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PREVENTION OF CRIME AND TREATMENT OF OFFENDERS

UNAFEI'S RESOURCE MATERIAL SERIES

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COURSE REPORTS

**The United Nations Asia and Far East Institute
for the Prevention of Crime and the Treatment of Offenders**

PREVENTION OF CRIME AND TREATMENT OF OFFENDERS

RESOURCE MATERIAL SERIES NO. 113

UNAFEI

Akishima, Tokyo, Japan **March 2022**

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INTRODUCTORY NOTE

It is with pride that the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) offers to the international community this issue of *Prevention of Crime and Treatment of Offenders*, UNAFEI's Resource Material Series No. 113. Due to the global impact of the Covid-19 pandemic and the severe restrictions on international travel, it was necessary to postpone all our international training courses and seminars scheduled in Fiscal Year 2020.

However, I am pleased to report that we have resumed our international training programmes, beginning with the 23rd UNAFEI UNCAC Training Programme on *Tackling Emerging Threats of Corruption in the Borderless and Digitalized World*, which was held exclusively online from September to October 2021. Following the success of UNAFEI's first online training programme, we held the 175th International Training Course on the *Treatment of Women Offenders* (Oct.–Nov. 2021) and the 176th International Training Course on *Achieving Inclusive Societies through Effective Criminal Justice Policies and Practices* (Nov.–Dec. 2021).

The 2030 Agenda for Sustainable Development seeks to establish a global society in which no one is left behind, and Sustainable Development Goal 16 underscores the importance of governance and the rule of law in promoting peaceful, just and inclusive societies. In March 2021, overcoming challenges posed by the pandemic, the United Nations Member States renewed their commitment to achieving these goals through the adoption of the Kyoto Declaration – the political declaration of the 14th United Nations Congress on Crime Prevention and Criminal Justice, held in Kyoto, Japan.

Each of the training courses covered in this issue aimed to exchange and promote good policies and practices towards the achievement of the Sustainable Development Goals: the 23rd UNCAC programme focused on countering corruption and cybercrime, while the 175th and 176th training courses considered measures to reduce reoffending and to promote the rights and interests of crime victims throughout the criminal justice process.

I would like to pay tribute to the contributions of the Government of Japan, particularly the Ministry of Justice, the Japan International Cooperation Agency and the Asia Crime Prevention Foundation, for providing indispensable and unwavering support to UNAFEI's international training programmes and other activities.

Finally, I would like to express my heartfelt gratitude to all who so unselfishly assisted in the publication of this series.

March 2022

MORINAGA Taro
Director of UNAFEI

PART ONE

RESOURCE MATERIAL SERIES No. 113

Work Product of the 23rd UNAFEI UNCAC Training Programme

UNAFEI

REPORT OF THE PROGRAMME

THE 23RD UNCAC TRAINING PROGRAMME (ONLINE) "TACKLING EMERGING THREATS OF CORRUPTION IN THE BORDERLESS AND DIGITALIZED WORLD"

1. Duration and Participants

- From 22 September to 18 October 2021
- 27 overseas participants from 19 jurisdictions

2. Programme Overview

Globalization coupled with rapid progress of information technology has made trades and transactions borderless and highly reliant on worldwide information flows in cyberspace. While these changes have contributed to enormous economic growth, they have also made the fight against corruption more difficult with a number of new and emerging challenges. To counter these challenges, this programme offered participants an opportunity to share experiences and knowledge on (i) finding, preserving, collecting, analysing and utilizing electronic evidence; (ii) detection of corruption cases from various sources and gaining cooperation from witnesses, accomplices and citizens, and (iii) international cooperation.

This programme, for the first time in the history of UNAFEI's International Training Courses and Seminars, was exclusively conducted online due to the Covid- 19 pandemic. In consideration of the time difference between the participating countries around the world, two-hour session were conducted twice a day. The participants were offered a virtual conference room and chat room through which they were able to communicate with the UNAFEI faculty and staff members as well as their colleagues in real time.

3. The Content of the Programme

(1) Lectures

Since the participants needed to continue their professional and family duties during the programme, the lectures were recorded in advance and broadcast on-demand for their convenience, followed by live Q & A sessions with the lecturers. UNAFEI faculty members gave on-demand lectures on the criminal justice system in Japan, as well as some live lectures on an overview of UNCAC, Japanese anti-corruption measures, and international cooperation focusing on the bottlenecks in MLA. The visiting experts from overseas and an ad hoc lecturer from Japan also gave informative lectures:

- Visiting Experts

  - Dr. Thomas Dougherty
    International Computer Hacking and Intellectual Property
    Attorney for Central, Southern and Eastern Europe
    U.S. Department of Justice
    "Effective Use of Digital Evidence in Anti-Corruption Investigations and Prosecutions"

  - Mr. LAM Seow Kin
    Deputy Director, Investigations
    Corrupt Practices Investigation Bureau, Singapore
    "Effective Measures and Practical Challenges to Detect Corruption Cases from Various Sources"

  - Mr. Robin LEE
    Chief, Digital Technology Office, Deputy Director, Investigations, Corrupt Practices Investigation Bureau, Singapore
    "Effective Measures to Encourage Corruption Reporting"

- Ad hoc lecturer

  - Mr. HACHIYA Kenichi
    Assistant Director, Second Unit of Investigation Training Office Cybercrime Division, Community Safety Bureau

National Police Agency
"Cybercrime Investigation Practice in Japan"

(2) Group Work

Participants were divided into four groups based on time zones and the themes of their choice for the Individual Presentation sessions and discussions.

- Individual Presentations

  Participants shared the practices and the challenges in their respective jurisdictions regarding the theme of the Programme through their individual presentations. All the presentations were recorded and uploaded online for reference by participants in other groups or those who could not attend the sessions.

- Discussions

  Participants had fruitful discussions on the themes of the Programme: (i) finding, preserving, collecting, analysing and utilizing electronic evidence; (ii) detection of corruption cases from various sources and gaining cooperation from witnesses, accomplices and citizens, and (iii) international cooperation, focusing on their challenges.

  - Whistle-blower/witness protection

    As for encouraging reporting, conventional measures such as anonymous reporting, exemption from civil/criminal liability and confidentiality of the identification of the reporter were shared as well as the use of new technology such as online-reporting systems and smartphone applications which give the public easy access to the authority. As for witness protection, in court measures such as confidentiality of the identity of the witness and video-link testimony were discussed along with out-of-court measures such as the change of identification or relocation of the witness by the government. Measures to obtain cooperation from accomplices and hostile witnesses was also discussed including deferred prosecution, plea agreement (or cooperation agreement) as well as subpoenas and the use of out-of-court statements as exceptions to the hearsay rule. It was mentioned that special units need to be established to deal with whistle-blower/witness protection because of its sensitive nature. The Singaporean experience of younger-age education was also pointed out as being effective in obtaining cooperation from the public.

  - Effective use of information, financial intelligence and other corruption leads

    Regarding FIU information, it was mentioned that the value of FIU information needs to be disseminated among criminal justice practitioners, and a successful case involving MLA based on the FIU information to detect and prosecute corruption was shared. The challenges and best practices of inter-agency cooperation, especially between anti-corruption agencies and police forces, were also shared. The Japanese leniency system of the Fair Trade Commission was introduced as a means to detect procurement-related corruption.

  - Use of digital evidence

    As for the challenges of collecting and analysing digital evidence, recovery of digital data, decrypting the locked devices seized and collection of digital data stored overseas, as well as lack of adequate laws, experts and tools to deal with digital evidence. As countermeasures, it was discussed that timely freezing of the data by international cooperation and sharing of tools and experts at the regional level as well as establishing sufficient legal frameworks and capacity-building of experts and investigators. As for the effective use of digital evidence at the trial stage, best practices for authentication were discussed, such as procedures for collection and preservation, establishing the "chain of custody", including numbering the evidence, and testimony by digital-forensics investigators and experts. Japanese precedent was also shared on the admissibility of digital evidence obtained from overseas servers.

  - International cooperation

    The lengthy, complicated process of mutual legal assistance was discussed as one of the primary challenges to international cooperation. To overcome these challenges, the use of informal

professional networks and information sharing were identified as important steps. Practices were also shared on collecting and analysing digital evidence in collaboration with law enforcement agencies in other countries. As for the collection of digital evidence, it was pointed out that the Budapest Convention is a valuable tool for handling preservation requests and mutual legal assistance, provided the parties to the request are member states.

(3) Action Plans

Each participant concluded the programme by presenting their own action plans based on the challenges they identified and what they learned in the lectures, presentations by the colleagues and discussions. Despite the lack of in-person interaction, most participants said they were quite satisfied that the programme had been helpful in acquiring knowledge on anti-corruption measures.

PARTICIPANTS' PAPERS

COMPLIMENTING FINANCIAL INTELLIGENCE UNIT (FIU) INFORMATION AS A TOOL IN COMBATING CORRUPTION IN MALAYSIA

*Asrul Ridzuan Bin Ahmad Rustami**

I. INTRODUCTION

As technology advances, the investigation of corruption cases has become more complex and difficult. The criminals themselves have evolved where they are highly organized at evading detection by LEAs, especially involving ill-gotten assets. The investigation of corruption cases no longer focuses on the essence set out in the law, but the investigation needs to be more comprehensive and the need to obtain data to build a case becomes very pertinent, especially at the initial investigation stage. One of the methods where data is most needed is the financial information available at the Financial Intelligence Unit (FIU). For the Malaysian Anti-Corruption Commission (MACC), the information obtained from the FIU has become more essential to construct a decent case against the offenders.

The Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA) is the primary statute governing the AML/CFT regime in Malaysia. The Act was gazetted as law on 5 July 2001 and came into force on 15 January 2002.

The AMLA provides for the offence of money-laundering and terrorism financing and the measures to be undertaken for the prevention of money-laundering and terrorism financing offences. This law also provides wide-ranging investigation powers including powers for law enforcement agencies and Public Prosecutors to freeze and seize properties that are involved or suspected to be involved in money-laundering or terrorism financing offences, and the power of the court to forfeit properties derived from the proceeds of serious crimes.

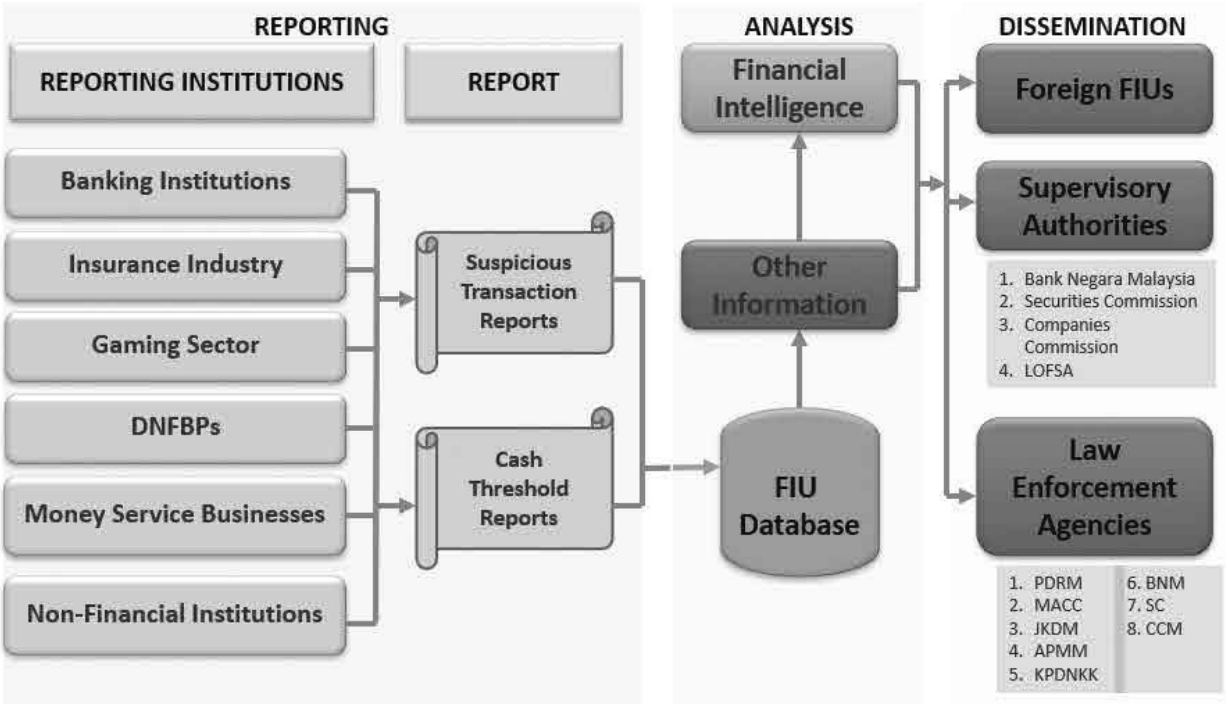
Section 7 of this law provides for the establishment of a Financial Intelligence Unit, where the Financial Intelligence and Enforcement Department (FIED) of the Central Bank of Malaysia is responsible to manage and provide comprehensive analysis on the financial intelligence information received relating to money-laundering, terrorism financing or any other crimes. The financial intelligence received may come from various sources such as STRs and CTRs received from the reporting institutions such as financial institutions as defined under the First Schedule of the AMLATFPUAA 2001 Act, local law enforcement agencies and foreign FIUs.

In Malaysia, the Anti-Money-Laundering investigation regime is coordinated by the National Coordination Committee (NCC), which is responsible for coordinating, implementing and monitoring the development of the national anti-money-laundering initiatives. Members of the NCC are drawn from ministries and government agencies from supervisory/regulatory authorities, law enforcement agencies and policymaking ministries. It is spearheaded by the Central Bank of Malaysia and includes enforcement and regulatory agencies in Malaysia such as the Royal Malaysia Police, the Malaysian Anti-Corruption Commission, the Inland Revenue Board of Malaysia, the Immigration Department of Malaysia, the Royal Malaysian Customs Department, the Companies Commission of Malaysia, the Securities Commission Malaysia and the Attorney General's Chambers among others.

The financial intelligence information will be disseminated to the respective law enforcement agencies as listed above for their further action depending on the nature of their crime under their respective purviews. MACC has been empowered to investigate money-laundering cases relating to laws administered by MACC

* Senior Assistant Commissioner, Malaysian Anti-Corruption Commission (MACC).

pursuant to the Malaysian Anti-Corruption Commission (MACC) Act 2009.



II. THE USAGE OF CASH THRESHOLD REPORTS (CTR) AND SUSPICIOUS TRANSACTION REPORTS (STR) IN CORRUPTION CASES

Apart from the information of the whistle-blower, CTR and STR information play a major role in developing a corruption case, especially in MACC when it involves grand corruption cases.

As we all know, CTR is referring to a limit of cash transaction that has been set up by the competent authority for the reporting institution to escalate to the FIU for further verification. In Malaysia, the FIU has set the cash transaction that needs to be reported as any transaction above RM 25,000.00. Section 14 of the AMLATFPUAA 2001 Act states that the reporting institution shall promptly report to the competent authority any transaction exceeding such amount as specified by the competent authority. This involves physical currencies and bearer negotiable instruments such as travellers' cheques but excludes bank drafts, cheques, electronic transfers or fixed deposit rollover. These include transactions involving withdrawal of cash from accounts or exchange of bearer negotiable instruments for cash.

On the other hand, STR is referring to any transaction (regardless of the amount) that appears unusual, has no clear economic purpose, appears illegal, is not commensurate with the customer's profile or business activities, or involves proceeds of unlawful activities. Section 14 of the AMLATFPUAA 2001 states that a reporting institution shall report to the competent authority if any officer/employee suspects that any transaction or property involves proceeds of an unlawful activity or instrumentalities of an offence or related or linked to any terrorist act/entity or terrorism financing.

In a world where corruption has become increasingly challenging and rampant together with the evolution of technology due to globalization and cross-border issues, data has become essential in investigations, and the CTR and STR are very useful and helpful in the corruption investigations. The data contained in the CTR and STR is very informative for the LEAs and helps them build a case, and both CTR and STR act as an indicator or red flag on the customer's profile. These data are very beneficial for profiling purposes as there is a bank account involved, account holder information including the beneficial owner, person conducting the transaction, amount involved, frequency of transactions performed, where transactions are performed and other information that is very useful in the investigation.

But how can this information be built into a good case? For the MACC, the customer's personal information in the CTR and STR will be used to complete the profiling on suspects. This information will be expanded to the family of the suspect, companies belonging to suspects or affiliates. A second review of CTR and STR towards the family, associates and companies will be conducted. When this information is obtained, subsequent behavioural analysis will be conducted on the suspect, his family and their allies to determine pattern and establish their lifestyle.

Besides that, these disclosures assist in identifying the accomplices who are involved in the scheme through the information of the person who conducted the transaction. It enables the profiling of accomplices to be done easily, whereby the information may at times include the employment details of the person who conducted the transaction. Another benefit is where through the disclosures of CTR and STR, it allows us to be able to identify the transactions early and helps in tracing the source of the funds. Initial analysis on the transactions can commence with the help of financial institutions in providing documents, and if foreign transactions may be involved, investigators would be able to initiate a mutual legal assistance (MLA) request.

For bank account information that has been identified, MACC will work together with the FIU to obtain all financial information and documents belonging to suspects, families, associates and the companies owned by them. The specific provisions that provide power to MACC to gather financial information are Section 35 of the MACC Act 2009 and Section 48 of AMLATFPUAA 2001. From this financial information, the investigating officer will conduct an analysis and trace the money trail of the bank accounts owned by the suspect, family and associates. This is an important step given that this will show whether the suspect committed a corruption offence or not.

Apart from CTR and STR information, the FIU also provides international transaction information to LEAs to facilitate cross-border investigations. Among the information that can be supplied is information on the outflow or inflow of money to or from abroad. From this information, the investigating officer can figure out the source of funds and can identify whether a money-laundering offence has been committed by the suspect. With this data, the process to prepare mutual legal assistance (MLA) requests is becoming easier ever since we can request the details of information from foreign counterparts by using the information received. However, the setback for this system is that it only captures a transaction above RM 200,000.00. Information that can be obtained through this indicator such as the details of the beneficiary, details of the bank and account involved, name of the non-resident and the country involved, the currency of the transaction and details of the transaction such as the description and date of transfer.

III. CASE STUDY – THE OPERATION EL NINO CASE

"Operation EL NINO" is the first project that is recognized by the Chief Commissioner of MACC as the first FULL analysis case by MACC. This case involved the participation of Malaysia FIU to facilitate and assist MACC in developing the case.

This case was first handed out to MACC through an STR disclosure from the FIU, where the information related to a senior official in the Ministry of Sport and Youth who made large payments on his credit card bills. In addition, in the STR also stated that the payment was made by a man using his company's cheque. The information also stated that the use of the credit card is for the purchase of luxury and expensive items such as luxury watches, bedding, paintings, art and others. Also mentioned in the STR provided, the emolument received by the senior official was not commensurate with his spending.

Based on this information, comprehensive planning has been carried out to ensure the success of this project. A full profiling of the suspect was extensively conducted, which included open-source searches and personal information gathered from various agencies. Besides that, by engaging the Intelligence Department of the Commission, physical surveillance and the setting up of wiretapping was done. Financial institutions were engaged in the process of performing accounts analysis on the transactions that were triggered and money trail of the accounts and funds in subject. Besides that, integrity offices of the Commission that were based in the relevant ministries assisted in gathering the job scope of the suspect.

During the profiling stage, MACC figured out that the two of them met frequently and based on the wiretapping, MACC also has established that the payment of the credit card bills is as an inducement to approve the payment for a contract awarded to the companies belonging to the accomplice.

In addition, the financial profile of these individuals was also gathered by using legal provisions under the MACC Act 2009 and AMLATFPUAA 2001. The FIU also acts as a cooperation platform to expedite the request from the financial institution. All the financial information was then analysed, and the results of the analysis have shown that both suspects have been involved in corrupt practices since 2008. From the financial documents as well, MACC was able to trace the projects that had been awarded to the accomplice and as a result of the initial investigation disclose that the contracts involved approximately RM 40 million with a bribe of more than half of it.

The major operations were then launched in February 2016. Throughout the investigations, 11 people have been detained consisting of two public officials and nine non-public officials. During the investigation, MACC has seized cash approximately RM 16 million, an assortment of jewellery and luxury items that amounted to RM 4 million, 12 luxury cars and a few properties that amounted to millions of ringgits. In late May 2016, both the public official and the accomplice were brought to the court and charged with 32 charges under Section 18 and Section 23 of MACC Act 2009 and 64 charges under AMLATFPUAA 2001.

During the investigation, MACC had proposed to the Ministry of Youth and Sport to enhance its procurement system in awarding future contracts since it was noted from this investigation that the Government had incurred an estimated loss of RM 100 million and future losses arising from a similar nature had to be prevented. Section 7 of the Malaysia Anti-Corruption Commission Act 2009 stipulates that the Commission shall have the function of advising public bodies of any changes in practices, systems or procedures where the Chief Commissioner thinks may be necessary to reduce the likelihood of the occurrence of corrupt practices. The Commission proposed for the establishment of a "check and balance mechanism" in awarding contracts to prevent similar incidents from reoccurring.

IV. CONCLUSION

Crime, especially corruption, has evolved, and conducting investigations of corruption cases have become increasingly complicated. The existence of up-to-date technologies also poses additional threats and challenges to investigating officers. In this regard, the use of data, such as CTR, STR and international transaction records provided by the FIU, is very useful as the data can show the pattern of how a crime is committed. Strengthening domestic cooperation between LEAs and the FIU will be helpful to understand every case in more depth to draw level with the evolution of crime itself. This is the way forward in the future.

ENSURING THE ADMISSIBILITY AND CREDIBILITY OF ELECTRONIC EVIDENCE IN INDONESIAN CRIMINAL PROCEEDINGS

*Salmah**

I. PREFACE

Since the 2000s, Indonesia has experienced an increase in the use of digital technology, where more and more individuals are using computers and mobile phones in their daily lives. The development of digital technology is not only limited to the physical form but also in the scope of its use. Along with these developments, the types and methods of crimes that use digital technology are also increasing.

One type and source of electronic evidence is CCTV footage or Closed-Circuit Television. CCTV recording is a medium that can be used to contain recordings of any information that can be seen, read or heard with the help of CCTV recording facilities. CCTV footage is used as evidence, and the system uses video cameras to display and record images at a certain time and place where this device is installed, which means using a closed signal, unlike an ordinary television, which uses a broadcast signal.[1]

Prior to 2001, CCTV had been used as a means of security or monitoring but had not been used as evidence in trials. However, after Law Number 20 of 2001 junto Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption, which was later strengthened by Law Number 11 of 2008 concerning Information and Electronic Transactions, CCTV, has become one of the electronic evidence tools that is very helpful in proving the occurrence of criminal acts.

When a suspect and other related party commit an act that is a crime or is part of a criminal process, the investigation is carried out only based on evidence in the form of objects/goods used to commit the crime, the testimony of the related parties and, when applicable, the suspects' admission of guilt. In corruption criminal acts, evidence such as instructions between the suspect and related parties, proof of wrongdoing, electronic objects/goods used to commit crimes and documentary evidence are usually very difficult to obtain. However, if the crime event, such as meetings between the suspect and other parties, was caught on CCTV, then the results of the CCTV footage will become electronic evidence that strengthens the allegation that there is indeed a special relationship between the suspect and other related parties and that they were involved in the corruption act.

II. ELECTRONIC EVIDENCE IN INDONESIA

In the history of legislation in Indonesia, electronic evidence was clearly stated for the first time in Law Number 20 of 2001, which was an amendment to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. Valid evidence in the form of a directive in accordance with Article 184 of the Criminal Procedure Code was expanded in regard to the acquisition source to include other evidence in the form of information that is spoken, sent, received or stored electronically with an optical device or similar; or information that can be seen, read and/or heard, that can be issued with or without the help of a means, whether written on paper, any physical object other than paper, or recorded electronically.[2] These were emphasized again in Article 5 of Law Number 11 of 2008 concerning Electronic Information and Transactions,

* Middle Investigator, Investigation Directorate, Corruption Eradication Commission Indonesia.

[1] Surjono, Herman Dwi, *Pengembangan Pendidikan TI di Era Global*., p. 18.

[2] Further Explanation of Law Number 20 of 2001, which was an amendment to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

which states that electronic information, electronic documents and printouts are recognized as legal evidence.

The crime of corruption and money-laundering is one of the economic crimes that is difficult to prove without special handling. Thus, electronic evidence, as one of the valid forms of evidence admissible in court, can increase the judge's confidence in deciding cases.

To ensure the admissibility and credibility of electronic evidence, it was critical for Digital Evidence First Responders or investigators to have core skills, such as how to search and identify digital evidence, choosing the right tools needed, acquiring the digital evidence by following the right procedures and regulations, and how to ensure and maintain and preserve the digital evidence.

