

UNAFEI Linguistic Adviser's Report

Opening Session

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Opening Session

A. Opening Remarks

The Philippines-UNAFEI Joint Seminar on “Community Involvement in the Criminal Justice Administration” commenced on December 5, 2001 in Manila, the Philippines. After the arrival of distinguished guests and participants, the Seminar began with an invocation led by Mr. Bernando Calibo and the playing of the national anthems of the Philippines and Japan.

Opening remarks were given by His Excellency Yoshihisa Ara (Ambassador of Japan), Mr. Mikinao Kitada (Director of UNAFEI), Mr. Hideo Ono (Resident Representative, JICA) and Mr. Edgar Dula Torres (Commissioner of the National Police Commission) on behalf of the Honorable Mr. J. Lina, Jr. (Secretary of the Interior and Local Government and Chairman of NAPOLCOM).

B. Keynote Speech

The Seminar was privileged to have the attendance of the Guest of Honor, the Chief Justice of the Supreme Court of the Philippines, the Honorable Mr. Hilario G. Davide Jr. Chief Justice Davide delivered a keynote speech entitled, “Community Involvement in the Administration of the Criminal Justice System”.

Chief Justice Davide detailed how the judicial system of the Philippines is founded on a mixture of customary law, Roman law and Anglo-Saxon law. He further explained how the success of the criminal justice system relies on a strong community base and the involvement of the community in the administration of justice is imperative in the struggle against crime.

It was argued by Chief Justice Davide that the community can assist in the prevention of crime and in the rehabilitation of offenders in a number of ways. Firstly, the community can reform offenders by welcoming the truly repentant back into the community and not rejecting them solely because of their criminal records. Secondly, the community can adopt programmes which highlight the evils of crime and thereby transform potential offenders. Also, the community and the police can develop a two way information exchange system whereby the community provides the police with investigative leads and the police remain visible and trustworthy as is the situation in Japan.

Topic One: Community Involvement in Law Enforcement

A. Presentations

This topic was chaired by Ms. Celia S. Leones (Director of the Crime Prevention and Coordination Service at the National Police Commission) and there were two presentations. The first paper, entitled “Dynamics of the Community in Law Enforcement”, was delivered by Director General Leandro R. Mendoza (Chief of the Philippine National Police). The second paper, entitled “Community Involvement in Law Enforcement” was delivered by Mr. Masakatsu Okabe (Deputy Director of the Police Policy Research Center, National Police Academy of Japan).

Mr. Mendoza stressed the need to understand and appreciate the dynamics of the community in greater breadth. He highlighted three levels of community dynamics from the individual's personal conscience to the family unit and then onto the wider community (such as the neighborhood, towns and cities). Mr. Mendoza pointed out to the break up of the community as contributory to negativism, pessimism, the lack of trust with each other and the fear of crime despite the great triad of mass transportation, mass media and mass communication. In the dormant sense of community, he considered how the Philippine National Police had instigated the Community-Oriented Policing System (COPS) in 1994 that sought to combine the forces of the police and the community. He emphasized the crucial role of the policeman in regenerating community spirit. He felt it essential that citizens are made to feel that they are stakeholders and are thus empowered to be responsive and flexible. He then looked at the resources of the Philippine police and gave the participants some statistics on the resources required by the police and the resources actually available.

Mr. Okabe stated that an important point in dealing with the sudden increase in the number of Penal Code offenses in Japan is community efficacy in the field of law enforcement. He specifically looked at the role performed by community police officers in Japan. He gave a comprehensive introduction into the *Koban* (police box) and *Chuzaisho* (residential police box) systems that have been established for more than a hundred years. He emphasized how the *Kobans* and *Chuzaishos* act as “community safety centers,” securing the safety of community life. *Kobans* and *Chuzaishos* are established in each sub-area of the jurisdiction of a police station, which is determined in consideration of day and night population, number of households, area, administrative area, incidence of crimes, accidents, disasters and so on. Mr. Okabe covered some of the specific crime prevention activities in Japan that aim to promote community involvement with the police. In particular, he considered local crime prevention associations, juvenile support centers and the growing role of the private security business.

