conviction, black-listing and expulsion from public procurement procedures, and social/public service order including funding environmental protection activities.

### i) Problems related to investigation

Problems in detecting and investigating environmental crime are: general shortage of man-power and budget, necessity of establishing effective detecting system especially in suburban/remote areas, necessity of educating experts and developing proper investigative methods. Cooperation with administrative agencies or agents is another problems because of reluctance to utilize criminal sanctions. Internationally, the extradition of suspects or defendants, and execution of sanctions in foreign countries are other problems which must be

solved in the future.

## IV. Non-criminal Sanctions against Environmental Crime

Non-criminal sanctions to protect each country's environment can be generally classified into civil and administrative sanctions. In this chapter, we survey the actual situation of our participants' countries concerning the operation of legal systems and try to point out the areas for future improvement.

### 1. Actual situation in each country

#### a) Japan

In Japan, residents affected by environmental pollution can file civil lawsuits for compensation. But it is difficult for the victims to prove negligence of the defendants and civil suits are not an effective means of compensation or sanctions against the polluters. Therefore the air pollution control law and water pollution control law were revised, and under current laws, if the emitted toxic substance gives some harm to the people's life or body, even though there is no negligence on the company's side, compensation is required. Nevertheless it has been still quite difficult to give instant relief under the framework of the civil lawsuit, because of the high costs of filing a lawsuit. So, a new system, what is called the ombudsman system, was introduced in 1970.

In the ombudsman system, administrative agencies are enabled to accept the complaints filed by residents and give necessary guidance to the companies which are likely to cause environmental problems. In the environmental pollution dispute settlement, agencies were created as mediators for the victim's relief. In the pollution-related health damage compensation system, a designated victim of pollution is compensated for his damages and assisted with his medical fees through a public funding scheme and the company is blamed for polluting the environment.

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### b) Republic of Korea

Usually civil suits are filed by the victims for the redress and remedy of damage occurring from environmental pollution. In this case, the procedure follows general civil law of tort and it is the same as in other civil cases. But the actual number of civil suits seeking for compensation due to pollution is comparatively small even though there are many complaints about serious pollution. The reason is that, under the present legal system, the victims of pollution must spend excessive time and endeavor to get compensation, and though the lawsuit and even if it is successful, the amount of compensation recognized by the court is deemed to be insufficient which fall short of the expectancy of the victim. So when there are many victims, or the pollutant case is a very sensitive one which already has much public attention, there is an inclination among victims or related citizens to solve the problems through non-legal channels such as public protest movements or demonstrations or calling for political favor, etc.

Since the enactment of the legislation of the "Mediation Act of Environmental Pollution" in 1991, arbitration, adjudication and dispute settlement regarding environmental pollution has been made by an official committee. Through this process, the victim of environmental pollution was enabled to get a swift and proper compensation. If the parties to the dispute could not mediate, they have the right to file civil suit.

There are also several administrative sanctions on potential pollutants, and companies and enterprises who violate environmental laws. The relevant administrative sanctions are: improvement orders, suspension of operation, cancellation of permit, order to remove the pollutants, close the facility and warning.

### c) Thailand

According to the Enhancement and Conservation of National Environmental Quality Act of Thailand, section 96 and 97, if leakage or contamination caused by, or originating from, any source of pollution is the cause of death, bodily harm or damage to health of any person, or has caused damage in any manner to the property of any private person or of the state, the owner or possessor of such source is liable to pay compensation or damages thereof. This is regardless of whether such leakage or contamination is the result of a wilful or negligent act of the owner or possessor, except in the case that it can be proved that: such pollution leakage or contamination is the result of force majeure or war; or that the act is done in compliance with the orders of the government or state authorities; or if the person who sustains injury or damage or any third party is directly or indirectly responsible for the leakage or contamination.

### d) Ethiopia

In Ethiopia, there are many civil and administrative sanctions imposed on the public at large to protect the environment. A citizen who is convicted for committing environmental crime is also held liable for the civil damage ensued and the redress or compensation for the victim of the crime.

### e) The Philippines

In the Philippines, there are three categories of civil actions involving environmental law. The three categories are violations of environmental law, injunction and damages. In the Philippines, if the law does not provide for a penal sanction or where it leaves the choice open, a civil suit may be filed against the violator. An option to file a civil complaint has been found to facilitate the action against a violator since a civil action usually requires less rigorous proof of intent or negligence. An injunction is a judicial order to the violator to cease environmentally hazardous ac-

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tivity in violation of the law. Compensation is available to plaintiffs as a remedy for losses caused by violations of laws and regulations. This compensation is based either on specific provisions in environmental legislation or on general tort law.

The available remedies in tort law (quasi-delict) for damages to citizens whose rights to the environment are violated, generally fall under the provisions of the Civil Code. Furthermore, under the Presidential Decree No 984 (1976) and Executive Order No 192 (1977), the Pollution Adjudication Board has the power to decide pollution cases and to settle claims for damages arising from pollution.

Other ways to demand compliance with the law may come in the form of cancellation of permits, revocation of business permits or license to operate, revocation of health and sanitary permits and withdrawal of infrastructure support.