A. Electronic Evidence Sources

Muhammad Neil El Himam said that digital evidence can be sourced from[3]:

a) Computer, which consists of e-mail, digital images, electronic documents, spreadsheets, chat logs, illegal software and other copyright materials,
b) Hard disks, which consist of files, both active, deleted or in the form of fragments, file metadata, slack files, swap files, system information, which consists of registry, logs and configuration data,
c) Other sources, which consist of i) cellular telephone, namely in the form of SMS, numbers called, incoming calls, credit/debit card numbers, e-mail addresses, call forwarding numbers; ii) PDAs / smart phones, which consist of everything listed in the cell phone plus contacts, eta, pictures, passwords, documents and others
d) Video games,
e) GPS device containing routes,
f) A digital camera, which contains photos, videos and other information that may be stored on a memory card (SD, CF, etc.).

Identifying the source of electronic evidence is important because the way of handling each electronic device varied depending on its operating system and device structures. Sources of electronic evidence also determine the tools that must be used in accessing digital data, acquiring and preserving it.

B. Securing Electronic Evidence

To secure the electronic evidence in the investigation stage, an investigator needs to gain acquisition/ collection, confiscation permit/approval, before doing search, storage, filing, and finally delivering those evidence to the Prosecutor with identification/category of evidence and minutes related to the examination/ analysis of the electronic evidence. After the electronic evidence in the prosecution stage, the prosecutor must preserve the evidence given and presented those evidence in court. Lastly is the importance of an expert's statement which includes opinions regarding the originality of the evidence, analysis and reports on the electronic evidence. To secure the electronic evidence from the time it is first acquired until presented in court, the electronic evidence chain of custody had to be clear and in accordance with existing Standard Operating Procedures and regulations.

C. Sample Case

During the trial of a bribery case with the defendant DYL (Member of the Indonesian House of Representatives) in 2016, the prosecutor showed CCTV footage showing the defendants meeting at the Bebek Tepi Sawah Restaurant, Pondok Indah Mall, in Jakarta on 18 October 2015. The purpose of the meeting, based on the testimony of the other defendant, RB, was to discuss the project fee. However, DYL denied that statement and insisted that the meeting was coincidental and only small talk happened. DYL also stated that they had only met for 15 minutes, which was then refuted by the duration of the recorded CCTV that showed the meeting last more than 30 minutes. In this case, the CCTV footage shows the indisputable fact that a meeting had taken place between the defendants and DYL's statement as a defendant is doubtful.

To ensure the accuracy and authenticity of the video, the CCTV footage confiscated by investigators was also sent to an expert to be analysed, to compare the faces and body shapes in the footage with the suspects

[3] Muhammad Neil el Himam, Pemeriksaan Alat Bukti Digital dalam Proses Pembuktian, paper presented at Digital Forensik seminar, Semarang, 24 October 2012.

and to ensure that the footage was not tampered with.

III. CHALLENGES

Regarding the legal power of the evidence, electronic evidence has weaknesses because it is virtual, which is very vulnerable or easy to change, falsify, intercept, remove or even engineer as if was made by a specific individual but actually made by someone else, or as if it was made by the authorities, and because it can be sent to various parts of the world within seconds.

Electronic information/data as digital evidence or direct evidence has not been fully accommodated in the procedural law system in Indonesia, and currently there is no standard procedure for searching until analysing electronic evidence that is generally applicable in Indonesia because, in practice, the procedure for searching, procuring and analysing electronic evidence is left to each law enforcement institution that handles the electronic evidence. This leads to different procedures carried out by each institution and makes it difficult for judges to see whether electronic evidence has been searched, procured and examined with the right procedure or not to guarantee its evidentiary value.

For example, CCTV is a tool that is commonly found in various places as a security tool. The footage can be used in many ways, such as digital evidence, to track down criminal suspects or suspicious people or just to check the surrounding area. The other use of CCTV largely depends on the technology level of each country. Regarding CCTV recordings as digital evidence, there are some investigators who only confiscate data taken from CCTV recording storage and store it in other storage areas, but there are also those who confiscate the original CCTV memory storage. The difference in the confiscated goods causes differences in the handling and analysis.

The absence of this setting also causes vulnerability, such as violation of citizens' right to privacy. There is no guarantee for sufficient legal protection on existing private data in the device that had no relation to the suspected crimes that is also stored on a PC, laptop, or cell phone of the owner when the device was confiscated and examined by investigators. On the other hand, the owner of the electronic device can also refuse to hand over his possessions to be confiscated by investigators in the related case.

Another problem that arises is when the required electronic data is stored or was in a cyber-network in the server under the control of a service provider or foreign company domiciled outside the jurisdiction of Indonesia. Fortunately, this problem can be avoided even though Indonesia is not a signatory to the Budapest Convention on cybercrime., Article 32, item b, states, "A Party may, without the authorization of another Party: can access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system".

The digital data acquisition itself can also cause problems such as illegal data collection that violates international law and territorial boundaries of sovereignty, time-consuming MLA process, raising an alarm to the suspect so she/he immediately destroys the digital evidence or device, and lastly, even though we have managed to get the data through foreign assistance, Indonesian law has not yet regulated the procedure for confiscation or obtaining it as evidence.

IV. CONCLUSION

The admissibility and credibility of electronic evidence must be maintained from the time investigators find electronic evidence for the first time until it is finally displayed in court. Every aspect must be considered, starting from human resources, the necessary infrastructure and tools, regulations and standard procedures that are clear and accountable, and admissible analysis results of electronic evidence that support other evidence. The government must also support the obtaining of electronic data from service providers or foreign companies by making the necessary regulations and agreements with these parties.

Also, to ensure the admissibility and credibility of electronic or digital evidence, there are principles that have to be met according to ISO 27037, such as Data Integrity, Competency, Chain of Custody and Regulation.

The electronic or digital evidence must have been procured and examined with the correct and standardized procedures, so that it can be concluded that there is no change in the evidence, or it can be ensured that the integrity of the electronic evidence is well maintained and has evidentiary value in court.

Then the identification, collection, processing, security, analysing and documentation of electronic evidence must be carried out by competent personnel to prevent compromise of such electronic evidence. This requires sufficient certification of skills needed for Digital Evidence First Responders and Digital Evidence Specialists.

Furthermore, a clear and complete chain of custody is essential where the entire process is carried out according to procedures so that an independent third party can audit, examine or analyse the same electronic evidence and obtain the same results.

Finally, persons in charge of electronic evidence are responsible for ensuring that the processes and procedures on electronic evidence are – from the beginning – carried out in accordance with applicable law and can be accounted for. These principles must be known and understood by investigators, public prosecutors and judges so that electronic evidence can be presented in court properly.

EFFECTIVE MEASURES TO DETECT CORRUPTION CASES FROM VARIOUS SOURCES IN THE STATE OF PALESTINE

Rasha Amarneh[*]

I. INTRODUCTION

Corruption is a transnational scourge, the impact of which extends beyond national borders, undermines democracy and moral values, and jeopardizes sustainable development and the rule of law. The State of Palestine became aware of the extent of the danger posed by corruption, which led to the adoption of the Anti-Corruption Law in 2010,[1] which criminalizes acts of corruption and establishes a specialized body[2] entrusted with the task of combating corruption by law enforcement through receiving, investigating complaints and reports on suspicions of corruption, and referring cases with evidence of corruption for the specialized corruption crimes prosecution. The law also entrusted the commission with tasks related to the prevention of corruption, raising awareness of its risks, and drawing up a general policy to combat it at the national level in partnership with all components of society.

Complaints and reports that the commission receives about suspicions of corruption are among the important sources of information that enable the prosecution of those suspected of committing corruption crimes. Although the law gives the commission the ability to initiate investigations and investigate suspected corruption on its own, the largest percentage of information sources that enable the prosecution of suspected corruption belong to whistle-blowers, whether they are individuals, institutions or regulatory bodies. Accordingly, encouraging reporting of suspected corruption is one of the things that the commission has worked to achieve since its establishment. And one of the means of encouraging reporting is the obligation to provide protection for whistle-blowers and witnesses, in addition to the possibility of exempting the perpetrator of a corruption crime, or his/her accomplices, from criminal penalty if the perpetrator takes the initiative to report the crime to the public authorities before its detection. The penalty is reduced by half if they cooperated during the investigation and after the crime was discovered. The perpetrators of the crime or their accomplices will be exempted from a pecuniary punishment, provided that they refund the money obtained from the crime.

In addition to the reports as the main source of information about corruption, cooperation between law enforcement agencies, the access to data held by some official departments and asset declarations are considered to be another source of information that may lead to more detection of corruption.

This paper will deal with the protection of witnesses and whistle-blowers according to Palestinian legislation in its first axis, and in its second axis it will deal with the possibility of exemption from punishment according to Palestinian legislation, and in the third and final axis, the paper will deal with the importance of cooperation between the commission and law enforcement authorities and other authorities in detecting corruption crimes and their perpetrators.

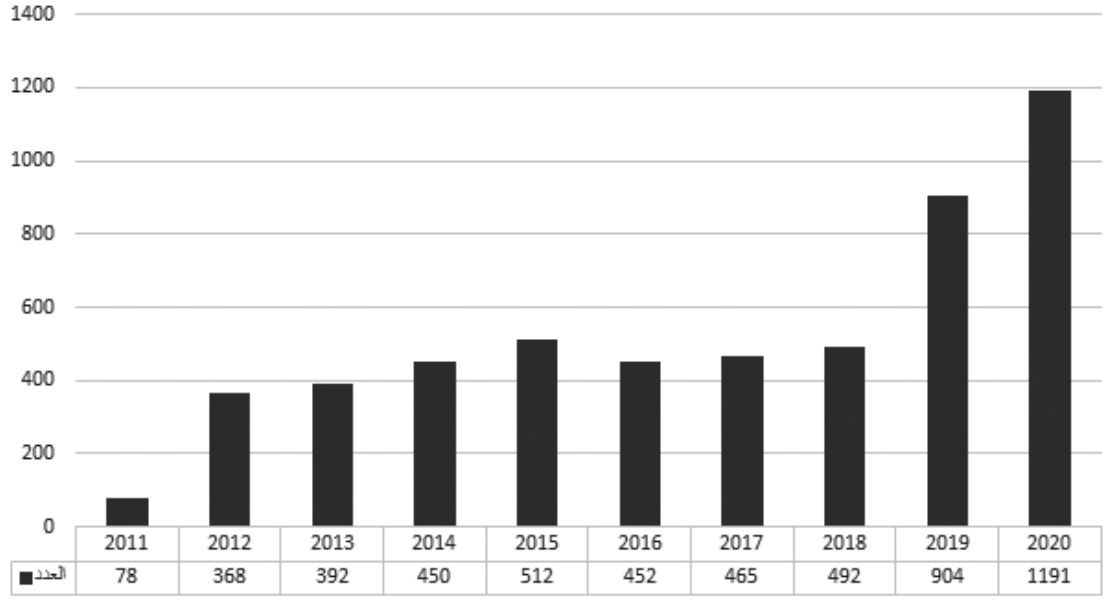
[*] Commissioner Advisor, Palestinian Anti-Corruption Commission.

[1] Anti-Corruption Law No (1) 2005 as Amended, The original law, Law on Illicit Gain No (1) 2005, Amendment (1): Law-by-Decree No (7) 2010 on amending the Illicit Gains Law No (1) 2005, Amendment (2): Law-by-Decree No (13) 2014 on amending the Anti-Corruption Law No (1) 2005, Amendment (3): Law-by-Decree No (4) 2017 on amending the Anti-Corruption Law 2005 as amended, Amendment No (4): Law-by-Decree No (37) 2018.

[2] Palestinian Anti-Corruption Commission (PACC).

II. PROTECTION OF WHISTLE-BLOWERS AND WITNESSES OF SUSPECTED CORRUPTION

The Anti-Corruption Commission receives complaints, reports and communications of corruption allegations from individuals, institutions and oversight bodies, and it also receives anonymous reports. Reports and complaints are received through: fax, email, PACC's website, hotline (free phone number), PACC's mobile application and through personal attendance.[3]



Numbers of complaints and reports received during the year 2020 compared to previous years.[4]

According to the Law by Decree No. (7) of 2010 Amending the Law on Illicit Gain No. (1) for the year 2005, in particular Article 18, the Commission must provide job and personal and legal protection for witnesses, experts and whistle-blowers in corruption cases. Further, the law referred to a regulation (bylaw) prepared by the Commission and issued by the Council of Ministers determining the mechanisms and procedures for granting this protection. From 2010 to 2019, the Commission has faced many obstacles to the implementation of its commitment to provide protection to various forms of whistle-blowers, witnesses and experts, which are as follows:

1. The lack of provision for protection mechanisms in the law and the referral of protection mechanisms to regulations issued by the Council of Ministers made it difficult to stipulate some mechanisms, especially those related to concealing the identity of the witness or the reporter and the possibility of holding court sessions via videoconferencing, because these provisions conflict with the Code of Criminal Procedure.[5]

2. The law did not contain any of the provisions that entail penalties in the event of non-compliance with the implementation of the protection decisions issued by PACC.

3. Protection did not include relatives of whistle-blowers, witnesses, experts, and persons closely related to them in accordance with the requirements of Articles 32 and 33 of the United Nations Convention against Corruption.

[3] The increase of the number of complaints and reports since 2019 may return to the use of technologies that enabled the reporting of corruption through PACCs mobile application in the beginning of 2019, in addition to the adoption of whistle-blowers protection regulations and the establishment of whistle-blowers and witness protection unit also in 2019.
[4] The annual report of PACC for the year 2020, sited: https://www.pacc.ps/library/viewbook/30408.
[5] Articles 84 and 235 of the criminal procedures law No(3) for the year 2001. http://muqtafi.birzeit.edu/en/Legislation/GetLegFT.aspx?LegPath=2001&MID=13854

4. PACC faced difficulties related to providing job protection for workers in sectors covered by the law other than the public sector, such as the private sector and local authorities, taking into consideration that labour law does not include articles related to this kind of protection, and the employer has the right to dismiss workers in some cases.

To address these gaps and problems faced by the system of whistle-blower and witness protection, the Commission proposed an amendment to Article 18 of the law consistent with the requirements of articles 32 and 33 of the United Nations Convention against Corruption. This amendment was issued under Law by Decree No. 37 of 2018, and the most important features of this amendment are as follows:

a- Expansion of protection to include relatives of the whistle-blower, witnesses, experts and persons closely related to them.

b- Prescribing the mechanisms of protection represented in:
   - Providing them with protection in their places of residence;
   - Not disclosing information about their identity and whereabouts;
   - Giving their statements and testimonies through the use of modern communication techniques to ensure their safety;
   - Protecting them in their places of work, and immunizing them from any discrimination, mistreatment, any arbitrary action, or an administrative decision that changes their legal or administrative status or detracts from their rights because of their testimonies, notification, or actions they have undertaken to uncover corruption crimes;
   - Providing places to shelter them when necessary;
   - Taking any action or any necessary action to ensure their safety.

c- Imposing sanctions on any person who assaults or abuses a whistle-blower, witness or expert, because of what they have done to detect corruption or prevents them from giving testimony or from reporting on corruption, etc.[6]

d- The commission was allowed to disburse financial aid to whistle-blowers, witnesses and experts determined in accordance with a regulation issued by the Council of Ministers.

This regulation to protect whistle-blowers, witnesses, informants and experts in corruption cases, their relatives and the persons close to them, No. (7) for the year 2019, has identified the scope of protected persons to reach the relatives to the fourth degree, as well as persons close to them. It also stipulated the establishment of a unit in the Commission for the protection of whistle-blowers and witnesses, specifying the procedures for submitting applications for protection and appeal, and cases of tightening or mitigating protection measures, and their removal. The regulation also identifies the forms of protection, including functional, legal and personal.

Accordingly, it can be said that the amendments introduced in the legislation regulating the protection of whistle-blowers, witnesses and experts in corruption crimes in Palestine worked to strengthen this system, but what is required in this regard can be summarized as follows:

- Launching awareness campaigns on the protection system for whistle-blowers, witnesses and experts, using all available means, to encourage people to report corruption with no fear of being threatened;
- Allocating sufficient budget to the Whistle-blowers and Witness Protection Unit;

[6] Articles 25/5, 25/6. "5. A person who divulges information on the identity or whereabouts of witnesses, whistle-blowers, or experts shall be punished with imprisonment for not less than six months and with a fine of not less than JOD (500) and not more than JOD (10000)." "6. Without prejudice to any more severe punishment outlined in any other legislation, a person who assaults whistle-blowers, witnesses or experts due to their work in revealing corruption, ill-treats them, discriminates against them in work or prevents them from testifying or report corruption, shall be punished with imprisonment for not less than one year and with a fine of not less than JOD (500). In case force is used, or there is a threat with firearms or any other means of intimidation, imprisonment shall be for not less than two years and a fine of not less than JOD (500) and not more than JOD (10000)."

- Activating some of the mechanisms mentioned in the law, especially those related to the possibility of using technology to hear the testimonies of witnesses in corruption crimes, and the possibility of concealing their identities, especially during the trial, as these texts are not activated yet;
- Launching of an official annual prize for whistle-blowers on corruption crimes;
- Raising the capabilities of workers in the Whistle-blower and Witness Protection Unit.

III. EXEMPTION OR COMMUTATION OF PUNISHMENT FOR COLLABORATORS ACCUSED OF CORRUPTION CRIME AND THEIR ACCOMPLICES

The United Nations Convention against Corruption calls on States parties, in Article 37, to take appropriate measures to encourage persons who participate or have participated in the commission of an act of corruption established under the Convention to provide useful information to the competent authorities for investigation and evidentiary purposes, and to provide assistance that may contribute to depriving offenders of the proceeds of crime and recovering those proceeds, and also calls for consideration of the possibility of mitigating the penalty for the accused who provides substantial assistance in the investigation or prosecution of an act criminalized under the Convention.

The amended Anti-Corruption Law in Palestine, in paragraph (3) of Article 25 thereof, dealt with provisions that are consistent with the requirements of the United Nations Convention against Corruption, referred to above, for the crime before its detection, and for the money obtained from it, provided that he returns the money obtained. This case assumes that none of the public authorities have prior knowledge of the crime, and that they have not undertaken any of the investigation, criminal or even administrative procedures, as the author believes that the existence of an administrative investigation with any of the institutions denies the possibility of benefiting from the exemption from punishment.

The same paragraph of Article (25) of the amended Anti-Corruption Law also deals with the possibility of reducing the penalty by half and exempting the perpetrator or his/her accomplice from the fine if he/she helps the investigation authorities to discover the crime and its perpetrators.

In this regard, it should be noted that the Palestinian legal system does not allow reconciliation in corruption crimes, as every crime results in the state's right to punish its perpetrator, and the state's means for enforcing this right is the criminal case, and the Public Prosecution, as an investigative authority, is the body entrusted with practicing those procedures. However, this does not mean that the public lawsuit belongs to the Public Prosecution, but rather it is the right of the social body. As for the Public Prosecution, it is only its agent in using it. And it has no right to waive it, leave it, disrupt its functioning, or reconcile it, unless permitted by law. This principle was referred to in the Palestinian Code of Criminal Procedures in its first article, which states that the Public Prosecution shall have the exclusive jurisdiction to initiate and conduct criminal cases, and it shall not be instituted by others except in the cases specified in the law and that the case may not be suspended, waived, abandoned, or obstructed, nor reconciled except in the cases mentioned in the law".

In Article (16), the Palestinian legislature permitted reconciliation in violations and misdemeanours punishable by a fine only.[7] The legislature differentiates the parties that are entitled to offer reconciliation according to the type of crime. In violations, the competent judicial officer, when drafting the report, presents the reconciliation to the accused or his representative, and this is evidenced in his report. As for the offer of reconciliation in misdemeanours, it is for the Public Prosecution. Reconciliation shall be in accordance with Palestinian legislation by paying an amount equal to a quarter of the maximum fine prescribed for the crime, or its minimum value, if any, whichever is less, provided that the payment shall be within fifteen days from

[7] Article 16 of the Code of Criminal Procedure No. (3) for the year 2001 that "may be reconciled in offenses materials and misdemeanours punishable by a fine only, and the warden control the judicial competent when editing the record that the reconciliation presented to the accused or his agent in the offenses and prove it in His presence, and be introduced to reconcile misdemeanours from the public prosecution.

the day following the acceptance of the reconciliation.[8] The payment of the settlement amount entails the expiration of the penal lawsuit without having any effect on the civil lawsuit.

Based on the foregoing, and since the crime of corruption is one for which it is not permissible to reconcile, as it imposes penalties other than a fine, and since the Palestinian Anti-Corruption Law is devoid of any provision that permits reconciliation, there is no room for the system of reconciliation in the crime of corruption in Palestine. The implementation of this system in Palestine is either by amending the text of Article (16) of the Code of Criminal Procedure so that it is one of the crimes in which reconciliation is permissible, or by finding a special text in the anti-corruption law that allows reconciliation for the crime of illicit enrichment, or corruption crimes in general, so the text specific to these crimes is restricted to the general text contained in the Code of Criminal Procedure.

In this regard, there is a debate in Palestine whether to have legal provisions to establish a reconciliation system in corruption cases or to stick with the possibility of the exemption or reduction of punishment. Most Palestinians are against any measures that are considered as tolerant of corrupt persons, even if it resulted in the recovery of stolen assets.

IV. COOPERATION BETWEEN THE AUTHORITIES AND LAW ENFORCEMENT INSTITUTIONS AND THE EXCHANGE OF INFORMATION TO ENHANCE THE DETECTION OF CORRUPTION

A. Cooperation with Security Agencies

The exchange of information between law enforcement agencies, and in particular between each of the Anti-Corruption Authorities as a special judicial control body empowered to investigate and infer suspicions of corruption and the security services authorized as a public judicial control body to investigate crimes in general, is of great importance for crime detection and cooperation in the investigation process. Cooperation between the two sides enables the concerted efforts available to both of them and the optimal use of human, material and technical resources in a way that enhances investigations. In this regard, the State of Palestine has a particularly good experience, as the commission worked on concluding memorandums of understanding with the Palestinian Police, the Preventive Security Service, the Military Intelligence and the Intelligence, according to which information related to suspected corruption, including corruption committed by members of these organizations, is exchanged. The devices, as well as the memorandums of understanding, allow them to benefit from the capabilities of the criminal investigation laboratory in the police in investigations related to suspicions of corruption. This cooperation has resulted in several positive outcomes:

- The commission can now use the agencies as part of its investigations into suspicions of corruption (joint investigations);
- The authority was allowed to benefit from the technical expertise available in the criminal investigation laboratory at the police, especially in the work of matching and detecting forgery;
- The agencies committed themselves to referring the files available to them regarding corruption crimes to the Commission as a special judicial control body, including those committed by members of these agencies, and not only disciplinary accountability.

Enhancing cooperation with law enforcement agencies, arrangements were made for the secondment of a member of each law enforcement agency to work with the PACC.[9] These officials became the focal point between PACC and their agencies.

B. Cooperation with the Financial Follow-up Unit

The Financial Follow-up Unit was established by virtue of a decision of the Anti-Money Laundering and Terrorist Financing Law No. (20) for the year 2015 and its amendments, as an independent unit, and the unit aims to combat the crime of money-laundering and terrorist financing, protect the national economy from

[8] Article 17 of the Code of Criminal Procedure of the Palestinian No. (3) for the year 2002.
[9] They work as an operation team helping investigators and are located in PACC.

the negative effects of these two crimes, raise the level of systems and procedures for combating money-laundering and terrorist financing in Palestine, and activate local cooperation frameworks with all the competent authorities, and the unit works on implementation. The objectives are approved by the National Committee for Combating Money Laundering and Terrorism Financing, which in turn draws up policies aimed at combating these two crimes at the local and international levels.

In this regard, the cooperation between the Anti-Corruption Commission and the Financial Follow-up Unit is of a high degree of importance, as the Palestinian law considers laundering the proceeds from corruption crimes a form of corruption crime, and tracking money and financial information that can be used in the expertise of the Follow-up Unit Finance would help in revealing the original crime represented by one of the corruption crimes, as it would reveal all the participants in the crime, including natural and legal persons.

A memorandum of understanding was signed between the Corruption Crimes Prosecution and the Financial Follow-up Unit, according to which the relationship between the two parties was organized, enabling the Commission, through the Corruption Crimes Prosecution, to use the expertise of the Financial Follow-up Unit to prepare and analyse suspicion reports in a way that enhances financial investigations into suspicions of corruption.

C. The Importance of Accessing Some Public Records to Enhance the Investigation of Suspicions of Corruption, Especially the Crime of Illicit Gain

The data kept in some public records, such as the civil registry with the Ministry of Interior, the vehicle registry with the Ministry of Transport and Communications, the property registry with the Land Authority and the Property Tax Department, in addition to the companies registry with the Ministry of Economy and National and other records are of very great importance when investigating corruption crimes, especially of gain, as the investigation and investigation procedures in this crime are based on comparing the wealth and property of the suspect in the crime of illicit gain with his legal income declared in the financial disclosure statements submitted by him/her and kept with the Commission Combating corruption. If investigations prove an unjustified increase in the suspect's wealth, or the wealth of his/her spouse and minor children, that is not commensurate with their legal and authorized income, and he/she is unable to justify this increase with a legitimate source, he/she is presumed to have committed the crime of illicit gain.[10]

During the past two years, the commission has succeeded in obtaining the mentioned records through the ability to access all the required data directly and electronically.