B. Reactions

The reaction to the above presentations was given by **Ms. Amparita S. Sta. Maria**, Attorney and Executive Director of the Ateneo Law School. Ms. Maria spoke of how there has been an apparent decline of community trust in the police. She forwarded some of her own research which demonstrated that there is a growing public perception that the police and other governmental agencies within the criminal justice system are untrustworthy. She argued that in this climate, the responsiveness and cooperation of the community is obviously affected. Ms. S. Sta. Maria further highlighted the problems of delay in the disposition of cases. She said that the inaccessibility of the justice system helps explain the prevailing apathy and complacency that the community has come to feel towards other pillars of the justice system. She felt that the perception of the community towards law enforcers, prosecutors, judges and the institutions identified as the criminal justice system has deteriorated over the years. She called for a real understanding to be fostered between members of the community and law enforcement agencies in order that justice and peace could be achieved.

C. Open Forum Summary

A number of participants expressed their concern about how the media might in some way contribute to the negative image of the Philippine National Police (PNP). It was explained that the PNP has not institutionalized its relationship with the media and a good liaison between the police and the media is essential to encourage responsible reporting. Despite what the media might say about there being a climate of fear in the Philippines the streets are bustling until the early hours every night and Filipinos will always tend to call the police in any type of emergency.

A number of questions were raised which sought to clarify the situation of the police in Japan. A question was put from the floor as to whether government resources had a direct bearing on the effectiveness of the police in Japan. It was said that the government budget is only there to support police activities and police officers in Japan are very well instructed and motivated. The participants were informed that the *Chuzaisho* system, whereby a wife assists the husband in his police duties, is very much a part of Japanese culture. It was further explained that police officers, as public officials, tend to have the respect of the public as this is part of the Japanese way of life. The starting salary of a police officer in Japan is about 200,000 yen a month and the chief police officer could expect to earn in the region of 20,000,000 yen a year. The participants were interested to learn that private security firms are playing a bigger role in Japan but they were informed that there were no penalties should businesses fail to install security systems.

A question was raised about the PNP's activities regarding drug prevention. The PNP have been more successful this year than any other in terms of confiscating drugs and arresting big drug dealers and discovering metamphetamine hydrochloride producing factories. In order to promote demand-reduction for drugs, the role of non-governmental organizations (NGO's) was recognized as playing a pivotal role in community awareness of drug problems.

A participant asked what the PNP was doing in trying to prevent police officers themselves falling into criminal activities. Although a police officer's financial predicament can never justify the act of committing a crime, a policeman who is adequately supported by his salary might learn to love his work better. The Seminar was informed that historically in the Philippines police officers have been very poorly paid and only recently has Congress been persuaded to increase their salary to that of a teacher. Police officers should be paid fairly for the job they do. Should citizens become aware of miscreant police officers then they should report them to the National Police Commission (Napolcom) or the People's Law Enforcement Board (PLEB).

A participant acknowledged, with appreciation, the constitution of the Women's and Children's Concern of the PNP, although the jurisdiction of this body covers only child abuse and rape cases. It was observed that the majority of crimes committed by children in conflict with the law are petty crimes like theft that are handled by the Theft and Robbery Section of the PNP. A bulk of recidivism among the youth usually comes from those who are not treated well in the police stations. For this reason, a request was made that the jurisdiction of the Women's and Children's Concern be expanded to include all crimes committed against women and children.

An observation was made that in certain parts of the Philippines there is what can almost be described as anarchy where vigilantism has responded to the current crime situation (for example, in Mindanao). In these parts of the country the PNP are necessarily supported by the armed forces as the PNP has a dearth in manpower and logistical resources. It was further stated that the PNP were opposed to local control over the police and supported a national structure as crime is globalizing.

It was pointed out that some PNP officers have little understanding of their human rights obligations. The PNP do not control their own training schools and, since their inception ten years ago, have taken officers from the armed services and local police forces. There is a need for training to be institutionalized

so that the rights of suspects and victims can be upheld. There are, at present, programmes between the PNP and law schools where seminars are held on human rights awareness.

Topic Two: Community Involvement in the Prosecution of Crimes

A. Presentations

This topic was again chaired by Ms. Celia S. Leones and there were two presentations made. The first paper, entitled “Community Involvement in the Prosecution of Crimes” was delivered by Mr. Nilo C. Mariano (Assistant Chief State Prosecutor, Department of Justice, Manila, the Philippines) on behalf of Mr J. Zuño (Chief State Prosecutor, Department of Justice, Manila, the Philippines). The second paper, “Community Involvement in the Prosecution of Crimes”, was presented by Mr. Yuichiro Tachi (UNAFEI Professor).