Administrative sanctions in the Philippines are frequently used in environmental law enforcement and defined clearly in the regulations of implementation. These sanctions cover non-compliance with or violation of prohibitions, permits, authorizations, clearances, discharge limits and other administrative standards and orders defined in the rules and regulations, and could result in the revocation or cancellation of permits and licenses as well as administrative fines and other penalties. In the administrative enforcement schemes, penalties may be enforced by the regulatory agency itself without recourse to an independent prosecution office and too expensive and time-consuming court proceedings. The system normally provides for an administrative appellate procedure with final appeal to a competent court as a matter of last resort.

### *2. General problems concerning non-criminal sanctions*

Concerning compensation for the victims of pollution or environmental damage, the

most important issue is that how to secure the swift and sufficient compensation. Environmental pollution cases have many different aspects and legal problems which the traditional legal system could not anticipate, therefore some injustices might occur if we insist on following the existing legal procedures.

The UN Conference which was held at Rio de Janeiro in 1992 proclaimed the necessity of preparing and improving the legal system for the victim, by each government in its Principle 13, namely; States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. According to the spirit of the Rio Proclamation, each government should continuously make an effort to develop and improve the effective legal system for the prompt compensation of environmental damages.

Problems concerning the operation of administrative sanctions are general shortage of man-power and budget, necessity of establishing effective detection system, and educating experts about pollution.

Developing new forms of administrative sanctions which make it possible to harmonize the effective control and proper maintenance of enterprises is another problem to be solved in the future.

## **V. Public Co-operation to Protect the Environment**

While there is some consensus on the protection of the environment, there is less agreement on which problems most urgently require attention and what kind of measures should be taken by each member of society.

Even if it is important for each member of society to develop a new perspective on environmental problems and to realize their responsibilities and to put into practice every effective measure without delay, the reality is that each class or group of society has

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different interests of their own and there are many difficulties to make adjustment of different interests and to promote exchange of information and coordination is necessary.

In this chapter, firstly we will look into the actual situation of each participant members' country and then try to define the characteristic roles of each sector of society in the protection of the environment.

### *1. Actual situation in each country*

#### a) Japan

Japan has a very short history of public service activities and still it is very rare for citizens groups to work hand-in-hand with the government. Until recently the public recognition of environmental problems has been rather scarce, citizens' volunteer activities to protect the environment are not sufficient and the number of civil organizations for environmental protection is small.

But the Basic Environmental Policy Act which is now under legislation has a provision about the responsibility of citizens, namely, "All citizens should endeavor to reduce the load on the environment in daily life to prevent the occurrence of obstacles in preserving the environment. And, all citizens have the responsibility to cooperate with the environmental preservation policy of the State or local government."

Recently the number of citizens groups for environmental preservation has been increasing and the activities are becoming more visible both domestically and internationally. According to the report of Environmental Agency survey, there are 661 NGOs nationwide, but most of them are suffering from financial difficulties, so hereafter the State or local government should pay attention to supporting these civil organizations by financial subsidy.

#### b) Republic of Korea

The history of civil movements in solving the environmental problem is very limited

and such movements have been unorganized and have occurred only sporadically in relation to the protest or demand for damages. The people's concerns are usually concentrated on deterrence of environmentally harmful facilities in their neighborhoods or calling for counter-measures to protect the environment in response to actual polluting accidents.

Originally the citizens groups' activities have engaged in obstructing or protesting the governmental policy, so there has been no tradition of working hand-in-hand with the government.

The government generally has ignored their activities or tried to suppress their activities and didn't give any chance to the groups to participate in the course of policy making. Even recently there has been no recognition of the necessity for cooperation between the two. But gradually the cooperation and concerted efforts between the public and the government have become more prevalent and the cooperation has become one of the most important issues. The Basic Environmental Policy Act requires the gathering of the opinions of residents to be affected by the execution of projects, in the course of making a statement of environmental effect evaluation.

#### c) Thailand

The major issues of NGOs in Thailand are deforestation and adjacent seas pollution. Although the number of NGOs is very small and the activities are not so visible, gradually the public attention to environmental pollution is increasing but the concern about global environmental issues is still at the elementary level.

#### d) Ethiopia

The hottest issue of Ethiopia's environmental preservation is deforestation. Even though the activities of NGOs or public attention to the environment is very low, there are some activities of NGOs concerning reforestation. For example, 'Institution of

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Reforestation Program' holds a regular annual event to plant trees during the rainy season and calls for nationwide public participation. And concerning the surveillance of deforestation by the general public, all citizens pay great attention to the problem and voluntarily report the information about irregularities to the police. To promote this voluntary surveillance by the public, the government gives some reward to the informer.

### 2. *Desirable role of public*

The State and local governments are in charge of the most important role such as establishment of comprehensive policy and formulation of basic strategy about the environment, and leading the people's consciousness. It becomes apparent that, especially in environmental protection sector, the role of public activities is important in making a constructive check and balance and they can lead the policy of states in some sectors.

In this chapter, we will use the notion of 'public' as meaning all other sectors of society excluding the government, and divide it into enterprise, Non-Governmental Organizations, and citizens.

#### a) Enterprise

In the field of environmental protection, enterprises are usually regarded as the subject of pollution and only the object of control by the governmental agencies. But now the role of enterprises should be changed into that of a positive contributor to the protection of the environment.

Because many private companies become multinational conglomerates which have production bases not only in their own countries but also in other developed or developing countries, and have globalized their activities, they can have a serious impact on the regional and global environment according to their policy.