[10] Article 1 of the anti-corruption law defines "Illicit gain: Anything acquired by a person who is subject to the provisions of this law for himself or for others due to the exploitation of office or status. Any increase in wealth after assuming office or the existence of status of a person who is subject to the provisions of this law, his spouse or minor children when it is not proportional to their incomes and fails to prove the legitimate source."

MUTUAL LEGAL ASSISTANCE FOR THE PURPOSE OF ASSET CONFISCATION AND ASSET RECOVERY

*Saffiatou Nyang**

I. INTRODUCTION

In December 2016, The Gambia conducted the most important election in its history – the election that put an end to the 22-year dictatorial regime of former President Jammeh. A new President was sworn into office on 19 January 2017. Preliminary investigations carried out by the Financial Investigations Unit (FIU) and the Police, revealed evidence of massive corruption. This culminated in the establishment of a Commission of Inquiry. The Commission revealed serious financial mismanagement, abuse of office and corrupt practices.

II. LEGAL FRAMEWORK

The Gambia is a dualist state: therefore, international treaties and other international instruments are not legally enforceable unless domesticated. The sources of laws in The Gambia, as provided for in the 1997 Constitution, do not include international law (treaties, conventions, protocols etc.). In 2012, an attempt was made to domesticate the United Nations Convention Against Corruption (UNCAC) by enacting the Anti-Corruption Commission Act, 2012. However, the Act falls short of acceptable international standards and best practices. For example, the Anti-Corruption Commission provided for in the Act is not given power to prosecute cases. Furthermore, the government did not take steps to establish the Commission. The new administration that took power in 2017 included anti-corruption efforts as part of its legislative agenda, and there is currently an elaborate Anti-Corruption Bill before the National Assembly (parliament). There have not been any criminal prosecutions under the Anti-Corruption Act 2012 due to the nature of the Act.

The Gambia does not currently have a domestic law that governs MLA. Therefore, we resort to bilateral and multilateral agreements, conventions and the principle of reciprocity to which we are signatories. The Drafting Department at the Ministry of Justice is currently working towards an MLA Bill that will regulate MLA in The Gambia. The Bill provides for mutual assistance between The Gambia and other countries in a quest to improve the prevention, investigation and prosecution of crime through cooperation and mutual assistance in criminal matters.

III. CASE STUDIES

The Government of The Gambia relied on MLA in order to trace and subsequently obtain a freezing order in respect of a property in the United States that was obtained through proceeds of bribery and abuse of office. The Commission of Inquiry that was established to investigate the corrupt practices of former President Jammeh revealed that monies were paid into an account belonging to the former president by businessmen that wanted to secure government contracts. These proceeds were then transferred to the US, and a property was purchased. The FIU was able to trace the transactions, and the local bank involved was summoned to produce all transactions relating to the account. This information was provided to the US government, and they were able to assist through MLA. A freezing order was obtained by US officials, and the property was frozen. In 2020, the US Department of Justice filed a civil forfeiture complaint seeking the forfeiture of the property. In September 2021, a Court in Maryland granted the application, and the property

* State Counsel, Criminal Division, Ministry of Justice, Republic of The Gambia.

was forfeited.

However, cases are not always as straightforward as the above case. We have had cases wherein MLA was hindered because the receiving country's procedures are not followed to the letter. An instance happened where a team of investigators went to Senegal to request information on a former Military General and close associate of former President Jammeh. The Senegalese authorities were reluctant to provide assistance because a *Commission Rogatoire* was not sent. Senegalese procedure required that a *Commission Rogatoire* be sent, and based on that the relevant authorities would be instructed to provide the information. The Central Authority had to start the process afresh. This delayed the process, and the Commission of Inquiry could not get adequate information in relation to this General.

This is the major hurdle with MLA, especially when the other country is not willing to use its resources to assist the requesting country. At times, language barriers come into play or different legal systems. Countries operating in the Common law system are very different from the Civil system.

IV. THE WAY FORWARD

The Gambia recently emerged from a 22-year dictatorial regime and is currently on a transitional justice programme. There was no political will to tackle and fight corruption. However, since the change of administration, steps are being taken to create a robust legal regime that will fight corruption. The Anti-corruption Bill is drafted in line with international best practices. The Anti-Corruption Commission, once established, will be an independent entity that will have the authority to investigate and prosecute corruption cases. The law on MLA is also being developed. There is a series of other legislation.

V. CONCLUSION

The Gambia has benefitted from MLA, but there is still a need to strengthen cooperation with other countries. We also need to improve our local capacity, particularly the Police and the Financial Investigations Unit. This will enable us to catch up with the new digital trends.

PART TWO

RESOURCE MATERIAL SERIES No. 113

Work Product of the 175th International Training Course

UNAFEI

REPORT OF THE COURSE

UNAFEI's 175th International Training Course (Online)
"Treatment of Women Offenders"

1. Duration and Participants

From 26 October to 11 November 2021
21 overseas participants from 11 jurisdictions

2. Programme Overview

This programme focused on the treatment of women offenders, aiming to enhance knowledge and understanding on gender-responsive offender treatment in the community and in prisons by taking into account the gender-specific needs of women offenders. Due to the Covid-19 pandemic, the programme was conducted online. To account for the time differences and work duties of each participant, the participants were divided into two groups, and each group had live Q&A sessions with the lecturers, discussions and individual presentations online. The participants were also provided a virtual conference room and chat room through which they were able to communicate with the UNAFEI faculty and staff members as well as their colleagues in real time.

3. Lecturers

(1) Lectures

Lectures were video-recorded in advance, and the participants watched them on-demand. They submitted questions to the lecturers online in advance of the live Q&A sessions with the lecturers. Lectures were given by an expert from the United States, ad hoc lecturers from Japan and a UNAFEI faculty member:

- Expert from the USA
  - Dr. Stephanie S. Covington (Co-Director, Institute for Relational Development and Co-Director, Center for Gender & Justice)
    "Gendered Justice: Creating Services for Women"
- Ad hoc lecturers
  - Ms. KAMIOKA Harue (Founder of the Women's Drug Addiction Rehabilitation Center "DARC")
    "Mother-child Support Programme for Women with Drug Use Disorders and Their Kids"
    "Outcomes of Interviews with Women with Lived Experiences of Addiction and Their Children"
  - Ms. KINOSHITA Toshimi (President of the women's halfway house "Ryozenkai")
    "Halfway House (Rehabilitation Facility) 'Ryozenkai'"
  - Ms. ODAGIRI Mari (Chief of the Sendai Regional Correction Headquarters)
    "Characteristics of Women's Correctional Institutions – Challenges and Solutions"

In addition, Professor TAKAI Ayaka from UNAFEI provided a lecture on "Supervision of Female Clients in Community Settings in Japan".

(2) Q&A Sessions with the Lecturers

The Q&A session with Dr. Covington helped deepen the participants' understanding on the theoretical background and scientific evidence that support the idea of gender-responsive offender treatment, while the Q&A session with the Japanese lecturers focused on the practical aspects of effective gender-responsive offender treatment in the community and prison settings. During the Q&A session with Dr. Covington, the participants were divided into two breakout rooms to discuss and propose a plan to put into practice the Guiding Principles for Gender-Responsive Services recommended by Dr. Covington in her lecture. Each group presented the outcomes of their discussions and was given feedback by Dr. Covington.

(3) Action Plans

At the end of the programme, participants were required to make and present their action plans to improve the treatment of women offenders in each jurisdiction based on what they had learned throughout the programme. It was obvious from the Action Plans presented by the participants that everyone remarkably enhanced their understanding on gender-responsive offender treatment and was eager to put their plans into practice in their jurisdictions, and a lot of interesting ideas were proposed to achieve gender-responsive

offender treatment.

4. Feedback from the Participants

We received a lot of positive feedback from the participants, such as, "This was the first time to learn about the concept of 'gender-responsiveness'" and "It was a great experience to share our practices with other participants". There were also many requests for in-person training and follow-up training. We are sure that all the participants will make the most of what they have learned throughout the programme, and despite the inability to meet in person, it was worth providing the opportunity to learn from each other online.

5. Comments from the Programming Officer (Professor SASAKI Ayako)

The concept of gender-responsive offender treatment and its practical application is relatively new in the long history of corrections in Japan, and while it seemed to be alien to the participants at the beginning of this programme, we saw that women offenders in every jurisdiction share many similar issues in areas such as drug addiction, traumatic experiences, intimate relationship violence and abuse, and parental responsibilities. It was also clear that the participants had been aware of those issues in their daily duties of treating women offenders and that the concept of gender responsiveness provided the participants with a theoretical framework and scientific approach that would be useful in practice. The course also enabled the participants to share a lot of suggestions on how to effectively handle practical issues. During the programme, I was pleased to hear from some participants that they had already shared with their colleagues the knowledge they gained through this programme, and I am confident that the outcomes of this programme will contribute to the development of treatment of women offenders in their respective jurisdictions.

VISITING EXPERT'S PAPER

THE GENDER-RESPONSIVE APPROACH

*Dr. Stephanie Covington**

Gender-responsive means creating an environment through site selection, staff selection, programme development, content and material that reflects an understanding of the realities of women's lives and addresses their strengths and challenges.

I. GUIDING PRINCIPLES AND STRATEGIES FOR EFFECTIVE SYSTEM CHANGE[1]

The following research-based principles and strategies have been incorporated into strategic plans, as well as state, national, and international criminal justice standards. They have been widely accepted by the scientific, policy and practice fields and provide a new vision for promoting best practices for justice-involved women.

Guiding Principle 1: Acknowledge That Gender Makes a Difference
The foremost principle in responding appropriately to women offenders is to acknowledge the implications of gender throughout the criminal justice system. The criminal justice field purports to provide equal treatment to everyone. However, this does not mean that the same treatment is appropriate for both women and men.

Strategies
- Allocate both human and financial resources to create women-catered services.
- Designate a high-level administrative position for oversight of management, supervision and services for women offenders.
- Recruit and train personnel and volunteers who have both the interest and the qualifications needed for working with women under criminal justice supervision.
- Begin with gender-responsive assessment tools.

Guiding Principle 2: Create an Environment Based on Safety, Respect, and Dignity
Research from a range of disciplines (e.g., health, mental health and addiction treatment) has shown that safety, respect and dignity are fundamental to behavioural change. To improve behavioural outcomes for women, it is critical to provide a safe and supportive setting for all services.

Strategies
- Conduct a comprehensive review of the institutional or community environment in which women are supervised to provide an ongoing assessment of the current culture.
- Develop policy that reflects an understanding of the importance of emotional and physical safety.
- Establish protocols for reporting and investigating claims of misconduct.
- Understand the effects of childhood trauma to avoid further traumatization.

Guiding Principle 3: Develop Policies, Practice and Programmes that are Relational and Promote Healthy Connections to Children, Family, Significant Others and the Community
Understanding the role of relationships in women's lives is fundamental because connections and relationships

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[1] Bloom, B., Owen, B., and Covington, S. (2003). *Gender-responsive strategies: Research, practice and guiding principles for women offenders* (Report). National Institute of Corrections.

to children, family, significant others and the community are important threads throughout the lives of women in the justice system.

Strategies
- Develop training for all staff and administrators in which relationship issues are a core theme. Such training should include the importance of relationships, staff-client relationships, professional boundaries, communication and the mother-child relationship.
- Examine all mother and child programming through the eyes of the child (e.g., child-catered environment, context), and enhance the mother/child connection and the connections of the mother to child caregivers and other family members.
- Promote supportive relationships among women offenders.
- Develop community and peer-support networks.

Guiding Principle 4: Address Substance Use Disorders, Trauma and Mental Health Issues through Comprehensive, Integrated and Culturally Relevant Services and Appropriate Supervision

Substance use disorders, trauma and mental health are three critical, interrelated issues in the lives of women offenders. These issues have a major impact on both women's programming needs and successful re-entry. Although they are therapeutically linked, these issues have historically been treated separately. One of the most important developments in health care over the past several decades is the recognition that a substantial proportion of women have a history of serious traumatic experiences that play a vital and often unrecognized role in the evolution of a woman's physical and mental health problems.

Strategies
- Service providers need to be cross-trained in three primary issues: substance use disorders, trauma, and mental health.
- Resources, including skilled personnel, must be allocated.
- The environment in which services are provided must be closely monitored to ensure the emotional and physical safety of the women being served.

Guiding Principle 5: Provide Women with Opportunities to Improve their Socioeconomic Conditions

Generally, justice-involved women are underemployed or unemployed, work fewer hours than men, make less per hour than men, and are often employed in temporary, low-level occupations with little chance for advancement. Criminal behaviour by women is closely tied to their socioeconomic status, and rehabilitation often depends on their ability to become financially independent.

Strategies
- Allocate resources within both community and institutional correctional programmes for comprehensive, integrated services that focus on the economic, social and treatment needs of women.
- Ensure that women leave prison or jail with provisions for short-term emergency services (e.g., subsistence, lodging, food, transportation and clothing).
- Provide traditional and non-traditional training, education and skill-enhancing opportunities to assist women in earning a living wage.

Guiding Principle 6: Establish a System of Community Supervision and Re-entry with Comprehensive, Collaborative Services

Women face specific challenges as they re-enter the community from jail or prison, and women on probation also face challenges in their communities. In addition to the stigma of being formerly incarcerated, they may carry additional burdens such as single motherhood; low income and limited employment prospects; the absence of services and programmes targeted for women; responsibilities to multiple agencies; and a general lack of community support.

Strategies
- Create an individualized support plan and wrap the necessary resources around the woman and her children.
- Develop a "one-stop shopping" approach to community services, with the primary service provider also facilitating access to other needed services.
- Use a coordinated case management model for community supervision and programming.

II. UNDERSTANDING TRAUMA: A CRITICAL COMPONENT IN WOMEN'S SERVICES

The majority of women who interface with the criminal justice system – including prisons, jails and community corrections – have been exposed to traumatic events across the life-course. However, institutional confinement is intended to house perpetrators and not victims and may not acknowledge or recognize that the women involved in the criminal justice system are often victims before they were "offenders" or "victimizers," or that hurt people often hurt others. There are three levels of work when working on trauma in a criminal justice setting. A criminal justice system provides appropriate services when it incorporates all three levels.[2]

Trauma Informed work (what is known): doing trauma informed work means having knowledge about adversity and trauma and its effects on individuals, communities and society more generally. All staff members in correctional settings need to understand the process of trauma and its link to mental health problems, substance use disorders, behavioural challenges and physical health problems in women's lives. Staff members also need to understand how childhood experiences of trauma affect brain development and how individuals may be affected by and cope with trauma and victimization.

Trauma Responsive work (what is done): being trauma responsive involves ensuring that there are policies and practices in place to minimize damage and maximize opportunities for healthy growth and development in all populations at risk. It also involves the creation of an environment for healing and recovery. After becoming trauma informed, a custodial or community-based criminal justice setting or programme needs to become trauma responsive by reviewing policies and practices in order to incorporate this information into all operational practices. This involves all administration and staff members and in most, if not all, facilities to create a culture change.

Trauma Specific work (what is provided): here, services are designed to specifically address violence and trauma, the related symptoms and to facilitate healing and recovery. To become trauma specific, custodial settings (and community programmes) for women provide therapeutic approaches that focus on trauma.

III. FIVE CORE VALUES FOR TRAUMA-INFORMED AND TRAUMA-RESPONSIVE SERVICES[3]

Incorporating the following values into the criminal justice system is essential for Guiding Principle #2 above.

Safety
Because trauma inherently involves a physical or emotional threat to one's sense of self, survivors are attuned to signals of possible danger. It is essential for organizations to prioritize safety as a guiding principle and become more hospitable for trauma survivors and avoid inadvertently re-traumatizing people.

Examples:
- Eye contact; consistency; explanations; procedure to report abuse
  "How can services be modified to ensure physical and emotional safety more effectively and consistently?"

Trustworthiness
Survivors of trauma experience a violation of boundaries resulting in a justified inability to trust others; especially those in power and authority. Service providers are often surprised when clients exhibit behaviour

[2] Covington, S., & Bloom, S. (2018). *Moving from trauma-informed to trauma responsive: A training program for organizational change*. Hazelden.
[3] Harris, M. and Fallot, R.D. (2021). *Using trauma theory to design service systems*. Jossey-Bass, A Wiley Imprint; Covington, S. (in press). Creating a trauma-informed justice system for women. In L. Gelsthorpe & S. Brown (Eds.). *Wiley handbook on what works with female offenders?: A critical review of theory, practice, and policy*. John Wiley & Sons.

that indicates they do not trust systems of care.

Examples:

- Following through; model trust; maintaining appropriate boundaries; and making tasks clear
  "How can services be modified to earn the trust of those seeking services by ensuring task clarity, and consistent staff-client boundaries?"

Choice

Trauma occurs because actions to prevent or escape the traumatic event are of "no avail." The element of choice has been stripped away from the victim/survivor. Survivors are left with the belief that their choices and preferences are of no importance, particularly to those in power.

Examples:

- Emphasizing individual choice and control; informed consent
  "How can services be modified to ensure that experiences of choice and control are maximized?"

Collaboration

Collaboration and choice are closely related. However, without collaboration, choice loses its power. Maximizing choice generally means expanding the number and kinds of options available. Collaboration refers to shared decision-making about both the options to be offered and about how to implement plans.

Examples:

- Solicit input; acknowledge insights about themselves; explain options
  "How can services be modified to ensure that collaboration and power sharing are maximized?"

Empowerment

In the context of trauma, people often feel powerless, "done to," hidden, invalidated, minimized and much more. Therefore, services need to find ways to increase and maximize experiences and opportunities for mastery and agency. Trauma creates a sense of powerlessness, and the antidote is feeling empowered.

Examples

- Teaching skills; provide tasks where a person can succeed
  "How can services be modified to ensure that experiences of empowerment and the development or enhancement of skills are maximized?"

IV. PROGRAMMING FOR WOMEN

Helping Women Recover: A Program for Treating Addiction[4] has a specific edition for women with criminal justice involvement. It addresses substance use disorders by integrating theories of women's psychological development, trauma and addiction. The comprehensive, twenty-session curriculum contains four modules that address the areas that women in treatment identify as triggers for relapse: self, relationships, sexuality and spirituality. They include the issues of self-esteem, sexism, family of origin, relationships, domestic violence and trauma. The user-friendly and self-instructive materials are a step-by-step facilitator's guide and a participant's journal, entitled *A Woman's Journal*, that is filled with self-tests, checklists and exercises to enable each participant to create a personalized guide to recovery.

- One research project examined *Helping Women Recover* through a randomized experimental study with incarcerated women in either the *Helping Women Recover* programme or a standard prison-based therapeutic community for substance abuse treatment. Women who received *Helping Women Recover* had improved psychological well-being, greater reductions in drug use, greater likelihoods of staying in aftercare after release from prison, and lower odds of recidivism than those who received standard, non-gender-responsive programming.[5]

[4] Covington, S. S. (1999, revised 2008, 2019). *Helping women recover: A program for treating addiction.* Jossey-Bass.

[5] Messina, N., Grella, C. E., Cartier, J. and Torres, S. (2010). A randomized experimental study of gender-responsive substance

Beyond Trauma: A Healing Journey for Women[6] is a 12- session programme that uses psycho-educational, cognitive-behavioural, expressive arts, mindfulness, body-oriented exercises (including yoga) and relational therapeutic approaches to help women develop coping skills and emotional wellness. This programme incorporates the insights of neuroscience with the latest understanding of trauma and PTSD. Each session has also been adapted for girls. The evidence-based materials are designed for trauma treatment, although the connection between trauma and addiction in women's lives is a primary theme throughout. The *Beyond Trauma* programme materials include a facilitator's guide, a participant's workbook entitled *A Healing Journey*, and three DVDs (2 for facilitator training and 1 for clients).

- One study evaluating the effectiveness of *Helping Women Recover* and *Beyond Trauma* showed that participants had reductions in PTSD and depression symptoms.[7]
- The above study had a sample of women in residential substance use disorder treatment, of which half were mandated to treatment (mainly through the criminal justice system). A majority of the women (99% at the end of treatment and 97% at the 6-month follow-up point) reported no involvement in criminal activities.[8]
- A study in a randomized control trial of women involved in drug courts showed that women's involvement in these programmes was significantly connected to improved well-being, low rates of rearrest, high levels of participation in treatment and reductions in PTSD symptoms.[9]

Beyond Violence: A Prevention Program for Criminal Justice-Involved Women[10] is an evidence-based curriculum for women in criminal justice settings (jails, prisons and community corrections) who have histories of aggression and/or violence. This group-based model of violence prevention considers the complex interplay between individual, relationship, community and societal factors. It deals with the violence and trauma they have experienced, as well as the violence they may have perpetrated. This four-level model of violence prevention considers the complex interplay between individual, relationship, community and societal factors. It addresses the factors that put people at risk for experiencing and/or perpetrating violence. This model is used by the Centers for Disease Control and Prevention (CDC), World Health Organization (WHO), and was used in the Prison Rape Elimination Act (PREA) research on women in prison. This is a 20 session (40 hour) intervention that consists of a facilitator guide, participant workbook and DVD.

- Researchers (in a mid-western state) studied the programme's feasibility and fidelity,[11] short- and long-term outcomes,[12] and outcomes with specific populations[13] and found consistently positive results of lowered mental health symptoms and low recidivism rates for women who completed the programme.

- The programme has also been tested in two California women's prisons, and similar positive results have been found, with medium to high effect sizes for women who are serving long or life sentences.[14]

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abuse treatment for women in prison. *Journal of Substance Abuse Treatment*, 38(2), 97–107.

[6] Covington, S. S. (2003, revised 2016). *Beyond trauma: A healing journey for women*. Hazelden Publishing Company.

[7] Covington, S. S., Burke, C., Keaton, S. and Norcott, C. (2008). Evaluation of a trauma-informed and gender-responsive intervention for women in drug treatment. *Journal of Psychoactive Drugs*, 40 (Supplement 5), 387–398.

[8] Covington, S. S., Burke, C., Keaton, S. and Norcott, C. (2008). Evaluation of a trauma-informed and gender-responsive intervention for women in drug treatment. *Journal of Psychoactive Drugs*, 40 (Supplement 5), 387–398.

[9] Messina, N., Calhoun, S. and Warda, U. (2012). Gender-responsive drug court treatment: A randomized controlled trial. *Criminal Justice and Behavior*, 39(12), 1539–1558.

[10] Covington, S. S. (2013). *Beyond violence: A prevention program for criminal justice-involved women*. John Wiley & Sons.

[11] Kubiak, S. P., Fedock, G., Tillander, E., Kim, W. J. and Bybee, D. (2014). Assessing the feasibility and fidelity of an intervention for women with violent offenses. *Evaluation and Program Planning*, 42, 1–10.

[12] Kubiak, S. P., Fedock, G., Kim, W. J. and Bybee, D. (2016). Long-term outcomes of a RCT intervention study for women with violent crimes. *Journal of the Society for Social Work and Research*, 7(4), 661–676; Kubiak, S. P., Kim, W. J., Fedock, G. and Bybee, D. (2012). Assessing short-term outcomes of an intervention for women convicted of violent crimes. *Journal of the Society for Social Work and Research*, 3(3), 197–212.

[13] Fedock, G., Kubiak, S. and Bybee, D. (2017). Testing a new intervention with incarcerated women serving life sentences. *Research on Social Work Practice*. DOI:1049731517700272; Kubiak, S. P., Fedock, G., Tillander, E., Kim, W. J. and Bybee, D. (2014). Assessing the feasibility and fidelity of an intervention for women with violent offenses. *Evaluation and Program Planning*, 42, 1–10.

[14] Messina, N., Braithwaite, J., Calhoun, S. and Kubiak, S.P. (2016). Examination of a violence prevention program for female offenders. *Violence and Gender Journal*, 3(3), 143–149.

- In addition, significant reductions were found in PTSD, anxiety, serious mental illness symptoms, and anger and aggression in women serving time for violent offences. These groups were tested using peer educators (i.e., incarcerated women serving life sentences) to deliver the intervention.[15]

Healing Trauma[16] is an adaptation and abbreviation of *Beyond Trauma*. It is particularly designed for settings requiring a shorter intervention, such as short-term addiction treatment, domestic violence agencies, sexual assault services and jails. This six-session intervention is designed for women who have been abused. There is introductory material on trauma for the facilitator and detailed instructions (specific lesson plans) for the group sessions. The session topics include the process of trauma, power and abuse, grounding and self-soothing techniques, and healthy relationships. There is a strong emphasis on grounding skills and focus on the three core elements that both staff and clients need to know: an understanding of what trauma is, its process and its effect on both the inner self (thoughts, feelings, beliefs and values) and the outer self (behaviour and relationships). The facilitator guide and workbook (in English and Spanish) are on a flash drive for ease of duplication.

