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PAN

March / 1978



**RESOURCE MATERIAL**  
**SERIES No. 14**

NCJRS

OCT 3 1978

ACQUISITIONS

**UNAFEI**

Fuchu, Tokyo, Japan

March/1978

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1-26 Harumicho, Fuchu, Tokyo, Japan

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## Introductory Note

The Editor is pleased to present No. 14 of the Resource Material Series carrying papers produced during the 45th International Seminar and the 46th International Training Course.

Part I contains material from the 45th International Seminar on Increase of Community Involvement in the Treatment of Offenders which was held from February 22 to March 26, 1977.

Section 1 consists of three papers contributed by two visiting experts and a UNAFEI faculty member. In the paper entitled "The Correctional Institution in the Climate of Change," Professor Herman G. Moeller, East Carolina University, North Carolina, U.S.A., a visiting expert for the Seminar, introduces diversified views on the objective of corrections, widespread public disenchantment with institutional corrections, rising prison population and challenged effectiveness of treatment, and discusses the roles and functions of the future prisons. Another visiting expert, Mr. Robert L. Smith, Executive Secretary, Inter-Agency Coordinating Council, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, U.S.A., in his paper on "Community Corrections: Rhetoric in Search of Reality," analyzes the various aspects of community corrections, with a special emphasis upon the necessity of a rational planning policy and by introducing new modes of community corrections in the United States such as diversion, Restitution Homes, work furlough and other experimental projects. Mr. Yoshio Suzuki, Director of UNAFEI, in his paper entitled "Some Thoughts on Decriminalization and Depenalization," introduces some aspects of the Japanese criminal justice system relating to the current movement of decriminalization and depenalization and analyzes certain practical and moral considerations on such concepts.

Section 2 contains the papers by the participants of the Seminar and Section 3 the Report of the Seminar.

Part II contains material from the 46th International Training Course on the Treatment of Juvenile Delinquents and Youthful Offenders held from April 19 to July 9, 1977.

Section 1 is composed of two papers written by Professor Manuel Lopez-Rey, Visiting Fellow, Institute of Criminology, Cambridge, England, and the visiting expert for the Course, and by Mr. Zen Tokoi, Director General, Rehabilitation Bureau, Ministry of Justice, Japan and the former Director of UNAFEI. Professor Lopez-Rey, in his paper on "Youth and Crime in Contemporary and Future Society," discusses issues relating to the juvenile justice system such as the changing concept of juvenile delinquency, contributory factors to the increase of young offenders and the necessity of reform and planning on recent tendency of youthful crime. Mr. Tokoi's paper on "Japanese Rehabilitation Services and Community Involvement" analyzes impacts of social changes upon crime and

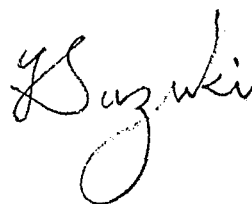
explains various types of volunteer activities in the field of rehabilitation services in Japan.

Section 2 contains the papers of the participants of the Course, Section 3 the Report of Group Workshops and Section 4 the Report of the Course.

In both courses, many excellent papers were submitted to the Institute. However, it is regrettable that, because of limited spaces of this volume, all the papers cannot be printed. The Editor would like to add that, due to lack of time, necessary editorial changes had to be made without referring the manuscripts back to their authors. The Editor asks for their indulgence for having to do it this way since it was unavoidable under the circumstances.

In concluding the Introductory Note, the Editor would like to express his gratitude to those who so willingly helped the publication of this volume by attending to the typing, printing and proofreading, and by assisting in various other ways.

March, 1978

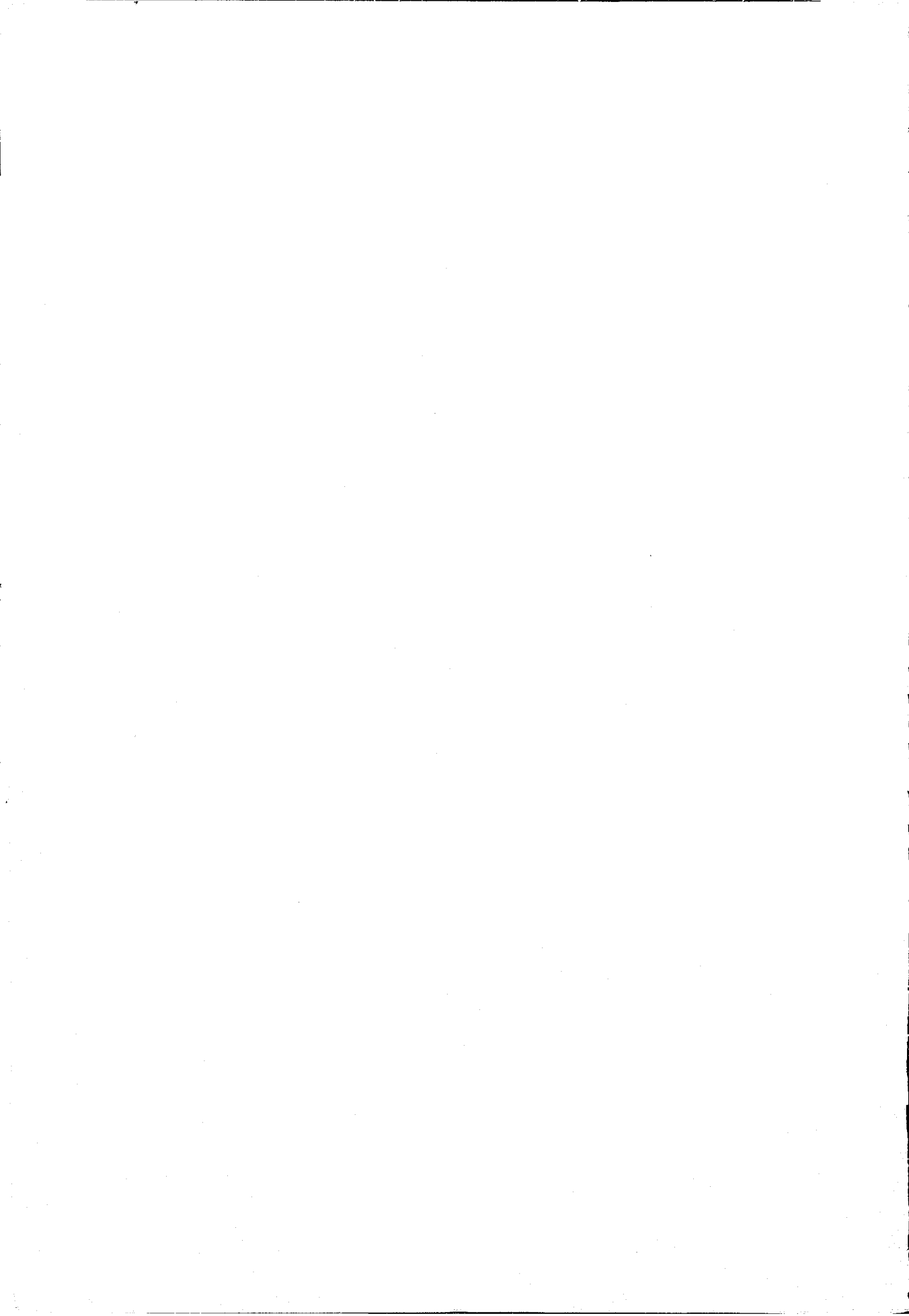
A handwritten signature in cursive script, reading "Yoshio Suzuki". The signature is written in black ink and is positioned above the printed name and title.

Yoshio Suzuki  
Director



## **PART I**

**Material Produced During  
The 45th Seminar Course  
On Increase of Community Involvement**



## SECTION 1: EXPERTS' PAPERS

### The Correctional Institution in the Climate of Change

by Herman G. Moeller\*

#### I. Introduction

For nearly 200 years the prison, or what we have come to call the correctional institution, has been the focal point for the execution of criminal sanctions throughout the world. At this point in history, however, serious questions are being posed about the effectiveness of the prison as an instrument of social control. Indeed, there are a few who would argue that the only solution to problem of the prison is to move, as promptly as possible, toward the abolition of the institution in order to force the society to adopt new measures as well as different methods for dealing those who violate the law. In brief, it is argued:

(1) That the goals of the prison—first of assuring his or her safe-keeping; and second, of providing the opportunities for rehabilitation—are contradictory and irreconcilable.

(2) That the very nature of the control function of the prison results in the dehumanization of the offender and ultimately inflicts injuries which render many persons confined in institutions over long periods of time incapable of resuming productive social lives upon returning to the community.

(3) That it can be demonstrated without question that rehabilitative measures employed in prisons during the past half century have been totally ineffective.

There is widespread public disenchantment with institutional corrections in my own country. I would say that there is a very high level of ambivalence. In the face of a rising rate of crime, there is an increasing cry for such measures as:

(1) Increasing prison terms for serious offenders.

(2) Reducing the discretion of judges in the selection of the length of sentences to be imposed as well as in the selection of other dispositional alternatives.

(3) Abolition of the discretionary authority of parole boards to determine when an offender is to be released to the community.

Meanwhile, while the debate about criminal policy becomes more active, we are faced in the United States with sharply rising prison populations. In the six years since my retirement from the Federal Prison Service, the population of federal institutions has risen from approximately 20,000 to 27,000 men and women. A similar phenomenon may be observed in many of the states of the United States.

This staggering increase in prison population appears largely to be the result of a steady increase in the crime-prone age group of our general population aged 16 to 35, and it is predicted that this component of the population will not reach its peak until the early or mid-1980's.

Finally, there is in the United States, and elsewhere in the world a growing debate about the role and function to be assigned to correctional institutions in the future.

1. In the United States, the National Advisory Commission on Criminal Justice Standards and Goals, in its report four years ago, strongly argued that the use of correctional institution should be reserved primarily for those offenders who are known to be dangerous to society.

2. Many professionals, including Dr. Norval Morris, Dean of the Law School of the University of Chicago, argue that the purpose of imprisonment should be to punish, not to rehabilitate. It is argued further that the determination of the time of the offenders' release should in no instance depend upon the extent to which he or she has participated in the formal programs of an institution. Professor

\* Professor of East Carolina University, North Carolina, U.S.A.

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Morris and others recognize the importance of a wide range of institutional programs through which the offender may improve his knowledge and skills, but insist that no person should be coerced to participate in such program activities. Rather the role of the staff of the institution should be to facilitate his gaining access to and making effective use of program opportunities. Those interested in the proposals advanced by Professor Morris are directed to his book, *The Future of Imprisonment*, published by the University of Chicago Press.

3. Not all professionals in the United States share the views advanced by Dean Morris, however. While there is a general acceptance of the view that the medical model of treatment, except for those offenders who are demonstrated to be suffering from chronic or acute physical or mental illnesses, has long since outlived its usefulness, there are those who maintain that it is a function of the institution to assist the offender to learn better to cope with the expectations of society. To accomplish this objective, demonstration projects are under way in a few states of the United States in the use of what is called *Mutual Agreement Programming*. What is involved in this approach is the establishment of contractual relationships between the offender, the staff of the institution, and the paroling or releasing authority. Individual goals are established for and with the participation of each offender who desires to enter a contract. These are then reviewed by the paroling authority which, if it accepts the contract, agrees to the release of the offender at such time as the goals have been accomplished.

The foregoing discussion will serve to suggest the ferment in which correctional policy makers in my country now find themselves, and may indeed foreshadow developments which may occur in other regions of the world. But at an international meeting such as ours, it is perhaps unwise to be preoccupied with the problems of a particular country, and I will therefore turn to a larger view.

Information available seems to suggest as in the United States that currently prisons in many parts of the world are badly overcrowded, are inadequately

staffed, and make little or no effective contribution to the prevention and control of crime. In some countries where there is a relatively high level of social discontent, the recognized inadequacies of penal institutions have given rise to widespread disturbances in institutions—disturbances which are fed by the frustrations of inmates and a growing sense of injustice on the part of men and women confined. Institutional disturbances have contributed substantially to public concern about the need to reform the correctional system and have stimulated a broad search for alternatives to imprisonment. This has, by no means, been an observable international phenomenon. In fact, it would appear that in many countries there are a high level of public confidence in the prison and a general acceptance of the idea that the penal institutions of the state are both essential and reasonably effective instruments of social control.

It is difficult, of course, to assess the reasons for the apparent differences in the attitudes of different countries toward prison conditions or the social function of these institutions. Indeed, the differences may lie not so much in the quality of life in institutions and/or differences in their populations as in the extent to which prison problems are given or allowed to be given publicity. A strong, centrally controlled government obviously can more effectively assure the isolation of its prisons from public exposure than can one which is more democratically oriented. But the basic character of the issues posed by the prison may well be similar in most countries. Throughout the world there remains the focal problem of making clear the social policies which define the functions and purposes of institutionalization as well as the methods by which institutional goals may be achieved.

There appears, moreover, to be a growing trend in many countries in the direction of a reduction in the use of institutions as the principal means of dealing with the convicted offender. The fact that institutions have in many countries been consistently overused has given strong impetus to the search for community alternatives. It is generally conceded, however, that institutions will

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continue to be used with a relatively high frequency. There is a clear need to protect the society from persons who are so dangerous as to require close custody, supervision and control. Included in this group are, of course, fanatics who murder innocent victims in efforts to advance political interests and engage in skyjacking, kidnapping, the seizure of hostages and other transnational crimes of violence.

Further, the proliferation of crime as a way of life supported by organized syndicates will not suddenly disappear. In some countries, the activities of professional criminals are to be found in black marketeering; in others, in the wholesale corruption of government, business and industry; and in still others, in activities involving narcotic trafficking, labor racketeering, organized gambling and prostitution. The existence in most countries of a criminal sub-culture which has its own social system that cares for its members produces criminals whose loyalties to the organization tend to defy efforts of professional correctional workers who see their task that of modifying criminal attitudes and behavior.

At a minimum, criminals in these categories require incapacitation until there is demonstrable evidence that they may safely be returned to the community. Their presence in society argues strongly for the continued use of the prison as an instrument of social control.

Throughout the long history of prisons in the world there has been a long standing search for the articulation of principles or standards to guide their operation and management. At the very outset was a prolonged debate between those who argued of a system of cellular isolation and those who supported a system of congregate work of prisoners. A little more than a hundred years ago (1870), the work of a small group of reformers in the United States resulted in a Declaration of Principles which emphasized the responsibility of society for the reformation of criminals, and noted that education, religion and industrial training are valuable aids in this undertaking, that prison discipline should build the self-respect of each prisoner, and that his cooperation might best be

obtained through the use of an indeterminate sentence under which his discharge was regulated by a merit system. This Declaration stood without substantial revision until 1960.

The meeting at which the Declaration was adopted was the forerunner to the First International Penal and Penitentiary Congress convened in London in 1972. This meeting gave rise to the organization of the International Penal and Penitentiary Commission which provided international leadership in prison reform for nearly 80 years. During most of its existence the Commission was preoccupied with the formulation of standards for the care of prisoners and it was responsible for the formulation of the first international Rules for the treatment of prison inmates. It is significant that the functions of the IPPC were transferred to the United Nations and that at the First United Nations Congress for the Prevention of Crime and the Treatment of Offenders on 30 August 1955, the Standard Minimum Rules for the Treatment of Offenders, as they presently exist, were adopted. The Rules were approved by the Economic and Social Council.

Underlying the search for standards during the 20th century have been at least two fundamental assumptions. One that has been almost universally accepted is that the prison should play a meaningful role as a people changing institution. While it has generally been recognized that the primary function of the prison has been social protection and that it plays an important role in the infliction of socially approved punishment, the past 50 years has seen a generally consistent emphasis upon the function of the institution of preparing convicted prisoners for return to society as law-abiding citizens. In many parts of the world the effectiveness of institutions is measured exclusively in terms of the numbers of failures represented by those who for whatever reasons are returned to prison after release. Recidivism, however defined, is a generally accepted yardstick for judging institutional performance. Curiously enough, however, the prison system is probably the only social institution which is considered ac-

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countable for the behavior of its clients from the date of an offender's initial commitment until his death.

A second assumption which has been generally accepted is that the prison operations are based largely upon the concept of benevolent purpose. A prevailing notion is that the state knows what is best for the prisoner and the agents of the state have the knowledge, interest, concern and skills to develop and maintain programs and activities which are congruent with his demonstrated needs. It follows from these premises that the inmate who is the object of efforts of re-education, resocialization or treatment, has little, if anything, to say about the measures imposed upon him. Important issues have, of course, been raised about the morality of the use of some people changing measures—the use of mind altering drugs, electro and insulin shock treatments, neuro-surgical interventions and the like, and there is a growing resistance to the use of prisoners for purposes of human experimentation. Nonetheless, society has until relatively recently demonstrated a willingness to tolerate a very high level of administrative discretion on the part of those charged with the administration of correctional systems and institutions.

The prison, therefore, has, in the course of its history, become a social institution, the efforts of which are directed toward increasingly complicated goals. While penal institutions had their beginnings as a method of punishment regarded as more humane than execution or banishment, they, in more recent years, accepted responsibility for the protection of society as well as for modifying the attitudes and behavior of criminals and assuring their reintegration into the larger society. For at least 50 years, institutions and institutional systems have wrestled in the effort to reconcile competing and contradictory objectives. The institutional responsibility to maintain secure custody and control is more frequently than not in conflict with the objectives of correctional treatment. Men and women confined in institutions are expected to develop individual responsibility in an environment in which the most basic human activities are ordered and regimented

during their waking hours. Prisons which are expected to prepare offenders for life in the community are all too frequently geographically and physically isolated and psychologically insulated from the community at large. The recognition of the existence of these fundamental paradoxes is by no means novel, but there are indications, as I have already suggested, that the apparent failure to resolve them may provide further impetus to the demand for change.

Efforts to respond to the conflicting expectations for prisons and correctional institutions have contributed to the development of a succession of institutional models. In the beginning, the institution which was designed primarily to provide an atmosphere of monastic penitence gave way largely to the industrial model which, while giving lip service to the regenerative qualities of inmate labor, was preoccupied with efforts to maintain productivity at a sufficiently high level to assure the economic self-sufficiency of institutions. With the introduction of the behavioral sciences into institutions in the early part of the 20th century came the adoption of the "medical model." The prison was seen as a hospital for deviants where through prescriptive "treatment" the offender might be "cured" of his deviancy. The basic assumption was that criminality was a diagnosable entity and that through the application of treatment methods the offender would be rehabilitated. The model which in recent years has had the widest acceptance in most regions of the world may best be described as the "education training" model. The institution oriented toward education and training seeks largely to identify the offender's deficiencies in maintaining himself in the world of work and provides opportunities for overcoming his liabilities through development of knowledge and work skills.

Other models which have been designed and tested in various parts of the world include: the socialization model which promotes individual social problem solving by the use of group methods; the collaborative model which emphasizes the interdependence of staff and inmates in the maintenance and operation of institutions, and inmate sharing in the

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making of decisions which affect his status; the therapeutic model which engages significantly large numbers of psychiatrically and psychologically trained personnel in the use of sophisticated interventive methods; and the community treatment model which attempts to involve a wide range of resources of the community in the preparation of the offender to cope with the responsibilities of living in society.

None of the foregoing models exists in a pure form. Indeed, some institutions incorporate elements of many of the approaches outlined. But whatever the predominating model there is little hard evidence that any of the approaches described have significantly contributed to a reduction in crime or recidivism.

### II. Prisons in a Climate of Change

There are a number of developments which have occurred during the past 30 years which can be expected to exert a profound influence upon the role and function of the prison of the future. A partial listing of the elements of change which deserve attention would include:

#### (a) Decriminalization

In many countries of the West strong pressures are being exercised to divert persons involved in "victimless" crimes from the criminal justice system. Thus, the alcoholic, the narcotic addict, and the homosexual are being identified as persons in need of care and the responsibility of public mental health services. Criminal abortion laws have been abolished in many countries both by new legislation and by court action. Adult consensual sex acts have in many instances been removed from the purview of criminal laws. Should this trend continue and be expanded to other countries, the implications for the reduction of prison populations are self-evident.

#### (b) Rising Levels of Expectation

The evidence of the impact of rising levels of expectation has already been observed in some of the countries of the West where prisoners have organized riots and disturbances in an effort to call

attention to prison conditions and abuses, and seek redress of grievances. The situation is likely to become more serious in developing countries as conditions of life in the community at large improve and if prison conditions remain relatively static. They will also be accentuated if the level of education of prison staff is significantly lower than that of the prisoners whom they supervise.

#### (c) Prisoners' Rights

It has been only in the relatively recent history of prisons that serious issues have arisen concerning the civil rights of prisoners. During the greater part of the history of prisons there was an almost universal assumption that the forfeiture of rights was the inevitable consequence of imprisonment. For many years there was a general acceptance of the concept of civil death and every prison administrator exercised wide latitude in the use of discretion in dealing with prisoners. It was almost inevitable that in the climate of concern about human rights which emerged after World War II, increasing attention would be directed toward an attempt to define more explicitly the post-conviction rights of offenders. The adoption by the General Assembly of the United Nations of the Universal Declaration of Human Rights on 10 December 1948 played a significant part in stimulating such efforts. The General Assembly proclaimed the Declaration "as a common standard of achievement for all people and nations." Among the rights enumerated are: protection from torture or cruel, inhuman or degrading punishment; equality before the law; effective remedy for acts violating fundamental rights granted by constitution or by law; freedom from arbitrary arrest; a fair and public hearing in the determination of criminal charges; and the presumption of innocence until proven guilty. The Declaration also recognized the universal right to freedom of thought, conscience and religion; freedom of opinion and expression; and of peaceful assembly and association.

While it may be argued that the rights and freedoms articulated by the Declaration were not intended to be applicable to prisoners, there is nothing in its

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language which suggests that persons convicted of crime forfeit fundamental human rights.

The assumption that prisoners are entitled to protection of basic rights is reinforced by many of the provisions of the Standard Minimum Rules adopted in 1955. The Provisions of Rules 27-32 inclusive, which relate to discipline and punishment, incorporate the basic provisions of due process which are specifically designed to protect the prisoner from arbitrary and unfair punishment.

The manner in which efforts are directed toward the clarification of prisoners' rights will undoubtedly depend to a very great extent upon the culture and the legal and governmental structures of countries involved. In countries such as the Socialist countries and Japan, where there is a high level of confidence in administrative officials, it is probable that the measures taken to assure prisoners' rights will move forward in accordance with national policy. Other countries like Denmark, New Zealand, and Sweden, which have felt the need for external monitoring of administrative action, adopt the ombudsman approach. In still other countries like the United States, efforts to clarify administrative discretion will be carried out in the Courts. The abandonment by the Courts of the United States of their traditional "hands-off" policy in matters of prison administration is seen by many as one of the most significant forces for change in prison management in that country.

While approaches to the issue of clarifying the rights of prisoners will vary, it is predictable that activities in this direction will intensify and that the consequences for prison management will be profound.

### (d) Interface of Corrections with Other Human Resource Agencies

While in several countries, the Socialist countries, Sweden and New Zealand among them, there has been a clear awareness of the interrelationships between the system of correctional services and the larger systems of social welfare services, it has been more typical in most countries for the correctional system to operate in almost complete isolation, and

thoroughly insulated from other human services. There is, however, growing recognition that large numbers of persons who are caught up in the criminal justice system, together with their families, present problems which require the assistance of other social welfare institutions and agencies. Increasingly, public non-correctional agencies have come to identify the public offender as a member of a significant target group for their effort. Thus, there has been a broad expansion of work-training plans, vocational rehabilitation services, public health and mental health programs and family counseling services to offenders and their immediate families. In some instances, work is going forward with the organization of community services teams which concentrate their efforts upon the reintegration of the offender into the community.

### (e) Advocacy Groups and Corrections

Volunteers and prison visitors have long played an important role in the prisons of many countries and have provided the prison inmate an approved means of access to the larger community. In the United Kingdom in the period since World War II they have played an increasingly important part in facilitating the transition of the offender from institutional life to life in the free community. A more recent phenomenon in the United Kingdom, in Scandinavian countries and in the United States has been the emergence of organized groups of ex-offenders. In some instances they have identified themselves with political organizations and have become active in promoting broad social change. In other cases, they have concerned themselves primarily with prison reform or with the provision of direct services to prisoners returning to the community. In a few instances, prisoners have also sought to organize unions within prisons with the objective of employing collective bargaining methods in efforts to improve conditions of work, wages and institutional living conditions. These developments may also foreshadow the emergence of a significant force for change in prisons. Ex-offender organizations may, if they are exploited and mani-



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pulated for unscrupulous purposes, pose a dangerous threat to the maintenance of order in the correctional system.

Advocacy of improved prison conditions is not limited to societies of prison visitors and to groups of former prisoners, however. In some countries, as in the United States, there is a new level of concern on the part of bar associations, civic and religious groups and other organizations for the offender and his needs. The task of providing effective leadership in harnessing and exploiting the energies of these groups to bring about more rational changes in the system of criminal justice represents a major challenge. It seems clear, however, that public involvement in promoting and influencing required legislative changes as well as participation in the formulation of institutional policies, procedures, and programs will in some countries contribute to the reshaping of conditions of imprisonment, and of correctional programs.

### (f) New Expectations for the Community

In many parts of the world the growing disillusionment with the prison as an effective instrument of social control has produced an upsurge of opinion that would transfer from the institution to the community the larger responsibility for the public offender. The burden of the argument is that in most parts of the world institutions have too long been used for persons who do not require control and who should not be confined. Since crime has its origins in the community, the community should assume primary responsibility for the offender. The thrust of corrections in the direction of the community has in some instances been reinforced by earlier experiences in the field of mental health which has for some time been involved in the search for appropriate and more effective substitutes for institutional confinement. The trend will unquestionably be accelerated by the fact that costs of construction, maintenance and operations of traditional institutions have escalated rapidly in many parts of the world and there is growing reluctance in some countries to appropriate the funds required for additional institutions.

Many governments have already recognized the potential expanded role of the community. In Socialist countries there has been a substantial effort both on the part of local militia and of neighborhood committees to work constructively with offenders. During the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, note was taken of the high level of success achieved by Japan in the enlistment of community volunteers in providing assistance to probationers and parolees. In other areas of the world special experimental parole projects have tended to emphasize the effectiveness of such programs, if adequately staffed.

In other parts of the world, experience with group homes, community treatment centers, half-way houses, and with other community-based programs have already attracted special notice.

There is as yet, however, little empirical evidence that community-based interventions have achieved a high rate of success in crime prevention and control and there is clearly a need for more evaluative research directed toward a better understanding of which groups of offenders are best suited to such treatment and under what circumstances the use of such programs is warranted.

There is a clear danger, at least in some countries, that the prevailing impatience with institutions will result in the adoption of community remedies which, in the long run, will fail to protect the community. Indeed, it may be found extremely difficult to identify a "community" which is prepared to accept responsibility for the offender. Further, the assumption that community correctional resources will spring into being without careful preparation is obviously fallacious. Until carefully planned alternatives to imprisonment are made available, the offender may be thrust into a more difficult and unfortunate position than had he been committed to an institution. Moreover, advocates of rapid change in the orientation of the correctional effort tend sometimes to overlook the fact that without an extensive overhaul of the existing system of penal sanctions, the courts will continue to have limited dispositional options and the continuing high level

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utilization of institutions may be unavoidable.

Finally, there are areas of the world, especially those which are experiencing the impact of recent urbanization and industrialization, where the adoption of community-based programs will undoubtedly be delayed as societies in transition seek ways to maintain the integrity of cultural and social traditions of an earlier period of their history.

Thus, while the arguments for an expansion of community-based programs are on their face most persuasive, especially when they suggest the prospect of major economies, there are clearly practical constraints upon the speed with which a major change in the orientation of corrections may take place, however desirable that objective may appear.

### (g) The Search for Alternatives to Imprisonment

Despite the constraints upon rapid expansion of correctional activities within the community, the search for alternatives to imprisonment must, necessarily, move in that direction. The discussions of the Third United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Stockholm in 1965 focused attention upon adult probation and other non-institutional measures. Attention was drawn to the effectiveness of the use of probation in the Netherlands where the prison population had remained relatively constant over a period of 25 years despite the doubling of the general population, while the use of probation had steadily advanced. In 1965 the prison population stood at 2,000 while the number of probationers reached 19,000. The experience of the Netherlands, as well as that of other countries, suggests that the adoption and expansion of probation services constitutes one of the major efforts which might be undertaken to reduce prison populations. In the United States, the provision in 1966 in the State of California of state subsidies to local governmental units for each offender who is *not* committed to a state correctional institution and is placed on probation has contributed to a steady reduction in the population both of juvenile and adult institutions.

In addition to the strengthening of probation services, the establishment of group homes, sheltered workshops, half-way houses and other comparable facilities has provided short-term residential care for offenders whose homes are inadequate or who require assistance in the development of adequate plans for community supervision. The supportive services which are provided in such facilities contribute to the offender's capacity to cope with a wide variety of problems of community adjustment at a cost that is substantially less than the cost of imprisonment.

For the minor offender, alternatives to short-term imprisonment are also being developed. These include such programs as that initiated in England which substitutes part-time work on civic projects in lieu of jail terms, and in other countries, a growing use of plans for restitution to the victim of crime for injury or damage to property caused by the offender, and for the payment of fines on the installment plan.

While the approaches described appear to represent reasonable alternatives to the imprisonment of offenders, it is recognized that the introduction of such options must take into account differences in cultural settings in which they may be introduced as well as the need for trained judges and trained personnel to carry such programs forward. Further, the importance and difficulty of winning public support for such innovations cannot be overlooked.

If the trend toward a greater reliance upon the community continues and the accompanying search for effective alternatives to imprisonment produces substantial evidence of their effectiveness, it appears reasonably certain that two results will occur.

In the first place, the justification for short-term imprisonment may largely disappear, but what is perhaps equally significant is that the population of institutions for longer-term offenders will be comprised of residual groups of hard-core offenders who will present serious problems of institutional adjustment and who will require high levels of security and control. Further, these inmates will pose problems of treatment for which ap-

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propriate interventions are currently lacking.

### (h) The Integration of the Service Delivery System

In many parts of the world and especially in the United States current correctional activities are fragmented and compartmentalized. This is in part at least a function of the historical development of the primary components of the correctional system. The introduction of parole and probation occurred at different times and both methods were in a sense superimposed upon the existing penal system. What is of perhaps equal importance is the fact that in most countries all three components suffered equally from societal rejection and were for the most part isolated from other human welfare services. This situation has not prevailed in countries like New Zealand where social planning has been comprehensive and the interrelationships between corrections and other human services have been better understood. For the most part the need for such planning has not been clearly recognized. Further, planning efforts have been limited by a number of factors. In many parts of the world the relatively low priority attached to the importance of correctional services has resulted in the lack of public support for basic levels of care. Systems have, as a result, been forced to expend their energies in meeting day-to-day crises and emergencies and have had only the most limited resources for planning. One important evidence of this situation is, of course, the lack of funding for the development of adequate information systems which provide the foundation for research and program evaluation. There is, perhaps, no area of human services in which there has been so small an investment in efforts to measure the effectiveness of programs. By and large, there are few countries in which research and evaluation efforts have not been fragmented and disconnected. There is little question that the lack of demonstrable evidence of the efficacy of correctional programs has hindered planning, made it extremely difficult to obtain necessary funds, and served to retard the professionalization

of correctional work.

One of the inevitable consequences of the situation described above has been a lack of competence in planning for criminal justice systems generally and for correctional systems in particular.

There are, however, a number of factors which will contribute significantly to change. There is a rising demand on the part of legislative bodies in some regions of the world that all human service activities become more accountable. The introduction of the concept of management by objectives requires that administrators re-examine traditional practices and examine and apply available alternatives to assure a higher level of output for the tax dollar investment. The advent of an advanced computer technology will contribute to the capacity of the administrator to analyze the outcome of the efforts of the agency for which he is responsible and make essential adjustments, discarding or modifying programs of limited social utility and adopting new measures which promise to yield better results.

The focus of efforts for the years ahead will be upon the creation of a rational system for the delivery of services along a continuum which extends from the point at which the offender is arrested and enters the criminal justice system until his reintegration into the society has been accomplished. Such a service delivery system must be accompanied by the elimination of territoriality among the components of the correctional system. In addition, the interface between corrections and the areas of human services must be reinforced to assure that the offender and his family are given access to the full range of supportive assistance which may be needed to assure that the offender has a reasonable opportunity to function as a law-abiding citizen of the community.

The importance of moving toward a higher level of integration of services was given particular emphasis at the Third United Nations Congress at Stockholm and in the period since there has been some evidence that in some countries improvements have been made. Unfortunately, however, these changes have not occurred widely.

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### III. The Future of the Correctional Institution

In the face of the climate of change which has been outlined in the previous section, it appears that in some parts of the world two fundamentally opposed views regarding the future of the correctional institution are emerging. The conventional prison reformers stress the importance of a higher level of support for institutions, better qualified personnel, refinements of institutional programs and the need for diversified facilities which will meet the differential needs of offenders.

There are, however, a growing number of persons who take the view that efforts to conduct institutions for the purpose of people-changing are futile and should be abandoned. The position taken by the latter group of reformers I summarized earlier.

The strategy of the latter group of reformers as I have suggested is to restore the role of the institution as a place of punishment, and to reduce to a minimum the discretionary authority to return the prisoner to society. Sentences to imprisonment would be fixed and prisoners released under supervision after the required portion of the sentence has been served. The objective of the strategy is drastically to reduce the use of prisons, except for persons for whom control is the most important consideration. While the protagonists of the deinstitutionalizing of corrections would narrowly limit the use of institutions, they nonetheless call for the establishment of legal guarantees for the protection of inmates from arbitrary administrative decisions.

The debate concerning the social utility of institutions will undoubtedly become more intense over the years ahead, equalling in vigor that which took place more than a century ago between the proponents of the "Pennsylvania" and the "Auburn" systems, respectively.

### IV. Institutions for Prisoners under Arrest or Awaiting Trial

Changes in philosophy regarding the

use of prisons may also be expected to have a profound effect upon the reorientation of the functions which have historically been assigned to the institutions in which prisoners are confined by reason of criminal charges assessed against them either in police custody or in prison custody (jail). Little, if any, attention has been given to the constructive role which such institutions might play in the criminal justice system. Places of preliminary detention have served largely as custodial institutions. For the most part, their programs have been limited to providing opportunities for prisoners to work at menial tasks, if they choose to do so.

There is a growing awareness in a few countries, however, that the detention facility might play a more substantial role in providing pre-trial or pre-adjudication services required by the detainee or in the development of information required by the courts in making decisions at critical stages in the correctional process which begins at the point at which the accused is taken into custody. Primary among the services which might be provided the offender are counseling services which are related to the problems which arise incident to his removal from the community. The staff of the detention facility may also provide a referral service for families, who, because of the confinement of the head of the household, will require assistance.

Another significant function of the local detention facility staff might be the collection and evaluation of information about the offender that might be essential to decisions concerning his suitability for release from custody on his personal recognizance. Similar information gathering and assessment are also important in determining whether the person in custody may be diverted from the criminal justice system and referred to other social welfare services for assistance. In addition, the institution might become a focal point for the diagnostic evaluations which are required by the courts in post-conviction dispositional actions. Finally, the detention facility might be viewed as a base for "outpatient" services required by offenders who are released to the community under supervision.

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Were such dimensions given to the programs of institutions designed for pre-trial detention, they might indeed be incorporated into a rational continuum of services that ultimately would serve the ends of justice. Institutions organized on this model would require both a higher level of professional staffing than presently exists in most parts of the world and a close interface between the detention facility and the available social welfare services required both by the offender and his family.

### V. Basic Issues in Institutional Management

Whatever the eventual outcome of the contemporary debates addressed to the social utility of correctional institutions, both those for pre-trial detention and those for persons convicted of crime, it appears that minimum standards of treatment will continue to be important.

Society has the responsibility to make certain that institutions in which persons are confined against their will are managed in such a way as to assure a level of care consistent with human dignity and congruent with basic human rights.

Regardless of the level of development in a country, there is a basic requirement that the prisoner be provided care which will sustain both the body and human spirit. This will obviously require a staff which is capable of providing essential support guidance and supervision necessary to maintain a safe and orderly institutional community. It must be conceded that in many countries there are practical difficulties in reaching desirable minimum standards. Obviously the level of care provided for prisoners cannot reasonably be expected to be higher than that of the

citizens of the community at large, and the concept of "least eligibility" will tend to be applied to prisoners and other persons detained against their will. Further, it is recognized that there can only be insistence upon as high levels of training for correctional personnel as the country is able to provide within its resources. High levels of personnel training does not, in and of itself, assure that the conditions of imprisonment will be improved. It is, nonetheless, essential that personnel in the system be motivated by humanitarian concerns and committed to the concept of human dignity.

Despite the obstacles with which a country may be confronted in ultimately achieving standards, there must be a social awareness of the importance of establishing goals for the management of institutions which are within the realm of attainment and which will provide reasonable assurance that the offender is exposed to experiences during his confinement which will result in minimum damage, either physically or emotionally. An institution in which there are provided a physical environment which is conducive to maintaining human dignity, a level of management which guarantees the protection of individual human rights, and a relationship with the larger community which will assure public involvement in and support for offender directed programs and activities is in a position to advance, as resources become available, toward higher standards of care. An underlying assumption with respect to all institutions is that they will no longer stand in isolation from the large community and they will assume a significant role in a complex of social services which collectively contribute to the quality of life of the society of which they are a part.

# Community Corrections: Rhetoric in Search of Reality

by Robert L. Smith\*

## A Rational Planning Policy

This is the era of disenchantment with American corrections. No longer is it popular to wage the rhetoric of rehabilitation and "treatment" of offenders.<sup>1</sup>

Part of the reason is increasing crime. In mid-1976 a Roper poll revealed that street crime and lawlessness ranked second behind the economy as the American people's major social concern. Though the public mood is understandable, it is not an excuse to permit ourselves to be pushed back into an earlier correctional era.

Yet, this era of disenchantment with corrections is the time for us to confront unrealistic promises and seize new opportunities for change. The current questions and public concerns about crime furnish us with a rare opportunity for reassessment and change.<sup>2</sup>

Corrections is not solely responsible for crime. To accept this responsibility is to deny what we know. In its origins, crime is a social and community problem. Correctional agencies deal with too little of the problem to produce major societal impact even through better work.

We in corrections can be more effective in dealing with the small percentage of offenders under our control. We can also do a better job of explaining to the public precisely what we in corrections can and cannot do and what we can be held responsible for. This, however, requires us to develop a *rational* planning policy to replace the reactionary planning we have done in the past. We must become *proactive* in the development of effective programs that are located within a broader philosophical framework than

have our past programs.

We need to ask, individually and collectively, "what major policy directions should our citizen and public agencies pursue?" I would suggest that this question cannot be addressed within the usual narrow parameters dictated by conventional planning and problem solving. Correctional agencies must develop some understanding, commitment, and agreement about what they know and what they believe before proposing solutions to correctional issues. In turn, once agreements on the above are made, then those responsible for the administration of corrections must make these agreements known. This could be accomplished through a variety of means, not the least of which would be a public statement regarding long range planning policies for corrections.

In April of 1971, the Department of the Youth Authority's Research and Development Council and the Director's Executive Cabinet adopted a comprehensive program planning policy to cover all of the many and varied activities of the Department. It was an unusual document in many ways. Unlike other general policy statements, this document set forth: 1) a contemporary statement of goals; 2) a commitment to *specific theory* of delinquency which utilizes other correctional strategies than just individual and group care and/or treatment; 3) a logical and systematic method for program development; and 4) a series of premises upon which all future programs are planned.<sup>3</sup>

As a policy statement, the document was viewed as alive and subject to change, growth, and modification in the light of increasing knowledge and information. It is a philosophical framework within which programs are developed. But, it is not so rigid a structure as to dictate the absolute nature of any specific program. Instead, it is the backdrop or curtain against which problems must be examined by those developing new

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programs or modifying old ones.

My purpose in discussing it here is to highlight the need for any correctional agency to have such a document, and to use it.

Developing such a document requires that administrators responsible for programs:

1) *make* and *take* the necessary time to collectively define their goals, objectives and methods for attaining same,

2) develop a *common language* so that ideas can be exchanged and attitudes or prejudices shared,

3) learn how to compromise on issues that cannot be immediately resolved or to defer discussions to a later time when more information or cooler climates permit agreement to be achieved, and

4) most important, hold each other, as administrators, accountable for honestly using the philosophy of the document in the development of new programs.

This document took a year to develop. Top administrators devoted (though not always enthusiastically) two full days each month to develop these statements of what they could collectively support as knowledge and belief. Every word is an agreement; nothing was left to change in the final product. We learned that even in California we do not necessarily speak the same language, that what we thought we are in agreement about is most often that which we are in the greatest disagreement. Furthermore, we learned that more policy comes about through silence and avoidance than through open and honest debate and that no action is a decision.

The development of such a policy statement, and a willingness to stand up and be counted for what it says, is one way for a department to move ahead with community corrections even when the political and public climate appears to be at odds with that commitment.

### Current Trends For and Against Community Corrections

As you are aware, there is an increasing swell of public opinion to return to our earlier history of punishing criminals. Once again, offenders are being seen as rational men and women taking calculated

risks for their own reward and pleasure. The problem, then, for those of us who believe the community is the best arena for correction, is to be able to present programs that will satisfy the appearance of punishment while achieving other more positive ends. Restitution houses are an excellent example of letting an offender "pay for his crimes" in the community and in direct contact with his victim. So, too, are the work furlough and public service orders.

The issue of right to treatment and equity of sentence can be used to support or oppose community treatment, depending on one's planning framework or philosophical commitment. The right to treatment says very clearly that government has an obligation to offer whatever services are necessary if the government decides an offender is "sick" and needs "treatment." This obligation to individualize treatment offers the creative correctional administrator virtual license to develop a great variety of programs—many of which, of course, will be community-based. The equity of sentence issue similarly offers the correctional administrator the opportunity to argue for programs that are not only of equal length, but of equal quality for offenders presenting similar situations.

Government itself presents special problems for the development of community corrections. On one hand, public policy, legislation and even funding guidelines encourage or promote the development of community correctional programs. On the other hand, federal efforts tend to be short-term in duration (maximum of three years) and far too prescriptive in content. Let me explain. Not only do most federal efforts tell you what it is they wish you to do, but they also attempt to tell you, in considerable detail, how to do it. This violates a primary and basic rule for good planning. Asking that something be accomplished is one thing, but to deny those who have to carry out the program the freedom to design appropriate methods for accomplishing what was asked is foolhardy and sometimes counter-productive. Stating what is to be accomplished and then leaving the method up to those who have to implement the program is one way to avoid unnecessary

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government interference.

The short-term "project mentality" of many federal efforts interferes with the development of good, operational community-based programs. Few programs can demonstrate their effectiveness in short two- or three-year period. Even fewer can survive beyond that period if it is an expensive program or if it imposes a new cost that is higher than existing costs. A more sensible federal approach would provide for a three-year experimental period and, for those programs which proved to be successful, additional funding for a transitional period of at least two years. Such an approach would permit government to overcome its shortsighted efforts. Government's tendency to interfere in programs which then defeat the very purposes for which they were started would also be overcome.

### Traditional Examples

Many of the examples we have been talking about in this seminar are traditional—for example, probation and parole. Both came about because of humanitarian interests in the 1800's, and both responded to economic factors that made them attractive as early forms of community corrections; i.e., they were cheaper than jail or prison.

*Parole* is the granting of a conditional release from an institution by the administrative powers of government. As a conditional release, the offender is serving out the balance of his institutional sentence in the community. Similar to licensing in many countries, the concept is a mixture of charity and economics, a mix that pervades many of our correctional efforts in the United States.

*Probation*, on the other hand, is judicial clemency, the waiving of penalties pending satisfactory behavior in the community.

In the United States and in Britain, probation was the direct result of non-professionals—citizen "busy-bodies" if you will—intervening in the processes of justice to bring about what many hail as the greatest correctional revolution of any century. Both John Augustus in the

United States and Raineer of Britain were men without portfolio when they appeared before the courts. They were citizens who, because they were of sufficient community stature so as not to be ignored, could speak out about injustice. As non-professionals they offered the wisdom of another perspective about how justice might best be served. In both cases, they were successful men of means, who because of their resources had the time and opportunity to make their ideas known and copied throughout most of the world.

For those not fully familiar with the story of John Augustus, an amusing short paper prepared by a colleague of mine may be of some interest. I believe it may present a somewhat different view of the man than that generally quoted. If nothing else, the paper proves he was human and a man of insight.<sup>4</sup>

I could discuss a number of other traditional community correctional programs, but prefer to use the balance of our time describing what some regard as new examples of community corrections. Thus, I will not discuss county residential facilities, foster or group homes, hostels, or even city and county jail programs which have community correctional services. Just as I will not discuss these governmental examples of traditional programs, I will also not talk about traditional private efforts like settlement houses or handicapped workshops and shelters.

### New Examples

My presentation on new examples of community corrections will cover: 1) diversion and two examples of actual diversion programs, 2) a brief description of a restitution house, 3) college furlough programs, 4) work furlough, 5) half-way houses, and 6) ex-offender programs. Then I will discuss one example of a private correctional agency and end with a detailed explanation of California's Probation Subsidy Plan.

#### 1. Diversion

Diversion programs gained great impetus in the United States after the 1967 President's Crime Commission Reports.



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Diversion expresses the charity, good will and hard work of many people in public and private agencies who offer alternatives to traditional justice system processing. These programs may cover such things as public service work, counseling, recreation, special education, etc.

The argument for diversion has been an argument against the existing system. Diversion, whether by policy or case-by-case exception to the rules, occurs primarily because of our official concern that the justice system may contaminate rather than rehabilitate the offender. This course of action is made possible by the ambiguity of the laws relating to the justice system and the wide discretionary powers available to decision makers. For example, arresting agencies in California can either reprimand and release the juvenile offender or they can refer the juvenile to the probation department for further processing. Over 50% of all juvenile arrests are handled by reprimand and release.

What then is diversion? As used in the President's 1967 Report, it is *any* pre- or post-adjudication strategy for removing an offender from the justice system. In an attempt to clarify the concept, the 1973 *Commission on Standards and Goals* attempted to differentiate among terms like prevention, diversion and the use of multiple correctional alternatives. Essentially they said that:

*Prevention*—any program or service provided for the general well-being or development of a population, whether adult or juvenile, that *might* reduce crime and delinquency.

*Diversion*—any real program (as opposed to an act of discretion) deliberately offered as a voluntary choice to a person between his or her arrest and adjudication as an alternative to further justice system processing.

*Minimizing Penetration*—the provision of program alternatives at any point after adjudication to prevent a person from receiving a more severe treatment and being pushed even further into the justice system.

Simply stated, diversion is a voluntary program intervention offered between arrest and conviction which removes that person from further penalties or justice

system processing.<sup>5 6 7</sup>

The following are only two of many examples, yet, each was selected for a purpose. Mid-Valley is a direct service diversion project. Pomona Valley is a purchase-of-service diversion program. Both are funded by federal, state and local monies.

### *Mid-Valley Mental Health Services, Inc.*

Mid-Valley is a privately-operated series of three community mental health services. Each of the three separate locations in California's San Gabriel Valley accepts direct referrals from police, probation and school officials. In addition, they accept self-referrals for mental health counseling in a broad range of areas, including drug abuse. Public agencies making referrals to Mid-Valley may do so in lieu of further justice system processing. If the referral is made, then the justice system cannot force attendance nor can it recall the referral.

A clinical psychologist from Pakistan is the Director of Mid-Valley. Overseeing the operation of the organization are a series of interlocking Boards of Directors representing: 1) community residents, 2) public agency officials of his communities (including chiefs of police, school officials, directors of youth residential centers), and 3) an Executive Board which consists of many of the same people but adds important and influential people from the community such as mayors, directors of banks and large corporations, and city, county and state legislators. The first and second level boards, in turn, elect representatives to the Executive Board. The result is that the Director of Mid-Valley can command a great deal of political and financial support for the program.

Services run the full range of mental health counseling as well as unique or unusual efforts at community organization. For example, on Thursday of each week a street is closed down in East El Monte for a block party. Mental health counselors, juvenile gang leaders, the mayor of the city, and the police play volleyball together while the small children receive special educational assistance. A meal is served for all of the community. Adults supervise the streets activities and

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are even beginning to talk together about problems they have with their children. Two warring Mexican-American gangs have started some common community improvement projects together. Youth who were sent to Mid-Valley for help are now in turn helping other children and youth. Diversion has spilled over into prevention and there are those among us who do not care that federal definitions have been ignored.

### *Pomona Valley Diversion*

Pomona Valley Diversion does many of the same things as Mid-Valley; only it does not provide the service directly. Instead, project staff locate already existing resources to meet the needs of the youth they are asked to provide services for and, if necessary, arrange to purchase these services. The services may include counseling purchased through some other community agency, community improvement efforts, recreation and special education.

Pomona Valley also receives referrals from the police, probation, schools, and the youth themselves. One special feature of the Pomona program is an evaluation component to assess the outcome of the project.

### 2. Restitution House

Several states in the United States are experimenting with the idea of establishing restitution houses as pioneered by the State of Minnesota. These programs are run by public correctional agencies as alternatives to regular system processing.

The underlying premise for a restitution house is that the offender should have the opportunity to make his victim whole again after committing an injury. Theoretically, the concept attempts to overcome the problems of the social death we impose on offenders, i.e., we take them out of the community, deny them responsibility for their act and isolate them from the harm they have committed by placing them in a secure prison.

In a restitution house, the victim and the offender negotiate, through the correctional administration, the extent and cost of the damage. Once an amount is agreed upon by both parties, the offender

is placed in a controlled community setting to work and earn money to make restitution. Once the restitution is complete, the offender is free of any other penalties and is discharged. The restitution house, probably more than any other new addition to community corrections, links the offender and the offended in a community correctional effort that has long gone unnoticed, even though many primitive societies have utilized the concept for years.

### 3. College Day Furlough

Many state prisons and youth facilities are using college day furlough program. Sentenced offenders who are found to have college capacity are sent out of prison each day to attend college. In many communities the most enthusiastic supporters of the program are the college staff themselves. The correctional student oftentimes makes a peculiarly good student. Generally more polite and reserved than the average student, they certainly do not have any trouble finding time to do their homework! Failures have been few, and the experience has been mostly positive for departments having such a program.

### 4. Work Furlough

Work furlough is the temporary release of a prisoner during the day in order to maintain employment and support his family. Generally run by law enforcement in cooperation with the probation department, the program has proven very successful. Along with the many benefits to the family and the welfare department, the role of wage earner is able to continue. The forced collaboration of probation and law enforcement permit increased understanding of each other's roles. Many variations of this program have been developed. In addition to release during the day for work and lock-up at night, some courts order weekend confinement only. Other variations include combinations of work and community service. Whatever the case, however, the theme is the same—the use of the community as a correctional resource.

One of the most interesting work

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furlough programs I know of is in Stockton, California. The county sheriff decided that he could not waste his time, or the prisoners he was responsible for, by just keeping them locked up in county jails. So, without waiting for anyone's permission, he put them to work in the community. As a part of their sentence, women went out to hospitals to learn to work as nurses aides, secretaries to local government offices, and even to junior college to complete their education. Men went out to perform public service work, physical labor for the development of parks and recreation facilities, college for continued education, and counseling of problem offenders in the community.

The sheriff also ran an extensive volunteer program in relation to his work furlough efforts. The volunteers did the work placements, counseling, remedial education and even technical education to prepare offenders for their placement. As a community correctional leader the sheriff took down the walls and led the community in while taking the prisoners out to constructive life experiences.

His programs are impressive and of such good quality that the State Department of Corrections contracted with the sheriff to provide work furlough experiences for state prisoners being released in the greater Stockton area.

### 5. Half-Way Houses

Half-way houses have come into vogue over the last 20 years. Similar to some of the functions carried out by private agencies operating settlement houses, the half-way in or out house is a public effort to bridge the gap between the prison and the community. Many countries have eloquent examples and I will not belabor this example further.

### 6. Ex-Offender Program

The use of the ex-offender as an agent of change was pioneered by Mr. Douglas Grant in the early 1960's. He was the Director of Research for the California Department of Corrections and a clinical psychologist at the time. Mr. Grant believed that offenders themselves should be agents of change, both for their own lives and the communities in which they

would later live.

