cover. This is an issue to which the courts make no reference when imposing driving bans, and it is often only when the offender tries to run a car legitimately that he discovers the full extent of the penalties incurred.

Whilst these broadly educative aspects of the programme were being established, those involved were actively searching for some legitimate driving outlet for those who were banned, since repairing, rebuilding, maintaining and making cars roadworthy, whilst being very satisfying in some ways, also created tension and frustrations. The answer to this problem proved to be 'banger-racing' or demolition derby racing—a sport which gives old cars an opportunity to make one last grab at glory. In five minutes, a car endures more collisions than ever before in its lifetime—an unrecognisable heap of wreckage screaming its heart out and still able to limp on in a cloud of steam generates terrific excitement for the spectators, and even more for those who are competing. Very strict safety regulations are laid down by Spedeworth International, the organising body, and are carefully observed. Drivers must be over sixteen and for racing events disqualification by a court is not a bar. Although the driving skills displayed on the track seem perilously close to those of a kamikaze pilot, very few drivers are hurt, and in fact minor bruises and cuts seem to be the worst that happens. Most of the value of 'banger-racing' lies in the preparation and build up for the event. Preparing a banger-car means firstly the dismantling of unwanted parts, not much technical knowhow is required and this puts the backward client on a relatively equal footing. Some modifications to the bodywork are re-required, which is carried out under expert instruction. For each banger-car, there is a team of one driver and one mechanic who are totally responsible for the vehicle from start to finish and who work together towards the same goal. They constantly have to resolve difficulties in reaching decisions, sharing responsibility and effort, and, of course, their shared commitment means heavy recrimination if either does anything to jeopardise taking part in the race, not just from the team-mate, but from all the project members. Occasionally, the group decides to suspend a member for a limited time if his behaviour puts others at risk, but on reinstatement, he is again given opportunities to be trusted and make a constructive contribution. Banger-racing offers competition, companionship, sportsmanship, excitement and achievement in return for effort, and has proved for the offenders to be a very attractive and fruitful way of learning to modify previous attitudes and behaviour. The relationships which the clients establish with the project leader and other authority figures at the Motor Project are of great significance in all this and flourish the more because they are not over-emphasised but develop naturally out of a shared interest.

Cars are an integral status symbol in all classes of our society and car manufacturers invest millions to ensure that they remain so. The desire to possess a car is knowingly implanted in people's minds at a very early age, but must be frustrated until the legal age for driving (seventeen) is reached. In other spheres it is easier to protect young people from "adult joys" such, for example, as drinking and erotic films, and this extends to prosecution of those who deliberately allow under-age persons to indulge. Where cars are concerned a comparable protective approach is not apparent and simulated adult behaviour results in the responsibility being put squarely back on the young offender's shoulders, without much consideration about how they were seduced in the first place.

It was with some trepidation that the Project attempted the radical approach of trying to deal with these offenders by giving them what they sought to obtain by committing offences, and its steady development and encouragingly low rate of convictions among clients argues that this boldness has worked. Out of some 120 clients who have attended the Centre, further conviction rates for offences involving cars has varied between 18%–23% over the last three years. We accept that we still have a great deal to learn about auto-

offenders but we also believe that we have begun to ask the right questions.

Offering to offenders the free facility of using welding, paint-spraying, body-building and engine tuning equipment and making professional instruction available has at times understandably provoked some resentment among the law-abiding neighbours who complain that it pays youngsters to become auto-crime offenders. Our response to that is that such facilities need to be more generally available, and perhaps should be part of the modern education process as it is in America. We do not accept that the delay in setting up such schemes by Education Departments, the Minister for Sport or any other relevant authority should constrain us from tackling on a practical level the problems of a particular group of offenders for whom existing legal penalties have signally failed.

Because the crucial age range for car-hooked offenders is between 12–18, little has been said about the older offender who is still in the throes of this problem. There have been older clients at the Centre, and they have responded quite well, one or two in fact having progressed to voluntary instructor status as their mechanical skills increased. Sadly, the example I shall now quote did not find his way to us, and indeed, I shudder to think what might have happened if he had!

This is a case of a young man of 26 who appeared before the Court of Appeal, having previously been given a 3 years prison sentence for taking and driving. As a result of an accident eleven years before, he had had to undergo brain surgery which produced personality change. This manifested itself only in compulsive taking and driving away motor vehicles. On one occasion while on holiday in Prestatyn, North Wales, he carefully transferred five police cars from Rhyl to Prestatyn, and just as carefully removed five other cars back to Rhyl. On another occasion, he took a loaded lorry, drove it to Dover where he left it neatly parked, returning home with another loaded lorry which he placed in exactly the same position as the one he had previously removed. In addition, he has been known to take buses and articulated lorries. He was at one time made the subject of a Hospital order by the court—and drove himself home from hospital in an ambulance! In one appearance before the crown court, he was harangued at length and very severely by the judge on the unacceptability of this kind of behaviour, and then given a conditional discharge. This was carefully explained and he promised to comply, but on leaving the court a free man he took the first car he saw and drove it away—it was the Judge's!

The family were decent, non-delinquent folk who tried everything possible to prevent him from committing further offences, even to mounting guard over him on a 24-hour basis. His mother actually slept across the threshold of his bedroom, but he quietly stepped over her and left the house, just 36 hours after being released from a prison sentence. He took a car which he drove around until the petrol was low, when he went into a car park, paid the 35p fee, made his way to the nearest police station, and gave them the ticket, explaining what he had done. He was promptly arrested. The court appreciated the difficulty of its task, but felt the only way to protect the public, having regard to his previous record, was to impose a custodial sentence. This course was taken with considerable reluctance and hesitation, but no suitable alternative could be found. The Court of Appeal, solely as an act of mercy, quashed the 3-year prison sentence, the man by then having spent 12 months in custody before his appeal was heard, and substituted a conditional discharge for two years. When last heard of, our intrepid driver was safe in Cardiff gaol. He had been hitch-hiking in the Usk Valley and had moved over behind the wheel when the driver of an articulated lorry carrying £3,000 worth of copper tubing got out to relieve himself!

A case of this kind brings home that there is much yet to be learned about effective ways of dealing with these offenders. The fact that more centres similar to the Ilderton Motor Project are now

being set up gives grounds to hope that our small-scale experiment has succeeded in creating serious interest in this new approach to treatment which can be developed further by others.

NOTE

1. "Drives after Sentence", T.C. Willett, Associated Professor of Sociology, Queens University, Ontario, 1973.

Contemporary Trends and Major Issues in Probation

*by Donald J. Newman**

Probation as a Sentence

Probation is the most common sentence imposed on American criminal offenders, both those convicted of serious crimes or felonies (crimes which carry a sentence of a year or more in a prison) or of misdemeanors (lesser crimes which carry a sentence of a year or less in a local jail).[1] Probation is also the most common court disposition for young persons adjudicated juvenile delinquents.[2] There are a number of types and forms of probation, and some variations across the numerous independent jurisdictions in the United States, but in general a sentence of probation means that a person convicted of a crime is ordered by a judge to serve his sentence in the community without any incarceration, but under the supervision of a government-employed probation officer and subject to rules and conditions imposed by the court and agreed to by the probationer.[3] In some jurisdictions all offenders, even including those convicted of murder and other very serious crimes are eligible for a sentence of probation if, in the opinion of the sentencing judge, it is an appropriate punishment given the entire circumstances of the offense and the characteristics of the offender. In other jurisdictions, however, certain offenses are defined by statutory law as not probationable.[4] These usually are very serious crimes such as homicide, armed robbery, kidnaping, bombing and the like. Where a statute prohibits probation, the sentencing judge has no option but to incarcerate the offender for whatever term is provided by law.

With these exceptions, in general in *most* jurisdictions in the United States, *most* offenses are probationable at the discretion of the judge. There is, of course, nothing automatic or mandatory about a sentence to probation. In even the most trivial offenses where probation is normally ordered by the court, the judge may reject this option and instead order the offender to be incarcerated in a jail or prison to serve his sentence. In brief, while some crimes are excluded from probationary consideration by statutory restrictions, the law does not work the other way. There are no crimes where a judge must impose probation and is forbidden to order incarceration.

There has been a longstanding controversy in the United States of whether confronted with a first-time criminal offender a judge should first consider probation as a sentence, rejecting it only if the criminal act was so aggravated or if the characteristics of the offender present such a high risk of further crime that incarceration is called for or whether the judicial assumption should be that all persons convicted of crimes, first offense or not, should be first considered for incarceration in prison and only be placed on probation if a positive case can be made in terms of mitigating factors or if the offender has positive support in the community which would make him safe to release without imprisonment. In the 1960s the prestigious American Law Institute drafted a Model Penal Code, which while nowhere the law of the land, is nonetheless an important statement of principles underlying sentencing. The drafters of this code took the position that the first assumption of the judge should be to place offenders on probation, incarcerating them only if there were negative factors indicating that a community sentence would be unsafe or would depreciate the seriousness of the crime.[5] In general, this represents a departure from longstanding tradition in which probation was seen as an alternative to prison rather than the other way around where the burden of proof was on the probationer to show why he should be released in the community. This is still a controversial and unresolved issue but, in general,

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at least with most first offenders (except those convicted of heinous crimes) probation is normally given preference and, as mentioned, is the most common sentence imposed by criminal courts across the United States. Some criminal offenders are heavily recidivistic, that is, have had many prior convictions. In these cases, of course, the presumption changes and incarceration is usually considered as first choice with probation being granted only if there are exceptionally positive factors in the particular case before the judge.

In general, probation can ge imposed by a judge in one of two ways. In one form the judge may impose a definite prison sentence on the offender, for example a five-year prison term, and then suspend *execution* of this sentence, instead placing the offender on probation for a term provided by statutory law. The other manner allows the judge to place an offender directly on probation for a specified period of time without designating the prison term that would have been ordered had the individual been incarcerated. This is known as suspended *imposition* of sentence rather than suspended *execution* of sentence. The operational distinction between these two methods is that if the offender under suspended execution of sentence should violate a condition of his probation and be returned to court for revocation, his sentence has already been determined. That is, the court merely orders him to serve the five years originally imposed but suspended. In the second case, however, where the offender who was placed directly on a community sentence under suspended imposition violates a term or condition of his probation, he must be returned to court where for the first time the length and conditions of his prison term are imposed and executed. There is a debate among American judges about which is the better method.[6] Those who favor suspended *execution* of sentence argue that the offender under probation knowing he is facing a five-year prison term is more likely to conform to the rules and conditions since, should he violate, the five-year term is certain. On the other hand, judges who favor suspended *imposition* of sentence argue that when it comes time to incarcerate a probationer who has violated his probation, the court is able to take into account in determining the prison sentence not only the original crime, but the nature of the probation violation and can therefore adjust the prison term to reflect both infractions of the law.

Probation Structure within the American Sentencing System

There are three rather interesting characteristics of probation that distinguishes it from other sentencing alternatives, particularly incarceration in jail or prison. First, the probationer, from first to last, is under the direct control of the sentencing judge. The judge has authority to set conditions of probation, to modify these conditions from time to time, and to revoke probation and incarcerate the offender. In some jurisdictions, the judge may have authority to extend the length of probation or to shorten it. Extended judicial control is not the case with offenders sentenced to prison. When the judge imposes a prison sentence on an offender, the court loses jurisdiction over that prisoner. The judge has no authority to set any conditions of imprisonment (although some judges attempt to do this by ordering "hard labor," "solitary confinement," or other condition) nor can he determine in which prison the offender will serve his time, what his job assignment will be or indeed when the under what conditions he might be paroled. The most a judge can do is to set the minimum and maximum terms of imprisonment within whatever terms are provided by statutory law. The custody and control of the prisoner, however, is transferred to the Director of the State Correctional System (in the federal government custody is transferred to the Attorney General of the United States) who from then on has total control over the conditions of sentence of the prisoner.

A second interesting characteristic of American probation is that the time which an offender must serve under probationary

sentence is, for the most part, unrelated to the prison sentence provided by statutory law for the same crime. For example, if a particular crime, auto theft for instance, carries a maximum sentence of two years in prison an offender placed on parobation for this offense may be required to serve five years on probation under the supervision of the court and subject to revocation all of this time. Conversely, if a particular crime carries a possible twenty-year sentence in prison, an offender may be, and usually is, required to serve no more than five years under probationary supervision. In brief the relationship between the time provided by statute for incarceration is totally divorced from the time which offenders must serve on probation in the community. It can either be longer or shorter depending upon provisions in the particular state. In my own State of New York, for example, all probation terms for misdemeanants are three years and all probation terms for felons are five years. Prison sentences for the same crimes range all the way from a few months to thirty years or even to life imprisonment.

The third and very important characteristic of American probationary sentences is that in general (and you must remember that there are some variations in our fifty-one major jurisdictions), time served on probation "tolls", that is does not count toward sentence completion *unless* the *entire* probationary term is successfully completed. Let me try to explain. Suppose an offender is sentenced to prison by a judge for ten years, but the judge suspends execution of this sentence and places the offender on probation for five years. Assume also that the offender conforms to the rules and conditions for four of the five years of his sentence but in the fifth year is revoked by the court for a rule infraction and is incarcerated. Under these conditions, he still owes the entire ten years in prison. Not one of the four years successfully completed on probation counts toward his sentence termination date. This is unlike the situation with prison sentences. Suppose a similar offender convicted of the same crime is sentenced to prison by the same judge for ten years. He goes to prison, serves three years, is released on parole, successfully completes two years on parole and is revoked for violating a rule or condition of parole (and in general these are very similar to rules and conditions of probation). In this case the offender owes only the five years remaining on the original ten-year sentence.

The Elements of Probation

Like many critical stages in our criminal justice system, the sentence of probation is really a series of important decisions and rests on a number of important policies. The probationary sentence has a variety of components around each of which there are some major controversies and unresolved issues.

In general there are four major elements or decision stages in the sentence of probation. The first is the decision made by a judge of whether or not to grant probation. The second involves the set of rules and conditions imposed by the court on the probationer, with which he must agree to abide (usually in writing) before being allowed to serve his sentence in the community. The third encompasses the nature, type and intensity of supervision and surveillance by the probation officer to whom the probationer must report while under his community sentence, and the fourth set of decisions involves revocation procedures which must be followed should the probationer violate a rule or condition or commit a new crime while under community supervision.

I would like to separate each of these and discuss them somewhat more fully one at a time, raising with you some of the policies and practices at each stage and discuss as well some of the controversies about each step. Only by analyzing all of these phases and seeing their interrelationships do we get some idea of the complexity of this major form of sentencing which, in fact, is the major form of community-based corrections in all jurisdictions in the United States.

A. The Decision to Grant or Deny Probation

As I already mentioned the decision to place an offender on probation or to reject a community sentence is everywhere the prerogative of the criminal court (or the juvenile court) judge. This is unlike the situation with parole, where the decision to grant or deny release from prison is made not by a court but by a board of parole commissioners who usually are not judges or lawyers, but generally are civilian officials appointed by the governors of our states or the President of the United States. In probation, however, the decision rests with the court judge.

In those cases in which an offender has had a full trial before a jury and the judge has had an opportunity to learn something about the crime and about the offender by listening to the testimony and observing him in court, the judge may have sufficient information on which to base his sentence. But across the entire United States, criminal trials are comparatively rare (and juvenile trials almost non-existent) for most offenders who come before a judge for sentencing have pleaded guilty to charges leveled against them. In these cases the judge usually knows little or nothing about the offender or about his crime except for the formal statutory charge and the fact that the offender pled guilty. How, therefore, can he make a sensible and just sentencing decision if he wishes to consider aggravating or mitigating circumstances or differences in risk of revocation between offenders superficially similar?

Almost universally in the United States where serious crimes (that is felonies) are involved, courts are required to order a presentence investigation before passing sentence. Such investigations are usually conducted by probation officers attached to the court. Normally, a presentence investigation takes a minimum of two weeks and may take longer depending upon the complexity of the case and the workload of the probation officers. There is, and always has been, a good deal of controversy about these presentence investigations, and the controversy centers around two major issues. The first is whether the investigation conducted by the probation staff is shared with the offender (and with his lawyer) so that he might rebut any information in it or otherwise challenge its accuracy or fairness. The second has to do with the kinds of information collected in the report.

As to the first point, the traditional position in the United States has been that the presentence investigation is a confidential document prepared by probation officers for the judge alone and is *not* to be shared with the offender or with his legal counsel. This rather rigid position is changing and I will mention some recent variations later. However, until very recently, the document resulting from the investigation of the offender was intended for the eyes of the sentencing judge alone and was not shown, in whole or in part, to the offender. As a matter of fact there was a very famous law case which reached the United States Supreme Court in 1949 involving the so-called "confidentiality" of the presentence report. This case was not concerned with a sentence of probation, but involved a death penalty issue—although the principle applied to all sentencing. The facts were as follows: The offender was convicted by a jury of murder and, as allowed but not required by law, the jury recommended to the court that the judge show mercy, meaning that he should impose a sentence of life imprisonment rather than death in the electric chair. The judge, however, ordered a presentence investigation, read it, and announced to the offender that on the basis of this investigation, in spite of the jury's recommendation for leniency, the sentence would be death in the electric chair. The offender demanded to examine the contents of the presentence investigation and requested the right to cross-examine any persons interviewed who might have given damaging testimony that led the judge to impose the sentence of death. The court denied access of the report, calling it a confidential document and further denied the offender the right to cross-examine witnesses. The offender and his counsel appealed this decision to

the United States Supreme Court (in a case called *Williams v. New York*)[7] and the highest court upheld the authority of the Judge's position, to the effect saying that he did not have to reveal the contents of this presentence report to the offender nor allow him an opportunity to cross-examine adverse witnesses in this confidential document. (It so happened that Williams, the offender in this case, was not executed because his sentence was commuted to life imprisonment by the governor of the state.)

This ruling has been modified today but not completely reversed. By court rule, the general practice across the country today is that *some* of the information in presentence reports is now shared with offenders, but except in a very few jurisdictions, the entire report is still not open for review and challenge. In general, judges may withhold the identity of hostile informants (while "summarizing" their testimony), may withhold psychiatric diagnoses and other similar material.[8]

The argument against total disclosure, a position strongly supported by most probation officers, is that if all material is disclosed, information will not be freely given to the investigator. Wives will not testify about the brutality of their husbands, persons will not give adverse information even though it is accurate for fear of retaliation and so on. So, in general, in most jurisdictions in the United States, there is still some withholding of information and some degree of confidentiality given to this sentencing document.

A second important issue is what kinds of information are, or should be, contained in these investigations for the court. Traditionally, presentence reports are divided into three or four major parts. The first contains a description of the crime and the previous criminal record of the offender. In general it lists any aggravating or mitigating circumstances surrounding the particular offense. Did the offender steal because he was hungry? Was it a crime of passion? Was excessive brutality used? Has the violator a long record of arrests, assaults, or convictions of other crimes? Most of this information is gathered from police records, from interviews with witnesses and victims. There is also usually a recorded interview with the offender himself in which he tells his version of the crime.

The second major part of the presentence report is generally called the social history of the offender. It contains information about his entire background; his work record, his school performance, his home life, the reputation and habits of his parents and siblings and in general a brief biography of his life to date. Generally interviews are conducted with his family members, with neighbors, with former teachers, with employers and, as much as possible, with other persons who know him in the community. These informants are asked about his behavior, attitudes, and habits so that in general some kind of an assessment of his social standing and his reputation in his community can be made.[9]

A third part of the report may contain the results of psychiatric interviews and tests, medical records and any other indices of his mental health and physical well-being. Extensive psychiatric testing is not routinely used. Ordinarily commitment for mental observation or elaborate psychometric measurements are ordered only if the crime is bizarre, the offender has a history of mental problems or otherwise acts in a confused or weired manner.

Finally, a fourth part, really a summary of all the other three, is a composite picture put together by the probation officer. He assembles and puts in order all the information about the criminal background of the person, his status in the community, his mental health, his habits and life-style and in general tries to give a total picture of the offender. The probation officer tries to determine whether the offender is a real threat or conversely simply a person caught in the web of circumstances who is not really deeply criminal, but only an occasional violator, an episodic offender and eligible for community supervision. In short a "diagnosis" is made (and social workers are prone to use this medical term) and very often (in

approximately fifty per cent of the courts across the land) judges request a specific recommendation from the probation officer as to what the sentence should be. This document is then presented to the court, read by the judge, and the offender is called before the bench where sentence is imposed.

Obviously in a document as important as the presentence investigation, there are a number of serious questions about both the quantity and the quality of information that is included and, indeed, of information excluded. A number of informed observers regularly raise questions about the skill of a probation officer to make a social diagnosis of a probationer, including the kinds of factors he considers important in assessing an offender's risk.

In most legal actions before a criminal court in the United States there are very strict rules about the nature of evidence that is admissible and may properly be considered by the jury in deciding to convict or acquit a defendant. For example, only direct testimony such as that of an eyewitness may be introduced at trial. Further, the witness must be available to be placed on the stand and cross-examined by the defendant's lawyer. Hearsay evidence, that is testimony of a third party, is not allowed. For example, a witness cannot testify to the effect he did not personally see the offender commit the crime, but his friend told him he did it. Nor could a witness say "I have talked to a number of persons in the neighborhood and they are of the opinion this individual is of poor character." This would be third-party, hearsay evidence.

A common question that arises about the presentence report is whether hearsay evidence can be included in this document for use by the judge in sentencing. In general the answer to this is affirmative. Evidence that is less than trial admissible, including hearsay evidence, may properly be included in a presentence investigation, read by the judge and appropriately taken into consideration in imposing sentence. As a matter of fact, evidence which was specifically excluded at trial, such as incriminating statements to the police obtained under duress, may nonetheless be reintroduced into the presentence report as evidence of guilt of the crime even though it was specifically considered improper to be considered by the judge or jury at trial. A number of probationers, of course, consider the use of such evidence to be unfair. But, in general, appellate courts have been unwilling to hold the kinds of information that may be properly included in a presentence report to trial levels of admissibility. There may be some outer limits on this (totally unsubstantiated rumors, for example), but there are no clear guidelines universally applied across the United States.[10] In practice, depending upon the skills and desires of the investigating probation officer, a particular report may contain a good deal of innuendo, second-hand information, and unsubstantiated opinions of acquaintances of the probationer.

A somewhat different but no less interesting question has to do not with the *quality* of the information contained in these reports, but its *quantity* as well. A number of decision-making scholars argue that most important decisions are made on the basis of only two or three salient factors and additional information is not only simply cumulative but is often confusing. In most typical presentence reports currently received by the judges there is little doubt that they suffer from information overload. In practice, judges respond to only two or three variables but must read many more details. It is clear, for example, that most judges pay major attention to the prior criminal record of the offender, to the nature of his current crime and to his plans for the future. But most reports contain much more information than this. What does a judge do with information which claims that the offender has always been jealous of his brother? Or that he was a bedwetter until he was eleven years old? Or that he showed a poor attitude while at work? Or that he had an uncle who died in a mental hospital of acute alcoholism? Very often this is exactly the kind of information that is

heavily emphasized in presentence investigations. In response to overload, some jurisdictions in the United States are now moving to what are called "short form" presentence investigations which contain very little information other than the criminal record of the offender, the statement of his current offense and other easily obtainable information from records, such as employment history and school performance and a short statement of the offender's plans for community living, including where he will work and the location and conditions under which he will live should he be granted probation. Most information other than this is considered unnecessary by many judges, except in bizarre and unusual cases, usually those with some evidence of psychiatric disturbances. An increasingly common position is that a judge can make an as informed, equitable and just decision based on a brief list of information in a short form report as he can with much more detailed social and familial history.[11]

Perhaps the most subtle and complex issue about presentence reports has to do with the skills of investigating probation officers in making social diagnoses and the propriety of probation officers making a specific recommendation as to sentence. The basic problem here has to do not only with the training and educational competence of probation officers but with their knowledge of theories of crime causation and the applicability of the information they gather to the proper disposition of offenders. In the United States many probation officers have been trained as social workers or in other clinical fields that have led them to approach criminality in a modified Freudian vein. That is, they often tend to see the roots of crime lying within family structure and therefore spend a good deal of effort in social investigations analyzing the relationship of the offender to his brothers and sisters, to his parents, and to other family members. Typical reports tend to very heavily stress family relationships in diagnosing the criminality of the offender and the presence or absence of family support becomes crucial in their recommendations regarding appropriate sentences. Yet a good deal of American criminological research demonstrates that peer relationships tend to be more important in crime and delinquency causation than family interaction. Many young people (indeed many old people) are much more like their friends than like their parents. Much of American crime is collective in the sense that youths gather together to steal automobiles, commit burglaries and the like. Yet, over the years, there has been very little emphasis placed on peer and gang relationships in presentence investigations. Perhaps this is because such an approach is more difficult to accomplish. It is much easier to interview an offender's mother, father, brothers and sisters, than to go out into the streets to talk with and get reliable information from his cohorts in crime, his school classmates, and others of his same generation living in his street subculture. In any event, there has been a noticeable lack of information about peer subcultural influences reflected in American presentence reports and many American criminologists are critical of these reports, and of the use to which they are put, for this reason. I expect that over the next few years we, in the United States, will see new forms of presentence investigations which rely much more heavily on sophisticated criminological assessments of broader community factors that are related to crime causation in the first place and furthermore are more predictive of the offender's likelihood to reviolate in the future.[12]

B. Rules and Conditions of Probation

Probation is not simply releasing a person into the community to continue with his family life, to go to work and to carry on as before. All probationers are subject to rules and conditions imposed by the court. Over the years many of these rules have become standardized and routinely applied uniformly to all probationers under sentence in a particular community. In general, these conditions include such requirements as ordering the probationer to keep a curfew (that is to be in his home

at a particular time of day or night and not to be wandering the streets), a prohibition against drinking alcoholic beverages (or against the "excessive use" of alcohol), a prohibition against the use of drugs (even soft narcotics), a condition that the probationer refrain from associating with persons having criminal records, refrain from possessing firearms, maintain steady employment, provide, upon demand, an accounting of money he has earned and how he has spent it, a requirement that he support his family, that he not leave the community nor drive an automobile nor get married nor quit his job nor change his status in any way without prior permission of his probation officer and the probation service. In addition the probationer is universally required to report regularly to his probation officer and to allow the officer to visit him at work, at home, even at unannounced times, to inspect his premises and to talk with his employers. Often there is a final catchall condition that the offender "lead a law-abiding life and to cooperate fully with his probation officer" and to obey the instructions of the court and the probation service. These rules and conditions are read to the probationer, are put in written form, and he is usually asked to sign agreement to them before the sentence of probation is granted.[13]

In addition to standard rules and conditions, all courts have authority to impose some special rules or conditions, in some places only special rules that are "reasonably related to the offense for which the person was convicted or reasonably relevant to his rehabilitation."[14] In other states, however, there is no such "reasonably related" requirement and here courts have authority, and sometimes use it, to impose what any fair observer would consider unreasonable conditions.

Some common special conditions normally reasonably related to the record of the offender involve such things as ordering the probationer to seek psychiatric help, forbidding the probationer to associate with named companions who contributed to his criminality in the past, or to avoid specifically named locations within his community where the opportunities for reviolation are great.[15]

Not all special conditions are so logically related to the prevention of further crime. In recent years there has been a good deal of litigation about rules imposed by some courts which have tended to infringe, or apparently infringe, upon some constitutional rights that probationers retain even though they have lost some rights by being convicted of a crime. For example, some judges have required probationers to attend particular churches and to present evidence that they are active members of such congregations. This tends to infringe upon a constitutional right of freedom of religion granted to all citizens, criminal offenders included. A court in California ordered a probationer to be sterilized. Another court banished a probationer from a community for a period of five years and in still another instance, a court ordered a probationer not to give any speeches without prior censorship by the probation service. In these cases appellate courts have struck down these orders as violative of religious freedom, freedom of speech or as excessively onerous or unrelated to the offense for which the person is serving sentence.[16] There is, however, a very complex and difficult problem here. A probationer who appeals a single condition may risk going to prison. A probationer who challenges a particular condition may find his entire probation revoked rather than simply having the offensive condition changed. So, in effect, the legal right to challenge onerous or improper probation conditons is more of a theoretical than a practical possibility. No one knows for certain how many probationers currently under sentence are subject to and following conditions which viewed dispassionately would be excessivly onerous or unconstitutional under our form of government.

C. Supervision and Surveillance

The probationer under community sentence is not only bound by rules and conditions but is under active supervision

by a probation officer. The nature and intensity of this supervision varies markedly by the size of the probation officer's caseload and by the nature of the offense for which the person is under sentence as well as by other unique factors in any particular case.[17] In some instances supervision may be nominal, conducted simply by office interviews, the probationer being ordered to report to a probation office weekly or monthly simply to allow the probation service to keep track of him, to make certain he has not absconded from the area. In other cases supervision of probationers may be quite intense, indeed in many probation services there are intensive supervision units in which specially trained officers have very small caseloads of probationers who not only are required to report frequently, perhaps even daily, but who are regularly visited at all times of day or night to make certain they are confirming with the rules and conditions of their sentences.

Part of supervision is surveillance. This is a task not often viewed as particularly desirable on the part of many probation officers. They see it as a law enforcement job, a "cop's role" rather than part of clinical rehabilitation. In fact in some probation systems, this conflict in role is so intense that the probation staff is divided into halves, with some probation officers who offer counseling and guidance to their clients and others, who are called "watchers," whose duty is to cruise the bars, wiretap telephones, tail probationers and otherwise keep under observation those whom they suspect may be involved in criminal activity.

From place to place there is a great deal of variation in supervision and surveillance and a good deal of controversy about it. There have been some interesting studies done of different "styles" of probation officers. Without going into great detail, probation officers range along a continuum of types from the helpful, counseling, supportive probation officer who typically spends a good deal of time counseling probationers about personal problems, helping them find jobs, rarely using the threat of revocation to gain conformity. The other extreme are officers who regularly spy on their clients' activities and use the threat of revocation as the chief means of maintaining probation conformity.[18] In most large probation offices, both types of officers are commonly found. As we seem to be moving from a rehabilitative to an incapacitory system of criminal justice in the United States, the heavy surveillance, threat-of-revocation types of officers are currently in the ascendancy.

There are a number of experiments with supervision now occurring in some probation agencies in the United States. In some places there are teams of supervisors, three or four probation officers working together with a small caseload of offenders (sometimes with an ex-offender as a member of the team) each probation officer having different skills and working together in staffing the cases under their control very much as psychologists would staff cases in a clinic. This enables a single probationer to call on and use different types of skills as his needs may change. In some probation services there are family counseling units where the major supervision activity is not only the probationer, but his entire family. This is particularly effective with so called "hard core" families where more than one member over time has trouble with the law. And there are some "store front," walk-in probation services, available not only to probationers but all persons in the neighborhood or sub-cultural environment who may come for counseling or other clinical help.

In general, however, these are small and localized probation services. In the main, probation across the United States is typically made up of probation agencies staffed by trained officers each having his own caseload and each managing his clients the best he can.

D. Revocation of Probation

A critical part of the sequence of probation decisions involves revocation of probation with return of the probationer to the court for a sentence of incarceration. In general, grounds for revocation are

serious violations of rules or conditions imposed by the court as part of the sentence, absconding from the community where the sentence is to be served, or more rarely, instances where the probationer indicates by deteriorating behavior that he is again falling into his old patterns of difficulty and may likely commit a crime unless he is restrained.

Revocation of probation is not a single decision, but really a series of decision steps that begins in the first instance with the probation officer coming aware that the probationer has violated a rule, has absconded, has been arrested for a new crime, or is acting in a bizarre or particularly dangerous matter. When the probation officer discovers one of these conditions, he may order the probationer taken into custody by the police (or in some cases may effect the custody himself), placing him in a jail or lockup for a day or two while the infraction is investigated. The officer may then recommend that probation be revoked and this recommendation is normally directed to his supervisor in the probation agency who reviews the case. If the supervisor concurs with the decision of the field officer, the probationer is returned to the court under which he is serving his sentence and a hearing is held before the judge of the court. At this hearing, evidence of the rule infraction, the new crime or the absconsion of the offender is presented to the judge and a probationer is allowed to challenge whatever evidence is presented. There is still an unresolved issue in the United States of whether at this hearing the probationer has a right to be represented by an attorney. He may have a lawyer if he can afford to pay for his services, but if the probationer is indigent (and indeed most are) there is still an open question of whether counsel must be provided at state expense to represent the probationer at this hearing. The Supreme Court of the United States has not given a firm answer to the constitutionality of this issue.[19] In a recent case the decision was hedged, the court in effect saying that any right to counsel depends upon the seriousness of the probation infractions, the complexity of the evidence, and the particular characteristics of the probationer. In some instances, perhaps with an inarticulate or mentally retarded probationer, or in a case of extreme complexity, the higher court may order a lawyer to be provided for the offender. But by no means is this a universal rule. At the end of the hearing, the judge makes a decision not only as to whether the probationer has violated a condition of his community sentence, but also whether it is a serious enough infraction for imprisonment to be ordered. If both conditions are found, the probation is formally revoked and the probationer is transported to a prison to serve whatever term is imposed by the court.

The in-court hearing on probation revocation as a universal practice in American courts is a fairly recent development. I earlier noted that probation may be imposed under one of two conditions, the imposition of a prison term but suspension of its execution or, the alternative, suspension of any imposition of a prison term, placing the offender directly on probation. Until about a decade ago if a court used the first alternative, that is sentencing a person to a prison term but suspending its execution, it was generally held that there was no need to return the probationer to court since he had already been sentenced to prison. Once the probation department was satisfied that he had revoked his probation, he could be moved directly from the field to the correctional institution. However, a decision of the United States Supreme Court in the 1960s (*Mempa v. Rhay*)[20] changed this, so that now all probationers, no matter how their probation was originally granted, are returned to a court of record for a revocation hearing.

There is nothing automatic about revocation. It is a discretionary decision on the part of all involved, from the probation officer in the field to the sentencing judge.[21] If a probationer is discovered to have violated a rule or condition of his probation, the probation officer is *not* mandated to initiate a revocation proceeding. He makes an on-site judgment of the seriousness of the violation in the context

of how the probationer is doing otherwise under his community sentence. He may, for example, discover a probationer who is drunk although there is a specific rule against the use of intoxicants as a condition of probation. However, if in the opinion of the probation officer, this instance of drunkenness is unique and the person is otherwise conforming well on probation, is working regularly, is supporting his family, is making restitution to his victim, it may be his judgment simply to warn the probationer and not to initiate a revocation proceeding. The same is true of the review of the probation officer's revocation decision by his supervisor. The supervisor may come to the conclusion that while the probationer indeed has violated a rule or condition, in total context it is not serious enough to warrant returning the offender to court to face a period of incarceration. Futhermore, in most jurisdictions, a judge who presides at revocation hearings, even after making a finding of fact that a probation violation has occurred, has the option to continue the sentence of probation if in his judgment it is unnecessary or undesirable to incarcerate the offender given the total circumstances of the case.

Interestingly, the discretion of the probation officer (which is not unlike police discretion in making an arrest or deciding not to arrest even if there is sufficient evidence to do so), his supervisor and the judge applies even if the probationer has committed another crime while under his current sentence. In short, it is possible for an offender on probation for one offense to commit another crime, be convicted of this crime, serve a sentence in jail or prison for this new crime, and yet remain on probation for the original offense. This is not a common occurrence, of course, but does sometimes happen. For example, suppose an offender is on probation for the crime of burglary and is generally conforming well to the rules and conditions of his community sentence. However, somewhere along the line he gets arrested for another crime, for example, a minor assault or even shoplifting. It may happen that the probation service and the sentencing judge are willing to allow the probationer to serve the assault or larceny sentence (60 or 90 days in jail) rather than be revoked on the burglary conviction and be sent to prison for a number of years.

One of the most controversial aspects of probation revocation has to do with the initiation proceedings when the offender has not violated a clearly enumerated rule or condition of his sentence, has not committed a new crime or has not absconded from the community. The question is whether a probation officer can or should initiate revocation proceedings (and whether a court can or should support a revocation petition) on the basis of the professional judgment of the probation officer that certain behavioral changes or actions of the offender *might* lead him to commit a new crime unless he is stopped by incarceration. This is sometimes called "preventive revocation" and rests squarely on the claims of expertise of probation officer. Let me give an illustration. Suppose a probation officer has as one of his charges a sex offender who is not violent (if he were violent, he presumably would be in prison) but who has exhibited a pattern of sexually molesting small school children. He has never physically injured any of his victims, but has taken indecent liberties with these children, frightened them, and perhaps because of his obscene overtures may have caused psychological damage of unknown extent. In any event, this sex offender is now on probation and is faithfully abiding by all of the rules and conditions. He is keeping curfew, he is avoiding criminal companions, he does not possess firearms, he is working and supporting his family and in general he is cooperating with the probation service. He has committed no new crime. However, it comes to the attention of his probation officer that he has purchased a camera and is making a practice of photographing small children in parks near his home. Furthermore, he has been observed loitering near schoolyards at about the time school is dismissed. In the opinion of the probation officer, this individual, by putting himself

in these situations, is likely to again molest small children. Assume also that discussions and counseling with the probationer have not changed his behavior. Would it then be proper for the probation officer to initiate a revocation proceeding on the general grounds that unless this person is incarcerated he has a high probability of again sexually molesting small children?

There are two very strong views as to how such a situation should be met. Those probation officers who define themselves as professionals take the position that, just as a physician who becomes aware of a likely disease-causing environment has an obligation to control it and prevent its spread, so a probation officer must rely upon his expertise and best judgment to initiate revocation *before* the actual crime takes place. Admittedly, as in the prediction of all human behavior, there is room for error. This sex offender may never fondle another child. However, in the expert judgment of the probation officer, he is highly likely to do so given both his past record and his current conduct. Therefore, it is argued that the probation officer has a duty to initiate revocation to prevent a crime, an obligation which is as important as his duty to *revoke* after a new crime has occurred.

A contrasting and equally strong position, however, is that it is improper for a probation officer, no matter how experienced or well trained, or indeed for any other expert, to make an incarceration decision *before* a criminal act has occurred. "Preventive detention" is not warranted by the skills yet possessed by American probation officers. The most a probation officer can do is wait and watch the offender and initiate revocation only if the probationer violates a rule or attempts to commit a crime.[22]

In practice most probation officers take the latter position. They wait until a crime has occurred, or the probationer has absconded, and then initiate revocation or, in some cases, they use a minor rule infraction as a subterfuge to revoke rather than basing revocation on their professional opinion that the probationer is exhibiting an aura of conduct which will lead to a new violation. Some probation officers, the most cautious, will not revoke unless a probationer has been arrested by the police for a new crime and will not initiate revocation proceedings even on a rule infraction. Those probation officers who see themselves as highly professional often express the belief that delay to revoke until a new crime has been committed is dereliction of duty and what such probation officers are really doing is transferring the power of the probation service to the police. They argue that if probation is to be truly a professional calling, officers must be willing to use authority to revoke in the prevention of crime rather than after the fact.

The frequence and grounds for revocation is by no means a settled issue in the United States, but it is linked to claims of professional expertise of the probation service. If indeed probation is a profession, and if probation officers claim to be experts, then it seems to many that they should be willing to put their expertise on the line by revoking to prevent crime rather than waiting for more serious occurrences to happen before they act. Those probation officers who do use preventive revocation, however, may have to pay a price for their claims of expertise. They face lawsuits by outraged probationers who claim they have done nothing wrong and the possibility or even probability of future violation is hard to prove in court. Certainly the safest position is to wait until the police arrest the probationer before initiating revocation. However, if the probation service is to be a real profession, and to demand salaries and prestige commensurate with professional status, then the risk of lawsuit is the price which must be paid for legitimate claims of expertise.

I have heard a number of judges express dissatisfaction with probation service because officers do not use their revocation power sufficiently early. Some judges accuse probation staff of laziness and indeed cowardice and refuse to place risky offenders on probation because of lack of confidence in the willingness of staff to

revoke until new crimes are committed. In effect, these judges say, probation to a cautious staff is simply releasing the offender without penalty and without effective supervision.

The Professionalization of Probation

In the United States probation as a major sentence for criminal offenders began as a volunteer operation. Its origin is usually traced to the activities of a bootmaker in Boston, a reputable citizen, who became concerned about the condition of prisons and the limited alternatives faced by courts.[23] He suggested to a sympathetic judge that he would assume community responsibility for some prisoners if the judge would release them in his custody. And he became the first probation officer volunteer and in general, probation as an idea spread in the same fashion. Other prominent and respectable citizen volunteers were used by courts as sort of overseers of those offenders whom the courts felt it would be safe to release to the community as long as they had someone to look after them.

The major difficulty with any volunteer service, especially one that spreads as rapidly as probation, is that soon there is a shortage of appropriate volunteers. Furthermore, after an initial burst of enthusiasm some volunteers lose interest or patience or have some bad luck with offenders under their control. Another problem is that not all volunteers are high-minded and altruistic but seek probationers to exploit for their own purposes. Unfortunately, it sometimes happened that some volunteers sought prisoners who would then be placed to work in their factories at substandard wages under the threat of revocation. These instances, however, were rare but seriously threatening to the idea of probation. In most instances, early probation supervisors were well-meaning, respectable citizens (often clergymen) who would take under their wing small caseloads of offenders and make honest attempts to help them adjust to a law-abiding life in the community.

Whatever the merits or pitfalls of a voluntary system, it is intrinsically unstable and uncertain. As probation grew as a major form of sentence in the United States, it became increasingly clear that it had to become professionalized (and paid) if it were to be widely and uniformly used as a sentence alternative. And so state-by-state probation supervisors came to be hired as full-time city, county or state employees of the courts, selected on the basis of motivation and skills in helping offenders adjust to the conditions of community sentences imposed by the courts.

Probation caught on as a major sentencing alternative for two very important reasons. The first, and undoubtedly the most important, was that the supervision of criminal offenders in the community, even by paid probation staff, was much cheaper than sending offenders to state financed prisons.[24] As you are well aware, the costs of imprisonment are astronomical. In the United States today it costs much more to keep a man in prison for a year than to send him to the best university. And this cost does not count the capital investments necessary to construct correctional institutions. Forty of fifty offenders can be supervised in a community at a cost lower than incarcerating a single prisoner. Furthermore, individuals under community sentence maintain employment, support their families and keep them off welfare roles, while family integrity and other community ties are preserved.

But there is another reason for the widespread use of probation and this is the simple fact that it is comparatively much more successful than incarceration in preventing recidivism.[25] Without getting into an elaborate discussion of recidivism, in general most persons who are sentenced to prison and later released (as are most prisoners) commit additional crimes. This varies makedly by the type of crime, the prisons involved, the personalities of the offenders, and the communities to which they return—of course, but in general the success rate of prisons in preventing future criminality is far less than desirable. In contrast, most persons on probation complete

their sentences without committing additional crimes and indeed spend the remainder of their lives in a generally law-abiding manner.

There are, of course, exceptions and all of these statements have to be carefully qualified. And it may well be that the success of probation is not the result of the type of sentence at all but of the selection process in the first place, because, by and large, the best risk persons are given probation by the courts while more serious and persistent violators are incarcerated.

Nevertheless, probation had two things going for it—fiscal economy and a reasonably high success rate. So from modest beginnings in Boston, probation spread across the United States so that today it is the most common sentence imposed on felons (and on juveniles) by all courts across the land.

As probation changed from essentially a volunteer service to a bureaucratic civil service occupation, there were, and continue to be, pressures to upgrade the quality of probation officers, to provide special education and training, and in short to create a true profession of counsellors and guidance personnel whose primary task is to help law-breakers readjust to a law-abiding life. While there are many exceptions from city to city, county to county and state to state in the United States, in general probation officers in America are college graduates with a reasonably high proportion (somewhere from ten to twenty per cent) having advanced degrees in behavioral and social sciences.[26] Probation officers (and parole officers too) have organized professional societies and have worked diligently, particularly over the last three decades to upgrade the quality of their requirements, to honestly evaluate and improve their performance, and thus to claim professional status comparable in many ways to teachers, ministers and similar professions.

Part of the professionalism momentum, of course, is self serving for the more professional an occupation can become, the higher the salary demands of incumbents and the greater the prestige and esteem afforded the occupant by the community. But self enhancement is by no means the whole story or the primary motive in the professionalism drive. Another important part is the belief that well educated and properly trained and professionally dedicated probation officers can do a better and a more consistent job in achieving their objectives of helping offenders find and maintain law-abiding lifestyles.[27] In a number of ways in the context of the total criminal justice system in the United States, probation is an exemplary model of how a community-based correctional service can improve itself and more effectively accomplish its functions.

One of the most interesting and, I think, healthy things about American probation services is that they have been willing to experiment, to change when necessary, and to subject themselves to fairly rigid self-examination. Probation officers themselves have studied the effect of different size caseloads, have attempted to vary the intensity of supervision and to measure outcomes, have experimented with team supervision and have worked with a variety of counseling and therapeutic techniques all designed to increase their effectiveness.

I do not wish to sound pollyanish nor to say that all problems in the development of probation services in the United States have been solved, because indeed they have not. There are still some issues that are unresolved and some obstacles which need to be overcome.

While probation services generally have become professional and have successfully fought for this identity, there is currently something of a countertrend. Volunteers are once again appearing in strong numbers at many points in the criminal justice system, including probation.[28] There are, as you may well know, a number of volunteers now working with police agencies in the United States. These are sometimes called "auxilliary police" or "blockwatchers" or security guards. There are also volunteers working with the courts and a number of volunteer movements in prisons and jails. And once again volunteers and volunteer agencies are working closely with

probation services. Whether this is a healthy trend or not remains to be seen. One advantage of volunteers, of course, is saving money that would otherwise come from state, city, or county coffers. Another advantage of volunteers is increasing citizen involvement in the criminal justice system thereby increasing public awareness of the major issues in the field. There is always a danger that any agency which becomes professionalized will be too elitist, too far removed from the man in the street, too mysterious, too unwilling to be accountable to the general public who, after all, support the service. Volunteers may perform a service by opening windows to the public on the activity of probation services.

In general, however, the difficulty I have with volunteers is one of control. It is very difficult to fire a volunteer if he or she is incompetent. And I have often observed that volunteers tend to go home when it rains. When the going gets tough, when things go wrong, volunteers can rather easily resign and go back to whatever their major occupation and interests. My own preference is for professionals with at most a limited use of volunteers and only in very specific areas. On balance and again, in my own opinion, I prefer a very strong professional, highly trained probation staff if probation is to remain a viable and effective criminal sentence.

Variable Structures of Probation Services

The actual way that probation services are organized and administered varies markedly from one jurisdiction to another within the United States. And these variations have some implications for both the quality of the probation service and for its uniformity and consistency from one place to another. Let me try to outline some of the major differences in the United States and to spell out some of the implications both for probationers under sentence and for the careers of those persons who are probation officers.

Probation is found at all levels of government in the United States, that is, there is a federal probation agency which services federal courts, there are state probation agencies and there are probation agencies found at county levels (which are political subdivisions of states) and indeed there are probation services found at city and municipal levels which are, in the main, distinct from those at both the county, state and federal levels. The federal probation service is centralized and administered by the United States Office of the Courts with probation officers employed as federal civil servants assigned by the probation service to the over three hundred and fifty district courts found throughout the United States. These probation officers have uniform standards of educational and training requirements, must pass common civil service examinations and are employees, not of the federal courts, but of the centralized court administration center. In short, they are not hired by the judges of federal courts, but rather hold tenure as civil servants in the federal government being assigned to particular locations to serve particular courts and moved at the discretion of the federal probation service. Salaries and promotional increments and the like are determined by federal civil service laws. The result of this central control is a fairly high quality probation service, reasonably uniform across the country and removed from the hiring and firing whims of local federal district court judges. In many respects federal probation officers are not unlike special police agents of the Federal Bureau of Investigation, which is also centrally administered, funded by national tax revenues, with agents subject to transfer around the federal system and operating in a manner reasonably free from local political influence or, indeed, from local community ties. In many ways federal probation represents the most "professional" probation service existing in the United States.

In some of our states there is a similar structure, but on a state government level. That is, probation officers are employees of a state probation service. Officers are selected on the basis of standardized prerequisites and common examinations administered statewide, are protected by

state civil service laws and regulations, and find advancement by passing tests and examinations of the statewide civil service system. As with the federal agents, they are removed from direct employment by the judges for whom they work, but rather are assigned to a particular court to provide probation services but are in no way employees of that court. Indeed their professional loyalty is to the statewide agency which employs them. Once again, this has the advantage of cross-jurisdictional uniformity of standards and, of course, the ability of the central agency to move probation officers from one court to another as needs arise or as conditions change.[29]

Neither the centralized federal nor the centralized state probation service model is the most common in the United States. Instead in most states (especially in the very large states like New York and Pennsylvania) probation services are county-based and probation officers are employees of the local county judges in the courts they serve. This means that probation officers in a particular county are not only hired (and fired) by the local judge, but that their salaries are paid by revenues derived from the county rather than state or federal taxes. In New York, for example, we have some seventy-two counties with a corresponding seventy-two different probation agencies. While there exists a State Division of Probation, this is essentially an advisory and standard setting organization that attempts to convince counties to adopt more or less uniform standards for probation staff and for probation services.

In general, however, the county-based probation service, the most common pattern in the United States, means that it is quite possible that in a given state there exists considerable variation in both the qualifications of probation officers from one county to the next, in the size of their probationer caseloads, and in the quality of probation services that are offered to their clients. The occupational, monetary, professional and political loyalty of county probation officers is to the local government rather than to the broader state jurisdiction. Furthermore, probation officers on a county basis are not transferrable from one place to the next as would be the case with a statewide or a federal probation system. I should add, without a great deal of redundancy, that there are similar municipal probation services where the probation officers are hired by a city government, rather than a county, and serve city courts, with probation staff relying for salary, promotions and the like on requirements established by the city government and on local city funds. For example in New York there is a very large and complex New York City Probation Service which is quite distinct from the county probation services, such as the one found in my own County of Albany, or in the remainder of the counties in New York State.

The obvious costs of having a county- or city-based probation service spread throughout a large political subdivision is the high probability of unevenness of qualification of probation officers from one place to another and the very real possibility of extreme imbalances in the quality of probation services offered even in adjacent counties or contiguous cities. Why then does such a structure not only exist in the United States, but actually prevail? The answer is largely one of political power. County-based and city-based probation services are under the direct control of the judges of the criminal courts in these jurisdictions. These judges cannot only set standards for their staff and cannot only impose their own, sometimes idiosyncratic, criteria for probation, but can maintain control over the hiring and firing of probation staff and over the political patronage that sometimes accompanies this job. It would seem much more logical, certainly more uniform, and perhaps more fair to have a standard set of probation officer qualifications and common probation practices across a jurisdiction at least as large as a state (if not across the nation). But the price one pays for this is the abandonment of local political control and this is a price we Americans are apparently unwilling to pay within the present structure of our government.

This response of political power and avarice to the question of why local probation services dominate may be somewhat too cynical. There are certain advantages to local probation services that go beyond the political power and the patronage of local judges. These advantages are linked to two common values in the United States society and I may add, even before I explain them, that you will see that these beliefs, these values, effect a good deal more probation. Indeed these same values underly the ideology that accounts for the hodgepodge of police agencies that characterize American policing. If one thinks probation is complex, you must remember that there are over 40,000 different police agencies in the United States, many with overlapping jurisdictional powers and most of them locally funded and managed. With the really minor exception of the FBI and a few other federal enforcement agencies, there is no national police force in America.

In any event, the two general values that account for the prevalence of local probation services (and local police agencies) are, first, the belief that persons resident in a community are most familiar with its norms and its population characteristics and are therefore most able to deal reasonably and effectively with crimes and with criminals within these jurisdictions. The probation officer who is a local, hometown boy understands the nuances of tolerated and deviant behavior within the community and can counsel, adjust and advise his probationers most sensibly since he is dealing with not only a familiar population but one of which he is a member. Any other form of structure, the state probation officer moving into an unfamiliar community, for example, or the federal probation officer moving into a new state, is, even after years of experience, a stranger, an outsider, a person unfamiliar with and perhaps unsympathetic to, local norms and lifestyles and therefore likely to act in an erratic and perhaps unjust manner.

This is only part of the picture. There is a broader, more pervasive value underlying the preference for local structures in the American criminal justice system. And that is an abiding fear of large government, of federal control, of central government domination with a corresponding reduction in community autonomy. Americans fear a police state almost as much as they fear criminals and they often believe that another word for efficiency is bureaucracy. And bureaucracy, in general, is seen as deadening to local inventiveness, to local autonomy, and threatening to the highly prized toleration of different lifestyles that vary from place to place. Many communities are willing to tolerate substandard police and substandard probation services simply because they fear the encroachment of larger governmental agencies on individual freedoms. So we end up with this hodgepodge of arrangements, a toleration of lack of uniformity—indeed sometimes a pride in it—as a way of expressing a deep seated fear of "too much government." We have never had a national police force, we have resisted federal uniformity in all walks of life, and indeed we not only tolerate, but actually encourage variation in criminal justice agencies (including not only probation, but prison systems, courts and prosecutors offices) from one place to another. Even our Supreme Court has called our state governments fifty different laboratories for social and legal experimentation. The Court is excessively reluctant to impose national uniform standards on crime control or on many other public issues.[30]

There are some attempts to develop national or statewide guidelines, to set standards and to agree at least upon minimum qualifications for probation services. In the past few years these attempts have had some success. But most proposals to change from a city- or county-based probation service to a statewide probation service or somehow to join with the federal probation service, have been vigorously resisted and are unlikely to take place in the foreseeable future.

One of the lessons we who are scholars of American criminal justice must learn is that our system of justice is not, and has never been, a totally rational one. It serves may purposes, including a number which are symbolic of political ideology, and

many well-meaning reformers, armed with masses of hard data proving greater efficiency, have found themselves sorely disappointed when their so very logical reforms were rejected for reasons other than efficiency, effectiveness or good common sense.

Some Practical Issues in Probation Supervision

Generally speaking, the major duties of a probation officer are divided into two parts. The first involves conducting presentence investigations for use by the judge in imposing sentence. This was referred to earlier as one of the major elements in the total probation decision process. In most places, particularly where adult felons or juvenile delinquents are involved, conducting presentence investigations is a major task, and indeed a major skill, of most probation officers. If there is such a thing as a typical probation officer (and there may not be) in general he spends approximately one half of his professional time in conducting such investigations for the court. Some of these investigations are fairly simple and routine, depending upon the nature of the crime and the complexity of the offender's personality and background. Others, of course, can be much more complex, involved and difficult. When a particularly bizarre crime is involved, or the subject is a notorious organized criminal, or a well-known political figure, or when the perpetrator has moved across state lines or has committed crimes in many different locations, or in cases where multiple offenders are involved in gang offenses and the like, the presentence investigation may be a long, complex and involved process.

In the main, however, most probation officers expect and do spend approximately half their time interrogating new probationers and conducting social investigations into their backgrounds for use by the courts. The other half of thier time is spent in supervising and counseling probationers within their caseloads.[31] One concern all probation officers share is the amount of workload that is feasible in order to do an effective job in both these roles. How many adequate presentence investigations can a single probation officer conduct within a week or two? How many probationers can he successfully and meaningfully supervise in a caseload? There are both issues that hve been discussed and debated in probation literature for many years and, of course, there are no absolute agreed-upon answers that can be given. In practice there are great variations from one agency to the next in the work demands on both levels. In fact in some probation services (the New York City Probation Department is an example), the two roles are separated so that there are probation officers who do nothing but conduct presentence investigations and who do not supervise probationers. Operating out of the same offices are another set of probation officers who do nothing but supervise clients but do not conduct presentence investigations. This is not a typical pattern. Most professional probation agencies oppose separating these functions on the general grounds that the officer who conducts an investigation may make unreasonable recommendations if he does not have the responsibility for supervision of the person investigated. Contrariwise, the supervisor may have to rely upon information gathered by another person which is quite different and less helpful than if he himself had gone out to ask the questions and investigate the probationer's background.

Assuming, however, the mixed role function as the most common, various standards have been suggested for both functions which goes something like this: a typical probation officer, working full time with a "normal" population of offenders, should be involved in no more than ten presentence investigations while supervising no more than forty adult probation offenders. Many professional probation officers feel that both these numbers are too high, particularly when exceptionally difficult cases arise (as they inevitably do), but the fact is that in many probation services around the county, it is

not unusual to find a probation officer with an active assignment of some twenty-five presentence investigations and caseload of over a hundred probationers. Under these conditions probation is at best a mockery of what it is professionally intended to be.[32]

It would be nice to say that the workload trend in probation in the United States is declining so that more reasonable and reflective attention may be given to both investigations and to supervision. Unfortunately this is not the case. As with most nations in the world, we are facing severe economic and budgetary crisises at all levels of government. As usual, all criminal justice agencies are the first to feel budgetary restraints and the last to recover during periods of affluence. In general, probation services are shrinking rather than expanding with caseloads increasing rather than declining. There are, of course, still places where reasonable investigations are being done and where sensible caseloads are being supervised. But these are pockets of high professionalism in unfortunately a morass of declining revenues and increasing workloads.

As with all other governmental activities, including the universities, faced with the management of scarcity, many probation services are experimenting with imaginative innovations to better utilize their resources. Some are experimenting with variable caseloads and differential intensity of supervision. In any large probation office it is obvious that there are reasonably large numbers of probationers who need only nominal supervisory contact, who are steadily employed, are not hardened criminals and who are making a good adjustment in the community. At most, these probationers have to be checked only periodically. Under these conditions it is not only possible, but reasonable, for a single probation officer to give nominal supervision to a hundred or more such probationers thus freeing up other probation officers to work more intensively with smaller caseloads of higher risk clients. Indeed in some jurisdictions in the United States selected probation officers are utilizing intensive supervision with caseloads as small as ten or fifteen persons. Their colleagues, however, must be willing to accept larger numbers of more routine clients to allow this to happen.

Team probation is being used in some places where probation officers with different skills share a caseload with one or the other taking the lead in supervision or counseling depending upon the needs of a particular client at a particular time. Commonly, the team meets in frequent consultations, so that the aggregate of supervision is greater than one-man one-officer and collective skills are brought to bear on a shared caseload.

Whatever its problem with diminishing revenues and increasing caseloads, probation remains the cheapest, most effective and most humane form or sentence for adult criminal offenders in all jurisdictions in the United States.

NOTES

1. Approximately 57 per cent of convicted felons are placed on probation in a given year. See Allen and Simonsen, *Corrections in America,* Glencose Press, Beverly Hills, 1975, p. 118. In 1965, 53 per cent of the total number of people convicted were put on probation—see President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections,* Washington, D.C., U.S. Government Printing Office, 1967, p. 28. See also *Sourcebook of Criminal Justice Statistics—1977,* U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, p. 552—Table of Defendants Sentenced in U.S. District Court (1976). Of 40,112 defendants sentenced, 18,208 were placed on probation. Of 108 homicide convictions, there were 24 probation sentences (20 were manslaughter cases). Of 1,650 embezzlement convictions, 1,339 were placed on probation.
2. Fifty-eight per cent of adjudicated delinquents were placed on probation in 1965. See *National Survey of Corrections.*

3. For a good discussion of what probation actually entails, see Lewis Diana, "What is Probation," in *Journal of Criminal Law, Criminology and Police Science,* 51, July-August 1960, pp 189-204.
4. Only 15 states have no statutory restrictions on who may be granted probation (as of 1967). See *Task Force Report: Corrections,* op. cit., p.42.
5. See American Law Institute, *Model Penal Code* (Proposed Official Draft, 1962). The American Bar Association Project on Standards for Criminal Justice also feels the presumption of sentencing should be probation. In their 1967 Standards Relating to Sentencing Alternatives and Procedures, Standard 2.3biii, (p. 64), they write—"A sentence not involving confinement is to be preferred to a sentence involving partial or total confinement in the absence of affirmative reasons to the contrary." The National Advisory Commission (1973) also supported this policy in Standard 5.2, saying that the least drastic sentencing alternative be imposed that is consistent with public safety. They go further and state that confinement is an appropriate disposition only when affirmative justification is shown on the record.
6. Both the National Advisory Commission and the American Bar Association favor suspended *imposition* of sentence.
7. *Williams v. New York,* 337 U.S. 241 (1949); For a more recent decision dealing with this issue and arriving at an opposite conclusion, see *Gardner v. Florida,* 430 U.S. 349 (1977).
8. Some relevant court cases and statutes concerning the confidentiality of the Presentence Report are: *State v. Grady,* 404 P. 2d. 347 (1964). The Idaho Sup. Ct. in this case declared, "When a trial court receives information from an investigation report, the accused must have a reasonable opportunity to examine such report so that, should he desire, he may explain and defend adverse matters therein. Otherwise the opportunity to present evidence would be meaningless"; *Connecticut Sessions Law 1969, Act 129* —gives the defendant or his attorney, upon request, the right of access to the record of prior convictions and if a presentence investigation is made to a copy of the report at least twenty-four hours before the sentence hearing; *Kansas Sessions Law, 1969, Ch. 180*— any presentence report should be made available to counsel for the defense upon request; *Verdugo v. United States,* 402 F. 2d. 599 (1968) —Judge Browning argued that the *Williams* holding had been misinterpreted, claiming that "due process may require some form of disclosure of the presentence report .... nondisclosure would appear to be equivalent, in practical effect, to lack of counsel." For a good review of this issue, see Sol Rubin's "Legal Aspects of Probation" found in *The Challenge of Change in the Correctional Process—Seven Points of View,* National Council on Crime and Delinquency, 1971-72.
9. A study demonstrating the vital importance of subjective data in presentence reports is R.O. Morris' *Decision-Making in Probation: A Study of Presentence Recommendations,* (Ann Arbor, Michigan: University Microfilms, 1969).
10. Donald J. Newman, "Perspectives of Probation: Legal Issues and Professional Trends," *The Challenge of Change in the Correctional Process* (Hackensack, New Jersey: National Council on Crime and Delinquency, 1972).
11. There is rather extensive literature about the appropriate contents of the presentence report. See, for example, "Standard 5.14 Requirements for Presentence Report and Content Specification" in National Advisory Commission, *Corrections,* 1973, pp. 184-185. See also Division of Probation, "The Selective Presentence Investigation Report," *Federal Probation* vol. 38, 1974, pp. 47-54. And Joel B. Lieberman, S. Andrew Schaffer, and John M. Martin, *An Experiment in the Use of Short Form Presentence Reports for Adult Misdemeanants* (Washington, D.C.: United States Department of Justice, 1972).
12. See Robert M. Carter, "The Presentence Report and the Decision-Making Process," *Journal of Research in Crime and Delinquency,* vol. 4 (July 1967),

pp. 203-211; Peter M. Curry, Jr., "Probation and Individualized Disposition: A Study of Factors Associated with Presentence Recommendation," *American Journal of Criminal Law,* vol. 4 (1975-76); Jonathan Kraus, "Decision Process in Children's Court and the Social Background Report," *Journal of Research in Crime and Delinquency,* vol. 12 (1975); Donald J. Newman, "Role and Process in the Criminal Court," in Daniel Glaser, Editor, *Handbook of Criminology* (New York: Rand McNally, 1974), and Donal E.J. MacNamara, "The Medical Model in Corrections: Requiescat in Pace," *Criminology,* vol. 14 (1977).
13. See generally Walter L. Barkdull, "Probation: Call It Control and Mean It," *Federal Probation,* vol. 40, (1976). See also American Law Institute, Section 301.1, "Conditions of Suspension of Probation," *Model Penal Code,* (Proposed Official Draft, 1962).
14. See *California Penal Code,* Section 203.1 (Supplement 1966).
15. See George E. Dix, "Differential Processing of Abnormal Sex Offenders: Utilization of California's Mentally Disordered Sex Offender Program, *Journal of Criminal Law and Criminology,* vol. 67 (1976).
16. See *People v. Dominquez,* 256 California Appellate Division 623 (Court of Appeals, 1967); Matter of Hernandez No. 76757 at 12 (California Superior Court, Santa Barbara County, 8th June 1966); *People v. Baum,* 251 Michigan 187 (1930); see also *Note,* "Banishment: A Medieval Tactic in Modern Criminal Law," *Utah Law Review,* vol. 5 (1957); see *Jones v. Commonwealth,* 185 Virginia 335 (1946).
17. See M.G. Neithercutt and Don Gottfredson, *Caseload Size Variation and Differences in Probation and Parole Performance* (Washington, D.C.: National Center for Juvenile Justice, 1975).
18. See Lloyd Ohlin, Herman Piven and Donald Pappenfort, "Major Dilemmas of the Social Worker in Probation and Parole," *National Probation and the Parole Association Journal,* vol. 2 (July 1956).
19. *Gagnon v. Scarpelli,* 411 U.S. 778 (1973).
20. *Mempa v. Rhay,* 389 U.S. 128 (1967).
21. Eugene C. Dicerbo, "When Should Probation Be Revoked?" *Federal Probation,* vol. 30 (June 1966). For a history and some of the controversy surrounding federal probation revocation hearings, see Ronald B. Sklar, "Law and Practice in Probation and Parole Revocation Hearings," *Journal of Criminal Law and Criminology,* vol. 55 (June 1964).
22. See Donald J. Newman, "Parole" in William E. Amos and Charles L. Newman, Editors, *Parole: Legal Issues, Decision Making and Research* (New York Federal Legal Publications, Inc., 1975) at pp. 66-67.
23. Note, "The Origin of Probation in the United States," *Probation and Related Measures* (United Nations, Department of Social Affairs, 1951).
24. Most estimates are that the cost of probation to the state is less than one-tenth the amount of funds it costs to keep a prisoner institutionalized. See President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections* (Washington, D.C.: United States Government Printing Office, 1967).
25. There are numerous studies about the effectiveness of probation. See, for example, Robert L. Smith, "A Quiet Revolution," (Washington, D.C.: United States Department of Health, Education and Welfare, 1972). See also Ralph W. England, Jr., "What Is Responsible for American Satisfactory Probation and Post-Probation Outcome?" *Journal of Criminal Law, Criminology and Police Science,* vol. 47 (April 1957); see also George F. Davis, "A Study of Adult Probation Violation Rates By Means of the Cohort Approach," *Journal of Criminal Law and Criminology,* vol. 55 (March 1964). See also Charles Newman, Editor, *Sourcebook on Probation, Parole and Pardons,* Second Edition, (Springfield, Illinois: Charles C. Thomas, 1964).
26. See Michael J. Hindelang, et. al., *Sourcebook of Criminal Justice Statistics,* 1977 (Washington, D.C., United States Government Printing Office, 1978). See also United States Department of Justice, *Trends in Expenditure and Employment Data for the Criminal Justice System,* 1971-1974

(Washington, D.C.: Bureau of Commerce, 1976).
27. Joseph J. Senna, "The Need for Professional Education in Probation and Parole," *Crime and Delinquency*, vol. 22 (1976).
28. Charles V. Matthews, Peter Rompler, Richard Van Diver, and George Kiefer, *Participation of Volunteers in Correctional Programs* (Milwaukee, Wisconsin: The International Prisoners' Aid Association, 1969). See also generally Donald J. Newman, *Introduction to Criminal Justice*, Second Edition (Philadelphia, Pennsylvania: J.B. Lippincott and Co., 1978), especially Chapter 10, pp. 393–435.
29. The National Advisory Commission on Criminal Justice Standards and Goals has recommended state administration of probation services. See National Advisory Commission, *Corrections*, Standard 10.1, p. 331 (Washington, D.C., United States Government Printing Office, 1973).
30. See Donald J. Newman, "Central Control, Federalism Versus Local Autonomy," in *Introduction to Criminal Justice*, Second Edition, pp. 414–417 (Philadelphia, Pennsylvania: J.B. Lippincott, 1978).
31. See Albert Wehl and Daniel Glaser, "Pilot Time Study of the Federal Probation Officers' Job," in *Federal Probation*, vol. 27 (1963).
32. Stuart Adams, "Some Findings From Correctional Caseload Research," *Federal Probation*, vol. 31 (1967).