- Results from over 1,000 participants have shown significant positive post-intervention changes. There were decreases in anxiety, depression, PTSD, serious mental illness and aggression. There were also increases in social connectedness and emotional regulation.[17]

- A similar research project in a Secure Housing Unit in the California Department of Corrections and Rehabilitation found similar significant positive post-interventions. There were decreases in anxiety, depression, PTSD, serious mental illness and aggression as well as increases in social connectedness and emotional regulation.[18]

- A research project in the women's prisons in England found a decrease in anxiety, depression, PTSD, psychical distress, dissociation and sleep disturbances.[19]

The new third edition of *Healing Trauma* is now entitled *Healing Trauma+: A Brief Intervention for Women and Gender-Diverse People* in order to reflect the changes in this new edition. The definition of *gender responsive* has been expanded to include the experiences of transgender and non-binary people.

Additional information on these programmes as well as additional programme materials can be found on the websites www.centerforgenderandjustice.org and www.stephaniecovington.com (see the "Bookstore" tab). Additional current research can be found on the websites www.centerforgenderandjustice.org and www.stephaniecovington.com (see the "Research" tab).

[15] Covington, S. S. and Fedock, G. (2015). Beyond violence: Women in prison find meaning, hope, and healing. In *Trauma Matters, Fall*. Hamden, CT: Connecticut Women's Consortium and the Connecticut Department of Mental Health and Addiction Services in support of the Connecticut Trauma Initiative, p. 1.

[16] Covington, S. S. and Russo, E. (2011, revised 2016, 2021). *Healing trauma+: A Brief intervention for women and gender-diverse people*. Hazelden Publishing.

[17] Messina, N., Zwart, E., and Calhoun, S. (2020). Efficacy of a trauma intervention for women in a security housing unit. *ARCH Women Health Care* Volume 3(3): 1-9.

[18] Messina, N. & Calhoun, S. (June 30, 2019). *Healing trauma: A brief intervention for women. SHU evaluation findings* (Report Contract C5607040). California Department of Corrections and Rehabilitation; Gajewski-Nemes, J. and Messina, N. (2021). Exploring and healing invisible wounds: Perceptions of trauma-specific treatment from incarcerated men and women. *Journal of Trauma & Treatment*, 10: 471; Messina, N. & Schepps, M. (2021). Opening the proverbial "can of worms" on trauma–specific treatment in prison: The association of ACEs to treatment outcomes." *Clinical Psychology & Psychotherapy*, 28.

[19] Petrillo, M. (June 2019). *Healing trauma evaluation executive summary*. One Small Thing; Petrillo, M. (February 2021). We've all got a big story: Experiences of a trauma-informed intervention in prison. *Howard Journal of Crime and Justice*, pp, 1-19. DOI: 10.1111/hojo.12408.

PARTICIPANTS' PAPERS

IMPLEMENTING GENDER-RESPONSIVE PRACTICES TO REHABILITATE AND SUPPORT COMMUNITY REINTEGRATION OF WOMEN OFFENDERS IN SINGAPORE

*Nur Asyikin Hamzah**

This paper outlines Singapore's efforts to implement gender-responsive practices to rehabilitate and support community reintegration for women offenders.

I. BACKGROUND

Singapore is an island city-state in Southeast Asia. We have almost 5.7 million residents from various races, cultures and religions. Singapore values its women citizens and views women's contributions as an integral part of the Singapore story.[1]

Singapore's robust criminal justice system consists of tough laws against crime, highly professional and prosecutorial agencies such as the police force, the Corrupt Practices Investigation Bureau and the Attorney-General Chambers as well as our independent, efficient and effective judiciary. Singapore's unwavering commitment to the rule of law has allowed us to foster a peaceful and harmonious society.

In addition to efforts to prevent and fight crime, Singapore also focused and invested resources in the rehabilitation of offenders, including for women offenders. To help offenders desist from crime, the Singapore Prison Service, or SPS, adopts evidence-informed rehabilitation and reintegration practices. Our rehabilitation efforts have led to positive outcomes, including, for our women offenders.

II. SINGAPORE'S EVIDENCE-INFORMED REHABILITATION AND REINTEGRATION

In Singapore, we believe every offender has the potential to live a crime-free life and to be a contributing member of society. This first part of the paper will discuss Singapore's rehabilitation approach and the factors necessary to make it work.

Firstly, Singapore's rehabilitation system is evidence informed, based on both international and locally conducted research to validate and contextualize evidence. Specific to women offenders, for example, in recent years, SPS's local research findings have corroborated international research showing that women have different initiation pathways to the criminal justice system than men.

Secondly, SPS designs psychology-based correctional programmes (or PCPs),[2] drawing from evidence-

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[1] 2021 was declared as the Year of Celebrating SG Women to celebrate women's progress, women's multi-faceted roles and women's potential across all facets of Singapore society. Singapore's commitment to continuously advance and protect the rights of women and girls in Singapore is provided legislatively by its Women's Charter which was passed in 1961 and which has since, ensured for greater legal equality for women in legally sanctioned relationships.

[2] PCPs play an important role in the rehabilitation of offenders, stimulating readiness to change in offenders and helping them understand the factors which contributed to their offending behaviours. These interventions provide structured learning and application of prosocial skills to aid the offenders in developing a reintegration plan that addresses their unique life situations,

informed practices in the corrections literature such as from the Risk-Need-Responsivity (RNR) model, the Good Lives Model (GLM) and Desistance Theory. In addition to these, PCPs for women offenders are also designed based on gender-informed theories such as the relational theory and overseas and local research on women's offending pathways to understand women's offending.

Thirdly, Singapore applies the principles of implementation science, which is the scientific study of methods to promote the integration of research findings and evidence-informed interventions into policy and practice. As part of implementation science, we evaluate our programmes on both process and outcome.[3]

III. DEFINING "GENDER RESPONSIVE"

In this paper, the term "gender responsive", or GR, will be frequently used as an adjective to refer to the risks and needs factors that are unique for women offenders such as abuse and trauma, economic marginalization, parental issues and relationship dysfunction – pertinent features in the lives of women offenders as compared to their male counterparts. The use of the term GR in this paper may also refer to rehabilitation interventions and services that have been designed and implemented with women's issues in mind.

IV. WORKING WITH WOMEN OFFENDERS

Like many correctional systems in other jurisdictions, most programmes, policies and services tend to focus on the needs of the male offender population, which forms the majority of the prison population. Notwithstanding this, Singapore recognizes that a woman's pathway to offending, and her journey of rehabilitation and reintegration, is gendered and a context-depending processes that is shaped by her life realities and experiences.

A study conducted locally to understand women's offending pathways showed four key findings. Firstly, it found that women offenders in Singapore have similar gender-responsive needs as identified in literature. Secondly, local women offenders tend to follow four pathways to criminal offending, which include (i) a relational sense of self that sees them prioritizing unhealthy relationships or staying in dysfunctional relationships; (ii) suffered abuse and/or victimization that affects the way they form relationships and manage emotions; (iii) greater incidence of mental health problems closely linked to substance abuse; and (iv) social and economic disadvantages such as low socio-economic status, low education levels and limited skill sets, facing adverse life conditions and lack of coping skills. In particular, these four pathways to women's criminal offending may sometimes overlap and manifest in complex ways that reinforce criminal offending.

The third finding showed that women offenders presented with poor anger management and the lack of engagement in constructive activities as risk/needs factors. And finally, the fourth finding was that familial relationships deterred drug use in women offenders with children.

V. GENDER-RESPONSIVE, PSYCHOLOGY-BASED CORRECTIONAL PROGRAMMES

Based on research showing women offenders' unique pathways to offending, SPS designed gender-responsive, psychology-based correctional programmes (or PCPs), "Catch it, Check it, Change it, Cast it" (or 4C, in short).

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challenges, and goals.

[3] Our evaluation studies have shown that high-risk offenders who underwent evidence-informed interventions in a holistic intervention environment with structured aftercare had significantly lower reoffending rates by 10 percentage points compared to offenders who did not receive the same interventions.

4C seeks to reduce the risk of reoffending among women offenders by providing holistic gender-responsive intervention and increasing the self-efficacy of women offenders to manage cognitions, affect and behaviour that lead to their drug and criminal offending. Specifically, 4C targets the cognitive, affective and behavioural aspects of addiction and offending. On a cognitive level, misperceptions and distortions are corrected. On an affective level, women offenders learn how to manage their emotions within the safety of the group, using self-soothing techniques. On a behavioural level, substance use and offending behaviours are targeted. Given that one of the key pathways to women's offending is through their relationships, 4C places a heavy focus on the different types of relationships women offenders experience and how their substance abuse and offending behaviours are situated in these relationships.

4C was designed based on both offender rehabilitation and substance abuse intervention theories, as well as gender specific approaches which are appropriate for Singapore's women offenders. Rehabilitation theories are those which are widely used and effective in correctional programmes and settings such as RNR principles and the GLM and Desistance approaches, complemented by evidence-informed theories for substance-abuse intervention, which include Cognitive Behavioural approaches and the Transtheoretical Model. Gender-informed theories like relational theory and women's offending pathways are referenced to understand women's offending.

VI. GR ENVIRONMENT FOR WOMEN OFFENDERS

In SPS, the environment that women offenders are housed in is run by an all-women team who are trained in trauma-informed practices and GR principles. The facility itself is shaped by values derived from GR principles. "EMARI", also known as Empathy, Mutuality, Affirmation, Respect, and Independence, values are derived from four key gender-responsive principles, which are: the need to be strength-based, trauma-informed, culturally sensitive and relational in our interventions. The EMARI serves as an anchor in creating an environment that is safe, respectful and empowering for women offenders to experience rehabilitative change during their incarceration.

VII. GR SUPPORT FOR COMMUNITY REINTEGRATION

SPS recognizses that good family support during incarceration is essential to an offender's rehabilitation journey. Family programmes seek to increase offenders' knowledge, skills and confidence in maintaining ties and rebuilding stronger relationships with their loved ones. Through these programmes, offenders learn about responsibilities towards their families and take meaningful actions to change for the sake of their families.[4]

VIII. GR COMMUNITY REINTEGRATION SUPPORT

To maintain the positive changes women offenders experienced during the in-care phase, they are supported through casework interventions during their community reintegration period that seeks to reinforce skills and concepts they learned through in-care programmes such as 4C and the Family Reintegration Programme. In this regard, casework interventions support women supervisees' applications of those skills and knowledge to their everyday lives.

As part of GR practice – and acknowledging the central role that "empathy" plays in the concept of

[4] As part of SPS's continuous review of programmes, two programmes – Social Skills Training Programme (SSTP) and Family Reintegration Programme (FRP), were developed and implemented across all prison institutions from January 2019. Attended by all newly admitted offenders, SSTP seeks to raise their awareness of the impact crime and incarceration have on family relationships. It also equips them with basic skills in managing and enhancing family and social relationships, such as communication skills, conflict resolution skills and emotion regulation techniques.

women's relational experiences and consequently their development of self-concept and sense of empowerment – women supervisees who are housed in a community facility under community-based programmes, such as the Work Release Scheme, are allowed to bring in special items such as skin care products and make-up. Such provisions are unique to women supervisees, as part of efforts to improve their self-confidence and build up their pro-social identity.

IX. CLOSING

Over the past decade, SPS has incorporated and implemented gender-responsive practices that attend to women's pathways to offending. The GR practices include: (1) developing evidence-based gender-responsive programmes and processes in the women's environment, which addresses relationships, trauma, mental health and substance abuse issues; (2) implementing staff training and encouraging collaborations between operations and rehabilitation staff to equip staff with skills to de-escalate conflict and deal with offenders' negative emotions; (3) family and parenting programmes that address the relational needs and parenting roles of women offenders, and (4) conducting community interventions that support women offenders during incarceration and when they are out in the community to facilitate successful rehabilitation and reintegration.

All in all, our approach is underpinned by the belief that every person in Singapore, including our women, has the right to live in an environment free of crime, and that women offenders should be provided with the necessary help to rehabilitate and successfully reintegrate into our society as contributing citizens.

THE PAROLE AND PROBATION SUPERVISION PROGRAMME IN THE PHILLIPINES

*Frances F. Magnaan**

I. THE CURRENT SITUATION

The Parole and Probation Administration is currently implementing a three-pronged approach programme, namely: Therapeutic Community (TC), Restorative Justice (RJ) and Volunteer Probation Assistant (VPA) Programs for the rehabilitation of clients released into the community.

Therapeutic Community (TC) was originally designed for institutional treatment for substance abusers but was later redesigned to address supervision treatment needs of offenders in a community-based setting in the Philippines. TC has been implemented in the PPA since 1998. It underwent several revisions across time to arrive at its present shape as the Therapeutic Community Ladderized Program (TCLP). TCLP is implemented to all clients (probationers, parolees, pardonees and minor offenders who are released on probation) of the Agency. TCLP is divided into four phases namely: Orientation, Primary Treatment, Immersion and Integration. As a general rule, every client must undergo TC activity sessions regardless of sex or gender, but the approach admits of certain exemptions like those who are seriously ill, students, pregnant women and detained clients. It is worth mentioning that there are some Gender and Development (GAD) lesson plans in Phases II, III and IV of the TC Manual.

Restorative Justice (RJ) is a process through which remorseful offenders accept responsibility for their misconduct to those directly injured and to the community as a secondary victim, which, in response, allows the reintegration of the offender into the said community. RJ treats crime as a violation of people and relationships. It creates an obligation to make things right through proactive involvement of victims, ownership of the crime by the offender and participation of the community in search for solutions which promote repair, reconciliation and reassurance (probation.gov.ph). Through the process of RJ, clients, victims and other people who have stakes in the case are gathered together in a dialogue that aims to address the impact or consequence of the offence committed, with the goal of promoting peace and reconciliation, if possible.

The volunteerism programme is aimed at generating maximum, effective and efficient citizen participation and community involvement in the overall process of client rehabilitation. Section 28 of Presidential Decree No. 968, the Probation Law of 1976, authorizes the appointment of citizens of good repute and probity to act as probation aides to assist in the supervision of probationers, parolees and pardonees. Republic Act No. 9418 or the Volunteer Act of 2007, Section 12, par. c, provides for National Government Agencies and Local Government Units to establish volunteer programmes in their respective offices to promote and encourage volunteering in government programmes and projects as well as enjoin government employees to render volunteer service in social, economic and humanitarian development undertakings in the community. Additionally, Executive Order No. 468 revitalizes the VPAs Program of the DOJ-PPA to heighten and maximize community involvement and participation in the community-based programme of Parole and Probation in the prevention of crime, treatment of offenders and criminal justice administration (probation.gov.ph). Although TC, RJ and Volunteerism programmes have no gender specific guidelines for implementation, in the conduct of these programmes, however, we observe gender fair language in the delivery of topics and lessons, we uphold the rights of senior citizens, minors, pregnant women and nursing mothers and differently abled clients. At present, there is an ongoing Impact Assessment on the Rehabilitation Programs of the PPA being conducted by the University of the Philippines, to determine, inter alia, the following:

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a. The impact of the above-mentioned rehabilitation programmes on the lives of the clients, including those who have been discharged from supervision by virtue of a Termination Order in the case of probation and Final Release and Discharge in the case of parole and conditional pardon.

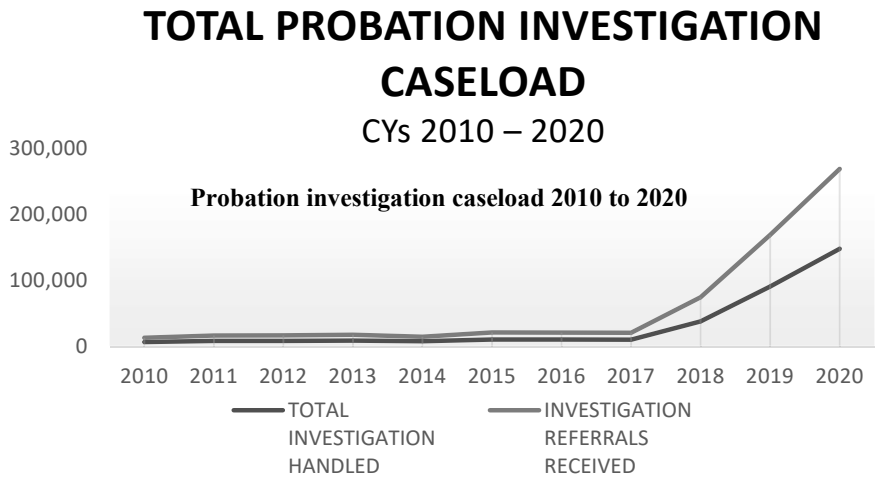
b. The field offices' level of efficiency and effectiveness in the implementation of rehabilitation programmes.

II. STATISTICS

A. Probation Investigation Caseload

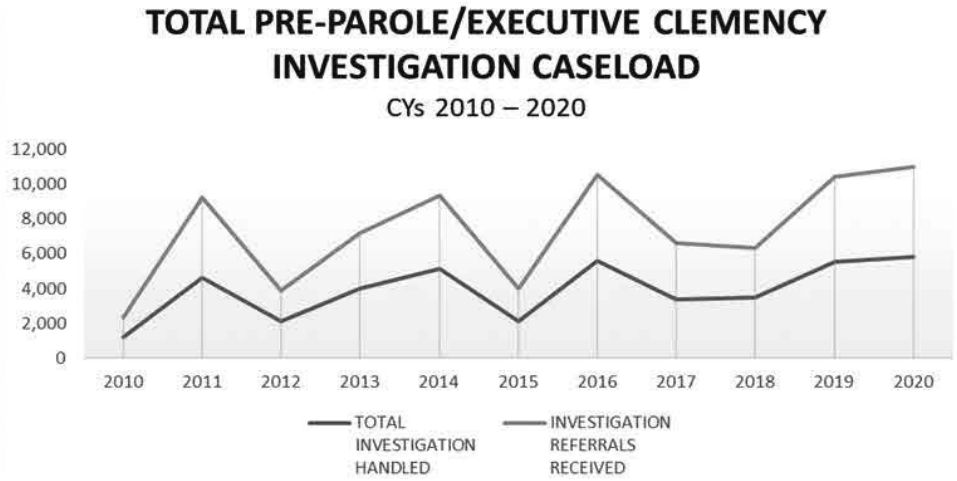
Statistics in the graph and table hereunder show that probation investigation cases received from 2010 to 2020 registered an extremely startling increase in 2017.

1. Probation Investigation Caseload (Graph and Table)



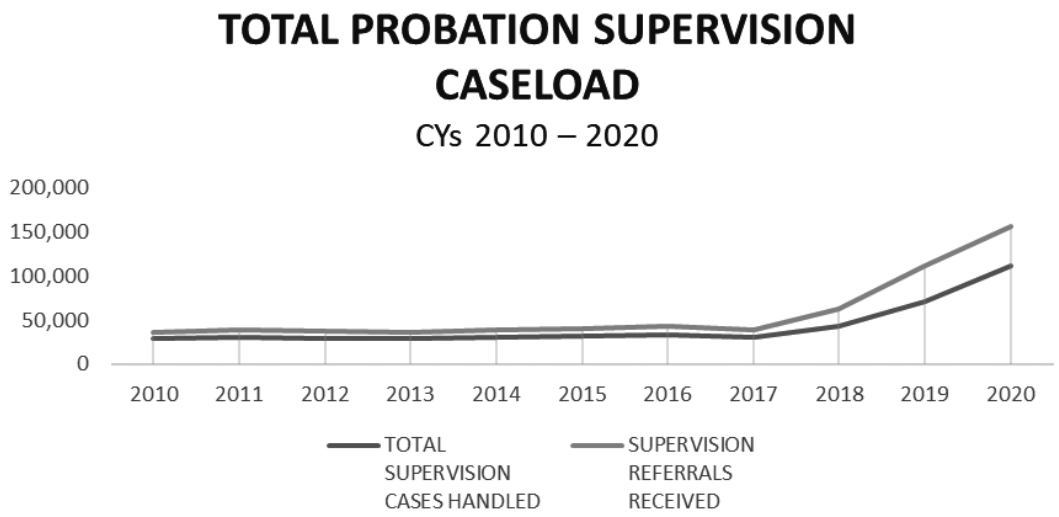
YEAR	TOTAL INVESTIGATIONS HANDLED	INVESTIGATION REFERRALS RECEIVED
2010	7,034	6,453
2011	8,634	8,208
2012	8,810	8,202
2013	9,298	8,731
2014	8,190	6,813
2015	10,795	10,629
2016	10,710	10,508
2017	10,601	10,367
2018	38,384	36,366
2019	91,126	78,103
2020	148,216	120,923
Total / Average		**626,767**

2. Pre-Parole/Executive Clemency Investigation Caseload (Graph and Table)



YEAR	TOTAL INVESTIGATIONS HANDLED	INVESTIGATION REFERRALS RECEIVED
2010	1,207	1,144
2011	4,621	4,601
2012	2,115	1,766
2013	3,979	3,204
2014	5,164	4,175
2015	2,123	1,873
2016	5,603	4,961
2017	3,371	3,228
2018	3,473	2,839
2019	5,543	4,909
2020	5,839	5,207
Total		**63,470**

3. Probation Supervision Caseload (Graph and Table)



YEAR	TOTAL SUPERVISION CASES HANDLED	SUPERVISION REFERRALS RECEIVED
2010	29,523	6,785
2011	30,385	8,421
2012	29,768	7,696
2013	29,236	7,248
2014	30,671	8,616
2015	31,582	9,073
2016	33,013	10,142
2017	31,088	8,415
2018	42,637	19,496
2019	71,669	40,020
2020	111,679	45,440
Total/Average		**458,896**

4. Probation and Parole Officers

Supervision data reveals a sharp increase of 278.28%. On the other hand, the number of Probation and Parole Officers handling cases has remained low with a felt decrease for the past two years. A spike in the number of filled Probation Officer positions is noted in 2019, with the creation of an additional 47 *plantilla* positions for Probation Officer I and Probation Officer II in October 2019, as shown in the following data:

Summary of Filled Probation Officer Positions

Position Title	2017	2018	2019	2020	2021	Unfilled Positions 2021
Supervising Probation Officer	135	135	142	137	119	45
Senior Probation Officer	127	120	129	121	115	43
Probation Officer II	120	125	117	122	121	75
Probation Officer I	108	103	117	116	111	45
Total	**490**	**483**	**505**	**496**	**466**	**208**

In the selection of employees, the Agency has its own Merit and Selection system that is characterized by observance of merit, fitness and equality principles in the screening of personnel for appointment and promotion. The position of Probation Officer I is the entry level for field officers, which does not require training and experience, whereas Probation II is a promotional position that requires one year of progressively responsible experience in Probation or other related experience in order to qualify for promotion. As an officer advances in rank to Senior Probation Officer and further, so should the required skills and competencies according to position/rank. Required skills/competencies are: Investigation and Supervision skills, Adaptability, People and Information Management, Communication, Process Management, Decision Making and Problem Solving. The levels of competencies are: Basic (for POI), Intermediate (POII), Advanced (Sr. PO) and Expert (SPO).

In the face of the Agency's dire need for manpower, there are several vacant/unfilled positions, which are created by promotion to higher positions, retirement and other personnel movement resulting in the termination or disengagement of employee from the service. Another reason why these positions have remained unfilled over the past two years is because of the lack of authority of the incumbent OIC Administrator to approve appointments (original appointments and promotion to higher positions) as this matter is inherent to the Secretary of Justice pursuant to: Paragraph e), Section 19 of PD 968, which states: *"recommend to the Secretary of Justice the appointment of the subordinate personnel of his Administration*

and other offices established in this Decree;"

The reasons for the severance of work by the employees were because of retirement, transfer to another position in another branch of the government, resignation due to migration/relocation to another country, physical and mental health issues and death.

III. CHALLENGES

There are many challenges in the implementation of the rehabilitation programme for clients, but the most serious of them are the following:

1. The volume of caseload which brings the number to a disproportionate ratio of 1:330.59 for investigation cases, whereas the supervision ratio stands at 1:270.778. The combined investigation and supervision average caseload of every Parole and Probation Officer is 601.368. This computation is derived from the Profile of Clients 2020 (Source: probation.gov.ph). This unprecedented increase negatively impacts the physical and mental health of Probation and Parole workers in addition to the effects of the Covid-19 pandemic;

2. Insufficient number of personnel to effectively conduct investigation and supervision of offenders and the implementation of rehabilitation programmes for clients; and engagement of volunteers and community partners and resources;

3. The Covid-19 pandemic and the consequent restrictions in mobility and access to most of the essential services including clients and relevant stakeholders;

4. Lack of infrastructure for programme implementation to support the rehabilitation needs of offenders in terms of appropriate and conducive office space, technology and resources;

5. Lack of funds for the implementation of rehabilitation programmes. Below are some of the pictures taken during the conduct of group activities, which are usually held outdoors due to the lack of appropriate facilities which deviates from the standards set forth by international mandates. Some of the photos depict clients' desire and capacity to be productive members of the community by doing reforestation, coastal clean-up and classroom repairs despite the situation. Faces of clients are deliberately blurred to protect their identity;

6. Limited capacity of staff to effectively implement a holistic approach to rehabilitation programmes that are informed by gender-specific risks and needs assessment;

7. Limited capacity of staff to address the gender-specific treatment needs of women offenders, consisting of 126,183 individuals. Data obtained from the Profile of Clients 2020 revealed that women clients composed 13,294, or 10.35 per cent, of the total number of clients for the year 2020.