#### i) Realization of their social responsibil-

ity—It is necessary for businesses to become fully aware of the global environmental impact that their own corporate performance will have. Already many corporations and economic organizations have established in-house committees and research groups on the global environment and offices to deal with specific issues. But it is important for them not only to merely respond to various regulations but to take the lead in fulfilling their social responsibility by gathering information from a broader perspective and by disseminating it through public-information activities.

ii) Environmental technology development —In coping with various issues that arise out of massive production, massive consumption of products and services, the role of the business is indeed great. The effort to develop environmental technologies must emphasize, so to speak, advanced technology for pollution prevention, technology for the saving of resources and energy, measurement and monitoring technology, adaptation to the changing environment, or the technological and social systems in which all those factors are integrated.

In relation to the issue of transfer of environmentally sound technology, "The Rio Declaration on Environment and Development" declared in Principle 8 as follows ; - States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

iii) Consideration to the counterpart countries and global environment in foreign investment and trade —In trade, full heed should be paid to the exports of dangerous items and materials hazardous to the environment and it is necessary to

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establish a policy of not exporting items whose use is prohibited in their own countries. It is also important to establish a capability of exercising pertinent control on the part of trade counterparts, such as with the offer of appropriate information about products which are to be exported and their danger to the environment.

iv) Actual support to the activities of NGOs —It is necessary to support the activities of other organizations for conservation of the environment through the establishment of nonprofit trust funds or funds for environment conservation. And from a standpoint of a broader and longer-term perspective, it is necessary to replenish basic-science research and subsidize university and other research institutions which carry out basic research.

### b) Non-Governmental Organizations (NGOs)

As declared in Agenda 21 of Rio Conference, the commitment and genuine involvement of all social groups is critical to the effective implementation of the objectives and policies of government to protect environment.

One of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making. Individuals, groups and organizations are needed to participate in environmental impact assessment procedures and to know about and participate in decisions, particularly those which potentially affect the communities in which they live and work. Individuals, groups and organizations should have access to information relevant to environment and development held by national authorities, including information on products and activities that have or are likely to have a significant impact on the environment, and information on environmental protection measures. (Agenda 21, chapter 23.2.)

The character of NGOs is basically different from enterprises. To look back at the history of the formation of NGOs, during that time businesses continually discharged the pollution into the environment, and the general public has gradually organized these movements and finally their activities have become vigorous. In the course of their activities, there might be some cases where the viewpoint is conflicting between the government and NGOs concerning national interests. But in the viewpoint of worldwide and long-term perspective, to activate and forge a sense of common purpose on behalf of all sectors of society, it is inevitable to recognize the independent roles, responsibilities and special capacities of each.

The role and problems of NGOs can be summarized as follows.

i) The center of making public opinion —The most important role of NGOs is the formation and convergence of various public opinions about environmental preservation and working as a channel between the public and the government or enterprise.

To reflect the opinion of related public or the general public into the national environmental policies, we need an organized center of public opinion. There might be many kinds of NGOs, some affiliated with government and some in discord with governmental environmental policy. Even if there might be conflict or disagreement among the opinions of various NGOs, their activities are a useful means to transmit the public interests to the national policy makers and make possible an effective environmental policy.

But recent prevalence of NIMBY ("not in my backyard") syndrome is a new problem, so excessive demands which only seek one small groups' interest must be refrained from. The difficulties in getting a site for construction of national environmental basic facilities such as waste disposal facility has become another serious problem in each country.

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Another point related to this role is that NGOs, if they act together with consumer groups, can effectively control the enterprise to create merchandise that is less harmful or is friendly to the environment.

ii) Education of citizens —To lead and educate people to be more sensitive to the impact of their behavior on the environment through campaign, conference, etc. is an important step.

iii) The center of public surveillance —The necessity of public help in effective surveillance against pollution by enterprises has sharply increased. To cope with the increasing sophistication of discharge or emission of pollutants and to cover the shortage and insufficiency of governmental agency personnel, the NGOs' active participation is needed. Through intimate cooperation among various NGOs and exchange of information, these surveillance activities should be held nationally and locally.

iv) Promotion of international cooperation among NGOs —The characteristic trend these days is that increasingly many people voluntarily get together in evolving unique activities based on unique ideas. Then there is an increase in activities which are done not just by small communities of citizens' group but with the information of groups covering broader areas or nationwide networks. Already there are many international organizations.

To enumerate some of them: The World Conservation Union was founded in 1948 and its headquarters is in Bonn, Germany; The Worldwide Fund for Nature was founded in 1961 and its headquarters is in Gland, Switzerland; Greenpeace whose headquarters is in Amsterdam, Netherlands; 3rd World Network which speaks for the interests of the 3rd world nations; and Woman Environmental Development Organization, etc.