Corrections in Asia

*by William Clifford**

Introduction

The prison scene in the West is characterised by riots, hunger strikes and intermittent demonstrations. There are demands for all the human rights and privileges hitherto denied to those hehind bars. Alongside a detached, intellectual disenchantment with the so-called results of imprisonment are to be found all the anguished signs of an awakened conscience. There are heart searchings, recriminations and sometimes emotive public breast beatings about the brutality, indifference and self-righteousness of criminal justice policies—and a sense of shame that society has tolerated for so long a system which is hypocritical, unjust and so destructive of human dignity. There are now organised movements for the abolition of imprisonment—to be presaged by declared moratoria on all new prison buildings.

All this has been going on for a decade or more, during which time corrections in the West, in the context of more general questions of law and order, have developed into major political issues. It now becomes pertinent to ask precisely why this should be happening in the countries of Europe, North America and in those regions with a Western culture like Australia and New Zealand—but does not seem to be happening in the countries of Latin America, Africa, Asia and the Pacific. Most of these non-Western countries have Western-type correctional systems. Their officials have been trained in the West or, originally, by Westerners. They would often be the first to admit that the physical conditions of their prisons are below the Western levels. Yet they do not seem to feel this same upsurge of noble discontent.

It would be the height of impudence and a totally unwarranted Western conceit to say this is due to backwardness—to simply regard all these countries as being so far behind the vanguard of moral progress that they have not yet appreciated the extent of their own correctional failings. After all, it cannot be said that all these countries are actively denying their citizens their human rights; not all are military regimes dedicated to repression; not all are slavishly implementing alien ideologies within which crime and prisons have different meanings and human rights have group, rather than individual, significance. Many of them are cultured peoples with venerable traditions, high principles and deep rooted religious beliefs.

Nor can the differences in correctional reappraisal be treated as a culture lag or as a lack of understanding or knowledge of the correctional upheaval in the West. The immediacy of the new and entertainment media, not to mention the explosion in tourism, brings the West into direct and daily focus. No continent is now as isolated or insulated as it once was. Paris fashions, the exhibits at the Venice Film Festival, reach the Eastern capitals as rapidly as the latest Eastern art forms capture the imagination of the West. This also happens with ideas: political issues can motivate simultaneous demonstrations and comment in the capitals of East, West, North and South. From "Women's Lib" to the forms of architecture and from popular music to the recondite language of computer, the modern movements and trends swing freely across the world in this last quarter of the twentieth century.

Why then does this latest development in penal reform—the Western repudiation of its own past correctional principles and policies—not find at least an echo in other regions? This paper will be concerned particularly with this question in Asia and the Pacific, where the pronounced differences of outlook are not readily explainable in terms of a time lag, intellectual insensitivity, the poverty of the countries or any

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lack of understanding of all the deeper issues involved.

There are four basic reasons for the modern correctional turmoil in the West which do not enjoy anything like the same status in the East. First, the movements for change in the prisons have been led by academics and reformers ouside the prisons themselves. They often began more as political than as penal reform. Public support for prison improvements was not wholly spontaneous. It had to be aroused and directed and this was usually done by small action groups. When consciousness of the issues permeated the prisons themselves, it was because of publicity given to action which had been taken by people outside the institutions: and frequently there was an organisation of the opposition to authority which developed within the prison. It was a passive or active resistance to the prisoner role fostered, supported and occasionally supplied by groups outside. Nothing like this is apparent in the Eastern countries. Not only have the small action groups of intellectuals been lacking but any kind of public concern has been difficult to identify. There has been no political nurturing of the prisoners as a "lumpen proletariat" to be mobilised for action. More often the public attitude is distinctly antipathetic to prisoners and the traditional sympathy of some Westerners for the "underdog" in any situation finds no reflection in Asia. With the possible exception of political detainees, there has not usually been the same kind of identification by radicals, reformers and academics outside the institutions with the prisoners inside. Any public response to prison improvements has generally been lukewarm. Penal reform as a political movement could still develop: but in Asia it will need more than the kind of discontent which developed in the West to leaven the lump of public indifference.

Secondly, there is not the same feeling in the East that prisons have failed or that the aim of rehabilitation must be abandoned. Sometimes, in the poorer areas, rehabilitation is just beginning to find recognition outside the narrow confines of the correctional services. The prisons are just beginning to achieve recognition as something more than dungeons. And there have been few opportunities for follow-up research.

Thirdly, there is generally not the same fragmentation of moral consensus in the East that is now typical of the West. Consequently there is not the same social, political and economic division of opinion on laws and practices. Fourthly—and this is particularly important—the fiercely individual interpretation of Human Rights which is characteristic of the West is not traditional in the East, where the emphasis is likely to be more on obligations than claims of right and where social expectations will often serve to qualify the extent of individual rights and aspirations.

For these reasons, it seems likely that Eastern corrections will not follow the Western models now being offered. But penal measures have common as well as cultural characteristics and we need to trace both if we would understand what is likely to happen in Asia.

The Common Correctional Heritage

Everywhere in the world there is a dark chronicle of penal history which has been written in blood and heavily underlined with fear and sadistic self-righteousness. This is a common chapter of man's total experience which has known few, if any, cultural barriers. Criminals have been tortured, starved, blinded, crippled, castrated, branded and flayed alive. They have been boiled in oil, immured, crucified, drowned, hanged, guillotined or beheaded with axes or swords: they have been strangled, burned, shot, garrotted, stabbed, gassed, poisoned and electrocuted. Who can say whether it was less painful to die by being thrown from the Tarpeian Rock of Ancient Rome or by facing the lions in the Colosseum? On what scale can one weigh the parboiling of human flesh in Japan against the death of a thousand cuts in China? Was it more bearable to be burned as a heretic in Europe than to be skilfully hanged, drawn and then quartered

whilst life still flickered? The one fact which seems incontrovertible is that the human mind reached the heights of its subtlety and ingenuity in the way it refined savagery to produce a long series of fiendish tortures and monstrous penalties.

Some of this early cruelty derived from fear of supernatural vengeance if the offender were not sacrificed. This was connected with the sacred nature of ancient taboos which led to a conception of crime as sacrilegeous. Harshness flowed too from the fear of enemies now vanquished but capable of rising again. This concern is still in evidence when revolutions or "coups d'état" are followed by executions. The physical disabling of some offenders, the branding or public exposure of others, had practical relevance for the prevention of future crime in circumstances where records were not kept, where there was no effective law enforcement, and where miscreants had to be identified as well as deterred. Dungeons and prisons were never regarded as penalties in themselves. Some people may have died in fetid caverns, neglected or forgotten: but the prisons were essentially holding centres pending a sentence by the judge or court.

Then there were the banishments, expropriations, selling into slavery, shacklings, the exposures to public ridicule and contempt. The methods varied between the different cultures of the world, but the penal options are relatively few, so that in Europe, America, India, China, Japan and the Trobriand Islands, the sanctions were based on principles recognisable from one country to another. Commentators, however, were inclined to draw invidious comparisons.

In 1856 Francis L. Hawks, an American who had accompanied the American Squadron to the China Seas and Japan wrote:

> "The severity of Japanese laws is excessive. The code is probably the bloodiest in the world. Death is the prescribed punishment for most offences. The Japanese seem to proceed on the principle that he who will violate one law will violate any other and the wilful violator is unworthy to live; he cannot be trusted in society."[1]

The moral judgement is unmistakable. Yet this was written at the height of the American system of slavery, at a time when the gun was the only law in the American West, and only a few short years after European countries had begun to reduce the hundreds of offences which attracted the death penalty in their own countries.

However, it should not be imagined that feelings of moral superiority were a monopoly of the West. Even when forced to acknowledge Western superiority in technology and weapons, Asian people were proud of their own culture. The Chinese regarded themselves as the only civilised people in the 19th century, just as to Koreans and Japanese all foreigners were barbarians. Kim Yun-Sik (1841-1920) remarked—

> "I understand that in Europe they have slowly improved their vulgar way of living and are now talking of adopting civilisation. But Korea is such a civilised country that I wonder if there is anything here that could be improved."[2]

Georg Wilhelm Friedrich Hegel, writing nearly a half a century before this, had argued that all rules in China were external and were not morally internalised:

> ".... punishments are generally corporal chastisements. Among us (i.e. Europeans) this would be an insult to honour; not so in China where the feeling of honour has not yet developed itself. A dose of cudgelling is the most easily forgotten: yet it is the severest punishment for a man of honour who desires not to be esteemed physically assailable but who is vulnerable in directions implying a more refined sensibility. But the Chinese do not recognise a subjectivity in honour."[3]

This distinction between external constraints and internalised principles anticipated by more than a century the highly questionable, but well known, classification of societies into shame cultures and guilt cultures by anthropologists of the 20th century like Ruth Benedict: but Hegel was clearly setting the guilt culture—the sense

of honour above external constraints. The West was morally superior. This was a remarkable statement for someone as socially conscious as Hegel. For there were no shortages of purely physical restraints in the Europe of his own times. Revolutionaries relied more on the guillotine than moral education to transform society and in both Europe and Australia the lash was used unmercifully. In 1819 the Grand Jury of Burke County in Georgia, U.S.A., indicted Mary Cammell as a "common scold" and she was publicly ducked in the river. The pillory was abandoned in England only in 1837, much to the disgust of Lord Thurlow, who defended this form of public physical constraint as "... the restraint against licentiousness provided by the wisdom of the ages."

So Europe of the time could not seemingly rely on the superior sense of honour in its citizens. It had its own external constraints.

However, Hegel's implied distinction between gentlemen of honour and lesser mortals echoes an important characteristic of inter-cultural penal history. In 1938 Georg Rusche and Otto Kirchheimer drew attention to the fact that the forms of punishment correspond to the stages of economic development.[4] This must be true, since fines or property penalties would be meaningless in a subsistence economy. But penal labour and physical punishment can be indifferent to economic development. It was never indifferent to status, however, and Sellin has shown that the physical punishments and constraints applied to criminals in Medieval Europe were, in fact, penalties reserved for slaves in Greece and Rome.[5] He quotes Demosthenes to the effect that slaves were punished in their bodies, citizens in their property.

This distinction applied in Asia too. In India a slave guilty of adultery could be slain, where others may be subject to property confiscation or fine.[6] In Thailand, a master could not kill his slave, but was entitled to bind, shackle, cane, whip and torture to the extent of severe injury or blindness.[7]

Were slaves then the lesser mortals responsive only to external punishments and were the upper classes the more refined and sensitive men of honour who Hegel conceived as having a higher grade of internalised principle? Certainly there has always been a class difference in penal history. Priests were distinguished from lay people, nobles from commoners, warriors from non-warriors. In the West a peer was tried by peers and, if hanged for a crime, had to be suspended with a silk rope. In India the Brahmins had special privileges in law. In China Mandarins were differently treated and in Japan the Samurai offender might be accorded the privilege of suicide to avoid any demeaning punishment. When Kuroda Kiyotaka, a Meiji leader (who was a dipsomaniac) murdered his wife, he was sent off to develop Hokkaido to get him out of the capital.

It is a curiosity of human nature that barbarism and high mindedness can go hand in hand. We have a plethora of examples from the excesses of the Moslem "Jihad" or holy war to the self-seeking of some of the Christian crusaders; from the fanatic murders of the medieval assassin sect to the highly religious Indian Thugs. The body was often sacrificed for the good of the soul.

Looking back through history, therefore, it is not surprising to find high mindedness as well as barbarity in the earlier years. The Fetha Nagast or "Law of the Kings" in Ethiopia had already moved from straight retributive penalties to the individualisation of punishment. The Council of Nicea in 325 A.D. established *prosuatores pauperum,* and organisation of prison visitors, and the Roman Emperor Justinian decreed that bishops should visit prisons once a week on Wednesdays and Fridays, to determine the reasons for arrests and to report on neglectful prison officials. William the Conqueror actually abolished capital punishment, though he did substitute blinding. In India, long before the Christian era, Manu and Chanakya were advocating that the law must be wielded with discretion:

"If it is used too harshly, the subjects are distressed; if it is used too lightly, the king will not be held in awe."[8]

And in Japan from 810 A.D. to 1156 A.D., all capital punishment was mitigated to some lesser sanction.[9]

It may, indeed, have been the persistence of crime itself and the lack of any adequate law enforcement machinery as communities grew beyond the effectiveness of informal social and group controls which may have increased the recourse to capital punishment and more severe corporal punishments as towns grew. But man sickens on his own brutality and there is marked conscience emerging in most societies by the end of the eighteenth century.

It could once have been said that by the nineteenth century there was a moral improvement in penal affairs—that both East and West progressed from purely corporal punishments and executions to fines, probation and imprisonment—all of which were concerned more with reform and personal improvement than with vengeance and retribution. Philanthropy compaigned for the abolition of the death penalty and the amelioration of prison conditions.

Not all these improvements came at once—and some of them, like the "separate" system in the early penitentiaries, are now regarded as having been as inhuman as some of the conditions they replaced. The movements also never got far beyond the stage of rhetoric in some places. Nevertheless, even if sub-human conditions persisted in 19th century prisons—now more crowded as capital penalties were reduced and the transportation of criminals became more difficult—the intentions were better. Vengeance and savage punishment for its own sake were no longer justifiable as public policy and, as religious toleration reduced both fanaticism and prejudice, there was a better climate for matching civilisation with correctional development.

Significantly for Asia, all this came when the prestige and power of Western institutions made them a welcomed import. The colonised countries of Asia had prisons and Western penal systems superimposed on their cultures, simply because nothing less was tolerable to those Westerners in positions of authority. That this was not quite so alien to the hopes and aspirations of the Asian people as it has since been declared to be, may be judged from the action of both Thailand and Japan, the unconquered nations. They freely reformed their penal systems and built Western-type prisons. So the Western system of corrections was carried to Asia as much on its own merits as a modern and enlightened way of dealing with offenders as on any military or economic wave of colonialism. It may be argued that legal and penal changes in Thailand and Japan were due to Western pressure to reform, but there are signs that these countries were at a stage when they were intending to revise their systems anyway.

Curiously enough, the Asian countries came to rely even more than the West on imprisonment as a penal sanction. They moved away from quite effective traditional community controls as their Western-type judges and prosecutors looked for Western penalties to fit their own new roles. And at this stage some of the countries became rather fixed in correctional development, not having the expertise or resources to incorporate the more expensive individualised types of social work associated with the alternatives to imprisonment in the West. Nor should we imagine that Asia took readily to the confidence in human improvement and the guilty society so typical of the West. For one thing its philosophy was less individualistic. For another, it still lacked, simply because of its still effective family and social structure, the network of social services which were growing in the West to provide for the alienated individual. Nevertheless, by the 20th century it was not unreasonable for both East and West to take some credit for a kind of moral progress in corrections. With separate provisions for juveniles, more open camps, half way hostels and with the emphasis more on help than supervision in probation, it seemed that society was actually sharing guilt with the offender—acknowledging that in many ways it had actually created the offence for the delinquent to commit. This was explicit in the

philosophy of the time and movements to help both prisoners and ex-prisoners were growing in Asia as well as in Europe and America. Exemplary physical punishments were in decline. Transportation of criminals to Australia had been stopped and, as that group of colonies grew to independence, the reality of achievement by prisoners in a free community was being amply demonstrated. The world seemed to be moving to the higher levels of moral sensitivity which had long been desired, not just for a privileged elite, but for all. It is to this period that the origins of the Red Cross, Geneva Conventions and Prison Reform belong.

Then came the slaughter of the First World War and the moral confusion of the 1920's and 1930's. It needed only the concentration camps of the new totalitarian regimes of both the extreme left and the extreme right to bring a realisation that there was no linear curve of human improvement. Their recourse to gas ovens for genocide and to the starvation of millions to ensure acceptance of an ideology finally convinced the world that progression and regression could be different facets of the same process and that a high level of aesthetics and technical civilisation could readily accommodate a profundity of exquisite barbarity. The erstwhile 19th and early 20th century confidence was shattered in both East and West. Atrocities in Nanking were matched by systematic starvation in the Ukraine. The breaking of the human spirit in Belsen or Auschwitz had its parallels in China and Vietnam. And for anyone still looking for moral improvement, the contradiction persists—whether in the excesses of Idi Amin, the decimation of the population in Kampuchea, the merciless physical discipline of the Sekigun which has shocked Japan since 1972, the barbarious retribution in post-Shah Iran, the fiendish aimlessness of the Manson killings in California, the incredible sadism of the Moors murderers of children in England, the senseless bloodshed in Northern Ireland, the use of torture in so many countries and the reliance on the death penalty by over 75 per cent of the member states of the United Nations.

Indeed, the human capacity for calculated inhumanity has been vastly increased by its own inventions. These days electronic supervision, new drugs, electrode implants in the brain, micro-wave and supersonic impressions, genetic engineering, subliminal conditioning and sense-deprivation have given the torturer or the power hungry sadist an entire arsenal of devices which are more effective and less messy than the older forms of cruelty and coercion.

Obviously, criminals as a group are not the only ones to suffer from this streak of inhumanity in the most cultured societies. In fact, the worst feature of this thinly disguised atavism is that when it does break loose, the innocent are more likely to suffer than the guilty. But criminals are convenient scapegoats for repressed aggression in those periods when men are most concerned to exhibit their sense of order and cultural refinement. It has been maintained by some psychiatrists that, in making examples of offenders, the public may be releasing the aggression generated by its control of its own baser instincts. Be this as it may, all cultures have negative regressive impulses as well as progressive and creative drives; and in normal times it is in the way that offenders are treated that we can judge the levels of culture. Churchill called the treatment of offenders the real measure of a civilisation.

The Ascendency of Western Correctional Philosophy

More or less freely, the countries of Asia in the nineteenth and twentieth centuries adopted Western penal methods. Penal laws, the police and courts to administer them, as well as the prisons, were all rebuilt on Western models. This meant that Asia simultaneously adopted all the professions and services associated with these Western institutions; and since these were embodiments of penal thinking, Asia absorbed most of the ideas which went with them.

Where traditional concepts prevailed or where community methods for dealing with wrongdoers persisted contrary to the officially sanctioned new importations,

they were thought backward and greatly inferior. There were occasional mutterings at the changes; dissatisfaction arose, particularly where, under older rules and customs, an offender would have been required to compensate the victim or his family. This had been virtually excised from Western corrections by the inordinate stress of the "King's Peace" and the idea of the State being offended by a crime.[10] So, under the new system, the offender was imprisoned. Usually this was worse for him and his family, worse for the victim and no solution to the problem which the crime had generated between families. More aggravating for the victim was the fact that, in prevailing conditions of great poverty, the offender might even be privileged by the security of regular food and shelter.

The difference between East and West was that the former could still rely upon a network of family, village and neighbourhood relationships to provide security and behaviour control, whereas this social infrastructure had gradually disappeared—or was rapidly waning—in the West. Therefore, Asia did not really need the prisons designed for an individualised legal system. The West, as we now know, did not need the prisons so much either and would have been better advised to have nurtured and preserved the community controls it was spurning in favour of soul destroying buildings. The tragedy was that it took the West over a century and a half to realise its enormous mistake. By this time it had led Asia into even a greater blunder. Because if the West had been allowing a precious remnant of informal social control to wither by its use of imprisonment, Asia had used imprisonment to actively throttle a living and powerful social resource. And as shown above since Asia tended to have a rather different conception of the individual/social equation it had rarely been able to adopt easily the idea of a society as guilty as the offender himself.

There were many reasons for this protracted ascendency of Western correctional ideas. First, the most widely known published works on corrections are nearly all Western. This has been due to the concentration of penologists and publishers in Europe and particularly North America. Only very recently, and especially with the politicisation of penal reform, has it occurred to some scholars that maybe there is a whole new dimension of crime and corrections which has been neglected, namely, the experience of countries and cultures beyond the Western reach.[11]

There have been sound commercial reasons for the concentration of profitable book publishing and writing in Europe and America, where the expertise and markets for their works were assembled. And the spread of English speaking populations has made it more profitable to specialise in what could be linguistically best sellers. With French and Spanish publications as important runners-up, the economic wisdom of providing Western consumers with Western analyses of crime and corrections in English has been repeatedly justified. Printing for sale in other languages about other lands was both costly and unrewarding.

Secondly, as we have seen, though culture conceits were typical of both East and West, it was eventually the Western patterns of penal law and practice which were regarded as the most modern and embraced by Asia. Due to this, the myth of inevitable Western superiority in both principle and practice dies hard.

This sense of Europe being the spearhead of modernism and the purveyor of Enlightenment went right through the colonial period. Then after the First World War (but more particularly after the Second World War) the U.S.A. assumed this mantle of technological superiority and moral leadership. Hollywood films, pop music, jeans and Coca-Cola colonised as effectively as the great generosity displayed by the almighty dollar. And alongside came the latest ideas in corrections; for by this time criminology was becoming respectable in the West and more particularly in the U.S.A. New ideas of psychiatric treatment, social counselling of offenders (as being socially sick or maladjusted), began to pervade corrections; and they inevitably trickled into Asia as the new

forms of technical assistance provided Asia with more Western experts for its prisons and more scholarships for Asian correctional officials to be trained abroad.

Future generations will undoubtedly consider it not only ironic but, indeed, the height of pretension that, from 1950 to 1980, as crime became steadily worse and the streets unsafe in the industrial West, large sums of money, technical and human resources were provided under multilateral and bilateral schemes of technical assistance to allow the countries with more crime to send a variety of experts in crime prevention to those countries which had less crime. Countries which, by Western standards, did not know what crime was, were funded to send their officials to courses in the West, so that they could learn how to prevent what they hadn't really got. And this was partly because of professional vested interests in both East and West which regarded crime as a specialised matter for criminal justice services that needed training in the magic of prevention and control. It was worse than the blind leading the blind: it was the blind leading people with normal sight. So, in the history of Western intrusion into the East, we have first the traders coming with beads, then the missionaries with bibles: and finally, the so-called experts jangling their technical assistance. Asia has enthusiastically adopted the trade and technology: it took Christianity with misgivings, which have increased as the West itself seemed to be abandoning this faith—sometimes in favour of the Eastern religions. And it now has grave doubts about the correctional principles of the West which seem to be creating as many problems as they try to solve.

How people who had proved incapable of solving their own social behaviour problems could presume to help others who, as yet, did not have so much social disintegration, is a question for anyone to cogitate. The hard headed, practical, reasonable West seemed in this respect to be blundering forward with a simple faith in human nature and the eventual triumph of good intentions, ignoring the realities of crime in both its own country and those abroad. What is certain is that, in this process, there was imported to Asia a whole series of labels, institutions and procedures, which actually helped to create some of the problems they sought to prevent.

One example of this was juvenile delinquency—a problem in the West of criminal juveniles usually in some way disadvantaged by the lack of adequate home care and a lack of socialisation. Asia's problem was less one of criminal juveniles than of poor, undernourished, underprivileged children. Of course they wandered in the towns and committed offences, if the tight family control permitted them any leeway; but usually the offences were minor, rarely indicated personality problems and were probably connected with their need for food, clothing or shelter. They were deprived, rather than delinquent, but this distinction often got lost in the need to follow the Western leadership. So juvenile courts, juvenile magistrates and juvenile institutions were created to such good effect that in some countries poor parents tried to get their children into these establishments to benefit from the vocational education they offered with its promise of future jobs.

Another example was prisons, which were built often quite literally on Western blueprints. Local and quite efficient community means of dealing with crime by a variety of informal social expedients, such as compensation and ostracisation, were displaced by the more fashionable imprisonment. Imposing Western style, fortress type or "ecclesiastical" structures were erected and the total system was later extended to include farms, agricultural establishments, forest camps and open institutions. The "barbarities" of an earlier age were displaced by all kinds of rehabilitative schemes with counselling, labour or trade cooperatives, vocational training and welfare schemes which were the signs of correctional advancement. Asia even followed the West in baptizing its older prisons "correctional institutions" and in adopting probation and parole. As they did so, they approximated more than ever

before not only to the Western types of crime correction, but to the Western types of crime. The remedies were often creating the disease.

So many cultures, in abandoning the "old" for the "new" were leaving their own very effective and inexpensive community measures of informal crime prevention and control to embrace very costly separate services and the sluggish inefficient bureaucracies which went with them. They still felt poor and backward because they could not afford all the psychiatric and highly trained social work expertise available in the West. In fact, the few surveys of effectiveness that were done in some Asian countries showed them to be as effective, if not, indeed, more effective, than their impressively professionalised counterpart institutions in the West. Usually Asia could not afford the range of institutions for different types of offenders which had mushroomed in the West, but they were frequently able to get similar results without the highly specialised classification and "treatment" programmes. In some cases, getting results as good as the West would not have been difficult since (as we know now) for all their supposed rehabilitative character, the Western institutions were giving more problems, were becoming less than satisfactory year by year, and the crime outside was continuing to grow. But if Asian corrections were getting results on a shoestring, they did not appreciate it. They still felt that they lacked status because they couldn't afford what the patterns of the West had set as being appropriate standards.

Only recently has this confidence in Western correctional leadership begun to decline; and this for fairly obvious reasons.

First, the Western confusion has become an embarrassment for those who looked to the West for guidance. The evidence of corrections, as well as law and order generally, becoming a political issue is just too much for those dedicated to "scientific" corrections as a noble, impartial calling or a professional career. A great many of the older intellectual "giants" in corrections in the West have either been politically discredited, or have deliberately transferred to other work rather than face the political circus. In Asia this need for correctional officials to convolute in a political spotlight has usually not yet occurred and the senior administrators retain status and prestige. Nor has there been any marked enthusiasm outside communist Asia for the new Marxist element in Western corrections.

Secondly, Western systems are not working, whereas Eastern systems are. One may well dispute the criteria for such a statement since, what works and what does not work depends so very much on values, objectives and follow-up research. But the impression is obviously abroad. Whilst there is still concern with growing crime in the West and the prisons are in strife, crime in Japan has been falling for years. Its prisons are productive without the union trouble about labour often found in the West. So maybe Japan has some answers. Singapore, unimpressed by the Western equivocation in delaing with drug addicts and traffickers—and deeply concerned for its young people who are its only human resource—has adopted tough measures which are an anathema to Western liberals: and it claims that these are working. Hong Kong invests heavily on a penal system which, even with Western senior administrators, gives none of the symptoms of the Western correctional malaise. China, of course, has its own ideological version of corrections which owe nothing to Western democracy, but within a different and (some would say) more liberal context Taiwan has a correctional system which combines Eastern and Western techniques and seems to have aroused no complaints of a public nature.

Thirdly, the West has lost great status in Asia since it was superseded economically by Japan and militarily by Vietnam. With Britain, Italy and other European nations in deep economic difficulties, the dollar being devalued and inflation rising, the Asian countries, still poor but growing more prosperous, feel less inferior. Western reverses were regarded in Asia as due to a loss of internal morale, both economically

and militarily. A further sign of this decline is crime apparently out of control and the failure of law enforcement and correctional policies. Therefore, the older light is no longer there to guide and Asia must look to its own reserves of cultural moral strength for correctional sustenance.

An Uncommon Heritage—Human Rights and Obligations

Having traced the common correctional heritage of savage vengeance and cruel retribution leading to unjust rehabilitation; and having followed the rise and fall of Western leadership in this field of penology, it is now important to observe that there has always been a marked difference between correctional practice in Asia and the West. Pricniples may have been the same, but the translation of these into a daily routine has distinguished the different regions of the world.

This was, perhaps, inevitable where values as immemorial as those in Asia underlay the few centuries of Western veneer. It is nowhere more clearly illustrated than in the differing concepts of justice and human rights. In the West the concept of justice arose from Biblical ideas of righteousness and the Greak notions of natural law. As inverted in the 18th century by the philosophers of the Enlightenment, these natural laws became natural rights—the basis for human rights. This has gradually developed into a fierce individuality which prefers justice to order and individual freedom of action to any real levels of social control. So we have a Western inspired concept of human rights. In the East something similar arose from the Hindu *dharma-sastra* or the Thai *thammaset.* However absolute some of the Eastern monarchs might have been *in fact,* they were never absolute *in theory.* The *dharma* ruled them as clearly as natural law was supposed to reign in the West—perhaps more so because *dharma,* even if defied, recoiled upon its abusers operating like a court of justice in retrospect—correcting disobedience in this world or the next. There was, however, one great difference between these Western and Eastern conceptions. The same ideal is approached from opposite angles. First, Western justice is impartial, objective, the scales are held by a lady blindfolded so that she cannot be influenced. Asian justice is only meaningful in relation to the facts of the case, so that it may differ according to circumstances. The West abstracts its justice from the equal treatment of cases; the East vindicates the principle of justice by bending it as necessary, according to cirmustances.

Another fundamental difference flows from the group versus individuality already mentioned. In the West the emphasis is upon individuality and human rights. In the East the stress is upon obligations and social relations. Of course, rights and obligations complement each other: but it is a very different relationship according to the angle from which one approaches it. In one case the concern is with claims, in the other the concern is with duties.

This can be illustrated in so many ways from a variety of Asian sources. Three years ago I wrote of Japan—

> "In the West the idea is persistent that the world owes one a living. Social organisation and political demands are frequently predicated on society's obligation to care for, educate and indulge the individual. He has rights that must be respected... By contrast, the Japanese is born in debt. From birth he owes something to his family, his teachers, his classmates, his friends and associates, his superiors, his local society and ultimately, his emperor (although modern developments would appear to have greatly diluted this last obligation)"[12]

Or, as Everett Hagen has said about this area—

> "The compulsion which drives an individual is the need to avoid the shame of having others observe that he is unable to perform the tasks facing him."[13]

Thai society is rather different: it has been described as lacking administrative regularity and having no industrial time sense.[14] But it has deep family and community loyalties. If a Thai carries his burden of social responsibility lightly, he also has little interest in personal claims, because he has been educated for so long in the Hinayana form of Buddhism. For centuries the only education in Thailand was religious and such teachings were abstract, philosophical and unworldly. In the temple, the pupils' main duty was to serve the monks to whom they offered obedience and respect. It is significant that when Thailand in the 19th century found it necessary to modernise to meet the outside challenge, all the thrust for change came from the top—and the people followed.

Wherever embraced in Asia Confucianism has instilled support for the state. *The Analects of Confucius* states—

> "Confucius taught four things: culture, conduct, loyalty and faithfulness".

There were five cardinal relationships: load and subject, father and son, husband and wife, elder brother and younger brother, friend and friend and in all these an individual had to order his conduct according to moral ideals propounded by the sages. Personal morality served public ends. The emphasis was on service, not rights.

And behind any such philosophies were the realities of any family, community or group, organised societies from the simplest to the most complex. These always absorb much of the individuality as a price of the security which they offer in childhood, adolescence, adult life and old age. There is always an expectation of service, a network of reciprocal obligations from which the individual derives his rights and security.

There is then from history and tradition an important difference between the Eastern and Western approaches to crime and criminal justice. One is based upon claims of right, the other upon the performance of duties. Western activity is matched in the East by a persuading and very ancient passivity: but both value life and liberty and both are concerned with there being a level of public safety sufficient to permit individuals and communities to pursue their destinies. This is reflected not only in the daily life of the country and in the formal administrative institutions, but also amongst prisoners and those responsible for their custody and care. Status has always been more important in the guard-prisoner relationships in the East. It seems likely that, in the past, hierarchies amongst the prisoners themselves kept order and it was not easy to accommodate in recent Asia some of the identifications of staff and inmates which were typical of many of the Western institutions.

Psychiatric Concepts and Asian Ideas

Many of the treatment programmes which developed in Western correctional institutions were based upon notions of the possibilities of human reformation, which grew out of modern psychiatry and clinical psychology. Without being entirely or wholly Freudian, the vast majority of these ideas about self knowledge and better social adaptation rested on assumptions about individual development from birth to adulthood, derived from experience with the nuclear family typical of the West. Unashamedly, these were exported to regions like Asia, where their analyses could not be appropriate because of the very different family and social conditions. The extended family, no less than the obligation pattern, was inimical to the kind of sanctioned "acting out" of problems which many of these mental health experts were advocating. Even the "confessions", "free association", or self expression techniques associated with psycho-analysis or "deep" case work were alien to the Asian juxtaposition of the individual and his society.

This kind of psychiatry percolated the Asian scene via the training of doctors for the relatively few mental institutions—and the use of some of these, Western trained, psychiatrists for work in the prisons. It was propagated too a little less directly by a new army of psychiatrically trained social workers who became welfare workers in the prisons and sometimes entered prison administration or probation. It is a

surprising feature of medical and social, as well as correctional history, that there was not an earlier and distinctly Asian revolt against these totally foreign concepts of human development. It is surprising that they lasted with such influence for as long as they did in the West which has now begun to discard them as grossly inadequate constructs of human growth and even as dangerous oversimplification based on a minima of clinical evidence. In Asia from the beginning, their irrelevance must have been painfully obvious, both in principle and practice: yet, like a new religion, they continued to be preached to the unbelieving.

Maybe there was an instinctive rejection in the way that Asian corrections were slower to adopt individual and group therapy sessions based on these Western concepts. It was often said that the more ambitious treatment programmes based on the "medical model" were difficult for Asia to adopt fully because of the lack of resources and adequately trained staff: but maybe, underlying this, there was a deeper feeling that these Western correctional gymnastics based on such psychiatry doctrines were neither appropriate nor comprehensible. It is surely instructive that Eastern guru's were evidently far more successful in setting themselves up and making profits in the West than were psychiatrists in developing private practices in Asia.

This Asian reserve about the Western correctional ambitions for personal reconstruction whilst in prison explains to some extent why there is not the same sense of failure and disillusionment. Asia hoped for less and was not, therefore, so disappointed. It was less committed to the "medical model" and is not, therefore, in such a turmoil about its modern rejection in the West.

Culture, Community and Corrections

We have learned from bitter experience that crime is not prevented by law or physical repression. Increased police forces and larger, better equipped prisons do not necessarily mean less crime. In fact, when we look across the world at the great variety of different societies, we often find that countries with poor resources and a minimum of modern criminal justice services have the least trouble with the kinds of deviant behaviour which we now call crime. Law may be the definition of crime, but its control is a community function. This is understood very well by totalitarian societies, whether communist or fascist. They set up community committees at the street, factory, school or courtyard level to exert pressure for the conformity of behaviour required—to act as supervisors of behaviour and to feed back information to the security forces.

This is also the basis of customary law in quite simple societies. Everyone becomes his brother's keeper and it is interesting that, in inducing certain moral precepts, certain modern religions like the Mormans or the Seventh Day Adventists have returned to the idea of each member having his advisers or teachers—and each acting in a similar advisory or teaching capacity for someone else. Service replaces self.

Our modern statute law may be superior in all its legal refinement and precision to unwritten customary law; but it is manifestly inferior to customary law in the actual control of behaviour. That is why, in the West, there is so much talk about the need for the police, courts or corrections to have community support. Unfortunately, the West has, all too frequently, already lost its integrated communities which are so necessary to exert social pressures on their members to conform. It used to be a community control noticeable in the West amongst professional groups like doctors and lawyers; but as the struggle for ever higher incomes has intensified, even these bodies no longer exercise the influence over their members that they once did. So there are more statutes to deal with malpractice: and these can be measured by the way in which the malpractice continues to spread.

Generally speaking, the countries of Asia are in a much better position to mobilise this kind of community support.

We see it being provided from above in China and Vietnam to support their particular kinds of regimes. In Japan, it also operates partly from above but also unconsciously from below with every person enmeshed in a pattern of social relationships which he can never really escape. To keep his peace of mind or sense of achievement, he finds it easier to conform. Even when some do find ways out of this group control in Japan, it is usually only to create their own similar types of subcultures. Radicals and criminal gangs in Japan are, in effect, alternative societies with their own standards rigidly imposed upon members. The village or family system in most Asian countries predated feudalism and has survived centralisation, bureaucratisation and the pressures of modern living in cities. These community links can be used criminally or anti-criminally and it is significant that political campaigns in Asia are much more struggles to ensure this kind of community sub-group allegiance than to sway masses of people by argument. The communists in their Malaysia struggle of the 1950's lost because they failed to ensure this kind of community cover and support. In Vietnam they succeeded because they were able to defy all the power of a mobilised United States with the backing of certain sections of the local urban and rural communities. The Hong Kong authorities have been able to develop community support against the triad societies and in Singapore they have succeeded by such methods in outlawing many of the triad groups which previously plagued the city.

Laos was a special example of community cohesion against both war and crime. Few populations have been so ravaged, disrupted and displaced by war: and it would not have been surprising if, with so many torn from their homes and scattered, there had been a wave of crime and self seeking. In fact, the rise in crime was modest and confined mainly to urban areas —largely amongst those who had not been uprooted and transferred to live in other parts of the country. Here in a population of nearly three million people murders went up from 42 to 70 between 1966 and 1971, but most of these were of the internal family or community type: rapes also rose from 16 to 28 in the same period. By contrast robberies declined from 134 to 57, thefts went down from 656 cases to 402 and violations of the Fire Arms Explosives Act dropped from 24 to 2. Gang robberies increased by one case only in these five years—from 12 to 13—and public indecencies fell from 9 to 3.

The reason for this quite remarkable restraint in criminal behaviour in Laos is probably attributable to no small extent to the fact that village-type life persisted. When huge numbers of people had to be moved because of the war, they were removed as integrated villages, complete with headmen, bonzes and family leaders. The community cohesion was preserved and thus all the crime that usually flows from personal alienation and family separation was avoided. Doubtless underlying the present regime in Laos, as in China, the family and village system will persist. We do not have all the information we might like to have from China, but informed observers suspect that some of China's ancient problems of regional autonomy and family allegiance continue to plague the authorities in Peking.

The importance of this community resource for the success of corrections in Asia can hardly be overstated. With the West trying to close down its prisons and thrust its offenders onto more or less uncaring populations loosely called "Communities", there is a danger. In some cases this procedure used for clearing the mental hospitals has led to what one writer has called the "abandonment" of the mentally ill. To see some of these pathetic individuals sleeping out around Grand Central Station, New York, is to appreciate that there is a need for a community to exist before a person is abandoned to "its" care. Probation, parole, community work-orders, weekend imprisonment and work-release schemes are all being tried in the Western countries to make more use of the public in the process of corrections: and this is where the social sinews of community have largely atrophied, so that it may yet be

discovered that they are not the panacea they are supposed to be.

In Asia it is different. As shown, the communities exist. Under past Western enthusiasms for specialised correctional institutions, the community potential in Asia has been largely neglected. Now it can be used—perhaps in some countries on a massive scale. Here we must remember how such devices were used in the post 1972 Sri Lanka to de-institutionalise about 15,000 young people held in special camps after the attempted revolution; how Thailand in the middle 1960's released several thousand "disorderly" youths to forms of community care; and how amnesties have been used in some Asian countries to clear the prisons of many who really did not need to be there.

The very strength of family or community life in Asia can be a problem as well as a resource, however. Where the offender by his crime has earned himself rejection, he cannot easily get another start in the same community. But here there are opportunities for building new forestry or agricultural settlements—new communities making their own lives in new areas. Thailand has already tried this. Elsewhere advance instruction may be needed to prepare communities to accept ex-prisoners. After all, the person will not usually be able to melt into the crowd; and if he is to be noticed he may have to swallow his pride and work to regain a position in the new society. Probation and parole can assume new roles in Asian settings with more volunteers and a better use of the local community leaders for supervision and support for the ex-offender. On any real large scale this is still untried in Asia; the possible exception being Japan with its 40,000 or so voluntary probation officers.

It was observed above that there is no real sense of the failure of the prison system in Asia such as is now typical in the West. One reason for this is that the communities in Asia have been tacitly, if not more positively, supporting the prisons as a necessary, if unfortunate, aspect of government. In mainland China, Vietnam and other ideologically committed areas, the prisons under various euphemisms (re-education centres, labour camps, etc.) form part of the government's total educational policy and the mobilised community groups will obviously be supportive: any opposition will be underground. In this situation there is no heart searching about prisons. But, it is also true that in other parts of Asia, the prison officer still has status; he is regarded as doing a necessary job. In so far as public opinion has been sounded, it has usually been unsympathetic to prisoners and supportive of those in authority. There is no media-supported attack on the present correctional system, even where the material conditions are far below those which in Europe are being dubbed "sub-human".

This should provide no grounds for complacency. The correctional systems of Asia need to keep themselves in a state of healthy self-criticism. They could do more within the institutions and should do so whenever resources permit. More important, they can do more working with communities outside the institutions, devising new and more attractive alternatives to imprisonment—going well ahead of the West as they exploit the community advantages already denied to the West. It should never be forgotten that Asian living standards are rising and this means that sooner or later they will seek better answers to their correctional problems.

The Future

National crime is growing in most urban centres throughout the world and is obviously becoming too much for our creaking systems of criminal justice which were designed for a less mobile, less volatile period of history. We are hopelessly inept at dealing with international crime. In Australia I have been describing all this as "bullock cart" criminal justice trying to deal with jet-powered criminals.

There is a wave disillusionment in the West with our inefficient criminal justice institutions which do not appear to reduce crime, reform offenders or protect the public—but which absorb ever increasing

proportions of the national budget—and which have now developed their own professional associations and unions to protect the established interests of workers in this field. This disenchantment in the West has been fed by the criminologists and the criminal justice administrators themselves.

Asia does not yet appear to have experienced this loss of faith in its criminal justice systems—most of which are not indigenous to the countries but which were borrowed from the West. The laws, the court procedures, the prisons were developed on Western lines. Some of the buildings were erected on foreign blueprints and many of the practitioners were trained abroad. The reason is not far to seek. Western discontents are not purely academic. They are the outcome of a steady disintegration of traditional Western values. They are a function of the political divisions arising especially from periods of affluence. Apart from the quest for political solutions in ideologies or utopias, there is the noticeable drift to ancient religions and philosophies and the resurgence in some places of the older Roman belief that *Ex Oriente Lux* "All light comes from the East".

This gives an unprecedented opportunity for Asia to develop a new form of leadership in corrections. It can make corrections truly "community corrections" and not just the echoing symbol that these words frequently represent in the West. But this will need careful thought and management. For, if Asia has escaped the politico/academic dissatisfactions of the West with traditional criminal justice systems, it has not escaped the growth of crime. Urban cultures have much in common in both East and West and only in Japan does it seem that growing urbanisation and industrialisation has been accompanied by controlled or decreasing rates of crime. Asia is especially vulnerable to economic crime and it is developing its own forms of corporate crime, drug abuse, corruption and white collar crime.

Crime in Asia

Any close scrutiny of the publications of the Asian countries on crime—or of the publications of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders—or of the studies of the Australian Institute of Criminology—will indicate that crime in Asia is a particularly urban phenomenon.

This is no great revelation. Nor does it mean that Asia does not have rural crime. It means only that urban forms of crime are more of a problem to detect and control. It is indeed something common to all countries: and it has been confirmed by a recent study made by the United Nations Secretariat and presentend to the 1977 session of the United Nations General Assembly. This study covered the official criminal statistics from 63 countries and it underlined crime in all these areas as a concomitant of industrialisation and urbanisation. More urbanisation, more industrialisation, more crime.

On this basis alone, Asia could perhaps expect to be less troubled by crime than the countries of the West with their greater urban problems. True enough crime in Asia, though serious in its own towns, is not the problem for the different Asian nations that it has become in the West. In Japan with the most densely populated towns there has actually been a decline in the most serious offences over a period of ten years. In the Philippines crime is said to have been controlled since 1972 by martial law; in Singapore the serious or violent offences have declined in recent years—apparently in response to more severe penalties for such offences: but it must also be remembered that Singapore has a form of national service which mobilises its youth and provides for intensive policing. In Laos in 1971, the prison in Vientiane was always under-used—and was eventually used to house the prisoners of war. In Thailand, although total offences rose with population and police strength from 1962 into the 1970's, the crime rate per 100,000 of the population would seem to have been less in 1972 than in 1968 and much less than in 1965.

This may be expected to continue as the countries of Asia move ahead with more industrialisation and technological growth.

For, however much Asia has rejected the modern ideas of a confused West, it has had no compunction about accepting its modern industrial technology: and it has cooperated with many of the transnational corporations which have exploited the more manageable labour and lower tax rates of Asian countries to capture markets once supplied entirely by Western industry.

Supposing the process of modernisation and industrialisation in Asia is to continue and assuming that this will be typical of the West, it can be expected that traditional family and community solidarity in Asia will be undermined and diluted. There are many examples of this happening already. To prevent crime then, Asia has to find ways of modernising without losing its community backbone. Can it do this? Asia, in the past, has deplored its own cultural obstacles and traditional immobilities to effective and profitable modernisation. The open, innovative, mobile and freely developing society has been sought as being more likely to bring Asia the affluence and comforts of the West.

Now older Asian values are beginning to assert themselves. What good are these material benefits if they bring drugs and crime, insecurity and danger. What good are they if they create millionaires who then have to live in hiding and pay for private security armies simply to avoid being kidnapped and held to ransom. What point is there in producing more only to have the profits monopolised by the few—or to have them dissipated by corruption. What is the sense in achieving better living conditions for a population unable to enjoy them because of a widespread fear of going out at night or the need for burglar alarms, special locks and guard dogs. If correctional policies prove as aimless and ineffective as those in the West, then this will be a significant contribution to the general breakdown.

On the other hand, if Asia abandons the Western patterns of relatively free economic growth and follows the communist pattern, then it may equally sacrifice its ancient traditions to an alien type of bureaucratic, highly centralised control of all movement. Here material benefits can be obtained without large rises in crime, but a politically privileged class is created and the older fundamental values are destroyed. Is either material wealth or crime control really worth this price?

Corrections can be a crucial part of the final decision. If Asian communities can learn to handle their offenders successfully; if they can help them to reintegrate by means of the older family and community values, then this could reduce recidivism and in the process, help to strengthen the basic values. To do this, they may have to consider a break with the West. In Prison Industry Japan has already done it. It pays for its prisons by the products, whilst in the West there are arguments about equal pay and union resistance to the full productive use of prisons. The community, not unhappy about the relief in taxes, is not against this. Singapore has reimposed discipline and productivity as the two basic principles of its corrections. Thailand has been using the amnesty in the constructive way to return to the community a great many of those unnecessarily imprisoned by the courts. India seems likely to experiment in the near future with new forms of exposure to public opprobrium. In Pakistan and Iran there are moves towards an Islamic extreme which, however harsh, hasty and unjustified the present penalties may be, could eventually reintroduce a system of tight, informal social controls. Their real success will then be judged by the extent to which they can reduce a reliance on executions, maimings and what now sometimes amounts to mob rule.

Events in both Asia and America as this is written constitute a grave warning that barbarism lurks behind the most noble demands for justice. In the United States fixed penalties to exclude the excesses of rehabilitation and to re-enthrone retribution have been used to increase imprisonment and to provide for heavier sentences. In Asia new courts meting out post-revolutionary punishments according to what the offender has deserved, have made the penalties even more shockingly reprehensible

than the crimes.

So, if the West has failed in corrections, Asia could fail even more by substituting regression for progress in its anxiety to avoid the acknowledged mistakes of the West. What is needed now is a new appraisal of Asia's strength in religions, social and moral controls, using these to reduce the ineffectiveness of vain statutes and to decrease the reliance upon penal institutions. Avoiding the past injustice of some forms of rehabilitation which have labelled and incarcerated for indeterminate periods, it could yet rescue the great hopes for humanity which this idea once generated. It could correct the indecent haste of the West to bury the whole concept of human improvement which has gone under the title of rehabilitation; for it was not all bad. It could, and perhaps already has in some parts of Asia, demonstrate that retribution in the wrong hands can be grievously regressive and as wildly unjust as anything which was once sanctioned by rehabilitation.

Asian corrections need a correctional philosophy of their own, able to combine Moslem, Hindu, Buddhist, Christian, Confucian, Shinto and other approaches to rights and obligations. This is already expressed in the ancient laws of the Koran, the Bible and the Hindu scriptures as refined by later writers. A consensus will be found, however, more in the social tenets of these religions than in their abstract moral forms. For the truly communal societies of the world have very similar expectations and customs with sanctions for the offenders which are rarely harsh because they are rarely ineffective. Only as societies grow do the customs fail to constrain and the punishments become excessively deterrent. Ferocity is often a measure of a law's ineffectiveness. Asia still has a common family and communal tradition on which to draw for its modern correctional theory and practice. It can make its corrections demonstrably effective, so that harshness is unnecessary, and as just as they can be humane.

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74769

The Role of the Prison Service in Hong Kong

*by T. G. Garner**

Introduction

The role of the Prison Service was at one time very simple and consisted only of warehousing those who were sent to prison, locking them up for long periods of time in dark and damp dungeons, often with the use of chains. It was only a task which called for little effort or initiative from those employed as jailers but which bred resentment and fear, without achieving any positive result except hatred against those who sent them there and society in general.

In those days, of course, the sole purpose of imprisonment was one of punishment and such punishment was often unrelated to the crime which the offender had committed. The punishment was not only one of confinement but also stemmed from the environment in which prisoners were confined and the way they were treated.

Today punishment still figures very prominently in a sentence of imprisonment but added to this is the very essential factor of protection for the community, particularly from those who are violent and dangerous. To this must be added the matter of a sentence acting as a deterrent not only to the offender but also to others. Finally the last factor in sentencing concerns the question of rehabilitation.

Today correctional work is vastly different from those far off days. Those of us who have spent some years in this work are aware of the shortcomings of any system which only calls for the confinement of offenders without any treatment or aims of rehabilitation. I have now changed to referring to the work carried out by the Prison Service as correctional work, for today one of the principal aims of incarceration is that of correction and rehabilitation.

The work of the Department includes the following two important factors: A) to accommodate persons on remand and offenders sentenced by the courts in penal institutions under humane conditions; B) to provide within institutions the required environment, facilities and services conducive to rehabilitation.

The Commissioner of Prisons is responsible for the overall administration of 17 institutions. These include minimum, medium and maximum security prisons, training and detention centres, drug addiction treatment centres, a psychiatric centre, in addition to which there is a Staff Training Institute, a Half-way House, Prisons Headquarters and an extensive after-care system.

Background History

In 1841 when a British naval party under Captain Charles Elliot took formal possession of Hong Kong Island, one of the first two buildings to be constructed of durable material was a prison. Today the site still serves its original purpose, but the very old buildings have largely disappeared, as have the grim concepts of penal administration which they represented.

All convicted offenders, including women, were originally housed in Victoria Prison. In 1862, because of overcrowding in Victoria, prisoners were moved to a site on Stonecutters Island and to a hulk moored between there and Lai Chi Kok. These were abandoned three years later when improvement and reconstruction works—the first of many to be effected over the next century—provided additional accommodation at Victoria.

In keeping with the 19th Century penal practice throughout the world, prison reform in Hong Kong was slow and unspectacular.

It was not until some 90 years or so after the foundations were laid for Victoria Prison that Hong Kong's second prison was constructed. Situated on the Kowloon

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peninsula, Lai Chi Kok Prison was commissioned in 1932. It was designed for women only and took over responsibility for all female prisoners who, until then, had been housed in Victoria.

Four years later, in 1936, when Stanley Prison was completed Victoria was closed—but only for two years. The new prison proved to be overcrowded from the start, so it was decided to recommission the old jail for prisoners on remand.

The Department Today

Hong Kong today is one of the most densely populated areas in the world. There are 4.7 million people living in 404 square miles, most of whom reside in an urban area of 50 square miles.

The Prison Service administers institutions under four different Ordinances. These are the Prisons Ordinance, the Training Centres Ordinance for young offenders, the Detention Centres Ordinance for young male offenders, and the Drug Addiction Treatment Centres Ordinance for the treatment and rehabilitation of persons who, having been convicted of an offence and found to be addicted to a dangerous drug, are sent for treatment in lieu of any other sentence. These Ordinances provide for different programmes and there are even differences in programmes in institutions administered under the same Ordinance as, for instance, the programme in a maximum security prison compared to that which is carried out in a minimum security prison.

There are 8 prisons in Hong Kong, 2 of which are maximum security, 2 are medium security and 4 are minimum security. There are 3 drug addiction treatment centres for males. There are 2 open training centres and a closed detention centre for young male offenders which is also currently involved in a pilot project for males between 21 and 25 years of age. There is a centre for women which accommodates all female offenders and has 3 sections: 1) prison, 2) training centre for girls, and 3) drug addiction treatment centre. There are also a psychiatric centre and a closed correctional institution for young offenders.

The total prisoner/inmate population on 31st March, 1979, was 6,189. In addition, we are following up a further 2,436 cases after release from training centres (611), detention centre (286) and treatment centres (1,539), all of whom are undergoing varying periods of compulsory after-care.

At the present time, due to a large influx of illegal immigrants into Hong Kong, the department has 3 of its institutions temporarily set aside for use in accommodating such persons. The total held is 2,833.

Prisons

The service is faced with the difficulty of combining safe custody, punishment and deterrence on one hand with the aims of reformation and rehabilitation on the other.

Fortunately, some offenders can be dealt with in a security setting below maximum, this enables the establishment of a less artificial environment in which to do the job, and of course without physical aids to security it is much less costly to the taxpayer.

Recently, worldwide however, there has been an even greater need for maximum security conditions for the more dangerous violent offender and others who pose a threat to the community particularly in countries like Hong Kong which do not invoke the death penalty. In Hong Kong, the death penalty was last used in 1966. Because of this, it is important to determine right at the beginning of a sentence or when a prisoner is admitted on remand, those who will fit into this category and such decisions are based on the information available at the time.

We call this classification and it palys an important role in the handling of offenders based on the maximum amount of information available. The aim of classification is to assist in the general administration of the prison population and in the appropriate allocation of the individual for training and supervision.

The person who is prone to using

violence and who will go to any lengths to obtain what he wants does not change his attitude when he is admitted to prison. In fact, in some cases, he will develop an even more anti-authoritarian attitude. For this type special arrangements must be made and they are best dealt with in special security wings which enable the correct degree of segregation and supervision to be exercised.

I previously mentioned classification but we also have categorisation. What exactly is the difference between the two at least when applied to the prison population?

Classification, I have already spelt out, that is, to assist in the general administration of the prison population to enable the authorities to make appropriate allocation for training and supervision of individual prisoners.

However, categorisation is something different again, this covers the security grading that we give to each individual prisoner and for this we have established 4 categories.

Category A is given to a prisoner whose escape would be highly dangerous to the public or to the Police or to the security of Hong Kong, and for whom the very highest conditions of security are necessary.

Category B is given to a prisoner for whom the very highest conditions of security are not necessary but for whom escape must be made very difficult.

Category C is given to a prisoner who cannot be trusted in minimum security conditions but lacks any ability or resources to make a determined bid to escape.

Category D is given to a prisoner who can reasonably be trusted to serve his sentence in minimum security conditions.

Thus, by means of categorisation, we are able to establish a base and as a result we can decide the conditions to which an individual prisoner will be subjected during the time he is in a given category.

The category of each individual prisoner is continuously reviewed and a prisoner at any time can move up and down the categorisation scale.

For those who require it, particularly for those in special wings, the full impact of rigorous imprisonment is imposed. This means that a prisoner will always be under close supervision and cannot move any appreciable distance without permission and close supervision. Any movement of such prisoners, for instance, from one part of the institution to another, are especially supervised and automatically recorded in a special log book.

The foregoing will illustrate that we give a priority to security and we have to the fore the protection of the community, highlighting the role the Prison Service plays in supporting enforcement of law and order and the protection of the community —a necessary pre-requisite to seek and retain the confidence of the community.

At this point, we can now move to the issue of rehabilitation, the full concept of which can be found in institutions which have the lowest degree of security. To give you an idea of what I mean, it is best illustrated by the fact that within the last two years over 4,000 prisoners who have been found suitable after serving part of their sentence have been transferred out of one of the maximum security prisons to minimum or medium security prisons where the environment for rehabilitation is more conducive and as a result the prisoners are more receptive.

I do not propose to dwell at length on the programmes in the different institutions except to add that in minimum security establishments prisoners usually work in the open, far away from the institution, planting trees in a programme of afforestation, repairing or laying footpaths from one village to another, or working on road-widening schemes. They have worked on sea defences, different kinds of village projects and other jobs which assist members of the community, particularly those living in remote areas. It also means that prisoners are gainfully employed and they can see the results of their labour—a factor which is most important for building morale and sustaining interest.

Individual and group counselling takes place at frequent intervals and we have a very successful "Never Again Association".

In short the concept of this association means never again to commit another offence and to this end we enlist the assistance of members of the prisoners' family, particularly his wife and/or parents.

The department has certified accommodation in prisons for 4,471 and we are holding 3,932 which means that at the present time there is no overcrowding; consequently, we are able to move forward on improving existing programmes and introducing new concepts.

So far I have referred to the work that goes on in prisons, but what about the other types of programmes which I previously mentioned?

Drug Addiction Treatment Centres

First I would like to explain why the Prison Service in Hong Kong is involved in drug addiction treatment centres for, so far as I am aware, ours are the only service in the world that is so deeply involved to the extent that we cater specifically in special institutions for the treatment of addicts and also have our own follow-up by way of an after-care service. How then did this come about?

Sixteen years ago more than 90% of all admissions to prison were addicted to dangerous drugs with mainly heroin as the drug of choice. It was obvious at that time that if we were going to progress in the rehabilitation of offenders, then it would not make sense to try to do so without becoming involved in the treatment of drug addiction.

However, I am of the opinion that this cannot be done in a prison, for a prison is exactly that, with the staff trained to run the institution accordingly. A prison is not a drug treatment centre nor does it have a treatment centre environment at least in the accepted sense. Staff who work within a treatment centre must approach the individual inmate in a different way—different, that is, to the approach which is made in a prison.

Accordingly, in order to embark on a proper planned programme of treatment and rehabilitation of addicts, it was necessary to create an entirely different environment, a planned programme of rehabilitation with appropriate goals.

As a result of research carried out by the Prison Service between 1958 and 1968, the Drug Addiction Treatment Centres Ordinance and the establishment of Drug Addiction Treatment Centres became law in January 1969.

Drug addiction treatment centres offer to the court an alternative method of dealing with a convicted person who is found to be addicted to drugs. Following a finding of guilt and before sentence is passed, the court may order him or her to be remanded in custody for a period of approximately 2 weeks for a report on suitability for admission to a drug addiction treatment centre. If found suitable and admitted, and I might add that this is usually the case in almost all cases, he or she will be detained for a minimum period of 4 to a maximum period of 12 months. Discharge will be followed by a mandatory period of 12 months supervision. The actual period that a person will spend in an addiction treatment centre will be determined by a board of review based on the response and progress made by the individual which will include the arrangements made for discharge which must also include employment.

This programme highlights very clearly the Prison Service's role in Hong Kong in the rehabilitation of the offender who is addicted to drugs and which requires a specialised approach. At the present time the department has 4 drug addiction treatment centres with total accommodation for 1,992 (1,876 male + 116 female). At present there are some 1,445 persons under treatment, with a further 1,539 cases being followed up under the department's after-care programme.

Training Centres

Training centres for boys and girls between the ages of 14 and under 21 became operational in 1953 and offer the courts a positive alternative for dealing with young offenders in this age group. Until recent years the training centre system in Hong

Kong was the backbone of dealing with the young offender and throughout the years they have achieved good results. The system which was planned in 1953 did at that time admit a different type of offender compared to those admitted today; however, the programme has been updated and additional facilities built to accommodate the more anti-authoritarian and violent prone young inmates.

For some 20 years the system was greatly handicapped due to all institutions being of minimum security with no physical aids to security. This position changed a few years ago when the Pik Uk Correctional Institution for young offenders became operational. This is a closed institution and can take young male offenders between 14 and under 21 who have been sentenced to imprisonment or to a training centre. The original role envisaged for this institution was that of training centre only, but shortly before it opened provision was made to accommodate young offenders in a separate section who were sentenced to imprisonment. This enables the correct degree of security considered essential for this type of young offender to be made available which was previously lacking. The degree of discipline which can be enforced in a closed institution is far greater than that which can be enforced in a minimum security setting without running the risk of a large number of escapes which would not be conducive to public support for the programme.

Training centres give the courts another very useful alternative to imprisonment by which a young offender, male or female, can be sentenced to an indeterminate period for a minimum of 6 months up to a maximum of 3 years which is followed by a further 3 years after-care which is carried out by the departmental after-care unit.

The training centres play an important role in the rehabilitation of the young offender particularly for one who is very unruly, has usually failed probation and probably has a history of involvement in a triad society with previous experience in an institution and who from a very young age has become involved in criminality.

The programme in these centres is based on half-day educational and half-day vocational training, attendance at which is compulsory. The educational programme goes through from lower primary to full secondary and includes matriculation for those who can attain that standard. Vocational training touches on a variety of subjects such as carpentry, tailoring, panel-beating for vehicles, radio and television repairs, book-binding, domestic science for the girls, embroidery, hair-dressing. The accommodation available for young offenders in training centres, both male and female, is 570 (540 male + 30 female), the actual number held at the present time is 307. In addition, a total of 611 cases are being followed up under the compulsory after-care programme which as I mentioned before is for a period of 3 years.

Detention Centres

The detention centre programme came into operation in Hong Kong in June 1972. The programme has been so arranged to enable a sharp shock to be administered over a short period without the offender becoming immunised to that shock.

The period of detention for a detainee under 21 years of age is for a minimum of 1 month to a maximum of 6 months followed by 12 months after-care, and for those over 21 but under 25 years of age the period of detention is for a minimum of 3 months to a maximum of 12 months also followed by 12 months after-care.

The policy of the detention centre involves assisting each detainee to learn respect for the law and, to this end, the programme is primarily deterrent in nature but gives as much positive training as possible.

At all times it is brisk and firm with a very strong emphasis on physical labour. The highest possible standards of discipline and behaviour are always maintained by every member of the staff who, like in other programmes, are especially trained.

Throughout the whole of his stay at a detention centre, each detainee will be required to reach the limit of his ability

but not go beyond it.

It is because of this that detention centres are not suitable for those who are physically handicapped or indeed not 100% physically fit or who have a low IQ, nor can they benefit a youth who has previously spent time in an institution or whose offence stems from deep-seated causes and which requires long-term correctional treatment.

I can best sum up by referring to the NO's, no smoking, no earnings, no films, no TV, no idling, no bad manners, and most important of all no excuses for failure to pull one's weight. The total number of offenders in the detention centre is 171 consisting of 122 detainees under 21 and 49 young adult detainees under 25 with 286 cases being followed up under the compulsory after-care programme of 12 months. It is interesting to note that—

The total number remanded by the courts for a suitability report (from June 1972 to 31.3.1979) was	8,278
Found suitable	5,869
Sentenced to a detention centre	3,224
Released under supervision (including 40 young adults)	2,964
Now under detention (122 + 49 young adults)	171

Success

What of success? This will differ from programme to programme, institution to institution.

Prisons

Success rate (percentage of individual prisoners who were not re-admitted)—for 3 years after discharge: 43.82%

Drug Addiction Treatment Centres

Success determined on the basis of no further conviction and stable family life: 64.14% after 1 yr.
40.88% after 3 yrs.

Training Centres

51.53% after 3 yrs.

Detention Centres

75.39% after 3 yrs.

Conclusion

Work in the correctional field cannot and must not stand still. The pattern of crime and the type of offender is continuously changing. Prisons must not be warehouses even for those who are imprisoned for life. Overcrowded conditions create extremely adverse conditions and place a very heavy burden on the staff which enables prisoners to take advantage of abnormal conditions.

Like any other Government department, the degree of efficiency which can be reached by the Prison Service depends on the number of tools which it is given to do the job and the calibre of staff it can recruit and train. Salary scales will determine the latter.

The Prison Service in Hong Kong has reached new heights in the pursuit of its main goals and I am optimistic that much more will be achieved in the future.

Perhaps I should add that today in most countries when it comes to correctional work, the Prison Service is going through a crisis. There are those who call for the abolition of prisons while some on the other hand want a return to the harsh rigid conditions, in my opinion both are wrong. I believe in Hong Kong the Prison Service has shown that programmes founded on discipline with a humanitarian approach and with the aim of rehabilitation can achieve much. However, like a school, hospital or university, we must accept failures for even if we were to remove from society all the ills that prevail, we would still be left with that unknown factor—The Human One!!!

74770

SECTION 2: PARTICIPANTS' PAPERS

Offender's Rehabilitation—A Great Problem in Bangladesh

*by A.K.M. Abdul Matin Khundker**

Professor van Bemmelen, in an unpublished statement (prepared for the 2nd UN Congress on the Prevention of Crime and the Treatment of Offenders, London, 1960) on behalf of the International Association of Penal Law, remarked that "the sentence and even the information report drawn up for the use of the judge, the choice of the sentence or measure to be applied and the character of the penal treatment should all be aimed at the rehabilitation and readaptation of the accuseds and the convicts."

The importance of treatment and rehabilitation of offenders was very clearly spelt out in the above remark. But most unfortunately this important aspect has been very much neglected in this country for obvious reasons, of which some are as follows:

a) Establishment of punitive (rather than corrective) institutions,
b) Negative attitude of society towards offenders,
c) Lack of trained professional personnel for implementing rehabilitative programmes,
d) Lack of cooperation and co-ordination among the relevant Ministries and Departments, and
e) Non-availability of voluntary social welfare organizations and agencies working in this field.

Establishment of Punitive Institutions

It may be recalled that the prisons of Bangladesh were established long ago during the British regime as punitive institutions of which no reform was even made by the erstwhile Government of Pakistan during their occupation for a long period of twenty-five years. These institutions were mainly constructed for the purpose of detention and punishment of some persons without caring for their future. These were designed and planned in such a manner that would guarantee and ensure the confinement of people who were brought there even on very minor grounds. And no importance was given to their treatment, correction, reformation nor ultimate rehabilitation. Although the erstwhile Government of East Pakistan set up a Jails Reform Commission in December, 1956 which submitted its report in November, 1957 the basic character of jail administration particularly in regard to treatment of prisoners substantially remained as before.

In view of the social and political changes that occurred as a result of the emergence of Bangladesh as an independent sovereign state, the problem of streamlining the jail administration throughout the country has assumed a new dimension. It is indeed imperative that a fundamental change be brought about in the system of jail administration and in the old outlook inherited from colonial times. The need for reform of a fundamental nature in the administration of jails and for revision of relevant laws and rules has also been under active consideration of the Government of Bangladesh which has realized that due emphasis must be laid on reformation of prisoners and on imparting such technical and vocational training so as to turn them into productive citizens of the country. Government has further realized that emphasis has also to be laid on moral and religious instructions in order to inculcate in them an awareness of their obligation to society and fellow human beings. Government has also observed that earnest attention has to be given to the overall improvement in living conditions in jails, after-care of prisoners on release, care of juvenile offenders and other important

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aspects of jail administration.

In order to achieve these objectives the Government appointed on the 4th November, 1978 a Jails Reform Commission consisting of nine members with Mr. Justice F.K.M.A. Munim, Judge of the Appellate Division of the Bangladesh Supreme Court as its Chairman. The commission is now preparing its recommendations to be submitted to the Government. I had the opportunity for working with the Commission as one of the members of a sub-committee responsible for preparing the questionnaire.