At the moment, the Agency has no gender-specific treatment programmes for women offenders. Such programmes are being advanced by international standards like the Standard Minimum Rules for Non-custodial Measures on the Treatment of Offenders (the Tokyo Rules), the Beijing Platform for Action, the United Nations Minimum Rules for the Treatment of Offenders (the Mandela Rules) and the United Nations Rules for the Treatment of Women Offenders (the Bangkok Rules). While it is true that in some regions, these international mandates are being cascaded to implementers for the purpose of creating or enhancing awareness, still there is no specific programme design on how to implement or translate these principles into activities or session plans as to form a component of the intervention programme for offenders.

DISTRIBUTION BY SEX

Sex	Probationers	Parolees	Pardonees	Total
Male	99,902	12,823	164	112,889
Female	11,777	1,517	0	13,294
Total	111,679	14,340	164	126,183

This international training, therefore, is a welcomed opportunity to the author, who is a Gender and Development advocate. Incidentally, Gender and Development is a programme that is being advanced by the Philippine Commission on Women pursuant to Republic Act 9710, otherwise known as The Magna Carta of Women. RA 9710 defines Gender and Development as the development perspective and process that is participatory and empowering, equitable, sustainable, free from violence, respectful of human rights, supportive of self-determination and actualization of human potential. It seeks to achieve gender equality as a fundamental value that should be reflected in development choices and contends that women are active agents of development, not just passive recipients of development (pcw.gov.ph).

GAD was introduced in 1995 through Executive Order No. 273 – Approving and Adopting the Philippine Plan for Gender-Responsive Development (PPGD) 1995-2025. The PPGD 1995-2025 is a 30-year perspective plan that outlines the policies, strategies, programmes and projects that the government must adopt to enable women to participate in and benefit from national development, while EO 273 directs all government agencies, departments, bureaus, offices and instrumentalities, including government owned and controlled corporations, at the national level, sub-national and local levels:

1. To take appropriate steps to ensure the full implementation of the policies/strategies and programmes/projects outlined in the Plan;

2. To institutionalize GAD efforts in government by incorporating GAD concerns, as spelled out in the Plan, in their planning, programming and budgeting processes.

A more recent issuance on the matter is Memorandum Circular No. 2011-01: Guidelines for the Creation, Strengthening, and Institutionalization of the GAD Focal Point System, the purpose of which is: To provide guidelines and procedures for the establishment, strengthening and institutionalization of the GAD Focal Point System (GFPS) in constitutional bodies, government departments, agencies, bureaus, SUCs, GOCCs and all other government instrumentalities; and to clarify the roles and responsibilities, composition and structure of the GFPS to enable it to function as a mechanism for catalysing and accelerating gender mainstreaming in the agency towards the promotion of Gender Equality and Women's Empowerment (pcw.gov.ph).

In compliance with this requirement, the Agency has created national and regional GAD committees to lead in the mainstreaming of gender perspectives in order to promote and fulfil women's human rights and eliminate gender discrimination in the Agency's programmes, projects and activities and assess the gender responsiveness of the systems, structures, policies, programmes and procedures, among others.

At present the PPA is at the end stages of programme development of treatment programmes informed by the Classification and Risk Needs Assessment (CARAT) tool, namely:

1) Livelihood and Employment Program (LEP) – designed to provide technical skills and capacities to clients to enable them to be self-sustaining and productive citizens.

2) I CARE Program – I am Committed, Accountable, Responsible, and Empowered (Criminogenic Anti-Social Personality Pattern) Program – tailored for clients with anti-social personality pattern, which aims to increase self-awareness and enhance personal competency to manage negative behaviours.

3) "*Hulagpos*" Breaking Free from Drugs Program – intends to eliminate drug dependence of clients and encourage lifestyle change that is free from drugs.

The above-mentioned programmes were crafted as the result of assessment conducted among practitioners as to what kinds of intervention programmes are the most needed by clients. Unfortunately, the needs of women offenders were overlooked.

IV. PROPOSED SOLUTIONS

A. Programme Development

1. Development of a gender responsive approach in the treatment of women offenders that looks into the realities of women's lives, their strengths and challenges. A gender responsive approach will necessarily include looking into programme development, content, material, programme site and infrastructure as well as staff competency and selection. Guided by the Guiding Principles and Strategies for Effective System Change by Dr. Stephanie Covington, treatment programmes for women offenders should be gender specific, sensitive and responsive. They should be based on safety, respect, dignity and cultural sensitivity not only for women clients but also for CICLs and other people impacted by the offence, including the community. It should address substance use disorders, trauma and mental health issues and should provide women with opportunities to improve their socio-economic conditions.

2. Designing of intervention programmes based on Women's Risk-Needs Assessment (WRNA) by the Technical Working Group.

3. Programme development for capacity-building training for implementers on GR Risk Needs Assessment and gender-specific treatment programmes for women officers.

    - The training syllabus should include: Understanding trauma and victimization, GR criminogenic risk assessment, GR case management, among others.

4. Training for implementers.

5. Pilot run of WRNA and GR Treatment Program for women offenders.

6. Assessment and evaluation of the result of pilot implementation.

7. Programme improvement and recommendations based on the result of programme evaluation conducted.

8. Nation-wide implementation of WRNA and GR treatment programme to all women-offender clients of the PPA.

9. Monitoring and evaluation.

10. Documentation and benchmarking of best practices to guide recommendations for continual improvement.

B. Systems Improvement

1. Digitization of Records and Information Systems – (in addition to the existing data systems which are already in place) enhancement of data systems that will enable the auto generation of required reports like Sex Disaggregated Data (SDD), Socio Demographic Profile (SDP) and Client's Profile (CP), and the use of data derived from these reports, to assess, identify, plan and design appropriate intervention programmes for women offenders. As a GAD programme requirement, periodic reports on SDD and SDP of clients are being submitted by all field offices; however, these reports are not utilized enough to determine the kind of rehabilitation programmes that are applicable to clients. Fortunately, there is now an ongoing study and pilot test of intervention programmes based on the Classification Risk Needs Assessment Tool (CARAT), but gender-specific needs of women offenders are still not among the programmes that were crafted by the national Technical Working Group. This programme is sponsored by UNODC and UNAFEI.

2. Fast tracking the improvement of the digitization programme in order to do away with manual encoding of Sex Disaggregated Data (SDD), Client's Profile (CP) and Socio-Demographic Profile (SDP)

reports. Manual preparation of these reports and all other periodic reports aggravate the volume of caseload, insufficient personnel compliment that results in the delay in report submission. This is noted in almost all of the field offices of the Agency. Also, the data may not be 100% accurate due to many factors. In order to address these issues and to lessen the workload and ensure accuracy and timeliness of reports, it is proposed that the Post Sentence Investigation Report should be linked to the existing data system to auto generate SDD reports, whereas SDP reports could be auto generated once the client is granted probation or parole, while accomplishment of the client's Worksheet (interview sheet) could auto-populate Records Check (RC) requests and Client's Profile. RC and initial CP, therefore, are dependent on the accomplishment of the Worksheet, as SDD is to PSIR completion, whereas SDP is dependent on a grant of probation (Probation Order from the Court). In this way, personnel could focus on more important tasks of rehabilitation of clients and community building.

C. Human Resource Development

The Parole and Probation Administration shall conduct periodic human resource development and management assessment in the following areas:

1. Adequate facilities, equipment and resources to enable process owners to render responsive and efficient rehabilitation service to clients;

2. Staffing patterns and standards of work to ensure that the clients receive quality service;

3. Upgrading of work conditions and reclassification of positions to accurately reflect the functions and responsibilities of probation officers as Parole and Probation Officers and to correct the disparity vis-à-vis other professions;

4. Opportunities for Probation and Parole Officers to grow professionally and to reach their potentials, to enable them to experience a sense of self-worth and dignity in their work;

5. Provision of funds for trainings, conventions, seminars, conferences and similar activities for Parole and Probation Officers as part of their continuing professional growth;

6. Provision of mechanisms for democratic consultations.

D. Modernization of Strengthening of the Parole and Probation System

One of the biggest issues faced by the Philippine Corrections system is the overcrowding of jails and prisons. The congestion rate was registered at 403 per cent in 2020, equivalent to 115,336 prisoners occupying facilities meant only for 34,893 people, the COA said in its report for BJMP.

Severe overcrowding of jails leads to dehumanization of persons deprived of liberty (PDL). Deaths, serious illness, poor and dirty living conditions and inmate violence are among the consequences of overcrowding in jails. Unresolved probation and parole/executive clemency cases contribute to the high volume of pending cases awaiting resolution.

Release in the community through probation and parole is not only recognized as a tool for rehabilitating clients and preparing them for their eventual reintegration into the community. To realize the ends that the Agency seeks to achieve, it needs the necessary support and infrastructure. The passage of the proposed bill "Magna Carta of Parole and Probation Workers", which is now reworded to "An Act Strengthening the Parole and Probation Administration and Providing Funds Therefor" is hoped to address the lack of manpower, the sad plight of the already overworked staff, professionalize the service and enhance digitization capability of the Agency.

DOES THE PENALTY ALWAYS FIT THE CRIME? – TREATMENT OF WOMEN OFFENDERS IN SRI LANKA

*Ganga Wakishta Arachchi**

I. INTRODUCTION

The law enforcement and justice system in Sri Lanka has very few female offenders as opposed to their male counterparts. For many years, the three Cs practiced by Sri Lanka Prisons,[1] namely, Custody, Care and Corrections, were applied to rehabilitate the male offenders, which comprised the majority. With the passage of time, as pregnant women, adolescent girls, mothers and persons with disabilities or special needs gradually emerged to be a part of the justice system due to various socio-economic factors, the need to change policy and circumstances at all levels, be it police, courts or prisons arose, and the practice was extended for the betterment of women offenders.

On the international plane, too, the surfacing of "female offenders" attracted a lot of attention and discussion with the number of female offenders increasing in each country. Hence, the Bangkok Rules and the Kyoto Declaration were adopted, as well as the Handbook on Women and Imprisonment produced by the UNODC. Further, "female offenders" was often a topic of various decisions and discussions held at the UN General Assembly, especially what was referred to as the "Doha Congress".[2] Finally, the issue of female offenders formed a part of the 2030 Agenda for Sustainable Development.[3]

With the changing times, and to be abreast with the best international practices and policies, Sri Lanka braced itself to offer gender equality into State policy by first ratifying key international Conventions and formulating domestic mechanisms that offered females, in general, certain rights. Among them is the UN Convention on Elimination of All forms of Discrimination Against Women (CEDAW) in 1981. Prior to this was the establishment of the Women's Bureau in the year 1978 to ensure gender equity and equality. The approach was improved with the creation of the Ministry for Women in the year 1983, followed by the Department of Probation and Social Welfare. The decision of the Parliament in 1993 to adopt the Sri Lanka Women's Charter[4] was the statement-of-principle policy of the Government pertaining to the rights of women. Then came the National Committee for women in 1994, along with the 1996 National Action Plan for Women. This National Committee, at present, is placed under the Ministry of Women and Child Affairs. In the year 2016, with the launch of its "Policy Framework and National Plan of Action (NPoA) to address Sexual and Gender Based Violence (SGBV) in Sri Lanka 2016- 2020", the policy of zero tolerance for violence against women was exhibited openly. This National Action Plan is an integral part of the Ministry of Women and Child Affairs and reveals that it is in line with the Sustainable Development Goals 2030 of the United Nations and talks much about the rehabilitation and social integration of female offenders. For the first time in Sri Lanka, this National Action Plan introduced the concept of multi-agency cooperation if any correctional methods were to be a success story. At present, 16 stakeholder agencies work together to make the correctional measures and social reintegration of female offenders a success.[5]

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[1] Still the term 'prison' is used in place of 'correctional facilities'.

[2] Thirteenth United Nations Congress on Crime Prevention and Criminal Justice held in Doha 12-19 April 2015.

[3] Goal 5.c of A/RES/70/1.

[4] National Committee on Women, Ministry of Women's Empowerment and Social Welfare. Women's Charter, Sri Lanka, http://eugc.ac.lk/ge_eq/wp-content/uploads/2016/04/Womens Charter-1.pdf accessed 29.09.2021.

[5] Ministry of Women and Child Affairs, Ministry of Justice, Ministry of Law and Order, Ministry of Education, Ministry of National Policy and Economic Affairs, Ministry of Labour and Trade Union Relations, Ministry of Skills Development and Vocational Training, Ministry of Plantation Industries, Ministry of Foreign Employment, Ministry of Health, Nutrition and Indigenous Medicine, Ministry of Disaster Management, Ministry of Parliamentary Affairs and Mass Media, Sri Lanka Police,

Capacity-building, awareness raising of the root causes and underlying consequences have become crucial to prevent any criminal acts being committed by female offenders. The number of female offenders in the system is very few, less than five hundred in all. Out of these, those with death sentences or serving for life – sentenced for mainly being involved in narcotic drug offences – are even fewer. The statistics demonstrate a vast decline of female offenders in the justice system at present.[6]

In this regard, the Constitution, in its Chapter III,[7] has guaranteed equality for women and men and non-discrimination based on sex. Nevertheless, once an offence is committed, the usual criminal justice process would kick in to try the offenders, the police conducting the investigation, prosecution of offenders by the State Prosecutors attached to the Attorney General's Department, the remand or the conviction of the offender and so on and so forth.

II. GENDER-RESPONSIVE APPROACHES TO IMPROVE CORRECTIONAL TREATMENT AND SUPPORT IN PRISON

A. The History

Unfortunately, a considerable majority in the country regard gender inequality as the "norm" and that it should have perpetual succession. The beliefs such as *"a woman's main role is to take care of her home and cook for the family", "it is a man who earns and is responsible for the family", "a woman should obey her husband"* and *"a woman is subject to male dominance"* are embedded in the society even at present, but on a lesser scale. In the old days, the correctional facilities saw no difference to change the common beliefs and, hence, female offenders were treated likewise. However, with the passage of time, the females, too, started to pull the wheel and participated in the formal economic, social and political systems to sustain their families. The participation of females in the areas of income generation was more visible in the economically disadvantaged class. And, as a result of the poor economic conditions and the continuous struggle to move on, and being pushed to the wall more often than not, these females committed or attempted the crimes they later were charged with. Once these female offenders entered the criminal justice system, their families encountered difficulties as a result of their imprisonment. With the revelation of the poor economic conditions of the female offenders in the society, invariably all the stakeholders in the criminal justice system had to necessarily take cognizance of this fact, especially the ones staying in the correctional facilities.

The outcry for women's rights and, therefore, that of women offenders took the stage before long, though the number was still very negligible as opposed to the males in the prisons.

B. The Approach

In handling female offenders, both unconvicted and convicted, two Cs out of the three, "Custody" and "Care", are looked after by uniformed female staff. The third "C", the "Correctional" staff, also known as "rehabilitation officers", wear casual attire. The concept behind this approach is to enable the female offenders to be free in their speech, i.e. to pour their hearts out at all levels; the admission level, initial medical examination, the visits to their bases by rehabilitation officers for assessment and at every occasion thereafter. Thus, whenever a female offender encounters any difficulty, she would not hesitate to seek advice of these rehabilitation officers to solve the issues at hand.

C. The Number

Having a small number of female offenders has very good advantages for Sri Lanka. The female offenders are allocated separate accommodation facilities earmarked for their own convenience. Out of these offenders, the pregnant offenders who are separated from the rest are placed under constant care of the medical and other support staff. The female pregnant offenders are allowed to interact with their families if it appears to be in the best interest of such woman offender. Every endeavour is taken to keep their minds happy and content, considering the circumstances they are faced with. Another interesting fact is that any female offender who wishes to accompany her child inside the correctional centre is permitted to do so. All female

Department of Divineguma and University Grants Commission.

[6] Volume 40-year 2021; Prison Statistics of Sri Lanka 2021 published by Department of Prisons.

[7] Appendix A.

offenders who either opt to bring their children in are also allocated separate quarters where each of them could remain with their child, encouraging the mother and child to form their bond. Each of these women offenders are encouraged to mandatorily engage in the educational activities, both formal and informal. They further undergo vocational training in order to prepare their smooth integration into the society in the time to come, depending on the length of their sentence. The children inside the correctional facilities are happily in either the day care centre or the preschool, being properly taken care of by the respective teaching staff and caretakers. Even at police stations and in the Courts, facilities have been arranged for female offenders who attend with children. Frequently, the female offenders are granted bail; hence, seldom will they enter the correctional facilities inside the prison.

D. The Facilities

Sri Lanka Prisons have allowed professionals of all walks of life to visit female offenders with prior permission in order to groom them for better tomorrows. These professionals include teaching personnel, medical staff and service providers and, depending on the requirement of the correctional facility, to train these female offenders to be financially independent upon their release. These outside support efforts will further act as a measure to curb recidivism. It does not end there. Being a small number has its advantages. All the female offenders are allowed to follow their own religious beliefs, engage in prayer sessions and discuss their problems with the clergy if they wish. The clergy attends the correctional centres every week. All religious and cultural events and festivals are commemorated with great enthusiasm within the correctional centres with the assistance of volunteers and the Prison Welfare Associations. In Sri Lanka, there are six correctional facilities where women offenders are housed. They are Welikada, Kalutara, Anuradhapura, Bogambara (Kandy), Angunukolapellessa and Kuruwita. At present, only Welikada and Kalutara correctional facilities have day-care centres and preschools that house children up until they reach the age of five years, which is the required age for the commencement of formal school education. Once a child reaches five years, he or she is handed back to a guardian, failing that to a children's home to receive formal education. A female offender who is with child is, therefore, housed in either Welikada or Kalurata for their own well-being.

All care, custody and correctional female staff of the department of prisons who handle women offenders act with empathy. These officers are trained to be extremely gender sensitive. Most of these officers have either undergone probation training, counselling and psychological training, childcare and other welfare related training themselves or have acquired the tertiary education in the respective fields either prior to or while in service. Thus, it has become very natural for them to attend to the women offenders.

Medical staff from the National Mental Health Care Hospital, Public Teaching Staff and various IGOs and NGOs have come to the rescue voluntarily due the small number present within the correctional facilities. Even the welfare of the children in the day-care and preschool facilities are conducted in such a manner that it maintains the same standards of similar facilities outside. There are state-of-the-art recreational facilities which both the women offenders and their children can use.

III. EFFECTIVE USE OF NON-CUSTODIAL MEASURES, TAKING INTO CONSIDERATION WOMEN OFFENDER'S GENDER-SPECIFIC CONDITIONS AND BACKGROUNDS

The justice system prevalent in Sri Lanka is still a very formidable one. The convictions and other orders of Court, therefore, have much room for improvement to be on par with the international standards, if the concept of the basic unit in the society, "the family", is to be given the utmost importance, be it for married offenders, single mothers or young females. Close scrutiny of the sentences passed or orders issued by Courts could, therefore, easily vary when it reaches the correctional facilities. The women offenders, upon admission, receive detailed explanations of what their "good behaviour" could offer them to serve a much less period than pronounced and their ability to reintegrate to a better society should they put their efforts in the right direction. Even if such counselling may not register on the very first day, it gradually does. The formal education and the other rehabilitation facilities received by a particular inmate varies with the time that she has to serve. Therefore, the correctional authorities carve out individual plans for each women offender, who is accorded individual attention as well, due to the number being small. For those who have received formal

education to some extent, they are permitted to revive and enter into the usual formal system of education. Sri Lanka Prison permits all those inmates if they so wish to sit for the public examinations including attending universities to complete education. There is a male inmate who reads for his Master's degree while being an inmate. The illiterate female offenders could be beginners if they so wish. Depending on the need of each female offender, training sessions based on vocational, technical and other useful methods of self-employment or institutional employment are accorded to them. Vocational training is offered in the areas of garment trade, beauty culture, weaving and all traditional forms of making clothes, including *batik*, hand crafts, preparation of food for sale etc. These activities are introduced with a view of preparing the female offender to be financially independent once she is reintegrated into the society. In addition, library facilities, legal aid clinics, family reunions, health programmes and cultural activities are lined up, which keeps all the women offenders content during their stay in the correctional facility.

The good conduct and behaviour will attract what is usually referred to as the "home leave scheme". This scheme allows a female offender to initially go home for three days. With the passage of time, this period is extended to fourteen days. Thereafter, as of habit, these fourteen-day periods become frequent. If the period of sentence is shorter, such women offenders are allowed to remain at home on licensed conditions immaterial of the penal sentence accorded to them. Home leave has been proved as a measure of successful rehabilitation of these female offenders.

IV. CONCLUSIONS

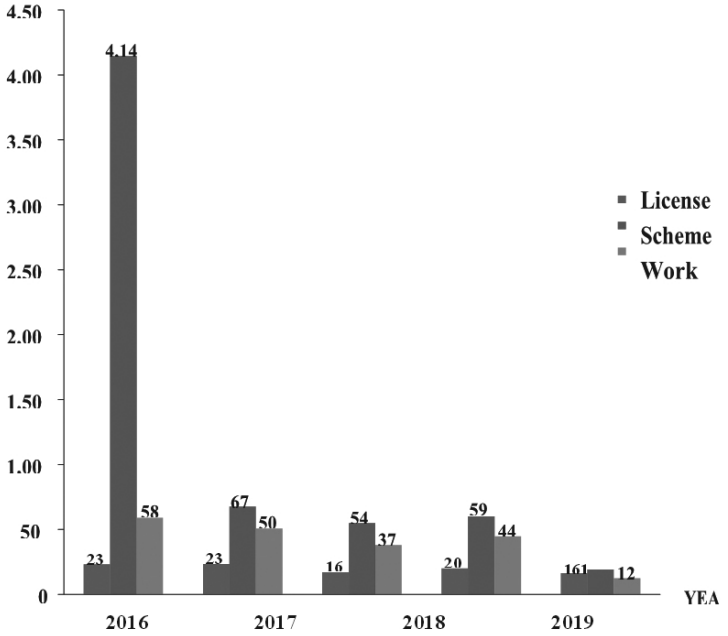
Thus, it can be safely concluded that the women offenders in Sri Lanka are much fortunate when compared to their male counterparts. However, there is much room for improvement in all aspects, commencing with the vocabulary that is used, i.e. instead of "prison" using the term "correctional facility"' etc. Great efforts have been put in place by the officers to accord proper care and correctional methods for those in their custody with the maximum utilization of the resources that are made available to such officers.

V. RECOMMENDATIONS

A. The Social Factor

The psychosocial factor, as shown below, has improved with the change of attitude and appearance of rehabilitation officers in correctional facilities. This could be extended to other law enforcement authorities that constantly engage with women offenders. The women and children desks within the police can be reviewed, wherein the atmosphere is perpetrator friendly, not only for survivors. The 42 desks of "Women in Need" inside police stations, a good blend of private-public partnership must be introduced to police stations.

The officers involved in recidivism prevention must specifically be trained for that purpose. Coordinated community awareness campaigns where frequent community gatherings are held, such as prayer sessions in religious places, school and office gatherings, will produce attractive results and will facilitate constructive lobbying, especially among women. This will enable the women offenders to understand the nature of the offences and the consequences of offending, and what action has to be taken in recidivism prevention where offenders are concerned.



PRISONERS RELEASED ON WORK RELEASE ,
HOME LEAVE AND ON LICENCE SCHEME, 2010 – 2020

Year	Work Release	Home Leave	Licence Scheme
2010	8,609	632	284
2011	20,034	362	73
2012	9,115	181	130
2013	1,401	498	173
2014	511	477	190
2015	648	774	168
2016	4,145	589	230
2017	675	506	232
2018	547	378	167
2019	599	446	200
2020	189	123	161

Source: Department of Prisons

PRISONERS ENGAGED ON WORK RELEASE SCHEME, 2010 – 2020

Year	No. of Prisoners Engaged on Work Release	No. Found Unsuitable	Total Amount Earned for the Year (Rs.)
2010	8,609	3	6,465,107
2011	20,034	3	8,082,040
2012	9,115	17	5,609,405
2013	1,401	18	2,118,240
2014	511	4	3,222,900
2015	648	-	3,962,660
2016	4,145	-	4,944,695
2017	675	-	5,106,200
2018	547	-	4,526,040
2019	599	-	4,515,800
2020	189	-	993,820

Source: Department of Prisons

B. Medical Services

A review of the current medico-legal services offered is a must. The 42 Mithuru Piyasa (Naptu Nilayam Centres in Tamil) centres within State hospitals must be extended to all hospitals in correctional facilities. Here, too, the lesser the formalities are, the better the results would be. Both the legal and medical community must be encouraged to assist and support the government initiative to improve the conditions of women offenders on a voluntary basis with the aim to prevent recidivism. The psychological care and counselling facilities should be available on a more frequent basis than at present.

C. Access to Justice

Access to justice must be of the essence at every level. Advanced and effective laws and policies that improve women's access to justice must be formed without further delay. The formidable nature of the Sri Lankan Courts makes women strangers to the system. The long drawn judicial process is a cause for recidivism. It is suggested that cases involving women and children be dealt with *in camera* and by female officers as far as practicable. The legal community should be encouraged to provide *pro bono* services to at least one women offender in need which could produce better results.