Mr. Mariano spoke of how in international practice the criminal justice system consists of either four pillars (law enforcement, prosecution, courts and corrections) or three pillars because prosecution is merged with courts. The Philippines stands differently in that it adds the community as the fifth pillar as history has shown that the success of the criminal justice system depends on public participation. The key to a successful investigation lies in the community, specifically, the witnesses who owe a civic duty to testify. It is recognized in the Philippines that many witnesses do not testify because of sheer indifference, for fear of reprisals or for economic reasons. This is why the Witness Protection Security and Benefit Act was enacted which should encourage witnesses to come to court and testify under the Witness Protection, Security and Benefit Program.

Mr. Tachi gave an overview of the Japanese system of prosecution. He spoke of how public prosecutors have the exclusive power to decide whether or not to prosecute. One of the unique characteristics of the Japanese legal system, however, is the procedure known as “suspension of prosecution” whereby a prosecutor can drop cases despite the existence of enough evidence to secure a conviction. Such suspensions of prosecution will occur where the victims have been compensated. As this procedure could be open to abuse, each district court has a Committee for Inquests into Prosecution that is comprised of eleven members of the local electorate. These committees can request the respective Chief Prosecutor to reinstate a prosecution if they so find that a prosecution has been wrongly suspended. Mr. Tachi further stated that in May 2000 the Diet enacted laws which enable video-link examination of witnesses, abolishes the time limit for the filing of sex offence complaints, allows statements of opinions in trial proceedings and allows the victim or victim’s family to fully observe the trial and have access to the full trial records and documents. He also suggested that out of all the actors in the criminal justice system, public prosecutors in Japan are the least understood. In order to reduce the misunderstanding surrounding prosecutors, high school students have been invited to prosecutors’ offices and these events have been covered by the media so increasing the public’s knowledge of the prosecution system.

B. Reactions

Mr. Leonard S. De Vera (Attorney, Integrated Bar of the Philippines) and Ms. Katrina C. Legarda (Attorney) gave their reactions to the above presentations.

Mr. De Vera commented on two basic differences between the Japanese and Philippine justice systems. Firstly, he noted that public prosecutors have wide investigative powers unlike in the Philippines where all evidence gathering is left solely to the police. Secondly, he noted that committees for inquests into prosecution do not exist in the Philippines and ordinary Filipinos have very little say in the prosecution process. He suggested that both practices could be adopted in the Philippines if the right infrastructure is in place. He further stated that one of the main hurdles in getting the community involved in the criminal justice system is that witnesses refuse to testify. Unless the Philippine criminal justice system can make every citizen feel confident that he or she will be protected by the law and that the wheels of justice are speedy and fair then citizen participation in the criminal justice process will never be realized

Ms. Legarda argued that the community could only truly participate when justice is not only done but is also seen to be done. There is a need to reassure the public of the certainty of arrest, prosecution, and conviction of criminals in order to elicit public trust and confidence in the criminal justice system. She stated that prosecutors, as well as the police, should be open to public scrutiny and they must exercise integrity at all times. All pillars of the criminal justice system must be transparent in order for the community to have respect for the system and become involved in it. Ms. Legarda said prosecutors should be more aware that petty offences are still heavily penalized and they should also be more sensitive to children in conflict with the law. She also asked the PNP to treat female desk officers with more respect and called for the resources to be made available so that DNA evidence could be made commonly available.

C. Open Forum Summary

A question was raised as to whether the Filipino Commission on Human Rights (CHR) should be given prosecutorial powers. This was seen as problematic as the difference between a human rights violation and a violation of the Penal Code was very hard to distinguish. For example, inflicting physical injuries on a person is both a violation of human rights and an offense under the Revised Penal Code. The CHR, nonetheless, can conduct fact-finding investigations and then refer cases to the police or the Department of Justice for investigation and prosecution.

The role of defense counsel was also considered to be vital to delivering real criminal justice where the constitutional rights of the accused were safeguarded. The Public Defenders Office (formerly the Public Attorneys Office) is the only agency in the Department of Justice that is mandated to assist an accused person should he or she wish to be represented by a government lawyer. In this sense the role of the Public Defender's Office was suggested as a possible sixth pillar of the criminal justice system in the Philippines as it could not be lumped with the prosecution pillar.

