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PREVENTION OF CRIME AND TREATMENT OF OFFENDERS

UNAFEI'S RESOURCE MATERIAL SERIES

RESOURCE MATERIAL SERIES NO. 114

FEATURED ARTICLE

Basic Guide to the United Nations Crime Programme
Dr. Matti Joutsen (Finland)

VISITING EXPERTS' PAPERS

Community Sentences for Rehabilitation of Offenders and Preventing Reoffending
Dr. Will Hughes (United Kingdom)

Multi-Stakeholder Approaches for Effective Supervision and Support of Offenders
Dr. Will Hughes (United Kingdom)

International Victimology: Yesterday, Today and Tomorrow
Dr. John P. J. Dussich (United States of America)

**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. 114

UNAFEI

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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. 114.

First and foremost, I wish to congratulate Dr. Matti Joutsen, the former director of the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), on having received the Order of the Rising Sun, Golden Rays with a Rosette, from the Emperor of Japan, in recognition of Dr. Joutsen's promotion of Japanese-European cooperation in the field of crime prevention and criminal justice, including his many decades of close cooperation with UNAFEI. We are honoured to include Dr. Joutsen's "Basic Guide to the United Nations Crime Programme" in this issue and remain indebted to him for sharing his expertise with us and the international community.

While the Covid-19 pandemic forced us to postpone many of our training courses, this fiscal year marks UNAFEI's return to our regular training schedule. Regrettably, we have been forced to conduct our programmes exclusively online, but the online training modality has brought significant and lasting improvements to a number of aspects of UNAFEI's training programmes. We have learned to better accommodate participation among numerous time zones, introduced an online learning and collaboration platform, created on-demand training materials, and provided live online lectures and Q&A sessions – all of which contributed to the success of the programmes covered in this issue.

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. UNAFEI's training courses aim to exchange and promote good policies and practices towards the achievement of the Sustainable Development Goals: the 177th course focused on reducing reoffending, the First Inclusive Societies course focused on the rights and interests of crime victims and the 178th course focused on combating cybercrime through the identification and collection of digital evidence.

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.

October 2022

MORINAGA Taro
Director of UNAFEI

FEATURED ARTICLE

UNAFEI

FEATURED ARTICLE

BASIC GUIDE TO THE UNITED NATIONS CRIME PROGRAMME

*Matti Joutsen**

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* Former Director, The European Institute for Crime Prevention and Control, affiliated with the United Nations, Finland. Further material on the UN Crime Programme is available on the HEUNI website: http://heuni.education/un_crime_programme_course

1. The development of the UN Crime Programme[1]

1.1. The establishment of the UN Crime Programme

The United Nations Programme on Crime Prevention and Criminal Justice (generally referred to as the **UN Crime Programme**) consists of the work carried out under the coordination of the United Nations Commission on Crime Prevention and Criminal Justice (the **UN Crime Commission**) in order to provide practical assistance to member states in preventing crime, and in improving the response to national and transnational crime, for example through data collection, the sharing of information and experience, and training.[2] (Although the prevention and response to the illegal cultivation, production, trafficking in and use of **narcotic drugs and psychotropic substances** is closely related to crime prevention and the response to crime, it is dealt with by a separate UN Commission, the UN Commission on Narcotic Drugs.)

The foundation for the UN Crime Programme rests primarily on two predecessors: (1) the early work of international scientific and professional organizations, and (2) the work of the League of Nations.

At the end of the 1800s and the beginning of the 1900s, discussions on crime and criminal policy became international. Practitioners and policymakers from different countries started to exchange their experiences and theories, and organize international conferences. The first International Congress on the Prevention and Repression of Crime, held in London in 1872, led to the establishment of the International Penal and Penitentiary Commission (IPPC), which undertook to organize similar international congresses every five years.

When the League of Nations was established in the aftermath of the First World War, it organized discussions among experts on crime-related issues and produced a few reports on such subjects as juvenile delinquency and child welfare, trafficking in women and children, counterfeiting, and correctional treatment. In general, however, it did not have a very high profile in international discussions on crime and justice.[3]

At the time that the United Nations was established, shortly after the end of the Second World War, the general view seemed to be that, in respect of crime and criminal justice, it should continue where the League of Nations had left off. The United Nations started out with two steps, identification of what crime and justice issues it would deal with, and assumption of the functions of the IPPC.[4]

In 1950, the General Assembly decided that the **mandate** of what became the UN Crime Programme would cover the following: juvenile delinquency; assessment of adult offenders before sentencing; probation; fines, and open penitentiary institutions; habitual offenders; the role of medical, psychological and social sciences in dealing with delinquency and crime; the training of correctional staff; and criminal statistics, with a view to the development of a report on the state of crime. Markedly absent from the list of issues to be covered were organized crime and transnational crime (although trafficking in women and children did merit reference in other UN documents).[5]

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[1] Sections 1.1 - 1.5 are based on Matti Joutsen, Four Transitions in the United Nations Crime Programme, available at: https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_26/E_CN15_2017_CRP4_e_V1703636.pdf

[2] GA Resolution 46/152 on the creation of an effective United Nations crime prevention and criminal justice programme, preambular paragraph 8 and operational paragraph 5.

[3] Manuel Lopez-Rey, *Guide to United Nations Criminal Policy*, Gower 1985, pp. 8, 93–95; and Slawomir Redo 2012, *Blue Criminology: The power of United Nations ideas to counter crime globally - A monographic study*, Helsinki: HEUNI Report series no. 72, p. 68.

[4] This was achieved through General Assembly Resolution 415 (V).

[5] *International Review of Criminal Policy*, United Nations Department of Social Affairs 1952, Vol. 1, p. 12.

When the draft mandate of the UN Crime Programme was debated at the General Assembly in 1950, the Soviet Union and four of its allies argued for restricting the mandate to international and transnational crimes such as genocide, slavery, narcotic drugs, trafficking in women and children, and trafficking in obscene publications. In their view, the issues identified in the draft were essentially internal matters, and according to the UN Charter, the UN has no right to become involved in domestic issues. Lopez-Rey 1985 p. 1; Redo 2012, p. 110, and Roger Clark (1994), *The United Nations Crime Prevention and Criminal Justice Program. Formulation of Standards and Efforts at Their Implementation*, University of Pennsylvania Press, p. 15.

In taking over the functions of the IPPC, in turn, the UN received the following from the IPPF:
- two IPPF staff members who formed the nucleus for the UN Secretariat body dealing with crime and justice issues;[6]
- a pool of experts who had been active in the IPPF, from among whom an ad hoc Advisory Committee was formed to assist the Secretariat; and
- the model for the future United Nations Crime Congresses.[7]

1.2. The early years of the UN Crime Programme (the 1950s to the 1980s).

The main policy-making body in the UN on economic and social matters is the Economic and Social Council (**ECOSOC**). It has a rather large mandate, and its members cannot be expected to have sufficient substantive knowledge of crime prevention and criminal justice issues to formulate policy. In 1949, ECOSOC established an **ad hoc committee** of seven experts to advise it on such issues, with the individual experts changing in part from one meeting to the next. In 1965, the ad hoc Committee became a permanent body, the United Nations Committee on the Prevention of Crime and the Treatment of Offenders (the **UN Crime Committee**, to be replaced in 1991 by the United Nations Commission on Crime Prevention and Criminal Justice).

The members of the UN Crime Committee were appointed in their personal capacity; they did not represent their government or their organization. They were generally senior officials working in the criminal justice system of their respective country, or (in a few cases) academics. Since there was relatively little turnover among them, they tended to be familiar not only with criminal justice in general, but also with the working of the United Nations Crime Programme.[8]

During the first decades of UN work on crime prevention and criminal justice, the focus was on the collection and exchange of information, research, and the development of international standards and norms ("**soft law**").[9] Among the achievements were the adoption of the first ever UN standard and norm, the Standard Minimum Rules on the Treatment of Offenders, at the First United Nations Crime Congress in 1955.[10]

Membership in the UN began to expand in particular during the 1960s, and an increasing number of experts and practitioners from developing countries joined in the discussions. One result was that the scope of discussion widened from the traditional (Western) academic and professional focus on juvenile delinquency and corrections, to other types of crimes and criminal justice concerns. Already the Second UN Crime Congress, in 1960, had as one of its main topics the prevention of crime that results from social change and economic development in less developed countries.

When representatives of developing countries began to join in the UN discussions, in general they recognized the value of work on soft law. However, they repeatedly pointed out that work is needed also on implementing these decisions. In many of their countries, legislation and policies were often outdated, the structure of the criminal justice system was inadequate, many practitioners lacked training, and above all the financial resources for implementation were often lacking. In response, the UN Secretariat became more

[6] According to subparagraph (h) of GA resolution 415 (v), two IPPC "professional officers" were detached to the Secretariat, and one Secretariat staff member "specialized in the field of the prevention of crime and the treatment of offenders" was assigned to work with them.

[7] Paragraph (d) of General Assembly resolution 415 (v) stated that "The United Nations shall convene every five years an international congress similar to those previously organized by the IPPC (International Penal and Penitentiary Commission). Resolutions adopted at such international Congresses shall be communicated to the Secretary-General and, if necessary, to the policy-making bodies."

[8] Lopez-Rey 1985, pp. 14 – 20, and William Clifford, *Echoes and Hopes. The United Nations Committee on Crime Prevention and Control*, Canberra 1979 (*passim*) provide background on the Committee.

[9] In international law, "soft law" refers to quasi-legal instruments such as resolutions, guidelines and declarations, which embody political aspirations, but are not legally binding. "Hard law," in turn, refers for example to international conventions which are binding on the states parties.

[10] The Standard Minimum Rules had been originally drafted within the framework of the IPPC.

involved in **technical assistance** activities, assisted by the growing network of UN-affiliated institutes.[11]

1.3. From the UN Crime Committee to the UN Crime Commission

As of the beginning of the 1970s, transnational and organized crime began to appear on the UN Crime Programme agenda. The first such issues included consumer fraud, corruption, trafficking in cultural property, and terrorism. Towards the end of the 1980s, some countries began to argue that the growth of transnational and organized crime, including terrorism, trafficking in persons, and money laundering, required a more action-oriented UN Crime Programme, one that was not being provided by the expert-driven Committee, which was devoting most of its time to the drafting and adoption of "soft law" resolutions.

This criticism became stronger in the wake of the 1990 UN Crime Congress, held in Havana, which adopted not only twelve new standards and norms, but also thirty-three other resolutions, for a grand total of forty-five resolutions. For some participants, this torrent of paper was emblematic of growing problems in the UN Crime Programme. Some governmental representatives noted with concern that many of the draft standards and norms had been prepared without sufficient government input. Others argued that soft law instruments were an ineffective response to the growing problems of crime and criminal justice, and that the Congress should be looking more for action than for words on paper. Many participants pointed out that over half – twenty-four – of the draft resolutions had not been submitted until at the Congress itself, and therefore there was insufficient time to study these drafts.[12]

At the time of the 1990 UN Crime Congress, discussions were in fact already underway on **restructuring the UN Crime Programme**. This was accomplished with the adoption of General Assembly resolution 46/152 of 18 December 1991. The most notable and ultimately far-reaching change was that the expert-driven UN Crime Committee was replaced by a government-driven United Nations Commission on Crime Prevention and Criminal Justice (the **UN Crime Commission**).[13]

The new UN Crime Commission consists of forty member states elected by ECOSOC for a term of three years: twelve from the African region, nine from the Asian region, eight from the Latin American and Caribbean region, four from the Eastern European region, and seven from the "Western Europe and other states" regional group.

While the UN Crime Committee had been convened (during the last years of its existence) for a leisurely two weeks every second year, the UN Crime Commission began by holding annual sessions of one week, and in time added annual "**reconvened**" sessions as well as "**intersessional**" meetings.[14]

1.4. The negotiation of the UN Crime Conventions

The experts on the UN Crime Committee had served in their personal capacity. Nonetheless, as experts in crime prevention and criminal justice, they represented a broad range of backgrounds and approaches, and collectively tended to see crime as a **social issue**.

At the time the UN Crime Commission was established, in comparison, many national policy-makers tended to see crime (and in particular transnational organized crime and terrorism) as a **national security issue**. A consequence of the shift from an expert-driven to a government-driven UN Crime Programme has

[11] The capacity of the Secretariat to provide technical assistance, however, was severely hampered by the lack of financial and personnel resources. During these early decades, the Secretariat unit responsible for the UN Crime Programme had fewer than a dozen professional staff members.

[12] See, in particular, Clark 1994, pp. 126-132.

[13] A detailed presentation of the work of the UN Crime Commission is provided in Christopher Ram (2012), *Meeting the challenge of crime in the global village: An assessment of the role and future of the United Nations Commission on Crime Prevention and Criminal Justice*, Helsinki: HEUNI Report series no. 73.

[14] Reconvened meetings are formally continuations of the annual meetings. Intersessional meetings are primarily for the preparation of the next session, and for updates on progress achieved.

been an increased focus on strengthening the ability of the state to control crime: expanding the scope of criminalization, strengthening police powers, and increasing the efficiency of the operation of the criminal justice system. There was a resulting decrease in the amount of attention devoted for example to prevention, juvenile delinquency, restorative justice and victim issues – although, to be clear, also these remained on the agenda.

Above all, there was an increased focus on improving the efficacy of **international cooperation** in the response to crime. This focus was strengthened by a variety of developments.

One development was the strong perception by many states that crime was increasingly becoming more serious, more organized and more transnational.

A second, and related, development was the growing conviction that the response to transnational crime and terrorism could not be effective without international cooperation: cooperation among law enforcement agencies, judicial cooperation, and cooperation in the form of technical assistance.

A third development was that during the years that the UN Crime Committee was producing "**soft law**," the UN drug programme (the Commission on Narcotic Drugs and the International Narcotics Control Board) had continued the work on "**hard law**" begun under the League of Nations. In 1988, the United Nations adopted the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. This **1988 Drug Convention** consolidated and brought international hard law up to date in respect of the definition of drug-related crime. It also included, for the first time in a multilateral treaty, provisions on international law enforcement cooperation, mutual legal assistance and extradition.

The 1988 Drug Convention became a template for those who wanted a more vigorous and effective UN Crime Programme. Several states began to advocate for one or more international conventions dealing with different aspects of crime and criminal justice.

Following a ministerial conference held in Naples in 1994, the General Assembly set up an ad hoc Committee to elaborate a convention on transnational organized crime. The result, the **United Nations Convention on Transnational Organized Crime** (UNTOC), with separate protocols on trafficking in persons, the smuggling of migrants, and trafficking in firearms, was opened for signature in 2000. This was soon followed by the **UN Convention against Corruption** (UNCAC), which was opened for signature in 2003.

Each of the UN Crime Conventions established a Conference of the States Parties, which oversees implementation and discusses issues related to the substance of the respective convention. However, also the UN Crime Commission and the UN Crime Congresses began to devote more time to transnational and organized crime issues.

A fourth change in the UN Crime Programme has been in who participates in the discussions in Vienna. As already noted, during the early years of the UN Crime Programme, through to the 1980s, the participants at meetings tended to be individual experts knowledgeable in crime prevention and criminal justice. The UN Crime Committee met every other year for eight days, allowing time for interaction both in and outside of the meeting rooms. From 1955 to 1990, the UN Crime Congresses lasted for two weeks, and were a mix of debate, negotiations and social events. The tradition arose of seeking consensus on all resolutions and decisions (the "**spirit of Vienna**"). Calling for a vote on any issue was a measure used only in very rare situations.[15]

Since the 1990s, the profile of many of the participants has changed. Largely because of the entry into force of the two UN Crime Conventions, the number of UN Crime Programme meetings held in Vienna has increased considerably. In addition to the biannual sessions of the two Conferences of the States Parties, these two bodies have set up several subsidiary working groups, which generally meet on an annual basis,

[15] Exceptions did occur. Several resolutions at the Sixth UN Crime Congress in 1980 (in Caracas), and one resolution at the Eighth UN Crime Congress in 1990 (in Havana) were adopted following a vote. From 1990 to 2021, there have been no votes at any of the UN Crime Congresses or at any of the sessions of the UN Crime Commission. At the 2021 session of the UN Crime Commission, a vote was held on a procedural matter, the election of a member of the Bureau of the session.

for a period ranging from two to five days. The UN Crime Commission, in turn, meets for its regular annual session, but also other meetings throughout the year. In addition, various intergovernmental working groups hold meetings. The result is that the UN Crime Programme meeting calendar is demanding, with on the average one or more meeting every month. It is logistically and financially difficult for member states to send experts "from the capitals" to attend short meetings so often. As a result, the participants tend to be diplomats based in Vienna.

The four developments described above – a more globally representative UN Crime Programme, the increased influence that governments have on the work carried out in Vienna, the growing importance of hard law UN crime conventions, and the shift in the composition of participants – have had several consequences. One has been the **politicization** of several issues in the discussions. A second has been the **increased use of extrabudgetary funding**, and increasingly severe financial problems. A third consequence has already been mentioned: less discussion on general crime prevention and criminal justice, and a **greater focus on transnational and organized crime**.

Politicization of issues. Within the UN Crime Programme, diplomats, practitioners and academics all have an important role to play. Broadly speaking, academics can analyse developments in crime and the response to crime, practitioners can provide evidence on what works (and what doesn't), while diplomats can formulate this on the international level into policy pronouncements, and ensure that the decision is in line with what is being done elsewhere in the United Nations.

The change in the main participants in the discussions in Vienna, from experts in criminal policy to diplomats, has inadvertently meant that what were once discussions of substantive policy have often become negotiations over the wording of draft resolutions. The earlier discussions within the framework of the UN Crime Programme on standards and norms had been consensus-oriented, and in general had not excited politicized passions. This could largely be attributed to the fact that the soft law resolutions were not binding, and therefore had no direct policy implications for individual states. Once the discussion shifted to transnational organized crime and to the two hard law UN Crime Conventions, the situation changed. Certain aspects of transnational crime and of the response to transnational crime raise political sensitivities. Examples include the repatriation of the proceeds of crime, trafficking in cultural property, and cybercrime. The politicization has also extended beyond substantive crime issues and into questions of process, most significantly in the form of a continuing and at time acrimonious debate over the role of civil society in the local, national and international response to crime.

Financial constraints. During the first half century of the existence of the UN Crime Programme (roughly to the 1990s), most of the (extremely limited) activities of the Programme were financed through the regular UN budget. Today, the situation is quite the reverse: over 90 % of the UN Crime Programme budget comes from extrabudgetary sources. The two primary factors that have led to this are the rapid expansion of UN Crime Programme activities (most clearly visible in costs associated with the review of implementation of the UN Convention on Corruption), and a series of world-wide economic crises, which have led the major donor countries to reconsider their commitments.

The Secretariat has made commendable efforts to secure extrabudgetary funding, and has succeeded in significantly expanding its technical assistance activities around the world. However, this shift towards a high dependence on extrabudgetary funding has also had negative consequences. These consequences include the constant need to spend considerable time on identifying sources of funding, uncertainty over the sustainability of various projects, competition within the UNODC over resources, and concerns that much of the work that is carried out will remain tied to the interests of the donors.

As long as only 10 % of its activities is funded through the regular UN budget, the UN Crime Programme leads a tenuous existence. It is unlikely that these financial constraints will ease anytime soon. In addition, the UNODC is constantly being asked by member states to take on even more tasks.

Focus on organized and transnational crime, efficiency and punitive measures. The adoption of the two UN crime conventions has provided welcome tools for the international community to respond to serious threats. The global conventions have considerably expanded the geographical scope of cooperation. They provide common definitions of certain key offences; they require (or, in some cases, at least encourage) states parties

to criminalize these acts; and they have standardized and contributed to the development of procedural forms of cooperation. At the same time, however, the increased attention given to the improvement of international law enforcement and judicial cooperation appears to have resulted in correspondingly less attention being paid to prevention, to community-based and restorative measures, and to strengthening the position of the victim of crime.

1.5. The impact of the Sustainable Development Goals

In September 2015, the United Nations Summit adopted the 2030 Agenda for Sustainable Development. The 2030 Agenda emphasizes the links between the different goals, among them (as part of Goal 16) crime prevention and criminal justice. The 2030 Agenda could contribute to a further transition in the UN Crime Programme, towards a truly global UN Crime Programme that pays increasing attention to how crime prevention and criminal justice can contribute to sustainable development around the world, in both developing and developed countries. Such a UN Crime Programme would be framed by the links between Goal 16 and other Goals, such as gender equality, the sustainability of communities, and poverty reduction. It would continue to deal with pressing questions related to transnational and organized crime, but would also deal with the prevention of and response to "ordinary" crime. It would continue to identify best practices in international law enforcement and judicial cooperation, but would also seek to identify best practices in the strengthening of access to justice, restorative justice, victim support and community-based sanctions.

The ground work for this has already been laid. The extensive body of UN standards and norms provides a framework for the national and international response to crime, and in so doing serves to strengthen respect for human rights and the rule of law in the criminal justice system.

There are encouraging signs that this transition is already underway. One sign is that there has been a slight resurgence in the number of "experts from the capitals" attending UN Crime Programme meetings, working alongside the diplomats on such practical issues as prosecutorial and judicial cooperation, or the response to cybercrime. Another sign is the growing capacity of the UNODC (albeit subject to the availability of extrabudgetary funding) to provide technical assistance to member states. A third sign is the expanding work of the UN Programme Network of Institutes in providing member states with technical assistance in research, training and policy development in crime prevention and criminal justice.

The global Covid-19 pandemic, in turn, alongside of all the suffering it has caused, may have indirectly contributed to growing involvement of "experts from the capitals" in the UN Crime Programme. Governments around the world have locked down the population and restricted domestic and international travel. As a result, in-person meetings (such as those that have been held in Vienna) have been replaced at least for the time being by online and "hybrid" meetings, which opens up the possibility that the national experts could attend UN Crime Programme meetings online.

The changes brought about by the adoption of the 2030 Agenda and the SDGs can build on the strengths of the three previous transitions. The intellectual debate from the early years can be revitalized in order to bring in research and best practices from around the world, channelled for example through the UNODC and the Programme Network of Institutes so that it is reflected in the discussions at the UN Crime Commission, the UN Crime Congresses and other meetings. The government-driven discussions can in this way benefit from the input of experts, who can identify what best practices can be adapted to the different circumstances around the world so that these meet not only the general needs of member states, but also the ground-level needs of practitioners and local communities, of victims and of offenders.

The soft law and the hard law elements of the UN Crime Programme reinforce one another in strengthening local, national and international crime prevention and criminal justice, and in this way contribute to the ongoing work on the review of the implementation of the 2030 Agenda.

2. The structural elements of the UN Crime Programme

2.1. The overall structure

The primary responsibility within the UN system for issues related to crime prevention and criminal justice lies with the **Economic and Social Council**. Some politically sensitive crime issues, such as war crimes, genocide and terrorism, are now and then debated directly in the General Assembly of the UN. In addition, the General Assembly at times sets up special bodies to deal with specific issues, such as the drafting of new international agreements.

Within the UN Secretariat, issues relating to crime prevention and criminal justice are dealt with by the **UN Office on Drugs and Crime** (UNODC), although related issues are also considered by, for example, the **Office of the United Nations High Commissioner for Human Rights**.

2.2. The UNODC and its field and regional offices[16]

The United Nations Office on Drugs and Crime acts as the Secretariat to the UN Crime Commission, the UN Commission on Narcotic Drugs, and to the Conferences of the States Parties to the two UN Crime Conventions and the three Drug Control Conventions.[17]

For most of its existence, the Secretariat unit responsible for the UN Crime Programme remained small, with fewer than a dozen professional staff members, and somewhat more secretarial staff members. Over the past twenty years, largely as a consequence of the adoption of the two UN Crime Conventions, the number of professional staff members dealing with substantive crime issues in the UNODC has increased to about 350, serving both at the UNODC headquarters in Vienna, and at regional and field offices around the world.[18]

UNODC **regional offices** have been established in Bangkok (Southeast Asia and the Pacific), Cairo (Middle East and North Africa), Dakar (West and Central Africa), New Delhi (South Asia), Nairobi (East Africa), Panama City (Central America and the Caribbean), Pretoria (South Africa) and Tashkent (Central Asia). In addition, UNODC has seven national offices and 94 programme offices.[19]

2.3. The UN Commission on Crime Prevention and Criminal Justice[20]

The United Nations Commission on Crime Prevention and Criminal Justice (the UN Crime Commission) functions as the **governing body** of the UNODC. The UN Crime Commission coordinates with other United Nations bodies that have specific mandates in the areas of crime prevention and criminal justice, and is also the preparatory body to the **United Nations Crime Congress**. The UN Crime Commission thus acts as the **principal policy-making body** of the United Nations in the field of crime prevention and criminal justice.

The UN Crime Commission consists of forty member states elected by ECOSOC for a term of three

[16] For further information, see unodc.org

[17] The three Drug Control Conventions are the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol; the Convention on Psychotropic Substances of 1971; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

[18] This, however, is only an estimate. The UNODC currently has a total of 2,400 professional and secretarial staff members at the headquarters in Vienna, and at field and regional offices around the world. It is difficult to assess precisely how many staff members deal with drug control issues and how many with crime prevention and criminal justice issues, since for example the UN border control and container control programmes serve both areas.

[19] https://www.unodc.org/unodc/en/field-offices.html#:~:text=UNODC%20operates%20in%20more%20than,with%202%2C400%20UNODC%20personnel%20globally

[20] For further information, including the documentation and reports from the sessions of the UN Crime Commission, see https://www.unodc.org/unodc/en/commissions/CCPCJ/index.html

Christopher Ram 2012 has laid out several suggestions for how the work of the Commission (and, indirectly, of the UN Crime Programme itself) can be strengthened. See esp. pp. 98 ff.

years. The sessions of the UN Crime Commission are attended also by a very large number of observer states as well as by other categories of participants: representatives of UN specialized agencies, the UN Crime Programme Network of Institutes (PNIs), intergovernmental organizations and non-governmental organizations.[21]

The UN Crime Commission holds annual five-day sessions (generally during May). Since 2009, "reconvened" sessions of two or three days have been held in early December. In addition, "intersessional" meetings have been held as necessary.

Over the years, the formal agenda of each annual session has become relatively standard. Following the opening of the session, there will be a general debate (usually lasting the first day), followed by what is called a "**thematic debate**" related to the special theme selected for that respective session of the UN Crime Commission (usually lasting the second day). Ether on the afternoon of the first day or on Tuesday, the UN Programme Network of Institutes (PNIs) together with the UNODC organize a workshop related to this theme.

Towards the middle of the week, the UN Crime Commission takes up strategic management, budgetary and administrative questions, followed by "integration and coordination of efforts by the UNODC and by member states in the field of crime prevention and criminal justice." This includes ratification and implementation of the two UN Crime Conventions and of international instruments related to terrorism, as well as for example activities of the PNIs, NGOs and other bodies.

On Thursday, according to this somewhat standardized agenda, the UN Crime Commission discusses the use and application of UN standards and norms in crime prevention and criminal justice; world crime trends and emerging issues and responses; as well as follow-up to the previous UN Crime Congress, and preparations for the following UN Crime Congress.

On the last day, Friday, the UN Crime Commission directs its attention for example to implementation of the Sustainable Developments Goals. The afternoon is reserved for the draft agenda of the next session of the UN Crime Commission, the adoption of resolutions, and the adoption of the report.

The discussion on each of the agenda items follows a relatively standard procedure. Once the Secretariat representative has introduced the agenda item (or the members of a panel or roundtable have given their statements), the chairperson opens the floor for discussion. Regional groups have the option of speaking first, followed by representatives of member states. If Ministers or other dignitaries are in attendance, they will generally be invited to speak first.

The Secretariat keeps the list of speakers, which the chairperson consults in giving speakers the floor. Persons who wish to speak should contact a conference room officer and ask to be placed on the list of speakers, on the basis of "first come, first served." The speaker can also ask to be allotted a certain time (such as the first to speak after lunch, or the first to speak after another speaker), as long as this does not endanger the "first come, first served" approach, or speakers whose priority would be affected inform the conference room officer that they agree to this.

The conference room officer will usually ask if the statement is in writing, so that this can be distributed to the interpreters. If so, the written statements should preferably be given to the Secretariat at least an hour in advance, so that the Secretariat has time to deliver it to the interpreters' booths, and the interpreters, in turn, have time to note the availability of the text, and use it for the interpretation. (The UN interpreters are very competent, and can adjust if the speaker makes changes to the text during delivery.)

Because of the need for interpretation, oral statements should be given at a relatively leisurely pace: not ponderously slow, but definitely not in a rush. Most interpreters prefer simple, straightforward sentences that follow the normal rhythm of conversation. All too often, written statements can include long and convoluted sentence structures which can be difficult to follow, even if the interpreter has a written text in

[21] Representatives of specialized agencies, PNIs, IGOs and NGOs may take the floor only if no state wishes to do so. In practice, this means that their contribution to the debate has become indirect and rather marginal.

front of him or her.

The chairperson may limit the length of oral statements. However, even if no limit has been placed, speakers should avoid trying the patience of the audience, who have to sit through six hours of meetings every day, involving a study stream of oral statements. PowerPoint presentations and even videos may help in getting a point across, but if these are given, the speaker should be mindful that the UN works with six official languages, and thus perhaps the majority of the participants will depend on the interpretation.

Under the rules of procedure, the chairperson has the power to call a speaker to order if his or her remarks are not relevant to the subject under discussion. This is extremely rare.

The formal discussion on all of the agenda items at sessions of the UN Crime Commission, with the exception of the PNI Workshop, takes place in the plenary. Much of the work of the UN Crime Commission, however, takes place elsewhere, in the informal negotiations (known as "**informals**") and in the **Committee of the Whole**. It is here that most of the negotiation over the draft resolutions takes place (see section 4.2.).

In addition, various member states, PNIs, intergovernmental organizations and nongovernmental organizations organized so-called **side events** (similar to the ancillary meetings organized at UN Crime Congresses), on a large variety of issues.

The participants at UN Crime Commission sessions will have before them extensive documentation produced by the UNODC and generally available in advance at the unodc.org website. As with the formal agenda, many of these documents follow the same standardized format, and provide background for the discussion of the respective items on the agenda.

The final stage of work at UN meetings involves the **adoption of the report**. The Secretariat generally assists the rapporteur in this process, and the draft text is usually very carefully constructed to reflect what should be an impartial summary of the discussions.

Drafting UN reports can be called an art in its own right. UN meetings often deal with sensitive points, and the rapporteur (assisted by the Secretariat) seeks to present these in a way that would be acceptable to the different sides on the issues. With some exceptions (such as heads of state or other distinguished speakers) it is not customary for speakers to be identified in the report, even by member state. The reference will be simply to "one speaker noted" or "several speakers suggested that …"

Many participants, who may be exhausted by the lengthy negotiations, may assume that the adoption of the report will be a formality. However, on particularly sensitive issues, some representatives may try to expand the presentation of the arguments that their side had made, thus correspondingly diminishing the amount of attention given to opposing points of view. One technique used here is for a representative to argue that his/her country's position, as given earlier, was not correctly reflected in the report, and then submit a (lengthy) proposal for amending the report to remedy this. The chairperson usually accepts short amendments along these lines. Given that this may indeed give a one-sided impression of the discussion, representatives from the other side on the issues may wish to make corresponding amendments based on points made in the discussions by other speakers.

2.4. The United Nations Congresses on Crime Prevention and Criminal Justice[22]

The United Nations Congresses on Crime Prevention and Criminal Justice (generally referred to as the **UN Crime Congresses**) are the world's largest global gatherings on crime and justice. They are also the oldest periodic conferences organized by the United Nations on a specific subject area. The Congresses are organized every five years by the UNODC together with the host country, in accordance with mandates given by the General Assembly.

[22] The following section is based on Matti Joutsen, The Evolution of the United Nations Congress on Crime Prevention and Criminal Justice, Thailand Institute of Justice 2021, available at: https://knowledge.tijthailand.org/en/publication/detail/the-evolution-of-the-united-nations-congress-on-crime-prevention-and-criminal-justice#book/

UN Crime Congresses are intended for the exchange of views between states, intergovernmental organizations, non-governmental organizations and individual experts, the exchange of experiences in research, law and policy development, and the identification of emerging trends and issues in crime prevention and criminal justice.[23]

In the formal sense, the UN Crime Congresses do not set UN policy. The outcome of the Congress, the so-called Congress Declaration, is submitted to the UN Crime Commission. However, the argument has been made that a Congress convened every five years, and attended by senior policy makers from the large majority of UN member states, does have a marked influence in setting the framework of the work of the UN Crime Programme for the next five years.

UN Crime Congresses have a formal part and an extensive informal part. The formal part consists of the opening and the closing sessions, the "high-level segment" in plenary immediately after the opening (during which participants of ministerial rank and above are allowed to speak, for perhaps about ten minutes per speaker), the discussion on the agenda items, and the discussion in the workshops. The informal part consists of a large number of so-called ancillary meetings, meetings of regional groups, possible informal negotiations among national delegations, and an exhibition.

A total of fourteen UN Crime Congresses has been held to date. The next UN Crime Congress is scheduled to be held in 2025.

If a participant at the first UN Crime Congress, held in Geneva in 1955, would jump in a time capsule to attend the most recent UN Crime Congress, held in Kyoto in 2021, he or she would find much that is familiar (having overcome his or her astonishment at the fact that, due to the pandemic, most of the participants at the Kyoto Congress attended online). The participants represent member states, specialized agencies, intergovernmental organizations and non-governmental organizations. In addition (and this is unusual among major UN Conferences, and is a legacy from the IPPC conferences), a number of individual experts attend. The participants discuss specific agenda items, and a report is prepared on the proceedings. Much has thus stayed more or less the same.

However, as indicated in the table below, the format and substance of the UN Crime Congresses have evolved considerably. Among the more important changes are the following:

- the participants come from a larger number of member states, and the number of participants has increased;
- Congress Workshops have been added to the formal proceedings;
- the number of ancillary meetings has expanded;
- a "high level segment" has been added to the UN Crime Congresses (since 2000); and
- instead of adopting separate resolutions on different topics, the more recent UN Crime Congresses (since 2000) have adopted a single consolidated Congress Declaration.

Table 1: Timeline of the evolution of the UN Crime Congresses, 1955 – 2021

UN Crime Congress	changes in the approach to crime, as reflected in the Congresses	changes in the Congresses	notable UN developments
First Geneva, 1955	social defence theory; gradual shift from individual-oriented to society-oriented theories of crime	50 national delegations, 500 participants first UN standard and norm adopted	
Second London, 1960	expansion of criminological concepts beyond a purely Western perspective	number of participants reaches 1,000 Russian added as official language	1962: UNAFEI (first PNI) established

[23] GA resolution A/RES/46/152, para 29. Further refinements are provided in ECOSOC resolution 1992/24 and GA resolution A/Res/56/119 (2002).

UN Crime Congress	changes in the approach to crime, as reflected in the Congresses	changes in the Congresses	notable UN developments
Third Stockholm, 1965	new: attention to prevention and informal social control *new*: attention to the impact of social change on crime	growing participation by developing countries first Congress Workshop technical assistance becomes recurring agenda item	
Fourth Kyoto, 1970	first references to terrorism first references to organized crime	first Congress held outside Europe regional preparatory meetings organized for the first time	1972: ad hoc UN Crime Committee becomes permanent
Fifth Geneva, 1975	concept of transnational (organized) crime introduced *new*: attention to economic costs of crime *new*: human rights issues raised	number of national delegations exceeds 100 outcome routed to different addressees (e.g., GA, ECOSOC)	
Sixth Caracas, 1980	*new*: crime and development considered *new*: abuse of power considered *new*: prison overcrowding considered	first Congress in a developing country Arabic and Chinese added as official languages interregional expert preparatory meetings organized first pre-Congress consultations first UN crime survey given to Congress votes on several resolutions	
Seventh Milan, 1985	*new*: victim issues considered *new*: domestic violence considered	32 different documents adopted	
Eighth Havana, 1990		45 separate resolutions adopted	1991: UN Crime Committee replaced by UN Crime Commission
Ninth Cairo, 1995	growing attention to transnational (organized) crime *new*: environmental crime considered	interregional expert preparatory meetings no longer organized Congress shortened to 8 days number of participants nears 2,000 "omnibus" resolution	
Tenth Vienna, 2000	*new*: rule of law considered	first high-level segment (held at the end of the Congress) first consolidated Congress Declaration; no separate resolutions institutionalized Congress follow-up	2000: MDGs adopted 2002: GA res 56/119 on the Congresses 2003: UNTOC enters into force
Eleventh Bangkok, 2005	crime increasingly seen as threat to national security	number of participants reaches 3,000	2005: UNCAC enters into force 2006: expert group meeting on Congresses
Twelfth Salvador, 2010	*new*: cybercrime considered *new*: education for justice considered		

UN Crime Congress	changes in the approach to crime, as reflected in the Congresses	changes in the Congresses	notable UN developments
Thirteenth Doha, 2015		Congress Workshops "interlocked" with topics high-level segment shifted to beginning of Congress number of national delegations exceeds 140 number of participants nears 4,000	2015: SDGs adopted
Fourteenth Kyoto, 2021		first major UN conference to be held in a hybrid format (260 on-site participants and 5,300 on-line participants)	

The officials of the Congress (referred to collectively as the general committee; broadly similar to the Bureau of the UN Crime Commission) consist of the President (by tradition, the head of the delegation of the host Government), and 27 vice-presidents, a chairperson for each of the two Committees, as well as a general rapporteur.

The Secretary-General is represented by a senior UN official referred to as the Secretary-General of the Congress, who is assisted by the Executive Secretary. The extensive responsibilities of the Executive Secretary include ensuring that all of the official documentation as well as interpretation services are available in the official languages, servicing the meetings (including maintaining the list of speakers for the chairperson) and assisting the rapporteurs in the drafting of the reports.

Following an innovation adopted for the Thirteenth UN Crime Congress in 2015, each Workshop precedes the discussion on its respective agenda item, and the results of the Workshop are reported to the Committee under that agenda item. Each Workshop is thus "interlocked" with the corresponding agenda item.

While the discussion on the agenda items tends to focus on policy and on developments in the different member states, the Workshops are intended to be more practical and technical, of interest in particular to practitioners. Each Workshop is prepared by one or more institute in the UN Programme Network of Institutes, in cooperation with the UNODC and at times individual member states.

Ancillary meetings are organized in connection with the Congresses. These are meetings of non-governmental, professional organizations and geographical interest groups. The level of discussion at such meetings has often been quite high. The coordination of these ancillary meetings is done by the International Scientific and Professional Advisory Council (ISPAC), and in practice by one individual working in close coordination with the Secretariat and the host government, Mr. Gary Hill. Under his guidance, the ancillary meetings are scheduled so that, to the extent possible, these do not overlap with formal sessions or other ancillary meetings covering similar issues.[24]

Various professional and regional associations may wish to take advantage of the presence of many of their members at the Congress site, and organize meetings that are limited to their members and to invited guests. Such closed meetings may also cover a specific item where security is concerned (such as the training of police cybercrime technicians). Also these meetings are coordinated, on request of the UNODC, by ISPAC.

At an exhibition organized throughout the duration of the UN Crime Congress, various governments, NGOs, professional associations, UN bodies (including the Programme Network Institutes) and commercial vendors present information on their work or products.

Each UN Crime Congress produces a single document called a Congress Declaration "containing

[24] Through the efforts of Mr. Hill and those of his team of volunteer "interns", ancillary meetings at the more recent UN Crime Congresses have also been provided with interpretation as needed, and summaries of the different ancillary meetings have been made available.

recommendations derived from the deliberations of the high-level segment, the round tables and the workshops, to be submitted to the Commission for its consideration."

The concept of a single Congress Declaration was introduced at the 2000 UN Crime Congress, and replaced the different resolutions that earlier Congresses had adopted on a wide range of topics.

The (draft) Congress Declarations are negotiated in advance of the Congress, using as their basis the recommendations and conclusions from the regional preparatory meetings.

The Congress Declaration is not the only outcome of each Congress. In addition to the official report of the Congress, each Congress produces a considerable amount of documentation, such as the official background documents prepared by the Secretariat (which have been of very high quality), the reports of the regional preparatory meetings, a number of conference room documents, a large number of documents submitted by various participants in the different categories, as well as the unofficial report of the ancillary meetings.

At the more recent UN Crime Congresses, the respective UN Crime Programme Network Institute that had the lead role in organizing each Workshop has usually produced a report containing the various panel presentations and related material. In respect of the Thirteenth and the Fourteenth UN Crime Congresses, thanks to cooperation between the UNODC and the respective host government, much of this material has been made available through the Congress website,[25] thus providing a wealth of information even for those practitioners, policy-makers and researchers around the world who had not participated, and in this way increasing the impact of the Congresses.