Negative Attitude of Society Towards Offenders

A strong negative attitude is prevalent throughout the country towards offenders, ignoring the already existing correctional services in some limited areas. At the present time generally a citizen, juvenile or adult, who has committed an offence, is convicted—if proven guilty by the court—and sentenced to imprisonment for a certain period of time. Society thus feels that the wrong done by the offender has been dealt with justly and properly, i.e. society has avenged itself. This present system concurs with present thinking on the well-established principle of "an eye for an eye and a tooth for a tooth." This is born out by the fact that the adjudicated period of incarceration usually corresponds to the severity of the offence committed. But the fact remains that sending an offender to jail by rule of thumb does not solve problems of increasing criminality. On the contrary, it usually raises a whole new set of problems for the convicted offender and his family. Through imprisonment the offender is surely taken out of circulation and thus the members of society may feel protected. However, there are very few criminals who remain in prison to the end of their days. The majority of prisoners re-enter society at the expiration of their term, and then not surprisingly the cycle begins anew. The country-wide rate of recidivism, i.e. of repetitions of crimes, suggests that by no fault of prison administration, prisons in general are poor as rehabilitative institutions. This is particularly true for the younger age category. On observing the problems more closely and dispassionately, we find that the prisoner, who has lived in an unnatural setting of prolonged periods and who then has to rebuild a whole life afresh, usually displays an attitude of resentment, fear and sometimes revenge towards the society which has deprived him of his liberty for a certain period of time. In many cases he has lost faith in society and harbours to it a permanent grudge.

If we care to study and attempt to understand a prisoner and what has led him to crime, we may discover that his criminal proclivity may be due to a number of variants in causal factors, such as are an undesirable home, family backgrounds and surroundings lacking stability, economic pressures, lack of proper education to face the increased demands of today's life, squalid living conditions in congested slum areas and other socio-economic factors. By sending the faulty citizen to jail, without giving him a chance to reform himself, we may find that instead of improving his conduct, the person in question may try to perfect his criminality in association with other hardened criminals. On the other hand, once the offender has returned to society after serving his prison term, we find that by treating him as an ex-convict in the common sense of the term, we reduce his meagre chance of rehabilitation by treating him as a second class citizen, although he has paid in full his debt to society. Long after his penalty has expired, he and his family—including his dependents and children —continue to be punished and to suffer for that one misdeed in life.

Punishment, therefore, even in its most severe form, does not produce desired results in term of deterrence from recidivism (repeated offence against society) nor in terms of rehabilitating the offender in a corrective way. Incarceration does not provide the impetus for living an honest and peaceful life within society. Present practice shows that our methods of punishing infractions of the societal code do not prevent a continuous upward trend in the

national crime rate.

Lack of Trained Professional Personnel for Implementing Rehabilitative Programmes

Bangladesh like other emerging countries of the world has adopted in the modern concept of penal reform the notion that human rights and dignity must be respected even in the case of offenders and thus introduced correctional services in the form of "probation of offenders" and "after-care of the released prisoners" through the Department of Social Welfare. Initially, these services started functioning in five districts only in 1962 and later on expanded from time to time in other districts, thus covering at present all the nineteen districts of the country. The probation of offenders scheme is supported by the Probation of Offenders Ordinance, 1960, later on amended and enacted as the Probation of Offenders (Bangladesh Amendment) Act, 1964, thus providing a legal basis for the operation of this social service to persons in conflict with the law of the country, whereas the after-care of the released prisoners service is still non-statutory and provided to the released prisoners as and when needed by them. Both these services were integrated in 1966 under the title "Correctional Services" which allowed a probation officer to function both in probation and after-care services under the same designation, namely, probation officer. Before the integration these were seperate schemes of the Government. Besides the above services, the Government has also established the Institution for Correctional Services, comprising one Remand Home, one Juvenile Court and one Training Institute for the Juvenile Delinquents (with which I am associated) under the Department of Social Welfare in order to develop a sound correctional programme in Bangladesh in line with modern methods of treating offenders in other advanced countries. The Institution functions under the provisions of the Bangladesh Children Act, 1974 and caters services for correction, reformation and effective rehabilitation of juvenile and youthful offenders through detention, classification, diagnosis and treatment programming. The Juvenile Court tries all cases in which children below sixteen years of age are charged with the commission of any offence and deals with and disposes of all other proceedings under the said Act. Depending on the situation and availability of resources, the services will be further expanded in the near future. But dearth of professional personnel with adequate training and skill is felt to be hindrances to the effective development and proper implementation of these programmes. The services are highly specialized and for their successful operation professional personnel with adequate training and skill in the field of correction is a crying need of the country. Since the services have not yet been able to gain a sound footing in this country, good administrators, experts and instructors are needed for the successful operation of the above schemes.

The incidence of juvenile delinquency in Bangladesh has been rising alarmingly in the recent past inviting Government's attention and efficient handling of the growing problem. The Government has already realized that unless the children and the youth of our country are organized properly and utilized for their active participation in the development activities, it would be really difficult to achieve balanced social and economic development. With this end in view appropriate schemes for overall development have been introduced which will enable them to become productive and law-abiding citizens and thus contribute to the speedy development of the country.

Lack of Cooperation and Co-ordination among the Relevant Ministries and Departments

Although the schemes of correctional services as mentioned above have been initiated and introduced by the Department of Social Welfare of the Ministry of Manpower Development and Social Welfare, the success of the programmes depends mainly on the close cooperation of and co-ordination among the different Ministries

and Departments such as the Ministry of Home Affairs, Ministry of Labour and Industrial Welfare, Ministry of Cabinet Affairs, Ministry of Law and Parliamentary Affairs, Directorate of Police, Directorate of Prisons, Directorate of Labour Establishment Division, Administration of Justice, Magistracy, etc. But this sort of interministerial or inter-departmental cooperation, co-ordination and assistance is not satisfactorily forthcoming at the moment. This is due to the large-scale negative attitude of the people towards offenders and criminals, although gradually this attitude is being changed.

The police plays the most significant role right from the registration of cases at the police station consequent upon the commission of an offence till the disposal of cases by the trying magistrates or judges. Since the correctional programmes have not been included in the Syllabus of the Civil Service Academy or the Police Academy of the country, our police or the magistrates (civil servants as the executive and the judiciary have not been separated) are not very much enlightened about the modern methods and techniques of dealing with offenders for their treatment and correction and hence they are not able to contribute much to the offenders' ultimate rehabilitation in society. They maintain their traditional attitude and the age-old belief that offenders should be always condemned as such and very strictly dealt with so that they cannot remain in circulation in the community. It is unfortunate, sometimes, that if any bad incident takes place within the community after the arrival of the discharged prisoner from prison, he is also taken to the police custody on suspicion under section 54 of the Criminal Procedure Code and forwarded to the court which normally puts him behind the bar even if the man is not actually involved in that incident. He is thus forced by the community back to the prison again. It may take some months and years for him to prove that he is innocent.

It has been already stated earlier that our prisons are mainly punitive in character and during the months and years of stay there prisoners remain idle and get very little scope for making them equipped with technical knowledge or skill in some trade or vocation facilitating their eventual adjustment and rehabilitation in the community. At present there is no such facility available in the prison which can make them self-supporting and law-abiding citizens after their release. And although most of prisoners remain engaged in unproductive prison labour, they are given only the one-way fare to reach home upon release and no other pocket money. A released prisoner is thus thrown in such an economic disability at a time when he has lost all sorts of family and social ties as a result of his long absence from the community. In such a helpless situation, unless community cooperates with him in all possible ways, he is bound to go back to the society of criminals again with whom he has made friends during long association in the prison. And this is the only way out for him in the present-day Bangladesh situation in the face of the community-wide negative attitude against the persons in conflict with the law of the land.

The concerned Ministries and Departments of the Government such as the Ministry of Home Affairs, the Directorate of Police or Prisons have not yet been able to introduce any of the modern prisoners' welfare service schemes with a view to facilitating the rehabilitation of prisoners in the community after their treatment and reformation within the prison. Even the "parole" service has not been started as yet in Bangladesh. Because of the community-wide negative attitude towards offenders and other technical difficulties the after-care of the released prisoners service as stated earlier has met with total failure. It is important to note that the less the jail experience, the more are the chances for social adjustment of prisoners after release. Therefore, if modern correctional philosophy is to be given a practical shape, we cannot go without parole which is an important part of correctional procedure of treating offenders in all progressive countries of the world. From our experience we can rightly say that the after-care of the

released prisoners service lacks the gem of true spirit underlying it. Parole should be introduced in order to forge closer links between the clients and the social workers. Parole is not only economical, but also enables the social workers to play a positive role in helping released prisoners readjust to the community and find suitable jobs. On the contrary, under the prevalent system of after-care of the released prisoners services, the prisoners have to complete their full term in the prison and nothing virtually meaningful can be done for them during the period of their stay inside the prison. If we carefully observe, we find that as a result of their long stay in the prison they become fully institutionalized and lose almost all the potentialities which are required to face the community outside upon their release. Moreover, they lose their family ties and other properties and assets before their release. When they return home, they find that the wives have already left them and the children have become street beggars or have fallen victims to very bad circumstances. The community people hate them because of the jail stigma and the law enforcing authority remain vigilant about them. All concerned are, as if, motivated not to accept them in the community in which they were once born and grown up. This negative attitude from the community compels them to return to the society of criminals where they get quite a good number of friends together with common purpose.

In the field of community-based correction such as probation as prevalent in Bangladesh, the magistracy can play an important and positive role for the success of the programme and also for the rehabilitation of probationers in the community. But most unfortunately, response is not satisfactory in certain areas although the Probation of Offenders (Bangladesh Amendment) Act, 1964 is already in force, and the referral of cases from the court is extremely poor as a result of the negative attitude of the trying magistrates and judges. Probation officers have been appointed by the Department of Social Welfare in all the nineteen districts of the country and they have been placed at the disposal of the court so that they are readily available as and when required by them in connection with placement of persons on probation according to the provision of the Act. But still the disposal of cases in some areas mostly ends up with either of the two extreme measures, punishment or acquittal, depriving the accused of the benefit of probation, i.e., the expert guidance and supervision of the probation officer.

Non-Availability of Voluntary Social Welfare Organizations and Agencies

In all progressive countries of the present-day world there are sufficient number of voluntary organizations or agencies engaged absolutely in the welfare of offenders and prisoners such as Prisoners Aid Society and After-care Association to supplement the activities of the Government in this field. But in Bangladesh such voluntary organizations or agencies are not available at the moment. Only one organization formed as back in 1962 under the title "Association for Correction and Social Reclamation" at the national level has not been functioning properly. Unless the community comes forward to take the responsibility of the rehabilitation of socially handicapped persons like offenders and prisoners, it is really difficult for the Government to do the job alone. It is expected, therefore, that such organizations and agencies will crop up in future to perform this noble task—the rehabilitation and readaptation of offenders in the community which is the most natural and appropriate place for them as well as for the purpose.

Systems and Practices of Community-Based Corrections in Hong Kong

*by Koon Keung Liu**

There are two government departments responsible for corrections work in Hong Kong, i.e., the Prison Department and the Social Welfare Department. These two departments are, however, different in their approaches though the objectives are the same. Since I am with Social Welfare Department, I will confine my discussion to my own department.

The Social Welfare Department of Hong Kong has been organized very much on a functional basis and, for the matter, it has a highly specialized set-up with divisions, each of which is charged with the function of one specialty, e.g., the Family Services Division, the Group and Community Work Division, the Rehabilitation Division, the Probation and Corrections Division as well as the Social Security Division.

So, the Probation and Corrections Division is charged with the obvious duty of looking after offenders who are put on probation and those offenders who are further required by the probation order to reside in a probation home or hostel for a definite period of time or who are made subjects of a school order to be committed to a reformatory school.

The Probation and Corrections Division, as it is commonly known, has 2 sections, namely, the Probation Section which operates all the probation offices attached to court buildings and the Corrections Section which operates all the 5 correctional institutions.

Let us first look at the probation offices. Each probation office is headed by a senior probation officer assisted by a handful of probation officers, male and female.

The duty of each probation officer, in broad terms, is twofold—writing of social enquiry reports and supervision of offenders put on probation. The present caseload for each probation officer is, roughly speaking, to write about 20 reports per month and to supervise a caseload of about 50 (Tables 1 and 2).

Table 1: Probation Supervision
(Period: 1 April 1977 to 31 March 1978)

Age and Sex of Probationers / Balance of Caseload	7–13		14–15		16–20		21/over		Total	
	M	F	M	F	M	F	M	F	M	F
Caseload as at 1 Apr. '77	175	19	432	45	1,443	145	646	77	2,696	286
New cases	150	15	361	41	698	80	339	51	1,548	187
(Inter-regional adjustment)	+7	+3	−16	−3	+10	−4	+15	+5	+16	+1
Completed cases	121	12	283	33	1,059	80	517	55	1,980	180
Caseload as at 31 Mar. '78	211	25	494	50	1,092	141	483	78	2,280	294

	1975–76	1976–77	1977–78
No. of home visits	6,260	6,005	4,502
No. of office interviews	44,805	45,930	39,628

* Superintendent, Begonia Road Boys' Home, Social Welfare Department, Hong Kong

Table 2: Social Enquiries
(Caseload for the year ending 31 March 1978)

Type of Enquiry	Juvenile		Young Adults (16- below 21)		Adults (21 and over)		Total	
	M	F	M	F	M	F	M	F
Probation officers reports	1,084	118	1,703	221	2,908	549	5,695	888
Welfare assistance	15	10	23	21	382	157	420	188
Others (incl. long-term prisoners, condemned prisoners and petitioners)	4	–	195	–	238	5	437	5
Total	1,103	128	1,921	242	3,528	711	6,552	1,081

	1975–76	1976–77	1977–78
No. of home visits	7,451	7,460	6,855
No. of office interviews	13,604	13,466	11,808

It must be reckoned that the writing of the social enquiry report is the most onerous task since it involves a series of interviews with and visits to offender himself, his family members, employers, school masters and any other persons who are associated with him and who may throw light on his personality and behaviour, past history and perhaps the circumstances of his involvement in the offence committed. A second factor that makes this part of a probation officer's duty onerous is that there is always a time limit for the report to be submitted. Hence, when there is an upsurge of reference for social enquiry reports, the probation officer will normally allocate more of his time to deal with these reports and comparatively less time for the supervision of cases, interviews and home visits.

But there should always be the highest priority given to the supervision of cases since this is exactly what probation is about—helping those offenders on probation to reform themselves within the context of their community. A lot more time is needed to carefully identify their problems, and these problems can be modified and even done away with within various limitations of available resources.

In addition, a probation officer may be called upon to supervise boys with behaviour problems referred by sources other than the courts though there are not too many cases of this category.

A probation officer is also looked upon as the social welfare officer of the court and is very often required to deal with welfare cases—cases of hawkers and aged offenders whom the courts would like to refer to the probation officer for possible welfare services either in cash or in kind (Table 2).

A probation officer is additionally required to prepare long-term prisoners' reports required by the Review Board commissioned by the government secretariat, with a view to assessing whether the prisoner's family is being adversely affected by the imprisonment of the offender; if so, whether the family is to be assisted by existing welfare services and the prisoner has grounds for immediate release from prison (Table 2).

The senior probation officer in each office performs two functions, namely, the administrative duties of looking after the office and the supervisory duties of seeing

that all the probation officers are measuring up to certain agreed standard of professional services to clients. And of course, the senior probation officer is involved in community work in the district of his office as far as the prevention of crime and the treatment of offenders are concerned.

The Corrections Section operates 5 institutions (Table 3). There are two reformatory schools and 3 approved institutions, namely, one probation home for boys, one probation home for girls and one probation hostel. The reformatory schools and probation homes are meant for juveniles of 16 or under on admission while the probation hostel is meant for boys between 16 and 21.

Table 3: Inmates in Correctional Institutions
1977–1978

Home	No. of Inmates as at 1 Apr. '77	New Admission (Remand, Detention, Probation, etc.)	Discharges	No. of Inmates as at 31 Mar. '78
Begonia Road Boys' Home	133	2,737	2,767	103
Ma Tau Wei Girls' Home	55	34	59	30
Castle Peak Boys' Home	113	56	59	110
Kwun Tong Hostel	70	109	108	71
O Pui Shan Boys' Home	91	46	59	78
Total	462	2,982	3,052	392

The minimum stay in each reformatory school is one year, and the maximum is 5 years or when the offender reaches the age of 18, whereas the maximum stay in the probation home and hostel is one year, and the actual length of stay for majority of the cases is 6 months.

The treatment programme and the training schedule in each of the reformatory school and probation home is basically the same though with variation of emphasis in certain areas to meet situational requirements.

In each of these institutions, there is a school unit looking after two types of activities, i.e., the school classes ranging from primary one to Form one and the various prevocational trade classes. The institution may place stronger emphasis on school classes or trade classes depending on the age composition of the resident population. Generally, where there is a younger population the emphasis is likely to be on school classes, and the older boys will need more training in trade classes.

In school classes, the arrangement is slightly different from that in a normal school because of the unpredicted timing of admission and secondly, of the relatively lower academic attainment of inmates. In fact, most of them have dropped out from school for a year or two by the time of admission. Thus, their standard varies extensively and is relatively lower than that of boys in a normal primary school.

These difficulties must be taken account of in planning the syllabus and activities of the classrooms and the obvious thing to do is to adopt a flexible syllabus to gear to the needs of the boys. The teachers have to pay attention to the individual boys while tremendous efforts are needed to motivate the boys in the learning processes.

It is indeed a painstaking task to make the boys think and really learn something. To facilitate the learning process, the importance of formal examination and test is played down while encouragement is given to voluntary involvement and participation in discussion and contribution of creative thinking. The training in the classroom will help motivate the boys to go back to normal school after discharge.

In the trade classes, similar problems of irregular admission and varying standards are experienced though generally the activities in the trade classes are themselves good motivators among the boys. The instructors, same as the class teachers, have to pay attention to individual progress. Boys are expected to learn some of the basic skills of the trade and get familiarized with tools. The experiences gained from the trade class will enable the boys to continue with further apprenticeship in the trade or to make a living out of a particular skill like soldering, painting, making buttonholes and seaming.

The residents in these institutions will go to the school class for half a day and the trade class for the other half of the day.

For the rest of the time, the residents are involved in "Home" activities which will open them to useful group life experiences. They will be grouped into different houses each of which is supervised by a housemaster who is acting as a father/mother figure. A series of activities will be planned to help the housemembers develop their mental faculty, to build up positive inter-personal relationship and to conform to discipline and rules of the miniature community.

The housemaster will, of course, identify problems of the individual residents and their families and work out possible solutions of these problems in order to lay the groundwork for subsequent reintegration into their families and the community at large. The housemaster, with the help of the professional caseworker, will act as the link among the residents, the institution administrator, and the parents, to ensure that there is no undue element of segregation while the residents are undergoing a period of rehabilitation in the institution.

To achieve this end, there is scheduled a parents' visiting day on a weekly basis and flexibility is allowed when the parents cannot make it on the particular day. The residents are allowed to have day leave when they satisfy certain requirement according to a marks system which, in essence, is used to monitor the behaviour and progress of the individual boy.

In addition, there are other activities in which the parents are invited to participate so that there is maximum interaction of the three parties which is viewed as a positive element in any rehabilitation programme. These activities are also planned on a periodic basis making maximum use of manpower and other resources.

An important part of these activities is conducted in the form of hobby groups; some are conducted by staff members, some by paid instructors and some by volunteers. These hobby groups are an essential feature of the activities in the evening everyday. They will expose the residents to healthy recreational pastime through which they learn a lot of meaningful human relationship—the need to respect others, to tolerate an opposing view, and to cooperate with others for achievements of common good.

Another part of these activities puts focus on community involvement such as Clean Hong Kong Campaign, Community Chest, Red Cross, Duke of Edinburgh Award Scheme, Scout Group, Community Youth Club, family life education programme, etc. Such involvement will no doubt keep the residents informed of what is going on in the community while they are in.

By involving themselves in such activities, the residents are in fact proving their worth and regaining their confidence as a normal youngster because what can be done by others in the community can also be done by them with even better performances. This participation will provide them an opportunity to mix in normal social activities and to feel no sense of rejection, though they may have fallen once in his life time. The significance of this

participation is that they are contributing their share to their fellowmen. This can be viewed as a great departure of their past behaviour which may be described as irresponsible and destructive. This can at least be assessed by members of the public who say such rehabilitation programmes for offenders are worth the efforts and money.

The above is true, in broad terms, of the treatment programme of all correctional institutions of the Social Welfare Department. There are, however, two distinct exceptions.

The first is the Probation Hostel which is meant for the older boys between 16 and 21. Since this is basically a hostel, the residents are treated differently. They are allowed to go to schools or employment in the day and only required to come back to the hostel after school or work. If they go to school, efforts are made to help them with their studies so that they will be sufficiently motivated to compete with other school boys, be better able to catch up with the required standard, and be assisted by volunteer tutors. Those going out to employments are given all assistance in getting suitable employments, making adjustments in the work-setting with their boss and fellow workers, and budgeting their income so as to make sensible use of their wages and keep regular savings for rainy days. Those who have formed a good working habit will, in most cases, contribute substantially to helping their families and such a change of attitude and behaviour often works miracle in breaking through their strangled relationship with their families.

The second exception is found in the probation home for boys. Provisions are made for those who have shown satisfactory progress in the institution programme to be allowed to go to normal schools or employment whichever is the choice, though they are required to return to the institution after school or work everyday. This arrangement follows a similar pattern of the probation hostel for two reasons. First, maximum use of available facilities is achieved because more delinquent boys having different needs can be admitted and a revised and varied approach to meeting their needs at different stages will be more effective in the total rehabilitation process.

As a side information to the above, both the probation home for boys and that for girls have a remand section for presentence boys and girls respectively. They are remanded awaiting trial or sentence for probation officer report, medical report, or other reports to be made. Staff will keep close observation of them and evaluate and furnish remand reports on their behaviour for references of the court.

Again, in both the probation home for boys and that for girls, there is a quota reserved for the admission of those in need of care and protection. They are strictly speaking non-offenders though they may exhibit similar delinquent behaviour and have even worse strangled relationship with their families.

All probationers on their discharge from probation home and hostel are to be supervised by their respective probation officer, who had referred their case for admission, for the balance period of the probation order.

In the case of reformatory school, the boys will be boarded out for school or employment after they have had a period of satisfactory training in the school. If the boarding out period is found satisfactory, they will be granted release on licence (Table 4).

Table 4: Aftercare Supervision of Boys from Reformatory School

	Under 14	14–15	Total
Caseload as at 1 Apr. '77	91	84	175
New cases	154	217	371
Completed cases	138	165	303
(Inter-casework adjustment)	−14	+8	−6
Caseload as at 31 Mar. '78	93	144	237

During these processes of boarding out and on licence, boys are supervised by after-care officer who has in fact built up friendly relationship with them while they are in the school. Of course, any boy showing poor response to the conditions of the licence will cause the licence to be revoked and will once again be brought back to the school for further training.

I will conclude by saying that the system and practices of correctional work in Hong Kong are constantly kept under review to bring them in line with the needs of clients and changing circumstances.

Community-Based Corrections for Youthful Offenders in the Philippines

*Celia C. Yangco**

Introduction

The Philippines, like any developing country, will always have a sector of the population who are socially and economically disadvantaged or handicapped. This condition may be due to circumstances of birth or the fast changing environment, characterized by pressures brought about by fast population growth, acceleration of technological changes, and changing traditions and values, among others. Greatly affected by these changes are our young people. The conditions surrounding their lives and their activities at home, in school and in the community limit their capacity to cope with the demands of change. This situation leads the youth to conflict and maladjustment or to falling off the right track and becoming juvenile delinquents or youthful offenders.

Aware of this change-hazards and the potentials of the youth as a rich reservoir of human resources for the attainment of national goals and objectives, Philippine President and Prime Minister Ferdinand E. Marcos issued, on December 19, 1974, Presidential Decree No. 603 (P.D. 603), otherwise known as the Child and Youth Welfare Code. This law provides full protection of the rights of Filipino children and youth and enhances their meaningful participation in national development irrespective of their social and economic status in life. It also defines the child and youth in the context of Philippine standards and laws and enumerates the special categories of children, including the youthful offenders.

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The Youthful Offender under Philippine Laws

Under the Decree, a child was defined as one who is below 21 years of age. A youthful offender, on the other hand, as defined by the decree, is one who is above 9 years but under 21 years of age. This provision on the age of the youthful offender was, however, modified and amended with the passage of a subsequent presidential decree (P.D. 1179), August 15, 1977, which classified the youthful offender as one who is over 9 years but under 18 years, or 3 years younger than the original age bracket.

The Code mandates the Ministry of Social Services and Development (MSSD) to provide comprehensive services that will create an atmosphere conducive to child and youth development. Emphasis is given to the provision of services to the special categories of children including the youthful offenders.

MSSD's Integrated Human Resource Development Program for Youth

For several years now and even before the passage of P.D. 603, the MSSD through its Bureau of Youth Welfare has developed and implemented an Integrated Human Resource Development Program for Youth (IHRDPY) that encompasses three major program areas for the youth, namely: (1) programs for economic self-sufficiency, (2) programs for social concern and community responsibilities, and (3) programs for youth with special needs.

The general goal of the program is the total development of the youth which includes the social, economic, physical, mental as well as spiritual and cultural aspects to enable the youth to fully realize their potentials and become self-sufficient, responsible and contributing citizens to national development.

The specific objectives of the IHRDPY

are:

1. To help the youth develop his interests, capacities and aptitudes in preparation for the achievement of self-sufficiency and social awareness;
2. To encourage, facilitate and create opportunities for the youth to engage in task-related learning and in economically productive activities;
3. To provide programs and services that will ensure and strengthen basic positive social, moral and cultural values, enhance social functioning, develop human potentials and thereby promote the youth's social and civic responsibility for the betterment of his family and community;
4. To prepare the youth for maximum participation in nation-building through such activities as peace and order campaigns, land reform, population awareness and sex education, economic development, social services, social action and volunteerism;
5. To provide special services for the protection, rehabilitation and training of the vulnerable sector of the youth population such as those who are alienated, delinquent, exploited, handicapped, etc.; and
6. To maintain a program of effective collaboration and cooperation with government and non-government agencies for the youth in all sectors and at all levels in the community.

The program is implemented throughout the country through the regional, provincial, municipal and unit offices of the MSSD. The goal of the IHRDPY is, in so far as the youthful offenders are concerned, to reintegrate them into the community through their access to development opportunities and their assumption of economic and social responsibility. The IHRDPY has preventive, developmental and rehabilitative services for the youthful offenders.

MSSD Services to Youthful Offenders

The MSSD views juvenile delinquency as a manifestation of the lack of meaningful relationship between the youth and the community institutions that are primarily responsible for the development of law-abiding attitudes of the youth through their contacts with family, peers, employment and the community. Delinquency, therefore, is viewed as a community phenomenon, the solution of which is likely to be found in the community.

While P.D. 603 mandates the agency to establish regional rehabilitation centers for youthful offenders, the MSSD puts emphasis on the development of solid ties between the offenders, their family and the social institutions around them. The Ministry believes that community-based corrections is the best treatment plan for any youthful offender considering the damaging effects of institutional cares. Hence, the MSSD tries to minimize the number of youths committed to its rehabilitation centers which are resorted to only as a last resort when the youthful offender needs residential rehabilitation services.

In line with the provisions of P.D. 603 which calls for the provision of social services to the youthful offender from the time of apprehension to discharge, the MSSD has intensified its services to youthful offenders as integrated into the IHRDPY. The program calls for interventions of the MSSD social workers at different levels addressed to the law enforcement agencies, the courts and other agencies involved in the delinquency program and to the individual youth who are in danger of becoming career criminals if not properly reached. The program gives priority attention to preventing delinquency, minimizing further involvement of youthful offenders in the juvenile and criminal justice system and reintegrating them into the community.

The community-based programs and services for the youthful offenders are as follows:

1. Diversion—The MSSD worker provides immediate intake service to a youth who comes in contact with the police or the local courts, and makes preliminary study of the case. The worker's major function is to divert

youthful offenders, especially those with less serious offenses, from the court system and instead makes representations for their release to the custody of parents, guardians or responsible persons in the community. This action requires a joint decision with the police, the court, the youthful offender and his family. Once diverted, the youth is considered completely out of the court system and instead placed under the supervision of the MSSD which will in turn provide the youth with opportunities to avail of the IHRDPY services.

2. Informal Probation—Related to diversion is a service called informal probation wherein the court requires the youthful offender, who does not undergo trial after he admitted culpability, to report regularly to the MSSD worker for supervision on a pre-scheduled basis. This involves case work service with the youth and his family and referral of the youth to the MSSD's youth development worker for his membership in a regular youth group in the community that embarks on socioeconomic projects, or to other agencies.

3. Probation Service—The probation treatment of juvenile offenders in the Philippines started in December 3, 1924 when Act 3202, the first real juvenile delinquency law of the land, was passed. This law is the forerunner of P.D. 603 in so far as the youthful offender is concerned. It provided, among others, that charges, affidavits, testimonies or judgments against a minor shall not be a bar to the exercise of his private rights as a citizen or to his holding of public office or employment. It also provided for the suspension of sentence to the minor and his commitment to the MSSD or to custody probation.

The probation service for the youthful offender starts when, after formal adjudication, he is released to his family, guardian or responsible person in the community, under the direct supervision of the MSSD, instead of commitment to the national or regional youth rehabilitation center. It continues until such time that the court terminates the case upon proper recommendation of the MSSD social worker.

The social worker together with the youth and his family prepares a treatment plan and guides the youth while on probation. Proper referrals to community services such as job placement, psychological and medical services, etc. are done to supplement the efforts of the worker.

4. After-Care Services—This service is provided to the youthful offender who was granted suspension of sentence and committed to a rehabilitation center. Upon discharge from the institution, the MSSD worker prepares for his reintegration into the community by making him join an existing youth group or providing him services through the IHRDPY or other youth-serving agencies.

The scheme for the above services as well as the other interventions of the MSSD worker in relation to the youthful offender is outlined in a network attached to this report.

A recent development which will boost our efforts to enhance the reintegration of pre-delinquent juveniles and youthful offenders into the community and the prevention of their being dragged into the juvenile and criminal justice system is the passage of P.D. 1508 late last year (1978) which allows the amicable settlement of disputes for offenses punishable by imprisonment not exceeding 30 days or fine not exceeding P200.00 at the barangay (village) level through the barangay chairman. The MSSD worker assists the offender by making a study of his home condition and the situations which led to his commission of an offense. The worker does the necessary interpretation and intervention in behalf of the minor.

Community-Based Treatment

Generally the above-mentioned community-based programs are available for minors who have committed less serious offenses. Specifically these services are

available to:

1. Minors who at the time of the commission of the offense are above 9 years but below 18 years of age.
2. Minors who are in and out of school.
3. Minors who have interested and responsible parents, guardians, relatives or other adults.

When the minor does not cooperate with the workers in the carrying out of the treatment plans in the community-based corrections, he is returned to the court for proper disposition of his case and pronouncement of sentence.

Recruitment and Training of Staff

In order to carry out the services for the youthful offender effectively, the staff implementing the program must be properly trained. The MSSD believes that the social service workers are the most critical inputs for insuring effective delivery of social services to the youth offenders. Therefore, it has evolved the training program specially designed for social workers who will implement the services for youthful offenders, particularly those which are community-based.

The first phase of the training is an eleven-day course geared towards providing the workers skill in working with youthful offenders and their families. Included in the course contents are topics on the psychodynamics of the youth, understanding of the behavior of the youthful offender, skills in establishing rapport with clients and parents, models in problem solving, differentiated treatment of youthful offenders, existing community-based services, etc.

The second phase is a 3-month on-the-job training to further develop their skills in working with youthful offenders and their families in the community.

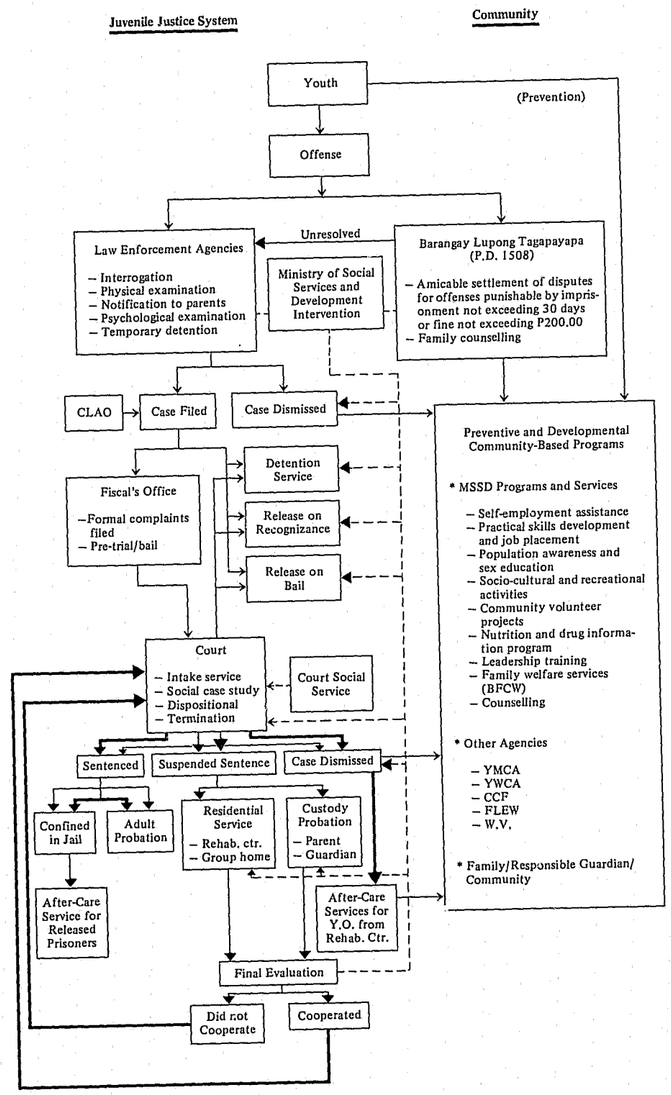
The third phase of the training is a 3-day evaluation of the 3-month on-the-job training. It is the venue to determine the effectiveness of the training program in relation to the actual program implementation and an opportunity for the participants to share experiences and insights. Based on the evaluation results, measures will be formulated so as to further enhance the worker's capability of improving social service delivery to the offender and his family.

Coordination with Other Agencies and Individuals

The MSSD has always worked closely with other governmental and non-governmental agencies that are similarly catering to the needs of the youth, including youthful offenders. The MSSD is mandated by P.D. 603 to establish a comprehensive operational network under its administrative machinery and a unified system which will not only ensure delivery of services but also foster coordination and collaboration among agencies responsible for child and youth development.

In addition, the MSSD as the premier government welfare agency is, by law, in charge of accrediting and licensing social welfare programs and services for child and youth development, both residential and non-residential, including services for youthful offenders.

Truly, there have been considerable efforts in the Philippines to minimize the involvement of youthful offenders into the justice system by providing alternative community-based services. Much can still be done though to further strengthen, expand and improve our efforts towards community-based corrections for young offenders.



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The Problem of Reintegration into the Community of An Adult Penitent Offender in the Light of Philippine Culture

*by Emma D. Yuzon**

Introduction

The signing of Presidential Decree 968 known as the Adult Probation Law by His Excellency, the President of the Philippines, Ferdinand E. Marcos, on July 24, 1976, is a great milestone in the history of the Philippine criminal justice system.

With its implementation comes justice tempered with mercy. The execution of the provisions of the law, however, is not an easy job, for the Filipino society is traditionally intolerant of those who break its peace. It is a society that wants to see justice done and punishment meted out conformably to our culture and tradition.

It is for this reason that the writer is confronted with the problem of reintegrating a probationer—an adult penitent offender—into his community after the grant of probation by the Court and for which she hereby makes an analytical study of the subject.

The Problem

Of the components of the criminal justice system, correction is considered the weakest, mainly because of its failure to reform offenders and prevent them from returning to criminal life. In the Philippines, correctional institutions are generally thought of as limited to jails and prisons. This is so because in the Philippine system of criminal justice, imprisonment is the most commonly used method of dealing with criminals; in fact, it is oftentimes the only option given to the judges in meting out penalties for convicted offenders, except in certain minor cases where a fine may be imposed.

Correctional services in the Philippines are primarily the responsibility of the Bureau of Prisons under the Ministry of Justice. In the scheme of social defense in the Philippines, the Bureau of Prisons is entrusted with the tasks of segregating from society persons who by their acts have proven themselves dangerous to society and of striving to correct these prisoners with the hope that upon their return to society they shall be able to lead normal, well-adjusted and useful lives. There are more than 1,500 correctional institutions in the Philippines. Of this number, eight are insular prisons under the supervision and control of the Director of Prisons; 72 provincial jails, administered by the provincial governors and assisted by the jail wardens; and 65 city and 1,447 municipal jails which are administered by the local police agencies under the Integrated National Police.

In spite of the great number of correctional institutions in the Philippines, there is a growing realization that jails and prisons are only part of a network of social agencies that can be employed by the State in dealing with criminals and that the most promising community-based process of rehabilitating offenders is probation under the rationale that since crime has its origins in the community, the community should therefore assume primary responsibility for the offender.

Adult probation has been proven to be the most advantageous because of the following reasons: (1) It conforms with modern and humanistic trends in penology; (2) It is a measure of cutting enormous expense in maintaining jails and of preventing overcrowding in jails; (3) It prevents first time offenders from turning into hardened criminals; (4) It reduces the burden of the police forces and institutions of feeding and guarding detainees; (5) It protects society through strict supervision of probationers by probation officers; (6) It makes offenders productive taxpayers instead of tax eaters; (7) It has been proven effective in developing countries; and (8) It is

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advocated by the United Nations.

Criminal justice experts admit that in the absence of citizens assistance and cooperation from the community, neither increased manpower, improved technology nor additional money enables the criminal justice system to handle effectively the complicated task of preventing the upsurge of crime and rehabilitating adult offenders through a community-based correction process.

In the Philippines, however, the traditional and classical concept insists that crime is a public offense, the transgressor of which must be punished by incarceration, and that, crime being a dreadful thing, the offender should not have any more place in society. Moreover, according to the Filipino mentality brought by its culture and strong filial ties, an offense committed against a member of the family is considered an offense against the whole family of the victim. Thus, an adult penitent offender leading a normal life while on supervision by a probation officer, especially when the victim or his family resides in the place where the offender lives, poses a major problem in the Philippine probation system. The problem of possible revenge, reprisal or even resentment coming from the family of the victim cannot be totally overlooked especially in the light of the Filipino's attitude of "an eye for an eye and a tooth for a tooth." Even industrial and commercial establishments ostracize criminals. They do not want to give working opportunities to persons convicted of crimes. In information sheets being filled up for job possibilities, there is always an item "Have you ever been convicted of a crime or charged of any offense?"

As the probation officer for the province of Rizal, the writer has been actually encountering problems of this sort.

A person convicted of a crime for having inflicted serious physical injuries to the offended party and sentenced to two years imprisonment and payment of indemnification of P3,000.00 to the family of the victim filed a petition for probation. At the very outset, the lawyer of the family of the victim filed a battery of objections to the petition for probation. Under the Philippine Law (Presidential Decree 968) only the prosecutor can file objection to the petition for probation since crimes, except private crimes like adultery, rape and acts of lasciviousness, are offenses against the State. Although the judge took cognizance of the objection of the lawyer of the victim, he finally found that the petitioner is eligible for probation, granted the petition for probation, and immediately ordered the probationer to report to the writer for immediate supervision and control.

Home visitations were made, a program of treatment and rehabilitation was planned and implemented, and regular interviews were conducted by the assistant probation officers of the writer with the victim and his family explaining the urgency of placing the offender under probation. Payment of the indemnification to the victim by the offender was also programmed. But after barely two weeks from the grant of probation, one of the relatives of the victim assaulted the probationer, actually provoking him to a fight with the end in view of having the probationer commit another crime for the probation order to be revoked since one of the conditions, usual conditions though not mandatory, is to avoid commission of another crime. Investigations were immediately conducted by the writer and her assistant probation officers, and it was found that the probationer had been subjected many times to social humiliations not only by the member of the family of the victim but also by his neighbors, being branded as a convict and therefore dangerous to society. It was further found that every time the probationer would approach a group of persons conversing, the latter would immediately disperse in an attempt to avoid the probationer.

Such is the common attitude of Filipino society towards a convicted person. An ample dosage of information and explanation coupled with sufficient prodding and support not only from the government but also from private sector may prove to be the antidote to such severe attitude.

Recommendations

1. To further intensify information drives on probation especially on the grassroots level, emphasize not only the needs for the rehabilitation of the probationer, but also the advantages that will redound to the victim. In conducting massive information drives, the probation officer must analyze the community and its leanings, as to whether it has its protective mantle towards the victim or the probationer and emphasize to the community the advantages of probation to the person nearest the heart of the community, whether he be the victim or the offender. If the victim appeals most to the community, then emphasize the fact that if the probationer will be put in jail, he can no longer pay the indemnification, if any, to the victim, and that in the event the offender will be contaminated in jail by hardened criminals the danger that he may be a greater danger to society after being out of jail is not remote;
2. Establish rapport with the community so that the people of the community will cooperate with the program of rehabilitating the offender;
3. Solicit the help of the community by appointing responsible members of the community volunteer probation aides thus giving them the feeling that they, too, have a responsibility to perform towards the rehabilitation of the penitent offender; and
4. Get the whole-hearted support of civic organizations like the Rotary, Jaycees, Lions Club, and religious organizations as well and establish linkages with local government agencies in the community, making them cognizant of the important role they are playing as rehabilitation agents in the problems of social development, including the problems of re-educating offenders.

Conclusion

With the very short period that the Probation Law has been operative in the Philippines, there has been, as of December, 1978, about 5,000 probation cases throughout the Philippines, 3,500 of which are now under supervision, having been granted probation, 500 being denied, and 1,000 still undergoing investigation.

The Probation Administration is doing its remarkable job under the leadership of a woman Probation Administrator, Atty. Socorro Tirona Liwag. Probation in the Philippines is a great leap forward in the prevention of crime and in the reduction of the incidence of recidivism through the rehabilitation of first time penitent adult offenders through a community-based corrections system.

It may take a little more time for the Probation Administration to change the Filipino mentality towards crime, but undoubtedly, it is already on the deck.

With the steps taken by the Probation Administration and the Philippine Government on the basis of problems encountered by probation officers, no doubt, in a few years hence, the developing countries of Asia will find the Philippine Probation System one of the best.

Solution for Prison's Overcrowding: The Thai Experience

*by Kiertisuckdi Vongchaisuwan**

Introduction

The problem of overcrowding in prisons has been and continues to be one of the most serious concerns to the administration of prisons in Thailand. In 1978, the daily average number of prison inmates was about 69,000, whereas the maximum authorized accommodation capacity was approximately 40,000. Thai correctional administrators are well aware of the fact that overcrowded prisons will not be able to provide prisoners with meaningful and productive treatment programs as well as to maintain safe and healthy living condition for them.

This paper is intended to briefly describe what have been done and what measures have been taken so far to tackle the problem of overcrowded prisons in Thailand.

Causes of Overcrowding

There are five major factors which contribute to overpopulation in Thai prisons:

1. The prison population has steadily risen due to the increase in crime resulting from the increase in population and changes in social and economic conditions. However, no proportionate increase in the number of prisons has been made. Table 1 demonstrates the upward trend in prison population for the period of ten years.
2. The delay in criminal proceedings taking place during the process of police investigation as well as in the court trial itself increases the length of detention of unconvicted prisoners who can not afford to furnish bail bonds or are denied bail. In 1977, for example, there were 64,453 prisoners, 68 per cent were convicted and

Table 1: Prison Population (1968-1977)

Year	Number of Convicted Prisoners	Per Cent	Number of Unconvicted Prisoners	Per Cent	Total Number of Prisoners
1968	29,857	73.25	10,902	26.75	40,759
1969	30,009	69.66	13,070	30.34	43,079
1970	31,820	69.42	14,017	30.58	45,837
1971	25,263	64.44	13,940	35.56	39,203
1972	31,049	70.95	12,716	29.05	43,765
1973	32,561	69.11	14,552	30.89	47,113
1974	40,673	69.37	17,961	30.63	58,634
1975	35,002	61.55	21,868	38.45	56,870
1976	37,855	60.84	24,364	39.16	62,219
1977	43,981	68.24	20,472	31.76	64,453

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32 per cent unconvicted. Table 1 indicates the proportion of unconvicted prisoners in comparison with that of convicted inmates for ten-year period.

3. Until recently, pre-trial diversion as a non-penal disposition technique such as suspended prosecution has been the subject unheard of. Alternatives to imprisonment as devices for avoiding custodial sanctions for those offenders for whom institutional treatment is inappropriate such as fine, suspended sentence, conditional discharge, etc., although legally provided, have been rarely used in actual practice. This may be attributed partly to the punitive attitude towards the offender on the part of the sentencing court and partly to the unavailability of well-organized and adequately-staffed organs which are an essential factor for the successful implementation of these diversionary measures.

4. Parole, as a technique for shortening the length of prison term, has been used on a very small scale. In addition, the majority of those released on parole have served three-fourths or four-fifths of their term or longer. The period of parole supervision which is equivalent to unserved prison term is, therefore, unavoidably short, especially for those whose original term of imprisonment is three years or less.

5. Since 1972, the government has adopted the more punitive policy to cope with the increase in violent crimes by both legislatively enhancing the penalty and vigorously enforcing the laws. These stiff and firm measures have had further impact on the overcrowding problem.

Remedial Measures

During the past few years, a highly significant step has been taken to reform the existing criminal justice system and its practice with a view to modernize the system as well as to solve some of the problems commonly faced by various criminal justice agencies—the Police Department, the Public Prosecution Department, the Ministry of Justice, and the Department of Corrections.

It should be kept in mind that the remedial measures, which will be described below, whether initiated and undertaken by the Department of Corrections or other agencies in the criminal justice system, will either directly or indirectly affect the overcrowding problem in prisons in a positive manner.

1. Adoption of Suspension of Prosecution

In 1978, a bill of suspended prosecution was submitted to the legislature for discussion and adoption as an act. If this bill is passed and becomes the law, public prosecutors will have discretionary powers to suspend prosecution of criminal cases not only on the ground of insufficient evidence but on the ground of undesirability or inappropriateness of such action if they believe it to be in the best interest of society and the offender to do so. It is believed that this system of suspended prosecution will save many of the first offenders from incarceration in correctional institutions. At the time when this paper is being written, the result has not yet come out and remains to be seen. However, the idea of introducing a new scheme into the criminal justice system indicates the fact that criminal justice administrators today become more and more realistic in their approach to the crime problem.

2. Methods for Reducing the Number of Convicted Prisoners

There are at present various ways that the Thai Department of Corrections has been using for purposes of reducing the existing prison population.

(1) Adoption of good-time system

In 1977, the remission law was passed to the effect that any convicted prisoner whose institutional conduct is satisfactory is entitled to a remission of up to 5 days a month or 2 months a year. This system enables the prison administration to release prisoners before their release date under the condition that released prisoners are subjected to parole supervision for the period of their unserved prison term. It is my observation that the system as at present is working quite normally and

satisfactorily in the sense that it not only reduces the administrative and financial burden of the prisons but helps reduction of prison population to some extent.

(2) Use of penal colony, open institution and prison camp

There are at present one penal colony, five open institutions and about thirty prison camps. There are places where well-behaved and carefully-selected inmates in the closed prisons are sent to serve the remaining term of their sentence. The salient feature of these open-type institutions is the absence of material or physical precautions against escape such as walls, iron bars or armed guards, accompanied by normal-life atmosphere with less strict rules and regulations. They have been established to serve several important purposes, namely: to alleviate the overcrowding problem in closed prisons; to bridge the gap between the prison and the community to which prisoners eventually return; to save the taxpayers' money by avoiding the building of more costly prisons; to test the prisoner's ability to exercise self-discipline which is an essential factor for a successful living of law-abiding life after release; and to utilise prison labor in turning the uncultivated and barren land into the productive one. Our experiences with these types of institutions have been so far satisfactory and there has been hardly any problem with regard to escape or troubles caused by prisoners.

(3) Plan of more extensive use of parole

In Thailand, the parole system has been legally existed since 1936, but the use of the system has been rather limited. During the last few years, correctional administrators have begun to realize the vital role of parole as a means for reducing the prison population. Due to the limited number of professionally-trained parole officers, much reliance has been placed on the services provided by volunteer workers. The recruitment and training of volunteer parole officers is now being done on a larger scale. A plan has been made to use the services of volunteer parole officers on a nation-wide basis and the plan is likely to materialise in the near future. Active community participation has been being sought by educating the public through mass media about the efficacy of parole in the correctional programs. In Thailand, community participation is an essential factor in the successful implementation of the parole system. More scientific and systematic methods of selection of prisoners for parole are also being sought so that mistake could be kept to a minimum. It is my firm belief that extensive use of parole can be made provided that these two requirements—reliable services of volunteer workers and adequate methods of selection—are met.

(4) Community services by prisoners

During the last quarter of 1978, the Department of Corrections took a highly significant step forward in the history of Thai correctional system by submitting a bill of community services by prisoners to the legislature for consideration. In essence, this legal draft is intended to serve two main purposes, namely: to reduce the number of short-term convicted prisoners; and to make best use of the prison labor for the benefit of the society at large. The salient feature of this bill is that eligible convicted prisoners who are assigned to do community services will earn good-time allowance for the period which is corresponding to the period in which they have done community services. In other words, if they do the community services for the period of 6 months, they are entitled to the 6-month period of remission from their original imprisonment term. It is heartening to note that his provision is an innovation as no such provision existed under the old Prison Law which was repealed or the present Penitentiary Act of 1936. Hopefully, if the bill is passed, another option will be available for the Department of Corrections to cope with the problem of overpopulated prisons.

3. Use of Probation as a Condition for Suspended Sentence

The system of suspended execution of sentence for adult offenders was first

introduced in Thailand by the Criminal Code of 1956, but its use was extremely rare and limited to those offenders who did not need probationary supervision. In 1978, the law has been passed to implement the statutory provisions with regard to suspension of execution of sentence of the 1956 Criminal Code. As a result of the enactment of the new law, the Law for Probationary Supervision of Adult Convicted Offenders of 1978, the Central Probation Office attached to the Ministry of Justice has been established. This newly-established organ is mainly responsible for preparing pre-sentence investigation report as well as supervising of probationers throughout the country. Due to the limited sources of funds and personnel, however, supervisory field work carried out by the professionally-trained probation officers has been limited only to the Bangkok Metropolitan Area. A plan has been made to provide professional field supervision on a nation-wide basis in the near future, provided that the system proves to be a "success" during the experimental period. At the moment, it is too early to assess the system's effectiveness in terms of rehabilitation as well as deterrence. It is, however, estimated that there will be approximately 10,000 offenders who are eligible for probation order within the Bangkok Metropolitan Area in one-year period, but only 2,000 or 20 per cent will be placed on probation.

4. Dealing with the Problem of Unconvicted Prisoners

Under the provisions of the existing Criminal Procedure Code, whenever the police officer cannot complete an investigation within a period of 7 days, the court of first instance may authorize the detention of the suspect for a total period of 12 days. However, this period may be extended for successive periods of 12 days and for a period not exceeding 84 days in the aggregate. Once a case is under trial, there is no time limit within which the case must be resolved. It is within this legal framework accompanied by unreasonable or unnecessary delays in the administration of criminal justice that untried or unconvicted prisoners have constituted an unusually large portion in prisons.

There are many self-evident causes of delay in criminal proceedings. However, whatever the causes might be, it is not the intention of this paper to pinpoint them nor to propose solutions. What this paper is intended to do with regard to this subject matter is to emphasize that treatment of offenders is a continuous process in which what has been done by one agency is likely to affect the other agencies in the criminal justice system. Failure to reform the criminals, to cite an example, will increase the police's workload and failure to properly perform their functions on the part of the police and the court will create problems for the correctional services. The criminal justice process is like a balloon; if it is squeezed one place it will bulge in another. If one agency delays too long, strains will be placed on other agencies. If offenders are held too long in prisons before trail, the police will be unable to arrest as many suspects since there is no room in the prisons in which to place them. If prisons become overcrowded because of conservative probation or parole practices or for other reasons, a backlog of cases clog the courts, the prisons and the police agencies. The criminal justice system, to be effective, must be kept in balance. Otherwise there is needless delay, overcrowding and suffering.

As far as the Department of Corrections is concerned, unconvicted prisoners are more leniently treated in almost all aspects of institutional life. Attempts have also been made to keep them separate from convicted prisoners as practically as possible. However, they are still prisoners no matter how lenient their treatment are.

SECTION 3: GROUP WORKSHOPS

WORKSHOP I: Community-Based Treatment of Offenders

Summary Report of the Rapporteur

Chairman: *Mr. Endrawansa Perera Amerashinghe*
Advisors: *Mr. Shinichi Tsuchiya and Mr. Teiichi Harada*
Rapporteur: *Miss Emma D. Yuzon*

Titles of the Papers Presented

1. The Problems of Reintegration into the Community of an Adult Offender
   by Miss Emma D. Yuzon (Philippines)
2. Some Problems of the Parole System
   by Mr. Joker Sedimelson Purba (Indonesia)
3. Treatment Programmes and Methods of Parole Supervision
   by Mr. Abdul Aziz Mohammed Ali (Iraq)
4. Community Care of the Prisoners
   by Mr. Endrawansa Perera Amerashinghe (Sri Lanka)
5. Group Work in Probation
   by Mr. Kazumitsu Suzuki (Japan)
6. Treatment Programmes for a Delinquent Gang
   by Mr. Masao Kakizawa (Japan)

Introduction

The group discussed the theme of the 52nd International Training Course, i.e., Community-Based Treatment of Offenders. It was composed of three probation officers, two prison officers, and one social worker. The deliberation of the group was focussed on the problems of reintegration and resocialization of offenders into society. The greatest obstacle that confronts an offender is the social stigma attached to his conviction and incarceration resulting in loss of employment. The outcome of this is that his family, especially the innocent children, are often ostracized by the community, even though there is no fault of their own. Tremendous organizational efforts and understanding are required both by the criminal justice agencies and the community to help the offender obtain the necessary skills for immediate readjustment into the community.

It was the consensus of the group that the people involved in the correction and rehabilitation of offenders should work in such a manner as to bridge the gap between offenders and the community. It was revealed in the discussion that the increasing use of community-based treatment programme had yielded positive results. The group also added that new approach and technique for the rehabilitation of offenders should be adopted. Discussion in the group centred around the following important issues raised in the participants' papers.

The Problem of Reintegrating an Adult Offender into the Community

Miss Emma Yuzon from the Philippines narrated a pathetic story of how an offender went back to his community to illustrate the problem of reintegration. She explained that when an offender, particularly a probationer, went back to his community, he was most likely resented, rejected and humiliated. The community, especially the victim's family, objects to the offender roaming free in its premises. Due to the closely knit family ties in the Philippines, an offence done to one of its members is deemed a harm done to all. Fear of reprisal and probably vengeance may arise. This is one of reasons why imprisonment is most commonly used in dealing with an offender in the Philippines. But the reporter lamented that corrections was considered to be the weakest component of their criminal justice system because of the low success rate in reforming the offenders.

This type of attitude of the community

towards offenders is the enormous problem that confronts the newly established probation system. The community-based treatment should be like a gush of fresh wind and a ray of hope for the unfortunate caught in the arms of the law. In order to achieve its goal of being a more enlightened and humane correctional system, that is, to promote the reformation of offenders and to reduce the incidence of recidivism, the probation administration must be successful in the reintegration of offenders into the community. The participants stressed that it was important to establish the rapport between the probation administration and the community so that the people of the community will cooperate with the programmes of rehabilitating offenders. For this purpose, many participants stressed that it was indispensable to involve members of the community in the correctional services as voluntary aids, thus giving them the feeling that they had responsibility to assist offenders in their resocialization. One of the Japanese participants observed that the probation service in Japan had utilized a lot of volunteer probation officers who were selected from among people in the community and that they were playing a significant role in establishing and maintaining the rapport between the probation service and the community. It was noted that considerable efforts should be made to secure the whole-hearted support of civic organizations such as the Rotary Club, Jaycees, Lions Club, religious organizations, school and other government agencies. It was of the view of the participants that community-based treatment in many cases is not only useful for the rehabilitation of offenders but also advantageous to victims, because the offenders being treated in the community were easier to indemnify victims for damages than those in prisons.

Some Problems of the Parole System

Mr. Sedimelson Purba from Indonesia enumerated some problems regarding the community-based treatment of offenders in his country such as parole and pre-release treatment. He stated that due to the stiff requirements for the grant of parole or pre-release treatment only a small portion of the prison population became eligible. The requirements are as follows:

1. The prisoner must have served at least two thirds of his prison term.
2. He must be of good behaviour.
3. Case study on his family and social background must have been conducted.
4. He must not have any pending case.
5. He must present a written assurance from the village head that the community is willing to take him back.
6. A written assurance must be obtained from the victim's family that they will not retaliate against the prisoner in question.
7. The prisoner's family must guarantee that he is welcomed.

When the requirements are satisfied, the prisoner then files an application for parole or pre-release treatment, as the case may be, with the Social Guidance Division of the Ministry of Justice. The application is forwarded to the Parole Board. Securing the requirements for parole and shuttling of the application paper from one place to another are not easy and time-consuming, for Indonesia is composed of thousands of islands, thus making transportation and communication difficult. It often happens that by the time the application of the poor offender is approved and served on him, his term of sentence would have expired. When a person is released on parole, one year is added to the unexpired term he has to serve outside the prison. Because of these requirements and additional term, many prisoners hesitate to opt for parole and instead avail themselves of pre-release treatment such as home leaves. Pre-release treatment system has the same requirements as parole, and differs from parole in that no additional year is added to the original term of sentence, although the prisoner should remain in the prison. But a prisoner can only be released on this term if his remaining sentence is not more than six months. Another advantage of pre-release treatment is the fact that only the approval of the Regional Office of the

Parole Board is required.

Getting out prematurely from the prison is a big problem for the prisoner, because going back to the community is even more difficult. The offender would be rejected by the community, because of the stigma attached to his conviction and incarceration. His former friends and his relatives would avoid him, and he may not find any employment. The resources to conduct after-care services are very limited. In addition to this, there are not enough personnel to undertake supervision for proper rehabilitation and guidance after the offender is released from the prison.

The group was of the view that sufficient personnel for parole should be recruited and trained so as to supervise parolees and to adjust prisoners' environments for facilitating their return to the community. In order to reduce the stigma or hostility toward offenders by the members of the community, the mass media should be utilized to enhance the public's awareness of the importance of resocializing offenders. Some participants stressed that the village headmen in rural areas should be solicited to help offenders in their reintegration into the community.

Treatment Programme for Offenders

Mr. Mohammed Ali from Iraq pointed out that they had very limited use of community-based treatment programmes. In analizing the conditions in his country, he said that despite the economic progress and rapid urbanization, Iraq experienced a declining crime rate perhaps because of improvement of economic and social conditions, protection of human rights, and close interaction of the police and the community.

The promulgation of the New Jail Administration Law in 1969 upgraded the conditions in prison. It provided for the formation of a committee composed of specialists in social work, criminology, psychology and vocational training. This committee organizes and implements a programme for the proper rehabilitation of prisoners. The main purpose of the programme is to give the inmates enough training to be placed in a job when they are released on parole or at the expiration of sentence. Because of the adequate training in prison, the inmate is well equipped with enough skills to get a job and in most cases a job is waiting for him upon his release. The Jail Administration in coordination with the Employment Bureau sees to it that all offenders are given employment upon release from prison. Although there exist in the community various agencies, both private and governmental, which are available to the offender, Mr. Ali pointed out, the work of these agencies was not properly coordinated for the offender's rehabilitation. After the release from prison, some of offenders are looked after by the head of his clan or the village although they are not placed under mandatory supervision. Even in this situation, Mr. Ali was of the opinion that there should still be programmes of supervision and aftercare for the released offender so that he can be fully assisted in his reintegration into the community. The group agreed with his opinion that recruitment of professionals for community-based corrections was necessary to provide for the proper supervision of released offenders and that the coordination of the work of different agencies in the community should be promoted to furnish various assistances to offenders.

Community Care of the Prisoners

Mr. Endrawansa P. Amerashinghe from Sri Lanka identified the two biggest problems an offender faces once he was out in the community: the social stigma attached to his conviction and incarceration, and the likelihood of unemployment. The offender suffers from rejection and reprisal, thus making reintegration more difficult. Added to this is the limited opportunities available to him in finding a job.

The correctional workers in Sri Lanka carries the responsibility of helping offenders towards their proper reintegration into the community. For this purpose the following agencies were established and are

being utilized.

1. Prison Welfare Service (They supervise parolees and do liaison work among prisoners, their families and community.)
2. Voluntary Agencies (They coordinate all voluntary work for the welfare of offenders.)
3. Religious Organizations.
4. After-Care Services.
5. Scouting (Groups are organized in and out of prisons. This enables offenders to become aware of their duties as citizens of the country.)
6. Programme of Blood Donation (A scheme where prisoners donate blood to the blood bank and offer their services to patients needing blood.)

To enable offenders to have a better chance of reintegration, the law provided for some forms of community services which an offender can avail of, instead of paying fines or suffering incarceration as a defaulter. In most cases impoverished offenders would choose to work in the community. They may also participate in worth while community projects such as construction of roads and bridges. This scheme has proven to be successful because the community feels that offenders are atoning for the wrong they have done.

To further help offenders and their families, some government officials, religious dignitaries, and civic minded citizens have bonded together to form the Prisoners' Welfare Association. The members of this organization meet once a month to discuss problems of prisoners and carry out a plan of assistance for offenders and their families.

The discharged prisoners skilled in masonry and carpentry likewise have organized themselves into a cooperative society and undertake construction work of prison buildings. Before the formation of this group, construction and repair of prison establishment were assigned to private and governmental construction companies. Now, even other government agencies are patronizing this corporation not only because of its reasonable rate of service charge but also for the purpose of assisting ex-offenders. This gives them an opportunity to meet other prospective employers and in some cases they find a better paying job.

The group welcome the new schemes practiced in Sri Lanka. They were of the opinion that such schemes, especially the organization formed by discharged prisoners and the blood donation programme, may also work profitably in their respective countries.

Group Work in Probation

Mr. Kazumitsu Suzuki from Japan advocated the use of group work in the rehabilitation of juvenile offenders. He reasoned that the use of group work enabled probation officers to treat or supervise a large number of offenders at a given time. This method of supervision saves time and effort on the part of the probation officer. The group work technique uses consultative group activities, lectures, and discussions. This technique is most effective in treating traffic offenders and those who are habituated to sniffing glue.

There are two types in the group work method, that is, group therapy and group psychotherapy. The former method attempts to change the attitude and knowledge of the offender and is conducted by a probation officer or a social worker trained in this kind of work. On the other hand, the latter tries to change the personality of the individual and is conducted by a psychiatrist or psychologist. The latter technique is more suited for helping offenders with serious behavioural problem.

The study and practice of the group work in community-based corrections are not so developed in Japan and other countries represented, because of lack of sufficient experience, shortage of well trained personnel and proper facilities for this work, etc. The group admitted that more practical experiences were needed for the evaluation of it. Bearing this in mind, the group discussed various issues and problems of the group work.

The group was of the opinion that there were some types of offenders to whom this

technique may not be effective in their rehabilitation. The group work programmes may not be effective for such offenders as the hard-core, the mentally retarded, psychopaths or persons with passive personality, because it is difficult for them to create interpersonal relationships in the group situation. On the other hand, the group came to the conclusion that the group work would be effective for such offenders as, those who did not have advanced criminal propensity, for instance, traffic offenders and first offenders, those who showed positive attitude towards group work, or those who had similar social backgrounds. The suitable number of subjects in the group work may be different according to its aim. The participants agreed, however, that it was favourable to limit the number of subjects so that they can keep close interaction with each other. There are various forms in the group work, for instance, group-centered therapy and activity group therapy. The participants stressed that the probation officer should carefully select suitable form in consideration of offenders' personality, social background, and so forth. In general, probationers undergoing group work technique of supervision and rehabilitation are given the chance to play an active role, to share similar experiences with other probationers, and to interact with other members, thus making good influence on the rehabilitation of themselves. The group work technique is not entirely without demerits. Lack of probation officers trained to conduct this technique, difficulty in choosing subjects for this method, and the complexity of the work may discourage the social worker or probation officer in employing this new programme. The group stressed that the evaluation of group work programmes should be conducted in order to improve the technique.

Treatment Programme for Delinquent Gang

Mr. Masao Kakizawa, a probation officer from Japan, has also used group work technique to rehabilitate and supervise juvenile offenders. He cited a particular case where he used this technique.

The subjects in this case study were four juvenile probationers who belonged to an organized violent group. After being placed under probationary supervision, they had been supervised by volunteer probation officers under Mr. Kakizawa's direction. However, their problems could not be solved by means of such individual treatment. One of the serious problems was the fact that they were still associated with members of the organized violent group. Mr. Kakizawa grasped their motives to be in the group through interviews with them and conducted such methods as sociogram to determine the nature and the structure of the group. After all he came to the conclusion that, in order to segregate them from the group, the only proper way was to enable them to obtain self-insight into their problems and to make self-decision. He thought that this would not be achieved only by individual treatment and decided to try group treatment programme.

A series of group discussion by four probationers followed and their parents sometimes participated in the session. The probationers were given opportunities to discuss their problems freely in a friendly and supportive atmosphere. Through the group treatment, he said, they had changed their attitudes from criticizing their parents and other persons to reflecting on their own conducts. This treatment programme was interrupted because of his attendance at the UNAFEI Training Course. However, he believed that this programme had already produced some favourable effects on their rehabilitation.

The group agreed that this technique would be helpful to those probationers. It stressed, however, that the probation officer who undertakes such group treatment should be well trained through proper programmes of technical training and subsequent practice under guidance. Mr. Kakizawa pointed out that the parallel use of both group and individual treatment measures would bring better effects. The group agreed with him and further pointed

out that group treatment might be effective not only to juvenile offenders but also to adult offenders, although the choice of techniques should vary according to the case. The group finally stressed that treatment methods and techniques should be improved and innovated after careful evaluation of the practice.

Conclusion

Considering the similarity of the problems existing in the countries represented, the participants gave the following suggestions that could be utilized to further facilitate the reintegration of the offenders and to lessen the burden of stigma brought about by the conviction and incarceration of offenders.

1. Educate the public on the importance of community-based corrections, with the help of the mass media and religious organizations.
2. Use pre-trial diversion programmes such as, police warning, suspended prosecution, special programmes for juvenile delinquents or other specific kinds of offenders, etc.
3. Adopt the use of other means of criminal sanctions that have less stigmatizing effects such as fine, suspension of pronouncement of sentence, suspension of execution of sentence, unconditional discharge, conditional discharge, probation, and community service order.
4. Allow prisoners to participate in community development activities.
5. Promote close coordination among all the agencies in the criminal justice system to extend and improve community-based corrections.
6. Promote community or public participation in extramural treatment of offenders.
7. Improve techniques of rehabilitation and make use of innovative approach and methods of treatment in community-based corrections.
8. Establish a social service programme for the welfare of the victims and their families.