Questions were raised in relation to the employment of former offenders in Japan. It was explained that the government will not employ someone who has served a sentence of imprisonment but that an offender who has received only a fine can be employed. As for the private sector, employment of ex-offenders depends on the individual company's policy.

The violation of the code of ethics by some media practitioners in the coverage of children in conflict with the law and children as victims of crime was raised as an issue that needs to be addressed. Although the media might not mention the name of the child, other facts might be reported such as the names of the parents, exact addresses and other circumstances leading to the identity of the child. It was stated that under the new rules of the court in the Philippines, media companies could actually be sued for contempt should they publish details of a minor and such action was urged by a member of the panel.

There was considerable discussion about whether women were sexually discriminated against in the PNP. It was alternatively suggested that the PNP did and did not adhere to an equal opportunities policy for women officers. There was further discussion on the differing abilities of certain members of the judiciary.

Topic Three: Community Involvement in the Courts

A. Presentations

This session was chaired by Mr. Severino H. Gaña Jr., Assistant Chief State Prosecutor, Manila, the Philippines and there were two papers presented. The first paper, entitled “Community Involvement in the Courts” was delivered by Mr. Justice Antonio M. Martinez (Vice-Chancellor of the Philippine Judicial Academy, Supreme Court of the Philippines, Manila). The second paper, delivered by Mr. Toru Miura (Professor and Chief of Training Division, UNAFEI) was also entitled “Community Involvement in the Courts”.

Mr. Martinez looked at mediation in the courts, the *Katarungang Pambarangay* system and community mediation while highlighting the huge backlog of cases in the Philippines. Mr. Martinez expounded on the pilot projects that have been taking place in the Philippines since 1999. The 1997 Rules of Civil Procedure, requires the civil courts to consider alternative modes of dispute resolution. Mr. Martinez explained that the *Katarungang Pambarangay* is an innovation of the Philippine judicial system and that it provides for the resolution of disputes at the *barangay* level. This is a localized system of mediation, conciliation and arbitration. It is designed to obtain just, speedy and inexpensive settlements, to preserve Filipino culture of reaching amicable settlements and to relieve the courts of an overload of cases. In the Philippines, the Mediation Network for Sustainable Peace has been a pioneer in resolving community-based mediation. The *barangay* justice system is not part of the justice system but the judiciary recognizes it will have positive effects on the administration of justice. He added that the local courts can initiate public education and information programmes on how the *barangay* justice system works.

Mr. Miura explained that at present, in Japan, some laypersons are selected by the courts from among the general public to take part in judicial proceedings as conciliation commissioners, judicial commissioners and Family Court counselors. The Family Court has a unique system whereby if a juvenile does not have proper parental or guardian support the court will select a member of the public as an attendant who is charged with taking care of the juvenile during the court procedures. Relatively speaking, the public has limited opportunities to participate in criminal procedure in Japan because all cases are heard and tried by professional judges. Japan did in fact have a jury system but this only lasted from 1923 until 1945. Mr. Miura said that community involvement in the courts is one of the current topics of debate in Japan since the Justice System Reform Council submitted its proposals to the Cabinet in June 2001. One of the proposals was for laypersons to participate in criminal trials in a judicial capacity similar to the lay judge system in Continental Europe. These so-called *saiban-in* would act as lay justices, sitting with career judges, and a final decision could not be made either by only the lay justices or by only the career judges. Mr. Miura was very optimistic that Japan is trying to realize the participation of ordinary people in criminal trials in the near future. Mr. Miura also gave a comprehensive outline of the court structure in all legal proceedings in Japan.

B. Reactions

Mr. Rene V. Sarmiento (Professor of Law, Polytechnic University of the Philippines) and Mr. James Marty Lao Lim (National President of the League of Barangays) gave their reactions to the above presentations.

Mr. Sarmiento remembered the words of Abraham Lincoln that, “the worst compromise is better than the best litigation”. He was particularly concerned at the great increase in litigation in the Philippines since 1985 from a total number of 323,282 cases to a total of 797,721 cases in 2001. Mr. Sarmiento stated that these figures cried out for the use of mediation procedures at the community and *barangay* level where peer pressure acts as a strong impetus towards dispute resolution. He further argued that restorative justice

approaches that have been adopted in Australia, Canada and New Zealand should be embraced and there should be training courses on mediation and on human rights.