During our training course, there was an exemplary incident of international cooperation of NGOs. The Russian tankers dumped radioactive waste about 340 miles away in the Sea of Japan Oct. 17 of 1993. It was Greenpeace, the international environmental group, who first informed the world and Japanese media about Russia's action. And when it got a tip about Russia planning to dump nuclear waste, it dispatched a ship to international waters near Russia. It was a very impressive scene, a small 95-ton vessel was tailing a big Russian navy ship loaded with radioactive liquid waste. With such international cooperation, the Japanese media could provoke hot public opinion and made the Japanese government officially protest to Russia and finally stop further dumping.

v) Effective activity to solve delicate international problems —In the above mentioned nuclear waste dumping case, because the site is international waters, it might be difficult for Japan to take any action right away for fear that it would be regarded as intervention. In the future, there might occur many delicate cases which even neither government wants to touch. Citizens groups can be effective in doing tasks the government shy away from.

vi) Problem of NGOs —The major problems of NGOs are that they are always troubled by fragile organizing ability, lack of information and knowledge, lack of ability to perform surveys and researches, and especially vulnerable financial foundations.

The central government, local government, private business and individuals must give some support to activate their activities. And all governments should take measures, as recommended by the Rio Agenda 21, to establish or enhance existing dialogue with NGOs and to facilitate their coordination in implementing national policies.

c) Citizens

Recently the interest in the environmental issues has been increasing sharply in each country and every citizen might be ready to work or financially contribute to environmental improvement. But it might be said that there is a significant gap between consciousness and behavior. All people want to live more conveniently and comfortably. But the only undeniable premise to solve the environmental problems is that it is impossible without the drastic change of consumption pattern of advanced countries and the eradication of poverty in under-developed countries. In this context, it is meaningful to enumerate what should be done by each person who is a "friend of the earth".

i) Deepening the recognition of environmental problems—More than anything else, it is necessary for as many people as possible to deeply recognize how closely our own lives are tied in with the global environment. Not only the State and local government but also television, newspapers and other media, private businesses and NGOs should carry out this role through various methods. On the other hand, for those people who do not know what they should do in concrete form, there must be a presentation of the ideal way of consideration to the environment in the daily life according to the situation of each country.

ii) Reduction of the load on the environment in daily life —In the developed countries, the most serious problem of people's consumption pattern is over-consumption. The traditional virtues of frugality and thrift have been forgotten within a short period through the obsession with materially affluent lifestyles. There is time for us to practice every kind of method to reduce the load from our daily life right away.

iii) Responsibility as a watchman of environment —Many countries prescribe in

their law the duty of citizen to protect the environment. It is necessary for every citizen to realize the importance of this role as a watchman against pollution. To fulfil these duties, every citizen should voluntarily participate in the activities of NGOs and, if there is any information about pollution or irregularities, should not hesitate to report to the related agency.

In relation to these roles of the citizen, there is the issue whether or not private citizens should be given any particular role in the initiation of prosecutions or the negotiation of acceptable solutions to environmental problems. According to the laws of our participant members' countries, the initiation of prosecution by private citizens is impossible and they only can file official complaints to the police to ask for investigation about crime. It is necessary to continuously explore effective ways for the realization of citizens' environmental rights.

## VI. Conclusion and Recommendations

The reality is that we face serious environmental problems at the local, regional, and global levels. Everyone and all nations might agree with the necessity to protect the environment, but it is really difficult to harmonize the two inconsistent goals of rapid economic growth and the preservation of the environment.

Environmental law has a generally short history and there are many legal issues to be considered in the future. Among developing countries, emphasis has been placed on development of natural resources for the economic growth and the environmental law system is still at the elementary stage. Every nation advocates international cooperation, but there is not enough actual cooperation because of national interests.

We need a new perspective in thinking about our relationship to the earth. If we do not take drastic steps right away to preserve

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the earth, the future of mankind looks bleak.

For the solution of global environmental problems, the development of international environmental law is urgently needed through the cooperation among the nations.

Each states should endeavor to put the existing environmental law in order and to improve the legal system for the effective control of environmental crime and compensation of victims.

And the importance of public participation and cooperation should be emphasized. The enterprises should realize their role as a supporter of environmental protection and the activities of NGOs should be supported by the states and public. All citizens are required to change their extravagant consumption patterns and to make an effort to reduce pollution in their daily lives.

Our earth is the home of all living things, the basis of all life and also for the future generation. Since our common home Earth is increasingly threatened, we shall agree and start to respect, encourage, protect and restore our eco-systems. Peace, development and environmental protection are interdependent and indivisible.

We would like to conclude our report with a quotation from the preamble of "The Earth Charter" which was prepared by the non-governmental organizations in Rio De Janeiro, June 3-14 of 1992;

" We are Earth, the people, plants and animals, rains and oceans, breath of the forest and the flow of the sea. We honor Earth as the home of all living things. We cherish Earth's beauty and diversity of life. We welcome Earth's ability to renew as being the basis of all life. We accept a shared responsibility to protect and restore Earth and to allow wise and equitable use of resources so as to achieve an ecological balance and new social, economic and spiritual values. "

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APPENDIX 1: Summary of Criminal sanctions on Environmental Crime (Japan)