WORKSHOP II: Institutional Treatment of Offenders

Summary Report of the Rapporteur

Chairman: *Mr. Mulla Venkata Subba Reddy*
Advisors: *Dr. Donald J. Newman, Mr. Makazu Ikeda and Mr. Akio Yamaguchi*
Rapporteur: *Mr. Kiertisuckdi Vongchaisuwan*

Titles of the Papers Presented

1. Offender's Rehabilitation – A Great Problem in Bangladesh
   by Mr. Khundker A. K. M. Abdul Matin (Bangladesh)
2. Individualization in Prison
   by Mr. M. V. S. Reddy (India)
3. Solution for Prison's Overcrowding: The Thai Experience
   by Mr. Kiertisuckdi Vongchaisuwan (Thailand)
4. How to Cope with the Persistent Offenders
   by Mr. Hideo Kanayama (Japan)
5. Drug Problem in Malaysia
   by Mr. Omar bin Mohamed Dan (Malaysia)
6. Actual Circumstances and Countermeasures of Drug Offences and Corrections of Drug Offenders
   by Mr. Kazuo Sasaki (Japan)

Introduction

The group consisted of five correctional officers and one public prosecutor. The group put an emphasis upon the problem of institutional administration with special regard to the treatment of offenders within the correctional setting. Since the problem of prison administration widely varied from country to country, the group then, on the basis of its members' knowledge and practical experience, mobilized its efforts and time to carefully concentrate on each particular country's problem and recommendations were made in the light of the problem presented.

Offender's Rehabilitation – A Great Problem in Bangladesh

In his paper, Mr. Matin pointed out that the following factors were standing in the way of rehabilitation of offenders in his country: existence of punitive rather than corrective institutions; the negative attitude on the part of the community towards the offender; lack of professionally trained staff; lack of appropriate cooperation and coordination among agencies dealing with the offender; and non-availability of voluntary organizations.

Concerning the punitive institutions, Mr. Matin stated that prisons in Bangladesh were originally meant for the confinement of people by the British administration as a measure of oppression, and even in the erstwhile Pakistan administration no attempt was made to improve the activity of treating the offender within the prisons. After achieving independence, the present government appointed a commission to consider prison reform in this country on 4 November 1978. The commission has been preparing its recommendations.

With regard to the society's attitude towards the offender, Mr. Matin stated that the attitude of the members in the community had been still based upon the principle of "an eye for an eye and a tooth for a tooth." The purpose of institutionalization of the offender is the prevention of crime by taking him out of circulation.

According to Mr. Matin, the lack of implementation of rehabilitative programmes is due to the inadequate number of professionally trained staff in the correctional field. With regard to the treatment of juveniles, to cite an example, the Social Welfare Department recruits postgraduates with social welfare or social work degree but adequate number of persons could not be procured because people with such qualifications are not sufficient in Bangla-

desh. On the other hand, for the treatment of the prisoner which is under the administration of the Ministry of Home Affairs, no such qualification is prescribed. As such, people without professional qualification could be enrolled as its personnel.

Another problem stressed by Mr. Matin as a factor hindering rehabilitation of offenders in his country is that desirable cooperation and coordination has not been forthcoming from various agencies dealing with offenders.

Unlike other developed countries, the role of voluntary organizations in the correctional field is very much lacking in his country. The only organization founded in 1964 under the title of "Association for Correction and Social Reclamation" has not been properly functioning.

In the light of the problem presented above by Mr. Matin, the group made the following recommendation.

1. Since the Bangladesh government has recently appointed a Prison Reform Commission to study and make recommendations on prison reform, the establishment of the Commission clearly shows that the present government desires to bring about a reform in the country's correctional administration. The Commission's recommendations will be taken into consideration and the subsequent actions are something to be seen shortly.

2. With regard to the negative attitude towards the offender on the part of the community, it was observed by the group that such attitude could also exist in other countries. It was recommended that public education was a necessity which can be carried out through mass media and involvement of public participation in correctional activities.

3. With regard to the problem of lack of professionally trained staff, the need for training personnel to achieve the anticipated objectives was stressed. Since the required number of qualified personnel is not coming from the university in this country, it was recommended by the group that a correctional staff training center or institute be established to provide in-service training required in performing professionally oriented task — that is, the treatment of the offender.

With regard to the problem of shortage of voluntary organizations to supplement the work of the correctional services, the problem was discussed in the context of conditions prevalent in Japan where a good number of volunteers of high status and standard were available. It was revealed from the discussion that in Japan volunteers were looked upon with high respect for their services given in the community and the services were recognized by ways of awarding meritorious rewards by the Minister of Justice. It was recommended that this practice, if were adopted in Bangladesh, the problem of shortage of volunteers would be partly solved.

Individualization in Prisons

The paper presented by Mr. Reddy from India is related to the problem of individualization in prisons in the State of Andhra Pradesh. To provide differential treatment programmes for different types of offenders in his State prisons, Mr. Reddy stated that there was still much remains to be done. He emphasized that if individualized treatment of offenders was to be achieved, at least, the following seven requirements should be met.

1. Classification of correctional institutions should be based upon the individual needs of offenders, not upon the length of imprisonment term as being practiced in his State.

The group agreed to this position in principle, but was of the opinion that if the dual aims of prisons, i.e. the protection of society and the reformation of offenders, are to be accomplished, both security and individual needs of inmates must be taken into consideration in classifying correctional institutions.

2. The proper orientation programmes for newly-admitted prison inmates should be implemented in the required fashion.

The group felt that the necessity of the programmes was justified and recommended that the practice in Japan would be made applicable in other countries. In

Japanese prisons, the orientation programmes have been regularly conducted and the period of orientation usually lasts for a week. Staff members representing various sections will come to talk to the inmates about particular aspects of institutional life. These staff members include psychologists, medical officers, teachers, trade instructors, chaplains as well as custodial officers.

3. A systematic method of collection of bio-data on each individual inmate is a necessity.

The group agreed at this point that this kind of information was an essential factor for a successful assessment of offenders' personality and their individual needs. In Japan, the group was told, the bio-data of an individual prisoner was sent to the prison along with him from the detention house where he was detained pending trial. In case of necessity, additional information of this kind may be obtained through probation officers without difficulties. The group, therefore, felt that the services provided along this line by the probation agency could be utilized in countries where the collection of this kind of data was entirely relied upon the prisoner's statement which was usually undependable.

4. An adequately-staffed classification committee is indispensable and should be supplemented by proper facilities for purposes of both its functioning as well as its disposal decision. In his State, as Mr. Reddy pointed out, classification of prisoners to meet their individual needs is a matter of routine procedure and the services by specialists such as psychologists and psychiatrists were much to be desired.

In Japan, the group was informed, the classification committee was represented by experts in their particular fields, namely, medical officers, psychologists, teachers, vocational instructors, security as well as classification officers. The classification committee is given adequate time to review and dispose of the cases systematically. The group was of the opinion that the classification system in Japanese prisons should be referred as a model in other countries.

5. The fifty condition essential for the successful implementation of individualized treatment programmes is the establishment of a staff-training institute. In his State, all categories of prison staff are not provided in-service training due to lack of such facility.

The group unanimously agreed that staff-training facility was a necessity where prison staff were expected to efficiently cope with the present-day demands of correctional work.

6. Furlough and parole is an integral part of good individualized treatment programme without which the programme does not deserve the name in the strict sense of the term. To his disappointment, furlough and parole in his State prisons are delayed and untimely.

The group agreed in principle that furlough as well as parole were no doubt essential part of individualized treatment process and suggested that ways and means should be sought so that release on furlough was less cumbersome and more speedy, and release on parole more timely.

7. Adequate after-care services for released prisoners is another essential condition for the successful individualized treatment programme.

On the basis of his practical experience, Mr. Reddy expressed his view that absence of adequate after-care programmes for discharged prison inmates contributed to a higher rate of recidivism which was the case in his State.

The group felt that if recidivism was to be prevented, after-care services for ex-prisoners should be provided in an adequate manner both qualitatively and quantitatively. Japanese experience with regard to after-care practices is something deserving the follow-suits by other countries.

Solution for Prison's Overcrowding The Thai Experience

In his paper, Mr. Vongchaisuwan from Thailand emphasized the severity of the overcrowding problem in his country's prisons. He insisted that unless the problem

was solved, there would be no hope for a meaningful and productive treatment programmes within the correctional setting. According to Mr. Vongchaisuwan, there are five major factors contributing to the problem of overcrowding in Thai prisons, namely: increase in crime as a result of increase in population; delay in criminal proceedings; lack of alternatives to imprisonment; conservative probation and parole practices; and more vigorous enforcement of laws relating to violent crimes.

Mr. Vongchaisuwan described the measures that had been taken to tackle the problem of overpopulated prisons in Thailand.

1. Adoption of suspension of prosecution. It is believed that this system will save many of the first offenders from conviction and incarceration in correctional institutions.

2. Reduction of the number of convicted prisoners. Mr. Vongchaisuwan made it perfectly clear that the Department of Corrections had been trying out various methods to reduce the existing prison population. By adopting the good-time system in 1977, it is expected that the system will help reducing prison population to a great extent. Open-typed institutions such as penal colony, open institution as well as prison camp have been used on larger scale so as to alleviate the overcrowding in closed prisons. Plan of more extensive use of parole has also been made both by utilizing the services of volunteer parole officers on a nation-wide basis and by seeking more scientific and more systematic methods of selection of prisoners for parole so as to gain public confidence and support. In addition, a community-services-by-prisoners scheme has been introduced as another option to cope with the overcrowding problem.

3. Use of probation as a condition for suspended sentence. It is estimated, according to Mr. Vongchaisuwan, that there are each year approximately 10,000 prisoners who can be placed on probation because of no necessity of institutional treatment, if the system is implemented on a nation-wide basis.

In the light of the problem presented as well as the measures taken to cope with the problem as described by Mr. Vongchaisuwan, the group felt that the concern to the problem was justified and that something additional must be done to speed up the measures already under way. The following recommendations were made by the group.

1. The present system of good-time allowance should be more liberalized.

2. In addition to probation, fine should be introduced as another alternative to imprisonment for certain minor offences.

3. The method of screening inmates from closed prisons to be sent to open-typed institutions should be more liberalized so that the maximum accommodation capacity of these institutions is fully utilized.

4. Parole policy and practices should be more liberalized.

5. A community-services-by-offenders programme now used in institutional treatment process should also be utilized as a condition for probation order by the sentencing court.

How to Cope with Persistent Offenders

Mr. Kanayama, in his paper, raised the problem of the treatment of persistent offenders in prisons. He presented two related issues for the group discussion.

1. How to classify persistent offenders for the purpose of treatment, and

2. What kind of treatment techniques should be adopted for the persistent offenders so that they are eventually rehabilitated or reformed.

With regard to the problem of categorization of persistent offenders, Mr. Kanayama explained the main features of class B prisoners or those with advanced criminality, as defined in the Prisoners Classification Ordinance. As a matter of fact, more than 64% of all prisoners serving sentences in Japanese correctional institutions fall in class B that represent persistent offenders, habitual offenders and recidivists. Among class B prisoners there are those who are mentally diseased, physically disabled, members of gangster

groups, drug or alcoholic addicts and those who have some mental problems if not diagnosed as diseased. According to Mr. Kanayama, in Kobe Prison where he is working as a classification specialist, 15.1% of all class B prisoners are considered to suffer from mental disorder although 8% out of 15.1% have proved to be psychopaths. Generally they fail to work with other inmates in the prison workshops. As a result most of them do not receive any remuneration at all. Since they have to return to the society without any means for living, it is likely that many of them commit again crimes for the money sooner or later. On the other hand, physical handicap is not necessarily regarded as a main cause of crime, but those who are physically disabled have hard time adjusting themselves to the society once they leave the prison. This difficulty may eventually cause the persons to commit crimes again. Of all class B prisoners in Kobe Prison, for example, 9.4% account for the physically handicapped. As regards drug, stimulant and alcoholic addicts, many of them are at the same time weak-willed psychopaths. Especially stimulant drug addicts have been increasing in number in recent years. Of class B prisoners in Kobe Prison, 51% are reported to have used stimulant drugs for the preceding two years in the outside society. It is also observed that they often have symptoms of psychosis like schizophrenia.

Members of gangster groups are accounting for 38% of the total in Kobe Prisons which accommodates mainly class B prisoners. They do not hesitate to repeat crimes of various kinds including violent offences. They also take showy, vainglorious and selfish attitude and persistently persuade others to stay in the gangster groups. It is recognized that they are obedient to the gangster group norms. They may have joined the gangster groups because of either inferiority complex or indulgent child days.

Mr. Kanayama then tried to classify more comprehensively the inmates of class B category on the basis of their behaviour patterns so that prison officers could determine the appropriate treatment programme for respective prisoners. Their sub-categories are paranoiac type, vainglory type, weak-will type and flippant activity type. He added, however, that research was just under way and that these sub-categories of class B prisoners were not precisely defined yet. Mr. Kanayama claimed in his paper that either psychotherapy or strict treatment might have to be introduced by taking the behaviour patterns of the prisoners into consideration. One of the group members pointed out the effectiveness of "reality therapy" for persistent adult offenders. It was originally introduced by Dr. W. Glasser for the treatment of chronic patients in mental hospitals as well as difficult juvenile delinquents housed in the correctional institution with the result of significant success rate. Group members agreed that this treatment method looked worthwhile to be used but that other various rehabilitation programme should be developed at the same time since persistent offenders included various kinds of offenders difficult to be dealt with.

Some members of the group contended that indeterminate sentence would be effective in the treatment of persistent offenders.

Drug Problem in Malaysia

Mr. Omar threw light on the problem of drug abuse in his country, Malaysia. He discussed in detail various aspects of drug problem such as: causes of addiction; types of drugs most commonly used; effects of these drugs on the users; methods of detecting drug users; what so far have been done to deal with the problem; and his personal view on the prevention of drug abuse.

The main points can be summarized as follows.

1. At present in Malaysia, there are approximately 130,000 drug addicts out of the general population of about twelve million.

2. The most common motives of drug use and of eventually becoming addicted are: boredom due to insufficient number of recreational facilities; frustration due to

lack of proper socialization within family and school aggravated by unfavourable environments as well as hypocritical behaviour pattern of adults; lack of confidence due to adverse relationships among family members; inability to cope with the realities of life due to lack of spiritual values: broken and unhappy homes; and curiosity and group pressure.

3. Drugs most frequently used in Malaysia are ganja, heroin, morphine and opium.

4. The effects of such narcotics drugs as heroin, morphine and opium upon the users are both physical and mental. Physically, the user is constipated, loses appetite, and becomes weak and sexually impotent. Mentally or psychologically, the user is totally indifferent to his surroundings.

5. It is extremely difficult, if not impossible, to detect the beginner unless closer attention is paid to him. However, some kinds of deviant behaviour, such as playing truant in schools, extremely sensitive, easily irritated, spending the night outside home on unknown grounds, careless about one's personal appearance, demanding and spending luxuriously without justifiable reasons and so forth, can be recognized as primary symptoms of addiction.

6. Measures have been taken to provide addicts with treatment programmes and facilities. As far as addicted prisoners are concerned, two rehabilitation centres under the Prisons Department were established to provide medical, educational, vocational and religious treatment programme. These two penal rehabilitation centres had a maximum capacity of only 600. In addition, three drug rehabilitation centres under the Ministry of Welfare Services were established to provide the following four categories of people with treatment and rehabilitation programme: those suspected of being addicted to drugs of whom the result of medical examination by the competent authority is positive; those who are convicted of drug offences and are proved to be drug addicts; those addicts who request treatment on their own initiative; and those addicts who are minors under the direction of their parents or guardians. The period of treatment programmes at these centres is from 6 to 12 months followed by compulsory after-care for a period of 6 months.

7. In conclusion, with regard to the problem of drugs in his country, Mr. Omar made the following three recommendations with which the group strongly agreed.

(a) Prevention is better than cure. The preventive campaign can be carried out at different levels and in a variety of ways; at schools, through mass media and health centres, to name but few.

(b) Many more sophisticated research projects should be conducted to throw light on the effects of different types of drugs on human body; on the effective methods discontinued to the effect that efforts, time and money will be saved; on the effects of different types of treatment on the different types of patients; and on the effectiveness of innovative treatment techniques upon the particular types of patients.

(c) To prevent the potential addicts and to cure the addicts, public support and cooperation are needed. But public support and cooperation can be obtained through public involvement and participation.

In addition, the group considered the use of scientific techniques for the treatment of addicts. Even though, physical dependence on drug disappears in due time after the period of withdrawal symptom is over, psychological dependence continues. It is undoubtedly the continuation of psychological dependence that contributes to a higher rate of relapse. Accordingly, it was recommended by the group that psychologically therapeutic technique which was less costly and scientifically proved more effective such as religious meditation should be adopted as a treatment technique for the prolonged, deep-rooted drug addiction.

Actual Circumstances and Countermeasures of Drug Offences and Corrections of Drug Offenders

Mr. Sasaki from Japan stated that after the Second World War the problem of drug abuse in Japan has taken a new dimension that is, disproportionate increase in drug addiction. In order to cope up with this problem, various legislative measures have been adopted from time to time by making laws more stringent, enhancing the penalties and vigorously enforcing them. According to Mr. Sasaki, the following drug control laws are enforced at the present time in Japan.

1. The Narcotic Control Law,
2. The Stimulant Drugs Control Law,
3. The Cannabis Control Law,
4. The Opium Law, and
5. The Poisonous and Injurious Substance Control Law.

Despite the rigorous enforcement of these drug control laws by the law enforcement agencies, the available statistics have shown that, with the exception of the Narcotic Control Law, the number of offences under these laws, especially the Stimulant Drugs Control Law, has been increasing since 1972.

In the light of the problem, Mr. Sasaki recommended the following measures to be taken with a view to reducing the problem:

1. Destruction of the supply sources of those drugs and the organizations involved in smuggling and sales of them;
2. Severe punishment of those offenders; and
3. More nation-wide educational campaign to publicize drug evils.

The group discussed the countermeasures suggested by Mr. Sasaki on the basis of their practicability as well as effectiveness and came up with the conclusion that action had already been taken along the line suggested by Mr. Sasaki by the government.

The group then probed for additional measures such as compulsory hospitalization and other treatment programmes of addicts with a view to dealing with the problem in a realistic manner. The group also discussed the possibility of introducing preventive detention measure to handle with the smugglers, but found it to be unsuitable in the country like Japan where there would be public opposition to such a measure. Furthermore, the group explored the effectiveness of increasing the minimum penalty against traffickers and addicts and excluding them from the benefit of probation as well as suspended prosecution.

Finally, it was agreed by the group that comprehensive measures should be implemented rigorously and continuously in order to combat drug problems.

WORKSHOP III: Treatment of Juvenile Delinquents

Summary Report of the Rapporteur

Chairman: *Mr. Babuan Thakur*
Advisors: *Dr. Donald J. Newman, Mr. Masaru Matsumoto and Mr. Susumu Umemura*
Rapporteur: *Mrs. Celia C. Yangco*

Titles of the Papers Presented

1. Roles of Environment on Juvenile Crime
   by Mr. Babuan Thakur (Nepal)
2. Some Problems Relating to the Treatment and After-Care of Girls Committed to the Welfare Institutions under the Provisions of Women's Charter – A Singapore Experience
   by Mr. Teo Yeow Beng (Singapore)
3. Some Problems on Female Juvenile Delinquents
   by Mr. Ken Hattori (Japan)
4. Sentencing Procedure of One Juvenile Murder Case
   by Mr. Hitoshi Murase (Japan)
5. Reformatory School in Pakistan and Its Administration
   by Mr. Mohammad Khan Tareen (Pakistan)
6. Issues and Concerns in Community-Based Corrections: the Philippine Experience
   by Mrs. Celia C. Yangco (Philippines)

Introduction

The group consisted of two social welfare officers, one chief district officer, one prison officer, one probation officer and one judge. The papers and the discussions covered a wide range of contemporary issues, problems, and concerns relating to the treatment of juvenile delinquents. The group analyzed the situations and other environmental factors that gave rise to juvenile delinquency, specially in view of an emerging kind of juvenile deliquency which necessitated the development of innovative approaches to it or alternatives to traditional juvenile criminal justice system. The advantages and uses of community-based corrections were considered in the light of such changes in the nature and characteristics of juvenile delinquency.

The group also examined the existing institutional treatment programmes and practices for youthful offenders and came up with suggestions and recommendations to improve such programmes. The group also discussed the problems related to community-based corrections and the treatment of juvenile offenders as a whole as these were seen from the different components of the criminal justice system, namely, the police, the prosecution, the court, and the corrections as well as the involvement of the family and the community in such treatment.

Role of Environment on Juvenile Delinquency

Mr. Thakur emphasized the role of the environment on juvenile crime in his paper. He specifically delved into the influence of three immediate environments to the juvenile, namely, the family, the school and the peer group, and pointed out how far these environmental factors are responsible for the low rate of juvenile crime in Nepal. The family was seen as having an exceptionally important role in forming the behaviour patterns which a child will adopt. He cited the theory of "projection-rejection continuum" which advocates that delinquents often come from families which are on the extremes, i.e., over-protective and/or over-rejecting attitudes on the part of the parents. A balanced practice of these two extremes could be the best way of child-rearing.

In Nepal the extended family still prevails, specially in the rural areas. In this set-up, the advice of the headman of the

family is duly respected and obeyed since it is his duty and obligation to maintain the prestige and decorum within his clan. He has the full right to impose necessary punishment on the wrong-doing members as well as to protect their rights. The economic dependency of a juvenile to his family is another reason why the crime rate is low in Nepal. This situation is beginning to change, however, in the urban areas where modernization is gradually taking place.

He also cited problems in relation to the family unit. One such problem is the influence of family feuds on the juvenile which tend to perpetuate the negative attitude against the other family with whom his family is at a dispute. Another problem is the active participation of the juveniles in political destructive activities. Gradually the juveniles in Nepal have started to ignore the family obedience on the name of liberation from conservatism.

Mr. Thakur saw the school as the next very important place which plays a significant role in the formation of juvenile behaviour since it is where a child learns and develops a new direction by social interaction. A healthy and well-organized school environment can be a practical workshop where a child can remodel his thinking and approach to deal with the world in which he lives. If good atmosphere is lacking, however, the schools aggravate the problem of a child who comes from an inadequate family situation. Mr. Thakur felt that the schools in his country face difficulties to impart equal opportunity channel to each child due to economic and social differences and peculiar geographical position.

The peer group is always needed by a child to pass his days in comfortable ways. Mr. Thakur spoke of the "aura" of each child, a special magnet in his character which attracts others. He said that a child with a strong aura tends to dominate the feeling of a weaker one. The peer group redefines the limits for individual behaviour and thereby justifies delinquent behaviour by the individual members of the group. In Nepal, the area of the peer group is controled by its value system, thus youth of the same socio-economic and educational class tend to bind together. Moreover, the rural peer group is seen to be more constructive than the urban peer group since the latter is more influenced by adventurous juvenile offences such as drug addiction, gambling, prostitution, etc. In his conclusion, Mr. Thakur recommended that a study and research should be made to find the ways and means to rectify the bad aspects of the environment which produce juvenile delinquent behaviours.

The group agreed that the family, the school, and the peer group have big influences on whether or not a juvenile will be delinquent. The family background, relationship patterns, child-rearing practices, socioeconomic status, and political orientation were some of the most important considerations related to the family influence. The advantages and disadvantages of the nuclear and extended families were discussed by the group. Economically, the nuclear family was seen to be better than the extended family since the latter tended to drain the family resources because of its size. From the point of view of providing more emotional support to its members, however, the extended family was seen to have its advantage. In addition, the extended family can provide the necessary support in child-rearing. The definition of roles of the family members, specially the father and the mother, in accordance with the norms and mores of a given society is also important. Conflict of roles of the father and the mother should be avoided since this might lead to the juvenile's confusion. The importance of proper child-rearing was considered and it was the consensus that child-rearing practices should not be too early nor too late, not too lenient nor too rigid, and should be adapted to the individual child. Open communication and contacts between parents and children are also vital.

The group felt that the teachings in the school should be consistently carried out in the home and that programmes for moral and acceptable manners should be incorporated in the school curriculum. School

factors such as strict and tough exams, poor teacher-pupil relationships were also viewed as contributory to drop-outs and eventually delinquency. Since his peers are very influential in a youth's life, wholesome youth organizations in and outside of the schools should be encouraged by the government.

The group also considered the influence on juveniles of such environment as mass media, recreation places and societal pressures. Obscene television shows, movies, pornographic books and comics are contributory to delinquency and therefore adequate control on these factors by the government should be done. The community's outlook on the juvenile offender and societal pressures such as the caste system were also viewed as important factors in delinquency control.

Emerging Trends of Juvenile Deliquency

In the light of the changing structures and characteristics of the immediate environment of today's youth, the group examined the emerging nature and trends of juvenile delinquency in the contemporary societies. In his paper, Mr. Teo explained that in view of the rapid industrialization, modernization and urbanization of Singapore, there has been a change in the type and nature of cases brought to the attention of his country's social welfare department. The Department was originally catering to the needs of women and girls under 21 years who are exposed to moral danger or exploitation by vice traffickers under the provisions of the Women's Charter. The high levels of living standard concomitant to this social and economic growth have resulted in new situations and new problems which affected Singapore's female populace.

There has been an increase in the number of girls running away from home and those with behavioural problems. Relationships problems mainfesting themselves in the form of waywardness, being beyond parental control, leaving homes, stealing, truanting from school and involvement in pre-marital sex and promiscuity became prevalent in the cases dealt with by the Department. Whereas prostitution in the last decade was due to poverty, this situation is no longer true in the present time which is characterized by loosening of moral values and by people becoming more materialistic in outlook.

Similarly, Mr. Hattori noted the changes in the nature of juvenile delinquency in Japan and the increasing involvement of female juveniles in delinquency in the last decade. The increase in the female juvenile's commission of offences was remarkably noted in the number of theft committed, particularly shoplifting.

Mr. Hattori described the characteristics of the female juvenile shoplifters as usually first offenders and shoplifting therefore is the incipient stage of delinquency. The age distribution of female shoplifters shows a pyramid shape where the apex is 16 years. He noted further that shoplifting breaks out largely in the months of June and October and between 3:00 p.m. to 6:00 p.m. These periods are very much associated with the free hours of the students from school. The targets of shoplifters are the stores, supermarkets and department stores, and shoplifting is normally done in groups. It is significant, however, that these female shoplifters have relatively less problems than other delinquents juveniles in their past and present lives and that the rate of those coming from broken families among them is lower than that of other delinquent girls.

Mr. Hattori also discussed the results of a research made in 1977 into 305 first offence cases of female shoplifters filed at the Tokyo Family Court which revealed the following:

1. There are 10 types of motivation of shoplifting in juveniles, namely, (1) want satisfying, (2) adhesion to sparing money, (3) experience, (4) group dynamics, (5) thrill enjoying, (6) temporary decline of control, (7) test pressure and atony, (8) stress dissolving, (9) resistance and attack, and (10) physiology type.
2. Shoplifting in group was done mostly by girls who belong to "group dynamics," "thrill enjoying," and "experience" types, while the "stress dissolving" and "physiology" types' girls did shoplifting by herself.
3. The atmosphere of the family of 70% of the shoplifters were harmonious and ordinary.

The result of the combination of the motivation of shoplifting and the attitude of care and custody of parents showed that either of the parents was non-interfering, stern or over-protective. The attitude the fathers to their daughters has had significant effect on the female shoplifters. Surprisingly, the shoplifters do not necessarily belong to the poor performance students; high average students were also among the shoplifters. It was the opinion, therefore, that most of the shoplifting were done for fun and without guilt-feeling on the part of the girls.

In his conclusion, Mr. Hattori stressed the necessity of finding out, at an early stage of delinquency like shoplifting, the problem that each female offender is facing and of giving adequate treatment such as advice and guidance to both juvenile delinquents and their parents.

The group had a consensus that the merging problems and needs of the girls as discussed by Mr. Teo and Mr. Hattori were the side effects, outcome and price which we had to pay for modernization, industrialization and urbanization.

The group attributed the changing motivation of the young female shoplifters to the change in the life style of the people in urban cities like Tokyo where the demands for material things and better amenities are increasing. Whereas the reasons for shoplifting in less developed countries may be attributed to poverty, those committed in highly urbanized and developed countries are becoming to be associated with consumerism and materialism.

This situation is deemed very true for most highly urban areas all over the world. The immediate causes of the deviant behaviour of the youth in a highly modern and urban society as seen by the group are: (1) change of family structure from that of extended to a nuclear one; (2) erosion of values in view of the foreign influence; (3) society being a consumer society, i.e., materialistic in outlook; (4) lack of parental guidance as a result of both parents' working; (5) exposure to modern amenities of life resulting in competition for status symbols; and (6) strong attachment to the peer group.

The group made the following recommendations with regard to the problem of shoplifting: First, the stores should reduce the opportunity for the girls to commit shoplifting by securing their goods and products; second, the government and society should make an education campaign against shoplifting as a crime against property and thereby instill this in the minds of the people; third, moral education should be emphasized both in schools and at home; and fourth, adequate treatment such as commitment to a juvenile training school should be considered for habitual shoplifters or recidivists.

Sentencing of Juvenile Cases

Whenever it is inevitable, cases of juveniles who have committed heinous offences are brought to the court for sentencing. In the process of sentencing, however, certain dispartities arise.

The issue of minimizing sentencing disparity particularly for juvenile cases among the courts was tackled by Mr. Murase in his paper. He said that sentence disparity was the most disputable and visible among disparities in criminal justice proceedings. In order to minimize this, two general approaches have been adopted globally. One approach is to eliminate or limit trial court's discretion. Another is to devise appropriate measures to avoid disparity in the exercise of discretion by the trial judge. A difficulty with the legislatively fixed sentence, however, is that it is not appropriate to all cases in practice. Hence, in Japan where the second approach is taken, the efforts to minimize sentence disparity have been made by judges, using the "market price of an offence" as a standard evolving out of long

experience of career judges and sharing of sentencing issues and measures among them.

In order to minimize sentence disparity, Mr. Murase pointed out the following measure: (1) training of judges; (2) recommendation on sentencing by prosecutor or other organs concerned, e.g. probation officers; (3) requirement of a written statement on reasons for sentencing; (4) appellate review of sentences; (5) setting guidelines or standards for sentencing; and (6) within a relatively wide range of discretion, establishing a narrower presumptive range through categorizing factors which should be taken into consideration.

Mr. Murase explained the juvenile proceedings in Japan, where all juvenile cases pass through the family court. Very few juvenile cases are committed to trial in the criminal court. He explained the practice of mitigating punishment for juveniles in view of their limited degree of culpability and of humanism. A juvenile is primarily given indeterminate sentence which is not adopted for an adult, from the view of educational punishment, i.e., he is given maximum and minimum periods within the limits of the appropriate penalty for him. This indeterminate sentence shall not exceed five years in the minimum and 10 years in the maximum. Moreover, a juvenile may be paroled in a shorter term than an adult. Parole may be granted for a juvenile prisoner after the lapse of one-third of minimum period of indeterminate sentence, while for an adult prisoner after having served one-third of the period of a determinate sentence.

The importance of the pre-trial social investigation report for juvenile case was underscored by Mr. Murase. The judge takes the public prosecutor's recommendation of sentence into account as one of important factors in determining a proper sentence, although the prosecutor tends to put more emphasis on general deterrence of penal sanctions than the reformation and rehabilitation of the offender in his recommendation. When the court metes out a sentence, it considers such factors as character and age of the juvenile, gravity and circumstances of an offence, repentance conditions subsequent to the commission of the offence, the juvenile's potentials for change, attitude of the victim's family, etc., by referring to a social inquiry report, the evidence presented, the recommendations of the prosecutor, and sentences of similar cases pronounced before. Mr. Murase also explained the option of the accused to appeal to the high court in case he was not satisfied with his sentence.

The Tokyo District Court has a unique system, known as "investigation of sentence pronounced" which involves maintenance of a record of all sentences pronounced and making these available to all judges who may want to see these as reference in their sentencing.

The group discussed the concept of disparity in sentencing. In this respect, disparity is an unwarranted difference in sentencing for offenders with similar circumstances but not differences in sentencing for those with different backgrounds. Disparity can mean unfair treatment. Moreover, there are two kinds of disparity; one kind is where similar crimes are sentenced differently and another is when different offenders are sentenced similarly. To illustrate, two persons may commit the same offence but get different sentence, and two persons with different backgrounds but committing the same crime may get the same sentence. For example, there is a disparity of fine between a poor man and a rich man since the latter can always afford such penalty while the former cannot. The group also recognized that the location of disparity would not be in sentencing but rather exist previously at an earlier stage, for example, disparity in the initiation of prosecution or determination of charge by the public prosecutor.

The group supported Mr. Murase's recommendations on measures to minimize sentence disparity. The group, however, had a consensus that there was one factor contributing to sentence disparity which was the human factor regarding the trial

judges and other persons involved in the criminal justice system. It cannot be denied that their own background, perception of the case, attitude toward sentencing and other traits and factors influence their decisions to a large extent.

Institutional Treatment of Jeveniles

Institutionalization is an important part of the whole process of treating juveniles. While there is a general feeling that institutionalization should be utilized as a last resort, there will always be juveniles for whom this kind of alternative cannot be avoided.

Mr. Tareen dealt with the subject of institutional treatment in the reformatory school for male juvenile offenders in Pakistan. A youthful offender in Pakistan is any boy who has been convicted by any offence punishable with transportation or imprisonment and who at the time of such conviction was under the age of 15 years but not less than 9 years.

The discretion as to whether or not a youthful offender should be committed to a reformatory school lies in the courts. The following youthful offenders, however, cannot be committed to the school: (1) a habitual criminal; (2) one who has deformity or defect whether mental or physical; and (3) one who has been convicted of an unnatural offence or of gross indecency, indicative of habitual immorality. Generally, however, the youthful offenders who are without proper parental or other control and who have been guilty of the offence against property are subjected to reformatory treatment.

The Pakistani courts are empowered, instead of sentencing, to order the release of a youthful offender, after due admonition, to the custody of his parent, guardian or nearest relative who executes a bond to be responsible for the youth's good behaviour for any period not exceeding 12 months. The reformatory school is utilized as a last resort when the above arrangement is not advisable.

Mr. Tareen indicated that the aims and objectives of the reformatory school are the reformation of youthful offenders detained therein and the provision of institutional life to them for their re-education and re-socialization.

The boys are also classified into senior (above 14 years of age) and junior (below 14 years). Stay at the reformatory school, however, is for a certain fixed period, and the purposes of such policy are two-fold. The first purpose is that the offender may not live in hopes of his chances for going out before the fixed date but instead concentrate on the training imparted to him during the period of his detention. The second is that with the certainty of the youth's stay, the school may be able to implement its planned treatment. The court determines the period of a youth's stay in the school depending on his age at the time of conviction, and the younger the boy is, the longer his stay in the school would be. However, upon reaching the age of 18 years, a youthful offender in the reformatory school is transferred to the jail.

He described the process involved from the time the youth is admitted to the school up to discharge. The boys are given vocational training according to their choice and compatible with the caste where he belongs. The boys are also required to undergo compulsory elementary education up to primary class and to take part in games, athletics and physical training. He also described the point system adopted by the school of "good," "indifferent," and "bad," based on the daily evaluation of the boys. The marks earned by the good boys have monetary value which they can earn depending on the time they spent in the school, but the earning can be forfeited for a given week when he becomes guilty of any school offence during the same week. One-fourth (1/4) of the money earned may be given to him every fortnight which he may spend on non-prohibited items and the rest is credited to his account. Well-behaved boys are given 10 days leave, or a maximum of 15 days per year to visit their parents and relatives.

The reformatory school also helps the

boys to get employment upon discharge. The credits they earned are given them on an installment basis for two years, the rationale for this being to provide a source of their maintenance for the said period. Probation officers are to report the whereabouts of the discharged pupils. The reformatory school, on the other hand, is required to report the status of the discharged pupils to the magistrate concerned for a period of 3 years at intervals of six months.

Before discharge, an inmate who has attained the age of 14 years may be given a license to live with respectable persons who take charge of employing him on some trade or occupation, for a period of 3 months at a time. This period may, however, be renewed until his term of detention in the reformatory school expires.

The group members are unanimous in their opinion that the reformatory school should really be geared to the reformation and rehabilitation of juveniles. The group felt that the younger a youthful offender was, the more his entry in a reformatory school should be avoided since a long stay in the reformatory would have adverse effects on him and his reintegration in the family would be more difficult. The sentencing of a juvenile offender and his stay in the reformatory, therefore, should take into account his young age and potentiality for change and rehabilitation. The programmes in the reformatory should be the means rather than the end to help the boys. While the situation may vary from country to country, the average length of stay in the school as recommended by the group was 18 years.

The group also saw the need for separate location for the reformatory school and a separate court to handle the cases of juvenile offenders. It was the group's opinion that the primary objective for a juvenile should be his education and rehabilitation and, therefore, sentencing for the boys should be flexible, taking into account his age, background and nature of the offence. The group therefore agreed that the reformatory school should only be meant for those who posed high risks to the security of the community and those who needed special treatment programmes which could be provided in the reformatory school.

The practice of earning equivalent monetary value for the good points earned by the boy in the reformatory school and the giving of this earnings to him for a span of two years after discharge was seen to be with an advantage, i.e., the boy is assured of a source of pocket money for at least 2 years. However, the group felt that this should be practiced when the earnings were considerably big and that otherwise, the administrative costs and incidental expenses involved in the safekeeping of the boys' money by the reformatory school might be bigger than the earning and therefore this scheme was not advantageous from a cost-benefit point of view.

The need for specialized and individualized treatment in the reformatory was stressed. Aside from those already mentioned in the paper, the group agreed to the inclusion of the following services in the reformatory school: (1) social services like casework, group work, guidance and counselling; (2) vocational training which is relevant to the interest of the youth, the jobs available upon discharge, the employment needs of the country and its values; and (3) psychological services. Group work in the reformatory should be encouraged at night and should underscore the inculcation of positive values, and smooth inter-personal relationship through socialization to avoid immoral acts as a result of early lockup.

The group suggested that follow-up should be for a period of 6 months to one year and should be the responsibility of probation officers rather than of the reformatory itself. The reformatory can always be furnished by the reports of the probation officer. The group also underlined the necessity of follow-up research to determine who benefited from the training in the reformatory and who became successful.

Issues in Institutional Treatment and Aftercare

The effectiveness in the implementation of the institutional programme as a means of rehabilitation depends on the calibre and quality of the institutional staff. In his paper, Mr. Teo underscored the need to have the correct attitudes and aptitude as well as a deep sense of commitment for institutional work.

Mr. Teo explained that the welfare institutions for girls in Singapore had undergone various changes and reorganizations since their establishment to cope adequately with the demands and needs of the rapid social and economic changes. These efforts to upgrade the service did not, however, produce the effects to the desired degree, because of inadequacy and problems in the staffing of the institutions. Most of the staff are not professionally trained and have been used to custodial type of treatment and therefore cannot meet the present requirement of dealing with girls with complexities of problems. While training programmes have been carried out to equip the staff with skills and knowledge to meet the new challenges of the work, such factors as ingrained attitudes, inability to respond to changes, inadequate educational backgrounds and lack of involvement and participation reduce their impact and effectiveness. Another difficulty is the recruitment of institutional staff in view of such conditions as long hours of work, poor remuneration, and lack of recognition and status of institutional work.

He was optimistic, however, that with new emphasis and important placed on staff recruitment, training and development and the introduction of better working conditions, the situation in the institution would improve.

Mr. Teo emphasized the importance of the institutional treatment in the effort to help the girls modify their behaviour. Deviant behaviours and acts of the girls are a function of situations surrounding them and the institution must know these situations as well as help the girls modify these. If the institution fail in this aspect, then aftercare will be difficult and could lead to failure.

Mr. Teo saw the task of the aftercare officer beyond continuing the modification of the girls' behaviour. It includes working with the members of the girls' families to pave the way for a smooth and conducive return of the girls. Aftercare officers are, therefore, faced with the problems of enabling the parents and the family members to cooperate with them in achieving the desirable goals.

The treatment and care of mentally defective girls is a problem in Singapore since there is no permanent residential care for cases of this nature. Possessing limited capabilities, these girls' training is limited to education in self-help and self-care. In view of this, aftercare for them becomes a problem for the following reasons: (1) their handling requires special skills; (2) their placement in employment is limited; and (3) their families often reject them and therefore their reintegration is difficult. In his conclusion, Mr. Teo said that the homes had achieved their objectives to a fair degree. Moreover, he was optimistic that in view of the upgrading of the service and the adoption of new approaches, positive improvements would take place in the future.

In order to cope with the problem of providing the correctional institutions with qualified staff, the group supported the recommendations contained in the paper and added the following suggestions: (1) to make the institutional posts attractive by providing good working conditions; (2) require higher standards of qualification for recruitment; and (3) to carry out continuous training of staff. Such strategies as pre-employment training, cross-posting, periodic performance evaluation, job enrichment programmes and team approach treatment have been suggested by the group member. The group agreed that knowledge and skills should also be coupled with the right attitude, conviction and commitment.

The group also agreed that aftercare should be a continuum of the institutional care, with heavy emphasis on the youth's

reintegration to the community. Therefore, there is a need to look into the condition of the family where the minor will go back. There is also a need to provide the girls, specially the rehabilitated prostitutes, with an employment or source of income that is attractive for them and would not cause their return to the trade of prostitution.

With regard to the special cases such as the mentally defective, the group felt that parents should be made liable for their children's rehabilitation and that the state should provide programmes and services for them when these were not available otherwise. Temporary homes and hostels for youths who are not accpeted by their families should be provided with the objective of making them capable of independent living later on. Another approach is the mobilization of volunteers and the community in the treatment of offenders and provision of special services for them. Tapping of resources from big companies as a tax incentive procedure was also suggested as a means to solve the shortage of resources for developing programmes for juvenile delinquents. Equally important, the group realized, was the education and understanding of the community of the nature and problems of these youths so that the latter would not be alienated.

Community-Based Corrections and Its Related Issues

Delinquency is a community phenomenon and therefore its solution lies primarily in the family and the community. The family and the community play vital roles in the prevention of delinquency and the resocialization of offenders. Therefore, their contributions can be most effective in community-based corrections. In her paper, Mrs. Yangco discussed the advantage of community-based corrections, emphasising that this alternative was the best arrangement because it could give more physical and emotional support to the young offenders. She stressed the need for the four pillars of the criminal justice system, namely the police, the prosecution, the court, and the corrections, and an added fifth pillar – the community, to be involved in such a correction alternative.

There has been some issues, gaps and problems, however, relating to the intensification of community-based corrections which are existing in these pillars either collectively or sectorally. The first issue raised is the need for an integrated planning between, among and within these five pillars which have the same goals that share some degree of congruence instead of being mutually exclusive of each other. Therefore, each pillar serves as a link in a chain of efforts to rehabilitate the offender with the use of community-based corrections. System-wide planning within the criminal justice system will strengthen this chain. Mrs. Yangco reported that fortunately this integrated planning was being attended to in the Philippines through an inter-disciplinary coordinating committee composed of representatives from all the five sectors.

Related to the first issue is the need for a unified reporting system among the agencies involved in the criminal justice system. Mrs. Yangco felt that comprehensive researches and studies should be done to evolve uniform reporting procedures and to have complete and adequate statistics and data.

There is also a need to strengthen the formal operational linkages among the five pillars which will hopefully result in a uniform method in the handling and treatment of youth offenders and the maximum utilization of community-based alternatives.

A problem identified with the law enforcement agencies is the lack of adequate education and training of some police personnel in the handling and treatment of youth offenders. As early as the apprehension stage, which is a crucial experience to a youth offender, the police should "intercept" the minor from his entry in the criminal justice system. To carry this out, Mrs. Yangco felt that the setting-up of juvenile control units in all local police agencies and the inclusion of a subject on the problems, needs and treatment of

juvenile offenders in the basic police training should be intensified.

Another problem is the police's non-implementation of specific provisions of Article 190 of the Child and Youth Welfare Code (P.D. 603) which requires the law enforcement agency "to take the youthful offender, immediately after apprehension, to the proper government medical or health officer for a thorough physical and mental examination." This contributes to the inadequacy of assessment of the youth's condition that would warrant whether or not he should be handled in the criminal justice system. A solution offered to this is a close working relationship between the police and the social service workers of the Ministry of Social Services and Development to divert the youth to the community and avoid his entry into the system.

An equally important sector is the prosecution, at which stage, too, the entry of the youth into the system can be prevented and his diversion to community-based programmes can be done. The prosecutors should understand the circumstances surrounding the youth's commission of an offence, which will help them in making the decision as to whether or not the minor should be prosecuted.

An issue related to the courts is the lack of juvenile and domestic relations courts which try minors in a more humane manner and which utilize community-based corrections more frequently than the usual local courts or courts of first instance. Another problem raised is the slow disposition of cases by some courts, thus depriving the minor of the opportunity to avail of community-based services at an early stage. The solutions offered are: (1) to give emphasis to the care and welfare of children in the continuing legal education of judges and lawyers; (2) to institutionalize and establish a uniform procedure in the trial of youth offenders adaptable to all courts; and (3) to establish criteria for the use of diversion, dispositional alternatives, dismissal of cases and determination of incorrigibility.

Once issue concerning the corrections sector is the failure of some social workers to intercept the minor from entry in the criminal justice system at an early stage and therefore is left to provide only the tail-end services for the integration of the minor into the community. Of course, the police and the courts are equally to be blamed for this because of their failure to refer such cases involving minors to the social welfare agency. Another issue is the workers' failure to convince the court of the importance of the social enquiry report during adjudication. This situation is, however, being corrected through the intensification of the intervention services for youth offenders by the social service workers and continuous dialogue with the other sectors of the system.

The family and the community play vital roles in the community-based treatment of offenders. However, families disowning a member who becomes a juvenile delinquent, those who do not see themselves as factors in the upbringing of juvenile delinquents, those who believe that the youth contacted a moral germ outside the home, and those that do not want to be involved in the treatment process for the youth's rehabilitation, are big problems related to the fifth pillar, the community.

To solve these issues, Mrs. Yangco said that programmes and services for the prevention of juvenile delinquency had been strengthened, that rehabilitation efforts had been geared towards establishing harmonious relationships within the family and among parents and siblings, and that an intensified information and education campaign on the handling and treatment of youth offenders directed to the community was envisaged.

In her conclusion, Mrs. Yangco reiterated the necessity of the creation of a coordinating ad hoc committee and a youth offender network to establish the linkages among the five pillars of the criminal justice system. Of equal importance, she said, were the training of the people involved in the treatment of juvenile offenders and their ability to establish meaningful relationships with the youth

offenders.

The group was of the opinion that there was indeed a need for coordinating and unifying the efforts of the five pillars mentioned in the paper and that a system-wide planning was really necessary to ensure effective and intensive use of community-based corrections. Interception of the minor's entry into the criminal justice system at the police and the prosecution levels was also recognized as important. The training of police officers in the handling of youth offenders was also viewed by the group as vital. The roles of the family in the molding of the minor's behaviour in the treatment of the delinquent juvenile were also underscored.

WORKSHOP IV: Some Important Aspects of Treatment of Offenders

Summary Report of the Rapporteur

Chairman: *Mr. Sinilau Kolokihakaufisi*
Advisors: *Dr. Donald J. Newman, Mr. Yoshio Suzuki and Mr. Katsuyoshi Ōyama*
Rapporteur: *Mr. Koon Keung Liu*

Titles of the Papers Presented

1. Staff Motivation
   by Mr. Koon Keung Liu (Hong Kong)
2. Selection and Training
   by Mr. Sinilau Kolokihakaufisi (Tonga)
3. The Training Institute for the Official of the Ministry of Justice in Korea
   by Mr. Jong Rin Kim (Korea)
4. On the Treatment of Recidivists at the Stage of Prosecution
   by Mr. Kazuhiro Watanabe (Japan)
5. Organized Violent Groups in Japan
   by Mr. Toshio Tamatsukuri (Japan)
6. Some Aspects of Prisoners' Grievances
   by Mr. Hiroshi Yonemura (Japan)

Introduction

The group consisted of two correctional officers, two senior police officers, one public prosecutor and one superintendent of juvenile home. The papers presented for discussion centred around several important aspects in the field of treatment of offenders. Two of the papers dealt with the need for and the system of proper training to be given to correctional officers and one paper was also on the same line of thought but with a major concern on the on-going process of keeping staff abreast of what staff were doing and how they were doing it. The other 3 papers dealt with very specialized topics of the role of public prosecutors in dealing with recidivists, organized gangster groups, and grievances of prisoners against prison administration.

The general feeling was that it was of paramount importance that all people concerned with the handling and treatment of offenders should be provided with adequate facilities and opportunities for training of basic skill and knowledge of the daily work and thus be familiarized with the magnitude of the problems they inevitably encountered. The human aspects of the organization were very often a major decisive factor to account for the success or failure of any system. In terms of treatment of offenders, one must often be confronted with those prisoners who were constantly in and out of the prison walls. What made the picture even worse to look at was that those repeaters were very often members of organized criminal groups posing persistently a threat to any community. It was within this basic frame of mind that the papers in this group were discussed.

Measures to Increase Staff Motivation

The group began its session with the paper on staff motivation by Mr. Liu of Hong Kong. In his paper, he drew attention of the group to the importance of correctional institutions being entrusted with the most difficult task of modifying behaviour and attitudes of the "unwanted" group of people in the community to a socially acceptable level commensurate with the existing norm of society at that time. To achieve some degree of headway in this onerous process, Mr. Liu stressed the need for team work among all members of staff in the organization. It appeared necessary, therefore, for staff members to be constantly engaged in certain exercise which would enable them to take a hard look of where they were and where they wanted to move on. Simultaneously in the same exercise, organizational problems would be exposed to the discomfort of all and would definitely call for change in strategy to alleviate them. In his view, these problems were usually caused by improper setting of

CONTINUED

1 OF 3

RESOURCE MATERIAL SERIES No. 17

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Yoshio Suzuki

Director
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Asia and Far East Institute
for
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and
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CONTENTS

Introductory Note

The Editor is pleased to present No. 17 of the Resource Material Series carrying papers produced during the 51st International Seminar and the 52nd International Training Course.

Part I contains materials from the 51st International Seminar on the Treatment of Dangerous or Habitual Offenders held from 20 February to 24 March 1979.

Section 1 consists of papers contributed by two visiting experts. In the paper entitled "Current Policy Issues Regarding Dangerous and Habitual Offenders in the United States," Mr. David A. Ward, Professor of Sociology, University of Minnesota, U.S.A., introduces changes in American penal policy from the medical model to the justice model of corrections and describes how dangerous or habitual offenders are treated under the current penal policy. Another visiting expert, Mr. Colin Russel Bevan, Assistant Director, Australian Institute of Criminology, Australia, in his paper on "Dangerous Offenders: In Prison and in the Community," discusses various aspects of the treatment of dangerous offenders in prisons and in the community and stresses the necessity of broadly conceived social policies rather than measures solely directed against individual offenders.

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

Part II contains materials from the 52nd International Training Course on Community-Based Corrections held from 17 April to July 1979.

Section 1 is composed of four papers written by Mr. William H. Pearce, C.B.E., Chief Probation Officer, Inner London Probation and After-Care Service, U.K. (visiting expert), Mr. Donald J. Newman, Dean, School of Criminal Justice, State University of New York at Albany, U.S.A. (visiting expert), Mr. William Clifford, Director, Australian Institute of Criminology, formerly Director, United Nations Crime Prevention and Criminal Justice Programmes (*ad hoc* lecturer), and Mr. T.G. Garner, C.B.E., J.P., Commissioner of Prisons, Hong Kong (*ad hoc* lecturer). Mr. Pearce, in his paper entitled "A Description of Two Inner London Probation and After-Care Service Experimental Community-Based Projects for Offenders," introduces two experimental community-based projects in London, *i.e.,* the Inner London Probation Day Training Centre as an alternative to imprisonment for adult offenders, and Ilderton Motor Project as an experimental project for motor-related juvenile offenders in their behaviour modification, and attempts to evaluate the results so far obtained. Dean Newman in his paper on "Contemporary Trends and Major Issues in Probation," describes probation structure and fuction in the United States in the details of its characteristics

such as decisions to grant or deny probation, conditions, supervision and surveillance, and revocation procedures, and discusses pros and cons of professionalization of probation work and other important issues. Mr. Clifford, in his paper on "Correction in Asia," compares the explosion of crimes and the contemporary correctional turmoil in the West and the better situations regarding crime and corrections in the East, explores reasons therefor in terms of difference of culture, community attitude and correctional philosophy, and foresees the possibility for the East to develop a new form of leadership in the field of corrections. Mr. Garner, in his paper on "The Role of the Prison Service in Hong Kong," describes correctional services in Hong Kong, such as prisons, drug addiction treatment centres, training centres and detention centres, and presents some evaluation studies on the treatment in these institutions.

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. It is regrettable, however, that all the papers cannot be printed, because of limited space of this volume. The Editor would like to add that, owing 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 in this way since it was inevitable under the circumstances.

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

January 1980

Yoshio Suzuki
Director
UNAFEI

PART I

Material Produced During The 51st International Seminar Course On the Treatment of Dangerous or Habitual Offenders

SECTION 1: EXPERTS' PAPERS

Current Policy Issues Regarding Dangerous and Habitual Offenders in the United States

*by David A. Ward**

It is the purpose of this paper to review, briefly, changes in American penal policy in recent dacades to provide readers with a basis for understanding current penal policy issues as they relate to those offenders labelled as "dangerous" and "habitual." It will be seen that the major justifications for imprisonment have remained throughout the time period examined, with the emphasis placed upon certain justifications changing with developments in criminological research and, more importantly, in American society. It should be emphasized, however, that there is no one statement that can describe accurately the penal policies of all of the 50 state governments that together with the federal government, comprise the political structure of the United States. Similarities in penal policy and practice between the states come about because the states are united by a federal constitution and a federal government superstructure, by language and by certain social, cultural, economic and political traditions and practices. But, unlike the political structures found in most Asian and Far East countries, there is in the United States no centralized, unified criminal justice system headquartered in the nation's capital which determines penal policy throughout the country. Each American State has its own police department, its own court system and its own corrections department. The administration of criminal justice in each state is further decentralized (fragmented, some would say) into separate police, court and corrections agencies within each of the numerous countries which together comprise each state. In addition, most cities and large towns within the counties have their own police departments, court system and a local jail to back up enforcement of municipal ordinances and state laws. In the United States the federal government may seek to influence state and local penal policy by example, by exhortation, by the provision of sets of standards and guidelines, and by providing extra funds to those criminal justice agencies and units of government which meet federal standards. Except in those cases which have occurred in recent years in which the authority of federal constitution has been invoked to justify the intervention of federal courts in the operation of state prisons and local jails, the federal government does not have the authority to determine state or country penal policy or to make penal policy uniform throughout the country. Each state, then, has its own criminal justice agencies and its own penal code for offenses which occur within its boundaries. Again, there are many similarities in criminal laws, but these laws can vary from state to state. Furthermore, the amount and character of crime and the enforcement policies of criminal justice agencies also vary between states and regions of the country. A final note is that the states differ in terms of their cultural traditions, size and variety of racial and ethnic groups, economic conditions and the size and sophistication of police departments, court systems and corrections agencies. Violent crime rates, for example, are higher in the Southeastern states of Georgia, Alabama and Mississippi; property crime tends to be high in California and the Northeast states of New York, Pennsylvania and New Jersey; and both property crime and violent crime tend to be low in the upper midwest region of Wisconsin, Minnesota and the Dakotas. The Table 1 provides examples of variations between states which represent all regions of the country in terms of reported incidence of violent and property crimes,

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Table 1: Comparison of States on Criminal Justice and Other Selected Social Indicators[1]

	California	Montana	Georgia	Texas	Illinois	Minnesota	New York	Massachusetts	United States
Percent of state population in metro area	92.8	24.4	56.8	79.1	81.3	64.4	88.5	86.2	73.0
Race - percent									
White	88.6	94.0	73.5	86.9	85.3	98.0	85.4	95.7	86.9
Black	7.6	2.3	26.1	12.5	13.7	1.0	13.2	3.6	11.5
Other	3.8	3.7	0.4	0.6	1.0	1.0	1.4	0.7	1.6
Percent high school graduates (persons 18 and older)	74.0	72.5	58.7	64.5	66.1	72.4	66.2	72.3	66.6
Total unemployment as percent of total work force	8.2	6.4	6.9	5.3	6.2	5.1	9.1	8.1	7.6
Percent of persons below poverty line	10.4	11.5	18.0	15.2	10.5	8.3	9.4	7.1	11.4
Prison population per 100,000	81.0	50.0	204.0	154.0	73.0	42.0	89.0	42.0	113.0
Jail population per 100,000	124.2	39.2	131.9	84.5	43.5	27.6	82.7	31.9	68.0
Reported violent crimes per 100,000 FBI index part 1	706.0	218.0	439.8	407.7	452.0	193.8	831.8	425.3	466.6
Reported property crimes per 100,000 FBI index part 1	6302.7	3887.3	3819.2	4989.4	4442.1	4037.0	5255.8	4983.7	4588.4

rates of jail and prison confinement and other social indicators.

Rates of confinement are divided into jail populations which are comprised of minor law violators serving short terms, more serious or repeat property offenders generally serving sentences of less than one year and offenders in all categories of law violations awaiting trial. Prison populations are comprised of more serious and repeat property law violators serving terms of more than one year of imprisonment and the great majority of offenders convicted of crimes of violence. Most "dangerous" and "habitual" offenders are thus to be found in state prisons, with a smaller number of persons in these categories housed in federal prisons. Federal prison populations include members of organized criminal gangs convicted of federal law violations such as income tax evasion, racketeering all illegal firearms possession. Federal prisons also house persons convicted of bank robbery which is a federal offense because loss of bank funds is insured by the federal government, postal robbery, kidnapping, aircraft hijacking, crimes of violence directed against federal officers such as F.B.I. agents, and crimes of violence which occur on federal property such as federal buildings (including federal prisons), Indian reservations and military installations. The prisons which are best known to persons outside the United States—in some cases because of the notoriety of prisoners and in other cases because of the notoriety of prisons—include San Quentin, Soledad and Folsom in California, Sing Sing and Attica in New York, Joliet and Stateville in Illinois and the federal prisons at Leavenworth, Kansas and Alcatraz Island in California (the latter is now closed). Very little is known even by most Americans about the penal policies of states other than their own. Corrections policy makers, administrators and academic criminologists are better informed but since their knowledge of other corrections systems comes largely from such reports and studies as are produced in each state, variations in the amount of this information, from virtually none in some states to many reports in others, means that even the experts know little about many other systems in their own country.[2] In fact, almost all correctional research undertaken in the United States over the past 25 years has been conducted in a handful of correctional departments—most notably those of California, the state of Washington, Minnesota, Wisconsin, Illinois, New York, New Jersey, Massachusetts and in the Federal Bureau of Prisons. No national report of study to date has examined and described all of the variations in penal policy and practice that comprise "corrections" in the 50 states and the federal government. What this means is that persons who seek to describe "American" penal policy must base their characterization upon available knowledge which largely excludes from consideration the penal systems of the majority of states. States such as California, New York, Massachusetts and Minnesota, along with the Federal Bureau of Prisons, are the visible, but not necessarily representative penal systems of the United States. In the discussion of penal policies concerning dangerous and habitual offenders which follows, the focus will continue to be on these exceptional corrections departments which have subjected themselves to study and evaluation, often by outside researchers, and have permitted those reports to become part of the public knowledge and professional expertise in the field of corrections.

Penal Policy Prior to the 1950's

In the early decades of the 20th century, American prisons housed most of the offenders who were convicted of serious law violations. The use of probation and parole was very limited and imprisonment was the penal sanction of choice in all jurisdictions. Imprisonment was intended to serve several purposes, with punishment as the most important of these. Prisoners received poor food, inadequate medical attention and were often subjected to insufficient heat in cold weather. The silent system which prohibited inmates from talking to each other was widely employed. Guards used weapons and physical coercion to insure total

obedience to rules and confinement for indefinite periods in isolation was the fate of inmates who refused to work or to obey. Punishment was justified on a number of grounds in addition to retribution. Punishment was intended to serve the purposes of both general and individual deterrence. The unhappy condition of the prisoner was to provide a warning to others of the consequences of criminal conduct and was also intended to provide a harsh lesson for the inmates themselves. Punishment was also seen as rehabilitative. Prisoners would have ample opportunity for contemplation and reflection upon their sins and prison labour was intended to develop a sense of responsibility and good work habits. The return of many of the inmates to these same prisons after lengthy periods of punishment did, however, provide the basis for some uncertainty about the deterrent effects of imprisonment for many offenders.

In the 1920's and 1930's crime became an important and much more visible national social problem. The unhappy national experiment in prohibiting the sale of alcoholic beverages provided the basis for local, then statewide, and finally regional organization of illegal alcohol production, distribution and consumption activities. Gangs of "bootleggers" prospered, branched out into other areas such as gambling and prostitution and by the end of "Prohibition" crime involving the provision of illegal goods and services was organized. During this same era social and economic conditions, including what is known in the United States as "the Great Depression," prompted some to take up crime as a way to combat limited opportunities to make money legally. Rapid increases in the number of bank and post office robberies and a new form of crime, kidnapping wealthy businessmen or their children, occupied the attention of police agencies and the public. The gangs of bank robbers, the purveyors of illegal alcohol and other services, and the kidnappers engaged in activities which crosses state lines. Local police were not organized to deal with these forms of crime in terms of training, communication and interstate coordination. The concern of most citizens over the increases in violent crime and the special concerns of the wealthy, who were being kidnapped for ransom and whose banks were being robbed, provided the basis for rapid and substantial expansion of federal police powers to cope with the new forms of interstate crime. In the early 1930's the Federal Bureau of Investigation (F.B.I.) was established and a new Federal Bureau of Prisons formed. Federal agents with national jurisdiction for crimes such as bank and postal robbery, kidnapping, flight to avoid prosecution, transporting across state lines stolen goods, stolen automobiles, or women (for "immoral purposes") joined state and city police forces in trying to apprehend the gangsters who were making themselves famous with their criminal exploits—John Dillinger, "Machine Gun" Kelly, Bonnie and Clyde, "Baby Face" Nelson, "Pretty Boy" Floyd, and Al Capone among them.

The new director of the F.B.I., J. Edgar Hoover, convinced the Attorney General that America needed a prison which would serve as a symbol of the federal government's power and determination to punish serious offenders. That symbol became the federal penitentiary on Alcatraz island in San Francisco bay which was opened in 1934 and which had the reputation of being the toughest prison in America. While Alcatraz continued to represent the penal philosophy of the early part of the 20th century until it was closed in 1963, the growing influence of Freudian psychology and social science research in a number of states and in the federal government itself began to lay the groundwork for change in their penal systems. While most dramatically seen in the treatment of the mentally ill, it should be noted that the development of psychologically based programs influenced many social institutions including schools and methods of education; in business, psychological and sociological theories provided the basis for new advertising campaigns; new studies of "motivation" influenced the training of military personnel. The professions of psychology, psychiatry and social work expanded to provide work-

ers from these areas. Juvenile delinquency and criminal conduct was reconceptualized under the new theories and said to be the result of faulty psychosexual development or inadequate superego, compounded by being raised in broken homes or slum conditions and a variety of other social ills. These views and examples of psychologically based treatment programs which had been implemented in mental hospitals provided the basis for the so-called "medical model" of corrections which began in California in the mid-1950's.

The Rise and Fall of the Medical Model of Corrections

According to the theory behind the medical, or treatment, model of corrections, the causes of crime lie in the personality and social development of the offender. The key to correcting these problems, that is the "rehabilitation" of criminals, was seen to be the diagnosis of the problem by experts—the social workers and psychologists. Once the problem was identified, a course of treatment would be prescribed and at a certain point in time these experts would be able to determine that an offender was cured and could be released from treatment. A new language came to penology, which itself came to be called the field of "corrections." Isolation and punishment units became "adjustment centers;" prisons became "correctional institutions" or "facilities;" wardens became "superintendents;" inmates became "residents;" and cells became "rooms." New programs such as group therapy (groups conducted by mental health experts), the "therapeutic" community, and group counselling (groups conducted by ordinary prison staff) were introduced into prisons and treatment considerations vied with custody concerns for preeminence in determining prison policies. In addition to changes in prison nomenclature, staff and programs, the medical model was responsible for a major modification in sentencing practice. New "indeterminate" sentences were introduced based upon the assumption that the treatment experts would know when rehabilitation had occurred and it was at that point in the inmate's sentence that he should be released from prison. The indeterminate sentence proposals were also supported by liberals and prison reformers as a humanitarian device since they believed that, compared to the old fixed term sentences, prison terms would be shorter. Another result of the treatment philosophy was the expansion of parole services so that participation in the treatment could, if prescribed, continue in the community when the prisoner was released or in the event that a relapse into criminal conduct seemed imminent. Faith in the power of the medical model to breath new purpose into confinement in the same old prisons brought about a decade of great optimism about "corrections" in California and a small number of other states which followed California's lead. So strong was the belief in the power of the medical model that evaluations of major treatment programs such as group counselling were undertaken in California only after they were sought by the state legislature. Correctional treatment staff were so convinced that one or two hours of group counselling each week would cure criminality, they regarded the research as a waste of time and money. The legislature nevertheless asked that the research be undertaken because the cost of "corrections" was rapidly rising, due to the increase in the number of expensive professional staff being hired, and the legislators wished to be sure that the treatment was worth the cost.[3] Evaluations of group counselling and other psychologically based treatment programs in California, and later in Minnesota, New York, Massachusetts and other "progressive" states, were tolerated if not welcomed by corrections workers who believed that these studies would prove how powerful the new medicine was in curing crime. While the treatment ideology was at its peak, however, other events in America began to influence the prisons, the prisoners and the field of criminology.

In the early 1960's the Civil Rights movement aroused blacks in many parts of the United States to begin to organize protests at discriminatory practices directed

against them. The effect of these protests soon began to be felt in the prisons. Black inmate leaders, Eldridge Cleavor and George Jackson among them, began to ask their brothers whether their "trouble with authority figures" came out of faulty psychological development or as a result of racist practices in American society. They were soon arguing that white, middle class social workers really represented a benign appearing, but powerful, method for controlling black law breakers and protest leaders.

The increase in black consciousness, pride and efforts at self help which were followed by similar developments among Chicanos and American Indians, began to divide such inmate "community" as there was, along racial and ethnic lines. Blacks and then other inmates refused to participate in the "brainwashing" programs which were based on the theory that they were entirely responsible for their criminal conduct rather than recognizing that the society in which they were subjected to segregation, discrimination, injustice and unequal opportunities might be responsible for some of their problems.

The civil rights and "black power" movements brought about, depending upon one's perspective, "Protests" or "riots" in many cities. Participation in these "protests" was labelled as criminal conduct by most elected officials, by the police, by business and economic interests and by some elements of the mass media. The scenes on television of demonstrations and marches, often involving combat with the police and burning buildings and stores which had been looted, along with reports of white citizens being beaten or killed, produced a great wave of fear in the country. In the presidential campaign of 1964, Lyndon Johnson recognized these fears and declared war on "crime in the streets." As part of the political rhetoric Johnson announced the establishment of a presidential commission to study crime and crime control efforts in the United States.

The President's Commission on Law Enforcement and the Administration of Justice, established in 1965, reviewed the state of knowledge of traditional criminal conduct in America and its methods of crime control and authorized research in several new areas including the following:

(1) Surveys of citizens who were asked whether they had been victims of any criminal action and whether they had reported the crimes to the police. These studies indicated that police statistics vastly underreported that true extent of crime.

(2) White collar law violations, an area of criminology long neglected by researchers and penal policy administrators, received systematic attention by these groups for the first time. It became apparent that the dollar loss due to this criminal activity was far greater than the loss due to burglary, theft and robbery. The complexity and sophistication of these crimes made them difficult for ordinary police agencies to detect and the penalties given to the few white collar criminals who were apprehended and convicted were insignificant compared to the penalties meted out to those convicted of "street" crimes.

(3) Examinations of criminal law violations such as possession of marijuana, abortion, prostitution, gambling, alcohol abuse, vagrancy and other "victimless" crimes concluded that the numbers of persons engaged in these activities were so large and the problems of detection and apprehension so great that other approaches were needed, most notably, decriminalization.