Mr. Lim Mr. Lim talked of how many people did not understand the *barangay* structure which established a new system of justice in 1991. It is estimated that this system saved almost 1 million pesos in litigation fees in 2000. Mr. Lim pointed out some of the problems in the *barangay* system such as; there is a need for proper training as a number of cases are mismanaged in the *barangay* (for example, sometimes rape cases come before the *barangay* which should never happen), lawyers often want cases to leave the *barangay* as soon as possible so they can continue litigation at the courts, favorable behavior has been observed towards friends or relatives and there have been problems with enforcing agreements that have been reached. In closing, Mr. Lim reiterated the need for education, information campaigns and more focused training for those people who are handling the system.

C. Open Forum Summary

It was discussed that there was a great need for public education on mediation processes. The Philippine Judicial Academy has been traveling all over the country educating the public, like lawyers, community-based associations and media with respect to the efficiency and efficacy of mediation. Pamphlets are also available from the Academy.

A question was raised in relation to the abolition of the Juvenile and Domestic Relations Court in the Philippines in the 1970s. It was pointed out that domestic violence and violence against children cases are now dealt with by the Family Court where a social welfare worker compiles a preliminary report for the court. There are difficulties, however, in that inadequate funding hampers the effectiveness of the Family Court.

It was pointed out that there are currently about 347 mediators at the Philippine Judicial Academy who serve on a *pro bono* basis. They must be at least 30 years old, be of good character, hold a bachelors degree and be able to speak Filipino and English. One of the problems perceived to be encountered in mediation is that lawyers believe this will have an impact on their income and tend to be apathetic towards alternative forms of dispute. Lawyers should not be excluded from mediation and often try to assist mediators in reaching agreements. Parties in mediation in the Philippines are given 30 days to see if they can settle. If no agreement has been reached within 60 days then the dispute goes to court.

The issue of compensation for those remand prisoners who are found innocent was raised. The Philippines' Board of Compensation of the Department of Justice only provides minimal compensation of 10,000 pesos.

One participant put it to the floor that certain victimless crimes and archaic laws should be decriminalized. The Philippines' Judicial Reforms Office considers this and makes recommendations to the Supreme Court.

It was proposed that the English magistracy system could serve as a useful role model in the Philippines. The Japanese Committee for Inquests into Prosecution were seen as laudable in bringing community members into the prosecution process.

It was clarified that in Japan, lay commissioners are appointed by the Family Court judges. They should be more than 40 years of age and have broad knowledge and experience. Their opinions must be highly respected. The Japanese system of inquests into prosecutions was further elucidated upon. It was stated that the committees of inquests into prosecutions can only make recommendations if they believed that prosecutions were not properly suspended.

Topic Four: Community Involvement in the Rehabilitation and Treatment of Criminal Offenders

A. Presentations

This session was again chaired by Mr. Gaña and there were two papers presented. The first paper, entitled “Community Involvement in the Rehabilitation and Treatment of Offenders” was presented by the Honorable Mr. Ramon J. Liwag (Undersecretary, Department of Justice, the Philippines). Mr. Kenji Teramura (Professor and Chief of Research Division, UNAFEI) presented the second paper which was entitled “Community Involvement in the Rehabilitation and Treatment of Criminal Offenders”.

Mr. Liwag stressed that community’s participation in crime prevention represents the public’s acceptance of its shared responsibility with the government. The root causes of crime such as unemployment, poverty and illiteracy are not within the control of any one component of the criminal justice system and so it becomes the responsibility of the community to help prisoners overcome these problems. He identified the role the community can play in crime prevention by looking at the rehabilitation and treatment programmes provided by the government and in particular by the biggest prison in the Philippines, New Bilibid Prison. Mr. Liwag found that the community gives a great deal of support to the efforts of New Bilibid Prison to promote spiritual and moral growth. He believed, however, that the community has not paid enough attention to inmates’ needs when they make the transition from prison to life outside. One of the laudable initiatives which had recently been implemented was the Philippines/Japan Halfway House, next to Bilibid Prison which was created with the assistance of the Asia Crime Prevention Foundation, UNAFEI , the Nagoya West Lions Club and other NGOs in Japan. There are now plans to establish government supported halfway houses in six administrative regions throughout the country.