He selected ten felony prisoners and put them to work in the prison learning research techniques and methods by actually performing research for the Department of Corrections. Of the ten prisoners selected, six are now professors teaching in colleges throughout the United States. Many have obtained doctorates in their respective fields. Three of the ten are working in research, one with the California Department of Corrections as a civil service employee. One of the original ten continues to be an offender and is in and out of prison.

During Mr. Grant's tenure as the Director of Research, many other prisoners' lives were effected by his commitment to accepting prisoners as a "special community" that ultimately would and should hold responsible positions in their home communities. He believed that learning in one community could be transferred if there was the opportunity for orderly transition. Sending prisoners out to college was one of the many innovations he started.

For those interested, there is a pamphlet published by the Federal Government entitled, *The Pros and Cons*, which discusses Mr. Grant's ideas about using Cons (convicts) as Pros (professionals) in the community.<sup>8</sup>

Douglas Grant's early work made possible programs like those to be discussed in the next section, *The Private Correctional Agency*.

### 7. The Private Correctional Agency

In the private sector one finds new correctional agencies created and managed by ex-offenders or persons with special problems like drugs. *Synanon* in San Francisco, Los Angeles and New York, *Delancey Street* in San Francisco and *Prison Preventors* in Los Angeles are examples of these self-help efforts at correction and/or problem control. Usually funded in the beginning by a government grant, these private agencies frequently become self-supporting through sheer imagination and creative enterprise. From treatment activities they expand into community businesses encompassing everything from owning and operating commercial recreational resorts to petrol

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stations, restaurants, flower shops, repair shops and even dress shops. The businesses they own and operate become a source of employment for those they help. These special private agencies become home, counselor, friend and employer for persons previously regarded by themselves or others as failures. They have found ways to use the free-enterprise system that few public agencies can match.

*Prison Preventors* is an example of a private correctional agency that I would like to describe in some detail. Its founder is an American-born Japanese man who was a professional criminal until just a few years ago. During his time in a California prison, he was challenged by an Associate Superintendent to prove what he was repeatedly heard to say, namely, that "he or any of the other inmates could run a better rehabilitation program than the professional bureaucrats." He began by suggesting that the prison administration allow him and other carefully selected inmates to begin a crime prevention counseling program for younger inmates at an adjoining institution. Much to his surprise, the administration agreed and allowed Mr. "K" to begin his Prison Preventors Program.

When paroled, Mr. "K" took his program to the community. He and his ex-offender staff now lecture before junior and senior high schools throughout Southern California. He has established a half-way house for adult parolees in a motel the organization is buying. *Preventors* offers consultation to private corporations on theft prevention, burglary, oppression and even affirmative action and human relations. The program has a special branch to deal with the problems of the female offender. They are also involved in vocational training that is sponsored by the Federal Government. They offer special counseling for drug offenders and are currently thinking of buying a restaurant to operate commercially. *Preventors* does privately many things that public correctional agencies cannot do at all.

The organization also works closely with the correctional agencies that provide both clientele and person power to

operate their programs. Unique as a private community-based correctional agency, *Preventors* uses the products of the correctional system, the offender, to bring about changes within themselves and the community they now serve. They exemplify the approach advocated by Douglas Grant in the 1960's.

While it is true that Mr. "K" is an unusual man, and his organizational talents great, more and more we are finding that ex-offenders themselves are better at helping other ex-offenders than are some of the public agencies. This should not be startling, however, to those who believe that social control is best achieved in a cultural or subcultural setting that has meaning and is relevant to the offender it seeks to control. Unfortunately there are far too few of these programs and the few that do exist must do so without continuing financial support from government. If they do survive, it is because they do what any other free-enterprise organization must do to survive—to continuously deliver a desired service at a reasonable price. In my opinion, *more should survive*.

I could go on and describe still other unusual programs like the above, but prefer to use my remaining time to discuss what I believe is one of the more significant programs of community corrections of our time, California's Probation Subsidy.

### 8. Probation Subsidy

In 1963, 25% of all convicted felony offenders were sent to State correctional facilities. Assuming this 25% remained a constant rate meant that the number of new admissions to state prisons would double in the decade 1964-1974 (from 10,000 new admissions in 1964 to 20,000 in 1974). This also meant that one new institution would have to be built *each year* just to accommodate the increasing admissions if no alternative was found. The State recognized that it literally could not afford to construct so many new institutions.<sup>9</sup>

In an effort to find a solution to this problem, a special study of probation was conducted. This study recommended a special subsidy program based on findings which showed that probation

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grants could be increased without any increase in existing rates of violation.

The subsidy had several unique ingredients:

1) a *clearly stated objective for service*—namely, the reduction of *new admissions* of youths and adults to state correctional facilities,

2) a *performance objective* which was *measurable* and was based on each county's past history of service, or lack of service, and

3) built-in *accountability* for the expenditure of funds. Counties were reimbursed only for expenditures for special supervision programs which were first reviewed by the State to see if they met approved standards.

Counties participated in the subsidy program on a voluntary basis. The rate of reimbursement was sufficiently generous that five cases *already* on probation in the community could receive enriched services. After careful study of the cases being committed in 1964, the State set a goal of 25% for reduced commitments. The program *exceeded* this goal in its third year of operation and has continued to do so *every year since*. In 1972, the most successful year for the program, commitments were down by 48% over their expected rate. This year, commitments are 32% *below* their expected rate. Juvenile court commitments are down by 66% since 1964. Remembering that 25% of the convicted felons came to the State in 1964, only 9% were committed in 1974 and 12% in 1976.

No new institutions have been constructed since 1964. Three juvenile institutions have been closed. Two new institutions constructed just before subsidy went unopened for *eight years*.

Prior to subsidy, probation officers completing pre-sentence reports recommended probation in about 50% of the cases. Today, 66% of their recommendations are for probation. A similar shift in recommendations for State commitment has occurred, 50% in 1964 compared to only 32% today.

By 1977 nearly 50,000 youths and adults have *not* come into the State correctional system as a result of the program. Over 200 million dollars has

been transferred from the State's budget to local counties to pay for the services the counties are rendering the State by reducing commitments.

For the first time, a *State Government asked that performance replace promise as a measure of success for a social service program*. What is even more important, the program works!

Not without controversy, the program is now under considerable attack from its friends and its enemies. Law enforcement sees the program as a plot to bribe judges into making bad probation decisions. Probation officers, who are now held accountable for producing results, find the pressures of performance difficult to live up to. Newspapers who are "alarmed by crime and violence on the streets" need some one or some thing to blame and subsidy is conveniently available. Oddly enough, the attacks are possible because the program is doing what its authors said it would do—reduce new admissions to state institutions by expanding the use of probation without increasing probation violation rates.

Even State correctional employees are unhappy with the program. They have seen probation officers receive training and resources that are denied them. Once leaders in the treatment field, many parole staff have been replaced by probation staff as recognized leaders. Reduced admissions means that the State departments do not grow as fast or as big as they used to. Promotions are fewer and come much slower. It is one thing to profess that "my job is to work myself out of a job," it is quite another to have to deal with that reality. Finally, subsidy violates the first and second laws of any system or organization—1) to survive, and 2) to grow stronger.<sup>10</sup>

In spite of its critics, the program goes on meeting its declared objective. Although political pressure, public attitude and expediency will force some modifications, the program will persist. Fortunately, many of the changes that will occur will reflect what has been learned during the 12 years of its operation. Unlike other social action programs, subsidy lent itself to critical examination. As a consequence, it has stimulated more research and evaluation than any other

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program in correctional history. Historical revisionists, Marxian sociologists, summer researchers, financial experts and just serious students of social action have all taken the opportunity to "kick the program, pick it up and feel it, shake it, examine it, and then publish their findings." In every sense, California's Probation Subsidy has proven to be a classic example of a research designed, politically expedient, economically sound action program that did significantly expand community corrections—50,000 adults and juveniles can attest to the fact.

### Conclusion

Even community corrections entails control of some sort, and the coercion implicit in corrections can be harsh even outside the fences. Nevertheless, this does not discount the humanitarian features of community alternatives to incarceration. As the *Standards and Goals Report on Corrections* declares:

To subject anyone to custodial coercion is to place him in physical jeopardy, to narrow drastically his access to sources of personal satisfaction, and to reduce his self-esteem. That all these unfavorable consequences are the outcome of his own criminal actions does not change their reality. To the extent that the offender can be relieved of the burden of custody, a humanitarian objective is realized. The proposition that no one would be subjected to custodial control unnecessarily is a humanitarian assertion.

Such a humanitarian assertion is especially compelling in view of the other shortcomings of traditional corrections. Yet it may even be a largely humanitarian urge that drives us to separate truth from myth in the evolution of justice. Corrections has not always been what the textbooks and manuals have told. Through the haze of euphemisms and benign intent, we sense it is not the captives alone who are victimized:

The system's errors and sins compound themselves and grind down human beings—both the keepers and the

kept...The system disintegrates and with it the people who are in it. When the guard peers up the behind of the inmate, who is left with any dignity? It is inevitable that the keeper and the kept should hate the society that created their situation and each other as the personifications of this hate.<sup>11 12</sup>

What we know about social control for non-criminals may suggest that the same principles work with those who violate the law.

Consider first that our natural communities are not mainly held together by formal, coercive forms of social control. Most of us persevere within a range of conformity because, through social and tangible *rewards*, we have built up a stake in conformity. Our investments in the ongoing order link us to that order.

The most powerful reinforcers for conformity are thus the *normalizing experiences of community life*—and they occur in particular social arenas, such as family, school, and work. The hope is that community corrections can by "successful and successive approximations" of life hook the offender, by degrees, into the mainstream of life. By contrast, the incarcerated offender is treated in isolation from the reward system of the real world. Under lock and key, there can be little constructive engagement with the world. Glaser points out the basic sociological law that "social separation creates cultural differentiation" is responsible for producing differentness in the segregated.<sup>13</sup> The inmate, in an ironic twist of "correctional" strategy, is effectively screened away from the very roles and career sequences that might offer conventional investments, involvements, and commitments—in a word, stake.

The examples discussed in this paper have been selected from those that appear to offer the best hope for "successively approximating" *community life*. They also represent examples that are within the realm of the correctional art at this time.

### NOTES

1. Douglas Knight, *Community Corrections: Toward New Public*

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  7. Ibid., *Report on Corrections*.
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  12. Ronald L. Goldfarb and Linda R. Singer, *Jails: The Ultimate Ghetto of Criminal Justice*, New York, Anchor Press, 1975.
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# Some Thoughts on Decriminalization and Depenalization

by *Yoshio Suzuki\**

## Introduction

The use of three big words with the negative prefix of "de" is becoming increasingly popular in criminological discussions of today. They are decriminalization, depenalization and deinstitutionalization. With the addition of another word of a similar nature, diversion, the four pillars of contemporary criminology will be complete. Whatever the respective definitions of those words are and whatever distinctions should be made among them, they all connote a common idea that the penal intervention by the state in the life of citizens should be as restricted and as minimized as possible both in its scope and in its degree of severity. The criminal law should define crimes as narrowly as possible. Those who contravene the criminal law should not be subjected to the formal criminal process and punishment unless the invocation of the criminal justice mechanism is called for by exceptional circumstances. Non-penal measures for social control or social welfare services should be utilized instead of punishment whenever it is feasible. Even when punishment is necessary on a variety of reasons, community-based treatment measures should be preferred to imprisonment and other forms of custodial treatment, and terms of incarceration be as short as possible.

Accordingly, decriminalization, depenalization, deinstitutionalization and diversion have become vital issues in formulating the national or local criminal policy in many countries of Asia and other parts of the world. Moreover, the problem of decriminalization and depenalization concerns not only individual nations but the international community as a whole. Various international organizations are now strongly recommending

or encouraging the reform of criminal justice system and its practice from the standpoint of reducing the coverage and vigor of the criminal law.

Let me pick up randomly some conclusions or recommendations from the Report of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders which was held in Geneva on the 1st through the 12th of September, 1975.<sup>1</sup>

a) Social justice is the best means of preventing crime. Greater emphasis should be placed on social action than on criminal proceedings;

b) More frequent resort should be made to the community for support of programs of crime prevention and care of offenders;

c) Within the broader context of humanization of the criminal justice and correctional systems, which includes such movements as those of decriminalization and depenalization, a wide range of alternatives can be used in suitable cases to replace imprisonment;

d) As a matter of public policy, the use of imprisonment should be restricted to those offenders who need to be neutralized in the interests of public safety and for the protection of society;

e) Consideration should be given to the question of whether it is desirable to decrease penalties for users or possessors of small quantities of drugs for personal use if a Government considers use and/or possession as punishable offenses.

Most of us who are concerned with the administration of criminal justice and the treatment of offenders can agree with those propositions as general principles. But how far could we go in this direction? Perhaps no universal answer applicable to all the nations may be found. No international agreement has been so far reached on specific questions such as: Is the law on pornography to be drastically liberalized? What kind of diversion programs should be established, for what kind of offenses and

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offenders? What are criteria to distinguish those offenders for whom incarceration is unavoidable from those who should not be imprisoned? Any concrete answers to such questions will meet oppositions based on various grounds.

In the first part of my presentation, I will report on some aspects of the criminal justice system in Japan which are related to the problem of decriminalization and depenalization. The second part will deal with certain practical and moral considerations which have given rise to the recent emphasis on decriminalization and depenalization.

### Japanese Experiences

#### Decriminalization

Legislative proposals for decriminalization mostly concern the so-called morals offenses or victimless crimes, such as drug abuse, abortion, gambling, dissemination of pornography, and prostitution. In Japan, too, an increasing number of people, especially legal scholars and practicing lawyers, are advocating the abolition or liberalization of laws relating to such offenses. The majority of the people, however, seem to be still in favor of retaining penal sanctions against those conducts which are considered to be inimical both to the maintenance of a wholesome social order and to the welfare of individuals. Opinions favoring decriminalization of such offenses are not likely to command sufficient supports for legislation in the near future. In this connection, it must be noted that the scope of morals offenses in Japan has been sharply limited even in the past. Consensual homosexuality and other forms of abnormal sexual conducts are not punished, and adultery ceased to be criminal in 1947.

As to *drug abuse*, rigorous enforcement of laws against dealings and possessions has been the consistent policy. Widespread abuse of stimulants (amphetamine) in the early 1950's and that of heroin in the early 1960's were both successfully suppressed, mainly by legislative enhancement of punishment,<sup>2</sup> vigorous law enforcement efforts, stiff

judicial sentencing, compulsory hospitalization of addicts and the so-called cold-turkey treatment. While abuse of stimulants and marijuana has been increasing in recent years, no change in basic policy is indicated. It is to note that even among those who are generally in favor of decriminalization of morals offenses only very few advocate liberalization of laws prohibiting the possession or use of dangerous drugs with substantially severe penalties.<sup>3</sup>

*Abortion* is a crime under the Penal Code,<sup>4</sup> but the Eugenic Protection Law of 1948 provides for some grounds of justification or excuse for it, such as delivery or childcare being harmful to the mother's health, pregnancy resulting from criminal acts of others and possibility of delivering a deformed child.<sup>5</sup> Each year 700,000-800,000 cases of terminated pregnancy are reported by doctors, and an unknown number of unreported abortion might make the annual figure almost 1,000,000. Although not substantiated by any research, it is common knowledge that a substantial number of abortion is performed without justifying or excusing grounds specified by law. But medical doctors' findings of such grounds are difficult to challenge, and law enforcement agencies are not enthusiastic about probing into matters which are considered to be highly personal. The number of prosecutions does not exceed five each year, and most of them are against clandestine operations by quack doctors.

*Gambling* is also punishable by the Penal Code.<sup>6</sup> While bettings on a small scale among relatives or friends are practiced by many people, efforts of law enforcement authorities are mainly directed against gamblings organized by professional gamblers. The Penal Code exempts from punishment only bettings for things to be consumed on the occasion, and the highest court's interpretation of a more than 50 years standing is to penalize any stake for money.<sup>7</sup> Such an unrealistic interpretation has not been challenged, simply because in recent years there has been no prosecution against bettings for small money.

Enforcement of laws against the dissemination of *pornography* have been

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generally vigorous. The Supreme Court has repeatedly confirmed the constitutionality of the Penal Code's provisions regarding the distribution of obscene materials and tried to define the concept of obscenity.<sup>8</sup> But the demarcation between legal and illegal eroticism has been always difficult to writers and publishers as well as to law enforcement and judicial authorities. And the standards of obscenity have been gradually liberalized, especially since the end of World War II.

Although the Anti-Prostitution Law of 1956 declares *prostitution* illegal both for prostitutes themselves and for their clients, its penal provisions are limited mainly to acts promoting prostitution and exploiting prostitutes.<sup>9</sup> Prostitutes themselves may be subjected to the criminal process if they are involved in soliciting clients in public places, but the policy of both law and practice is to use non-penal rehabilitative measures as far as possible.<sup>10</sup>

The present enforcement policy relating to morals offenses seems generally to be in harmony with the public sentiment. Although some segments of the populace are raising ever louder voices for abolishing all or part of morals offenses and others demanding more vigorous enforcement of laws against such offenses, the *de facto*, not *de jure*, decriminalization process will continue to adapt laws to the changing social environment in the contemporary Japan.

### Depenalization

Some efforts have been made to distinguish the concepts of depenalization, deinstitutionalization and diversion. Very often, however, those three words are being used interchangeably. It suffices here to point out that each of the trilogy is a part of a general movement toward less use of criminal process and custodial sanctions and more recourse to non-penal proceedings and community-based treatment measures.

In the criminal justice system of Japan, there are a number of legal institutions of a long standing which can be and actually have been employed to alleviate the burden to be borne by those who have committed criminal offenses. I will

briefly mention some of the most frequently used measures of this type.

### (a) Suspension of prosecution

The system of discretionary prosecution has been one of the unique features of the administration of criminal justice in Japan. The Code of Criminal Procedure empowers the public prosecutor to decline to prosecute any case if he deems it unnecessary in light of the character, age and situation of the offender, the gravity of the offense, and the conditions subsequent to the commission of the offense.<sup>11</sup> In 1975, about 636,000 persons were found by public prosecutors to have committed Penal Code offenses. Among these, slightly more than 204,000 persons or 32 per cent were granted suspension of prosecution. The rate of such suspension by crime categories varies considerably: embezzlement (64%), theft (49%), fraud (41%), extortion (31%), professional negligence causing death or bodily injury (29%), assault and bodily injury (24%), arson (23%), rape (21%), murder (11%) and robbery (8%). Higher percentages of suspended prosecution for property offenses such as theft, fraud and embezzlement may be explained by the relatively minor nature of offenses in individual cases, but more importantly by the policy that the prosecution of offenders with little risk of repetition should be suspended to facilitate their efforts to rehabilitate themselves. On the contrary, comparatively lower rates of suspension for violent crimes may be due to the consideration of deterrent effects of the criminal law. It is noteworthy, however, that prosecution even for such serious crimes as homicide, rape, arson and robbery is not infrequently suspended.<sup>12</sup>

### (b) Fines

In 1975, about 2,212,000 persons were convicted and sentenced by the courts of first instance. Among those, more than 2,143,000 (97%) were disposed of by fines or minor fines. The rate was approximately 90 per cent for Penal Code offenses. Such an extended use of fines is facilitated by summary proceedings. The public prosecutor may,

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if he thinks a monetary penalty is appropriate in a given case, initiate an informal action with the consent of the defendant. The court examines evidence *in camera* and, if convinced of the defendant's guilt, sends a written order imposing a fine of not more than 200,000 yen or a minor fine to the defendant and the public prosecutor. Parties unsatisfied with the order has an unfettered right to demand a formal trial.<sup>13</sup>

### (c) Suspension of execution of sentence

The court is authorized to suspend the execution of sentence of imprisonment for three years or less, if the offender has no prior sentence of imprisonment or five years have elapsed since the execution of the last sentence.<sup>14</sup> Of approximately 66,000 defendants whose sentence of imprisonment became final in 1975, almost 39,000 or 59 per cent were granted the suspension of execution of sentence. The rate of such suspension differs greatly according to the nature of offenses: embezzlement (66%), theft (57%), fraud (44%), extortion (55%), professional negligence causing death or bodily injury (73%), assault and bodily injury (54%), arson (37%), rape (46%), murder (29%) and robbery (34%).

In the debate on the revision of the Penal Code, a proposal was made for a new measure similar to but distinct from the system of suspension of execution of sentence. It would authorize the court to suspend the pronouncement of judgment in minor cases so as to alleviate legal and social stigmatization.<sup>15</sup> But this proposal was rejected as vesting the court with too much discretion. Another proposal to empower the court to order the defendant to make restitution to the victim as a condition of suspension of execution of punishment<sup>16</sup> was also defeated, on the ground that such a restitution order would cause some confusion to civil cases for tort claims.

### (d) Imprisonment and parole

Owing to the frequent use of suspension of prosecution, fines and suspension of execution of sentence, the number of offenders committed to prisons is relatively small. A slightly more than 23,000

offenders committing Penal Code offenses were sentenced to imprisonment without the suspension of execution in 1974. This means that only one out of every 27 offenders violating the Penal Code actually goes to prison, and 26,000 offenders who were sent to prisons for all offenses in 1975 were divided according to the length of sentence as follows: 44 for life; 96 for a term exceeding 10 years; 607 (2%) for a term exceeding five years; 1,677 (6%) for a term exceeding three years; 9,969 (38%) for a term exceeding one year; and 13,848 (53%) for a term of one year or less. Daily average number of convicted prisoners was about 38,000 in 1975.

Prisoners sentenced to imprisonment may be released on parole after serving one-third of the term or 10 years in case of life imprisonment.<sup>17</sup> In 1975, about 26,000 prisoners were released from prisons, 56 per cent on parole and 44 per cent on the completion of their term. More than 80 per cent of those released on parole, however, had served four-fifths of their term or longer. The period of parole supervision which is equivalent to unserved prison term is very often extremely short, especially for those whose original term of imprisonment is one year or less. Such cautious use of parole may be attributed to several factors. First, only very few offenders, the majority of whom are recidivists or members of organized gangs, are sent to prisons. Secondly, prison terms are usually not long enough to secure sufficient periods for both institutional treatment and parole supervision. Thirdly, active exercise of discretion by Regional Rehabilitation Boards and resulting differences in the length of incarceration are likely to produce a sense of inequality among prisoners as well as among the general public. During the course of the revision of the Penal Code, a new plan on the period of parole was introduced, under which paroled prisoners would be under parole supervision for at least six months.<sup>18</sup> Unfortunately, however, even such a modest proposal was not accepted, mainly because many lawyers thought it would adversely affect the freedom of released prisoners.

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### (e) Juvenile proceedings

Under the Juvenile Law of 1948, any juvenile offender under 20 years of age is sent to the family court by the police or the public prosecutor. The family court has the following disposition alternatives for a juvenile who is found to have committed an offense:<sup>19</sup> (a) to send the case back to the public prosecutor for ordinary criminal prosecution; (b) to commit the juvenile to a juvenile training school; (c) to place the juvenile on probation; (d) to send the juvenile to the governor of a prefecture; (e) to commit the juvenile to a child education and training home or a home for dependent children; or (f) to dismiss the case with or without hearing. In 1975, about 370,000 juvenile cases were disposed of by family courts. But almost 80 per cent of them were dismissed with or without hearing, mostly on the ground that no formal treatment measures were necessary. Only 2,570 juveniles (less than 1%) were committed to juvenile training schools and 21,720 (6%) placed on probation. In addition, about 47,000 juveniles were sent back to public prosecutors for criminal prosecution, but the majority of them were to be fined for traffic violations through summary proceedings. In 1974, only 659 juveniles received sentences of imprisonment and 471 of them (71%) were granted suspension of execution of sentence. It is to be noted that the practice of avoiding the use of formal criminal process or custodial measures is far more extensive for juveniles than for adults.

### (f) Non-penal fines for traffic violators

Every year millions of people violate traffic regulations under the Road Traffic Law. It is quite obvious that such a huge number of offenders, if subjected to the criminal process, even through summary proceedings, would be a heavy burden on the police, public prosecutors and courts. Such burden was drastically reduced in 1968 by the introduction of a new system authorizing the police to collect non-penal fines for certain categories of minor traffic violations.<sup>20</sup> If a policeman finds a violation, he will notify the violator of the amount of non-penal

fine, which is fixed by statutes and varies depending on the seriousness of violations and the kind of cars involved. If the violator pays a non-penal fine to the police, he will be exempted from prosecution. In 1975, 8,400,000 violations of traffic regulations were disposed of by non-penal fines as against 1,700,000 cases for which the criminal process was invoked.

### Practical and Moral Considerations

Behind the recent movement toward decriminalization and depenalization, there are several practical and moral considerations. Without examining those underlying considerations, we are not able to assess the necessity or proper extent of decriminalization and depenalization.

#### Practical Considerations

I will first address myself to some of practical considerations favoring decriminalization and depenalization. As pointed out frequently in international congresses and conferences,<sup>21</sup> the criminal justice system in many countries does not function well and fails to respond to the needs of society undergoing rapid changes. The increase of crime and the consequent overflow of cases to be processed through the criminal justice machinery exert high pressures on the judicial and law enforcement authorities. One of the most serious effects of the overburdened judicial system is naturally delay in justice. Very often official efforts to dispose of cases as speedily and as expeditiously as possible adversely affect the procedural rights of the accused. Prisons, too, become overcrowded, especially owing to the increase of prisoners awaiting trial. Overpopulated prisons are unable not only to provide prisoners with meaningful treatment, but also to maintain safe and healthy living conditions for inmates. Decriminalization and depenalization of relatively minor offenses and offenders are certainly to alleviate heavy burdens borne by every segment of the criminal justice system, thereby making it possible for the justice machinery to use its limited resources concentratedly for dealing with more

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serious offenses and more dangerous offenders. But how far can we move forward in this direction without compromising the capability of the criminal law and penal sanctions to fulfill their legitimate functions? May not decriminalization of certain socially undesirable conducts weaken generally the law-abiding attitude of the public? May not lenient treatment of offenders lead to the depreciation of the seriousness of offenses? May not diversion programs run by various administrative or private organs deprive the accused of his right to trial by the impartial judiciary? These considerations must be also weighed in examining the appropriateness of taking a step toward decriminalization and depenalization.

Furthermore, there is a growing skepticism about the effectiveness of imprisonment as a means of rehabilitating offenders. In some quarters a flat statement that prisons make prisoners worse is accepted as a self-evident truth. Indubitably, the prison milieu is not favorable to the efforts to make inmates prepared for the normal life in the society at large. It is only natural that in many countries an earnest inquiry is being made to find ways and means to reduce the isolating effects of prisons as well as to employ community-based treatment measures more constructively and more frequently. However, there are many offenders who would not respond to any treatment measures designed for their rehabilitation unless committed to penal institutions. Even if we were to deny prisons the rehabilitative function, they would remain to exist as an institution for incapacitating dangerous offenders from committing crimes for a certain period or for punishing wrongdoers to satisfy the sense of justice among people or to give lessons to potential offenders. While it is desirable that imprisonment is avoided as far as possible, no effort should be spared to make prisons meaningful both to prisoners and to correctional workers.

It is also hoped that decriminalization and depenalization will serve to reduce the costs for the administration of criminal justice by a substantial amount. Some efforts are being made to assess the costs of crime and criminal justice by using the

cost-benefit analysis.<sup>22</sup> If it were only money that matters, the assessment of costs would be a relatively simple one. If, however, the costs include adverse consequences of crime and criminal justice on those social and individual values which may not be measured in figures or converted into economic values, the utility of a methodology based on economics cannot be but a very limited one.

### Moral Considerations

Of the utmost importance among moral considerations for the movement toward decriminalization and depenalization is humanitarian solicitude even for those who have violated the norms of society. To whatever extent offenders are to blame for their misconducts, society itself has contributed in a significant degree to its members' deviant behaviors through its failure to improve social conditions exerting obnoxious influences upon the life of individuals. On the other hand, it is a painful experience for the offender to be subjected to the criminal process and legal sanction. Sometimes the pain and loss suffered by an imprisoned offender and his family far outweigh what he himself has inflicted on the victim and society. It is the responsibility of a civilized society to alleviate by all possible means the plight of offenders subjected to the criminal process and to penal sanctions.

Recently, however, a view far more critical of the criminal justice system is emerging. It stresses various kinds of grave injustices inflicted upon offenders through the administration of criminal justice. Its principal accusation is that only the socially handicapped segments of society, such as the poor, members of minority groups, the physically or mentally defective and political dissidents, are caught in the arms of law. Although such an attack on the criminal justice system is often an exaggeration of existing evils and cannot by itself play any constructive role in promoting justice, there is no doubt that more determined efforts are to be directed for eliminating inequitable discrimination consciously or unconsciously brought about during the course of administering the criminal law.

The other moral consideration is of a

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philosophical nature. The famous Devlin-Hart controversies in the late 1950's<sup>23</sup> have been repeated again and again in many parts of the world. The question is: whether morality should be enforced by the criminal law? The proponents for decriminalizing the morals offenses or victimless crimes argue that, in a current democratic and pluralistic society where people with diversified views and sentiments live together, no moral tenets should be translated into the criminal law even if they are shared by the majority; the coverage of criminal law should be confined to those conducts which harm or tend to harm the basic interests of other individuals or of society as a whole. It is true that there have been many occasions in the history of criminal law where quixotic efforts to enforce moral or religious doctrines not only failed completely but also gave rise to many kinds of human tragedy. Personal faith or even idiosyncrasies of individuals must be guarded as circum-spectly as possible against official invasion. But can the criminal law in the last analysis be divorced from morality? My answer is no. Why do we punish drug pushers who only cater for the demands of self-annihilating addicts? Why do we punish murder and manslaughter with differing degrees of severity? Why do we exempt insane people from punishment? Deprived of moral support, most of the basic assumptions of the criminal law would break down. Too hasty implementation of decriminalization without due consideration to moral sentiments of the general public will result in public distrust of the criminal justice system and will lead to the erosion of the cohesion of society itself.

### Conclusion

The use of such negative words as decriminalization, depenalization, deinstitutionalization and diversion might have been unfortunate for the contemporary criminology. Those words themselves do not offer any positive goals to be newly pursued, but merely warn against excesses and abuses of traditional methods of dealing with offenders. If the proposal of decriminalization and depenalization is

to contribute to the formation of a more effective and humane system of criminal justice, its underlying positive assertions should be uncovered. Only then, can a fruitful dialogue between old and new orientations as well as a proper balancing between traditional and emerging values become possible.

The criminal justice system in any country is deeply rooted in its own culture, political situations and economic developments. So are the problems demanding solution in the administration of criminal justice. The necessity and proper scope for decriminalization and depenalization greatly differ from one country to another. Nevertheless, there is no doubt that practical and moral considerations behind the movement toward decriminalization and depenalization deserve an honest regard in the efforts to improve the quality and efficiency of criminal justice administration in every country.

### NOTES

1. United Nations, *Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders*, 1976, pp. 13, 25, 32, 33.
2. The maximum penalty for import or production of narcotics and stimulants is life imprisonment. Narcotics Control Act, Art. 64; Stimulants Control Act, Art. 41.
3. In 1973, sniffing of glue which was and even now is popular among young people was also made criminal without significant opposition. Poisonous and Harmful Substance Control Act, Arts. 3-3, 24-3.
4. Pen. Code, Arts. 212 through 216.
5. Eugenic Protection Law, Art. 14.
6. Pen. Code, Art. 185.
7. Judgment, Great Court of Judicature, 9 February 1924.
8. Pen. Code, Art. 175. Judgments, Sup. Ct., 13 March 1975; 15 October 1969.
9. Anti-Prostitution Law, Arts. 6 through 15.
10. *Id.*, Arts. 5, 17 through 40.
11. Code Crim. Proc., Art. 248.
12. For more detailed explanation of the system of suspended prosecution, see Shigemitsu Dando, *System of Discretionary Prosecution in Japan*,

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- 18 *Am. J. Comp. L.* 519 (1970); Takeshi Satsumae, *The Practice of Suspension of Prosecution*, 1977 (mimeo).
13. Code Crim. Proc., Arts. 461 through 470.
14. Pen. Code, Art. 25.
15. B.J. George, Jr. (trans.), *A Preparatory Draft for the Revised Penal Code of Japan, 1961*, The American Series of Foreign Penal Codes, Vol. 8, 1964, Arts. 84 through 87.
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17. Pen. Code, Art. 28.
18. *Preparatory Draft, 1961*, *supra*, n. 13, Art. 90 (2).
19. Juvenile Law, Arts. 19, 20, 23, 24.
20. Road Traffic Law, Arts. 125 through 130-2.
21. *E.g.*, *Fifth United Nations Congress*, *supra*, n. 1, pp. 18-25, 32-35.
22. *Id.*, pp. 41-46.
23. Patrick Devlin, *The Enforcement of Morals*, 1959; H. L. A. Hart, *Law, Liberty, and Morality*, 1963. For a more recent debate, see Edwin M. Schur and Hugo Adam Bedau, *Victimless Crimes: Two Sides of a Controversy*, 1974.

## SECTION 2: PARTICIPANTS' PAPERS

## Increasing Community Involvement in the Treatment of Offenders in Jamaica

*by Dudley Allen\**

### Introduction

Crime and delinquency are problems of the community. If crime and delinquency are related to a process of successive and accumulating experiences in the community, it follows that action from within the community must be the base of any programme of crime control and prevention. Community involvement in the treatment of offenders is one of the oldest concepts of corrections. Community participation takes place in a variety of organizational contexts and in a number of ways. I will attempt to discuss these in relation to:

- (a) adult correctional institutions,
- (b) juvenile correctional institutions, and
- (c) community services—probation and aftercare.

### Community Involvement in Adult Correctional Institutions

In Jamaica, there are eight adult correctional institutions: three maximum security prisons, three medium security prisons, one open facility, and one medium security remand facility. Over the last two years there has been a significant opening up of all the facilities, to permit volunteers to provide a variety of training opportunities including performing arts, prose and poetry composition, arts and craft, academics and music. All volunteers are carefully screened and opportunity is provided for joint seminars with disciplinary staff. All institutions have visiting committees, the members of which meet

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regularly, pay visits to institutions at any time and are free to examine all records, buildings and diets, talk to any inmate in private and make recommendations to the Minister of Justice. There is also a Board of Justice consisting of a member of the judiciary and a number of justices. Any two of these or a single judge can enquire into any complaint or hear charges against inmates or staff and communicate any findings or observations direct to the Minister of Justice. Inmates are allowed visitors every three weeks and special visits on application to the superintendent. Letters are allowed in and out after due censorship, approximately once monthly, except in the case of prisoners under death penalty, who can communicate much more often. Representations of the various religious denominations are allowed regular contact with inmates.

Recreational activities permit interested parties in the various sports access to inmates once weekly for purposes of coaching as well as organization of inter-block matches. There are also inter-institutional matches between inmates and staff, and between inmates. In the field of the performing arts, inmates are allowed into the community under supervision to demonstrate their talents. Similarly, professional and amateur groups are allowed into the institutions to perform for inmates.

Recently a steering committee comprising of weighted representation from the private sector was set up by the Minister of Justice. The main purpose of this move was to educate the public and change the prison orientation from mere custody to preparation of inmates for re-integration into the society on release. This committee mounted a massive week-long exhibition of the work of inmates in the various areas of skill training—agriculture, arts and crafts, wood carving,



## COMMUNITY INVOLVEMENT IN CORRECTIONS: JAMAICA

sculpture and a wide variety of items. Simultaneously, inmates were allowed to address school assemblies, service clubs, university students and ministers' fraternal, fave performances and attend performances. This venture proved a massive success principally in creating a more sympathetic public attitude to inmates in our institutions. Apart from massive orders for the arts and crafts production of inmates, a significant number of volunteers offered their service to provide training opportunities in a wide range of skills, and also counselling.

### Community Involvement in Juvenile Correctional Institutions

There are 12 juvenile correctional institutions for the age group of 12 to 17 years old: one maximum security facility, two open institutions for boys and for girls, respectively, one maximum security remand facility for boys, four open remand facilities for boys, and two open remand facilities for girls. All schools, as these institutions are called, have a full educational programme, coupled with skill training in home-making, agriculture, auto mechanics, welding, joinery, building, etc. Wards, as the population of these schools are called, can be released on licence under the supervision of the probation and aftercare officers any time after admission. They spend an average of two years in these institutions.

Individuals, service clubs, and various organizations are intimately involved in the operation of the schools. Generally speaking, the staff are civilians, trained as teachers, counsellors, or instructors in various skills. Each school has a board of management comprising people from the communities in which the schools are located. There is an annual open day when the community is invited to observe and share in the schools' achievements. Wards are allowed to participate in various activities, school sports, festivals, and competitions.

### Community Services

Community service is organized on a national basis and staffed by trained social

workers. The principal functions are to provide the courts with social information to facilitate the sentencing process, to supervise and treat adults and juveniles placed under supervision by the courts, to prevent crime and delinquency, and to give general consultation and advice to citizens seeking aid.

The country is divided into 14 areas, each with a supervisor and staff of social workers. In each area there is a committee of local folks who meet regularly to review the work of the officers. These members help in counselling, providing material and emotional support and furnishing employment opportunities. In addition, they act as volunteers providing supervision, that is, as aids to the trained workers.

An evaluation of this programme has indicated an 80 per cent success rate. The evaluation was based on contacting some 75 per cent of clients discharged from probation supervision five years ago to determine if they had had any further conflict with the law or they were gainfully employed or settled in school.

Aftercare service is provided to both adults and juveniles in institutions. Aftercare officers, i.e., trained social workers, are based in the institutions, and interview each entrant on admission. If the inmate or ward indicates need for assistance to family left in the community, those officers in the community are contacted to deal with the situation. The idea behind aftercare is to begin to plan for the inmate's or ward's release from the day of admission to the institution. After release from institutions, aftercare officers in the community supervise and assist ex-inmates.

Funds are provided to undertake programmes and projects in respect of individual ex-inmates. Such projects may entail provision of accommodation, establishment of small business, seeking employment opportunities, all geared towards the reintegration of the offender into the society.

### Proposed Measures for Sentencing and Treatment of Offenders

Research has shown that institutionalization is not a very fruitful way of treating offenders, as the rates of recidivism

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run an average of 65 per cent nationally, and 80 per cent for urban institutions. But the shift of focus from mere custody to rehabilitation is yet too young to provide any indication of its feasibility or success.

The first step towards increasing community involvement in treatment is to send less people to prison. In keeping with this objective, the Government is introducing a new sentencing package which provides a wide range of options to the courts. These include:

(1) Suspended sentence—Where a court finds a man guilty, the sentence is passed but there is a stay of execution for a specified period. If this specified period passes without incident, then the offender is completely free. Conversely, if he runs foul of the law during the period of suspension, he will have to serve the sentence for the original offence as well as the new offence.

(2) Community service order—Persons found guilty in courts will be ordered to perform specific tasks organized by the probation officer for a specific number of hours. For example, a drunken driver who crashes into a wall will be ordered to rebuild the wall.

(3) Day training centre order—Offenders will be ordered to attend training centres for a specific number of hours weekly, thereby affording them a chance to acquire a skill. This will help to reduce the number of unskilled youngsters in the country.

(4) Fines—These will be paid on the instalment system.

In relation to juveniles, proposals are to refrain from keeping these offenders in custody to await trial, even in cases where

there are no relatives to bail them. Individuals in the community are to be requested to keep these in their homes and afford them emotional support up to the time of their court appearance and sentencing.

In all this there will be increased opportunity for involvement by the community. The key factor in all this kind of identification is the development of greater self-worth both to the offender and the individuals giving service.

During this year, Parole Act will also be proclaimed, thereby providing opportunities for offenders sentenced to imprisonment to have the hope of spending a portion of their sentence in the community. Such a move will allow for greater community participation in the treatment of offenders. Involvement may be through acting as friends of parolees or as voluntary supervisors, providing employment and sharing their homes.

In addition, provision for temporary absence is being drafted into legislation and regulations to permit inmates to go out to work during the day and return to institutions at night or on weekend. This will also allow inmates to be temporarily released to visit their families. This innovation will:

(a) Reduce the incidence of homosexuality, which now operates like prostitution in some institutions;

(b) Help to save some of the family dislocation and disruption that imprisonment engenders;

(c) Allow communities to get used to seeing inmates, thus reducing prejudices and fear and thereby making for a less traumatic reintegration process; and

(d) Help to reduce current expenditure on institutional treatment.

# Situations, Problems and Programs of Community Involvement in Corrections in the Philippines

by Arturo S. Vinculado\*

## Problems of the Philippine Prison System Today

There are more than 1,500 correctional institutions in the Philippines. Of this number, 8 are insular prisons under the direct supervision and control of the Director of Prisons; 72 are provincial jails administered by the provincial governor assisted by jail wardens; and 65 city and 1,447 municipal jails are now administered by the local police agencies under the Integrated National Police. There are actually three correctional subsystems operating at the different government levels, which operate under different policies and procedures, limited only by the provisions contained in the Penal Code and the Prison Law. Due to this and other factors, the Philippine Prison System has been facing various problems such as the following:

### (1) Fragmentation

The correctional system is so fragmented that there exists practically very little coordination among the jails and the prisons.

### (2) Traditionalism

Most jails and prisons in the Philippines are operated in a traditional fashion, which belongs to this category. The traditional prison and jail are characterized by regimentation, mass treatment, sexual abstinence, special rules of behavior that force its inmates to live in an artificial and unnatural way of life, physical and psychological compression, and separation of the offender from his family, community, jobs, schools and other support influences. However, the atmosphere in the penal farms is more permissive and relaxed; prison rules are less repressive and social

distances between staff and inmates is at a minimum. Correctional programs are primarily agricultural, but most are designed to approximate actual working conditions in the free community. Deserving prisoners are allowed to bring their families to live with them; this policy not only solves the sex problems of prisoners but also becomes an important part of the reintegration process. Unfortunately, not all prisoners are eligible for colony assignment.

### (3) Congestion

One of the most serious problems adversely affecting the rehabilitation efforts of institutional inmates is overcrowding.<sup>1</sup> Congestion hampers rehabilitation efforts and promotes violence, riots and discontent among inmates. A survey of local jails reveals that 60 to 70 per cent of the jail population are unsentenced prisoners who await or undergo trial and cannot afford bail. The survey further shows that a large number of jail inmates are charged with or convicted of relatively minor offenses, such as vagrancy, drunkenness, petty traffic violations, obstructing sidewalks, prostitution or drug abuse, and many of them are either minors or too old or have serious physical or mental defects that cannot be adequately handled by prisons and jails due to lack of facilities.

### (4) Inadequate Counseling Service

Also deficient is the counseling service. The reason for this is the insufficiency or absence of qualified institutional staff who can attend to different kinds of offenders who need varying types and intensity of treatment. As a consequence, counseling service is sometimes conducted by inmates themselves.

### (5) Limited Educational and Vocational Training

Only a limited number of inmates are

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1. Shown herein is a comparison between the normal capacity and actual prison population of some of the Philippine prisons as of the end of 1974:

	Normal Capacity	Actual Population	Congestion (%)
New Bilibid Prisons	3,000	8,599	186.30
Manila City Jail	600	2,192	265.00
Quezon City Jail	496	748	50.80
Caloocan City Jail	200	343	71.50
Pasay City Jail	180	316	75.55
Makati Municipal Jail	76	104	36.74
Rizal Provincial Jail	300	862	187.33

given vocational training. This is attributed to the inadequacy of physical facilities needed for such training.

### (6) Limited Community-Based Correctional Program

The limited application of community-based measures in preparation for the prisoner's release has been observed. In other words, the prisoners are not given the prerelease training for gainful reintegration into society.

### (7) Defective Parole System

To facilitate the transition of the offender from institutional life to peaceful community life, the parolees are entrusted to the supervision of the municipal or city judges, except in Manila where parolees are supervised by parole officers. Since they are generally burdened with backlogs of cases, judges merely require the parolees to report once a week or once a month and nothing more. Practically no sincere effort is made to assist the parolees in resolving their problems.

### (8) Limited Community Involvement in Corrections

Of the five components of the criminal justice system, corrections merits the least concern of the people simply because it is populated by individuals who have wronged society. The attitude of the public is often apathetic and indifferent and the rejection of the offender makes it difficult to obtain programs designed to help him. At present, there are hosts of civic, welfare, religious, educational, cultural, health, professional, industrial, and business associations or leagues organized

throughout the country, engaged in various community projects. Yet, they are not integrated and coordinated and almost all of these projects are not oriented toward crime prevention and the treatment of offenders.

These are the major problems undermining the operation of our correctional systems. It is partly because of these problems that about 40 per cent of the yearly inmate population in the New Bilibid Prison return to prison again. It is assumed that this percentage of "returnees" also applied to local jails.

### The Inter-Disciplinary Committee on Crime Prevention of the National Police Commission

The Republic Act No. 4964, otherwise known as the Police Act of 1966, mandates for the formulation of a national crime prevention program by the National Police Commission. Pursuant to this mandate, an Inter-Disciplinary Committee on Crime Prevention was created by the Commission in November 1974 for the purpose of formulating the national crime prevention program based on an integrated and inter-disciplinary approach to strengthen the various components of the criminal justice system. In June 1976, the Inter-Disciplinary Committee conducted a National Conference on a Strategy to Reduce Crime and accomplished the following objectives:

1) To provide a forum for the exchange of ideas on the various aspects of the criminal justice system and its relation to national development;

## COMMUNITY INVOLVEMENT IN CORRECTIONS: PHILIPPINES

2) To foster better understanding, co-operation and comprehension of the roles of the agencies involved in the criminal justice system;

3) To identify problem areas of the various pillars or components of the criminal justice system;

4) To specify planning guidelines and approaches for the formulation and implementation of a national crime prevention program; and

5) To formulate a national strategy to reduce crime.

The national strategy to reduce crime quantified the following goals for the next five years with 1976 as a base year: (1) reduction of crime rate by at least 30%; (2) reduction of courts' case loads by 25%; and (3) decongestion of jails and prisons by 25%.

In the scheme of correctional reforms the following priority goals have been considered.

(1) To reduce the number of people entering the correctional system through: a) decriminalization and depenalization of certain types of behavior now considered criminal, and b) police and court diversion programs.

(2) To reduce the number of unsentenced prisoners and pre-trial detainees in local jails through: a) bail reform, b) extensive use of release on recognizance, and c) use of summons in lieu of arrest.

(3) To reduce the number of convicted offenders sent to jails and prisons by providing alternatives to imprisonment, including use of: a) probation, b) day-fines, c) extramural work, and d) commitment to half-way houses or special residential facilities.

(4) To establish regional or district jail farms for convicted misdemeanants, with community-based services as a major program component.

(5) To break up the New Bilibid Prison into small, self-contained semi-autonomous units, each with its own program objectives and specialized staff.

(6) To upgrade and enrich prison rehabilitation programs.

(7) To provide more opportunities for job training and employment in prisons through: a) restructuring the prison industries to make their operations more efficient and self-sustaining and establishing

work programs with more training potentials, b) work furlough programs, and c) joint ventures with private industry.

(8) To establish pilot community-based programs for certain categories of prisoners, including: a) work and study release, b) home leaves, and c) community residential programs.

(9) To introduce social case work and case management as major institutional programs to insure individualized treatment planning and to keep track of each prisoner's institutional progress for purposes of parole planning.

(10) To strengthen parole supervision by establishing field supervision offices and employment of more parole officers; an alternative measure is to integrate probation and parole supervision services.

(11) To upgrade correctional staff through recruitment and training.

### Community Involvement in Corrections

Based on the recommended priority goals, we can now move toward a greater community involvement in the rehabilitative process.

Probation, institutional care and treatment, and parole are generally regarded as the three pillars of corrections. Around these three processes, most programs for the rehabilitation and treatment of offenders are built. In recent years, corrections have started to regard the community as another pillar upon which correctional efforts should be based. Correctional administrators now realize that little can be accomplished by increasing agency budgets and staff, or introducing sophisticated and extensive rehabilitation programs without at the same time providing means for changing citizens' attitudes toward offenders.

Many new techniques of prisoner rehabilitation have been developed in other countries using the community as a base, with close collaboration between professional correctional staff and workers coming from schools, churches, business groups, civic organizations, youth groups and private industry. These techniques include group counseling, the use of neighborhood aides, half-way houses, community development programs, job

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training, job counseling and placement and various other activities designed to expand the range of services to a diversified population of offenders.

Community participation in corrections should also be extended to the prisons and help enrich and revitalize prison rehabilitation programs. There are many areas in prison work where volunteer workers can be most effective. These include: medical and legal assistance; tutoring; arts and crafts; religious instruction; teaching special subjects such as personality development; and human relations. They should also participate as representatives of drug-abuse prevention councils, local trade and employment advisory councils and other special groups interested in prisoners' welfare.

But perhaps the most promising field where public participation in institutional programs can have a most dramatic and immediate impact is in providing job training and employment for prisoners in conditions which approximate work conditions in the free community. Through cooperative ventures between the prison and private industry, the private sector can establish small factories or shops or engage in agri-industrial activities, using prison labor, thus bringing into the prison setting extensive resources as well as techniques and expertise not ordinarily found in government. The private sector can provide the linkage whereby the correctional training programs can be attuned to current developments in the employment in the community.

Our probation law embodies this concept of community involvement by allowing volunteers to act as probation aides. Not only are they able to help offenders enter areas such as jobs, schooling, training opportunities and other activities, but their work as volunteers will give them favorable attitude toward corrections, and they will therefore be in a position to exert a positive influence in community attitudes toward the problems and needs of corrections.

But even in modern prisons with predominantly rehabilitative regime, there are serious limitations in the capacity of the

prison to rehabilitate its inmates. There are always likely to be offenders who, because of the nature of their offenses (e.g., gross cruelty, violence or sexual assault), will have to be imprisoned if only because the community would not accept their release. And in some cases involving multiple offenses or serious persistent recidivism, putting the offender in prison may offer an effective protection to society.

For the purpose of increasing community involvement in the treatment of offenders, the Inter-Disciplinary Committee has recommended the following project:

### (1) The Project

To raise the level of community involvement in crime prevention and treatment of offenders consistent with national goals and policies.

### (2) Objectives of the Project

a) To arouse, promote and maintain an active public concern for the prevention of crime and the treatment of offenders;

b) To integrate the activities and projects of existing community organizations relating to crime prevention and treatment of offenders;

c) To coordinate these activities so as to eliminate wasteful duplication of efforts and to avoid the omission of essential services; and

d) To assist higher organizations and coordinating councils in attaining the national goal.

### (3) Organization

The establishment of Criminal Justice Coordinating Councils from the national down to the city and town levels is recommended. At the local level, the councils are usually composed of the local executive, the chief of police, prosecuting officer, presiding judge, and representatives from various agencies such as public health, education, social welfare, community groups and selected citizens. In the national level, its members are appointed by the head of state.

# Community Involvement in the Treatment of Offenders in Singapore

by *Nachatar Singh Sandhu\**

## Correctional Institutions

### For Adults Offenders

The penal institutions for persons over 16 years of age at the time of conviction come under the jurisdiction of the Prisons Department, Ministry of Home Affairs.

The penal institutions are categorized into maximum, medium and minimum security settings. Reformatory training, different from that of imprisonment, provides treatment for offenders who at the time of conviction are between 16 and 21 years of age. Young adult prisoners, other than reformatory trainees, are segregated from adult prisoners in separate wings. Female prisoners are also housed in a separate institution and treated under different conditions from those of male prisoners.

Prisoners are classified into broad categories. They are: (a) unconvicted prisoners—remand and civil or criminal law detainees and political detainees; (b) convicted prisoners—young male offenders, adult male first and second offenders, adult male habitual offenders or recidivists and women offenders; and (c) special category of prisoners—prisoners with sentences less than six months, prisoners sentenced to death and persons detained under the President's Pleasure. This classification is made with a view to facilitating the assessment of prisoners' aptitude for the respective training programmes. It also determines the penal institution in which the prisoner will be placed.

Industrial and vocational training forms an integral part of the treatment programmes. Social rehabilitation of prisoners is carried out under varying conditions. To a large extent, adequate facilities

within the prisons would help to bring about positive results of these rehabilitative programmes.