Finally, it may be noted that over the past two decades, both the UN Secretariat and the UN Crime Commission have devoted increasing attention to ensuring that the UN Crime Congresses are not "one-off" events, which are forgotten as soon as preparations begin on the next five-year cycle. A standing item on the agenda of the UN Crime Commission is the UN Crime Congresses, during which implementation of action points raised by the previous Congress is reviewed and discussed, at the same time as the preparations for the next Congress are advanced. This ensures continuity in the process.

The Fourteenth UN Crime Congress in Kyoto, 2021[26]

The Fourteenth United Nations Congress on Crime Prevention and Criminal Justice was organized in Kyoto, Japan, from 7 to 12 March 2021. It continued the long tradition of the world's largest get-togethers on crime and justice, but in some respects, it was a very different Congress. Above all, it was the first major UN conference in any field to be organized after the beginning of the Covid-19 pandemic, with only a few hundred participants on-site, and the vast majority, some 5,300, participating online from all around the world. The Kyoto Congress set the pattern for how this can be done in such unprecedented circumstances.

What is more, the Kyoto Declaration, the main outcome of the Crime Congress, is remarkably substantive, balanced, well-structured and well written. The Kyoto Declaration is the politically most important substantive outcome of the Congress. It is a political statement negotiated by the member states in advance of the Congress and adopted by the member states on the opening day of the Congress.

While the Kyoto Declaration itself is not binding, it is of great significance to the international community. It has been laboriously drafted and negotiated, and since the representatives of the member states gathered in Kyoto have adopted it, it is clear that the document embodies their vision of what member states should commit to on the national level and how they would like to see international cooperation evolve.

The Kyoto Declaration is balanced in the sense that it deals with crime prevention and criminal justice at different levels, from local to national and international issues. It covers a wide range of issues, including the need to support victims and vulnerable communities, gender-sensitive crime prevention, the rule of law, transnational crime, anti-corruption, emerging forms of crime, as well as the operation of the domestic criminal justice system and international cooperation. The Kyoto Declaration is also very timely, above all

[25] http://www.unodc.org/congress/en/previous/previous-13.html

[26] See Matti Joutsen, Impressions from the Fourteenth UN Crime Congress and the attached report, available at https://heuni.fi/-/14th-un-crime-congress-matti-joutsen

by including several paragraphs on the impact and response to the Covid-19 pandemic.

2.5. The Conference of the States Parties of the two UN Crime Conventions

The governing structures of the two UN Crime Conventions steer the respective crime-related work of the member states that are parties to the conventions:

- the Conference of the States Parties to the UN Convention against Transnational Organized Crime;[27] and
- the Conference of the States Parties to the UN Convention against Corruption.[28]

Five Working Groups have been established under the mandate of the UNTOC CoSP and two Working Groups as well as one expert group under the mandate of the UNCAC CoSP, in order to discuss particular topics related to the conventions. Three of the UNTOC working groups deal with each of the three protocols (trafficking in persons, the smuggling of migrants, and trafficking in firearms). A fourth UNTOC working group deals with international cooperation, and a fifth with technical assistance. The UNCAC working groups deal, respectively, with prevention and asset recovery, and there is an expert group that deals with international cooperation.

The respective Conferences of the States Parties are convened in alternate years; the CoSP for UNTOC will meet in 2022, followed by the CoSP for UNCAC in 2023. The working groups under the two CoSPs, however, generally meet annually.

The work of the CoSPs clearly overlaps with the work of the UN Crime Programme related to, respectively, transnational organized crime and corruption. However, each have somewhat different constituencies (not all UN member states are parties to UNTOC or its protocols, or to UNCAC), and there are significant differences in the legal obligations involved. The two UN Crime Conventions consist of "hard law," while the UN Crime Commission operates on the basis of consensus in its negotiation largely of soft law resolutions and declarations.

In 2009, a mechanism for review of the implementation of UNCAC was established. This involves an extensive programme of peer review in each of the state parties, with an annual cycle of reviews and, where agreed, on-site visits by the experts conducting the peer review.[29] Although the UNCAC peer review mechanism was less intensive and thorough than the corresponding peer review conducted for example within the framework of the OECD for its convention on bribery, the process has arguably succeeded in encouraging many states parties to change their legislation and update their anti-corruption structures and policies.

Following the apparent successes of this process and mechanism, lengthy negotiations were conducted in order to establish a corresponding mechanism for the review of implementation of UNTOC and its three protocols. These proved difficult, for a variety of reasons. The UNCAC review mechanism did appear to be successful, but it was clearly very resource-intensive. Since 2009, when the UNCAC review mechanism was established, the UN's ability to identify funds for similar activities in the UNTOC area proved difficult. Furthermore, UNTOC, in comparison to UNCAC, was arguably more complex, in that it involved not only the Convention, but also the three protocols, each of which dealt with a very different set of issues and involved somewhat different sets of states parties as well as stakeholders.

Ultimately, agreement was reached in 2018 on a mechanism for the review of the implementation of UNTOC and its three protocols. As compared to the corresponding mechanism for the review of UNCAC, the UNTOC mechanism was "lighter", in that it relied far more on voluntary participation of the states parties.[30]

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[27] See https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html

[28] See https://www.unodc.org/unodc/en/treaties/CAC/index.html

[29] See Matti Joutsen and Adam Graycar, When Experts and Diplomats Agree: Negotiating Peer Review of the UN Convention Against Corruption, *Journal of Global Governance* Vol. 18, No. 4 (Oct.–Dec. 2012), pp. 425-439.

[30] The UNTOC review process is outlined in https://www.unodc.org/documents/treaties/UNTOC/COP/SESSION_10/Resolutions/Resolution_10_1_-_English.pdf

2.6. The United Nations Crime Programme Network of Institutes

The United Nations Crime Prevention and Criminal Justice Programme Network of Institutes (**PNI**) has grown over the years to consist of seventeen institutes, the International Scientific and Professional Advisory Council (ISPAC) and (formally speaking) the UNODC. These institutes have a variety of different mandates. Nonetheless, they all share a commitment to working together within the framework of the United Nations Crime Programme.

To list the PNI institutes very broadly by their mandate:
- the United Nations Interregional Crime and Justice Research Institute, UNICRI, Turin (established 1968);
- five institutes with a primarily regional mandate
  - o the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders; Tokyo (UNAFEI, the oldest institute; 1962);
  - o the Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD); San José, 1975;
  - o the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI); Helsinki, 1981;
  - o the African Regional Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI), Kampala, 1987; and
  - o the Naif Arab University for Security Sciences (NAUSS); Riyadh, 1972;
- seven specialized institutes / entities, each with an international mandate
  - o the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR & CJP); Vancouver, 1991;
  - o the International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme (ISPAC), Milan, 1991;
  - o the Siracusa International Institute for Criminal Justice and Human Rights (SII), Siracusa, 1972;
  - o the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI); Lund, 1984;
  - o the International Centre for the Prevention of Crime (ICPC); Montreal, 1994;
  - o Institute for Security Studies (ISS); Pretoria, 1991; and
  - o the Basel Institute on Governance / the International Centre for Asset Recovery, Basel, 2003; and
- five national level institutes
  - o the Australian Institute of Criminology (AIC); Canberra, 1973;
  - o the Korean Institute of Criminology and Justice (KICJ), Seoul, 1989;
  - o the National Institute of Justice (NIJ); Washington D.C., 1968;
  - o the Thailand Institute of Justice (TIJ), Bangkok, 2011; and
  - o the College for Criminal Law Science (CCLS), Beijing, 2005.

The interregional institute, the first four regional institutes listed above, and ISPAC were established specifically within the framework of the UN Crime Programme. NAUSS, the six specialized institutes and the five national level institutes each have their own original mandate, but have agreed (usually through a memorandum of understanding) to cooperate with the UNODC and the UN Crime Programme.

The report of the Secretary-General to the first session of the UN Crime Commission, in 1992, laid out the functions of the Programme Network of Institutes:[31]

(1) service as a link between the UN and the member states in the different regions;
(2) promotion of interregional, regional and subregional cooperation;
(3) fostering UN criminal policy;
(4) keeping member states abreast of the work and perspectives of the UN;
(5) advising the Secretariat of the special needs, concerns and priorities of the region; and
(6) assistance in the implementation of the UN Crime Programme.

The actual activities of the individual PNI institutes and entities can be divided into four "baskets":
- activities that are carried out in accordance with mandates formulated by the UN Commission on Crime Prevention and Criminal Justice. Examples include organization of workshops at the UN

[31] E/CN.15/1992/3, para 5.

Congresses and the Workshop connected with the thematic debate at annual sessions of the UN Crime Commission;
- activities that otherwise directly support the work of the UNODC. Examples include assisting the UNODC in the preparation of documentation for the UN Crime Congresses and the sessions of the UN Crime Commission, assistance in organizing regional preparatory meetings for the UN Crime Congresses, and organization together with the UNODC of various expert meetings and training programmes;
- activities that otherwise contribute to implementing UN mandates in crime prevention and criminal justice. Examples include various training programmes and research projects; and
- activities that are conducted primarily in accordance with mandates coming from sources other than the UN. This is the case in particular with the five national level institutes, which are primarily accountable to their respective national Government.

The two clearest examples of the contribution of the PNIs to the UN Crime Programme are in connection with the organization of the UN Crime Congresses, and in the organization of the annual sessions of the UN Crime Commission.

The PNI has had two specific roles to play in the organization of the UN Crime Congresses. First, in the preparations for the following UN Crime Congress, some institutes (such as ILANUD, but also for example UNAFRI and NAUSS) have been instrumental in organizing regional preparatory meetings, and in mobilizing regional interest in participation. Second, beginning with the organization by HEUNI and UNICRI of a workshop at the 1985 UN Crime Congress in Milan on juvenile justice, the PNIs have assumed a considerable share of the responsibility for the UN Crime Congress workshops. This role of the institutes was formally recognized by the UN Crime Commission in 2001.

Since 2001, the PNIs have organized side events at the sessions of the UN Crime Commission and ancillary meetings at the UN Crime Congresses. The PNIs have also been responsible, together with the UNODC, for the organization of the Workshop associated with the respective theme of each session.

3. Who's who in the UN Crime Programme

3.1. The member states

The member states are the most important units in the UN Crime Programme. This is evident already from the formulation of General Assembly resolution 46/152, which defines the mandate of the UN Crime Commission as helping *member states* in preventing crime and in improving the response to crime.

The importance of member states is also heightened by the fact that the UN Crime Commission consists of forty member states elected by ECOSOC, and by the fact that the budget of the UN to conduct this work comes almost entirely from assessments from member states (the regular UN budget) and from so-called extrabudgetary funds, which also are largely from member states.

In order to assure the equitable distribution of seats in various UN bodies (such as the UN Crime Commission), the 193 member states have been divided into **regional groups** as follows:[32]
- the African Group, with 54 member states;
- the Asia-Pacific Group, with 53 member states;
- the Eastern European Group, with 23 member states;
- the Latin American and Caribbean Group (GRULAC), with 33 member states; and
- the Western European and Others Group (WEOG), with 28 member states, plus one member state (the United States) as an observer state.

A variety of other regional groupings exist within the United Nations. Two important ones (in the sense that for example they engage in regional consultations during sessions of the UN Crime Commission, and

[32] https://www.un.org/dgacm/en/content/regional-groups

their respective spokesperson may give statements) are the G-77 + China (an organization of developing countries, with 131 members) and the European Union (with 27 members).

In the UN Crime Programme, the political "weight" of a member state in discussions at the UN Crime Commission, the UN Crime Congress or the Conferences of the States Parties to the two UN Crime Conventions is often of less importance than the professional competence and negotiating skill of the individual representative of the member state in question. Small and large member states alike have experience and insights to share. The "spirit of Vienna" that seeks consensus on all issues at UN Crime Programme meetings, without the need to resort to a vote, underlines the importance of getting the cooperation of all member states.

3.2. The specialized agencies and the PNIs

A number of specialized UN agencies (such as ILO, UNESCO and WHO) may have an interest in the topics on the agenda of the various UN Crime Programme meetings, and they often participate as observers. Strictly speaking, a "specialized UN agency" is an autonomous organization that works with the UN (and other agencies) under the coordination of ECOSOC. However, at times various units of the UN Secretariat itself (such as the United Nations Development Programme) will send representatives to UN Crime Programme meeting and be listed as a "specialized UN agency."[33]

At UN Crime Congresses and sessions of the UN Crime Commission, the PNIs (see section 2.6.) have generally been classified as belonging in the category of specialized UN agencies. They participate as observers.

3.3. Intergovernmental organizations

Formally, an intergovernmental organization is one in which the members are national governments. The United Nations itself is the best-known example. Other examples that have played an important role in the crime prevention and criminal justice sector are the Council of Europe, the Organization of American States, the African Union and the European Union.[34]

Intergovernmental organizations participate in many UN Crime Programme meetings as observers.

3.4. Non-governmental organizations

As is the case with intergovernmental organizations, non-governmental organizations (NGOs) participate in UN Crime Programme meetings as observers. The role of non-governmental organizations in the UN in general, and in the UN Crime Programme in particular, has evolved considerably over the years.[35]

When the United Nations was founded in 1945 as an intergovernmental organization, non-governmental organizations (NGOs) successfully lobbied for a provision in the Charter that grants NGOs consultative status with the Economic and Social Council. Article 71 of the UN Charter states:

> "The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its

[33] The most recent UN Crime Congress, the Fourteenth, used the following separate sub-categories of specialized UN agencies: the United Nations; representatives of United Nations Secretariat units; United Nations bodies and agencies; the United Nations Interregional Institute, affiliated regional institutes and centres of the UN Crime Prevention and Criminal Justice Programme Network; and specialized agencies.

[34] Although the International Criminal Police Organization is usually listed in this category, it is strictly speaking not intergovernmental, since its membership consists of the criminal police entities of different countries.

[35] See Matti Joutsen, What is the Role of the Public in Crime Prevention and Criminal Justice? The Debate in the United Nations, *UNAFEI Resource Material Series 105*, pp. 49-69, Tokyo 2018, available at https://www.unafei.or.jp/publications/pdf/RS_No105/No105_9_VE_Joutsen_2.pdf

> competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned."

ECOSOC rules of procedure recognize NGOs as a specific category of participants.[36]

On the basis of Article 71 of the UN Charter, a distinction is made between NGOs with **consultative status with ECOSOC**, and other NGOs. Those with consultative status have a standing invitation to attend for example the sessions of the UN Crime Commission as well as the UN Crime Congresses, whereas other NGOs need to apply to the UN Secretariat for an invitation to attend.

The International Scientific and Professional Advisory Council (ISPAC) was established in 1991 to serve as a structure for networking among NGOs, as well as academic institutions interested in the work of the UN Crime Programme. In addition, alliances of NGOs with consultative and associated status have been established in both New York (1972) and Vienna (1983).

In the past, the role of NGOs has been quite discernible in the drafting of the UN standards and norms on crime prevention and criminal justice, beginning with the first such standard and norm, the Standard Minimum Rules on the Treatment of Prisoners (SMRs), which was adopted by the General Assembly in 1955. The SMRs had, indeed, been drafted under the auspices of the IPPC. Especially during the time of the UN Crime Committee, other standards and norms were generally drafted by outside experts, who often worked together with various NGOs and academic institutions that were active in respect of the subject matter of the draft. These drafts were generally then submitted to a UN Crime Congress for approval and action. Currently, however, new standards and norms are generally drafted at UNODC Expert Meetings convened in accordance with a mandate given by the UN Crime Commission. The draft will then be submitted to the UN Crime Commission for action.

3.5. Individual experts

The large majority of persons attending UN Crime Programme meetings represent a member state or an organization. However, individual experts continue to play a role in the UN Crime Programme. They form a recognized category of participant at UN Crime Congresses. Perhaps more importantly, individual practitioners and academics have been active in various technical assistance projects, and in the drafting of manuals and other documentation being prepared by the UNODC and the PNIs.

4. The products of the UN Crime Programme

4.1. The UN Crime Programme standards and norms

The term "standard and norm" refers, in the context of the UN Crime Programme, to a set of instruments adopted by the General Assembly and ECOSOC (and in a few exceptional cases, by other bodies) that are designed as benchmarks for the development of crime prevention and the criminal justice system. As noted on the UNODC website,[37] "These standards and norms provide flexible guidance for reform that accounts for differences in legal traditions, systems and structures whilst providing a collective vision of how criminal justice systems should be structured."

[36] Rules of Procedure of the Functional Commissions of the Economic and Social Council, available at http://www.ohchr.org/Documents/HRBodies/CHR/RoP.pdf

Rule 75 provides for the right of NGOs to designate representatives to attend public meetings of the commission and its subsidiary organs as observers. Rule 76 provides for consultation with NGOs, including the right to be heard by the Commission.

[37] https://www.unodc.org/unodc/en/commissions/CCPCJ/ccpcj-standards-and-norms.html

Over the years, a considerable number of UN standards and norms have been adopted.[38] The first to be adopted was the Standard Minimum Rules on the Treatment of Prisoners, known as the SMRs. Originally adopted in 1955, these have been updated in 2015. The revised version is known as "the Nelson Mandela Rules."

Other key standards and norms deal with

- corrections, such as the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and the Basic principles on the use of restorative justice programmes in criminal matters;
- torture and capital punishment, such as the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Safeguards guaranteeing protection of the rights of those facing the death penalty;
- justice for children, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice;
- crime prevention, such as the Guidelines for cooperation and technical assistance in the field of urban crime prevention, and the Guidelines for the Prevention of Crime;
- violence against women, such as the Declaration on the Elimination of Violence against Women, and the Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice;
- victims of crime, such as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; and
- the operation of the criminal justice system, such as the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Basic Principles on the Independence of the Judiciary, the Guidelines on the Role of Prosecutors, the Basic Principles on the Role of Lawyers, and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.

Standards and norms are commonly referred to as "**soft law**" instruments, in the sense that they provide guidance but are not legally binding. This does not mean that standards and norms, as "soft law", are meaningless, and have no practical effect. The significance of soft law, including standards and norms, does not lie in any assumed legal binding effect. The significance lies elsewhere, on both the national and the international level.

On the national level, international standards and norms may have an instrumental value in guiding national development.[39] They may be used as persuasive arguments by decision-makers in individual jurisdictions when these decision-makers seek to justify certain courses of action that they would have preferred even if the standard or norm did not exist. When selecting from among various alternative approaches to achieving a certain end, the decision-makers may thus defend their choice by referring to specific provisions in, for example, the Nelson Mandela Rules, the Bangkok Rules, or the Tokyo Rules.

Similarly, international standards and norms can also be used by citizens, non-governmental organizations and other stakeholders in trying to influence their government to change laws and policy in a certain direction.

It is difficult to analyse the actual impact of international standards and norms on the domestic level, due to a number of factors: the absence of an obligation to report, the heterogeneity of the criminal justice systems of different states, the possibility of different interpretations of the same text, and the difficulty in determining if a specific change in national law, policy or practice was due to the influence of a United

[38] See https://www.unodc.org/unodc/en/justice-and-prison-reform/compendium.html

[39] The most widely known example of a standard and norm guiding national development is the Standard Minimum Rules for the Treatment of Prisoners. It has clearly guided national practice in corrections and, in several cases, helped bring about legal reform.

Nations standard and norm, or to other factors.

Nonetheless, many reports from states to the United Nations Office on Drugs and Crime cite examples of the impact, and the literature shows several further examples of impact. In many states, the standards and norms are becoming part of the national discourse on crime prevention and criminal justice.

On the international level, "soft law" may be seen as an intermediate stage in the formulation of ideas and concepts that may in time emerge as "**hard law**", in the form of international agreements. When ideas are embodied in standards and norms, the recognition and declaration of certain principles and even detailed rules may be intended to have a direct influence on the practice of states. If this happens, they contribute to the creation of **customary international law**, which is widely recognized as binding on states. Standards and norms, even if they are not in themselves binding, may thus become a source of international law, in particular if they are drafted in the form of an obligation (e.g., "states *shall*" do something, as opposed to "states *may consider*" doing something, or "states *are invited*" to do something).

4.2. Resolutions

Much of the time of participants at sessions of the UN Crime Commission (and ECOSOC and the General Assembly), and at sessions of the CoSPs, is devoted to the consideration of draft resolutions. Resolutions are important for several different types of reasons.

First, on the substantive level, a resolution (when adopted) embodies the sense of the member states of the United Nations: what are the priority issues in crime prevention and criminal justice, and what should be done by the international community in general. They can, for example, call the attention of the member states, and the international community as a whole, to the emergence of new challenges, such as the difficulties faced by prisoners with a Covid-19 infection.

On the aspirational level, a resolution may express the will of member states to call upon member states, or to invite other actors (such as intergovernmental organizations) to take specific action.

On the political level, a resolution may be used to promote a certain political agenda: condemning certain developments, action taken or incidents, welcoming other developments, stressing the importance of certain values, and so on.

On the practical level, a resolution often requests that the Secretariat take specific actions, such as prepare a report, organize a meeting or provide certain assistance to member states on request.

Finally, on the linguistic level, and as a document reflecting the outcome of UN negotiations, the phrasing and terminology used in resolutions often becomes "agreed language," which may well be referred to in future negotiations.

The process of the consideration of draft resolutions consists of the following phases:
- a member state formulates the purpose and content of the intended draft resolution, and (preferably) the first draft version for circulation;
- initial informal consultations with at least some of the key delegations to solicit their comment and, ideally, their tentative promise to serve as **sponsors** of the draft in the negotiations, or otherwise to provide support;[40]
- the formal **tabling** of the draft resolution, after which it will be translated into all the official UN languages and distributed;
- informal negotiations with all "interested member states." These are closed negotiations, which may generally be attended only by representatives of member states. Other individuals may be present, if the other participants agree;
- presentation of the results of the informal negotiations in the "**Committee of the Whole**" (perhaps with

[40] Formally, the agreement of all member states which identify as sponsors of a draft resolution should be secured when amendments are proposed.

an updated "clean copy" of the text of the draft resolution, as amended); this stage may involve further negotiations; and
- submission of the results of the negotiations to the plenary for adoption.

The informal negotiations will generally not have the benefit of interpretation into all of the official UN languages. The considerations in the Committee of the Whole and in plenary, in turn, will have interpretation.

The negotiation of draft resolutions can be quite time-consuming, and some sessions of the UN Crime Commission have been marked by very lengthy negotiations on multiple draft resolutions that last far into the night (and the early morning). Generally, the negotiations do lead to the adoption of the draft resolution, although often with extensive amendments in "compromise language." If towards the end of a session of the UN Crime Commission it appears that consensus on the draft resolution will not be reached (or could be reached only with substantive amendments that do not meet the interests of the sponsors of the draft), the draft resolution may be withdrawn.

4.3. UNODC documentation and UN Crime Programme meeting reports

One of the major functions of the Secretariat is to prepare documentation for the consideration of UN Crime Programme meetings, such as the sessions of the UN Crime Commission, the UN Crime Congresses, and the Conferences of the States Parties to the two UN Crime Conventions. The result is a steady flow of information that has been collected and processed by the Secretariat.

The documentation, which is generally of a very high quality indeed, seeks to provide the conceptual framework for the expected discussion, set out the state of knowledge on the relevant issues, describe what action has been taken, and possibly suggest for consideration what action should be taken. This is a challenging task for several reasons, not least because of fairly stringent limits on the length of documents that have been imposed in order to keep down the costs of translation and processing of the documents into the six official languages.

The final stage of work at UN Crime Programme meetings involves the **adoption of the report**. The Secretariat generally assists the rapporteur in the drafting of the report, and the draft text is usually very carefully constructed to reflect what should be an impartial summary of the discussions.

Various UN Crime Programme meetings may, furthermore, request that the UNODC prepare a report on a subject, for submission and consideration at a subsequent meeting.

In addition to documentation connected directly with UN Crime Programme meetings, the UNODC has produced, to an increasing pace after the turn of the millennium, many **manuals, handbooks, training materials, reports and compendiums** that are intended to be used for example in technical assistance projects.[41] These include
- model legislation that can be used in different legal systems in the implementation of the two UN Crime Conventions,
- manuals and handbooks on how to prevent, investigate and prosecute specific offences (such as trafficking in persons and the smuggling of migrants),
- digests of legal cases showing how different courts have dealt with criminal cases related to the UN Crime Conventions, and
- manuals and handbooks on different aspects of international legal cooperation (such as mutual legal assistance, extradition, the transfer of prisoners, the recovery of assets).

The UNODC continues to produce excellent research publications. Special reference can be made to the annual Global Report on Trafficking in Persons, and the Global Studies on Homicide and the World Wildlife Crime Reports. Reports on different aspects of transnational organized crime, from different regions, have also been published.

[41] https://www.unodc.org/unodc/en/international-cooperation/publications.html

4.4. United Nations Crime Conventions[42]

As noted in section 1.4, the adoption of the two UN Crime Conventions – the UN Convention against Transnational Organized Crime and its three protocols, as well as the UN Convention against Corruption – marked a clear transition in the UN Crime Programme, towards an emphasis on hard law and on the effectiveness of the response of the international community to crime.

The two UN Crime Conventions have influenced international cooperation in at least three respects:
- as global conventions, they have considerably expanded the geographical scope of cooperation,
- they provide common definitions of certain key offences, and require (or, in some cases, at least encourage) states parties to criminalize these acts, and
- they have standardized and contributed to the development of procedural forms of cooperation.

Global scope. The UN Crime Conventions are global instruments, open to countries around the world. Most earlier agreements were bilateral or at most regional. The UN Crime Conventions provide a relatively clear basis for cooperation between countries, regardless of their legal system or the underlying principles of the operation of their criminal justice system. At present (April 2022) UNTOC has 190 parties (and its three protocols have somewhat fewer), and UNCAC has 189 parties. Both thus have considerable geographical scope.

Criminalization requirements. UNTOC requires that states parties criminalize four types of conduct. These are, respectively, participation in an organized criminal group, money laundering, corruption and obstruction of justice. In particular the first two of these articles marked a considerable shift in thinking in many countries. During the negotiations, the definition of participation in an organized criminal group proved difficult, since few countries had an offence in their laws that would cover the concept. The definition ultimately represented a merger of the common law concept of conspiracy with elements of the Italian and U.S. concept of a racketeering influenced and corrupt organization.

UNCAC contains a number of criminalizations. The provisions on money laundering and obstruction of justice are broadly similar to those to be found in UNTOC. Understandably, UNCAC goes into greater detail than UNTOC in requiring the criminalization of corruption offences, such as bribery, and misappropriation or other diversion of property by a public official. In addition, UNCAC contains definitions of some acts that states parties are encouraged to criminalize, although there is no obligation to do so. This non-mandatory approach is the result of the fact that, during the negotiations, many states were dissatisfied with what they saw as the vagueness of such definitions of offences as trading in influence, abuse of functions, and illicit enrichment. In addition, some states parties opposed making bribery in the private sector a mandatory offence.

Procedural cooperation. The impact of the two UN Crime Conventions on procedural cooperation is illustrated in the following table by comparing what law enforcement cooperation and judicial cooperation was typically like before the conventions entered into force (referred to here as "traditional cooperation") with the "new, improved" cooperation to which the two UN Crime Conventions contributed.

[42] For more on the UN Crime Conventions, see Matti Joutsen (2011), *The Impact of United Nations Crime Conventions on International Cooperation*, in Cindy Smith, Sheldon X. Shang and Rosemary Barberet (eds.), Routledge Handbook of International Criminology, Routledge, pp. 112-124.

Table 2: Two regimes of cooperation

The traditional cooperation regime	The "new, improved" cooperation regime
each country uses its own "traditional" investigative means	introduction of various modern investigative means
each country carries out its own criminal investigation	possibility of joint investigations
limited scope of offences; lists of offences	broad scope of offences; no lists of offences
limited scope of mutual assistance available	many possible forms of mutual assistance available
no provisions on confiscation of the proceeds of crime	such provisions are included, as are provisions on mutual assistance related to confiscation of the proceeds of crime
use of diplomatic channels in requesting and giving assistance	use of a Central Authority, and the possibility of direct contacts between lower-level authorities
bureaucratic	"good practice" standards followed (e.g. the possibility of consultation before possible refusal of a request)
requested state applies solely its own laws in granting assistance	procedures requested by the requesting state can be applied if these are not contrary to the laws of the requested state
extradition of nationals not possible	nationals can be extradited, although subject to possible conditions

Introduction of new investigative means. Because of the diversity of legal systems, investigative techniques that have proven useful in one country may not be allowed in another. This applies, for example, to such techniques as electronic surveillance, controlled delivery, undercover operations, the promising of immunity from prosecution or a reduced sentence in return for cooperation in investigations, and the use of anonymous witnesses. If an investigative technique is legal in one country (A) but not legal in another (B), this may result in at least two types of problems. The first is that A will be frustrated by the inability of the law enforcement authorities of B to use what A regards as an effective tool. The second is that the judicial authorities of B may not allow the use of any evidence that has been gathered through the use of what, for B, are illegal techniques, even if the evidence has been obtained in a jurisdiction where the evidence was acquired legally.

In response to this problem, the two UN Crime Conventions encourage State Parties to allow the use of certain special investigative techniques. UNTOC and UNCAC refer to controlled delivery, electronic and other forms of surveillance, and undercover operations. These techniques are especially useful in dealing with sophisticated organized criminal groups because of the dangers and difficulties inherent in gaining access to their operations and gathering information and evidence for use in domestic prosecutions or in other States Parties in the context of mutual legal assistance schemes.

Possibility of joint investigations. A number of provisions in the UN Crime Conventions focus on overcoming problems that result when each country carries out its own criminal investigations. Among the innovations are the possibility of the establishment of joint investigation teams, cooperation in the protection of witnesses, the establishment of formal channels for the exchange of operational and general information between police agencies, and the possibility of appointing liaison officers.

Broad scope of offences. The earliest treaties were based on lists of offences. If an offence was not included in the list, a country would not provide mutual legal assistance or grant extradition. The reason for this was that countries traditionally wanted to specify in advance for what offences they would consider providing judicial assistance. This led to several difficulties, including the technical ones that arise due to differences in definitions of even the most basic offences, such as assault or robbery. UNTOC, in contrast, provided that cooperation should essentially be provided in cases where the offence fit into a generic definition of "transnational organized crime."

Broader range of forms of assistance. The earliest agreements on mutual legal assistance treaties concerned merely the service of summons. UNTOC and UNCAC, in turn, include specific provisions on the transfer of

criminal proceedings, whereby if a person is suspected of having committed an offence under the laws of one state party, that state party may request another state party to take action on its behalf in accordance with the Conven¬tion in question, and the latter would prosecute the alleged offender under its own laws.

It has only been relatively recently that international agreements began to contain provisions on assistance in identifying, tracing and freezing or seizing proceeds of crime for the purpose of eventual confiscation (which can be regarded as a special form of mutual legal assistance). The need to come to grips with the profit motive behind the rapid growth of drug crime led the drafters of the 1988 Drug Convention to require that states parties criminalize money laundering, and also to require states parties to create domestic mechanisms for the tracing, restraint and confiscation of the proceeds of drug-related crime, and to respond to requests presented by other states parties for the tracing, restraint and confiscation of the proceeds of drug offences. The 1988 Convention was the primary point of reference in the formulation of the corresponding (albeit broader) provisions in UNTOC and UNCAC.

UNTOC and UNCAC allow several forms of assistance that were not envisaged under earlier international instruments. Examples include video conferences, and what is known as the "spontaneous transmission of information", whereby the authorities are allowed, even without a prior request, to pass on information to the competent authorities of another state that they believe might be of use.

Use of a Central Authority. Traditional mutual legal assistance treaties required that requests be sent through diplomatic channels. What this entails is that, for example, a request for evidence, usually originating from the prosecutor, is authenticated by the competent national court in the requesting state, and then passed on by that state's Foreign Ministry to the embassy of the requested state. The embassy sends it on to the competent judicial authorities of the requested state, generally through the Foreign Ministry in the capital. Once the request has been fulfilled, the chain is reversed.

UNTOC and UNCAC contain provisions on the concept of a "Central Authority." Although each state party may continue to insist on diplomatic channels, these Conventions require that they identify an authority – in practice, often the Ministry of Justice, although also for example Supreme Courts have been designated as such – to be competent for the transmission of international requests, and to provide guidance for practitioners. This has tended to shorten the chain of authorities involved, and accordingly has speeded up the process of obtaining assistance.

Adoption of "good practice" standards. One of the major problems in mutual legal assistance world-wide is that the requested state is often slow in replying, and suspects must be released from custody due to absence of evidence. There are many understandable reasons for the slowness: a shortage of trained staff, linguistic difficulties, differences in procedure that complicate responding, and so on. Nonetheless, it can be frustrating to investigators and prosecutors to find that a case must be abandoned because even a simple request is not fulfilled in time. UNTOC makes the point of the importance of promptness in two separate provisions. UNTOC provides that, if the Central Authority itself responds to the request, it should ensure speedy and prompt execution. If the Central Authority transmits the request to, for example, the competent court, the Central Authority is required to encourage the speedy and proper execution of the request. According to a separate UNTOC provision, the request is to be executed "as soon as possible" and the requested state is to take "as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given."

Difficulties may also arise due to different legal standards. An example of this is the concept of "*prima facie* evidence of guilt" which some countries require as a condition for extradition. Since different countries apply differing rules of evidence, it may be difficult for a practitioner in one country to know what evidence would satisfy the requirements of the requested state. Both UNTOC and UNCAC call upon state parties to simplify their evidentiary requirements in this respect.

Possibility to apply the law and procedures of the requesting state. Since the procedural laws of states differ considerably, the requesting state may require special procedures (such as notarized affidavits) that are not recognized under the law of the requested state. Traditionally, the almost immutable principle has been that the requested state follows its own procedural law. This principle has led to difficulties, in particular when the requesting and the requested state represent different legal traditions. For example, the evidence

transmitted from the requested state may be in the form prescribed by the laws of this state, but such evidence may be unacceptable under the procedural law of the requesting state.

The modern trend is to allow more flexibility in respect of procedures. According to both UNTOC and UNCAC, a request shall be executed in accordance with the domestic law of the requested state. However, the respective provisions go on to say that, to the extent not contrary to the domestic law of the requested state and where possible, the request shall be executed in accordance with the procedures specified in the request. Thus, although the two UN Crime Conventions do not go so far as to require that the requested state comply with the procedural form required by the requesting state, they do clearly exhort the requested state to do so.

Extradition of nationals. One of the most cherished principles in extradition law has been that states will not extradite their own nationals and will, at most, undertake to bring them to trial in their own courts. Today, more and more states are allowing extradition of their own nationals, although some conditions may be placed, such as that the national, if convicted, should be returned to his or her own country to serve the sentence. UNTOC and UNCAC incorporate provisions that reflect this development, by allowing for the possibility of "temporary surrender" of the fugitive on the condition that this person will be returned to the requested State Party for the purpose of serving any sentence imposed. In cases where the requested state refuses to extradite a fugitive on the grounds that the fugitive is its own national, the state is often seen to have an obligation to bring the person to trial. Where extradition is requested for the purpose of enforcing a sentence, the requested state may also enforce the sentence that has been imposed in accordance with the requirements of its domestic law.

4.5. UN Crime Programme technical assistance

Along with the increased focus of the UN Crime Programme on the implementation of the two UN Crime Conventions, the UNODC and the PNIs have sought to provide more **technical assistance** to member states and other organizations on request.[43] Much of the UNODC assistance is provided through its network of regional and national offices.

Substantive priority areas include organized crime and illicit trafficking (including trafficking in persons, the smuggling of migrants, cybercrime and money laundering), corruption and economic crime, and the prevention of terrorism. Technical assistance is provided for example on preventive and security measures, the identification and monitoring of the extent, dynamics and actors involved in crime, the criminal justice response, and international cooperation and information exchange. The UNODC has developed an extensive Criminal Justice Assessment Toolkit to be used in this work.[44]

The technical assistance covers, for example, legislative advice (including support in the drafting of legislation), assistance in the development of national policy and strategies, and capacity building. The two UN Crime Conventions as well as the UN standards and norms provide the basic framework, which needs to be tailored to the national and local situation, including not only the assessed needs and priorities, but also the legal and administrative system, the human and technical resources, and the cultural and political context.

Although the projects are generally done in direct cooperation with the member state in question, the UNODC and the PNIs also emphasize the importance of consensus-building, and the involvement of all the relevant stakeholders, including the relevant civil society organizations as well as bilateral and multilateral donors.

[43] For an overview of the "lessons learned" in UNODC and PNI technical assistance projects, see Margaret Shaw, *Maximizing the effectiveness of technical assistance provided by Member States in crime prevention and criminal justice. Background Note for the PNI Workshop at the Fifteenth Session of the UN Crime Commission*, International Centre for the Prevention of Crime, 2006, available at https://cipc-icpc.org/wp-content/uploads/2019/08/Maximazing_effectiveness_of_technical_assistance_2006.pdf

[44] *UNODC Criminal Justice Assessment Toolkit*, available at https://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html

In the planning of UN Crime Programme technical assistance projects, increasing attention has been given to the importance of adopting an **integrated approach**, as opposed to the carrying out of short-term, piecemeal, specialized initiatives that do not take into account the broader need in the target country for institutional reform, institution building and capacity building. This calls for taking into consideration such cross-cutting issues as gender mainstreaming, the promotion of human rights, and support for the participation of civil society. Such an emphasis has been strengthened by the adoption by the General Assembly in 2015 of the Sustainable Development Goals.

The UNODC and the PNIs seek to promote evidence-based projects, and emphasize the importance of evaluating the effectiveness and impact of the assistance provided.

Technological development, and in particular the use of **video technology**, is rapidly changing the way in which the UNODC and the PNIs are developing and conducting technical assistance projects. In project development, a wide range of stakeholders in the country in question can be consulted online, and they can provide important details on the national or local context. Similarly in the preparation of technical assistance materials, online meetings can be used to prepare and finalize the drafts. The training can be and is being provided online to practitioners and other stakeholders. And finally, in evaluating the results of the programme, a wide range of stakeholders can be interviewed individually or together online. This allows for a more comprehensive assessment than what would be possible with cost-intensive in-person meetings.

5. International sensitivities in the UN Crime Programme

Different states have different priorities, and there are often disagreements over what should be done. This section identifies some of the issues that have been repeatedly debated within the scope of the UN Crime Programme, generally in the context of the drafting of resolutions.

5.1. Work on a proposed UN Convention on countering the use of information and communications technologies for criminal purposes

Issue: What should be the scope of the proposed UN Convention on countering ICT technologies for criminal purposes.

GA resolution 74/247 established an "open-ended *ad hoc* intergovernmental committee of experts, representative of all regions, to elaborate a comprehensive international convention on countering the use of information and communications technologies for criminal purposes"

Appearance of the issue in practice:

- Work has begun at the beginning of 2022 on the negotiation of a UN Convention on countering ICT technologies for criminal purposes (a "UN Convention on Cybercrime"). However, this was preceded by over ten years of disagreements over the need for such a convention.
- The main argument for a UN cybercrime convention is the need for a global convention in the drafting of which all UN member states can participate. Existing regional instruments (and here the reference is generally to the Council of Europe Convention on Cybercrime from 2001, the "Budapest Convention")[45] are argued to not reflect the concerns of developing countries. Furthermore, some countries have argued in particular that art. 32(b) of the Budapest Convention, which allows states to obtain information in another country if the lawful owner of the date consents, without the need for approval of the state in question, is a violation of national sovereignty.
- The main arguments against a UN cybercrime convention include the lack of perceived need (those making this argument hold that implementation of existing frameworks, standards and legislation is more important than the drafting of new instruments), the expense of drafting and implementing a UN convention, and the difficulties that would arise if there are two or more competing conventions with

[45] Reference can also be made to the Shanghai Cooperation Council's Agreement on Cooperation in the Field of Ensuring International Information Security (2009), the League of Arab States Convention on Combatting Information Technology Offences (2010), and the African Union's Convention on Cyber Security and Personal Data Protection (2011).

dissimilar provisions.
- Now that work has begun on the negotiations, the key issues are likely to concern the respective role of member states, the private sector (in particular technology companies and service providers), and civil society in the regulation of cyberspace; the issue of transborder access to data and electronic evidence; to what extent the proposed convention would cover online content; and to what extent the data subject has the right to digital privacy.