Mr. Teramura stated that the importance of community involvement has long been recognized by the Asian and Pacific Conference of Correctional Administrators (APCCA) which chose this issue as the theme for the twentieth ACCA. He went on to look at community involvement in corrections specifically in Japan. Japan has a system of volunteer probation officers drawn from the community. There are a number of organizations such as the Women’s Association for Rehabilitation Aid, the Big Brothers and Sisters Association, Volunteer Visitors, Chaplains and Cooperative Employers which are community groups that befriend offenders and assist them in their vocational pursuits and wider rehabilitation. Japanese rehabilitation also includes accommodating offenders in halfway houses, providing material aid and financially supporting other rehabilitation organizations under the supervision of the probation office. The Japanese government supervises and provides financial support to these half-way houses. Previous participants at UNAFEI have voiced some of the major obstacles to community involvement – for example, lack of public interest, security risks and shortage of volunteers.

B. Reactions

Reactions to the above presentations were given by Mr. Rod G. Cornejo (Assistant to President of GMA 7), Mr. Taha M. Basman (Secretary-General of the Philippine Islamic Council) and Mr. Dante L.A. Jimenez (Chairman of Volunteers against Crime and Corruption).

Mr. Cornejo considered that the Government of the Philippines does recognize the growth of community involvement in providing moral support within the criminal justice administration but sometimes the community does not receive a great deal of support in its efforts to rehabilitate ex-offenders. Employers cannot be blamed for not employing ex-offenders because of the stigma that surrounds them but how can this stigma be removed? Mr. Cornejo argued that there were two major influences in the Philippines – the Church and the media. The Church provides a number of programmes aimed at supporting inmates such as the Jail Trust Programme which provides financial loans to prisoners and their families. He stated the

church workers are welcomed into prisons as they bring harmony to the prisoners.

Mr. Basman stated that this seminar was held at an opportune time as it was Ramadan for Muslims and Christmas was approaching for Christians. He said there had recently been an upsurge in one type of criminality and that was terrorism and this needs priority concern. The fight against terrorism could only succeed if there was mutual respect for different faiths, mutual understanding, praying in each other's presence, listening to each other's dialogue and inter-faith meetings supported by the government.

Mr. L.A. Jimenez stated that the organization he represented was firstly concerned with catching the perpetrators of crime and secondly their rehabilitation. He congratulated both the speakers and said that there should be a partnership between the government and the community in administering criminal justice. He discussed the concept of half-way houses in Japan and said that they should be introduced in the Philippines

C. Open Forum Summary

A question came from the floor about the propriety of the government receiving donations from prisoners for the construction of facilities in the New Bilibid Prison. The case of Congressman Jalosjos was cited. This has been investigated by the Department of Justice and it was established that the only construction facility donated by the incarcerated Congressman was a tennis court which is now being used by the inmates. It was suggested that a sports programme should be supported by the community to make use of the facility. The government does, however, discourage such donations as they might impede upon the fairness and equality of treatment for all inmates. A non-governmental view was that prison conditions effect prisoners' rehabilitation and, although not defending Congressman Jalosjos, inmates were paying for their crimes by being incarcerated and should not have to face deplorable conditions.

The issue of prisoners continuing to make illegal drug transactions was highlighted. It was said that recently correctional institutions have endeavored to search for, and seize, all cellular telephones held by inmates. There was a particular problem in Muntinlupa Prison but this was more because of architectural reasons than administrative reasons. This prison was built in 1946 and is congested by about thirty percent. Almost all amenities have been removed and there is no visiting area so visitors have to go inside the prison camp in order to see their relatives and friends. Such a set up makes it extremely difficult to monitor the entry of contraband.

It was pointed out that Japan has maintained a relatively stable number of volunteer probation officers for the last fifty years which contrasts starkly with the position in the Philippines. One of the main reasons for the drop in the number of volunteer probation officers in the Philippines is that they no longer have their traveling fees reimbursed. It appeared that the volunteers who were recruited were probably as needy as the probationers, parolees and pardonees themselves. The present situation therefore calls for a shift in the public's attitudes from one of fear of offenders to one where it is realized that withholding support and assistance for offenders could in effect encourage further criminality.

The issue was raised that prisoners should be seen as they are – people who have committed a wrong doing but who can change with the help of the community. Indeed total rehabilitation can only happen within the community. The criminal must be separated from his crime in order for him to move on within his community. It was further suggested that the media should be more active in opening the eyes of the public on the plight of prisoners and instilling awareness on their role in rehabilitating offenders.

There was a call for a law compensating those injured or killed in their efforts to prevent crime. It was pointed out that there is a Victim's Compensation Programme which provides a flat 10,000 pesos to successful claimants.