Every opportunity is extended to prisoners to pursue literacy classes or formal education in the four official language streams—English, Mandarin, Malay and Tamil. All penal institutions are provided with library facilities and prisoners are encouraged to make the best use of them. Besides the provision of extramural activities in the form of indoor and outdoor games, annual sports for prisoners are organized by prisoners themselves under the supervision of staff.

A team of medical officers and other medical ancillary staff look after the health of prisoners. Dietary scales, prescribed by a dietitian, take into consideration the ethnic and religious factors in the preparation of food. Freedom of religious worship is allowed for all prisoners. Religious instructors and ministers from various faiths provide religious guidance in all penal institutions.

Individual and group counselling is provided. The counselling sessions are useful in that they provide the opportunities for prisoners to air their feelings, reflect the past and to be guided. With tactful handling, the prisoners become less inhibited, thus encouraging them to discuss their problems more freely. This helps to create an atmosphere of trust and confidence between staff and prisoners.

Members of the Board of Visiting Justices are appointed annually by the Minister under the Prisons Act. Their functions are: inspection of accommodation facilities; testing quality and quantity of prisoners' food; hearing complaints from the prisoners; disposal of serious prison offences; and ascertaining so far as possible whether prison regulations are adhered to. Visiting Justices visit the penal institutions monthly and record their observations, views and recommendations

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which are forwarded to the Minister.

### For Juvenile Offenders

The Children and Young Persons Act makes a differentiation between a child and a young person on the grounds that age is a correlate of increased responsibility. A child means a person under 14 years of age. A young person means a person of 14 years of age and under 16 years.

A child cannot be sentenced to imprisonment for an offence, or be committed to prison in default of a fine, damages or costs. A young person can be committed to prison if the court is satisfied that such person is so unruly and depraved that he cannot be dealt with by other methods. A sentence of death cannot be pronounced against a person under 16 years, but where a child or young person is convicted of murder or of culpable homicide not amounting to murder and the court is of the opinion that no other methods are available to deal with such person, the court can sentence the offender to be detained for such period as may be specified in the sentence.

Juvenile offenders committed to an institution are accommodated in the Approved Homes/Schools established for the purpose under the Children and Young Persons Act, and Hostels established under the Probation of Offenders Act. The disciplinary measures in the Hostels are less secure and corporal punishment is not allowed. Selected residents are allowed to go out to work or attend normal schools outside. Male and female delinquents are admitted to separate institutions. All undergo the same rehabilitation process. The administration of Approved Homes/Schools and Hostels comes under the jurisdiction of the Social Welfare Department of the Ministry of Social Affairs.

The Approved Homes/Schools are functionally divided into a house system and "workshop" area. Housemasters/housemistresses are responsible for character training and social discipline while instructors train the residents in various vocational trades to fit them into employment on discharge. Although emphasis is on vocational training, academic subjects are also taught. In addition, educational

tours to factories and firms are conducted regularly with the assistance of volunteers to familiarize the boys and girls with work discipline and orientation in the industrial sector.

Freedom of worship is allowed in all institutions. Various religious instructors and ministers are encouraged to attend to the spiritual needs of residents. Selected residents are also allowed to attend places of worship outside.

Members of the Board of Visitors are appointed by the Minister to look into and satisfy themselves that the health, maintenance, recreation, discipline, training and education of the residents in Approved Home/Schools and Hostels are satisfactory. They hold regular meetings not more than three months apart, and make their comments and recommendations regarding the Approved Homes/Schools and Hostels to the Director of Social Welfare or the Minister.

### SCORE

By the passing of the Singapore Corporation of Rehabilitative Enterprises (SCORE) Act in 1975, Singapore is following a new strategy in prison industries and vocational training of prisoners.

SCORE is managed by a Board of Management, consisting of officials representing the Ministries of Home Affairs, Labour and Finance, the Industrial Training Board, and other members from the public, all of whom are appointed by the Minister of Home Affairs.

The functions of SCORE include: employment or industrial or vocational training of prisoners; provision of technical training in skilled trades for suitable prisoners; promotion of vocational skills of prisoners; and submission of advice to the Government on all matters relating to the provision of industrial or vocational training and technical training in trades for prisoners.

Inmates of prisons working with SCORE are paid from which deduction is made for their food, a small sum for personal canteen expenses and the rest is put into their personal post office savings account. Approved members of their families can make withdrawals from their savings account for family expenses.



## COMMUNITY INVOLVEMENT IN CORRECTIONS: SINGAPORE

### Community Involvement in Social Welfare

The term "social welfare services" is generally used to include only such programmes and measures as are provided for the vulnerable groups and individuals by the government and the voluntary welfare organizations. The social welfare situation in Singapore today almost 30 years after the establishment of the Social Welfare Department in June, 1946, to meet the specific needs of a war-ravaged population, sees a complexity of human problems and many different needs arising out of the political, economic and social changes. As in most countries, the provision of social welfare services in Singapore is not a government monopoly. It is a joint venture by government and voluntary welfare organizations, each complementing and supplementing the work of the other. Government activity can never, nor is it desirable that it should, cover the whole field of social welfare work. Government will continue to take an active interest in the social welfare work being done by voluntary welfare organizations and, where necessary, make subventions to recognized voluntary groups for specific purposes.

Community involvement is vital in the provision of social welfare services of a country. Singapore recognizes this long-standing tradition of the important role of the community and has always welcomed and, in fact, encourages community involvement in various programmes of activity in social welfare work. Community involvement in government's efforts to assist people in need is crucial.

Volunteer welfare workers play a vital role in the social welfare services of Singapore. The recruitment of volunteers for welfare work by the individual efforts of the public and voluntary welfare organizations was on an *ad hoc* basis. To better coordinate these individual efforts, a centralized administrative machinery in the form of a Volunteer Social Service Bureau (VSSB) was set up in December, 1976, with the following objectives:

- (1) To bring about greater public awareness and understanding of volunteer welfare work so as to encourage volunteers;
- (2) To mobilize necessary volunteer welfare manpower to assist in enhancing

the existing welfare services;

- (3) To develop the potentials of volunteers in welfare services so that they can contribute more effectively to those in need of their services;

- (4) To build up a welfare manpower bank from which various public and voluntary welfare organizations could tap their needs for volunteer welfare manpower; and

- (5) To provide recognition to volunteer welfare workers.

The VSSB is a joint venture by the Ministry of Social Affairs and the Singapore Council of Social Service. The VSSB will plan, direct, recruit and deploy volunteers to contribute their services to the public and voluntary welfare sectors on an organized basis and thus bring about better and more effective utilization of volunteer welfare manpower resources. It is hoped the work of VSSB will help augment the social welfare services provided and enhance community involvement and active participation in social welfare work, including the treatment of offenders.

The success of VSSB will depend on community interest and participation in the field of social welfare service by contributing of their free time in a constructive way to help people in need of their service. Volunteers are expected to give the highest quality of responsibility and service for a specific period of time regularly.

### Reducing Isolating Effects of Confinement

In considering measures for reducing the isolating effects of confinement on offenders, account has to be taken of the security grading of the particular institution, whether it is maximum, medium or minimum security setting. The other consideration would be the architectural design of the buildings, the concept of the separate cell principle, custody grading, discipline, the element of deterrence in the convictions as well as the philosophy of the time in dealing with offenders.

Generally, measures for reducing the isolating effects of confinement and for maintaining and restoring the community

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ties of offenders in confinement are provided by a system of privileges to receive visitors, drama and cultural activities within the institution. Also, aftercare work should begin during confinement, pre-discharge arrangements to begin well in advance of release, including home leave, job interviews and help for employment. Help should also be extended to enable the offender to re-establish himself in the community on release and lead a socially useful and law-abiding life.

Several other measures such as providing facilities for the exercise of conjugal privileges, home leave for extended periods, as distinct from compassionate home leave under escort and help towards maintaining family ties are also important.

### **Probation, Parole and Aftercare**

#### **Probation**

The Probation of Offenders Act provides a constructive form of corrective treatment outside the institutional setting. It could apply to any offence except for crimes like murder and treason where the sentence is fixed by law. But it is now sparingly used for convictions involving the use of violence or secret society connections.

There are no conditions with regard to the offender's age or sex or the number of times he may be placed on probation. However, the courts invariably exercise a certain degree of selectiveness when considering probation for an offender. For this, the courts rely on the probation officers for pre-sentence reports on offenders.

The pre-sentence report provides information on his home and family, his character and behaviour, his inter-personal relationships and his social environment, and may include medical, psychological and psychiatric evaluation, the nature of his offence, and the circumstances leading to his offence. It helps the court to identify the problems and needs of the offender and to make an appropriate order which will help him to become a socially useful and law-abiding citizen.

A Probation Order imposes certain conditions which must be observed by the

probationer during his period of probation. Failure to comply with any of the conditions specified in the Probation Order constitutes a breach of the order and renders the probationer liable to be brought back to the court to receive sentence on the offence for which he was placed on probation.

#### **Parole**

Parole is generally defined as the conditional release of a selected convicted person before completion of the term of imprisonment to which he has been sentenced. It is a penological measure designed to facilitate the transition of the offender from the highly controlled life of the penal institution to the freedom of community living.

Parole does not appear to be suitable in a situation of high rate of unemployment. To parole a person without the availability of suitable employment will more often than not lead to failure of the parole measure. In the situations of full employment where parolees could become employed and economically independent, there is a greater possibility of success of parole measures.

Parole is not suggested for all categories of offenders. It should only be for those who have an innate desire to change, if given the goodwill, understanding and opportunity.

In Singapore, there is no general system of parole for convicted adult prisoners except for young offenders who are committed to the borstals. In the case of juvenile offenders ordered to reside in juvenile institutions (Approved Schools/Homes), parole and compulsory aftercare have been in existence since 1949. This is operated by the Social Welfare Department.

Under the provisions of the Children and Young Persons Act, the head of any Approved School or Home shall review all residents when they have been detained for 12 months, and, after such reviews, recommend to the Director of Social Welfare that such persons shall be released on parole. The Director, on the advice of the Parole Board, can release a person who has been detained for 12 months at any time before the completion of his full period of detention and on

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such conditions as may be stated by him in such order. The parolee will be subject to supervision for the unexpired portion of his original period of detention. The Director has also powers to order the return of the parolee to the Approved School or Home, if the parolee breaks any of the conditions of his parole order during the unexpired portion of his original period of detention, except that where he commits a further offence, he will be liable to be brought before a court.

### Aftercare

Aftercare is concerned with the supervision and personal care of those released on parole or discharged from penal or corrective institutions. Its main objective is to help the parolee, discharged prisoner or drug addict to lead a socially useful, law-abiding and drug-free life. A person who had been under conditions of restraint and deprivation of freedom is at a great disadvantage to fit into ordinary life again. The efforts of the institutional programmes become minimized if the discharged person is allowed to return to crime or drug dependence mainly due to his inability to adjust to normal living in the community after his release. The active intervention of aftercare can have a great significance in determining whether he will be able to withstand the temptations of further crime or drug abuse and the demands placed on him by the community. Aftercare offers a purposeful continuation of the institutional treatment process in the community.

Aftercare should begin as soon as the offender enters the institution. It is important that the aftercare officer establishes and consolidates his rapport with the offender during the "in-care" period to enable the "aftercare" period to be more meaningful and fruitful.

The aftercare officer's function is therefore twofold. He deals with the personal and family problems of the offender while he is under detention and works as a team with other institutional staff towards the institutional rehabilitation of the offender. When the offender is released on parole or discharged from the institution, the aftercare officer helps him to re-establish himself in the community as a

socially useful and law-abiding citizen.

Presently, aftercare in Singapore takes the form of compulsory aftercare and voluntary aftercare. Compulsory aftercare is mandatory and is concerned with supervision and personal care of juvenile offenders paroled from Approved Schools/Homes, released reformatives and corrective trainees, preventive detainees and drug-addicts. Voluntary aftercare is available to discharged prisoners as well as drug abusers who seek such help.

### Youth Guidance

Initiated as a pilot project in 1972, youth guidance is generally directed at young adults in providing counselling services to overcome problems of adolescence, voluntary supervision to refractory persons whose behaviour may show tendencies towards criminal activity if unchecked and helping parents of such persons to understand their needs to foster healthy family relationships.

### Mobilization of Volunteers

#### Community Probation Service

The Community Probation Service (CPS) was introduced in 1971 to supplement the work of the professional probation and aftercare officers to help rehabilitate offenders placed on probation. It is a body of concerned citizens, recruited, trained, registered and deployed as Volunteer Probation Officers (VPO). The VPOs' function is to befriend, counsel and assist the offenders to lead socially useful and law-abiding lives in the community.

As the trust and confidence in the ability of ordinary citizens to befriend and guide people who have gone wrong was not misplaced, it was decided to strengthen CPS. This was done by vesting the VPOs with legal responsibility for supervising probations.

VPOs supplement the work of the professional probation and aftercare officers by increasing the frequency of contacts with probationers at their place of work, schools, homes, etc.

The CPS was further strengthened by extending the recruitment of volunteers for CPS to reach out more members in

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the community to come forward and put their goodwill and talents to greater social use. Recruitment of volunteers, hitherto done centrally, moved into the neighbourhood or constituency level. This will help to even out the disproportionate distribution of VPOs and offenders at the neighbourhood level.

The CPS is now well accepted in the administration of criminal justice. It has become a successful tool of correctional procedures in dealing with offenders outside the institutional setting. Increase in community involvement in other programmes in the treatment of offenders is equally important and desirable.

### Special Constabulary National Servicemen —In Aftercare of Drug-Addicts

National Service in Singapore is on either full-time or part-time basis. They are also deployed in the Special Constabulary. As there was scope for Special Constabulary National Servicemen (SCNS) to perform aftercare work as part of their national service requirements, a group of SCNS personnel were selected and given basic training for counselling and aftercare work with drug addicts. This scheme, started as a pilot scheme in 1976, has proved to be successful. It has now been extended and consolidated. They are supervised by qualified personnel.

# Community Involvement in Corrections in Sri Lanka

by Jayampathy Priyananda Delgoda\*

## Introduction

Programmes for increasing community involvement in corrections have been in the forefront of activities in this field of work in Sri Lanka during the last three years. Sri Lanka has for years been committed to the policy of attempting the rehabilitation of criminal offenders. The community to which the offender returns has a very large role to play in the successful rehabilitation of those who come out of our institutions. In fact, it might even be stated that the attitude of the community towards the ex-offender goes a long way towards determining whether he would lead a normal law-abiding life or whether he would revert to a life of crime. Since the attitude of the community is so important for our work, it is our business as correctional administrators not only to influence the attitude of the community but to obtain its active assistance and the participation in our programmes to rehabilitate the offender.

I propose in this paper to describe the course of action adopted in Sri Lanka to change society's attitude towards the offender and to obtain its active participation in prison programmes. Hitherto, no attempts had been made either to focus society's attention on the ex-offender or to obtain the support of the community. Society's attitude towards the offender was one of rejection and prisons remained isolated from society. The boundary wall and the prison gate had literally shut out the community. Prison administrators themselves were to blame for society's aloofness. Society's attitude towards the offender originated from fear of the offender which in turn was created by ignorance of what happened within the four walls of a prison. Therefore, one of

the first things we did in Sri Lanka was to launch a public campaign to educate the community and get them interested in the prison programme. This phase of the campaign was attempted through the following techniques.

## Publicity for Prison Programme through the Mass Media of the Press and the Radio

The mass media of the press and radio were utilized by the Prison Department in Sri Lanka to an extent hitherto unprecedented in its history. Since the tight security measures present during the insurgency were relaxed, representatives of the press and radio have been permitted to visit prisons as often as they wished. I invited pressmen to visit our institutions and see for themselves what was going on within the boundary walls. I made it very clear to them that I had nothing to hide in the prison. But I requested them that just as much as they found fault I would appreciate it, if they publish the good stories and the success stories of our attempts to rehabilitate criminal offenders. The result was that personally I built up an excellent relationship with the members of the press, and during the past three years in the national dailies, there were 570 articles published about the prison and the activities of the Prison Department. There were 15 editorials and on 20 occasions prison news made the front page banner headlines. Such publicity for the administration of the prison was unheard of in the past and to put it very mildly has created an awareness of the Prison Department and its activities in the minds of the public. This awareness has repercussion on both morale of staff and inmates and has awakened a desire in the minds of the public to associate themselves with the activities of the Department.

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### **Coordination with Social Service Organizations**

A second technique adopted was a willingness on my part and the part of other senior officers of the Department to attend meetings and address groups of persons or organizations on various topics connected with the rehabilitation of offenders. Organizations like the Lion's Club, the Rotary, the Jaycees International, the Rotherfield Club and the Scout Movement need public speakers for their monthly meetings. My senior officers in the outstations and I have been invited by all these organizations at some time or other during the past three years to address these meetings. The result is that not only have we helped them but my officers have acquired skills as speakers and in convincing people of the role they can play in the rehabilitation of criminal offenders. An approach that is very often adopted in these lectures is to tell them that the business of rehabilitating criminal offenders is something that cannot be done by prison officials alone and that community help is needed. We also point out that as almost every prisoner eventually comes back to live in society, the community has an obligation to help the discharged offender. This has resulted in these groups expressing a willingness to visit the prison and participate in programmes for rehabilitation of criminal offenders. Last year the Lion's Club, the Rotary Club and the Jaycees International gave pride of place to prisoner rehabilitation programmes as their community service projects. We therefore have an organization or group of people whom we can approach for assistance.

### **Sales and Exhibitions**

The holding of sales and exhibition by the prison institutions in the outstations or by the headquarters on a national scale is another technique that has been successfully adopted to create an interest in the community. Commodities that are in short supply are produced and sold at fair prices at these sales. All our open work camps which cultivated vegetables sold them at public fairs. A large exhibition

consisting of industrial and agricultural products and handicraft of all our institutions was held in Colombo in 1974. Nearly 15,000 people visited the exhibition and I am happy to mention that even today, two years after the exhibition, I meet people who talk about the last prison exhibition and ask me when the next exhibition will be held. This type of exhibition has shown the public the wealth of talent available behind bars and what can be achieved if these skills are given proper guidance.

### **Participation of Prisoners in Community Projects**

Another technique adopted in Sri Lanka is to make available prison labour for large community service projects free of charge. Sri Lanka is a developing country and very often in rural areas the villagers get together on a holiday or Sunday to cut a road, to build a school or repair the temple. Since manpower is available in the prison, prison superintendents have been instructed to participate in such community programmes. The prisoners are willing to participate in such programmes because they get an outing and perhaps a different meal from the organizers. The organizers are extremely grateful because the prison has become the source of a large work force for this type of community service. The participation in projects of this nature benefits the offender also because it creates in him a feeling of usefulness and participation in community service projects. It creates a fund of goodwill towards the prisoner and the Department and its activities. It has been demonstrated that in return for participation of the prison in such programmes the community is willing to donate various items to the Department or even for a particular individual prisoner. Whatever that may be, this is an opportunity for the creation of community interest.

### **Participation in National Development Campaigns**

Another programme tried in Sri Lanka is that the Department both at the head-

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quarters level and at the local prison level has participated in all National Development Campaigns. We have recently participated in the National Blood Transfusion Campaign, National Food Drive, National Tree Planting Campaign, the Boys Scout Movement and the annual Bandaranaike Commemoration Celebration and the annual Republic Day Celebration. Quite apart from the fact that from a prisoner's point of view the participation in these programmes relieves the monotony of the prison routine, the very presence of prisoners at these functions which are attended by thousands of people creates an interest in the prison. People start talking and thinking about prisoners. That is the beginning of community participation in corrections.

### **Unconventional Programmes Designed to Create Public Interest**

A large number of unconventional projects have been carried in Sri Lanka in order to create public interest. During the last three years prisoners have been allowed to participate in forms of activities which had hitherto been taboo to prisoners. The Annual Kandy Perahera is the annual festival of the Temple of the Tooth which is witnessed by lakhs of people. Every night during the festival a procession consisting of Kandyan dancers, torch bearers and gaily decorated elephants carries the Tooth Relic round the city. It is a spectacle of splendour and grandeur reminiscent of the ancient ritual of the Sinhalese Kings of ancient Sri Lanka. Many people would ask me what prisoners would do in such a show and whether they would run away when they are allowed to go in the middle of such a milling crowd at night. The answer is that they have not escaped. The lay ahead of the Dalada Maligawa wanted some prisoners to carry some flags in the procession. To me the advantage was that I got an opportunity of showing off to millions of people that even prisoners could be trusted and I seized it with both hands. The result is that I have won a great deal of sympathy for the prisoners and converts of my way of thinking. People are now talking about prisoners

who do not escape when they are sent out in the night in the Perahera. I have now got requests from several temples for prisoners to participate in their annual celebrations. When that happens, I am assured of the support of the priests and the laymen who organize these functions.

Among other unusual activities performed by this Department is the organization of a full-fledged public procession of prisoners on a full moon day to mark the annual celebration of the introduction of Buddhism into Sri Lanka. Last year and the year before about 500 remand prisoners of the Remand Prison in Colombo paraded the streets of Colombo in an orderly fashion carrying Buddhist flags on foot with dancers and floats and thousands of people were shocked to see the prisoners' Perahera for the first time in the history of the Prison Department.

Yet another unconventional programme was the permission granted to prisoners to put up public performances and theatrical shows. Last year we had the Lion's Club and the Jaycees training a group of female prisoners and officers and also male prisoners for a theatre which gave public performances and was staged at several places on tickets sold to the public. The Honourable Prime Minister and several Cabinet Ministers attended these performances. From my point of view the value of these shows is not so much the rehabilitative value but the publicity value where people start talking about the new prison programme and thinking about what they can do to help the Department.

As part of our aftercare service in order to find employment for discharged offenders, we have formed a Cooperative Society of discharged carpenters and masons and given them employment on the Building Programme of the Department. The Cooperative Society also operates a Work Release Centre and an Agricultural Unit on a 30-acre coconut estate. This is perhaps one of the few occasions anywhere in the world where discharged prisoners have formed themselves into a Cooperative Society. This unusual experiment has evoked a great deal of interest and I have had offers of assistance for the Cooperative Society for its projects from various sections of the community.

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### Prison Reforms

During the last three years Sri Lanka has had perhaps more reforms in penal administration than any other country had in such a short period. We have introduced work release, home leave, smoking in prisons, canteen for prisoners, work camps for short-term offenders and pre-release centres for long-term offenders. Eleven new work release camps were opened and prisoners were detained under minimum security conditions. The publicity given to these new measures have created an awareness in the minds of the public that something new is happening in prisons these days.

### Seminars and Public Meetings

During this period the Department and the Prisoners' Welfare Association have organized a number of public seminars, thus giving them a chance to discuss with departmental personnel programmes for rehabilitation of the offender. These meetings have been addressed by prison officials, police officers and judges and others from the community.

Having got society interested, it is now necessary to give them a chance of actually doing something. We have therefore initiated a scheme for voluntary supervision of discharged offenders by members of the community. What we are hoping to do is only to ask suitable persons in the community to help persons who are coming out of prisons. It is purely a voluntary affair and we do not anticipate a highly trained set of volunteers. We are confident that such a scheme is workable. When this scheme was announced, 16,000 persons wrote to me offering their services. The mere fact that 16,000 persons were interested enough to write to me is an indication of the degree of interest shown for such a scheme. In addition to the voluntary supervisor scheme, we have had numerous interested persons in the community contributing towards the construction of shrines and temples inside the prison. The fund provided by the government is always very limited and we have instances of various groups in the community donating musical instru-

ments and radios or painting up sections like the condemned section of the prison. All this is an indication of what can be achieved with the community participation.

Another scheme adopted in Sri Lanka was an attempt to change the attitude of the prison officers both towards their own job as well as towards the prisoners. A large number of them were punitive and custodial oriented as reflected from the existing scheme of recruitment for prison officers. The impression created was that their job called for more brawn than brains. Therefore, it was felt that before I attempt to change the society's attitude towards the prison it was necessary for me to educate my own officers. It was necessary to create in the minds of prison officers that they were members of a profession which required skill and training. We have built a two-storied residential training facility for officers called the Centre for Research and Training in Corrections. At this Centre we are hoping to have continuous training courses for new recruits and in-service courses for officers of all ranks. The United Nations Development Programme assistance has been obtained for training of staff and for equipment for the training centre on a special project costing some 70,000 dollars. It is hoped that officers who come out of the training centre will themselves be ambassadors for the new programme for the Department in our efforts to change public attitude towards the offender.

Attempts have also been made to influence the members of the judiciary and police officers in their attitude towards the correctional approach. Hitherto the different departments involved in the criminal justice system such as the police, the probation and the judiciary tended to work in separate compartments. We now involve the judges and police officers in all our training programmes. These officers are invited for discussions at training programmes for prison officers. In turn the Police Department also has started inviting our officers to lecture to their officers. Thus we have got an opportunity of influencing police officers who had thereto little or no faith in attempts to rehabilitate offenders.



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Our plans for the future include the formation of a National Crime Prevention Society. This will bring the community into closer touch with officials in the criminal justice system and enable both officials and the community to pool their resources to evolve a national policy against crime.

It will thus be seen that a concerted

effort has been made in all fronts to obtain the participation of the community in corrections. Although it may be premature to draw any definite conclusion, there have certainly been a definite awareness and an increasing willingness on the part of the community to participate in programmes for the rehabilitation of offenders in Sri Lanka.

## SECTION 3: CONCLUSIONS OF THE SEMINAR

### Report of the 45th Course on Increase of Community Involvement

#### Introduction

There is no doubt that, to attain the purpose of resocializing offenders, the institutional treatment should be oriented to strengthen their ties with community, and non-institutional treatment including probation and parole should utilize resources within the community to the fullest extent. The 45th Seminar Course was thus designed to explore possible ways and means of increasing the involvement of community in the treatment of offenders.

The Seminar was held during the period between February 22 and March 26, 1977, with the participation of 22 officials representing 15 countries, namely: Hong Kong, India, Indonesia, Iran, Iraq, Jamaica, Korea, Malaysia, Nepal, Pakistan, the Philippines, Singapore, Sri Lanka, Thailand, and Japan (eight participants). They consisted of: five correctional administrators including two commissioners; three superintendents and two senior officials of correctional institutions for juveniles, adults and drug-addicted offenders; two probation officers; four law enforcement officials including two narcotics control agents; two public prosecutors; one judge; and two senior researchers at research institutes of criminology.

The Seminar mainly consisted of mutual discussions by the participants themselves. They raised problems confronting them in their respective countries by way of individual presentation, describing the actual situations of community involvement in corrections, evaluating the present systems and practices, and examining appropriate measures to mobilize community resources more effectively. Individual presentations were followed by general discussion in which every important issue was carefully examined in order to find an equitable and practical solution. The participants elected Chairman (*Mr. Hira Singh*), Co-Chairman (*Mr. Nasir Ahmad*

*Chaudhry*) and four Rapporteurs (*Messrs. Dudley Allen, Jayampathy Priyananda Delgoda, Lam Wah Pak, Nachatar Singh Sandhu*) from among themselves, and *Mr. Herman G. Moeller, Mr. Robert L. Smith*, visiting experts, and *Mr. Ryūichi Hirano*, Professor of Tokyo University, as well as *UNAFEI* staff took part in the sessions as advisors.

#### Individual Presentations

Titles of the Papers Presented by the Participants

1. An Overview of Drug Problem in Hong Kong  
*by Lam Wah Pak (Hong Kong)*
2. Community Involvement in the Treatment of Offenders  
*by Hira Singh (India)*
3. Mobilization of the Public for Aiding Offenders' Reintegration into the Community  
*by Hasan Utoyo (Indonesia)*
4. Increase of Community Involvement in the Treatment of Offenders  
*by Ali-Ashraf Farshchy (Iran)*
5. The Iraqi Prisons and the Standard Minimum Rules for the Treatment of Prisoners  
*by Riadh Hashim Nashat (Iraq)*
6. Increasing Community Involvement in the Treatment of Offenders  
*by Dudley Allen (Jamaica)*
7. Study on Correctional Affairs  
*by Min Hee Park (Korea)*
8. Community Involvement in the Treatment of Offenders in Malaysia  
*by Elias Bin Mohd. Hashim (Malaysia)*
9. Involvement of Community in the Treatment of Offenders  
*by Ram Saran Thapa (Nepal)*
10. Increase of Community Involvement in the Treatment of Offenders  
*by Nasir Ahmad Chaudhry (Pakistan)*

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11. Situations, Problems and Programs of Community Involvement in Corrections in the Philippines  
*by Arturo S. Vinculado (Philippines)*
12. Community Involvement in the Treatment of Offenders in Singapore  
*by Nachatar Singh Sandhu (Singapore)*
13. Community Involvement in Corrections in Sri Lanka  
*by Jayampathy Priyananda Delgoda (Sri Lanka)*
14. The Selection of Offenders for Adult Probation  
*by Prasert Mekmanee (Thailand)*
15. Some Problems and Their Solutions Relating to Probationary Treatment in Japan  
*by Takashi Fujino (Japan)*
16. Control of Drug Abuse in Japan  
*by Denichi Fujita (Japan)*
17. An Outline of Community Involvement in Juvenile Training Schools in Japan  
*by Fumiya Ibe (Japan)*
18. Community Involvement in the Treatment of Convicted Prisoners  
*by Shirō Iwasaki (Japan)*
19. Criminological Significance of the Measure of Suspension of Prosecution in Japan  
*by Hitoshi Murata (Japan)*
20. Juvenile Help and Direction Center in the Community—As Intermediate Means of Social Control  
*by Haruo Nishimura (Japan)*
21. A Rehabilitation Aid Hostel and the Community  
*by Takao Ōshima (Japan)*
22. On Sentencing Standards for the Suspension of Execution of Sentence  
*by Yoshio Shibata (Japan)*

*Mr. Lam Wah Pak (Hong Kong)* stressed that the drug epidemic in Hong Kong had subsided rapidly these years and the success was based on the joint effort of the government departments and voluntary agencies to fight against drugs. Close cooperation has been developed between all departments concerned with law enforcement, the movement of goods and people, and the health and welfare

of people. The Secretariat for Home Affairs coordinates the work of all the departments and voluntary agencies through its Action Committee against Narcotics.

The Prison Department administers four treatment centers for offenders who are found addicted to drugs. A full comprehensive program in the centers is followed by a compulsory period of supervision of 12 months, and a wide range of aftercare services to ensure that released addicts will not resume their former menace is provided. The Social Welfare Department is responsible for probation services and help to the families of addicts. The Medical and Health Department provides methadone treatment to hardcore addicts and detoxification scheme to those addicts who are freshly hooked.

Apart from the treatment centers run by the Prison Department, there are voluntary agencies where addicts can approach for withdrawal treatment on a voluntary basis. The Society for the Aid and Rehabilitation of Drug Addicts gives medical and social help to those who want to stop drug abuse. It maintains a hospital and residential community for men, and a clinic in urban area to look after the general health of addicts, a small treatment center for women in urban area, town offices in various districts through which social workers help addicts and their families for about two years after they leave the hospital, and a half-way house for the young addicts who have problems to adjust in society. Another voluntary agency rendering drug withdrawal treatment and rehabilitation service to addicts is the Hong Kong Discharged Prisoners' Aid Society. It runs several withdrawal hostels where drug addicts may go voluntarily for three months treatment. It refers the discharges to other agencies, finds accommodation and renders temporary financial assistance.

Besides all these available facilities, the ex-addicts also play an active role in helping their fellow addicts. They organize clubs or associations to provide recreational activities, and advocate the spirit of mutual help among ex-addicts, particularly in the field of seeking employment.

## CONCLUSIONS OF THE SEMINAR

*Mr. Hira Singh* (India) stressed that success of social defense covering various aspects of the prevention of crime and the treatment of offenders depended considerably on the extent to which the cooperation of voluntary welfare agencies and organizations in the community could be purposefully utilized. With the change of objectives from custody to corrections, the penal philosophy and practices in India have been considerably humanized in the recent past. In dealing with the personal and rehabilitative problems of prisoners, the institutional services are scientifically integrated with the welfare potentials and resources of the community. In this respect, Discharged Prisoners' Aid Societies and Crime Prevention Societies render valuable services in the aftercare follow-up and rehabilitation of those discharged from penal institutions. The voluntary efforts initiated by these Societies are being systematically developed to facilitate a smooth transition of offenders from prisons to the community. In addition, the experiment with the open camps for prisoners introduced in several States for providing prisoners with an effective mode of community-based treatment has added a new dimension to the correctional administration in India.

Mr. Singh then explained the Probation of Offenders Act formulated in 1958. It contains a mandatory provision for the court to consider a social investigation report from the probation officer in respect of every offender under the age of 21 years. It further lays down that if an offender below 21 years of age is sent to a prison, specific reasons for the same have to be recorded by the court. With a view to adequately meeting the manpower requirements in this field, the State Governments and Union Territory Administration have provided ample avenue for utilizing the services of voluntary welfare agencies in the supervision and rehabilitation of probationers.

*Mr. Hasan Utoyo* (Indonesia), emphasizing the resocialization of offenders as the main objective of corrections, pointed out that the success or failure of the treatment of offenders depended not only on the competency of correctional services but also on the families of of-

fenders, the community and the offenders themselves. He delineated some instances which manifested a great impact of the community on the rehabilitation of offenders in his country, and explained some community efforts regarding the prevention of delinquency and the treatment of delinquents such as youth centers, teachers' organizations against delinquency and discharged prisoners' aid societies. Thus, it is an important obligation, he asserted, for the corrections to identify and make full use of the social resources and encourage citizens to develop various programs for the rehabilitation of offenders.

He also referred to the Directorate of Probation and Parole established by the Government in 1966, which had made great efforts to expand the services in presentence investigation for the courts as well as probationary and parole supervision. Under the Directorate, 14 Probation Centers were newly established in the past few years and now there are 27 Probation Centers. According to Mr. Utoyo, further expansion will be expected in the years ahead.

*Mr. A.A. Farshchy* (Iran) explained various systems oriented to community-corrections which had contributed to the rehabilitation of offenders in Iran, such as suspension of the execution of sentence, conditional release, open prison and prisoners' aid societies:

(1) Suspension of the execution of sentence is generally considered in the case of the first offender. The court has discretion to suspend the execution of sentence on the condition of keeping good behavior during the term fixed by the court within the range of two to five years.

(2) Conditional release is also applicable to the first and casual offender who shows good behavior in prisons before the expiration of the term of imprisonment when there is little likelihood of relapsing into any criminal activities.

(3) There is an open prison located in Tehran. Prisoners who keep good behavior in prisons are transferred there as reward. Prisoners sent there are engaged mainly in agricultural activities under minimum control of guards.

(4) The prisoners' aid society, con-

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sisting of seven members and financed by the national fund, exists in each city. It provides ways and means to help offenders and their families, by facilitating the rehabilitative efforts saving their families from various difficulties of living due to the imprisonment of offenders, assisting the families in continuing the education of children in school, and making other arrangements for their family. The society also helps offenders to secure a job after their release.

*Mr. R.H. Nashat* (Iraq) first outlined the system of correctional institutions run by the Ministry of Labor and Social Affairs of Iraq. Presently, there are the central prison of Abu-Graib in Baghdad and three branch prisons in Basrah, Babylon and Ninevah. In the central prison, there are a special quarter for women inmates, a special building for unconvicted prisoners, and two special buildings for inmates who serve relatively shorter-term imprisonment for not more than five years, as well as a special facility for persons imprisoned in default of debt payment. Moreover, under the direction of the Directorate-General of Social Services of the Ministry of Labor and Social Affairs, juvenile delinquents are committed to Reformatory School, Training School, Observation Home and Rehabilitation Home.

He then explained the principle of prison administration that inmates are not deprived of all the privileges of citizens, and stressed that, while the basic aim of the correctional institution was to protect the society, the reformation of inmates required special considerations for providing them frequent contacts with the outside world through visits, correspondence, and other means such as allowing them to read newspapers and periodicals.

*Mr. Dudley Allen* (Jamaica) discussed community involvement in the treatment of offenders in correctional institutions and community services, and examined newly introduced sentencing alternatives geared for increasing community involvement in Jamaica. Refer to his paper, "Increasing Community Involvement in the Treatment of Offenders in Jamaica," supra pp.

*Mr. Min Hee Park* (Korea) examined

the inefficient aspect of non-institutional treatment in Korea. According to him, the criminal law of Korea adopted suspension of prosecution, suspension of imposition of sentence, and suspension of execution of sentence in 1942, but failed to implement probation services which should give life to the former three systems for treating those offenders discharged from the criminal process in the community. It is quite necessary to help them rehabilitate themselves and thus to prevent them from falling into recidivism. In Korea, the non-institutional treatment is provided only as aftercare services for correctional inmates. The Aftercare Association founded on the voluntary basis in 1942 has been responsible for such services as aiding offenders to return home on release, offering them lodging places, helping them in finding jobs, etc. It is reported that at present the number of persons who get such services amounts to about 22,000 every year. Realizing the seriousness of the problem, the Ministry of Justice has been trying to expand the scope of the activities of the Aftercare Association by allocating increased governmental funds with the expectation that it would be a basis of establishing the probation system in the near future.

*Mr. Park* then touched on treatment measures being taken in prison for reducing the isolating effects of confinement and maintaining and restoring the community ties as well as establishing effective programs for the rehabilitation of offenders, such as correspondence and interview with outsiders, buying and reading of books and other publications, observation of T.V. programs and movies, and participation in various activities including picnic, jamboree, birthday party, music concert, local and national competitions held by the Korean Chapters of International Olympic Game for Skilled Workers.

*Mr. Elias Mohd. Hashim* (Malaysia) explained various forms of community involvement in corrections, putting a particular emphasis upon the adviser system in the juvenile court, the role of the Juvenile Welfare Committee in probationary supervision, the Board of Visitors in the approved school and the

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Drug Rehabilitation Center, and the National Association of Drug Abuse Malaysia in treating drug addicts.

(1) The Adviser System—The Juvenile Courts Act 1947 provides for the appointment of advisers chosen from among public-spirited citizens, who are to assist the juvenile court in determining an appropriate type of treatment.

(2) The Juvenile Welfare Committee—Probation is a field where the community actively participate in the treatment of offenders. This is mainly done through the Juvenile Welfare Committee whose members comprise public-spirited individuals in the community. Among its duties are to assist probation officers in carrying out their supervision both of probationers and of persons discharged from probation hostels and approved schools. The Committee also assists probation officers in finding suitable guardians or foster-parents for probationers, securing training and employment for probationers, and promoting participation of other members of the community in the welfare of juveniles.

(3) The Board of Visitors—In the treatment of juvenile offenders in approved schools, community participation is channeled through the members of the Board of Visitors. The Board is expected to ensure that an efficient standard is maintained in the administration of the school and to place out on license an inmate as soon as he has made sufficient progress in his training. Members of the Board shall see that every effort is made to obtain suitable employment for a juvenile to be released on license, and for this purpose shall procure any help that can be obtained from other members of the community. Where the juvenile's home condition is unsatisfactory, the Board shall place him in other suitable lodgings.

(4) The Rehabilitation of Drug Addicts—The Drug Rehabilitation Center Rules 1975 provide for community participation in the treatment of drug offenders committed to rehabilitation centers through the Board of Visitors. Measures stipulated in these rules include providing adequate free time and recreation for residents, allowing residents to have visitors, granting home leave, and allow-

ing residents to write and receive letters from parents and close relatives. Community involvement in the treatment of drug dependents is more pronounced in non-institutional settings. Among various voluntary organizations, one of the most active is the National Association of Drug Abuse Malaysia which serves as a platform for the public participation in the fight against drug abuse and the treatment of drug dependents.

*Mr. Ram Saran Thapa* (Nepal) observed that Nepalese prisons were still of a primitive nature and treatment measures in institutions were out of fashion and ineffective. He stressed that the growing crime rate had made it more urgent to elevate the standard of treatment methods. The Government is aware of this situation and improvement is anticipated in the near future.

Then he stated that the lost ambition in offenders could be resurrected only when society accepted their reunion with the community, since resocialization of offenders would facilitate the revival of new hope and new inspiration in them. The public should be enlightened by all possible means on the needs to mobilize people in aiding offenders' reintegration into the community. The Government is now undertaking a campaign for this purpose.

He also stated that the conditional release had been used in Nepal but so far not effective, because it lacked supervision and guidance as involved in parole. He stressed the importance of non-institutional treatment and urged that the system of probation and parole should be developed as the vital components of the community correction.

*Mr. Nasir Ahmad Chaudhry* (Pakistan) explained on the community participation now practiced in Pakistan. Offenders detained in prisons are allowed reasonable opportunities to receive visits of their family members and friends as well as letters from them, and spiritual leaders from all religious sects are encouraged to impart spiritual and moral education to build up prisoners' sense of morality and civic ethics. Community teams are also allowed to play sports matches with prisoners inside the prison, and private labor sectors participate in equipping

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prisoners with useful vocations and advanced technology.

The Punjab Prisoners' Aid Society is playing an active role in supplementing the governmental welfare services for effectuating the reformation of prisoners. The local voluntary organization which is a representative body of social workers, philanthropists and spiritual leaders extends as much socioeconomic and psychomoral aid to prisoners as may be necessary for their good behavior in prison and in society on release.

The non-official visitors system is one of the most important forms of community involvements in the prison setting. Under the Punjab Jail Manual, the Government is to appoint Society 10 to 15 non-official visitors (NOVs) from medical doctors, psychologists, social workers, men of letters, educationists, industrialists, and philanthropists, to hold office for a period of four years. Such NOVs visit prisons at least once a month and inspect the functional aspects of prisons. The prisoners are legally privileged to speak out their problems without any fear of retaliation from the prison staff.

Mr. Chaudhry observed that parole and probation services had a greater scope for the optimum involvement of the community. Under the Good Conduct Prisoners Probation Release Act, 1926, an offender is released on parole after he has served one-sixth of his sentence with good record in the prison, and is placed under the supervision of a suitable employer to complete his term of sentence. The probation system was introduced under the Probation of Offenders Ordinance 1960. Generally, the first offenders are considered for probation in light of the presentence investigation by the probation officer. He concluded that, in view of the overcrowding in the 27 prisons of the nation, where 23,214 prisoners far exceeding the authorized capacity of 13,932 were detained, more active use of parole and probation should be a necessity in avoiding the deterioration of prisons as correctional institutions.

Mr. Arturo Vinclado (the Philippines) focused on the integrated and interdisciplinary approach formulated by the

National Police Commission for strengthening the various components of the criminal justice system in order to solve problems including serious problems faced by the Philippine prison system. He then touched on the establishment of criminal justice coordinating councils with the purpose of raising the level of community involvement both in the crime prevention and in the treatment of offenders. Refer to his paper, "Situations, Problems and Programs of Community Involvement in Corrections in the Philippines," supra pp.

Mr. Nachatar Singh Sandhu (Singapore) touched upon various forms of community involvement in the treatment of offenders in Singapore. Refer to his paper, "Community Involvement in the Treatment of Offenders in Singapore," supra pp.

Mr. J.P. Delgoda (Sri Lanka) observed that Sri Lanka was carrying out a vigorous policy aimed at changing society's attitude towards the offender and obtaining its active cooperation in prison programs for the rehabilitation of offenders through various techniques such as education of the community, coordination with social service organizations in the community, and participation of prisoners in community development projects. Refer to his paper, "Community Involvement in Corrections in Sri Lanka," supra pp.

Mr. Prasert Mekmanee (Thailand) first stressed the necessity of extending the use of probation service, a systematic form of treatment for resocialization of offenders with less burden on both the offenders themselves and the state, and then discussed how to enhance its effectiveness in his country, with a special focus on the selection of offenders for probation, presentence investigation, and the role of sentencing judges.

In Thailand, there are certain limitations on selecting offenders for probation, especially for adults. The court may order probation only for those who have committed an offense punishable by imprisonment not exceeding two years and have not previously been imprisoned. The scope of application should be extended to such extent as proposed in Section 7.01 of the American Law In-

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stitute's Model Penal Code. The presentence investigation is an essential instrument for selecting offenders suitable for probation. In Thailand, however, the decision to call for a presentence investigation largely depends on the discretion of the court. The investigation should rather be considered as mandatory. In this connection, more trained probation officers should be provided so that the responsibility for investigation should not hinder their main tasks of supervision, counseling and other treatment programs.

There is no doubt that the sentencing judge has an important role in developing the probation service. Not a few judges, however, still deem the probation order as a lenient treatment and therefore are apt to limit its use to the first offender. It is highly expected that judges themselves realize the significance of treatment of offenders in the community and extend its use to more offenders who can better be treated in the community without resorting to incarceration.

*Mr. Takashi Fujino* (Japan) was of the view that probationary supervision conducted as social casework in an authoritarian setting had its dual goals, viz., the rehabilitation of offenders and the protection of society. In Japan, three major principles are legally prescribed as the basic requirements for the probationary casework: (1) necessity and appropriateness of assistance; (2) individualization; and (3) self-help. Besides, other principles such as acceptance, use of social resources, confidentiality and constructive use of authority are also emphasized. In probationary treatment, a high degree of knowledge and skills based on behavioral sciences are considered as indispensable elements.

On the other hand, a large number of volunteer probation officers (VPOs) are used as field workers in Japan. Although the wide use of VPOs has various merits due to their social qualities such as non-bureaucratic attitude and localism, it is becoming increasingly obvious that VPOs have a limitation in knowledge and skill needed for the services of high quality. Under these circumstances, more positive intervention by professional probation officers is felt

urgent. During the last decade, immense efforts have been made for this purpose by way of introducing new programs or experimental projects. He maintained, however, that there seemed to be a large scope for further improvements of the services including the development of differential treatment program, the arrangement of diagnostic functions, the introduction of highly skilled volunteers, the establishment of a closer relationship with the institutions, and the evaluation research on probationary treatment.

*Mr. Denichi Fujita* (Japan) emphasized the necessity of exploring public cooperation and participation in eradicating drug abuse. Japan, after having faced two big waves of drug abuse, namely, the stimulant abuse period just after World War II and the narcotic abuse period from 1957 to 1964, is confronted with the third wave of the remarkable increase of stimulant abuse starting in 1970. It is a great concern among criminal justice officials that the abuse has spread over to young generations and ordinary citizens including housewives. To cope with this serious situation, the government has taken various countermeasures such as: (1) intensifying punitive sanctions; (2) enhancing strict law enforcement against violators; and (3) strengthening the compulsory hospitalization system so as to treat stimulant abusers. While supporting these measures as necessary and effective, Mr. Fujita put more emphasis on public cooperation and participation as a solution to the problem. First of all, a nationwide campaign against stimulant abuse should be carried out to ensure better public cooperation and participation essential for efficient prevention and investigation of violation as well as for effective treatment of abusers. As to treatment measures for addicts, counselors for drug addicts are cooperating with the government in counseling activities. At present, 225 persons recruited from among volunteer probation officers, city councilmen and other citizens who have the spirit of fighting drug abuse are helping those who are addicted to stimulants or other drugs. To meet the situation, the number of counselors should be increased.

*Mr. Fumiya Ibe* (Japan) first outlined



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the existing relationship between juvenile training schools and the community in Japan. Community participation in the treatment takes one of two forms. On one hand, community resources are introduced to the institutional settings. Volunteer chaplains and religious ministers as well as various kinds of community members such as voluntary visitors, technical advisers or assistants on vocational guidance, and teachers for cultural lesson, painting, physical training, etc., are invited to participate in the programs of the school. On the other hand, various training programs for inmates are conducted in the community. Participation in athletic meetings or cultural activities in the community is organized regularly for inmates of the training school, and entrusted inmates are sent to private persons or enterprises for vocational training. Mr. Ibe stressed that the both forms of community participation should be strengthened to free the inmates from the feeling of being neglected by the community.

He then observed that the treatment programs should be modified in accordance with changes in the characteristics of juveniles. Recently, it is felt more important to provide inmates with opportunities to develop desirable human relationship with others or to face realities in family and work environments than merely to equip them with vocational skills. Furthermore, it is deemed valuable for juveniles to join public welfare services such as works at homes for the aged or the physically handicapped. Through these activities they can acquire sympathetic attitude toward others and restore the sense of self-respect.

Mr. *Shirō Iwasaki* (Japan) observed that in Japan both the classification system and the progressive grade treatment system had been utilized as an effective basis for implementing programs for reducing the isolating effects of confinement and for maintaining and restoring community ties. Under the Classification Regulations, there are 10 allocation categories and seven treatment categories. In the latter, there are some categories for which social resources can be utilized to a great extent: Category V

involves those prisoners who need vocational training; Category E is for those who need academic training; and Category O is for those who are fit for the treatment in an open institution. Based on the progressive grade treatment system, on the other hand, prisoners of the first grade and other selected offenders are allowed to visit schools, temples, shrines and factories outside the prison on a periodical basis.

Mr. *Iwasaki* then referred to the mobilization of the public for aiding prisoners' reintegration into the community, with a special focus on the voluntary prison visitors and the voluntary chaplains. The system of voluntary prison visitors was implemented in 1953 with the aim of helping the prison inmate solve his difficulties, e.g., mental stress, family affairs and prospective plans for future living after release. The visitors consist of voluntary citizens who have rich knowledge and experience and keep high esteem in the community. Voluntary chaplains, on the other hand, offer religious services such as preaching and guidance to prisoners who have a religious faith or are interested in a religion. Under the Constitution, which prohibits the State to participate in religious activities, no correctional institutions are permitted to offer religious services as an official program. Accordingly, the role of voluntary chaplains is very important.

Mr. *Hitoshi Murata* (Japan) observed that the system of suspension of prosecution, a long-standing Japanese practice, had the significance not only of adjusting the number of criminal cases brought to courts but also of giving an opportunity for rehabilitation to offenders without advanced criminality. In order to prevent a suspect from falling into recidivism, aftercare and rehabilitation aid services must be available, however. Although certain aids such as aid for returning home, monetary and other material aids, accommodation in a rehabilitation aid hostel and help in finding a job are provided by the Law for Aftercare of Discharged Offenders of 1949, they have evident limitation due to the lack of supervisory element. In this connection, Mr. *Murata* introduced

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an experimental program, "Rehabilitation Aid Program for Those Whose Prosecution Is Suspended," conducted by several public prosecutors' offices. This authorized a public prosecutor to suspend prosecution even for a suspect whose prosecution is considered otherwise appropriate, if it can be expected that the suspect will be able to rehabilitate himself, and to commit him to the probation office for a certain period (generally for six months) in order to offer him guidance for rehabilitation. This suggests a new direction of the treatment of offenders. Mr. Murata stressed, however, that it was not easy for the prosecutor to fully utilize this system, due to limitations both in manpower and material resources. He expressed the view that, unless competent officers like family court presentence investigators were secured to assist the prosecutor in collecting information on the suspect and a closer cooperation between the prosecutor and the probation office was established, the prosecutor could not be expected to play a role of more probationary tinge in exercising his discretionary power to suspend prosecution.

Mr. Haruo Nishimura (Japan) focused on the activities of the Juvenile Guidance Centers in Japan, which had played an important role in treating delinquency-prone juveniles in the community. The Center is established by the city or municipal ordinance. At present there exist 480 Centers throughout the country. The personnel of the Center, recruited from among social workers, school teachers, police officers, and other volunteer citizens, give an appropriate help and direction to juveniles who seem to have behavioral problems. They sometimes cooperate in locating runaway children. Also it is their main function to offer counseling and casework services to such juveniles and their family. These services are rendered in non-coercive manner.

Characterizing the Center's activities as an intermediate means of social control between arrest by the police and youth-growth programs conducted by the social welfare agency, Mr. Nishimura stressed that they should be encouraged and developed, because: (1) there are many delinquency-prone juveniles who

may better be diverted from the formal juvenile justice system, thus minimizing a labeling effect upon them; (2) volunteers themselves, school teachers in particular, will be given ample opportunities to have a better understanding of young students. Indeed, the Centers' activities should be positively evaluated, considering that there has been a shift of concern in juvenile justice from "justice first" to "youth-growth first."