Penal statute	Type of Crime	Intentionally		Negligently		Augmentation		Juristic Person	Note
		Imprisonment	Fine	Imprisonment	Fine	Imprisonment	Fine	Fine	Fine (1,000yen)
Penal Code	leakage of gas	≦ 3years	≦ 100			(bodily injury) ≦ 10 years (death) 2years ≦ 15 years	≦ 300		
	pollution of pure water	≦ 6months	≦ 100			(bodily injury) ≦ 10 years (death) 2years ≦ 15 years	≦ 300		
	addition of poisonous material into pure water	≦ 3year							
	pollution of water supply system	6months ≦ 7year							
	addition of poisonous material into water main	2 years ≦ 15 years					(death)death penalty for life 5years ≦ 15years		
	death or bodily injury caused by negligence in the conduct of business				≦ 5 years	≦ 600			
Law of the Punishment of Crimes Relating to the Environmental Pollution which Adversely Affects the Health of Persons	creation of risk to the life and body of public through the discharge of specific harmful matter	≦ 3years	≦ 5000	≦ 2 years	≦ 2000	(Intentionally, death or bodily injury) ≦ 7years (Negligently, death or bodily injury) ≦ 5years	≦ 5000 ≦ 3000	the same	presumption of causality: If there is reasonable probability between the discharge of harmful matter and occurrence of risk, it shall be presumed that the risk is the result of the discharged matter
Air Pollution Control Law	violation of order: order to alter programs, betterment order etc	≦ 1year	≦ 500					the same	
Offensive Odor Control Law	violation of order: betterment order	≦ 1year	≦ 100					the same	
Noise Regulation Law	violation of order: betterment order	≦ 1year	≦ 100					the same	
Vibration Regulation Law	violation of order: betterment order	≦ 1year	≦ 500					the same	
Water Pollution Control Law	violation of order: order to alter programs, betterment order etc	≦ 1year	≦ 500					the same	
Sewerage Law	damage or destruction of sewerage etc	≦ 5year	≦ 200						
	violation of order: order to alter programs, betterment order etc	≦ 1 year	≦ 500					the same	
River Law	occupation of river basin without permission	≦ 1year	≦ 100						
Law Relating to the Prevention of Marine Pollution and Maritime Disaster	violation of order: business suspension order	≦ 1year	≦ 500					the same	
	discharge of waste or oil etc	≦ 6months	≦ 500						
Law Relating to the Prevention of soil pollution in agricultural land	disturbance of investigation		≦ 30					the same	

Penal statute	Type of Crime	Intentionally		Negligently		Augmentation		Juristic Person	Note
		Imprisonment	Fine	Imprisonment	Fine	Imprisonment	Fine	Fine	Fine (1,000yen)
Industrial water Law	Aquirement of underground water without permission	≦ 1year	≦ 100						
	violation of order: prohibition order to aquire underground water	≦ 1year	≦ 100					the same	
Waste Disposal and Public Cleaning Law	managing a waste disposal busniess without authorized permission etc	≦ 1year	≦ 500					the same	
	violation of order: betterment order etc	≦ 6months	≦ 300						
	violation of the commission standard								
	illegaldisposal (harmful industrial waste) (others)	≦ 6months ≦ 3months	≦ 300 ≦ 200						
Nature Conservation Law	restriction of act violation of order: stop order etc	≦ 1 year	≦ 500					the same	
Law concerning Protection of Wild life and Game	illegal hunting etc	≦ 1year	≦ 500					the same	
Forest Law	arson to forest	2 yeatrs ≦ 15 years			≦ 200				
	development without authorized permission		≦ 200						

## APPENDIX 2:

### Major Environmental Crimes and Punishments (Republic of Korea)

#### 1. Air (Atmospheric Environment Preservation Act)

\* Establishment, alteration, operation, of emission facilities without permission : under 7 years imprisonment or 50 million Won

\* Operation of emission facilities without obtaining a judgement of conformity : same above

\* Failure of normal operation of preventive facilities

\* Violation of order to suspend or transfer

\* Manufacturing motor vehicles in unconformity with car exhaust standards

\* Manufacturing fuel or additives without approval or in contravention of the regulation: under 1 year imprisonment or 5 million Won

\* Person who refuses, interferes with or evades the entry and inspection of public official: under 6 months imprisonment or 2 million Won

\* Dual Punishment of Corporation

If a representative of a juristic person, or an agent, serviceman or other employee of a juristic person or individual commits an offense as prescribed in penal provisions in connection with affairs of the juristic person or individual, the penalty or fine as prescribed in each corresponding Article shall be imposed on such juristic person or individual, in addition to the punishment of offender.

#### 2. Water (Water Environment Preservation Act)

\* Installation, alteration, operation of discharge facilities without permission: under 7 years imprisonment or 50 million Won

\* Operation of discharge facilities without receiving the judgement of conformity

\* Failure of normal operation of discharge or preventive facilities

\* Violation of order to suspend or transfer

\* Installation of small discharge facilities without report : under 1 year imprisonment or 5 million won

\* Operation of waste water treatment business without permission

\* Person who refuses, interferes with or evades the entry and inspection of a public official: under 6 months imprisonment or 2 million Won

\* Dual Punishment of Corporation

#### 3. Sea (Sea Pollution Prevention Act)

\* Discharge of oil from a ship in the sea (intentionally) : under 5 years imprisonment or 50 million Won

\* Discharge of oil by negligence: under 3 years imprisonment or 30 million Won

\* Discharge of any poisonous liquid substance, unestimated liquid substance

\* Discharge of wastes

\* Operation of a waste oil disposal and cleaning business without permission

\* Abandonment of a ship in the sea

\* Discharge of poisonous liquid substance, unestimated liquid substance: under 2 years imprisonment or 20 million Won

\* Person who refuses, interferes with or evades a stoppage, search or capture of a ship, prohibition of entry or departure of a ship or other necessary order or measure: under 2 years imprisonment or 10 million Won