Topic Five: Mobilizing the Community for Improved Criminal Justice Administration

A. Presentations

This session was chaired by Ms. Lilia C. Lopez (Judge, Br. 109, Regional Trial Court) and there were three presentations. The first paper, entitled “Mobilizing the Community for an Improved Criminal Justice Administration” was delivered by Ms. Mia Meñez-Zafra (Chairperson of the Community Pillar NAPOLCOM Technical Committee on Crime Prevention and Criminal Justice). The second paper entitled, “Mobilizing and Networking the Community through Volunteer Probation Officers and their Associations in Crime Prevention and the Rehabilitation of Offenders” was presented by Ms. Mikiko Kakihara (Professor, UNAFEI). Mr. Keichii Aizawa (Deputy Director of UNAFEI) delivered the third paper which was entitled, “Mobilizing the Community for an Improved Criminal Justice Administration”.

Ms. Meñez-Zafra opined that in recent years criminal justice systems have started to discover the power and potential of working with the community. For example, in the USA, many prosecution offices are becoming more community focused, basing themselves in local neighborhoods. She argued that there are three essential and complementary core components of community policing; community partnership, problem solving and change management. Central to these components are the requirements of communication, cooperation, collaboration and change. Community courts are now a growing trend in many countries. Though there are different models, they have common characteristics. It was suggested that a community-focused court should practise restorative justice, treat parties in disputes as real individuals rather than abstract legal entities and utilize community resources in the adjudication of disputes. Incarceration has become a drain on government resources and there is a need to search for less costly alternatives such as community corrections. Experience and research have shown that community institutions are the first line of defense against disorder and crime and community involvement is democracy in action.

Ms. Kakihara explained that expectations for volunteer probation officers’ activities have been broadened and raised in recent years in Japan, as the community was entering a stage of drastic change. Ms. Kakihara detailed the situation where volunteer probation officers and their associations, with a proud history of more than 50 years, were now expected to not only help and guide individual offenders, but also perform their roles fully in mobilizing, networking and organizing the community for effective crime prevention. Her paper also noted that there is a growing concern about juvenile delinquency in Japan and this necessitated the recreation of a healthy community. One of the rehabilitation programmes that volunteer probation officers are typically involved in is the Social Participation Activities Programme which aims to cultivate a juvenile’s sociability rather than penalize the juvenile. Ms. Kakihara also mentioned forms of crime prevention activities such as public relations activities on the street, public symposia about delinquency problems, small discussion meetings and fund raising activities for rehabilitation aid which are carried out by volunteer probation officers in cooperation with local governments and other bodies concerned in their respective communities. She further talked about a number of cooperative employers who register with probation offices and offer employment to offenders under probation or parole while knowing of their past records. Volunteer probation officers play a leading role in finding new cooperative employers and organizing them in the community.

Mr. Aizawa’s paper looked at two systems of crime control that serve the dual purpose of deterring law breaking and of apprehending, punishing and treating those who commit crimes. These systems are formal (e.g. the police, the judiciary, etc.) and the informal (e.g. parents, schools, religious bodies, etc.). Without informal social controls the criminal justice system would cease to function effectively. Governments have begun to explore more direct ways of improving informal social controls and such activity falls under the general heading of “crime prevention.” He considered United Nations activities and initiatives in the field of community involvement in crime prevention. He explained that at the Tenth United

Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Vienna in 2000, a workshop on such a theme was held. It was emphasized that the United Nations, by way of adopting resolution 55/59 of December 2000 (the “Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century”), has clearly expressed its political will to encourage the community to become involved in matters of crime prevention and criminal justice. Mr. Aizawa further looked at a United Nations Expert Meeting that was held in Buenos Aires in February 1999 which considered the theme of community involvement in crime prevention.

B. Reactions

Reactions to the above two presentations were given by Mr. Ray Dean Salvoza (Consuelo Zobel Alger Foundation) and Mr. Florante A. Seril (Philippine Association of Colleges and Universities).

Mr. Salvosa said that the presentations had been comprehensive in addressing the issues that needed to be addressed. He noted that the Volunteer Probation Officer System in Japan was a commendable institution and allowed the Probation Service to function effectively. The Japanese culture is different to most cultures as it is homogeneous and perhaps this encourages better community participation in the criminal justice administration. It was particularly noted that in Japan 4,600 employers were registered in April 2000 for the purpose of employing ex-convicts in order to give them a second chance. The problem of juvenile delinquency was particularly felt in the Philippines where 39 percent of children do not even attend school and attention should be prioritized here as it is better to build children than repair men.