Mr. Takao Ōshima (Japan) introduced a case of a rehabilitation aid hostel which could not be reopened on account of the strong opposition of neighbors. This hostel started its activities in a city of a suburban area of Tokyo in 1970, but it was closed from 1972 to 1976 because of some management difficulties. With a view to utilizing more actively community-based treatment of offenders, the Tokyo Probation Office selected this hostel as a residential facility in an experimental project. Before reopening the hostel, the Probation Office explained the outline and necessity of the project to the executive members of the neighborhood association and got their agreement. However, some of the inhabitants who had recently moved into the area organized a committee to oppose the reopening. Their opposition is apparently based on the fear that their peaceful lives would be disturbed by those who are to be housed in the hostel. The Probation Office has had many meetings with the opposing neighbors, but so far has failed to obtain their consent to the reopening of the hostel. Since the hostel cannot fulfill the purpose of reintegration of offenders into the community without the understanding and assistance of the community, the Office will continue its efforts to persuade neighbors before reopening the hostel.

Mr. Ōshima made the following observations based on this case:

(1) In order to change the attitude of people and take off their prejudice or hostility to the offenders, it is necessary to provide them with accurate and sufficient information on the offenders.

(2) It may be desirable to involve representatives of the community as members of a steering committee of a hostel.

(3) Residents themselves of the hostel

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may contribute to neighbors' understanding through taking part in community activities.

Mr. Yoshio Shibata (Japan) observed that it was quite important to keep collaboration and close liaison between the court and the probation office to increase the effectiveness of probation, and explained some measures which had been taken for this purpose in Japan. First, the sentencing court utilized, in the case of a former probationer, a written record of the process of probationary supervision and its results prepared by the probation officer as a source of information for sentencing. Secondly, in order to facilitate smooth referral of the defendant placed on probation to the probation office and make him to have probationary supervision as early as possible, the court requests him to go to the office at once after sentence is pronounced. Moreover, a probation officer is usually requested by the court to appear in the courtroom on the day of sentence. Thirdly, the court sends to the probation office a document called "Notice of a New Probationer" which indicates the grounds for placing the defendant on probation and is intended to help the probation office frame a plan for supervision. Finally, Mr. Shibata suggested that liaison conferences should be held more frequently between judges and probation officers in order to exchange their views and promote mutual understanding.

### General Discussions

The discussion touched on various issues relating to community involvement in corrections, placing a particular emphasis on the following problems:

(1) Standards for Placing Offenders on Institutional and Community Treatment;

(2) Treatment Measures for Reducing Isolating Effects of Imprisonment and Strengthening Community Ties of Prisoners;

(3) Development and Expansion of Probation, Parole and Aftercare Services;

(4) Mobilization of the Public for Aiding Offenders' Reintegration into the

Community; and

(5) Recruitment and Training of the Staff Responsible for the Treatment of Offenders.

The Summary Reports of the Rapporteurs are presented below:

### *1. Standards for Placing Offenders on Institutional and Community Treatment*

by Dudley Allen

#### 1. Alternatives to imprisonment and diversion programs

Throughout the sessions, it was emphasized that crime was a complex social phenomenon to which no complete answer existed, that, in keeping with its new forms and dimensions, strategies and programs had to be reviewed, refined and reorganized to meet the goal of rehabilitation and reintegration of offenders into society, and that the role of the prison as an instrument for social control had to be reexamined.

It was generally agreed by the participants that, although for centuries imprisonment had been regarded as a deterrent to criminality, evidence had shown that it had not necessarily been effective as such and, in many instances, had failed to prevent recidivism. Accordingly, various alternatives to imprisonment have been developed. The forms of these alternatives considered and discussed were as follows:

(1) Suspended sentence (with or without supervision);

(2) Probation—Proper conditions should be attached to probation order to promote the rehabilitation of an offender;

(3) Fines—There should be much wider opportunities for fines to be paid on the installment plan and opportunities should be provided for a defendant to work in order that he may be in a position to honor the order of the court. The defendant's means should be explored, possibly by a probation officer or court social worker, before the infliction of fine;

(4) Community service order—This should not be made unless the court is convinced that such work or service is available and there is personnel to or-

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ganize and supervise it effectively;

(5) Attendance center order—An offender should be given opportunities for discipline and for developing desirable trait through discussion and participation;

(6) Day training center order—The state should give unskilled persons the opportunities to acquire skill and work habits that will make him more marketable and socialized.

It was pointed out that the above were by no means an exhaustive list and that the important thing was that as wide a variety of alternatives should be cultivated according to the needs of a particular country. It was also recognized that, while it was most desirable for the utilization of community treatment to be maximized, such treatment was not without problems. One problem is the availability of adequate and varied resources to organize and implement the programs. Care should be exercised that laws and regulations are not to be enacted which cannot be implemented due to the lack of resources and thus may bring justice into disrepute and defeat the very goals that we desperately seek to accomplish.

In addition to these measures for community treatment, the necessity and desirability of diversion programs were stressed by the participants. Without these programs, the court would be harassed with overwork and label even more people as criminals. The system of prosecutorial discretion in Japan, where the public prosecutor acts as a sifting machine for court cases, seemed to most participants as a very desirable one to be adopted with necessary modifications in other countries. It was agreed that diversion programs should operate both before and after apprehension and the community should be involved in such programs as far as possible.

### 2. Standards for sentencing

There was a consensus that, before a defendant was imprisoned, the court should satisfy itself that one of the following conditions existed in light of the nature and circumstances of the offense, and the character, conditions and

criminal history of the defendant:

(a) There was undue risk that during the period of any form of community treatment, the defendant would commit another offense;

(b) The defendant was in need of correctional treatment that could be provided most effectively by incarceration; or

(c) A lesser sentence would depreciate the seriousness of the offense committed by the defendant.

This means that sentencing standards set forth in the Model Penal Code proposed by the American Law Institute in 1962 were accepted as a suitable guide. However, there was an opinion that the condition (a) was vague and might cause disparity of sentences.

As for the standards for placing a defendant on community treatment, the participants were also in favor of considering the following factors listed in the Model Penal Code:

(a) the defendant's criminal conduct neither caused nor threatened serious harm;

(b) the defendant did not contemplate that his criminal conduct would cause or threaten serious harm;

(c) the defendant acted under strong provocation;

(d) there were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;

(e) the victim of the defendant's conduct induced or facilitated its commission;

(f) the defendant has compensated or will compensate the victim for damage or injury resulting from the criminal conduct;

(g) the defendant has no history of prior delinquency or criminal activity or has heretofore led a law-abiding life for a substantial period before the commission of the present crime;

(h) the defendant's criminal conduct was the result of circumstances unlikely to recur;

(i) the character and attitudes of the defendant indicate that he is unlikely to commit another crime;

(j) the defendant is particularly likely to respond to community treatment;

(k) imprisonment of the defendant

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would entail excessive hardship to himself or his dependents.

Means to collect information for the application of these standards in sentencing were briefly discussed. It was especially stressed that, as far as the resources would allow, the court should have the benefit of pre-sentence investigation or social inquiry reports.

### *II. Treatment Measures for Reducing the Isolating Effects of Imprisonment and Strengthening Community Ties of Prisoners*

by Jayampathy Priyananda Delgoda

There was a general agreement that in spite of all the limitations of imprisonment, prisons were necessary for incarcerating certain categories of offenders who endangered society. It was considered essential, on the other hand, that attempts to rehabilitate offenders under confinement in institutions should be maximized and that adequate measures should be adopted to minimize as far as possible the isolating effects of imprisonment and to strengthen community ties of offenders. The participants discussed various ways and means by which these two objectives could be achieved.

#### 1. Letters and visits

Adequate communication of offenders with family members and associates through letters and interviews plays an important role in strengthening their community ties. It was generally agreed that, while the censorship of letters and supervision of interviews were necessary in the interests of security of the institution and personal welfare of inmates, the mode and extent of such restrictive measures should vary with the type of institution and the nature of the offender. The participants also examined the problems associated with the deprivation of normal sex relations to offenders and the programs of conjugal visitation operating in certain countries. Many participants expressed the view that in preference to conjugal visits in the institution it would be better to increase the opportunities for home leave and furlough. Special visits with members of

the family and leave to attend family functions and emergencies such as weddings, funerals or serious illness of family members were noted as a useful means of helping the offender to maintain ties with his family. Purposeful visits by social workers and members of the community were considered helpful in promoting community ties of prisoners.

#### 2. Social adjustment aid to prisoners

The group approved the use of special admission orientation programs to help the offenders adjust to the prison routine and reduce the initial shock of imprisonment. Programs to facilitate prisoners' contact with their family members and social welfare activities for the family should start as soon as the offender is admitted to an institution. The organization of a well rounded program of sociocultural activities was considered necessary to reduce the monotony of prison routine. Special programs to help solve the problems among inmates themselves as well as programs to ensure a healthy staff-inmate relationship have an important role to play in this respect.

It was generally agreed that members of the free community should be encouraged to participate in social adjustment programs for prisoners, and some participants suggested the possibility of using selected ex-prisoners in such programs.

#### 3. Special rehabilitation programs

Programs for the rehabilitation of prisoners should be so organized as to reduce isolative influence of imprisonment. There was a consensus of opinion that maximum use should be made of the mass media of the newspapers, radio and television to help the inmate keep in touch with developments in the world outside. Library facilities, organized recreational activities and leisure time activities play a very important role. College furlough programs, institutional educational programs and scouting in institutions are some of the techniques that should be adopted. The organization of exhibitions by inmates and the use of drama, art and music as forms of therapy were also recommended as methods towards this

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end. In considering techniques and programs devised to maintain ties with free community, the participants discussed a two-way communication between the prison and the community whereby the prisoners should be allowed to participate in community activities and the community should be encouraged to participate in the prison programs. Assistance given by prisoners to voluntary community development projects was considered valuable in this respect. Special programs should also be organized to educate the community and keep their interest in prison programs. However, the participants felt that, in encouraging community visits and participation in prison programs, due consideration should be given to the feelings and attitudes of prisoners. In order to educate the community and to create an interest in the problems of offenders and ex-offenders one of the suggestions made was the organization of a national day or week program where it might be possible to spotlight community attention on such problems.

#### 4. Open prisons, work release, furlough, pre-release programs and half-way houses

Open prisons were regarded as one of the most suitable methods of reducing some of the traditional evils of imprisonment. The routine in open institutions normally allows programs to reduce isolation of inmates and strengthen their community ties as well as maximize community participation in prison programs. The programs in open institutions could be liberal enough to ensure both these objectives. The participants discussed the existing practices in certain countries regarding eligibility for selection to open prisons. In some countries, selected offenders are sent to open prisons after they have served a portion of their sentence. It was pointed out that work camps for short-term offenders could start immediately upon commitment of programs somewhat similar to those in open prisons for long-term offenders. In both open prisons and work camps, it is possible to organize pre-release programs specially designed to help the offender to prepare for the problems that are likely

to confront him on his discharge from prison. Since security is very minimal in both work camps and open prisons, a large number of offenders in such institutions can be utilized on community projects and members of the community can be invited to associate with the institutional programs more actively.

The techniques adopted regarding work release were examined by the participants. In many countries, work release operates only towards the end of the offender's sentence in a prison, as part of his preparation for release. It was pointed out that in some countries work release was a sanction made by the court whereby an offender was placed on work release from the commencement of his sentence. In any event, work release was considered a useful technique for helping the offender to strengthen his ties with the community and to ensure his eventual rehabilitation. Programs for parole and furlough were also considered as useful measures towards this end. In making selections for parole and furlough, adequate consideration should be given both to the interests of the offender as well as the security of the community.

Finally, special pre-release centers and their programs were discussed. The use of members of the community and ex-offenders in such programs may be very valuable. Programs in such pre-release centers should anticipate the problems that are likely to confront the offender on his discharge and help him to solve them. Such centers afford the community ample opportunities to participate in assistance to offenders. The use of halfway houses depends upon the conditions existing in each country and is another technique whereby community participation can be obtained. Halfway houses may be either organized by the correctional agency or by the community. They serve a useful purpose as a bridge between the prison and the free community.

Throughout the discussion the need to involve the community in corrections was emphasized. Although in many countries the community was already involved to a certain extent there are possibilities of organizing community

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participation in a much greater degree than at present.

### *III. Development and Expansion of Probation, Parole and Aftercare Services*

by Lam Wah Pak

#### 1. Need for community-based treatment

The aims of probation, parole and aftercare are to help offenders find their way back into free society, where they are expected to live more constructively than before they were convicted or adjudicated. Contemporary correctional thought has been placing more and more emphasis on community-based corrections with the rehabilitation or reintegration of offenders into society as the desired goal. During the discussion, it was generally stressed that the probation, parole and aftercare services should play an important and comprehensive role in the treatment of offenders.

In actual practice, however, the community-based correctional services in many countries are far from the ideal both quantitatively and qualitatively. Even nowadays, there are some countries that have no probation, parole or aftercare system as a legal framework, and that are totally dependent on voluntary efforts by private agencies with respect to the rehabilitation services for the offenders. In some other countries, probation or parole is applied only for juveniles and youthful offenders or for first offenders. The number of offenders placed on probation or released on parole is quite limited in many countries. These situations simply indicate that the community corrections in most countries have been too insufficient in strength to provide meaningful services for the offenders in need of the treatment in the community. Most participants agreed that there remained a large scope for further development and expansion of community-based corrections.

Some participants pointed out that it was of a vital necessity to review the traditional penal policies of which major emphasis had been put on prisons to deal with offenders. The problem of overcrowded prisons in some countries would not be solved solely by the con-

struction of new penal institutions. The wider use of probation, parole and aftercare services would be not only less costly but also more effective in reducing recidivism. It was generally agreed that, in order to secure a sound development of the correctional services, it was important for the government to identify problem areas, to specify planning guidelines and approaches for the formulation and implementation of a national correctional program, and to formulate a national strategy, as has been conducted in the Philippines.

#### 2. Public participation

It was also claimed that the indifference to the treatment of offenders of the general public as well as other sectors of a criminal justice system was another significant factor that was responsible for inadequate situations of the correctional services. The shortage of finances which has persisted in the correctional services at large would be improved through the greater support of the public, politicians, volunteer groups and criminal justice agencies. All the participants agreed that greater efforts should be made to enhance the interests of the public, encouraging voluntary groups, to provide a forum for the exchange of ideas and close contacts with other components of the criminal justice system as well as with sympathetic politicians, to furnish greater opportunities for public participation in the correctional process, and to allow offenders to participate in the community works or events.

#### 3. Use of volunteers

Direct involvement of the public in the probation, parole and aftercare services in the forms of volunteer probation officers and others was claimed to be advantageous and significant in a sense that not only would it increase the public interests in the correctional services, but also volunteers and voluntary organizations would surely have a great potential in helping offenders reintegrate themselves into the community. An extensive use of volunteers may to a considerable extent save the financial burden necessary for the expansion of the services. Some

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participants, however, warned that the value of volunteers lay not in less costliness, but rather in their comprehensive contributions to the rehabilitation of offenders and in their considerable influences in enlightening the community at large. Volunteers have their own place in the services that cannot completely be replaced by the professionals.

While the role of the volunteers and voluntary organizations could not be emphasized too much, it was also recognized that the government should take the primary responsibility for the development and expansion of the rehabilitation services for the offenders including both professional and volunteer programs. Excessive reliance on the voluntary groups and individuals due to the financial reason would not lead to the fundamental solution for the paucity of the services.

#### 4. Necessity for evaluation

Effectiveness of the present programs have not always been proved yet, and all the participants agreed that it was of ever-increasing necessity to further the evaluation on the existing programs and to develop the innovative projects with exact research design. It was also pointed out that it was necessary to establish international guidelines for the community-based corrections for their sound development and expansion.

#### IV. *Mobilization of the Public for Aiding Offenders' Reintegration into the Community*

by Nachatar Singh Sandhu

##### 1. Necessity of an active involvement of the public

All participants agreed that since crime was a community phenomenon the reduction of crime would necessarily require: (1) protection of society by involvement of the community in the correctional process; (2) public involvement in direct services or rehabilitative process; and (3) public involvement for political and economic support of improved programs that insure (a) adequate staff and personnel, (b) sufficient resources for prevention and corrections, and (c) effective programs (to see that we do what we say we will do).

##### 2. Forms of public participation

It was agreed that public participation can be at three levels, namely, the individual level, the group level and the community level. While the general consensus was that participation of the individual level could be in such activities as jail visitors, members of advisory committees, volunteer probation officers (VPO), para-counselors and the like, it was stressed that an imbalance between volunteer workers and professional staff should be avoided for the sake of quality in the service. In this connection, a suggestion was made that some guideline or ratio on the number of VPOs to be deployed for every professional staff should be worked out. It was emphasized that the volunteer workers should be used for diversifying treatment approaches and not resorted to as a means of cheap labor.

Involvement of voluntary organizations represents participation at the group level. Material assistance to released offenders in cash or kind, provision of accommodation, support for obtaining employment and retaining it, counseling for family adjustments and the like are some of the areas in which group involvement can greatly facilitate offenders' reintegration into the community. The public should be encouraged in this field. If the interest of the public in the field is not sufficient, the appropriate government agency should take the initiative in providing the leadership for setting up such organizations.

It was generally agreed that public participation at the community level can be through wider programs of crime prevention such as public education and mobilization of welfare resources of the community for rehabilitative purposes.

##### 3. Ways and means to promote public participation

Social welfare services in most countries had their early beginnings in voluntary effort. Similarly, in the field of corrections, public participation dates far back into the history of correctional services. However, the community may not have been fully mobilized in social welfare and correctional services. It is crucial that great public awareness and



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understanding of volunteer work be brought about. This will encourage concerned citizens to come forward and help mobilize concerned members of the general public to use their goodwill and talents for aiding and helping in welfare work and correctional activities for reintegrating the offenders into the community. It was agreed that the use of mass media for public education, formation of a central administrative machinery to mobilize the public, etc., can be useful in prompting public participation. The subject should be kept alive.

4. Undesirable effect caused by an excessive dependence on the work of volunteers

The participants, in agreeing that volunteer participation in the treatment of offenders was an important aspect of program development in the correctional treatment in institutional and non-institutional settings, cautioned on the excessive use of volunteers. Limitation of training facilities and difficulties of supervision may keep the quality of volunteer activities below the expected standards. Too heavy dependence on volunteers may also prevent sound development of professional social work services. The group agreed that selection and screening of volunteers has to be made carefully and on selective basis, and that the role of volunteers has to be defined more scientifically in relation to the specific tasks for which they are trained and mobilized.

### *V. Recruitment and Training of Staff Responsible for the Treatment of Offenders*

by Nachatar Singh Sandhu

1. How to secure sufficient able candidates for correctional personnel

The participants agreed that corrections was a specialized field requiring people with talent, ability, aptitude and commitment. To attain this objective, the status and functions of correctional personnel have to be defined in relation to the competence required in the field and in a way to provide for adequate incen-

tives and opportunities for professional satisfactions and advancement. These measures are helpful in attracting people with the right caliber to correctional services. It was also agreed that there should be a special training institute for correctional officers. It is most important to organize properly drawn up training programs for new recruits and security officers to equip them with knowledge and appropriate skills to carry out their tasks in an efficient manner. It is also important to provide systematic training programs on the role of the community in corrections and on the methods and techniques of increasing community involvement in institutional and non-institutional treatment of offenders.

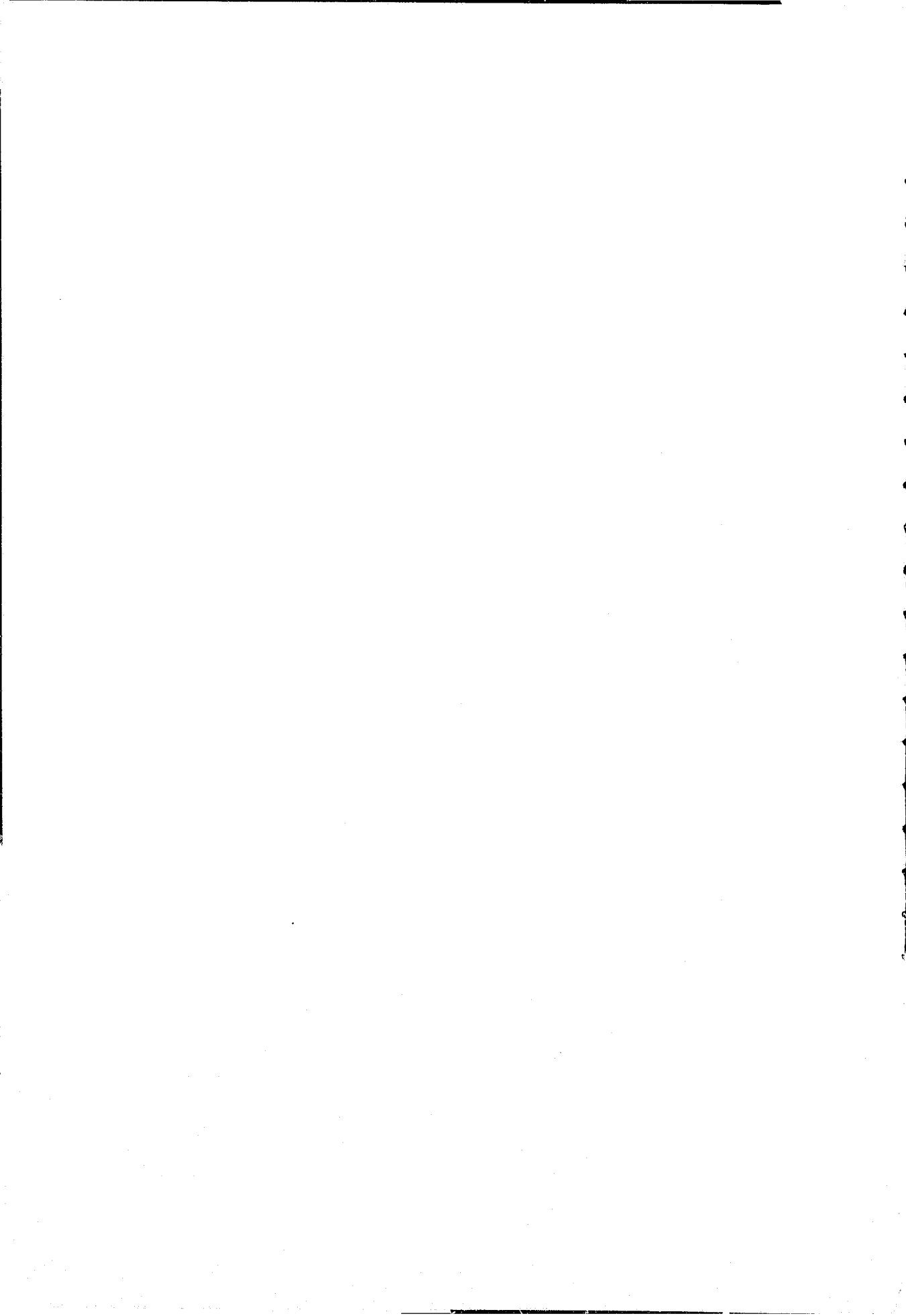
2. Selection and training of volunteers for correctional services in the community

There was a consensus of opinion that volunteers for correctional services may be selected on the basis of real interest in social services and dedication to human welfare and general well being. It was felt that, while public representation could be useful in securing adequate support for correctional services, volunteers at the service level should be chosen on the basis of adequate knowledge and experience in the social welfare field.

It was also agreed that volunteer workers engaged in the field of correctional services should be appropriately trained through short-term orientation courses. These volunteers already working at the service level should be provided with follow-up training in the forum of refresher courses. Integrated courses for professional workers and volunteer workers may also be organized to strengthen their complementary roles.

3. Utilization of ex-convicts in correctional fields

It was suggested by some participants that the manpower resources of selected ex-convicts should be appropriately utilized in the field of corrections so as to avail of their firsthand knowledge and experience of problems and life both within and outside institutional settings.



## **PART II**

**Material Produced During  
The 46th Training Course  
Or. the Treatment of Juvenile Delinquents  
and Youthful Offenders**



## SECTION 1: EXPERTS' PAPERS

**Youth and Crime in Contemporary and Future Society***by Manuel Lopez-Rey\****Purpose**

As a problem, juvenile delinquency is grossly inflated almost everywhere and consequently, in spite of well-intentioned efforts, it is not always properly understood and is therefore unmanageable. In most countries the prevailing criteria governing the concept and confusing the problem are still a mixture of obsolete sentimental attitudes vis-à-vis minors and the family, outdated psycho-social or socio-psychological theories, even when some of them are reformulated and offered as new, the vested interest of administrative and judicial services and machinery, and the growing number of professionals in the field of social sciences. Juvenile delinquency policies and programmes are more often than not still turning around a concept of child and youth which, in most countries, does not correspond to the reality. There is no doubt that children should have as much attention and care as possible but this does not necessarily mean that the machinery in charge of providing them are the right ones at the present historical juncture, particularly juvenile courts and in some cases, family courts or welfare boards. It is often said that juveniles are society's reserve capital and to a great extent this is true, particularly in developing countries, but the same applies to any other age group. Thus in many cases adults constitute the real working capital and old people already "used" capital which has often yielded good results. Yet particularly in developed countries old people are increasingly preyed upon by juvenile offenders who can hardly be excused as maladjusted or lacking maturity (Lopez-Rey, 1970).

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In more general terms the United Nations Social Development Commission at its last session, January-February 1977, confirmed the above point of view by stressing that social policies should not be evolved in such a way as to make youth appear in an especially privileged position in comparison with other groups of the population. Still more significantly, it stated that youth should be integrated into present and future policies at national and international levels. Among other things this means greater participation but at the same time greater responsibility vis-à-vis society.

In sum, the frequent misuse of the term capital when referring to the need to protect juveniles can no longer be entertained. This does not mean that they should be neglected. In fact the term *capital* used to emphasize the value of youth reflects the image that capitalist societies usually have of social problems, i.e., a segmented one. It is apparently thought that by dealing separately with groups the problems can more easily be solved. Obviously this is not true, but nevertheless it serves the purposes of that kind of society. Curiously enough, in spite of their professed anti-imperialism, the vast majority of developing countries still try to handle the problem of juvenile delinquency in accordance with concepts and models either inherited or copied from others.

The conclusion is that although the implementation of the original Western concept and policy of juvenile delinquency has yielded some good results, these have always been historically determined and the present is quite different not only from when the first juvenile court was created but also from the industrial society which prevailed until the beginning of the 1950s. Although in different degrees, whether they like it or not, all

countries are already immersed in the post-industrial era and this calls for a revision of the conceptualization of the problem of juvenile delinquency.

The need for a revision of the existing policies and programmes then is obvious. In this respect developing countries are better placed than developed countries to innovate and even to introduce some radical changes. The main reason is that in some respects developed countries are prisoners of their own development and corresponding systems, a condition which is still incipient in most developing countries. The task, however, is not easy. It implies a thorough analysis of the situation in a given country before deciding what should be kept or discarded and what should be created to meet the fundamental demands of the reality as far as juvenile delinquency is concerned. What follows is an attempt to facilitate the task by analyzing a series of facts and fictions within the limits of space assigned to this essay. That was also the purpose of my lectures at UNAFEI in 1977 on which the expose is based. Needless to say, it applies to developed as well as developing countries, but for obvious reasons the latter are dealt with in more detail.<sup>1</sup>

### The Background

The inhuman treatment meted out to children both as workers and offenders in European countries and in the United States as a consequence of rapid and often exploitative development, was one of the main factors which led to a new way of thinking, to the intensification and eventually to public opposition to the exploitation of minors. The protection movement gained force and the concept of juvenile offender or delinquent was put into circulation. The concept asserted itself when the first juvenile court was created in 1899 in Chicago. In some countries welfare boards dealt with juveniles while later in others family courts replaced juvenile courts. The protective attitude vis-à-vis minors found its more general expression in the Geneva Declaration of the Rights of Children in 1928, revised in 1948 and reformulated in

1959 by United Nations General Assembly Resolution no. 1386, XIV. Since then laws dealing with juvenile offenders have been promulgated practically everywhere. Unfortunately, in most cases the numbers of courts and services do not correspond to the magnitude of the problem. In many countries the juvenile courts or their equivalent and the corresponding services exist only in the capital and in two or three of the more important cities. The usual explanation that it is in the cities that the problem is more acute is not convincing.

It seems that in some countries juvenile delinquency is decreasing. In all probability this is true as far as statistics are concerned. On the other hand, it would be highly desirable to know the reasons for the decrease. Probably it is mostly due first to the gradual decrease of juvenile population, particularly in large urban areas and secondly, to the reluctance in these same areas to report a series of acts which, although described as juvenile offences by the laws, are condoned or disregarded by many people including police and other authorities. Here again we may see the close correlation between social changes and crisis—two different but often identified concepts and phenomena—and non-legalized decriminalization.

In the 1950s the world situation changed drastically. From a world mostly regarded as a Western preserve we entered another in which non-Western approaches to national and international problems would play an important role. The membership of the United Nations expanded rapidly with the incorporation of newly independent countries which brought with them different aims. The term development made its appearance in the international cooperation arena and with it arised the necessity of linking to it an array of problems, some of which, like juvenile delinquency, were treated as something apart from the whole socio-political context. It should be remembered that one of the main tenets of juvenile delinquency theories was, and to some extent still is to regard juveniles as living in a world of their own. In every respect, including the psychological, this view was fortunately shattered by the world trans-

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formation. The growing participation of youth was obvious in the 1960s and since then has in no way abated in developed and developing countries alike. The post-industrial society was already under way.

While at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva 1955, the clash between the traditional conception of juvenile delinquency as an all-embracing concept and that confining its meaning to the commission of a real criminal offence was evident and ended in something like an international stalemate, at the Second Congress, London 1960, the situation changed almost dramatically for the better. The reasons were that in accordance with world changes the Secretariat, following also the advice of the *Ad Hoc* Committee of Experts on Crime Prevention, decided to submit, for the consideration of the Congress as problems closely linked, the new forms of juvenile delinquency and the prevention of types of criminality resulting from social changes and accompanying economic development in less developed countries; and that the number of developing countries participating in the Congress was higher than in 1955 and for the first time the Soviet Union and other socialist countries attended. Shortly, the conclusions and recommendations adopted were the following: that as a problem juvenile delinquency cannot be considered independently from the structure of the State; that some of the new forms of juvenile delinquency which may be serious from the point of view of public order are not always indications of serious antisocial behaviour; that the problem of juvenile delinquency should not be unnecessarily inflated; that the meaning of juvenile delinquency should be restricted as far as possible to violations of criminal law and therefore offences referring to irregularities or maladjusted behaviour for which adults would not be prosecuted should not be created; that programmes of prevention of criminality should be closely coordinated by an agency organized for this purpose and that this agency should operate as an integral part of a coordinated scheme for national, social and economic planning since, as stressed by the United Nations,

there is an urgent need to eliminate the compartmentalization of thought and to integrate social and economic objectives in countries undergoing rapid development. It was at this Congress where the need for a proper concept of juvenile delinquency was first advocated and also where for the first time, the connection between crime, including juvenile delinquency, and national development was established. Since then both aims are a recurrent feature of United Nations policies in the prevention and control of crime, the treatment of offenders and criminal justice.

Although the recommendations of the Congress were endorsed by the Economic and Social Council and communicated to Governments for their consideration and possible action, very few have taken them into account; in many countries, including developed countries, the problem of juvenile delinquency is still treated as it was conceived almost a century ago. The reasons are many but the most significant are that, as stated, the developed countries are prisoners of their own criminal justice and juvenile or family courts systems; that contrary to all available evidence in many developing countries the belief prevails among policy-makers and professionals that the material improvement of living conditions will abolish or considerably reduce crime and delinquency, and finally that as a result of complex imitative processes, while in many developing countries Western ideas or policies are frequently the target of "anti-imperialist" policies, nevertheless Western ideas and policies in juvenile delinquency and, for that matter, in criminal justice are not only maintained but even enlarged without first checking the national validity of such policies. This state of things is facilitated by a double process of import-export theories and systems in which erroneous technical assistance policies as well as the wish for "modernisms" among some national professional elites play a significant part.

Even a modest comparative analysis of national legislation on juvenile delinquency will show that the imitative process is still going on and that many developing countries enacted laws in the 1950s and 1960s which reflect or reproduce approaches prevailing 20 years

before in some developed countries. In a well-intentioned Child and Youth Welfare Code adopted in 1974 in an Asian country in which juvenile and youth delinquents are dealt with, among the "Responsibilities of Children" is included one by which he shall strive to lead an upright and virtuous life in accordance with the tenets of his religion, the teachings of his elders and the biddings of a clear conscience as well as to love, respect and obey his parents. In principle all this is splendid: on the other hand even from a merely welfare point of view one may ask if, in view of the socio-economic and political characteristics of the country concerned, such demands are reasonably consistent with its condition, and more particularly as a great number of children live in the slums of the capital and other large cities. As far as I know, the national planning of this country still ignores the correlation with the planning of the prevention of crime whether committed by adults or juveniles. It is also doubtful that the concept of youthful offender as a person who is over nine but under 21 years of age at the time of the commission of the offence conforms to the pluralistic condition of the country. This refers to a country in which socio-economic and political differences among ethnic groups, cultures, needs and aims play often contradictory or even opposing roles. In such cases, a uniform national concept of juvenile delinquency is only a legal fiction. In some countries with a federal system the fiction has been avoided or reduced; yet in many Latin American, African and Asian countries the fiction has been maintained. Only a distinct national homogeneity can, in principle, justify the national uniformity of the concept of juvenile delinquency; such is the case in Japan.

The above does not imply that Western ideas, policies and systems should be automatically put aside—far from it. Many of them have had an enormously beneficial effect on mankind and quite a few are already part and parcel of the non-Western world. The beneficial impact on juvenile delinquency was undeniable at the beginning of the XXth century but since then the world has changed. In

spite of its evolution each country preserves many of its own characteristics, needs, aims and means all of which have a great impact on the extent, gravity and trends of juvenile delinquency. The acceptance of some universal patterns of life even among juveniles does not mean that juvenile crime, or even adult crime, is the same everywhere.

Perhaps one of the most disturbing elements in establishing a correlation between national development planning and the planning of the prevention of crime and the treatment of offenders as well as of the criminal justice system, is the narrow way in which the term development is understood by the majority of governments which are more interested in economic growth, of which the gross national product is the most revered symbol, than in anything else. While economic growth means social improvement in some aspects, in many more the deterioration of living conditions and with them greater frustrations, resistance and antagonism, are undeniable. As a rule, the obsession for greater GNP aggravates some existing forms of crime and generates many others. The expansion of industrialization and urbanization, often manipulated by big firms, corporations and enterprises of many sorts, has seldom brought a better type of living, which should not be identified with the improvement of material conditions of living. Education and welfare services have also increased practically everywhere and yet their preventive effects on juvenile delinquency have been minimal. The problem then is to determine what is the kind of education and welfare services needed in the post-industrial society of our time so different from the industrial society in which most of the present policies of education and welfare originated. Without trying to dramatize things the fact is that the young between 15 and 20 years of age of our time differ in almost every aspect from the image of the juvenile built up at the end of the last century and enhanced in the first decades of the XXth century by a series of laws on juvenile delinquency which in many ways have been transplanted or imitated in many other countries.



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Unfortunately while some policy-making bodies of the United Nations advise governments to correlate national planning with that of the prevention of crime and related matters, the Committee for Development Planning stresses more and more the importance of industrialization, the adequate flow of resources and trade, industrial modernization and the like for the progress of the developing countries. In its reports, the latest corresponding to its session of 1976, I have been unable to find clear reference to the correlation above-mentioned, or to the participation in the discussions of other professionals than those equipped to deal with economic and related matters. The fact is that economic growth, which has been going on for centuries, has not as yet had any visible effect in the reduction of crime. Economic crime at national and international levels, particularly by multinationals, is becoming far more frequent and socio-politically more harmful than most of the crimes committed by individuals. No wonder then that juveniles between 15 and 20 become more active and organized in committing offences against such a state of things which is politically motivated even if the political element is not clearly perceived by all of them.

It is time that the "worship of GNP" should come to an end (T. Fukutake, 1974). On the other hand we must be sure that it is not replaced by the worship of welfare as practised in the Scandinavian countries. The problem is deeper than that and consists in developing a kind of national development in which unjustified inequalities are abolished.<sup>2</sup>

### The Anatomy of Juvenile Delinquency

Although here and there some relevant facts have been stressed and some well preserved fictions demolished advocating the revision of the existing concepts and systems of juvenile delinquency, no attempt has yet been made to study the anatomy of the whole phenomenon. Although incomplete, what follows is a general visceral expose of the main aspects of what is generally regarded as a serious problem. The aspects examined here are:

1. The extent of the problem;
2. The concept governing it;
3. The accompanying main operational concepts;
4. The system created; and
5. The validity of theories and policies.

#### 1. The Extent of the Problem

The number of persons involved as main protagonists and the size of the group to which they belong offer reasonable bases to assess the magnitude of the problem of juvenile delinquency. As far as possible the countries selected are representative of the various types. Since the Course took place at UNAFEI preference has been given to Asian countries.<sup>3</sup>

What is the number of juvenile offenders? Before attempting to answer the question the following remarks are called for: a distinction between males and females should be made; their respective numbers are generally equally divided. The reason for the distinction is that females are far less delinquent than males. The proportion of male and female juveniles living in urban and rural areas must be determined inasmuch as juvenile delinquency is mostly an urban phenomenon, and finally only those who have committed an act that if committed by an adult would imply criminal prosecution should be considered as offenders. With this interpretation juveniles merely in need of attention or assistance but who have not committed any criminal offence are excluded. Their inclusion, besides making the current mistake of regarding as delinquents persons who are not, would enormously inflate the number of juvenile offenders in any country. This does not mean that criminal offenders, whether juvenile or adult, are not often in need of help. The above clearly shows the futility of calculating the extent of crime by indexes referring to the whole population of a given country per 100,000 inhabitants.

What is the average percentage of juvenile offenders among minors? It varies in each country, is never constant, and differs noticeably in urban and rural areas. In each country a diversity of factors such as family situation, standards of living, education, working conditions, attitudes of the community or neigh-

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Table 1: Juvenile Population Aged 10-19 Years

Country and Year	Tot. Pop. (mil.)	10-14	15-19	Pctg. (%)
1969 Kenya	11	1,400,000	1,200,000	24
1973 Morocco	16.5	2,100,000	1,700,000	23
1974 Canada	22.5	2,400,000	2,700,000	23
1973 Costa Rica	1.9	280,000	230,000	27
1974 Mexico	60.2	8,000,000	6,500,000	24
1974 Argentina	25.5	2,300,000	2,210,000	18
1974 Brazil	104.3	13,100,000	11,200,000	23
1974 Ecuador	6.7	880,000	705,000	24
1973 Venezuela	11.5	1,600,000	1,300,000	25
1974 USA	212	20,800,000	20,800,000	20
1975 Hong Kong	4.4	540,000	530,000	24
1974 India	587	71,000,000	62,000,000	23
1971 Iran	30	3,900,000	3,100,000	23
1974 Japan	112	8,200,000	7,800,000	14
1972 Korea	33	4,500,000	3,500,000	24
1971 Nepal	12	1,300,000	1,100,000	20
1976 Philippines	43	5,600,000	5,100,000	25
1974 Singapore	2.3	286,000	282,000	25
1970 Thailand	34.5	4,600,000	3,800,000	24

Data for Burma, Sri Lanka and Ethiopia are incomplete.

bourhood, etc. play a role. Yet in some countries it has been said that particularly in urban areas one of every three boys becomes a delinquent at some time or other. In others the percentages are between 15 and 20. In markedly underdeveloped areas the proportion is sometimes between 1 and 5 percent. After comparing a series of studies and taking into account my own research in several countries either as United Nations expert or professor, I believe that, as a conservative estimate, which as a departing hypothesis may be applied to the vast majority of countries, 10 out of

every 100 boys commit at least one criminal offence when they are between the ages already mentioned.<sup>4</sup>

The figure of 10 percent is purposely conservative and with some reservations particularly concerning the more underdeveloped areas or countries, may be regarded as a general yardstick which, needless to say, should be adjusted according to national or regional circumstances. Accordingly the following table is submitted:

Table 2: Number of Juvenile Male Offenders in Some Selected Countries

1975 Hong Kong	53,300
1974 India	6,650,000
1971 Iran	350,000
1974 Japan	800,000
1972 Korea	400,000
1971 Nepal	120,000
1975 Philippines	535,000
1974 Singapore	28,400
1970 Thailand	420,000
1974 Ecuador	80,000

In the United States the estimate would give a figure of no less than 2,100,000, which obviously is far below the actual number. If applied to the USSR, for which only scanty data are available (Lopez-Rey, 1970), the estimate would be 2,500,000, which in all probability will be refuted in that country.

In spite of being conservative the estimates are impressive and will, in all probability, be regarded by some as exaggerated. If compared with official statistics they show quite clearly that the number of male juvenile offenders dealt with by juvenile or family courts or any other service is in some countries really minimal and in many others, at the best modest. In this respect it should be

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remembered that in many developing countries the juvenile courts or equivalent services exist only in the capital and in some of the most important cities. Needless to say, the estimates would be far higher if the inflated concept of juvenile delinquency had been used.

For a correct appraisal of the extent and gravity of juvenile male crime the following should be taken into account:

(a) In a great number of cases, probably not less than 50 percent, the offences committed are thefts, damages and some immoral acts, most of them of no great importance;

(b) Often the offence is not repeated or habitually committed;

(c) The juvenile offender may stop committing the offence or offences by himself without intervention of any person or authority, i.e., without receiving any kind of treatment. In some cases it will suffice that the offence is suspected to stop him committing it or simply that new incentives attract his interest. In other cases a feeling of shame or a growing sense of responsibility will suffice. The attitude of the victim may also be a deciding factor;

(d) Apparently in some countries the dismissal of the case acts as a deterrent. In Japan, the number of cases dismissed by the family court is very high. To what extent the dismissal of cases in this and other countries has been the subject of follow-up studies, the writer has not been able to ascertain;

(e) Obviously the excessive criminalization in many penal systems also helps to explain the great number of offenders. At present, in many countries there is a trend in favour of the decriminalization of many offences although some of the reasons given are the wrong ones. In any case, no process of decriminalization can dispense at the same time with another of criminalization inasmuch as both processes are the consequence of changes and even crises of a socio-economic and political character. Actually, while criminalization can only take place following certain legislative or other legal procedures, decriminalization has always been a daily practice, either with respect to minors or adults, by the victims, third parties and authori-

ties of many sorts. Quite often the juvenile crime, if not serious, is overlooked for reasons not always fully justified. On other occasions it is officially dismissed for reasons that it is hoped are always the right ones. In other words, criminal law should be observed but should never be interpreted literally and still less applied without a certain evaluation of all aims, values and needs involved. Otherwise, no penal system would be able to cope with the huge numbers of prosecuted, indicted and convicted persons and those put on probation or under other forms of supervision.

Since crime cannot be abolished, even if in the future it is named differently, the last remark raises the crucial question of the amount of crime that a given country in a given period of time can stand without being seriously disturbed. Curiously enough this question, which is prior to many others among them prevention, treatment and criminalization, has received scanty attention. Indirectly it has been touched upon by the studies conducted on the cost of crime which quite often over-simplify the problem. Concerning juvenile delinquency the subject deserves full attention as for some decades to come in the less developed countries juveniles will not only outnumber adults but, owing to the way in which the planning of national development is conducted, their criminality will increase particularly in its violent forms in urban areas.

The extent of juvenile female crime is still more difficult to ascertain as the role played by women in general and girls in particular varies greatly from country to country. My research in some of the countries already mentioned shows that in some Arab and Latin American countries, the ratio is often 30 to 40 juvenile males for every female. Probably in some the ratio has changed for the worse in the last few years as a result of what is generally called social change. In trying to determine the female ratio the remarks made concerning juvenile male crime are applicable. According to some of the presentation papers submitted to the 46th Course at UNAFEI, the ratio between male and female minors seems to vary within the same country,

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which is quite logical in view of all the factors involved. As happens with male offenders, the data submitted refer mostly to urban areas. In countries like Hong Kong, Singapore and even Puerto Rico this is the general rule since all three are practically "urban" countries. The situation, however, is very different in the vast majority of countries of the so-called Third World.

If the conservative ratio of 1 to 20 is applied to the data of table 2, the following gives an approximate idea of the numerical extent of female juvenile crime:

Again, in all probability the figures will be regarded by some as excessive and yet before rejecting them it should be remembered that without pretending that the greater participation of females in every aspect of life will make them as criminal as men, in practice unless the offence is serious, girls still benefit from some privileges as far as prosecution is concerned. In the developed countries female crime is increasing, particularly in some of its violent forms and often for political reasons. It is probably premature to say that the same is happening in all developing countries but unless development policies at national and regional levels are improved, female juvenile crime will also increase. Moreover, with only welfare policies prevention will be rather limited. It is symptomatic that the number of girls running away from home is increasing in developed countries and Japan, according to the figures made public at the time of writing by the National Police Agency, is no exception. Running away should not be regarded

as delinquency but since the girls caught are put under protective custody and brought before juvenile or family courts, the conclusion is that *prima facie* it is so considered. In many countries official documents or statistics do not make specific reference to female juvenile delinquents; they are lumped together with the males, a procedure which, for the reasons already stated, is not recommended.

Urbanization and juvenile delinquency are often linked together and most likely the correlation will increase if the process of urbanization is not corrected with better planning. In some countries urbanization has led to what has been called a "big land grab" by large corporations, enterprises and real estate agencies as a form of investment with little control from governments. The result has been that when the latter have tried to undertake large housing projects it has been extremely difficult and expensive. One of the worst shortcomings has been the construction of huge blocks of apartments which provide shelter but not the home which can give protection from possible frustrations, antagonism, lack of privacy and in the long run, the disintegration of family ties.

By the beginning of the 1970s in South and East Asia 20 percent of the total population was already living in urban areas and more often than not in undesirable and even appalling conditions. Between 1970 and 1975 no less than 56 million persons migrated from rural to urban areas. The worker does not always take the family with him but the separation usually aggravates a situation which was already unsatisfactory. Unless the family left behind is taken care of by relatives, in most cases equally if not more underprivileged, or by social services which are generally scanty in rural areas, the harmful effect of urban migration is twofold. In the Philippines, while in 1970 the total population was increasing at a rate of 3.4 percent annually, the increase in the urban sector was twice as fast, partly because of high migration and partly by natural increase since fertility rates in Philippine cities, although lower than in rural areas, remain high.<sup>5</sup> In Seoul there were in 1975 no less than 160,000

Table 3: Number of Female Juvenile Offenders in Some Selected Countries

Hong Kong	2,665
India	332,500
Iran	17,500
Japan	40,000
Korea	20,000
Nepal	6,000
Philippines	26,750
Singapore	1,420
Thailand	21,000
Ecuador	4,000

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squatter units amounting to approximately 1.5 million people or nearly one-fourth of the total population of the capital living in undesirable conditions.<sup>6</sup> No doubt in these countries, as in many others, the governments have undertaken a series of plans and programmes to prevent or reduce the ill effects of such conditions. On the other hand, I have failed to see that the steps taken have taken into account the need to correlate urban and national planning with the planning of the prevention of crime and the treatment of offenders in accordance with United Nations recommendations. Shantytowns breed crime, although not all kinds of crime, and yet with the exception of Japan they exist in many cities of the world. Most of the Japanese cities are aggregations of "villages" and the survival of some of their characteristics explains the exception.

In Latin America and Africa, the impact of almost an anarchic urban growth has already contributed to the increase of crime and the difficulties for the proper functioning, not only of juvenile courts but also of the social services. Sao Paulo, Rio de Janeiro, Lima, Caracas, Bogota, Mexico City, San Juan, Lagos and Nairobi show clearly how closely related are certain forms of urban expansion and the increase of juvenile crime. I say certain because, contrary to widespread belief, by itself urban growth is not a conditioning factor of crime but the way in which it is carried out.

Admittedly the dividing line between urban and rural is sometimes blurred and in some cases arbitrarily imposed by a series of criteria and regulations which have little to do with contemporary reality. It may be said that urban means a particular form of dwelling environment as well as of living in which the number and concentration of persons and the tempo of life play a primary role. Without entering into many specifications, urban life is characterized by more numerous but also more superficial relations between persons and groups, quite often these relations are standardized; by more time-consuming transport; by greater availability of educational, medical and other facilities which nevertheless are not always accessible or adequate; by higher income and greater expenses, some of

which are a consequence of a consumer society; and by the replacement of a true community by an urban neighbourhood. The distinction between the last two is of great importance since the term community is often used at national and international gatherings on the prevention of crime and the treatment of offenders without taking into account that there are different kinds of communities, and that constituted by an urban neighbourhood is not always able to provide the co-operation recommended by the participants to congresses, seminars, etc. Although closely related, community, neighbourhood and public participation are different things. The importance of the distinction is stressed in the following table:

Table 4: Urban and Rural Male and Female Population Between 10 and 19 Years of Age

	Urban (thou.)	Rural (thou.)
1970 Korea	3,300	4,300
1971 Nepal	102	3,300
1970 Philippines	3,000	6,100
1971 India	25,000	91,000
1971 Iran	3,000	4,100
1973 Iraq	1,600	1,100
1974 Ecuador	675	990

These examples show that the policies, programmes and machinery for dealing with delinquency in urban areas should not automatically be used in rural areas. As I have already said, the vast majority of developing countries are pluralistic societies and this pluralism is usually more stressed in rural areas. In countries like Indonesia and India, it is represented by several hundred *ethnics* often very different in their values, needs and inherent institutions. Rather than trying to obliterate them they should be used as far as is feasible in the prevention and treatment of juvenile offenders. In this respect the *panchayats* may contribute usefully to both purposes. It has taken some countries almost a hundred years to evolve a national system of juvenile courts; in all probability it will take most of the developing countries no less whatever is the accelerated process of their

development, with results that are unlikely to be satisfactory in spite of the huge expense involved.

Obviously urban growth brings some advantages but also many disadvantages which seriously affect family and individual life and therefore juvenile delinquency. The flight from urban population centres is gaining momentum in some countries. Although the suburbs were initially relatively free of juvenile crime, they promptly started "producing" it, often in some of its most vicious forms. The semi-vacated urban areas become subject to vandalism, assaults and burglaries. In many cases the victims belong to the less privileged groups of society whose insecurity and lack of effective access to welfare assistance seems to run parallel to the urban exodus.

Since juveniles make up one-fifth of the world population, 45 percent in some developing countries, their sheer numerical impact on crime, particularly on violent crime, is manifest. As juvenile crime is not only conditioned by the population factor it has not decreased in the developed countries where the juvenile population has been steadily declining for years. Unless something is done for a better kind of development the same will probably happen in the developing countries whose populations will start declining from 1985 onwards according to well-established projections.

## 2. The Concept of Juvenile Delinquency

According to my analysis, the concept embraces: truancy, being beyond control, growing up in idleness, using obscene or common language, loitering, wandering in the streets or around railway yards, smoking, begging, vagrancy, being given to sexual irregularities or immoral acts or any other form of vice, "seeking night pleasure," patronizing public pool-rooms or similar places, running away from home, school absenteeism, violating any provincial statute, by-law or ordinance whether or not dealing with educational matters, being physically handicapped, maladjusted, unadjusted, retarded, neglected, abandoned or in need of care or assistance or victimized, displaying extravagant conduct, carrying a knife or

any other weapon, drinking, being in moral danger, behaving in any manner that may disturb society, etc. and committing a criminal offence.

Often these or similar acts or conditions are regarded as pre-delinquent, potentially delinquent, pre-offender or prone to delinquency. Yet no clear concept of what pre-delinquency is has ever been formulated. In the writer's opinion, the only valid one is the association with well-known criminals.

The image emerging is that of a liberal-industrial society in which values, norms and stereotypes are maintained for its benefit. For the last 20 years a post-industrial society has been replacing it, sometimes slowly and sometimes rapidly, the characteristics of which have been outlined by Western authors. It must be admitted that some of the characteristics assigned to it are seen in Western countries and it would be a pity if the professionals and policy-makers of the developing countries took them for granted as far as their countries are concerned.