These studies demonstrated that the scope of criminal law violations far exceeded the incidence of traditional street crime. It became clear that many law violators were businessmen, labour leaders, politicians, lawyers, physicians and others in the middle and upper socio-economic classes, not to mention their marijuana smoking sons and daughters. Causal explanations of criminal conduct that focussed only upon poverty, slum conditions, lack of education and unemployment were clearly not sufficient.

Another feature of the turbulent period of the 1960's should be mentioned along with the Civil Rights movement. The war in Vietnam and Cambodia produced massive protests and demonstrations on

university campuses and in many cities. These protests were defined as violations of law and order and thus another group of non-traditional law breakers—the young men who refused to obey military service orders and other young men and women who participated in protest marches and demonstrations which ended in violence and arrest—found their way into jails and prisons.

In the mid-1970's yet another new group of law violators came to public attention. As a result of the break-in of Democratic National Headquarters at the Watergate Building and the subsequent attempt to cover up illegal activities, Americans saw a former Attorney General, most of the President's highest ranking staff members and a number of other prominent government officials convicted of serious violations of the law and of the public trust and sent to prison. Richard Nixon himself was forced to resign to avoid being impeached and removed from office. In addition, Spiro Agnew was forced to resign as Vice President and was sentenced to probation for receiving illegal funds. While these momentous social events were occurring crime rates continued to rise, along with public concerns. The response of state and federal government officials responsible for combating crime was also profoundly influenced by a collection of research reports. The systematic evaluation of correctional treatment programs begun in the early 1960's had continued throughout the decade. A large number of these reports had accumulated and in 1970 they were all gathered together and analyzed in a report prepared by sociologist Robert Martinson for the New York State Crime Commission. Martinson concluded that based upon 231 studies which employed proper evaluation techniques (such as control groups, matched samples, adequate follow-up periods and proper specification of outcome measures) there was little evidence to support the claim that correctional treatment was effective in curing criminality.[4]

All of these events—the Civil Rights Movements, Watergate, the Vietnam War protests, the new studies of the scope and character of crime and the accumulation of evaluation studies, combined to produce fundamental changes in American criminology and penal policy. Explanations of crime that emphasized faulty psychosocial development and unresolved conflicts with authority figures, the basis for most of the group treatment programs, fell into disrepute. The arrest of some well educated, white, middle class offenders brought about calls for alternatives to incarceration, if not decriminalization. Research on the effects of the medical model not only produced generally negative results but, also indicated that under indeterminate sentencing prison terms were actually longer than under the old fixed sentence structure. In California, for example, the average length of time served in prison increased from 24 months in 1960 to 36 months in 1968. The treatment experts had not only promised more than their methods were able to deliver but treatment was exposed as a subtle but powerful means of social control. At best the treatment ideology was, as Norval Morris put it, "the Noble Lie."

The Growth of Community Corrections

Any sense of despair in the field of corrections was mitigated, however, by the rapid acceptance of the argument that it had been unwise to believe that "corrections" could occur in the abnormal environment of the prison—to really work treatment had to be provided in the community. When the failure of prison to be a positive experience for inmates was combined with the concern of legislators that the large mega-prisons were too expensive, the basis for the "community corrections" movement was born.

Community corrections generally includes probation; short term confinement (1-2 months) in local prisons (jails), often followed by probation; in-residence programs for drug or alcohol abuse offenders; programs to which offenders report on a daily basis, but return to their own homes at night; facilities in which offenders live, but from which they leave to work each day; foster home or group

home placements for young offenders; and assignments to work in community service programs or to participate in restitution programs.

The growth of community corrections is significant for the discussion at hand because acceptance of the assumptions of this new direction in penal policy have had dramatic consequences for the use of prisons. Briefly stated these assumptions are:

(1) The greatest number and variety of remedial, rehabilitation, and support services to help offenders are to be found in the world outside prison.

(2) Community corrections programs should try to involve indigenous groups and persons with special rapport with offenders. Thus residents of the black community should work with black offenders, ex-addicts or alcoholics should work with offenders troubled by drug or alcohol problems, women should work with women, ex-offenders should work with offenders, etc.

(3) The use of resources, programs, small residential facilities, and people from local communities will be less expensive than confining the same offenders in prisons.

(4) Since imprisonment does not reduce recidivism, community corrections will at least be less expensive and more humane, even if treatment in the community does not work.

(5) *Therefore alternative measures to imprisonment should be used for all but "dangerous," "violent" and "professional" criminals, those who refuse to obey the rules of probation and community correction facilities and those who continue to violate the law after receiving probation and other penal sanctions not involving imprisonment.*

The increased use of community corrections programs and facilities and of diversion programs and alternatives to incarceration for most property offenders, *de jure* decreminalization of offenses such as public drunkeness and possession of small amounts of marijuana, and *de facto* decriminalization of other "morals" offenses, have shifted the orientation and focus of attention of criminal justice agencies. These changes along with growth of diversion programs and alternatives to incarceration substantially changed the character of prison populations in the penal systems examined here. The more traditional states which never gave much credence to the notion of treatment in prisons and which have only infrequently used probation and other alternatives to imprisonment have seen fewer and less dramatic shifts in the types of offenders confined in their prisons. For the states which did take the new directions in penal policy, the role of prisons has once again come to be that of housing serious offenders for purposes of punishment, with perhaps some hope for general deterrent effects but with little hope for rehabilitation. And, another old function of imprisonment has risen to prominence, incapacitation.

The Justice Model of Corrections, Just Deserts and Prisons for Repetitively Violent Offenders

The philosophy behind the new use of prisons in the most advanced American penal systems is articulated in the writing of David Fogel, a former Commissioner of Corrections in Minnesota and Executive Director of the Illinois Law Enforcement Commission. According to Fogel:

> *the prison is responsible for executing the sentence, not for rehabilitating the convict...* The prison sentence should merely represent a deprivation of liberty. *All the rights accorded free citizens consistent with mass living and the execution of a sentence restricting the freedom of movement should follow a prisoner into prison.* The prisoner is volitional and may therefore choose programs for his own benefit. The state cannot with any degree of confidence hire one person to rehabilitate another unless the latter senses an inadequacy in himself that he wishes to modify through services he himself seeks...[5]

In what is called "The Justice Model" of Corrections, Fogel argues for a return to determinate sentences, the abolition of

parole boards and traditional parole services, and the conversion of large "fortress" prisons holding many hundreds, often thousands, of prisoners to smaller institutions with capacitities of no more than 300.[6]

The basis of the Justice Model is the contention that inmates must first and foremost be treated in a lawful and fair manner. Methods to achieve justice in prison could include various forms of inmate-staff self governance and conflict resolution, the provision of legal aid to prisoners, procedures for opening up administrative decision making to examination and review, and the establishment of the corrections "Ombudsman." (The Ombudsman concept which was adapted by the Minnesota Department of Corrections in 1973 from the Swedish Justice Ombudsman calls for the establishment of a legally constituted authority apart from the Department of Corrections with the power to investigate the complaints of inmates—and staff—that procedural rules have been violated or that they have been subjected to unfair or discriminatory action).

The purpose of prisons, in Fogel's view is to contain "...the residual offender, otherwise called the calculating, atrocious, dangerous, organized or repetitive criminal ..."[7] The secure containment of these offenders is essential in order to "calm public fears" and to thus allow the placement of the majority of offenders, who are not violent, dangerous or repetitive, on probation or in community based programs and facilities.

Another influential assessment of penal policy in the United States was the report of the Committee for the Study of Incarceration. The Committee, comprised largely of prominent university legal scholars and social scientists, came to the conclusion that the rehabilitation model should be abandoned:

> ..."the rehabilitative model, despite its emphasis on understanding and concern, has been more cruel and punitive than a frankly punitive model would probably be. Medicine is allowed to be bitter; inflicted pain is not cruelty, if it is treatment rather than punishment. Under the rehabilitative model, we have been able to abuse our charges, the prisoners, without disabusing our consciences. Beneath this cloak of benevolence, hypocrisy has flourished, and each new exploitation of the prisoner has inevitably been introduced as an act of grace. Finally, to sentence people guilty of similar crimes to different dispositions in the name of rehabilitation—to punish not for act but for conditions—violates ...fundamental concepts of equity and fairness. And so we as a group, trained in humanistic traditions, have ironically embraced the seemingly harsh principle of just deserts.

When punishment is expressed in these terms, it abandons its primary reliance upon a utilitarian rationale. As such, it is justified not as an effective crime-prevention measure but because it is right—because it ought to be. There is the feeling of a Kantian imperative behind the word 'deserts.' Certain things are simply wrong and ought to be punished. And this we do believe.

In so stating our position, we then become free to set reasonable limits to the extent of punishment. When we honestly face the fact that our purpose is retributive, we may, with a re-found compassion and a renewed humanity, limit the degree of retribution we will exact.[8]

While it is argued that criminal sanctions should fit the offense, not the individual offender's likelihood of rehabilitation, and that punishment should be applied because it is deserved and for reasons of deterrence, the Committee also called for limitations upon the use of imprisonment and upon the length of prison terms.[9] For petty theft and other minor offenses, incarceration would be used only for very short or intermittent terms such as Saturdays, weekends, or other periods of offender's "leisure time." More serious offenses—threats of violence, for example—would call for longer periods of incarceration, particularly in cases where the offenses were repeated.

Offenses such as, "... intentional and unprovoked crimes of violence that cause (or are extremely likely to cause) grave bodily injury to the victim [as well as] the worst white collar offenses such as those in which people's lives are knowingly endangered ..."[10] would be punished by incarceration. The less serious offenses would call for prison terms of less than 18 months, except in the case of repeat offenders who might receive up to three years. In carceration for serious offenses would be for terms of between 18 months and three years, with repeat offenders receiving four to five years. Sentences longer than five years would be used only for such crimes as the unprovoked murder of strangers, political assassination and murder involving torture or multiple victims. Those receiving longer terms of imprisonment would also include offenders who try to escape and those whose actions violate the terms of non-incarceration sanctions.

A final example of the shift in thinking about American penal policy related to dangerous and repeat offenders may be found in the work of Norval Morris, Dean of the University of Chicago Law School. In 1974, Morris published an influential treatise called, *The Future of Imprisonment,*[11] which contended that after two centuries it should be recognized that prisons had failed in their efforts to be rehabilitative. Morris did not, however, recommend the abolition of prison treatment programs, but rather that they be expanded and improved. Participation or non-participation in such programs should be, he argued, entirely voluntary on the part of the inmate and that decision, whatever it might be, was not to negatively influence the amount of time he served or the conditions of his imprisonment. According to Morris, the principles which should guide the decision to imprison include:

1) *Parsimony:* the least restrictive (punitive) sanction necessary to achieve defined social purposes should be imposed.
2) *Dangerousness:* prediction of future criminality should be rejected as a base for determining that the convicted criminal should be imprisoned.
3) *Desert:* no sanction should be imposed greater than that which is "deserved" by the last crime, or series of crimes, for which the offender is being sentenced.[12]

Imprisonment for Morris, like Fogel and the Committee for the Study of Incarceration, is necessary in order to support important community values such as personal safety and major violations of public trust, for reasons of general deterrence and in cases where other, lesser penal sanctions have been applied on repeated occasions or when the conditions of lesser sanctions have been ignored.

Morris, however, goes further than most scholars who contemplate and debate penal policy issues, by advancing a plan for a prison to house "repetitively violent criminals." Morris focussed his attention on the features of a prison for "persistent," "professional" and "dangerous" offenders because in his view, all plans for mitigating the severity of penal sanctions for the majority of offenders require that the public be reassured that those who commit serious crimes will be punished and incapacitated. His plan was of such interest to the Federal Bureau of Prisons that it has been operationalized and implemented in the Bureau's new maximum security prison at Butner, North Carolina. The "repetitively violent" offenders confined at Butner, consistent with Morris' proposal, are within the age range of 18-35; they have been twice convicted of serious crimes of personal violence during the last three year period they were in the community; they are not psychotic, mentally retarded or "notorious leaders of gangs, militant groups and organized crime;" and they have no less than nor more than one to three years to serve to parole. The Butner program and staffing, the procedures for selecting inmates, and the evaluation of the whole experiment are interesting and important but beyond the scope of this paper. Here we simply wish to illustrate the recent shift in thinking about penal policy that has occurred in the United States, as evidenced in the

recommendations of several prominent criminologists and legal scholars.[13]

Identifying Dangerous and Habitual Offenders

It should be noted that there can be, and often is, disagreement between correctional administrators, scholars, politicians and the public over the definition of "dangerous" and "habitual" offenders.

When citizens, police officials and judges use the term "dangerous", they are in most cases referring to an offender who has committed a crime of violence against one or more persons. Offenders who have killed their spouses, as well as offenders who work for organized crime, are considered "dangerous" because their actions have involved death or personal injury to others. Those experienced in the field of corrections, however, and particularly those who work in prisons, generally include a somewhat broader range of conduct when they apply the label "dangerous" to offenders. The term may refer to those whose crimes involved physical violence of a particularly heinous, callous or repetitive nature. Included in this category whould be professional gangsters or "hit men," cases involving multiple murder and offenders convicted of violent sexual and physical assault such as aggravated rape, aggravated assault and assault with intent to do great bodily harm. The same label is, however, also applied to those whose crimes in the outside world may or may not have involved violence to others, but whose prison conduct has involved physical violence or the threats of violence directed to staff or other prisoners. Also included are inmates who attempt to influence other inmates to engage in violence against staff or inmates, and those who destroy prison property. Still another group of inmates defined as "dangerous" are those regarded as escape risks since there is always the possibility that staff members or citizens will be injured or held as hostage in an escape attempt. Excapes also cast doubt on the claim by prison officials that keeping dangerous and violent offenders away from the public is their primary obligation.

"Career" criminals in the public mind are repeat offenders who commit not only crimes against persons, but also certain property crimes such as burglary, robbery, grand theft and activities related to organized crime. While criminal justice professionals may also include some persistent forgers, petty thieves and con men as "career" criminals, the call for confinement in high security prisons by citizens and public officials does not ordinarily apply to these latter categories of offenders.

There is then agreement by citizens, public officials and criminal justice agency professionals on the definitions of some categories of offenders as "dangerous" or as "career" criminals. The experience of criminal justice professionals, however, may lead them to exclude persons who murder their spouses from the "dangerous" category, to include persistent offenders such as check forgers in the "career" criminal category, and to include in the "dangerous" category those offenders who threaten prison staff and the security of jails and prisons. When the question is raised as to what penal sanctions should be employed in the case of those offenders regarded as "dangerous" and "habitual," there is again general agreement between citizens, public officials, criminal justice professionals and scholars—confinement as a "last resort" in maximum security prisons.

Arguments that confinement in such prisons will not have a positive impact upon the offenders sent to them is outweighed for all these groups by the arguments for punishment, general deterrence and incapacitation. To meet the demand for secure custody for "dangerous" and "habitual" criminals, the federal government and a number of states—California, Minnesota and Washington—are developing plans or have begun construction of new high security "facilities." These new, "last resort" prisons are intended to be relatively small by American standards in size and inmate capacity as compared to those built in earlier decades, a decision which reflects the recognition of the need for better management and control of these special

populations.

Along with the new physical plants, other elements of the revised contemporary penal philosophy provide the basis for the operational components of these prisons. In order to control inmate conduct during long periods of time under conditions of maximum custody and also to reduce the injustice of discrepancies in sentencing which is presumed to produce inmate anger and resentment—that is, control problems—these penal systems are in the process of abolishing indeterminate sentences and returning to more determinate setnence systems. Loss of "good time" will thus become the major means of encouraging "good" conduct on the part of inmates. Since forced participation in prison treatment programmes is now seen to be of little value, particularly for violent and repetitive offenders and for inmates who are "management problems," the major daily activity in the new last resort prisons will be work. Participation in treatment activities will be the result of voluntary decisions by the inmates. "Due Process" procedures will be applied to areas of administrative decision-making important to inmates, such as disciplinary hearings and hearings pertaining to misconduct by offenders released to the community before the expiration of their sentences.

In summary, for some of the most visible penal systems in the United States a new period of experimentation has arrived. Part of the experimentation involves the increased use of probation, short term confinement in local jails, and diversion to community corrections programmes and facilities, restitution programmes, community service programmes and the like. The other area of experimentation is directed to those offenders whose crimes are too persistent or too violent or who have not profited from alternative penal sanctions and who, as the "Last resort," will be sentenced to prison. The physical design, size and programmes in these prisons are changing as is sentencing structure by which offenders are selected for these prisons and by which their release from them is determined. Correctional administrators have learned to proceed with caution, however, and new programmes and policies being applied at the new high security facility under construction in Minnesota and the new federal prison already operational in North Carolina are being carefully studied and evaluated by researchers from the University of Minnesota and from the University of North Carolina. The importance of this research is the final area of concern in this paper.

Some Unanswered Questions about Prisons for Dangerous and Habitual Offenders

While there has been much discussion about the need for new prisons, questions about the consequences of long term confinement in last resort prisons have received little attention from legislators, criminal justice professionals and academic criminologists, perhaps because the consequences are generally assumed to be negative. The substance of these discussions of penal policy is, however, not being heard for the first time in the United States. As indicated earlier, only a few decades ago public fear and the political response to violent crime resulted in the establishment of Alcatraz, as a new maximum security prison for dangerous and habitual offenders, professional criminals and the escape artists, riot leaders and inmates who posed the most serious management problems at other prisons.

During its thirty year history Alcatraz contained only 1,550 inmates, but 25 percent of them had assaulted inmates and four percent had assaulted staff at other prisons prior to their transfer to Alcatraz; 33 percent had *successfully* escaped one or more times from other prisons; 65 percent had been reported for three or more disciplinary infractions prior to Alcatraz and 15 percent had accumulated more than 10 reports for rule violations at other prisons. Thirty-two percent of the inmates at Alcatraz were committed to federal prisons for robbery and another 30 percent were committed for crimes against persons, including with murder, homicide, assault, sex offenses, kidnapping and bank robbery. Fifty-six percent of the Alcatraz inmates had three or more prior felony arrests; 21 percent had more than five felony arrests by the time they arrived at Alcatraz.

The regimen at Alcatraz did not involve any pretense at rehabilitation and work was the major activity for inmates. Since the inmates were committed under determinate sentences, a basic method of controlling inmate conduct was the threat of the loss of good time. The publicly announced justifications for confinement in this prison were punishment, incapacitation and general deterrence. The United States Penitentiary at Alcatraz Island thus stands as an earlier prototype of the current model of a "last resort" prison. Despite its symbolic and substantive importance as the most secure prison in the United States from 1934 to 1963, only recently has research related to any aspect of imprisonment at Alcatraz been initiated. Answers to some of the fundamental questions penal policy makers should now be raising about the new "last resort" prisons may be answered for Alcatraz, our last experiment in that direction. This research, which is being conducted by the author, seeks to investigate such questions as the following:

(1) What were the problems of psychological survival for inmates serving long sentences in a "last resort" prison? This aspect of the study examines escape attemps, inmate protests and strikes, violence within the prison and the incidence of suicide, neurosis and psychosis among inmates. Since some inmates would not—or chose not—to adjust to the regimen even at Alcatraz, how did the staff attempt to control them? And, was the staff successful in those efforts?

(2) Even though the inmates at Alcatraz were kept apart from the outside world, how much "crime" did they commit against each other and against the staff while they were incapacitated?

(3) When inmates were transferred from Alcatraz back to other prisons, how did they "adjust?" Did an average period of five years at Alcatraz produce more orderly prisoners in terms of prison rules violations?

(4) When inmates were released after being transferred from Alcatraz to other prisons or released from Alcatraz at the expiration of their sentences, did they resume their criminal careers? Did "punishment" have a deterrent effect? Did incapacitation work?

(5) What were the problems of recruitment, training, supervision and morale for the staff who worked at Alcatraz? How did the Alcatraz staff become interested, or at least willing, to work in a maximum security prison in which the entire inmate population was considered to be beyond rehabilitation and to be escape prone, assaultive and resistant to authority? How did officers and inmates interact on a day-to-day basis when each group was likely to be hostile and fearful of the other? Are there "costs" to correctional staff who worked in such an environment in terms of psychosomatic ailments, alcoholism, family problems and emotional instability?

(6) What was the impact upon inmates, staff and programmes at other prisons in the federal system when Alcatraz served as a depository for their "management problems" and their "habitual intractable" offenders? Does an Alcatraz-type prison reduce problems elsewhere or can it provide an incentive system for some offenders and inmates?

The answers to these questions as they pertain to Alcatraz should be of some value to the corrections administrators and other planners who are designing new prisons which are once again intended to serve more traditional purpose than has been the case during the era of the "Medical model."

The challenge for penal policy makers in the United States in the immediate future is to develop methods, perhaps with the help of examples set by other countries, which reduce the damaging effects of imprisonment while reducing the number of offenders who, as a last resort, receive this penal sanction.

FOOTNOTES

1. Data on percentages of population in metropolitan areas, race, high school graduates, unemployment, and poverty are taken from Tables 19, 35, 232,

668, 762 in *Statistical Abstracts of the United States, 1978.* Data on prison populations is taken from "National Prisoner Statistics," Bulletin SD-NPS-PSF-2, 1977 U.S. Government Printing Office, December 31, 1975, pp. 21-22. Jail data is from Table 2 in "The Nation's Jails," U.S. Department of Justice, 1972. Crime data is taken from Table 4, *Crime in the United States,* 1977, published in October, 1978, by the U.S. Government Printing Office, Washington D.C. The violent crimes included in the F.B.I. Index are: murder, forcible rape, robbery and aggravated assault. Property crimes in the F.B.I. Index are: burglary, larceny/theft and motor vehicle theft.

2. A source of information about some of the most "unstudied" state prison systems developed in the late 1960's when federal courts began to listen to complaints that inmates in those prisons were being deprived of their rights under the United States Constitution. Federal judges, overturning the long tradition of nonintervention in state prisons, began to uphold the complaints of inmates in a number of states, including Arkansas and Alabama, that they were being subjected to "cruel and unusual punishment," which is prohibited by the federal constitution. The substantial national publicity attendant to these cases provided some information about "corrections" in the states involved.
3. See Gene G. Kassebaum and David A. Ward, *Prison Treatment and Parole Survival,* New York: John Wiley and Sons, Inc., 1971, and *C-Unit: Search for Community in Prison* by Elliot Studt, Sheldon L. Messinger and Thomas P. Wilson, New York: Russell Sage Foundation, 1968, for descriptions of group treatment programmes in California prisons and the evaluation of those programmes.

   The argument that correctional policy reflects larger considerations of social control at minimal cost is made by Andrew T. Scull in *Decarceration: Community Treatment and the Deviant –A Radical View,* Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1977.
4. Robert Martinson summarized the results of his study in an article, "What Works?: Questions and Answers About Prison Reform," in *The Public Interest,* No. 35, 1974, pp. 22–54.
5. David Fogel, *". . . We Are the Living Proof. . ." The Justice Model for Corrections,* Cincinnati, W.H. Anderson, Company, 1975, p. 202.
6. Ibid, pp. 204–5.
7. Ibid, p. 275.
8. Andrew von Hirsch, *Doing Justice: The Choice of Punishments,* Report of the Committee for the Study of Incarceration, New York: Hill and Wang, 1976, pp. xxxviii–xxxix.
9. Ibid, p. 54. The Committee's argument was stated as follows:

   Step 1: Those who violate others' rights deserve punishment. That, of itself, constitutes a prima-facie justification for maintaining a system of criminal sanctions.

   Step 2: There is, however, a countervailing moral obligation of not deliberately adding to the amount of human suffering. Punishment necessarily makes those punished suffer. In the absence of additional argument, that overrides the case for punishment in Step 1.

   Step 3: The notion of deterrence, at this point, suggests that punishment may prevent more misery than it inflicts – thus disposing of the countervailing argument in Step 2. With it out of the way, the prima-facie case for punishment described in Step 1 – based on desert – stands again.
10. Ibid, p. 138.
11. Norval Morris, *The Future of Imprisonment,* Chicago: University of Chicago Press, 1974. Dean Morris was the first Director of UNAFEI.
12. Ibid, pp. 59–60.
13. Other important analyses and commentaries which have influenced American penal policy include: Johannes Andenaes, *Punishment and Deterrence,* Ann, Arbor, Michigan: The University of Michigan Press, 1974; American Friends Service Committee, *Struggle for Justice: A Report on Crime and Punishment in America,* New York: Hill and Wang, 1971; Report of the Twentieth Century Fund Task Force on Criminal Sentencing, *Fair and Certain Punishment,* New York: McGraw-Hill Book Company, 1976; James Q. Wilson, *Thinking About Crime,* New York: Basic Books, Inc., 1975; Ernest van den Haag, *Punishing Criminals: Concerning a Very Old and Painful Question,* New York: Basic Books, Inc., 1975; Marvin E. Frankel, *Criminal Sentences: Law Without Order,* New York: Hill and Wang, 1973; Herbert L. Packer, *The Limits of the Criminal Sanction,* Stanford, California: Stanford University Press, 1968; Ian Taylor, Paul Walton, Jock Young, *The New Criminology,* New York: Harper and Row, 1973 and a latter book edited by Taylor, Walton and Young, *Critical Criminology,* London: Routlede and Kegan Paul, 1975; Franklin E. Zimring and Gordon J. Hawkins, *Deterrence: The Legal Threat in Crime Control,* Chicago: The University of Chicago Press, 1973.

Dangerous Offenders: In Prison and in the Community

*by Colin Russel Bevan**

Introduction

Most of you ladies and gentlemen, perhaps all of you, derive from civilizations and historical backgrounds vastly different from those of the author of this paper. It will be important for me to be conscious of this and to remain aware that the kinds of situations I describe as existent in my country, Australia, may in no way apply to yours. I will tell you of tripartite struggles between prisoners, prison officers and prison administrations for control of prisons. I will tell you of attempts by concerned and forward-looking administrators to build prisons that conform as far as possible to the demands of prison reformers to ensure humane and non-damaging environments for those incarcerated in our prisons. I will tell you of instances where the public has lost confidence in the capacity of prison administrators and parole authorities to safely select people for release to the community on special leave or on conditional liberty. I will tell you of prisons being burnt to the ground by their occupants and prisoners and prison officers engaged in physical combat, resulting in deaths and bashings with injuries of a severe order. I will tell you of a Royal Commission into the prisons of one of our Australian States, a State which, ironically enough, has been the one most concerned to inaugurate modern, intelligent penological methods. I will tell you of the construction of a special prison to house the most intractable and "dangerous" prisoners, which has now fallen into servere disrepute. Moves have been undertaken to close that particular prison. I will tell you of vastly different usages of imprisonment in the various States of Australia, a country totalling a mere 14 million people. The rates of imprisonisation or use of imprisonment range from 17.8 per 100,000 in the Australian Capital Territory, to 171.9 per 100,000 in the Northern Territory of Australia, and Victoria, the second largest State of Australia, with a general population of 3.8 million and a daily average of prisoners of 1,564 at least count, attaining a usage rate of 40.9 per 100,000.[1]

The Dangerousness of Dangerousness

There are those in Australia who look forward to the abolition of prisons altogether. Some academic lawyers and criminologists maintain that the whole concept of dangerousness may be only an exercise in camouflage, and that its real use is to justify preventive detention and, by avoiding discussion of its real functions, the community is being caused real harm. It is widely accepted that, although the task of assessing certain types of danger presented by mental patients and offenders is an inescapable one, the psychiatrists and tribunals entrusted with the decisions are in fact incapable of successfully assessing dangerousness in people. It is widely claimed that some of the confusions and uncertainties may stem from the concentration of studies upon individual attributes of people instead upon violence-prone situations. The reason for concentrating on dangerous people and their assessment stems from the difficulties faced by medical control agents attempting to treat dangerous situations. Others call for applying the term dangerousness to the conduct of corporate and bureaucratic bodies which daily inflict hardships and havoc on the lives of members of the community. Dangerousness, they say, is in reality only an expression of relative power. Confidence in an ability to predict dangerousness legitimates intrusions aimed at greater social control of the powerless by the powerful.[2]

It will be seen, therefore, that criminological and correctional considerations in our country have assumed political colorations. It is becoming widely believed that

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what are needed in our culture are more broadly conceived social policies, directed against such social practices or other features of our social life as can be shown to make such behaviour more likely to occur. It would be true to claim that in our country our police, courts and prisons make up one of the least influential social institutions for the prevention and control of dangerousness.[3]

Like Mrs. Jean Floud I am, however, not as pessimistic about the possibility of improving our actuarial work in the struggle to predict dangerousness.[4] Neither am I prepared to abandon protective (as against punitive or denunciatory or therapeutic) measures against serious offenders on the presumption of high risk of erring against the offender in the absence of arithmetical justification which we admittedly at the moment do not have.

Australia's Prisons—A Brief Glance

It would be true to say that there are justifiable grave doubts in Australia that prisons fulfil the purposes for which they were instituted and which the general public naively believes are being fulfilled by their existence. I could be easily persuaded that the same situation does not obtain in your countries. I think it is distinctly possible that you find it difficult to believe that prisoners in our country can find it possible to contemplate rioting, burning and engaging in physical combat with prison officers. It is distinctly possible that your prisons are fulfilling the purposes for which they are designed, namely, the segregation of people whose nuisance behaviour you find intolerable. It is possible that you are able to organise continuous gainful employment for your prisoners, and that, in fact, your prisons may be even self-supporting. This is not so in our country. Prisons and their management are a tremendous drain on the public purse.

Australia is unique in that it began as one huge prison. In the 18th Century in the United Kingdom the amount of thieving, robbery, thuggery, violent assault, rapings and general ungovernable, riotous, criminal behaviour led authorities to consider finding a colony on the other side of the globe to which to send the vast numbers of people appearing before their courts. It is well to remember that many of those people would today be regarded as thoroughly dangerous, unpredictable, violent offenders. It could validly be claimed also that the soldiers sent to guard them were not much better. Life in the early days of the infant colony was characterised by brutal floggings of convicts, bashings, escapes and over-indulgence in drinking of alcohol. Out of all this supposed badness there emerged the nation of Australia today.

The very isolation of Australia enabled authorities to experiment with releasing criminals from constant incarceration to exist in the new colony on trust, culminating in the efforts of Alexander Maconochie, Superintendent of the Norfolk Island Penal Establishment in 1837, far in advance of his time, to extend to prisoners opportunities for earning their early release by industry and good behaviour. Captain Maconochie was, nonetheless, unable to avoid investigation of his methods by a Royal Commission. He was dismissed from his position as prison governor in spite of his high-mindedness and his reformist sympathies. He suffered dismissal through being unaware of the brutal excesses of some of his prison officers, reminiscent of the situation that obtained in the Nassau County Gaol, New York.[5] New South Wales and Tasmania are two States of Australia still abounding in historical relics of the early penal settlement in Australia. There are still buildings, bridges, streets, forts and warehouses built of stone by convict labour in the earliest years of settlement (1788–). Many of the troubles facing prison administrators arise from the use even in this day of prisons built in the last century, which are now totally unfit for use as a prison. Authorities are, however, continually daunted by the costs of replacing them with the unnecessarily modern, large, secure establishments people have mistakenly come to expect.

The Dangerous Offender in the Community

In Australia at the present time, because of public outrage at the commission of serious, violent offences by released offenders, attention is being directed to community-based penal measures such as parole, probation, daily release from prison to their place of employment, attendance centres, community service orders, and the like. Recently all of the State Ministers responsible for prisons, probation and parole requested of the Australian Institute of Criminology an evaluative survey of probation and parole as penal measures. They accepted the writer's findings that both probation and parole were cost-effective and the most flexible and useful of the community-based methods. A further request was then presented to the Institute of Criminology to report back to the Ministers in due course on the range of community-based penal measures that might be developed in Australia. Still, however, the spot-light on parole and work release and special leave provisions remains. New South Wales has set up a committee to examine parole because the workings of parole in that State and the State of Western Australia are under fire from the press and certain sections of the public for the above-quoted reasons. In New South Wales there have recently been instances of bank robberies committed by persons supposedly at their place of employment under their release-to-work scheme.

It is my belief that in certain States of Australia, namely New South Wales, Victoria and Western Australia, the parole systems have come under criticism because of the confused philosophy reigning in those States concerning the prediction of dangerous and habitual criminal offenders. It is probably impossible to develop a predictive table based on characteristics extrapolated from those pertaining to already violent and habitual criminals as a means of determining the likelihood of other people, particularly children, eventually becoming dangerous criminals. Similarly it is also probably impossible to predict from an examination of the personal characteristics of a person, who has already committed what might be regarded as a dangerous offence, whether or not he is likely to repeat his violence. It is extremely rare (except for the category of the organised, gangster type criminal) that a person convicted of an offence of violence commits the offence solely from or because of his psychological or personality make-up. It is more likely that the offence results from a combination of a predisposition in the person to commit an offence of violence and a certain set of fortuitous circumstances. If one studies, therefore, the circumstances of the event, it is possible in most instances to determine the likelihood of a similar or identical set of circumstances recurring. If one can satisfy oneself that the circumstances are highly unlikely to recur, then it is possible to predict that that person is unlikely to recommit a serious offence of violence.

If, on the other hand, a person commits a senseless act of violence in that there seems little rationality in the behaviour, if there seems to be no logical connection between the circumstances with which he was faced and his behaviour, if, in other words, the behaviour escapes the comprehension of the predictors despite extensive investigation of the total circumstances, then there is little doubt that such a person could be dangerous and should be incarcerated for the protection of the community perhaps for the whole of his natural life. Fortunately such people are rare and such burdensome decisions do not often trouble decision-makers in the criminal justice process.

The question may well be asked; 'Are judges, at the time of sentencing, the appropriate persons to decide how long a person should serve in prison for any particular offence?' It is certainly appropriate that the judge decides upon the finding of guilt how long the sentence he imposes should be, based on the reigning judicial notions about prevalence of the offence, the rights and feelings of the community, retribution, incapacitation, punishment and so on. The place where that person

serves his sentence, however, is more properly the responsibility of an entirely different body, preferably a five or six man and woman parole board. It is the function of the parole board to decide on the criteria just mentioned whether or not a dangerous or violent offender needs to spend the whole of his sentence behind bars. Too much emphasis is placed, I believe, on the popular demand that the sentence imposed by the judge, less remissions, should be spent inside prison walls. A person released on parole is still a prisoner, is still serving a sentence. The only difference is that he is allowed to serve a portion of that sentence in the free community (where alone he can learn to live as a free, responsible person) under the supervision of competent, reliable, informed and well trained officers.

In Australia it is remarkable that the States that have experienced most criticism of their parole systems, the most serious break-downs, the most serious repetitions of violent offences by parolees, are those States where minimum-maximum sentencing applies. Under such a system in our country a judge pronounces sentence in respect of a particular offender. He then proceeds to designate a period before which a person shall not be eligible to be considered for release by the parole board. That period is termed the non-parole period. Unfortunately, because of the before-mentioned confusions about the predictability of violent offenders repeating offences of violence, parole boards seem to favour almost automatic release of all prisoners upon the expiration of the non-parole period. There seems to have crept into their parole philosophy the notion that parole is a right, and that, if we cannot predict dangerousness, we are not entitled to deny a prisoner his or her parole.

Some of us believe that it is not unjust to risk mistaken detentions for the sake of avoiding a mistaken release. Indeed, it is reasonable to find it more important to avoid a mistake of release, with its grave consequences for others, than a mistake in detention. It is difficult to see the logic in the claims that it is unjust for parole boards to make considered release decisions for fear of mistaken detentions. How is it unjust for a parole board to decide that any offender should be required to serve the sentence imposed by a duly constituted court of the land? How is it unjust for the parole supervisory authorities to return a person on parole to prison at the first suspicion that he has committed or is tending toward the commission of a further offence? It should be well understood by the prisoner, by the community, by parole authorities and the courts that the parolee is still a prisoner serving a sentence, and may be returned to prison at any time.

Similar considerations apply in respect of all other semi-custodial and non-custodial measures applied to prisoners. Whatever the machinery for release of a person, full-time or part-time, from a prison for the purposes of his continuing, as far as practicable, normal contacts with the real world, the accent must be on careful selection. Neither crime nor criminals are homogenous entities. Crime is committed by all sorts of people, for all sorts of reasons, in all sorts of circumstances. There is as much individuality in people before the courts and in prisons as in the whole population at large. Therefore, as many different penal measures as the ingenuity of man can devise should be directed towards the occupation of a prisoner's time during his period of loss of liberty. Too often have excellent, innovative penal management methods been discredited and sabotaged because the innovation was seized upon as a panacea—at last an answer to the problem of crime.

There is no need to apologise to offenders and prisoners for strict selection for one or the other of various measures available. It is tiresome to read and hear of correctional and parole administrators including in their reasons for making certain decisions that they wished to avoid disappointments, resentments and subsequent difficult behaviour on the part of the prisoner or offender in question. Each decision should be a strictly individual event, based on a firm conviction that the measure chosen

for a particular offender is suitable in all the circumstances, and that the prisoner has a chance, a very good chance, of successfully negotiating the period covered by the management decision. There is no injustice in releasing one co-offender to a community-based measure, and refusing to release another. One may be judged capable of negotiating the measure applied, and the other not.

The court decides the guilt or innocence. It is another tribunal which is the more capable of deciding the real culpability of the offender. It so often occurs that the motive for the crime that the offender allows to permeate the evidence presented in court is not the real one. It is not unknown that the offender conceals the true motive, either because he is much more ashamed of the real one, or for the purpose of protecting others. He may do the same in relation to the real circumstances leading up to and surrounding the offence. It is the real motive, however, which must be the concern of the releasing authority. Often the real motive will not be uncovered until the offender, as a prisoner, developes a sufficiently comfortable relationship with a prison or a parole authority to consent to unburden the true facts of the whole case. It is this set of true facts which determines his real culpability, and also determines the possibility of predicting a recurrence.

If we accept the definition of a dangerous offender as one who is judged, upon the kind of careful examination of him and his offence detailed previously, to be in any way likely to commit a subsequent offence, it is extremely doubtful that such a person should be considered for release on probation. It would be naive in the extreme to believe that such a person would be deterred or dissuaded from reacting to a violence promoting situation just because he is under the supervision of a probation officer. Probation is meant for the non-dangerous offender, for the person in respect of whom it is judged that no useful purpose will be served by sending him or her to prison. Probation is an extremely useful penal measure, but there has been little, if any, demonstrable evidence to justify probation on the basis of its value as a source of counselling and therapeutic endeavour on the probationer's behalf. Confidence in counselling stems from a belief that people who break the law are in some way sick people who need a cure. The majority of offenders are normal people, who know of no other way, or who have not acquired the means to compete in the culture and to acquire desired ends and goals other than by violence and stealing. For them, therapeutic counselling and sermonising is out of place. Probation can serve a purpose of helping the offenders to acquire legally what they desire. Many of them are people who have insufficient reason to avoid being detected and disgraced by appearance before court, and are prepared to risk terms of imprisonment.

The difference between the offender and non-offender is largely this, that for most of the offenders, their life circumstances have been such that their self-images are defective and damaging. They do not see arrest, conviction and incarceration as unworthy of them. They do not see themselved generally in a favourable light. They are not used to respect and a feeling of importance, hence they deem they have nothing to lose by their illegal behaviour. The teachings of religion regarding right and wrong behaviour have for two generations in our culture been losing force and credibility. Our education system has been geared to teach young people to think for themselves, to hesitate to take for granted long-standing social institutions, to be sceptical about the opinions and established value-systems of their elders, and to bear a critical concern for the culture in which they live.

Perhaps the education system has been all too successful. The young people have rejected most of the age-old religious proscriptions and inhibitions and they seek to find their own destiny by personal experience. There is little left to prevent the young person in our culture, other than the tattered remains of religious conviction and a sound respecting self-image, to prevent a young person from risking denigration and disgrace in a court of law. I will not bore

you with the now well-established crime-producing elements of Western culture, about which you already know much. The anonymity of existence in large cities, the mobility of populations, the freedom of young people to move about beyond the guidance of even those elders who would be interested, industrialisation, computerisation, the deadly dullness of many menial occupations in today's world, the daily evidence of huge corporate crime and fraud, corruption in high places, and the wide-spread expectation that our criminal justice and correctional systems have a role to play in solving complex social problems, have all helped to undermine our formerly reasonably effective social controls. There is, in addition, the over-riding realisation that our criminal justice systems are ill equipped to provide such solutions.

Experience has furnished us with little confidence in the ability of mental health professionals to treat dangerous offenders. Probation, after-care services, and half-way house establishments do provide the opportunity, if sufficient dedicated staff of adequate quality can be found to man them, of providing the kind of warm, concerned and caring relationships that may foster the beginnings of change in the offender's capacity to develop a measure of self-love and self-respect. Unless supported by skilled probation staff, the practice of defence barristers and solicitors pleading for a community-based, non-custodial sentence for their clients on the ground that they are in need of and would benefit from psychological, psychiatric assistance and counselling should carry no weight in the court room.

In most places, the decision to release a prisoner daily to work in the community and to return to prison in the evening is ultimately made by the head of the prison. In many instances he does this on the recommendation of classification committees set up to examine the characteristics of all prisoners and to advise the prison management on desirable, practicable management schemes. Where a person has committed offences of violence, no one man is wise enough, or good enough, to make a decision for his or her release in any capacity without thorough investigation of the offender and the offence. Classification committees, as generally constituted, offer very little opportunity for wide investigation of the offender in the community from which he or she came. Generally such committees consist of high-ranking prison officers or prison administrators, prison psychologists, probation and parole personnel, government or prison medical officers and welfare personnel attached to the prison. Generally, however, classification committees do not extend their investigation beyond the paper reports contained in the file of the prisoner under consideration. If classification committees are prepared to ask probation and parole authorities to carry out extensive investigations outside the prison, perhaps the recommendations of the classification committee could carry more valid weight. This is not to deny the great value of reports on prisoners emanating from prison officers, the people who have most contact with the individual in the intervals between the commission of the offence, committal to prison and the time he or she is under consideration by releasing authorities. Once again, however, the value of the contribution that can be made by psychologists and psychiatrists to such deliberations is doubtful in comparison with those officers and personnel that are in more constant, every day contact with the offender.

The term 'habitual offender' no doubt has different meanings in different cultures. Generally the term in my country denotes the offender who is repeatedly convicted for the same kind of offence. The vast majority of habitual criminals are property offenders, generally inadequate, under-educated, under-socialised, disadvantaged in their early childhood experiences and life circumstances, pathetic, but generally a great nuisance to the community. This is particularly so where the habitual offender's criminal habits seem restricted to breaking and entering and stealing from houses and buildings. The term is also applied to habitual sexual offenders, mostly child molesters. In all States of Australia,

at some time or another, provisions existed for declaring, as habitual criminals, those people who were repeatedly (at least twice previously) convicted of the same offence, and sentencing them to an indeterminate sentence which, (in four of the States) could mean life imprisonment. New South Wales and Victoria fixed maximum periods of 14 and 10 years respectively. In practice the parole boards were empowered to consider parole after a period of incarceration (generally two years).

It must be admitted that most of the persons declared habitual criminals were property offenders of high nuisance value. Most parole boards also recognised the immorality of sentencing property offenders to a life-time of imprisonment, and adopted a policy of almost automatic release of habitual criminals on parole after two, three, or at the most four years of indeterminate incarceration. It is emphasised that few such habitual criminals could be regarded as dangerous in the sense of being likely to commit violent crime. Should a person have repeated convictions for rape, it is common for him eventually to be sentenced to the maximum term of imprisonment available for the crime of rape in Australia, namely life. In one instance known to the writer, a prisoner, after serving two sentences for rape, was convicted yet a third time and sentenced to life imprisonment. In the writer's opinion, also, the circumstances of the rapes that he committed were such, and his behaviour so pathological, that the writer was, and still is, firmly of the opinion that he should never be released.

It is possible that, in the context of this seminar, the term 'habitual criminal' includes the organised gangster-type offender, who has adopted violent offending as a way of life and a means of livelihood. Most of what has been said previously scarcely applies to such an offender. People who have become enmeshed in organised gang-crime are rarely allowed by their former associates to disengage themselves from the group and are forced, under threat of violence to themselves, to continue their gangster-type activities. It would seem the only remedy for such offenders lies in long terms of imprisonment, however much the gangster may give indications that he wishes to turn over a new leaf and extract himself from the organised crime scene. Admittedly the long term of imprisonment may do no more than keep this individual out of circulation until, by ordinary passage of time, events occur which decimate the gang and split its power and influence.

This situation is little different from the imprisonment of young men found guilty of what is known in our country as multiple or gang rape. It is common for a number of young men to set upon a girl or woman and rape her. Sentences of seven years or so, which usually result in parole four or so years later, serve to keep the men involved incapacitated in prison while ordinary maturation takes place in the members of their group who were not imprisoned. Because of not being involved in the incident in question, the non-imprisoned peer-group find themselves growing more responsible and keeping company with one particular girl. They get married and start a family. They may grow into improved positions of seniority at their place of work, and in general pass through the stage at which they were when their friends were gaoled for multiple rape. By the time the gaoled individuals are released, the old group has broken up, and the cultural pressures that were responsible for their gang rape no longer exist. Prison in such instances serves a very useful purpose, something which cannot often be said.

The Dangerous Offender in Prison

Gangster-type habitual criminals, therefore, can be dealt with only by severe terms of imprisonment upon conviction. Doubtless they may constitute a serious problem for prison administrators because, like drug traffickers, they tend to continue to carry out their crinimal activities whilst in prison. Such things flow from the pressures in Australia from many directions for care to be taken to deprive prisoners as little as possible of contact with their friends and families on the outside. It is extremely

difficult to afford humane, non-damaging conditions for the non-dangerous offender without providing opportunities for cunning, organised ganster-type offenders to continue their illegal behaviour. It is a conflict common to all Australian prison administrators.

In the course of preparing a report to the Annual Conference of State Ministers and correctional services administrators in Australia in August 1978, Dr. Grant Wardlaw, a senior criminologist at the Australian Institute of Criminology, prepared a questionnaire for distribution to all officers in charge of prisons in our country. The questionnaire requested the respondents to:

1) List the main problems they face in the daily management of inmates in their prisons;

2) Advise if there were any special groups of prisoners who caused more problems than the average;

3) Supply information as to whether or not long term prisoners caused more or less difficulty than other prisoners; and

4) Supply information as to whether or not long term prisoners compared favourably with other prisoners with regard to:

a) conformity to rules,
b) work performance,
c) general behaviour and attitudes, and
d) participation in recreation, education, etc.

In all, 57 questionnaires were returned from Australian prisons out of a total of 64 distributed. The five most frequently mentioned major daily management problems were as follows:

1) The fact that there is insufficient interesting employment and educational opportunities for prisoners;

2) Partly as a consequence of the above, administrators must deal with problems engendered by boredom, lack of hobby and recreational opportunities, and a lack of incentives to participation in the programme of the institution;

3) Shortage of both uniformed and specialist staff;

4) Problems resulting from inadequate and/or over-crowded buildings; and

5) Problems caused by making application for and awaiting decisions concerning parole, work release etc.

It is possible that none of those difficulties face prison administrations in your countries, but they do constitute quite serious problems for prison management in Australia, especially, one might think, in respect of the management of dangerous, violent prisoners.

The problem of difficulties caused by awaiting decisions concerning parole, work release, etc. is unfortunate. It stems largely from the notions that have been allowed to creep into penological thought, in that allocations to parole and to such penal measures as work release have come to be regarded by prisoners as a right, and the refusal by the authorities to grant parole or work release cause the accumulation and expression of resentment by the prisoners. It should be firmly established that the granting of parole or the releasing of a person daily to undertake employment are quite independent of the sentence passed by the judge or magistrate at the trial. The decisions to release are those of quite different tribunals from the fact-finding functionnaires in the criminal justice system and are based on new sets of data and considerations.

Attempts are also made by well-meaning reformists imbued with the fairness and unfairness of parole decisions, to introduce into the system the right of prisoners to appeal against decisions of the parole board and prison authorities on work release and other matters, and to be entitled to legal representation at the hearings of parole boards. It should be clearly established that parole and work release and other related measures are not justiciable issues. They are not part of the judicial system. They are administrative decisions based, hopefully, and ideally, on a great deal of investigation concerning the persons that are the subjects of the decisions. It is permitting a quite new and irrelevant dimension into the total process to admit

the right of prisoners to protest against such administrative decisions.

The problem of preventing abuses creeping into administrative decision-making processes is another matter, and is minimised by open government and 'freedom of information' legislation. Any system of criminal justice suffers where accountability on the part of those administering it is not accorded sufficient emphasis. In our culture, perhaps the most unfortunate thing ever to develop was the notion in the time of King Henry II that offences were breaches of the King's peace rather than a breach of acceptable behaviour between people. Such a development has resulted over the centuries in an air of mystery around the legal and court processes which has continued to the present day. The ordinary man has little knowledge of the functioning of the court system, of the processes of justice, and is sufficiently overawed by it all to have resolved to refer all legal matters to legal practitioners. That the judicial systems in Australia are so free of corruption is indeed a remarkable tribute to the integrity and the quality as professional people of the judges and magistrates in our system. This is not to say, none the less, that justice is always done in our courts, in the fullest sense of the term, since the capacity to engage legal assistance is largely fortuitously determined by one's accident of birth and status in the socio-economic system. Hence, if administrators of probation, parole and prison systems expect to be blessed with the confidence of the community, adequate safeguard must be established and maintained to hold the decision-makers accountable to the community for the quality and integrity of their decisions.

Dr. Wardlaw further requested the prison administrators in Australia to cite the five major problem groups of prisoners in their institutions. In order of decreasing frequency their answers were:

1) Young prisoners, especially those with short sentences and/or experience in juvenile institutions. There are seen as rebellious, anti-authority and unwilling to work or be subjected to discipline.

2) Drug offenders and drug users. The former are seen as problems because they are often more articulate and better educated than the other prisoners and many consider that society does not have the right to impose sanctions against drug use. They may be, as a consequence, difficult to control and disruptive of institutional programmes. Drug users, whether or not in prison for a drug offence, cause problems because wherever possible they continue to traffic in and use drugs whilst in prison.

3) Psychologically disturbed and mentally retarded. This group is seen as unpredictable or subject to pressure and victimisation by other inmates.

4) Aboriginal and ethnic groups. Such people and groups pose problems of culture, conflict and language in our prisons in Australia.

5) Prisoners in need of protection, e.g. some types of sex-offenders.

A most important finding was the complete absence of long term prisoners on this list. Dr. Wardlaw defined long term prisoners as those doing five years or more. Hence in Dr. Wardlaw's investigation the prison administrators reported that it was the type of prisoner, regardless of length of sentence, that was seen as the cause of most management difficulties. To a question to the behaviour of long term prisoners, 96% of the 57 superintendents who answered considered that long term prisoners caused less difficulty than others. Only one thought them to be more difficult and one could not differentiate between the groups. In fact, the long termers, as they are known, tended to occupy important and trusted positions in the prison and to be more involved in education, sports and hobbies. The long term prisoners also compared well with others with regard to certain areas of prison life, such as conformity to rules, work performance, general behaviour and attitudes.

Dr. Wardlaw's survey was instituted because it was felt by Ministers and correctional administrators that because of the growing trend in this country towards de-institutionalising of corrections, there

would develop within prisons a residual group of difficult, long term prisoners which would change the nature of problems of prison management. The fears do not seem to have been justified by Dr. Wardlaw's results. It is possible that the survey has been held too early, that the ultimate problems have not yet surfaced. While probation and parole have been in existence now, in their present form, for two decades, it is only within the last decade that States have inaugurated such a range of community-based non-custodial measures as attendance centre, week-end detention, work release, community service orders and the like. It may be too soon yet to determine the problems that may attend prisons when the only prisoners are relatively long-termers.

I find it difficult to believe that human beings, forced to live under certain sets of conditions, will not evolve a set of sub-cultural arrangements which will improve the tolerability of their living standards and conditions, and that this new-culture will not present prison management with the problems of encompassing and adjusting to it. It seems, therefore, extremely likely that the full ramifications of a change in kind of prison populations have not yet been felt. Dr. Wardlaw's survey seems to point to a diminution of conflictual types of problems, that evidence may be misleading, in that the current largest problem group, the young offender, may be diverting the disciplinary attention of the authorities away from the older long termer. Psychologically informed criminologists have been trying to tell prison administrators for some time of this state of affairs, namely, that the chief irritant to prisoners and catalyst to prisoner ferment and eruption is found in regimentation, over-officiousness and too great an emphasis on disciplined, orderly logistics. There is some evidence, from experiments conducted by Professor Lovibond of the University of New South Wales, that prisoner response seems to be directly related to the quality of prison officer-prisoner human relations. Where discipline is strict and rules and regulations numerous and rigorously enforced, prisoners tend to rebel and create an atmosphere which is conducive to further problems followed by more regulations and rules, in a viciously escalating spiral.

The State in Australia with the largest number of prisoners is New South Wales (daily average during December 1978, 3,829). This State has an imprisonment rate of 76.1 per 100,000 of its general population of 5,031,000 during the same month. No State has tried to do more than New South Wales in terms of: providing work release schemes, open prisons of minimum security and a show place prison at Cessnock in New South Wales, using the latest information available about prisoner management techniques, attention to upgrading the training of prison officers, a useful, viable system of parole and release from prison on licence, educational and hobby opportunities and vocational training in prison. And yet no State has had more trouble with prisoners and prison officers than New South Wales. For many years there had circulated rumours of brutal bashings of prisoners by prison officers in one prison in particular regarded as a prison for intractables set in the northern part of the State, some distance from the capital, Sydney, and having the worst reputation. Extensive damage was suffered in two prisons by rioting prisoners burning buildings to the ground and being subdued in violent fashion by prison officers and suffering, according to all accounts, quite brutal reprisals. There resulted a Royal Commission into New South Wales prisons which, under the direction of Mr. Justice Nagle of the New South Wales Supreme Court, resulted in the now famous Nagle Report on New South Wales prisons. This report resulted in the removal of the then Commissioner for Corrections from his post and the naming of a number of prison officers as unequivocally guilty of brutal assaults against the prisoners in their gaols.

In an attempt to provide an impregnably secure prison for the most unmanageable of violent and vicious criminals, New South Wales built a modern electronically operated fortress to house 48 of the State's worst prisoners. Katingal, as this maximum

security prison was known, was so rigidly organised and controlled that it was possible for prison officers and prisoners never to have to come in contact with one another, except through bars of steel. No more than three prisoners were allowed to congregate in any exercise yard at one time. Prisoners, however, were given every enlightened opportunity for constructive use of their prison time by means of study facilities, encouragement to engage in hobbies, a very creditable library, and every other effort that could be made towards alleviating as far as practicable the baleful conditions due to the nature of the building and the sensory deprivation it inevitably involved. Mr. Justice Nagle made, in all, 328 recommendations for the improvement of the New South Wales prison system including the closure of Katingal and the transfer of the prisoners to another location. In spite of New South Wales being prepared to encourage any known treatment programme, any known method of providing guidance and counselling, vocational training, or psychotherapy, it seemed that the prison system had failed to achieve discipline, good order and secure control.

All States in Australia have experienced their own particular brand of difficulty. The two States with the highest prison population are the ones that seem to have suffered the outbreaks of violence within their prisons. The State of Victoria has been notable for its concern to appoint to prison management positions the most educated and qualified prison administrators it could find. Other States with smaller prison populations have not suffered from inmate violence to nearly the same extent. All States are endeavouring to build, where possible, modern, less oppressive buildings, but all States still suffer from the use of buildings which were designed and built in an earlier age for different purposes and inspired by different motivations. The Australian experience seems to demonstrate that all prisoners become dangerous in conditions of overcrowded, oppressive, dehumanising, unattractive surroundings. Under such conditions it would take prison staff of a much better trained, more educated and enlightened kind to manage prisons without adding sparks to the already inflammatory atmosphere. Although all States are endeavouring to upgrade prison officer training according to their lights, much more remains to be done. There needs to be developed , on the part of the whole community and the legislature and the prison administrators themselves, a recognition of the need for the upgrading of the total prison service into a profession of a worthwhile order.

Traditionally, prison officer staff are recruited from the community. It would be unrealistic to expect therefore that they would have other than ordinary community attitudes. Ordinary community attitudes are well-known in relation to crime and criminals. Everybody is an expert. The general opinion runs along the lines that there is really no problem. If criminals and prisoners are treated sufficiently severely, if we hang all murderers and rapists, imprison all thieves and robbers for long periods, then the problems must surely rapidly disappear. It is significant that such attitudes rarely survive studies in criminology, psychology, sociology and education. As the vast bulk of the public do not encompass such studies, they cannot be expected to know that such harsh treatment was tried in our culture for a long time. In fact, that kind of harsh treatment led to the very foundation of Australia. The public would not be able to believe that if we were to gaol all thieves, all robbers, all rapists and murderers, and all dangerous assaulters (assuming they could be discovered) there may eventually be more people in prison than out. There are, in our community, much more malignant elements of dangerousness than are brought before our courts. The malignantly dangerous parents for one, who are emotionally damaging to their children and damaging to their personalities, are rarely discovered. One sometimes wonders with child psychologist Sara Williams if we should not develop some form of preventive detention for some children to protect them from

their parents.

If it could be established, therefore, that prison officers, who are responsible for the day to day management of criminals and prisoners of all descriptions, could be educated in human behaviour and its psychological and sociological determinants, they would understand more completely the reasons why people sometimes commit violent crime. It would be easier for them then, in their own minds, to separate a person from his behaviour. While disapproving strongly of the behaviour, they may still preserve an understanding of the damaged individual who finds it possible within himself to do violence to another human being. There is a passage in the novel *The World of Susie Wong* by Richard Mason which reads:

> 'Each man has in his own heart the seeds of all men's behaviour, and if one's life had been different, if different circumstances had fertilised those seeds, if they had been blown upon by different winds, known a different and less kindly sun, then it could easily have been that one set of seeds would have grown instead of another, and one could have been as drunk and as crude as the worst of them'.

We might substitute the words 'violent' and 'dangerous' for 'drunk' and 'crude' in respect of our own selves, were it not for our obviously more fortunate beginnings.

Such knowledge in the hands, and in the minds, of prison officers, while in no way altering the nature of their proper duties as prison officers, does engender all kinds of subtle differences in their interactions with their prisoner charges. There is less of the tone of 'them against us'. There is less of the feeling 'you are here to be punished and to be cured of your criminality, and we will break your spirit and send you out chaste, a sadder but wiser man'. A knowledge of the nature of human behaviour, of criminality and of criminology in general will in no way lessen the need of the part of prison officers to maintain security and good order in the prisons. What is maintained is that these disciplinary essentials are still possible in an overall atmosphere of mutual respect due from one human being to another.

In spite of all that has been said, however, there will still arise a need in large prisons for control of violent and dangerous behaviour. Both prison officers and fellow prisoners are entitled to protection from the violent. Every prison administration is faced with this problem. There are measures that can and should be taken, based on our knowledge of human behaviour in general and criminal behaviour in particular on the part of criminologists and others, which has reached mountainous proportions and pours endlessly, it seems, from printing presses all over the world. We already know a lot more than we put into practice. It is time, therefore, that certain incontravertible principles are translated into action.

The first essential is to consider the possibility of creating a violent prisoner by the very act of imprisoning him. One of our most interesting accounts of the prison culture is contained in the report on the Nassau County Gaol, reported in vol. 19, no. 1, of the journal *Crime and Delinquency* (January 1973). Rumours of brutality, corruption and unrest in the Nassau County Gaol in 1969 prompted the District Attorney, William Cahn, to initiate a thorough investigation of conditions within the gaol. For this purpose he enlisted the services of a private detective agency and during the period February 1970 to January 1973, 15 undercover agents spent time as inmates in the gaol. The agents report that in general the gaol was run properly and that most of the problems were caused by overcrowding and the unprofessional and corrupt conduct of a handful of guards. This report repays careful study and consideration. No amount of theorising by criminologists is the equal of the reports from the operatives infiltrated into the Nassau County Gaol for the purposes outlined in the report.

The operatives were carefully selected from more than 2,500 applicants that were reviewed and screened by the private security staff. Once the applicants were selected, they were given a thorough briefing and

background appropriate to the arrest and charges. They were placed in the gaol as persons awaiting actions of the Grand Jury, as defendants awaiting trial, or as sentenced inmates. To accomplish this certain judges assisted Cahn in executing the proper court process necessary to fulfil their intention. To lend further authenticity and to minimise the chance of detection as operatives, all alleged arrests of operatives were processed through and lodged into the Nassau County police department with only a few carefully selected, high ranking officers aware of the investigations.

It was the individual reports of the operatives, both male and female, which provide the most complete insight into how incarceration can actually affect human beings. A section of the report reads: "All of the agents said incarceration was one of the most unpleasant experiences they had ever had. Beyond this the reactions varied considerably. A few were simply unable to cope with the initial shock of incarceration and within a short time demanded to be removed. Almost all of the operatives admitted having traumatic shock upon incarceration although its force was expressed in various ways. One operative remembered that after his first day in gaol he felt he had made 'some terrible mistake by accepting the assignment'. Many seem to feel a kind of torpor, a numbing of consciousness and an inability to assert one's personality. One operative seemed to go into a chronic hysteria. Though he stayed in the gaol a relatively long time, he said he was unable to bear the combination of noise, boredom and lack of privacy. His only relief was working at his prison job. When he lost that, he longed for solitary confinement. Another operative found himself becoming openly aggressive and violent. This man, raised in a tough, lower class neighbourhood, was on leave from a Ph. D. programme in Political Science when he entered the gaol. Once inside he felt as though he was back in the streets. He felt 'at war' with the prison and set out to 'organise his own gang'. He was certain that, had he been in the prison as a bona fide inmate, he would eventually have assaulted a guard. There was also the problem of separation from family and friends. Most of the male operatives found that the prison environment simply killed both the memory of and the desire for sex. The women, however, seemed to feel the deprivation of physical and emotional intimacy more acutely than the men, although they tended to provide more emotional support for one another than their male counterparts."

If it is desired, therefore, to avoid the creation of dangerous people within prisons, it is essential that prisons be made as small as practicable. A recent document published by the Australian Institute of Criminology, edited by the writer of this paper,[6] recommends that prisons in Australia be no larger than 250 inmates. It is felt that prisons of that size provide requisite opportunities for prison officers and inmates to become sufficiently aware of one another as human beings and to avoid the worst effects of the depersonalisation that often besets inmates of large prisons. It is acknowledged that all prisons will require small secure blocks of cells for the containment of any prisoners who become temporarily uncontrollable because of particular sets of circumstances with which they are unable to cope. It is doubtful if more than a small handful of prisoners ever need to be incarcerated under such secure circumstances at any one time. The more the prison is run along informed and humane lines, the less likely it is that there will be found a need for the securement of great numbers of prisoners.

A smaller number of prisoners to each prison also facilitates the organisation of programmes designed to assist prisoners to make constructive use of their prison time, whether by way of productive work, hobby activities, sporting and physical activities or preferably all combined. The same evils attend large prisons as attend large schools and large hospitals, or large government departments, large cities or large apartment houses. If it is so firmly believed that smaller prisons will be less damaging to the inmates, then the larger expenditure involved in building a greater

number of smaller buildings instead of seeking the economies of scale in building large institutions is well justified. If prisoners return to the community more damaged, more violent, more criminally inclined than they entered them, the expenditure on the building of prisons, whatever it might be, is wasted.

The law provides only that prisoners be deprived of their liverty. It does not stipulate that they must also be deprived of their dignity and self respect. All prisoners know that a gaol is not supposed to be a holiday resort. They expect discipline to be a part of prison life and have no objections to rules and restrictions that are reasonable. The Nassau County Gaol investigation revealed that the primary source of irritation and unrest was the dehumanisation of inmates, caused partly by overcrowding in the institution and partly by the attitudes of certain members of the staff. The report continued that, from an administrative standpoint, this dehumanisation, this stripping away of an inmate's dignity and self respect, is potentially explosive.

It is possible that Japanese and other South East Asian prison administrators do not have to report, as we do in Australia, significant failure in achieving the purposes for which prisons are supposed to exist. We do not claim rehabilitation in a significant number of instances or a deterrent effect associated with our prisons. That ought to be reflected, if it exists, in the overall control of rates of crime. The difficulties of determining actual rates of crime are well known, but one uld be unrealistic to claim that rates of crime in our culture are not steadily increasing, even though few would claim a precise knowledge of its extent.

In the light, then, of such a need on our part for a becoming modesty, we should not overlook the claims of those who put forward suggestions and schemes for the improvement of behaviour on the part of citizens in general and prisoners in particular. A recent American publication[7] urges correctional administrators to consider seriously the advisability of testing the effects of diets on delinquents and criminals. The book presents an initial review of theory, research and applied findings that relates to dietary deficiencies, and the links between these and outbreaks of violence by individuals suffering chemical imbalances, originating either from genetic factors or induced especially during the birth process or during early childhood by improper nutrition of the mother and/or child. While there are highly important legal, ethical and social implications involved, a prison population provides an ideal setting for the volunteer use of dietary methods of effecting behaviour modification. There is sufficient impressive evidence in the publication to warrant serious study by those responsible for the containment of violence, both in the community and within our institutions. In spite of obvious gains in recent decades in the understanding of criminal behaviour and the development of a science called criminology, so far there is little reason for much confidence that criminologists and correctional administrators can afford to ignore the claims of any group of enthusiasts. I, for one, for instance, would not ignore the claims of the Transcendental Meditationists. They claim to have introduced their techniques in correctional circles and achieved remarkable results. There are also impressive claims abroad for the success of Transactional Analysis. We have to remain concerned, however, that any biomedical or psychological interventions that are contemplated are compatible with the values of a free and moral society.

In conclusion we should recognise (with the committee formed in the United Kingdom in May 1976, by the Howard League for Penal Reform, and the National Association for the Care and Rehabilitation of Offenders, on the initiative of the Academy of Contemporary Problems, Columbus, Ohio, under the directorship of Dr. John Conrad) that no significant impact can be made on the social phenomenon of gravely harmful behaviour by measures directed solely against individual offenders. What are needed, the Committee claims, difficult though it may be to devise them,

are more broadly conceived social policies directed against such social practices or other features of social life as can be shown to make such behaviour to be more likely to occur.

FOOTNOTES

1. Australian Prison Trends-No. 31 (Australian Institute of Criminology), January 1979.
2. University of Sydney: *The Dangerous Offender-Prediction and Assessment,* Proceedings of Institute of Criminology Seminar.
3. Conrad, J.P. and S. Dinitz: *In Fear of Each Other,* (Lexington, Massachusetts, Lexington Books, 1977), P. 10.
4. Mrs. Jean Floud is Principal, Newnham College, Cambridge, and Chairman, Committee on Dangerous Offenders (U.K.).
5. See Cahn, William, 'Report on the Nassau County Gaol', *Crime and Delinquency,* vol. 19, no. 1, Jan. 1973.
6. Bevan, C.R. (ed.), *Minimum Standard Guidelines for Australian Prisons* (Canberra, Australian Institute of Criminology, 1978).
7. Hippchen, Leonard J.: *Ecologic and Bio-chemical Approaches to Treatment of Delinquents and Criminals* (New York, Van Nostrand Reinhold Company, 1978).

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SECTION 2: PARTICIPANTS' PAPERS

Treatment of Dangerous or Habitual Offenders

*by Brahma Narain Bahadur**

Introduction

The problems relating to both dangerous and habitual offenders have exercised the mind of law enforcing agencies, judges, the magistracy, jail personnel and others connected with the administration of the criminal justice system since long. While the focus on the areas of problems has differed with these different agencies, as also at different points of time, the problems of such offenders have been there all along. The dangerous or habitual offender has been as much a part of his social milieu as the so-called normal citizen. Hence, in different generations, and in different places all over the world, there have been different types of problems noticed in regard to the sentencing, the treatment and the policy for such offenders.