5.2. Role of civil society

Issue: This (in addition to the current debate over the proposed UN Convention on countering the use of information and communications technologies for criminal purposes) is perhaps the major disagreement within the UN Crime Programme at present. It rose to prominence in connection with the negotiation of the UNCAC implementation review mechanism (2006-2011), and revolves around different understandings of the "intergovernmental nature" of the United Nations. Basically, some states are of the view that non-governmental organizations (NGOs) should not have a role in many international discussions on crime prevention and criminal justice within the UN framework, while other states are of the view that non-governmental organizations can strengthen the national and international response.[46]

Appearance of the issue in practice:
- Within the framework of the UNCAC implementation review mechanism, NGOs may at present attend only plenary sessions of the Conference of the States Parties, but not sessions of the working groups or of the Implementation Review Group (IRG). A one-day "briefing" is organized for duly accredited NGOs in connection with the annual main session of the IRG.
- This status quo is viewed by some state parties as the result of a "final" decision, resting on a delicate balance, and should not be re-opened. Other state parties are of the view that the status quo is a matter that should be kept under constant review in view of the "constructive dialogue" between the states parties and the NGOs called for by the 2011 session of the Conference of States Parties (the "Marrakesh compromise").
- More generally within the work of the UN Crime Commission, earlier resolutions have included many references to the necessity of states working together with NGOs also on the international level. Currently, largely the same states that have opposed NGO involvement on the international level in the review of the implementation of UNCAC tend to object to references in draft resolutions to civil society also in other connections.
- If references to NGOs in a draft resolution seem to have strong support, some objecting states may insist on language to the effect that the activity of such NGOs must be subject to the law of the state in question.
- A related point of contention has been the accreditation of NGOs to various meetings within the framework of the UN Crime Programme. The basic rule is that NGOs that have consultative status with ECOSOC may attend UN meetings, unless decided otherwise. Other NGOs may apply for permission to attend. The Secretariat drafts a list of such requests and circulates it among diplomatic missions in Vienna. Now and then a state has objected to a specific NGO, in which case the matter is dealt with by the Bureau. If the Bureau cannot reach agreement, the issue is decided by the meeting itself. In such a case, the NGO is assumed to have the right to attend the meeting until and unless the meeting decides otherwise. (So far, such issues have almost always been solved amicably before the start of the meeting in question.)

5.3. The mandate of the UN: what can be discussed in Vienna?

Issue: how strict can and should the borderlines be between what is discussed within the framework of the UN Crime Programme, and what is discussed by other elements in the UN system, such as the UN bodies debating human rights, the advancement of women, education, climate change and urban development?

[46] See *Civil Society Engagement in the Implementation of the United Nations Convention against Corruption* (2015) conference room paper submitted by Finland to the UNCAC Conference of the States Parties, CAC/COSP/2015/CRP.3.

Appearance of the issue in practice:

- some states may oppose references in draft resolutions to issues (such as violence against women, or environmental crime) that would seem to overlap with the mandate of other UN bodies, even if these are simple references to the importance of an issue. An example was the demand of one representative that references to human rights be deleted from a draft resolution being discussed in Vienna, on the grounds that human rights are dealt with in Geneva.
- references that merely cite resolutions and work by other elements of the UN are generally accepted, in line with the "one UN" approach.

5.4. Financing of activity, including technical assistance

Issue: what activities should be covered by the regular UN budget, and what activities require the identification of "extrabudgetary funds." The UN Crime Commission itself cannot decide on the UN budget, and therefore any draft resolution that may have financial implications (staff work by the Secretariat, organization of a meeting, and so on) would require a "statement of financial implications" from the Secretariat, and an indication of how the funding would be obtained.

Appearance of the issue in practice:

- major donors to the UN budget tend to oppose increases in the regular UN budget, and require that any additional activities be conducted only if extrabudgetary funding is made available for this purpose. Those states that support the activity in question may argue that it is so important that it should be funded from the regular UN budget.
- If there are financial implications which cannot be covered by the regular UN budget, then the phrase "... subject to the availability of extrabudgetary funds" (or something along the same lines), is inserted into the draft. If it is not possible to identify the source of such funding, then the relevant provisions of the resolution (if the resolution is adopted) will in practice not lead to any action.

5.5. Conditionality of technical assistance

Issue: Some states requesting technical assistance oppose requirements that, in order to receive such assistance, they must take certain steps (such as adopt certain legislation or certain policies). They generally argue that this constitutes interference in domestic matters. Donors, in turn, may be of the view that certain steps are necessary for the assistance to have the intended impact.

Appearance of the issue in practice:

- Some developing countries are sensitive to phrasing of draft resolutions that would appear to imply that they must take certain action before they can receive any funding. Their principal argument is that the international community can successfully respond to crime only if all states have the possibility to take the requisite measures – and therefore, (unconditional) technical assistance is required.

5.6. Multilingualism

Issue: the UN has six working languages: Arabic, Chinese, English, French, Russian and Spanish. Member states have the right to participate in the work of the United Nations in their preferred language. Nevertheless, much of the work of the UN takes place in informal settings, in which case there is no allocation for interpretation. In practice, most of the representatives based in Vienna are able to work in English, and these informal negotiations will generally be conducted in English.

Appearance of the issue in practice:

- Proposals for holding expert meetings or other meetings that do not specifically allow for interpretation may be opposed by those whose working language would not be made available.
- States may oppose expert meetings in general and require that the meetings be "open-ended intergovernmental meetings" which would implicitly require that all six UN working languages can be used. (This, in turn, increases the costs of the meetings and lessens the willingness of states to offer to host such meetings. It also raises the possibility that the participation of NGOs at such a meeting

might be questioned, on the grounds that the meeting would be "intergovernmental.")
- If a meeting (even an "informal meeting") is held in one UN language only, representatives of other language groups may argue that any decisions made even provisionally can be subjected to new debate, once the consideration proceeds to a forum where all six languages may be used. (In practice, interested governments have cooperated with the UNODC in the organization of such monolingual expert meetings in order to prepare draft documents, which can then be submitted for the consideration of the UN Crime Commission.)
- If negotiations are being conducted on the basis of documentation (such as is the case with the adoption of a draft resolution or draft report), the consideration may be postponed until the documents are available in all six working languages.

5.7. Recovery of assets

Issue: Concern that some states do not take sufficiently effective action in tracing, freezing, seizing and confiscating illegally obtained assets and, in particular, in returning them to the country of origin.

Appearance of the issue in practice:
- Several developing countries take the view that those countries to which the proceeds of crime (for example, of corruption) have been transferred have an obligation under the two UN Crime Conventions to be much more efficient in recovering and repatriating the proceeds of crime. The states to which the funds are transferred, in turn, are in general of the view that the proper domestic legal procedure must be followed, and this, in turn, entails the provision of sufficient evidence that the assets in question are indeed the proceeds of crime, and that the requesting state (and not any third party) is the legitimate owner.

5.8. Trafficking in cultural property

Issue: Concern that some states do not take sufficiently effective action in tracing, freezing, seizing and confiscating trafficked cultural property and, in particular, in returning them to the country of origin.

Appearance of the issue in practice:
- As with the debate over the recovery of assets, many developing countries from which cultural artefacts have been taken, are of the view that the states to which the artefacts have been taken are not sufficiently efficient in tracing, recovering and returning the cultural property. The states to which the artefacts are transferred, in turn, may be of the view that the artefacts were legally taken out of the country in question.
- In some cases, developing countries call for the return of artefacts that have been taken from the country many years before, although the records showing the provenance of the artefacts may in the interim have been destroyed, for example in a war.

5.9. Use of peer review

Issue: UNCAC is the first UN convention for which national implementation has been subjected to peer review. At the time, the concept of peer review was unfamiliar to the representatives of many states, and there was concern (for example) that allowing foreign states to examine what action has been taken in a state party constitutes intervention in domestic matters, which would be against the UN Charter.[47]

Appearance of the issue in practice:
- Although there were considerable difficulties in the negotiation of the mechanism for the review of the implementation of UNCAC, and several states parties were sceptical of the concept of peer review (in particular the necessity for a "country visit" that would allow discussions with a broad range of

[47] See Matti Joutsen and Adam Graycar, When Experts and Diplomats Agree: Negotiating Peer Review of the UN Convention Against Corruption, Journal of Global Governance Vol. 18, No. 4 (Oct.–Dec. 2012), pp. 425-439.

stakeholders), there are at present few, if any, state parties that regard the UNCAC implementation review mechanism as intrusive. Country visits have been conducted in the vast majority of reviews.
- The major concern has to do with the expense of a multilingual review process, which may, in the case of an individual country under review, require the translation of hundreds of pages into one or two languages during the review process, followed by translation of the executive summary into all working languages. The country visits also entail travel and other costs.
- A separate issue is that the UNCAC peer review mechanism is different from those used for example by the OECD or the Council of Europe; in particular, in the UNCAC process the state party under review has control over what information is used and how the report is written, the Implementation Review Group may not consider the situation in any individual state party, and there is no rigid follow-up process.

5.10. "Ranking" of member states

Issue: The issue of the ranking of states arose, in the framework of the UN Crime Programme, with concern by several member states that the "Transparency Index" published by Transparency International misrepresented the extent of corruption in their countries. In their view, such indexes were not only misleading, but could even be harmful for example by providing disincentives for foreign investment.

Appearance of the issue in practice:
- One of the principles on which the UNCAC implementation review mechanism is based is that the reviews should not involve any ranking of states parties. Thus, the UN avoids comparing the amount of corruption in specific countries. (More generic comparisons, however, are permissible, although the appropriateness also of these would be examined carefully.)
- Although the principle of avoiding any "ranking" has thus far been adopted only in the context of UNCAC, the Secretariat has become cautious also when reporting more generally on the levels of reported crime, or the operation of the criminal justice system. Tables listing for example the number of reported homicides or the number of prisoners per capita in different countries tend to be avoided, and may be replaced by charts or graphs showing groups of countries.

5.11. "Questionnaire fatigue"

Issue: Some states are of the view that UNODC *notes verbale* that ask states for information may place an excessive burden on practitioners in the different states. For this reason, they would prefer to limit the number and scope of such requests.

Appearance of the issue in practice:
- The UN Crime Commission has considerably curtailed the number of requests for information on implementation of UN standards and norms.
- The scope of the UN crime trend surveys has been restricted.

5.12. Wording of resolutions: "shall", "should", "may consider" (and so on)

Issue: resolutions of UN bodies generally call for action. The obligatory nature of the calls varies, and is usually indicated by phrases such as "states shall …", "states may …" and "states may consider …".

Appearance of the issue in practice:
- UN Crime Congress declarations and resolutions of sessions of the Conferences of the States Parties are much more likely than those of the UN Crime Commission to include a mandatory phrase such as "states shall …" (or, for the Conferences of State Parties, "states parties shall …"). The UN Crime Commission, in turn, is generally not deemed to have the mandate to require that member states of the UN act in a certain way, or that they refrain from taking certain action. For this reason, softer formulations such as "states may consider …" or "states are urged to …" tend to be used.
- The references may be further qualified with phrases such as "subject to their constitutional principles",

"subject to the basic principles of their legal system" or the like.
- In respect of intergovernmental and other bodies, a formulation such as "[IGO X] is invited to ..." may be used.
- In respect of the UN Secretariat, the standard formulation is "the UNODC is requested to ..."

5.13. Incorporation in draft resolutions of references to decisions or the work of other entities

Issue: different entities have different memberships, and different states may well have different views regarding their effectiveness or indeed their value.

Appearance of the issue in practice:
- Language that appears to endorse the work or decisions of other entities will often be weighed carefully. Such language may well be rejected for example with the argument that not all the members of the UN Crime Commission (or other UN Crime Programme body) are familiar with the work of the entity in question, and thus cannot endorse its work.
- Language referring to entities that have a restricted membership (such as regional organizations) may be rejected on the grounds that it is not the role of the UN body in question to comment on them or implicitly endorse their work.
- Language referring to a specific entity may be rejected as not representative of such entities in general. Alternatively, some states may require that many different entities, from different regions, are listed in the same connection.

6. Ten rules for success in the UN Crime Programme

As with so many negotiations, success at negotiations in UN Crime Programme meetings depends on preparation of one's own position, anticipation of the arguments that may be put forward to defend opposing positions, and an ability to influence the course of the negotiations. Negotiators come in many shapes and sizes, representing member states both large and small, and there are no hard-and-fast rules as to who will "win out" at the end. At times, the outcome may depend on misunderstood statements, seemingly trivial proposals for amendment, or chance events. Nonetheless, the more influential and successful negotiators in UN Crime Programme meetings tend to fit a distinct (and rather loose) profile, and appear to abide by the following ten "rules."

6.1. Be polite (and never disrespect the chairman)

International diplomacy is based on at least superficial respect for the views of the other players, even if you not only totally disagree with these views but cannot understand how any sensible person could suggest them. One can succeed in negotiations only if one respects, and has the respect of, the other parties. Persons from different cultures have different styles, and the use of blunt language (especially when interpreted into the other five working UN language) may unintentionally be regarded as impolite or offensive, taking attention away from the substance.

This politeness can be seen, for example, when participants are referring to the interventions made by earlier speakers. No matter whether one agrees or disagrees with a statement, the rule is that speakers who want to refer to what someone said earlier should thank the "[distinguished] representative of X" for his or her statement and then go on to say if one supports it or, with great regret, cannot support it.

It is of particular importance to be polite to the chairperson. One of the key functions of the chairperson is to serve as the neutral arbitrator who ascertains the views of the participants, seeks to identify the points of conflict, and tries to piece together wording that would achieve consensus. If the chairperson's impartiality is questioned, this could endanger the success of the entire negotiations. The politeness is shown in that participants, when they are speaking for the first time at a session, almost invariably express sentiments along the lines of the following: "Thank you Mr./Madame Chairman for giving me the floor. Since this is the

first time that my delegation has the opportunity to speak at this meeting, I would like to convey to you, and through you to the other members of the Bureau, our profound respect for the important work which you are doing. We would also like to assure you of our country's commitment to the success of this work ..." (and so on).

6.2. Avoid pomposity

In an article published during the 1980s, the Norwegian criminologist Thomas Mathiesen, after attending a UN Crime Congress for the first time, identified what he calls the "importance norm" and the "self-importance norm" at UN Crime Congresses.[48] Essentially, the "importance norm" requires that everyone respects the importance of the work being done, even if it may even seem pointless or silly at times. The "self-importance norm" is clearly linked to the one-upmanship that is so often evident in any social activity, work or play. If a participant at a UN Crime Programme meeting is able to project an aura of importance (or of experience, or of being knowledgeable), perhaps the other participants will pay closer attention to his or her views.

Indeed, some pomposity can at times be detected at UN Crime Programme meetings, and some individual participants do appear to try to bolster their self-importance. At times, this is apparently done for tactical reasons. For example, there are some speakers who do not use the first-person singular in referring to themselves, but prefer to speak about "my delegation": "My delegation is of the view that ..." Apparently, these speakers believe that an argument would be more persuasive if the audience understood it to reflect the collective view of the Government of a member state, and not just of one person. (At times, however, the tactic can misfire, especially if most listeners in the room are quite aware that the delegation in question consists of only that one person, and the speaker says something like "My delegation is of the view that we would prefer to wait until after lunch to speak on this issue.")

These examples of importance and self-importance, however, appear to be becoming more infrequent. There is currently less pomposity than what was evident in earlier UN Crime Programme meetings. This presumably is related to the fact that most of the participants are representatives of the permanent missions based in Vienna, and have generally worked with one another for many years. After such a long time, how often can one repeat the same phrases to the same audience?

6.3. Take a crash course in haggling

The UN Crime Programme deals with a large variety of issues, on many of which there are considerable differences of opinion as to what, exactly, should be done: cybercrime, assisting victims, the role of civil society, whether or not to include references to human rights in draft resolutions being negotiated within the framework of the Crime Programme, and so on. Different individuals and different countries have different experiences with crime prevention and criminal justice, and thus they have different priorities. Some countries have a strong practical or political reason to address the issue of trafficking in cultural property; others do not. Some countries want to involve non-governmental organizations more actively in the national and in particular in the international response to crime; others do not.

The UN Crime Programme follows what is known as the "spirit of Vienna", which calls for consensus on all issues, without the taking of a vote. The chairperson seeks throughout the process to ensure that all the delegations agree on the formulations used in draft resolutions or the report of the meeting. Because of the intense nature of the negotiations, and because a large proportion of the negotiators are career diplomats who do not have personal practical or academic experience in criminal justice or international co-operation, arguments based on criminology or criminal justice at times seem to have limited value, and more weight is

[48] *Thomas Mathiesen, FN-kongress som kulturfenomen ("UN Congresses as cultural phenomena"), Nordisk Tidsskrift for Kriminalvidenskab, Oslo, vol. 73, no. 2 (April 1986), pp. 157 – 160.*

The other three norms he listed were the "politeness norm", the "consensus norm" (agreement is sought on all points) and the "my country norm" (in the experience of Mathiesen, each delegation seems to be trying to avoid any agreement that might result in the member state it represents having to change its national policy and legislation).

placed on political and national priorities.[49]

That is not to say that substantive arguments are not made; indeed, they often are. Especially the larger delegations may have participants with extensive practical or academic experience who can readily explain why certain formulations suggested by others simply would not work in practice, or would have significant drawbacks. Yet other delegations may have participants who can quickly direct a logical mind at even the more obtuse questions and outline the key issues so that these can be better understood by all.

However, the stilted nature of the negotiations at times makes rational discourse difficult at best. With over 100 member states attending some of the UN Crime Programme meetings, the floor needs to be given in turn to each and all who have requested permission to speak. If the participant from country A happens to disagree with a participant from country B, it can often take many interventions before he or she can get the floor back and reply, by which time the focus of the discussion may already have meandered off to something else entirely.

As a result, the more successful negotiators include those who are good at haggling. The following gives some of the tactics that these inveterate wheeler-dealers appear to follow:

- Find out in advance who your main opponents might be, and find out what their interests and goals are. At times it is necessary to find out why ideas are being opposed, and whether the opponents would be satisfied either by a minor change of wording, or whether (for example), they might have to be brought on your side by promising to support some of their own initiatives.
- Be careful of "blind-siders." With over 100 delegations in attendance, and with the constant turn-over in the participants, it is not enough to simply assume that certain delegations will be on your aside, or at least would not speak out against your proposal. At times, opposition might pop up from a completely unexpected source. Worse, when one delegation goes on record as being against your proposal, there is a strong likelihood that subsequent speakers (especially if they come from the same regional group) would say that they tend to agree with these nay-sayers.
- Work the corridors. Now and then, it is important to enlist as many speakers as possible to go on record as being in support of your proposal. This may encourage others to jump on the bandwagon of support.
- Get the support of key delegations. If such key delegations come out in your support, this can help considerably to win on the field. Another tactic, especially important in matters with a political dimension, is to get the support of delegations from as many different regions as possible.
- Set up positions as bargaining chips (even if they may seem rather extreme) and insist on them as long as necessary. This is an unusual tactic, but also it can be seen to be used now and then. By not showing your hand too early, it may be possible to appear to be satisfied with a compromise – and yet this "compromise" may be the position that you had wanted to achieve from the outset. (Without the benefit of ESP, it is difficult to know how often this tactic is used at UN Crime Programme meetings. However, towards the end of some negotiations over draft resolutions there tend to be more and more examples of delegations stating that they want an entire paragraph or even section deleted. Often, this leads to slight amendments of the text of these paragraphs "as a compromise." perhaps along the line that the delegations in question had wanted in the first place.)

6.4. Be prepared

The old Boy Scout motto of "Be Prepared" serves many delegations in good stead in negotiations. For example, the drafting of resolutions may require familiarity with past or ongoing work in other parts of the United Nations system, for example in Geneva or New York. The drafting of resolutions may also require familiarity with previous UN Crime Congress Declarations, with key ECOSOC or General Assembly resolutions, or with resolutions by a session of one of the Conferences of States Parties. When some delegations try to invent new refinements or terminology, or delete tried-but-true wording, others may jump in and point out that the phrasing in question is based on a key text, and ask for justification for making any changes.

[49] This development can be seen to be related to the strengthening tendency to see crime and criminal justice as national security issues. While it is true that academics and practitioners represent a great variety of approaches, they can be said to have a greater tendency to see crime and criminal justice as social (or economic, or medical) issues.

"Being prepared" also applies to the giving of statements. It is helpful to work out in advance what points you want to make in a statement, how to make them, and how to justify your position. However, you should remain open to adjusting your remarks, depending on how the discussions go. One good method is to weave in points made by speakers before you. This can gratify those earlier speakers (making them more likely to support your own position), and it also conveys the impression to the audience that other member state representatives think in the same way as you do.

If you do have a prepared statement, it is advisable to provide this in advance to the Secretariat, so that they can convey it to the interpreters. (Also, don't rush too quickly through your written statement, or else the interpreters – even the excellent ones at UN meetings – may have difficulties keeping up with you.)

6.5. Learn English

The United Nations has six working languages (Arabic, Chinese, English, French, Russian and Spanish). All official documentation has to be translated into these languages, and the sessions at the UN benefit from excellent simultaneous interpretation. Nonetheless, in practice, English is the dominant language. Most of the participants based in Vienna are able to read English-language proposals, and can fluently discuss questions of drafting in English. In addition, and with the exception of the Latin American and Caribbean group, where the dominant language is Spanish, most of the regional groups rely on English as their *lingua franca*. And when informal negotiations are held or lobbying is carried out across regional divides, this tends to be done in English.

Most importantly, English dominates drafting. Although many representatives can speak in several of the other UN working languages, the discussion over a turn of the phrase is almost inevitably in English.

6.6. Learn and use certain stock phrases and "agreed language"

In accordance with the "consensus norm" identified by Mathiesen, delegations which disagree on certain points tend to be pressured by the chairperson to find language suitable to all. On the other hand, delegations applying the "my-country norm" identified by Mathiesen tend to try to avoid accepting any wording that would force them to change their domestic law or practice or, more importantly, to go against their strong views on how international criminal policy should be conducted. If delegations in the minority fail to block wording with which they disagree, they may fall back on a set of defensive ploys, all of which involve inserting certain stock phrases that weaken the nature of the obligation, or even emasculate it entirely.

The first such ploy is to replace the phrase "states shall …" (which implies an obligation) with the much weaker "states may …" or even "states may consider …". Other formulations along the same line include the exhortatory but non-binding "states are called upon …" and "states are encouraged to …". One more phrase, "states shall consider …" may seem binding at first glance, but ultimately all that it requires is that states consider something. What steps they actually take is left entirely to their discretion.

The second ploy is to insert a condition: states are required to undertake certain measures, but only for example those that "may be necessary, consistent with its legal principles" or "to the extent appropriate and consistent with its legal system." Even the insertion of the simple phrase "where appropriate" leaves each state with a margin of appreciation in deciding how to implement the resolution in question.

The third ploy is to subject everything to domestic law. It is, of course, understood that different legal systems require different measures for implementation. For example, in some countries the police carry out measures which, elsewhere, are carried out by investigating magistrates, or the courts. Furthermore, for example Continental law countries rely primarily on statutory law, while common law countries continue to place considerable weight on court practice. Finally, different legal systems used different concepts. Accordingly, now and then a paragraph may be inserted in a draft resolution obliging states to do something "in conformity with fundamental principles of its domestic law."

In the drafting of resolutions in Vienna, at times a delegation may seek to insert a somewhat modified version of this phrase, "subject to the fundamental principles of its domestic law." The difference at first seemed innocuous. However, when there is an obligation to do something "in conformity" with domestic law, the obligation to do something remains; domestic law only governs how it is done. But if the obligation is to do something "subject" to domestic law, then, logically, the state is not required to do anything that would go against its domestic law.

6.7. Learn when form can be more important than substance

All words are not created equal. In the work of UN Crime Programme bodies, it is possible to identify four categories of words, from the most to the least important: words as such, words in an optional paragraph, words in brackets, and words in a footnote.

When words are left as such in the text of a draft resolution in informal negotiations, the assumption is that they reflect the general working consensus of the participants. They benefit from the rule of inertia: unless someone is later able to persuasively argue why these words should be amended or even deleted, they are allowed to stay in the text, all the way through to final adoption.[50]

If the representative of a state is not satisfied with a formulation in general, he or she may suggest a completely different formulation or an entirely new paragraph as an "**option**." Much of the work in informal negotiations is spent on trying to eliminate the options, so that just one text remains. Thus, options exist on sufferance. It is the survival of the fittest, with the duelling options brandishing pistols at twenty paces.

When brackets are used, they denote words or entire phrases that had been questioned by one or several delegations. These delegations may disagree with the entire purpose of the words or phrase, or they may simply feel uncomfortable with the wording. Again, considerable time can be spent on debating whether or not the brackets can be "lifted." (This phrase may give rise to considerable confusion. At times, delegations may say that they want the brackets deleted. The chairperson would usually then have to ascertain whether it is only the brackets themselves that are to be deleted – in which case the words would remain in the text – or whether it is the words in the brackets that these delegations want to be deleted.)

Words in a footnote lived an even more tenuous existence. (This category does not appear very often in practice.) Every now and then, a country or group of countries may strongly disagree with the view of the majority. For them, it is often important to have their views clearly reflected in the drafting, even in a footnote, so that when the matter comes up again, the reason for their disagreement would be clear, and in the meantime, they may have succeeded in getting more allies. However, once words have been demoted to a footnote, it usually proves very difficult to get them back into the text.

6.8. Drink lots of melange and forget about your social life

Vienna is a city well known for its great variety of excellent coffee. The coffee bars outside the meeting rooms at the Vienna International Centre serve quite a few of these varieties, but it seems to be melange that is the drink of choice for many participants. Filling oneself with caffeine proves to be a good tactic for a variety of reasons. First, it helps to keep the participants awake during the long sessions; at times, listening to delegations raise the same points, over and over again, can become mind-numbing. The participants must, nonetheless, stay on their toes. The chairperson may seek at various stages to push things along by moving on to the next paragraph in the negotiations, and asking if there are any comments. If no participant raises

[50] *A further distinction can be made between words in an "**operative paragraph**" of a draft resolution, and words in a "**preambular paragraph**." The operative paragraphs are regarded as the most important part of a resolution, since they lay out policy or establish mandates. The preambular paragraphs in general give the context of the draft resolution: concern over certain developments (such as the increase in certain forms of crime), pleasure over certain other developments (such as meetings held, or decisions taken), and what key resolutions have previously been adopted on the subject. Now and then, a contentious issue may be shifted, with appropriate rewording, from the draft operative paragraphs into the preamble of the draft resolution, thus in effect giving it less political weight.*

his or her country's nameplate, the paragraph may be gavelled,[51] and the chairperson proceeds to the next point. Anyone who tries to reopen a gavelled paragraph could be subjected to considerable peer pressure.

But melange also has other functions. Coffee breaks are used for informal consultations and for lobbying. When a particularly difficult point arises, the chairperson might ask the key delegations to step outside and come back with an acceptable formulation. If the issue proves to be very vexatious, the chairperson might even declare a "15-minute coffee break" for informal negotiations, and the time is used – often quite successfully – to lobby for support for whatever proposals are on the floor.

In general, the pace of the negotiations in Vienna can be deceptively slow. Sessions usually do not begin on time, and fifteen-minute coffee breaks may last half an hour or longer. As one ambassador warned participants towards the end of one long session in Vienna, "forget about your social life." Evenings tend to be free for most participants, but especially on the third and fourth day of one-week meetings, some informal discussions continue until late at night.[52]

6.9. Either bring colleagues or learn how to be in two places at the same time

Although the work at UN Crime Programme meetings formally takes place in one and the same room, delegations with only one participant may soon find themselves in difficulties. In addition to the formal meetings and the informal negotiations (several of which may be going on at the same time), many regional groups are convened throughout the meetings to review developments, discuss proposals and plan strategy. The two-hour lunch breaks are often filled with drafting meetings or at least informal discussions.

As a result, key members of delegations (and especially the members of the **Bureau**, i.e. the chairperson, the vice chairpersons and the rapporteur) may soon find themselves overworked. When dealing with one matter, they may quite now and then be interrupted by someone tugging on their sleeve, saying that they are supposed to be addressing another topic somewhere else.

6.10. Develop a sense of humour

The final lesson is an elective one, not a requirement. A sense of humour makes surviving meetings at the UN Crime Programme easier.

Humour can also be used deliberately at UN Crime Programme meetings. Humour may come in handy at times to defuse a tense atmosphere. Some of the more successful and respected chairpersons resort to it now and then, at times cajoling participants to agree, good-humouredly dangling the promise of a coffee break before them. One of the masters at this is Ambassador Luigi Lauriola, who chaired the very difficult negotiations on the UNTOC Convention with grace and patience. When told by a national representative that he seemed to have strong views on a sensitive issue at hand, he immediately replied that he may be strong, but has no views; at another tense time, he closed his statement by noting that he was "your obedient servant" – but then added in an audible stage whisper caught by the microphone, "almost."

[51] The chairperson bangs the gavel to denote that the meeting has accepting the wording in question.

[52] *The Secretariat generally has to work not only the hours during which the participants are meeting formally or informally, but late into the night, checking and rechecking the texts and ensuring translation, editing and dissemination for the next morning.*

7. Legends in the UN Crime Programme

Legends in the UN Crime Programme
Individuals who have made a difference

Inkeri Anttila
Bridge-builder for humane criminal policy

William ("Bill") Clifford
Practitioner, reformer, humanist

Ronald Gainer and **Vasily Ignatov**
Architects of the restructuring of the Programme

Manuel Lopez-Rey
Developer of the theory of social defence

Irene Melup
Tireless defender of the vulnerable

Gerhard Mueller
Respected teacher and organizer

Minoru Shikita
Model diplomat and Chief

Eduardo Vetere
The energy in the UN Crime Programme

Dimitri Vlassis
The maestro behind the scenes

PART ONE

RESOURCE MATERIAL SERIES No. 114

Work Product of the 177th

International Senior Seminar

UNAFEI

VISITING EXPERT'S PAPERS

COMMUNITY SENTENCES FOR REHABILITATION OF OFFENDERS AND PREVENTING REOFFENDING

*Dr. Will Hughes**

I. INTRODUCTION AND OVERVIEW

This paper is a supplement to a lecture, provided to UNAFEI, for its 177th International Senior Seminar, in January 2022. I aim to explore the potential of community sentences for rehabilitation, which is a key approach to the broader aim of preventing reoffending. "Rehabilitation" is used to refer to the attempt to change, encourage, and support offenders, with the aim of helping them to avoid further involvement in criminal activity, as well as leading better, healthier and more prosocial lives. This is certainly one approach to preventing reoffending. However, while rehabilitation has remained central within community-based correctional services, there has been a growth of approaches based on control, management, and restrictive measures. I argue that while diverse approaches to preventing reoffending are important, rehabilitation should be seen as the fundamental contribution of community sentences, if they are to maximize their effectiveness. Effective rehabilitation, within community sentences, requires skilled staff, who are able to engage with people who often display challenging behaviours, and motivate them to make positive changes.

In this paper, and within the associated lecture, I examine the emergence of community sentences and consider how they have been used to reduce reoffending. I move on to explore how community sentences have developed and changed. In doing this I emphasize that as well as change, there are continuities in the work of staff and volunteers who have supervised offenders within community sentences. I consider what the research evidence tells us about what makes community sentences effective in reducing reoffending. Finally, I offer some general thoughts about the key challenges and opportunities offered by community sentences, in the prevention of reoffending.

While I draw from experience, research and literature, which is primarily based on community sentences in England and Wales, the issues raised reflect global challenges and developments.

In England and Wales, as in many other countries, the probation service has primary responsibility for the delivery and management of community sentences. The probation service is involved in the supervision of large numbers of offenders. People under the supervision of the probation service include those who are sentenced to a community order at court, and those who are released from prison. In December 2020, there were 223,973 offenders subject to probation supervision in England and Wales (Ministry of Justice, 2021), compared to 80,823 prisoners (Ministry of Justice, 2020). This large number reflects an expansion of community sentences in many countries. However, despite their prevalence, community sentences attract relatively little public or political acknowledgement or attention, when compared to prisons (Robinson and McNeill, 2017). It is on this basis that the community sentences can be understood as relatively invisible forms of punishment.

II. COMMUNITY SENTENCES, REHABILITATION, REDUCING REOFFENDING AND OTHER SENTENCING AIMS

While rehabilitation has been a central feature of community sentences since their inception, its importance has been challenged and has fluctuated, particularly since the 1990s. Community penalties are criminal justice sentences, and as such can be associated with multiple aims, of which rehabilitation is only one. For

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example, while not as intrusive as a prison sentence, community penalties do deprive the offenders of a degree of liberty and there is constant threat of a return to court if requirements are not met (National Offender Management Service, 2006). Therefore, community sentences arguably do involve an element of punishment, albeit not one that is widely acknowledged as being comparable with imprisonment (Canton and Dominey, 2017). Community sentences can also be understood as delivering a degree of deterrence. The court process and the intervention that follows can be demanding. Community sentences are also expected to deliver public protection, particularly in the case of the supervision of violent or dangerous offenders.

III. THE ORIGINS OF COMMUNITY SENTENCES

The origins of the community sentence can be found in the late 19th and early 20th centuries. At this time courts in England and Wales were increasingly attended by voluntary "Police court missionaries", who drew inspiration from practices that had developed in Boston, US (Robinson and McNeill, 2017). These early probation officers were explicitly Christian and associated with the temperance society, which was concerned with what it perceived as the serious damage caused by alcohol use (Vanstone, 2004). The court could agree not to impose a penalty, but instead refer the offender to a period of supervision with a probation officer. Of interest here is that the first community sentence was therefore not a formal sentence but imposed instead of a sentence.

Inconsistent court practices in the use of probation were consolidated under the landmark 1907 Probation Act. This clarified the role of the probation order, which required the offender's agreement to be supervised by a probation officer of the court. The probation officer's role was to "advise, assist and befriend" the offender, in order to help him or her avoid future offending. The key approach for rehabilitation was the relationship that the probation officer was able to establish with the supervisee (Bochel, 1976; Canton 2011). This is worthy of a pause to reflect. While the importance attached to the relationship between supervisee and supervisor has changed over time, it is consistently identified as central within the accounts of those who have successfully completed community penalties (Hughes, 2012). Developing a professional relationship with someone subject to statutory supervision requires skill, training and experience. This is perhaps an area which has been neglected in practitioner training and policy development. I will return to this theme later.

The emergence of probation services was ostensibly driven by humanitarian agendas which sought to recognize that those who committed offences had often experienced hardships and difficulties, and required guidance, practical support and understanding, if they were to live better lives. However, more cynically, some commentators have emphasised that probation involved an extension of social control, where increasing numbers of people were placed under the supervision of government agencies (Garland, 1997; Foucault, 1977). This tension between help and control has remained within probation practice throughout its history, and is something with which probation officers, or those charged with the rehabilitation of offenders, have to struggle.

IV. THE DEVELOPMENT OF A "PROFESSIONAL" SERVICE

While initially probation officers were volunteers, the second half of the 20th century saw the growth of a service which claimed specialist expertise, informed by scientifically generated knowledge about the causes of criminality, and how best to address it (McWilliams, 1986; Bottoms, 1980). By the 1960s, probation officers needed to have professional qualifications, made assessments of the needs of offenders, and devised treatment plans according to needs identified. Practitioners were able to exercise professional judgment in how to go about their work and how to rehabilitate those under their supervision, leading to a diversity of assessment styles and approaches to supervision. In reality, the rehabilitative strategies adopted reflected the preferences of the probation officer, as much as the needs of the offender, or the evidence base about what was effective (Canton and Dominey, 2018). For example, many probation officers were influenced by Freudian ideas, which highlight the role of development issues and internalized conflict. In these instances, probation officers would logically deliver interventions to resolve embedded psychological difficulties. Others were more interested in group work as a method of developing non-offending lifestyles. For others, including

my father, who was a probation officer in the 1970s and 1980s, what was needed was a good outdoor camping trip, where offenders could connect with nature. My father believed that the rehabilitative qualities of this experience would be enhanced if the probation officer brought his children along.

An interesting childhood memory of mine involves sitting around a camp-fire with my father and several probationers (some of whom I later found out had been convicted of serious offences), singing "happy birthday" to my older brother, who had just turned 12. The contrast between this and the very firm boundaries of the service I later worked for were dramatic. While this anecdote from my past does indicate that there may have been a need for greater accountability and consideration of risk, it also suggests that some positive aspects of earlier probation practice, such as creativity and close relationships, have been lost. Another strategy associated with this period worthy of mention is that of "radical non-intervention". This approach was premised on labelling theory, which suggests that every contact that an offender has with the criminal justice system could reinforce his or her offending identity, and therefore undermine their attempts to lead law abiding lifestyles. The logic followed was that the best approach was therefore to have as little contact as possible with those under supervision. This was a popular strategy for some probation officers!

Practice was therefore diverse, inconsistent, and arguably lacking in a clear or consistent evidence base. However, it was often creative, theoretically informed, and engaging.

V. THE COLLAPSE OF THE REHABILITATIVE IDEAL

The approaches described above appeared within a period of optimism and confidence about the potential of rehabilitation, and the ability of experts to make judgments about what to do to prevent reoffending. As noted, there was considerable creativity, diversity and inconsistency in the experiences of people who were placed on community sentences. Significantly, there was a lack of evaluation about the impact of these diverse interventions on reoffending. This made it easier for critics to challenge rehabilitative ideals. In the 1970s and 1980s some governments attacked probation and community sentences on the basis that they were soft options, which, they argued, undermined personal responsibility. Criminal justice policy in the US and UK reflected an agenda described as "popular punitiveness", involving rhetoric of being "tough on crime", and calls for harsher punishments. These challenges to probation and community sentences were intensified by the publication of an influential article by Martinson (1974), which provided an assessment of the impact of rehabilitation programmes. Martinson is often quoted as suggesting that "nothing works". He was in fact far more tentative than this. Rather than "nothing works", he argued that there was no clear evidence available indicating the effectiveness of any specific rehabilitative programme. Nevertheless, the impact of this evaluation was substantial, and created a general pessimism about the potential of rehabilitation within community sentences. In the UK, this led to an emphasis on community sentences as "punishments in the community", in which the priority given to rehabilitation decreased significantly. Symbolically, the 1991 Criminal Justice Act made the Probation Order a sentence of the court, rather than something which was imposed instead of a sentence. This made little practical difference to the day-to-day delivery of community sentences, but set a new tone, establishing them as primarily punishments, which needed to be delivered as intended, and enforced in the event of non-compliance. The same act introduced the combination order, which combined probation supervision with community service (involving unpaid work in the community), as a further reflection of an attempt to establish community penalties as legitimate and serious punishments. Notably, as someone who joined the probation service within the later period of this era, I remember being advised by my new manager that I must refer to the service users as "offenders", rather than "clients". The "clients", as in the people who probation staff delivered a service to, were now the courts and the public. The people placed under the supervision of the probation service were no longer seen as recipients of a service, but instead people who had committed offences, and were required to be held to account, and complete penalties as directed by the court. This cultural shift has continued to dominate probation practice in England and Wales, and arguably sits uncomfortably within a service which has its origins in the humane treatment of people experiencing difficulties.

VI. THE "WHAT WORKS" INITIATIVE AND THE RETURN OF REHABILITATION

The early part of the 21st century saw the re-emergence of optimism about the potential for rehabilitation within community sentences, within what is often referred to as the "what works", or "effective practice initiative" (Bottoms, Gelsthorpe and Rex, 2001; McGuire, 1995). This was inspired by meta-analytical studies, largely from Canada, which examined evaluations of a large number of studies, and attempted to identify the key ingredients of effectiveness (Maguire and Priestly, 1995; Raynor and Vanstone, 2002). These studies concluded that interventions could have a discernible impact on reoffending if they included specific features (Underdown, 1998; McGuire, 2005), such as the following:

- *Being underpinned by cognitive behavioural psychology.*
  This framework understands behaviour as learned and supported by distorted thinking patterns and beliefs, as well as by negative emotional responses to situations. Effective programmes were therefore understood as those which targeted the thought processes and beliefs associated with offending behaviour.

- *Focus on factors which are evidentially linked to offending behaviour.*
  This was as opposed to factors which offenders themselves think are priorities. For example, service users may express priorities related to increased income, or improved accommodation, but the research evidence suggested only a loose association between these factors and reoffending.

- *Delivered by staff who are trained in prosocial modelling (Trotter, 1999).*
  This involves a set of skills, which for many are intuitive, including demonstrating respectful behaviour, and giving praise for positive achievements.

- *Effective programmes were determined as having "integrity" built in.*
  This meant developing methods to ensure that programmes were delivered in accordance with their design and instructions, and that staff did not deviate according to their preferences or the priorities of offenders.