The image of the juvenile created at the beginning of the century was promptly fostered by a psychology, psychiatry and sociology individually oriented which reached their peaks in the 30s and 40s particularly in the United States, Scandinavia, Germany and other Western countries. Their influence extended everywhere because the world was then politically and economically a Western dominated world; the transformation began immediately after the Second World War. Since then the term social change has been used to explain everything including juvenile delinquency. Yet from the very beginning there was an erroneous identification between social change and crisis. The first refers to changes in the world which is always changing in one way or another, while in the second the system of convictions belonging to previous generations gives way to a different state in which man remains without these convictions and yet for some time he is not able to build a new world (Ortega y Gasset, 1958). This is what is happening today and taking part in the rebuilding are a great number of young persons who, according to existing legislation, should be regarded as juvenile offenders.

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The phenomenon applies to the capitalist and Marxist world and still more to the so-called Third World.

The almost all-embracing concept of juvenile delinquency has been delimited by a system of age limits within which each person is assumed to lack maturity, discernment and a sense of social responsibility. In some cases the upper limit is 20 or 21 years of age and often those under it are divided into subgroups. All of them still defy a reasonable explanation. The analysis of the limits shows the influence of a variety of theories of psychological and physical development or simply imitative processes among professionals and policy-makers of the countries concerned. Consequently the upper age limit of 18 has been adopted by countries as different and even contradictory in their own characteristics, needs and aims as Sweden, Colombia, Austria, Mexico, France, Jordan, Turkey, Ghana, Yugoslavia, Malaysia, Iran, Switzerland and Thailand.

The crucial question is what has happened in the last second which marks the passing between the limit marking total lack of responsibility, maturity, discernment, etc. and the coming one which makes minors fully responsible? It may be argued that the limits established by law have a practical purpose but the truth is that responsibility or the lack of it cannot be decided *a priori* on such general bases. Responsibility should be individually as well as socially established, hence the need to apply the principle of individualization in every case whether of a juvenile or adult.

### 3. The Accompanying Main Operational Concepts

These are cause or factor, prediction, prevention and treatment. It is not my intention to go into a detailed analysis, this I have already done elsewhere (Lopez-Rey, 1970 and 1973). Suffice it to say that with respect to the concept of cause there is still a great deal of confusion with those of causation and causality. By cause is usually understood the immediate antecedent of something and as such it is multiple in the majority of cases. As antecedent it does not always lead to the same type of action and even

less of conduct. Causation refers to the process initiated by the impact of a variety of causes often unrelated, a process always varied and which initiates a trajectory towards a particular result. Even if the variables involved are the same—a relative term—the event resulting from causation is not always identical. This trajectory constitutes the causality which can seldom be clearly established. Incidentally this is not the material causality usually meant by criminal lawyers when they try to determine whether or not a specific crime should be imputed to a particular person or persons. The trilogy of environment, tendency and personality still so widely accepted in criminology is at best an over-simplification on which the writer admits he also relied many years ago. By itself personality cannot explain every aspect of human behaviour including crime which can be in clear contradiction or have little to do with the traits assigned to the personality of the offender. The usual escape is to assign the causal action to the environment or tendency but here again we meet serious difficulties when we try to establish what constitutes a tendency or the environment of a given person.

Certainly causes always exist but as far as human behaviour is concerned it cannot be handled in the same way as in natural sciences or in simplified psychological or sociological thesis and still less based on the results obtained by comparing human and animal behaviours in laboratory tests; this is still "scientifically" done by Eysenck and many others. In other words, cause, behaviour and action are related but they are different things. Of the three, action has been the main object of criminological research for the simple reason that it is the most easily determinable and therefore easier to investigate. Correctly it was said years ago that the attempt to elucidate the causes of crime, juvenile or not, should be put aside (Leon Rađzinowicz, 1961). As something more in accordance with the socio-political character of crime the conditioning factors of juvenile crime are power, development, inequality, human condition and the penal system (Lopez-Rey, 1973). In determining their role the concepts of

correlation, probability, risk and chance with the help of cybernetics will play a primary part in the immediate future but their use presupposes a concept of social penal justice which up to now has not been evolved (*ibidem*).

The foregoing leads to the conclusion that prediction tables and the like belong to a criminology which is embedded in a type of society which is rapidly fading.

*Mutatis mutandis* the same applies to treatment the aim of which is almost invariably the readaptation of the offender. Even when the term is not used the aim of readapting to conform with some fundamental values, norms and predicates is present. The fact is that treatment is more often than not regarded as functional in accordance with professional and scientific interests and approaches which, although relevant, are not the only ones to be considered. Like prevention and the concept of juvenile offender, that of treatment is historically conditioned and therefore not all the forms of treatment, most of which originated within the framework of the liberal-industrial society, are acceptable. The following question may clarify my reasoning: Do we sincerely think that many of the juveniles who more and more actively participate in the transformation of society or more modestly resist family or group pressures, should be regarded as delinquents because they run away, are promiscuous, refuse to submit to parental, educational or other demands, lead irregular lives or, without committing a criminal offence, are obviously hostile to some of the fundamental values or norms? Drug addiction, alcoholism and association with criminals should be treated without labelling minors as delinquents.

Welfare approaches are necessary but much too often welfare rights impinge on human rights. This raises the question of the limits of treatment which has not as yet been solved partly owing to the way in which rehabilitation is still conceived and partly because professionals frequently consider scientific methods justified in every case.

#### 4. The System

The almost unlimited content of the concept of juvenile delinquency as some-

thing apart from adult crime required a machinery which often exists only on paper or in a fragmentary way. The chief varieties of the machinery created were the juvenile or family courts and welfare boards. The main exception is Burma with its committees.

In India not all states have as yet promulgated Juvenile Acts in accordance with the Central Children's Act, 1960. In my repeated visits to the country I admired the efforts made to improve the situation but statistical and other data clearly show that the juvenile courts system has not as yet achieved national coverage. The same applies to Iran where years ago I pointed out that the Juvenile Delinquency Act, 1959, whatever the extent of its implementation, still operating only in the most important cities, would never yield the results expected. When I last visited Thailand only three courts had been created. Another has been added but the data available refer mostly to Bangkok. In Pakistan, what existed in the 1960s has been improved but none of the various Children's Acts has as yet been fully implemented. In Burma, after the introduction of the Socialist Administration System in 1972, the juvenile courts were replaced by the People's Judicial Affairs Committees the members of which are elected by popular vote. The data submitted to the 46th Course referred to Rangoon where in 1975 the number of juvenile offenders dealt with was 2,032; for the rest of the country the data showed only 387. The presentation paper on the Philippines contains data only for the metropolitan area with well over five million inhabitants; the number of juvenile offenders dealt with in 1976 was 6,417. In Singapore and Hong Kong the national coverage is effective and the same happens in Japan with the Family Courts, the activities of which are supplemented with an extensive system of rehabilitation in which voluntary participation plays an important part. Yet, in all three it is obvious that the problem of juvenile crime requires a new approach. In Nepal, legislation on juvenile offenders is under consideration.

In Latin America, the situation is not at all encouraging. Practically all countries have juvenile delinquency laws but as a



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rule juvenile courts exist only in the capitals or big cities: as example Bolivia, Chile, Peru, Ecuador, Guatemala, Mexico and Colombia may be cited. Professional staff and institutions devoted to the treatment of juveniles exist only in large urban areas. Like in many other countries usually judges or courts of ordinary jurisdiction deal with juveniles taking into account as much as possible the laws governing juvenile delinquency. In Brazil the situation has improved with the organization of *Funabem* a Federal Welfare Foundation which, through a series of agreements with the states, has expanded the care and assistance to minors.

In Africa, the juvenile courts and related services and institutions usually cover only limited areas. In Nigeria, Chad, Mauritania and Mali there were no juvenile courts at the beginning of the 1970s and it is unlikely that the situation has changed much since then. In other African countries the juvenile courts deal with offenders in the capitals but rarely in other urban areas. In the Middle East, Egypt introduced the juvenile courts system as far back as 1905. In Syria juvenile courts are generally presided over by common jurisdiction judges but minors benefit from special institutions when available. My personal impression in the 1960s was that those operating in Damascus, Hama and Aleppo were well organized. The situation was far less satisfactory in Lebanon and Jordan.

In spite of the efforts made, in most countries the machinery of juvenile courts is fragmentary. The reasons are many: lack of financial resources, faulty penal systems, the gap between urban and rural areas, narrow policies of development and perhaps above all, the prevailing political insecurity in most of the developing countries. With respect to the latter one must admit that even where dictatorship has ensured political stability there has seldom been an expansion of the juvenile courts system. Perhaps one of the reasons is that in some cases the rebellious attitude of juveniles, especially the students, has discouraged the imposed regimes considering them as lacking maturity. For once the leaders of such regimes were right.

### 5. The Validity of Theories and Policies

Very little remains to be said: most of the theories and policies reflect conceptions, ideas, values, norms and aims deeply rooted in a type of society which is rapidly fading even in some developing countries and will eventually fade in all others. The solution does not lie in repudiating everything that has been done but in trying to create a system which takes into account the peculiar characteristics, aims and planning of each country instead of transplanting "touched up" outside models, although these may be useful in some respects. It would be best to remember that most of the theories were evolved by professionals often eminent but mostly from the Western world which, whatever its economic, technical, scientific and industrial progress, is not the whole world. The thesis of juvenile delinquency as an expression of juvenile subculture or of broken homes and their companion deprivation of parental or maternal love, is more often than not taken from Western stereotypes. The mistake of the subcultural theory was evidenced when youth itself at the beginning of the 1950s took part in the process of transforming society by asking for a reconsideration of many values and norms revered, mostly externally, as fundamental. The *young recipient era* ended and by the 1960s had been replaced in some countries by one in which young people between 14 and 21 are socio-politically active. Yet anachronistically juvenile delinquency conceptions and corresponding laws are still regarding them as immature, maladjusted, etc. and above all not responsible. As for broken homes and lack of parental love, their supporters do not take into account that although homes and love are needed the crisis of the 1950s required a new approach to both; home and parental love stereotypes belong to the past. This does not mean that they should be thrown overboard as some pseudo radicals suggest curiously enough in some developed countries, but that psychologically, sociologically, etc. they should be understood in accordance with contemporary and future society. In fact it may be said that the greatest mistake was to consider home and

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parental love in urban and rural areas as more or less standard which professionally could be used everywhere and submitted scientifically to the same tests and methods.

Needless to say the situation is not the same in all developing countries which are the majority, but there is little doubt that sooner or later they will face the same serious problems if they persist in following the patterns and policies of others. It is in these countries that the power of youth will be more and more manifest for several decades to come. As in the developed countries, that power will often have a political and trans-political character even if exercised by juveniles. By trans-political is understood the use of means which are in themselves illegal and often violations of norms, in order to accomplish some particular end that is deemed of surpassing importance (R. Nisbet, 1975). Very few people will deny that trans-political methods are becoming more frequent among the young in developed and developing countries.

Each historical period tries to demolish the past and build up something totally different. The task can never succeed inasmuch as present and future are under the impact of the past. Yet it is obvious that some demolition is needed and that the juvenile delinquency area needs it to a considerable extent. Prevention and treatment should not be understood functionally, but historically, i.e. socio-politically. More specifically a new concept of welfare in general and of social welfare in particular should be elaborated. As a result the image of *child* applying to any person between 10 and 21 years of age will be abandoned.

### Concluding Remarks

(a) As a socio-political phenomenon, which means far more than the numerical aggregate of cases whether presented statistically or not, there is no solution of continuity between juvenile and adult crime;

(b) Crime may be conventional or unconventional. The main forms of the first are murder, bodily injury, rape, burglary and offences against property.

Of the second economic crimes, violation of international law, crimes committed under cover of an official position or as a sequel to patriotic, political or revolutionary action. In many countries unconventional crime is far more serious than conventional crime of which most of juvenile crime forms part;

(c) With national fluctuations, the dominant age group in conventional crime is between 10 and 40 years of age which, by decreasing participation in crime, may be divided into subgroups:

21-30  
17-21  
30-40  
14-17

In unconventional crime the main group is between 30 and 60 years of age and with national fluctuations may be subdivided as follows:

50-60  
40-50  
30-40

Consequently the current assertion that crime is concentrated in some of the subgroups of the first group takes into account only conventional crime which I repeat is not always that most serious even if it is the most important numerically. The division of the two groups reflects the different participation of their members in social, economic, administrative and political matters;

(d) Juvenile crime and juveniles in need of assistance and care should be dealt with separately. It is to the credit of the participants to the 46th Course that this point of view met with general consensus. This means that juvenile crime should be dealt with by the penal system dealing with adult crime, which does not mean that juveniles and adults would be treated in the same way. Individualization would be the rule. A new penal system is needed the main foundation of which is not *a priori* criminal responsibility but criminal individualization. In each country the law would determine the age separating children, in the strict sense, from any other person; and

(e) The transition from the present penal systems, in many countries either imposed or inherited, is not an easy task and above all demands a close relation-

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ship between national development and the planning of the prevention of crime and criminal justice in every country. This has been stressed by the United Nations since 1960. The correlation does not mean that prevention and criminal justice should be subordinated to development or that by development only economic growth is understood. The transition would be facilitated if, in the developing countries, instead of expanding the present juvenile and adult jurisdictions the appraisal of national reality and crime is initiated with a view to having their own penal systems the primary aim of which should be social justice.

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### NOTES

1. The lectures were part of the 46th Training Course on the Treatment of Juvenile Delinquents and Youth Offenders, Fuchu, Tokyo, April-July 1977, organized by the Government of Japan for the benefit of participants from 15 countries.
2. It would be interesting to know whether the Centre for Development Planning, Projections and Policies of the Department of Social Affairs of

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- the United Nations Secretariat has already taken into account the correlation here mentioned.
3. Among the participants were representatives from Ethiopia and Ecuador which explains the inclusion of the corresponding data. All figures are taken from United Nations publications and others mentioned in the selected bibliography and are in round numbers.
  4. The countries on which I have collected most of my data are: United Kingdom, Federal Republic of Germany, France, Scandinavian countries, Netherlands, United States, Guatemala, Colombia, Ecuador, Puerto Rico, Brazil, Venezuela, Egypt, Syria, Turkey, Iran, India, Thailand, Hong Kong, Japan, Kenya and Nigeria. Admittedly some of the data are not recent but in all probability the indexes then obtained are lower than at present, as the general situation in the countries concerned, particularly with respect to crime, juvenile or adult, has in most cases considerably deteriorated.
  5. For details on contributing factors to juvenile delinquency, see Manila: *The Face of Poverty*, by M.R. Hollensteiner and M. Elena Lopez in *Asia Urbanizing*, cited in the bibliography.
  6. See *The Seoul Phenomenon* by Chung Hyun Ro, *ibidem*.

## Japanese Rehabilitation Services and Community Involvement

by Zen Tokoi\*

### Social Changes and Rehabilitation Services

Our society is in a state of constant change. Crime is a product of the inter-relationship between individuals and society and is directly related to the direction, degree and speed of social change.

Those who work in the field of rehabilitation services treat offenders within the community. They should be sensitive to social changes in general and also to the environmental changes that such social changes bring about. A quarter of a century has passed since the establishment of rehabilitation services as a system in Japan. It is particularly important to make it clear to what extent social changes have affected environmental changes and how the rehabilitation services have responded to these changes. Let us examine this issue from four viewpoints, (1) economic, (2) social, (3) family structure, and (4) thought patterns.

#### 1. Changes in the Economy

Economic changes accompany the changes in the industrial structure. Rapid economic growth due to the progress of technology and technical innovation has remarkably affected the industrial structure, shifting the importance from primary to secondary and tertiary industries. However, a disparity in the productivity, wage scales and related employment conditions between large enterprises and small and medium enterprises continues to increase. In other words, our economy has grown without solving the problems of the dual structure of the industry.

I would like to note in particular the changes in the working conditions brought about by economic growth. Those who receive community treatment are often placed in a disadvantageous situation.

Since most offenders lack not only occupational knowledge or skills but also good working habits, a recognition of their own ability, and an ability to cooperate with others, they do not possess the basic characteristics needed for adequate job selection and career maintenance.

On the other hand, a rapid economic growth has resulted in an increase of employment opportunities and a widening of the range of available jobs in every sphere of industry. Our clients can find employment more easily now than they could in the past. Most available jobs, however, are either unstable or unskilled, for example, waiters, shop clerks, etc. These jobs belong to the unstable tertiary level and are found in the small or middle-sized enterprises which make up the lowest level of the dual structure of the economy. Furthermore, the increased employment opportunities have encouraged our clients to seek highly paid, easy job. They are no longer willing to remain in the same jobs. Although we have fewer problems in finding them employment, we now find it necessary to encourage them to continue in a given position and to be willing to work.

Japan is presently experiencing a recession which has brought about a change in the clients' attitude toward labor. They are now more interested in semi-skilled rather than unskilled employment. This change exhibits a tendency toward a qualification-oriented society, as opposed to a school-oriented society. To be specific, they desire to get "clean work" such as automobile driving or operation of machinery. In most cases, the clients tend to seek jobs thoughtlessly and prefer socially acceptable jobs regardless of their own aptitude, ability and patience. Whatever their motives may be, it is extremely important for us to develop their will to seek more skilled employment.

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## 2. Changes in Social Structure

Social changes have originated from the migration of laborers into urban areas, which was caused by the foregoing economic changes. Social changes, especially in the community, have occurred as a result of the migration of laborers into urban areas in search of employment. This migration has been haphazard and without any social planning. It has caused the under- and over-population phenomenon and the disruption of the traditionally cohesive community.

Such social phenomena as the increasing drifts of population and the growing urban way of life, together with the trend toward self-centeredness and pleasure-seeking due to economic prosperity, have weakened the influence of leading citizens in the community and have accelerated the disruption of traditional values, thus posing problems to those of us working in the community.

It should be noted that there is a growing sense of apprehension among residents about the disruption of the community. Their uneasiness is intensified by the solitude and tension of urban living. To alleviate these feelings, residents have launched movements to restore the community such as "Constructing the Pleasant Village," "Creating a Home-town for our Mind." They hold *Bon* festival dances and other festivals in collective housing areas. Also, there has been a so-called U-turn phenomenon of people trying to come back to rural areas from cities. But these attempts are minor ones and have not yet deterred the growing disruption of communities.

These social changes hinder us from assessing the actual situation of the communities where offenders are expected to rehabilitate themselves. Also, these changes make it more difficult for a client to clarify his own life plans and to predict the feasibility of his future plans.

Moreover, the offenders by nature tend to escape into the anonymity of mass society. The intensified drift of the population has accelerated this trend, causing offenders to move more often. This in turn has made it difficult to implement probationary supervision. Although the offenders who drift into urban areas may

enjoy freedom by escaping into the anonymity of cities, they have to constantly fight the temptation to return to a life of crime in their unstable environment brought about by over-population. Offenders who stay in a rural community from where people constantly move out have no choice but to be strongly conscious of the cold and critical glances of the remaining residents. They have to make efforts to rehabilitate themselves by enduring the hardship. In sum, both de-population and over-population are unsuitable for the rehabilitation of offenders.

There are two major ways to approach the change in the social environments. One is to improve the social environment directly surrounding an offender, such as his family, friends and working places, in order to remove its pernicious influences on him. The other is to improve wider social environments in the community as a whole so as to eradicate social conditions conducive to criminal activities.

The improvement and adjustment of the direct social environment include finding a residence and employment for an offender, giving assistance to his family, etc. These activities aim at excluding environmental conditions harmful to his independence and rehabilitation while at the same time creating the conditions which positively promote them. Our task is to mitigate the hostility of neighbors and victims toward an offender, to improve associations, adjust human relationship at school or work, and to mobilize social resources useful for his rehabilitation. In this age of rapid social change, we must recognize more fully the importance of environmental adjustment.

Traditionally, when we were involved in such community activities as data collection or environmental adjustment, we could, to some extent, attain our goals with the help of voluntary probation officers who were well-respected citizens in the traditional community. However, this method has been becoming more inadequate every year. Today, we must rely more heavily upon the positive involvement of professional probation officers. To date, there are 50 Probation Offices with 3 branches and 18 sub-branches. Probation officers go to the

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local areas more frequently. Officers attached to the Regional Parole Board have expanded their services to include interviews with inmates of correctional institutions and consultations with officials of these institutions.

### 3. Changes in Family Structure

In the past, an ordinary Japanese family was an extended lineal family of three generations, where a vertical hierarchy of authority based on the relationship of elder-youth, superior-inferior dominated. The family pattern has been in a gradual transition from the lineal to conjugal families. The pace of this change has been accelerated by the migration of laborers into urban areas. In response to the demand for labor, many extended families tried to move into large cities, but failed because of housing shortages and because the generations differed in their degree of attachment to their own community. Eventually, in most cases, the joint family was broken up and members settled in different places. Young laboring class couples with their children drifted into urban areas and aged couples were left behind in de-populated agricultural or fishing villages. Through this process, families were split into two nuclei, young and old couples.

Formation of nuclear families is by no means a pathological phenomenon, but the *rapid* nucleation of families in recent years is causing some pathological symptoms. These symptoms might be attributed to the fact that the trend toward nuclear families developed before the social services were not mature enough to take over the functions which joint families had fulfilled but smaller nuclear families were unable to.

One such pathological symptom can be observed in the confused child-rearing practices of young nuclear families. Earlier, I mentioned that traditional families were vertical composite families. Young families nowadays may be called horizontal and bilateral one-unit families where an idea of equality is apparent.

Here are some characteristics of the Japanese nuclear family.

First, the status and rights of wives have improved. The number of working

couples has increased. As a result, the so-called latch-key children are increasing and juvenile delinquency among them is common.

In the past, the rearing of children at every stage of their development was based upon experience of the aged within the joint family and on the wisdom of preceding generations. But in the nuclear family today, parents grope for the ways to bring up their children relying on the fragmentary information they acquire through the mass media. Because of diversification and changes in value orientation, parents have lost confidence in their child-rearing methods and have become emotionally unstable.

In a society where an academic background is emphasized, parents tend to overemphasize intellectual training and try to push their children into prestigious schools. Under these circumstances, the attitudes of parents are confused and inconsistent. It is natural that juvenile delinquency increases when these defects are apparent in the child-rearing within a family.

Now in Japan, where nuclear families are increasing in number, a growing trend has been observed in crime and delinquency by juveniles who come from relatively well-off families. Also, more delinquents tend to come from unbroken families. This symptom is due to over-protection or to neglect on the side of parents who are confused about the educational function of the family. In order to cope with the situation, we have to treat families as a whole. Accordingly, in addition to traditional treatment techniques which are essentially of social casework, we should use more positively the group work and family casework techniques.

### 4. Changes in Thought Patterns

Thought patterns have been affected in the greatest degree by the spread of mass media and the information explosion in society. These factors have brought about changes in value-orientations resulting in changes in thought structure. This process of change may be restated as a shift from a logical way of thinking based on the printed word to a way of





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thinking based on sensory images obtained through radio and especially T.V. This is a move toward a society in which the senses are more highly valued than logic and where people tend to respond automatically to information given by others.

Now, let us examine the symptom of confusion brought about by the explosion of information in our society. First, the selection of information items is based on their novelty and popularity usually prompted by commercialism. In the mass society, the receivers of information accept it as true and valid, and lack the ability for critical assessment of what is reported. Second, a flood of information tends to discourage people's motivation for achievement. As information increases, one feels more confident of his future. Thus, his level of motivation lowers and his willingness to accomplish decreases. In other words, there is an increase in the number of persons who tend to lose their drive because they look their future too brightly. There is a danger for them to become overly optimistic and to withdraw from reality.

The symptom of this kind is not limited to Japan, and may be said to be a worldwide phenomenon. Here, I would like to touch on the value changes pertinent to the Japanese society.

First, there has been a change from a vertical society to a horizontal one. This denotes the shift in the value system from the superior-inferior or upper-lower human relationship to one of equality with its attendant confusion.

Secondly, there has been a shift from a value standard based on the predominance of man over woman to that of equality between the sexes. As women's status improves, men's status declines relatively and confusion results.

Thirdly, there has been a transition from a poor society to an affluent one. The change in people's attitudes from patience and economy to pleasure and consumption has brought about confusion.

Thus, changes and diversification in the value-orientation have caused a variety of pathological symptoms. I believe, however, that it is important for us to be flexible in selecting necessary value standards for our better life by

looking squarely at both the different and the common features of these values with the premise that these changes are an inevitable part of the process of development of our society.

### Crime Prevention Activities

Crime prevention activities in the field of rehabilitation services are interrelated with those carried out by the police, but they are different in their contents, range and direction. Crime prevention activities by the police are directed to control the occurrence of crimes and fulfill the defensive function to prevent citizens from being victimized by the offenders. These activities are directly related to the interests of the community, and, therefore, are easily understood by the people as their direct concern. It is not difficult to mobilize community cooperation in this field.

In contrast, the aim of crime prevention activities in the field of rehabilitation services is to prevent crime by contributing to the building of a community which will help ex-offenders rehabilitate themselves and by adjusting social conditions. In order to attain this goal, we try to (1) enlighten and lead the public, (2) improve the social environment, and (3) aid activities of the residents in the community. Therefore, our activities are indirect. The people's interest lacks a sense of urgency. Moreover, real difficulties exist in getting the cooperation of people since their understanding of the importance of such activities is deeply related to their general attitudes and thought patterns of today as explained earlier.

Let me explain how we have carried out these crime prevention activities difficult to pursue under the present conditions. Although these activities have involved community organizations, I cannot but comment first that they are part of a government campaign initiated and sponsored by administrative organs and, secondly, that they are centered on certain events. The following examples will illustrate the situation.

Annually, in July, "the Movement for a Brighter Society" is implemented on a

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nationwide scale through which we try to deepen the understanding of the public and to seek their cooperation in the construction of a community free from crime. This movement is not spontaneous, but is carried out through the initiative of the Justice Ministry. The role of people in the movement is only to respond. We cannot ignore the fact that community residents who should essentially be the subjects of this movement remain the objects to be enlightened.

The second characteristic of these activities is that they consist of holding certain events. Some of the common events of "the Movement for a Brighter Society," including at the local level are: public case-study meetings, lecture meetings, conferences, round-table discussions, open contests for campaign slogans, parades with bands, films to enlighten people, etc. Although these events should be effective means of achieving the aims of the movement, too often they are actually engaged in for their own sake. These events do not necessarily meet the needs of the community residents.

It is desirable that these crime prevention activities be carried out by community residents themselves. To prevent ex-offenders from recommitting a crime, to assist in their rehabilitation and to prevent crime in general are problems of the community. Government officials should only offer expert advice. However, these crime prevention activities are influenced by the traditional government-oriented attitude of the Japanese people.

Now, let us examine the historical backgrounds of our crime prevention activities, and that of "the Movement for a Brighter Society," in particular.

This nationwide crime prevention movement which started in 1951 is carried out in the month of July every year.

The decade from 1951 to 1960 was an initial period immediately following the establishment of our rehabilitation system. It put emphasis on raising the morale of the persons involved. During this period we conducted a humanistic drive to enlighten the public. This drive was aided by Volunteer Probation Officers (VPOs) and VPO organizations, and we

attempted to strengthen Big Brothers and Sisters (BBS) organizations, Women's Association for Rehabilitation Aid, and sympathetic employers, and eventually to enlighten the public.

The second decade from 1961 to 1970 may be characterized as a period of development and professionalization of the rehabilitation services. The services were improved through the increase of the probation officers and the introduction of more scientific techniques. During this period, crime prevention activities moved from humanistic philanthropy of the initial stage to a more scientific community action. Along with the development of cooperative organizations, a move toward specialization emerged.

In 1961, "the Movement for a Brighter Society" was expanded under the auspices of the Justice Ministry to include in its main objectives the wholesome rearing of juveniles and crime prevention through assistance for the rehabilitation of offenders. In 1969, "strengthening solidarity in the community" was adopted as one of the major targets of this movement. Furthermore, the fact that the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Kyoto in 1970 recognized the principle of public participation in crime prevention activities reconfirmed our target of the movement and opened the way to the third period of our crime prevention activities.

The third period is from 1971 to the present. During this period, the emphasis of the movement has always been placed on how to strengthen the community cohesion and community feelings. To date, the movement has consistently stressed the importance of public participation and community involvement. This period may be called a community-oriented period.

Our crime prevention activities aim at adjusting social conditions so as to contribute to the prevention of crime and constructing a community which will better function for the sake of rehabilitation of offenders. To achieve this aim, voluntary participation of residents must exist. But as I have mentioned earlier relating to "the Movement for a

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Brighter Society, we have not been able to go further than just enlightening the community. We have to admit the fact that we have not been successful enough to grasp the feelings of community residents and to enlist their voluntary participation. Therefore, it is our pressing task to find a way to break through this situation.

### Human and Material Resources in the Community

The traditions and the special features of Japanese rehabilitation services lie in the wider use of community residents, and volunteers and voluntary organizations in particular. Before going into detail, I would like to state the reasons for this from two aspects.

The first is the historical reason. Our rehabilitation services were originated in 1880 by a volunteer with humanistic drives as ex-prisoners aid services. Since then, because prisoners aid services were found to be effective in preventing recidivism, the government gradually approved it. As a result of government's encouragement, a number of private rehabilitation aid organizations were set up throughout the country. These services steadily developed and built the base of our present rehabilitation services. This process was a gradual transition of our rehabilitation services from philanthropy to a part of our criminal justice system.

The second reason concerns the objective in the treatment of offenders. The aim of punishment is not to isolate them from the community but to rehabilitate them in a free society. To achieve this, it is necessary to reflect the ideas of the people in public policy, to involve the community in the implementation of the policy and make the community understand its significance and to develop crime preventive measures with cooperative efforts of the government and the people.

For these reasons, rehabilitation services in Japan were established and have been administered by mobilizing a variety of human and material resources in the community. In this age of con-

stant social change, the public participation in rehabilitation services has become more vital. There is a pressing need for more appropriate government advice regarding the public involvement.

I would like to state here the roles and present situations of the human resources which have taken root in Japanese rehabilitation services: Volunteer Probation Officers (VPO), Big Brothers and Sisters (BBS), Women's Associations for Rehabilitation Aid, and sympathetic employers.

#### 1. Volunteer Probation Officers

Volunteer Probation Officers are volunteers who are selected from among community residents. They assist the rehabilitation of offenders through probationary supervision and through environmental adjustment of places to which offenders will return. They also carry out crime prevention activities to reduce crime in the community. Officially speaking, however, VPOs are part-time civil servants because their duties are directly related to the implementation of the state criminal policy. VPOs are not paid for their work, but actual expenses they have incurred in carrying out their tasks are reimbursed within a certain limit by the state.

The following points show the unique characteristics of the VPO system in Japan as compared with voluntary organizations in other countries. VPOs in Japan exist on a nation-wide scale. The number of VPOs is as much as 50,000. Furthermore, their status and tasks have a strong governmental character with legal guarantees. It should be noted that probationary supervision in Japan is implemented by the cooperative efforts of professional probation officers (PPO) who are specialists and VPOs who assist them. This does not mean, however, that VPOs are assistants to cover the shortage of 789 professional probation officers. VPOs are expected in their services toward clients to utilize their influences and experiences acquired through unofficial activities in local communities so as to alleviate the bureaucratic rigidity which tends to hinder PPOs' functions in the community. In

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reality, however, due to the definite shortage of the number of PPOs and widespread jurisdictions of local probation offices, we have to entrust to VPOs most of field services which should originally be done by PPOs.

It is well-known that VPOs contribute a great deal to the implementation of our rehabilitation services. But over-reliance on VPOs' services will undermine PPOs' leadership in treating offenders, and as a result may possibly decrease the state responsibility to enforce the laws. In order to improve the situation, we have prompted various programs. Some of them are: more intensive treatment by PPOs, the differentiated treatment program in which clients are classified depending upon their needs, and PPOs and VPOs assume differentiated roles to treat them more effectively.

Along with changes in our society at large, the VPO system itself has faced several problems. The major problems are as follows. First, due to the disorganization of the community, the unofficial and local nature of the VPOs which made them valuable is changing. Secondly, VPOs are gradually getting older and it became more difficult to recruit middle-aged VPOs, resulting in the wider generation gaps between VPOs and young offenders. A recent survey revealed that 55 percent of VPOs are over 60 years old while only 16 percent are under 50. Thirdly, the rotation of new and old VPOs has not been smooth enough. The number of VPOs holding their positions for a longer time is increasing. Although there may be merits in their accumulation of experiences, the position of a VPO tends to become more honorary, thus losing his initiative or flexibility as a volunteer.

Regardless of these criticisms of VPOs, we believe that they are valuable human resources for the future, and that we have to continue to utilize VPOs with increased efforts to resolve the above problems facing the VPO system.

### 2. Associations for Rehabilitation Aid

Associations for Rehabilitation Aid are voluntary organizations approved by the Minister of Justice as stipulated in the

law. The associations can be divided into two categories by the tasks they perform: (a) Rehabilitation Aid Hostels, and (b) Rehabilitation Services Promotion Associations.

#### (a) Rehabilitation Aid Hostels

Rehabilitation Aid Hostels offer accommodations to probationers, parolees, offenders released from prisons on the termination of their sentences, or those granted suspended sentence or suspended prosecution, who are unable to receive assistance from their relatives or public welfare services. Such individuals are accommodated in these hostels with or without recommendations of the directors of probation offices. During their stay in the hostels, they are provided with meals, and are assisted in obtaining education, training, medical care, recreation, jobs, material aid, and environmental improvement and adjustment services. At present, 105 hostels with a total of 2,936 beds are providing these services. Residents in most hostels commute to their jobs in the community and earn their living and prepare for their future. Some of the hostels have workshops to provide vocational guidance, to give work, or to defray the management costs of the hostels.

The Rehabilitation Aid Hostels, some of which have been in existence for almost a century, have made an outstanding contribution to the rehabilitation of offenders, even of those with a high risk of recidivism and serious problems in adjusting to social life. Of offenders released from prisons in 1975, 23.4 percent of the parolees and 17.8 percent of prisoners who terminated their sentences were accommodated in the hostels. Altogether, 21 percent of all released offenders used hostels.

Rehabilitation Aid Hostels, however, presently face the following problems.

(i) Because most of the hostels were established by enthusiastic volunteers, their economic base is fragile and they face financial difficulties.

(ii) Increased employment opportunities and improved social welfare services brought about by economic growth have decreased their traditional roles of providing employment assistance and temporary urgent protection for the

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offender. The number of residents has been on a gradual decrease.

(iii) Salary scales of the staff members of the hostels are relatively low despite the difficult tasks they have to perform. As a result, it has become harder to recruit competent workers.

In the recent deliberations on the revision of the Penal Code and the Juvenile Law, the necessity to strengthen the functions of the halfway houses has been stressed. In order to come up to the expectation, the following measures have been proposed:

(i) To reorganize and unite the smaller hostels so as to strengthen their financial base and increase their managerial efficiency;

(ii) To utilize hostels as halfway houses; to give an orientation course to parolees which will prepare them for social life in the crucial period immediately after their release; and to give intensive group work to small groups of offenders in need of living guidance;

(iii) To use the hostels in offering group training to the rapidly increasing number of traffic offenders placed on probation;

(iv) To use hostels as PPOs' day-offices where PPOs interview their clients, clients' families, and volunteers; and

(v) To increase subsidies by the government.

We have no state-run facilities of this kind. Some experts advocate the need for state-run, community-based institutions. This may not be necessary, however, if the present private Rehabilitation Aid Hostels function up to our expectations.

### (b) Rehabilitation Services Promotion Associations

These associations are private liaison organizations designed to guide and assist a variety of volunteers involved in our rehabilitation services so that they may function well. These associations receive subsidies from local governments, and raise funds through member dues, allotments from the community chest and donations from citizens. With these funds, they give financial aid to the Rehabilitation Aid Hostels, BBS Associations, and Women's Associations for Rehabilitation Aid. They also assist

VPO organizations, by training VPOs and other related volunteers, by their crime prevention activities, by research projects on rehabilitation services and by spreading the philosophy of rehabilitation services. There are presently 58 active associations working on both prefectural and national levels.

### 3. Big Brothers and Sisters Associations

BBS Associations, which are groups of youthful volunteers devoted to the sound growth of children, play an important role in assisting the rehabilitation of juvenile delinquents by befriending them and by becoming their consultants as their big brother or sister figures. They also carry out crime prevention activities in their own communities. This movement was introduced by university students in 1947, and thereafter has spread throughout the country with about 8,000 youths participating at present.

The BBS Associations tend to lack stability as organizations because they are organized by youths and have frequent turnovers of membership. However, they assume important roles in bridging the generation gaps between VPOs and youthful offenders. We highly value the self-sacrificing activities of these altruistic young people in an age when egotism prevails among youth in general. We recognize the usefulness of their voluntary activities and presently try to upgrade them as valuable human resources for our services in the future.

### 4. Women's Associations for Rehabilitation Aid

These associations are groups of women volunteers who aim at cooperating with us in the rehabilitation of offenders and crime prevention activities from a standpoint of mothers and women. Their service areas are: giving assistance to activities of VPOs and BBS Associations; visitation of correctional institutions and assistance to inmates' families; assistance in enlisting more public support for the rehabilitation services; visiting Rehabilitation Aid Hostels to encourage residents, give parties, and do sewing services to mend residents' clothes and bedclothes.

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There are presently as many as 250,000 members throughout the country. Considering their large number, we value their potentials as indispensable human resources in rehabilitation services. We expect the further development of the associations through the refinement of their organizations and the utilization of their potentials.

### 5. Sympathetic Employers

Sympathetic employers are cooperative employers who run their own business and volunteer to employ probationers and parolees for the sake of their rehabilitation without discriminating them from non-criminal employees in terms of working conditions.

Although offenders presently have wider employment opportunities, they still suffer disadvantages because of their criminal records. Even if they may be employed, they often fail to establish posi-

tive human relationship in their jobs and frequently change their employment. Under these circumstances, cooperation of sympathetic employers is highly valuable.

Sympathetic employers are not organized on a nationwide scale and, frankly speaking, most of them run small or medium-sized enterprises. They tend to be unable to employ offenders in periods of economic recession when offenders have more difficulties in finding jobs, and they can offer more during periods of prosperity when general employment opportunities also increase. In another word, offenders' needs and sympathetic employers' ability to offer work do not coincide. There are about 3,500 such employers throughout the country. We intend to further develop human resources in this area since placement of offenders in appropriate jobs is vital for their self-reliance and ultimate rehabilitation.

## SECTION 2: PARTICIPANTS' PAPERS

**Juvenile Delinquents and Youthful Offenders in Burma***by U Nyan Lynn\****Introduction**

In the Socialist Republic of the Union of Burma, Socialist Society is being launched on the basis of the socialist economic system. In order to achieve the socialist goal, it is necessary that the youths of the country are organized systematically and trained properly.

The character of youth is developed according to the environment. A youth is born essentially good, but his environment may turn him into a delinquent. It is, therefore, important to protect the good as well as to take early steps to help delinquents and to correct youthful offenders.

**Extent and Gravity of Juvenile Delinquency****1. Rising Tide of Juvenile Delinquency**

Comparatively speaking, Burma is in a much better position in crime index than other developed countries, but there is a definite upward trend in the volume of crime committed by a young generation especially in the urban areas. This phenomenon can be traced as far back as 1930, when the then British colonial administration had to promulgate the Young Offenders Act which reflected the magnitude of juvenile offences at that time. In the pre-war days, however, the incidence may have been considered not so grave. In the late 1950's, the people, especially of big towns like Rangoon, were amazed to realize that a number of young gangs called "Road Devils" had already been in existence. Unfortunately, the wave of this evil has not been prevented, but growing year after year.

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Statistically, the number of the juvenile offenders sent to the courts was 1,400 in 1960 and 1,548 in 1972. It rose to 1,966 in 1974 and 2,419 in 1975. The incidence of juvenile offences per 100,000 of the population in the juvenile age group, that is from six to 18 years, was 24.1 in 1964, but rose to 30 in 1976.

**2. Urban Phenomenon**

Juvenile delinquency in Burma is mainly an urban phenomenon. The incidence of juvenile offenders in rural areas is comparatively low. Like in many other developing countries, cities have grown enormously without a concomitant growth of industrialization. There is a general lack of secondary industries to provide wealth for the cities and employment for rural migrants. Rural backwardness has thus been merely transferred to the cities, and the result has been a gross intensification of problems of sanitation, hygiene, housing, education, and social welfare. The rapid growth of urban society and a large number of social problems contribute to the increase of a certain type of crime and delinquency.

Figures of juvenile offenders brought before courts show that the incidence of offences is much greater in the city of Rangoon, which is the largest and the capital of Burma, than in other towns of medium and small size. In 1974, the number of juvenile offenders brought before the People's Courts in Rangoon was 1,553 while the number of those brought before all other courts was 413 only. In 1975, the numbers were 2,032 and 387, respectively.

**3. Variation by Sex**

Like everywhere else, offences committed by girls are found to be negligible in comparison with those committed by boys in Burma. In 1972, out of the total



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number of 1,594 juvenile offenders brought before courts throughout the country, only 79 were girls. The number of girl offenders was 114 out of 1,966 in 1973, 140 out of 2,419 in 1974, and 103 out of 1,554 in 1975.

The reason for the small number of delinquent girls may be that girls are much more sheltered and cared for than boys. However, girls are more frequently found embroiled in sex crimes. After the break with family they are often exploited for their sex. Some, neglected at home or running away, fall into the hands of procurers. Others are lured away or seduced, and later led to prostitution. A third category, smaller in number, may be taken to prostitution by unscrupulous guardians. Voluntary homes and governmental institutions for delinquent girls frequently report cases where an initial error of a delinquent in allowing herself to be seduced led to unwanted pregnancy, which forced her to resort to drug or illegal abortion or commit infanticide.

#### 4. Special Crime Situation

The crime situation in Burma may be different from other countries. According to the statistics available from the People's Courts of Rangoon, 44.5 percent of the juvenile offenders brought to the courts over the three-year period from 1973 to 1975 were for offences under the Burma Railway Act. Such offences include travelling by train without ticket and selling tickets and seats illegally in the black market. Since the service of the Burma Railways is poor, trains are always overcrowded and many people have to travel without getting seats. Children tend to travel by train from place to place, without any definite purpose but for enjoyment. In trains they get an opportunity of meeting with delinquents and turning out to be delinquents themselves. Many juvenile delinquents in Rangoon are also taking shelter at railway stations. Though the offences against the Railway Act are trivial in nature, the majority of children convicted under the Act are supposed to have committed some other more serious offences like stealing, pick-pocketing, looting, etc. It is to be noted that the police are not active in the arrest of

young violators of the Burma Railway Act for various reasons such as the lack of suitable detaining facilities for juvenile offenders.

### Legislation for the Treatment of Juvenile Offenders

#### 1. Court Procedure

Under the Socialist Administrative System in Burma, committees of people's justices, members of which are elected by the citizens, serve as people's courts. There is such a committee at each level of township, division, and state, and the Central Committee of People's Justices is at the final and highest level. The people's courts at township level consider the cases of juvenile offenders with the technical assistance of judicial officers and legal advisers.

The Children Act of 1955 regulates the treatment of juvenile delinquents, acknowledging that welfare of the children and that of the nation are closely bound together. The primary objects of the law are to guarantee the sound upbringing of juveniles, to make protective disposition necessary for the reformation and social adjustment of delinquents, and to take special measures in criminal proceedings against persons who are harmful to the welfare of juveniles.

In the people's courts, every effort is made to create an appropriate atmosphere for the welfare of children. While the children need to acknowledge and accept the authority of the courts, the atmosphere of the courts should be such that the children feel at ease with a sense of trust that the right thing would be done for them. The primary purposes of the courts are to protect the juvenile offender and to correct his anti-social behaviour.

#### 2. Probation

Probation is defined as the conditional suspension of punishment while the offender is placed under personal supervision of a probation officer and is given individual guidance or treatment. The most important element is that the

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offender is provided with the opportunity to lead a normal life in the community. But the development of probation services in Burma is still in the initial stage and the need for the properly trained personnel seems to be one of the major problems. There are only nine probation officers, six of whom are attached to the Rangoon Divisional Social Welfare Office to attend the people's court. They lack specialized training, and have to deal with pre-trial investigation cases as many as 300 per officer in a year. As a consequence, most of the probation officers' time has to be devoted to case investigation rather than to supervisory treatment. Furthermore, the courts seldom place the juvenile offenders on probation. However, considering the limited financial resources for the establishment of more correctional institutions, the probation service should be expanded as the less expensive mode of treating offenders.

### 3. Institutional Care

Institutional treatment has been used as a primary method of rehabilitating juvenile offenders over a long period of time and is still generally accepted as an important measure. It is clear that there are certain juvenile offenders who can be treated only in a correctional institution. Such treatment, however, should be integrated in the programme of preventive and treatment services for social adjustment of children. In addition, institutional treatments should be educative, protective, rehabilitative, and productive, rather than punitive.

In Burma there are five institutions, four for boys and one for girls, operated by the government, with a capacity of 450 boys and 100 girls. They are kept at least for six months or until the age of 18. In addition, there is a bigger institution formerly known as Borstal Institution, which admits only boys over the age of 14 years who should not be detained in other institutions because of their unruliness. Children in institutions are basically given academic education, especially of primary level, and vocational training in such trades as carpentry, tailoring, printing, book-binding, blacksmithing, cane work, and bamboo work,

but there is no vocational guidance. Religious instructions are imparted according to the background of the juveniles.

An insufficient number of institutions and trained personnel is a serious problem. The need for a separate remand home for untried juveniles is also keenly felt.

### 4. Aftercare

Release of a juvenile from an institution is granted by the people's court or the principal of the institution. The release is determined by the term of commitment, individual conduct in the institution and social factors including home circumstances. Aftercare service of juvenile does not exist in Burma. But some effort is made, at the time of release, to find suitable employment for juveniles by the authority concerned.

## Etiology of Juvenile Delinquency and Preventive Measures

### 1. Family Life

It is observed that lack of parental control, incompetent parents, broken homes and earning mothers often contribute to juvenile delinquency. The high incidence of crime and delinquency in towns and cities of new industrial growth is related to the disruption of the traditional family system and consequent weakening of family authority and control over individual members. Therefore, improvement of family life has always been considered one of the most effective ways of preventing juvenile delinquency.

Among the various family welfare services in education, housing, child bringing and other matters, a special emphasis is given in Burma to social education of parents and pre-school education of children. Those programmes should be carried out by the Social Welfare Department in cooperation with local community organizations and local maternity and child welfare organizations. At the present time, the maternity and child welfare organizations are working actively and fairly effectively in family welfare. These organizations are staffed and led mainly by many educated

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and respectful ladies of high social status with knowledge in social education and pre-school education. Their work has been widely recognized and appreciated both by the government and by the community.

Social education is directed for the education of parents to improve their competency in recognizing symptoms of maladjustment and to supervise the activities of their children. The care of the child depends to a considerable extent on how the mother is prepared for her responsibilities. Facilities for the education of mothers in personal and social hygiene, health and sanitation, home-craft, family nutrition, family relationship and domestic budgeting need to be developed. The whole programme of social education should be harnessed in the interest of the child and the family.

Provision of primary and secondary education is an important part of government responsibility. However, more important is pre-school education of children which forms the basis of all later educational plans. During the pre-school age the foundation of the entire personality structure is laid. The disadvantaged children whose cognitive abilities have not been fully developed in family are usually unable to meet the challenge of school and to take full advantage of the educational facilities offered at a later stage. Attempts to reduce inequalities in educational opportunities must, therefore, begin early if they are to have any impact. The Social Welfare Department is running some day-care center and pre-primary schools, but they are limited and priority is given to those families both of whose parents are working.

### 2. Urbanization and Community Life

Although it is difficult to establish a definite causal relationship between urbanization and delinquency, the incidence of crime and delinquency in urban areas is found to be higher than in rural areas in many countries. But industrialization and urbanization are both inevitable and welcome in developing countries, and juvenile delinquency appears to be inescapable prices such

countries must be prepared to pay.

Harmonious and cooperative community life has generally been a feature of Burmese society. But educational, cultural, commercial, and industrial development has changed the character of community life. Cooperative communities gradually have been broken up into various competitive groups. Cities, dominated by Western influences, harbour a highly complex cosmopolitan population with different life styles. The well-to-do, the middle class, the working poor, the destitute and the beggar live together according to their sharply different modes of life. Under the circumstances, the development of self-help organizations seems to offer the major hope of reuniting people. The objective of community organization is to help families and individuals residing in a particular locality to live according to principles of good neighbourliness, cooperation, and profitable social participation. Slum location must be given priority in the development of community organization. In addition, community development policies should take the prevention of juvenile delinquency into account.

In the community development programme, a special effort must be made to provide adequate recreational facilities in the community. Every community should have playgrounds, municipal parks, and community center with a space for indoor recreational, educational, and cultural activities. Communities should take a special interest in the welfare of children and provide special facilities for children in community centers.

Youth can make a useful contribution to the welfare of their neighbourhoods. Their spirit of adventure must be given scope to express itself in activities for community service. Activities within the community develop their potentiality for leadership and shouldering of responsibility. There is also a need for youth counselling services in urban areas to help them solve difficult problems of work, marriage, and family life.

### 3. School Education and Employment Service

In Burma today, schooling facilities

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are inadequate both in quality and in quantity. Trained teachers are scarce, school buildings are not properly maintained, classes are overcrowded and text materials are in short supply. In many schools, particularly in primary schools, each child is not given individual attention, because the class usually consists of 60 to 70 children. A further negative aspect of education in Burma is the two-shift system operating in many schools, especially in big cities. This system, instituted because of the enormous increase in the number of children enrolled, creates a new problem for children how to use their free time.

Although enrollment has been rising rapidly since the independence, there are still many children who are out of schools. The children enrolled in schools in 1974-1975 occupied 87.5 percent of their population in the relevant age group in primary classes (age 6-11), 19.8 percent in middle classes (age 12-15), and 5.5 percent in higher classes (age 16-17). The government has increased the number of schools from 13,789 to 19,102 and that of teachers from 48,988 to 89,662 in the last 10 years. This rate of expansion should continue in order to reduce the size of classes and to improve the quality of teaching.

However, the expansion of educational facilities is not sufficient to solve the problem. In this connection, it must be emphasized that the basic objective of school education is to prepare children for their contribution to society. While academic teaching is important, more weight should be given to occupational training and other measures designed for facilitating meaningful employment of children after graduation.

A great number of children who are out of school are out of jobs as well. Like in other developing countries, the question of unemployed youth is clearly one of great proportions. It is difficult and in some cases impossible to supply sufficient job opportunities to the youths, particularly those migrating from rural areas. From among those unemployed are recruited growing armies of stall-holders, pedlars, beggars, and petty thieves.

In Burma, out of 208,886 persons who registered with the Employment Ex-

change Department in 1974-1975, only 35,406 (12%) obtained jobs. It is believed that the proportion of those who registered is small as compared to the actual number of those who are seeking jobs. In nearly every developing country, unemployment is staggeringly high in the younger age group and it is observed even among the educated. One of the reasons is that many young people seek white-collar jobs which give a higher salary as well as higher status in society. This tendency distorts the educational system in placing too much emphasis on examinations and higher schooling and neglecting education in a more fundamental sense. The primary school, for example, is devoted to preparing pupils not for farming or trade, which is the occupation of most of those leaving the school, but for secondary education. The secondary school or junior high school prepares its students for school leaving examination and university entrance.

Moreover, young people face great difficulties in finding employment because those under the age of 18 are not allowed to be registered at the Employment Exchange Department and therefore they do not get the chance to work legally in establishments like offices, departments, shops, factories, etc. Young people, who are out of schools and out of jobs, with nothing to do most of their time, undoubtedly become frustrated and rebellious against the society. Many turn out to be delinquent. If the minimum age of employment were to be reduced from 18 to 16 years, it might be expected that the incidence of the offences committed by this age group will decrease to a considerable extent. According to the government report, over 80 percent of our young people of middle school age are out of schools and they have no opportunity to get wage-paid jobs. It may be true that most of them live in rural areas and work with their parents in farming or other works, but a great number of them are in urban areas where self-employment is scarce. They are more or less exposed to the danger of being delinquent.