D. The Legislation

Sri Lanka very recently amended its Code of Criminal Procedure Act No 51 of 1979 (CCPA), making it compulsory for Judicial Officers to visit police stations at least once a month for inspection. The community service orders in lieu of imprisonment brought in by amendment No 49 of 1985, further amended by Act No 46 of 1999, paved the way for alternatives for all offenders, including women. The police are empowered to detain suspects, including females, for varying lengths of time depending on the offence, initially only for 24 hours; with permission from the court, up to 48 hours. For drug-related and terrorist offences, it is seven days and indefinitely on a Detention Order extended every three months thereafter, issued by the Ministry of Defence. There is an attractive legal and correctional system in place for women offenders at the correctional facilities upon admission.

E. Recidivism Prevention

The main idea of law enforcement should revolve round the concept of recidivism prevention. No doubt that punishments accorded must suit the crime, but a certain amount of flexibility is warranted where women offenders are concerned as their number is small in Sri Lanka. Female perpetrators of minor offences should be encouraged to repent with suitable plans for reintegration into the society with close monitoring. Expedient disposal of the matters is of essence to prevent recidivism. Further, follow-up mechanisms should be introduced, and close scrutiny of the offenders should be kept at all times through community monitoring, similar to what is practiced in Japan under the "volunteer probation officers" scheme. In criminal proceedings, effective use of non-custodial measures at an early stage with rehabilitative interventions, such as community supervision, community service and suspended sentences with close monitoring could be introduced as a deterrence to offenders. The project with the assistance of the World Bank to upgrade the existing six correctional facilities in order to standardize the same as any other day-care and preschool education entity allowing the female offenders to be in close proximity to their residences, as opposed to the two facilities at present, has to be expedited.

The statistics compiled by the department of prisons in Sri Lanka reveal a steep decline of female offenders entering the correctional facilities – a great relief for Sri Lanka as a country.

VI. APPENDICES

Annexure A

CHAPTER III – FUNDAMENTAL RIGHTS

CHAPTER III – FUNDAMENTAL RIGHTS

10. Freedom of thought, conscience and religion.

Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.

11. Freedom from torture.

No Person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

12. Right to equality.

(1) All persons are equal before the law and are entitled to the equal protection of the law.

(2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds:
Provided that it shall be lawful to require a person to acquire within a reasonable time sufficient knowledge of any language as a qualification for any employment or office in the Public, Judicial or Local Government Service or in the service of any Public Corporation, where such knowledge is reasonably necessary for the discharge of the duties of such employment or office:

Provided further that it shall be lawful to require a person to have a sufficient knowledge of any language as a qualification for any such employment or office where no function of that employment or office can be discharged otherwise than with a knowledge of that language.

(3) No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, and places of public entertainment and places of public worship of his own religion.

(4) Nothing in this Article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons.

13. Freedom from arbitrary arrest, detention and punishment and prohibition of retrospective penal legislation.

(1) No person shall be arrested except according to procedure established by law. Any person arrested shall be informed of the reason for his arrest.

(2) Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the Judge of the nearest competent court according to procedure established by law and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms of the order of such Judge made in accordance with procedure established by law.

(3) Any person charged with an offence shall be entitled to be heard, in person or by an Attorney-at-Law, at a fair trial by a competent court.

(4) No person shall be punished with death or imprisonment except by order of a competent court, made in accordance with procedure established by law. The arrest, holding in custody, detention or other deprivation of personal liberty of a person, pending investigation or trial, shall not constitute punishment.

(5) Every person shall be presumed innocent until he is proved guilty:
Provided that the burden of proving particular facts may, by law, be placed on an accused person.

(6) No person shall be held guilty of an offence on account of any act or omission which did not, at the time of such act or omission, constitute such an offence and no penalty shall be imposed for any offence more severe than the penalty in force at the time such offence was committed.
Nothing in this Article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by the community of nations.
It shall not be a contravention of this Article to require the imposition of a minimum penalty for an offence provided that such penalty does not exceed the maximum penalty prescribed for such offence at the time such offence was committed.

(7) The arrest, holding in custody, detention or other deprivation of personal liberty of a person, by reason of a removal order or a deportation order made under the provisions of the Immigrants and Emigrants Act or the
Indo-Ceylon Agreement (Implementation) Act, No. 14 of 1967 or such other law as may be enacted in substitution therefor, shall not be a contravention of this Article.

14. Freedom of speech, assembly, association, occupation and movement.

(1) Every citizen is entitled to—
(a) The freedom of speech and expression including publication;
(b) The freedom of peaceful assembly;
(c) The freedom of association;
(d) The freedom to form and join a trade union;
(e) The freedom, either by himself or in association with others and either in public or in private, to manifest his religion or belief in worship, observance, practice and teaching;
(f) The freedom by himself or in association with others to enjoy and promote his own culture and to use his own language;
(g) The freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise;
(h) The freedom of movement and of choosing his residence within Sri Lanka; and
(i) The freedom to return to Sri Lanka.

(2) A person who, not being a citizen of any other country, has been permanently and legally resident in Sri Lanka immediately prior to the commencement of the Constitution and continues to be so resident shall be entitled, for a period of ten years from the commencement of the Constitution, to the rights declared and recognised by paragraph (1) of this Article.

14A. Right of access to information.

(1) Every citizen shall have the right of access to any information as provided for by law, being information that is required for the exercise or protection of a citizen's right held by—

(a) the State, a Ministry or any Government Department or any statutory body established or created by or under any law;

(b) any Ministry of a Minster of the Board of Ministers of a Province or any Department or any statutory body established or created by a statute of a Provincial Council;

(c) any local authority; and

(d) any other person, who is in possession of such information relating to any institution referred to in sub-paragraphs (a) (b) or (c) of this paragraph.

(2) No restrictions shall be placed on the right declared and recognized by this Article, other than such restrictions prescribed by law as are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals and of the reputation or the rights of others, privacy, prevention of contempt of court, protection of parliamentary privilege, for preventing the disclosure of information communicated in confidence, or for maintaining the authority and impartiality of the judiciary.

(3) In this Article, "citizen" includes a body whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens.

[Art 14A ins by s 2 of Nineteenth Amendment to the Constitution.]

15. Restrictions on fundamental rights.

(1) The exercise and operation of the fundamental rights declared and recognised by Articles 13(5) and 13(6) shall be subject only to such restrictions as may be prescribed by law in the interests of national security. For the purposes of this paragraph "law" includes regulations made under the law for the time being relating to public security.

(2) The exercise and operation of the fundamental right declared and recognised by Article 14(1)(*a*) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence.

(3) The exercise and operation of the fundamental right declared and recognised by Article 14(1)(*b*) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony.

(4) The exercise and operation of the fundamental right declared and recognised by Article 14(1)(*c*) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or national economy.

(5) The exercise and operation of the fundamental right declared and recognised by Article 14(1)(*g*) shall be subject to such restrictions as may be prescribed by law in the interests of national economy or in relation to—

(a) the professional, technical, academic, financial and other qualifications necessary for practising any profession or carrying on any occupation, trade, business or enterprise and the licensing and disciplinary control of the person entitled to such fundamental right; and

(b) the carrying on by the State, a State agency or a Public Corporation of any trade, business, industry, service or enterprise whether to the exclusion, complete or partial, of citizens or otherwise.

(6) The exercise and operation of the fundamental right declared and recognised by Article 14(1)(*h*) shall be subject to such restrictions as may be prescribed by law in the interests of national economy.

(7) The exercise and operation of all the fundamental rights declared and recognised by Articles 12, 13(1), 13(2) and 14 shall be subject to such restrictions as may be prescribed by law in the interests of national security, public order and the protection of public health or morality or for the purpose of securing due recognition and respect for the rights and freedoms of others or of meeting the just requirements of the general welfare of a democratic society. For the purposes of this paragraph "law" includes regulations made under the law for the time being relating to public security.

(8) The exercise and operation of the fundamental rights declared and recognised by Articles 12(1), 13 and

14 shall, in their application to the members of the Armed Forces, Police Force and other Forces charged with the maintenance of public order, be subject to such restrictions as may be prescribed by law in the interests of the proper discharge of their duties and the maintenance of discipline among them.

16. Existing written law and unwritten law to continue in force.

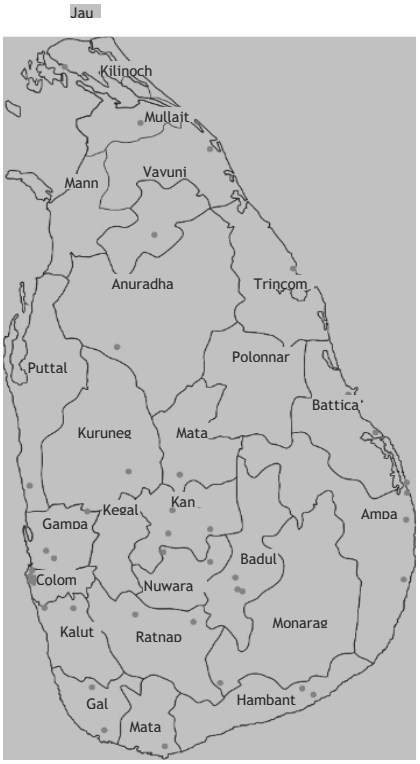
(1) All existing written law and unwritten law shall be valid and operative notwithstanding any inconsistency with the preceding provisions of this Chapter.

(2) The subjection of any person on the order of a competent court to any form of punishment recognised by any existing written law shall not be a contravention of the provisions of this Chapter.

17. Remedy for the infringement of fundamental rights by executive action.

Every person shall be entitled to apply to the Supreme Court, as provided by Article 126, in respect of the infringement or imminent infringement, by executive or administrative action, of a fundamental right to which such person is entitled under the provisions of this Chapter.

Annexure B – Mithuru Piyasa Centres in Sri Lanka



Annexure C – Interview with ASP Mr Uduwara of Welikada Prison
Interview with Rehabilitation Officer Ms. Sumadhu

VII. BIBLIOGRAPHY

Policy Framework and National Plan of Action to address Sexual and Gender-based Violence (SGBV) in Sri Lanka 2016-2020

Prison Statistics of Sri Lanka 2021 Vol. 40- Year 2021 published by Statistics Division, Prison headquarters, Colombo 09 Sri Lanka
Websites (Accessed on 24.09.2021)
http://prisons.gov.lk/web/wp-content/uploads/2021/05/prison-statistics-2021.pdf

PART THREE

RESOURCE MATERIAL SERIES No. 113

Work Product of the 176th International Training Course

UNAFEI

REPORT OF THE COURSE

The 176th International Training Course (Online)
"Achieving Inclusive Societies through Effective Criminal Justice Policies and Practices"

1. Duration and Participants
   - From 15 November to 9 December 2021
   - 17 overseas participants from 11 jurisdictions

2. Programme Overview
   Goal 16 of the 2030 Agenda for Sustainable Development (SDGs) seeks to achieve peaceful and inclusive societies, and this training course aimed to promote the role of criminal justice in achieving such societies. This programme offers participants an opportunity to share experiences and knowledge on (i) Effective measures to support crime victims and (ii) Effective measures in the pre-trial, trial and sentencing stages to prevent reoffending and facilitate offenders' social reintegration. This programme was exclusively conducted online due to the Covid-19 pandemic.

3. The Content of the Programme
   (1) Lectures
   In order to maximize the effectiveness of the programme, all lectures delivered by external lecturers in English, including their respective Q&A sessions, were conducted in a live online format. However, since the participants needed to continue their professional and family duties during the programme, other lectures were recorded in advance and broadcast on-demand. Specifically, participants were asked to watch on-demand video lectures and to submit their questions for the lectures via an online learning management system. The lecturers then answered the questions during recorded Q&A sessions that were broadcast on-demand. This way, we tried to provide both convenience and interactivity while delivering the training on demand.

   In this programme, participants also watched on-demand video lectures by UNAFEI professors on the criminal justice system in Japan as a preliminary assignment and submitted their questions online.

   In addition, the following two visiting experts from overseas and three ad hoc lecturers from Japan were invited to share their knowledge on the theme of this training course:

   - Visiting Experts
     - Ms. Vera Tkachenko
       Crime Prevention and Criminal Justice Officer
       United Nations Office on Drugs and Crime (UNODC)
       "Rethinking incarceration: Promoting partnerships to reduce reoffending"

     - His Honour Judge Jonathan Cooper
       Deputy Resident Judge for Cambridgeshire, United Kingdom
       "Community Sentences in England and Wales"

   - Ad hoc lecturer
     - Mr. MUTO Issei
       Assistant Director, Crime Victim Support Office
       Education, Training and Welfare Division,
       Commissioner-General's Secretariat, National Police Agency
       "Crime Victim Support Provided by the Police"

     - Mr. HONDA Yuichiro
       Public Prosecutor
       Chief, Social Reintegration Support Office
       General Affairs Department, Tokyo District Public Prosecutors' Office
       "Efforts of the Social Reintegration Support Office"

     - Ms. TOMITA Satoko
       Attorney at Law

Chief, International Affairs Office, Japan Legal Support Center
"Japan Legal Support Center"

(2) Group Work
Participants were divided into two groups based on time zones and the themes of their choice for the Individual Presentations sessions and discussions.

- Individual Presentations
  Participants shared the practices and the challenges in their respective jurisdictions regarding the theme of the Programme through their individual presentations. All the presentations were recorded and uploaded online for reference by participants in other groups or those who could not attend the sessions.

- Discussions
  Participants had fruitful discussions on the themes of the Programme: (i) Effective measures to support crime victims and (ii) Effective measures in the pre-trial, trial and sentencing stages to prevent reoffending and facilitate offenders' social reintegration.

  - Effective measures to support crime victims
    The participants discussed and shared their perceptions of the differences in victim and witness protection systems in different countries. This served as the basis for the following discussion. In addition to the above, we shared knowledge about the system and its operation in each country, including measures to prevent secondary victimization, including witness protection, the use of victim impact statements to appropriately consider the impact of the incident on the victim in sentencing, legal aid for victims who are particularly vulnerable and need special consideration, such as underage victims and female victims of sexual crimes, and damage recovery through restorative justice in each jurisdiction. The usefulness, challenges and operation of these systems were the subject of discussion. Although the systems adopted to support victims differ in each jurisdiction, prevention of secondary victimization by criminal justice actors is the first priority, and practical efforts to enable investigators and judicial officers to treat victims in an appropriate manner, as well as the enhancement of training to realize such efforts, are necessary to reduce the barriers for victims to report their victimization. It was also shared that these efforts enable victims to report the damage, facilitate the investigation of cases and enhance the cooperation of victims in conducting trials.

  - Effective measures in the pre-trial, trial and sentencing stages to prevent reoffending and facilitate offenders' social reintegration
    As measures to reintegrate offenders into society, the legal frameworks and practices of various jurisdictions were introduced, including alcohol and drug courts, and various educational programmes to promote the reintegration of offenders into society. In addition, in many countries, prisons are suffering from overcrowding, which hinders appropriate correctional education for offenders. As the causes of overcrowding, participants shared the different problematic situations in each jurisdiction, such as the overuse of arrest and pre-trial detention, strict bail criteria and insufficient use of non-custodial sentencing. Then the need to improve the situation was shared. Based on this, measures to improve practice were discussed.

(3) Action Plans
Each participant concluded the programme by presenting their own action plans based on the challenges they identified and what they learned in the lectures, presentations by the colleagues and discussions.

4. Feedback from the Participants
Most of the participants said that they would have preferred to have the training in Japan because they would have liked to visit the relevant facilities to deepen their understanding of the actual practices, and they would have liked more time to interact with each other, including in informal situations. On the other hand, they also commented that they were able to cultivate knowledge online.

5. Comments from the Programming Officer

Although we see words and concepts such as the SDGs and inclusive society more and more, criminal justice practitioners are not often aware of them in their daily practice. However, it is important for them to think about the nature and history of criminal justice and the direction they should aim toward in the future by cultivating their consideration of topics that are closely related to practice. It can also serve as a milestone when dealing with difficult cases for which there are no fixed answers or when considering the framework and operation of a new system. In this sense, this training course included a long-term perspective toward 2030, the target year of the SDGs. I believe that this training course provided many useful hints for our long-term vision for the next 10 years. As the programming officer of this training course, I was exposed to a variety of ideas relating to inclusive societies, and I feel that I was able to update my own mindset. I hope the participants are able to utilize the knowledge gained from this training course for the future development of criminal justice procedures in their jurisdictions.

PARTICIPANTS' PAPERS

THE JUSTICE SYSTEM IN SAMOA FOCUSING ON THE ALCOHOL AND DRUGS COURT

*Veleala Mautu**

I. INTRODUCTION OF THE JUSTICE SYSTEM IN SAMOA

Samoa has a Constitutional system incorporating common law and customary laws. The Constitution is the supreme law.[1] The former systems include the German Decrees followed by New Zealand and British laws and local ordinances and custom. The national government has three branches – the executive, the legislature[2] and the judiciary. The judiciary is divided into:

(i) The Court of Appeal

The superior court of record comprising the Chief Justice and other judges of the Supreme Court and such other persons as are appointed by the Head of State, acting on the advice of the Judicial Service Commission.[3] In addition to the Chief Justice and the Supreme Court Judges, the government uses retired judges from New Zealand on the bench. The Court of Appeal cases include those such as *AG v Fepuleai Atila Ropati [2019]*,[4] which is a case in which the defendant was not satisfied with the decision and decided to appeal the decision made by the Supreme Court for a further decision by the Court of Appeal.

(ii) The Supreme Court

The Head of State appoints the Chief Justice on the advice of the Prime Minister; other judges are appointed by the Head of State acting on the advice of the Judicial Service Commission.[5] The Supreme Court has jurisdiction over offences for which the penalty is life imprisonment or more than ten (10) years' imprisonment,[6] such as the murder case *Police v Uimaitua Papalii Samuleu [2020]* [7] and civil claims such as *Chan Mow Company Ltd v Tuilimu Tili Tiavaasue [2018].*

(iii) District Court

The District Court is established pursuant to the Constitution and governed by the Magistrate's Court Act 1969. The jurisdiction deals with offences for which the penalty is not more than seven (7) years. The District Court consists of the Family Court and the Family Violence Court,[8] the Alcohol and Drugs Court, the Youth Court[9] and the Coroners Court.[10] The Family Court usually involves a disagreement between family members or extended family members, for instance, the case of *Police v Leaitua Taua Falefitu Toeoaana and Faumuina Taimane Afamagasa [2016]* ,[11] where the defendants exchanged words and created tension, but they are family members. The Family Violence Court is, thus, different from the Family Court. A Family Violence Court case *Police v Pai Mulitalo [2020]* is a case in which the defendant assaulted his wife.

* Senior Officer - Supreme Court, Civil & Criminal Court Division, Ministry of Justice, Courts & Administration, Independent State of Samoa.

[1] Constitutional Convention of Samoa 1960 s.39.

[2] Executive – cabinets, legislative – parliament.

[3] Constitution of the Independent State of Samoa art.75.

[4] AG v Ropati [2019] WSCA 2 (15 April 2019) accessed 10 Nov. 2021.

[5] Constitution of the Independent State of Samoa art.65.

[6] Crimes Act 2013, s.103.

[7] Police v Samuelu [2020] WSCA 1 (5 August 2020) > accessed 10 Nov. 2021.

[8] Family Safety Act 2013.

[9] Young Offenders Act 2007.

[10] Coroners Act 2017.

[11] Police v Toeoaana [2016] WSFC 1 (19 February 2016), accessed 10 Nov. 2021.

(iv) Fa'amasinoga Fesoasoani Court

This court was established by the Magistrate's Court Act 1969. This court deals with offences for which the penalty in not more than one (1) year's imprisonment. It usually hears matters with the lowest punishment and civil claims of not more than $2000.00SAT. It rarely orders imprisonment unless the accused is a repeat offender.

(v) Land & Titles Court

It deals with all court cases on customs and traditions and including all *matai* titles and customary land matters.[12]

(vi) *Fono*[13]

Village Councils deal exclusively with village affairs such as culture, customs and traditions and including all customary land matters.[14]

II. SAMOA ALCOHOL AND DRUGS COURT

The Alcohol and Drugs Court was first introduced in the Court System of Samoa in February 2016 and was presided over by Her Honour Justice Emma Atiken from New Zealand. When Her Honour Justice Atiken left Samoa, her replacement was the first ever female Justice in the judiciary of Samoa, Her Honour Justice Tuatagaloa. The Court was adopted from the same type of Court in New Zealand. It has been five (5) years since the Alcohol and Drugs Court came to be in the justice system of Samoa, and it is a milestone for Samoa. The Alcohol and Drugs Court is a specialized court designed to supervise offenders whose offending is driven by their alcohol or drug dependency. The desired outcomes of the ADC pilot are to: reduce alcohol and drug consumption and dependency, reduce reoffending, reduce the use of imprisonment and to positively impact on health and well-being. Alcohol and Drug related offences with defendants having exceeded a higher reading of an alcohol and drug evidential breath test were referred for an ADC report on their suitability to join the programme. The Defendant is to enter a guilty plea and is likely to have committed the offence under the influence of or in pursuit of alcohol or drugs[15] to qualify for this rehabilitation programme such as in the case of *Police v Talagata Salesa [2016]*. It is also noted that defendants with previous convictions are also admitted into the programme if they have never been given the chance to attend and participate in the ADC Programmes such as in the case of *Police v Leuma Sakalaka [2019*[16]*]*. It is compulsory that legal representation is provided for the defendant all throughout participation in the ADC programme. The cases of *Police v Ropati Tiatia [2016]* and *Police v Faatui Faamoemoe [2016]* are examples of participants represented by counsel throughout their participation in the Alcohol and Drug Court programmes.

A. Alcohol and Drugs Court Programmes

The ADC programmes are carried out by the Case Manager, Clinician and Probation Officers. The programmes consist of life changing, spiritual, physical and mental health as well as customs and values of Samoa. The programmes are carried out for three (3) months or twelve (12) weeks with thirty-six (36) sessions. Participants must attend all 36 sessions in order to graduate and complete their sentence from the court. If the participant(s) fully complete the programme and comply with the court conditions, the sentence imposed is always a supervision term. The supervision term depends on the offending and lapses if any reoffending occurs. So far, the Alcohol and Drugs Court has sentenced some of the participants to a conviction and discharge. The following are some of the session topics:

- Fonofale Model
- Wheel of Change
- Aganuu & Tulafono (Culture and Law)
- Keep Improve Stop Start Action Plan (KISS Action Plan)

[12] Land and Titles Act 1981.
[13] Fono – village council consisting of titled men including the chiefs.
[14] Village Fono Act 1990.
[15] Eligibility Checklist [2016] WSADCLRes 2 (27 October 2016), accessed 10 Nov. 2021.
[16] Unreported case of 2019.

- Lifestyle Imbalance
- Spiritual – Alcohol & Drugs conduct by Rev Ututau Sio
- Talking Therapy and etc.

The programmes discuss reasons why participants commit the crimes that they are charged with and solutions to their habits of either drinking or narcotics.

B. Limited Opportunities and Shortages

Below are some of the problems faced by the court:

- Shortage of Probation Officers manning the programme.
- Greater need for psychological and other relevant consultants to provide trainings and mobilize the participants in their weekly sessions.
- Inability to secure and confirm appropriate and suitable Community Justice Supervisors.
- Travelling costs to attend training by the defendant are seen as a downside. Some participants were unable to participate in programmes due to the lack of money for bus fares as they are from remote villages.
- Legal representation does not extend to regular visits to check the welfare and how the defendant is progressing in the ADC Programme as counsel only consults with the participant in court.
- Some participants are unable to complete programmes due to family environment. In the case of *Police v Sakaio Misa Laki [2021]*,[17] the defendant was unable to complete programmes due to a family issue with parents or legal guardians.
- There are not so many rehabilitative programmes to assist defendants before and after sentencing. Currently in Samoa, the Salvation Army[18] is the only group that offers programmes for defendants in the Supreme Court apart from the Alcohol and Drugs Court programmes. Men and women's advocacy deals with counselling for men and women in the Family Court and Teen Challenge programmes for the young offenders. There is no programme(s) offered for defendants already serving their time in prison or on parole.
- Not all defendants are eligible for legal representation. In the Supreme Court, only the suspects who are accused of serious offences, such murder, sexual connection, possession of methamphetamine and etc., for which penalties are life imprisonment, are eligible for legal representation, for instance, *Police v Pitoitua Aloese & ors [2021]* ,[19] where the defendants were charged with methamphetamine, they were all represented under the legal aid scheme. And as for the case *Police v Ioapo Pio Tulaga [2009]*,[20] the defendant was charged with possession of narcotics, and also he was unrepresented.
- There are situations where a defendant needs more than a rehabilitation programme. His/her needs are not met at the ADC. People with relevant expertise are needed in these programmes. In addition, the programmes should extend their duration just to monitor the attitude and behaviour of the defendants.

C. Solution

To overcome these challenges, it is necessary to increase the ADC budget to accommodate the shortage of appropriate staff, pay for more legal representation hours outside of the courtroom, for regular visits in assessment rooms, as indicated earlier; Offer legal representation to all the suspects in order to exercise their fundamental Right to Fair Trial[21] – not only suspects of more serious offending and young offenders but to anyone accused of a crime.