\* Dual Punishment of Corporation

#### 4. Wastes (Waste Control Act)

\* Operation of general (or special) waste disposal business without permission: under 5 years imprisonment or 30 million Won

\* Obtainment of permission on general (or special) waste disposal business by deceit or unlawful way

\* Failure of compliance with the order on closure of facilities

\* Disposal of general waste in contravention of regulation: under 2 years imprisonment or 10 million Won

\* Violation of order on improvement or suspension

\* Dual Punishment of Corporation

5. Special Act for the Punishment of Environmental Crime (This law is legislated to raise the punishment of specific pollution)

\* Creation of risk to the life and body of public through the discharge of specific harmful matter: above 1 year with 20-100 million Won

\* Creation of actual injury or death by discharge of specific harmful matter: life imprisonment or above 3 years

# presumption of causality

If there is reasonable probability between the discharge of harmful matter and the occurrence of risk, it shall be presumed that the risk is the result of the discharged matter.

\* Dual Punishment of Corporation: 20-100 million Won

APPENDIX 3

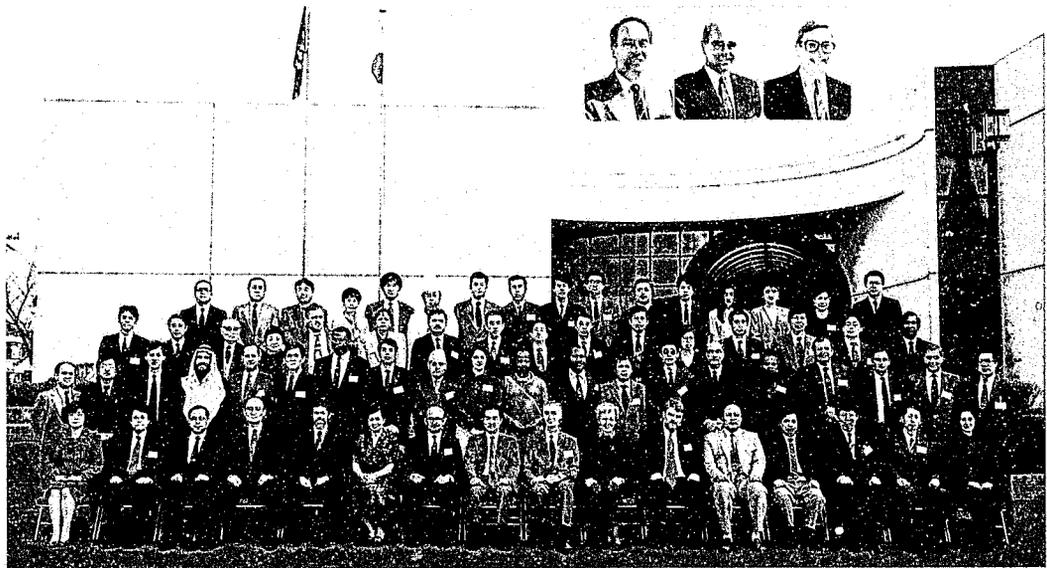
Penal Sanctions for Environmental Crimes (Thailand)

Type of Crime	Penal sanctions	
	Imprisonment	Fine
1 Refused to cooperation to control, extinguish or mitigate the adverse effect of an emergency or public danger arising from natural disaster or pollution and spread of pollutants	≤ 1 year	≤ 100,000 baht
2 Causing public danger or damage arising from pollution	≤ 5 years	≤ 500,000 baht
3 Illegally encroaching upon, occupying or entering into public land to act in any manner which results in the destruction, loss or damage to natural resources or treasures	≤ 5 years	≤ 500,000 baht
4 Use of prohibited vehicles causing air and noise pollution	-----	≤ 5,000 baht
5 Failure to construct, install or brought into operation the on-site facility for waste water treatment or waste disposed by the owner or possessor of the point source of pollution	≤ 1 year	≤ 100,000 baht
6 Introducing any poisonous substance or any other substance likely to cause injury to health, into food or the water of any well, pond or reservoir	6months - 10 years	1,000-20,000 baht
(a) If the offence causes death to any other person	Life imprisonment or 5 years-20 years	10,000-40,000 baht
(b) If the offence is committed by negligence which results an imminent danger to life of any other persons	≤ 1year	≤ 2,000 baht

APPENDIX 4: Summary of Criminal Sanctions for Environmental Crime (Ethiopia)