- *Are delivered within the community, rather than in custodial settings.*
  The model which emerged was a set of specific programmes of intervention, with a precise number of sessions, being delivered as part of a community sentence, usually to groups of offenders. Notably, a probation officer would have oversight of the community sentence in its entirety, but within the period of supervision, the service user would be referred to other staff who would deliver the programme itself. These staff were not typically qualified probation officers, and not deemed to need the same level of professional training. This was, and is, surprising given the challenges involved in group work and the high level of skill required.

In England and Wales, accreditation panels were established to assess whether or not programmes of intervention met the criteria that research suggested were key in reducing reoffending (Raynor and Rex, 2007). Initial programmes, such as "think first", targeted general offending behaviour and aimed to improve the thinking skills and problem-solving abilities of people who had been convicted of offences, thus enabling them to recognize the consequences of their decision-making and improve their awareness of triggers and risks. More programmes followed, which targeted specific categories of offending, including drink driving, domestic abuse, aggression and sexual offending. One of the programmes (IDAP, or the Integrated Domestic Abuse Programme) designed for domestic abusers, is of note, because it drew on feminist ideas, as well as cognitive behavioural theory (Bullock et al 2000; Hughes 2017). There continued to be a degree of uncertainty about this programme's legitimacy as an accredited programme because of its diverse theoretical basis, perhaps illustrating the restrictive view of the "what works" agenda that dominated at the time. It is worth noting that this programme gave explicit attention to the importance of "gender" and some forms of masculinity in understanding and challenging offending. These considerations remain significantly under explored in attempts to develop effective interventions.

Alongside standardized programmes of intervention, standardized forms of assessment were established. These aimed to promote more consistent assessment practice, as well as inhibiting staff bias. The "Offender

Assessment System", or OASys, was introduced as a detailed and structured assessment tool. This directs the practitioner to consider changeable, or dynamic factors (such as those relating to life circumstances, like employment or accommodation), as well as static factors which cannot be changed (such as age, sex and previous convictions) (Canton and Dominey, 2018). OASys requires practitioners to focus their assessment on factors that research suggests are associated with reoffending, such as past convictions, attitudes, relationship history, and substance use. It integrates statistical assessment methods as well as those requiring a degree of practitioner judgment. Arguably, this assessment tool has dominated the time of practitioners, and reduced their ability to engage in developing relationships with service users. Particularly interesting observations are made by the Norwegian scholar Aas (2004), who emphasises that tools like OASys can create a fragmented and depersonalized assessment of the person being assessed, which does not accommodate their individualized understandings and circumstances.

While the "what works" initiative prompted a revival of rehabilitative aspirations within community sentences, this did not equate to the probation service returning to its previous incarnation. The probation service and the community sentences it delivered had undergone profound cultural shifts during the 1990s and early 2000s, which continue to impact on how attempts to reduce reoffending are delivered. The rehabilitative strategy was now focussed on addressing perceived deficits among offenders, rather than addressing broader social or welfare factors. In addition, the primary commitments of community sentences, and probation staff who delivered them, were now to the public and the courts. In this context public protection and the delivery of punishment in the community, were firmly established as priorities for the probation service. Additionally, probation staff experienced a significant reduction in their ability to make professional or individualized judgments.

A. Non-rehabilitative Strategies for Reducing Reoffending

Non-rehabilitative approaches to reducing offending have remained central within community sentences in England and Wales. These have included approaches based on the management and monitoring of offenders (often through electronically enforced curfews), an increasing use of conditions which prevent access to specified spaces, and increased liaison with other criminal justice agencies. Rehabilitative and public protection objectives are often in conflict with each other. Many public protection initiatives are orientated towards social exclusion. Rehabilitation is fundamentally orientated towards social integration. Balancing these tensions is a key challenge for probation staff who are trying to engage people in a process of change, while providing public protection.

B. Flexible Community Sentences

Reflecting the diverse aims of community sentences at the start of the 21st century, the 2003 Criminal Justice Act established a single community order, which could have multiple requirements attached. This reflects what Tony Bottoms et al. (2004) referred to as the diversification of community sentences. Requirements can be orientated towards punishment, rehabilitation and public protection. They can include restrictions which prevent entry into certain spaces or contact with specified people. They can also include conditions to attend rehabilitative group-based programmes or comply with mental health or substance misuse treatments. The 2003 Act also created a new suspended sentence, where a period of imprisonment could be suspended, for a period of time, on condition that requirements were met. This aimed to discourage courts from imposing immediate terms of imprisonment, but as with other attempts to achieve reductions in the use of prison, it is not clear that these sentences were imposed instead of imprisonment, or instead of community sentences.

C. Splits in Provision

The early 21st century saw an emerging emphasis given to the charity and private sectors for the delivery of some aspects of community sentences. This ultimately led to a split between the National Probation Service, which remained in the public sector, and community rehabilitation companies, which were placed in the private sector. The National Probation Service retained responsibility for those designated as posing a high risk of harm, while community rehabilitation companies supervised those assessed as low or medium risk of harm (Ministry of Justice, 2015). There is widespread agreement that this experiment was unsuccessful, leading to the reunification of the Probation Service in 2021.

VII. THE DESISTANCE FRAMEWORK AND CRITICISMS OF THE "WHAT WORKS" AGENDA

Further developments in understanding effective practice have explored why interventions, developed within the "what works" era did not deliver the impact that was at one stage hoped (Mair, 2004). It has been argued that one of the major limitations of "what works" programmes was that they failed to "engage" service users in their own rehabilitation, and as a result of the growth of standardization, they failed to respond to individual needs. Frank Porporino (2010), who had been one of the key advocates of the "what works" initiative, commented specifically on the high drop-out rates that occurred on accredited programmes, pointing out they often failed to reflect what offenders themselves identified as their most important goals and priorities. Programmes of intervention were critically seen as being delivered "to" rather than "with" service users, and were often experienced as insensitive and impersonal. Criticisms also pointed to the fairly dismissive approach which the "what works" agenda had towards professional relationships between staff and service users, as well as the over reliance on cognitive behaviour approaches, at the expense of other methods, which have value in some instances (Hughes, 2012).

Partly in response to the perceived limitations of the "what works" initiative, many scholars have given attention to the process of how people stop or desist from offending. This contrasts with approaches which have attempted to identify causes of criminality and suggests that the reasons why people stop offending often have little connection with the reasons why they start. Irrespective of the triggers and background that have led to an offending lifestyle, most people stop offending at some stage. There has been interesting discussion of what supports this process of desistance. Examinations of desistance have pointed out that change is not a straightforward process. It takes place over time, often involving slip ups and lapses into the problem behaviours in question (Matza, 1964). Effectiveness in community penalties is dependent on acknowledging this complexity, as well as developing active involvement among people subject to probation supervision. Following on from this, research within the desistance framework has highlighted the importance of "relationships" between probation staff on the one hand, and service users on the other, where trust and individualized mutual goals can be established. This reflects a long-standing awareness among most professional staff, and certainly the experiences of service users, who consistently refer to the relationships they have with staff as key in enabling them to complete their community sentences and move towards a lifestyle free of offending. In particular, service users tend to refer to the importance of consistency, fairness, empathy, personal commitment and a lack of judgment as important qualities in the staff who work with them. Interestingly, once a relationship is established, there is some evidence that service users appreciate and welcome frank challenges, provided that these are made within a framework based on respect (Hughes, 2012; 2017)

Desistance narratives also highlight other factors such as enabling and encouraging the development of social capital and the development of a non-offending identity, where the individual sees themselves as a person of value, in whose life criminal behaviour does not have a role (Maruna, 2001; McNeill, 2006; Burnett, Baker and Roberts, 2007). Related to this, work on desistance challenges the perception of offenders as having anti-social values, or aspirations which are in conflict with those who supervise them. The vast majority of offenders do not want to reoffend or cause harm to others. They will also have strengths and qualities which are evident in their personal relationships and work histories, which can be built on. Giving attention to the strengths, resilience and individual aspirations of service users can foster motivation. This is in contrast to the original "what works" programmes, which tended to be dismissive towards the personal goals of service users. Fundamentally, the desistance paradigm recognizes that the service users themselves are the most important people in determining effectiveness.

There have been some efforts to incorporate evidence from research regarding desistance into practice. An "Offender Engagement Programme" was rolled out (Rex, 2012), which encouraged practitioners to recognize the importance of developing professional relationships with people under their supervision, as well as actively seeking their engagement in sentence planning (Hughes, 2012). There were also efforts to develop accredited programmes and make them more responsive and individualized (Travers, 2012). However, attempts to develop individualized interventions and increase professional judgment have taken place against a backdrop of the on-going organizational priorities of public protection, risk management and standardized targets, which continue to dominate practice, within a context where staff feel anxious about

following procedure, particularly given the increasing tendency for staff to feel accountable for the behaviours of those whom they supervise.

VIII. SOME CLOSING THEMES

This paper and the associated lecture have outlined some considerations of how community penalties might be effective in reducing reoffending. Community sentences have often faced a challenge in being recognised as legitimate responses to crime. They are liable to be seen as soft options, which cannot provide a level of punishment that is equivalent to imprisonment. Attempts to justify community penalties, primarily on the basis of the punishment they provide are therefore likely to be unsuccessful (Canton and Dominey, 2018). That said, community sentences can be extremely challenging for those who are subject to them. There is likely to be an on-going fear among those sentenced to community orders, of failing to meet the requirements and being returned to court. Perhaps more importantly, people on probation refer to the challenges of being constantly reminded of the harms they have caused. This often leads to a profound sense of shame, which may not be demonstrated explicitly (Hughes, 2017; May and Wood, 2010; Durnescu, 2011; Hayes, 2015). While part of a community sentence will quite rightly involve the monitoring of service users, with the aim of providing a degree of public protection, the essential fact that they are living within the community, means there are limitations in achieving this. It is therefore argued that the most important contribution of community sentences is rehabilitation. This aim is very far from straightforward. Reoffending is inevitably very heavily influenced by broad social factors, personal relationships and the motivation of the offender. However, there is evidence that community sentences can have a substantial positive effect in helping people to move towards a point in their lives where offending does not have a place. Committed staff who are able to challenge negative behaviour, while providing encouragement and support, appear as ongoing themes and arguably are more important than the type of intervention delivered.

Moving forward, the ongoing collection of data, with the involvement of practitioners and those under supervision is essential, along with an awareness of the importance of giving attention to the way in which individual, cultural and regional differences impact on effectiveness and what constitutes best practice. Globally, gender has been significantly overlooked in attempts to understand offending and there is scope to explore the implications of this.

References

Aas, F. (2004) "From narrative to database: technological change and penal culture". *Punishment and Society* 6(4) 379-393

Bochel, D. (1976) *Probation and after – care: Its development in England and Wales*, Edinburgh, Scottish Academic Press

Bottoms, T. (1980) "An introduction to 'the coming crisis'" in Bottoms, T and Preston, R. (eds) *The coming penal crisis*. Edenborough. Scottish Academic Press

Bottoms, T. Gelsthorpe, L. and Rex, S. (2001) "Introduction" in Bottoms, T. Gelsthorpe, L. and Rex, S (eds) *Community Penalties: Change and challenges*. Collumpton, Willan

Bottoms, T. Rex, S. and Robinson, G. (2004) "How did we get here?" in Bottoms, T. Rex, S. and Robinson, G. (eds) *Alternatives to prison: options for an insecure society*. Collmpton, Willan.

Bullock, K., Sarre, S. Tarling, R. and Wilinson, M. (2010) "The Delivery of Domestic Abuse Programmes. An implementation study of the delivery of Domestic Abuse Programmes in Probation Areas, and Her Majesty's Prison Service". Ministry of Justice Research Series 15/10. London. Ministry of Justice

Burnett, R. Baker, K. and Roberts, C. (2007) "Assessment, supervision and intervention" in Gelsthorpe, L. and Morgan, R. (eds) *Handbook of Probation*. Collumpton, Willan

Canton, R and Dominey, J (2018) *Probation: working with offenders*, second edition. London, Routledge

Durnescu, I. (2011) "Pains of probation: Effective practice and human rights", *International Journal of Offender Therapy and Comparative Criminology* 55(4): 530-545

Foucault, M (1977) *Discipline and punish*. London, Penguin

Garland, D (1997) "Probation and the reconfiguration of crime control" in Burnett, R (ed) *The probation service. Responding to change (Proceedings of the probation studies unit first Colloquium)*, Oxford. University of Oxford Centre for Criminological research

Hayes, D. (2015) "The impact of supervision on the pains of community penalties in England and Wales: An Exploratory study". European Journal of Probation. 7(2) 85-102

Hughes, W. (2012) "Promoting service user engagement and compliance in sentence planning. Practitioner and service user perspectives in Hertfordshire", *Probation Journal* 59(1) 48-65

Hughes, W. (2017) "Lessons from the Integrated Domestic Abuse Programme for the implementation of the Building Better Relationships", *Probation Journal*. 64(2) 129-145

Martinson, R. (1974) "What works. Questions and answers about prison reform". *The public interest*. 35 22-54

Maruna, S. (2001) "Making good: how Ex-convicts Reform and Rebuild their lives". Washington. DC. American Psychological Association

Matza, D. (1964) *Delinquency and drift*. New York, Wiley

May, D. and Wood, P. (2010) *Ranking Correctional Punishments: Views from offenders, practitioners and the public*. Durham NC. Carolina Academic Press

McGuire, J. (1995) *What works: reducing reoffending: Guidelines from research and practice*. Oxford. Wiley

McGuire, M. and Priestly, P. (1995) *Offending behaviour. Skills and strategems for going straight*. London, Batsford.

McGuire, J. (2005) "Is research working? Revisiting the research and effective practice agenda" in Winstone, J. and Parkes, F. (eds) *Issues for probation and community justice* Collumpton, Willan.

McNeill, F. (2006) "A desistance paradigm for offending management", *Criminology and Criminal Justice*. 6 39-62

McWilliams, B. (1986) "The English probation system and the diagnostic ideal", *Howard Journal* 25 (4) 41 - 60

Ministry of Justice (2015) "Policy paper: 2010 to 2015 government policy: reoffending and rehabilitation". London, Home Office

Ministry of Justice (2020) "Population bulletin weekly", 18th December 2020. London, Ministry of Justice.

Ministry of Justice (2021) "Offender Management Statistics Bulletin Quarterly: October to December 2020, and Annual: calendar year 2020". London, Ministry of Justice.

National Offender Management Service (2006) NOMS offender management model. 1.1 London. Home Office

Porporino, F. (2010) "Bringing the sense and sensitivity to corrections" in Brayford, J. Cowe, F. and Deering, J (eds), *What Else Works? Creative work with Offenders*. Collumpton, Willan Publishing.

Raynor, P. and Vanstone, M. (2002) *Understanding community penalties. Probation, policy and social change*. Bucks. OU Press

Rex, S. (2012) "The Offender Engagement Programme: Rationale and Objectives" Eurovista. 2(1) 6-9

Robinson, G. and McNeill, F. (2017) "Punishment in the community: evolution, expansion and moderation" in Lielbing, A. Maruna, S. and McAra, L. (eds) *The Oxford Handbook of Criminology*: sixth edition. Oxford, Oxford University Press

Travers, R. (2012) "Engaging offenders in positive change through accredited rehabilitation programmes", Eurovista 2(1) 13-16

Trotter, C. (1999) *Working with involuntary clients: a guide to practice*. London, Sage.

Vanstone, M. (2004) "Mission control: the origins and early history of probation", *Probation Journal* 51 (1): 34 – 47

Underdown, A. (1998) "Strategies for Effective Offender Supervision: Report for the HMIP 'What works project'". London, Home Office

MULTI-STAKEHOLDER APPROACHES FOR EFFECTIVE SUPERVISION AND SUPPORT OF OFFENDERS

*Dr. Will Hughes**

I. INTRODUCTION AND OVERVIEW

This paper is a supplement to the second of two lectures provided to UNAFEI in 2022, for its 177th International Senior Seminar. Here I consider multi-stakeholder approaches to tackling reoffending, and for delivering effective supervision and support for offenders. I start by offering an explanation of what a multi-stakeholder approach is, before moving on to explain why they are essential in developing effective responses to crime. I give some examples of multi-stakeholder approaches, drawn largely from England and Wales, and explain how these operate in practice. The discussions are orientated around the work of the probation service. This reflects my background and the fact that the probation service plays a key role in linking other organizations together. I finish by offering some overall reflections on the challenges and opportunities presented by multi-stakeholder work.

II. WHAT IS A MULTI-STAKEHOLDER APPROACH?

Some distinguished observers have suggested that in modern societies, perhaps especially those with a cultural emphasis on individualism, our inter-dependence and common interests can easily be obscured (Durkheim, 1972). As a consequence, shared social goals and problems, which have an impact on everyone, can often be allocated to specific agencies, at the cost of wider responsibility and collective action. It is from this starting point that I would like to stress the importance of multi-stakeholder approaches to reducing crime.

To digress from the topic of crime for a moment, let us think of our mental and physical health. This is an especially pertinent global theme given the coronavirus pandemic. Health can easily be understood as primarily a concern for medical practitioners. We request the help of highly trained professional medics when we become ill, or when we are injured, and hope that they can make us well. However, our health is also dependent on much broader factors: clean water, sanitation, nutrition, education to develop knowledge regarding lifestyle choices, social contact, good housing and motivation, are all essential in promoting and sustaining good physical and mental health. Lots of people and organizations are involved in the promotion of good health, and equally, we all have a stake, or an interest in it. In the context of the coronavirus pandemic, we have witnessed the importance of collective and diverse responses across the globe, to manage not only the virus itself, but also the social, psychological and economic effects. Medical staff have been required to provide care for people who are seriously ill, volunteers have provided food and support for people isolating, governments and local health services have provided education about how to reduce the risk of infection, schools have switched to on-line learning, on-line personalities emerged to help keep us fit and entertained, and there is a collective responsibility to adopt measures such as social distancing and mask wearing.

Like health promotion, crime reduction requires an integrated approach involving different people and agencies. However, responsibility for preventing reoffending has, in many societies, been understood as primarily the duty of criminal justice agencies. A multi-stakeholder approach is a recognition that tackling social concerns, like crime, requires different groups of people with a shared interest in a set of outcomes, where effectiveness is dependent on diverse expertise and contributions. While this may seem straightforward,

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it involves many challenges. Some of these will be discussed in this paper.

The term "interagency work" is used to refer to the practice of different agencies and groups working together. While interagency work has a long history within probation and other criminal justice agencies, some commentators have suggested that partnership work between criminal justice agencies and with others services, is part of a growing trend (Robinson and McNeill, 2017)

III. FACTORS RELATED TO OFFENDING AND REOFFENDING

Offending behaviour is complex and related to an extremely diverse range of social and personal factors, which will vary according to the individual concerned, and the category of their offending. As a starting point, the Offender Assessment System (OASYs), which is used to assess offenders by probation and prison staff in England and Wales, encourages consideration of the following as possible issues related to offending:

- *Thinking patterns and beliefs*
  Research indicates that people who are at high risk of offending tend to have difficulties in problem solving, understanding consequences, understanding the perspectives of others, and have a tendency to act impulsively. They may demonstrate rigid thinking styles and exhibit poor temper control.

- *Employment circumstances*
  There is not a clear evidence base indicating that unemployment causes crime. However, finding meaningful employment seems to help people to desist from criminal activity. Securing work is also important in establishing a positive non-offending identity, which is itself important in avoiding crime.

- *Lifestyle and peer associations*
  Regular activities might bring the individual into situations which present opportunities for offending. The individual's social network may be engaged in regular criminal behaviour or encourage anti-social attitudes. There is substantial evidence that peer associations can play an important role in sustaining offending behaviour, and that changes in associates can promote a crime-free lifestyle.

- *Accommodation*
  Temporary accommodation, homelessness or unsuitable accommodation can be linked to offending and prevent individuals from engaging with support services. As with employment, it is hard to gather clear evidence that lack of secure accommodation causes crime directly, but there is lots of evidence to suggest that having secure and appropriate accommodation is important in helping people to desist.

- *Family relationships*
  Some types of offending may be associated with trauma experienced in childhood, limited family support or difficulty coping with responsibilities for children or others. Developing appropriate coping strategies to manage past trauma is important for many individuals. There may be issues of domestic violence, either as a victim or a perpetrator. Providing support to victims to enable them to leave abusive relationships requires a range of agencies.

- *Substance use*
  Illegal drug use is often associated with other lifestyle factors which increase the likelihood of crime. Some estimates suggest that a substantial proportion of property crime and shop theft are committed by people trying to maintain drug addictions.

- *Alcohol misuse*
  While for the vast majority of people, alcohol does not lead to criminal activity, many individuals involved in the criminal justice system will have demonstrated problems with alcohol consumption, or their previous offending may have taken place while under the influence of alcohol.

- *Attitudes*
  Research suggests, perhaps unsurprisingly, that those with pro-criminal attitudes are at a higher risk

of reoffending. Examples include justifications for crime or emphasis on the lack of harm caused by past offending. For domestic abuse perpetrators there are likely to be negative attitudes towards women and beliefs associated with male entitlement. Attitudes may also refer to the level of motivation to address offending behaviour and engage with support.

The above is not by any means an exhaustive list of the possible factors associated with reoffending. Mental health difficulties are another important theme. While mental illness is not usually associated with criminality or violence, there may be some instances where it plays a role (Peay, 2017). There is an increasing recognition that biological factors can play a role in offending (Raine, 2013), despite reluctance among some criminologists to engage with these types of explanations. While there are important ethical considerations, there has been use of medical intervention for some groups of offenders (Grubin, 2010).

The range of factors associated with criminality means that success in preventing reoffending and supporting offenders is dependent on targeting a broad range of needs. This is all the more important as many factors will be interrelated. For example, in the UK, there is a significant association between drug dependency, particularly heroin, and homelessness. Sustaining accommodation while drug dependent is likely to be problematic. It will be equally challenging to attempt to address drug use when an individual does not have a suitable home. There are also significant overlaps between both these issues and poor mental health. Effective rehabilitation is therefore dependent on addressing several factors, in an integrated way.

Addressing complex and multifaceted problems requires a range of agencies with different resources and expertise. In many instances, different agencies will already work with the same people. For example, individuals subject to probation supervision will often be engaged with benefits services and employment agencies, as well as local health professionals and children's services. However, the actions of each agency are not always coordinated, leading to a fragmented and sometimes repetitive experience for those in receipt of services (Holt, 2000). There may also be assumptions that some issues are being addressed by other agencies, when in reality they are not being given attention at all.

In addition to the *need* for a multi-agency approach, on the basis of effectiveness, it is worth stressing that diverse agencies have a shared interest in reducing reoffending. As well as the overall social costs of crime, reoffending disrupts the impact of other interventions, thereby reducing their effectiveness.

IV. INTERAGENCY WORK WITHIN THE CRIMINAL JUSTICE SYSTEM

In England and Wales, the criminal justice system is made up of five separate organizations. These are listed below along with a brief summary of their key roles.

- Police
  -enforcement of law
  -public protection
  -gathering evidence for prosecution
  -arrest and detention for public safety
  -community work including crime prevention advice and work with schools

- Crown prosecution service
  -review cases referred by the police and decide if prosecution is warranted on the basis of:
  i) The likelihood of achieving a prosecution
  ii) Is prosecution in the public interest?
  -prosecute cases, in court, on behalf of the police

- Courts
  -hear trials in the event of not guilty pleas
  -impose sentences
  -deal with breaches of community sentences
  -hear reviews of progress for some individuals subject to community sentences

- Prisons
  -hold prisoners on remand awaiting court appearance
  -keep serving prisoners for the length of time imposed by courts, humanely and safely
  -manage internal discipline
  -plan for release
  -facilitate interventions to rehabilitate and reduce the likelihood of reoffending

- Probation
  -assists the court with sentencing through the provision of written and oral reports
  -supervision and assessment of people subject to community sentences and following release from prison.
  -enforcement action to return people to court or prison following non-compliance or increased risk
  -ensures the delivery of appropriate interventions, based on offence-related needs and sentence.

Each agency has a distinct set of duties, but effectiveness in reducing reoffending requires coordination. For example, the probation service works with courts to give advice about the most effective sentences for reducing reoffending. Courts can also request reviews of progress for those subject to community sentences. In these instances, the sentencer can play a role in sustaining the motivation of the offender. The prison service and probation service will need to work closely together to plan for release and consider interventions. Information is shared between police and other agencies where there is the need for increased surveillance.

Policy and legal developments have recognized that tackling reoffending requires appropriate coordination between the component parts of the criminal justice system and have attempted to make them work together more systematically (Ministry of Justice, 2013). However, different agencies within the criminal justice system have not worked consistently in an integrated or joined up way, to the extent that arguably they do not act as a system at all (Cavadino et al., 2020). Ongoing differences in organizational priorities and organizational cultures create ongoing tensions. The sheer size and complexity of the different agencies led to the separation of different parts into separate government departments. In 2007, a new Ministry of Justice was created which has responsibility for courts, prison, and probation services, while the police and Crown Prosecution services have remained within the Home Office.

V. INTERAGENCY WORK OUTSIDE OF THE CRIMINAL JUSTICE SYSTEM

As well as effective coordination within the criminal justice system, effectiveness in reducing offending is dependent on working with agencies beyond criminal justice. Many of the following agencies might be involved in helping people to avoid reoffending:

- Employment services
- Substance abuse services
- Mental health services
- Schools and education providers
- Housing providers
- Charities
- Employers
- Local community agencies

Working with diverse agencies is evidently helpful in meeting offender needs but as with work between criminal justice agencies, there are key challenges. Managing confidentiality requirements, differences in priorities and organizational cultures, sustaining communication and maintaining records are a few.

VI. INTERAGENCY WORK IN PRACTICE

The following identifies some specific examples of frameworks of interagency work, reflecting a multi-stakeholder approach.

A. Multi-agency Public Protection Panels

These panels were created to improve the management of offenders who pose a serious risk of harm to others; especially those with histories of violent and sexual offending. Key agencies are the police and probation, but other agencies such as child protection services, mental health teams and accommodation providers may be involved. Regular meetings take place to discuss individuals of concern. Information can be shared, plans can be agreed upon and resources allocated. Decisions may be made to increase surveillance, provide suitable accommodation, or provide medical and mental health interventions, or in some instance there can be agreement to detain or arrest. An evaluation by Her Majesty's Inspectorate of Probation (2021) suggested that there is evidence that multi-agency public protection arrangements have led to a reduction in offending among groups subject to their supervision, although express caution in attributing a clear causal relationship. The evaluation identified several factors as being critical in effectiveness. These include victim liaison, good communication between agencies, provision of appropriate housing, and responsiveness to deteriorating or changing circumstances.

B. Integrated Offender Management Teams

Integrated Offender Management (IOM) teams were introduced to improve the management of individuals who are identified as engaging in large quantities of crime. They were premised on the belief that a relatively small number of individuals account for a significant proportion of overall offences. It logically follows that successful interventions with this group will have a significant impact on crime levels overall. Typically, offending patterns of the individuals targeted by IOM teams are likely to involve property crime associated with drug dependency (Canton and Dominey, 2018). Unlike offenders managed by multi-agency public protection panels, offences committed by this group are not of the most serious nature, but nevertheless do have a social impact, which is intensified by the frequency with which they occur.

IOM teams consist of partnerships between the police and probation (Wong, 2013). They aim to provide intensive interventions to individuals identified as prolific offenders, including rehabilitative work and surveillance.

There is some indication from research that the approach adopted by IOM teams has an impact on reducing the offending of targeted groups (Dawson et al., 2011). However, there are significant difficulties in measuring impact because there is evidence that many individuals who commit high levels of crime only do so temporarily, stopping before any criminal justice intervention is made. Attributing reduced offending to IOM interventions is therefore not straightforward. Related to this, it has also been stressed by some academics that identifying a specific group of prolific offenders is very difficult. There is evidence that offending is not as concentrated within a specific group of individuals as the IOM model assumes. Instead, offending is much more distributed across the population than official crime rates imply (Hagell and Newburn, 1994)

C. Youth Offending Teams

One of the most explicit attempts to establish a multi-stakeholder and interagency approach to tackling reoffending can be found in youth offending teams. Youth justice has been the site of competing pressures. Recent decades have witnessed an increasing punitiveness towards young people, but there has been a recognition of the need for a response to young offenders that is orientated towards their welfare. Youth offending teams are required to include representation from probation, local education, the police, children's care services and health services. They will assess and intervene in the lives of young people following arrest, sometimes without prosecution taking place, where there is an emerging pattern of offending. They will also work with young people subject to community sentences and provide sentencing advice to youth courts, which unlike adult courts, are not open to the public. However, there have been attempts to make the processes within youth courts more accessible to interested parties such as the offender's family and victims. Staff are typically seconded from their own agencies to youth offending teams, and retain their own professional roles and identities. There are therefore limits to the integration of different people in meeting

the needs of young people. There has also been criticism based on the separation between youth offending teams on the one hand and more generalized provision for non-offending young people on the other (Cavadino et al., 2020)

D. Working with Volunteers and the Community

There is an ongoing and growing role being given to volunteers in the provision of support for offenders. It is worth noting here that the probation service itself emerged through the work of committed volunteers. Internationally, volunteers from the local community continue to make varying contributions to support work with offenders. This has clear value as it can facilitate support within the daily lives of offenders, often without the hostility sometimes directed at professional staff. The roles given to volunteers are most typically mentoring, day to day encouragement, and support with specific problems like completing forms and attending appointments. Perhaps a particularly interesting provision is through the organization "Circles UK", which has taken inspiration from voluntary arrangements developed in Canada. Circles UK recruits volunteers to help prevent reoffending among those convicted of sexual offences. Several volunteers are attached to a person who has been convicted of a sexual offence, who is referred to as the "core member". The core member is encouraged to take lead responsibility for managing their own risk. The "circle" of volunteers will help to reduce isolation, find suitable accommodation, and develop prosocial leisure activities, with the ultimate aim of reducing reoffending and its associated harms (Nellis, 2009).

There are many other local examples of good practice with organizations providing training for people in the local community. At the university where I teach in North London, we engage with "Bridging the Gap"; a local organization which recruits volunteers from our criminology students to work with offenders in the local area, who would benefit from mentoring and social contact. The organization provides training to volunteers on issues such as boundaries, risk and motivational skills. Mentors are then matched with a mentee who they will then meet over the course of the following months. Activities can include simple social contact, help with applications, or discussion of current anxieties and problems. There are often positive reports from mentors and mentees of this programmes. As well as the support provided to past offenders, this scheme benefits students in developing an understanding of people experiencing difficulties, and particularly helps those who aspire to work in the criminal justice sector.

There is a need for a more systematic evaluation of mentoring and volunteering schemes. They are open to criticism on the basis that volunteers are likely to lack the training, support and experience of professional staff, or more cynically that voluntary arrangements are seen as a means of reducing state expenditure. That noted, there is enormous value in engaging people from the local community in supporting offenders. As well as the direct support provided, these schemes have the potential to reduce the stigma and exclusion that many ex-offenders experience.

E. The Offender as a Partner: The Most Obvious Stakeholder

When discussing the different groups who have an interest or a "stake" in preventing reoffending, the individual at the centre of interventions is often overlooked. As discussed in the previous lecture, people with histories of offending do not usually want to continue committing offences. However, many face challenges in their lifestyles, problem-solving skills, habits and social circumstances, which make avoiding further offending difficult. There is considerable evidence that treating offenders as partners, where they are actively engaged in creating plans to avoid further offending and develop positive lives, can significantly enhance effectiveness (Hughes, 2012; Rex, 2012). In practice this means working *with* offenders, rather than delivering interventions *to* them. This is not a straightforward task, since some ex-offenders will have short-term goals that may not appear directly relevant in reducing reoffending and many display hostility towards criminal justice staff (Hughes, 2012; 2014). However, recognizing their individual aspirations, as well as their qualities and strengths can significantly enhance motivation to work with the professionals and volunteers involved in providing interventions and support (Maruna, 2001; McNeill, 2006; Burnett, Baker and Roberts, 2007).

Working *with* offenders and engaging them in their supervision requires staff and volunteers to be attentive to developing professional relationships based on trust. Several factors are relevant in supporting this, which include: personal warmth, consistency, sincerity and fairness. Where there is a positive relationship established, many offenders report that they are willing to accept a directive approach from their supervisors and hear clear criticisms (Hughes 2012).

Working with the families and the social network of offenders is a related area which has been underdeveloped. Typically, criminal justice or professional agencies spend limited amounts of time with the offenders they supervise. People who are closely connected to offenders and involved in their day to day lives are likely to be more influential in the decisions they make. This is an area of practice that warrants further exploration.

VII. THE OFFENDER MANAGEMENT MODEL

The term "offender management" gained significance within a review of prison and probation services, commissioned by the Home Office in the United Kingdom in 2001. The report which followed highlighted the fragmented experience of those subject to criminal justice sanctions, associated with poor planning and poor communication between agencies (Carter, 2004). The review called for the creation of the National Offender Management Service (NOMS), which would provide continuity in how sentences were delivered and experienced. The model has the notion of interagency delivery at its core, with probation officers acting as "offender managers", whose key role is to assess need, plan interventions, facilitate the provision of services from a range of agencies and take enforcement action when necessary (National Offender Management Service, 2006). This requires a detailed knowledge of services available, skill in working with a range of agencies and individuals (Dominey, 2016) and skill in motivational work to sustain engagement on the part of the offender.

While the National Offender Management Service has now been renamed HM Prison and Probation Service, the principles of offender management remain influential. The clear advantage of this model is that it allows for the coordination of services. However, there have been criticisms (Robinson and McNeill, 2017). The model assumes that other agencies will be willing to operate within a shared framework, where they may in reality have their own ways of working and their own priorities. Others have emphasized that contrary to the aim of establishing a single point of contact, the offender management model undermines the continuity and quality of the relationship between the probation officer and the offender, because he or she ends up being passed around between different agencies (Robinson, 2005). Similarly, the model reduces the role of criminal justice staff to administrators, undermining the therapeutic and rehabilitative elements of their work. Related to this, there is a perception that the development of the "offender management" role is associated with broader attempts to de-professionalize the work of probation officers, and further change the culture of the service. Anecdotally, many probation officers who I have worked with have referred to being frustrated that the kind of work that they joined the service to do, particularly support work with offenders, is increasingly being given to other agencies.

Some observers have stressed that while the concerns outlined above are risks associated with a multi-agency model, these are not inevitable and can be avoided. Holt (2000) outlined that good practice in this kind of integrated approach requires the probation officer to demonstrate continuous commitment to the offender, where they maintain regular contact, and help them to engage with each intervention and overcome obstacles. This is, however, dependent upon appropriate workloads.

VIII. INTERVENING EARLY AND WIDELY

The primary focus of this paper is on multi-stakeholder approaches to preventing reoffending, among those already convicted of offences. Broader interventions are largely beyond its scope. However, it is worthy of mention that only a very small proportion of crime actually leads to the involvement of agencies within the criminal justice system. Most crimes do not come to the attention of the police, fewer still lead to prosecutions and even fewer lead to the involvement of correctional agencies. Cavadino et al. (2020) have estimated that in England and Wales, fewer than one per cent of crimes lead to the involvement of criminal justice organizations. This means that criminal justice systems will, at best, have a very modest impact on overall crime levels. Reducing crime therefore requires a much broader provision of support services, which are not restricted to those who have already been convicted. There is evidence that early interventions targeted at children and young people at risk of future criminality can have a substantial impact, not just on

reducing criminality, but also in achieving improved outcomes on other measures such as health, educational performance and employment. Notable examples of such schemes are the Perry preschool programme and the Elmira project, both of which were delivered in the U.S. These involved partnerships between health workers, families and schools, where regular home visits were made by a range of professional agencies and additional early years schooling. The results of follow up surveys indicated decreases in arrests for children and parents, as well as lower rates of alcohol consumption, fewer sexual partners and better educational achievements (McAra and McVie, 2017)

In the UK, there was an effort to replicate the positive impact of early intervention through the introduction of Sure Start children's centres. These aimed to provide a holistic set of services for young families in deprived areas within one physical building. Evaluations suggested that these services did not have the impact that was hoped, but still had significant measurable effects across a range of outcomes (Belsky et al., 2007).

IX. AN OVERVIEW: CHALLENGES, OBSTACLES AND OPPORTUNITIES

While I have emphasized the importance of a multi-stakeholder approach, it is important to consider that work between agencies is often challenging, and in some instances not desirable.

Different agencies have distinct priorities and purposes, which is often reflected in language and organizational cultures. Even within the criminal justice system there are tensions between different parts. As examples, the probation service has historically been opposed to prison sentences, emphasising the harms they cause. There has been similar hostility or tensions with the police. While the probation service has generally understood its role as primarily concerned with rehabilitation, other agencies have been more explicitly focused on law enforcement, public protection, and punishment. However, there have been significant shifts that have aligned the probation service more closely with its partner agencies in the criminal justice system. While this may create greater consistency and efficiency, there is a risk that the needs and rights of the service user are not met, when several different agencies are involved in their supervision and control. The overall impact can be one of greater social exclusion and stigma, rather than inclusion and the development of a positive non-offending identity.

Work with non-criminal justice agencies also brings challenges. Agencies outside of the criminal justice system are likely to have priorities that are grounded in the well-being of the person in their care, which contrasts with criminal justice agencies who, in England and Wales at least, have a growing tendency to regard offenders as a source of risk to be managed, and where enforcement action is likely to be taken in the event of non-compliance. There may be reluctance on the part of some agencies to share information, if this is understood as against the interests of the person that is being supported.

Despite the challenges, there are growing examples of good practice. Multi-stakeholder work invariably requires clarity about roles, what will be shared, and the extent to which different agencies sustain autonomy. Where negotiations are undertaken in the context of respect, and recognition of difference, multi-stakeholder approaches are central in developing effective responses to reoffending.

References

Belskey, J. Barnes, J. and Melhiush, E. (eds) *The national evaluation of sure start: does area based early intervention work?* Bristol, Policy

Canton, R and Dominey, J (2018) *Probation: working with offenders: second edition*. London, Routledge

Carter, P (2004) *Managing offenders, reducing crime. A new approach* London home office

Cavadino, M., Dignan, J., Mair, G., and Bennet, J. (2020) *The penal system: an introduction* London, Sage

Dawson, P., Stanko, B., Higgins, A., Rehman, U. (2011) *An evaluation of the diamon initiative, year two findings*. London Criminal Justice partnership.

Dominey, J (2016) "Fragmenting probation: Recommendations from research", *Probation Journal*. 63(2): 136-143

Durkheim, E (1972) "Forms of social solidarity" in Gidden (ed), *Durkhie: selected writings*. Cambridge, Cambridge University Press

Grubin, D (2010) "The use of medication in the treatment of sex offenders", *Prison service journal*. 178: 37 – 43

Hagell, A. and Newburn, T. (1994) *Persistent young offenders*. London, Policy studies institute.

Her Majesty's Inspectorate of Probation (2021) "Multi-Agency Public Protection Arrangements". Available at: https://www.justiceinspectorates.gov.uk/hmiprobation/research/the-evidence-base-probation/specific-types-of-delivery/mappa/ (accessed 9th Dec. 2021)

Holt, P (2000) *Case management: context for supervision*, Leicester: DeMontfort University

Hughes, W. (2012) "Promoting service user engagement and compliance in sentence planning. Practitioner and service user perspectives in Hertfordshire", *Probation Journal* 59(1) 48-65

McAra, L. and McVie, S. (2017) "Development and life course criminology" in in Lielbing, A. Maruna, S. and McAra, L. (eds) *The oxford handbook of criminology: sixth edition*. Oxford, Oxford University Press

Ministry of Justice (2013) *Statutory partnerships and responsibilities*. London, Ministry of Justice

Peay, J (2017) "Mental health, mental disabilities and crime" in Lielbing, A. Maruna, S. and McAra, L. (eds) *The Oxford Handbook of Criminology: Sixth Edition*. Oxford, Oxford University Press

Raine, A (2013) *The anatomy of violence: the biological roots of crime*. London, Pengu

Rex, S. (2012) "The Offender Engagement Programme: Rationale and Objectives" *Eurovista*. 2(1) 6-9

Robinson, G. and McNeill, F. (2017) "Punishment in the community: evolution, expansion and moderation" in Lielbing, A. Maruna, S. and McAra, L. (eds) *The Oxford Handbook of Criminology: Sixth Edition*. Oxford, Oxford University Press

Robinson, G (2005) "What works in offender management",' *Howard Journal* 44(3)307-318

Wong, K (2013) "Integrated offender management: assessing the impacts and benefits – holy grail or fool's errand?" *British Journal of Community Justice*. 11(2/3): 59 – 8

PARTICIPANTS' PAPERS

SOCIAL REINTEGRATION OF DEPORTED DOMINICANS

*Gina María Lamarche Leonardo**

I. INTRODUCTION

Every year, hundreds of Dominicans are arrested abroad for various crimes and sent as deportees to the Dominican Republic by the immigration authorities of those nations. In the first seven months of 2020, a total of 1,100 Dominican ex-convicts were deported from the United States. (Diógenes Tejada, 2020).[1] They served sentences for drug trafficking, murders, falsification of documents, fraud against the government, kidnapping, rape, gangs, driving while intoxicated, robbery, assault and several cases of intentionally setting home fires. As of 2021, 1,428 ex-convicts were deported from different countries, the majority from the United States. The two major grounds for deportation were illegal migration (671) and drugs (463). For gender, in the same year, 117 (8%) were females and 1,311 (92%) males (Reafael Castro, 2021).[2]

Upon arrival at Las Americas International Airport, the deportees are received by employees of the General Directorate of Migration and the Specialized Corps on Airport and Civil Aviation Security (CESAC), as well as by members of the airport security system and employees of the Ministry of Interior and Police. From the terminal they are transported by buses owned by the Directorate General of Migration (DGM) to their reception centre in Haina which has operated as a reception place for these cases since 2015.