The solid support from village mayors, church ministers, village representatives and especially family is necessary in order for participants to reduce reoffending, and the operation of community business to occupy defendants and parolees' time to avoid anti-social peers and drinking, which ends up in committing crimes.

If an effective case management system is provided and the courts' administrative processes become faster and more efficient with the help of advanced technology, then it may enhance judicial efficiency and

[17] Unreported case of 2021.
[18] A Christian group offering programmes in alcohol related offending and counselling.
[19] Police v Aloese [2021] WSSC 14 (31 March 2021) accessed 10 Nov. 2021.
[20] Police v Tulaga [2009] WSSC 44 (20 April 2009) accessed 10 Nov. 2021.
[21] Constitution of the Independent State of Samoa, art. 9.

effectiveness. If the fast-track court is modernized with advanced technology, human resources and the stakeholders realized their responsibility, then it would be easy to take adequate measures to ensure speedy trial. It is possible only due to effective management systems which will continually review and keep track of cases in order to assure the effectiveness and efficiency of the procedure and processes.

ADOPTION OF MODERN TECHNOLOGICAL MECHANISMS AND MEASURES TO MINIMIZE SECONDARY VICTIMIZATION PREVAILING IN THE CRIMINAL JUSTICE SYSTEM OF SRI LANKA WITH EMPHASIS ON THE COURT SYSTEM

*Udara Karunatilaka**

I. INTRODUCTION

A. An Overview of the Criminal Justice System of Sri Lanka

The criminal justice system of Sri Lanka is based on English Common Law and the adversarial system. The Sri Lankan Court system is established by the Constitution.[1] The Supreme Court of Sri Lanka is the apex court of the country and is the final court of appeal. The Magistrate Court and the High Court/ Provincial High Court are the courts of first instance, which exercise criminal jurisdiction. The Court of Appeal of Sri Lanka is vested with the appellate, revisionary jurisdiction and of judicial review. It is the first court of appeal in respect of the criminal matters tried in the High Court/Provincial High Court. On the other hand, the Provincial High Court enjoys appellate and revisionary jurisdiction in respect of criminal matters tried in the Magistrate Court, apart from the normal criminal jurisdiction in relation to graver crimes.

The Code of Criminal Procedure Act[2] is the main procedural law in relation to all criminal matters, while the Penal Code of Sri Lanka sets out all the Common Law Offences,[3] their interpretations and punishments. In addition, there are a number of other statutes which lay down specific offences in relation to various other areas, inter alia, bribery, narcotics, money-laundering, terrorism and terrorist financing, computer crimes, torture, hate speech[4] etc.

B. The Process Which the Victim Encounters

A victim of a crime has to invoke the system by lodging a complaint with the local police. If the victim has been subjected to either violence or sexual attacks, he/she would be referred to a forensic medical examiner apart from being treated at a hospital. If the perpetrator is unknown to the victim, he/she has to participate in an identification parade held by the magistrate.[5] If the necessity arises, the victim will be observed and taken into custody by the probation services. If the offence is either attempted murder or rape, the victim has to testify before the magistrate in an inquiry to ascertain whether it is a fit case to be tried in the High Court; thereafter, such victim has to testify at trial before a High Court in a case based on an indictment.[6]

* State Counsel, Criminal Division, Attorney General's Department, Democratic Socialist Republic of Sri Lanka.

[1] Chapter XV, The Constitution of the Democratic Socialist Republic adopted in 1978 - https://www.lawnet.gov.lk/.

[2] Act No 15 of 1979 as amended.

[3] https://www.lawnet.gov.lk/.

[4] Ibid [3].

[5] S.124, The Code of Criminal Procedure Act No 15 of 1979.

[6] Chapter XV, The Code of Criminal Procedure Act No 15 of 1979; Chapter XVIII, The Code of Criminal Procedure Act No 15 of 1979.

II. CURRENT STATUS OF INFRASTRUCTURE/SYSTEM

A. Police Station

There are 432 police stations in the country.[7] The victims of crime, particularly bodily crimes, have to go to the local police station to lodge the complaint. However, there are instances where police officers visit a victim who would be admitted to a hospital following such violence.[8] The ordinary set up of a local police station is highly adversarial to a victim of a crime, especially to a female or child victim.

B. The Hospital

Health care in Sri Lanka is fully free, which is a huge relief for victims. In most of the hospitals there are units of forensic examination with specialists. However, the attitudinal prejudices of the caregivers and constant and repeated inquiries of the traumatic event have plagued the system. Further, there is a dearth of victim support services including psychological support in the early stages of the process.

C. The Courts

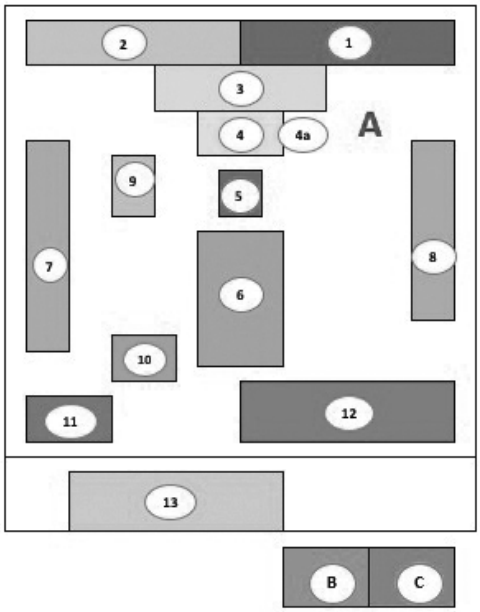
There were 33 High Courts/Provincial High Courts and 200 Magistrate's Courts in Sri Lanka by the end of 2019.[9] There is at least one High Court and 3-5 Magistrate's Courts per administrative district.[10] The average number of cases pending in a High Court was 760.45 by the end of 2019, Colombo High Court being top and having 3,674 cases.[11] The annual average of new criminal institutions is 589.36, and the annual average of disposals is 396.60.[12] Cases of common violence, child abuse and narcotics are the predominant crimes that prevail in the High Courts. The average number of cases pending in a Magistrate Court was 7,500 by the end of 2019, Colombo Magistrate's Court being top and having 29,942 cases.[13] The annual average of new criminal institutions is 12,500 and annual average of disposals is 10,000.[14] Non-grievous violence, illicit liquor, road traffic violations and drug-related crimes being the most common. In a survey done in 2017, it was found that it takes 10.5 years to conclude a trial in the High Court and another 7 years to conclude the appeal. It takes 3-5 years for a trial in the Magistrate's court to conclude.

D. The Building Facilities

The annual budgetary allocation [for 2022] for the Ministry of Justice is Rs 13.9 billion [$ 69.5 million] which is 3.74 per cent of the total national expenditure.[15] This lack of funding has been a major obstacle to the advancement of the criminal justice system. The result is the court system is saddled with outdated infrastructure and old systems.

[7] https://www.police.lk/index.php/police-history.
[8] S.122, The Code of Criminal Procedure Act No 15 of 1979.
[9] Statistics-Reports and Data-Ministry of Justice – Sri Lanka-https://www.moj.gov.l.
[10] There are 25 Administrative Districts and 9 Provinces in Sri Lanka.
[11] Ibid [10].
[12] Ibid [10].
[13] Ibid [10].
[14] Ibid [10].
[15] www.treasury.gov.lk › documents › budget.

The layout of an ordinary courthouse is shown in picture 1.



Picture 1

A. Court House

1. Judge's Chamber
2. State Prosecutor's Chamber
3. Judges Bench
4. Interpreter of the Court

4a. Stenographer

5. State Prosecutor's Desk
6. Bar Table
7. State Witnesses
8. Public Officials
9. Witness's Stand
10. Accused's Dock
11. Lock Up for the Remanded Accused
12. Public Gallery
13. Court of the Office

B. Probation Office

C. Community Corrections Office

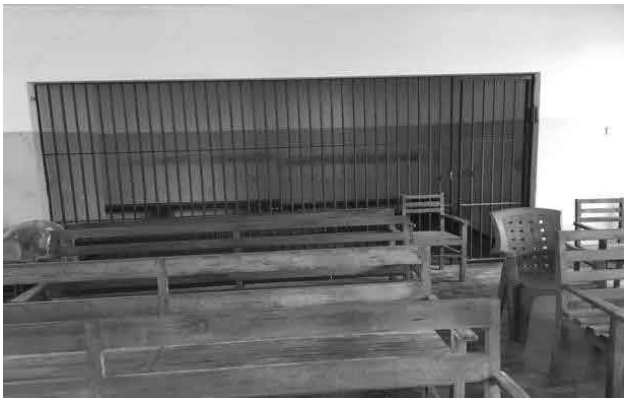
Following Pictures of several Court Houses across Sri Lanka, Old Buildings and newly built Court Complexes.

Picture 2
Magistrate's Court,
Panadura, [Old building]

[Western Province],

Picture 3
Magistrate's Court,
Kaduwela [Colombo Suburb], [Old building]

Picture 4
Magistrate's Court,
Ampara [Eastern Province] [Old building]



Picture 5
Magistrate's Court,
Ampara [Eastern Province] [Old building]

Picture 6
High Court,
Ampara [Eastern Province] [Old building]

Picture 7
High Court,
Kandy [Central Province] [Newly built complex]

Picture 8
High Court, Homagama [Colombo Suburb]
[Newly built Court complex]

Picture 9
High Court, Homagama [Colombo Suburb]
[Newly built Court complex]

Picture 10
Magistrate's Court, Kandy [Central Province]
[Newly built Court Complex]

Picture 11
Magistrate's Court, Kandy [Central Province]
[Newly built Court Complex]

Picture 12
Magistrate's Court, Homagama [Colombo Suburb]
[Newly built Court complex]

Since the courthouses, as depicted, are single buildings, they only house the structures shown in the lay out. Thus, there are no separate waiting rooms for a victim to stay. There is hardly any space or facilities to take a matter *in camera*, and the judge has to oust the general public from the courthouse to take such evidence of a victim. However, the lawyers and the court officers still remain inside, such victim would anyway have to undergo the stigma again and again when the proceedings happen even *in camera*. Most of the courthouses need urgent reconstruction at least to have basic amenities for the people who come to court, including the victims.

E. The Procedural Systems in Place

The criminal justice system of the country is still paper based and is not digitalized. Not even is there an integrated system linking all the police stations in the country. When it comes to the courts of the country, there is a lack of facilities for a victim who has to participate in an identification parade at the early stage of the process. Though the law provides for such identification from a hidden place,[16] there is no such facility anywhere in the country. The victim has to face inquiries of personal intimacies in relation to the crime by an acting magistrate [mostly a counsel who regularly appears in the same court] in front of possible suspects and a number of outsiders who would stand in the parade. There is no facility for identification via video link as there is no comprehensive law which governs the use of digital means in the procedure. When it comes to the pre-trial procedure of cases of rape or attempted murder, the victim has to tender preliminary testimony. In trial before a High Court, the victim has to testify again and be subjected to cross-examination. There are no shorthand-typing machines in courts, and the task is done by a stenographer who has to type the proceedings which she has recorded manually.[17] This process has become cumbersome and contributed hugely to the inordinate delay. There is no procedure or facilities to video record the testimony in court proceedings which resulted in the victim facing continues secondary victimization when the victim is recalled to testify due to various reasons. Child victims, too, have to undergo the same distressful court procedure, which is normally an adverse milieu. There is no witness support service or person who would guide and familiarize such a witness with the court and its procedure. Further, there are no set procedures or facilities to obtain such evidence from a remote location. In addition, a victim faces a great difficulty in obtaining free legal representation.

F. The Effects of Secondary Victimization and Its Effects on the Criminal Justice System

The effect of incessant secondary victimization is that the victims are extremely reluctant to participate in the criminal justice system, which has led the people to resort to extra judicial methods like burning vehicles after road traffic accidents. Due to the extreme delays of the proceedings, the victims have lost interest in tendering testimony and, more often than not, do not want to testify in view of the fact that it might jeopardize his/her present life. The reluctance on the part of victims of organized crimes has plagued the system due to non-availability of an effective witness protection scheme, which resulted in the State's

[16] Ibid [5].
[17] As shown in picture 10, still the proceedings are typed using old typewriters in most of Magistrate's Courts across the country.

failure to curb organized crimes.[18]

III. ATTEMPTS TO REFORM

Sri Lanka has made several attempts to address the issue of secondary victimization by introducing new legislation. The law was amended to introduce video recording of a child victim's statement to be used in the court proceedings.[19] However, lack of facilities has made the provision almost obsolete. Further, the child victim still has to undergo cross-examination by the accused's counsel. Introduction of Assistance to and Protection of Victims and Witnesses Act No. 4 of 2015[20] has provided for the establishment of a National Authority to provide for a witness protection scheme and financial assistance to victims.

However, still there is no effective mechanism even by the Authority to reach the majority of the victims. A victim support service is not established even under the Act, which is a main setback. Sri Lanka has recognized the victims' rights including the right to legal representation under the Act. However, there are no schemes put in place to effectively implement such rights. Legal provisions for compensation of the victim have been introduced to the country with a focus on developing a system of restorative justice. However, the archaic attitudes of the judges of the High Court and Magistrates, inter alia, that their courts are mainly for punitive purposes and not for restorative purposes and that for restoration, a victim has to initiate civil litigation, have defeated the very purpose of such schemes of restorative justice.[21]

IV. THE SYSTEMS ADOPTED BY OTHER COUNTRIES

A. Australia

Australia has developed a comprehensive victim support system which is based on state legislation, among other things, to minimize revictimization.[22] Obtaining testimonies via video link, obtaining child victim's evidence from a remote place where the child is familiarized with the court proceedings, without being subjected to adverse surroundings of the well of the court[23] have been in existence. Development of the office of the Victim Liaison Officer and the office of the Sexual Assault Officer have clearly led to the strengthening of victims. The duration of a trial before a Magistrate of Australia is 13 to 52 weeks, and same duration would apply to the 80% of cases in Higher Courts.[24]

B. Japan

From 2000, with the introduction of the Victims' Statement of Opinion to the Japanese Code of Criminal Procedure,[25] following the Kobe Murder in 1997,[26] Japan has started focusing more on victim participation in the criminal justice system. The Basic Act on Crime Victims of 2005[27] has provided for a legal regime for the new victim participatory scheme. Since the system is mainly based on examination of testimony without leading evidence with cross-examination, the criminal trials are concluded in 2.7 to 9.2 months.[28] Secondary victimization is minimized since the victim is not subjected to cross-examination.

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[18] Author's experience of 15 years as the prosecutor in 20 districts including the capital city of the country.
[19] S.163A, Evidence Ordinance of Sri Lanka.
[20] https://www.lawnet.gov.lk/
[21] Ibid [18].
[22] https://victimsupport.org.au
[23] Author's experience gathered during training programme conducted in Melbourne County Court-Complex; https://mypolice.qld.gov.au/news/2021/10/21/sexual-violence-liaison-officers-to-be-established-state-wide & https://police.act.gov.au/sites/default/files/PDF/Victims-of-crime-booklet-September-2013.pdf
[24] https://www.aic.gov.au/sites/default/files/2020-05/rpp074.pdf
[25] http://www.japaneselawtranslation.go.jp/law/detail/?id=3364&vm=02&re=02 & https://www.cairn.info/revue-internationale-de-droit-penal-2011-1-page-245.htm
[26] https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2215&context=faculty_scholarship
[27] https://www.justice.gov.za/vc/docs/international/2005_JAPAN.pdf
[28] https://www.moj.go.jp/EN/hisho/kouhou/20200120enQandA.html

C. United Kingdom

The Victim support system in the United Kingdom is governed by the Victims Code.[29] The National Crime Agency[30] provides many complex services to victims like Witness Care Officers, victim supporting teams which would provide the required support and protection to the victims that in turn empowers him/her to stand against injustice. Her Majesty's Court and Tribunal Service [HMCTS–Digital Platform][31] has brought the court services closer to the public, and victims, too, have benefitted. Kinly Cloud Video Platform (CVP)[32] has taken the trial proceedings to a new level from mere video linkage. Speaking to Witnesses at Court guidance,[33] The Citizens' Advice Court Based Witness Service,[34] Independent Sexual Violence Advisors (ISVA)[35] and Independent Domestic Violence Advisors (IDVA)[36] are some of the other victim support services available in the United Kingdom.

V. HOW TO APPLY THE SYSTEMS IN SRI LANKA

Development hitherto had happened without a role model in an *ad hoc* manner which resulted in creating the same old structures without any changes. This is evident by the pictures No 7-12, which show the newly built courthouses in Kandy and Homagama containing the same old structures akin to the rest of the courthouses built 50-75 years ago. The dire economic situation of the country is a major challenge.

Lack of awareness among the policymakers as to the goals which need to be achieved and the means of achieving them is another challenge. Hence, the development of a role model, based on the United Nations *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*[37] is essential. The infrastructure and the system development must be implemented after creating a role model. Introduction of new architectural designs for courthouses with designated infrastructure to reduce the encounters between the victim and the perpetrator, with facilities to basic amenities and sanitation, with witness waiting rooms and support staff, based on such role model, is important. Introducing comprehensive procedural legislation for the use of digital and electronic methods in procedure is crucial as a start. Digitalization of proceedings, obtaining evidence of victims from remote location via a video link has to be developed based on such legal regime. Development of victim support services with victim support officers and victim liaison officers is another essential step. Shifting from a punitive justice system to a restorative justice system where a victim can obtain adequate compensation without a need to resort to civil litigation is another major goal which will minimize secondary victimization. Orienting towards local and foreign grants, as well as technical and advisory assistance, is critical since Sri Lanka lacks such knowledge and capital.

With such developments, the purpose of minimizing secondary victimization can be achieved since such efforts would reduce the litigation time and the victim's encounter with the rigours of the criminal justice system.

[29] https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime
[30] https://nationalcrimeagency.gov.uk/
[31] HM Courts & Tribunals Service -GOV.UK- https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service
[32] https://www.kinly.com/solutions/digital-workplace/kinly-cloud,
https://www.governmentcomputing.com/criminal-justice/news/hmcts-kinly-cloud-video-platform/
[33] https://www.criminalbar.com/files/download.php?m=documents&f=160627063558- SpeakingtoWitnessesatCourtguidanceMar16.pdf
[34] https://www.citizensadvice.org.uk/about-us/about-us1/citizens-advice-witness-service/about-the-citizens- advice-witness-
[35] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/647112/The_Role_of_the_Independent_Sexual_Violence_Adviser_-_Essential_Elements_September_2017_Final.pdf
[36] https://saferfutures.org.uk/our-programmes/idva/
[37] https://www.ohchr.org/en/professionalinterest/pages/victimsofcrimeandabuseofpower.aspx