No	Type of Crime	Circumstances of the Commission of the Crime							
		Intentionally		Negligently		Higher gravity		Lesser gravity	
		Imprisonment	Fine	Imprisonment	Fine	Imprisonment	Fine	Imprisonment	Fine
1	Deforestation and Hunting of wild animals	≤ 2 years	5000 Birr	-	-	-	-	-	-
2	Ploughing or grazing cattles in forests, national parks, game reserves	≤ 1 year	2500 Birr	-	-	-	-	-	-
3	Spreading an epizootic disease among domestic animals, poultry game, fish or wild animals	3 months-3 years	Undetermined	≤ 6 months	Undetermined	-	-	≤ 1 year	Undetermined
4	Propagating a parasite or germ harmful to agricultural or forest crops	3 months-3 years	Undetermined	≤ 6 months	Undetermined	-	-	≤ 1 year	Undetermined
5	Contamination of drinking water	≤ 1 month	undetermined	-	-	≤ 5 years	-	≤ 1 month	Undetermined
6	Poisoning of wells, spring water, rivers or lakes	≤ 15 year	-	simple imprisonment [i.e. ≤ 3 years]	-	-	-	-	Undetermined
7	Contamination of pasture lands or fields	simple imprisonment	Undetermined	≤ 6 months	Undetermined	≤ 5 years	-	simple imprisonment	Undetermined
8	Infringement of rules for preventing the spread of an epizootic disease or of agricultural or forest parasites or germs	≤ 1 year	Undetermined	≤ 3 months	≤ 1000 Birr	-	-	-	-
9	Contravening the rules and regulations protecting the natural sites	Undetermined	Undetermined	-	-	-	-	-	-
10	Exposure of dead burials	Undetermined	Undetermined	-	-	-	-	-	-
11	Creating nuisance	-	≤ 100 Birr	-	-	≤ 1 month	-	-	-

**The 93rd International Seminar  
(UNAFEI, February 1- March 5, 1993)**



- Overhead:* Valentin (Visiting Expert), Coffey (Visiting Expert), Hodson (Visiting Expert)
- 4th Row:* Kanai (Staff), Takashima (Staff), Kibata (Staff), Okamoto (Coordinator), Ichikawa (Staff), Asano (Chief Cook), Nishino (Staff), Ogawa (Staff), Iwasaki (Staff), Sakumi (Staff), Takahashi (Staff), Maeda (Staff), Kawabe (Staff), Nagato (Staff), Hirooka (JICA Coordinator), Inagawa (Faculty)
- 3rd Row:* Jimbo (Staff), Koyanagi (Faculty), Tokuda (ACPF), Saitoh (Staff), Rozynski (Poland), Santa Cruz (Peru), Ynsfran (Paraguay), Nishimura (Japan), Yamamoto (Japan), Pongsakon (Thailand), Ocampo (Philippines), Masako Suzuki (Japan), Minoru Suzuki (Japan), Furusawa (Japan), Torii (Japan), Weerasuriya (Sri Lanka)
- 2nd Row:* Hashimoto (Faculty), Nishikawa (Faculty), Hoong (Singapore), Al-Ahmad (Saudi Arabia), Soto (Panama), Kim (Korea), Mbuvi (Kenya), Nawawi (Malaysia), Bhattarai (Nepal), Leitao (Brazil), Vilakati (Swaziland), Hela (P. N. G.), Yunus (Indonesia), Wang (China), Ramday (Pakistan), Mulindwa-Matovu (Uganda), Alvi (Pakistan), Hossain (Bangladesh), Sahney (India), Hirakawa (Staff)
- 1st Row:* Takaike (Faculty), Ito (Faculty), Phoonkeao (Visiting Expert), Yoo (Visiting Expert), Snow (Visiting Expert), Mrs. Nanakorn, Nanakorn (Visiting Expert), Watanabe (Director), Hilger (Visiting Expert), Mrs. Hilger, Bruce (Visiting Expert), Azahar (Visiting Expert), Vista (Visiting Expert), Nakajima (Deputy Director), Ozaki (Faculty), Tuttle (Linguistic Adviser)

**The 94th International Training Course  
(UNAFEI, April 12 - July 2, 1993)**



*Overhead:* Cheng (Visiting Expert), Archambault (Visiting Expert), Calibo (Visiting Expert)

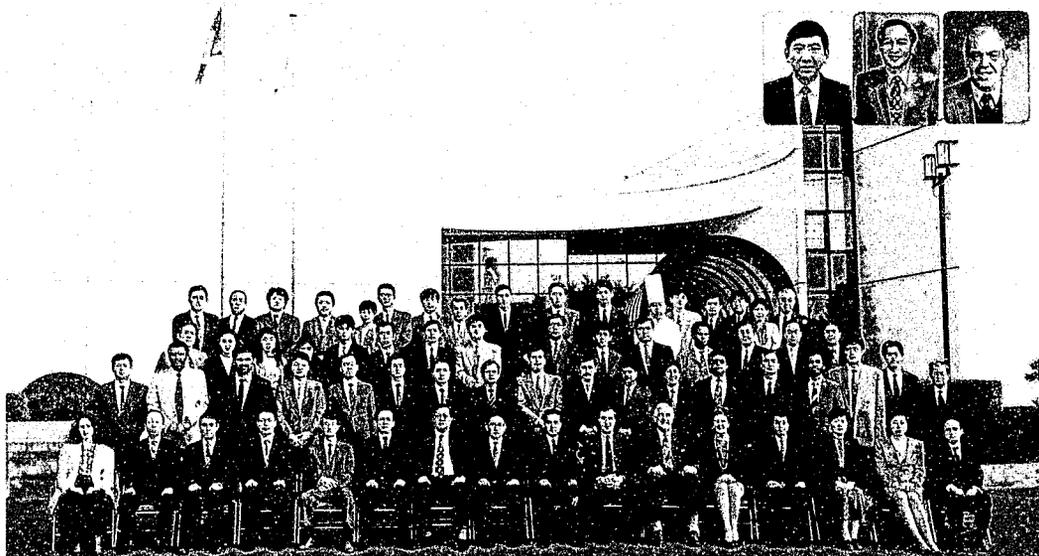
*4th Row:* Sueyoshi (Staff), Ichikawa (Staff), Takashima (Staff), Sakumi (Staff), Kaneko (Staff), Yamamoto (Staff), Kibata (Staff), Kimura (Staff), Harada (Staff), Yamaoka (Staff), Kai (Staff), Hirooka (JICA Coordinator), Okamoto (Coordinator), Maeda (Staff), Asano (Chief Cook), Hayakawa (ACPF), Ikeda (ACPF)