From the Ministry of Interior and Police, once these deportees enter the country, they have access to the registry and enter the identifications in a database. At the moment, the database is only managed for registration and knowledge purposes, but the Ministry is interested in creating public policies that support the deportees towards a healthy social reintegration.

II. JUSTIFICATION

This work aims to study the issue of deportation from the moment of commission of the offence that causes it, to the reintegration of the individual as an entity that, far from being a social and economic burden for the state, is incorporated in a productive way to the Dominican society. It is to be understood that a returnee who is not guaranteed respect for their human rights may represent a threat to the national security system, and their exclusion is likely to increase delinquency and criminality in society. Likewise, we will take into account the level of incidence in the issues of the assistance system and social protection, discrimination as a mechanism of exclusion and citizen security.

III. DEPORTEES IN THE COUNTRY

To confront crime, society proposes the construction of more prisons and the deepening of the severity of punitive models. These plans are accompanied by the "zero tolerance" paradigm, which has a direct impact on the criminalization of deportees and poverty. In the case of men, the lack of employment usually brings with it the deterioration of their strength due to the breakdown of the image as provider and

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[1] Diogenes Tejada. (July 2020). One thousand one hundred Dominicans repatriated from the United States so far in 2020. El Nacional, p. 5.

[2] Rafael Castro (November 2021). Migration reports almost 1,500 deported Dominicans in 2021. Listin Diario, p. 8.

protector of their family. The more exclusion from the workplace, the less human development and, consequently, an increase in crime.

The Dominican Republic is one of the countries that has been disproportionately affected by the US Illegal Immigration Reform and Immigrant Responsibility Act enacted in 1996 (EFEUSA, 2016).[3] That law has had an impact beyond its original intention to combat irregular immigration. The expansion of the list of crimes or offences that now lead to the deportation of legal residents has resulted in mass deportations.

For deportees, returning to their country of origin represents a challenge. Forced return to their home country often feels like unjust displacement, particularly for those who have lived most of their lives in the United States. When a deportee arrives in the country, they are sometimes rejected due to the belief that they are associated with criminal acts. Before 2013, the registration and transfer system was counterproductive and prevented the reintegration of deportees. Either through direct access to the list of deported persons, or through a non-criminal record certificate reflecting that the person had committed a crime in the United States, employers, banks, and credit institutions openly discriminated against deportees once their status was disclosed to them.

Similarly, the old requirement of periodic weekly reporting for the first six months after arrival in the country revictimized deportees who had committed no crime in Dominican territory. Despite this, there are countless stories of deportees who, when returning to the Dominican Republic, do not find job offers after searching for several months because employers somehow verify the deported status of the individual.

IV. REINSERTION PLAN

The Ministry of Interior and Police, attentive to the situation of national deportees, seeks to design an accompaniment and reintegration programme to achieve the integration of deported Dominicans in a useful and productive way to the family, work and society. The intention is to carry out a survey of information through interviews with Dominicans with international migration experience and with a history of deportation, with the aim of making a quantitative analysis of the issue of deportees in the Dominican Republic, and based on the analysis, developing a qualitative reasoning that allows the development of public policies related to education, employment, housing, security, among others. In the same way, it is intended to define and build a social image of the returnee, which allows society in general to change the perception of this population group, which although it is a minority category, has a special impact on the psychosociological aspect of the Dominicans, especially on the topic related to the increase in crime and its possible link in the implementation of new forms of violence and criminality. Destigmatizing and channelling this population segment in its proper dimension is of great value for the country, since it will constitute a contribution to the strengthening of the national security system and would validate all the efforts of the State to reduce the levels of crime in the country. At the same time, it would integrate a high number of Dominicans to the productive life of the country.

V. EXPECTED RESULTS

From the Ministry of the Interior and Police, we seek to achieve:

- Diagnosis of the current situation of the deportee and the procedure to which he or she is subjected from detention to deportation.
- Raising of the current legislation on the matter and its impact on the process.
- Identification of weaknesses and proposals for their strengthening.
- Creation of adequate instruments that allow the Dominican State to capture the information necessary for the development of national insertion policies for deportees.
- Planning, execution and monitoring of a pilot programme for the rehabilitation of deportees in order

[3] EFEUSA (2016). Illegal Immigration Reform Act remains without success two decades later. EFE Agency, 5.

to reduce the level of leisure, during the process of reintegration into working life.
- Follow-up programme with the accompaniment of relatives to receive and reintegrate the family to the returnee, a person who is not the same person who left their home one day.
- Proposals for governmental and non-governmental inter-institutional agreements to create articulation mechanisms that guarantee the development, sustainability and sustainability of the Program.
- Definition of the link between the deportee and the increase in violence and crime.
- Impact on the issue of citizen security.
- Decrease in discrimination to which they are subjected due to the weakness of the system and the social perception of its incidence in the increase in delinquency and criminality.

VI. CONCLUSION

In the end, understanding the growth experienced by the phenomenon of deportation in the country and the need and relevance, not only of its study, but also of its inclusion in the national agenda, is important for the design and implementation of specific policies to achieve the reintegration of these nationals.

It is necessary to design policies and programmes that guarantee prevention, care and support mechanisms for returnees, so that upon their return to the country they find the opportunity to adequately insert themselves into society, at least by creating the opportunity to re-educate themselves in order to obtain a worthy job, health, housing and contribute to the reduction of recidivism.

CURRENT SITUATION AND CHALLENGES IN THE IMPOSITION OF PENALTIES AND CASE DISPOSITIONS WITH REGARD TO REHABILITATIVE PERSPECTIVES IN LAO P.D.R.

*Vilaysinh Dainhansa**

I. INTRODUCTION

This is a brief outline of the current situation and challenges that are faced with regards to punishment and the concept of rehabilitation of offenders in Lao P.D.R. Generally, the idea of restorative punishments and the element of rehabilitation is central to the philosophy of punishment in Laos, which is emphasized heavily in the Lao Penal Code 2018. However, the drafting of laws in this area and the effective implementation of the laws are often de facto quite different, presenting several challenges which are outlined below.

II. PRE-TRIAL

In Lao P.D.R. a range of options are available at the pre-trial stage. Historically the idea of restorative justice was seen as very important under local customary law. This has led to a system with a range of options for non-custodial sentences, some of which would help with the rehabilitation of offenders. For less serious offences it is common for the police to act as a mediator between the victim and offender. There is also sometimes mediation at the local village level between the village chief and the parties. The idea of community sanctions plays an important part as well. Typical sanctions include apologies, victim compensation with the advantage of non-prosecution and diversion from criminal proceedings.

In a similar way when the case file is passed on to the Prosecutor's office and formal charges are laid, there is still the possibility of mediation and diversion from criminal proceedings with the prosecutor acting as mediator. Also, at the Area Court level, the lowest level of court in Laos, it is often common for judges to act as mediators with the hope that settlement could be reached. There are issues with this system in that in the past more serious crimes were diverted from more serious criminal sanctions with undue influence placed on the victims to accept an agreement. As sometimes this is quite an informal system relying on the agreement of all parties so the mechanisms to determine non-custodial measures are sometimes reached in an ad hoc way. Article 11 of the Penal Code formalizes this for cases where the loss to property are less than 1 million Lao Kip (approximately $90US), mediation shall be used to settle these cases except for mugging, robbery, acts of recidivism or acts performed on a regular basis. There is a challenge to get public support where there could be the feeling that some offenders are getting away with the offence and receiving less serious sanctions than they should.

Regarding young offenders, the Law on Juvenile Criminal Procedure 2014, Article 12, states that a juvenile under 18 who commits and confesses to an offence punishable by less than three years' imprisonment to the offence that causes minor damage as described by law and who is not dangerous to society, with the consent of other party to the mediation process, shall not to proceed to formal criminal procedure.

III. SENTENCING

According to the Penal Code the categories of punishment are split into principal, additional and alternative

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penalties. According to Article 43 of the Penal Code, penalties are not only aimed at punishing the offenders, but they are also intended to re-educate punished individuals to purify their spirit towards work, to properly and strictly comply with the laws, to respect social rules and to avoid recidivism on the part of the punished offender.

The first four categories of principle punishment – non-custodial, public criticism, and fines and re-education without deprivation of liberty – are limited to less serious offences, while the fourth, expulsion, only deals with foreign nationals. Additional penalties imposed on top of principal penalties include fines, confiscation of property, confiscation of items connected to the offence, deprivation of voting and election rights, house arrest, expulsion when not used as a principal penalty, restoration and withdrawal of license. House arrest is used only as an additional penalty after the custodial sentence has been served up to a maximum of five years. These additional penalties are often used to supplement a principle non-custodial sentence.

Offences under the Penal Code (Article 13) are split into minor offences punishable by public criticism or fines, major offences punishable by re-education without deprivation of liberty or imprisonment from three months to ten years and crimes punishable by imprisonment from five years to life or the death penalty which is de facto life imprisonment.

Alternative non-custodial sentences for major offences are working for public utilities where the law prescribes a maximum penalty of three years' imprisonment. This form of community service should be performed without remuneration and is between 60 and 750 hours working for the public interest or any socially beneficial work that the court imposes. The court should consider in imposing this penalty the nature of the offence and the personality and consent of the offender as a replacement for the principal penalty (Article 59). The other alternative penalty, also where a minor offence is punishable by up to three years' imprisonment, is "Space Restriction", which is the confinement of the offender to a place or area of residence. In sentencing, the judges take into account the nature of the offence and the personality of the offender. An offender is not eligible in cases of recidivism (Article 60). This is another area of challenge as these penalties are not yet implemented in practice, and the Lao Law on Criminal Procedure 2017 does not specify which organization is responsible for implementing these alternative punishments. There are plans in the near future for the prosecutor's office to adapt this law and take on responsibility for its implementation, but presently it is another example of where the law has been drafted with good intention but, in practice, is presently impossible to implement.

Penalties of imprisonment with terms, re-education without deprivation of liberty and fines can be suspended for a period of five years. The suspension of the penalty can be whole or in part (Article 79). In exceptional cases if the defendant acted for the protection of or other people, the sentence can also be suspended for a crime. Again, this is another area of challenge as no clear guidelines are given for the prosecutor or judiciary on the appropriate use of suspended sentences.

One very big problem for Laos is drug crime. For offenders who are addicted to alcohol or drugs who have not been sentenced to imprisonment, the court may apply measures of medical treatment or at specific treatment centres. If the offender is sentenced to imprisonment, the court must apply such measures while the offender is serving his/her sentence, and it is counted towards the term of imprisonment. Also, if the treatment is not completed by the end of the sentence the court can apply measures by sending the offender to rehabilitation centres for alcohol or drug addiction or sending him/her to receive care from local authorities, other State organizations, mass organizations or civil society organizations to continue his/her re-education and medical treatment.

Under Article 320, any person who consumes or possesses for the purpose of consumption a small quantity of drugs, which is defined in the article, shall be regarded as victims and shall be treated or sent for treatment. Article 321 states that for addiction subsequent to treatment that person shall be subject to public criticism and receive a fine ranging from approximately $10 to $30US.

While this is very good in principle, in practical terms there is a limit on the number of places available for treatment and the budget is very limited in this area. There is a new national agenda on drug problems, but again this is another challenge as the agenda has yet to be enacted in law. Ideally some form of structured

rehabilitation programme should be offered to those serving custodial sentences; however, the limited budget prevents this.

IV. POST-SENTENCING

Pardons can be also granted to offenders to reduce the length of remaining sentences. This is a presidential decision based on good behaviour. Article 100 Penal Code. Offenders that have shown signs of reform and repentance, have conducted exemplary work while in detention, changed their attitude and expressed remorse for their past actions are eligible for conditional release on license. This is for juveniles who have served a minimum of half their sentence, for adults two-thirds (2/3) and 15 years for those sentenced to life imprisonment. Article 104 Penal Code.

V. SUMMARY

The State's policy on rehabilitation is well stated and focused on the reintegration of offenders into society, but as we have seen there are issues with the implementation of policy and the law as illustrated by the alternative sentencing options. At all stages, pre-trial, sentencing and post-sentencing, there should be cooperation between all the stakeholders, but in practice this either does not happen or happens in limited ways. As Laos has developed cooperation between the different organizations, ministries and agencies have developed in different areas, but this is one area where cooperation is only just starting, which creates many challenges and where a there is still a lot of work to be done. Another big factor is the lack of budget in almost every area, which severely limits alternative options such as the treatment of offenders for addiction. There is also the need to try to establish public awareness of the need to look at alternative options for the rehabilitation of offenders. Unfortunately, presently the public perception is that the offender could be getting away without punishment or receiving a lighter punishment than appropriate.

THE BARANGAY (COMMUNITY) DRUG CLEARING PROGRAMME: A HOLISTIC AND WHOLE-OF-NATION APPROACH IN CURBING THE DRUG MENACE IN THE PHILIPPINES

*Riza Soriano Ardepolla**

I. OVERVIEW

The Philippines, as a member of the United Nations and together with other countries, is an active advocate in curbing the drug menace in the South-East Asian region. The Philippines is also committed to carry out a balanced approach in addressing the world drug problem as embodied in the UNODC Strategy 2021-2025. This is the international anchor of the anti-illegal drug strategies of the Philippine Drug Enforcement Agency (PDEA).

The *Philippine Drug Enforcement Agency (PDEA)*, through Republic Act of 9165 otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", *was created and is mandated* to lead the enforcement of the law on anti-narcotics. Along *with Local Government Units, other government duty-bearers/stakeholders and Non-Government Organizations, PDEA enjoins collaborative and multi-stakeholder approaches* towards a drug-cleared and/or drug-free status of communities through the institutionalization of Barangay Drug Clearing Program (BDCP).

The BDCP is a sturdy support to the campaign of the government against criminality and in combating illegal drugs. The BDPC is the main anti-drug drug framework as[1] embodied in Executive Order No. 15, series of 2017 or the "Creation of Inter-Agency Committee on Anti-Illegal Drugs (ICAD) to Suppress the Drug Problem in the Country." The Inter-Agency Committee on Anti-Illegal Drugs (ICAD) enlists the assistance of the public and private agencies including the local government units in a balanced, holistic, unified, synchronized and integrated approach of supply and demand reduction strategies in addressing the drug menace at the barangay level. The programme is putting primacy to the welfare of the "*least-cared surrenderers*". The person who uses drug (PWUDs) by preventing them to commit crimes. It also concerns about pushers/drug offenders by preventing them from reoffending. Both PWUDs and pushers/drug offenders are humanely treated as victims of illegal drugs and are given a chance to renew and rebuild themselves through interventions, rehabilitation, and treatment and reintegration programmes in their respective barangay. This is acquiescent with the policy declaration of RA 9165 which provides that the State shall safeguard the well-being of its citizenry from the harmful effects of dangerous drugs on their physical and mental well-being and shall provide effective mechanisms or measures to reintegrate into society individuals who have fallen victim to drug abuse or dangerous drug dependence through sustainable programmes of treatment and rehabilitation.

Furthermore, BDCP is a programme close to the Filipino heart because it is anchored on the Filipino culture of "Bayanihan." It is a unique Philippine government

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[1] Executive Order No. 15, Series of 2017 Creation of Inter-Agency Committee on Anti-Illegal Drugs (ICAD) to Suppress the Drug Problem in the Country.

initiative considered to be the most effective way in combating the drug menace confronting the Filipino populace. The BDCP started as a study of Undersecretary (USEC) Wilkins[2] Malinawan Villanueva, Director General of PDEA, the brainchild of the programme, in his master's degree back in 2003. It took more than a decade before its institutionalization in the country. With the leadership of USEC Villanueva this institutionalization is sealed with the issuance of Board Regulation No. 4 Series of 2021 otherwise known as "Sustaining the Implementation of Barangay Drug Clearing Programme (BDCP) and Repealing for Such Purpose Board Regulation No. 3, Series of 2017".

As a result of the aforementioned circumstances, clear-cut procedures are defined under the BDCP implementation intended to ensure that there will be *No Relapsed case for stigma-free rehabilitated PWUDs and there will be No repeat offenders for Drug Reformists in* the 42,045 barangays in the country. As of this writing, the Barangay Drug Clearing Programme has facilitated the reformation of *260,831* PWUDS and *5,743 offenders*. These people are being monitored by the local government units.

A. The Barangay (Community) Drug Clearing Programme

The programme is anchored on the culture of cooperation, respect for human dignity, holistic strategies, and whole-of-nation approach considered as most effective platform in addressing the drug problem aimed at reducing the drug affectation in the country by taking away drugs from the people, taking the people away from the lure of illegal drugs and minimizing the impact of the drug problem in the barangay (community).[3]

The BDCP provides systematized processes in determining the extent of drug affectation of every barangay in the country and in declaring the same as drug-cleared or drug-free through evaluation, deliberation and validation. In effect, cities, municipalities and provinces will also be declared as drug-cleared or drug-free.

B. The Ultimate Goals of the Barangay Drug Clearing Programme

1. Free the rehabilitated PWUDs and drug reformists from the stigma of illegal drugs and reintegrate them to the community, making them productive citizens again;

2. Empower the citizenry and enable them to resist the lure of illegal drugs; and

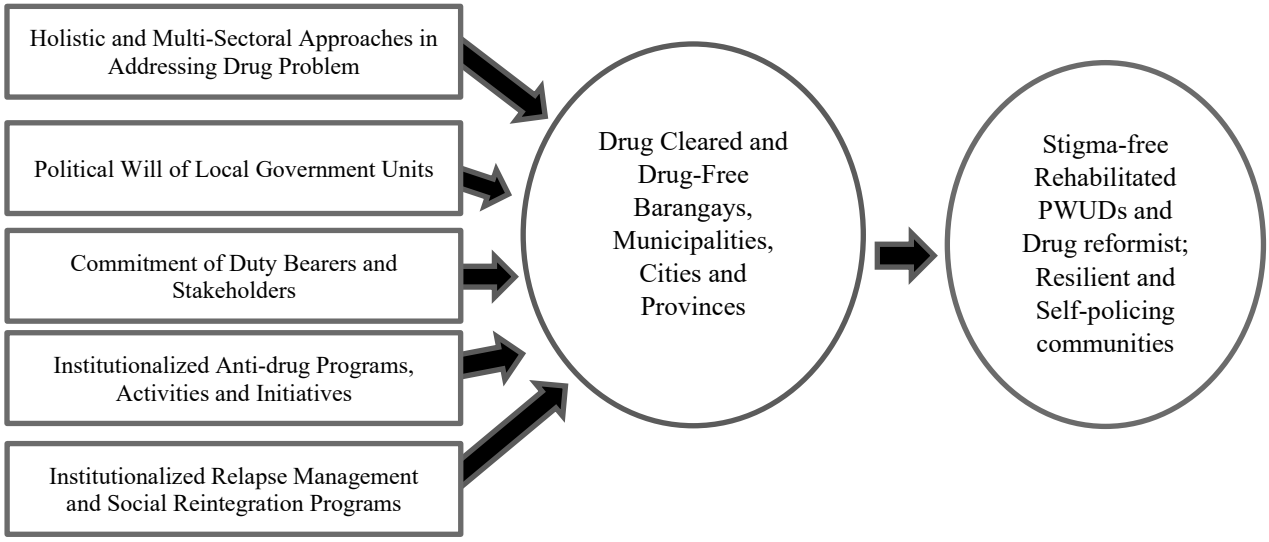
3. Enable the barangays, municipalities, cities and provinces to police their own respective communities, ensuring that they will deter the entry of illegal drugs into their respective communities.

C. Recipients of the Programme

All *PWUDs and pushers* in the barangay (community) with validated involvement in illegal drugs and those *plea bargainers (drug offenders) per court order for rehabilitation are* the target recipients of BDCP. They will be provided with appropriate intervention that will help them to be reintegrated into the community.[4]

[2] Strengthening the Implementation of BDCP and Repealing for Such Purpose of Board Regulation No. 3, Series of 2017.
[3] Dangerous Drugs Board Reg. 4, S 2021 "Sustaining the Implementation of Barangay Drug Clearing Program and Repealing for Such Purpose".
[4] Ibid.

D. Conceptual Framework of BDCP



As shown above, the victory on the fight against illegal drug problem in the country is dependent on five (5) dynamic variables which shall be implemented conscientiously in order to achieve the outputs and outcomes of the Programme. These variables are called the "Villanueva Pentavariables" and are defined as follows:

1. Holistic and Multi-Sectoral Approaches in Addressing the Drug Problem – This means that the BDCP employs the strategies in addressing the drug problem which are the supply and demand reduction. It involves the participation of the National Government Agencies (NGAs) and coordination with the Non-Government Offices (NGOs) in the Local Government Units and looks at the whole population as affected by the problem.

2. Political Will of the Local Government Units – This refers to the sincere, consistent and unceasing support of the local government units and local chief executives in the implementation of BDCP since prime end user of the programme are the constituents.

3. Commitment of Duty-Bearers and Stakeholders – All government departments, agencies and sectors concerned must commit to do their share in addressing the drug problem that is a cross-cutting strategy and not a stand-alone problem. Thus, commitment of all supporters and advocates of the BDCP to fully support the implementation of the programme is essential.

4. Institutionalized Anti-Drug Programmes, Activities and Initiatives – Issuance of policies, programmes, resolutions, regulations and ordinances including other anti-drug initiatives in planning and budget allocations are the effective ways to institutionalise the anti-drug efforts and strategies.[5]

5. Institutionalized Relapse Management and Social Reintegration Programme – This is considered the most humane component of BDCP wherein rehabilitated PWUDs and drug reformists are ensured of a better environment to become productive citizens, ensuring the prevention of reoffending in the community, giving prime concern on institutionalized relapse management for rehabilitated PWUDs and drug reformists and providing a comprehensive reintegration programme are of utmost importance.

These outputs will bring further the programme to a sustainable level and to the achievement of its ultimate goals.

E. Roles of Duty-Bearers and Stakeholders

Based on Dangerous Drug Board Regulation No. 4, Series of 2021 along with the Philippine Drug Enforcement Agency, the ADACs in LGUs shall carry out the comprehensive implementation of the

[5] Ibid.

programme. Law Enforcement Agencies and other stakeholders have specific roles in each stage of the programme, which includes the National Government Agencies, Non-Government Organizations, Peoples Organizations, Faith-Based Organizations, Civic Society Organizations, Youth Sector, Academe, Private Sector; and Media.

F. Stages and Activities of BDCP Implementation

The successful implementation of the BDCP to its sustainable development follows a Three (3) – tier which bring the above desired outputs to Drug-cleared/Drug-free status of barangays, municipalities, cities and provinces declared by the *Regional Oversight Committee on Barangay Drug Clearing Programme (ROCBDC)*. Procedures in Declaring Drug Affected Barangays and the unremitting implementation of Appropriate Intervention[6] Programmes along with the required sustainable activities/programme in BDCP in preventing relapse and preventing reoffending for all the surrenderers (PWUDS, qualified pushers and drug offenders/plea bargainers) and even the Newly Identified individuals in illegal drugs activities are sustained. Participation of stakeholders is crucial for sustainability of the programme.

FOUNDATION Stage - defines the readiness of the barangay to undertake the Barangay Drug Clearing Programme.
1. Roll-out/cascading of Barangay Drug Clearing Programme (BDCP) to all the barangays in the country. Participants are members of Anti-Drug Abuse Council (ADAC) from the barangays, municipalities/cities and provinces including its Chairman and its committees. Committees on Peace and order Council, Advocacy, Women and Family, Youth Council, Representative of Faith-Based Organization, Law Enforcement Agencies (Philippine National Police), Municipal/City Local Operation Officer from the DILG, Municipal/City Health Officer (MHO/CHO) and the Barangay Health Workers (BHW) •Responsible Office/Stakeholder: Philippine Drug Enforcement Agency (PDEA)
2. Strengthening the functional Anti-Drug Abuse Councils (ADACs) implementing the programme which aims to eradicate/prevent the entry of illegal drugs into the community and are evident through *Reactivated and Revitalized BADAC, BADAC Monitoring mechanisms and BADACs Allocation of Budget for Anti-drug initiatives in their Annual Investment Plan.* •Responsible Office/Stakeholder: Department of Interior and Local Government (DILG) and Local Government Unit (LGU)
3. Management of Watch List. The Lists of surrenderers/individuals with validated involvement on illegal drug activities are categorized and subjected to appropriate intervention programmes in the community.[7] •Responsible Office/Stakeholder: PDEA, BADAC and PNP.

PIVOTAL STAGE - Exemplifies that the BDCP is being implemented and its impact starts to be felt by the community. Apart from implementation of Demand Reduction Programmes and conduct of other related activities, implementation of appropriate intervention Programmes for *Person Who Used Drugs (PWUDs)* is assessed, implemented and managed by the Department of Health according to the standard protocol of the World Health Organization following the result of the ASSIST tool whether for *Community Based Drug Rehabilitation Program (CBDRP), General Intervention (GI) and on Treatment Rehabilitation Centres (TRCs).* Whereas, *qualified pushers and drug offenders/plea bargainers* on drugs are for *Balay Silangan (BS) Reformatory Programme* which is managed by the LGU.
4. *Conduct of House Visits.* House visit is conducted to surrenderers to inform them the available appropriate intervention by the government which they could readily avail of. •Responsible Office/Stakeholder: BADAC, PNP and PDEA

[6] Ibid.
[7] Ibid.

5. *Processing of Surrenderers*
The provision of One-Stop-Shop/venue for the processing of surrenderers, including the assessment of appropriate intervention modality. This includes *Assessment using ASSIST tool based on the UN standard is conducted for appropriate intervention modality* (pursuant to DDB Reg. No. 7, Series of 2019), Validation of residency, Profiling, Conduct of Drug Test and Administration of Affidavit of Undertaking for Surrenderers (pursuant to Sec. 54 and 61 of RA 19165).
•Responsible Office: Municipal/City Health Officer(CHO/MHO) PNP, LGU, PDEA[8]

6. *Implementation of Intervention Programmes* – is based on the *result of ASSIST tool and duration depends on the assessment/evaluation of case managers.* Each has its *Treatment Card/Book for monitoring* and shall complete the intervention programme. Surrenderer classified as both PWUD and pusher shall be subjected to two interventions – for Community Based Programme and for Balay-Silangan Reformatory Programme. Conduct of at least three (3) surveillance Drug Tests is recommended for evaluating the success of the intervention programme, upon admission, anytime within the programme compliance and prior to temporary release/primary programme completion.
•Responsible Office/Stakeholder: Municipal/City Health Officer (MHO/CHO) and LGU

7. *Categorizing of Identified Individuals/Surrenders in the Lists* – the assigning of color-codes to intervention undertaken by those PWUDs, qualified pushers and drug offenders/plea bargainers for their monitoring and accounting.
•Responsible Office/Stakeholder: BADAC assisted by PDEA

8. *Assessment for Declaration of Drug Cleared Status Barangays (community).* This is the submission of complete documentary requirements to qualify for application and issuance of Drug Cleared Status of Barangay/Municipality/City/Province.[9]
•Responsible Office/Stakeholder: PDEA (Regional Barangay Drug Clearing Team implementers in the 17 Regional Offices nationwide)

9. *Deliberation by the Regional Oversight Committee on BDCP (ROCBDC)* -Through the Chairmanship of PDEA in the Regional Offices and its members' stakeholders
•Responsible Office/Stakeholder: PDEA, DILG, DOH, PNP and the Local Chief Executive or Authorized representative.

SUSTAINABILITY STAGE – this means that the level of BDCP implementation has stabilized in the LGU evidently indicated by empowered and self-policing barangays, drug resilient citizens, and stigma-free rehabilitated PWUDs and drug reformists reintegrated in the community. After declaration made by ROCBDC the Drug-Cleared and/or Drug-Free Status barangays must sustain its status through Preventing Reoffending for Drug Reformists and Relapse Prevention Program for Rehabilitated PWUDs must include the following sustainable programs/activities in the LGU.

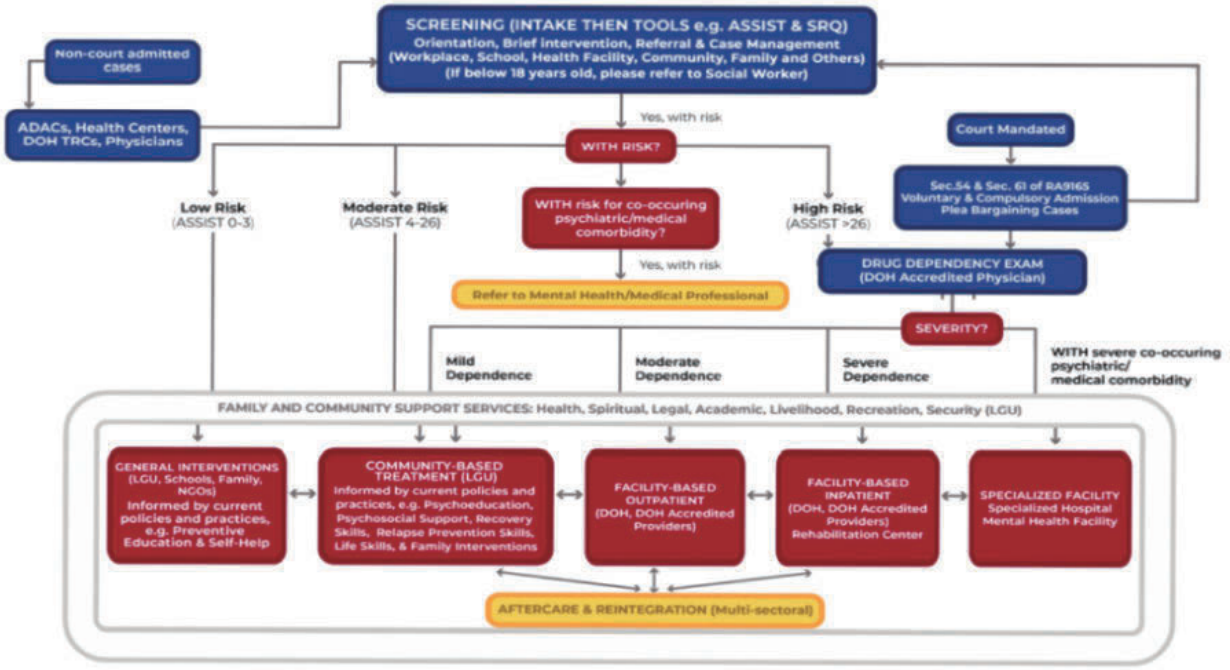
1. Social Reintegration programmes for Rehabilitated PWUDs and Drug Reformists.
2. Relapsed Prevention Programme for Rehabilitated PWUDs.
3. Continuous Implementation of Drug-Free Workplace Programme.
4. Active Multi-Sectoral Support to BDCP implementation.
5. Continuous Capacity Development for BDCP Implementers.
6. Establishment of Community Drug Watch.
7. Establishment of Community Support Group for Drug Problem.
8. Institutionalization of implementation of BDCP through Ordinances, Executive Orders and Policies.[10]
9. Periodic consultation with Duty Bearers and Stakeholders which may include holding of Annual Conference on BDCP Implementation.
10. Continuous conduct of demand reduction activities/awareness programme in the LGU and in all sectors.
11. Sustained intervention programmess for PWUDs (GI, CBDRP and Drug Treatment Rehab Centres Programme).
12. Sustained intervention programmes for pushers and other Drug offenders/plea bargainers.

[8] Ibid.
[9] Ibid.
[10] Ibid.

ROCBDC composed of PDEA together with other government agencies and LGUs conducts validation procedures to those with drug cleared and/or drug-free status to ensure its sustainability and ensure the status of RPWUDs and Drug Reformist preventing them from relapsed case/s and reoffending as well.

G. Details of Intervention Programmes

The figure below shows the New Client Flow for Wellness and Recovery from Substance Related Issues based from the Dangerous Drugs Board (DDB).[11]



1. *For PWUDs*, interventions depend on the result of assessment using ASSIST tool.

(i) Low Risk Drug Use Dependence (0-3) –. *General Intervention (GI)* is maximum of 1-month period. This includes *Brief Interventions, Individual Family programmes, Health and Psycho-Education and Psycho-Socio/Spiritual Support.*

(ii) *Moderate Risk of Drug Use Dependence (4-26)* - For Community Based Drug Rehabilitation Programme which include but not limited to: Case Management with Individual Treatment Plan, Psycho-Education and Advocacy, Counselling/Coaching, Education/Employment Support, Relapse Management and other activities deemed necessary.

(iii) *High Risk of Drug Use Dependence (27 and above)* - PWUDs shall undergo a Drug Dependency Examination (DDE), conducted by DOH-accredited physician and PWUDs may be diagnosed for In-patient /Out-patient treatment and interventions.

(a) PWUD diagnosed as *MILD SUBSTANCE USE DISORDER/COMMUNITY-BASED* with the not limited to the following interventions: Case Management with Individual Treatment Plan, Psycho-Social Support, Recovery Skills, Life Skills, Brief Interventions and Motivational Interviews, Spiritual/ Faith-based Structured Interventions, Social support Activities not limited to Technical Skills Enhancement, Livelihood Training[12] Activities, Educational Programmess, Environmental Awareness activities, Socio-Civic Activities, Attendance/Meetings of Support Groups like Narcotics Anonymous,

[11] https://www.youtube.com/watch?v=mX1wQ3ZsLNw "The New Client Flow for Wellness and Recovery from Substance Related Issues through DDBgovph, 28 Jun. 2020; Dangerous Drugs Board Reg. No 7, Series of 2019, Consolidated Revised Rules Governing Access to Treatment and Rehabilitation Programs and Services.

[12] Ibid.

Dangerous Drugs Board Reg. No 7, Series of 2019, Consolidated Revised Rules Governing Access to Treatment and Rehabilitation Programs and Services

Faith Based and NGOs.

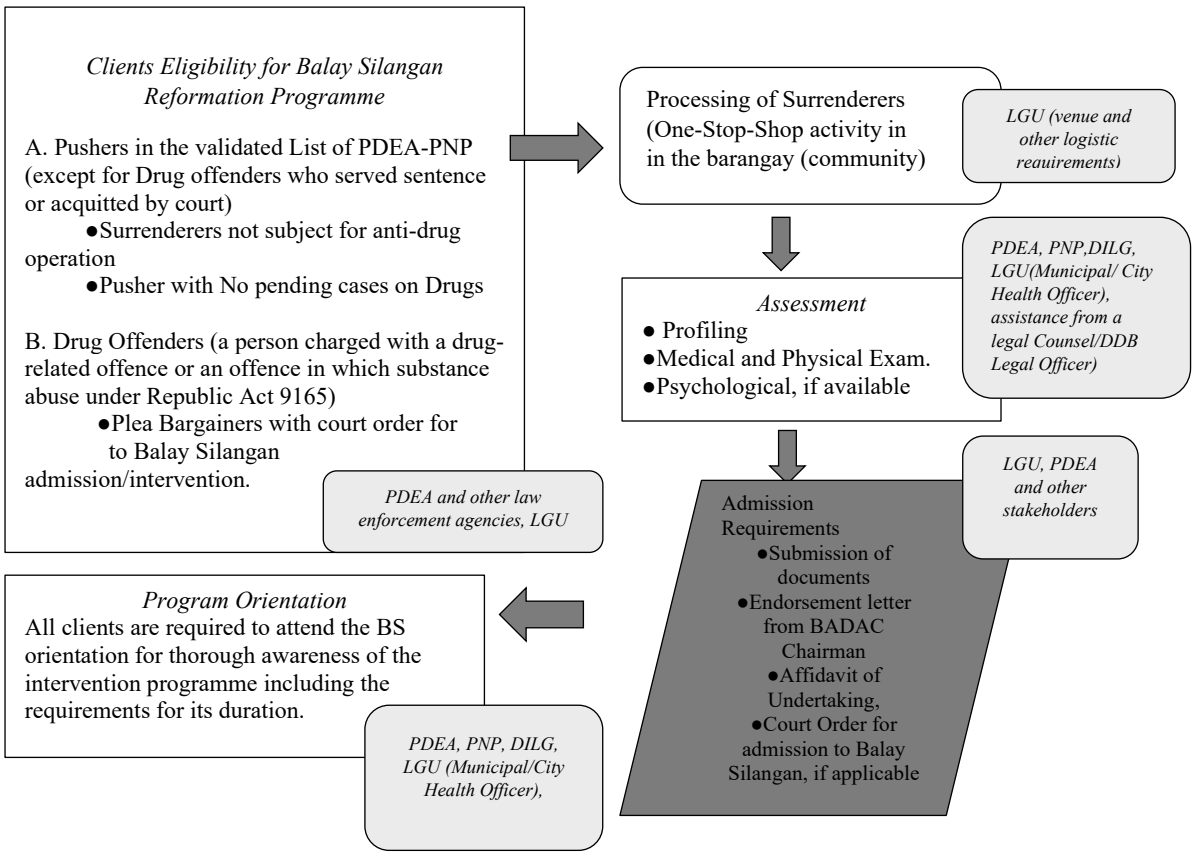
(b) PWUD diagnosed as *MODERATE SUBSTANCE USE DISORDER/FACILITY-BASED OUT-PATIENT*. PWUD shall undergo detoxification (when necessary) and referred for "out-patient" programme accredited by Department of Health which may include but not limited to Structured Out-Patient Modalities (Psychotherapy Interventions), Moral or Spiritual/Faith-Based Structured Intervention (Counselling, Provision of Addiction modules/Services), Individual/Group Counselling, Behaviour Modification programme, Social support Activities not limited to Technical Skills Enhancement, Livelihood Training Activities, Educational programmes, Environmental Awareness Activities, Socio-Civic Activities, Attendance/meetings of Support Groups (Narcotics Anonymous, Faith Based and NGOs).

(c) PWUDs diagnosed with SEVERE PWUD *SUBSTANCE USE DISORDER/FACILITY-BASED IN-PATIENT* for 6-month period. PWUD shall undergo detoxification (when necessary) and referred for "in-patient" programme accredited by DOH which has bio-psychosocial spiritual approach which may include, but not limited to Therapeutic Community Model, Minnesota Model and Other Evidence-based Model programmes.

2. For Reformation intervention in Balay Silangan Programme- *For pushers in the list of surrenderers and plea bargainers (drug offenders)* with court order for admission to[13] Balay Silangan upon release to the community from detention facilities.

FLOW CHART ON ADMISSION IN BS REFORMATORY PROGRAM

(The figure below shows the admission of clients in Balay Silangan Reformatory Program and The Involved Stakeholders)



[13] Ibid.