There has, however, always been felt a need for isolating both dangerous and habitual offenders, for punishment by the sentencing agencies, and for shadowing by the law enforcing agencies. In the case of prison personnel, there has similarly been emphasized a need to isolate them for problems of discipline. Even the magistracy views the cases of habitual offenders in a different light.

In this paper an attempt has been made to study the treatment of dangerous and habitual offenders with reference to India.

Legal Provisions for Dangerous or Habitual Offenders

1. Special Legislative Measures—historical

The need for special legislation and treatment for dangerous and habitual criminals was first attempted for tackling by the colonial rulers in India, through a legislation called 'Criminal Tribes Act 1924.' This legislation notified certain tribes and communities in the country as being 'criminal tribes' and considered crime as being a hereditary calling for these people. Severe restraints were placed on persons belonging to these tribes, which were, normally, nomadic in character. They were kept apart in settlements and subjected to all sorts of restrictions in movement and freedoms. Segregation of the children was resorted to. The purpose for the separation of the children was stated to be the laudable one, of removing them from contamination with criminals, and of providing them with good schooling at the State's cost.

However, there was no justice and equity in this system of administration. The basic difficulty was that a person was labelled at his birth, and instead of weaning away the criminal from the life of deviant behaviour, it condemned even the new born to a firm belief that he was a criminal. No honest conduct could really have been expected from a person growing up in such circumstances. This system of legislation was ended in 1952, after the attainment of independence by India. Attention to the need for tackling the dangerous and habitual offenders was, however, not left unattended. What had to be tackled was the problem, on the basis of an individual's behaviour rather than owing his belonging to a particular tribe or group. The Government of India accordingly felt the need for a legislation in respect of habitual offenders as processed through the criminal justice system. Since law and order is a subject on which various States of India legislate under the India Constitution, a Model Bill on Habitual Offenders was drawn up and circulated to them for consideration. Some of the States drew up what are known as the Habitual Offenders Act making such

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modifications as local conditions required. These Acts classified offenders as habitual on the basis of the nature of offences and their proneness to criminal acts. By and large, however, such offenders continue to be dealt with within the general provisions of law.

2. Provisions in Substantive Law

Section 110 of the Code of Criminal Procedure 1973 contains a significant provision for such offenders, under which a judicial magistrate of the first class may require a certain habitual or dangerous offender specified in the Section to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the magistrate thinks fit. This provision enables the law enforcement agencies to keep under check criminals who are prone to undertaking habitual violation of the law. The device of law has, in it, certain build-in advantages. It does not add unnecessarily to the prison population by sentencing a man to a term behind bars. At the same time his criminal activities are sought to be kept in check by requiring him to furnish a bond of good behaviour with or without security, if the court is satisfied in a particular case. Thus he is returned to the community on a sort of a probation, with a chance given for improving himself, making a living in his normal vocation and being useful to himself and his family members as also to society in general.

It is important to note, as expressed by high courts in various rulings, that adequate safeguards are provided to ensure that harassment is not caused to the innocent individual. Thus in judging as to whether the person brought up before the court is a habitual criminal or not, there is required to be a complete and satisfactory proof through records of previous convictions by courts of law. Mere description of his criminal activities by the police or evidence adduced by them and other agencies are not enough as a proof for the habitual criminality of the person in the dock. This has been seen to be a very adequate safeguard for persons sought to be brought under the purview of this provision of the Code of Criminal Procedure.

3. Provisions for Enhanced Punishment for Habitual and Dangerous Offenders

Section 75 of the Indian Penal Code 1860 seeks to provide enhanced punishment for certain types of offences after previous conviction. These offences relate mainly to counterfeiting of coins and stamps, offences relating to property, viz. theft, dacoity, misappropriation, breach of trust, cheating, mischief, criminal trespass, etc. A safeguard is provided here also by the stipulation of a condition that previous conviction of the person who is sought to be given an enhanced sentence should be for a term of not less than three years.

4. Externment of Criminals

Certain enactments of State Governments provide for localized measures to deal with criminals operating in certain areas and posing problems for those particular regions. It is resorted to in some enactments by a process of externment of criminals and gangs who have been convicted for specified offences. Under such legislation, which are usually contained in the police acts of the various State Governments, a person or persons who have committed certain specified offences, and have been convicted for them, can be required not to enter a particular area for a given period, if it is apprehended that they are moving around in that area for the specific intention of indulging in criminal activities. This provision has useful applicability in metropolitan towns and crowded areas, which offer a fertile ground to migratory criminals. Gangs of criminals often go to such areas from nearby villages with a view to reaping a harvest through nefarious activities. Externment provides a useful tool for holding and checking their anti-social activities.

There is no doubt a school of thought on this modus operandi of law, which believes that this is only a method of throwing one's garbage into the neighbour's garden. Criminals so externed, it asserts,

find a new ground for their activities in other places. However, as explained, this enactment is meant to contain certain crimes which are endemic to particular areas. Such conditions favouring criminogenic situations may not be existing in other areas and the selective use of the tool of externment can be a valuable method of dealing with localized problems and given categories of offenders. If an externed person enters an area from which he has been legally asked to stay away, he is liable for imprisonment. Safeguards similar to the ones mentioned in respect of Section 110 of the Code of Criminal Procedure are also incorporated in the procedures stipulated in such cases.

Institutional Treatment of Dangerous and Habitual Offenders

1. Identification and Classification

Since the past several decades an increasing emphasis has been placed on the classification of offenders in prisons in India through the rules set out in the State Prison Manuals. In the years following the attainment of Independence of the country, the Central Government of India appointed a Commission to draft a Model Prison Manual. This was to give the States a model and framework which they could adopt in their respective States with modifications as local conditions would require. The Model Prison Manual also took into account the socio-economic transitions in the country, as also the fact that a realistic approach to the crime problem lies in the application of scientific methods and in the understanding of the whole process of delinquency and crime in relation to current social transitions.

The Prison Manuals in the country follow, by and large, the criteria laid down in the Model Prison Manual for the identification and classification of prisoners. The following persons are classified as habitual criminals.

i) Any person convicted of an offence punishable under Chapters XII, XVII and XVIII of the Indian Penal Code, whose previous conviction or convictions taken in conjunction with the facts of the present case, show that he is by habit a robber, house breaker, dacoit, thief or receiver of stolen property or that he habitually commits extortion, cheating, counterfeiting coin, currency notes, stamps or forgery;

ii) Any person convicted of an offence punishable under Chapter XVI of the Indian Penal Code, or under the Suppression of Immoral Traffic in Women and Girls Act whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he habitually commits offences against the person or is habitually engaged in immoral traffic in women or children;

iii) Any person committed to or detained in prison under Section 123 (read with Sections 109 and 110) of the Code of Criminal Procedure;

iv) Any person convicted of any of the offences specified in i) and ii) above when it appears from the facts of the case, even though no previous conviction has been proved, that he is by habit a member of gang of dacoits, or of thieves or a dealer in stolen property, or a trafficker in women or children for immoral purposes;

v) Any person convicted of an offence and sentenced to imprisonment under the corresponding sections of the Indian Penal Code and the Code of Criminal Procedure;

vi) Any person convicted by a court or tribunal acting outside India, of an offence which would have rendered him liable to be classified as a habitual offender if he had been convicted in a court established in India;

vii) Any person who is a habitual offender under the Habitual Offenders Act or other corresponding Acts.

The classification of convicted persons as habitual is ordinarily done by the convicting courts. However, in prisons classification is a dynamic process. In order that permanent branding be avoided, a continuous study by a well-regulated process of the prisoner's behaviour and responses is

carried on, and changes in classification made.

2. Treatment Programmes

The treatment programmes for habitual and dangerous prisoners are planned on the basis of individual requirements. While such prisoners are generally lodged within the larger inmate body, they are liable to be segregated within the same institutional setting as and when required. The educational and vocational training programmes are being progressively diversified to cater to the varied correctional requirements of different types of offenders. Special stress is laid on work programmes having therapeutic and rehabilitative value. Services of outside social welfare agencies including moral preachers are systematically obtained to provide healthy social influences. In many jails, welfare officers, psychologists, etc. have also been appointed to render individualized services including counselling and other psycho-therapeutic programmes.

3. Forms and Extent of Disorderly Behaviour of Dangerous or Habitual Offenders.

The nature and the extent of disorderly behaviour of habitual or dangerous offenders in institutions is far too varied to enable a facile generalization. In India it is very often the experience of the prison superintendent that persons convicted of the most violent of crimes are very often docile inmates and amenable to discipline in the institution. However, the habitual and dangerous offenders seem to be the subject of a more serious concern to the head of an institution than most normal inmates. Prima facie habitual offenders having been in jail before are not subject to that awe of prison personnel or prison bars than a newcomer may be.

The first type of disorderliness that may come about is a tendency to try to escape from the prison. This, however, is not so easy as many thriller stories would try to have us believe. The other forms of disorderly behaviour which such criminal may take to are doing an act calculated to create unnecessary alarm in the mind of other prisoners, trying to cause illness or injury to himself or instigating other prisoners to acts of disorderly behaviour.

In extreme cases some mischievous elements could even try to precipitate a riot or mutiny by instigating their colleagues. This occasionally also takes a form of direct defiance of prison officials through disobedience of prison rules or refusal to obey lawful orders of prison authorities. Another form of misbehaviour is the attempt made by many habitual criminals to bring in contraband articles like drugs and alcohol within the prison premises. This tendency is occasionally not unbelievable, when the facilities of meeting prisoners is misused. Another form of disorderly behaviour which has not been unnoticed is in relation to sex. While these have been exaggerated out of proportion in many places, an active eye is always maintained by the head of the institution to any mischief that a few bad fish in the institution may try to create. It may, however, be pointed out here that this, as indeed many other forms of disorderly behaviour, cannot be rigidly pointed out merely to be endemic to classified habitual or dangerous offenders only. It may be a common factor with many petty thieves inside the prison bars.

The manner in which proper mental and physical occupation of prisoners would help in solving these problems and leading to treatment-cum-rehabilitation programmes has been described above in this paper. However, the role of disciplinary measures and procedures with a view to maintaining security in day to day living in the prison cannot be underestimated.

4. Disciplinary Measures and Procedures and Other Devices for Maintaining Order and Security

Most prisons in the country have a formal discipline board with suitable prison functionaries associated with it. For smaller prisons the head of the prison could perhaps suitably undertake the responsibility on himself. The functions of this board are to conduct the orderly room enquiries, to decide about disciplinary action to be taken, to review the cases of prisoners

undergoing punishment, and to plan suitable measures on prison discipline in general.

When situations so demand, segregation of inmates from others in resorted to. Prison officers have full powers to undertake this, and during such segregation, to withdraw reasonable facilities which would normally be given to the prisoners. Preliminary enquiries are made on each incident of injury or violence, and action taken according to the rules and legislation which are available in this regard. It may be mentioned here that the Prisons Act in India has suitable provisions in it, where the magistracy are authorized to punish the guilty on specified offences. The prison officers are also authorized to order punishment on other simpler acts. The situations specially provided for are rioting, escape, offences effecting human body and offences triable exclusively by the Court of Sessions. In reference to the Indian Penal Code, the main substantive legislations are clearly and specifically provided. Thus, both an administrative framework and a judicial framework are available at the command of the correctional personnel to enforce disciplinary measures with a view to maintaining order and security in the institution.

One important device that is used for dealing with the prisoner who is guilty on any offence in the prison is called to orderly room. This sort of quasi-judicial procedure is nevertheless conducted by the administrative authorities in the prison, namely, the superintendent.

Even in the process of disciplining, the involvement of prisoners is ensured through a system of "Panchayats.' There is a system of incentives for good behaviour through a variety of measures like remission, furlough, premature release, etc.

Community-based Programmes for Dangerous or Habitual Offenders

The subject relating to the de-institutionalization of corrections and its implications for residual offenders assumes a profound significance in view of worldwide controversy regarding the role and functions of the prison as an instrument of social control. Besides the traditional arguments regarding the inherent contradictions in the custodial and rehabilitative functions of the prisons, the dehumanising aspects of incarceration and the failure of penal institutions to reduce crime and the recent emphasis on the protection of human rights has given a new impetus to the movement towards the treatment of offenders away from prisons.

The efforts towards de-institutionalization have led to a number of experiments conducted to break the monotony and isolation of prison life, as also to treat prisoners in an atmosphere as similar to that of community as possible. In many places, a phased programme from maximum security to free living conditions within the same institutional setting has been successfully implemented. In some institutions, the inmates are encouraged on a selective basis to participate in the social and economic life of the outside community. The establishment of open camps based on the principles of self-discipline, constructive work and free community living is another landmark in the movement towards de-institutionalization. A reference to the open prisons which have been set up in almost all the States of the country will probably be relevant. Experimental open air prisons have found, by and large, to be very successful in treating various categories of prisoners including habitual offenders and others convicted of violent crimes. The prisoners of open prisons are usually made to work on agricultural activities and are rewarded for their labour through payment of wages. Needless to say, such prisons are not meant as a substitute for the normal institutions.

The procedures governing remission, furlough, parole and other forms of premature release are being appropriately liberalized to protect offenders from the adverse implications of prolonged institutionalization and to ensure their timely return to the open community. The coordination between prison programmes, aftercare services and social welfare agencies including voluntary social workers has

greatly enabled a smooth transition from the prison to the community.

The criminal justice system in India aptly embodies the principle of differential approach towards the handling and treatment of different categories of offenders. The underlying spirit of the law is not to prefer imprisonment over community-based correction but to adopt a particular mode consonant with the type of person and the nature of offence committed by him. According to the Code of Criminal Procedure 1973, when any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct and in the meantime to keep the peace and be of good behaviour. While the approach towards youthful offenders under the Code of Criminal Procedure 1973 envisages imprisonment as a measure of last resort, with regard to adults it is mainly discretionary to be applied in specified circumstances taking into account the totality of each case.

Further, the Indian law provides that when any person has been sentenced to punishment for an offence, the appropriate Government may, at any time without condition or upon any condition which the person concerned accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

In addition, to meet the newly emerging requirements of the criminal justice system, some basic changes seeking to introduce new forms of punishment of crime, such as community services, payment of compensation to the victim of the crime, public censure and disqualification from holding an office are under consideration. It is, therefore, quite evident that legal reform in India, while maintaining the status of the prison for certain types of offenders, is also trying to move towards the objectives of de-institutionalization.

The concept of "dangerousness" and habitual convicts is also not free from controversy. One who is dangerous to the community may not be so away from his milieu; another who is convicted as a dangerous offender may not be so during confinement; and furthermore the dangerousness of an inmate may only be a reaction of the situation of being in prison. There is, therefore, always a question mark posed before the world of correction as to whether a strict segregation of prisoners on the basis of dangerousness or their habitual nature may lead to a new system of labelling. Nevertheless, the need for de-institutionalization of offenders in its totality is very important. The reasons for this would be that in placing more and more the "Ordinary' criminals outside the institution there is a great reduction in overcrowding in prisons. This enables the prison personnel to give the special and individualized attention to the habitual and dangerous offender, which indeed is the really crucial factor in the treatment of such offenders.

The Treatment of Dangerous Offenders by the Prisons Department of Malaysia

*by Sulaiman bin Haji Sani**

Introduction

In Malaysia, serious crime and juvenile delinquency is a relatively recent phenomenon. As a problem, it virtually did not exist before the Second World War. Indeed, the need for legislation to combat serious crime and juvenile delinquency arose only after the Second World War when there was a tendency towards a breakdown of the family unit resulting in the consequent loss of parental control.

In recent years, it is becoming more apparent that the upsurge of crime rate in Malaysia can be identified as having close relationship with fundamental changes in modern society. The two decades following independence (from Britain in 1957) are characterized by a high rate of developmental activities. Vast sums of money and resources have been poured into rural projects, land development schemes, education, economic and industrial sectors. Urbanization, industrialization, urban migration, evolution of new attitudes and life styles—all these are features of the modern Malaysian society. Needless to say, all these have far-reaching social and cultural consequences. It is in this context of societal transformation, as the nation seeks to propel herself into the modern world, that one sees crime rate on the rise in Malaysia. In a sense, this is the social cost and price she has to pay for progress and higher standards of living.

The various socio-economic forces at work in the society have given birth to the emergence of a new category of daring criminals, persons who commit serious offences such as armed robbery, kidnapping and bank hold-ups. Modernization is accompanied by rising living standards, opportunities for crime as well by a rocketing aspiration level. This aspiration often transcends the 'basic' needs of food, housing and clothing. In this context, crime may not be motivated by starvation or other serious needs but rather induced by desire to get rich quickly. Modernization fosters the development of a new set of values and attitudes generally associated with modern man. Urbanization fosters a concern for material success. The pursuit of those goals and living beyond one's means seems to be the major reason why certain persons commit serious offences. This seems to be the explanation, too, for the rise in white-collar crime and corruption.

To aggravate the situation, since the early 1970's up to the present time, Malaysia has been beset with the problem of drug addiction and trafficking and increased criminal activities using firearms. The Government has recognised the necessity of adopting stern measures. As such, several new laws have been enacted such as Internal Security Act, 1960 (Revised 1972), Firearms Act (Increased Penalties Act, 1971), and Dangerous Drugs Ordinance with a view to combating against those unlawfully possessing firearms and indulging in drug addiction and trafficking respectively.

The Malaysian Correctional System

With a population of about 15 million inhabitants, Malaysia has an overall prison population of about 9,000 inmates. The Prisons Department administers about 30 penal establishments such as prisons, rehabilitation centres and advanced approved schools for juvenile delinquents.

The Minister of Home Affairs is the central and final authority for policy-making and administration relating to the treatment of offenders in Malaysia. The Director-General of Prisons is responsible to the Minister through the Secretary-General of the Ministry for the direction, supervision and overall control of all penal

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establishments in Malaysia. Under him, at the National Prisons Headquarters is the Deputy Director-General and the various heads of divisions. At the local level, a penal institution may be headed by a Director, Senior Superintendent or Deputy Superintendent, depending on the size and inmate population of the institution.

The principal aims and objectives of the Malaysian Prisons Department can be summarised as the secure confinement of inmates for the terms of their sentences and the correction and rehabilitation of offenders with the objective that persons deprived of liberty should enjoy basic rights and as far as possible conditions of life in accordance with the dignity of a free man in a democratic country.

The penal system of Malaysia can be said to be modelled from the British System. The essentials of penal administration and the treatment of offenders are provided for in the Prisons Ordinance (1952) and Prison Rules (1953). The above-said prison legislations embodied a modern approach to the treatment of offenders and conform in almost all aspects with the Standard Minimum Rules of United Nations.

Stating that the purpose of the enforcement of a sentence involving deprivation of liberty is to enable an offender, upon his return to society, to live and work as a regular normal citizen, these prison legislations also spell out principles concerning legality, humaneness, and a uniform penal system for the country as a whole and for all convicted persons regardless of the offences committed.

The general principles of penal administration in Malaysia can be summarised as follows:

a) Discipline and order shall be maintained with fairness but firmness, and with no more restriction than is required for safe custody and to ensure a well-ordered community life.

b) In the control of inmates, prison officers should seek to influence them through their own example and leadership, so as to enlist their willing cooperation.

c) At all times, the treatment of inmates shall be such as to encourage their self-respect and a sense of personal responsibility so as to rebuild their morale to inculcate in them habits of good citizenship and hard work, to encourage them to lead a good and useful life on discharge and to fit them to do so.

The other main features of the Malaysian correctional system may be briefly summarized as follows:

a) Penal servitude and sentences of hard labour have been abolished since 1952. The court determines the length of imprisonment and all measures for classification and individualisation of treatment are left to the prison administration to do within the framework of the Prison Rules.

b) The rehabilitation programme is geared towards the preparation of inmates for their return to the community as law abiding and socially productive persons. It is carried out under varied circumstances through a host of organised activities in the various institutions. Full-time teachers and trade instructors are employed by the Prisons Department to assist inmates in the rehabilitation programmes.

c) In the penal establishments, all facilities and conditions for work, living, recreation, education, spiritual and mental upliftment conform to the standards prescribed by medical authorities and social conscience.

d) The Prisons Department operates a progressive stage system, an earnings scheme and remission system. At present, there is no parole system. Much has been done in recent years to improve the diets and revise the rates of earnings of inmates.

e) Most of the prisons in Malaysia were built before the Second World War. Over the years, much efforts have been taken to renovate them to make them more conducive to the aims and purposes of modern correctional practice. The need to build more modern penal institution is recognised. A good example was the setting up of an open borstal

agricultural farm at Ayer Keroh in Malacca. A most modern prison complex, embodying the latest ideas in prison architecture, is being constructed in Kajang, near the capital city of Kuala Lumpur. The first phase is expected to be completed in mid 1981. At the same time, there are also plans to build up new prisons in Alor Setar, Johor Bahru and Kuantan to replace existing ones.

Dangerous Prisoners—Identification, Types and Statistics

First, it will be necessary to identify those who constitute what may be termed as dangerous offenders:

a) Condemned prisoners awaiting execution (hanging),

b) Prisoners serving life sentence (20 years) and sentences of natural life imprisonment,

c) Persons committed to prisons because of offences relating to armed robbery, kidnapping and illegal possession of firearms,

d) Notorious gangsters with secret society affiliations,

e) Persons committed to prisons because of offences relating to drugs and narcotics,

f) Prisoners who have made several attempts to escape, and

g) Criminal lunatics.

It should be noted that prisoners are classified dangerous or not dangerous mainly on the basis of the gravity of the offence committed and on police evidence. The Prisons Department of Malaysia has not reached the sophisticated stage of having psychiatrists, psychologists and behavioural scientists in its employment. As such, important as they are, classification of prisoners from socio-psychological viewpoint is not being given its due emphasis.

Roughly speaking, it can be said that dangerous prisoners make up for about 25% of the total prison population. Some statistical data may throw light on the volume of the problem.

On 1 January 1979, there were 62 condemned prisoners awaiting execution. They were convicted under the following acts:

i) Internal Security Act, 1960 (Revised 1972)	45
ii) Firearms Act (Increased Penalties Act, 1971)	4
iii) Sec. 302 of Penal Code (Murder)	13
Total	62

At the same time, there were 25 persons serving imprisonment for the rest of their natural life and 92 persons serving sentences of life imprisonment. They were convicted under the following acts:

a. Imprisonment for the rest of natural life

i) Internal Security Act, 1960 (Revised 1972)	1
ii) Firearms Act (Increased Penalties Act, 1971)	19
iii) Sec. 302 of Penal Code (Murder)	5
Total	25

b. Life imprisonment (20 years)

i) Internal Security Act, 1960 (Revised 1972)	19
ii) Dangerous Drugs Ordinance	28
iii) Penal Code (Sec. 302—Murder)	22
iv) Penal Code (Sec. 304—Culpable Homicide)	8
v) Penal Code (Sec. 394—Robbery)	5
vi) Kidnapping Act	10
Total	92

Of late, there has been a very marked increase in the number of drug addicts and drug traffickers or pushers that are being contained in the prisons. Today, overall in the various prisons, the number of drug cases stands at 1,478 drug addicts and 324 drug pushers or traffickers. Of this number, it is felt that some 25% may be considered as dangerous.

Dangerous prisoners in the Malaysian prisons may be divided into the following three groups:

1. Anti-authority and subversive group
2. Problem personality group
3. Escapees.

1. Anti-authority and Subversive Group

This group, as may be expected, is the

largest of the three and comprises those men who had committed major or even sensational crimes. Generally speaking, these men are special in that they had hardly 'drifted' into the crime for which they were imprisoned. In most cases, it would have been difficult for them to say that they did not know what they were doing when they committed the offence, for the offence was typically a very flagrant breach of social rules.

These are the men whose criminal careers involved dramatic armed robberies, kidnappings, bank raid and hold-ups. These men carried weapons and had used them. They worked with other men. Inside prison, they are the ones prone to be uncooperative, to engage in escape attempts or to take a leading role in riots or demonstrations. Authority is to be challenged through the combined power of the prisoners. Their style of prison adaptation is obviously a carry-over from their outside authority relations.

Generally speaking, their philosophy of life may perhaps be summarised as follows. The world is out there. Success in life involves going out and getting their share; it necessitates daredevil techniques—the armed robbery, the kidnapping—and it means working against the odds much of the time. Life has to be lived dramatically or not at all and crime provides the opportunity for taking dramatic chances. To men of this orientation, prison was another challenge. The escape is now the behaviour which ran against the odds and therefore eagerly attempted. In other words, once they accept risk-taking, imprisonment is part of the game. They want nothing more than what we all want—money, power, in a word, success; but they are in a hurry to get it and they are not particular as to the means.

Generally, it can be said that majority of the prisoners termed dangerous come from a background which displays broken home and lack of parental love. As such, deprived of proper guidance from parents at a tender age and exposed to the sordid aspects of life, they succumb easily to the temptations of the underworld. Research findings also indicate that the majority of them have received only minimal formal education and were engaged primarily in manual occupations. While serving sentence in prisons, it is found that the more youthful they are, the more aggressive, resentful and dangerous they can be.

2. Problem Personality Group

These individuals are grouped by the 'unpredictability' of their behaviour associated with a perceived personality problem of some kind or other. The descriptions used frequently referred to 'psychopathic' or 'aggressive' characteristics allied with 'unstable' or 'hysterical' outbursts. What is dangerous about them is their potentiality to harm themselves, other prisoners or staff. It is this group of men who are popularly seen as presenting special medical problems to the prison authorities. Although small in number, this group undoubtedly provides part of a nagging problem for prison administrators.

3. Escapees

Broadly speaking, as a group they overlap to an extent with the first group through here the emphasis is mainly on escape rather than anti-authority, trouble-making or subversion. For the achievement of its goals, this group is dependent on other prisoners for co-operation and staff for time to plan. As such they do not seek to draw attention upon themselves. They are seen often as meticulous planners obsessed with dreams of escaping. They pose, needless to say, the problem of containment for staff.

Below are given some statistics as regards the escape problem faced by the Malaysian prisons.

Year	Escapes from Prison: Successful	Escapes from Prison: Unsuccessful
1975	10	—
1976	6	9
1977	5	4
1978	9	—

Note: Some of the escapees escaped while working outside the prison walls with an outside working party.

Treatment of Dangerous Offenders

Mention must be made that for the country as a whole, there exists a uniform penal system for all convicted persons regardless of the offences committed.

The penal legislations guarantee the following to dangerous prisoners as well as to other categories of prisoners:

a) Remuneration for work,

b) 16 hours of rest in every 24 hours as well as 1½ day rest per week,

c) Health and medical services,

d) Opportunity to carry on correspondence and to receive parcels and other items coming in by mail or otherwise,

e) Normal working hours,

f) Hygienic conditions of work,

g) Visits by a legal adviser in order to protect his rights, and

h) Opportunity to complain if he has any grievances to the officer-in-charge of the penal institution, to a higher supervising officer or directly to a visiting justice making an inspection of the institution.

Upon admission to a prison, like all other categories of prisoners, a dangerous prisoner will be subjected to an interview by the reception board. Each prisoner will be documented and a dossier is opened for him. Information about his background, marital status, financial standing, educational qualifications and health is assembled. The reception board, consisting of the head of the institution and his deputies, vocational training instructors and welfare officers, ascertain his interests and allocate him the type of training and treatment best suited to him. Special care will be taken to see that the dangerous prisoner is allocated to workshop when he can least create any mischief or danger to himself and others.

The prisons service operates a progressive stage system and an earnings scheme. To prisoners who exhibit good behaviour in work, the progressive stage system and earnings scheme provides the benefit of privileges. It is designed to provide incentive to prisoners to be industrious, and to encourage them to accept and participate in the vocational training programmes and maintain good behaviour.

The progressive stage system is based on the length of stay in custody. The longer one's sentence is, the higher one can rise in the stage system, thereby obtaining numerous privileges. The earnings scheme is related to the level of skill and amount of work the inmate does. Of his monthly wages, he is required by regulation to save one-third to be paid to him on discharge. He can spend the remaining two-thirds of earnings on canteen articles.

The Prison Rules also stipulates the duties of prisoners consisting of obligation to observe the provisions of the Prison Rules, the rules on work and social discipline and orders issued by the prison authorities. For the maintenance of order and discipline in penal institutions, the Prison Rules also provide disciplinary punishment, proclaiming at the same time that only those restraining measures which are indispensable for maintaining security and sound functioning of communal life in the institution may be employed against prisoners. The disciplinary punishments are as follows: reprimand, segregation, demotion in stages, deprivation of social privileges and earnings, restricted diet, and committal to solitary confinement up to seven days. As may be seen, physical punishments that may cause serious consequences to the health of a prisoner is not used in the system of disciplinary measures in Malaysia.

Like other categories of prisoners, dangerous prisoners may earn remission of one-third of their sentence by industry or good conduct.

Just prior to being discharged, prisoners may request for aid from the local Discharged Prisoners' Aid Society. The assistance rendered usually may take in the form of provision of a travelling railway ticket, new clothing, some cash, some working tools for a trade or opportunities to be recommended for a job in the private sector. Some of the prisoners may also be given the opportunity to work for a short period in one of the workshops run by the local Discharged Prisoners' Aid Society.

It cannot be denied that the following

problems do exist to hinder their successful reintegration with society upon discharge:

a) Social stigma—Malaysian society is still apprehensive as regards giving them jobs.

b) The existence of a large number of school-leavers limits their chances of getting employment in the labour market.

c) Unavailability or lack of halfway houses.

d) Lack of a good environment which very often exposes them once again to negative influences.

There may be some dangerous prisoners who can benefit from community-based programmes without jeopardising public safety. Treatment in the community imposes less burden on offenders, their families and society at large. From the viewpoints of effective resocialization of offenders as well as humanitarian consideration, it may, therefore be desirable to encourage the use of community-based treatment even for some dangerous offenders. However, it should be noted that its successful implementation will depend on the availability of funds and manpower resources as well as on winning public support.

Appendix

Year	Prison	Advanced Approved School	Rehabilitation Centre	Total
Daily Average Prison Population				
1975	4,895	785	1,000	6,680
1976	4,900	701	930	6,531
1977	5,500	831	1,004	7,335
1978	6,891	916	881	8,688
Admission				
1975	13,862	542	472	14,876
1976	16,801	545	579	17,925
1977	19,552	403	332	20,287
Releases				
1975	11,412	220	201	11,833
1976	11,723	241	190	12,154
1977	13,228	272	395	14,164

Overcrowding Problem

Prison	Optimum Population	Prison Muster
Kuala Lumpur	600	1,634
Johor Bahru	327	1,146
Taiping	600	1,056
Pulau Pinang	345	1,039
Alor Setar	250	556
Seremban	216	410
Pengkalan Chepa	100	300
Kuantan	40	143
Sungai Petani	40	83
Total	2,618	6,367

Recidivism among prisoners 25%

Treatment of Habitual Offenders in Singapore

*by Tan Ho Ping**

Introduction

The prevention of offenders from falling into a life of crime and the treatment of habitual offenders date back to the formation of the Gladstone Committee on Prisons (1895) which led to the adoption of preventive detention enforced by the Prevention of Crime Act 1908. Since then, renewed efforts traceable through successive events such as the formation of the Departmental Committee on Persistent Offenders of 1932 in Britain and the passing of the Criminal Justice Act 1948 indicated a deep and evergrowing concern of correctional workers in this aspect.

In Singapore, although most habitual offenders are still treated in a much similar fashion as their long-termed counterparts, special legislative measures were adopted for the treatment of selected habitual offenders. Corrective training and preventive detention are employed to achieve the objective (Table 1). Subsequently, the Prison Re-organization Committee in 1973 had introduced additional features to the treatment programme to meet the training requirements of habitual offenders.

In this paper, the writer attempts to provide a picture of the habitual prisoner population in the Singapore prisons, explain the machinery for the identification and classification of these prisoners, and discuss the penal and other treatment facilities available.

In this paper, the term recidivist applies to prisoners who have been imprisoned once. As the word "habitual" carries the element of persistence and has been adopted by the prison authority to describe offenders who have served two or more terms of imprisonment previously, it would be taken as such.

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Table 1: Reception of Corrective Trainees and Preventive Detainees

	Receptions	
	Corrective Trainees	Preventive Detainees
1955	15	–
1956	5	–
1957	–	2
1958	53	5
1959	39	4
1960	14	–
1961	2	–
1962 – 1964	–	–
1965	1	–
1966 – 1970	–	–
1971	1	–
1972	6	8
1973	4	3
1974	2	7
1975	2	2
1976	1	5
1977	19	10

Causes of Imprisonment and Relapse

In a study of 464 recidivists in the prisons, attempts were made to explore the contributory factors leading to their first imprisonment and subsequent relapse.[1] Findings were as in Table 2.

The parental neglect element in the overall populatin of the recidivists as a contributory factor to their first imprisonment played a decreasingly minor role in the event of relapse. This may be explained by the fact that adults become independent of their parents and establish their own family units. The head of the household has to assume the role of the breadwinner and enter the labour market to fulfill his roles and obligations. This is indicated by a significant rise in the frequency distribution of two factors, viz.

Table 2: Contributory Factors Leading to Imprisonment and Relapse—Recidivists

Contributory Factors	1st Imprisonment (%)	Relapse (%)
Parental neglect	10.2	1.1
Wrong association	33.3	17.0
Drug addiction	8.0	1.0
Financial difficulties	15.3	18.1
Overspending habit	–	5.9
Gambling habit	3.0	4.0
Poor residential environment	0.5	0.5
Lack of self-control	11.7	15.1
Alcoholism	–	2.2
Interruption of work by police investigation	–	5.9
Unemployment	12.3	20.3
Desertion from home	3.0	1.0
To help family or friend in emergent situation	2.7	5.0
Others	–	2.9
Total (%)	100.0	100.0

Table 3: Contributory Factors Leading to Imprisonment and Relapse (as on 30 June 1978)

Contributory Factors	1st Offenders (%)	2nd Offenders (%)	Habitual Offenders (%)
Parental neglect	2.1	0.9	0.1
Wrong association	15.1	5.5	3.5
Drug addiction	31.4	50.9	39.0
Financial difficulties	14.9	10.2	16.0
Overspending habit	7.3	8.0	8.2
Gambling habit	4.6	4.2	7.4
Lack of self-control	7.1	4.8	5.2
Alcoholism	0.7	1.4	3.5
Unemployment	9.7	9.5	12.7
Family problem	2.8	1.9	1.3
Negligence	0.2	0.2	0.1
Medical grounds	0.1	–	0.6
Secret society affiliation	1.4	1.2	0.6
False allegation	0.4	0.3	0.7
Others	2.2	1.0	1.1
Total (%)	100.0	100.0	100.0
No.	1,344	578	717

financial difficulties and unemployment, being contributory to relapse. Another factor of significant contribution towards initial imprisonment and relapse was "wrong association." A noteworthy point is the decline from 33.3% in the case of first imprisonment to 17.5% in the event of relapse. This is possibly explained by the decrease in peer-group influence as one advances in age. Recidivists appeared to find greater difficulties in obtaining employment. Twenty percent of the recidivists claimed that this problem contributed to their current relapse whereas 12.3% of the same population felt that it had initially brought them into conflict with the law.

The 1978 mid-year population of convicted prisoners was also studied for the same purpose. Rather similar findings were established as shown in Table 3.

With the exception of "drug addiction," the other factors such as "wrong association," "financial difficulties," "overspending habit," "gambling habit" and "unemployment," as compared to those in the study of 464 recidivists, showed a close resemblance in their distribution in terms of their significance as contributory factors leading to initial imprisonment and relapse.

The Habitual Offenders

This group of inmates accounts for approximately 27.0% of the convicted population. The population features and character traits of these inmates are described below.

A. Population Features

Most of the habitual offenders (58.2%) are below the age of 30 years. Majority of these offenders (67.0%) have only received some primary education. This accounts for about 70.0% of them being engaged as production workers or labourers before their imprisonment. Majority of these offenders (53.3%) are imprisoned for property offences, 2.3% for offences against person, 33.9% for drug offences and another 10.5% for other offences. Out of these habitual offenders 39.3% committed offences of violence in nature. Majority of the offenders (51.2%) are serving a term of imprisonment between 3 years and 10 years, 40.6% of them a period of less than 3 years, and the remaining 8.2% 10 years or more.

B. Attitudes and Character Traits

An average habitual offender shows inability to meet societal demands. He finds decent employment not rewarding for reasons such as inadequate wages, worksite too far from home, long hours of work, etc. As such, he never stays on to a job and acquires no special marketable skills for gainful employment. This is indicated by 51.0% of these offenders being employed for less than 6 months in a span. He is "short-sighted" and impatient towards achieving his goals. His criminal career punctuated by periodical spell of imprisonment normally disrupts his family relationship as seen by incidence for broken marriages or prevents him from setting up a family of his own and thereby deepens his sense of failure in fulfilling social expectations. Among the 58 corrective trainees and preventive detainees undergoing treatment in Changi Prison, 71.0% of them are single, 17.0% married, 9.0% suffered from broken marriages and 3.0% widowed.

Generally, habitual offenders may be classified into the following three types: i) the professional type, ii) the psychologically dependent type, and iii) the professional and psychologically dependent type.

The professional type may be described as one who does a well-planned job each time he commits a crime. Perhaps, his behaviour may have resulted from repeated failures in his legitimate attempts to achieve his wants and goals without realising or accepting his level of achievement. This may entail a shift in his social values and he seeks the alternative to fulfill his wants by illegitimate means. He may begin with experimentation, result in repetition and develop into a habit.

The psychologically dependent type may be described as one who commits a crime because he has the urge to do so, e.g.

shoplifting, outraging modesty, etc. Unlike his professional counterparts, he commits it impulsively without prior planning. This type is often characterized by certain traits such as inadequacies, insecurities, "spinelessness" and ineffectiveness in decision making. As a result of his frequent imprisonment, he is institutionally conditioned and often appears to be a model prisoner. He has internalized the values and subculture of inmates and adapts readily to the surroundings on his re-admission.

The third type may have a combination of the elements in both the first and second types. He may have the psychological components of a criminal which act as a predisposing factor. His dormant deviancy may be activated by a precipitating factor such as financial hardship.

On the three types described above, hypothetically, the psychologically dependent type appears to characterize habitual offender population in prison owing to the frequency of their conflict with the law and their unplanned activities.

Identification and Classification

The classification of prisoners is undertaken by the Classification Board which comprises the Director of Prisons or his Deputy as chairman, superintendents of the respective institutions, prison medical officers, senior education officers, social service division officers, prison psychologist and a representative from the Singapore Corporation of Rehabilitative Enterprise (formerly known as Prison Industries). Members of this Board would study various needs of prisoners such as institutional placement, educational pursuits and industrial training in terms of their crime antecedent, temperament, educational background, aptitude, etc.

All habitual prisoners, except corrective trainees and preventive detainees, are also classified by the Board. Although corrective training and preventive detention are sentences prescribed by the District or High Court judges, decisions for such awards are based on suitability reports submitted by the Prisons Department. Information covered in this report resembles that presented in classification report. The key personnel who contribute to the determination of corrective training and preventive detention are the social service division officer, the psychologist and the medical officer. Although social inquiry into the background (criminal, social, economic) of the offender is carried out by the social service division officer, the psychologist conducts psychological assessment and the medical officer examines the physical fitness.

Institutional Treatment

Habitual offenders, except corrective trainees and preventive detainees, are exposed to the general treatment programme designed for long-term prisoners. Modifications to the general treatment programme are made to meet the training needs of corrective trainees and preventive detainees.

A. General Training Programme

i) Setting and Facilities

The treatment of offenders is carried out with the aim to assist in the changing of certain traits of the personality of inmates such as attitude, behaviour and physical attributes which are not acceptable or are harmful for adaptation in the general society. This change is brought about by concerting appropriate use of reflective interpretation to modify deviancy into constructive behaviour. The process depends largely on factors such as the setting in which the rehabilitation of inmates is carried out and the facilities for interaction within the setting. It is through these activities that individuals are brought together to interact in a meaningful way through which accepted norms and values together with organized thinking and beliefs are cherished and developed.

Rehabilitation is carried out in settings with varying degree of security, namely, maximum, medium and open conditions, depending on the needs of the offender. A habitual offender of a violent nature or who serves imprisonment of 2 years and upwards is housed in a maximum security

prison during the initial stage of his imprisonment. As he progresses, he might be transferred to a setting of medium security.

In any of these settings, a conducive climate is maintained. This is acquired through the establishment of a rapport or rehabilitation relationship between the rehabilitation worker and the inmate. Facilities cover job-training, counselling services, application of control techniques and other related activities.

ii) Job-Training

The Singapore Corporation of Rehabilitative Enterprise was established in April 1976 to replace the former Prison Industries to administer and organize the work programme of prisoners. One of the manifest goals of the programme is to equip the prisoner with a marketable skill. Underlying this goal is a more latent objective of inculcating a work habit in him. The following trades are available; bakery, bicycle parts assembling, carpentry and furniture polishing (including rosewood furniture), electronic components assembling (radios and digitial clocks), laundry services, metal work and welding, motor mechanics, printing and book-binding, rattan furniture making, tailoring, timber seasoning, and upholstery manufacturing.

iii) Counselling

Individual and group counselling are conducted by social service division officers, rehabilitation officers and prison psychologist. These sessions provide opportunities for a prisoner not only to vent out his pent-up feelings but also to develop positive and constructive thinking on issues bothering him.

iv) Social Services

Social services in the form of casework are provided to prisoners and their families by the Social Service Division. This Division acts as a channel of communication on social problem between prisoners, prison authorities and the community. Common problems of prisoners referred to the Division are marital discord, strained relationship, no visits by family members, financial hardship, employment for prisoners' dependents, etc.

v) Spiritual Welfare

Religious teachers from various faiths, such as Islam, Protestantism of several denominations, Sikhism, Roman Catholicism and Buddhism, visit the prisons to provide services to inmates.

vi) Education Service

The Prison Education Service has a complement of 14 fulltime officers seconded from the Ministry of Education to conduct classes ranging from those for beginners to the General Certificates of Education 'A' level.

vii) Recreational Activities

The implication of character building is also found in various inter-related programmes such as in-doors and out-doors recreational activities. Such activities provide interaction during which an inmate can be guided to cultivate positive interpersonal response traits.

viii) The Use of Control Techniques in Rehabilitation

Although the settings and facilities are important facets of the rehabilitation programme, the whole process of rehabilitation is activated by the agent of change, i.e. the rehabilitation officer. Besides, utilizing these facilities, the rehabilitation worker also employs certain control techniques to achieve the objective. Control techniques operate on the basis of punishment/reward principle so as to modify the inmate's anti-social tendencies into constructive behaviour. For example, the imposition of corporal punishment and temporary isolation are forms of punishment for the commission of aggravated offences in prisons. On the other hand, the granting of home leaves, achievement of higher grades act as rewards for progressive response to treatment. Discipline is maintained to achieve the ultimate objective of providing therapy to inmates. It composes the essential element of treating the inmate with fairness, concern, understanding, warmth

and firmness. The inmate is guided to recognize that he has a role to play in accepting discipline as a necessary aspect of his rehabilitation.

B. Special Legislative Measures

Where the general treatment programme fails to check the criminal propensities of some habitual offenders, corrective training and preventive detention are prescribed by the courts. These forms of treatment have their initial emergence in the Singapore judicial scene in the fifties. Although they have lost their popularity in the sixties, they resume an increasingly significant usage in the seventies (Table 1).

i) Corrective Training

This approach was originated in Britain in 1948 with the enactment of the Criminal Justice Act 1948. It was meant for persistent offenders who were in the younger age-group, i.e., below 30 years, and on the verge of committing to a criminal career unless checked timely and yet not beyond hope of reformation through a period of constructive training.

The current legal provisions in Singapore governing the treatment of this category of prisoners are Section 3 of the Criminal Justice Act 1970 and Section 12 of the Criminal Procedure Code, Chapter 113. These Acts empower a High Court or District Court judge to award corrective training to an offender under the circumstances "that it is expedient with a view to his reformation and the prevention of crime." The main differences in the criteria governing the award of corrective training in these provisions are shown in Table 4.

Table 4

Criteria & Conditions	Criminal Justice Act	Criminal Procedure Code
Minimum age limit	not less than 18 yrs.	not less than 21 yrs.
Gravity of present offence	silent in this aspect	an offence punishable with imprisonment of 2 yrs. or upwards
Previous penal rehabilitative treatment	silent in this aspect	2 terms of imprisonment punishable with such a sentence
Length of present training	not less than 3 nor more than 7 yrs. as the Court may determine	not less than 2 nor more than 4 yrs. as the Court may determine

ii) Treatment of Corrective Trainees

Details of regulations governing the treatment of corrective trainees are spelt out in the Criminal Procedure (Corrective Training and Preventive Detention) Rules 1955 which came into force on 16 May 1955.

While awaiting sentence of this nature pending a suitability report from the Prisons Department, the prisoner is housed in the Remand Prison, a maximum security prison, and exposed to the general treatment programme applicable to all prisoners undergoing imprisonment. When the offender is sentenced to corrective training, he will be transferred to Changi Prison, another maximum security setting, and accommodated at a separate wing, segregated from other categories of prisoners. Specially selected officers in terms of experience and maturity are deployed to rehabilitate him. As the main aim of this treatment is "to establish" in him "the will to lead a good and useful life on discharge," training emphasizes on equipping him with a marketable skill to earn a living. Special attention will be paid to encourage him to pursue his education. Personal influence is exercised by the staff to develop his character.

He shall become eligible for release on licence to be issued by the President after serving two-thirds of his sentence. After release, he shall comply with the requirements stipulated in the licence including, if the President thinks it expedient, a period of supervision till the expiry of his sentence. Any breach of the requirements of the licence may lead to a recall of the offender for further treatment till the expiry of his sentence.

iii) Preventive Detention

This mode of treatment was introduced in Singapore with the adoption of the Criminal Procedure (Corrective Training and Preventive Detention) Rules 1955. The legal provisions at the disposal of a High Court or District Court judge for the award of this form of treatment are the Criminal Justice Act 1970 and the Criminal Procedure Code, Chapter 113. These legislations stipulated that an offender considered for preventive detention should have attained thirty years of age. Although both these provisions implied that the offender should also have possessed a well-established anti-social proclivities, the latter specifies the following requirements;

a) The gravity of the offence in question is equivalent to one punishable with a term of imprisonment of 2 years or upwards, and

b) The offender has at least 3 previous convictions since he attained the age of seventeen years and "on at least 2 of these occasions sentenced to imprisonment or corrective training."

The period of detention is for "not less than 5 years nor more than 15 years as the court may determine."

iv) Treatment of Preventive Detainees

"They are men who had so many convictions and punishment that it is felt nothing is left to do except to shut them away in safe custody for a very long time in order to prevent further harm to the community."[2] These words of D.J. West reflected the criminal propensities of these hardcores. It is believed that too liberal a regime will only lead to recidivist's viewing imprisonment an occupational hazard. To these offenders, strict security control, enhanced disciplinary measures, intensive counselling and regularly enforced modification of behaviour such as regular work attendance appear indispensable.

A habitual offender awaiting sentence to preventive detention pending a suitability report from the prison authority is housed in the Remand Prison. When a sentence of preventive detention is passed, the offender will be transferred to the Changi Prison to serve his term. He will be accommodated in a separate wing segregated from the other categories of prisoners.

His training is divided into 3 stages. The first stage varies between one and 2 years. In this stage, the offender undergoes treatment similar to that of a prisoner serving sentence of imprisonment. However, privileges are withheld and only minimum necessities are provided. In addition, during the first 6 months of detention, he is not allowed to work in any workshop. On completion of at least one-year training, progress report on the offender will be submitted for consideration for promotion to the second stage.

During the second stage, the treatment is not less favourable than a penal grade prisoner. He is not allowed to associate with other prisoners except in workshops where approval is granted. He is given privileges such as higher wage, purchase of newspapers and periodicals, possession of musical instruments, participation in correspondence course, extra letters and visits, and practice of arts and crafts. Twelve months prior to the date on which the offender will have served two-thirds of his sentence, the Director of Prisons may submit his recommendation to the Minister for consideration to promote the offender to the third stage.

The third stage lasts for 6 months to a year. Social and vocational training is enhanced to equip the offender for release. Quarterly report is now required to assess the offender's readiness for release when he has served two-thirds of his sentence. Regardless of whether the offender has been promoted to the third stage, he is eligible

for release when he has served five-sixths of his term.

The first stage consists of a relatively short stint of exposure to the harsh condition and strict discipline of this regime. The offender is made to realize that he has to earn his promotion to the second stage by good conduct and hard work. During the second stage, although the offender is still subjected to maximum security and close control, discipline is less oppressive and privileges enhanced. However, strong disciplinary sanctions such as reversion of grades from second to first stage are available to deal with irresponsive offenders effectively. The third stage which serves as a pre-release phase aims at de-institutionalizing the offender. This is effected by rapid tapering of supervision and enhancing of self-determination and personal responsibility.

v) Follow-Up of Non-Penal Treatment

When a corrective trainee or preventive detainee is released on licence, he has to comply with the requirements specified in the licence. He may also be supervised by a probation and aftercare officer from the Probation and Aftercare Service, Ministry of Social Affairs, till the expiry of his sentence. Voluntary aftercare is also available at the Singapore Aftercare Association. This is a voluntary body run by donation from the public and annual grant extended by the Singapore Government. Aftercare officers from this organization will provide individual and family casework services to a discharged prisoner commencing from one month prior to his release.

Conclusion

The effectiveness of a treatment programme may be assessed by the recidivism rate of prisoners. In a study of 2,393 prisoners released in 1969 after having undergone the general treatment programme for a period of less than 5 years, 386 of them or 16.1% returned to prisons within 5 years from the date of discharge. In another group of 455 prisoners released between 1961 and 1968 after having served a term of 5 years or more, 86 of them or 19.0% were re-admitted within 5 years.

An analysis of 100 corrective trainees released over a period of 10 years (1960–1969) provides an indication of the failure rate among them as shown in Table 5.

Table 5: Failure Rate among Corrective Trainees

Year	Releases	Untraced	Traced	Relapse within 5 years	
				No.	%
1960	36	27	9	1	11.1
1961	51	35	16	2	12.5
1962	10	2	8	1	12.5
1963	1	–	1	1	100.0
1964	–	–	–	–	–
1965	1	–	1	1	100.0
1966 – 1968	–	–	–	–	–
1969	1	1	–	–	–
Total	100	65	35	6	17.1

Among the 4 preventive detainees released between March 1976 and August 1977, none of them returned to prisons by the end of 1978. Since this form of treatment has only gained wider acceptance in Singapore in the seventies, it may be too early to draw a conclusion.

Viewing recidivism from another angle through the analysis of the criminal background of the prisoners admitted and discharged between 1975 and 1977, an upward trend in recidivism appears to prevail as shown in Table 6.

Table 6: Receptions and Releases by Recidivism

	1975			1976			1977		
	Total	With Previous Conviction/ Detention		Total	With Previous Conviction/ Detention		Total	With Previous Conviction/ Detention	
		No.	%		No.	%		No.	%
Receptions	5,580	1,621	29.1	5,661	1,797	31.7	4,823	1,823	37.8
Releases	5,238	1,467	28.0	5,488	1,681	30.6	4,825	1,728	35.8

The number of recidivists admitted during a year exceeds those released. This accumulation effect has built up a recidivist population of about 45.0% in the current population. Although the recidivist population appears rather high, optimistically, it is an indication that only the hardcore criminals are in circulation and that fewer persons take to crime as first offenders. Therefore, specific programmes have to be constantly reviewed to break the perpetual and growing chain of circulation.

NOTES

1. "Recidivism in Singapore"—A socio-economic study of 464 recidivists in the Singapore Prisons (as on 15 July 1972) conducted by the Prisons Department.
2. D.J. West: The Habitual Offenders, p. 6.

SECTION 3: CONCLUSION OF THE SEMINAR

Report of the 51st Course on the Treatment of Dangerous or Habitual Offenders

by UNAFEI Staff

Introduction

Although wider use of community-based treatment is increasingly encouraged in many countries, there are a certain number of offenders who need institutional treatment. Among them are dangerous or habitual offenders who cause lots of difficulties to corrections in its efforts to promote their rehabilitation, and sometimes pose a great threat to fellow prisoners and prison staff by violent and disruptive behaviours in the institution. The 51st International Seminar was thus designed to clarify the extent and characteristics of dangerous or habitual offenders, to examine the current situations and problems relating to sentencing as well as institutional and community-based treatment of such offenders, and to explore possible measures of developing more effective correctional programmes for them.

The Seminar was held from 20 February to 24 March 1979, with the participation of 21 officials representing 12 countries in Asia, i.e., Afghanistan, Hong Kong, India (2 participants), Iraq, Malaysia, Nepal, Pakistan, the Philippines, Singapore, Sri Lanka, Thailand and Japan (9 participants). They were mainly from correctional institutions and various other criminal justice agencies and related governmental organs.

The Seminar mainly consisted of mutual discussions by the participants themselves. They presented various issues and problems confronting them in their respective countries by way of individual presentations. The discussion during the Seminar covered the following topics: (1) legal provisions and sentencing practices for dangerous or habitual offenders, (2) institutional treatment of dangerous or habitual offenders, (3) maintenance of order and security in the institution, (4) community-based programmes for dangerous or habitual offenders. The participants elected Co-Chairmen Mr. Akira Kitani (Japan) and Mr. Dalip Chand Aggarwal (India) from among themselves. The visiting experts, Mr. David A. Ward and Mr. Colin Russel Bevan, and Professor Ryūichi Hirano of Tokyo University as well as UNAFEI staff took part in the sessions as advisors.

Titles of the Papers Presented by the Participants

1. Revolution and Jail
   by Abdul Wahab Safi (Afghanistan)
2. The Treatment of Dangerous or Habitual Offenders
   by Nils Victor Nilsson (Hong Kong)
3. Sentencing Practices for Dangerous Offenders in India
   by Dalip Chand Aggarwal (India)
4. Treatment of Dangerous or Habitual Offenders
   by Brahma Narain Bahadur (India)
5. The Treatment of Dangerous or Habitual Offenders
   by Basim Abdul Ahad Halabia (Iraq)
6. The Treatment of Dangerous Offenders by the Prisons Department of Malaysia
   by Sulaiman bin Haji Sani (Malaysia)
7. The Treatment of Dangerous or Habitual Offenders
   by Kadar Nath Khatri (Nepal)
8. The Treatment of Dangerous or Habitual Offenders
   by Ch. Abdul Majeed Ahmed Aulakh (Pakistan)
9. The Treatment of Dangerous Drug Abusers and Drug Law Offenders in the Philippines
   by Manuel Panganiban Sanchez (Philippines)

10. Treatment of Habitual Offenders in Singapore
    by Tan Ho Ping (Singapore)
11. The Treatment of Dangerous or Habitual Offenders
    by Bodagodage Don Kirthie Srilal Wijewardane (Sri Lanka)
12. Treatment of Dangerous or Habitual Offenders in Thailand
    by Praneet Piyasirananda (Thailand)
13. Non-Institutional Treatment of Dangerous Offenders and Recidivists in Japan
    by Kunio Fukushima (Japan)
14. Community-Based Treatment of Dangerous or Habitual Offenders in Japan
    by Kazuma Hara (Japan)
15. The Characteristics and the Treatment of Habitual Offenders
    by Mamoru Iguchi (Japan)
16. Drug Abuse Control in Japan
    by Masayasu Kawano (Japan)
17. Legislation and Sentencing on Dangerous or Habitual Offenders in Japan
    by Akira Kitani (Japan)
18. The Problems of Dangerous or Habitual Offenders
    by Shiro Nagayama (Japan)
19. Treatment of Habitual Offenders in Japanese Prisons (Japan)
    by Hiroshi Sugita (Japan)
20. Institutional Treatment of Dangerous or Habitual Offenders in Japan
    by Atō Tomita (Japan)
21. Present Status of the Arrest and Disposition of Habitual Offenders
    by Shōichi Watanabe (Japan)

Forms and Extent of Dangerous or Habitual Offenders

It was generally agreed that a diverse and wide range of criminals can be included in the category of dangerous or habitual offenders. However, the participants refrained from going into details to strictly define the concept of dangerous or habitual offenders because it differed from country to country, depending upon different social, economic and cultural backgrounds. There was no objection, however, to the idea that dangerous offenders include those likely to commit again murder, robbery, rape, kidnapping, and other crimes of violence and that habitual offenders should cover those who repeat to commit property offences or drug offences as well as violent crimes.

It was revealed that many participating countries had been suffering from an increasing number of such violent offences as murder, robbery, etc. In some countries, these violent offences are committed by radical political groups as a part of their dissident political movements or by organized crime elements which give rise to serious concerns in society. In some countries violent crimes are mainly committed just for personal gain or for the purchase of drugs. Some participants reported that habitual offenders were rampant and created serious problems to the criminal justice system in some countries. On the other hand, it drew the attention of the participants that in a few countries the number of such offenders was very small and even decreasing as a result of strict law enforcement and successful rehabilitation programmes.

With regard to offenders endangering the safety and discipline in the institutions, it was revealed that each participating country had been faced with problems caused by this type of prisoners. One participant from Malaysia pointed out that troubles were mostly caused by gangsters housed in prisons in his country. It was unanimously agreed that, although all available means should be mobilized to deal with disruptive prisoners in an effective and efficient manner, due regard should be given to their fundamental human rights, and that inhumane and degrading disciplinary measures should not be used. In this connexion, some participants pointed out that whipping available in some countries should be avoided as much as possible and replaced with other effective disciplinary measures, because the past experience showed that it did not work well to deter violent behaviours in the institution.

Legal Provisions and Sentencing Practices for Dangerous or Habitual Offenders

1. Special Legislative Measures

i) Enhanced Punishment

In many participating countries, there are special substantive provisions which subject dangerous or habitual offenders to enhanced punishment such as death, life imprisonment, increased term of imprisonment, solitary confinement, corporal punishment, etc. The participants observed that death, life imprisonment and increased term of imprisonment were most commonly resorted to in order to cope with dangerous or habitual offenders in the most effective manner.

In India, death penalty and life imprisonment are imposed for offences involving murder, though the death penalty is mandatory for a life-term convict who is again found guilty of murder. In cases of robbery and dacoity resulting in injury short of death, the judge has no discretion but to award a minimum sentence of seven years' rigorous imprisonment. In Singapore, a person who is convicted of murder, trafficking in more than fifteen grammes of heroin in pure content, etc. now faces the mandatory death sentence. The penal codes of both countries provide enhanced punishment for certain types of dangerous and habitual offenders convicted for the second time of such offences as counterfeiting of coins and stamps, theft, extortion, robbery, dacoity, misappropriation, criminal breach of trust, cheating, etc. According to these codes, anyone who, having been convicted of any of the above offences punishable with imprisonment for three years or more, is again guilty of such offences, shall be subject to imprisonment for life or to imprisonment for a term which may extend to ten years.

In Japan, the Penal Code provides for substantially high punishment for dangerous and violent crimes. For example, (a) Homicide is punishable with death or imprisonment for life or for three to fifteen years; (b) Robbery with imprisonment for five to fifteen years and, if resulting in the death of a victim, with death or life imprisonment; (c) Rape with imprisonment for two to fifteen years and, if resulting in the death or bodily injury of a victim, with imprisonment for life for three to fifteen years; and (d) Bodily injury with imprisonment for ten years or less or a fine of ¥100,000 or less and, if resulting in the death of a victim, with imprisonment for two to fifteen years. For recidivists convicted for the second time of crimes punishable by imprisonment, the maximum term of imprisonment is doubled, provided that it does not exceed twenty years. To impose heavier punishment on special categories of dangerous or habitual offenders, there are special statutes such as the Law Concerning the Punishment of Violent Acts and the Law for the Prevention and Punishment of Theft. The former enhances the punishement for physical violence, intimidation and destruction of property committed by two or more persons or by habitual offenders. It also provides that those who commit bodily injury either habitually or by means of guns or swords are subject to severer punishment. The latter law increases both the maximum and minimum terms of imprisonment for offenders who commit theft or robbery habitually.

As to solitary confinement, the Indian Penal Code provides as follows: whenever any person is convicted of an offence punishable with rigorous imprisonment, the court may order that the offender shall be kept in solitary confinement for any portion of the sentence, not exceeding three months. However, it was observed that solitary confinement was seldom used by the judges because of its inhuman nature, and that the Law Commission of India recommended its abolition except as a measure of jail discipline in light of its being out of tune with the modern concept of criminal sanction.

Corporal punishment such as whipping is available with regard to rape, robbery, criminal trespass, etc. in Malaysia and Singapore. It was noted that this punishment was imposed on rare occasions in actual practice because of its cruel nature,

harmful after-effect and insufficient deterrent effect. Many participants were against the use of solitary confinement and corporal punishment.

Lastly, the scheme of the indeterminate sentence was discussed. In the indeterminate sentence, the court usually fixed the minimum and maximum terms of imprisonment, and actual time of release is later determined by the court or an administrative agency. The introduction of parole in many countries, however, has made definite sentences more or less indeterminate. Most of the participants favoured such indeterminateness in prison sentence as a means of promoting the rehabilitation of prisoners through institutional treatment and parole supervision as well as of securing social protection, especially with regard to dangerous or habitual offenders. On the other hand, the participants were opposed to extreme forms of indeterminate sentences under which the court does not specify the maximum and minimum terms or the power of determining the period of imprisonment is virtually transferred to administrative organs.

ii) Restriction of Suspended Sentence

In many countries, the use of suspended sentence for dangerous or habitual offenders is severely restricted by law or practice. In Sri Lanka, the Criminal Procedure (Special Provisions) Law of 1978 which prohibits the application of suspended sentences of imprisonment to dangerous or habitual offenders was put into operation in May 1978 experimentally for a period of one year. This legislative measure was taken by the government to curb dangerous crime and criminal activities of recidivists in the face of a serious increase of violent crimes and habitual offenders. Under the law, suspended sentences are done away with in the case of specific types of murder, theft, extortion, robbery, habitual dealing of stolen property, etc. It also carries the restriction of release on bail and the imposition of minimum sentence with respect to these offences. It was observed that the police in Sri Lanka were of the view that the law had been instrumental in reversing the increasing trend of crime and that these measures were still necessary to abate dangerous criminal activities of recidivist offenders.

In Japan, the Penal Code prohibits the use of suspended sentence for recidivists with prior sentences of imprisonment. Moreover, the Courts are highly cautious in applying suspended sentence to habitual offenders even when statutory prohibition does not exist. Thus, the rate of suspended sentence granted to dangerous or habitual offenders is very low compared with ordinary offenders. In 1975 and 1976, the rate of suspended sentence for habitual offenders as against for ordinary offenders was 19.7% against 41.5% as to assault and battery, 20.3% against 57.3% as to bodily injury, and 0.3% against 44.9% as to theft.

iii) Protective Custody

Some countries use various forms of protective custody for dangerous or habitual offenders such as preventive detention, corrective training and commitment to a rehabilitation centre for drug addicts.

In Singapore, preventive detention and corrective training may be ordered by the courts when ordinary imprisonment is deemed insufficient to remove the criminal propensity of habitual offenders. It was briefed that these forms of treatment were first adopted in the 1950s, lost their popularity in the 1960s, and began to be utilized again in the 1970s. Preventive detention deals with a person of not less than thirty years of age who is convicted of an offence punishable with imprisonment for two years or more and has had at least three previous convictions since he attained the age of seventeen years and was on at least two of those occasions sentenced to imprisonment or corrective training. If the court deems it necessary for such a person to be detained in custody for a substantial time in order to protect the public, the court may pass, in lieu of any other sentence, a sentence of preventive detention for a period of not less than five years nor more than fifteen years as the court may determine. Two forms of corrective

training are provided for in the Criminal Justice Act and the Criminal Procedure Code. The court is empowered to award corrective training to an offender when it is deemed expedient for his reformation and the prevention of further crime. According to these laws, the minimum age limit of the subject is eighteen years (the Criminal Justice Act) or twenty-one years (the Criminal Procedure Code), and the length of corrective training is not less than three nor more than seven years (the Criminal Justice Act) or not less than two nor more than four years, (the Criminal Procedure Code) as the Court may determine respectively. The Criminal Procedure Code stipulates that corrective training may be awarded only to a person who is convicted of an offence punishable with imprisonment for two years or more and has been convicted of offences punishable with such a sentence on at least two previous occasions since he attained the age of seventeen years. But the Criminal Justice Act does not prescribe such requirements. A person sentenced to preventive detention or corrective training may, after he has served a portion of his sentence, be released on licence by order of the Minister of Justice. In the event of a breach of the conditions stipulated in the licence, it will be revoked and the offender will be required to serve out the remaining period of his sentence. Among four preventive detainees released between March 1976 and August 1977, none returned to prison by the end of 1978. During the period of 1960 to 1969, one hundred corrective trainees were released from institutions. As a result of a follow-up research on thirty-five traceable releasees among them, it turned out that only six or 17.1% committed another offence within five years after their discharge from institutions. It was felt a little bit premature to draw a conclusion on the efficacy of these schemes to combat with problems of offenders in Singapore.

Rehabilitation centres for drug addicts exist in Hong Kong and the Philippines. In Hong Kong, where an offender is confirmed to be a drug addict, he may be sentenced to an addiction treatment centre for not less than four months nor more than twelve months. A person released from a centre will be subject to supervision for twelve months, and may be recalled if he fails to comply with any requirement of the supervision order. On recall, he may be detained until the expiry of twelve months from the date of the detention order or four months from the date of his recall, whichever is longer. In the Philippines, if a person charged with a drug offence is found a drug dependent at any stage of the proceedings, the court shall order his commitment to a centre for treatment and rehabilitation. When he is convicted after his release from the centre, the judgement shall indicate whether the full or partial period of his confinement shall deducted from the period of the penalty imposed on him in light of his good behaviour and performance in the centre.

The participants were generally of the view that these special measures of preventive character may be used constructively to prevent offenders from relapsing into criminal behaviours and to get them reformed.

In this context, some participants reported on preventive detention and police supervision ordered and executed by administrative organs without formal proceedings in the court. In Singapore, both of these measures have been vigorously used to crack secret societies and international or local drug syndicates. With regard to any person who is associated with criminal activities of such organizations, the Minister of Home Affairs may order with the consent of the Public Prosecutor (a) that he be detained for any period not exceeding one year or (b) that he be subject to the supervision of the police for any period not exceeding three years, if his detention or supervision is necessary in the interests of public safety, peace and good order. Every order made by the Minister, together with a written statement of its grounds, is referred to an advisory committee consisting of public spirited citizens. The committee submits to the President a written report on the order and may make such recommendations as it shall think fit.

The President may cancel or confirm the order, or make thereto such variations as he deems necessary. He may also from time to time extend the period of preventive detention or police supervision by one year at any time and may refer the order for futher consideration to an advisory committee. A person under police supervision is subject to restrictions on residence, change of residence, and movement, and required to appear at the police station at regular intervals. In case he fails to comply with any of such requirements, he is to be guilty of an offence and punished with imprisonment for a term not exceeding three years and not less than one year. In Malaysia, similar schemes of preventive detention and police supervision are used to cope with members of unlawful societies, traffickers in drugs or women and girls, etc. It was reported that both schemes had been successfully enforced in Singapore and Malaysia. On the other hand, some participants expressed their doubts on the propriety of detaining suspected offenders without the adjudication of the guilt by the court through formal criminal proceedings.

iv) Other Measures

Among other countermeasures against dangerous or habitual offenders, the restriction of movement used in India and Pakistan drew the attention of the participants. In India, under the police acts of the various State Governments, persons who have been convicted of certain specified offences can be required not to enter a particular area for a given time, if it is apprehended that they are moving around in that area for indulging in criminal activities. It was pointed out that such legislation went a long way toward suppressing offences by migratory criminals and organized criminals. In Punjab of Pakistan, an act restricting the movements of dangerous and habitual offenders has been in force since 1918. Under the act, the magistrate is authorized to issue an order to restrict such offenders in their movement to any area prescribed in the order or to require them to report at times and places and in the mode prescribed in the order. If those on restriction of movement violate the order, they will be punished with imprisonment or fine or both.