In spite of the fact that Burma is primarily an agricultural country, educa-

## JUVENILE DELINQUENCY: BURMA

tion and training in agriculture are marked by unclear objectives. The vast majority of farmers have not had adequate theoretical and practical training. It is suggested that agricultural service units should be introduced in schools to provide physical facilities for teaching agricultural science at middle and higher

classes of basic education. Model farms should also be established in schools to provide training in needed skills on a scientific basis. They should be available to young people who have dropped out at middle and higher classes and need further training in farm operation for employment.

## Juvenile Delinquency in Hong Kong

by *Ka chi Kwok\**

### Juvenile Delinquency

According to the Juvenile Offenders Ordinance of Hong Kong, youthful offenders are those who are below the age of 16. The Crime Report prepared by the Royal Hong Kong Police Force in 1976 revealed that the number of youthful offenders prosecuted was 1,429, while the number of offenders between the age of 16 and 20 was 5,392 and that of those of the age of over 20 was 15,539 in total.

In working with youthful offenders, one has to find out under what circumstances an individual becomes an offender and what are the causes that may be accounted for his behaviour. In Hong Kong context, the followings are main contributing factors towards youthful offences.

(a) The increase in population which composed of different social economic strata: This is particularly true in those highly populated public housing estates which are further complicated by its poor physical environment and overcrowdedness. The unhealthy neighbourhood and the overcrowded housing condition are not only considered to be the major causes of crime but also have become great obstacles causing great difficulties throughout the process of social rehabilitation.

(b) The lack of legitimate channel or opportunity to achieve one's expectation or social goal: It is especially true among the lower socio-economic class youth living in public housing estates. Owing to the great competition and lack of adequate skills and training to achieve their unrealistic expectation or social goals, they may resort to the means of illegitimacy by violating the social norms.

(c) The lack of healthy recreation

outlet for the youths: For lack of healthy recreation and socially acceptable outlets, the youths in an overcrowded town naturally have more opportunities to come into contact with street corner gangs and undesirable characters and thus engaged in illegal activities. The social enquiry records prepared by the probation officers revealed that the youths were led to participate in illegal society activities mostly by the lack of healthy recreation outlets and effective parental guidance and control.

(d) The decline of social control: The breakdown of traditional social controls may have great consequences upon the behaviour of the individuals, especially the youths. Subjected to the rapid urbanization process especially in the transitional period, they have no clear conduct norms or primary group solidarity. Such a phenomenon can be well explained by the well discussed issue of "Generation Gap" existing between the older and the younger generations. From our experience of working with youthful offenders, we are not surprised to find that there is always a relationship problem between the two generations and it has always proved to be a hindrance towards their rehabilitation.

It should be noted that no single psychological or sociological factor will inevitably produce criminality. An individual becomes an offender as the result of the interplay between his inherited characteristics and the life situation into which he is born and in which he grows. In other words, there must be something wrong all through his socialization process. He becomes an offender as a result of unsuccessful socialization.

### Measures of Prevention

The increase in juvenile delinquency and crimes committed by young people

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## JUVENILE DELINQUENCY: HONG KONG

in recent years has stimulated the Government of Hong Kong into trying not only to find out what tends to lead young people to such behaviour, but also to break new grounds in guiding them and their parents, and to bring about changes and improvements in social provisions in order to meet this threat to the well-being of our future generation.

The emphasis is laid on the preventive youth work, which embodies youth guidance projects, play-leadership schemes, detached work programmes and school social work. All these preventive youth work programmes are being taken up both by the Government and the voluntary sector. The voluntary agencies, with the support of the Government both in financial and in other aspects, play a significant role in the field of crime prevention. Youth guidance scheme is geared towards those youth between 11 to 15 years, especially the age group between 12 and 14 who have completed primary education at the age of 12, but cannot continue their secondary education for various reasons like academic and financial. They cannot work in industrial undertakings because the minimum age for industrial undertaking is 14. The project offers them guidance in the preparation of employment and better use of leisure and counselling services to the individuals.

Parks and playgrounds are black spots for unlawful activities. Play-leaders are stationed at parks and playgrounds to ensure that the facilities are well utilised and the equipments are better used. Through ball games and various activities conducted in parks and playgrounds, the play-leaders get in contact with potential delinquents in order to win them over from participating in unlawful activities. The main characteristic of this approach is informality. There are no membership requirements and organisation and supervision are minimal. Participants are allowed a high degree of freedom. Play-leadership affords young people who frequent parks and playgrounds an opportunity to bring their personal and family problems to the play-leader once a more intimate relationship has been established.

Youth services have to be brought to where the youths are. There are some

youths who do not like to participate in activities organized by youth centres as they consider they are not suitable for them. Detached workers work at street corners or tea houses to get in contact with those youths who have behavioural problems and to give timely advice and counselling to help them from committing unlawful activities. It is in fact an "on-the-street" approach. The detached worker, who is a social worker, aims to identify natural groups of young people, to be acquainted with the group and to modify their behaviour and attitude through various methods of counselling.

Social workers are sent to work in school settings with those who are identified to have behavioural problems and those with difficulties in school work. Poor performance in school often indicates family or emotional problems rather than academic aptitude. These problems discourage children from studying and cause them to drop out from school, thus increasing their exposure to delinquent influences. The aim of school social work is both preventive and remedial: it tries to detect anti-social or quasi-criminal tendencies in students and to prevent them from being influenced by criminal activities or joining gangs. The school social worker encourages students to talk about and identify their problems of behaviour and family relationship and advises them how to overcome those problems. It is believed that the earlier the service is rendered to the student and his related persons concerned, the better the chance of his being rehabilitated will be.

Apart from focussing on preventive youth work, the Government is also embarking on housing redevelopment programmes to have the old housing estates redeveloped so as to provide a better living environment to residents.

Basic social and recreation facilities are provided within the estates, educational programmes are conducted to promote good neighbourliness, and residents are encouraged to form among themselves mutual aid committees to shoulder the managerial responsibilities and to take part in fight-violent-crime campaigns and anti-drug campaigns.

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Family life education is much encouraged to enable family members to have a better understanding of their respective roles in the family. It ought to be stressed here that the voluntary organizations take a very significant part in the promotion of educational programmes by offering both financial and manpower support.

### **The Role of Social Welfare Department in the Treatment of Youthful Offenders**

The Probation and Corrections Division of the Department of Social Welfare provides services in the form of probation, correctional institutions and after-care services to offenders who are referred by the courts for care and rehabilitation.

Probation is used by the courts to place an offender at liberty under the supervision of a probation officer for a period of one to three years. The probation service is statutorily governed by the Probation of Offenders Ordinance under which the Principal Probation Officer and probation officers are gazetted. Probation officers are attached to all levels of the court and probation orders are usually made after the court has considered carefully the circumstances leading to an offence, the nature of the offence, and the character of the offender. As of 31-st December, 1976, there are altogether 11 probation offices commanding a staff of 54 probation officers and seven senior probation officers. The duties of probation officers are to assist and guide probationers to become useful and law-abiding members of the community by exercising their professional skills and knowledge of local resources to meet the practical needs of probationers for financial assistance, employment, schooling, etc. Family counselling is also rendered to the probationer's family to achieve total rehabilitation. Another important aspect of probation officers' work is to conduct social enquiries at the direction of the courts to obtain information relating to the circumstances and home surroundings of an offender for the purpose of determining or reviewing sentences.

Community support and involvement are essential to the rehabilitation of offenders. The Volunteer Scheme for Probationers has in this light been launched to match a small number of probation cases with volunteers who are to give personal and moral support to the delinquents. The Service also maintains close relationship with other government departments and voluntary agencies for assistance and support.

The Probation and Corrections Division operates five correctional institutions for different age groups, four for boys and one for girls, with a total accommodation for 590 juveniles. These are: the Castle Peak and O Pui Shan Boys' Homes which are reformatory schools for boys; the Begonia Road Boys' Home which is a combination of a remand home, probation home, place of detention and place of refuge; the Ma Tau Wei Girls' Home which provides similar facilities for girls; and the Kwun Tong Hostel where residents go out to work in the daytime and return to the Hostel after work.

Training programmes in the institutions are tailored to the needs of the residents. They normally feature:

(a) School and trade training during the day—classroom teaching to instil in the residents the incentive to learn and trade training to inculcate good working habits;

(b) Recreational and creative training during leisure time—organized and free activities such as ball and group games, community service projects, music, drama and arts for residents to learn to cooperate and communicate with their peers and to develop a sense of self-worth and self-respect;

(c) Group living experience during the evening—basically a kind of social training, a re-socialisation process leading to growth and development;

(d) Casework and group counselling—caseworkers in the institutions design their treatment programmes, including case and group counselling, according to the needs of each individual resident, whilst also enlisting the support of his family.

Under the provisions of the Industrial and Reformatory Schools Ordinance, a boy at a reformatory school may be



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released on licence when he is considered fit for discharge subject to supervision by an aftercare officer for the remaining period of the school order or when the boy reaches the age of 18. The aftercare officer is responsible for the formulation of an aftercare plan which in most cases includes job placement. If during the supervision period the licensee is found uncontrollable, the licence may be revoked and he may be recalled back to

the Home for further training.

### Conclusion

Juvenile delinquency is not an easy problem to be tackled. With the concerted effort of the authorities concerned, the families, the individuals and the community, it is hoped that effective measures can be taken in the prevention of crime and treatment of youthful offenders.

## Juvenile Delinquency in Korea

by Yang Kyun Kim\*

### Introduction

As juveniles are often called a beam and a pillar upon whose shoulders the future national destiny depends, sound education of juveniles is vital to the attainment of the nation's prosperity and strength. It derives from the recognition of this fact that all nations spare a substantial portion of public funds and efforts for the sound education and proper raising of juveniles.

However, juvenile delinquency has recently increased in an alarming number and become more vicious in quality and thus become a grave social problem throughout the world. The followings have been often cited as the characteristics of juvenile delinquency of today: increase of crimes committed by groups, use of violence, increase of younger delinquents, increasing sexual crimes, delinquent behaviors without understandable motives, and increase of juvenile delinquents coming from middle and upper-class families. Some of these characteristics are also discernible in Korea.

In this paper, I would like to report major characteristics of juvenile delinquency in Korea, with statistical data wherever appropriate.

### Concept of Juvenile Delinquency and Disposition of Juvenile Cases

The Korean Juvenile Act sets forth three categories of juvenile delinquents, namely, criminal juveniles, law violating minors, delinquency-prone juveniles.

A criminal juvenile is one not less than the age of 14 and under 20 who has committed crimes and is criminally responsible. A law violating minor is one not less than the age of 12 and under

14 who has committed acts in contravention of criminal laws and yet is not criminally responsible. A delinquency-prone juvenile is one not less than the age of 12 and under 20 who falls in one of the following and is believed to have propensity to commit acts in contravention of criminal laws, judging from his character and environments:

(a) a juvenile who has a habit of disobeying the just supervision of his guardian;

(b) a juvenile who stays away from home without proper reason; or

(c) a juvenile who associates with a person of criminal or immoral nature, or has a habit of impairing his own or other's morality.

A criminal juvenile may be handled either as a criminal case in accordance with the Code of Criminal Procedure, or as a protective case under the Juvenile Act. To wit, he may be referred by the public prosecutor to the juvenile department of a district court or a family court (hereinafter referred to as the juvenile court) when it is deemed that a protective measure is more suitable than a criminal sanction. Law violating minors and delinquency-prone juveniles shall be directly referred to the juvenile court by the police. The juvenile court judge may dismiss the case when he finds it unnecessary to conduct hearing after reviewing the nature of the case and the report by a juvenile court investigator. Upon hearing, when the judge finds it unnecessary to take a protective measure, he makes a decision of nondisposition. When he finds otherwise, he shall take one of the following measures:

(1) to place the juvenile under the care and custody of his guardian or other appropriate person;

(2) to place the juvenile under the care and custody of a temple, church or other organization concerned with protecting juveniles;

(3) to commit the juvenile to a

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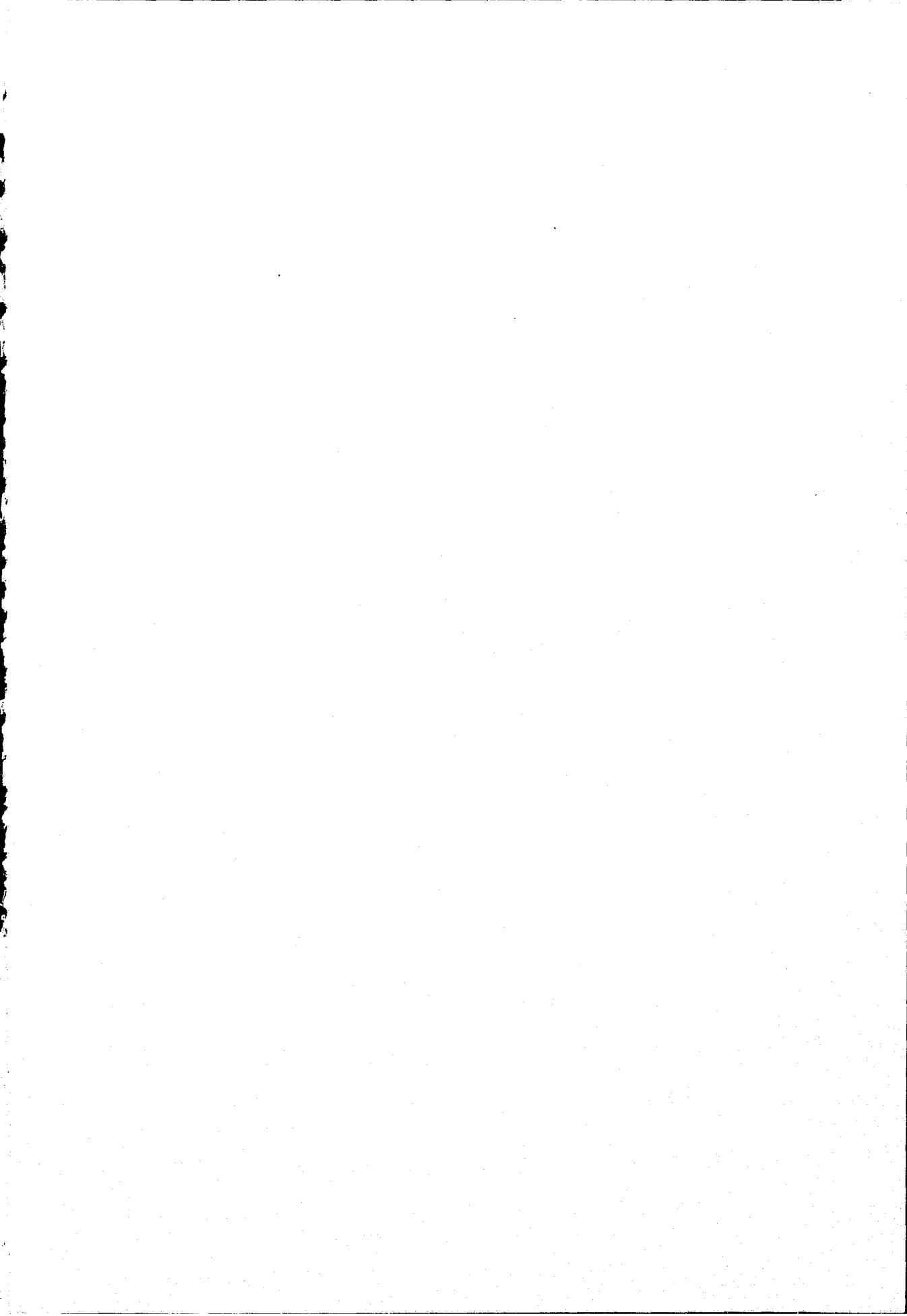


Table 1: Disposition of Cases by Juvenile Courts

Year	1968	1969	1970	1971	1972	1973	1974	1975	1976
DISPOSED									
Protective Disposition									
Entrust to guardian	12,628	12,339	15,426	13,955	13,677	14,192	15,496	14,760	15,627
Entrust to temple, church	188	291	450	458	629	393	95	224	181
Entrust to hospital	2	-	2	1	2	2	-	4	-
Transfer to refor- matory	-	-	-	-	-	-	-	-	-
Transfer to juvenile training school	2,947	3,054	3,355	3,281	5,106	3,228	2,494	2,967	3,561
Observation and report	3,026	3,306	3,127	2,895	2,180	1,648	372	202	1,799
Subtotal	18,791	18,990	22,360	20,590	21,593	19,463	18,457	18,157	21,168
Nondisposition-Released									
Without Disposition	1,662	1,783	1,496	1,405	1,154	636	596	397	309
Dismissal Without									
Hearing	5,994	6,029	5,625	6,397	4,722	4,477	3,011	3,136	3,040
Transfer to Other Ju- venile Courts	33	23	2	-	2	-	-	-	7
Transfer to Prosecutors' Office	15	50	183	70	107	45	40	70	50
Others	-	1	25	4	-	-	-	82	1
Subtotal	26,495	26,876	29,691	28,466	27,578	24,621	22,104	21,842	24,575
PENDING	3,573	4,830	7,059	6,498	6,352	5,352	4,424	4,987	3,687
TOTAL	30,068	31,706	36,750	34,964	33,930	29,973	26,528	26,829	28,262
APPEAL	57	68	53	9	40	27	19	71	118

Table 2-1: Juvenile Criminals by Types of Crimes

Type of Crime	Year									
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
Larceny	16,527	16,527	15,332	15,459	14,970	20,854	21,043	20,273	21,856	29,572
Fraud	431	242	428	521	367	529	514	518	568	701
Acquiring stolen property	819	830	766	788	761	1,102	965	1,000	1,065	1,316
Violation of forest law	682	769	502	650	507	567	502	342	397	562
Violation of law on punishment for violent acts, etc.	6,836	8,874	11,379	16,057	14,726	18,407	16,139	16,998	26,443	32,394
Violence	2,298	1,836	1,204	1,113	809	816	752	668	802	874
Violence inflicting bodily injury	1,254	1,193	904	978	799	789	823	806	972	1,190
Extortion	563	448	303	270	258	181	161	146	194	195
Murder	42	59	67	58	94	83	71	58	81	60
Arson	36	44	31	44	31	40	31	38	55	46
Rape	382	524	450	614	676	864	823	800	1,100	1,397
Robbery	438	537	428	518	529	603	459	704	1,037	982
Others	3,728	4,174	4,952	5,933	6,089	7,112	6,984	5,756	7,583	10,641
Total	33,958	35,954	36,648	42,901	40,491	51,824	49,165	48,011	62,007	79,824



## JUVENILE DELINQUENCY: KOREA

hospital or sanatorium;

(4) to commit the juvenile to a reformatory;

(5) to commit the juvenile to a juvenile training school; or

(6) to place the juvenile under probation.

As shown in Table 1, the disposition of measure (1) is most frequently used and next comes measure (5), while measure (4) has not been used in practice.

Besides the three categories of juvenile delinquents, misbehaving juveniles occupy a unique position in the treatment of juvenile deviants, especially in connection with police activities oriented to guidance services. A misbehaving juvenile is defined as one under the age of 20 who shows bad behaviors such as drinking alcohol, smoking cigarettes, having lethal weapons, fighting, flirting a female, entering undesirable show-places, having bad friends or joining a bad group, associating with impure opposite sex, singing in loud voice, pissing on street, having long hair, and violation of curfew. Some of those behaviors may constitute criminal offenses. For example, the possession of lethal weapons violates the Minor Offense Punishment Act. However, when the statutory sanction for the offense is limited to fine, detention or minor fine, the police have discretion to treat the violator as a misbehaving juvenile, and either send him to summary trial or do not file a criminal charge against him, depending upon the circumstances of cases. When a misbehaving juvenile is committed to summary trial, the circuit judge will be in charge of the case. If the judge, after hearing the case, deems it unsuitable to close the case by means of summary judgement, he shall order the chief of a police station to transfer the case to the prosecutors' office. Under the procedure of summary trial, the judge can sentence the defendant to fine not exceeding 20,000 won (equivalent to 40 U.S. dollars), detention or minor fine.

### Current Situations of Criminal Juveniles

From the statistical analysis of those criminal juveniles who are disposed of by

public prosecutors, some characteristic aspects of juvenile delinquency in Korea are presented in the following.

### 1. Types of Crime

As shown in Table 2-1, larceny ranks the top of juvenile crimes and, if combined with violent acts, assumes the major portion of juvenile crimes in Korea, which amounts to 80 percent. Although this phenomenon seems incompatible with the fact that Korea has achieved a rapid economic growth in the past 15 years with the per capita GNP of 1,000 dollars target being at hand within a matter of two years and that the traditional poverty has already vanished from urban as well as rural areas, the increase of larceny committed by juveniles is marked. No matter how fast an economy may grow, it falls short of satisfying limitless human desires. It is evident that a great number of larceny are committed for the purpose of making money for personal pleasure in recent years. It is also not rare that juveniles commit larceny just to enjoy the thrill of stealing.

Violent crimes by juveniles, especially violations of the Law Concerning Punishment for Violent Acts, are also increasing at an extremely high rate. While murder and arson have decreased, robbery and rape have increased remarkably of late. The reason for the increase in robbery is identical with that for violent crimes and larceny.

### 2. Group Crime (Complicity)

Criminal juveniles, when compared to adult criminals, show a strong tendency to commit offenses in a group. The ratio of complicity in juvenile crimes is 33.4%, while 21% in adult crime. The reason may be that juveniles tend to join in a group and try to solve their dissatisfaction by means of using power of a group.

### 3. Distinction by Sex, Age, Degree of Education, Level of Living Standard, Home and Vocation

Crimes of girls are far less than those of boys, the ratio being only one to ten. As shown in Table 2-2, consider-

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Table 2-2: Criminal Juveniles by Age

Year	Under							Total
	14	14	15	16	17	18	19	
1972	2,061	2,297	4,627	7,141	10,572	11,903	13,223	51,824
1973	1,817	2,388	4,432	6,967	9,360	11,936	12,265	49,164
1974	1,579	2,205	4,180	6,644	9,106	11,088	13,209	48,011
1975	1,740	2,779	5,164	8,242	11,900	14,934	17,248	62,007
1976	2,555	3,174	7,053	11,084	15,207	18,782	21,969	79,824

ing the range of age in connection with juvenile crimes about half of criminal juveniles belong to the age group between 18 and 19 years. A marked increase of criminal juveniles in lower age groups as seen in Japan has not yet been observed in Korea.

More than 40% of criminals have finished or left only primary school. However, the ratio of those with higher educational backgrounds is increasing year by year, since more children enrol in middle and high schools.

The majority of criminal juveniles

come from lower-class families, as shown in Table 2-3. This graphically shows the extent to which economic conditions affect the incidence of crime.

The fact that the majority of criminal juveniles have no deficiency in their homes, as shown in Table 2-4, may suggest that home has become unable to perform the function of preventing and controlling juvenile crimes. It is noted that parents let children live in distant places for education or they are away from home for long to work. Under such circumstances, they cannot provide suitable home atmosphere for juveniles.

As shown in Table 2-5, the vocational status of criminal juveniles varies greatly, but the most prevalent are those unemployed, followed by students, and the majority of those employed engage in unskilled labor.

4. Distinction by Cause

Table 2-6 shows motives or causes of juvenile crimes, among which avarice for riches is observed most prevalent, followed by grudge and anger and incidental commission of crimes.

Table 2-3: Criminal Juveniles by Level of Living Standard

Year	Lower	Middle	Higher
	Class	Class	Class
1972	47,822	3,812	190
1973	45,849	3,124	192
1974	44,839	2,993	179
1975	57,342	4,390	275
1976	73,777	5,727	320

Table 2-4: Criminal Juveniles by Home

Year	Unmarried				Married
	Having Parents	Father Only	Mother Only	No Parents	
1972	39,708	1,620	6,361	3,059	1,070
1973	37,097	1,521	6,634	2,711	1,202
1974	36,106	1,572	6,725	2,545	1,063
1975	47,119	2,232	8,864	2,776	1,016
1976	62,584	3,615	9,103	2,849	1,673



## JUVENILE DELINQUENCY: KOREA

Table 2-5: Criminal Juveniles by Vocation

Vocation	Year				
	1972	1973	1974	1975	1976
Student	6,497	6,349	6,668	9,978	13,338
Agriculture	4,575	4,200	3,763	5,846	7,247
Laborer	2,200	2,114	2,318	2,998	3,676
Clerk (shop)	480	419	424	509	609
Employee (restaurant)	2,114	2,455	2,366	3,215	4,170
Employee (service trade)	915	994	965	1,296	1,481
Employee (home work)	248	260	243	220	254
Employee (state organ, bank)	156	181	248	334	492
Factory worker	3,149	3,571	3,672	4,723	7,145
Employee (trans- portation)	1,872	1,473	1,138	1,473	1,551
Travelling salesman	31	22	25	37	40
Bill collector	6	5	7	6	7
Peddler and stall-keeper	930	776	724	1,039	1,285
Rag man and shoeshine boy	978	1,003	974	913	1,033
No job	23,700	21,563	20,852	25,096	30,918
Others	3,973	3,780	3,624	4,324	6,578
Total	51,824	49,165	48,011	62,007	79,824

### 5. Distribution by Region

It is quite natural that juvenile crimes occur most frequently in big cities like Seoul, Pusan, and Taegu. In big cities, there are many temptations for crime, and it is easy to find a place to hide, escape and conceal as well as dispose of stolen property.

### 6. Distinction by Criminal Record

Table 2-7 shows that criminal juveniles with previous records are relatively few in comparison with some other countries. But the increasing number of those who have experienced imprisonment may indicate ineffectiveness in corrective

administration.

### 7. Disposition of Cases

The most prevalent types of disposition made by public prosecutors are criminal prosecution, transfer to the family courts and suspension of prosecution as shown in Table 2-8.

### Current Situations of Misbehaving Juveniles

The number of misbehaving juveniles during the past nine years from 1968 to 1976 appears in Table 3. The figure in 1968 was 223,350 persons against 194,-

PARTICIPANTS' PAPERS

Table 2-6: Criminal Juveniles by Cause

Cause	Year				
	1972	1973	1974	1975	1976
Greed	14,001	13,996	13,871	14,885	17,423
Speculative spirit	575	534	622	1,023	1,134
Grudge and anger	3,673	2,735	2,497	4,834	5,045
Problem of home	219	147	156	184	212
Incidental	4,291	5,370	5,093	7,549	8,980
Alcoholism	31	19	30	43	85
Others	29,034	26,364	25,742	33,489	46,945
Total	51,824	49,165	48,011	62,007	79,824

Table 2-7: Criminal Juveniles by Previous Records

	Year				
	1972	1973	1974	1975	1976
FIRST OFFENSE	48,820	45,825	44,472	57,533	73,607
SECOND OFFENSE (Contents of previous records)					
Summary conviction	-	-	15	-	-
Suspension of prosecution	1	-	14	3	2
Transfer to juvenile court	22	15	43	16	1,310
Suspension of imposition of sentence	46	37	25	24	34
Suspension of execution of sentence	195	198	231	240	300
Being out on bail (stay of execution)	18	9	6	12	15
Being on parole (temporary release)	13	14	13	27	29
Finished execution of sentence	2,456	2,957	3,153	4,139	4,484
Others	253	110	39	13	43
Subtotal	3,004	3,340	3,539	4,474	6,217
TOTAL	51,824	49,165	48,011	62,007	79,824

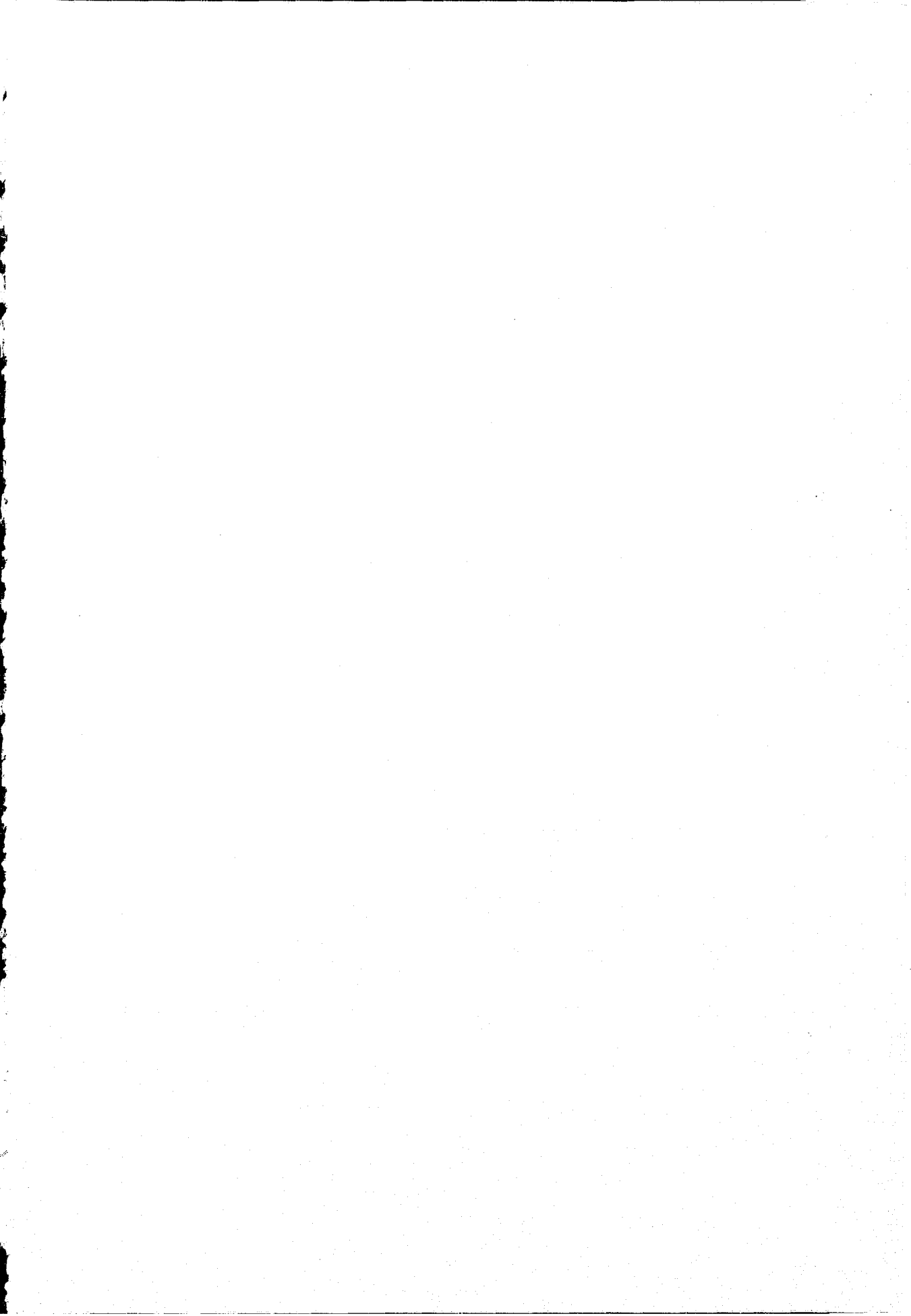
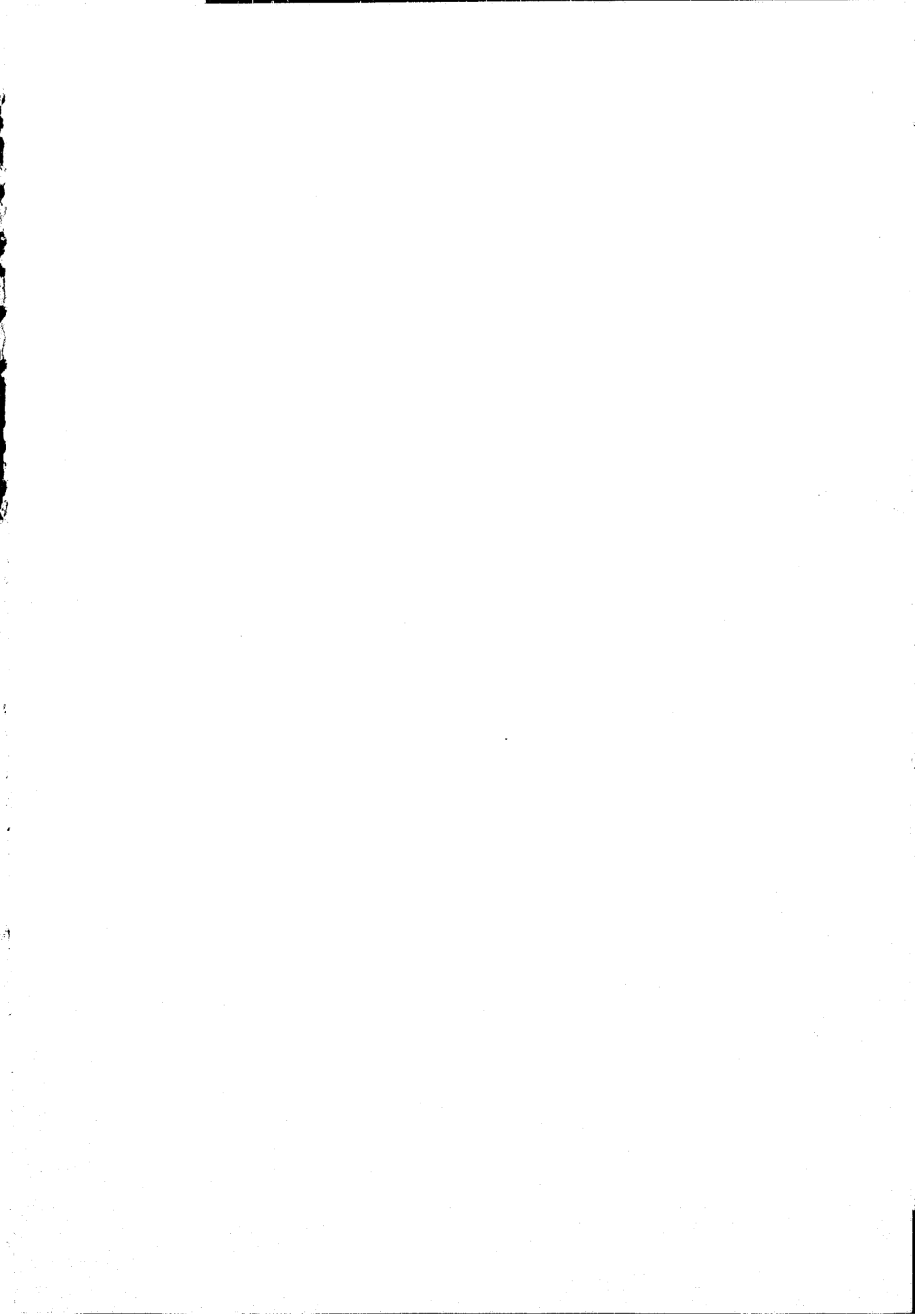


Table 2-8: Disposition of Criminal Juveniles

Division	Year									
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
PROSECUTED										
Indictment										
Restraint	6,733	6,081	7,663	11,768	14,110	18,960	18,748	15,927	20,161	18,269
Unrestraint	1,398	1,617	2,538	4,199	3,678	2,434	2,308	2,123	1,641	1,784
Summary proceeding	1,408	2,083	2,577	3,933	5,007	5,884	6,194	5,853	8,639	8,919
Subtotal	9,539	9,781	12,778	19,900	22,795	27,278	27,250	23,903	30,441	28,972
TRANSFER TO JUVENILE COURTS										
	12,237	17,612	17,591	16,057	10,944	13,014	10,269	10,103	10,654	12,287
NOT PROSECUTED										
Suspension of prosecution	5,845	2,339	1,867	1,821	1,783	4,397	5,339	8,243	13,955	24,939
Found unsuspecting	1,706	1,605	1,441	2,014	2,220	3,092	2,767	2,552	3,125	3,625
Stop of procedure of public action	1,277	897	608	700	843	930	665	634	783	5,922
Not punishable crime	2,237	2,206	1,340	1,309	1,096	1,792	1,599	1,335	1,497	2,146
Nonexistence of public prosecuting right	1,005	886	981	1,018	692	1,192	1,237	1,169	1,485	1,887
Subtotal	12,070	7,933	6,237	6,862	6,634	11,403	11,607	13,933	20,845	38,519
Total	33,846	35,326	36,606	42,819	40,373	51,695	49,126	47,939	61,940	79,778

Table 3: Misbehaving Juveniles by Types and Disposition

Year	1968	1969	1970	1971	1972	1973	1974	1975	1976
<u>TYPES OF MISBEHAVIOR</u>									
Drinking	31,785	38,176	32,588	35,167	37,032	39,130	39,184	40,259	42,468
Smoking	30,572	33,800	28,266	27,328	28,343	27,945	26,337	25,718	28,839
Entering theater	45,417	52,855	52,125	37,092	32,288	25,033	20,920	15,536	8,867
Associating with bad juveniles	13,139	16,148	13,874	11,589	12,006	14,253	11,704	12,674	12,312
Flirting a female	11,821	12,465	10,379	9,688	10,478	10,445	9,703	10,607	8,894
Associating with impure opposite sex	8,365	8,528	8,859	7,849	7,262	8,353	6,976	7,662	8,538
Joining in a bad group	2,044	2,066	2,336	1,672	1,343	1,831	1,244	1,257	1,070
Having lethal weapons	1,918	1,882	2,175	1,307	1,734	1,562	1,130	1,242	810
Others (including long hair)	78,289	41,111	46,606	44,677	52,024	65,973	61,354	62,801	82,269
<u>DISPOSITION</u>									
Transfer for summary conviction	14,666	18,122	22,302	24,336	33,998	46,278	34,638	43,960	49,659
Notice to school	10,852	10,290	14,585	11,211	14,032	12,036	6,777	7,081	9,651
Notice to home	27,590	28,641	30,682	26,118	27,472	27,865	21,821	24,818	35,837
Freed upon warning	163,546	143,882	113,676	109,023	100,432	100,504	103,687	95,250	94,161
Others	6,696	6,096	6,063	5,681	6,576	7,842	11,629	6,547	4,759
Total	223,350	207,031	187,308	176,369	182,510	194,525	178,552	177,656	194,067



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067 persons in 1976. A general trend of decrease with minor fluctuations may be noted. But the statistical data are closely interrelated with the control policy of the police. Therefore, it is premature to infer that the number of misbehaving juveniles is decreasing.

Among various types of misbehaviors by juveniles, drinking alcohol is the most prevalent and smoking cigarettes follows. While the incidence of smoking cigarettes remains unchanged, that of drinking alcohol has increased gradually. Drinking or smoking itself is not a criminal act nor may be characterized as a morally blamable behavior. The rationale for prohibiting juveniles to drink is based on the fact that young people often lose self-restraint through intoxication. It is hard to say that cigarette has similar effects as alcohol. However, if one starts smoking at his early age, his health may be hurt and he may suffer from lack of pocket money. These conditions could be crime-causing factors. It is needless to say that other types of mis-

behaviors are closely related to juvenile delinquency.

Most of misbehaving juveniles are freed upon warning or notice to school or home. However, it is to be noted that the rate of cases being transferred for summary trial is increasing.

### Relationship Between Juvenile Delinquency and Corrupt Tendency

The corrupt tendency manifests itself in irresponsible behaviors which degrade or dilute the traditional good mores and customs unique in Korea. Traditionally, Korea has professed herself to be the politest country of the Orient and Confucianism has dominated over social life. There are three general principles and five moral rules in human relations under the practical teaching of Confucianism which form the basis of good mores and manners. The three general principles are propriety between parent and child, the King and subjects, and husband and wife.

Table 4: Types and Disposition of Corrupt Conducts Cases  
(Adults and Juveniles)

Year	1974	1975	1976
<b>TYPES OF CONDUCTS</b>			
Lewd action	302	340	1,189
Distribution of obscene materials	72	45	1,284
Action of prostitute	17,865	2,501	16,051
Illegal admittance of minor	44	1,394	2,951
Drunken disturbance	894	17,763	174,885
Long hair	120,343	151,158	1,120,712
Others	32,642	31,808	584,667
<b>DISPOSITION OF CASES</b>			
Transfer to prosecutors' office	81	2,945	38,514
Transfer for summary conviction	13,427	28,309	621,802
Freed upon warning	158,654	173,755	1,241,423
Total	172,162	205,009	1,901,739

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The five moral rules are love between parent and child, justice between the King and subjects, distinction between husband and wife, order between the aged and the younger, and fidelity between friends. Particularly, order between the aged and the younger means that the aged are to be treated courteously and respectfully. Due to the influence of Confucianism, the Koreans regard justice highly over utility, noble personality over material well-being, and chastity over life itself.

The tendency of despising of utility or material well-being may have been a factor hindering industrial development, and the attitude of looking down the younger was a factor oppressing creative minds of the nation. It is true that the transfusion of the Western culture and civilization has certainly been beneficial to the up-grading of living standard. At the same time, however, it has broken the order of morals between the aged and the younger and male and female. It has created sexual disorderliness, promoted mammonism (almighty-dollar principle) and craving for luxurious living. Those unsavory trends strongly affect juveniles who are apt to imitate without deep consideration and lead them to corrupt and delinquent conducts. The corrupt tendency may break the sense of solidarity and unity among the people, and eventually may cause damage to the harmonious union and security of the nation. This is why spread of corrupt tendency has been considered as one of the serious social problems in need of special attention by the police and public prosecutors.

Corrupt conducts may include any misbehavior which is inimical to the maintenance of moral standards in Korean society. But only the conducts in violation of criminal laws are dealt with by public prosecutors or the police as corrupt behaviors. While the types of offenses considered as corrupt conducts differ slightly between the police and public prosecutors, they basically include offenses relating to indecent conducts in public, distribution of obscene materials, prostitution, maltreatment of minors, illegal admittance of juveniles to night clubs and other places of entertainment, gambling, violent behavior and other

minor offenses such as wearing long hair.

As shown in Table 4, the most prevalent pattern of corrupt conducts is wearing long hair, followed by action of prostitutes and drunken disturbance. The criterion for unacceptable long hair is whether one can distinguish male or female by appearance. The wisdom of controlling long hair is questioned by some, particularly, those who have travelled overseas. However, such regulation as a part of Korean efforts to strengthen or reinforce moral and ethical standards in community may be understood in light of the present extraordinary circumstances in the country. The main reason for the high rate of prostitutes lies in the increase of foreign tourists.

Most of the corrupt conduct cases are dropped upon warning and only a minor portion are criminally investigated. Especially, long-haired persons are mostly released upon warning.

### Countermeasures Against Juvenile Delinquency

To quote from von Liszt, "The best social policy is the best criminal policy" in the long run. In implementing countermeasures against juvenile delinquency in Korea, the followings must be taken into consideration: banishing poverty in accordance with economic development, full employment, purification of areas with a high crime rate, expansion of facilities for juvenile welfare, expansion of compulsory education, increase of scholarship, prevention of broken homes, dispersion of urban population, and establishment of more recreational facilities for juveniles. Considering the recent trend of juvenile delinquency and spread of corrupt tendency as mentioned before, I regard the implementation of the following programs very useful and effective to prevent delinquent behaviors through correcting corrupt tendency:

- (1) to promote the Saemaul (New Village) Movement more vigorously and inspire juveniles with the spirit of the Movement and thereby keep them from being affected by corrupt tendency;



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(2) to activate the campaign of "sound home movement" and reduce the number of "broken home," "absent home," "problem home," and "trouble home";

(3) to utilize the mass-media in highlighting some of the adorable juveniles and thus lead all juveniles to follow suit;

(4) to implement the purification movement voluntarily taken by service units, workshops, schools;

(5) to take administrative measures such as suspension of business and cancellation of permission in addition to strong criminal punishment on the entities identified as performing corrupt acts;

(6) to expand training institutes, youth hostels, juvenile and youth halls, and children's parks for sound exercise, recreation, and social activities; and

(7) to effectively promote the purification of the crime-prone area or slum area of cities.

## The Treatment of Juvenile Delinquents and Youthful Offenders in Malaysia

by Jaafar bin Abdul Wahid\*

### Introduction

Being a young developing nation, Malaysia has its aspirations and objectives for its people. The New Economic Policy is directed at uplifting the standard of living of the rural population, reducing and eventually eradicating poverty, and accelerating the process of restructuring Malaysian society to correct economic imbalances. In the process of implementing those objectives of the Policy, Malaysia has to face the high rate of economic growth, rapid industrialization and urbanization, the incidence of unemployment particularly among the youth, high rural-urban migration, the incidence of school drop-outs due to progressive education system and infiltration of a certain degree of undesirable elements. These problems are expected to contribute to the problems of juvenile delinquency.

In Malaysia, social welfare services for juvenile offenders were started soon after the Second World War with the promulgation of the Juvenile Courts Ordinance, 1947, which was implemented on December 1, 1949. The Ordinance was extended to East Malaysia in 1972 but is operative only in Sabah. The legislation will be made operative in Sarawak as soon as an advance approved school is established by the Prisons Department under the Third Malaysia Plan 1976-1980. There are no comprehensive statistics to indicate the extent of juvenile delinquency in Malaysia. As shown in the following table, however, available statistics on the proven offences from the Juvenile Courts in West Malaysia indicates no significant change in the incidence of juvenile delinquency.

Juvenile delinquency may be defined on

the basis of two elements: (a) the non-adult status of the person concerned, and (b) an act on the part of such person which is regarded as delinquent according to the laws of the country. Even though the two criteria are commonly accepted in defining juvenile delinquency, who are non-adults and what constitutes a delinquent act are interpreted differently from country to country. In Malaysia, the lower age of criminal responsibility was at first fixed at seven years old but was raised to 10 years in 1975. The upper age limit was also raised from 17 years to 18 years to make it consistent not only with other legislations concerning young persons but also with the age of majority.

### Juvenile Courts

Forms of treatment to be given to juvenile offenders are decided by the Juvenile Court, comprising of the President of a Sessions Court, a qualified judicial officer, and two advisers nominated by the state authority. The roles played by the advisers are voluntary as part of community participation. The President resolves the finding of guilt of a juvenile defendant in an informal but adversary manner and, in consultation with two advisers, decides what form of treatment should be administered in dealing with the case. The court works on the principle that its responsibility is to understand, protect and help the unfortunate child or young person and not to punish him. That is to say, the court is to find out the facts leading to his misbehaviour and to plan the treatment which is best for him. Finding of guilt in place of conviction and order in place of sentence are used in dealing with the juvenile. In order to find out the juvenile's behaviour and personality, academic performances and other self particulars,

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### Types of Proven Offences Committed by Juveniles as Gathered from the Juvenile Courts in West Malaysia

Types of Offence	Period (Years)						
	1968	1969	1970	1971	1972	1973	1974
Offences against Properties	1418	1323	1419	1512	1414	1412	1654
Offences against Persons	123	164	110	101	92	98	120
Sexual Offences	16	20	24	17	11	20	18
Gambling	96	116	194	186	167	78	79
Traffic Offences	275	331	285	314	203	69	20
Violation of Local Authority by-laws	42	15	18	9	13	17	9
Violation of Internal Security Act	9	97	40	24	14	10	22
Violation of Custom and Excise Act	19	28	33	28	32	7	25
Miscellaneous	455	558	357	282	252	171	169
<b>Total</b>	<b>2479</b>	<b>2652</b>	<b>2480</b>	<b>2473</b>	<b>2198</b>	<b>1882</b>	<b>2116</b>

the family and socio-economic backgrounds, etc., the court consults the report of the probation officer. In addition, whenever necessary other competent person or persons help the court by giving expert opinions.

The Juvenile Court is empowered to deal with the juvenile offender in one of the following ways according to Juvenile Courts Act 90:

(a) to admonish and discharge the offender;

(b) to discharge the offender upon entering into a bond to be of good behaviour and to comply with such order as may be imposed;

(c) to commit the offender to the care of relative or other fit person;

(d) to order his parent or guardian to execute a bond to exercise care and guardianship;

(e) without making any order, or in addition to an order under (c) or (d), to make a probation order to place the offender on probation;

(f) to order the offender to be sent to an approved school or an advance approved school;

(g) to order the offender to pay fine, compensation or costs; and

(h) where the offender is a young person and the offence is punishable with imprisonment, the Juvenile Court may sentence him to any terms of imprisonment which could be awarded by a Sessions Court or, where the powers of the Juvenile Court are inadequate, commit him to the High Court for sentence.

### Probation

The probation system seeks to effect the rehabilitation of an offender while he remains in the community at his normal work or school. It is applied not only to juveniles but to certain categories of adults as provided in Sections 173A and 293/294 of the Criminal Procedure Code. Section 21 of the Juvenile Courts Act authorizes the court to make a probation order instead of sentencing a juvenile, if he is found guilty of an offence other than homicide, after having regard to the circumstances and the nature of the offence and the character of the offender. If he fails to comply with the conditions of probation or commits another offence while on probation, he shall be liable to be dealt with for the original offence as well as for the subsequent offence.

The probation officer visits or receives reports from the probationer at reasonable intervals, guides him to observe the conditions of the bond, reports to the Juvenile Court as to his behaviour and advises, assists or befriends him, and when necessary, endeavours to find him suitable employment. Delinquents have a particular need for friendship and the acceptance it implies. Probationers are best assisted by a special type of friendship, namely, the professional relationship in which the probation officer's warm and sincere concern develops the client's capacity for growth and change. The aim of treatment is to promote the

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probationer's confidence in his ability to handle his situation realistically and to meet his responsibilities. Thus probation is an expression of society's concern for individuals who have broken the law and the probation officer is a living representative of society. Reflecting this concern, the extent of the use of probation as a method of treatment has been increasing as shown in the following figures:

Cases Placed on Probation or Supervision

Year	Cases
1968	148
1969	167
1970	204
1971	190
1972	286
1973	298
1974	556

### Approved Schools

In order to help juvenile offenders develop their character, capacities and a sense of personal responsibility, approved schools were established. As an integral part of the treatment system, these schools prepare the socially maladjusted for eventual integration into the community. They are places for detention, training, education and rehabilitation of juvenile offenders and those who have been committed by the Juvenile Courts as in need of care and protection and beyond parental control.

There are presently six approved schools in Malaysia, five for boys and one for girls, with a total accommodation for 760 juveniles. Even though there is no comprehensive classification home for observatory purposes at the moment, services of medical practitioners or clinical psychologists are provided at the facilities for remand in order to diagnose the problems for future treatment plans. Facilities for remand and protective provisions are available except in a few States. These institutions serve not only as places for remand pending disposition of the cases by the courts but also as

places of conditional residence and as aftercare hostels for juveniles released from approved schools pending placement in suitable employment or in foster homes.

Rehabilitation training in approved schools includes living guidance and academic and vocational education. Discipline in the schools is maintained by the personal influence of the principal and staff and is promoted by a system of rewards and privileges. Punishment, whenever necessary, is usually taken in the form of forfeiture of rewards and privileges or temporary loss of recreation facilities. For serious offenders, the privilege of annual home leave is withdrawn or postponed until an improvement in their progress and conduct is shown. Individual counselling and group work activities provided in the schools in many ways support the treatment process.

The period of stay in the schools is made statutorily for a maximum of three years, but the inmates may be released on licence after one year by the Board of Visitors on the basis of good progress and conduct as well as conduciveness of the family. A licensee is supervised by the probation officer in the field on behalf of the principal for the rest of statutory detention period. If he should be misbehaved, he may be recalled back to school to serve the rest of his detention with or without an extended period of up to six months as punishment.

The administration of each approved school is assisted by a Board of Visitors appointed by the Minister of Social Welfare for a term from two to three years. The members usually meet once a month at the school to hear reports on the progress and work of the school from the principal and to make recommendations whenever necessary. In addition, these members are to visit the school to ensure proper and efficient administration, to constantly assess the progress of each inmate and to approve his discharge on licence. Their participation represents the valuable contributions that the community at large can make in the prevention of juvenile delinquency and the treatment of juvenile delinquents.

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### Licence Aftercare

However satisfactory the training given to pupils while they are in approved schools may be, their treatment is incomplete until he has undergone a period of aftercare. On discharge the young persons generally face difficulties which they can only overcome with the help of probation officers. Because of this, those released on licence are given aftercare for a period of three years or until they attain the age of 18 years which ever may be the shorter.

Normally those who have parents or guardians return home, but there are others who have no homes to return. Such young persons are therefore allowed to live in probation hostels until the expiry of licence or aftercare period. The following is the statistics on the number of cases on licence and on aftercare.