As of this writing, enhanced provisional concept is yet to be approved by the Dangerous Drugs Board which provides that client enrolled in the BS programme shall undergo a one (1)-month mandatory "in-house" for Education, Health, Psychosocial and Physical Activities as reflected below. Only clients certified by the case manager shall proceed to Livelihood or Employment Education Phase.[14]

A. Education and Health

●Includes Knowledge on Illegal Drugs and Its Ill effects
●Lecture on Salient Provisions of RA 9165

Involved Stakeholder: PDEA, LGU (ADAC)

B. Psychosocial and Physical Activities

●Counseling Sessions,
●Consultative Sessions
●Moral Recovery Activities
● Discipline and Values Formation, ●Personal and Life Skills
●Exercises and Sports Activities

Involved Stakeholder: LGU (MHO/CHO), ADAC, Religious Sector

C. Livelihood or Employment Education
(determined by LGUs to include but not limited to the following)

●Green Revolution Programme (Gardening*)
●Soap Making
●Massage Training or Reflexology,
●Basic Carpentry
●Basic Welding and Electrical
● Basic Haircutting
●Food Processing
●Mushroom Culture

Involved Stakeholders: LGU (ADAC), TESDA, DTI. DOLE, DA

D. After-care Services

●Continuous counselling
● Job Placement
● Other Alternative Economic Development
●Programme on Alternative Learning System

Involved Stakeholder: PDEA, LGU (ADAC), DSWD, TESDA, DTI. DOLE, DA, DepEd/CHED

From January 2017 to December 2021, PDEA recorded 319 Balay Silangan Reformatory Centers established in the country which catered eligible pushers and plea bargainers for BS intervention programme with a total of 5, 743 clients. Apart from this continuous commitment LGU must ensure the requirements below in BS establishment.[15]

[14] Dangerous Drugs Board Reg. No 2, Series of 2018, Balay Silangan - Guidelines for Community Involvement in Reforming Drug Offenders Who Voluntarily Surrendered into Self-sufficient and Law-abiding Members of Society.
[15] Ibid.

1. Establishment of the infrastructures necessary for the program which may have the following but not limited to: Lecture Room/s;
   - Counselling Room;
   - Sleeping Quarters;
   - Comfort Rooms;
   - Mess Area/Pantry;
   - Clinic; and
   - Sports/Recreation Area

2. Provision of appropriate number of personnel who will man the facility which include but not limited to:
   - Facility Head;
   - Program Coordinators;
   - Case Managers;
   - Medical Aide;
   - Security; and
   - Utility Workers

3. Financial and logistical support needed for the operationalization of the facility.

4. Signed Memorandum of Agreement (MOA)/Memorandum of Understanding (MOU) with various stakeholders.

5. Reformatory Module must be holistic and anchored on respect for human dignity.

H. Monitoring Mechanism

To ensure that the implementers are comprehensively implementing the programme in the country, PDEA also created the PDEA Barangay Drug Clearing Programme Working Group for Monitoring and Validation (PB-WMV). Currently, it is headed by the *Chief of Staff, Dir. III Charlene R Magdurulang* who oversees the PBWMV in supervising and monitoring the effectiveness and efficient implementation of the 17 Regions in the country. The PB-WMV and Regional BDCP Teams (RBDCPT) shall champion the programme implementation. Strengthening multi-stakeholder coordination,

drafting and implementation of guidelines and policies, preparation of plans and programmes, validation, assessment, data gathering and analysis, and recommendatory functions are among its mandate.

I. LGU's Commendable Practices on BDCP Implementation: As First Drug-Free City in the Philippines

The LGUs effort in the sustainable development programme in the implementation of Barangay Drug Clearing Programme shows solid support to the programme. Apparent proof for this is the *LGU of Tangub City* hailed as the *First Drug-Free City in the Philippines* on April 11, 2019. It is situated in Northern Mindanao, Philippines.[16] On the basis of Board Regulation No. 3, Series of 2017, it was duly declared by the ROCBDC through PDEAs chairmanship under *USEC Wilkins M Villanueva, MPA, CESE*, the former Regional Director of PDEA Regional Office X and currently the Director General of the said agency. The city has 55 drug-cleared barangays with sustained status with a total of *3,729* rehab PWUDs and *120* Drug Reformists respectively who have undergone intervention programmes on Community-Based Drug Rehabilitation Programme (CBDRP) and Balay Silangan (BS) Reformatory Programme.

Based on the ROCBDC's thorough assessment and evaluation which then confirmed further the study conducted by the *Joint Research Project of the Dangerous Drugs Board (DDB) and Integrative Competitive Intelligence Asia, Inc. on May 2020, "Best Practices of Selected Drug-Cleared Barangays: A Basis for A Drug-Free Community Paradigm"*, The study shows distinctive efforts made by Tangub City which substantiates the sustainable programme BDCP are as follows:

1. Institutionalization of policies which include Creation of the City Anti-Drug Abuse Council (CADAC), Drug Free Work Place Ordinance for the Public Sector, Executive Order Establishing the One Stop Shop for the Processing of Applications for Voluntary Treatment and Rehabilitation of Drug Dependents wherein a Legal and City Health Offices was tasked on the step-by-step procedure of the process from client interview and assessment to admission to the treatment centres, and the Drug Free Work Place Policy.

2. LGUs continuous demand reduction activities/awareness programme evident through various

USEC Wilkins M Villanueva, current Director General, PDEA and the former Regional Director of PDEA Region Office X in Northern Mindanao, painstakingly conducts of continuous lectures on BDCP awareness to LGU, government agencies and other stakeholders.

[16] PDEA// Tangub City LGU, 2020 Joint Research Study of DDB and Integrative Competitive Intelligence Asia, Inc. Best Practices of Drug-Cleared Barangays: A Basis for a Drug-Free Community Paradigm

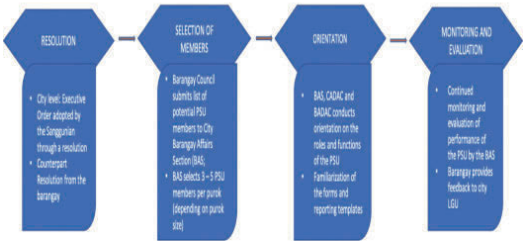
meetings with barangay officials and attendance to barangay gatherings, house to house campaigns and other activities were initiated by the CADAC Technical[17] Working Group Core Team to encourage full participation of the community in support to anti-illegal drug campaign/programme in the city.

3. Institutionalized partnerships and structures on rehabilitative perspective between LGU's CADAC Core Team with PDEA, PNP, and other government agencies through MOA/MOU and other stakeholders.

4. Institutionalization of Drug-Free Workplace implementation, "house cleaning" through random Drug Tests to city hall employees and elected barangay officials during their general assembly/meeting. Those tested positive both on the screening and confirmatory tests were included on the first batch of 38 surrenderers and graduates for voluntary treatment and rehabilitation in[18] Misamis Occidental Drug Treatment and Rehabilitation Centre. Drug-Free Workplace has been institutionalized all throughout the LGU through issuance of a Drug-Free Workplace policy for the public sector.

Photo taken during conduct of random Drug Test in Tangub City.

5. The establishment of Community Drug Watch as a system of monitoring and reporting on drug-related activities specifically the organization of the Purok Service Unit (PSU) including budget allowance. This has been entrenched through an Executive Order and adopted by the LGU through a Resolution. Usual PSU member ranges from 3 to 5 per purok as shown in the figure on the left.



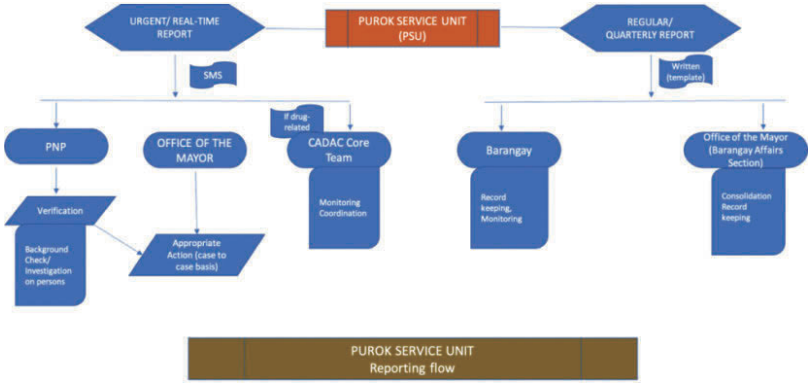
(i) The members are nominated by the barangay LGU based on the following criteria:
   (a) He/she should be an upstanding member of the community
   (b) A registered voter in the barangay
   (c) No police record
   (d) At least high-school graduate
   (e) Selected by the Barangay Affairs Section (BAS) under the Office of the Mayor
   (f) Must undergo the PSU orientation regarding their roles and responsibilities, including reporting requirements conducted by BADAC and CADAC.
   (g) Member of PSU will receive a monthly honorarium from the city with additional incentives for good performers.

(ii) Encompassing PSU's task on the peace and order are identification and reporting drug users and pushers in the area, monitoring of peoples' movement[19] coming in and out within their *puroks* (village) which include collection of basic information of newcomers in the area like name, address, purpose, length of stay in the area and other necessary info and subsequent reporting for suspicious activities of individuals to the PNP for verification or further investigation as well.

(iii) Residents are required to report incoming visitors to the barangay and shall provide the necessary information before the date of arrival.

(iv) The reporting process of PSU is illustrated in the figure below.

[17] Ibid.
[18] Ibid.
[19] Ibid.



(v) The PSU has been effective in preventing the return of illegal drugs activities and maintaining peace and order in the communities through regular reporting of any suspicious illegal drug activities or individuals and on-time action. There's an easy access on reporting to PNP and the Chairman, CADAC (Mayor of the city) through their Text- hotlines. The CADAC Core Team is furnished copies of drug-related reports, which then the PNP conducts verification before taking appropriate action. Reports will be submitted to the BAS on quarterly basis for checking, consolidation and record-keeping. Performance of the PSU is then monitored by the respective barangay wherein feedback is also provided to them.[20]

6. Sustained intervention programmes for pushers. In collaboration with PDEA and based on Dangerous Drugs Board (DDB) Regulation Number 2, Series of 2018 aimed at capacitating the whole person and ensuring their reintegration to become productive and law-abiding citizens of society, Tangub City has established and *Operational Balay Silangan Centre* with graduated of *120* Drug Reformists.

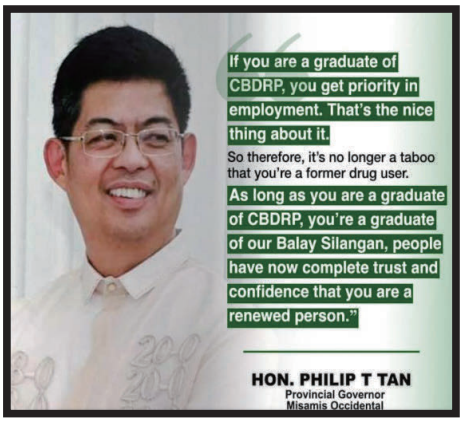
- It was operationalized in February 2019 and was funded by the LGU which also caters pushers for reformation from the neighbouring cities and LGUs.
- It has committed 13 casual or job-order employees comprises of a psychologist, two social workers, one medical technician, one IT staff, seven recovery coaches and the Program Director/ Facility Nurse who is also the CBRP Coordinator and CADAC TWG-Core Group member with a lot of experience in rehabilitation and treatment work.
- Clients activities include physical, mental, social, moral and spiritual aspects of recovery from the collective efforts of BS staff and interventionists from PDEA, PNP, religious sector and other stakeholders involved.
- Schedules includes exercises, performance of chores, individual reflection, journaling, family visitation and religious sessions by observing one's religious beliefs, aside from moral recovery and livelihood training.

7. Sustained intervention programmes for PWUDs with monitoring mechanisms includes enrolees check-in twice daily to assigned BADAC duty in the barangay. Individual weekly feedback through a journal is required to PWUDs.[21]

Family involvement is vital to recovering PWUDs through orientation, and recollection activities with PWUDs are necessary in relapse prevention aimed at repairing the relationship between recovering PWUDs and their family members.

[20] Ibid.
[21] Ibid.

8. Tailored support to Rehab PWUDs and Drug Reformists through LGUs provision of livelihood assistance after completion of Aftercare programmes and upon reintegration into the community. This support is a priority in LGUs employment based on skills matching and referrals.



9. Recovery counsellors and support system to clients in BS intervention programme and CBDRP are committed Rehabilitated PWUDs from first batch CBDRP graduates in 2016.

10. Establishment of community reward system in strengthening the monitoring mechanism of the LGU whereby residents are actively encouraged in their participation on top of their commitment in the fight against illegal drugs and entry of all illegal drug-related activities in the city.[22]

11. Institutionalized allocation of funds for sustainable development of BDCP. Funding includes training and information dissemination campaign, rehabilitation and facility treatment, financial support to families of surrenderers and members of PSU, provision of supplies and operationalization of Balay Silangan and conduct of CBRP. There is cost sharing between the city and the barangays of 10,000 per year for the CBDRP programme. Committed personnel in the Anti-Drug Abuse Team are paid through LGU's regular budget.

J. Success Stories of Rehabilitated PWUDs and Drug Reformist in Tangub City

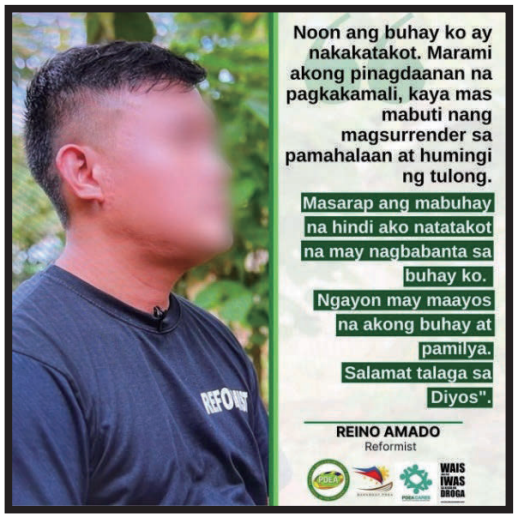
Below are journeys of eminent personal transformation of Rehab PWUDs and Drug Reformists succumbed to BDCP intervention programmes as significant achievements of Tangub City in the implementation on BDCP. Their positive transformation enhances awareness to the programme and cradle of inspirations to the community and inspires continuous efforts among BDCP stakeholders in working hand-in-hand with the government in achieving its ultimate goal.

1. Story of Reino Amado *(pseudonym): From A Pusher to A Grateful Drug Reformist*

Reino lived in Ozamis with his parents and siblings; later moved in Tangub City. During their childhood, Reino and his siblings were always beaten by their father Lucio especially when they were not in their

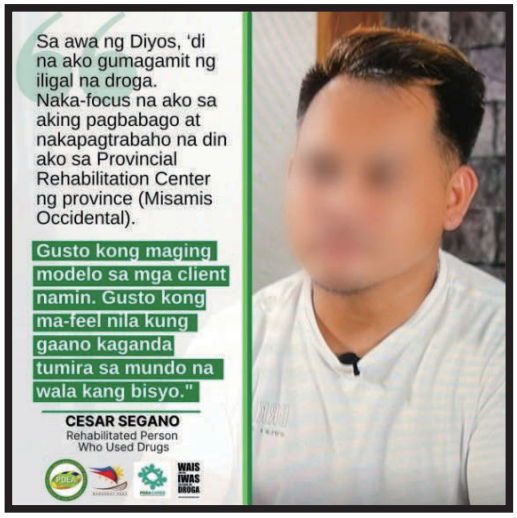
[22] Ibid.

house.[23] Reino was a consistent honor student until his beloved mother died of cancer. Since then, Reino spent most of his time with friends, roaming around entering houses and stealing things. His father Lucio had been into several partners before he met Nilda, Reino's stepmother. Reino and his stepmother were not on good terms then as he couldn't accept her as his mother. Reino learned to use illegal drugs (*marijuana and shabu*) during high school together with his friends. Because of this, they kept on entering and breaking into houses and learned to steal money to support their habit. When Reino graduated from high school, he entered small time jobs for a living. His drug use escalated and his vices had gone worse. Reino became a drug "runner" as he could not depend on his pay. Reino met several partners and some of them helped sustain his drug use. Reino met Mabel who is an office staff of a private company. They fell for each other and got married. But then, their marriage was difficult for he was still involved in illegal drug activities. When the Sagip Illegal Drug Users (*Rescuing illegal drug users*) programme of the City Government of Tangub came, Mabel decided to apply for the voluntary treatment and rehabilitation for her husband Reino. The programme had helped Reino to stop using substances, handle triggers and turn away from his old behaviour. Months since his release from the Treatment Rehab Centres, Reino was informed by the City Anti-Drug Abuse office that he had to undergo a three-month reformation programme in Balay Silangan. The programmes Reino underwent helped him to reflect on and understand the consequences of the things he had done before. He has fully realized the value of developing respect, discipline and humility in oneself to become a self-sufficient member of society. Mabel, on the other hand, has been very grateful for the man her husband Reino has become now.[24]



2. The Triumph of Cesar Segora *(pseudonym:* A Rehabilitated and Reintegrated Person Who Uses Drugs

Cesar is currently working in the Provincial Rehab Centre in Misamis Occidental. Cesar was born in Tudela, Misamis Occidental. His family moved in Tangub City when he was a year old and lived there since then. Cesar and his siblings were raised by caring parents who taught them of good manners and proper conduct. Cesar was able to finish elementary school, high school and college with the support of his family. It was in his college days when he joined a fraternity and met friends who influenced him to use illegal drugs *(shabu)*. Cesar decided to go to Manila after college. He didn't expect that his stay would give him a view of how rampant the illegal drug situation is in the city. Though he was able to find a job and finished his SOLAS training, Cesar failed to continue his application. His brother's efforts to support and help him land a job abroad got wasted. Cesar was also able to work in Cebu as a merchandiser but still his drug use went on.[25]



In 2006, Cesar met Arcilyn. They became lovers and tied the knot in 2013. Their relationship had been the most difficult for Cesar couldn't get away with drugs. Arcilyn, thinking Cesar would be able to turn away from his drug abuse, believed that the chances she gave will someday be worthwhile. Cesar came back to Tangub with the thought of quitting but his return only worsened his drug abuse. He was rarely at home, uncomfortable when he couldn't use drugs and sold valuable things in their home. Cesar brought distress to his family and in-laws. It was in 2017 when the Community-based Drug Rehabilitation Program

[23] Credit to Herry Rose C. Balili, RSW and Tangub City Anti-Drug Abuse Office/Misamis Occidental LGU
[24] Ibid.
[25] Ibid.

was launched by the City Government of Tangub under the Sagip Illegal Drug Users Programme. Cesar felt the need to quit for the current administration would possibly sue him due to his drug abuse. In early 2018, he volunteered to undergo CBDRP in their barangay but with uncertainty. Later, Cesar came to realize the dangers brought by drug addiction. He is finally able to see the support and sacrifices his wife Arcilyn and family had taken to help him recover. He now takes his focus to important things in life including his own family. Cesar became a CBDRP Recovery Coach in July to November 2018 and became an example to the recovering PWUDs. In October 2019, Cesar was employed as Coach in the Misamis Occidental Drug Treatment and Rehabilitation Centre and since then, he continues to help with people who struggle to find the road to recovery.[26]

K. Challenges Affecting the Implementation of BDCP

Based on the five-year experience in the implementation of the programme, PDEA and the Philippines government have faced challenges which threaten the sustainability of the programme in preventing both possible relapsed and reoffending cases involving a total 260,831 Rehabilitated PWUDs and 5,743 Drug Reformists who have undergone intervention programmes in BDCP from the 24,303 Drug Cleared barangays and 5,395 barangays with drug-free status out of 42,045 total barangays in the country.

The feat of BDCP hinges on the issues and concerns identified below.

1. The review on the current laws, policies and other issuances affecting the implementation of BDCP is very crucial. Enactment of enabling laws and policy enhancement that is explicit and particular would speed up the roles for the duty bearers and other stakeholders as implementers of the in the LGU. The role of the court is very important for plea bargainers/drug offenders to undergo proper intervention programmes, for instance Balay Silangan Reformatory Programmes. Despite diverse mandates and priorities among duty-bearers and stakeholders involved in implementation, monitoring and supervision, fortification of the programme among courts should be deliberate. Provision of funding and other mobilization requisites must be specified clearly ensuing BDCP anchored intervention programme and other related activities and programmes.

2. Likewise, proper management of funds is an immense consideration in the implementation intervention programme in which provision of quality intervention programmes is dependent. The duration of the programmes also rely on the kind of intervention programme they were succumbed to following after their assessment. Funding on the basic needs and other essentials during programme implementation and reintegration is carefully outlaid.

3. Alternative development programmes for the Rehabilitated PWUDs and Drug Reformist are supplementary measures through tailored support programmes in the reintegration into the community. Before enrolment of PWUDs to Community-Based Drug Rehabilitation Programme and pushers to Balay Silangan Reformatory programme, conduct of thorough assessment is very essential for sustainability of their personal transformation in the community. The tailored support services or programmes depend on their need which may include provision of livelihood programmes, their prioritization on employment in the LGU, providing free education on alternative learning programmes especially for Out of School Youth, an agent of hope to other surrenderers through volunteerism against drug involvement, easy access to health care services and involvement of the family and community as well. In this sense, they will be reintegrated well into the community as healthy, normal and productive individuals of no stigma on illegal drug involvement and not tagging them as "drug addicts" or pushers or any other involvement in illegal drugs activities.

II. WAY FORWARD OF THE PROGRAMME

Currently, the country has 1,218 remaining unaffected barangays. Its drug affectation drops to 26.47 per cent and comprises the 11,129 remaining drug-affected barangays with surrenderers subject for intervention programmes rather than putting them in jail.

[26] Ibid.

Based on LGU's noteworthy achievement in the implementation of BDCP, PDEA fervently believes a ceaseless effort and answer against drug problems in the society is by putting primacy on the welfare of the *"least-cared surrenderers"*, the Person Who Uses Drug (PWUDs) preventing them to commit crime and Pushers/Drug offenders, preventing them from reoffending in the community treating them humanely as victims of illegal drugs, through a balanced, holistic, unified, synchronized and integrated collaborative multi-stakeholder approach in the intervention, treatment, rehabilitation and reintegration programmes.

Also, the agency seeks sturdy support in the sustainable development of the programme from other government/private agencies in the locale and from the international government/Non-Government Organizations who believe and share the vision of putting primacy and treating humanely these victims of illegal drugs considered as a global problem.[27]

[27] PDEA Barangay Drug Clearing Program Working group for Monitoring and Validation (PB-WMV) Data as of December 2021.

ALTERNATIVE SENTECING IN SRI LANKA AND ITS CHALLENGES FROM A REHABILITATIVE PERSPECTIVE

*Nayomi Wickramasekera**

I. INTRODUCTION

The Sri Lankan response to crime over the past half century has been highly punitive, with a growth in the number and scope of criminal laws as well as in the incarcerated population. The incarceration population has continued to rise[1] and all the while, crime continues to affect many Sri Lankan's each year. Fine is the common punishment for petty offences, but most offenders are unable to pay the fine imposed and therefore are unable to benefit from this alternative punishment. The rate of offenders imprisoned for default of payment of fines is 70 per cent in 2019 from the total number of offenders admitted to the prisons that year.[2] This percentage has been rising from year 2015 according to statistics. The reconviction rate of the drug offenders in Sri Lanka is 33.3 per cent in year 2019.[3] In this category the number of the direct admission of reconvicted prisoners and recidivists is higher than first offenders. In 2018 and 2019 reconvicted prisoners constitute approximately 26.7 per cent[4] of the total prison population.[5] Therefore, the philosophy of the penal system of Sri Lanka needs to evolve into one with a correctional and rehabilitative focus, rather than a punitive purpose, and rehabilitation of offenders and their successful social reintegration into society should be among the basic objectives of the criminal justice system. Dissatisfaction with solutions currently available within the Sri Lankan Justice system has created an opening for a shift in response after a decades-long focus on punitive sentences and incarceration. The importance of this issue has become even more important amidst the Covid-19 outbreak and the overcrowding of the prisons. Agitation due to this vulnerability at the Anuradhapura prison resulted in two deaths in March 2020 amidst the Covid-19 outbreak. This article provides a directory of restorative justice statutes and practices to describe key features of restorative justice legislation and polices in sentencing in Sri Lanka and the challenges faced by the criminal justice system in implementing and improving these statutes and polices.

II. THE EXISTING STATUTES RELATING TO RESTORATIVE JUSTICE

Sri Lanka, formerly under British colonial rule referred to as Ceylon, is a multi-ethnic and multi-lingual island. It was colonized by three different foreign rulers over a period of four hundred (400) years. Sri Lanka has remained a constitutional democracy since independence from British colonial rule in 1948. Prior to the arrival of the European powers in 1505, the country had varied laws, mostly catering to the different ethnic communities. Before that in ancient Sri Lanka the hierarchy of courts and the source of all justice was the King. The mode of punishment was retributive in nature.

The criminal law and procedure in Sri Lanka are governed by the Penal Code and the Code of Criminal Procedure.[6] The Penal Code, which was enacted in the year 1883, came into operation in the year 1885, and is still in operation to date. Some significant Amendments such as Penal Code [Amendment] Act No 22 of 1995 and the Penal Code [Amendment] Act No 29 of 1998 were introduced for specific categories of

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[1] Vol 39, Year 2020, Prison Statistics of Sri Lanka 2020, Statistics Division Prison [Headquarters], Sri Lanka.

[2] Ibid, page 78.

[3] Ibid, page 93.

[4] Ibid, page 35.

[5] Ibid, page 45.

[6] Code of Criminal Procedure Act No. 15 of 1979.

punishments. Section 52 of the Penal Code lists out the death penalty, simple imprisonment, rigorous imprisonment, whipping,[7] fines and forfeiture of property as criminal punishments. The punishments of the Penal Code are complemented by Section 303 of the Code of Criminal Procedure Act 1979. According to this provision, judges can substitute a sentence of imprisonment with a suspended sentence. There were several amendments to the Code of Criminal Procedure Act No 15 of 1979 and some significant amendments relevant to this article can be found in the Code of Criminal Procedure [Amendment] Act No 17 of 1997 and the Code of Criminal Procedure [Amendment] Act No 47 of 1999. Furthermore, the Community Based Correction Act No 46 of 1999 also facilitates the imposition of community-based correction orders in place of imprisonment where the prescribed punishment does not include mandatory imprisonment or imprisonment exceeding two-years. The Probation Ordinance 42 of 1944, Section 3, also gives courts the option of ordering a release on probation taking into account the offence, age, gender and condition of the offender.

III. SENTENCING AND ALTERNATIVE PUNISHMENTS

Restorative justice is not an alternative paradigm that can replace the process of criminal justice. In Sri Lanka when sentencing an offender in certain offences restorative justice is referenced in statute, but with few mandates and little structure to support systematic use. The Police Department, the Attorney General's Department [prosecution] and the Prisons Department [corrections] should work with the Judges to prevent revictimization as well as recidivism in crimes, and this should begin at least at the sentencing stage of an offender. In Sri Lanka, imprisonment is the commonest mode of punishment other than imposition of fines. According to statistics,[8] 95 per cent of the convicted prisoners are sentenced with an imprisonment period of less than two years. Many of them who have committed minor offences and default of payment of a fine are sentenced with short-term imprisonment. A parole system is not available to them. The alternative sentencing methods and community-based correction that is in existence should be utilized in a successful manner.

A. Need for a Uniform Sentencing Policy

Judicial attributes should be inclined more towards a rehabilitative approach as well as a deterrent approach. Therefore, the judges should address their mind to a rehabilitative approach when sentencing, which should be considered as a foremost important matter. To achieve this end, a sentencing policy focusing on rehabilitation is required to be formulated to avoid individual justice in Sri Lanka. Absence of a mechanism to monitor sentencing trends and the need to set sentencing guidelines is paramount in this process. Sri Lanka does not have a sentencing policy or sentencing guidelines. A national policy on sentencing would provide guidance to judges in imposing sentences to ensure that they weigh aggravating and mitigating factors affecting the sentence in a uniform manner. Nevertheless, it is important for this process to be undertaken in a manner that does not undermine the independence of the judiciary but enhances its competence. Establishing a Sentencing Council to monitor sentencing trends and enact a statutory mechanism and criteria for commuting sentences can be suggested as legislative reform. Introducing a National Policy on Sentencing through collaboration of the Judiciary, Ministry of Justice and Attorney Generals' Department to provide sentencing guidelines can be suggested as a policy reform.

B. Suspended Sentence as a Non-custodial Measure

The judicial authority, having at its disposal a range of non-custodial measures, should take into consideration in making its decision by considering the rehabilitative needs of the offender, the protection of society and the interests of the victim. One such non-custodial method used in Sri Lanka is suspended sentence. Section 303 of the Code of Criminal Procedure [Amendment] Act No 47 of 1999 lays down the existing provision for suspended sentences. Suspended sentence cannot be imposed to an offender where the law provides a mandatory minimum sentence for the offence he has committed, or where the offender is serving a term of imprisonment or is yet to serve the term of imprisonment which has not been suspended, or where the offender committed the offence while he/she was on a probation order, conditional release or discharge, or where the term of imprisonment or the aggregate terms of imprisonment exceeds two years. The offender is convicted and the sentence is suspended for a period not less than 5 years from the date of

[7] Whipping was removed as a punishment under Section 3 of the Corporeal Punishment (Repeal) Act, No. 23 of 2005.
[8] Year 2021, Prison Statistics of Sri Lanka 2021, Statistics Division Prison [Headquarters], Sri Lanka.

the order and Courts may suspend the sentence wholly or partly. But very rarely the sentence is partly suspended in Sri Lanka. The offender is fingerprinted and therefore when Court calls for a fingerprint report of a person, it is reflected as a previous conviction.

In Court of Appeal Case *Kumara v. Attorney General [2003] 1 Sri L R 139* Justice Edirisuriya held that: A suspended sentence is a means of re-educating and rehabilitating the offender, rather than alienating or isolating the offender. No offender should be confined to a prison unless there is no alternative available for the protection of the community and to reform the individual. Imprisonment has an isolating and alienating effect on the family of the imprisoned offender because of the hardships they are faced with during the imprisonment of one of the family members. This authority has taken precedence and shows the judicial attitude towards rehabilitation of offenders in Sri Lanka. The Sri Lankan Supreme Court in *S.C. Reference 03/2008* held, "mandatory minimum sentences" in certain offences were inconsistent with the Constitution.[9] One of the reasons attributed to the decisions of the Supreme Court was the imposition of mandatory minimum sentences would result in legislative determination of punishment and a corresponding erosion of a judicial discretion and a general determination in advance of the appropriate punishment without a consideration of relevant factors which proper sentencing policy should not ignore; such as the offender and his age, and antecedents, the offence and its circumstances (extenuating or otherwise), the need for deterrence and the likelihood of reform and rehabilitation.[10] These decisions paved way for judges to use their discretion and suspend a sentence even for an offence which carries a mandatory minimum sentence under a statue.

This non-custodial measure provided by the legislature has no provisions of monitoring and supervising the offender. Although suspending a sentence avoids institutionalizing an offender, there is no provisions for supervision and to provide assistance psychologically and socially to be reintegrated into society in a way which minimizes the likelihood if returning to crime.

C. Community-based Corrections

Community-Based Correction Act No 46 of 1999 [hereinafter referred to as CBC Act] lays down legal provisions, alternative to imprisonment. A magistrate can issue an unpaid community service order for an offender instead of a fine or instead of imprisonment which is less than 2 years, taking into account the nature of the offence and the character of the offender. If used well, this legislation could substantively address core issues affecting the prison system, such as overcrowding and rehabilitation. Community work corrections, special rehabilitation [programme] for drug offenders and work under trained supervisors are the ways in which this system works, and since these programmes are not residential offenders may participate in the activities while staying in the community.

Even though the CBC Act does not provide for regular monitoring of the offenders, the correctional officers recruited by the department of CBC, tasked with undertaking monthly visits to persons who have been ordered to have their progress checked by CBC. Following each visit, they prepare a report, which is then forwarded every month to the senior correctional officer of the area where the offender resides, who then forwards it to the commissioner of the department of CBC. The monitoring of persons on CBC, however, is not undertaken as regularly or effectively as required due to severe shortage of staff. The implementation and monitoring of CBC require employing a variety of nuanced approaches. This requires the CBC officers to be trained in best practices, which requires considerable allocation of resources. Lack of financial resources and human resources to provide adequate vocational training programmes to offenders and monitor offenders is a huge setback in implementing the provisions of the said act.

Section 14 of the CBC Act does not provide the offender with an alternative non-custodial measure; instead, the offender is made to pay a fine and is imprisoned for the breach of the non-custodial measure. The offender's consent is required to issue a community-based correction order. Due to what appears to be the inherent bias of the different actors in the criminal justice system and lack of awareness about this law, offenders are not given CBC; hence offenders are ordered to pay a fine. This alternative punishment is sanctioned as an alternative to paying a fine. It invariably means for those who cannot pay it and a perfect solution for the offenders who are from very underprivileged backgrounds. The prison statistics illustrate that the majority (95%) of convicted prisoners were sent to prison for sentences of less than two years, while

[9] Articles 4(c), 11 and 12(1) of the Sri Lankan Constitution.
[10] SC Appeal No 17/2013 [decided on 12.3.2015].

70 per cent of convicted prisoners in 2019[11] were in prison for non-payment of fines,[12] which highlights this existing non-custodial option is not widely utilized in Sri Lanka. In 2017 the Judicial Service Commission, at the request of the Department of CBC, issued a circular to all Magistrate Courts, instructing magistrates to ensure the implementation of the CBC Act.[13] Offenders incarcerated for non-payment of fines even with provisions like Section 291(4) of the Code of Criminal Procedure, which grants courts the discretion to allow an offender to pay the fine in instalments over a period of time, is alarming and an indication of implementation of these provisions are scarce.

The CBC orders should be realistic, precise and achievable. One set back is that there are no guidelines and criteria to assist Magistrates in devising Community Based Correction orders to ensure conditions stipulated for non-custodial measures that are not so stringent for offenders that they fail and result in incarceration. It is important to increase awareness on Community Based Corrections Act and its important role in rehabilitation and restoration in order to reach communities and legal fraternity which will enable offenders to fully understand how Community Based Corrections Act is different from imprisonment.

D. Conditional Discharge

This is one of the non-custodial measures implemented and under section 306 of the Code of Criminal Procedure where the Court can "discharge conditionally" an offender on executing a bond, to be of good behaviour, after taking into consideration the character, age, health, or mental condition of the person charged, or the extenuating circumstances under which the offence was committed in lieu of convicting the offender. This provision can be used to discharge an offender after an admonition as the Court shall seem fit without entering a conviction and is even available for indicatable offences. In addition to a conditional discharge, Court can order the offender to pay compensation to the affected person under section 17[4] of the Code of Criminal Procedure and order state cost. This provision however is seldom used.

E. Probation

Probation, as a non-custodial measure is provided in the Probation of Offenders Ordinance[14] No 42 of 1944, which was last amended in 1948. The Department of Probation and Child Care Services, which is within the purview of the Ministry of Women and Child Affairs, is assigned the responsibility of overseeing the probation system. Unlike the CBC Act, the POO does not provide a threshold to decide to whom probation should be awarded, and it is decided on a case-by-case basis. Any convicted person can be released on "probation" in an appropriate case for a period of not less than one year and not more than three years. A court can issue a probation order after taking into account circumstances of the case, the nature of the offence, gender and condition of the offender and if it appears that probation is more suitable in lieu of sentencing. The POO makes provisions for when the probation order may be modified or cancelled and also stipulates the consequences of non-compliance with the probation order. The POO provides the offender another means through which to continue his/her probation in the event of non-compliance, instead of automatic imprisonment. This ordinance has provisions to engage the community by recruiting volunteer probation officers by the Minister. The Probation Department in Sri Lanka does not handle the probation of adult offenders and is only used for juveniles, which is a setback. Establishing a separate national entity to implement probation for adult offenders and monitor their adherence to the conditions of their probation and communicating to judicial officers and legal practitioners, the possible use of the Probation of Offenders Ordinance as an alternative to imprisonment is very important.

F. Mediation

Mediation Boards Act No 72 of 1998 provides people an opportunity to follow a less cost-effective mechanism to settle their minor disputes with the agreement of the parties to the dispute. Mediation Boards are empowered to resolve disputes. Within the Sri Lankan system there are both mandatory and voluntary mediation. Certain criminal offences are legally required to go to mediation prior to initiating proceedings in court. The panel of mediators, usually three, all respected figures from the village, are moral authorities. The mediator encourages the parties toward negotiation, improving communication and helping them to consider

[11] For the purpose of this study 2020 statistics are not considered. This is due to the fact that the Courts in Sri Lanka was not properly functioning due to the pandemic.
[12] Pages 47, 78 of Vol 39, Year 2020, Prison Statistics of Sri Lanka 2020, Statistics Division Prison [Headquarters], Sri Lanka.
[13] Judicial Service Commission, Circular JSC/SEC/CIR/2017.
[14] Hereinafter referred to as "POO".

options and to assess alternatives to bring a closure to a criminal dispute. By attempting to resolve a high percentage of minor criminal disputes, mediation reduces the number of cases being filed in courts, and presumably plays a part in relieving case backlogs. Mediation improves social harmony and local dynamics by introducing a method of problem solving that seeks out mutually agreeable solutions focused more on restitution than punishment. Offenders are not incarcerated for minor criminal offences that are sent for mandatory mediation [if settled] and are not even charged, which helps them to have a clean record.

IV. CONCLUSION

The hope of the world lies in the rehabilitation of the living human being, not just the body but also the soul. Our country cannot lose its eligible work force to the criminal world. It is the goal of this study to provide a starting point for collaborative dialogue between practitioners, policy advocates and scholars who are eager to consider the viability of alternative forms of justice in sentencing in Sri Lanka. Non-custodial measures when used well could substantively address core issues affecting the prison system, such as overcrowding and rehabilitation. It is however important to re-evaluate non-custodial measures regularly and innovate according to changing socio-economic conditions.

BEYOND THE HALFWAY HOUSE: TOGETHER, WE CREATE CHANCE

*Disaya Meepien**

I. INTRODUCTION

Juvenile offenders are one of the most vulnerable populations as they are at a young age and in conflict with the law. There were attempts to develop legislation, guidelines, procedures and services for juveniles in the criminal justice system, as well as treatments and prevention methods for juvenile delinquents for the purpose of reducing the number of juvenile delinquents continuously from time to time.[1] According to the United Nations, youth were quite disproportionately represented in statistics on crime and violence, both as victims and as perpetrators. Although in developed countries, such the USA, rates of juvenile delinquents, like crime rates in general, have been dropping for several years in a row, the number of violent crimes committed by youth had been increasing. It was also found in some countries, the proportion of violent crimes committed by youths had been increasing and violent crimes were committed at younger ages than in the past.

In Thailand, the number of juvenile offender cases decreased in recent years, from 30,361 cases in 2016, 26,089 cases in 2017, 22,609 cases in 2018 and 17,874 cases in 2020.[2] However, the number of juvenile offenders in total was a substantially small amount compared to the juvenile population in Thailand, and this number did not directly reflect problem behaviour in youths. It could also be inferred that a majority of these crimes were related to drugs or drug abuse as well as crimes in most countries. The proportion of drug abuse offences is the largest among other offences when considering the proportion between each offence.

Table A: The number of juvenile offender cases in Thailand from 2016-2020

Offence	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
Property	5,961	4,655	3,782	2,948	1,788
Life and Body	4,158	3,106	2,157	2,175	1,508
sexuality	1,412	1,314	1,038	922	698
liberty and reputation	883	702	566	517	369
Drugs	12,400	11,869	11,352	10,634	8,746
Weapon and explosive	2,262	1,527	1,119	951	671
Others	3,285	2,916	2,595	2,694	4,094
TOTAL	30,361	26,089	22,609	20,841	17,874

II. CURRENT TREATMENT AND REHABILITATION

The Department of Juvenile Observation and Protection (DJOP), governed by the Ministry of Justice of Thailand, is the major agency responsible for juvenile delinquents who enter the juvenile justice system. In

* Acting Director of Research and Development Institute, Department of Juvenile Observation and Protection, Ministry of Justice of Thailand.

[1] United Nations (2016). *United Nations fact sheet on youth*. Retrieved July 10, 2016, from http://www.un.org/esa/socdev/unyin/documents/wyr11/FactSheetonYouthandJuvenileJustice.pdf

[2] Department of Juvenile Observation and Protection (DJOP) (2021). *Annual Report 2021: Case Statistics*. Bangkok: Author.

compliance with The Juvenile and Family Court and Procedures Act B.E. 2553 (2010),[3] the DJOP provides services for juvenile delinquents both before and after the court sentences. In relation to this, there are 77 juvenile observation and protection centres and 21 juvenile training centres across Thailand. Juvenile Observation and Protection Centres will provide juvenile offenders who have not reached the verdict with Risk and Need Assessment, psychological assessment, counselling, drug treatments and physical treatment, as well as provide report and individual treatment plans for the court, while Juvenile Training Centres will provide juveniles who are sentenced to training centre with education, vocational training, rehabilitation, behaviour modification, drug treatment as well as after release follow-up and related services. For the purpose of improving its potential and effectiveness in reducing juvenile delinquency and recidivism rates, the DJOP has developed, reformed, implemented many treatment and rehabilitation methods for juvenile offenders, as well as raising the use of alternative measures (restorative justice) in certain cases. Additionally, the DJOP has been working in collaboration with other agencies such as Ministry of Education, Ministry of Social Development and Human Security, Office of the Narcotics Controls Board and the Office of Justice Affairs to promote the rule of law, knowledge and prevention of drug abuse, violence, corruption and crime for school students and risk groups of youth in community.