In many countries, release on bail during court procedure is devised or severely restricted with respect to dangerous or habitual offenders. In India, for example, bail is not permissible during trial in cases of offences punishable with death or imprisonment for life, unless the accused is under sixteen years of age or a woman, or sick or infirm. In Japan, release on bail as of right is not applicable to an accused who is charged with an offence punishable with death, or imprisonment for life or for a minimum period of more than one year, an accused who has habitually committed offences punishable with imprisonment for a maximum period of three years or more, etc. However, the court is authorized to grant release on bail to such an accused, if it deems his release proper. As mentioned above, a new legislation in Sri Lanka, the Criminal Procedure (Special Provisions) Law of 1978, which was put into force for an experimental period of one year, prohibits or restricts release on bail by courts of persons charged with murder, robbery, extortion, habitual dealing of stolen property, etc.

2. Sentencing Practices

i) Sentencing Policy

There is no statutory code which sets out clearly and precisely the criteria which should determine the appropriate sentence for the accused. However, it was agreed that sentencing purposes were retribution, deterrence, incapacitation and rehabilitation, and that all of these purposes should be taken into consideration in meting out sentences.

With regard to the factors to be considered by the court in the decision of sentences, all the participants agreed that the gravity, *modus operandi*, motive and consequences of the offence, the number and recency of previous convictions, the risk that the offender would commit another

crime unless imprisoned, the recovery of damage by the victim, etc. were some of the factors that should guide the general sentencing practices.

As for sentences passed on dangerous or habitual offenders, it came to light that in most countries they were severe as compared with those meted out to other ordinary offenders, because of the serious nature of the offence, the die-hard anti-social attitude, the high possibility of recidivism, the social reaction or the public feeling to the offence, etc. In another word, in sentencing dangerous or habitual offenders, main consideration is given to the purposes of deterrence, retribution and incapacitation.

In connexion with the heavy punishment meted out to dangerous or habitual offenders, it was brought to the attention that, however serious their offences might be or however strong their criminal tendencies might be, the courts should bear it in mind that they were human beings who would be susceptible to rehabilitation and reintegration to society, and should be cautious enough not to go to the unwarranted extreme in setting the quantum of punishment.

Most participants stressed that the purpose of rehabilitation was also important in the correctional treatment of dangerous or habitual offenders that it should not be neglected at the stage of sentencing.

ii) Pre-Sentence Investigation

In order to render proper and equitable sentences to dangerous or habitual offenders, especially from the viewpoint of their rehabilitation, accurate information on their social backgrounds as well as personal traits is indispensable. The participants agreed that the systems of pre-sentence investigation by probation officers adopted in Hong Kong and India were of vital importance for this purpose.

Institutional Treatment of Dangerous or Habitual Offenders

1. Classification Categories

The necessity of a systematic identification and classification scheme of dangerous or habitual offenders was stressed by every participant for the effective treatment of such offenders in the institutional setting. It is evident that there exist some forms of classification categories for treating those offenders in each of the participating countries, although variations are observed in the systems and practices due to the different situations and conditions existing in the correctional facilities as well as offenders therein. In classifying prisoners, in almost all countries, such factors as sex, offences committed and terms of imprisonment are taken into considerations as basic information. Further, so far as the habitual offenders are concerned, various factors relating to their backgrounds including previous criminal records, career of institutionalization, affiliation with organized gangster groups, and drug or alcohol addiction are also taken into account. In some countries, besides the above-mentioned factors, characteristics of prisoner's personality, their relationships with family members, and their various needs such as educational pursuits and vocational aptitudes are intensively studied for the purpose of classification.

In Hong Kong, first offenders are categorized as star class and all other prisoners are ordinary class. Young prisoners are separately allocated from adult prisoners. Besides, categories A, B, C and D are provided for in classifying prisoners on the basis of the offence committed, previous criminal records, the length of sentence and the previous institutional background. Prisoners in Japan are basically classified into A and B according to the extent of their criminal tendency, and further classified into several groups from the viewpoint of determining allocation as well as of establishing treatment programmes suited to each prisoner's own needs. In Malaysia, prisoners are classified as dangerous or not dangerous inmates mainly according to the gravity of the offence committed on the basis of police evidence. The former include condemned prisoners awaiting execution, prisoners serving life sentence and sentences of natural life

imprisonment, prisoners convicted of offences relating to armed robbery, kidnapping and illegal possession of firearms, notorious gangsters with secret society affiliations, prisoners convicted of offences relating to drugs and narcotics, and prisoners who have made several escape attempts and criminal lunatics. As to dangerous prisoners, three groups are discerned: anti-authority and subversive group, problem personality group, and escapees. Pakistan prisons provide three classes for convicted prisoners: superior, ordinary and political classes. Such factors as previous conviction, type of offence committed, term of sentence, profession, income and academic qualifications of the prisoner and social or financial status of his family are studied to identify dangerous prisoners. Definition of dangerousness in Indian prisons is determined to a large extent by the nature of criminal conduct of which the prisoner was convicted. Although even dangerous or habitual offenders can be accommodated in open prisons in India, political agitators, escapees and previous returnees from open prisons are not recommended to open prisons. In Iraq, dangerous or habitual offenders are identified by age, sentence and reasons of their return if previously convicted, and separately housed in one of the four prisons in the country.

2. Methods and Procedures of Identification and Classification

In the prisons of most countries, special bodies consisted of several prison staff concerned are responsible for the classification of prisoners. In Hong Kong, prisoners are classified immediately on admission according to their needs for provided security in order to avoid incidents of escape, violence suicide, etc. Dangerous or habitual offenders are identified and housed in appropriate security units. Primary responsibilities of classification lie upon prison psychologists. In Japan, classification centres in the correctional regions study every prisoner for the classification period of four weeks from his admission and transfer him to a suitable prison. Every prison has a classification committee composed of classification specialists as well as staff in charge of security, labour, education and parole. Dangerousness of a prisoner is intensively discussed at the committee conference from various angles. Malaysian prisons have the reception board, consisting of the head of the institution and his deputies, vocational training instructors and welfare officers. The board identifies dangerous prisoners and determines the type of training and treatment programmes best suited to them. The classification of prisoners in Singapore is undertaken by a classification board which comprises the Director of Prisons or his deputy as chairman, superintendent of the respective institution, prison medical officers, senior education officers, social service devision officers, prison psychologist and a representative from the Singapore Corporation of Rehabilitative Enterprise (SCORE). In Sri Lanka, the identification and classification includes investigations and tests by psychologists and psychiatrists, social workers and welfare officers. It also includes discovery of mental and physical ailments or deformities or any other causes that have contributed to his criminal behaviour. A programme of rehabilitation is then drawn up on the basis of possible treatment techniques. Classification of prisoners as habituals is made by the sentencing court in Pakistan. If the court so direct, such classification is adopted in jails. In the absence of the court order, officers in charge of the jail may classify a convicted person as a habitual prisoner. In Thailand, there are the observation and protection centre and the remand home to examine and classify juvenile offenders. The participants are of the opinion that the periodical classification review in addition to the admission classification is necessary for the effective treatment. They pointed out, however, that the shortage or insufficiency of facilities and specialists in many countries was an obstacle to implement even the admission classification.

3. Types of Treatment Programmes

It is true that there are some pessimistic or even desperate views on the feasibility

of rehabilitating habitual offenders and prisoners with serious personality disorders, including so-called psychopaths or sociopaths. Such views might, after all, lead to the conclusion that the only practical way to deal with those prisoners should be a strict confinement in which priority would be given to the maintenance of order and security in the prison. However, the participants were of the opinion that more active approaches toward the rehabilitation of those difficult offenders should be explored and that hope was actually still left to improve the treatment programmes in the prison.

Like other types of offenders, habitual or dangerous offenders are given ordinary prison work and vocational training in many countries. Further, specially designed treatment programmes such as intensive living guidance, religious education, psychotherapy or counselling are provided to them. Psychiatric or medical services are sometimes available for seriously deviated prisoners in the prison setting. For instance, in India, the treatment programmes for habitual and dangerous prisoners are planned on the basis of individual requirements. Special stress is laid on work programmes having therapeutic and rehabilitative value. Services of outside social welfare agencies including moral preachers are systematically utilized to provide healthy social influences. In many jails, welfare officers, psychologists, etc. have also been appointed to render individualized services including counselling and other psychotherapeutic programmes. In the Philippines and some other participating countries, dangerous drug abusers are given vocational, educational, religious and therapeutic treatment in the residential setting. In Singapore, those dangerous offenders serving the term of preventive detention receive intensive counselling and measures of behaviour modification such as regular work attendance as well as strict security control and enhanced disciplinary measures. The participant from Hong Kong reported that the expansion of the services by behavioral scientists in the correctional institutions manifested their positive effectiveness. Trouble-makers and agitators in prisons were helped to reduce tension and even hard-core prisoners became rehabilitated through treatment by psychologists despite their record of recidivism. It should also be noted, as participants from Japan and Singapore stressed, that prison labour and vocational training themselves were conducive to the reformation of prisoners and that human relationships between the personnel and prisoners through such labour and training often produced desirable results. Personal influence by the staff upon prisoners to develop or modify their character cannot be overlooked.

4. Progressive Grade System, Home Leave and Release from Institution

In many countries the progressive stage system is adopted even for habitual or dangerous offenders, while in a few countries they are not eligible to minimum security custody, work release or home leave. In India, a phased programme from maximum security to free living conditions within the same institutional setting has been successfully implemented in many places. In some institutions, the inmates are encouraged on a selective basis to participate in the social and economic life of the outside community. In Singapore, a habitual offender of a violent nature or who serves imprisonment of two years or more is housed in maximum security prison during the initial stage of his imprisonment. As he progresses, he might be transferred to a setting of medium security. The participant from India reported that in his country experimental open air prisons had been found to be very successful in treating various categories of prisoners including habitual offenders. There are also an open farm camp in Japan, an open borstal agricultural farm in Malaysia and an open prison camp in Sri Lanka for accommodating even dangerous prisoners. Home leave can be allowed in Singapore as rewards for progressive response to the treatment. Sri Lanka has also a home leave system. Halfway houses attached to the drug addiction treatment centre in Hong

Kong and rehabilitation aid hostels in Japan are available for those discharged prisoners with no homes to return to. Release on parole or licence and remission systems are also provided for the prisoners in almost every country. The idea behind the above-mentioned liberalized treatment measures is humanitarian approach toward offenders and it has been proved that some privileges or rewards to the inmates for their good conducts gave them a certain motivation and incentives to rehabilitate themselves. In Iraq, offenders who committed such crimes as rape, sexual assault, repeated embezzlement, burglary, etc. are exempted from such privileges as conditional release. In Pakistan, parole is used only for first offenders of non-serious crimes which do not involve moral degradation, while remission after attainment of religious education and civic sense is not limited to such offenders. In Malaysia where there is no parole system, dangerous prisoners like other categories of prisoners may, by their industry or good conduct, earn remission of one-third of their sentences. In Sri Lanka, parole is also granted for a prisoner of good behaviour and a remission of his sentence as well is granted when he co-operates with the programme of rehabilitation.

Maintenance of Order and Security in the Correctional Institution

Maintenance of order and security is one of the fundamental responsibility of the correctional institution. This is universally recognized by law, custom and public opinion. There is no doubt that any correctional programme which ignores this reality will not long last. As a matter of fact, services and facilities for rehabilitative treatment can operate effectively only in a climate where institutional order and security is constantly maintained. In other words, the proper maintenance of order and security in the correctional institution is an essential prerequisite to the effective implementation of correctional programmes designed for the rehabilitation of offenders.

1. Forms and Extent of Disorderly Behaviours in Correctional Institutions

In prisons of the countries represented, there are various forms of disorderly behaviours such as violence against officers or other inmates, recalcitrance, instigation or agitation for wrongdoings or disturbances, riot or mutiny, escape, disobedience, refusal to work, suicide, homosexuality, gambling, and receiving, possessing and transferring prohibited articles like drugs and alcohol. The kinds and extent of disorderly behaviours or prisoners vary from country to country. It was felt, however, that disorderly behaviours of grave nature such as riot, escape, violence against officers or fellow inmates and suicide were relatively small in number in many countries, while there were many cases of minor infraction of the prison rules.

In prison of India, the first type of disorderliness that comes about is a tendency to try to escape from the prison. In fact, however, such attempt is not easy to achieve. Instigating other prisoners to acts of violation of the prison rules or refusal to obey lawful orders of prison authorities is another form of disorderly behaviour. In extreme cases some mischievous elements could even try to precipitate a riot or mutiny by instigating their colleagues. Another form of misbehaviour made by many habitual criminals is to bring in contraband articles like drugs and alcohol within the prison premises. This is occasionally practiced by misusing the facilities for meeting visitors. Still another form of disorderly behaviour is in relation to homosexuality, although this has been exaggerated out of proportion in many places. One of the other points that needs to be corrected carefully is the tendency of some habitual offenders to try to "educate" other inmates on tricks of their trades, and to convey an impression that crime does pay.

Order and security are well maintained in prisons of Japan in general. There have been no riots for the past 30 years. The frequency of other serious occurrences has been small in proportion to the total number of inmates (In 1977, escape 11,

suicide 15, killing and serious bodily injury against officers 2, and killing and serious bodily injury against inmates 0). Security problems mainly exist in the prisons for the class B prisoners who have advanced criminality. Especially the prisons for long-termers with advanced criminality are confronted with difficulties in maintaining security. In these prisons inmates often ignore the order of the prison authorities and attempt to breach prison discipline. Among others, gangsters or members of organized violent groups bring about difficult security problems, by making informal groups to breach prison discipline and by bringing their relations in the outside society directly into the prison. Sometimes, it is revealed that there are plots of gangster groups behind serious troubles among inmates. Moreover, there is a type of dangerous prisoners, though their number is small, who have high risk of doing extremely violent acts against officers and other inmates. Some of them, who are mentally disordered persons in need of medical care, are treated in a medical prison.

In the Malaysian prisons, dangerous prisoners, as mentioned earlier, may be divided into 3 groups: (a) the anti-authority and subversive group, (b) problem personality group, and (c) the escapees. The anti-authority and subversive group is the largest of the three and comprises those men who have repeatedly committed grave crimes such as armed robbery, kidnapping, bank raid and hold-up. Inside the prison, they are the ones prone to engage in escape attempts or to take a leading role in riots and demonstrations. For them, authority is to be challenged through the combined power of the prisoners. Their style of prison adaptation is obviously a carry-over from their outside relations with authority. The individuals of the problem personality group are characterized by the unpredictability of their behaviour associated with personality problem of some kind or other. They are frequently referred to as "psychopathic" or "aggressive" offenders with "unstable" or "hysterical" outbursts. What is dangerous about them is their potentiality to harm themselves, other prisoners or the staff. The escapees overlap to some extent with the first group though their major concern is with escape rather than anti-authority, trouble-making or subversive activities. For the achievement of their goal, they are dependent on other prisoners for cooperation and on the staff for time to plan. In 1978 the number of successful escapes from prisons were 9, some of which occurred while working outside the prison walls with an outside working party.

In Pakistan, dangerous and habitual criminals usually indulge in instigating others for wrongdoings or creating disturbance showdowns in the jail. They present a great threat to fellow prisoners as well as institutional staff by violent and disruptive behaviours.

2. Disciplinary Measures and Procedures and Other Devices for Maintaining Order and Security

(1) Kinds of disciplinary measures for acts against prison discipline and problems relating to their execution

Disciplinary measures play a very important role in controlling and preventing disorderly behaviours of prisoners, although institutional discipline is not accomplished by them alone. Main types of disciplinary measures used in participating countries include reprimand, loss of privileges and earnings, demotion in grades or stages, forfeiture of earned remission or exclusion from remission system, separate and close confinement, reduction of food, hard labour, whipping and the use of fetters. It was stressed that every possible measure for avoiding injustice and unnecessary deprivation should be taken in the imposition of disciplinary punishments. Indeed, many countries provide such measures including medical check for preventing a detrimental effect of punishment on the health of prisoners.

The Japanese Prison Law of 1908 prescribes 12 kinds of disciplinary punishment: (a) reprimand, (b) suspension of special privileges for a period not exceeding 3

months, (c) deprivation of special privileges, (d) prohibition of reading books and seeing pictures for a period not exceeding 3 months, (e) suspension of prison work permitted on an inmate's own request for a period not exceeding 10 days, (f) suspension of using self-furnished clothings and beddings for a period not exceeding 15 days, (g) suspension of taking of self-supplied food for a period not exceeding 15 days, (h) suspension of outdoor exercise for a period not exceeding 5 days, (i) deduction of the calculated amount of remuneration for prison work, (j) reduction of certain amount of food for a period not exceeding 7 days, (k) solitary confinement for a period not exceeding 2 months, and (l) heavy solitary confinement for a period not exceeding 7 days. These punishments have been provided in accordance with the gravity of misconducts and the effectiveness of disciplinary punishment. Corporal punishment is absolutely prohibited, and the use of mechanical means of restraint are permitted only where there is a danger of the prisoner's harming himself or others. Heavy solitary confinement is not actually imposed under the executive direction since 1947, because confinement in a dark cell without bedding is considered to be cruel, inhumane or degrading. The reduction of food is not imposed upon persons awaiting a trial and juveniles. In case suspension of outdoor exercise, reduction of food, or solitary confinement is imposed, the inmate shall be examined by a prison physician, and unless the physician is convinced that the punishment will not be harmful to his health, such punishment shall not be enforced. Furthermore, the inmate whose food has been reduced as a punishment or who has been placed under solitary confinement shall be examined by a prison physician from time to time during its enforcement.

The Prison Rules of Malaysia provide disciplinary punishment, proclaiming at the same time that only those restraining measures which are indispensable for maintaining security and sound communal life in the institution may be employed against prisoners. The disciplinary punishments employed include reprimand, segregation, demotion in stages, deprivation of social privileges and earnings, restricted diet and committal to solitary confinement up to 7 days. Physical punishments that may cause serious consequences to the health of a prisoner may not be used in the system of disciplinary measures.

In some states of India, the jail superintendent has powers to punish a prisoner for any offence committed in the jail, by separate confinement for a period not exceeding 3 months, or cellular confinement for a period not exceeding 14 days. The separate or cellular confinement, however, only secludes a prisoner from communication with, but not from sight of, other prisoners. In the case of separate confinement, the prisoner is entitled to not less than one hour exercise per diem and to having his meals in association with one or more other prisoners. In addition, for the safe custody of the dangerous prisoner the jail superintendent is authorised to put him in bar-fetters under certain conditions. However, the court cautioned that the law does not permit the use of bar-fetters for an unusually long period.

In Pakistan, the following punishments provided in the Prisons Act of 1894 are awarded for disorderly and indisciplined activities in jail: (a) hard labour, (b) forfeiture of earned remission, (c) forfeiture of class, grade or prison privilege, (d) exclusion from remission system, (e) cellular confinement, (f) separate confinement, (g) link fetters, and (h) bar fetters. In imposing disciplinary punishments, especially those of serious nature such as hard labour, cellular or separate confinement and fetters, proper measures for avoiding undesirable side effects are taken in respect of the period of punishment, and the manner of supervising the mental or physical health of the prisoner during the execution of punishment.

(2) Procedures of disciplinary measures including administrative safeguards and judicial intervention

Disciplinary measures are necessary in order to maintain order and security in the

correctional institution. However, when they are used in a way to violate constitutional safeguards or impede reformative efforts, they become counterproductive and indefensible. It is not deniable that there is a possibility for correctional officers to abuse their authority because they usually have wide discretionary powers in imposing disciplinary punishments. The imposition of major disciplinary punishments may extend the period of incarceration or substantially change the status of the prisoner. Thus, the participants stresses the necessity of administrative safeguards as well as judicial intervention against the abuse of disciplinary authority. It was also pointed out that a proper balance should be held between the protection of human rights of prisoners and the maintenance of institutional order and security.

Most prisons in India have a formal discipline board. The functions of the board are to conduct the orderly enquiries, to decide on the disciplinary action to be taken, to review the cases of prisoners undergoing punishment, and to plan suitable measures on prison discipline in general. It is to be noted that the Prisons Act of India has provisions under which the magistracy are authorized to punish prisoners for specified offences such as rioting, escape, and offences triable exclusively by the court of sessions, while the prison officers empowered to order punishment for other simpler acts. Thus, both administrative and judicial proceedings are available at the command of the correctional personnel.

The Prisons Ordinance of Sri Lanka provides for the constitution of a tribunal chaired by a judge for the punishment of misbehaving prisoners while it gives the superintendent of prisons the powers to punish minor contraventions.

In prisons of Japan, there is a disciplinary board which consists of the warden (chairman), division and section chiefs, and other senior staff concerned with the treatment of prisoners. The disciplinary hearing by the board is not like formal court proceedings, but evidence is collected and examined with caution to arrive at the truth. At the hearing the inmate is notified of the facts charged and given an opportunity to defend himself. In deciding the kind and amount of the punishment, the warden should take into consideration the seriousness of infraction, the adequacy of the punishment, and its effects on the rehabilitative programmes. Moreover, there must be, with allowance for reasonable flexibility for individualization, an impartial and consistent enforcement of rules in the disciplinary procedures. When a prisoner commits a crime such as escape, murder or bodily injury, he may be prosecuted in the criminal court in addition to the imposition of disciplinary punishment.

In order to secure safeguards against arbitrary disciplinary punishments, it was pointed out, the prisoner's complaints should be properly dealt with. In this connexion, the participants stressed that the prisoners should be allowed to make complaints against imposed punishments to the central prison administration, the judicial authority or other proper authorities, and that the complaints should be promptly dealt with and replied to without undue delay unless those complaints were evidently frivolous or groundless.

(3) Special institutions, segregated units and security facilities

In the light of special characteristics of dangerous or habitual offenders, it was pointed out that there was a need for special institutions and various kinds of security facilities. In many countries in the region, dangerous or habitual offenders are incarcerated in maximum security institutions and various physical and mechanical devices are utilized for securing control over their behaviour as well as maintaining order and security.

In Iraq, dangerous or habitual offenders are usually put in the maximum security institution which differs from other institutions in that there are more restrictions on the liberty of the prisoner. This institution contains intensive correctional programmes such as counselling, vocational training and school education. The goal is to qualify the dangerous or habitual offenders professionally, behaviourally and socially.

In Singapore, a habitual offender of a violent nature or a prisoner serving a term of 2 years or more is housed in a maximum security prison during the initial stage of his imprisonment. As he progresses, he might be transferred to a setting of medium security.

In Thailand, juveniles who are habitual offenders, who have been convicted of serious crimes, or for whom normal treatment in training schools is inadequate, while imprisonment appears too severe are sent to the annex of the training school. In this annex strict discipline is enforced. At present there is one such annex for boys at the Observation and Protection Centre in Bangkok.

In Hong Kong, institutions or parts of an institution are categorized based on the available security facilities such as perimeter wall, guard towers, close circuit television system, perimeter fence, inner fence, sterile area, sally-ports, cellular accommodation or dormitory accommodation, and the deployment of staff in the supervision of prisoners. A maximum security institution may contain both categories "A" and "B" accommodations. The category A unit is completely isolated with inner fences; the cell block is partitioned into sections of not more than 20 cells in order that in the event of a disturbance the section affected can be completely closed off without affecting other sections. At any time when prisoners are allowed out of their cells there must be one staff in exceed of the number of prisoners. In a category B unit there is no strict requirement of partitions and the units are larger with more cells.

It is true that special institutions, segregated units and other physical and mechanical devices are necessary for the control of prisoners and the maintenance of order and security. However, it should be noted that the order and security in the prison could not be maintained by such physical and mechanical measures alone. In this connexion, the participants stressed that the firm but humane attitude on the side of prison staff and guards toward prisoners was essential to secure order in prisons as well as to assist the rehabilitation of prisoners.

Community-Based Programmes for Dangerous or Habitual Offenders

1. Availability and Necessity

It was reported that the rehabilitation services in Japan had under probationary and parole supervision many habitual or dangerous offenders with various negative factors including serious personality deviation, repetitive criminal records, affiliation with organized crime elements, drug or alcoholic abuse and so forth, who constituted the major proportion of those deemed difficult to treat in the differential treatment scheme, and also provided aftercare services including shelter care for discharged offenders on voluntary bases. In Singapore, a corrective trainee or preventive detainee released on licence is supervised by a probation and aftercare officer, and in Sri Lanka, a long-term prisoner released on parole is supervised by a welfare officer attached to the prison. In Thailand, the Observation and Protection Centre provides a juvenile parolee with aftercare services including temporary accommodation in its open quarter and a job-finding programme. Voluntary aftercare services for discharged offenders by the Discharged Prisoners Aid Society, Aftercare Association, and other similar organizations are available in Hong Kong, India, Malaysia, Singapore and Sri Lanka.

It was also reported that those sentenced to an addiction treatment centre were subject to supervision for 12 months after their release in Hong Kong, and that an aftercare centre for drug dependents prepared diverse treatment programmes ranging from individual, group, and family therapy to aftercare through periodic follow-up in schools and work sites, home visitation, social placement and employment schemes in the Philippines, and that aftercare programme for narcotic addicts were effectively implemented by the narcotic control agencies with an active participation of volunteers in Japan.

On the other hand, it was made clear

that community-based corrections, be it in the form of probation, parole or community service order, was non-existent for adult offenders in Malaysia, and that the institutions of probation and parole were used only for first offenders of non-serious crimes without moral degradation in Pakistan. Similar situations were observed in many countries and it was admitted in general that the roles of community-based programmes in the treatment of dangerous or habitual offenders were minimal, if any, in most countries represented, mainly owing to the shortage of financial and manpower resources for the desirable development of community-based corrections. Although the effectiveness of the community-based programmes for the resocialization of dangerous or habitual offenders had yet to be explored in the years to come, many participants were of the view that the use of community-based programmes in various forms would deserve serious consideration, not only from economical standpoints, but also from the viewpoints of rehabilitative as well as humanitarian considerations. In this connexion, it was strongly recommended, especially for the countries attempting to establish the community-based services under the constriction of budget, to encourage volunteers and voluntary organizations to participate in the services, in view of the fact that they had enormous potentiality, if properly guided, of providing offenders with necessary aids and assistance for their rehabilitation.

2. Effective Treatment Programmes

In Japan, it was reported that a differential treatment programme had been developed since 1965 so as to have probation officers involved more intensively in the treatment of offenders with difficult problems, and about 10% of non-traffic offence probationers and parolees were classified as those in need of intensive supervision under the programme, though it was pointed out that there was much room for further improvement in terms of diagnostic unification and accuracy as well as treatment skills and techniques of probation officers so as to enhance the effectiveness of the treatment. In addition, the halfway house treatment project for parolees with long-term sentences in their initial parole period was to be launched in Japan. It was felt that similar efforts would be well worthy of consideration in other countries.

As regards the necessity of coordination among the related agencies as a prerequisite for more effective programmes, many participants supported the view that the two extreme positions taken up by the police on the one hand and the correctional officials on the other on the attitude to be adopted in treating the habitual or other offenders in society necessitated a greater coordination between the two. The participants paid their attention to the report that the coordination between prison programmes, aftercare services and social welfare agencies including voluntary social worker had greatly enabled a smooth transition of prisoners from the prison to the community in India.

Research and Training

It was unanimously agreed that researches on the evaluation of the treatment programmes and the prediction of recidivism as well as the training of correctional officials at both national and international levels were of vital importance as a basis for sound decision-making in the treatment of offenders and for its effective implementation. It was admitted that the present situations in this respect were far from satisfactory in many countries and serious efforts were required to promote the research activities and the training programmes. It was also pointed out that standardized statistics on crime, criminals and the treatment of offenders had to be developed so as to evolve pertinent and efficient measures for the prevention of crime and the treatment of offenders.

PART II

Material Produced During The 52nd International Training Course On Community-Based Corrections

SECTION 1: EXPERTS' PAPERS

A Description of Two Inner London Probation and After-Care Service Experimental Community-Based Projects for Offenders

*by William H. Pearce**

Part I: The Inner London Probation Day Training Centre: An Alternative to Imprisonment for Adult Offenders

Background

The Criminal Justice Act, 1972, first established the concept of the Day Training Centre. It provided that a maximum of 60-day training period could be included in a probation order, under the supervision of a probation officer and the responsible staff in a day training centre. Inner London Probation and After-Care Service (ILPAS) established a working party in the autumn of 1972 to recommend possible aims and methods for the Inner London centre. Its key proposals were that the centre should operate as a genuine alternative to imprisonment, although preferably for clients who were not yet severely institutionalised or severely addicted to drugs or alcohol. Emphasis should be on improving clients' personal and social skills, their awareness and ability to deal with real life situations. The underlying philosophy called for clients to learn self control and self discipline, not by the imposition of rules and regulations but through completing tasks and solving problems. The major therapeutic tool was to be interaction in small groups. In practice, the clients who are men and women aged 21-45 have tended to be more criminally sophisticated and with much greater institutional experience than was originally envisaged.

The centre opened on 12th November 1973. Four months were devoted to the orientation and in-service training of staff and detailed programme planning. An information handbook was compiled, community relations were consolidated, explanatory visits were paid to all of the Inner London courts and 'workshops' were organised for probation officers and students from the Service. The staff of the centre comprise a director, who is a senior probation officer, six probation officers (3 men and 3 women) who work in pairs to lead the groups, an executive officer who deals with financial matters, secretarial support, an ancillary who is responsible for security and for helping around the house, a cook and a gardener. There are specialist teachers in art, woodwork and pottery, who are present at the centre for part of every day and a music teacher and a social skills specialist who attends for a smaller number of sessions. A literacy programme is run by a voluntary associate. Clients are admitted to the centre in groups of 8-10 and three such groups can be attending at the same time giving a maximum capacity of 30 offenders. The first group arrived on the 18th March, 1974. To date, 30 groups covering 275 clients have taken part in the programme. In 1975 ILPAS decided to admit women offenders to the centre; 23 women clients have attended since then.

Men and Women Who Come to the Centre

The Government's intention in introducing day training centres is set out in the report of the Home Office Working party, as follows: 'They should make provision for socially inadequate offenders who through inability to cope with the complexities and demands of modern life appear frequently before the courts. Offenders of this type will probably have characteristics of a poor work record, limited education, broken or difficult family relationships and poor management of money. The traditional penal methods seem to have little success with them and once set on the

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course they are likely to continue as persistent offenders.' The Inner London centre accepted the brief of trying to find an alternative to imprisonment for such people, but in practice during the four years it has been open, it has been found that the centre can cater for a wider number of offenders than might have been expected from the original document. About half the people referred to the centre would fall into the socially inadequate category outlined above. In addition to these, there is a large group of more criminally sophisticated men and women who seem to be able to make use of a programme such as is offered by the centre, at a certain point in their lives. That point is usually when they have become tired of the continual cycle of offences and further periods in prison and would like to break with their criminal life but have no alternative pattern of living. This often occurs (particularly to men) in their late 20's when, for the first time, they have some roots in the community, perhaps a girlfriend and a home, and would like to settle down to a more stable existence. In addition, there is a small group of men and women who have not as yet been to prison but whose current problems suggest a rapid decline unless there is some intensive intervention. For example, the man in his 30's whose marriage has broken up and, as a result of depression following this, has lost his job, taken to drugs and become homeless. He may be repeating offences with increasing frequency and perhaps has already failed to respond to probation.

Phrases like 'petty recidivist', 'socially inadequate' or 'criminals who want to build up a new life' tend not to give a real picture of the hard reality—the number of times the men and women have been before the courts, or the frequency with which they have appeared, the amount of time they have spent in prison; their early years in other institutions, such as children's homes or special schools, their lack of relationships with other people in the community; the absence of stable accommodation or of consistent work patterns. The men are mostly in their late 20's and have an average of 12 previous convictions. Almost all have been in prison or borstal at least once and most several times. Over a third are sufficiently criminal to have received sentences over 2 years on one or more occasion. Only a small proportion (around 20%) have survived in the community for a year without being convicted of an offence before coming to the centre. In other words, involvement in crime, whether petty or serious, has been a frequent part of their lives for a long time. Most of the men have little social stability. Very few indeed are in work at the time of referral, and over one-third are homeless or have just been placed in hostels. Relationships are precarious or non-existent for most, with only a third married or cohabiting.

The women are mostly slightly younger, usually in their mid-twenties, and with an average of 7 previous convictions. Although their offences are usually less serious than the men's, most have been involved in crime at very frequent intervals and hardly any have survived the year before coming to the centre without a conviction. About half have served at least one prison sentence and most have been given several suspended sentences. Generally, their offences are for dishonesty (particularly shoplifting); some have been before the courts for prostitution and other offences include child neglect. The social backgrounds of the women are, if anything, more chaotic and deprived even than those of the men. Almost all have had disrupted childhoods with periods in care. Most have made early marriages and had children, but almost none have a stable relationship with a man at the time of referral to the centre. Because of the children, most have more stable accommodation than the men, but most have chronic financial problems, many are depressed and have problems with drink and drugs.

The Programme

1. General Considerations

A day centre by its very nature has several inherent important advantages, as

well as some limitations, in comparison with any residential institution. It cannot provide total security nor can it offer the degree of support some people need, particularly during crises, to help them control their behaviour. This has implications for those who can be selected (for example, the seriously suicidal or violently destructive person could not be contained). The great advantage a day centre has is in enabling men and women to continue holding responsibility for many everyday, basic social commitments, such as managing money and running a home. This prevents the retreat into dependence which is characteristic of many men and women who have spent long years in institutions. It also produces "live material" day by day in responses to these everyday pressures. This contrasts with prison where any rehabilitative work must be on the basis of reflection on past failures and planning for the future. The programme must aim to make maximum use of everyday experiences outside the centre. To some extent these comments apply to all forms of supervision in the community. The advantage of a day centre, for the right people, is that it offers not only a much more intense opportunity, but also it can provide a network of relationships and a range of activities so that people can learn about themselves in a variety of situations and can form relationships based on shared activities, as well as the traditional worker-client contact.

The offenders for whom the centre was designed have had a strong effect on the nature of the programme. Previous experiences have made many of them extremely suspicious of authority and resistant to conventional forms of help and therefore they may be more able to accept help from each other than directly from probation officers. The basic working unit at the centre is a small group of offenders, starting the programme at the same time, who can help each other to modify their behaviour. The life experience of many has left them not only low in self-esteem and lacking in social skills, but also very unused to exercising responsibility for themselves or towards other people. It is important then that the structure of the centre should give a real share of responsibility to the participants. As no effective work training can be undertaken in the 3 months available the centre offers a range of practical and creative activities in which they can experiment to discover their own skills.

The 60-day time limit means that the programme can only serve as a start to a process of change and that the main work of sustaining new approaches is going to take place during the period on probation after leaving the centre. It is essential the probation officer in the home area is as fully involved as possible throughout the client's attendance. Only thus can he know what his client has experienced at the centre and help him use the new skills and understanding gained to tackle problems in the community. In order to emphasise for all the parties concerned that day training centre attendance is only one part of the whole probation order, responsibility for supervision remains with the home probation officer.

2. Assessment and Selection

The assessment and selection procedures takes two days. On the first day, an opening session explains the purpose of the exercise and gives clients an opportunity to ask questions or express misgivings. The clients then begin to talk a little about themselves and get a feeling of what it is like to discuss personal problems in a group. They are encouraged to try to highlight the areas of their life they want to change. Clients are next asked to carry out four relatively simple standard tests measuring personality, verbal ability, reasoning and depression/anxiety. Individual interviews are held with the probation officers leading the group and a psychologist; the centre's administrative officer gives information about the grant they would receive while attending the centre. There is a medical examination to ensure they are generally fit, sometimes combined with a psychiatric examination. The first day concludes with a group meeting to exchange first impressions of the centre and deal with any questions. On the second day the clients and

probation officers work together for about two hours to gain a more intense experience of being in a group. In the afternoon the 'home' probation officer of each client joins the assessment team (i.e. the group leaders and the psychologist) and a joint decision is made as to whether the client is accepted or rejected. He is then asked to join the meeting and the decision is discussed with him.

During the assessment period, staff are most concerned to discern whether a client can withstand the stresses of the centre, and whether there is any motivation to change. Even a passive dissatisfaction with the current life style usually provides sufficient material to work with. It is important at this stage that the client fully understands the programme and is willing to face the demands that will be placed on him. The specific problem areas brought out by a client during the assessment lead on to the drawing up of specific contracts for each offender.

3. Contracts and Weekly Summaries

The 60-day time limit also means that work undertaken must have a clear focus if anything is to be achieved; individual contracts ensure that each member of a group has specific aims. The client and his home probation officer will have an opportunity to discuss. the problems which have been highlighted during the assessment before a formal contract meeting is arranged between the client, his home probation officer and the group leaders at the centre. If the client has an important relationship with a husband or wife, girl or boyfriend, then that person too will be invited to participate in this meeting. Contracts need to be as simple and specific as possible and tailored to the individual's needs. Problems with relationships feature in most contracts, but vary according to the type and depth of the problem and the client's ability to work on it. For clients without relationships outside, the main material for this aspect of the work may come through behaviour in the group and narration of past experience of failure. Contracts may also include very practical aims, a poor work record related to employment, excessive drinking, etc.

The contract cannot contain anything which the client has not agreed to, and it is subject to revision and alteration during the programme. Clients read out their contracts to the rest of the group during the first or second week and they are re-examined during the second month. It is part of the general philosophy of the centre that clients must always have as much control as possible over what is happening to them. Contracts play an important part in allowing a client to formulate what he or she wants out of the treatment process. For the same reason records of progress are kept in the form of weekly summaries written by the group leaders and fed back in the groups. Their clients have the chance of commenting on and amending these summaries. A copy of each summary is sent to the client's home probation officer. The contract forms the basis of these weekly summaries so it is never lost from view. Only a small proportion of the clients have a husband or wife or other close partner, but where appropriate that person is invited to be involved not only in the original contract but during the period at the centre, by visiting and reading the weekly summaries. Close involvement can not only cut down problems of jealousy and resentment that the client is getting all the attention but help the partner understand better the changes the client is trying to make.

Groups

1. The Three Phases of the Group

If the group is to help individuals look at painful areas in their lives and help them to begin to make changes, it must first develop sufficient trust and confidence between members to make it a safe place for people to become vulnerable. In the first few weeks the group meets frequently —up to 12 times a week for 1½ hour sessions; it begins to share personal information, and looks at how members can help each other. The whole issue of the group's leaders (probation officers) as authority

figures is of paramount importance in this phase. The group becomes preoccupied with whether the leaders are real people with problems and feelings of their own, or just another set of officials. The group also test out the boundaries set by the leaders. Can they arrive late each morning? What happens if they come back drunk in the afternoon? If the group can come to see the leaders as real human beings who are yet capable of setting reasonable limits in order to enable people to work in the group, this may help clients to look at their attitudes to authority and begin to free them to take on more responsibility themselves.

Once these initial tasks are accomplished the group is ready to move on to a second phase where individuals can begin to look more closely at themselves and develop increased self-understanding. Clients begin to realise where they are 'stuck' in their lives, what is holding them back from making changes and to commence the process of modifying their attitudes and behaviour. The final phase of the group is crucial in helping clients accept that what they have achieved is good; that there is more for them to do during the rest of the probation order; that they must now look outward to the future. For some, the prospect of leaving the centre is frightening and painful. It is particularly difficult for clients who have been in a series of institutions as children and have repeatedly experienced the rejection of broken relationships. If they can be helped to see the experience at the centre as a positive, but now complete, and to make the transition constructively knowing that links with the centre can still be maintained, then this may in itself help them to come to terms with some of their past experiences of separation. This transition is eased by the process of deliberately making the focus of the last few weeks more outward-looking. The group meet less frequently; clients are completing their projects in the creative activities, and are expected to spend time out of the centre looking for jobs and sorting out any remaining practical problems. Finally, there is the gradual fragmentation of the group as some leave to take up jobs at the end of the tenth week.

2. Self-Understanding

The main aim throughout the programme is to help clients gain more understanding of their behaviour with a view to achieving greater control over it and to be able to find more socially acceptable ways of satisfying their needs and expressing their feelings. This process goes on throughout the three months but, as has been shown, it is particularly important in the second phase of the group. Clients gain in self-awareness in a range of ways. Often self-understanding comes from a client looking at his relationships with other members of his family, sharing the pain of the frequently disastrous experiences of childhood and learning how these are affecting his behaviour now. Sometimes changes can be made in relationships but often all that can be done in the group is to express the anger that has been present for many years and has previously found an outlet in anti-social behaviour. Often it is possible to help clients see the link between present and past experiences in relationships and the feelings these arouse and the likelihood of them committing offences. The pattern will be different for each client but only by learning to recognise the satisfactions which derive from the offence itself and finding some alternative source of satisfaction—by learning to recognise the danger points which ultimately lead to further offences—can any of them hope to respond differently to future stress. Certain aspects of the programme are set up more explicitly to help clients modify their behaviour and develop approaches likely to get them what they want in socially acceptable ways.

(i) Social skills training

Social skills cover a wide range of behaviour—from job interviews to making friends (particularly with members of the opposite sex)—and to asserting oneself without becoming unnecessarily aggressive in dealing with officials in authority. Sessions start by a client specifying the area he

wants to work on and then roleplaying it in front of the group. It is usually videotaped and replayed immediately. The group and the leaders then comment on the good and bad aspects of the performance. Another group member, more skilled in that area, will then roleplay it again, showing what could have been achieved. Sometimes 'home-work' assignments between sessions can also be useful. A shy man increased his conversational skills by talking with an unfamiliar member of staff, then by entertaining a visitor to the centre and finally initiating a conversation with a stranger outside the centre. Self-confidence and skill can grow through practice. Clients are encouraged to focus on problems that are particularly difficult for them; initially, many 'accomplished' clients deny they have any problems but by trying out the programme they often realise they, too, can improve their performance in everyday relationships.

(ii) Planning for emplyment

All clients are expected to start making plans for their eventual employment within the first few weeks of reaching the centre. This leaves time not only for making enquiries about what work is available and the qualifications required, but also for some to learn how to fill in application forms, practice job interviews and look at why they have failed to hold particular jobs in the past. Given the very poor work records of many clients, this is an important area of learning. The expectation is built up in the group that each client should have definite works and training prospects at the end of the course and in the last few weeks they are expected to go out and find jobs or enrol for courses. Most manage to leave with something definite arranged.

(iii) Literacy classes

Only a very small proportaion of clients are actually illiterate but a large number are frustrated by their poor performance in reading, writing or arithmetic. Literacy and numeracy classes are arranged whenever they are required.

3. Activities

The centre provides a range of creative activities, such as art pottery, woodwork, gardening and music. These aim to introduce clients to new ways of expressing themselves and new sources of satisfaction. All are encouraged to try out the various activities and it is rare for a client not to find something in which he can develop considerable skill. By persevering in the making of a chess set or the building of a coffee table, a client can discover (often for the first time) the satisfaction as well as the frustrations of completing a project and having something to take home which has been made with their own hands. Many show real and underdeveloped talents. Activities provide opportunity for achievement, relaxation and, even more importantly, a different network of relationships within the centre. Some who have come nervous and suspicious of those in authority, first find a 'niche' within one of the activities and from there develop the confidence to take a fuller part in the groups and in other aspects of the life of the centre.

Various other activities throughout the programme are aimed at enabling clients to relax, to let off steam and, most importantly, to practice relationships and social skills in informal non-pressurised settings. Adventure weekends involving, for example, canoeing, pony-trekking, or hill-walking have proved particularly useful. Gym and swimming periods are built in throughout the course and the centre remains open one evening a week so that members can stay use the facilities on an informal basis along with past members who may return for this purpose.

4. The Centre as a Community

Much of the original thinking of the centre was based on that of various residential therapeutic communities. In these settings it is hoped that by allowing clients to take a full part in the running of a community they will learn the need for some sort of order and will develop self-control through recognition of their part in producing order. Experience has shown that there are considerable limitations to this

concept within a day setting, particularly when the time spent in the centre is limited to three months. The rapid turnover of clientele means that there is a lack of stable leadership among the participants which would help act as a pull towards more constructive behaviour. In a non-residential setting it is also important that at the end of the day clients are left sufficiently calm to be able to go to their own homes without getting involved in disruptive behaviour. It has also to be recognised that most therapeutic communities are taking clients on a voluntary basis whereas the centre is always functioning within the controls of a court order.

However, the basis concept of helping clients to develop internal control through accepting responsibility for making rules that affect themselves and other people and seeing the impact of their behaviour on other individuals with whom they are in daily contact, is an extremely important one in the work that is being done at the centre. Most of the men who attend have alternated between short, chaotic periods in the community and perhaps in closely structured residential, mainly penal, establishments. This has left them with little experience of exercising responsibility for themselves and at the same time all too skilled at superficial compliance with rules made by those in authority.

The issue of authority and rules is such a key one in any work with offenders that testing out of boundaries that are set is essential if they are to look at their own attitudes towards those matters. The problem is how to give individuals enough scope for testing out the limits without destroying the security of the group or the community. After an initial phase at the centre of trying to involve everybody in the setting of all limits, it was decided that the staff must accept responsibility for enforcing certain rules. However, these are kept very simple and easily explicable. No drink or drugs are allowed on the premises, on the basis that people cannot work when they are not in possession of their faculties and that the temptation for people who are struggling with drink and drug problems must not be increased. Similarly, anyone coming into the centre under the influence of drugs or alcohol is asked to leave. Attendance is expected in conformity with the probation order and it is made clear that action for breach of the requirement of an order will be taken in appropriate circumstances.

In the process of trying to help people see the impact of their behaviour on those around them and develop more socially acceptable ways of getting on with other people, the whole network of relationships within the centre is used. When something is stolen within the centre this is discussed by the whole community in terms of the loss of trust as suspicion rests in turn upon everyone in the house, and the upset at seeing someone who is known and probably liked hurt by experiencing this sort of cruelty. Equally, success in getting a job or sorting out a difficult problem at home for example—is recognised and commented on by everyone else around. The great advantage of a day centre is that, because of the large number of people around, every client can find his own source of support, advice and sometimes criticism, and staff and clients alike can play many different parts in the course of any given week. Criticism of unacceptable behaviour such as rudeness is more possible because of the ongoing day to day relationships.

Many clients gain confidence through exercising responsibility within the centre. It may be through discovering they can help other people in their own small groups; or by accepting responsibility for organising a darts tournament, or by chairing the weekly community meeting. Because of its experimental nature, the centre attracts many visitors. Most clients who take part in the monthly visitors' afternoons, undoubtedly gain in self-confidence from feeling that they are on their 'home ground' in relation to visitors who are often much more powerful. The discovery that they can talk to a Judge as to another individual, and that their views on what is happening to them are taken seriously by people in authority, can often do much to make them feel worthwhile and acceptable people.

5. Using Probation

It has been pointed out already that 60 days at the centre can only be of significance if seen as part of an ongoing probation order. Some clients arrive with good, well-established relationships with their probation officers and understand easily how they can use that relationship to help them look at their experiences at the centre and translate them into practice after they leave. However, many more of the highly institutionalised recidivist population who come to the centre regard all authority figures with suspicion, and tend to blame probation officers they have met in the past for their own failures, repeated breakdowns and returns to custody. For them, probation officers are part of the rejecting, punitive society to which they have never felt they belonged. One of the values of a day centre is that it enables staff and clients to interest with each other not only for many more hours than is usual between probation officers and their clients but also in a whole variety of situations, formal and informal—this, hopefully, in turn can lead to a breaking down (or at least changing of) the stereotypes of authority some of the clients bring with them. If they can come to see probation officers within the centre as 'real' people, this may in turn affect their attitude to probation officers outside. However, this does not occur automatically, because clients are so much closer to their group leaders they may have difficulties in seeing that their home probation officer has anything to offer or that he really cares about them.

To try and overcome these barriers the home probation officer is, as far as possible, now involved in the life of the groups. He takes part in the original assessment to see whether the client is suitable to come to the centre and is involved in the drawing up of contracts. At least twice during the life of a group all the home probation officers are invited to join with the group. These sessions are used partly to look at what is happening in the group, in order to give the home probation officer a more 'live' feeling of the problems facing their clients, and partly to look specifically at how the members intend to use probation after leaving. In the week before each client leaves, he and the group leaders go to visit his home probation officer at the latter's office and there undertakes a review of what has been achieved and what problems he is likely to face. Out of this a further contract is drawn up which forms the basis of the work between the client and his home probation officer during the transitional period.

This constant liaison is recognised as vital to the success of the programme but, even so, such sharing between all the staff involved is not always easy. It demands considerable trust in a colleague, a willingness to share one's own professional work and to remain involved while someone else is doing the main work with a client. It demands also a willingness on the part of the client to try and work with several different people at one time. Nearly a quarter of the men now coming to the centre are currently living in probation hostels (and a further number in voluntary hostels); for many clients this degree of support is essential if they are to be able to tolerate the demands of the centre. There is, however, a risk of the client feeling 'overworked', subject to too many demands and having no privacy. This can only be avoided if there is a clear understanding of respective roles between hostel and centre staff, as well as good communication.

Staff Relationships

One of the basic aims of the centre is to provide a place where offenders can meet with those in authority, and others holding responsible positions, and come to make personal relationships with them which may help cut through their stereotypes of official figures. This aim is immediately defeated if staff retreat into stereotyped reactions or set up professional barriers that keep a client at a distance from them. However, not to do this involves a tremendous degree of exposure for all the staff of their opinions and, more importantly, of their feelings.

Staff are also constantly required to respond directly to the behaviour of their clients, as and when it happens; in this the demands on them are similar to those on staff in residential establishments. They are constantly exposed in their handling of any situation to the scrutiny of both colleagues and clients. For example, a client testing out by coming to the centre drunk, has to be handled immediately and in such a way as to reinforce the house rule and the credibility of the staff member in the eyes of other clients as well. Giving in to one client over demands for money is liable to let loose a chain of similar demands from others and an inappropriate response, such as unjustifiably losing one's temper, with one person is likely to affect the response from all the other clients over a long period.

Mistakes are inevitable, as in any social work; the difference in a day centre is the ramification of any mistake. In addition, perhaps the pitfalls are greater than in most of the normal probation office situations. It is easy to be drawn into a promise to keep certain information confidential, before discovering that it has considerable importance to the work that is being done at that time in the groups; it is easy to sympathise with the man who does not have his fare home and to offer him a lift before realising he has been promising fellow group-members for weeks that he would manage his money better.

The problem of exposure is also increased by the sheer fact of being in a community with groups of clients all day long. Staff frequently comment on the feeling of never being able to escape and of always feeling responsible for what is going on around them. All probation work involves interacting with individuals who frequently respond in an irresponsible and childish way; to go on working without oneself retreating into childish, deviant or inappropriately authoritarian ways is one of the major demands on all probation officers. It becomes a much more wearing demand, and a more difficult one to maintain, when faced with clients for eight hours a day without a break.

All these pressures are particularly concentrated on the probation officers; they take the major part in enforcing the rules and limits of acceptable behaviour in the centre and they lead the groups where the most intense emotional interaction takes place. At certain points in their efforts to help, clients see probation officers as real people. The group become pre-occupied with the leaders as people and question them not only about their personal lives but also about why they are probation officers, what they think they have to offer, about their ideas on delinquency, what they feel about authority, how much they really care about clients and what they feel when clients commit further offences. They become particularly concerned with whether the probation officers can really understand and identify with them as people, rather than acting as clinical therapists. All this can be tremendously challenging to the group leader's own identity. The demands are increased by the knowledge that the extent to which the clients find they can accept the leaders and respect and identify with them is one of the major factors determining whether they will make use of the programme, or work their way through it in the same detached way that they have coped with their previous institutional experiences.

This close involvement leaves the probation officer not only more vulnerable to the feelings of the group members, but also more vulnerable to his own feelings about the clients—of like and dislike, of being threatened and of disappointment when things go wrong. The strain is often aggravated by the fact that the probation officer is at any one time working with only one group of clients. When that group is going through a particularly bad session, they may be highly critical of a leader. There are no other successful areas of work to which he can turn for reassurance. All he can hold on to is his feeling of confidence in his own professional skills and, more fundamentally, to his belief that, as an individual, he has something to give to help other people.

The Role of Day Training in the Penal System

Prison is necessary for some offenders who represent a real threat to society. For many others who may be at risk of imprisonment there is no need for the type of help offered by day training centres. For example fines may be a much more appropriate deterrent for those men with greater social stability; community service offers the possibility for an offender to make reparation and may also be of benefit in building on his constructive abilities; probation offers sufficient support as well as supervision for many individuals; day care offers the possibility of much more extensive support and access to a wider range of opportunities for those facing more deep-rooted social problems. Day training specifically aims at those considered to need intensive intervention.

One of the difficulties in deciding whether day training is a viable alternative is the lack of a consensus over the goals of imprisonment. Most people recognise that prison sentences do not necessarily reduce crime; what measurement then must be required of a day training programme before it can be viewed as effective? Must day training have a demonstrable effect in reducing recidivism? Or is it enough that the centre contains the criminal behaviour of men while they are in the programme, makes perceptible improvements in their social functioning and perhaps reduces the overall severity of their subsequent criminal behaviour? Or that it contains their behaviour for a limited time and produces no worse long-term recidivism results than prison? Obviously, the answers to these questions presuppose answers to even more fundamental questions about the purposes of a penal system. Even if it is assumed that day treatment is marginally more successful and no more expensive than prison, will it be viewed as a sufficiently retributive response to criminal behaviour? In fact, many clients at the centre, after experiencing the personal demands the regime has made of them, consider prison the 'softer option'. But can the wider society come to understand and accept this?

Fundamentally, the future of day training centres will depend on the balance that is finally struck between custodial and noncustodial treatment alternatives. With the exception of West Germany, England now incarcerates a higher percentage of its offenders than any country in Western Europe. With a changing society and rising crime rates, the public demand seems to be for more, rather than less, incarceration. At the same time, virtually every informed observer of the nation's prison system is convinced that a large number of prisoners need not be there. Only a small percentage of inmates are so dangerous that their custody is required for the safety and well-being of the rest of the community. In most cases, custody has been imposed because anything less would be seen as an insufficient response to the criminal's violation of social norms. In the face of such public perception, a significant expansion of penal alternatives like day training centres in lieu of adding to prison capacity will require extensive public education and courageous political leadership.

It will also require resources. Experience with the highly recidivist offenders dealt with at the Inner London Day Training Centre suggests it is possible to contain many of them in the community provided a sufficient range of supports is available. Quite a high proportion need hostel accommodation as well as the centre; others need a work support scheme or special training if they are ever to hold jobs; some may need sheltered workshops for a long period; some may need long-term support in sheltered communities; and others specialist help through drink or drug programmes. Such comprehenvise services may not be cheap in the short-term, but may still be cheaper than the many years of imprisonment these men and women seem destined for without those alternative supports.

Part II: Ilderton Motor Project: An Experiment in Behaviour Modification

Whatever the future trends of other crimes, the casual violence of delinquent drivers in continuing to create enormous havoc and seems an inevitable part of modern civilisation. In a sample[1] of 180 persons convicted in England and Wales in 1965 of serious motoring offences, two-thirds revealed attitudes hostile to the Courts, nearly half bluntly stated that the sanction or sentence imposed had no influence on them at all, and one in five claimed that the sanction or sentence had produced a change for the worse. Offences which killed or crippled people and damaged property were often seen by those committing them as misfortunes rather than faults; and the sentence meted out as having little impact and dubious effect. This latter aspect highlights the kind of problem which faces penologists in considering other types of crime; whether it is worth tolerating a system that is inefficient and ineffective for actual offenders because it is believed to be effective in deterring potential ones. More recent figures in the criminal statistics for motoring offenders in England and Wales give ample evidence that these findings still hold true and strengthen the case for trying to discover more about those whose offences are "car-centred". There is an urgent need for sentencing practices and attitudes to be reviewed and hopefully changed if we are not to persist in wastefully reinforcing failure in these auto-crime cases.

It is perhaps in the use of 'disqualification to drive' that the courts reflect most clearly some outdated assumptions about motoring offenders. Car owners originally came mainly from the social strata of wealthy people whose social attitudes, in general, recognised legal authority and who were seen to be different from "ordinary" anti-authority criminals.

The present day justification for disqualification, other than as a deterrent and punishment, is to keep incompetent and otherwise dangerous drivers off the road, but it seems a questionable assumption that the driver's ability as such is likely to be improved by one or more years away from driving. It is more notable still that only a small minority of persons disqualified are required to retake a driving test before regaining their licences. In the course of their training, magistrates pay due attention to the elements of retribution, deterrents, prevention and reformation in sentencing. Expressed in a more practical way, it could be said that their aim is to send from the court an offender who is conscious that what he did was wrong and who will take pains to avoid repeating it. However, this implies a reasonable expectation that whatever is done to the offender will make him a safer and more law-abiding driver than before he was sentenced. Fines demonstrably fail to have this effect, and for the persistent offender custodial treatment likewise show poor results. Since so often car-centred offenders reveal a persistence which baffles commonsense and even defies sporting odds, it seems useful to go into this in more detail. If this part of my paper can claim any kind of pedigree, it might be described as "by behaviour modification out of desperation!" It has particular relevance to offenders, generally young in age, who steal cars, or 'take and drive them away' for joy riding purposes—without the consent of the owner.

For the persistent offender, each delinquent act produces excitement, probably peer group status, and possible material rewards, and hence generates the motivation for further offences. From this perspective, the *causation* of the *initial* delinquent acts recedes in importance. Criminology is rich in social and psychological theories as to why individuals become delinquent, and these theories are highly relevant to the problems of prevention, but have less direct bearing on the problem of treatment. Many persistent offenders present other serious social and psychological problems apart from delinquency, all of which may be proper targets for social work intervention, but their solution alone will not necessarily cause the persistent delinquent to become a non-offender. The

rewards of the delinquent behaviour itself are the primary motivation for this behaviour pattern, and not only does it become habitual, but it is also seen as central to the delinquent's self-image. Delinquency may be the only area of activity in which he has any sense of personal achievement or adequacy, so that the question "if I am not to be delinquent, what am I to be?" is a perennial problem for those engaged in treatment. Delinquency of this type is buttressed by a self-consistent set of attitudes—often hostile—towards the social environment, and the processes by which such attitudes are developed are central to the problem of treating the delinquent.

To protect himself from being defined as bad, the delinquent adopts defensive attitudes towards authority which withdraw the rights of conventional adult authority figures to define what is right and wrong. In a bid to condemn his condemnors, the delinquent claims that authority figures are hypocritical, unfair or incompetent, so that, in attacking others, the wrongness of his own behaviour is more easily lost to view. Indeed, the actual processes of the law itself may demonstrate the doubtful legitimacy of legal authority.

The fact that the offender gets away with so many of his offences proves the incompetence of the police; the inequalities of sentences meted out to offenders for the same offence shows that judges and magistrates are either corrupt or stupid; although the judges would claim that they are simply trying to individualise justice. In addition to these processes for discrediting the values of authority figures, the offender adopts distinct techniques of selecting and interpreting their actions so as to support his hostile view—e.g. the judge's attempt to individualise justice will be interpreted as the absence of justice. Contact with other offenders reinforces these perceptions to the point that they become an automatic response.

Institutions offer fertile ground for the offender's techniques of selective viewing and discrediting—he is acutely aware of the foibles and weaknesses which appear. All defects and faults are attributable to the one authority and because of different personal styles among staff he may perceive the institution as unrealistic and unpredictable, or worse, as inept, mismanaged, and inconsistent. This gives ample scope for being manipulative, and it is likely that his attitudes will deteriorate the longer he stays, even in a well-run institution. Therefore, for the persistent offender, institutions do not always offer appropriate opportunities for him to effect real change in his behaviour.

When considering supervision in the community, the foremost problem often is that the offender simply will not regard himself as a suitable case for treatment, which can give a poor start to the traditional client/supervisor relationship within the context of a probation or parole order. The exercise of social work skills relies on a measure of compliance on the part of the client, and demands of the worker a talent for compromise between the extremes of acting as an agent of social control and as a personal therapist. In trying to resolve the conflict between these roles, the worker may evidence some inconsistencies which are quickly spotted by the offender who perceives the probation officer or social worker as unreliable. Again, he can effectively make himself immune from having to recognise the validity of authority. The other limitation on the effectiveness of "traditional" supervision for treating the persistent offender stems from the learned behaviour nature of such delinquency. At its simplest, the first requirement for changing a self-reinforcing behaviour pattern is that somehow it must be stopped, for if it continues so will the process of reinforcement. In this context, the use of a social work relationship is not generally a potent treatment tool.

For any treatment programme within the community to be effective, it must, as well as exercising adequate control, recognise the importance of delinquency as part of the offender's self-image, and accept that direct confrontation with authority is not a promising context for change. In providing an alternative to delinquency, it is important that the activity should be

functionally equivalent, i.e., offer the offender interest and stimulation and, above all, status in his own eyes and in those of his peer group. The theoretical model which emerges, therefore, would place the offender in a peer group whose membership he values highly, where he can find success in areas which are esteemed by the group and in which the commission of offences incurs active disapproval and explicit low status.

Applying this strategy to the persistent offender who is addicted to cars and commits auto-crime offences, led to serious consideration of how to capture his interest in motor vehicles so as to change it gradually from a delinquent to non-delinquent focus in his life, and of how to use cars as an indirect approach to resocialisation rather than ignoring their significance.

Just as a great deal of labour and imagination goes into changing an unpromising block of stone into a recognisable sculpture, so a great deal of effort went into the setting up of the Ilderton Motor Project, which I shall now describe in some detail. The project is managed by a committee whose members come from the Probation Service, Lewisham Social Services Department, the Metropolitan Police and the local voluntary associates group. The resident project leader and his assistant are both employed by ILPAS and are given support and supervision by the local senior probation officer.

In 1974, a group of probation officers in London who were concerned about the numbers of young auto-crime offenders whom they were supervising with only moderate success, began this experimental project in an old disused bath house which was made available to them by Lewisham Borough Council. The premises were cleared and converted mainly with voluntary help and Bulldog Manpower Services into a fairly basic motor workshop where offenders and non-delinquent volunteers, who were also 'hooked' on cars, could pursue this interest together. It was thought important to have a mixed rather than an all-delinquent group so that as far as possible the pro-social attitudes of the volunteers might begin imperceptibly to rub off on the offender. It may be reassuring to note that none of the volunteers are contaminated, and that, although a slow and fairly unstructured process, a great deal of questioning and discussion has gone on about basic attitudes to the use and ownership of vehicles.

Clients are accepted at the Centre on a voluntary basis and are mostly referred by probation officers, social services workers and increasingly by the Police Juvenile Bureau. Since becoming registered as an Intermediate Treatment facility in October 1977, referrals have also come direct through local juvenile courts. Enrolment at the Centre is on a contractual basis where the client understands that his continuing attendance depends on his good behaviour inside and outside the project. Length of membership depends on the rate at which individuals respond and develop, and obviously on the capacity of staff to manage increasing numbers. The Centre is open each week-day evening from 6.00 p.m. to 10.00 p.m. so the offenders can attend after finishing their day's work.

The project receives a steady flow of old cars from the Police which are used to instruct the young offenders in repairs and car maintenance. We have made available welding, paint-spraying, body building and engine-tuning equipment for this purpose. In addition to these material activities the staff encourages the gradual transfer of emotional investment away from the car and into ordinary social relationships in which the car can then take a proportionate place. Individual counselling, group sessions and directive straight talks are among the range of interventions used.

As well as encouraging "taking and driving away offenders" to learn properly about car repairs and maintenance (one self-proclaimed "expert" was found to be fitting brake shoes upside down!), care was taken to make them more aware of the legal requirements and complexities of hire-purchase agreements, and of the long-term effects which endorsements and disqualifications were having on the premiums demanded when they sought insurance

organizational goals which were either too unrealistically set for members to achieve or were solely imposed on members without due consultation and participation.

A second causal factor was that of communication. Human behaviour as such would itself create bottlenecks blocking both horizontal and lateral communication resulting very often in undesirable consequence of ineffectiveness, inefficiency and staff conflicts. In an effort to enable correctional organization to function in a more satisfying manner, Mr. Liu described one method of motivating staff morale whereby it was hoped some of the organizational problems could be avoided. In the main, the programme consisted of 3 phases, namely, 1) brain-storming, 2) planning and organizing, and 3) evaluation. The first phase of brain-storming would require everybody to sit back or brood and such a mental process would enable him to get a clearer picture of his duties and responsibility and whether or not he has been living up to the expectation entertained of him by the organization. Moving on to the second phase of planning and organizing, all people concerned would share the opportunity of setting organizational goals to a level that is attainable by all; and allowing individual to give his best within the framework of limited autonomy, thus providing all members with ample chances to show initiative and zeal and to develop potentials and creativity. The third phase would be in the form of getting necessary feedback for control purpose and more importantly for the management to appreciate and reward outstanding performances and to help people to pick up momentum.

Mr. Liu advocated the use of such a programme of staff motivation in organization management. It is obvious that through such a programme of motivation, there would be staff's greater awareness of and participation in the areas of decision-making. There can be no doubt that only rarely are people not motivated by being consulted on action affecting them. They will have good knowledge both of problems and of solutions, and many of the latter are, in fact, very much part of their own contribution and decision. He further noted that this programme was a tool conducive not only to staff management but also to correctional treatment of the clients. With the aid of this tool the problems the clients face can be more easily and correctly identified and they are expected to be much more involved in the treatment process.

Members of the group generally agreed that such a programme of motivation was one of the practical steps to take in dealing with some of the problems of staff and those of the organization, while there were many other equally important motivating factors such as salary, training, workload, job placement, general welfare, availability of resources and discipline. The programme has the merits of eliminating many unnecessary communication bottlenecks and minimizing staff conflicts. The purposeful participation process responds to a number of basic motivation. It is a means of giving staff proper recognition of their status and worth; it gives an opportunity for them to satisfy their need for affiliation and acceptance; the results of the performance and improvement give them a sense of accomplishment and competence.

With regard to the implementation of the programme, it was pointed out, however, that the leader of the organization should play a vital role in making final decision. Some participants also were of the opinion that its application should be adopted with care depending on types of institutions and nature and magnitude of its problems. In large scale institutions, for instance, the programme should be adopted in a modified manner. In addition, some others observed that special emphasis on informal communication between those above and below without going through formal channel might cause a drop in morale which inevitably would affect their performance.

Recruitment and Training of Correctional Officers

Mr. Kolokihakaufisi's paper on selection and training of correctional officers gave a very comprehensive picture about the way with which correctional officers in Tonga were being trained.

In his view, the training of staff was vital and it was only through staff that the organization would function efficiently in treating prisoners as well as keeping them in custody. Thus, the staff need a new outlook and approach to the work and they would get this through training. However, the present day training programme in Tonga is solely entrusted upon the training officer who is a police officer. He is responsible for preparation of the training programme for both the police and prison officers. Mr. Kolokihakaufisi further noted that there were grave problems in the present system since the amount of coordination between the police and prison was insufficient, there was a lack of necessary and relevant training material pertinent to prison services, and most important of all there was no system of evaluation to test the viability of this amalgamated programme.