*3rd Row:* Konno (Staff), Fujita (Staff), Takahashi (Staff), Ogawa (Staff), Sugiyama (Japan), Kawamura (Japan), Tomimatsu (Japan), Yamaura (Japan), Tanimoto (Japan), Hanada (Japan), Koderu (Japan), Takenaka (Japan), Matsumura (Japan), Mookjang (Thailand), Uchibori (Japan), Ichikawa (ACPF), Kuchii (ACPF)

*2nd Row:* Hirakawa (Staff), Kawabe (Staff), Shek (Hong Kong), Ruzsonyi (Hungary), Vaño (Philippines), Kang (Korea), Peck (Singapore), Resham (India), Shrestha (Nepal), Tara (P. N. G.), Noh (Malaysia), Hasanuddin (Indonesia), Saukawa (Fiji), Manan (Brunei), Mwangi (Kenya), Jigjidsuren (Mongolia), Mohamad Foz (Malaysia), Thenabadu (Sri Lanka)

*1st Row:* Tuttle (Linguistic Adviser), Koyanagi (Faculty), Sasaki (Faculty), Takahashi (Faculty), Ohbayashi (Deputy Director), Furuta (Ministry of Justice), Suddle (Visiting Expert), Mukherjee (Visiting Expert), Watanabe (Director), Rogers (Visiting Expert), Mrs. Rogers, Dharmadasa (Visiting Expert), Ito (Faculty), Saeki (Faculty), Inagawa (Faculty), Hashimoto (Faculty), Shibata (Chief of Secretariat)

**The 95th International Training Course  
(UNAFEI, September 13 – December 3, 1993)**



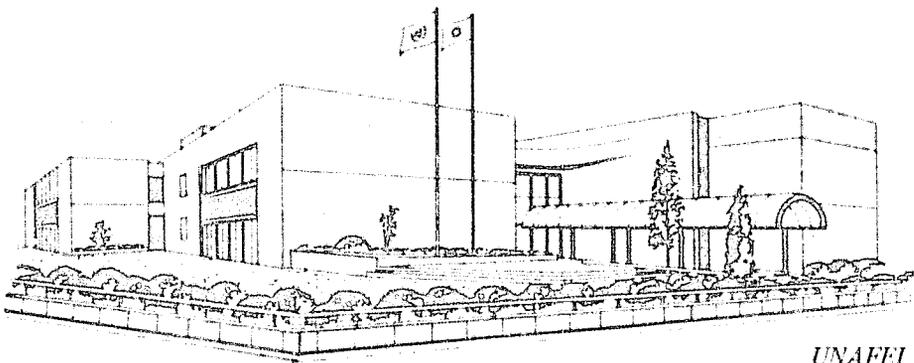
*Overhead:* Khoo (Visiting Expert), Aglipay (Visiting Expert), Finckenauer (Visiting Expert)

*4th Row:* Sueyoshi (Staff), Takashima (Staff), Yamamoto (Staff), Takahashi (Staff), Okamoto (Coordinator), Sakumi (Staff), Ichikawa (Staff), Kai (Staff), Harada (Staff), Yamaoka (Staff), Kimura (Staff), Asano (Chief Cook), Konno (Staff), Kanai (Staff), Kibata (Staff), Ichikawa (ACPF), Hayakawa (ACPF)

*3rd Row:* Hirakawa (Staff), Enokido (JICA Coordinator), Maeda (Staff), Yahiro (Staff), Fujita (Staff), Ogawa (Staff), Klaisuban (Thailand), R. Yamaguchi (Japan), Yonemura (Japan), H. Yamaguchi (Japan), Yonezato (Japan), Nakandio (P. N. G.), Nobuta (Japan), Nakashima (Japan), Vajrabukka (Thailand)

*2nd Row:* Murata (Japan), Tadese (Ethiopia), Vakalalabure (Fiji), Yuma (Japan), Goda (Japan), Takahara (Japan), Otsubo (Japan), Shamsuddin (Bangladesh), Dubravcic Vaca (Bolivia), Shikoh (Pakistan), Olee (Nepal), Wong (Malaysia), Salas Perez (Venezuela), Yun (Korea), De. Abrew (Sri Lanka), Chen (China), Ng (Singapore), Guariña (Philippines)

*1st Row:* Tuttle (Linguistic Adviser), Shibata (Chief of Secretariat), Koyanagi (Faculty), Inagawa (Faculty), Takahashi (Faculty), Ohbayashi (Deputy Director), Dumlao (Visiting Expert), Watanavanich (Visiting Expert), Watanabe (Director), Martin (Visiting Expert), Biles (Visiting Expert), Mrs. Biles, Ito (Faculty), Saeki (Faculty), Sasaki (Faculty), Hashimoto (Faculty)



*UNAFEI*