The concern for youths was not only the number of crimes committed by juveniles, but also the amount of recidivism that reflected the effectiveness of treatments and rehabilitations provided for those juvenile offenders. As recorded by the Department of Juvenile Observation and Protection, the recidivism rate (one year after release) raised from 13.57 per cent in 2009 to 20.37 per cent in 2013 and continuously raised to 22.49 per cent in 2021. Moreover, the recidivism rate at three years after release had reached 45.24 per cent of those released in year 2015, 43.12 per cent for those released in year 2016, 44.49 per cent for those released in year 2017 and 41.02 per cent for those released in year 2018.[4]

Table B: Percentage of juvenile reoffending (First year after release) of juveniles released from ordinary juvenile training centres from 2016-2020

Offence	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
Property	15.68	12.3	10.79	8.06	6.33
Life and Body	4.56	4.29	2.89	2.97	2.28
Sexuality	1.06	1.24	0.66	0.14	0.18
Liberty and reputation	0.95	0.56	0.26	0.28	0.18
Drugs	68.75	72.23	77.24	80.2	82.95
Weapon and explosive	5.08	4.4	3.42	3.39	1.76
Others	3.92	4.97	4.74	4.95	6.33
TOTAL	100.00	100.00	100.00	100.00	100.00

Table C: Percentage of juvenile reoffending (one-three years after release) of juveniles released from ordinary juvenile training centres from 2015-2019[5]

Year after release	Year 2015	Year 2016	Year 2017	Year 2019	Year 2019
One year	22.73	22.14	23.37	23.77	25.39
Two years	35.69	34.34	36.99	38.04	30.44
Three years	45.24	43.12	44.49	41.02	-

When recidivism rates kept rising, it could be inferred that current treatments or services provided for offenders may lack management to meet offenders' risks and needs as well as an effectiveness in reducing reoffending. Of the rising rate of recidivism, 80 per cent of reoffending juveniles are drug cases and another 10 per cent are burglary and robbery. This suggests that income and well-being of released juvenile offenders are of critical concern, and the DJOP's challenge is the improvement of effectiveness in the pre-release and reintegration process.

[3] Office of the Council of The State. (2010). *The Act of Juvenile and Family Court and Procedure for Juvenile and Family Cases B.E.2553*. Bangkok: Author. http://web.krisdika.go.th/data/document/ext825/825511_0001.pdf
[4] Department of Juvenile Observation and Protection (DJOP) (2021). *Annual Report 2021: Case Statistics*. Bangkok: Author.
[5] Ibid.

III. DEVELOPING AND IMPLEMENTING THE NEW REINTEGRATION MODEL

To increase the effectiveness of the pre-release and reintegration process, the DJOP considered how to increase well-being and job placement of juvenile offenders after release. There are a variety challenges in juvenile offender reintegration into the community. Researchers suggest imprisonment tends to increase disconnection from the community.[6] Juvenile offenders commonly lack social skills, self-determination, self-confidence and empowerment. Also, the juvenile offender's family and community appear to be less understanding, less engaging and less supportive, which leads to juvenile adjustment difficulty in the transition period. In addition, employment opportunity and placement did not correspond with their skills, talents or preferences, which resulted in subsequent employment termination or resignation.[7]

Table D: Percentage of juvenile reoffending (one-three years after release) of juveniles released from Baan Kanchanaphisek training centre from 2016-2020

Year after release	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
One year	6.9	10.53	6.25	10.26	4.55
Two years	20.69	15.79	18.75	10.26	9.09
Three years	24.14	15.79	25	15.38	

Table E: Percentage of juvenile reoffending (one-three years after release) of juveniles with restorative justice from 2018-2020

Year after release	Year 2018	Year 2019	Year 2020
One year	5.2	6.7	3.6
Two years	11.01	11.17	
Three years	16.82		

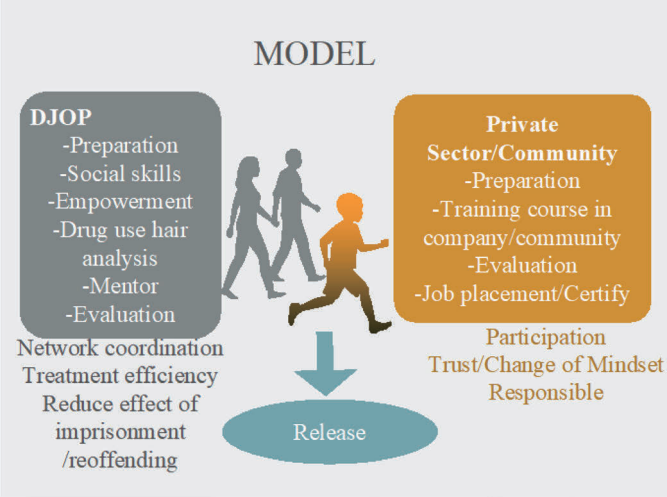
By analysing the in-depth statistics and practices in the juvenile justice system, it has been found that Baan Kanchanaphisek training centre, which focuses more on empowering, life skills training, less secure confinement and more self-control for juvenile offenders, as well as restorative justice, results in a preferable rate of recidivism. At Baan Kanchanaphisek training centre, juvenile offenders are empowered through a variety of activities, and parents are required to participate in almost activity throughout the rehabilitation period. A method of less secure confinement is implemented to enhance self-control and the social skills of the juvenile offenders, as well as aggregating acceptance and engagement from the community. Similarly, restorative justice measures that provide juvenile offenders with an opportunity to rehabilitate themselves in community, together with the engagement of family. Both measures result in better reconnecting with the community, self-empowerment and a lower recidivism rate.

The DJOP, therefore, developed the new model to increase the chance of new life of juvenile offenders by bringing back the method of halfway houses, which merges juvenile offenders from training centred into the community while increasing the participation of private-sector organizations and the community, as well as using scientific assessment to guarantee juvenile self-control. The new model of pre-release and reintegration was designed to be implemented for pre-release juveniles in juvenile training centres.

The Model is divided into three periods: preparation, training and post-training. In the preparation period, juveniles who will be released in 6 months will have their behaviour, attitude, and readiness to enter the 3 months training programme assessed by both the DJOP (multi-disciplinary team) and the private sector organization that conducts the training. During the preparation period, the juveniles will attend the orientation which includes an empowerment session, family orientation and hair test for drug abuse assessment. The following training period will last three months. During the three months, juveniles will live on their own

[6] Smith, Charisa Kiyô, Nothing About Us Without Us! the Failure of the Modern Juvenile Justice System and a Call for Community-Based Justice (March 23, 2013). Journal of Applied Research on Children: Informing.
[7] Nally, John M., et al. "Post-release recidivism and employment among different types of released offenders: A 5-year follow-up study in the United States." *International Journal of Criminal Justice Sciences* 9.1 (2014): 16.

Figure A: new model of pre-release and reintegration



with training peers. They must travel to the training venues and the work office on their own. They will learn to manage their daily lives by themselves. A post-training evaluation will be made by the private-sector organization that conducts the training and the mentor. The drug test is conducted by hair analysis and is conducted once again during this period. If the juveniles perform very well, the private sector will consider offering them a secure job and provide them with a certificate of training to fill in the juvenile's profile. The DJOP also reports its evaluation to the court to consider an early release for the juveniles.

The pilot group was a small number of five juvenile offenders in a juvenile training centre in Bangkok and its vicinity from August to October 2021 (12 weeks). With the training course in Barista and Bakery offered by Bellinee's Bake and Brew Company which is the top-tier company and professional in Bakery and Café arena, the juveniles had the opportunity to learn to make beverages and baked goods, and the skills to communicate with customers, marketing and the management of a café. The result showed that juveniles in the pilot project were significantly empowered and gained more confidence, they were responsible and motivated to carry on a career after release, the participation of family has the best result in psychological support throughout the training and working period, and the most important thing is that they felt embraced as a part of the community and believe they can do better than commit crimes.

The DJOP is currently conducting the second and third juvenile groups with some modification in assigning clinical psychologists and social workers as mentors for each juvenile. The mentor will monitor, evaluate and help juveniles to overcome obstacles by counselling and paying regular visits. Juveniles, mentors and training supervisors have to evaluate emotions, stress, difficulty and performance weekly. Also, the model has added an orientation and extra sessions (within the training period) which concentrate on social skills development, cognitive skills development and self-empowerment for the juveniles and family. In addition, activities during the 12-week training period will be accumulated in a credit scoring system which can be redeemed for rewards at the end of the training.

IV. CONCLUSION

The development of the new model in pre-release and reintegration is beyond the traditional halfway house system which used to offer a solitary house for released juveniles until they could find their own place. The current model increased the chance to live a stable life after release, as well as the engagement of family that builds understanding and acceptance. Additionally, innovation in drug hair analysis in the juvenile monitoring system had the benefits of increasing juvenile self-control and awareness, and assuring juvenile behaviours to the family and community. Currently, the model is considering the best practice in cooperation among stakeholders, public agencies, private agencies, society and family, which complies with the DJOP's objective in reducing recidivism, and shall contribute to the guidelines, standards, regulations, structure and elements of private facilities established by the department in the near future.

REPORT OF THE SEMINAR

The 177th International Senior Seminar (Online)
"Preventing Reoffending through a Multi-stakeholder Approach"

1. Duration and Participants

- From 12 January to 3 February 2022
- 19 overseas participants from 12 jurisdictions

2. Programme Overview

As stipulated in the Kyoto Declaration, preventing reoffending through a multi-stakeholder approach is an important theme in the criminal justice field internationally. This seminar aims to promote these efforts in participating countries, by sharing experiences and discussing (i) case disposition and penalties with due regard to rehabilitative perspectives and (ii) tailoring intervention, treatment and support to individual needs by effectively incorporating inter-agency cooperation and public-private partnerships. This programme was exclusively conducted online due to the Covid-19 pandemic.

3. The Content of the Programme

(1) Lectures and other presentations

The participants were from a wide range of time zones, including Asia, Africa and Latin America, and they needed to continue their professional and family duties during the seminar. Therefore, all lectures were recorded in advance and broadcast on-demand in order to allow participants to view lectures at their convenience. After watching the on-demand lectures, participants were required to submit questions or comments via an online learning management system, and their questions were answered in Q&A live sessions with the respective lecturers. This way, we tried to ensure both convenience and interactivity in lectures.

The lectures were firstly delivered by UNAFEI professors on the criminal justice system in Japan, as well as on specific topics relating to this seminar such as promoting measures for reducing reoffending, non-custodial sentences, assessment and re-entry support. After that, the specialist lectures and ad hoc lecturers were delivered, followed by Q&A sessions. Furthermore, as a special session, eight Japanese volunteer probation officers were invited to share their experience as community volunteers.

- Specialist Lecturer
  - Dr. Will Hughes
    Senior Lecturer in Criminology
    London Metropolitan University, United Kingdom
    "Community sentences for rehabilitation of offenders and preventing reoffending"
    "Multi-stakeholder approaches for effective supervision and support of offenders"

- Ad Hoc Lecturers
  - 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"

  - Mr. SUZUKI Takayuki
    Specialist
    Correction Bureau, Ministry of Justice

    and

  - Mr. TOMIZAWA Satoshi

Official
Correction Bureau, Ministry of Justice

"Public-Private Partnership in Employment Support"

(2) Group Workshops

Participants were divided into four groups considering their time zones, Individual Presentations topics and professional backgrounds.

- Individual Presentations

  Participants shared the practices and the challenges in their respective countries regarding the theme of the seminar through their individual presentations. All the presentations were recorded and uploaded online so that participants in other groups could watch them afterwards.

- Discussions

  Built on the knowledge gained through lectures and individual presentations, the participants engaged in live discussions to explore more about the theme of the seminar. The subtopics discussed were: (i) Imposition of penalties and case dispositions with due regard to rehabilitative perspectives and (ii) Interventions, treatment and support tailored to offenders' individual needs, with sufficient consideration of a multi-stakeholder approach. Participants shared challenges and good practices in their respective countries with group members, and discussed the root causes and necessary actions for common challenges.

  Below is an overview of the discussions:

  - Imposition of penalties and case dispositions with due regard to rehabilitative perspectives

    Although it is necessary to ensure due process and proportionality in imposing penalties and case dispositions, the participants reaffirmed the importance of effective use of non-custodial measures as far as possible since they can avoid the negative impact of imprisonment on rehabilitation of offenders and facilitate their social reintegration. They shared the legal basis for non-custodial measures, including the applicable options, criteria, discretionary power given to judges, prosecutors etc. It was reported that the existence of laws that provide non-custodial options does not necessarily mean they are fully used in practice. Many factors that would affect the active use of non-custodial measures were discussed, such as the necessity of sentencing guidelines, appropriate assessment required for appropriate use of non-custodial measures, the authority to implement non-custodial sentences in the community and collaboration with community partners who can support offenders. It was also noted that efforts should be made for providing adequate capacity-building and promoting understanding for rehabilitation of offenders among judiciary and law enforcement officers.

  - Interventions, treatment and support tailored to offenders' individual needs

    To make interventions, treatment and support for offenders most effective, participants recognized the importance of assessment throughout the criminal justice process to identify the individual needs of offenders. Various socio-economic factors relating to crime, such as poverty, isolation, association with gangs and other forms of organized crime, etc. were considered. Participants stressed the importance of support for employment, education and various support in collaboration with stakeholders to reintegrate offenders into the community, but various challenges which hamper rehabilitation and social reintegration of offenders were also discussed. In prisons, for example, overcrowding was indicated as a significant factor that impedes rehabilitative environments that would facilitate offender treatment, while in the community, lack of monitoring or supporting systems for released offenders, as well as resources to fulfil them, were discussed. Furthermore, many participants regarded the issue of general perceptions of offenders as critically important, since prevailing punitive attitudes would make it difficult to engage various stakeholders in supporting offender rehabilitation. Therefore, government initiatives not only for promoting inter-agency coordination and community engagement in supporting offender rehabilitation but also for raising awareness for importance of offender rehabilitation were emphasized.

4. Feedback from the Participants

At the end of the seminar, we invited feedback from all participants. They said that, even though conducted online, they learned a lot from lectures and group discussions, and many of them indicated that the seminar served as an opportunity to reaffirm the importance of incorporating rehabilitative perspectives and multi-stakeholder approaches in their respective professional areas. They also indicated that, if it were conducted in person, they would learn more about the Japanese system and practice by visiting relevant institutions in Japan.

5. Comments from the Programming Officer

This seminar discussed the theme of preventing reoffending. In order to reduce reoffending, a wide range of individual and social factors which would induce or deter crime should be addressed. It cannot be achieved only by efforts of penal institutions. It requires active involvement of relevant agencies with various expertise, as well as various community resources.

In order to ensure that the "multi-stakeholder approach" is not just empty words, key persons are required to make a difference in their systems and practices. The participants in this seminar fully understood the concept of the theme and were highly motivated to learn from the experiences of other countries and lectures. They showed great discernment in analysing their current systems and practices, and they recognized the need to review their systems and practices from the viewpoint of offender rehabilitation, with due attention to society and human rights. I believe such sincere attitudes towards learning stimulated their discussions, and I learned a lot from the participants.

The International Senior Seminar invites high-ranked policymakers and practitioners, and it provides them with a great opportunity to learn deeply about important themes in criminal justice. I hope that the knowledge, thoughts and new perspectives on reducing reoffending gained in this 177th seminar will be gradually disseminated to various stakeholders in their respective countries, leading toward a global society in which "no one will be left behind" as envisaged in the SDGs.

Group Workshop Reports

Group A
Presentation title: Diversion and Rehabilitation of Vulnerable Populations

Chairperson	Ms. Noor Haslinda Binti CHE SEMAN	(Malaysia)
Co-Chairperson	Ms. Artitaya RAWEEPRAYURABUT	(Thailand)
Rapporteur	Ms. Gina Maria LAMARCHE LEONARDO	(Dominican Republic)
Members	Mr. Hugo Antonio GONZALEZ GODINEZ	(Guatemala)
	Ms. Vilaysinh DAINHANSA	(Lao PDR)
Advisers	Prof. OTSUKA Takeaki	(UNAFEI)
	Prof. WATANABE Machiko	(UNAFEI)

Summary

Group A presented on 1) implementation of alternative sentencing for offenders and 2) rehabilitation for vulnerable populations.

Regarding the implementation of alternative sentencing for offenders, legislative reforms are necessary to introduce and widen the scope of alternatives to imprisonment. Likewise, organizational design and management processes must be established to implement non-custodial measures. Furthermore, efforts should be made to develop training curricula for judges, magistrates, prosecutors, police, probation staff and others involved in the administration of alternative sanctions and measures. Implementation requires supervision of and support for offenders to ensure that they observe all the conditions of the alternative sentence and are rehabilitated in the community.

Regarding rehabilitation for vulnerable populations, special attention should be paid to certain kinds of offenders, such as young offenders, disabled offenders, female offenders, etc. Bearing in mind the specific needs of these offenders, adequate assessment should be conducted to help identify the unique treatment needs of each offender. In the programme, providing vocational training for career skills that are required by the labour market is significant. In addition, providing programmes involving sports, art and music could be beneficial. The infrastructure for these programmes must be provided in cooperation with government and non-governmental organizations.

To make progress on the above-mentioned efforts, implementation of awareness-raising campaigns for the general public is necessary to overcome negative perceptions towards released offenders.

Group B
Presentation title: Preventing Reoffending through a Multi-stakeholder Approach

Chairperson	Ms. Disaya MEEPIEN	(Thailand)
Rapporteur	Ms. Hada Lucia HURTADO LUARTE	(Guatemala)
Co-Rapporteur	Mr. Afzainizam Bin ABDUL AZIZ	(Malaysia)
Co-Rapporteur	Ms. Riza Soriano ARDEPOLLA	(Philippines)
Member	Ms. My Hanh Thi PHAN	(Viet Nam)
Advisers	Prof. MIYAGAWA Tsubura	(UNAFEI)
	Prof. OKUDA Yoshinori	(UNAFEI)

Summary

Group B presented on 1) issues of recruiting from gangs, 2) prevention of reoffending, c) non-custodial measures and d) sustainability of programmes.

Association with gangs is an issue commonly seen in many countries and closely related to criminal conduct among young offenders. Gangs are formed mostly in areas of extreme poverty, and members are recruited from the time they are very young by being offered things that their family cannot afford. To prevent recruiting from gangs, it is important that government programmes ensure full access to public education for children, as well as employment support allowing families to have stable lives.

Regarding prevention of reoffending, identifying the cause of offending is essential for thinking of a suitable approach. Appropriate treatment plans for inmates should be prepared based on adequate assessment. In addition, government should inform the public about the consequences of offending, conditions in prison and treatment provided for inmates.

Regarding non-custodial measures, law and policy must be reviewed by criminal justice agencies in view of prioritizing non-custodial measures with a rehabilitative perspective to reduce reoffending. To promote rehabilitation in the community instead of imprisonment, all law enforcement agencies must work together with relevant agencies providing rehabilitation services in the community, and feedback on services should be periodically given to improve them.

Regarding the sustainability of programmes, lack of financial resources severely affects the continuity of programmes. Collaboration with non-governmental organizations, continuous awareness raising about the programmes, periodic consultations with stakeholders and capacity-building for service providers are also important.

Group C
Presentation title: Multi-stakeholder Approaches for Effective Supervision and Support of Offenders

Chairperson	Ms. Nayomi Thamara WICKRAMASEKERA	(Sri Lanka)
Rapporteur	Ms. Fathimath Naheeda THOHIR	(Maldives)
Co-Rapporteur	Mr. Fidelis Obi AJUKURA	(Nigeria)
Member	Mr. Hemal Prashantha DEMATAHERA GAMAGE	(Sri Lanka)
Advisers	Prof. OTSUKA Takeaki	(UNAFEI)
	Prof. HOSOKAWA Hidehito	(UNAFEI)

Summary

Group C presented on 1) overcrowding of prisons, 2) rehabilitation of offenders and 3) stigmatization.

Overcrowding prevents prisons from providing rehabilitative environments for prisoners and is, among other reasons, caused by delays in the investigatory and judicial processes and by the failure to make adequate use of non-custodial measures. It is necessary to review and evaluate sentencing laws and sentencing practices and to assess the impact and cost of available options. To make use of non-custodial measures, it is necessary to empower a specialized organization to supervise and monitor offenders with the help of governmental and non-governmental stakeholders.

Regarding rehabilitation of offenders, international standards and norms relating to treatment of offenders should be observed. Instead of simply committing people to prison, mechanisms to facilitate rehabilitation of offenders should be developed and sufficiently resourced by the government. Rehabilitation programmes for prisoners should provide structured education and vocational training programmes that fulfil the needs of the labour market. For effective supervision and support of offenders, a multi-stakeholder approach should be adopted. This approach should consider the use of community volunteers to observe and guide released offenders, such as the volunteer probation officer system in Japan.

Regarding stigmatization, the label of ex-convict prevents offenders from successful social reintegration. Criminal records are obstacles to employment, which leads to an increased risk of reoffending. Further efforts should be made to mitigate the negative impact of stigmatization.

Group D
Presentation title: Challenges in Preventing Recidivism

Chairperson	Mr. Thusara Ruwan Kumara MUDALI THENANNAHELAGE	(Sri Lanka)
Rapporteur	Ms. Mariyam FEZLEEN	(Maldives)
Members	Mr. Namik HASANOV	(Azerbaijan)
	Mr. Ramakamalan VINAYAGAMOORTHY	(Sri Lanka)
Advisers	Prof. MIYAGAWA Tsubura	(UNAFEI)
	Prof. YAMANA Rompei	(UNAFEI)

Summary

Group D presented on assessment of and support for offenders to reduce reoffending. A considerable number of offenders commit crimes due to poverty, drug addiction, neighbourhood affiliations etc. Therefore, to promote rehabilitation, each offender needs to be properly assessed to identify the circumstances under which the offence was committed. Offenders can be assessed and supported at any stage of the criminal justice system. At the investigation stage, information on available services and how to access them can be provided to offenders by investigating officers. At the prosecution stage, prosecutors can refer offenders to service providers, such as psychologists, rehabilitation volunteers, and religious or community resources. At the trial stage, judges should be made aware of the benefit of non-custodial sentences and the drawbacks of the wide use of custodial sentences. In addition, assessment reports of offenders are valuable to identify which cases would be suitable for imposition of non-custodial sentences.

In prisons, offenders need to be identified and categorized according to their abilities and skills and need to be provided with training to gain skills in collaboration with vocational schools and colleges through governmental or non-governmental sponsorship. Programmes for offenders can be implemented on a small scale as a pilot project and expanded slowly with careful monitoring of progress.

Effective post-release support is also essential to reduce the risk of reoffending. Therefore, a body to administer a monitoring system for people released early from prisons is required. Preparation for re-entry prior to release and adequate monitoring after release with a clear plan to settle into life outside prison is required. In providing such support, civilian partnerships play key roles.

PART TWO

RESOURCE MATERIAL SERIES No. 114

Work Product of the First International Training Course on Building Inclusive Societies

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UNAFEI

VISITING EXPERT'S PAPER

INTERNATIONAL VICTIMOLOGY: YESTERDAY, TODAY AND TOMORROW

*John P. J. Dussich**

I. VICTIMOLOGY IN HISTORICAL PERSPECTIVE

A. Legal and Linguistic Roots

The earliest complete legal code comes from King Ur-Nammu of the ancient civilization of Sumer in southern Mesopotamia dated in the Third Dynasty of Ur 2050 BCE. Its significance to victimology is the presence of compensation to victims throughout this legal code (Kramer 1988). Some three centuries later King Hammurabi of Babylonia created his well-known code which also contained compensation and restitution for victims as part of his 252 legal rules (Horne 1915). The expression "an eye for an eye and a tooth for a tooth" epitomizes the form of restitution used by Hammurabi's Code.

Many modern countries have religious and legal roots related to the Abrahamic religious teachings of the *Mosaic Codes* which started with the Ten Commandments from the Hebrew God to the prophet Moses to the Israelites in circa 1400 BCE influencing Sharia (Islamic) Law, Old Testament (Christian) Law and Halakhah (Hebrew) Law. A form of replacement restitution to the victims by their offenders was a common theme in the *Mosaic Codes* (Doe 2018).

Some thousand years later the *Twelve Tables* became the legal foundation of Roman law in 451 BC. These laws were used throughout the Roman Empire and significantly impacted the development of the legal systems that emerged in the many nations that formed well after the Roman Empire fell. Of special note in these laws was the role of victim restitution, not only during the Roman rule, but also among the nations that followed (Domingo 2018).

About 1,000 years later Justinian I Byzantine Emperor of the Eastern Roman Empire promulgated his legal codes in 529 AD called *Corpus Juris Civilis*. While these laws were not new, they did represent greatly revised legislation that reflected reformed legal practices of their times. The roles of victims were delineated throughout these Codes; however, in some cases, victims were held responsible for their own victimizations; in other instances, restitution was available (Radding and Ciaralli 2007).

Some 700 years later the *Magna Carta Libertatum* (Great Charter of Freedoms), the book of King John of England and Archbishop Stephen Langton (who wrote the first draft) was a charter of rights forced upon the king by his barons in 1215. The significance of this document is that it represents an historical symbol against the abusive oppression of the common folk by the ruling class. It established the foundations for common law and due process procedures, significant aspects of Anglo-Saxon Law and later Anglo-American Law, both of which eventually had significant influence in emerging nations throughout the modern world (Arif 2015). It is interesting that, "the position of the crime victim or separate rights of the victim are not mentioned in [the] *Magna Carta*" (Arif 2015:48). However, it must be noted that although the concept of abuse

* Professor Emeritus, California State University, Fresno, California, United States of America. I wish to dedicate this article to Irene Melup a significant victim rights facilitator and contributor who was a friend to the WSV at the UN. She worked at the UN in New York at the Crime Prevention and Criminal Justice Branch. The WSV honoured her with its highest accolade, the Hans von Hentig Award in 1994. She was dynamic and ardent about victim issues and brought many key persons together and motivated them and gave them information and explanations as to how the WSV might succeed in various UN deliberations over the past years. We spent many hours together in person and on the telephone trying to find strategies to get the proposed *Victim Convention* approved. She passed away on August 14, 2016. Her insights, passion and energy were legendary. Victimologists around the world will remember her with great respect, deep affection, and fond memories.

of power came into being much later, its roots are clearly embodied within the intent, values, and content of this historic document.

The modern English word "victim" has its roots in many ancient languages that covered a great distance from north-western Europe to the southern tip of Asia and yet had a similar linguistic pattern: *victima* in Latin; *víh, wéoh, wíg* in Old European; *wíh, wíhi* in Old High German; vé in Old Norse; *weihs* in Gothic; and, *vinak ti* in Sanskrit (Webster's 1971). As an academic term victimology contains two elements: The first is the Latin word "*Victima*" which translates into the English word "victim." The second is the Greek word "*logos*" which means a system of knowledge, the direction of something abstract, teaching, science, and a discipline.

Although writings about the victim appeared in many early works by such criminologists as Beccaria (1764), Lombroso (1876), Ferri (1892), Garófalo (1885), Sutherland (1924), von Hentig (1948), Nagel (1949), Ellenberger (1955), Wolfgang (1958) and Schafer (1968), the concept of a science to study victims and the word "victimology" had its origin with the early writings of Beniamin Mendelsohn, a Romanian prosecutor (1937; 1947), these first writings led to his seminal work where he actually proposed the term "victimology" in his article "A New Branch of Bio-Psycho-Social Science, Victimology" (1956). It was in his 1969 article that he suggested the establishment of *societies, clinics, institutes*, and *journals* of General Victimology (1976: 22). Two international societies came to fruition with the creation of the World Society of Victimology in Münster, Germany, in 1979 which is still active today; and, with the World Congress of Victimology in Arlington, Virginia, USA, in 1980 which is no longer active. Many countries also have victimology societies, some which are still active today and some not. Instead of calling them "clinics" as Mendelsohn envisioned, victim treatment centres evolved to over a thousand programmes called victim assistance, victim advocate, or victim support centres worldwide. The establishment of several victimological research institutes were also realized with one in Tokyo, Japan, at the Keio University by Koichi Miyazawa active from 1968 to 1992; one in Sarajevo, Bosnia i Herzegovina, called The Institute of Victimology in Sarajevo initiated in 1997 by me and Gerd F. Kirchhoff (Dussich 1997); another called the Tokiwa International Victimology Institute (TIVI) in 2003 started with Hidemichi Morosawa and myself; and, one in the Netherlands, called the International Victimology Institute Tilburg (INTERVIC) in 2006 by Marc Groenhuijsen. The establishment of seven international journals also came to pass with the first in the USA, *Victimology: An International Journal*, started and edited by Emilio Viano, in 1976; one in England, *The International Review of Victimology*, started and edited by John Freeman and Leslie Sebba in 1989); one in Japan, *International Perspectives in Victimology*, started and edited by John Dussich in 2004; one in Argentina, *Victimología* started and edited by Hilda Marchiori in 2005; another one in the USA, *Victims and Offenders: An International Journal of Evidence-based Research, Policy, and Practice*, started and edited by Bonnie Fisher and Robert Jerin in 2012 as a part of the American Society of Criminology's Division of Victimology; one in Spain, *Revista de Victimología/ Journal of Victimology* started and edited by Josep M. Tamarit in 2015, and the most recent one in India, the *Journal of Victimology and Victim Justice*, originally published in association with the Indian Society of Victimology (http://isvindia.webs.com/) and formerly at the National Law University Delhi but now at the Rajiv Gandhi National University of Law, started and edited by G. S. Bajpai in 2019. Although Mendelsohn provided the world with his vision and blueprint with General Victimology societies, clinics, institutes, and journals, none have used the term "General Victimology" in their title. In spite of this shortcoming, many of these manifestations did follow his basic view of General Victimology. Thus, as his disciples we have followed his basic guidance. Out of respect for his insights, his passion, and his guidance we honour Mendelsohn by referring to him as "The Father of Victimology." It is noteworthy that these early suggestions proposed by Mendelsohn and the other pioneering victimologists laid the foundation for the application of victim assistance and victim rights, significantly improving the lives of victims around the world.

B. Theoretical Roots

Usually, a theory is a statement that explains a given phenomenon based on causal relationships. In this case, what is needed is a statement that explains how and why victimizations occur.

1. Beniamin Mendelsohn

As mentioned above, the first person to begin the development of theoretical writings about victimology was Beniamin Mendelsohn, who was a Romanian defence attorney, who needed to understand victims to improve his ability to defend offenders. To do this, in 1956 he created a short taxonomy of six categories that centred on the relative guilt of victims. These categories were designed to facilitate the degree to which a

victim shared the responsibility for a crime with the offender; however, they did not explain the causes of victimization. Mendelsohn was intrigued with the relationship between the offender and the victim. He referred to this relationship phenomenon as the *penal couple*. These were his first victim types:

1 . The completely innocent victim.
2 . The victim with minor guilt.
3 . The victim who is as guilty as the offender.
4 . The victim who is more guilty than the offender.
5 . The most guilty victim.
6 . The imaginary victim.

Twenty years later in 1967 and 1969 Mendelsohn proposed a much different view of victims with his concept of *General Victimology* which considered the *source* of the victimization especially with genocide. Based on this concept, he listed five types of victims with their offender type:

1. The victim of a *criminal*
2. The victim of *himself*
3. The victim of *anti-social behaviour*
4. The victim of *technology*
5. The victim of *uncontrolled energies* of the natural environment (Mendelsohn 1969).

2. Hans von Hentig

With the publication of his textbook in 1948, *The Criminal and His Victim: Studies in the Sociology of Crime* von Hentig created a taxonomy that described how victims were responsible for their own harms. His schema was based on psychological, social, and biological factors. He was also interested in the reciprocal "doer-sufferer" relationship between offender and victim, in what he called the *criminal-victim dyad*. Although von Hentig was one of the first to approach the study of the victim in a systematic way, it was not empirical research (Schafer 1968:41); and it is noteworthy that he never used the word "victimology' in his textbook. His categorizations of victims were:

I. General:
   1. The Young
   2. The Female
   3. The Old
   4. The Mentally Defective and other Mentally Deranged
   5. The Immigrants
   6. The Minorities
   7. The Dull Normals

II. Psychological:
   8. The Depressed
   9. The Acquisitive
   10. The Wanton
   11. The Lonesome and the Heartbroken
   12. The Tormentor
   13. The Blocked, Exempted, and Fighting Victims

III. The Activating Sufferer
   14. Broader Aspects: involve victims of "various degrees and levels of stimulation or response" and "the intricate play of interacting forces" with the victim as the offender (Hentig 1948:438).

3. Stephen Schafer

Extending the work of von Hentig, Stephen Schafer used an ironic change of emphasis on the victim in the title of his book, *The Victim and His Criminal: A Study in Functional Responsibility*. He also focused on the offender victim interaction and developed a taxonomy based on determining the level of the victim's *functional responsibility* for the crime:

1 . Unrelated Victims (no victim responsibility)
2 . Provocative Victims (victim shares responsibility)
3 . Precipitative Victims (some degree of victim responsibility)
4 . Biologically Weak Victims (no victim responsibility)
5 . Socially Weak Victims (no victim responsibility)
6 . Self-Victimizing (total victim responsibility)
7 . Political Victim (no victim responsibility)

These three pioneer victimologists, strangely enough, were *not focused on the injury* caused to the victim by the offender nor on reducing their suffering nor on helping them recover. Their main concern was with the victim's role in contributing to the crime, cooperating with the criminal justice system, and helping it to decide who was guilty. The term General Victimology that Mendelsohn had developed and presented in 1976, was strange and distracting to most "crime oriented" victimologists as they had been trained in criminal law and/or were in a profession that exclusively focused on crime victims. However, the logic of including victims of other harmful situations (wars, traffic accidents, natural disasters, manmade disasters, human rights violations, genocide, etc.) was compelling, especially since Mendelsohn argued that there were fundamental similarities among all victims in their loss and sufferings, their need for and manner of treatment, and the duration of their trauma. All of them deserved to be treated with dignity and made whole again in spite of the source of their harm.

4. Dietrich L. Smith and Kurt Weis

In 1976, Dietrich L. Smith and Kurt Weis presented a rudimentary model of victimology based on the General Systems Theory perspective which considered the "universe of situations, events and processes that have a probability of resulting in being defined as victimization" (Smith and Weis 1976:45). This model appears remarkable like Mendelsohn's concept of General Victimology; however, Smith and Weis have never addressed this similarity.

1. The study of the creation of definitions of victims by legal processes, everyday processes and scientific processes.
2. The study of applications of the above definitions by control agents, significant others, community, behavioural and social scientists, and the victim him or herself.
3. The study of societal response systems with victims such as crisis intervention, social services, police, prevention, medical services, and civil courts.
4. The study of the victim's reaction in the post-victimization behaviour such as seeking help, complaints, and reactions to the response of others.

5. John P. J. Dussich

A unified comprehensive theory of victimization within the scope of General Victimology was created and presented by John Dussich in 1985 with the presentation of his "Social Coping Theory" at the WSV's Fifth International Symposium on Victimology in Zagreb. In 2004 this theoretical model was expanded and presented to the American Society of Victimology's Second Symposium. In 2006 it was again expanded and revised under the title *Psycho-Social Coping Theory* and presented at the American Society of Criminology's 58th Annual Meeting. The essential elements of this model consider the existence and value of *personal situation-specific resources* in the victim's environment that exist prior to, during and after their victimization. Persons who have an adequate number and type of situation-specific resources can more easily thwart their victimization; if the victimization is not thwarted, the injury can be diminished thereby reducing the level of suffering, and, as a consequence the victim is much more likely to recover sooner. However, victims with fewer personal situation-specific resources in their repertoire and in their environment will be more vulnerable to victimization, likely have greater injury and suffering, and will probably not recover as well. The unique aspect of this theory is that it can both help *explain the dynamics* as well as help in the *treatment to recovery* process of all types of victimizations.

C. A Chronological Overview

The journey of victimology covers a span of about 85 years beginning with the early writings of its pioneers Mendelsohn in 1937 and von Hentig in 1948, through the years of World War II and the reactions to the Holocaust, especially by Jewish scholars, into the First International Symposium on Victimology held in Israel in 1973, including the establishment of the World Society of Victimology in 1979 followed by like-

named national organizations, the passage of the *United Nations Declaration of Basic Principles of Justice for Victims of Crime and the Abuse of Power* (hereinafter referred to as the *"Declaration"*) in 1985 and other victim related UN instruments, with their multiple impacts across the globe, into the academic and legal developments of their principles, finally with practical applications of their mandates into the era of direct support with multiple variations of victim assistance for a wide variety of services up to the year 2022 (see Appendix D for a list of key dates).

D. Victim Assistance, An American Overview

Since the mid-1970s victim assistance programmes in America had to cope with the realization that this new field did not have a professional corps of people with special training in dealing directly with crime victims. Those who were working in the programmes were a mixture of medical doctors, ministers, psychiatrists, psychologists, social workers, nurses, on-the-job trained counsellors, persons outside the helping professions and volunteers with all types and levels of training. There were no international or national professional standards. There was no certificate or degree to prepare someone to do the work of helping victims recover. However, before formal victim assistance programmes evolved, there were some people trained to work with victims, especially people who had been helping child abuse and family violence victims. These were mostly social workers and psychologists. Today, the victim services scene has changed. There are now a wide array of professionals and non-professionals working with victims who have received specific victim-centric training. These include: social workers, psychologists, psychiatrists, nurses, medical doctors, non-specific professionals (who received their formal degrees in other fields but were trained to help victims in the numerous training schools which are both part and independent of academic settings); and, volunteers (who also received their training in the numerous training schools which are both part and independent of academic settings, many of which are 40 hour training modules offered by the victim service agencies where they work). Today the field of victim assistance is the major career field in victimology for persons wanting to help victims of crime (and other misfortunes) directly. The single largest and oldest university still offering a criminology bachelor's degree with a victimology specialty and a separate victim services certificate is at the California State University, Fresno.

II. CONTEMPORARY FOUNDATIONS

A. Some of Today's Fundamental Victimology Concepts

1. "Victim" has its roots in the early religious notions of suffering, sacrifice, and death. This concept of "victim" was well known in the ancient civilizations, especially in Sumer, Babylonia, Palestine, Greece, and Rome. In each of these civilizations the law mandated that the victim should be recognized as a person who deserved to be made whole again by the offender.

2. "Crime victim" is a person who has been physically, financially, or emotionally injured and/or had their property taken or damaged by someone committing a crime.

3. "Victimogenesis" refers to the origin or cause of a victimization; the constellation of variables which caused a victimization to occur.

4. "Victim Precipitation" a victimization where the victim causes, in part or totally, their own victimization.

5. "Vulnerability" is a physical, psychological, social, material, or financial condition whereby a person or an object has a weakness which could render them a victim if another person or persons would recognize these weaknesses and take advantage of them.

6. "General Victim" is a person who has been physically, financially, or emotionally injured and/or had their property taken or damaged by someone, an event, an organization or a natural phenomenon.

7. "Victimization" refers to an event (such as a crime, a war, a disaster) where persons, communities and institutions are physically, emotionally, financially, socially damaged or injured in a significant way. This includes persons who suffer a violation of rights or significant disruption of their well-being.

8. "Victimology" is an academic scientific discipline which studies data that describes phenomena and causal relationships related to victimizations. This includes events leading to the victimization, the victim's experience, its aftermath, and the actions taken by society in response to these victimizations. Therefore, victimology includes the study of the precursors, prevention, vulnerabilities, events, impacts, recoveries, and responses by people, organizations and cultures related to all forms of victimizations.

9. "Abuse of Power" is the violation of a national or international standard in the use of organized powerful forces, such that persons are injured physically, mentally, emotionally, economically, or in their rights, as a direct and intentional result of the misapplication of these forces.

10. "Victim Assistance, Support or Services" are those activities which are applied in response to victimizations with the intention of relieving suffering, facilitating recovery and preventing revictimization. This includes providing information, assessments, therapy, interventions, case advocacy, system advocacy, public policy and programme development.