Great care had been taken to select people of the right calibre for prison service and there were clear requirements as for education qualification, letters of references, conduct reports and other physical standards. There was also an interview as an additional safeguard to really pick up the right choice. Once appointed he would be on probation and be given basic training course at the police training school simultaneously with on-the-job training to be supervised by a warder.

In Tonga, the present system has not encouraged young university graduates to take up prison service as a career. This may be because prison service has not offered sufficient incentive comparable to other forms of civil service and the working conditions in prison service appeared repulsive sometimes. There was also the view in the community that parents and family did not like their younger generation to engage in prison work as the society had a negative view towards the servicing of prisoners.

Mr. Kolokihakaufisi strongly advocated the necessity to have a separate training establishment for prison officers, with programmes fitting the job of a prison. There must also be in-service training programmes as an on-going process. Besides, he suggested that more funds be made available for such programme and improvement of working conditions.

Generally the group agreed that proper training for correctional staff was important and that they must be trained for the types of duties they were going to perform. However, it might be necessary for individual countries to have their own system of training most suited to their own needs.

In the case of Tonga, there were suggestions that prison officers be nominated as the training officer and that a prison officer could be seconded to the training school by agreement. It might be practical to allocate part of prison buildings as training ground for officers. Some members suggested, however, that the training needs could be met not only within prison setting, but also in academic institutions like the university.

Very useful exchange of views was held on the selection of officers for correctional work. In the case of Japan, the prison administrator always had ten times more applicants than the vacancies. In Korea, there also had been more applicants than vacancies, and about 50 percent of those engaged in prison work would take up prison work as their career, and the government had designed an allowance system to encourage prison staff. In Japan, Korea and Hong Kong, prison officers did have slightly higher salaries than other grades of civil service, but at the same time a need was felt to motivate them to keep the job since many of them tended to quit the service after receiving initial training and as such training efforts were wasted. It was also pointed out that at the time of recruitment it was desirable to make clear to them the type of work they would do and the requirements expected of them. Thus, it might be of help if more publicity be done about prison work to arouse the interest of people about the job.

In Japan, it was pointed out, the prison

administration used to have little publicity about prison work in the old days, but there was a change in attitude now and more efforts had been made to publicize the importance of the treatment of offenders. "Joy and Sorrow", a collection of stories by prison officers on their experience in the treatment of offenders, was recently published for the purpose of personnel training as well as public enlightenment.

Moral Education in Training of Officials and Treatment of Offenders

Mr. Kim's paper on the training institute for the official of the Ministry of Justice in Korea laid emphasis on training of not only prison officers but also all public officials in the Ministry of Justice. He further clarified the system of Saemal Education in Korea which aimed at giving people a new state of mind that was necessary for modernization of the country. The system would aim at educating all members of the public and government officials to have three main purposes in life, namely, hard-work, self-support, and cooperation.

This Saemal Education was also introduced to the correctional institutions for the reformation of offenders. The primary target was to promote vocational training to strengthen productivity as well as to reinforce guidance for them.

During discussion, Mr. Kim pointed out that the purpose of the Saemal Education was to help the prisoners to focus on their weaknesses and to bring about improvements. People in the community were invited to give lectures to the prisoners; mass media would help to publicize the experience of successful students and to show pictures of people leading a full life. The system had some bearing on the reduction of recidivism.

The group went on to discuss the importance of moral education as a necessary part in the treatment of offenders and training of public officials. Many people had hitherto held the view that moral education was largely a matter for the private individual and not one of national responsibility. The group was reminded of the distinction between moral education, religious education and education for the respect for law. In American society, although there was respect for different life styles and religions and hence the government would never impose religious value or personal life style on individuals, there was obviously a set of common law which expected conformity by all the people in the country.

Mr. Liu from Hong Kong responded by saying that moral education was not only important for correctional institutions as a part of its training programme but it should start in schools where major emphasis nowadays was on teaching of technical subjects. In the correctional homes in Hong Kong, subjects like civic responsibility, honesty and filial piety were often included in the programme and discussed among the inmates under the lead of expert speakers. It was difficult, though, to assess the actual impact of these activities on the inmates.

Mr. Kolokihakaufisi of Tonga stressed its religious outlook and attributed this to be a major cause for its low rate of recidivism. The Korean experience was that religion was the basis of crime-free society, and a slogan of education encourages the people to read, to be religious, and to acquire technical knowledge.

In Japan, there used to be high priority given to moral education, but there seemed to be a slackening off of this value especially among the young generation. The implementation of moral education in schools was a difficult one since there was a split between the government and the teachers' union concerning the method and contents of such education. According to the Constitution, the government is prohibited to practice teachings for specific religions in public schools as well as in prisons.

One final point raised was that in juvenile training schools in Japan, there had formerly been strong emphasis on vocational training but now more efforts were made for the development of living guidance in which moral education was stressed.

The Role of Public Prosecutors in Dealing with Recidivists

Mr. Watanabe of Japan presented a paper on the treatment of recidivists at the stage of prosecution. In his dealing with offenders, he found that more than 50% of them were recidivists and the fact that an offender was a recidivist also influenced his way of disposing the case. Since he was involved in investigating into criminal cases and handling offenders by way of prosecution or suspension of prosecution, he was naturally concerned with the treatment of recidivists.

Working through his own experience of dealing with offenders, Mr. Watanabe could roughly generalize the recidivists as having such characteristics as low standard of living, low academic achievement, unmarried and staying alone, without employment or a fixed abode. They had all begun their criminal career at a young age and had been on probation. He had a grave doubt on whether the non-institutional treatment of such offenders at the initial stage of criminal career had been properly taken or effectively implemented.

Discussion in the group started with the effects of the stipulation in the law as far as the punishment of recidivists was concerned. It was agreed that such stipulation would often limit the scope of discretion of the prosecutor or the judge in disposing the case. The general tendency was that lighter sentences were meted out for first offenders and teavier sentences for repeaters. When the public prosecutor disposes of a case or the judge assesses a sentence against an offender they need relevant information such as a probation officer's report, prior prison record and if necessary, psychiatrist's report. In Japan, however, the system of pre-sentence investigation does not exist except for juvenile cases. All relevant information regarding sentencing is presented by the public prosecutor and defence counsel, although the judge may, if necessary, call for witnesses in his own initiative. The feasibility and appropriateness of pre-sentence investigation system should be considered in the framework of the criminal proceedings in each country.

There were doubts on whether the prosecutor could dispose of his case properly when he did not get full information or facts of the case. However, it was pointed out that for prosecutors there were usually no other ways of handling recidivists than filing prosecution and demanding the court to impose a heavier penalty because of the existence of severe reaction on the side of society at large as well as victims.

With regard to the treatment of recidivists, Mr. Liu observed that it might be necessary to classify the types of recidivists: he may be a repeater of the same crime or different types of crime. It was further put forward that perhaps strengthening the family tie of the offender with a proper job placement may help lessen his criminal tendency. Meaningfully organized adult centres with various recreational facilities may also help divert the tendency of potential repeaters. Mr. Kim also felt that improving the environment would reduce the rate of recidivism, and that in a deteriorated environment, the offender was likely to be aggressive and would look for an outlet.

Discussion went on to examine the treatment of mentally disordered prisoners. In Hong Kong, they classify mentally disordered people into several categories, for instance, mentally-ill, mentally retarded, and psychologically abnormal. Some of them may need in-patient treatment, and others out-patient treatment. The psychologically abnormal would receive counselling from social workers with help from clinical psychologists or even psychiatrists, and other supporting services.

Organized Violent Groups and Countermeasures against Them

Mr. Tamatsukuri's paper on organized violent groups spelt out clearly the organisation, its background and memberships, activities harmful to community and the kind of countermeasures adopted by the police to track them down. It also listed out certain difficulties in the effort to fight this specific type of crime and criminals.

He began by pointing out that the organized violent groups were in the form of a family-like structure in which a boss looks after his followers as children and supports their way of life. In the old days there used to be a kind of ceremony performed for admission as its member. However, the ceremony was not strongly stressed nowadays. Statistics in 1977 showed that the total number of groups had reduced by half but the total number of members declined only some 40% as compared with those in 1963. Out of the members, 70% had tattoo. Half of them would commit offences within 1 year, and if they had been members for 5 years, they would be members for life without any chance of relinquishing membership.

The organization gives credit to those who commit crimes for the group and they would be promoted to a leadership post or others. Their main sources of income used to be the operation of illegal business such as extortion, gambling, prostitution and loan sharking. Nowadays, however, the greatest source of income comes from trafficking in stimulant drugs.

The members of these groups are usually school drop-outs or those from broken families. They joined these groups as they felt that they were isolated and rejected by society and of course, they also wanted to lead a luxurious life without painful hard work.

The police have made every effort to crack down the gangster groups, but there are still many difficulties in controlling them. Mr. Tamatsukuri felt that the operation of criminal justice relating to bail and suspension of execution of sentence had some adverse effects on the effort of the police to fight these violent groups by prematurely releasing their members from custody. Moreover, the view of society somehow has had encouraged the existence and growth of these violent groups since there is great demand for services provided by them. It was also suggested that it was often a difficult problem to eradicate violent groups, as long as people used their services and tolerated them. There is therefore a need for public education, and necessity to change the law dealing with organized crime and racketeers. In the United States, for instance, various measures against members of violent groups had been taken, some of which might be challenged as unconstitutional: 1) the so-called preventive detention was used to the effect that the law allowed denial of bail to after court hearing; 2) although there was a 1968 Federal act banning wire tapping, it could be used against organized criminal groups with approval from the court; 3) for organized gangsters, there were provisions for minimum prison term of a much longer duration; 4) the Federal Witness Protection Act established an elaborate programme to give protection to the witness against retaliation by gangster groups by changing the total identity of the informer by giving him a new name, a new place to live and even buying him a business to make a living; and 5) there was the development of an internal police unit to investigate their own police members to ensure that they were not corrupted with the gangsters they worked against.

The experience in Hong Kong was that with the support of I.C.A.C. (Independent Commission Against Corruption), the police was very successful in tracking down a few drug traffickers and had driven many illegal establishments like girlie bars out of operations.

In Korea, there were 3 major organized violent groups. Many of their leaders were able to conceal their status by engaging in legal business at day time and only involved in illegal activities at night. In Mr. Kim's view, strict measures must be taken against these gangsters right from the beginning. At one stage, Korea adopted a very drastic measure to deal with gangster groups and that was to apply capital punishment.

Another problem raised for discussion was how to prove the memberships of a gangster group since many witnesses were reluctant to testify and the testimony of police officers alone was sometimes regarded insufficient.

In the United States, there was an attempt in legislature to spell out what it

meant to be a member of groups. It was a ncesssary feature to have more than one member of a group to be involved in the crime and that they were unable to account for their income. There are a few notorious gangster groups like Mafia, motor cycle gangs, radical violent gangs and organized professional thieves who have committed the largest kinds of robbery of furs and jewellery stores. The police have set up special police unit to deal with each of these.

In Hong Kong, the confession statements made by defendants as being members of "triad society" were often rejected by the court resulting that the police had to produce corroborate evidence like that of the "protector" who had admitted a certain member into the groups. Failing to produce that, the case would often be thrown out.

The group elaborated on a very important aspect of the gangster group problem which was how to stop recruitment into organized groups. In the experience of Japan, being a group-oriented community, there were some people being rejected by the normal social groups like family, school, local community and place of work. Since they could not remain in these normal social groups, they naturally sought alternatives by joining the illegal groups to compensate their inferiority complex. Hence, there was a great need to extend care and assistance to people in socially disadvantageous position and to do best to reintegrate wayward members into normal groups instead of rejecting them. It might be pointed out that organized violent groups as well as radical political groups had demonstrated exaggerated and pathological forms of group loyalty characteristic of the Japanese society. It was concluded that isolation of individuals meant a high tendency for them to be drawn to undesirable groups and the community must find ways and means to channel them into proper groupings.

Grievances of Prisoners against Prison Administration

Mr. Yonemura's paper dealt with some aspects of prisoners' grievances. In Japan, there was an increasing number of complaints and legal actions brought by prisoners against judicial and correctional authorities presumably because of their greater awareness of human rights, their pathological persistence in pursuing complaints, and their determined efforts to disrupt prison administration. Since the spirit of law in Japan was to give full protection and respect to human rights, all such complaints were thoroughly investigated and might have to reach the very top level of the authority concerned for decision and actions. If these complaints were made on good grounds with substance, they would certainly help the prison administration bring about changes for improvement. However, when the majority of them were groundless and not substantiated, they would only cause a waste of manpower in handling and often lead to deterioration of staff morale. What was worse was that in 1978, 65% of the complaints were filed by repeaters of complaints and most of them were complaining for the sheer satisfaction of their own sake. For the political radicals, the prison was taken as a good ground for further propaganda of their belief and activities.

Mr. Yonemura would like to be enlightened on the ways to treat the behaviour of such persistent complainants and he briefly put forward the following three methods for discussion, 1) improving prison conditions to eliminate sources of grievances, 2) to equip staff with better knowledge, professional and legal, for the treatment of offenders, and 3) to watch out for suitable opportunities to modify behaviour of the radical inmates. He also stressed on good human relationship between prison staff and inmates as being a strong front for avoiding troubles of such nature.

The discussion of the group started with stipulation of human rights in the law and it was observed that the stipulation was often very vague and it left a burden for the prison authority to correctly interpret it. The Ministry of Justice in Japan had

started examining and revising the Prison Law, with a view to more clearly defining the rights and duties of prisoners.

It was also put forward that two major factors might have caused all the trouble, that is, 1) communication gap between inmate population and prison authority, and 2) malpractice of prison staff. Therefore, complaints on good cause could lead to improving communication pattern for better understanding of each other's feelings and role within the prison and doing away with malpractices of one kind or another.

The prison authority had wanted to deal with these complaints within its own jurisdiction and took great pains to investigate cases, interview witnesses and clarify issues and facts. A lot of man-hour was engaged in this kind of work since they received many complaints every month. But the prisoners were often not satisfied with internal decisions as such and they went further to appeal to public prosecutor or to the court.

It was observed that since the law guaranteed the rights of the prisoners, there was virtually nothing that could be done to belittle the problem but to handle every case fairly and efficiently. It was admitted that the feelings of prison officers against these complaints were understandable and that these complaints were for the large part, unpleasant, annoying and time-consuming, but prison officers must not appear too worried about them or else the purpose of the prisoners of annoying the prison administration was served. The trend would be for these complaints to be on the rise rather than decline in the future.

Mr. Kim opined that there were some complaints of prisoners against prison in Korea, and that if these complaints were driving for improvements in the prison, they had served a good purpose, but that if these were rebellious of prison authority, it was meaningless.

In Hong Kong, all complaints against any governmental authority were thoroughly investigated even if they were brought by anonymous persons. The idea was to bring about improvement and remedy when and if the complaints were fully substantiated.

In Tonga, there were rarely complaints brought by prisoners against the prison and if there was any, it was to be investigated by a separate and independent body or the police.

The group was advised of the result of a survey on the mental conditions of extremely persistent complainants in correctional institutions, which was conducted by researchers of the Research and Training Institute of the Ministry of Justice in 1973, and found that 60% of them were psychopaths and 12%, psychotics. It was one of the most difficult task for prison officers to deal with complaints, and counselling system should be expanded to bring about better human relationships between those to govern and those to be governed.

It was agreed that the positive attitude taken to deal with grievances could be viewed as a step in the right direction since they might indicate inefficient and ineffective operation within the prison.

Summary

The group unanimously reckoned the importance of training of all workers, especially correctional workers as a prerequisite to the satisfactory performance of their duties in the real interests of those they serve. Hence, the group stressed on the content of any training programme which should aim at imparting such knowledge and skill as directly relevant to their sphere of work and which should be handled by qualified personnel with a whole host of supporting facilities like proper venue, visual aids and reading materials.

The element of moral education was deemed to enhance the ethics of workers towards an honest attempt to be faithful and loyal to their sense of duty and responsibility and hard work.

To complete the training process it was regarded part and parcel to have an ongoing process of motivating staff moral so that their interests in the job be constantly refreshed and that their frustrations, if any,

be withheld.

The problems of the treatment of recidivists called for scientific and systematic classification and collection of the fullest possible information and relevant records for diagnostic and treatment purposes. This obviously depended on the mutual understanding and cooperation of all involved in the criminal justice system. It was, of course, desirable to have a wide range of social services which actively help divert the attention and energy of young people hanging on a criminal career.

The headache of organized gangs was universally known and there was not likely to be any magic cure except making an effort to keep them under control and to reduce their menace to a minimum. The group laid its emphasis on the strengthening of normal social group functions as a strong-hold against further infiltration of gangster groups. And of course, public education to curtail the demands of gangster-organized services would certainly bring a higher probability of success in the battle against organized gangster groups.

With regard to the nuisance caused by complaints and grievances of prisoners against prison administration, the group agreed that people concerned should keep calm and adopt a positive attitude in giving all compleints a fair hearing.

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SECTION 4: CONCLUSION OF THE COURSE

Report of the 52nd Course on Community-Based Corrections

by UNAFEI Staff

Introduction

There are offenders who need incarceration in correctional institutions because of difficulties in effectuating their rehabilitation in the community, the seriousness or gravity of their crimes or the danger they pose to society. On the other hand, a wider use of community-based treatment has been advocated both from the viewpoint of more effective resocialization of offenders and from humanitarian considerations. The 52nd International Training Course was thus designed to examine and evaluate the existing systems and practices of community-based corrections in the region and to search for appropriate solutions to problems commonly confronted. The Course commenced on 17 April and ended on 7 July 1979, with the participation of 24 public officials from 15 countries in Asia and the Pacific, i.e., Bangladesh, Hong Kong, India, Indonesia, Iraq, the Republic of Korea, Malaysia, Nepal, Pakistan, the Philippines (2 participants), Singapore, Sri Lanka, Thailand, Tonga and Japan (9 participants). The discussions revolved mainly around the following themes: (1) available types of community-based corrections, such as pre-trial diversion programmes, suspension of prosecution, suspension of execution of imprisonment, unconditional discharge, conditional discharge, probation, community service order, work and study release, furloughs, open prisons, halfway houses, remission, parole, and aftercare, (2) appropriate criteria for the selection of offenders for community-based treatment measures, (3) variations in treatment programmes and methods of probationary and parole supervision, (4) rules, conditions and revocation procedure of community-based treatment programmes, (5) coordination of agencies and organizations involved in community-based corrections, (6) utilization of volunteers and other social resources as well as mobilization of general citizens' co-operation in the resocialization of offenders, (7) recruitment and training of the staff responsible for community-based corrections. The following reports are based on the presentations and discussions by the participants and other available information.

Titles of the Papers Prepared by the Participants for Comparative Study

1. A Review of Correctional Services in Bangladesh
   by Khundker A. K. M. Abdul Matin (Bangladesh)
2. System and Practice of Community-Based Corrections in Hong Kong
   by Koon Keung Liu (Hong Kong)
3. Community-Based Corrections in Andhra Pradesh (India)
   by Mulla Venkata Subba Reddy (India)
4. Pemasyarakatan System in Indonesia
   by Joker Sedimelson Purba (Indonesia)
5. Corrective Process and Parole System in the Republic of Iraq
   by Abdul Aziz Mohammed Ali (Iraq)
6. A Brief Summary of Some Correctional Programs in the Republic of Korea
   by Jong Rin Kim (Korea)
7. Prisons in Malaysia
   by Omar bin Mohamed Dan (Malaysia)
8. Community-Based Corrections
   by Babuan Thakur (Nepal)
9. Community-Based Corrections in Pakistan
   by Mohummad Khan Tareen (Pakistan)
10. Community-Based Corrections for Youthful Offenders in the Philippines
    by Celia Capadocia Yangco (Philippines)
11. The Philippines Adult Probation Law
    by Emma D. Yuzon (Philippines)
12. Community-Based Corrections in Singapore
    by Teo Yeow Beng (Singapore)
13. Resocialization of Offenders through the Correctional System of Sri Lanka
    by Endrawansa Perera Amerasinghe (Sri Lanka)
14. Community-Based Corrections for Adult Offenders in Thailand
    by Kiertisuckdi Vongchaisuwan (Thailand)
15. Institutional Treatment of Offenders in Tonga
    by Shinilau Kolokihakaufisi (Tonga)
16. Tentative Probation in the Family Court
    by Ken Hattori (Japan)
17. Urbanization and Probation
    by Masao Kakizawa (Japan)
18. Community-Based Corrections from the Standpoint of Correctional Institution
    by Hideo Kanayama (Japan)
19. Some Problems on Suspension of Execution of Sentence and Probationary Supervision
    by Hitoshi Murase (Japan)
20. On Suspension of Prosecution
    by Kazuo Sasaki (Japan)
21. The Probationary Supervision of the Juvenile Traffic Offenders
    by Kazumitsu Suzuki (Japan)
22. Juvenile Delinquency and Police Activities
    by Toshio Tamatsukuri (Japan)
23. On Suspension of Prosecution
    by Kazuhiro Watanabe (Japan)
24. Recruitment and Training of Prison Officers
    by Hiroshi Yonemura (Japan)

Pre-Trial Diversion and Alternatives to Imprisonment

It was revealed that, in many participating countries, pre-trial diversion and alternatives to imprisonment existed in various forms such as settlement of minor criminal cases through traditional local organizations, suspended prosecution, suspended sentence or conditional discharge, absolute discharge, fine and community service order. It goes without saying that in every country there are certain kinds of offenders who need institutional treatment because of seriousness of their offences, their dangerousness to society, high possibility of recidivism, or unsuitability to community-based corrections. Many participants, however, offered a view to the effect that imprisonment was likely to have a negative effect upon an offender because he was likely to be made worse and more criminal within a close-knit society of fellow criminals. While the community is conducive to facilitating the reintegration of an offender into society because he would be able to maintain the necessary support and concern of his family and the community at large, imprisonment normally is accompanied by hardship and suffering to the offender as well as to his family and dependants, and, of course the cost of institutionalizing a large number of persons convicted of criminal law violations would be prohibitive.

It was generally agreed that community-based correctional programmes were desirable in view of the fact that imprisonment did not necessarily deter crime nor reform offenders. Furthermore, it is more just that different kinds of dispositions should be meted out to different types of offenders, and that the use of community-based corrections would contribute to the reduction of the overcrowdedness in prisons and of maintenance costs.

1. Pre-Trial Diversion and Suspended Prosecution

As to pre-trial diversion, it attracted the attention of the participants that, in the Philippines, the basic political units, Barangays, were responsible for maintaining law and order and for setting amicably criminal cases of a minor nature outside the court. It was noted that this Barangay activity had worked to the satisfaction of

all persons concerned through speedy and amicable resolution of disputes and at the same time contributed to a decrease in the backlog of court cases. A similar system is also available in Nepal. It was reported that, in Sri Lanka, there were conciliation boards which disposed of minor criminal cases in the local community. Conciliation boards were established in village areas and in such other areas as may be determined by the Minister of Justice. The Minster is empowered to nominate a panel of conciliators of not less than twelve persons to serve in conciliation boards in any such area. Any private citizen or public officer may be appointed as a member of a panel of conciliators for such period not exceeding three years as the Minister of Justice may determine. The chairman of a panel of conciliators is authorized to select from the said panel not less than three persons to constitute a conciliation board. He may, and shall upon application made by a party, refer to a conciliation board such relatively minor offences as voluntarily causing hurt, wrongful restraint, wrongful confinement, assault, etc. If the board is satisfied as a result of the inquiry that an offence has been committed, it makes every effort to induce an offender and his victim to settle between them. Prosecution of such offences as referred to above can not be instituted in any court, unless the procedure in a conciliation board has been earnestly pursued. Although an increasing number of criminal cases were settled through this procedure a few years, its working is being suspended at present.

In Indonesia, Nepal and Sri Lanka, the police may suspend prosecution of minor criminal cases such as traffic offences, assaults, and offences regarding family disputes in consideration of the nature of offences, attributes of offenders, compromise between both parties and the like. On the other hand, in Japan and the Republic of Korea, the public prosecutor has discretionary power to suspend any criminal case from prosecution in consideration of the interest of both society and the offender, even if there is sufficient evidence to sustain prosecution. It was pointed out that, in Japan, the rate of suspension of prosecution was 9.4% for all offences, 30.8% for all Penal Code offences and 37.2% for non-traffic Penal Code offences in 1977. It was brought to the notice of the participants that, both in Japan and Korea, disposition of criminal cases by way of suspension of prosecution had been utilized effectively to facilitate the successful rehabilitation of offenders, by avoiding stigmatization accompanying conviction and adverse effects of short-term imprisonment. The system has also contributed to reducing the caseload of the court. It was generally agreed by the participants from countries where the suspension of prosecution was not available that its adoption was worthy of consideration, at least with regard to offences of a minor nature.

2. Suspended Sentence, Conditional Discharge, Absolute Discharge. etc.

In almost all participating countries, suspended sentence, conditional discharge, absolute discharge, and other methods of releasing offenders from the criminal justice process are made available to offenders at the stage of sentencing. It was the unanimous view that each of them was conducive to averting adverse effects of incarceration and helping offenders in their rehabilitation and reintegration into society. In Hong Kong, Indonesia, Japan, the Republic of Korea, Malaysia, Sri Lanka and Thailand, the law stipulates the suspension of execution of sentence which is generally applied to first offenders convicted of not so serious offences and sentenced to relatively short term of imprisonment. It was observed that suspended sentence was extensively used in the Republic of Korea and Japan and that, in Japan, the rate of suspended execution had been increasing yearly. It was pointed out that in 1977, of 75,547 persons sentenced to imprisonment, 46,536 or 61.8% received suspension of execution of sentence.

Furthermore, in the Republic of Korea and Thailand, another type of suspended sentence, a decision suspending the imposition of sentence to a convicted person, is made available. It should be noted that, in the Philippines, suspended sentence is applicable only to minors under 18 years of age at the date of the commission of a felony.

In India and Pakistan, absolute discharge and conditional discharge are resorted to as alternatives to imprisonment. Under the Code of Criminal Procedure of both countries, absolute discharge is applicable to any first offender under 21 years of age who is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence punishable with not more than two years' imprisonment. In India, to these offences is added any offence punishable with fine only. In those cases, the court may, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances, release the accused after due admonition. Conditional discharge in India and Pakistan is an equivalent to the suspension of imposition of sentence mentioned above. It is granted to any first offender not under 21 years of age convicted of an offence punishable with imprisonment for a term of 7 years or less or any person under 21 years of age or any woman convicted of an offence not punishable with death or imprisonment for life. In India, conditional discharge is also awarded to any first offender convicted of an offence punishable with fine only. If the court, considering the age, character or antecedents of the offender, and the circumstances in which the offence was committed, thinks it expedient that the offender should be released on probation of good conduct, the court may direct that he be released on his entering into bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the court may direct and in the meantime to keep the peace and be of good behaviour.

3. Fine and Community Service Order

Fines have been used as a punishment for minor offences in Hong Kong, Japan, the Republic of Korea, Malaysia, Nepal, Singapore, Sri Lanka, Tonga, etc. Fines were recognized to be one of the most appropriate alternatives to imprisonment, but some participants cast doubts on their function as a penalty, pointing out the fact that they were a pain to the poor but not to the rich and that the poor were liable to be incarcerated in default of paying fines. Furthermore, some participants felt that fines did not have enough deterrent effect. In this regard, the newly introduced system of community service order in Sri Lanka attracted the attention of the participants as one of the means by which to get rid of the above inequality between the poor and the rich. In Sri Lanka, in case of default of payment of fines, the court is authorized to make an order to require the convict to perform unpaid work for the community (community service) for a period computed on the basis of one month for every one hundred rupees due.

In this context, the traffic infraction notification procedure or the traffic infraction ticket system in Japan was briefed to the participants. This system was introduced in 1968 to ease the heavy workloads of courts caused by a sharp increase in traffic violations regarding speed limits, one way streets, traffic signs, parking places, crossing and so on. It is also designed to avoid stigmatizing millions of traffic violators as criminals, since a minor traffic violator is exempted from prosecution if he pays a "non-penal fine" within a specified time. Those who have failed to pay the fine will be referred to the public prosecutor for possible prosecution. In 1977, this system was applied to 10,358,825 or 83.1% of the total number of violators of the Road Traffic Law. The system was expanded in 1970 to cover juvenile traffic violators. In 1977, this system was applied to 915,387 (or 77.6%) juvenile violators of the Road Traffic Law.

4. Special Measures for Different Types of Offenders

It was observed that, in many participat-

ing countries, juvenile delinquents were not necessarily processed in the ordinary criminal proceedings and were subjected to police diversion, discharge by the court, commitment to the care of special schools for young offenders, etc. under certain circumstances. In this regard, the activities of the Ministry of Social Services and Development in the Philippines drew the attention of the participants. Officials working for the Ministry are engaged in providing immediate intake service to youth offenders at the stage of the police or the local courts and making preliminary study of the case. The main objective is to divert youth offenders, especially those charged with less serious offences, from the court system and to make representations for the release of the minors to the custody of parents, guardians or responsible persons in the community. This action requires a joint decision of the police, the court, the youth offenders and their families. In case they are subject to diversion, they are considered completely out of the court system and placed under the supervision of the Ministry of Social Services and Development. It offers them special services for the protection, rehabilitation and training of youth through the development of the youth programme called "Integrated Human Resource Development Program for Youth." The Ministry also deals with youth offenders who do not undergo trial after they admitted culpability. Under a service called informal probation, the court requires them to report regularly to the Ministry worker for supervision on a prescheduled basis. This involves case work service with the youths and their families and referral of them to the youth development worker of the Ministry for their membership in a regular youth group in the community that embarks on socio-economic projects, or to other agencies. It was the unanimous view that juveniles should be handled differently from adults in the criminal justice system, because they do not have the maturity and decision-making ability of adults. They require protection, care and rehabilitation rather than punishment for criminal behaviour.

Probation

Probation is a combination of conditional freedom granted to an offender by the court and supervision and guidance given to him by the probation officer. In Bangladesh, Hong Kong, Malaysia and Singapore, probation is ordered by the court as an independent sentencing alternative. In Indonesia, Japan and Thailand, the court makes a probation order when it suspends the execution of sentence. In Iraq, Nepal and the Republic of Korea, there is no probation system, but charitable organizations for aftercare services give some help and guidance to those granted suspended sentence as well as to those released from prisons. In the Philippines probation for juvenile offenders was introduced as far back as in 1924, and recent emphasis on community-based programmes for the rehabilitation of offenders let the country to the adoption of an adult probation system by the Probation Law of 1976 which was put into force in 1978. There are, however, a number of obstacles which make it difficult to introduce or expand probation services in many countries. One of them is strong public feeling in favour of custodial treatment of offenders, considering probation to be too lenient. In some countries, the fact that the recidivism rate of probationers was relatively high has had adverse effects on the public confidence in probation. Another is the shortage of necessary funds and professional personnel in the probation service. In some countries, a small number of probation officers have to provide supervision and guidance to a large number of probationers. In order to cope with these problems and also to improve probation services, the participants examined various important issues with regard to probation.

Eligibility of offenders for probation varies from country to country with respect to the nature and gravity of the offence, the existence and frequency of prior conviction, the length of the term of imprisonment to be imposed, etc. Obviously careful selection of offenders for probation is very important under whatever the

circumstances. The misuse of probation by applying it to those who can not profit from probationary treatment results not only in the failure to reintegrate the offender into the community and to protect society from his further crime but also in the loss of public confidence in probation. It was stressed that a detailed social enquiry report providing information on the offender and his background should be submitted to the court to help in placing the most suitable persons on probation. Even in some countries where pre-sentence investigation system exists, the shortage of probation officers often makes it difficult to gather sufficient information on offenders. In some countries, probation is ordered only on the basis of data provided by the prosecutor and the defence counsel. It was also pointed out that judges should be carefully trained so as to understand both the contents of social enquiry report and the actual working of probation and other community-based correctional programmes.

Probation is conditional release under the supervision and its general conditions are stipulated in relevant statutes. The court or the chief of probation office in some countries is empowered to impose additional conditions. The conditions commonly include maintenance of lawful conducts, prohibition against association with unsavoury persons and regular reporting to the probation officer. It was revealed that there were slightly different views of the significance of the conditions among the participants. One view was that the conditions were the goal set up by the authorities which the probationer should try to achieve with the assistance of the probation officer, and the other was that they were the contract agreed upon between the probationer and the authorities which the probationer must keep. However, it was agreed that the conditions of probation had dual roles of both a guide for the conduct of the probationer and a basis of revocation and resultant imprisonment for violations.

It was reported that the violation of conditions sometimes stemmed from lack of knowledge on the part of the probationer regarding the content of conditions imposed upon him. Therefore, the participants stressed that it should be the duty of the probation officer to furnish each probationer with a careful explanation of the conditions. It was also noted that the conditions should be realistic and enforceable so that the probationer could practically observe them, and in addition, that the conditions should not include requirements which inflicted unnecessary restriction on the personal freedom and legitimate activities of the probationer.

The maximum period of probation is provided by law in most countries, and it may extend to as long as five years in some countries. There was an argument on whether or not such long period of probation was necessary and effective. Many of the participants emphasized that excessively long period of probation would delute the intensity of guidance and supervision, and become irritating and boring to both the probation officer and the probationer, thus effacing any beneficial effects which would be otherwise produced by probation. On the other hand, a relatively short period of probation would not only save the cost and the manpower, but also have the advantage of bringing a sharp focus of both the probation officer and the probationer to the problems that need to be tackled. A long period of probation should be undertaken only where there were very clear reasons for it.

Discharge from probation ordinarily occurs at the end of probation period if there has been no violation of the conditions. However, in most countries, the court can either terminate supervision or discharge from probation before the expiration of the period if the probationer has been sufficiently rehabilitated to live in the community without further supervision and guidance. So, even if the court ordered a rather long period of probation, the participants stressed, the probation officer should conduct concentrated supervision and guidance by setting forth concrete goals for the probationer to fulfil, and applying early discharge from probation

when these goals have been attained. Such a practice would help the probationer strengthen his motive for resocialization, and early discharge from probation would give him a sense of achievement, thus exerting a favourable influence upon his future conduct.

The revocation of probation is at the discretion of the court in all countries concerned. The probation officer is required to make the most difficult judgement regarding an application to the court for the revocation of probation. Before submitting the application for revocation, it was stressed, the probation officer should consider whether the revocation would serve the best interest not only of the probationer but also of the community. In this connection, the participants stressed that some sort of hearing before the court should be provided so that the probationer could have a fair opportunity to rebut the allegation of the violation of conditions. It was also emphasized that the probation officer should analize the causes of failure in revocation cases to improve his treatment methods and techniques in the future.

Probation supervision and treatment are carried out largely through the reporting of the probationer to the probation officer and visit of the officer to the probationer. The probation officer aids and encourages the probationer through giving constructive advices and admonitions. It was stressed that case work in probation should be often extended to the family of the probationer. One participant from Japan introduced an experimental programme of group treatment he had taken for juvenile glue sniffers. The participants were unanimous in the opinion that group treatment might be effective to some types of offenders and save the cost and time of treatment, and that such treatment method should be tried on an experimental basis so as to assess its potentiality.

Extramural Treatment of Institutionalized Offenders

In the field of the treatment of institutionalized offenders, there is increased recognition that programmes of extramural treatment, which hold potential for bridging the gap between total institutionalization and life in the community, should be further developed in order to ease offenders' strains inherent in release from correctional institutions and thus to promote their adjustment to the community. In many countries of the Asian and Pacific region, there exist several programmes of extramural treatment of institutionalized offenders such as open institutions, work release, furlough or home leave and halfway houses, although available forms and the extent of use vary from country to country.

1. Open Institutions

Open instituions, which may be characterized by the absence of walls and other physical means of security against escape, play an increasingly important part in the correctional system of countries in the region. In some countries, open institutions were originally introduced with a view to cultivating the vast natural resources of the countries as well as relieving overcrowded prisons and saving costs in prison construction. Recently, however, more emphasis is placed on the rehabilitative potentiality of open institutional treatment for convicted persons in many countries.

In Sri Lanka, the first open prison camp was established at Pallekelle in the Central Province in 1951. There are at present three open prison camps and three open institutions for youthful offenders. An open prison camp serves as a pre-release centre. A convicted offender who has served one fourth of his sentence with the remaining term of sentence for one year or more is eligible for admission. Inmates are employed in agricultural activities. They maintain good relationships with the free community in the vicinity as they participate in community projects on a voluntary basis. At open institutions for youthful offenders there are facilities available for training in industrial work, agriculture and animal husbandry. Inmates are supervised by a housemaster.

In Andhra Pradesh of India, well-behaved prisoners from district jails and central jails are transferred to open air agricultural colonies. In open air agricultural colonies, inmates are employed in horticulture, wet cultivation, dry cultivation, poultry farming, dairy farming and sheep-rearing. Qualified instructors are employed in each trade and services of professionals in agriculture and animal husbandry are available.

In Indonesia, prisoners who have served one half of the sentence are eligible for admission to open camps. In open camps, inmates are employed in such works as agriculture and breeding fresh water fish.

In Malaysia, the Henry Gurney School (Telok Mas) and the Dusun Dato' Murad (Ayer Keroh) are open borstal institutions with farms for young offenders. Since Malaysia is basically an agricultural country, special emphasis is placed on vocational training in agriculture in these institutions. In future, it is intended to extend this agricultural scheme to adult prisoners.

In Singapore, corrective institutions for juvenile offenders, which are known as approved schools, approved homes, are run on house system and the social rehabilitation of the inmates are carried out by the housemasters with the assistance of assistant housemasters. Industrial projects are available in the homes, in which boys and girls are paid by the same rates as outside workers. They retain 75% of their earnings which are being credited into their post office saving accounts. The vocational aspect of the homes is looked after by the vocational instructors.

Although an open institution involves more risk of absconding and of undesirable contacts with the outside world, it is generally agreed that an open institution offers the following advantages over other types of institutions: (a) An open institution is more conducive to the physical and mental health of the inmate; (b) The absence of physical means of security and the relations of greater confidence between inmates and staff tend to create an atmosphere propitious to a genuine desire for social readjustment; (c) The conditions of imprisonment can approximate more closely to the pattern of the normal life; and (d) An open institution is economical with regard to both construction and maintenance.

Depending on each country's own criteria, prisoners are sent to such an institution either at the beginning of their sentence or after they have served a part of it in another type of institution. In some countries, first offenders or those offenders who do not have deeply-rooted criminal tendencies are usually sent to such an institution. In Japan, open institutional treatment is extensively implemented for traffic offenders. It was pointed out that in the selection of offenders careful screening should be made on the basis of a medico-psychological examination and a social investigation, and that a special committee responsible for the classification and selection of offenders for admission to open institutions should be established. The participants also observed that the criteria of selection should not be solely based on the particular classification category to which the offender belonged nor on the length of the sentence.

With regard to treatment programmes, it was observed that agriculture which was a main work programme in many countries was very effective for the resocialization of offenders because it was suited to the need of society. It was also pointed out that vocational training in industrial works should be expanded to meet social needs depending on actual situations of each country. In addition, the participants stressed that the participation of inmates in community development projects was a very important treatment programme in open institutions.

2. Work Release

Work release, which permits selected inmates to go to a job in the community during the day, is relatively new development in many countries of the region and its use is still on a trial basis. In some countries, it is mainly implemented in open prisons and juvenile institutions. Agri-

culture is a main work in many countries, while industrial works are extensively carried out in some countries. Several countries place emphasis on vocational training in implementing work release programmes. The method of payment varies from country to country.

In Japan, work release programmes have been conducted mainly for juvenile inmates of juvenile training schools as an important part of vocational training. In 1977, 329 juveniles or approximately 10% of the total number of inmates in juvenile training schools were placed on work release programmes. The scheme in relation to adult prisoners is at present still on a small scale, although it is available for the prisoners who are suitable for open treatment in several prisons. In view of the successful results, however, consideration is given to further expansion of this scheme for adult prisoners.

In Sri Lanka, the work release scheme was inaugurated in 1974. Prisoners who have served over two years and who have less than two years more to serve are eligible for the programme. Under this scheme, the prisoners for whom suitable employment can be found in the community are sent to work either from a prison or from a work release centre. The prisoners receive normal wages, which they can send to their family or deposit till their discharge. This is a method by which a long term prisoner is prepared to meet the problems he has to face on discharge. He gets accustomed to conditions and regulations prevailing in work places in the community. The advantage is that a prisoner who may face a serious obstacle in finding employment because of social stigma gets a job which he can continue even after release. If the work and conduct of the prisoner is unsatisfactory, he will be brought back to the prison. In 1978, 178 prisoners were sent out on work release programmes, but only nine were withdrawn for violation of conditions.

In Indonesia, prisoners who have served one half of the sentence and who are categorized as minimum security prisoners are eligible for work release programmes. They are allowed to go out for work at barbershops, as drivers at private enterprises, and at government institutions.

In Singapore, day release scheme is introduced in the corrective institutions for juvenile offenders. Under the scheme boy and girl residents can go out to work in a factory or establishment outside the institution during the day and return to the institution in the evening.

It was generally agreed that work release had many advantages such as reduction of prison idleness, economic assistance to dependents, compensation for victims, reduction of the problem of finding jobs after release, promotion of job skills and employability, and encouragement of prisoners to identify with the values and attitudes of the free community. While the scheme implies a risk of absconding and of making undesirable contacts with the outside, it was observed that in many countries work release programmes had not increased the incidence of escape and resultant crime.

In implementing work release programmes, it was pointed out as a problem that they were likely to entail the possibility of outside employers exploiting prisoners both in terms of reduced payment and other work conditions. Furthermore, it was also observed that the problem could arise if prisoners were provided with work in the community when free workers were difficult to find jobs.

3. Furlough or Home Leave

Furlough or home leave which is a form of temporary release of inmates from correctional institutions during incarceration is also implemented in many countries in the region, although it is used only with a small proportion of the institutional population. In some countries including Japan, it is used mainly with juvenile inmates. Usually it is not permitted to dangerous or habitual offenders.

In Andhra Pradesh of India, prisoners sentenced to one year and above are allowed to be granted home leave for 14 days per year after the completion of actual imprisonment for one year. Long term

prisoners sentenced to imprisonment over five years including life are allowed this facility once every two years. This concession is subject to maintenance of good conduct inside the institution. However, robbers, dacoits and prisoners detained under security sections are excluded from this privilege. Period spent on furlough counts as part of imprisonment. In addition, prisoners who have served six months are considered for temporary release on suspension of sentence to meet emergencies like death of a family member or near relative, marriage of a dependent or near relative, house construction, etc. Normally this privilege is granted for a fortnight and be extended up to four months depending upon the circumstances.

In the Republic of Korea, furlough or home leave system has its inception in the revised Penal Administration Law which was enacted in 1961. Inmates of good conduct who have served one half of their prison term or one year, whichever is longer, are eligible for furlough for the period not more than three weeks and no more than three times. Till the end of the year 1978 since the inauguration of the system, 5,923 inmates had been granted this privilege.

In Sri Lanka, home leave was introduced in 1974. Under this scheme long term prisoners who are eligible for release on licence or those who have served six months in an open prison camp are eligible for home leave for a period up to seven days at a time once in six months. Until 1978 since the introduction of the scheme, 453 prisoners were sent on home leave and only one had violated the conditions.

In Indonesia, an inmate in conduct III or higher conduct may be considered for furlough by the Furlough Screening Committee under the following circumstances: (a) death or critical condition of his lineal ascendant or descendant; (b) when a marriage of a lineal ascendant or descendant takes place; and (c) when circumstances justify it for a better work or reformation of the inmate.

In Iraq, the home leave system was adopted for the juvenile offenders in 1962. According to this system, the juveniles are granted a special leave of one week per year. The home leave system was introduced for the adult prisoners in 1972 in light of its success for juveniles. Under the system a prisoner is granted home leave for five days every three months, when he meets the following conditions: (a) He has served one-third of his sentence and at least one year in the jail; (b) He has a guarantee who signs an undertaking to the effect that he will return to jail after his leave; and (c) He has had a good record of conduct and behaviour in prison. Dangerous prisoners and those who have a previous criminal record are excluded from the privilege. Home leave is granted by a special committee comprising the jail director, a social worker and a medical officer. In 1978, most of eligible prisoners were granted home leave and all of them did not fail to come back to jails.

The participants generally agreed that furlough or home leave was an effective way of retaining the family tie of inmates as well as promoting their adaptability to the free social life after release. It is also helpful in the preparation of the inmate for the problems which might confront him upon release. In light of the importance of keeping family ties in the reintegration of offenders into society, the participants stressed that furlough or home leave programmes should be further expanded.

4. Halfway Houses

A halfway house, which is a small institution in the community for probationers, parolees and other discharged offenders, is also utilized in many countries in the Asian and Pacific region. In some countries it is used mainly with first offenders and in some others largely with parolees as compared with probationers.

In Thailand, there is a halfway house run by a voluntary organization in the Bangkok metropolitan area with the capacity of 35. When lodging accommodation is necessary, the professional parole officer refers the case to the halfway house where lodging and board are provided free of charge for a limited period which may

be extended only in some special cases.

In Japan, there are at present 104 rehabilitation aid hostels for adult and juvenile offenders which are run by non-governmental bodies under the authorization of the Minister of Justice. All hostels are subject to supervision of the probation office. They receive reimbursement of expenses from national funds, and welfare foundations as well as community members contribute some funds for the hostels. The major area of service consists of providing room and board and guidance for probationers and parolees as well as other discharged offenders. Releasees from prisons or detention houses can be accommodated within six months after release. The family court also refers a juvenile placed on tentative probation to a hostel for the purpose of observation and guidance. While the residents generally go out to work, some hostels have their own workshops to provide jobs for the residents. There is a hostel attached to a psychiatric hospital which specializes in the accommodation of mentally disturbed ex-offenders.

In Hong Kong, there is one probation hostel for boys between the ages of 16 and 21. The maximum period of stay is one year, but most residents leave the hostel within six months. The residents are allowed to go out to schools or places of employment during the day and required to come back to the hostel after school or work. All probationers discharged from the hostel are to be supervised by probation officers until the period of the probation order expires.

In Singapore, the Department of Social Welfare maintains two boys' hostels and one girls' hostel under the provision of the Probation of Offenders Act. Commitment to a hostel is used as an intermediate measure between probation and institutionalization. In case where the court finds that the home environment of an offender is not conducive to his reformation and, at the same time, the nature of offence and other circumstances do not warrant institutionalization, the hostel is the alternative. Hostels are managed by wardens who play the role of the father or mother figure.

The participants generally agreed that a halfway house helped the offender to find employment and stable living conditions after release as well as to ease the stresses involved during the transition from rigid control in the institution to freedom in the community. As to the treatment programmes, the participants stressed the necessity of the therapeutic programmes such as group and individual counselling, social group work, and vocational guidance. It was also pointed out that good relationships should be developed between the hostel and the surrounding community to lessen community antagonism to the hostel based on an exaggerated fear that offenders housed there would endanger the security of the community.

It was generally agreed that extramural treatment programmes such as open institutions, work release, furlough or home leave and halfway houses would play significant roles in the reintegration of offenders into society through reducing isolation of offenders from the free community. Finally, the participants unanimously emphasized that community support was indispensable for successful implementation of extramural treatment programmes for institutionalized offenders.

Parole (Release on Licence), Aftercare, Remission and Pardon

1. Objectives and Significance of Parole

Parole is a treatment programme in which an offender, after serving a part of his sentence in the correctional institution, is conditionally released to receive supervision and guidance by the qualified parole officer in the community. Other terms are used for parole in some countries, for example, "release on licence," "ticket of leave," "premature release" or "conditional discharge." "

It is true that there are some offenders who need incarceration for various reasons, but they will return to the community sooner or later. Because of a wide discrepancy between the life in the correc-

tional institution and that in the community, prisoners released from the institution should be provided with proper supervision and assistance to ease their transition and to help their readjustment to society. In addition to the assistance to released prisoners, parole should serve as an important measure of protecting society by preventing them from relapsing into further crime.

2. The Extent of Use of Parole

Parole system and the extent of its use differ considerably from country to country. While a few countries have not yet adopted the system, some countries have developed reasonably well-functioning systems covering a major part of prisoners.

In the State of Andhra Pradesh, India, prisoners sentenced to imprisonment for less than two years are released after the completion of full term excluding the remission period earned in the prison. However, prisoners sentenced to more than two years, including life term convicts, may be conditionally released after serving for a specified period depending on the length of sentences, under the "premature release" scheme administered by the Advisory Board Committee attached to each jail. The Committee, composed of an inspector of prisons, a sessions judge, a district magistrate or a deputy commissioner of police and several other members such as psychologist, sociologist and social case-worker after considering the reports prepared by a probation officer, superintendent of police and magistrate in the district, recommends release of suitable prisoners. But the final power of release rests with the Government. A released prisoner is placed under supervision of the district probation officer and any violation of conditions stipulated in the release order will bring him back to the institution.

In Indonesia, an inmate can be released on parole according to article 15 of the Penal Code. This privilege is for the benefit of an inmate who shows good conduct record and genuine repentance of crime and has served two-thirds of his period of sentence and at least nine months. Only those in the Conduct III Grade would be recommended for parole. Screening of inmates for parole is done by the head of the institution who submits an application of parole to the Director-General of the Department of Corrections, the Ministry of Justice. After the study made by the Parole Board composed of 10 members, the Director General of Corrections may grant release on parole in the name of the Minister of Justice. The period of parole supervision is the remaining term of sentence with additional period of one year. During this period, a parolee is under the supervision by a probation and parole officer. In 1978, there were only 230 prisoners released on parole among 38,000 inmates.

In Iraq, prisoners are given conditional release if they have completed three-fourths of their sentence with good behaviour and do not constitute danger to society. Prisoners who committed such crimes as rape, sexual assault, repeated embezzlement, burglary, etc. are excluded from the privilege. The decision of release is made by the Special Committee comprising the director of the jail, a social worker, a jail medical officer, etc., subject to the approval by the court. When a prisoner is conditionally released, he will be placed under special supervision.

In the Philippines, parole is granted to a prisoner under indeterminate sentence. An application for parole is considered by the Board of Pardons and Parole. The requirements for parole are as follows: 1) The prisoner has proved progress in a prison; 2) There is reasonable probability that he will live and remain at liberty without violating the law; and 3) The release on parole will not be incompatible with the welfare of society.

In Korea, an inmate who shows good conduct record and genuine repentance and who has served more than the following period of his sentence may be released on parole: 1) Adult – 10 years for life sentence, one-third for definite sentence; 2) Juvenile – five years for life sentence, three years for sentence of 15 years, one-third of the minimum term for indetermi-

nate sentence. Those in the third conduct grade and better may be recommended for parole.

In Japan, parole is granted by the regional parole board. The criteria for parole regarding an adult prisoner are as follows: 1) He has served one-third of definite sentence or 10 years in the case of the life sentence; 2) He proves repentance; 3) He shows progress in the prison; 4) There is no likelihood of recidivism after release; and 5) Society will accept his release. Inmates of juvenile training schools may be paroled after having attained the highest grade of the progressive stage. Moreover, those who cannot attain the highest grade because of mental or physical disability may be released when it is considered that parole supervision will be useful for resocialization. As parole in Japan is not a right of the inmate, the head of the institution has discretion in applying for parole to the regional parole board. The members of the board are full time officials selected mainly from chief probation officers, wardens of prisons, superintendents of juvenile training schools, public prosecutors, etc. Prisoners released on parole are supervised for the remaining term of their sentence, and parolees from juvenile training schools usually till they reach twenty years of age. Parolees are supervised and assisted both by the professional and voluntary probation officers. In 1977, of a total of 27,090 prisoners or 53.1% were released on parole. On the other hand, almost all inmates of juvenile training schools are released on parole.

In Pakistan, parole system is administered under the Good Conduct Prisoners Probational Release Act of 1926. Offenders convicted under the eligible section with sentence not less than six months and not more than five years to undergo as unexpired portion of sentence are eligible for conditional release. Under this system any offender who has more than three years sentence has to undergo 18 months imprisonment with remission before he can be considered for selection of conditional release. However, offenders with less than three years sentence may be taken on parole without any condition of undergone imprisonment. A paroled prisoner is placed under the supervision of a parole officer. Presently, however, there are only 20 probation officers and five parole officers in the Province of Punjub. Each probation officer supervises an average number of 200 cases and each parole officer handles 50 cases lying in far-flung areas.

In Sri Lanka, a scheme for release on licence was introduced in October 1969 for the benefit of long term prisoners. Due to the extremely low rate of violations, this scheme has been reviewed and extended to prisoners sentenced to four years or more who have completed half of their sentence, those who have served six years of their sentence, and those who have served five years of their sentence provided they have served at least one year in an open prison camp. The scheme in its present operation, therefore, automatically excludes prisoners sentenced to terms of imprisonment less than four years, although every prisoner is normally entitled to a remission of one-third of the sentence for good behaviour. As for the procedure of parole, the prison welfare officer submits a social report to the Licence Board through the superintendent of the institution. The prisoner is entitled to be present at the hearing of the Board, and to be informed of the result if release on licence is not granted for any reason. The final decision for release on licence is made by the Minister of Justice upon the recommendation of the Licence Board. The conditions of release of licence are explained to the prisoner by the prison welfare officer. Out of 473 prisoners who have been released on licence until 1978 since the inception of this scheme, 332 have successfully completed the period of their supervision. Only 13 prisoners have violated their conditions of release and had their licence revoked.

In Thailand, the Penitentiary Act of 1936 prescribes the parole scheme. The criteria for parole are as follows: 1) The prisoner has served two-thirds, three-fourths or four-fifths of his sentence depending on the class to which he belongs in the progressive stage system, or 10 years in the case of life sentence; and 2) He proves

repentance and progress during his institutional stay. As parole is a privilege, not a right, the superintendent of the prison makes the initial screening for release on parole and submits an application of parole to the Central Parole Board chaired by the Director-General of the Department of Corrections who is vested with the power of final decision. The term of parole supervision is one year or the remaining term of sentence, whichever is longer. Unlike probationary supervision which is conducted by the Central Probation Office under the Ministry of Justice, parole supervision is the function of the Department of Corrections, Ministry of Interior. In the Bangkok metropolitan area, parolees are supervised by professional parole officers with the assistance of volunteer parole officers whose number amounts to almost 250. The number of parolees were 346 in 1977 and 250 in 1978.

In Tonga, there is the release on licence programme. The Prison Board comprising a judge, police officer, superintendent of the prison and members of the community grants prisoners release on licence.

There is no general system of parole for convicted adult prisoners in Bangladesh, Singapore, Malaysia, Hong Kong and Nepal.

In Singapore, the parole scheme applies only to young offenders who have been committed to the approved homes or schools, and to offenders aged 16 to 21 years who have been convicted of an offence punishable with imprisonment and ordered to undergo training in the Reformative Training Centre. Under the provisions of the Children and Young Persons Act, the head of an approved school or home shall review all residents after 12 months in the home and may make recommendation for release on parole to the Director of Social Welfare. The Director, on the advice of the Parole Board members of which are appointed by the Minister, can release a person who has been detained for not less than 12 months, on such conditions as may be stipulated by him. The parolee will be subjected to supervision for the unexpired period of his original term of detention. As for the reformatory trainees, the Criminal Procedure Code provides that where the Board of Visiting Justices are satisfied that a reformative trainee has satisfactorily responded to the training and re-education programmes, he can be released to statutory supervision for the unexpired part of the original term of four years. In practice, reformative trainees spend an average of 26 months in the Centre and are released on licence under the supervision by aftercare officers for the remaining period. In 1977, 161 trainees were released on licence from the Centre.

In Malaysia, the period of stay in approved schools is made statutorily for a maximum of three years, but 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 possible supervision by the family. A juvenile licencee is supervised by the probation officer for the rest of statutory detention period. If he misbehaves, he may be recalled back to the school to serve the rest of his detention with or without an extended period of up to six months as punishment. In 1974, 337 juveniles were released on licence from approved schools.

In Hong Kong, there are two reformatory schools for juvenile of 16 years or under. The minimum period of stay is one year and the maximum is five years or until the offender reaches the age of 18. They may be granted release on licence after serving the minimum period and supervised by aftercare officers.

3. Some Problems of Parole and Their Countermeasures

After examining the present situation of parole system, the participants brought up various problematic aspects of the parole scheme in their respective countries.

One participant reported that the use of parole in his country was very small in practice as compared with the great number of prisoners in prison and attributed the causes to the strict requirements of parole. In his country, the Parole Board has to not only investigate the circumstances of a

prisoner thoroughly, but also refer the case to the victim and his relatives, guarantor's family, village headmaster, etc., requesting opinions on the appropriateness of releasing the prisoner on parole. Practically, it is very difficult for the Board to do such reference completely because of time shortage, complicated procedure of reference, negative attitude of the people mentioned above and the lack of personnel. It was noted by the participants that, although parole was one of the effective ways which safeguard society against the potential recidivists, the community was often indifferent or even antagonistic to it in many countries. The general public is not aware of the importance of crime prevention and public involvement for it and the community sometimes shows the negative attitude towards parole and does not want to offer any help to released prisoners. Many participants stressed, therefore, that prison welfare officers or parole officers should try to improve the feeling of the community towards offenders so as to promote their rehabilitation in society.

It was pointed out by another participant that more than 60% of parolees in his country were under supervision for less than three months, a period too short to provide released prisoners with any meaningful assistance and guidance in preparing for normal life. Many participants observed that although social casework by parole officers was not necessary to continue for a very long period, supervision and guidance for an appropriate period was absolutely indispensable. The participants agreed that three to six months period both before and after release on parole was crucial to a smooth integration of a prisoner into society. A participant expressed that, according to the law in his country, the parole period was the remaining term of the sentence and additional one year.

The type of the parole granting agency varies from country to country, i.e. the Government, the Minister of Justice, a special court, an independent parole board and an institutional organization. Some participants were of the view that the parole granting agency should be established independently from the correctional institutions in order to secure impartial and proper decisions on parole. Many participants also observed that members of the parole agency should be made up of representatives of the police, the court, corrections, social welfare services and the community as well. Some participants, however, objected to this idea by pointing out practical difficulties which might arise out of conflicted orientations towards parole among various sections of the criminal justice system and the community.

4. Aftercare Services

In addition to or in place of the parole system, there are many types of aftercare services for discharged prisoners such as supervision and guidance on a voluntary basis, aid in money or other goods, provision of temporary residence, job placement, and reference to pertinent agencies for other assistances. In many countries, there exist halfway houses and aftercare centres, such as discharged prisoners aid societies, rehabilitation aid hostels, prison welfare associations, etc. It was reported that most of these facilities were operated on a voluntary basis and volunteer organizations were playing significant roles in the reintegration of offenders into society.

5. Remission and Pardon

Remission is a system designed to encourage good conduct of the inmate in the prison by reducing the term of sentence in response to his compliance with prison rules. Prisoners are released from prisons earlier than the termination date of their original sentence unless they violate institutional regulations. In general, remission is regarded as a right of prisoners, not a privilege like parole. The system exists in most countries in the region except Japan. In Malaysia, Singapore and Sri Lanka, prisoners with sentences in excess of one month are entitled to a period of remission equal to one-third of their sentence if they do not violate regulations in the prison. An additional period of remission is awarded to prisoners who perform special-

ly meritorious acts. In Singapore, the criminal record officer computes each offender's probable date of release according to earned days of remission, and it is reported that more than 90% of prisoners were released on remission. In Pakistan, the Governor, Inspector General and the superintendent of prison are empowered to give remission to the prisoners for three months, one month and 15 days, respectively, for their service of one year without violation of prison rules.

As to pardon, in many countries there are two types ordinarily, i.e. general pardon and individual pardon. In general, the law gives the power of granting pardon to the Government, President, Prime Minister, the Governor, etc. General pardon is usually granted to specified categories of offenders on such occasions as National Independent Day, King's Birthday, Religious Day, New Year's Day, etc. In some countries like the Philippines, Sri Lanka and Thailand, general pardon is granted rather frequently and a great deal of prisoners are consequently discharged from prisons. Individual pardon is granted to individual offenders mainly to facilitate their resocialization in light of their special conditions.

Utilization of Volunteers and Other Community Resources and Mobilization of Citizens' Cooperation

First the participants reported the extent to which volunteers were contributing to the rehabilitation of offenders in their respective countries. The responsibilities of volunteer workers are different from one country to another and also vary according to the fields where they are involved. In some countries, volunteers work mainly to assist offenders released from prisons and juvenile institutions under advice or with financial support of the government. In others, volunteer workers are integrated into the government agency responsible for the rehabilitation of offenders and provide help both to probationers and parolees.

In Hong Kong, for example, volunteers are working not only in the correctional homes and probation offices but also in volunteer agencies. These volunteers are under the guidance of the Hong Kong Council of Social Services. Volunteers working for the Discharged Prisoners' Aid Society are making efforts to assist and guide prisoners inside the prison.

In Sri Lanka, volunteers are widely used for both juvenile and adult offenders. Members of various volunteer organizations visit correctional institutions to participate in projects and programme especially on weekends. The Prisoners' Aid Association, which is funded by the government, has established subcommittees all over the country, and been playing an important role in assisting offenders' families. Services by volunteers are also available outside the institution for prisoners willing to accept their aid. The Philippines also use volunteers in the field of offenders' rehabilitation. For the youth, there is a group of volunteers consisting of wives of Cabinet members or top ranking officials. They especially assist the administration in finding jobs for the youth offender who would eventually be discharged from the institution as well as in selling products manufactured inside the training school. BBS and other civic groups help children in schooling or in finding employment and give them guidance and counselling. In the field of adult probation, the system of probation volunteer aides was established recently. Their work is to assist probation officers in supervising the probationers. Volunteers can have closer contact with probationers since they are living in the community. Their qualification is not so stiff. The compensation is minimal and only transportation allowance is provided. Volunteers report to the probation officers about the behaviour and troubles of the probationers of whom they are assigned to take care. Furthermore, college students in junior or senior year are required by law to participate for at least 120 hours in civic action programme before they can graduate. Ministry of Social Service can utilize whatever expertise they have in particular area where they are most useful.

In Singapore, volunteers are used for

probation supervision by the Probation Act. Volunteers are working in the treatment of drug addicts but no legal powers are vested with them at all. Supervision is done by the police alone. In the field of juvenile probation and parole, the use of volunteers is most extensive. They cooperate with professional probation officers in the supervision and guidance of juvenile. There are intensive programmes of training new recruits. Community and religious organizations are also active in the field of crime prevention.

In Indonesia and the Republic of Korea, businessmen, retired government officials, wives of ranking officials and discharged prisoners come to the institutions as volunteers to help prison officers in conducting various activities. In Malaysia, appointed citizens occasionally visit correctional institutions and hear any complaints of prisoners to see whether they are treated well or suffering serious problems.

Perhaps Japan is the country which utilizes volunteers most systematically and extensively in the treatment of offenders. There are about 40,000 volunteer probation officers, each of whom is responsible for giving advice and assistance to and keeping close contact with a limited number of probationers or parolees, both adult and juvenile, under the guidance of professional probation officers. About 100 halfway houses for probationers and discharged offenders are also operated by volunteer organizations.

In the countries represented, there are many other forms of volunteer activities in the treatment of offenders, such as prison visitors, prison chaplains, big brothers and sisters associations and prisoners aid societies.

It was emphatically observed that the community was ultimately responsible for the resocialization of offenders and should participate to a fullest extent in the activities of crime prevention and corrections. The participation of volunteers in corrections not only supplements the shortage of professional probation officers or social workers, but also provides offenders with unique and beneficial services based on their experiences in life and knowledge of local needs.

Most of the participants observed that it was difficult to recruit competent volunteers and to give necessary training to them, although there were not a few citizens willing to work as volunteers. The need of public education through publication and exhibition of pertinent materials regarding the treatment of offenders in general and the role of volunteer workers in particular was stressed in the discussions as a means to attract more capable citizens to the rehabilitation service. In Hong Kong, for example, the government organized an exhibition in 1977 to publicize the type of services provided for offenders as well as the efforts made to reform them as responsible and useful citizens. As a result, many members of the public were motivated to take part in the volunteer scheme. Similar exhibition programmes are also organized every year in Sri Lanka. It was reported that until now 1,600 citizens have been registered as volunteers to take part in the rehabilitation of offenders. In Japan, a one-month programme called "Campaign for a Brighter Society" is organized in July each year by the government and associations of volunteer workers to provide the public with correct information on the correctional treatment of offenders and to solicit the support and participation of citizens in providing assistance to offenders. On the other hand, weekend training courses and *ad hoc* seminars have been conducted in several countries to provide volunteer workers with basic knowledge and skills essential to their work.

While it was unanimously agreed that volunteers were playing and should continue to play a very significant role in assisting offenders in many countries of the Asian and Pacific region, some participants warned against over-reliance upon volunteers since it may hinder the development of professional services. One participant reported on his experience in a prison where he tried to involve college students in education programme for prisoners. This programme was conducted every Saturday.

Complaints, however, soon came from both prison staff and volunteers. Prison staff alleged that the problem of contraband caused by volunteers proved serious and even dangerous to prison security. Volunteer students, on the other hand, felt that custodial officers posed excessive restrictions on their activities. Another participant responded by saying that it was natural to experience this type of resistance on the part of staff at an initial stage when volunteers were first introduced to prison service. Most participants agreed that the relation between staff and volunteers might be improved as their mutual understanding increased.

Another problem involved in the use of volunteers was that the responsible authorities may not endeavour to acquire more budget to improve the activities for rehabilitation and to recruit qualified professional officers if they tend to rely much upon volunteers' assistance which can be obtained with a relatively small amount of expenditure.

Similarly, views of the participants were divided on the question of whether volunteers should act only as assistants to professional workers who were responsible for the treatment of offenders, or directly conduct supervision and guidance of offenders in assigned cases. In the field of probation supervision, the practices in Hong Kong, Sri Lanka and the Philippines fall within the former category while Japanese practice seems to belong more or less to the latter. The discussion led to the understanding, however, that volunteers' activities should be carried out under the proper guidance of and close contact with professional officers concerned, and that legal measures such as the revocation of probation and parole should be initiated only by professional workers.

Coordination of Agencies and Organizations, Recruitment and Training of Staff

The correctional system can not be effective unless proper coordination and cooperation among various agencies and organizations concerned was obtained in increasing mutual understanding, avoiding overlapping of services and filling up a gap where no service is provided. Many participants introduced various kinds of cooperative activities in the field of community-based corrections. In the Philippines, for instance, the coordinating function for the treatment of youthful offenders has been performed by administrative machinery in establishing comprehensive operational network and a unified system called Integrated Human Resource Development Program for Youth (IHRDPY). It was revealed, however, that the current situation of the coordination and cooperation in many countries in the region was not satisfactory enough, because of the sectionalism lying among relevant agencies and organizations. The urgent necessity to overcome the sectionalism was unanimously stressed by the participants. It was pointed out by some participants that the cooperation among officials at the rank and file level, or the personnel in the actual field operation, was more important in the achievement of effective community-based treatment than discussion in the meetings of the top-ranking officials.

Since community-based corrections is a specialized field requiring people with ability, aptitude and dedication, recruitment of qualified people is essential for its effective implementation. It was revealed, however, that although a great care had been exercised in recruitment and promotion of staff on the basis of their dedication to work, their achievements, their professional knowledge and experiences, adequate incentives and opportunities for professional satisfaction which were helpful in attracting people with right calibre were not sufficiently provided in this field of profession in many countries of the region.

The training of staff concerned in the correctional field should be further strengthened so that the staff can cope with various problems emerging in their daily works and get familiar with innovative methods and skills especially developing in the field of community-based treatment nowadays.

END