

The Treatment of Juvenile Delinquents and Youthful Offenders in Malaysia

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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
Total	2479	2652	2480	2473	2198	1882	2116

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

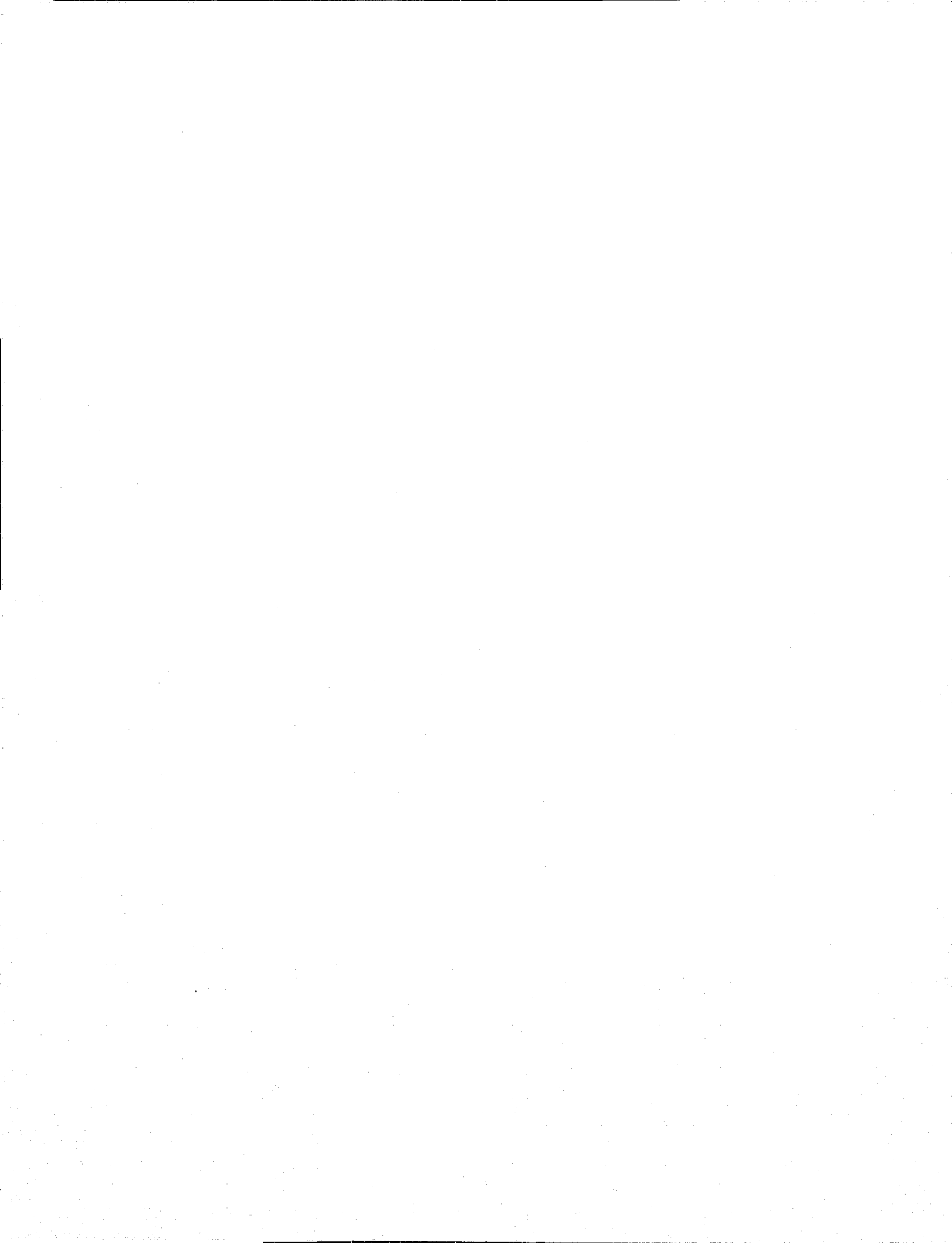
Year	On Licence	On Aftercare
1968	157	247
1969	145	246
1970	134	263
1971	179	250
1972	120	259
1973	120	228
1974	337	485

Community Participation

In Malaysia, it has been emphasized that community services are the best answer to the youth problem. Community cooperation 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.



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