The Number of Cases on Licence and on Aftercare

Year	On Licence	On Aftercare
1968	157	247
1969	145	246
1970	134	263
1971	179	250
1972	120	259
1973	120	228
1974	337	485

### Community Participation

In Malaysia, it has been emphasized that community services are the best answer to the youth problem. Community co-operation and participation in the treatment of offenders help the citizens become aware of their social responsibility. At

the same time, their understanding of the problems of delinquency will eventually contribute to the lessening of social stigmatization on offenders. The provisions of Juvenile Courts Act 90 and related regulations and rules confer to the Minister of Social Welfare the powers to appoint members of the community to engage in juvenile welfare and to assist in the prevention of crime and the treatment of offenders. Juvenile Courts advisers assist the courts in deciding what form of treatment should be administered in dealing with the offenders. Board of Visitors' duties are to ensure efficient administration of approved schools and make recommendation for discharge. The Juvenile Welfare Committee not only helps probation officers in their legal obligations, but takes part in centralizing all resources and services of various organizations and individuals related to crime problem areas as part of a preventive and developmental role to be played by the community.

In addition to services mentioned above, Malaysia is proud of having movements and organizations established with a view to providing what children and the youth need to be mature and efficient citizens of society. The Ministry of Youth, Sports and Culture plays a positive role in order to promote the participation of youth in organized and disciplined activities and to encourage community services. The youths are leaders of tomorrow and they should be represented in programmes for the development of the country. Moreover, it would be unjustified not to mention roles played by the community through their participation in *Rukuntangga* Schemes in Malaysia, which are still young in existence but have made great contributions to crime prevention and increased the genuine concern of the community with societal problems.

## The Need for More Meaningful Participation of the Police in Juvenile Diversion

by Reynaldo J. D. Cuaderno\*

### Introduction

Undoubtedly, the police play an important role in the protection of the welfare of youth. They are in a strategic position to discover children who are actually or potentially delinquent and to see conditions in the community likely to promote delinquency, long before other agencies become aware of either the children or the conditions. The way the police use this knowledge in their contacts with children and in their relations with the rest of the community may help to determine the future attitude of these young people toward the law. Their knowledge, or lack of knowledge, of the community's social resources and how to use them may afford or deny some children the opportunity or impetus necessary for wholesome development.

Policemen screen out, and dismiss with no further action, a good proportion of the suspected juvenile offenders they encounter on the street. Another proportion are referred to some official or unofficial police diversion programs. The remainder are referred to the juvenile court system.

The police screening process is one of dramatic discretionary decision-making. The decision to send a child home with a warning or to put him on one of the juvenile justice system paths is affected by what the apprehending officer gathers as the facts of the case and the probabilities of proof. The decision is affected even more by the police officer's sense of what is right, just, fair, and proper. He sends children home because he thinks the offense is not serious enough to justify prosecution. He diverts these children from the criminal court

system because he believes the circumstances of the offense and the background of the child call for less serious consequences than those likely to follow if the child is sent on for a formal hearing.

Diversion is defined in this discussion as the process whereby problems otherwise to be dealt with in a context of delinquency and official action will be treated and handled by other non-justice system means. Advocates of diversion propose that diversion should be the goal of pre-judicial processing with a clearly defined policy and with decisions based on predetermined criteria.

### Need for Diversion Criteria

Most police departments referring youth to youth service bureaus do not have a systematic policy for screening juveniles out of the justice system or a formalized set of criteria for referral. Many of the referral patterns are based on individual relationships. Therefore, the amounts and types of referrals change with personnel changes at the agency or in law enforcement. Although police officers surely are influenced by the policies, programs, and philosophies favored by their superiors, especially their immediate supervisors, they still have great latitude to decide who shall be diverted and who shall not. The degree and direction in which juvenile offenders are diverted are influenced by many factors such as the individual officer's conception of justice and his philosophy and theory of correction, his personal assumptions, attitudes, biases, and prejudices, his knowledge of community resources, his relationships with other professional welfare workers both within and without his department, the size of his case load and the work load of his department.

A police officer who finds a child in a situation dangerous to himself or to

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others, or who finds a child who has committed an offense, must decide whether the situation or the act is serious enough to warrant the attention of the court. This decision should be made on the apparent gravity of the situation or act, based on the investigation made by the police officer. Such decisions should not become a rule-of-thumb procedure by which children are always referred to the court for certain offenses or on the commission of a second offense.

If the officer does not believe that court action should be taken, he has a number of alternatives:

(1) Referral of the situation to a social agency. This may be particularly applicable in cases of neglect, where an agency in the community is empowered by law to offer services in relation to them, or in a situation requiring public health care, or where a child is already under the care of an agency.

(2) Advice to the child or parents, particularly as to the existence of community resources, welfare agencies, etc.

(3) Warning or admonition

Consultation regarding the question of court referral should be available to the police from the intake division of the court. The police should not employ informal methods which involve penalties of restraint, such as placing the child on "informal probation," ordering restitution, or revoking a driving permit.

### 1. Criteria for Release to Parents

The most frequently used disposition by police juvenile officers is "action suspended" or some similar terminology indicating release of the child to the parents. This implies that no further action will be taken by the police, social agencies or the juvenile court. The following criteria are recommended in determining when this disposition is advisable.

(1) Case investigation reveals preponderance of positive factors. If the thorough case investigation shows only few negative factors and a multitude of positive factors, release to parents might be a logical disposition. There should be a majority of positive factors in the parent-child relationship.

(2) Absence of high risk situations.

When the case study investigation reveals that there is an emotionally healthy atmosphere between the family members, release to parents is desirable.

(3) Parents meet most emotional needs of child. Love, security, recognition, new experiences, and opportunity for growth are basic emotional needs of all children. When parents are aware of these needs and are meeting them to a satisfactory degree, there is less chance for a child to develop a pattern of delinquency.

(4) A happy marriage exists. If parents are happily married it is much easier for them to meet the needs of their children. Such parents will not be unconsciously displacing their hostilities from each other onto the children.

(5) Constructive attitude of parents. Release to parents might be a logical disposition when parents are intelligent, emotionally mature, cooperative with the officer, and willing to accept their responsibility for the behavior of their child. Parents of this type do not immediately blame the co-delinquents, other parents, or the negative neighborhood conditions for their child's delinquency. These parents will also tend to plan constructively for the future and will welcome suggestions from the officer.

(6) Type of offense. Only in rare instances would the type of offense conclusively exclude release to parents. The offense itself should not be the sole determining factor in choosing a disposition. Most offenses would permit release to parents if other factors, such as the personality and the environment, were satisfactory.

(7) Number of offenses. If this is the first or second offense and the investigation reveals many positive personality and environmental factors, release to parents can be considered. The contact with the police department often has a strong deterrent effect and helps some children set controls on their future behavior.

### 2. Criteria for Referral to Social Welfare Agencies

Many police officers are faced with the problem of deciding whether to refer a case to a social agency or to the juvenile court. Suggested criteria which

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can be used to decide in favor of a referral to a social agency are as follows:

(1) Number of offenses. There is probably a better chance for a situation to be helped if the boy has not been involved in too many offenses. Social agencies are usually anxious to work with children just as they begin to show signs of difficulty. It is much more advisable to consider referral to social agencies if it is the first or second offense.

(2) Type of offense. Some offenses are considered most serious by community leaders, and this is something that must always be kept in mind by the police department. To avoid criticism the police should make a careful analysis of the kinds of cases which could be referred to agencies and still maintain the community's support. Some police departments make referrals to social agencies for auto theft while others consider this offense too serious and automatically request juvenile court action. Some police departments automatically refer sex offenders to the juvenile court while others make referrals to agencies. The type of offense should not, however, be the only controlling factor in determining the disposition, but all factors should be considered objectively in arriving at an equitable disposition of the case.

(3) Needs of the child. There are some children who will respond to case work treatment in the average social agency where no authoritarian relationship exists. The main responsibility for accepting treatment in these agencies would be upon the boy and family and they will naturally have the right to refuse to keep regular appointments. Some boys need more authority than this and would not get continued treatment unless the case was referred to the juvenile court and probation department.

(4) The desire of the boys and the parents for help. In order to receive case work services, both the child and the parents should be willing to work on the problems involved. Unless they are willing and anxious for treatment little can be accomplished, because the agency cannot force the family to accept help. This implies that the parents are aware of their inability to handle the situation and are willing to spend time and energy in

working closely with a trained social worker to solve the problems.

(5) Presence of high risk situations. There are certain family situations, described as "high risk situations," which could well serve to call attention of the police officer that the boy and family need some help in working through their problems. These "high risk situations" are as follows:

i) Over-protection. These are situations in which the parents do "too much" for the boy. They display excessive concern over his health and well-being, often restricting his activities and making him feel dependent.

ii) Rejection. These are situations in which a boy feels unloved or rejected by his parents. This often occurs where parents for some reason or other fail to give the boy adequate affection and recognition.

iii) Excessive restriction. These are situations where very strict codes of behavior are maintained through the stern domination of the parents. The parents' restriction is considered by the boy to be unreasonable and inconsistent with the general pattern in the neighborhood. There results a breakdown in the trust and confidence of the boy toward his parents.

iv) Exploitation. These are situations in which children are forced to play roles arbitrarily established by the parents. Children are compelled to attend certain schools and pursue a career, hobby or interest which is preferred by the parents, but may not necessarily be of interest or appropriate for the boy.

v) Favoritism and sibling rivalry. These are situations in which a parent may appear to show less affection for one child than for another or where a boy finds himself in constant competition with his brothers or sisters for recognition, affection and privileges.

vi) Erratic discipline. These are situations where, in the mind of the boy, discipline is inconsistent and is imposed unfairly or without due regard for the causes motivating the alleged misbehavior.

vii) Feeling of inferiority and in-



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adequacy. This may result from numerous types of situations such as: comparison with brighter and more capable children; continual reference to inadequacies, with little or no mention of any favorable traits; physical deformities which incapacitate the boy; and seldom having an opportunity to assume responsibility or to experience achievement.

viii) Deprivation of companionship. This is common in broken homes and in homes where parents, because of business or selfishness, neglect to show the needed affection and love which children seek.

### **Need to Maximize Police Referral to Social Welfare Agencies**

Recent study of the volume of police referrals of youthful offenders to social welfare agencies indicates that the police are making less than full use of such agencies. Accordingly, a study of the factors that would encourage the increased use by law enforcement agencies of youth welfare bureaus is in order.

Awareness of the youth service bureau is one of these factors. Existing referral patterns will change more readily when law enforcement agency is reminded of the bureau's existence, is informed about the services the bureau is capable of providing, and is acquainted with the staff who will provide the services.

A method of increasing awareness is to detach juvenile justice system personnel to the bureau to work in a non-coercive style.

Accessibility and types of services provided by the local youth service bureau should also have an impact on the referrals police officers make to the bureau. The bureau's ability to respond rapidly makes a difference. For example, limited office hours, staff's not being available in a crisis, and no temporary shelter facility, all limit the referrals that otherwise cooperative police make to a youth service bureau.

Accountability to the referring officer should also tend to increase referrals. With systematic feedback on what services the bureau is providing a referred youth, the law enforcement officer will have

more adequate information for future decision-making.

In the Philippines, Administrative Order No. 50, series of 1976 of the Department of Social Services and Development (DSSD) emphasizes the necessity of establishing close linkage and coordination between the social workers of the department and the local police. Said Order prescribes that the DSSD and local police shall consider commitment of the youth offender to the National Training School as a last resort and that all efforts should be exerted for the youth to be released to his family and provided services in community-based programs of DSSD that would best suit his needs. This involves the conduct by a DSSD social worker of a preliminary study of the case and assisting the police and courts in determining whether a formal complaint is necessary or alternative community-based programs will be considered for the youthful offender.

Similarly, Administrative Order No. 51, series of 1976 of DSSD provides that no youthful offender shall be placed in detention by a law enforcement officer without intake study by DSSD or authorization by the presiding judge. Furthermore, the police officer requesting the detention of a minor shall submit a report covering the details of the offense, including information identifying the complainant or victim and the facts justifying the need for detention. He must certify that an intake study has been conducted by DSSD.

The above-mentioned administrative orders are intended to assure greater collaboration and coordination between the police and social welfare agencies in effecting judicious diversion of deserving youth from the criminal justice system. Through a closer working relationship between police agencies and social work agencies there can result a more effective program for the treatment of young offenders and the prevention of juvenile delinquency.

### **Developing Close Working Relationship with Social Welfare Agencies**

There is, however, a pressing need to develop and enhance closer working

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relationship between the police and social welfare agencies. Toward this objective, the following suggestions are submitted for consideration:

(1) The police-juvenile officer should take the initiative in getting personally acquainted with the executive and intake worker at the case work agency. In the past, practically nothing has been done to develop a better working relationship, since the initiative has not been taken by social agencies to get acquainted with the police.

(2) The police department might invite the executive of the case work agency to meet with the law enforcement staff, particularly with juvenile officers. The social work executive would be in a position to answer questions informally about the agency's

services, so that the officers would get a good understanding of what happens in the treatment process.

(3) Through participation in the community council meetings with other representatives of agencies, the juvenile officer might get better acquainted with the representatives of the case work agency and keep abreast of any changes in youth service program.

(4) It is important for juvenile officers to occasionally visit social welfare agencies while on their tour of duty so that the children get the feeling that officers are interested in their activities. There is a real public relations value in informal visits. Too often trips or visits are made to these agencies only when an officer wants to question a youngster about some difficulty.

## SECTION 3: GROUP WORKSHOP

## WORKSHOP I: Backgrounds of Crime and Delinquency

## Summary Report of the Rapporteur

Chairman : Mr. Yang Kyun Kim  
 Advisors: Mr. Teruo Matsushita, Mr. Kōsuke Tsubouchi, and  
 Mr. Katsuo Kawada  
 Rapporteur: Mr. U Nyan Lynn

## Titles of the Papers Presented

1. "Bōsō-zoku": Groups of Reckless Young Drivers  
 by Mr. Masayuki Tamura (Japan)
2. Juvenile Delinquency and Its Environment in Japan  
 by Mr. Tōichi Fujiwara (Japan)
3. Juvenile Delinquency and Corrupt Tendency in Korea  
 by Mr. Yang Kyun Kim (Korea)
4. Etiology of Juvenile Delinquency in Burma  
 by Mr. U Nyan Lynn (Burma)
5. Phases of Family Life in Iran  
 by Mr. Nasser Heshmati (Iran)
6. Some Consideration of the Influence of the Family Environment on the Personality Development of the Child  
 by Mr. Adnan Muhammed Ahmed Al-Sammarree (Iraq)

## Introduction

The group consisted of two public prosecutors, one judge, one correctional officer, one researcher and one social worker. The group discussion put a focus on the backgrounds of crime and delinquency related to family, school, community, and cultural and economic conditions. Among many factors, the importance of family as one of the most effective institutions in preventing and controlling crime and juvenile delinquency was stressed. Since there was a wide variety of family conditions in each country, the group felt that such factor should be

evaluated in accordance with the particular conditions of the member countries.

## "Bōsō-zoku": Groups of Reckless Young Drivers

According to Mr. Tamura (Japan), the term, *bōsō-zoku*, is defined by the Japanese police authority as those youngsters who gather together and drive motorcycles and automobiles recklessly in group. They drive with an excessive speed and ignore traffic regulations, often resulting in accidents. They like to make loud noise of exhaust, thus creating public nuisance, and often have fights in between groups.

Along with the development of motorization in Japan in the last decade, there arose a motorcycle boom among adolescents. The minimum age for driving license is 16 for motorcycles and 18 for automobiles. According to Mr. Tamura, nearly half of the high-teen boys belonging to *bōsō-zoku* have driving license. These groups increased in number year by year and reached 684 groups with 28,241 members in 1976. In 1974, 24 youngsters lost their lives in traffic accidents and 86 struggles took place between groups with 42 injured, and 1,266 were arrested. A total number of 15,540 were apprehended or given guidance by the police in 1975.

Based on a survey of 741 *bōsō-zoku* members made by the National Research Institute of Police Science in 1975, Mr. Tamura pointed out the following facts:

- (1) Concerning the social status of members, 85 percent of them were 16 to

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19 years of age, 30 percent were senior high school students and 52 percent were blue-collar juvenile workers. Comparing with youth of the same age they had shorter educational careers and were in lack of effort to promote themselves.

(2) Most of them showed interest only in motorcycles or automobiles and enjoyed thrills, excitements, and speed of driving. They seemed to be fond of displaying their masculinity and sense of freedom through reckless driving.

(3) Their purpose of affiliation with the groups was mainly to obtain fellowship which they could not find in their daily life in schools and workshops.

The group discussed the facts presented by Mr. Tamura and suggested the followings as countermeasures:

(1) Age limit for driving license should be raised.

(2) Parents should be requested not to let their children apply for driving license and not to give them automobiles except under justified circumstances.

(3) Traffic regulations should be more strictly enforced in order to eliminate the public nuisance, particularly by *bōsō-zoku*.

(4) School as well as social education for adolescents should be oriented to encourage them to engage in more creative activities.

The last suggestion was given a special attention by the group. It seemed that the most problematic trait of members belonging to *bōsō-zoku* groups was that they did not have the ability and will to continue their education in the country where a high educational career for youth was highly appreciated. Unless given proper guidance and incentive for schooling or work, *bōsō-zoku* members might drop out from the present-day competitive society. Their attitudes toward society are very similar to those of other delinquent boys. But it may be said that they have not become full-grown delinquents because they have devoted themselves to automobiles as a means of sublimation. Therefore, it is not a good solution for the problem of *bōsō-zoku* only to take away automobiles from them. It is essential to find ways of

canalizing their energy into healthier direction. Although *bōsō-zoku* is a quite unique phenomenon only in Japan and few other countries, the group felt that other countries will face the similar problem with the development of motorization in the future.

### Juvenile Delinquency and Its Environment in Japan

Mr. Fujiwara (Japan) discussed the problems of juvenile delinquency and its environmental factors in Japan. He pointed out the followings as the characteristics of the contemporary juvenile delinquency:

(1) Shoplifting showed a strong tendency to increase;

(2) Assault in schools was increasing;

(3) Improper sexual company by junior and senior high school girls was growing more rampant;

(4) Abuse of thinner, toluene, glue, etc. was spreading among juveniles; and

(5) Violence and other offences by *bōsō-zoku* were getting more serious.

Then Mr. Fujiwara explained some of the environmental factors in Japanese society which were related to the recent trends of juvenile delinquency. Japan is highly urbanized, and following this urbanization unhealthy social environment is spreading throughout the country. There is also a flood of indecent films and magazines which show sexual relation and violence affirmatively and thus stimulating sexual desire of youth and encouraging violent behavior of juveniles. Moreover, not a few children have not received proper education and guidance both in school and at home under the present competitive society. At present, children and their parents as well are involved in severe competition in the entrance examination to higher schools. Only few students can be successful in entering high-ranking schools. As a result, many junior and senior high school students are observed with feelings of failure and inferiority. Thus, they were easily subjected to bad influence of unhealthy social environment.

The group generally agreed that

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juvenile delinquents dealt with by the police were only the visible tip of an iceberg, and that the measures of preventing juvenile delinquency should be directed toward constructing sounder environment for all juveniles throughout the country. Mr. Fujiwara expressed the view that the public should be organized to pay much consideration to clean up social environment. For instance, indecent films and magazines should be regulated. Besides, sex education should be given to children at a certain age both in schools and homes. He also emphasized that teachers and parents should pay more attention to the healthy development of human relationship of children by increasing opportunity to talk personally with children on every matter faced by them in daily life. Children should be given proper guidance on how to lead a meaningful life and what are important and worthy in the life of human beings.

As to the control of unhealthy films and materials, Mr. Fujiwara pointed out that it was very difficult for the police to control adult movies and other pornographic materials through the methods of prior restraint, and the concept of obscenity under the Penal Code was not wide enough to cover all indecent films and other materials inimical to youth. In this connection, it was observed that the standard of decency varied from one nation to another reflecting different cultures and traditions. However, the group was in agreement that children should be properly protected by their parents, schools, communities, and other social institutions from the vicious influence of pornographic movies and magazines and proper sex education be given to children.

### Juvenile Delinquency and Corrupt Tendency in Korea

Among various aspects of juvenile delinquency in Korea, Mr. Kim (Korea) stressed the impacts of juveniles misbehaviors such as drinking, smoking, and keeping long hair. He also gave detailed accounts of the functions of family courts and other authorities in charge. Mr. Kim pointed out the recent decrease of

misbehaving juveniles might be due to the successful implementation of Saemaul (New Village) Movement which had been launched in 1971.

As to the rationale for prohibiting juveniles to drink, Mr. Kim noted on its direct crime-stimulating effects, indirect crime-stimulating effects and eugenic effects. According to his explanation, smoking and keeping long hair as well as drinking were considered in Korea as contributing factors to juvenile delinquency. He took a deep interest in corrupt tendency cases. Corrupt tendency is manifested in irresponsible behaviors which tend to degrade the traditional good mores and customs unique in Korea, such as lewd action, distribution of obscene materials, prostitution, drunken disturbance, long hair, and other various minor offenses.

The group generally agreed that, while the transfusion of Western culture and civilization had certainly been beneficial to the upgrading of living standard, it sometimes had broken traditional morality and germed mammonism (almighty dollar principle). Mr. Kim stressed the necessity for effective legislation and purification plan against corrupt tendency, and considered vigorous inspiration of Saemaul spirit (diligence, self-help, and cooperation) as one of the most important measures. The group paid special attention to Korea's efforts to strengthen or reinforce moral and ethical standard in the community. Although some participants were opposed to the prohibition of long hair, many agreed that such regulation might be understood under the present extraordinary circumstances in Korea as an effort to unite people for the national interest.

### Etiology of Juvenile Delinquency in Burma

Mr. U Nyan Lynn (Burma) dealt with different aspects in the etiology of juvenile delinquency and presented its prevailing causes in Burma. He stressed the importance of family life, urbanization, school life, and urban employment. As to the family life in Burma, he touched upon such problems as incompetent

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parents, broken homes, earning mothers, and poor economic conditions. In discussing urbanization, he maintained the view that industrialization and urbanization were both inevitable and welcome in developing countries and juvenile delinquency appeared to be an inescapable price a developing country must prepare to pay.

Unsatisfactory situation of schools and educational system in Burma was also reported by Mr. U Nyan Lynn: He further discussed the impacts of widespread urban unemployment among young people on their delinquent behaviors. The widespread unemployment in sprawling urban areas constitutes the central and most baffling problems facing the country. Then he touched upon the minimum age of 18 required for the registration in the employment exchange department. He was of the opinion that if this age be reduced to 16 which was the age of completing ordinary school education the problem would be mitigated to a considerable extent.

Concerning urbanization, Mr. Fujiwara maintained that urbanization was one of the most important causes of the increase in crime and delinquency, but it would be possible to implement a development plan so as to make use of beneficial effects of urbanization. During the discussion, it was generally agreed that family environment was of primary importance in preventing juvenile delinquency. In this connection, many participants pointed out the decline of family authority to control over the behavior of children. While different family structures such as joint family, corporate family and nuclear family prevail in different societies, the decline of its authority might be attributed to financial difficulties to support the members of family, the generation gap between old conservatives and young liberals, and various other complicated factors. Mr. Heshmati pointed out the importance of educating mothers on proper ways of bringing up children.

### Phases of Family Life in Iran

Mr. Heshmati (Iran) described the

history of Iranian corporate family system based on polygamy. He referred to Koran, traditions and regulations concerning marriage and divorce, proper relation between men and women, treatment of widows and orphans, inheritance and upbringing of children. He specially mentioned the Koran's saying that a man was allowed to have up to four wives but required to treat them equally and justly. But many men with more than one wife are unable to provide their family members with proper treatment and sufficient economic assistance. This causes many social problems seriously affecting the welfare of many wives and children. The Government is making every effort to improve the situation.

According to Mr. Heshmati, the present Government is making every effort to eradicate polygamy, bigamy and concubinage. The reason is that a man is not capable of treating two or three wives equally and justly according to the religious regulation. At the present, a second marriage must be approved by the court and the permit is issued only if the husband has had the consent of his first wife or she is mentally or physically disabled, and he is financially and physically capable of having a second wife.

On the other hand, Mr. Heshmati pointed out that women in Iran had been liberated to have the same opportunity with men. Now they are participating in many fields shoulder to shoulder with men. Unlike in older days a man cannot divorce a woman without a sound reason.

The group agreed that, under the corporate family system with two or more wives and their children, it would be very difficult for wives to take a mother's role of giving sufficient education and proper discipline to their children. Such family system may be regarded as one of the powerful causes of crime and delinquency. The group supported the opinion of Mr. Heshmati that the governmental and civil movement to elevate the status of women and to improve the family situation which had been obtaining successful results should further be pursued.

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### Some Consideration for the Influence of Family Environment on the Personality Development of the Child

Mr. Al-Sammarree (Iraq) described complex problems of family in Iraq. He stated that families were the most biologically-oriented structure of human social organizations. Sexual satisfaction, procreation, education and discipline of children, and the physical maintenance of all family members account for a great deal of family activities. He added that families were of vital importance to the psychological development and socialization of children. For most people selfhood is formed in families. Families serve as bridges to organizations and relations in all spheres of life in society.

The families in Europe consist of three or four persons, but in African and Asian countries the size of family is larger. According to Mr. Al-Sammarree, Iraqi families normally consist of four to 10 persons. In Iraq a man can marry up

to four wives. This was one of the main sources of social problems and crimes in Iraq. He reported on a case that a man married four wives and had 21 children. It was obviously impossible for him to bring up these children properly. Although the government is making efforts to establish homes for illegitimate children, many children of big families become delinquents. He also pointed out the fact that many pilgrims to Iraq from other Islamic countries become victims of pickpocketing by deprived children.

The group noted that family played a very important role in the prevention of crime and delinquency. The phenomenon of crime and delinquency is often attributable to inadequate family conditions. When a man becomes frustrated economically or socially he is likely to commit an offence. The group shared with Mr. Al-Sammarree the opinion that if the family system of Iraq be modified to adapt to the current situation of the country, the problems of crime and delinquency would be greatly mitigated.

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## WORKSHOP II: Institutional Treatment and Diversion

### Summary Report of the Rapporteur

Chairman: Mr. Assrat Belaye  
Advisors: Mr. Yoshio Suzuki, Mr. Katsuyoshi Ōyama and  
Miss Masako Kōno  
Rapporteur: Mr. Reynaldo J. D. Cuaderno

#### Titles of the Papers Presented

1. The Need for More Meaningful Participation of the Police in Juvenile Diversion  
*by Mr. Reynaldo J. D. Cuaderno (Philippines)*
2. Treatment Programs for Young Adult Offenders  
*by Mr. Sunao Satō (Japan)*
3. Consideration of Pre-Parole Service Program in Japan  
*by Mr. Manabu Sakaida (Japan)*
4. Contemporary Problems of the Juvenile Classification Home  
*by Mr. Masakane Suzuki (Japan)*
5. Some General Considerations as to the Treatment of Juvenile Delinquents in Ecuador  
*by Mrs. Lupe Lasthenia Machado Paladines de Perez (Ecuador)*
6. The Problem of Institutionalization in Ethiopia  
*by Mr. Assrat Belaye (Ethiopia)*

#### Introduction

The group consisted of one prison officer, three specialists in juvenile institutions, one probation officer, and one assistant police commissioner. The discussion covered a wide range of contemporary issues and problems relating to juvenile diversion and institutional treatment programs for juvenile and young offenders. It was observed that effective and realistic treatment of juvenile delinquents necessitated the development of alternatives to formal juvenile court adjudication, such as the use of diversion for certain types of

offenders. The group then examined the current practices and programs in the institutional treatment of youthful offenders, the factors and problems involved and their impact on the trainees, and explored ways and means of improving institutional treatment measures. The discussion may be divided into two main categories: (1) Juvenile diversion and (2) Institutional treatment programs for juvenile and young offenders and their effectiveness.

#### Juvenile Diversion

In his paper entitled "The Need for More Meaningful Participation of the Police in Juvenile Diversion," Mr. Cuaderno (Philippines) noted that diversion of youthful offenders from the criminal or juvenile justice system took place most frequently at the police level, since in the process of apprehension the police were the first point of contact of juveniles with public authority. However, most police departments diverting youth to social welfare agencies neither have a systematic policy for screening juveniles out of the justice system nor a formalized set of criteria for referral. The degree and direction in which juvenile offenders are diverted are influenced by many factors such as the individual officer's conception of justice and his philosophy and theory of corrections, his personal assumptions, attitudes, biases, and prejudices, his knowledge of community resources, his relationships with other professional welfare workers both within and without his department, the size of his case load and the work load of his department.



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In order to insure more objective and judicious exercise of discretion in the matter of diversion, Mr. Cuaderno suggested the use of the following criteria in determining whether or not release to parents or social welfare agencies should be resorted to: (1) type and gravity of offense, (2) number of offenses committed, (3) presence or absence of high risk situations in the home environment, (4) parents-child relationship, (5) attitude of parents, and (6) needs of the child for authoritarian or non-authoritarian treatment. Mr. Cuaderno likewise stressed the need for encouraging the increased use of youth welfare agencies by law enforcement agencies, as well as the need for developing closer coordination between the police and welfare agencies.

The members of the group agreed with Mr. Cuaderno's position regarding the need for establishing formal criteria for determining appropriateness of diversion of juveniles from the criminal or juvenile justice system. The group was also of the opinion that, in order to insure an integrated approach, formulation of the criteria for diversion by the police be effected in collaboration with the social welfare agency, the family court and the police. On the other hand, some members suggested that diversion programs by the police should be limited to relatively minor cases because the police were not qualified to conduct socio-psychological investigation of juveniles and there was a possibility for the police to abuse their authority if given a wide discretionary power.

### **Institutional Treatment Program**

The second paper which came up for discussion was that of Mr. Satō (Japan), entitled "Treatment Programs for Young Adult Offenders," in which he explored the problems involved in the treatment of prisoners categorized as YB class. This class, introduced as a prisoner allocation category by the new "Prisoner Classification Rules" of 1972, consists of young adult offenders under 26 years of age who have an advanced criminal tendency. Their behavior traits are as follow: (1) inclined to form groups,

especially gang faction groups; (2) apt to follow others blindly in group activities; (3) rebellious to official rules and orders; (4) aggressive, violent, impulsive and vainglorious; and (5) lacking in perseverance, will to work and hope for the future.

As treatment measures for YB class prisoners, Mr. Satō recommended: (1) improvement of institutional facilities and equipment; (2) use of relatively small workshops instead of big ones; (3) wider use of individual cells and the reduction of the number of inmates in community cells; (4) effective use of reward as well as punishment; (5) introduction of prisoners' self-government system under the guidance of the staff; (6) more emphasis on living guidance (guidance through psychological treatment such as self-observation method and individual and group counseling, recreational activities, reading and diary writing, etc.); (7) better planning of educational, vocational and physical training; (8) modulation of the relationship between the inmate and his family or relatives through visits and correspondence; and (9) reeducation of the staff to enhance their awareness of being educators. The members of the group agreed upon the propriety of such measures, but put a special emphasis on the needs of developing vocational training and living guidance in the treatment of YB class prisoners in order to promote their adjustment to social life after release as well as to institutional life.

On the other hand, Mr. Satō emphasized the need for serious consideration of security problems caused by YB class prisoners who often caused disorder and violated institutional discipline. Considering special characteristics of YB class prisoners, it was pointed out that correctional treatment must be conducted with a due regard to the maintenance of security in prison. Especially, continuous attention is necessary to the movements of grouped young prisoners trying to destroy the security of the prison. It can even be said that no correctional treatment is effective without the adequate maintenance of the order and security.

In his paper entitled "Consideration

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of Pre-Parole Service Program in Japan," Mr. Sakaida (Japan) explained that the purposes of the pre-parole service program, introduced in 1966, were to make a preliminary inquiry on the appropriateness of release on parole as well as to help the inmate rehabilitate himself more smoothly and to improve the relation between the correctional institution and the rehabilitation services. Under the scheme, a parole officer visits the inmate as soon as he becomes legally eligible for parole, in contrast to the conventional practice where a parole officer interviews the inmate only after the application for parole has been filed. The program is particularly indispensable for the short-term treatment program in Juvenile Training Schools, which was introduced in June 1977, to effectuate the rehabilitative function of institutions through short but intensified treatment as well as to reduce the negative effect accompanying the committal to institutions. Since an inmate placed on the short-term treatment program is expected to be released on parole within six months as recommended by the Family Court, it now becomes necessary for the parole officer to start the pre-parole investigation almost immediately after the commitment of a juvenile to an institution.

In order to facilitate the pre-parole service by a parole officer, the Training School is to send to the Parole Board a classification summary report within seven days after accommodating the juvenile in the institution, and thereafter to report on various problems observed at each stage in the process of treatment such as changes in his attitude and behavior, violation of rules, and visits of his family. To keep a closer relationship between the Parole Board and the Training School, the Chūbu Regional Parole Board and the Nagoya Regional Correction Headquarters have additionally entered into an agreement. Under the agreement, the Training School is further expected to inform the Parole Board of other personal problems of the inmate covering items such as his attitude toward his past anti-social career and institutional treatment, his life planning after release from the institu-

tion, and his relation with friends. While members of the group agreed that the pre-parole service program would work well for the rehabilitation of the juvenile and also elimination of negative effect resulting from institutionalization, Mr. Sakaida pointed out that it was still difficult for the parole officer to get a clue to understand the real problems of the inmate because of the short duration of interview necessitated by the shortage of personnel.

The "Contemporary Problems of the Juvenile Classification Home" was thereafter presented by Mr. Suzuki (Japan). According to him, the main roles of the Home are as follow: (1) to classify juveniles by the use of relevant sciences such as medicine, psychology, psychiatry, sociology and pedagogy, and to report the results obtained thereby to the Family Court with the recommendation regarding the disposition of juveniles; (2) to detain juveniles by the decision of the Family Court for a certain period not exceeding 28 days; and (3) to make treatment plans for juveniles who have been placed by the Family Court under protective measures. Keeping these roles in view, Mr. Suzuki explained that the coverage of the treatment programs for juveniles in the Home can be divided into five categories, namely: (1) security and custodial work; (2) arrangement of living conditions; (3) living guidance and social education; (4) treatment for reducing anxiety of the juveniles; and (5) special educational-therapeutic treatment (e.g., counseling, role playing, psychodrama, autogenic training, behavior therapy).

Some of the problems relating to the treatment of juveniles in the Home discussed by the group were the following: (1) the aims and effectiveness of treatment programs, particularly the educational-therapeutic treatment; (2) the feasibility of carrying out manifold treatment categories in the Home; and (3) the propriety of undertaking in the Home such special treatment as educational-therapeutic treatment, considering that the main role of the Home is to make classification examination for the Family Court.

In relation to the foregoing problems,

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Mr. Suzuki commented that the main objective of the educational-therapeutic treatment was not to attain the goal of ultimate reformation of juveniles but to help them improve their attitude and behavior; that the so-called over-treatment under which juveniles have no time to relax should be avoided; that the use of "priority treatment," in which core categories of treatment were set up according to the needs of juveniles and the actual situation of the Home, should be encouraged; and that conducting the educational-therapeutic treatment in the Home was advisable since it was useful for the improvement of juveniles, in addition to the enhancement of morale of the staff through greater involvement.

The members of the group appreciated the usefulness of the Classification Home and the educational-therapeutic treatment in the Home, on the ground that no chance should be overlooked for helping juveniles improve themselves even though the term in the Home was limited. Some members of the group opined, however, that it was difficult to introduce such a system in their own countries at the present time because of differences in cultural, social, and economic conditions.

In her paper entitled "Some General Considerations as to the Treatment of Juvenile Delinquents in Ecuador," Mrs. Perez (Ecuador) mentioned the following problems which hampered the treatment programs for juveniles in Ecuador: (1) centralization of service agencies in provincial capitals and key cities; (2) lack of overall planning and coordinated program at the national level; (3) dispersion of laws relating to juveniles in several statutes; (4) lack of research study and statistical data on juvenile delinquency at the national level; (5) scarcity of attention to the problems of juvenile delinquency at the community level; (6) insufficiency of recreational centers and meeting places for young people; (7) lack of social conscience in relation to juvenile problems; (8) lack of trained personnel in juvenile institutions; and (9) lack of coordination between judicial and police authorities and agencies dealing with juvenile delinquency. With the end in view of meeting these problems, Mrs. Perez recommended,

among others, that the government should establish a well-planned centralized service in accordance with the needs of localities; that planning be inter-ministerial, coordinated and on a continuing basis; that juvenile laws be updated and adapted to the needs of society; that an organization to carry out overall policy be formed at the national level; that a department be established at the national level to conduct research and statistical study on juvenile delinquency; that personnel in juvenile institutions be provided with better training; that ways and means of enhancing public awareness in juvenile delinquency be explored; and that a system of parole and post-release aid for juveniles be established.

Following the explanation of the general problems regarding the treatment programs of juvenile delinquents, she also explained that Ecuadorian society had been suffering from disorganization of family ties owing to the increase of working mothers, the lack of educational system suited to the present social conditions, and the degradation of morals caused mainly by the import of foreign cultures, especially through mass media. These social and economic factors have contributed to the increase of juvenile delinquency and prevented the introduction of effective countermeasures. While the developing countries like Ecuador should spend a greater ratio of national budget for the development of public enterprises and for the improvement of social and political conditions, she acknowledged that her country had been making every effort to improve the administration of criminal and juvenile justice in many respects.

Taking cognizance of the socio-economic problems faced by Ecuador, some members of the group suggested that correctional institutions be moved to the suburbs of cities where enough lands were available for conducting vocational training in agriculture, animal husbandry, poultry, etc. The added income derived from the sale of industrial products turned out by correctional institutions may then be applied to subsidize part of the expenses for institutional administration and for more effective vocational and educational training of inmates. It was

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further proposed that instead of trying to improve all juvenile institutions at the same time, it would be better to concentrate initially on the improvement of one or two institutions which can thereby serve as a model for others to follow.

The last paper which was taken up by the group was "The Problem of Institutionalization in Ethiopia" by Mr. Assrat (Ethiopia). Among the problems of institutionalization mentioned by him were: the lack of trained manpower; insufficient funding and resources for proper aftercare program; the negative attitude of the public towards juveniles who have been discharged from correctional institutions; the lack of employment opportunities; the lack of adequate family attention and proper care; escapes from the institution; and recidivism. He also pointed out that young people considered the correctional institution as a shelter rather than a rehabilitative agency, thus obliterating its basic objective.

Mr. Assrat felt that the problem of his country was more of a socio-economic nature rather than psycho-social. Accordingly, he said, treatment programs should be geared towards non-institutional type of services, vocational train-

ing, settlement schemes and development of cottage industry. He also felt confident that the current land reform program in his country would help to reduce the frequency of family disorganization and the number of juvenile delinquents. Some members of the group commented that more emphasis on vocational training in juvenile institutions would provide the youth with the necessary skills which can be utilized in contributing to the economic development of the country.

In summation, the group took cognizance of the need for the entire social institutions to make an utmost effort to strengthen family ties, produce better education, improve opportunities for employment and make the activities of law enforcement and social services more relevant to the needs of society. It is apparent that the multifaceted problems of delinquency cannot be solved by simple institutional programs. What is needed is a comprehensive effort to make changes in the system which produces juvenile delinquency and other forms of anti-social behavior, since one cannot isolate the treatment and prevention of a social problem which has its roots in the socio-economic conditions of society.

## WORKSHOP III: Probation and Social Investigation

### Summary Report of the Rapporteur

Chair person: Miss Chan Siew Leng  
 Advisors: Mr. Kazuhisa Suzuki and Mr. Takeshi Satsumae  
 Rapporteur: Mr. Ved Bhushan Bhatia

#### Titles of the Papers Presented

1. Volunteer Scheme for Probationers  
by *Mr. Ka-chi Kwok (Hong Kong)*
2. Use of Volunteer Probation Services under the Probation Programme: An Experiment under Indian Conditions  
by *Mr. Ved Bhushan Bhatia (India)*
3. The Problem of Refractory Young Adults  
by *Miss Chan Siew Leng (Singapore)*
4. Some Problems Concerning Lack of Parental Cooperation with Probation Officers  
by *Mr. Supachai Suvansuratn (Thailand)*
5. The Problem of Compensation to Employer for the Loss Caused by Employed Probationer or Parolee  
by *Mr. Ikuya Fujita (Japan)*
6. Some Problems on the Process of Social Investigation  
by *Mr. Isao Tabuchi (Japan)*

#### Use of Volunteer Service

The group workshop session was opened with the presentation by Mr. Kwok (Hong Kong), which was followed by the presentation by Mr. Bhatia (India). Both of them touched on the use of volunteer services for probationers.

Mr. Kwok first discussed the role of volunteers in the probation scheme, asserting that volunteers cannot take over the role of professional probation officers. The latter are responsible for the legal aspects of probation and for solving the behaviour problems of probationers. While volunteers can help probationers in areas which require no professional knowledge of skills, the final responsibility rests with probation officers. In matching volunteers to probationers, they are requested to indicate what kind of persons they would like to help and what type of service they can offer. It is very necessary for the volunteer to keep the probation officer informed of all his contacts with the probationer. The orientation course for volunteers should provide some basic information on the probation service, its functions, philosophy and related welfare services for offenders. According to Mr. Kwok, the volunteer scheme in Hong Kong commenced of late in 1976 and the response from the public has been very encouraging. Volunteers come from a cross-section of the community including teachers, nurses, office workers, students and others.

Mr. Bhatia at the very outset mentioned that the use of volunteers in the probation programme was just at a beginning stage in his country. He emphasized that volunteers could act as a catalytic agent

#### Introduction

The group consisted of five probation officers and one senior researcher. The group laid an emphasis on the problem of how to mobilize voluntary members of the community in probation, parole, and other non-institutional treatment of juvenile and young offenders, and then gave special considerations to some problems relating to probation service such as the treatment of refractory young adults, the compensation for the damage caused by the probationer or parolee, and the methodology of social investigation.

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by efficiently participating in the programme, but the success of the scheme would rest with the probation officers, and made the following observations:

(1) Persons with moderate socio-economic background show keen interest in the programme;

(2) The effectiveness of the volunteer system depends upon the types of persons selected and their acceptance by probation officers;

(3) Both probation officers and volunteers have to develop faith in the probation system;

(4) The probation officer has to develop skills not only in directly working with probationers but in treating them indirectly through the use of volunteer *sahayaks* (aides); and

(5) The probation officer should remain as the key person in the programme. If he thinks that volunteers can replace him, the effectiveness of the programme will be seriously compromised.

In the discussion on the role of volunteers, Mr. Kwok and Mr. Bhatia maintained that volunteers could assist the probation officer in helping process for probationers by befriending them and giving them guidance and advice, but the supervision of probationers should not be a part of duties of volunteers because they may not have the same professional knowledge and skill as probation officers. However, some participants were of the view that volunteers could also assist probation officers in supervising probationers and stressed that this approach had been in practice in Japan and functioning quite well.

The group agreed that the volunteer scheme could be effectively implemented in many countries while the probation officer should play the key role for the success of the volunteer scheme. It was also felt that the qualifications and qualities of volunteers depended on such factors as the roles to be played by them and human resources available for the volunteer programme in the community, that the training of the volunteers was a very important aspect and that proper matching of volunteers with probationers was a vital factor for the success of the volunteer scheme.

On the question of recruiting volun-

teers, especially the middle aged volunteers, it was suggested that teaching professionals, people in business and housewives ought to be better utilized. To this end, more educational programmes should be organized to promote the idea of volunteerism through mass media, publications, lectures, etc.

In order to maintain the interest of the volunteers, it was agreed that the support of probation officers was of prime importance and refresher courses for volunteers should be organized regularly to sharpen their skill during their period of services.

On the education of the public at large and the importance of the volunteer scheme, the group agreed that society itself should play an active role in this field. This can be done at three levels, namely, (1) community at large, (2) group and organizational level, and (3) individual level. At the first level, mass media like radio, television, newspapers and exhibitions can be effectively utilized, while at the second level, group lectures by probation officers to the members of voluntary or civic organizations can be effective in mobilizing their cooperation. Lastly, at the individual level, probation officers as well as volunteers may work actively with individuals and private agencies and organizations in giving probationers needed help and support.

The group considered it important to cover the following topics in the training of the volunteers: (1) the criminal justice system as a whole, (2) the basic concept of probation and the expected role of the volunteer, (3) the cooperation between the volunteer and the probation officer, and (4) drug addiction, illegal society, and other important crime phenomena.

### Refractory Young Adults

Miss Chan (Singapore) raised the problem of refractory young adults between the ages of 16 and 21 which had become increasingly serious in Singapore. These are young males and females who have not committed an offence but are on the verge of crime, delinquency and drug abuse. They create difficulties for themselves and their parents. They are

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generally beyond control at home, in school or at places of employment. They keep late at night, frequent dubious places and associate with bad company.

According to Miss Chan, there are sufficient legal provisions to deal with refractory male and female juveniles between seven to 16 years old and refractory females under the age of 21 years, under the Children and Young Persons Act and the Women's Charter respectively. However, there is no legal provision to deal with refractory young male adults between 16 to 21 years.

In 1972, the Probation and Aftercare Service set up the Youth Guidance Service to tackle the problems of these confused and wayward youths. Generally, the Service is directed at:

(1) providing counselling service to enable young adults to tackle the problems of adolescence and to help them solve their social difficulties;

(2) providing voluntary supervision to those whose behaviour is considered morally harmful and likely to develop into criminal tendency if left uncorrected; and

(3) helping their parents foster healthy family relationship.

Very often, however, efforts at voluntary supervision of these refractory young adults have not been successful. They refuse to accept the offer of assistance, guidance and counselling, and probation officers have no power to compel them to do so.

The group agreed that these problems should be tackled from three angles: (1) strengthening of preventive measures, (2) expansion of the existing treatment programme, and (3) enactment of legal provision.

Regarding the strengthening of preventive measures, the group was of the opinion that schools, families and society as a whole should make concerted efforts in order to yield good results. Counselling and guidance service should be established and strengthened in schools, and closer parent-teacher relationship should be encouraged. Education programmes on family life may be useful in enhancing the better understanding of the role of each member in a family. Community

service programmes for helping the aged and the handicapped ought to be organized by youngsters themselves with the proper guidance in order to instill a sense of civic-mindedness among the youth.

With regard to the existing treatment programme, the group stressed that the Youth Guidance Service should be expanded. More staff, particularly trained social workers with matured and knowledgeable skill, should be recruited in order to render more intensive care and supervision.

It was further appreciated that the problem of refractory young adults cannot be tackled thoroughly without the backing of legal provision. The majority of the group opted for the adoption of legal provisions for the care and protection of these youngsters. It was noted, however, that a compulsory treatment programme should be used only as a last resort for refractory youth who had not yet committed an offence.

#### Lack of Parental Cooperation

Mr. Suvansuratn (Thailand) first explained that the people in Songhla Province where he works, most of whom were small rubber holders or merchants, often failed to meet the essential needs of their family members, especially those of children, due to their hard work. The children are left to themselves without proper care. There are many school dropouts. On an average, each family has about six to seven children; under this circumstance, the parents are unable to give proper care and supervision to their children, especially when they themselves are uneducated. Many still hold the view that education for their children is a waste of money and time.

When children or young persons are arrested for committing an offence, their parents are reluctant to go to the juvenile court because of the remote distance of the court from their residence or their busy business. Another important reason is that some parents cannot speak the Thai language. Most of probation officers come from Bangkok and they have difficulty in understanding the language of

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these people too.

The problem raised was how to overcome the negative attitude of parents towards their misbehaving children. The group felt that it was very difficult to change the negative attitude of the parents but some approaches to solve this problem were to increase the number of probation officers and to recruit probation officers particularly from the locality so as to enable probation officers to tackle the problem more intensively and efficiently. It was also pointed out that the introduction of the volunteer probation officer system would certainly contribute to the solution of the problem. Head-villagers, school-headmasters or other well-respected persons can be significant human resources for volunteers.

In this connection, some members suggested that it might be worthwhile to examine the possibilities of establishing a village level committee to deal with juvenile delinquents. Other members, however, expressed a fear that such laymen committee might be potentially dangerous to the protection of human rights and preferred to expand the services of family courts to rural areas.

### Compensation to Employer

Mr. Fujita (Japan) presented for discussion the problem of compensation to an employer for the loss he suffers by the act of a probationer or parolee at work, citing a case of a juvenile parolee who was employed by a company and for whom a voluntary probation officer of a half-way house acted as guarantor. While in employment, the parolee ran away with cash amounting to ¥430,000. The juvenile was untraceable, and in this case negotiations for making compensation were made between the employer company and the half-way house.

The problem involved in this case derived, according to Mr. Fujita, from the guarantor system traditionally and currently prevailing in this country which required an employee to stand a guarantor. For a probationer or parolee who has no guardian or other suitable person as a guarantor, it is very difficult to find a job. So his probation officer may wish to

assist him by taking the guarantee for him. The situation becomes troublesome when he commits an offence against employer. Although volunteer probation officers are advised through their orientation and training that they should not involve themselves in such a situation, some of them dare to run a risk out of enthusiasm and report the matter to the probation officer only when they are unable to solve the problems themselves.

The group was of the opinion that volunteer probation officers should not take the guarantee on behalf of the probationer or parolee under any circumstances because it was far beyond their duties, with the following suggestions: (a) professional probation officers should make volunteer probation officers clearly understand the legal liability of guarantor; (b) probation officers should encourage offenders to plan their future living and guide them to find jobs on their own; and (c) more comprehensive register system of potential sympathetic employers should be set up so as to cope with the diversified needs of offenders.

It was brought to light during the discussion that the majority of volunteers as well as professional probation officers in Japan conceal the status and records of the offender to the employer if the offender so wishes. Some participants were of the opinion that, whenever a probation officer would assist his client in finding a job, relevant facts should be placed before the employer to avoid any future trouble. On the other hand, some participants asserted that at least when the offender himself found a job and asked the officer to keep his records from the employer, the officer should accept the request.

### Social Investigation

The last paper presented by Mr. Tabuchi (Japan) dealt with some problems in the process of social investigation. He first explained how to conduct social investigation, pointing out that there are three methods of investigation: reference, interview, and observation. As to the method of reference, he underlined the importance of receiving information from school authorities, but pointed out that



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some school authorities are reluctant to supply relevant information because it would be used as a material unfavourable to the juvenile or because the juvenile might take the revenge on the school authorities. He also stressed the need and importance to collect information regarding the past delinquent behaviour of the juvenile, including (a) the process from the beginning of delinquency, (b) his behaviour after delinquency, (c) the characteristics of his delinquent behaviour, and (d) the characteristics of the delinquent group to which he belongs.

According to Mr. Tabuchi, the evaluation of the results of social investigation is most important because every worker has a different standpoint and way of thinking of his own. He was of the view that the investigation officer should not only state his conclusion but also include the process of his evaluation in preparing his report to the court. Moreover, we must look into the role of the report whether the reports have a probative value or not.

In the course of discussion, the group faced with a problem whether the social

investigation process should involve adjustment of social environment. Mr. Tabuchi expressed his view that some therapeutic approach was necessary during social investigation. However, his view was opposed by some members who stressed that the process of treatment and investigation must be theoretically and practically separated. The second point of discussion was how to conduct an interview as a method of investigation. The group agreed with Mr. Tabuchi that it should be conducted on a social work model by having the acceptance of the client and helping him express himself freely in a relaxed manner, so far as it was possible.

Finally, the group discussed what should be the basic approach to be taken by the social investigator in conducting social enquiry and in presenting recommendations to the court. While Mr. Tabuchi was of the view that the interest of the juvenile should be given prior consideration, the majority was of the opinion that the interest of the general public should at the same time be respected.