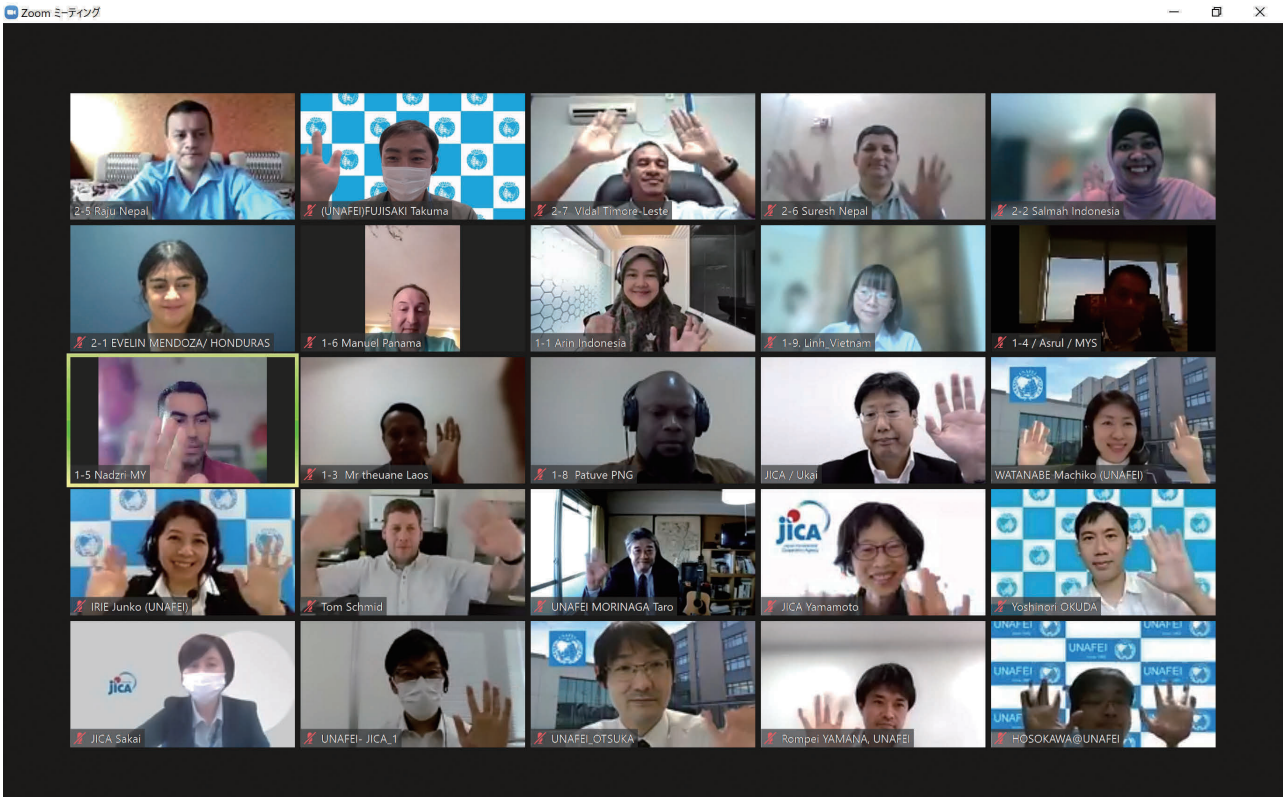
RESOURCE MATERIAL SERIES
No. 113

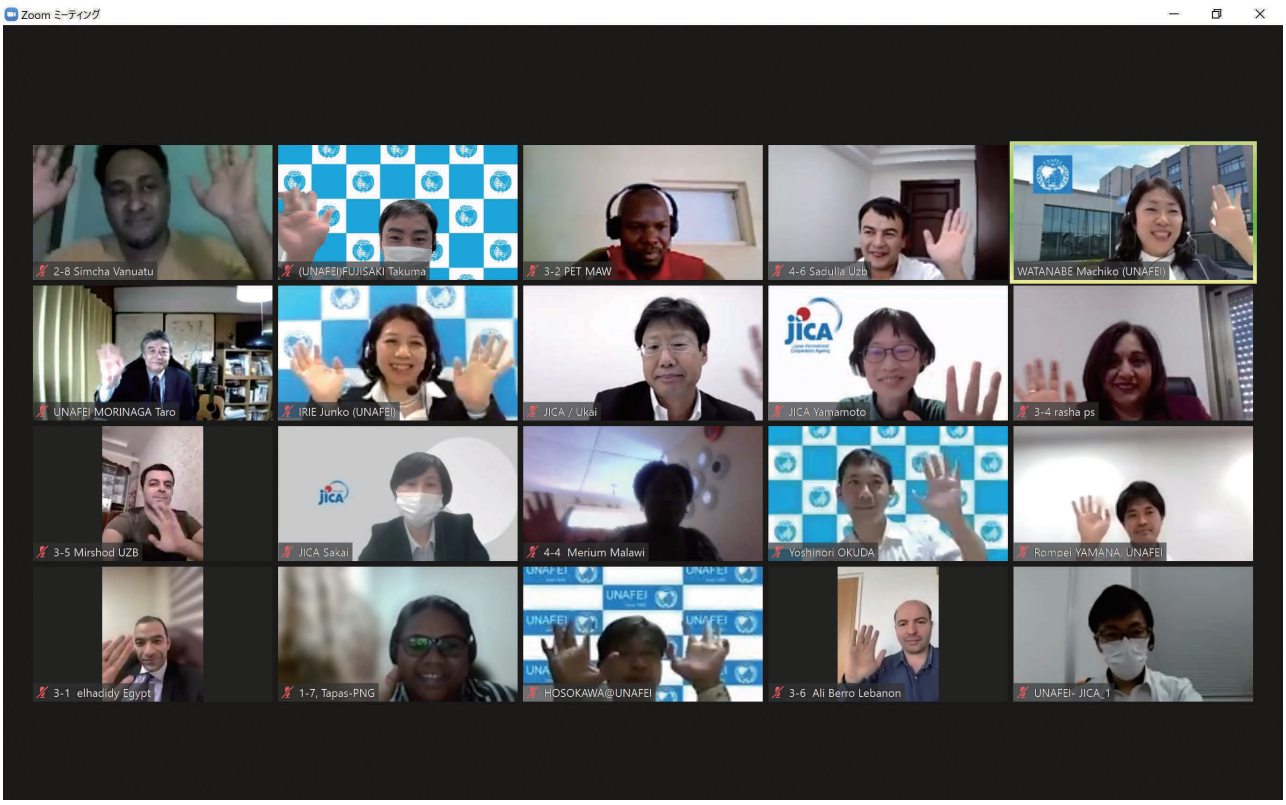
APPENDIX

UNAFEI

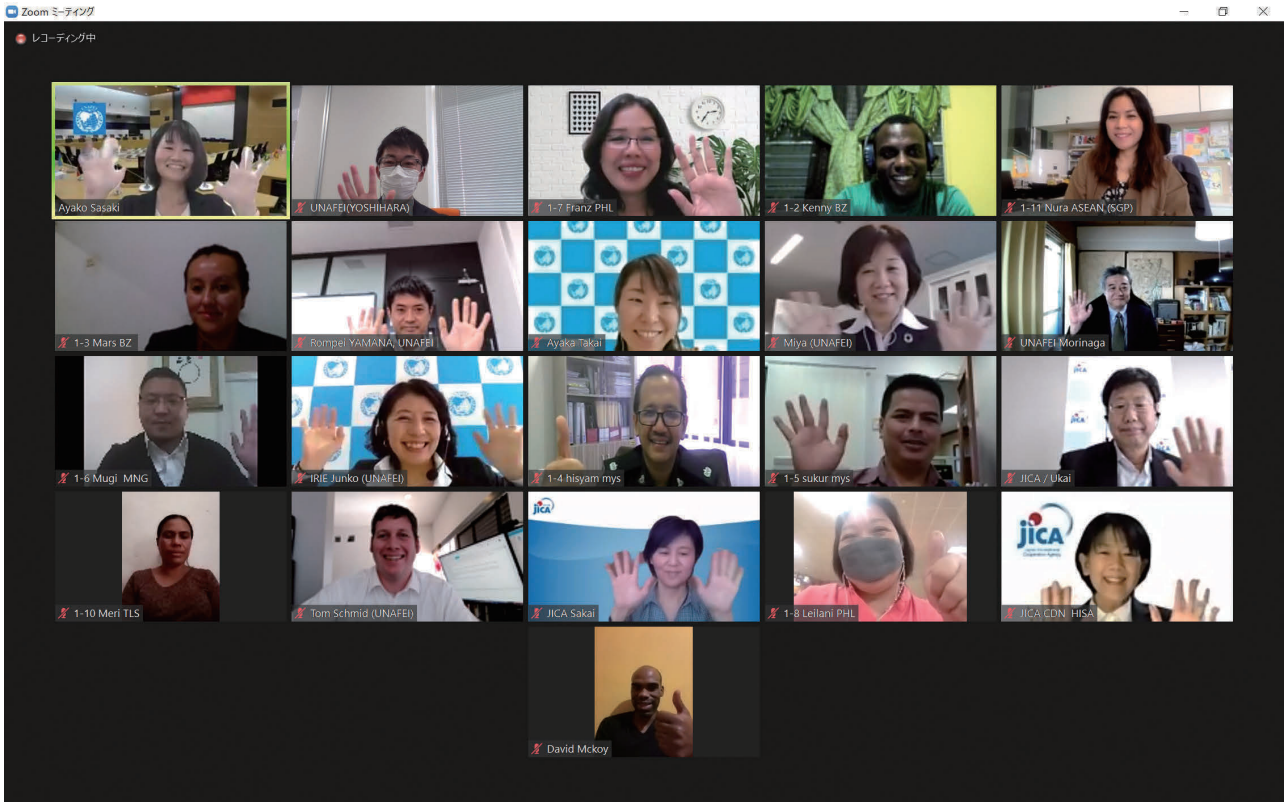
PHOTOGRAPHS

THE 23RD UNAFEI UNCAC TRAINING PROGRAMME

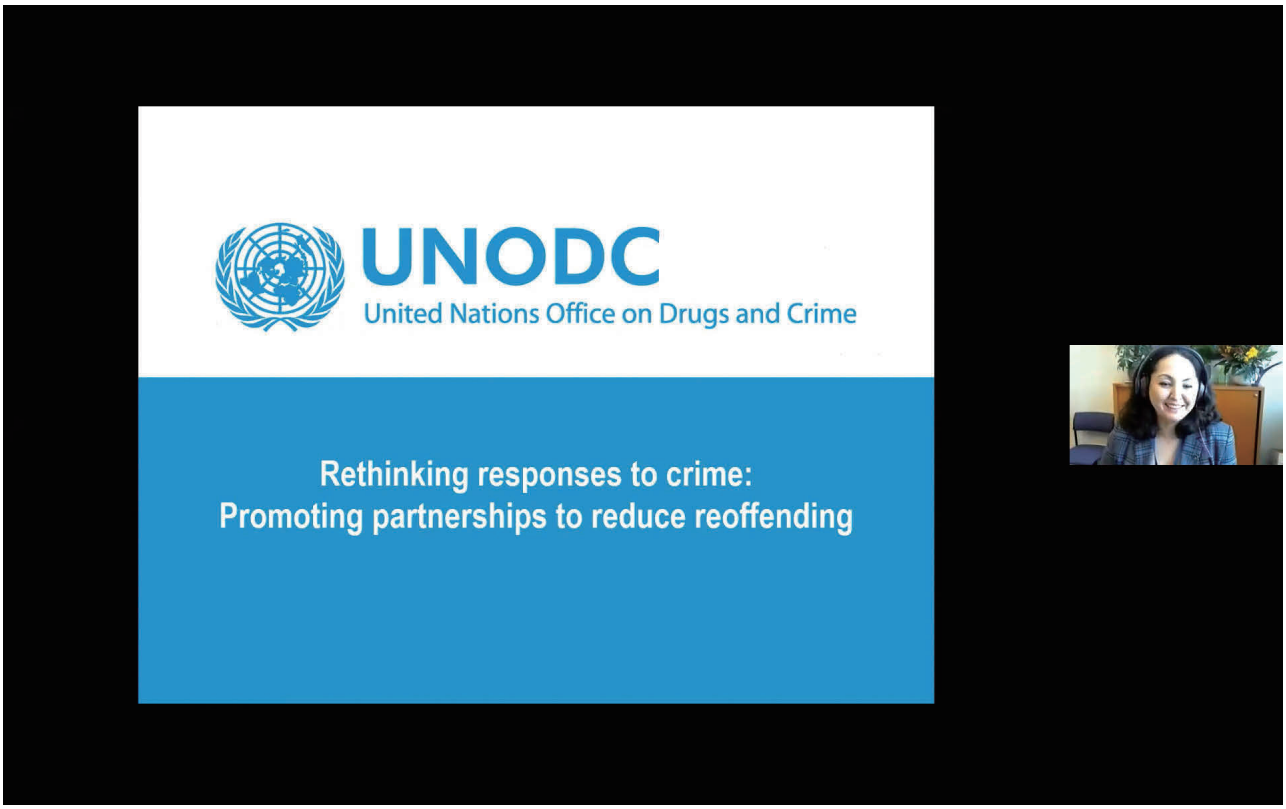




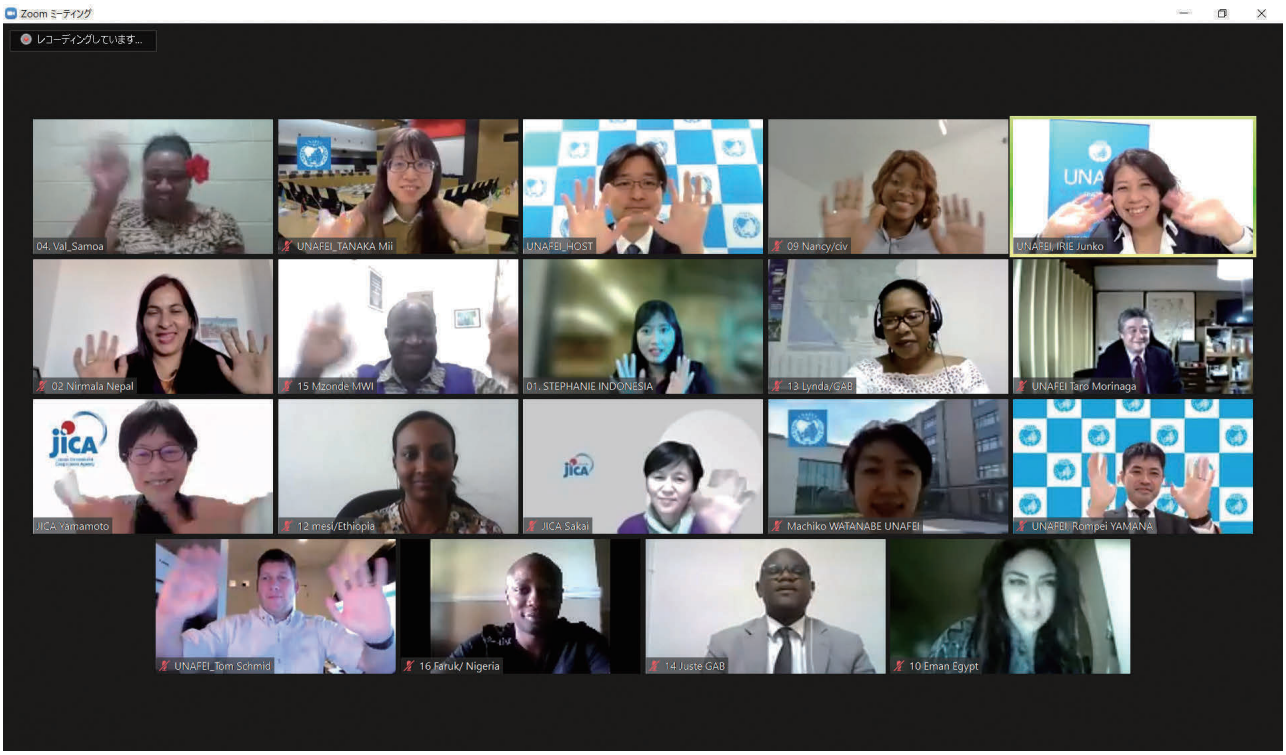
THE 175TH INTERNATIONAL TRAINING COURSE



THE 176TH INTERNATIONAL TRAINING COURSE



Visiting Expert: Ms. Vera Tkachenko



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1	Public Participation in Social Defence	25	Sep-Dec 1970
2	Administration of Criminal Justice	26	Jan-Mar 1971
3	[Corrections]	27	Apr-Jul 1971
	[Police, Prosecution and Courts]	28	Sep-Dec 1971
4	Social Defence Planning	29	Feb-Mar 1972
	Treatment of Crime and Delinquency	30	Apr-Jul 1972
5	United Nations Training Course in Human Rights in the Administration of Criminal Justice	n/a	Aug-Sep 1972
	Administration of Criminal Justice	31	Sep-Dec 1972
6	Reform in Criminal Justice	32	Feb-Mar 1973
	Treatment of Offenders	33	Apr-Jul 1973
7	[Administration of Criminal Justice]	34	Sep-Dec 1973
8	Planning and Research for Crime Prevention	35	Feb-Mar 1974
	Administration of Criminal Justice	36	Apr-Jun 1974
9	International Evaluation Seminar	37	Jul 1974
	Treatment of Juvenile Delinquents and Youthful Offenders	38	Sep-Nov 1974
10	The Roles and Functions of the Police in a Changing Society	39	Feb-Mar 1975
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	NB: Resource Material Series Index, Nos. 1-10 (p. 139)	n/a	Oct 1975
11	Improvement in the Criminal Justice System	41	Sep-Dec 1975
12	Formation of a Sound Sentencing Structure and Policy	42	Feb-Mar 1976
	Treatment of Offenders	43	Apr-Jul 1976
13	Exploration of Adequate Measures for Abating and Preventing Crimes of Violence	44	Sep-Dec 1976
14	Increase of Community Involvement	45	Feb-Mar 1977
	Treatment of Juvenile Delinquents and Youthful Offenders	46	Apr-Jul 1977
15	Speedy and Fair Administration of Criminal Justice	47	Sep-Dec 1977
	Prevention and Control of Social and Economic Offences	48	Feb-Mar 1978
	Report of United Nations Human Rights Training Course	n/a	Dec 1977
16	Treatment of Offenders	49	Apr-Jul 1978
	Dispositional Decisions in Criminal Justice Process	50	Sep-Dec 1978
17	Treatment of Dangerous or Habitual Offenders	51	Feb-Mar 1979
	Community-Based Corrections	52	Apr-Jul 1979
18	Roles of the Criminal Justice System in Crime Prevention	53	Sep-Dec 1979
19	Arrest and Pre-Trial Detention	54	Feb-Mar 1980
	Institutional Treatment of Adult Offenders	55	Apr-Jul 1980
20	Institutional Treatment of Adult Offenders	55	Apr-Jul 1980
	Integrated Approach to Effective and Efficient Administration of Criminal Justice	56	Sep-Nov 1980
	NB: Resource Material Series Index, Nos. 1-20 (p. 203)		Mar 1981
21	Crime Prevention and Sound National Development	57	Feb-Mar 1981

	Integrated Approach to Effective Juvenile Justice Administration (including Proposed Guidelines for the Formulation of the Standard Minimum Rules for Juvenile Justice Administration: A draft prepared by UNAFEI on the basis of the reports of the study groups at the 58th International Training Course)	58	May-Jul 1981
22	Contemporary Problems in Securing an Effective, Efficient and Fair Administration of Criminal Justice and Their Solutions	59	Feb-Mar 1982
	Securing Rational Exercise of Discretionary Powers at Adjudication and Pre-adjudication Stages of Criminal Justice Administration	60	Apr-Jul 1982
23	Improvement of Correctional Programmes for More Effective Rehabilitation of Offenders	61	Sep-Nov 1982
24	Promotion of Innovations for Effective, Efficient and Fair Administration of Criminal Justice	62	Feb-Mar 1983
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25	The Quest for a Better System and Administration of Juvenile Justice	64	Sep-Dec 1983
	Documents Produced during the International Meeting of Experts on the Development of the United Nations Draft Standard Minimum Rules for the Administration of Juvenile Justice	n/a	Nov 1983
26	International Cooperation in Criminal Justice Administration	65	Feb-Mar 1984
	Promotion of Innovation in the Effective Treatment of Prisoners in Correctional Institutions	66	Apr-Jul 1984
27	An Integrated Approach to Drug Problems	67	Sep-Dec 1984
28	Contemporary Asian Problems in the Field of Crime Prevention and Criminal Justice, and Policy Implications	68	Feb-Mar 1985
	Report of the Fifth Meeting of the Ad Hoc Advisory Committee of Experts on UNAFEI Work Programmes and Directions	n/a	Mar 1985
	Report of the International Workshop on the Role of Youth Organizations in the Prevention of Crime Among Youth	n/a	Jul 1985
	Follow-up Team for Ex-Participants of UNAFEI Courses	n/a	Dec 1985
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29	In Pursuit of Greater Effectiveness and Efficiency in the Juvenile Justice System and Its Administration	70	Sep-Dec 1985
30	Promotion of Innovation in Criminal Justice Administration for the Prevention of New Criminality	71	Feb-Mar 1986
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31	Economic Crime: Its Impact on Society and Effective Prevention	73	Sep-Nov 1986
	Report of the International Seminar on Drug Problems in Asia and the Pacific Region	n/a	Aug 1986
32	Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration	74	Feb-Mar 1987
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33	Evaluation of UNAFEI's International Courses on Prevention of Crime and Treatment of Offenders, and Drug Problems in Asia	76	Aug-Sep 1987
	Crime Related to Insurance	77	Oct-Dec 1987

	Report of the Sixth Meeting of the Ad Hoc Advisory Committee of Experts on UNAFEI Work Programmes and Directions	n/a	Sep 1987
	Report of the Workshop on Implementation Modalities for the Twenty-Three Recommendations Adopted by the International Seminar on Drug Problems in Asia and the Pacific Region	n/a	Sep 1987
34	Footprints, Contemporary Achievements and Future Perspectives in Policies for Correction and Rehabilitation of Offenders	78	Feb-Mar 1988
	Search for the Solution of the Momentous and Urgent Issues in Contemporary Corrections	79	Apr-Jul 1988
	Resolution of the Asia and Pacific Regional Experts Meeting	n/a	Mar 1988
	Report of the Meeting of Experts on the United Nations Draft Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules)	n/a	Jul 1988
35	Quest for Effective International Countermeasures to Pressing Problems of Transnational Criminality	80	Sep-Nov 1988
36	Advancement of the Integration of Criminal Justice Administration	81	Feb-Mar 1989
	Innovative Measures for Effective and Efficient Administration of Institutional Correctional Treatment of Offenders	82	Apr-Jul 1989
	Report of the Expert Group Meeting on Adolescence and Crime Prevention in the ESCAP Region	n/a	Aug 1989
37	Crime Prevention and Criminal Justice in the Context of Development	83	Sep-Nov 1989
	International Workshop on Victimology and Victim's Rights	n/a	Oct 1989
38	Policy Perspectives on Contemporary Problems in Crime Prevention and Criminal Justice Administration	84	Jan-Mar 1990
	Wider Use and More Effective Implementation of Non-custodial Measures for Offenders	85	Apr-Jun 1990
39	Search for Effective and Appropriate Measures to Deal with the Drug Problem	86	Sep-Dec 1990
40	Development of an Effective International Crime and Justice Programme	87	Jan-Mar 1991
	Institutional Treatment of Offenders in Special Categories	88	Apr-Jul 1991
	NB: Resource Material Series Index, Nos. 21-40 (p. 333)	n/a	n/a
41	Effective and Innovative Countermeasures against Economic Crime	89	Sep-Dec 1991
42	Quest for Solutions of the Pressing Problems of Contemporary Criminal Justice Administration	90	Jan-Feb 1992
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43	Quest for Effective Methods of Organized Crime Control	92	Sep-Nov 1992
44	Policy Perspective for Organized Crime Suppression	93	Feb-Mar 1993
	Current Problems in Institutional Treatment and Their Solution	94	Apr-Jul 1993
45	Effective Countermeasures against Crimes Related to Urbanization and Industrialization—Urban Crime, Juvenile Delinquency and Environmental Crime	95	Sep-Dec 1993
46	Promotion of International Cooperation in Criminal Justice Administration	96	Jan-Mar 1994

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47	Economic Crime and Effective Countermeasures against It	98	Sep-Dec 1994
48	The Effective Administration of Criminal Justice: Public Participation and the Prevention of Corruption	99	Jan-Mar 1995
	The Institutional Treatment of Offenders: Relationships with Other Criminal Justice Agencies and Current Problems in Administration	100	Apr-Jul 1995
49	The Fair and Efficient Administration of Criminal Justice: The Proper Exercise of Authority and Procedural Justice	101	Sep-Dec 1995
50	Crime Prevention through Effective Firearms Regulation	102	Jan-Mar 1996
51	Improvement of the Treatment of Offenders through the Strengthening of Non-custodial Measures	103	Apr-Jul 1996
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52	The Effective Administration of Criminal Justice for the Prevention of Corruption by Public Officials	105	Jan-Feb 1997
	The Quest for Effective Juvenile Justice Administration	106	Apr-Jul 1997
53	The Role and Function of Prosecution in Criminal Justice	107	Sep-Nov 1997
	The Ninth Meeting of the Ad Hoc Advisory Committee of Experts on UNAFEI Work Programmes and Directions	n/a	Oct 1997
54	Current Problems in the Combat of Organized Transnational Crime	108	Jan-Feb 1998
	Effective Treatment Measures for Prisoners to Facilitate Their Reintegration into Society	109	Apr-Jul 1998
55	Effective Countermeasures against Economic and Computer Crime	110	Aug-Nov 1998
	The Role of Police, Prosecution and the Judiciary in the Changing Society	111	Jan-Feb 1999
56	Participation of the Public and Victims for More Fair and Effective Criminal Justice	112	Apr-Jul 1999
	The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials	113	Aug-Nov 1999
57	International Cooperation to Combat Transnational Organized Crime—with Special Emphasis on Mutual Legal Assistance and Extradition	114	Jan-Feb 2000
	Current Issues in Correctional Treatment and Effective Countermeasures	115	May-Jun 2000
58	Effective Methods to Combat Transnational Organized Crime in Criminal Justice Processes	116	Aug-Nov 2000
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59	Best Practices in the Institutional and Community-Based Treatment of Juvenile Offenders	118	May-Jul 2001
	Current Situation of and Countermeasures against Transnational Organized Crime	119	Sep-Nov 2001
60	Effective Administration of the Police and the Prosecution in Criminal Justice	120	Jan-Feb 2002
61	Enhancement of Community-Based Alternatives to Incarceration at all Stages of the Criminal Justice Process	121	May-Jul 2002

62	The Effective Administration of Criminal Justice to Tackle Trafficking Human Beings and Smuggling of Migrants	122	Sep-Oct 2002
63	The Protection of Victims of Crime and the Active Participation of Victims in the Criminal Justice Process Specifically Considering Restorative Justice Approaches	123	Jan-Feb 2003
64	The Effective Prevention and Enhancement of Treatment for Drug Abusers in the Criminal Justice Process	124	Apr-Jun 2003
65	Effective Countermeasures against Illicit Drug Trafficking and Money Laundering	125	Sep-Oct 2003
	Sixth International Training Course on Corruption Control in Criminal Justice	6th UNCAC	Nov 2003
66	Economic Crime in a Globalizing Society—Its Impact on the Sound Development of the State	126	Jan-Feb 2004
67	Implementing Effective Measures for the Treatment of Offenders after Fifty Years of United Nations Standard Setting in Crime Prevention and Criminal Justice	127	May-Jun 2004
	Measures to Combat Economic Crime, Including Money Laundering	128	Aug-Oct 2004
68	Crime Prevention in the 21st Century—Effective Prevention of Crime Associated with Urbanization Based upon Community Involvement and Prevention of Youth Crime and Juvenile Delinquency	129	Jan-Feb 2005
69	Integrated Strategies to Confront Domestic Violence and Child Abuse	130	May-Jun 2005
	Seventh Special Training Course on Corruption Control in Criminal Justice	7th UNCAC	Oct-Nov 2005
70	The Use and Application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power—Twenty Years after Its Adoption	131	Aug-Oct 2005
71	Strengthening the Legal Regime for Combating Terrorism	132	Jan-Feb 2006
	Eighth International Training Course on Corruption Control in Criminal Justice	8th UNCAC	Oct-Nov 2005
72	Effective Prevention and Enhancement of Treatment for Sexual Offenders	133	May-Jun 2006
73	Challenges in the Investigation, Prosecution and Trial of Transnational Organized Crime	134	Aug-Oct 2006
	Ninth International Training Course on Corruption Control in Criminal Justice	9th UNCAC	Oct-Nov 2006
74	Promoting Public Safety and Controlling Recidivism Using Effective Interventions with Offenders: An Examination of Best Practices	135	Jan-Feb 2007
75	Effective Measures for the Treatment of Juvenile Offenders and their Reintegration into Society	136	May-Jun 2007
76	Corporate Crime and the Criminal Liability of Corportate Entities	137	Sep-Oct 2007
	Tenth International Training Course on the Criminal Justice Response to Corruption	10th UNCAC	Oct-Nov 2007
77	Effective Legal and Practical Measures for Combating Corruption: A Criminal Justice Response	138	Jan-Feb 2008
78	Profiles and Effective Treatment of Serious and Violent Juvenile Offenders	139	May-Jun 2008

79	The Criminal Justice Response to Cybercrime	140	Sep-Oct 2008
	Eleventh International Training Course on the Criminal Justice Response to Corruption	11th UNCAC	Oct-Nov 2008
	The Improvement of the Treatment of Offenders through the Enhancement of Community-Based Alternatives to Incarceration	141	Jan-Feb 2009
80	Effective Countermeasures against Overcrowding of Correctional Facilities	142	May-Jun 2009
	Twelfth International Training Course on the Criminal Justice Response to Corruption	12th UNCAC	Jul-Aug 2009
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81	The Enhancement of Appropriate Measures for Victims of Crime at Each Stage of the Criminal Justice Process	144	Jan-Feb 2010
82	Effective Resettlement of Offenders by Strengthening "Community Reintegration Factors"	145	May-Jun 2010
83	Attacking the Proceeds of Crime: Identification, Confiscation, Recovery and Anti-Money Laundering Measures	146	Aug-Oct 2010
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84	Community Involvement in Offender Treatment	147	Jan-Feb 2011
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86	Securing Protection and Cooperation of Witnesses and Whistle-blowers	149	Aug-Sep 2011
	Effective Legal and Practical Measures against Corruption	14th UNCAC	Oct-Nov 2011
87	Trafficking in Persons—Prevention, Prosecution, Victim Protection and Promotion of International Cooperation	150	Jan-Feb 2012
88	Evidence-Based Treatment of Offenders	151	May-Jun 2012
89	Trafficking in Persons—Prevention, Prosecution, Victim Protection and Promotion of International Cooperation	152	Aug-Sep 2012
	Effective Legal and Practical Measures against Corruption	15th UNCAC	Oct-Nov 2012
90	Treatment of Female Offenders	153	Jan-Feb 2013
91	Stress Management of Correctional Personnel—Enhancing the Capacity of Mid-Level Staff	154	May-Jun 2013
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