Mr. Seril argued that volunteerism in the community cannot be forced but only organized through the goodwill of the community. He believed that there had often been problems in gaining the attendance of government representatives at criminal justice training programmes in the Philippines. He further stated that corruption in the Philippines was an everyday event and this causes disillusionment in the community.

C. Open Forum Summary

It was stated that the Philippines has a Volunteer Intervention Programme which has existed for the last two decades. The situation of volunteer probation officers (VPOs) in Japan was clarified. They have the status of non-permanent government officials but they are not paid for their services. Such volunteers tend to be recruited on the recommendation of current volunteer probation officers. Their work can include holding meetings in the community about programmes for juvenile delinquents. VPOs also play a leading role in obtaining work for ex-offenders through their contacts in the community.

A question was aired as to how the community can feel encouraged to participate in crime prevention and detention if they live in fear of criminals that are armed. It was suggested that the community cannot be expected to be at the forefront of crime prevention if there is an obvious threat to life.

The growing concern towards juvenile delinquency is quite alarming considering that the Philippines does not have the system, the facilities and the trained personnel to cope with the problem. Delinquent offenders are getting younger and younger and if intervention is not made then the crime problem will continue to deteriorate. One panelist informed the participants that there is a pending bill in Congress called the Comprehensive Juvenile Justice and Delinquency Prevention Bill that, if passed, will not only save the cost of incarceration but also the cost of the crime in terms of money and life. The philosophy of the Bill is one of restorative justice.

Many of the participants agreed that the concept of Community Oriented Policing (COPS) was a major initiative to reduce crime. In 15 cities in the USA, where COPS initiatives had been introduced, major crimes had dropped by as much as fifty percent. COPS is unique because it turns the police officer into a community service officer.

COPS has been suggested as an initiative since 1990, in the Philippines, but there have been a number of implementation problems. One of these problems is that police chiefs tend to be transferred every couple of years and so once they have become familiar with their locality they move on. It was mooted that under new local organizations, the mayors, as deputies of Napolcom, exercise operational supervision and control and so even if chiefs of police are being changed, the mayors can still continue with the established agendas. The counter argument to this was that this would still mean the police are not localized and this hinders any COPS. It was agreed that COPS requires a tripartite partnership from the government, the community and the national police.

Final Recommendations

These recommendations were the manifestation of the five group workshop sessions that had been held towards the end of the Seminar. They were presented to the Joint Seminar and adopted as the final recommendations. They are as follows:

1. Appropriate measures should be undertaken to promote the coordination and cooperation of law enforcement agencies, prosecution, courts and corrections vis-à-vis the community through more effective sharing of information, for example, by strengthening the National Crime Information System (NCIS).
2. Public trust and confidence in the criminal justice system should be further developed through community involvement in the operations and workings of each criminal justice agency.
3. In order to attain full community involvement in the criminal justice administration, criminal justice agencies should observe the principles of transparency, integrity and impartiality.
4. Adequate legislation should be enacted to strengthen community involvement and participation in crime prevention and the administration of criminal justice through such programmes as the Volunteer Probation Programme (VPP), Volunteer Information Programme for Youth (VIPY), and the Community-Oriented Policing System (COPS).
5. The active participation of witnesses in the prosecution of cases should be assured by amending the existing law like the Witness Protection, Security and Benefits Programme.
6. Congress, local government councils, and community-based organizations (NGOs and private sectors, among others) should be encouraged to provide personnel and resources to correctional agencies in order to achieve the full implementation of correctional activities.
7. Credibility of all agencies in the criminal justice system should be improved through continuing capability training, seminars, etc. in order to attain swift and fair dispensation of justice.
8. The active participation of the community should be ensured in national policy-making bodies as a means through which agencies of government can work with the community.
9. Effective measures should be undertaken to build and strengthen community-based groups, where seminars/training/dialogues should be undertaken for the purpose of enhancing cooperation and coordination between law enforcement agencies and prosecutors.
10. The Department of Justice should encourage the community to assist in the recruitment of qualified and competent lawyers for the prosecution service.
11. Public information education programmes through responsible media should be enhanced in order to increase community awareness on crime prevention and the treatment of offenders.