## WORKSHOP IV: Public Participation, Drug Abuse and Other Problems

### Summary Report of the Rapporteur

Chairman: Mr. Rama Nanda Baidya  
 Advisors: Mr. Masaru Matsumoto and Mr. Tadahiro Tanizawa  
 Rapporteur: Mr. Jaafar bin Abdul Wahid

#### Titles of the Papers Presented

1. Community Cooperation in the Prevention and Treatment of Juvenile Delinquency through Juvenile Welfare Committee  
*by Jaafar bin Abdul Wahid (Malaysia)*
2. Community Participation in the Prevention and Control of Crime in Sri Lanka—The Present Position and a Proposition for the Future  
*by Leslie R. Karunanayake (Sri Lanka)*
3. Countermeasures for Drug Abuse  
*by Masafumi Sakurai (Japan)*
4. Some Problems Relating to the Drug Addiction  
*by Rama Nanda Baidya (Nepal)*
5. Proceedings for Young Persons: Criminal or Juvenile Proceedings?  
*by Kaoru Kanayama (Japan)*
6. Case Study on a Boy Who Committed Murder  
*by Yukio Osanai (Japan)*

#### Introduction

The group consisted of one administrator in Home-Panchayat Ministry, one judge, one senior probation officer, one public prosecutor, one senior social worker and one child guidance officer. The group was entrusted with a difficult task of discussing wide problem areas covering community cooperation and participation in the prevention and treatment of juvenile delinquency, socio-legal implications of drug problems, selection of criminal or protective proceedings for juveniles and a murder case study.

#### Community Participation in Prevention and Treatment

Two papers were discussed on how the community could participate in the prevention of crime and delinquency and the treatment of juvenile delinquents. The group discussion put a particular emphasis on the following problem areas:

- (1) the necessity of setting up a basic organization in order to motivate the public to participate; and
- (2) measures to encourage effective and continued public participation.

Mr. Jaafar (Malaysia) indicated that existing voluntary organizations with varied welfare-oriented services need to be coordinated so as to utilize their resources more effectively and at the same time to make them more aware of their responsibility towards the community problems. He informed the group of the formation of Juvenile Welfare Committee in Malaysia, pointing that such a coordinating committee would help to enhance the community concern with the problem and to provide leadership potentialities.

The group felt that an organization itself would not work if it was unable to motivate the people at grass-root level. In this connection, Mr. Karunanayake (Sri Lanka) explained how the people in Sri Lanka were able to influence decision-making bodies and to correct any form of malpractices through the *Janatha* Committee. Crime prevention activities are within its jurisdiction. It was also indicated that in Japan there were similar organizations such as BBS, Associations of Volunteer Probation Officers, Crime Prevention Associations, etc., participating in the fields of crime prevention and

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treatment.

Mr. Jaafar then pointed out that all walks of life were represented in the Juvenile Welfare Committee. As in Sri Lanka's *Janatha* Committee and Japan's BBS, the youths are given the opportunity to actively participate in the activities of the Juvenile Welfare Committee.

The group discussed in depth how to motivate the community to be concerned with the problems of juvenile delinquency. There was a consensus of opinions as to the need of public education on delinquency problems and the group felt that past experiences had shown its beneficial impacts. On the other hand, there was a felt concern that the techniques or methods used should be further strengthened. Mr. Karunanayake emphasized that, in order to arouse public conscience to combat crime and to create a sense of awareness, coordinated campaigns should be organized by both the government and voluntary organizations. The group was of the view that public campaigns through mass media, exhibitions, dialogues and lectures should also be directed to children and youths for the purpose of instilling the idea of crime prevention at an early age.

Another area of concern was how to ensure the continuity of community participation in the field of crime prevention. The group reached an agreement that the following methods should be initiated in this respect:

(1) to have representation of professional innovators in the committee responsible for the coordination of voluntary activities;

(2) to give adequate orientations or training programmes to members of such committee;

(3) to hold periodical campaigns for increasing motivation for active participation;

(4) to reach out to the people at grass-root level by providing services of workers in the community; and

(5) to provide incentives or decorations, depending on each country's cultural factors, as a recognition of services rendered.

### Extent of Drug Abuse and Countermeasures

Mr. Sakurai (Japan) stressed that abuse of drugs was a crime against human body as well as society and serious considerations therefore should be given to its control. Mr. Baidya (Nepal) supported it by emphasizing that narcotic drug addicts developed criminal behaviour which was a great threat to the society. According to Mr. Sakurai, contrary to a decreasing trend in the use of narcotic drugs in Japan, a widespread use of cannabis and stimulant drugs was observed throughout the country and even among ordinary citizens. Furthermore, sniffing of organic solvents has spread steadily among adolescents. On the other hand, Mr. Baidya indicated that before 1973 there was no apparent incidence of Nepalese youths involved in drugs, even though certain kinds of drugs had been known for long. After the coming of hippies into Nepal, however, narcotic problems among the youths seemed to be increasing, if not to an alarming proportion observed in other countries.

The group discussed the effects of drugs to the users as well as to the future of society at large and called for concerted efforts to reduce and eradicate the drug menace. The following were recommended as necessary interventions:

(1) Penalization of drug abuse. It was pointed out, however, that factors contributing to the addiction and the circumstances of offences should be taken into consideration in meting out punishment.

(2) Public education for a better understanding of the drug problem. Special cares should be taken lest public education should create curiosity toward the use of drugs.

(3) Treatment and rehabilitation of drug addicts. Compulsory hospitalization for medical and psycho-social treatment is necessary for certain types of addicts. Aftercare for hospitalized or otherwise institutionalized addicts is indispensable for their better adjustment to the normal life.

(4) International cooperation in suppressing the trafficking of drugs

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which is the most serious aspect of the problem. To achieve this, it was stressed, each country should take stricter measures against manufacturers, cultivators, exporters and importers, and regular channels of information exchange should be established between various countries.

### Proceedings for Young Persons

Mr. Kanayama (Japan) observed that there were controversies in Japan on the disposition of cases involving young persons, i.e., those aged 18 years and under 20 years of age. Under the present system, according to Mr. Kanayama, all juveniles under 20 years are referred to the Family Court and as a rule are given orders of either protective measures or dismissal of the case. Only when the Family Court finds that a juvenile should be given a penal punishment, the case is referred back to the public prosecutor for criminal prosecution in the ordinary criminal court. There is no difference in legal proceedings between young persons and other juveniles of lower age. However, in view of the characteristics of young persons and serious nature of offences committed by them, the Ministry of Justice published "the Proposed Amendment to the Juvenile Law" in 1970 which contained various proposals for amending the present Juvenile Law. With regard to young persons, it made the following proposals: the public prosecutor prosecutes a young person in the Family Court where a trial is conducted in accordance with the Code of Criminal Procedure applicable to criminal proceedings for adults; the Family Court may impose a punishment on or give a protective measure to a young person, depending upon the nature and circumstances of the offence charged, but it cannot take any protective measures where the case involves a very heinous offence.

The first question raised and discussed was whether, as a rule, a young person should be treated as an adult and subject to penal sanctions or he should be treated as a juvenile and penal sanctions should be imposed only in exceptional cases. It was pointed out that a young

person of 18 years of age was dealt with as an adult in Malaysia and Nepal, while he is treated as a juvenile in Sri Lanka. The group agreed that the upper age-limit of juveniles and dispositions for them depended upon each country's own history, culture and social conditions and that it was very difficult to fix a universal upper age-limit. In this connection, purposes of rehabilitation of juveniles and protection of public interests to be achieved by juvenile courts were also discussed. The group reached an agreement that, although the primary concern in the disposition of juveniles should be their rehabilitation and protection, due consideration should be given to public interests, and that the Family Court should allow the public prosecutor's participation in the proceedings to represent the public interest especially in cases involving serious crimes by young persons.

The second problem discussed was whether the juvenile court should be authorized to impose penal sanctions as well as protective measures upon young persons or it should refer the case to the criminal court when it deems penal sanctions necessary. In Malaysia and Sri Lanka, the same court may choose either punishment or protective measures. The participants from these countries pointed out that the present Japanese system under which a juvenile had to pass through the Family Court before he was sent to the criminal court would duplicate the proceedings and result in unnecessary expenditure, delay in disposition and prolonged agony for the juvenile. However, the Japanese participants argued that despite such disadvantages, the present system had more weighty advantages of maintaining the fundamental nature of the Family Court as a court specially designed for the protection and rehabilitation of juveniles.

### Case Study on a Boy Who Committed Murder

Mr. Osanai (Japan) presented to the group a case in order to discuss adequate methods of treating delinquent boys of tender age. A boy of 11 years,

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below the age of criminal responsibility, committed theft and murder and was sent to the Child Education and Training Home. Psychological and psychiatric tests given to him revealed that he had an average mental ability and was neither psychotic nor neurotic, but the problem with him was his insufficiency of self-control and remorse. It seemed that he was subconsciously rebellious to his mother and that this feeling contributed to the commission of the offence. After a year in the institution, a conference to discuss his release was held. The superintendent was of the opinion that the boy should be released, but there were opposing views that he was in need of further training at the Home and the local community would not still accept him because of the seriousness of his offence. Thus, his stay was prolonged.

The group was posed with questions of

- (1) what types of treatment should be given to him and how long he should be separated from the family, and

- (2) how to create a better home environment and to make the community ready to accept him.

With regard to the treatment at the Home, the group felt that considerations should be given to his negative feeling

towards his mother and the neglect of care on the part of his parents. Since the boy was in need of learning proper roles in the family, it was recommended that he be placed on living guidance treatment in a cottage in which a small number of boys live with the family of the superintendent. The group reasoned that such a treatment would promote his adjustment to family situations in the light of his tender age, his psychological developments and the existing family problems. The group was also of the view that normal academic education should be continued and strengthened in addition to living guidance.

In order to create a better home atmosphere, the group felt that professional intervention by the child welfare worker was necessary, and that the parents should be encouraged to have closer and more frequent contacts with the boy through visits, letters and home leave. In this regard, Mr. Osanai reported that there had been a visible improvement in the relationship between the boy and his mother. With respect to the community attitude, the group agreed that the time for his home leave should be fixed so as to allow him to participate in various community festivals and other activities of the community.

## SECTION 4: CONCLUSIONS OF THE COURSE

## Report of the 46th Course on the Treatment of Juvenile Delinquents and Youthful Offenders

by UNAFEI Staff

### Introduction

There is no doubt that the future development of a nation depends on the sound growth of the younger generation. However, it is widely admitted that youth is evidently responsible for a substantial and disproportionate part of the crime problem, especially under current social conditions created by industrialization and urbanization which adversely affect the sound upbringing of children. The 46th International Training Course was thus designed to discuss various problems and issues in the treatment of offenders, with a particular focus on effective and appropriate treatment measures for juvenile delinquents and youthful offenders. The Course commenced on April 19 and ended July 8, 1977, with the participation of 24 officials representing 15 countries, namely: Burma, Ecuador, Ethiopia, Hong Kong, India, Iran, Iraq, the Republic of Korea, Malaysia, Nepal, the Philippines, Singapore, Sri Lanka, Thailand and Japan (10 participants).

Lively, constructive and fruitful discussions were developed, placing a particular emphasis on the following problems: (1) extent and gravity of juvenile delinquency and youth crime and their backgrounds, (2) disposition of juvenile cases, (3) improvement and expansion of appropriate rehabilitative programs in the institutional treatment for juvenile delinquents and youthful offenders, (4) development of probation, parole, aftercare, and other community-based treatment measures, and (5) effective preventive measures for juvenile delinquency and youth crime. It should be noted, however, that the following description is only a bare and rough outline of the theme, and that its coverage

and depth are limited for various reasons including insufficient statistics on juvenile delinquency and youth crime. The findings were therefore based on the limited sources consisting of the presentations and discussions by the participants and other available information.

### Extent and Gravity of Juvenile Delinquency and Youth Crime and Their Backgrounds

#### 1. Extent of Juvenile Delinquency and Youth Crime

Although it is not an easy task to assess the extent and gravity of juvenile delinquency without reliable information and statistics, it seems that there are not a few countries where the juvenile delinquency problem is considered very serious. Burma, for example, saw recently a rapid increase in the number of youthful offenders sent to the courts. It rose up from 1,548 in 1972 to 2,419 in 1975, and the incidence of juvenile delinquency per 100,000 population of the juvenile age group (6 to 18 years old) was estimated at 24 in 1964 and 30 in 1976. Korea faces a similar trend of juvenile delinquency, and juvenile offenders apprehended by the police rose from 36,648 in 1969 to 79,824 in 1976. Indian statistics show the progressive increase in the number of juvenile and youthful offenders. While the total number of cognizable offenses committed by those young people was 16,432 in 1963, it was 36,469 in 1973 (an increase of 20.3%). In the Philippines, out of a total of 6,417 offenses committed by juveniles in the Manila Metropolitan area during the year of 1976, 3,018 offenses or 47 percent were those against property,

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followed by 1,969 offenses against morals and order (31%), and 870 offenses against person (14%). In Japan, juvenile delinquency has been increasing since 1969 with a remarkable contrast to the decreasing adult criminality. The number of non-traffic major Penal Code offenders under 20 years of age reached a low of 101,412 in 1969, but increased to 112,379 in 1975. What causes more concern is the increase in the rate of such offenders per 1,000 juvenile population, from 8.9 in 1969 to 11.9 in 1975. The corresponding figure for adults was only 2.9 in 1975. Those figures in some countries clearly indicate that the problem of juvenile delinquency constitutes the major target of criminal policy of today.

### 2. Backgrounds of Juvenile Delinquency and Youth Crime

It is obviously difficult to single out causes of juvenile delinquency. However, the high incidence of offenses against property in contrast with other offenses in many countries of the region may be attributable to the process of urbanization accompanied by population migration, disorganization of family tie, deprived living conditions in cities, unemployment, personal and economic maladjustment and frustration, maldevelopment of ego and super-ego, etc. In Burma, for example, the incidence of offenses is much greater in Rangoon, the capital city, than in other towns of medium and small size. In 1975, the number of youthful offenders brought before the people's courts in Rangoon was 2,032, while the number of those brought before all other courts was 387. The fact that most of delinquents come from poverty-stricken families and from slum areas indicates that economic maladjustment is a very important factor in the causation of juvenile delinquency. In Burma, a great number of students are out of school and at the same time out of job. In that country as well as other developing countries, it is generally difficult to supply sufficient employment opportunities to the youth migrating from rural to urban areas. Ecuador has not yet solved the problems of poverty, illiteracy and malnutrition which are considered to be

major causes of theft, robbery and other types of illegal activities in big cities. After World War II, Ethiopia was opened to the outside world especially to the West, and exposed to a new style of life and thought. The growth of industrialization and urbanization has induced a great number of farmers to migrate to urban areas. However, most of them are unable to find suitable employment, and their children have often become street boys taking pickpocket and shoplifting as the simplest means of earning. Nepal is also stepping forward with a new zeal of urbanization. As a result, a lot of young people have migrated from rural areas to big cities and towns, looking for better job opportunities. Most of them, however, are left unemployed with an increased feeling of frustration.

The process of urbanization has also resulted in the weakening of social institutions which played an important part in controlling the behavior of youth. In Nepal, for example, the joint family system, under which the head of family used to take all the responsibilities for caring family members and controlling their daily activities, has ceased to work effectively, because it has become very difficult for the head to meet all the needs of the family members owing to changing economic conditions. Thus, many young persons become frustrated and start to lead a careless life, stepping in drug abuse and other misconducts. Obviously, the decline of traditional measures of social control has been conducive to juvenile delinquency. In Burma as well as in Hong Kong, unfavorable family conditions such as lack of parental care and control, broken homes and earning mothers have greatly contributed to the extent and gravity of juvenile delinquency. There is a greater account of immorality, alcoholism and criminality among the family members of delinquent boys than among those of the non-delinquent. And the high incidence of crime and delinquency in towns and cities under the process of industrial growth is related to the disruption of the traditional family system and consequent weakening of family authority and control over individual members. In other words, the characteristic features of the

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urban way of life such as extensive conflicts of norms and values, more rapid social change, increased mobility of the population, emphasis on material goods and individualism and a marked decline in intimate personal relation have a close relation with the increase of crime and juvenile delinquency. Furthermore, many participants stressed the importance of the influence of mass media portrayal of violence or sex on the behavior of young persons.

### Disposition of Juvenile Cases

#### 1. Roles and Functions of Juvenile Court

##### (1) Necessity of establishing the juvenile court

In most participating countries, juvenile cases are dealt with by a juvenile court. Its proceedings and dispositions are more or less different from those in a criminal court. In Ethiopia, Sri Lanka, India and Thailand, however, juvenile courts have been established only in some parts of the country and accordingly, in a district where no juvenile court exists, juvenile cases are necessarily handled by a criminal court.

In view of physical and mental immaturity of juveniles, the flexibility of their character, the necessity of avoiding rigidity and formality of criminal proceedings, all the participants agreed that the procedures of hearing and disposition for juveniles should be different from those for adult criminals. Furthermore, the majority endorsed the view that a juvenile court should be established in order to give juveniles necessary care and protection utilizing comprehensive knowledge of various social sciences. However, one participant observed that in developing countries where limited resources had to be used for national development in many other fields, it was difficult to establish a juvenile court for which considerable financial and personal resources were necessary, and that, at least at the present stage, juvenile cases should be dealt with by an existing criminal court with necessary modification of procedural rules and with the

adoption of proper dispositional alternatives for juveniles.

It is to be noted that in some countries, participation of citizens in juvenile proceedings is implemented. In Burma, members of the Committee of People's Justice are selected from among ordinary citizens and juvenile cases are disposed of by the Committee with the technical assistance of judicial officers and legal advisors. In Iran and Malaysia, a juvenile court consists of a president or justice and two advisors who are selected from among professors, school teachers, social workers, housewives, etc. After finding of the guilt of a juvenile, the former consults with the latter and decides what form of treatment should be given to the juvenile.

##### (2) Jurisdiction of the juvenile court

Generally speaking, juveniles who come under the jurisdiction of the juvenile court or other courts which are responsible for juvenile cases in the participating countries are divided into the following three categories:

(a) a juvenile who has committed an offense or an act which would constitute an offense if committed by an adult (a juvenile offender);

(b) a juvenile who is pre-delinquent, or who is truant, incorrigible or runaway, and prone to commit an offense (a pre-delinquent juvenile); and

(c) a juvenile who is neglected, mistreated or destitute (a juvenile in need of care and protection).

In most countries, only the juvenile offender is taken under the jurisdiction of the juvenile court or other courts, while the pre-delinquent juvenile is also handled by the juvenile court in Singapore, Japan and Korea. The juvenile in need of care and protection is also under the jurisdiction of the juvenile court in Sri Lanka, while in India such juvenile is handled by the Child Welfare Board in Delhi and some other Union Territories where the Central Children's Act of 1960 is in force and by the juvenile court in other districts.

One of the problems discussed was whether it was proper for the juvenile court to have the jurisdiction over pre-delinquent juveniles and juveniles in need



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of care and protection. With regard to pre-delinquent juveniles, some participants pointed out the vagueness and over-broadness of the concept of "pre-delinquency" which may include truancy, incorrigibility, running away, defiance and even smoking and drinking, and feared that the state intervention based on such a vague concept may result in infringement of juveniles' rights, undue deprivation of their liberty, and unwarranted stigmatization of them as delinquents. However, it was advocated by many that, in view of deviant character and behaviors and prejudicial environment of pre-delinquent juveniles, it was necessary for the State to give assistance and protection to them at the earliest possible stage so that they would not become criminals in the future, and that the juvenile court as a court of law was an appropriate institution in protecting their rights.

It is to be noted that under a juvenile justice system which extends the juvenile court's jurisdiction over pre-delinquent juveniles, they are handled with caution. For example, in Singapore, such juveniles are as far as possible dealt with outside the ambit of the juvenile court, namely, by the Social Welfare Department. Only when juveniles show no improvement under non-statutory measures within the community or approved homes provided by the Department, they are referred to the juvenile court. In Japan, the provision defining pre-delinquency is interpreted very narrowly and applied very carefully in practice.

With regard to juveniles in need of care and protection, most participants agreed that they should be handled by welfare agencies since they did not involve criminal or quasi-criminal conducts which the court could properly deal with. As mentioned above, in India the Child Welfare Board in some districts has begun to deal with them. In Sri Lanka, transfer of the jurisdiction from the juvenile court to child welfare agencies has been considered by the government.

### (3) Age of juvenile

The minimum and upper limit of the age of juveniles who are under the jurisdiction of the juvenile court seem to

depend on the culture and tradition, physical and mental maturity of juveniles and other legal systems related to minors as a whole in respective countries. In most countries, the juvenile is defined as a person under 16 or 18 years of age. They are under 20 in Japan, Korea and Singapore. Juveniles who were under 21 at the time of the commission of an offense are handled by the juvenile court in the Philippines. Juveniles are sometimes divided into two groups, for example, children and young persons, and different dispositions are given to those belonging to different groups and penal punishments may be imposed upon older juveniles.

## 2. Disposition Alternatives and Standards

### (1) Disposition alternatives

#### (i) Diversion programs

All juvenile cases are not necessarily referred to the juvenile court nor all juveniles brought before the court are given formal protective measures in most participating countries. When an offense committed is minor and the juvenile has a little tendency for delinquency, the case is often diverted from the formal proceedings. These diversion programs include police diversion, intake diversion, discharge, referral to child welfare agencies, etc. However, agencies authorized to divert cases differ from country to country. In the Philippines, for example, many cases are diverted by the police, while in Japan the police and the public prosecutor have only very limited power for diversion and a substantial number of cases are diverted by the family court (juvenile court) through dismissal. It was stressed by many participants that these diversion programs performed a very important function to avoid stigmatizing many juveniles as delinquents. It was also emphasized that close cooperation among the police, the juvenile court, welfare and other related organizations was absolutely necessary for the effective implementation of diversion programs.

#### (ii) Protective measures

Referral to training schools and placement on probation are most common measures for institutional and non-institutional treatment. In Malaysia, the juvenile court may order a juvenile whose

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family circumstances are adverse to reside in a probation hostel for 12 months or less as a condition of probation. A formal probation system does not exist in Ecuador, Iran, Korea and Nepal. Burma has adopted the system recently but the lack of personnel and financial resources is a serious problem.

### (iii) Penal punishments

A juvenile offender above a certain age in many countries may be subject to penal punishments such as fine and imprisonment, if he has committed a serious offense or he may not benefit from protective measures. Legally speaking, a juvenile may be punished by whipping in Sri Lanka, and a juvenile who has committed capital offenses after reaching 18 years of age may be sentenced to death in Japan. However, these punishments are rarely used in practice. In Nepal, fine and imprisonments are only alternatives for juveniles.

In this connection, discussion was developed on whether the juvenile court should be empowered to impose penal punishments on juveniles. While in some countries punishments are imposed by the juvenile court, in other countries only the criminal court is authorized to impose them after the juvenile court has referred the case to the public prosecutor for criminal prosecution or the public prosecutor has elected to prosecute on his own discretion. Some participants observed that the juvenile court which was established for the care and protection of juveniles should not exercise the punitive power, and that it should refer the case to the criminal court which was primarily concerned with a public sense of justice and protection of security when it deemed punishment necessary.

### (2) Standards for the selection of alternatives

Before the determination of disposition is made, social investigation on the juvenile's character, social history, family relations, causes for committing an offense, etc. is carried out by a probation officer or a family court probation officer, and detailed mental and physical examination is sometimes made by an expert in most countries. Usually such a probation officer makes a recommendation to the juvenile court on a proper

disposition. During the discussion, it became clear that distinct and formal standards for the selection of dispositional alternatives did not exist in many participating countries. However, some participants observed that the following points should be considered as guidelines:

(a) when a juvenile has committed a minor offense, he has no marked delinquent tendency, and his parents have the ability to supervise him, diversion programs should be fully utilized;

(b) when a juvenile has problems with his character and his parents are not competent enough to supervise him, but he is likely to be rehabilitated if given the assistance and advice of a probation officer, probation should be the most appropriate measure;

(c) when a juvenile's delinquent tendency is advanced, his family circumstances are adverse, or community treatment has not been effective for his rehabilitation, he should be referred to a juvenile training school; and

(d) when a juvenile whose age is close to the upper age limit of the juvenile has committed a serious offense and he has an advanced delinquent tendency, he should be imprisoned.

In this connection, many participants agreed that, although the prime purpose of the juvenile court was care and protection of juveniles, it was legitimate for the court to consider the aspect of general prevention or the feeling of the public in selecting dispositional measures for a juvenile offender. It was also unanimously agreed that the standards for the selection of dispositional alternatives should be further developed by the court with the cooperation of probation officers, experts on social sciences and law enforcement and other related agencies.

### **Improvement and Expansion of Appropriate Rehabilitative Programs in the Institutional Treatment for Juvenile Delinquents and Youthful Offenders**

#### **1. Special Institutions and Classification Systems**

It is evident that there are some types

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of special institutions for treating juvenile and youthful offenders, such as training schools, approved schools, reformatories, work schools, borstal schools, and correctional homes, in all the countries represented except for Nepal. Among those institutions, however, much difference was observed in the development of individualized or differential treatment programs or facilities. It was unanimously agreed that these programs should be further developed in order to provide delinquent juveniles and youths with more effective and adequate rehabilitative measures.

It was a consensus of the participants that classification systems and standards should be established to serve as the basis of effective treatment. It was also emphasized that classification should be done on the basis of the comprehensive understanding of many factors related to the juvenile's personality and environment which may be considered to have contributed to his delinquent act. Mere assessment of the delinquent conduct itself is not sufficient. It was pointed out that remand homes and classification centers did not exist in some countries of the region, the physical facilities and technological equipment as well as trained specialists to conduct investigations and examinations at those institutions were far from satisfactory in many other countries. A need for a drastic improvement in this respect was stressed by all the participants. There was an opinion that some forms of short-term treatment for the inmates should be provided during examination in the classification center.

### 2. Types of Treatment Programs

Types of treatment programs presently given in the juvenile institutions were examined mainly from the standpoint of their effectiveness for the rehabilitation of juvenile and youthful offenders. Among various programs which differed from country to country, both academic and vocational training is most emphasized and actually implemented in many countries. It was stressed that such training should be of the nature useful for the trainees after their release into society, and be organized in consideration of not only the needs, aptitudes and interests of the trainees but also of

the needs for national development.

With regard to the academic training program, it was pointed out the program should aim at providing equal opportunities for academic education as those available in society as well as giving basic knowledge useful for acquiring vocational skills, since many juvenile and youthful offenders in institutions were found to be dropouts from schools. As to the vocational training, it was stressed that the survey of labor market should be considered in organizing the program and specialists on job placement be allocated to the institution in order to facilitate the trainees to obtain jobs on release. Further, many of the participants were of the opinion that social education or living guidance to develop sociability, cooperativeness, willingness and other desirable traits should be an integrated part of academic or vocational training.

Utilization of social resources for juvenile and youthful offenders was also stressed. All participants agreed that more visits by and more correspondences with family members, relatives, and community members should be allowed to the inmates. In this connection, some participants argued that, although the presence of correctional officers at interview and inspection of correspondence were necessary, such restrictive measures should be taken as moderately as possible.

It was also emphasized that various activities inviting community members into the institution and programs for making the inmates attend events in the community or engage in community services should be further encouraged. In this regard, it was pointed out as important to find citizens who sincerely try to understand and are interested in the rehabilitation of delinquent juveniles and youths. In addition to developing these programs, it was hoped that community-based facilities such as open institutions and halfway houses would be established.

### **Development of Probation, Parole, After-care, and Other Community-Based Treatment Measures**

1. Necessity of Community-Based Treatment Measures  
Probation, parole, aftercare and other

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forms of community-based corrections have developed as alternatives to incarceration, and also as a means of facilitating reintegration of the offender back into the community following release from an institution. The growing realization that the incarceration of an offender has a disruptive effect on his normal life and can be avoided or at least shortened without significant loss of public protection has bolstered the development of these community-based services. It is natural that these community-based services have developed to a more marked extent in the treatment of juvenile offenders where the concept of rehabilitation or resocialization in lieu of punishment is deemed as the primary goal.

It seems that most countries in Asia have been pursuing the same course of development in the treatment of offenders as Western countries, though its pace has not always been rapid enough owing to the lack of resources and other reasons. A majority of participants favored these trends on the grounds that the community-based corrections were more humane and less expensive approaches. It was stressed that the lengthened institutional treatment was likely to cause alienation, dependency and animosity among inmates, that the effects of institutional treatment would be reduced to nil if the offender would return to his former life of crime without adequate help and support, and that "we feeling" of citizens toward offenders which was most needed for their reintegration into the community was more effectively mobilized in the community-based services. Though there was an opinion that public protection should not be ignored in the efforts to maximize the use of community-based services, it was generally agreed that what was most needed would be to improve the services so as to meet diversified and complicated needs of offenders.

### 2. Availability of Community-Based Treatment Services

Present situations of probation and related services in the participating countries reveal a wide disparity in their availability, ranging from almost non-

existence to relatively well established programs covering the whole country.

Burma has only 9 probation officers and 6 of them are attached to the Rangoon Divisional Social Welfare Office. Most of their time is devoted to social investigation rather than to probationary supervision and the number of cases placed on probation is rather small. There is no aftercare agent for those released from juvenile institutions.

Ethiopia has 8 probation officers in 2 probation offices attached to Remand Homes, whose duties include preliminary investigation, supervision and aftercare, but their case load is high.

In Hong Kong, there are 63 probation officers in 11 probation offices under the administration of the Probation and Correction Division of the Social Welfare Department, and they are engaged in social inquiry for courts, probation as well as aftercare for those released from reformatory schools. Besides, 3 probation hostels are available for juvenile probationers. Compulsory aftercare for youths released from training centers, detention centers and drug addiction treatment centers is provided by aftercare officers attached to each institution under the Prisons Bureau.

India had 578 probation officers under the administration of states social welfare departments as of 1975. A great difference, however, is observed among various states and it is reported that the percentage of offenders placed on probation is insignificant in most jurisdiction compared with the persons serving short-term sentences. There are 6 probation hostels and 26 aftercare homes throughout the country.

In Japan, about 1,000 probation officers in Family Courts conduct social inquiry for juvenile cases, and 790 probation officers in probation offices under the administration of Rehabilitation Bureau, Ministry of Justice, are engaged in probation and parole supervision for both juveniles and adults, with the assistance of over 46,000 volunteer probation officers. There are 103 hostels run by private organizations under the supervision of probation offices.

In Korea, social inquiry and probationary supervision for juvenile cases are

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conducted by probation officers attached to the Family Court in Seoul and the Juvenile Department of District Court in other areas, but most of them are concurrently serving as a court clerk and are not necessarily trained as social workers. Aftercare services for those released from juvenile institutions are offered by the Civil Rehabilitation Association.

In Malaysia, social welfare officers under the Department of Social Welfare carry out the functions of probation officers including social investigation, probationary supervision and aftercare for released juveniles in addition to their duties as social welfare officers. There are 9 remand and probation hostels under the Department of Social Welfare.

Social welfare officers under the Department of Social Services and Development in the Philippines also serve as probation officers for youthful offenders, providing such services as social inquiry for courts, juvenile probation and aftercare as well as intake services including diversion programs and informal probation. Adult probation services have been established recently as a separate system.

In Singapore, the Probation and Aftercare Service under the Social Welfare Department, staffed with 34 probation and aftercare officers and 232 volunteers, is responsible for pre-sentence investigation, probation and aftercare. There are 3 approved hostels for juveniles.

Sri Lanka has 122 full-time probation officers and 25 voluntary female officers under the Department of Probation and Child Care Services, who carry out pre-sentence investigation, probation and aftercare of those released from certified schools. Aftercare services for those released from prisons and Borstals are rendered by voluntary aftercare association.

In Thailand, probation officers and social workers attached to the 4 observation and protection centers under the Ministry of Justice have duties of social inquiry, probationary supervision and aftercare in major cities. The government tries to establish the Juvenile Court and the observation and protection center in other areas.

There are no official probation and related services apart from voluntary ones in Ecuador, Iran, Iraq and Nepal.

### 3. Obstacles to and Ways for the Development of Services

Above descriptions of probation and related services clearly indicate that there remains still a large scope for further development of these services in most countries. Many participants expressed their frustration caused by insufficient funds allocated to probation services and the overburdening of officers. It is simply because most developing countries give priority to economic development in order to alleviate their massive social problems. Further, few countries have integrated the social defense policy into the overall national development planning, and thus corrections in most countries have been compelled to cope with various problems as they arise without sufficient resources and adequate planning.

It was also pointed out that overloaded and underfunded correctional services would never be improved as far as indifferent or even negative attitudes of the general public toward offenders remained unchanged. Success of community-based corrections would hardly be possible without proper understanding and support of the community.

However, it was generally felt that to tackle these problems was not an easy task. It would be unrealistic to expect a rapid increase of financial resources or a swift change of public attitudes. It was suggested that the possible ways to challenge these problems seemed to lie in the increase of community involvement in the treatment of offenders and the prevention of crime. Direct involvement of citizens in community-based services will not only fill the service gaps caused by the lack of sufficient number of well-trained and highly-qualified personnel, but also provide useful means to enlighten the general public on the needs of offenders and the necessity for improving correctional services.

### 4. Utilization of Volunteers and Voluntary Organizations

One of the most unique characteristics of the Japanese rehabilitation services for

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offenders in the community is the extensive use of volunteers and voluntary organizations. Volunteer probation officers, members of Big Brothers and Sisters Associations, rehabilitation aid hostels and others have played a significant role in providing rehabilitative services for offenders. In Singapore, volunteer probation officers were introduced to supplement the work of professional probation officers in 1971 and the Probation of Offenders Act was amended in 1976 to enable volunteer probation officers to work more closely with full-time officers. In India, following the pilot project, "Action Research on Utilizing Voluntary Probation *Sahayaks* under the Probation Programmes" sponsored by the National Institute of Social Defense in 1972, two states have begun to utilize voluntary probation officers. Hong Kong has also initiated a volunteer scheme for probationers in late 1976, under which volunteers are expected to supplement professionals by acting as tutors for probationers with school problems, providing friendship, and giving assistance and guidance in employment, in the proper use of leisure time and in the development of interests or hobbies. In Sri Lanka, voluntary female probation officers are utilized to supervise a small number of female clients in rural areas and Korea and some other countries have voluntary organizations for aftercare services.

It was generally agreed that these voluntary schemes had been useful and might be profitably introduced in other countries. It was strongly argued by many participants, however, that volunteers should not be expected to substitute professionals but only to supplement them because volunteers were not professionally trained. The adequate recruitment, orientation, training and supervision of volunteers may raise the standard of their performance, but the professionals should be responsible not only for treating offenders with difficult problems, but also guiding volunteers in the proper treatment of offenders. On the other hand, it was pointed out that volunteers working for humanitarian motives without emolument were able to build up friendly and

personal relations with offenders. It was agreed that volunteers can alleviate some of supervisory functions of professionals and help them provide more effective and intensive services ranging from individual counselling to group work for offenders in need of such services.

### Effective Preventive Measures for Juvenile Delinquency and Youth Crime

#### 1. Roles of Family, School and Religious Organizations

##### (1) Family

All participants stressed the importance of family environment, family relationship, and discipline by parents with regard to the sound upbringing of children and the prevention of juvenile delinquency. Family is the basic unit in society and the immediate environment with which children come in contact first in the process of growth. Children learn in the family the norms and values of the society in which they live. Therefore, the family is expected to play a vital role in educating children and in molding their personality and social adaptability.

However, it was pointed out by many participants that the family had been losing its authority in controlling children's behavior. As a result of urbanization, industrialization and technological change, the family system in many Asian countries has been affected and the traditional large family system gradually has been giving way to the nuclear family system which consists of parents and a small number of children. "Generation gap" exists between the elder and the younger generations. The authority of the elder and the father is declining. Parents in the nuclear family often have not enough time to care for their children. Thus, the family is no longer competent to control their children. In Korea and Japan, for example, it was reported that delinquent juveniles from ordinary families with no serious deficiency were increasing. This may indicate that the family is becoming unable to perform the function of controlling juvenile delinquency.

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Acknowledging that there was pressing need to deepen mutual understanding between parents and children and to strengthen the family tie, the participants stressed the importance of enlightening the parents on their proper role in educating children and encouraging parents to participate in community activities such as the Parent-Teacher Association in order to share experiences with other parents and to increase their understanding of the community in which they and their children live.

### (2) School

School occupies a very large part of children's life. There is no doubt that teachers who keep close contact with children and observe their behavior can play an important role in the prevention and control of the delinquency through the early detection of the problematical behavior. Since the discipline by the parents is declining as mentioned above, the role of school has become more important.

However, there are many serious problems in school in Asian countries, such as overcrowding, excessive competition, and inability of teachers to give attention to individual problems. In Burma, schooling facilities are inadequate both in quantity and in quality. Trained and good teachers are scarce, and school buildings are poor. Classes are overcrowded and textbooks, writing materials, etc. are always in short supply. In many schools, particularly primary schools, each child is not given individual attention, because the class usually consists of 60 to 70 children. However, it is noteworthy that the Social Welfare Department has established voluntary primary night schools for those who are unable to attend normal schools.

In Japan, the excessive competition at school is a serious problem. Some students have difficulties in keeping up with the expected standard of achievement, but under the competition principle they are generally neglected. This situation creates the feeling of alienation and frustration among students and eventually drives them to delinquency.

It was generally agreed that school should give the students proper living guidance and moral education, develop

club activities and promote the participation of the students in the school activities. In this regard teachers should pay more attention to individual students, give them assistance and counseling services, and make efforts to gain a better mutual understanding.

It was also stressed that the close cooperation between school and parents and other agencies was important for the prevention of delinquency. In this respect, in Hong Kong, social workers in governmental and voluntary organizations are sent to work with those students who are identified to have behavioral problems or difficulties in school work.

### (3) Religion

Although as a result of industrialization and urbanization the adherence to religion has become weaker, especially among the young generation, it still exerts a strong influence on the conduct and behavior of individuals in most Asian countries. There are a number of religious organizations engaged in voluntary social work in the region, such as the Young Buddhist Association in Thailand and the Family Service Institute established by the Catholic Church in Sri Lanka, and they are expected to play an active role in educating children and preventing them from falling in delinquency. It was the consensus of the participants that the significance of religion should be re-evaluated positively.

## 2. Role of the Community

The causes of delinquency among the younger generation often relate to the situation in local communities and neighborhoods and, consequently, the prevention of delinquency can be accomplished only through the cooperation of the community in which the delinquency come into existence. Community participation is not only necessary and effective for the prevention of delinquency but also essential for the development of a democratic society.

However, alike the family system, the community in many Asian countries has been in the process of disintegration as a result of individual mobility due to urbanization and industrialization. Its role as an agency of effective social control has been gradually weakening. It

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was unanimously agreed that community organizations should be developed to enhance community participation in the prevention of delinquency.

An informal control of the community must be adapted to the changing local needs. Otherwise, it becomes oppressive and obstructs the development of the community itself. Therefore, where an informal control of the community is exercised, there must be a democratic communication system or frequent dialogues between the elders and other community members, especially those of younger generation. Many participants felt the necessity of organizing newer community activities based on the democratic idea.

Japan has many types of community organizations oriented to the prevention of delinquency and crime, such as Crime Prevention Association, Parent-Teacher Association, Big Brothers and Sisters Association, and Voluntary Probation Officers' Association. In addition, there are School-Police Liaison Council and Business-Police Liaison Council, which are formed for the purpose of preventing students or working juveniles from becoming delinquent through mutual cooperation between school or business firms and police. Juvenile Guidance Agents are more important. They are volunteers who are actively engaged in guidance on the street and in counseling service in cooperation with police officers. Juvenile Guidance Center is the base for their operations. In Malaysia, the *Rukuntetangga* scheme is a community-based crime prevention program in which citizens participate voluntarily in patrolling and talking about crime prevention. Police Volunteer Reserve, made up of volunteers from the community, performs normal police duties on a part-time basis. Juvenile Welfare Committee consisting of citizens also contributes to the prevention of delinquency. Voluntary Police Assistants in Korea and Vigilance Committees and Town Guards in Sri Lanka engage in night patrol and other crime preventive work in cooperation with the police.

Many participants stressed that the most important thing is the spontaneous participation of citizens. Usually, the

government plays a leading role and citizens only follow passively its direction. In Japan, the traditional community system tended to become a lowest level of auxiliary administrative machinery. But the spirit of independence, responsibility and initiative of individual citizens should be the driving force in organizing and implementing community activities related to the prevention of delinquency.

Unfortunately there still exists the apathy of some people in respect to community affairs. Many Asian countries make great efforts, through mass media and in other ways, to create a sense of public conscience and responsibility in the prevention of delinquency. Some participants expressed the view that probation officers should work actively with the community and play the role of catalysts in activating the community participation. Japanese participants introduced an example of public education campaign, "Campaign for a Brighter Society." It is conducted once every year in July throughout Japan under the sponsorship of the Ministry of Justice, with the cooperation of mass media and many agencies and organizations in the community.

All participants stressed that the community, in cooperation with social welfare agencies, should provide playgrounds, youth centers, other recreation facilities and various programs for youth activities, give the youth guidance and assistance, and encourage them to participate in the youth organizations and recreational and social activities. Many programs for the youth which are in work in many countries were introduced by the participants. In this respect, it was pointed out again that the spontaneous participation of the youth was vitally important. It should be considered that planning and implementation itself is entrusted to them as much as possible.

### 3. Role and Activities of the Police

The police, undoubtedly the most important agency in the prevention of juvenile delinquency, come in contact with juvenile delinquents more often and earlier than other agencies. They can also easily see criminogenic situations in the community.



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Juvenile police activities for prevention include two kinds: one is early detection of delinquents so as to give them adequate guidance, and the other is the elimination of harmful social environments which tend to lure juveniles into delinquency. However, the work of prevention of delinquency cannot be carried out by the police alone. It is very important to obtain the support of the public and the cooperation of other agencies concerned. Since the police have sufficient information on the situation of delinquency and harmful conditions in the community, they can bring it to the notice of parents, teachers, and others with a view to timely corrective actions being taken.

It was pointed out that in some countries the public attitude toward the police officer was negative or antagonistic, and that he was looked upon as a man of terror. Because of this poor image of the police, very often the public were reluctant to come forward to assist the police in the detection and prevention of crime and delinquency. The need to improve this relationship between the police and the public was strongly felt by the participants as a matter of prime importance.

In Hong Kong, the system of police-community-relation officers was recently set up. Those officers make efforts to enhance the police image in various ways. In Malaysia, Police Cadet Corps, made up of school pupils, have been formed in an effort to improve police-community relations. These students wear distinctive uniforms and perform crowd control functions when required at school and youth meetings. Malaysia also organizes Police Open Days in order to give the public a notion of what police work is and to make them understand the police role.

Many community organizations in Japan, Malaysia, Korea, and Sri Lanka, which were mentioned before, also contribute to increasing good police-community relations. The attitude of the

public toward the police will change better through these activities.

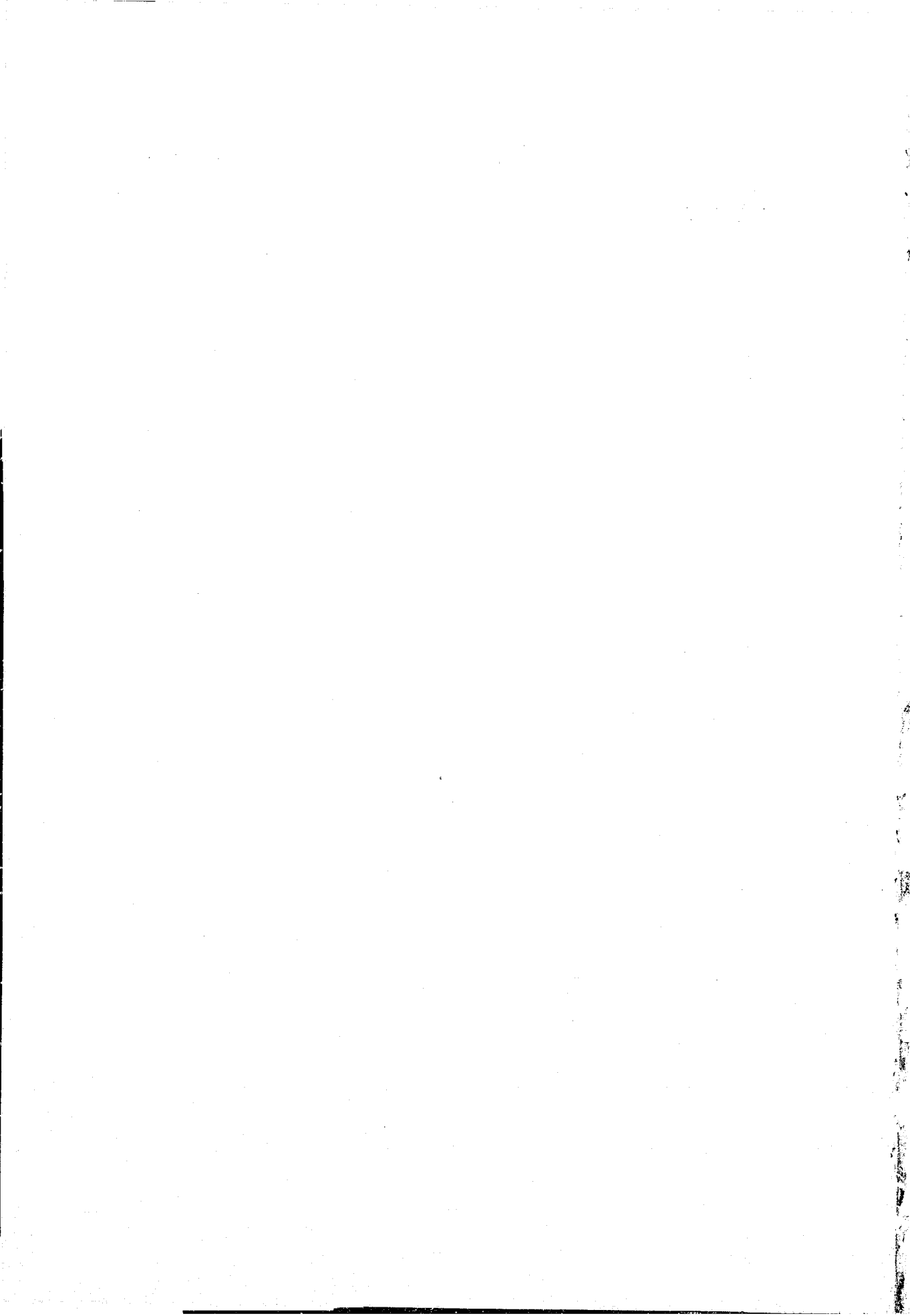
#### 4. Coordination of Activities among All the Agencies Concerned

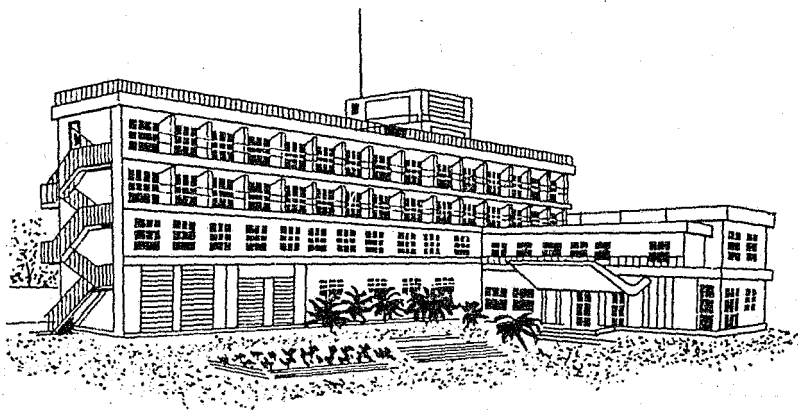
There are many agencies concerned directly or indirectly with the prevention of delinquency. Participants agreed that, in order to ensure effective and comprehensive preventive measures, there was a need to coordinate the policies and activities of these agencies, by increasing mutual understanding, avoiding the overlapping of services and filling up the area where no services were provided. Japanese participants introduced the Japanese efforts such as National and Local Council for Youth and Juvenile Problems. In this respect, it was pointed out that the co-work of the personnel in actual field operation was more important than the council of top-rank officials.

#### 5. Incorporation of Crime Prevention Programs in Social Development Planning

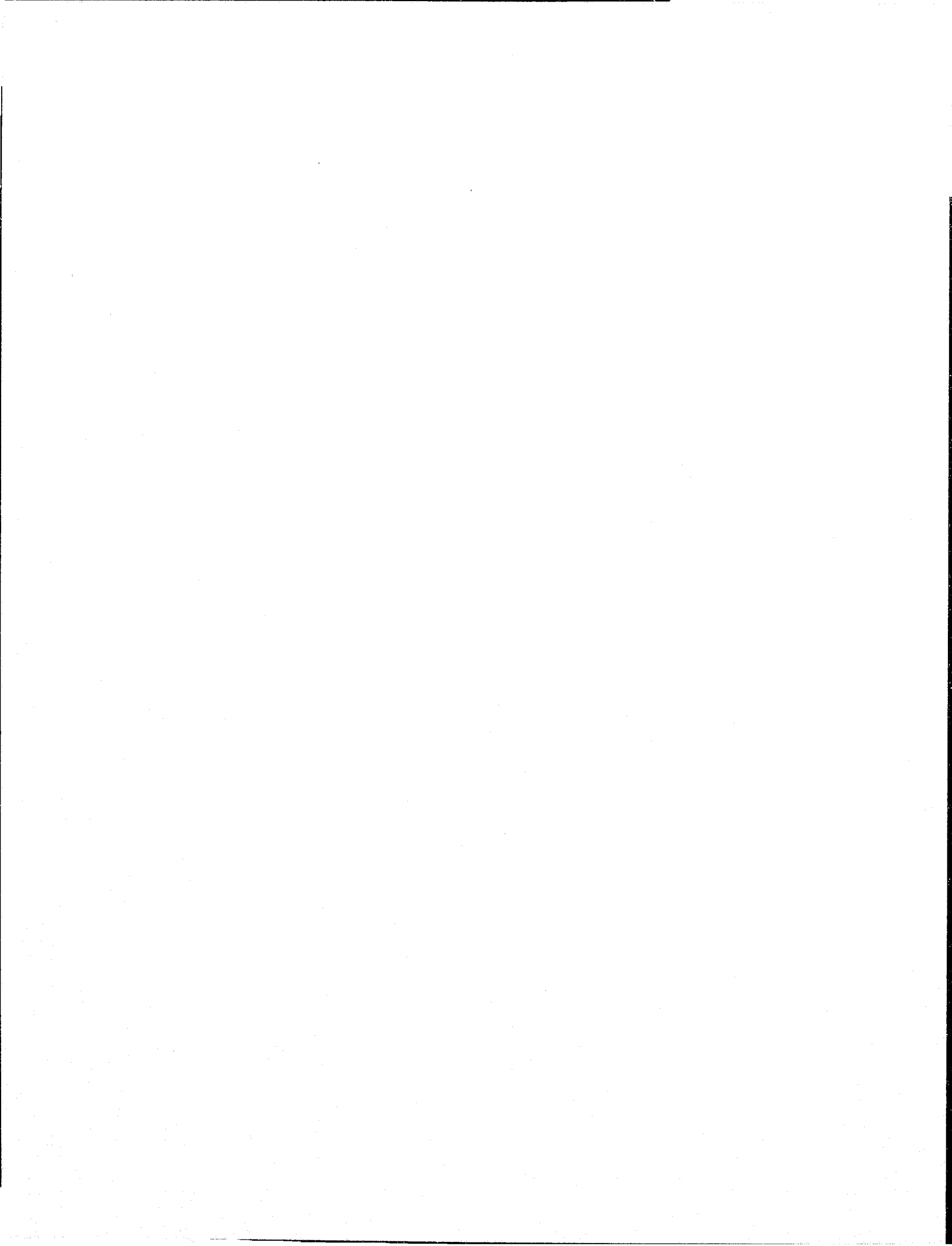
Asian countries are now making utmost efforts for the national development. However, economic development is accompanied by urbanization, industrialization, population growth and social mobility, internal migration and technological change, which tend to aggravate crime situations unless proper measures are taken for mitigating their criminogenic effects.

Thus, the national development plan should envisage not only economic prosperity but also the realization of a well-balanced humane society. Professor Lopez-Rey, the Visiting Expert for the Course, stressed that social defense policies must be integrated from the outset into a comprehensive national plan which aimed at keeping proper balance between the economic, social and cultural development of the nation. The participants unanimously agreed with his view although they were also aware of many problems and difficulties in achieving this goal.





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