11. "Victim Recovery" is the resumption of a similar or better level of functionality and normalcy as was enjoyed prior to victimization. Persons who have been victimized vary in their level of mental health and well-being prior to their victimization. Consequently, victimization affects each person in a different way and causes differing degrees of injury or trauma. In their recovery it is necessary for victims to first try to regain their previous level of functioning plus learn from their misfortune and hopefully exceed their previous level of functionality. To be recovered suggests that a person has at least regained their prior level of well-being and at best, has exceeded it. This state may be measured by identifying their previous mental condition and determining if they have at least regained that prior status using the criteria of: trust in others, autonomy of self, individual initiative, competency in daily activities, self-identity, interpersonal intimacy, control over personal situations, successful relationships, safety in daily activities, acknowledgment of memory, trauma symptoms have become manageable, self-esteem is restored, resourcefulness is achieved, and there is an improved ability to ward off potential threats (Dussich 2016).

12. "Child Abuse" is the intentional application of sexual, physical, emotional, or psychological injury to a child to include neglect at the hands of her or his parents or care-provider within the confines of their family or place of care.

13. "Victim Offender Mediation" (VOM) is a formal process for face-to-face meetings in the presence of a trained mediator between a victim of a crime and his/her offender who committed that crime. This is also called *victim-offender dialogue*, victim-offender conferencing, victim-offender reconciliation, or restorative justice. Often the victim and the offender are joined by their respective families and community members, or other persons related to the crime event often referred to as stakeholders. In these meetings, the offender and the victim talk to each other about the victimization, the effects it had on their lives, and their feelings about it. The aim is to create a mutually agreeable plan to repair any damage or injury that occurred because of the crime in the hopes of permanently eliminating the conflict that caused the crime in the first place.

14. "Restorative Justice" is a systematic formal legal response to crime victimization that *emphasizes healing* the injuries that resulted from the crime and affected the victims, offenders, and communities. This process is a departure from the old-style retributive punishment form of dealing with criminals and victims which have generally perpetuated the conflict which resulted in the original crime.

15. "Victim Trauma" includes emotional and physical experiences that produce pain and injuries. Emotional injury is a normal response to an abnormal event. It results from the pairing of a painful or frightening emotional experience with a specific setting-based memory which often has a long-lasting painful effect on the life of a victim. Generally, the more direct the exposure to the traumatic event, the more serious and closer to the risk of death, the higher the risk for prolonged emotional harm and problematic effects.

16. "Crisis Intervention" is the provision of emergency psychological short-term care to traumatized victims to help them return to an adaptive level of functioning and to prevent or mitigate the negative impact of psychological and emotional crisis.

17. "Compensation" is a formal *administrative procedure* provided by law which can include a range of victim types (crimes, wars, natural disasters, neglect, accidents, and genocides), only provides money to victims for "out of pocket" real expenses directly resulting from their victimization to be paid by the state after the victim is found to qualify according to specific criteria determined by the respective state or federal law.

18. "Restitution" is a formal judicial procedure used by a judge after guilt is determined as part of a sentence which can provide money and/or services to the victim for damages or suffering which resulted from the victimization to be paid or performed by the offender.

19. "Victim Survey" is a periodic data collection and analysis process conducted usually by a government or university entity to study information about crime victims regardless of whether they reported their victimization to the police or not. It typically uses a face-to-face or telephone interview (or questionnaires are sent) and covers demographics, attitudes about crime and details about the victimizations experienced typically over the previous six months.

20. "Victim Rights" are privileges and procedures required by *written law* which guarantees victims' specific considerations and treatment by the criminal justice system, the government and the community at large.

These twenty fundamental concepts are in use today – of course many others exist and more are evolving. In 1985 the concept of "abuse of power" was mentioned briefly above and became a significant part of the UN *Declaration*.

B. Abuse of Power

1. Recent Contextual Information

Despite the legal sanctions which exist throughout the world to prevent the Abuse of Power (AOP), it continues to occur with growing frequency and relative impunity. There are essentially five considerations with abuse of power: the types of abusers; the specific abusers; the methods used; the victims; and the extent of injury and/or damage. In each of these five considerations there are numerous examples ranging from the former Government of South Africa's previous use of apartheid on black South Africans, to the criminal organizations which use violence, racketeering, coercion, intimidation, graft and corruption on innocent citizens causing extensive death, suffering and property loss as had been the case in Medellin, Colombia. One of the more recent examples of AOP was the government of Serbia using extreme forms of aggression, against adjacent ethnic groups referred to as "ethnic cleansing" against: Croats, Slovenians, Bosnians, and Kosovans involving mass killings; mass rapes; extensive destruction of private and public property, buildings, and sacred cultural symbols. For the most part Serbia ignored the protocols of the Geneva Conventions for the conduct of armed conflict. This macro criminological/victimological phenomenon has been extensively reported on by the media and by scholars, but predominantly in narrative form. Thus far, very few attempts have been made to isolate the key variables of these behaviours, to explain the dynamics of these events and measure their occurrences in an empirical manner.

2. The Research Challenge for Abuse of Power

Like all phenomena, the study of abuse of power can and should discipline itself to formal research methods which call for definitions, theoretical organization, and empirical measurement. Often the magnitude and brutality of these occurrences dramatically turns our heads away from the dispassionate evaluation required to determine the facts. The drama of these events is often so compelling, even trained scientists have difficulty using their research tools and sometimes even unknowingly yield to the subjective descriptions which can cloud and overwhelm those chronicling these massive events.

Despite the strong emotions of revulsion and shock the magnitude of the problem still requires careful measurement, analysis, and synthesis so that honest accurate understanding can emerge. This proposal recommends using the social behavioural and conflict theories familiar to most criminologists who study macro criminological phenomena. This writer has personally experienced these problems resulting in compassion fatigue when assisting victims in the aftermath of the war in the former Yugoslavia at the hands of Serbian "ethnic-cleansing" in Bosnia i Herzegovina and Croatia in 1996. Despite gruesome images and heart wrenching stories I saw and heard daily, I was able to establish a Victimology Institute of Sarajevo with the help of three Bosnian professors and with the help of my friend victimologist Gerd Kirchhoff who

supported this effort by obtaining funding from the German government, and so some empirical research was carried out even if for only a short period.

III. MEASURING VICTIMIZATION

A. Descriptive Research

Descriptive research is often used to systematically gather information to determine characteristics about a population such as amounts, frequencies, and categories of a particular theme. Four typical types are case studies, surveys, longitudinal research, and cross-sectional research. The types of data used are usually either *quantitative* or *qualitative*. This allows us to determine the size of a population (like frequencies or percentages), what the central tendency is like (with the median, mode or mean), how the population is spread out (the dispersion), what is the shape of the distribution (flat, spiked, s-shaped etc.), and it lets us compare one population with another. For us it is important to know that one of the types of descriptive research used extensively is victimization surveys. These surveys have become the backbone of victimological information. Not only do these surveys give us the numbers and types of victims, but they also give us trend information so that we can compare victims from one jurisdiction to another, from one type of victim to another, and we can measure the rate of victimization within a time period, for a given unit of population (per 1,000, 10,000, or 100,000). Another important type of descriptive research is the measurement of behaviours that exist as continua. This type of research gives us information about the feelings, opinions, and victim response patterns. Thus, they can, help us understand the emotional impact of victimization, the degree of trauma and the progress of recovery.

B. Evaluative Research

This type of research is often used to measure official government or organizational programmes or projects which respond to victimizations and are used to help victims cope. It is usually aimed at measuring the systemic aspects of responding to victims. This is usually focused on the two measures of success: *effectiveness* and *efficiency*. Effectiveness evaluates the achievement of programme objectives; and efficiency evaluates the consumption of resources over the time needed to achieve objectives. Another important aspect of evaluative research is *accountability*, both economic and political. Economic accountability focuses on whether a programme is justified given the funds available and the value-system currently in existence. Political accountability focuses on whether the existence of a programme and its costs are supported by those in political power. A large part of accountability has to do with community values, outcome expectations and official responsibilities. The measurement of these variables helps to contextualize a victim programme within the larger society or culture.

C. Causal Research

Causal research is perhaps the most challenging and difficult form of victimological research. For example, it might try to understand why some victims are severely traumatized by an event, while other victims are not seriously impacted by the same event. The usual method of causal research is to first create an hypothesis about the relationship between a *cause* (independent) variable and an *effect* (dependent) variable. Then, to measure these variables and see if the data allows you to support or reject your hypothesis. This process can lead to understanding not just one possible causal link, but many connected causal links or chains. Using the new findings uncovered using causal research, a victimologist can then develop a theoretical statement. These statements can help to understand the complex social and psychological phenomena of victimization.

Consequently, equipped with research findings, victim advocates working to prevent victimization could identify facts related to reducing the vulnerability of potential victims. Crisis interveners armed with empirical facts about the victims' experiences, could better reduce the suffering of victims immediately after the victimization and prevent the escalation of a trauma. Advocates and therapists, basing their responses on research findings, could better know how their victims think and feel, and thus, reduce their suffering and promote the return to stable and functional lives which can help them recover.

IV. CONTRIBUTIONS OF CONTEMPORARY ORGANIZATIONS AND PEOPLE

A. Internationally

Four main international resource organizations that advocate, for a variety of victims are The World Society of Victimology, the UN Office of Drugs and Crime, the World Health Organization, and the International Committee of the Red Cross. It is unfortunate that these organizations are rarely mentioned in the victimological literature in spite of their significant contributions to the field especially serving to disseminate information about new laws, research findings, innovative victim-centric changes and help host events where scholars and practitioners can come together and exchange their findings and promote victim reforms.

1. The **World Society of Victimology** (**WSV**) a membership non-profit based international organization that advocates on behalf of victims across the globe and has Special Category Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations; has developed recognition with the Office of the High Commissioner for Human Rights (OHCHR), the UN Department of Public Information (DPI), and the Council of Europe. The WSV continues to lobby to convert the UN's *Declaration* into a formal UN "Convention" which would give this proposed instrument more "muscle" to implement the principles embodied in the *Declaration* across the globe. The WSV on its current website has a *Strategic Plan* which has four organizational goals with strategies and supporting information on behalf of victims (see Appendix A). The WSV continues to serve victims as one of the main international organizations disseminating the messages embodied in the UN *Declaration* to its members and the public, through its website, and in the past, its newsletter (*The Victimologist*) now not being published, and using a variety of social media, and its continuing triennial symposia (due to the pandemic its normal triennial cycle was disrupted and will resume in 2022 in Spain), its many two-week courses (some of which are less than two weeks); and, at special occasions as in 2005 when the it made recommendations to create new responses on behalf of victims and presented them in Bangkok, Thailand, at the 11th UN Congress on Crime (see Appendix B). Today it continues to evolve and expand (see: http://www.worldsocietyofvictimology.org/about-us/strategic-plan/).

2. The **United Nations, through its Office of Drugs and Crime** (UNODC), the primary entity which has addressed the area of crime and victims. It is in Vienna, Austria, and has hosted some of the creations of many major victim-related instruments. That with the most impact has been the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* in 1985 (informally dubbed by victimologists, "The *Magna Carta* for Victims' Rights"). Others which are also victim-centric are the *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters* adopted by an ECOSOC resolution in 2002 (Groenhuijsen and Letschert 2008); the *Convention against Transnational Organized Crime* (sometimes referred to as the "Palermo Convention") which was signed in December 2000 (Annon 2004); and, *the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* in 2005, hereinafter referred to as *"the Principles and Guidelines"* (for two authoritative discussions of this UN instrument see: M. Cherif Bassiouni's book *International Protection of Victims* (1988) and Theo C. van Boven's article at: https://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_e.pdf). (retrieved on January 30, 2022, from: http://taylorfrancis.com).

3. While the **World Health Organization** is not typically associated with victims of crime, abuse of power, the criminal justice systems, drugs, terrorism, human trafficking, or human or victim rights, they are involved in two major areas dealing with victims of interpersonal violence: measures to identify and respond to these victims (especially aggravated by the Covid-19 pandemic of 2020-2021): using screening tools, education programmes on violence and victim identification, mandatory reporting systems, and multi-agency risk assessment and response; and, programmes for care and support of these victims with: advocacy programmes; sexual assault or forensic nurse examiner programmes; women's shelters; helplines; psychosocial interventions; protection orders; and special courtroom measures, specialist courts and police stations that exclusively cater to women (retrieved on January 29, 2022, from: https://www.who.int/violence_injury_prevention/violence/programmes.pdf).

4. The **International Committee of the Red Cross**, with headquarters in Geneva, Switzerland, is an "impartial, neutral, and independent organization whose exclusively humanitarian mission is to protect

the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance" especially now during the invasion of Russia into Ukraine (retrieved on January 29, 2022, from: https://www.icrc,org).

5. **HEUNI**, (the European Institute for Crime Prevention and Control) was established in 1981 affiliated with the United Nations Office on Drugs and Crime and supported by the Government of Finland and located in Helsinki. It is part of the United Nations Criminal Justice and Crime Prevention Programme Network of eighteen entities. HEUNI primarily conducts international research and participates in technical assistance and training especially on topics reflecting innovations resulting from United Nations decisions. Under the leadership of former director Matti Joutsen, it played a major role in preparations for and drafting of the *UN Resolution* and its *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (Bassiouni 1988).

6. **Amnesty International**, founded in London, England, in 1961 because of an article in *The Observer* by attorney Peter Beneson expressing outrage over the arrest of two Portuguese students who were jailed for seven years just for raising a toast to liberty. As a result of the response to his article, he founded this organization that became a global movement dedicated to fighting human rights abuses across the globe.

B. Nationally

There are some countries which have been very active in the field of victimology and have also produced model victim programmes in support services, laws, training, education, and research. Also, they have shown outstanding leadership in their regions by being effective in establishing, stimulating, and assisting with these initiatives among their neighbors. In my judgment these countries are the top ten that have demonstrated great energy and broad development on behalf of crime victims (listed alphabetically with brief highlights): Australia, Canada, Germany, Great Britain, India, Israel, Japan, The Netherlands, South Africa, and The United States of America.

1. **Australia** was an early nation to help crime victims using *offender-funded* compensation. The state of Victoria used this type of compensation in 1958; however, New Zealand was the first county to establish a *state-funded* victim compensation programme. In Australia it was New South Wales in 1967 that first launched the state funded variant, followed by Victoria in 1972 (Freckelton 2004), and South Australia in 1969 (O'Connell, 2020:160). Academic victimology was first introduced by South Australia as part of self-help efforts that led to the formation of Victims of Crime Services under the "stewardship of its first executive officer Ray Whitrod" who sought to support victims and pressed for system reforms (O'Connell 2020:161). Formal state-wide reviews confirmed that reforms were needed, especially to recognize secondary victimization by the criminal justice system, The "pace of reform and the magnitude of change in the 1980s in South Australia was, in a relative sense, remarkable" (O'Connell 2022:161). Of special note was the National Symposium on Victimology hosted by South Australia in 1981 conducted by the Australian Institute of Criminology. This became an important wellspring in the 1980s for victimological discourse in Australia. In 1985 Attorney-General Chris Sumner of that state led a delegation to the Fifth International Symposium on Victimology in Zagreb, Croatia, immediately followed up with a trip to Milan, Italy, where the deliberations in support of the UN's *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* took place. Upon returning, he used those principles, to model declarations for his state and for Australia's first declaration on victims' rights. These actions had a significant impact on reforms to victim compensation schemes, the use of victim impact statements and other legislation on behalf of victims (O'Connell, 2022:162). Of special note was the introduction of victimological training for police competency and university baccalaureate education. Australia hosted two WSV International Symposia, one in Adelaide in 1994 and another in Perth in 2012. Other key persons who made significant contributions supporting victim reforms were (listed alphabetically): John Braithwaite, Gary Byron, Duncan Chappell, John Dawes, Sam Garkawe, P. N. Grabosky, David Hunt, Stanley Johnston, Elton Mayo, Michael O'Connell, Harold Weir, and others. Today the victimology banner is being held high by Michael O'Connell a scholar activist and victim advocate of the highest order and who is also the Secretary General for the World Society of Victimology.

2. **Canada** has also been a fountainhead for early victimological activities, both theoretical and practical,

where a wide variety of sophisticated victim service programmes throughout their country have been created. In 1974 the first victim mediation programme was used for two offenders to make restitution with their vandalism victims. Over the past four decades similar programmes have been used throughout this country (Latimer and Kleinknecht 2000; Principles and Guidelines 2018). In 2000 it hosted the 10th WSV International Symposium on Victimology and is home to several leading victimologists, especially Ezzat Fattah, born and educated in Egypt, has made long term contributions to victimology internationally. He is the founder of the School of Criminology at Simon Fraser University in Vancouver, Canada, where he is professor emeritus. He is one of the early pioneers in the study of victimology, has authored, co-authored and edited over a dozen books, including an anthology *Towards a Critical Victimology and Understanding Criminal Victimization* published in 1992. Ezzat Fattah's research led him to become an outspoken critic of the victim movement whose demands he saw as punitive and vindictive. He advocates instead for a humane system of restorative justice, based on the notions of healing, reparation, and restitution. Irvin Waller, another well-known contributor to victimology was one of the prime movers of the UN *Declaration*, who served as president of the WSV, and was a member of the first "Bellagio family" which convened a group of victimology pioneers in 1975. He was director of the International Center for the Prevention of Crime in Montreal, established in 1997, which contributed to the promotion of victim-friendly programmes and activities. He is currently the president of the International Victim Assistance Organization. Yet another major contributor to the victimological literature who has been teaching and researching in Canada is Jo-Anne M. Wemmers. She served as editor of the WSV Newsletter *The Victimologist*, and also as Secretary General for a 3 year term. She is now Professor at the School of Criminology of the Université de Montréal as well as Head of the Research Group for Victims, Law and Society at the International Centre for Comparative Criminology and is the editor of the *International Review of Victimology*. She publishes mostly in French (Wemmers 2003) and in English (Wemmers 2017). Today the *Canadian Victims Bill of Rights* builds on its existing national laws so that all victims have the right for security and privacy considered by criminal justice personnel, to be protected from intimidation and retaliation; and to ask the court that their identity not be released to the public.

3. **Germany** also played a major founding role in the early development of victimology, starting with Hans von Hentig's initial article on victim and offender interactions in 1941 and then his book *The Criminal and his Victim: Studies in the Sociology of Crime* in 1948. In 1975 Hans-Joachim Schneider published the first German victimology textbook titled *Viktimologie – Wissenschaft vom Verbrechensopfer* (*Victimology – Science of Crime Victims*). In 1979 he hosted the Third International Symposium on Victimology at his university in Münster. At that event he successfully promoted the idea of the World Society of Victimology (WSV) and was promptly elected as its first president. I was coincidentally working at a German criminology research institute (KFN) and with another victimologist, Gerd F. Kirchhoff, had been asked by Professor Schneider to be the symposiums' rapporteurs. Thus, at the founding of the WSV I was asked to serve as the WSV's first Secretary General and Kirchhoff was asked to be the WSV's first Newsletter editor and to register our new organization in Mönchengladbach, Germany. In 1979, Gerd F. Kirchhoff and Klaus Sessar published an edited reader *Das Verbrechensopfer* (The Victim of Crime). Subsequently, with this synergy of these people and events Germany became an early fountainhead for things victimological and the WSV continued its growth by hosting the symposia every three years to the present time (except for the interruption of the global Covid-19 pandemic 2020-2022). Other key German victimologists are (listed alphabetical): Michael Baurmann, Hans-J. Kerner, Erwin Kube, Hans-H. Künh, Helmut Kury, Peter Schäfer, Hans D. Schwind, Kurt Weis, Elmar Weitekamp and others. The dominant victim assistance organization is the Wiesse Ring, the cofounder and chair for many years was Edward Zimmerman who established it on September 24, 1976, in Mainz as an "e. profit" organization. It is the dominant independent victim support organization in Germany with approximately 420 local offices throughout the country (retrieved on January 30, 2022, from: https://weisser-ring.de).

4. **Great Britain** hosted several significant and innovative practices on behalf of crime victims, such as the concept of modern victim reparations called compensation by Margery Fry in 1957. In 1971 Erin Pizzy established the first, and largest shelter for abused women known as Cheswick Woman's Aid and she wrote the first book about spouse abuse, *Scream Quietly or the Neighbors will Hear* (1974). Ironically, she went from being a pioneer in the women's movement, to becoming a men's rights activist. Britain is also the home of the journal *International Review of Victimology* first published in

1989 thanks to the initiative of two early victimologists with strong ties to England, John C, Freeman (born in Australia) and Leslie Sebba (born in Israel). Victim Support UK was established almost 50 years ago by Dame Helen Reeves in 1974. It "became the leading independent victims' charity in England and Wales" and "by 1986 every county had at least one Victim Support Scheme (retrieved on February 2, 2022 from: https://www.victimsupport.org.uk/more-us/about-us/history/). These key British resources provided victim services leadership and mentorship especially within the European community and beyond, recently Victim Support – Asia was launched on March 24-26, 2019, in Seoul, South Korea, with the assistance of Frida Wheldon from Victim Support Europe. Other key persons contributing primarily with crime victimization surveys and theoretical victimology were (listed alphabetically): Ronald Clark, Hazel Genn, Rob Mawby, Patricia Mayhew, David Miers, Paul Rock, Joanna Shapland (current editor in chief of the journal *International Review of Victimology*), and Sandra Walklate, and many others. Victimology is well established in British academia today, for example one can get a Master of Science degree in Victimology at the University of Portsmouth (retrieved on January 30, 2022, from: https://www.port.ac.uk).

5. **India's** concern for crime victims extends into ancient times with the concepts of restitution and atonement by the offender. Classical Hindu law born in Calcutta in 1772 under the Bengal government was prompted by trade conditions with Great Britain. Anglo-Hindu Law evolved when the British ruled India from 1858 until 1947, which impacted the Hindus, Buddhists, Jains and Sikhs. English common laws were mostly unwritten laws that included local customs, behaviours and traditions. These were applied by Great Britain to its colonies including India, except for laws that dealt with marriage, inheritance, and succession of property. When British rule ended, left behind was their language which became India's *lingua franca* and their common law legal traditions. Thus, victims were a source of evidence; their participation in their cases was minimal. After independence Nehru and Gandhi, both law-trained in England, infused India's new constitution in 1950 with strict common law principles. Indian empirical studies concerning crime victims began in the late 1970s mostly about *dacoit* gangs, homicide, and motor vehicles (Singh, 1978; Rajan and Krishna, 1981). Supreme Court Justice V. R. Krishna Yyer, a pioneer of legal activism and patron of the poor greatly inspired K. Chockalingam's multiple interests in victims as a teacher and researcher. In 1984, the first seminar on victimology was organized by Chockalingam in the University of Madras/Chennai. His attending the Fifth International Symposium of Victimology in Zagreb in 1985 encouraged him to further promote victimology by founding the Indian Society of Victimology (ISV) in 1992 – inaugurated by Justice V. R. Krishna Yyer. Chockalingam served 15 years as its first president. He is easily considered the "Father of Indian Victimology." (retrieved on January 29, 2022, from: https://isvindia.webs.com/); Key scholars who continued this work are (listed alphabetically): G. S. Bajpai, a prolific victimology author and currently the ISV president, and is the editor in chief of the new Indian based *Journal of Victimology and Victim Justice* since 2018; Susai M. Diaz, active victimologist and former chair of the ISV, K. Jaishankar teacher and author in victimology, R. K. Raghavan, S. P. Sahni (Director of the Centre for Victimology and Psychological Studies at the Jindal Global University), Beulah Shekhar well know teacher, victim event promoter, international presenter and author in victimology, M. Srinivasan, teacher and host of victim events, and many others.

6. **Israel** was the home of the First International Symposium on Victimology in 1973 thanks to the leadership of Israel Drapkin, the Director of the Institute of Criminology at the Hebrew University in Jerusalem since 1959. The symposium proceedings, edited by Israel Drapkin and Emilio Viano (an Italian/American victimologist), resulted in the publication of six volumes of text mostly by the key presenters. These volumes became a tome of significant value to the heart and soul of early victimological growth in the years that followed. It contained the writings of many key persons who embraced this new discipline and mostly perpetuated the ideas and suggestions of Mendelsohn who, in his later life moved to Israel. Some of those who were, and still are active (listed alphabetically): Menachem Amir, early contributor to victimological research; Sarah Ben David (who hosted the Sixth International Symposium on Victimology in 1988 in Jerusalem has been a steady researcher and author from her country and is a continuing contributor to the Post Graduate Course on Victimology, Victim Assistance and Criminal Justice in Dubrovnik; Leslie Sebba who, in 1989 (with John Freeman) launched the journal *International Review of Victimology* and became its first editor in chief. Most universities in Israel teach victimology. Because many Israelis were second or third generation holocaust survivors, gave many Israeli social scientists a strong sensitivity and motive to understand

the dynamics of victimization. This is especially applicable to the survivors and their psychological sequelae (Landau and Sebba 1998).

7. **Japan** entered the field of victimology early when Professor Osamu Nakata and his team of colleagues (Professors Furuhata, Yoshimasu, Onojima, and Hirose), from the Tokyo Medical and Dental University in 1958 translated Mendelsohn's concept of victimology from French into the Japanese language. This was followed in 1965 with the publication of Koichi Miyazawa's dissertation titled *Basic Theory of Victimology* (Miyazawa 1986). In 1971 a former student of Miyazawa, Hidemichi Morosawa, established a degree programme for students interested in victimology at his Tokiwa University in Mito, Japan, and began teaching victimology and promoting the ideas of victimology throughout Japan especially in the public media (Kirchhoff and Morosawa 2009). In 1982 Miyazawa hosted the Fourth International Symposium on Victimology in Tokyo and Kyoto. On November 17, 1990, the Japanese Association of Victimology (JAV) was established at Keio University. This organization published the Japanese Journal of Victimology which lasted for six years (WSV 2013). In 1998 Morosawa published his first major victimology textbook, *An Interdisciplinary Study on Victim and Victimization*, The most dramatic event in the field of victim law in Japan was the enactment of the new Fundamental Act on the Protection of Victims of Crime in 2004 (Morosawa 2012). In the following decade the Morosawa family's university became internationally known for its teaching innovations in victimology, victim services, victimological research, hosting of WSV courses, and as the home of the Tokiwa International Victimology Institute (TIVI) and a Graduate School of Victimology supported with ten victimologists. In 2009 TIVI hosted the 13th International Symposium on Victimology. Due to a change of priorities, this university no longer hosts these programmes. In 2016 Morosawa published his *magnus opus*, a 1,042-page encyclopedic text in the Japanese language *Victimology*. Other key victimologists were (listed alphabetically): Takako Konishi; Chie Maekoya; Susumu Nagai, Satomi Nakajima, Minoru Ohya, Tatsuya Ota, Toshi Tatara, Nobuho Tomita, and Akira Yamagami. Two key persons in Japan's victim assistance movement were Isao Okamura (well-known attorney and founder of the National Association of Crime Victims and Surviving Families known as "Asunokai") and victim advocate Emiko Okubo from the premier victim support programme called the Tomin Center in Tokyo (Dussich and Kishimoto 2000; Morosawa 2012).

8. **The Netherlands** has sponsored several significant activities which reflected their government's early support for victim rights activities. Willem H. Nagel, one of the Dutch pioneers who made key theoretical contributions, was involved in the early victimological discourses concerned with victimology becoming a separate discipline (Nagel 1963). Set up by the Ministry of Justice in 1987, early funding for the International Crime Victim Surveys working group was provided, under the leadership of Jan van Dijk (who was also a president of the WSV), this support led to a series of significant comparative publications about victimization in many countries across the globe. Two WSV International Symposia were held in the Netherlands, the 9th in Amsterdam in 1997 and the 14th in Den Hague in 2012 (the website from that event continued as the most useful single resource for international victimological information for many years). In addition to the establishment of victim services throughout the nation, the Netherlands also produced high-quality research in various areas of victimology. Yet another contribution to the field of victimology was the creation, in 2005, of a research institute dedicated to victimology called the International Victimology Institute Tilburg (INTERVICT) under the directorship of Marc Groenhuijsen with significant contributions from Jan van Dijk, Rianne Letschert, Anthony Pemberton, Frans Wilem Winkel and many others. However, this institute ceased operations in 2013.

9. **South Africa** recovering from apartheid (from 1948 until 1991) continues to have major challenges with the enfranchisement of Blacks and those of other non-white races. Since the legal basis for apartheid ended, in 1994 all-race elections took place and a coalition government was formed with a Black majority. From over 30 years of structural victimization most of the apartheid's social and economic problems remained. This was a major challenge for the newly elected president, Nelson Mandela. As part of the improvements in 1996 the National Crime Prevention strategy was launched and promoted a victim-centred approach to criminal justice reforms. Needed were witness and victim protection during trials, compensation schemes, victim empowerment and fostering service providers (Snyman, 1997:9). Linda Davis and H. F. Rika Snyman (in 2005 co-edited an anthology *Victimology in South Africa*), and hosted the Eleventh International Symposium on Victimology in Stellenbosch in 2003. Jaco Barkhuizen, one of the few persons who has a doctorate in victimology from Tokiwa

University), has specialized in sexual victimization on public transportation in Japan; his other areas of interest have been South African human trafficking, serial murder, and sexual victimization. Robert Peacock, is head of the Department of Criminology at the University of the Free State (UFS) and is the current president of the WSV, he has focused much of his victimological efforts on street-children as victims. He has a special interest with the South African Truth and Reconciliation Commission in Post-Apartheid, critiques of "colonial tyranny", abuse of power, and the application of Transitional Justice. Today, most victim support organizations in South Africa only focus on abuse of children, spouse, and sexual assault victims. Since 1994 South Africa has been facing the challenges of changing their culture from one that had accepted the victimization of a people for just over four decades. This monumental challenge is now to suppress the reflexes of those of color, mostly indigenous persons, who had accepted being victims of those who ruled from Europe as offenders; and, to a very new mind-set that replaces those reactions with reflexes for all to be equal.

10. In the **USA** when writing about victim assistance the name NOVA (National Organization for Victim Assistance) is dominant and still active. Established in 1976 as a non-for-profit organization, it was the first national organization created to serve the needs of victim advocates, to give victims a voice, to lobby for victim reforms and victim rights. At the government level, the USA's Office of Victims of Crime is one of the few governmental agencies in the world which services people in all countries by producing documents, funding research and hosting conferences in the areas of victimology and victim assistance in many parts of the globe. The most remarkable aspect of the USA's role in victim services is the large number of different types of victim service programmes throughout the country (roughly 20,000 with separate programmes for victims of sexual assault, child abuse, elder abuse, domestic violence, etc. In response to the 1985 UN's *Declaration*, the USA established a special partnership with the United Nations, and thus two follow-up documents were produced, the *Handbook on Justice for Victims*, and *the Guide for Policy Makers*, both published in 1999 by the UN Office for Drug Control and Crime Prevention in collaboration with the US government. Some of the top American contributors to victimology and victim services were (listed alphabetically): Ron Acierno, Dick Andzenge, Douglas E. Beloof, Susan Brownmiller, Ann W. Burgess, Frank Carrington, Lynn A. Curtis, Yael Danieli, Robert Denton, Rebecca Dobash, Russell Dobash, Edna Erez, David Finkelhor, Vincent J. Fontana, Burt Gallaway, Gilbert Geis, Paul C. Friday, Mario Gaboury, Gilbert Geis, Michael R. Gottfredson, Michael J. Hindelang, Lynda L. Holmstrom, Joe Hudson, Chadley James, Robert Jerin, Janice Joseph, Andrew Karmen, C. Henry Kempe, Dean Kilpatrick, Dick Knudten, Leroy Lamborn, Bernadette Muscat, Brian Ogawa, Xin Ren, Lisa Nerenberg, James Rowland, Stephen Schafer (who hosted the Second International Symposium on Victimology in 1976 in Boston), Jane Sigmon, Wesley G. Skogan, John Stein, Murray Straus, Martin Symonds, Yoshiko Takahashi, Thomas Underwood, Emilio Viano, Steven Walker, Harvey Wallace, Marvin Wolfgang, Marlene Young, Eduard Ziegenhagen, myself and many others. Some key NCEA, and others. During the past five decades the synergy of these and other victimologists has produced remarkable changes in our criminal justice system greatly advancing how we treat victims. It has been my honour to have been part of this journey.

C. Reflections on These Resource Organizations and People

The above six international organizations' and ten nations' exemplary efforts on behalf of crime victims have shown us how a few dedicated persons and organizations of good will, passion, intelligence, persistence, vision and moral commitment can accomplish lofty goals for the well-being of a society, a region and the world. In the hands of these few, not only have they lifted their nation, but they have led the way by admirable actions and helped their neighbours and improved the plight of victims the world over. They have given us the gifts of hope, sharing and humanity which makes the struggle noble, humane and worthwhile.

I would be remiss if I did not mention other persons who also have made significant contributions but have not been mentioned above. These are (listed alphabetically): Anna Alvazzi del Frate, from Italy served at the UNODC in Vienna, made significant contributions on behalf of victims, worked with international victimization surveys and recently worked in the area of small arms violence prevention; Augusto Balloni from Italy, forensic neuropsychiatrist and scholar in criminal victimology; Antonio Beristain-Ipiña from the Basque Country, Spain, a victimologists and criminologist whose passion was with human rights and was a member of the WSV; José de la Cuesta Arzamendi director of the Instituto Vasco de Criminología y Victimología and host of the 17th Inernational Victimology Symposium in Spain; Elias Escaff-Silva victimologist from Chile; Arif Gosita from Indonesia, a pioneer victimologist in his country; Marianne Johanna Hilf Lehmkuhl

well known victimologist from Austria and now Switzerland, has been a regular contributor at the Dubrovnik postgraduate courses and member of the WSV; Alline Pedra Jorge Birol from Brazil victimologist and specialist in human rights currently working at the UN in Vienna; Guo Jaing-an, from China instrumental in coordinating international victimization surveys; Ester Kosovski, the *grande dame* of victimology from Brazil, leader in Latin America and host of the 7th WSV Symposium; Maria de la Luz Lima from Mexico, a leader in victimology and victim assistance, and former member of the WSV; Hilda Marchiori from Argentina who has been a constant light by publishing the Spanish language journal *Victimología* and many other victimological publications; Elias Neuman from Argentina and prolific publisher of specialty books in victimology; Vesna Nikolić-Ristanović from Serbia, is a victimology scholar known throughout the Balkans and has worked especially with gender issues and restorative justice; Annette Pearson from New Zealand/ Colombia, who specializes in Justice Centers throughout Latin America; Luis Rodríguez Manzanera from Mexico one of the scholar giants in Latin America in both victimology and criminology; Armando Saponaro from Italy, has been teaching victimology in his country and at numerous international postgraduate victimology courses for almost two decades; Zvonimir Paul Šeparović from Croatia, who was a charismatic leader of victimology in the Balkans, an influential government official, a former WSV president and the host of the 5th WSV symposium that played a key role in supporting the UN *Declaration*; Heru Susetyo from Indonesia, is a scholar activist in victimology throughout Southeast Asia; and Aglaia Tsitsoura from Greece served as a major victimology link between the WSV and the Council of Europe and served on the EC of the WSV.

V. THE LIKELY FUTURE

A. Blueprints and Promising Practices

As new programmes and new laws evolve, some will prove effective, and others will not. In the search for programmes and laws that fulfil the fundamental aims of what Mendelsohn proposed in 1947 and which were embodied in the core concepts of the 1985 UN's *Declaration* – they are: "to be treated with compassion and respect for their dignity... to be provided with access to the mechanisms of justice and to prompt redress... to be informed of their rights... to be informed of their role and the scope, timing and progress of the proceedings and of the disposition of their cases... to be provided with proper assistance throughout the legal process... to have their privacy protected and ensure their safety... to be considered for receipt of restitution... to be informed about receiving compensation..." These 1985 UN *Declaration*'s appeals are the criteria which should be used to determine the value of victim programmes and laws so that they can be evaluated and ultimately recommended as worthy of duplication. In each of the sub-categories of victim programmes, laws, practices and rights, specific noteworthy examples have emerged. Some of these were included the US Department of Justice's 1998 significant publication: *New Directions from the Field: Victims' Rights and Services for the 21st Century* (see Appendix C).

There are specific victim-centric actions that each component of the criminal justice system can take. Here are specific examples from four criminal justice components in the United States of America:

1. Law Enforcement

In San Diego, California, there is a partnership between the police and the YWCA which resulted in a Community Domestic Violence Resource Network. This has resulted in a major resource for all the police agencies in the community for accurate information about the availability of shelters at any given time (COPS, 1997). Today the San Diego Police Department now has a Domestic Violence Unit which is located within the San Diego Family Justice Center, which houses several public and private agencies that work together to address domestic violence (retrieved on January 29, 2022, from: https://www.sandiego.gov/police/services/units/domesticviolence).

2. Prosecution

The district attorney in Huntsville, Alabama, established the nation's first children's advocacy centre in 1984 to reduce the trauma that the system was inflicting on child victims during the investigation and prosecution of child sexual abuse cases. "Rather than requiring children to retell their story through repeated interviews and examinations by law enforcement, prosecution, medical, mental health, and social services agencies, the district attorney created a multidisciplinary approach in which all of these professionals work

together" (New Directions from the Field, 1998: chapter 3;1). "The National Children's Advocacy Center (NCAC), located in Huntsville, Alabama, has revolutionized the United States' response to child sexual abuse. Since its creation in 1985, the NCAC has served as a model for the 950+ Children Advocacy Centers (CACs) now operating in the United States" (retrieved on January 29, 2022, from: https://www.nationalcac.org/#).

3. Judiciary

In Tucson, Arizona, the Municipal Court established a partnership with the police, victim advocates, prosecutors, and health care professionals to form a Community Domestic Violence Awareness Centre (New Directions, Chapter 4; 1998:100). Today, the "Domestic Violence Court ... established in 2012 ... operates with continuing assistance of grants from the US Department of Justice, Office of Violence Against Women ... in 2017, the Court was selected by the Office of Violence Against Women to serve as a Domestic Violence Mentor Court. It is now one of fourteen courts nationwide who are recognized as national models" (retrieved on January 29, 2022, from: https://www.tucsonaz.gov/DV).

4. Corrections

In **Texas** in 1995, the Department of Criminal Justice (TDCJ) started a victim-offender mediation/dialogue programme for victims of severe violence and their incarcerated offenders (New Directions, Chapter 5, 1998;130). Today, the "TDCJ Victim Services Division Victim Offender Mediation Dialogue (VOMD) programme, ... provides an opportunity for victims or surviving family members of violent crime to initiate an in-person meeting with the TDCJ offender responsible for their victimization. Crime victims have expressed a sense of taking back control after meeting with the offender to describe the impact of their victimization and to receive answers to questions regarding the offence (retrieved on January 29, 2022, from: https://www.tdcj.texas.gov/divisions/vs/vomd.html).

B. Facing the Realities of Promising Practices

As writer and publisher Charles Douglas Jackson once said," Great ideas need landing gears as well as wings." Although a wide variety of new programmes have been tried and dubbed as "promising" most of these have not yet been subjected to empirical evaluation. Before these programmes can be accepted as feasible and worthy of duplication, they must be scrutinized and evaluated over a sufficient time. Not only would this be organizationally frugal, but it would help ensure successful applications in service to the treatment of victims.

Essential for the field of victimology and victim services must be an overarching curriculum where these two related courses representing theory and practice can exist side by side as university courses leading to a baccalaureate degree supporting the professionalization of victimologists, even at the masters and doctorate levels. "Grounding in the potential causes of victimization can provide the student with a framework to critique victim policy, reduce victimization risk, and appreciate the broader context of victimization risk as criminal justice agents, first responders, and service providers" (Dussich 2003:1).

Countries that I can confirm have universities teaching victimology related courses and some which offer degrees in victimology are in Africa, Argentina, Australia, Canada, Colombia, Germany, Great Britain, India, Indonesia, Italy, Israel, Japan, Mexico, The Netherlands, South Korea, and USA. It is likely there are others that have also started victimology curricula. These actions at the university level will move us to institutionalize new societal norms to treat all victims as members of our own families and establish the bedrock of less suffering and more joy.

> *"Victimology tomorrow will need to adapt. As crime mirrors the existing political, social, economic, and technological structures, as any of these changes, so will the form and sources of victimization, among other things" (O'Connell 2020:171).*
>
> *"The acorns of today are the oaks of tomorrow."*

APPENDIX A

World Society of Victimology
Strategic plan: 2019 – 2022
Vision: A world without victimisation
Purpose: To promote Victimology as a scientific endeavour; and, advocate for laws and policy that enhance victims' rights and improve victim assistance to enable timely, fair and equitable access to justice for all victims and survivors.
Our values: Truth > Respect > Collaboration > Engagement > Courage > Resolve >

Goal One
Improve victims' access to justice and assistance
Success
WSV is a partner with international organizations, governments, and civil society (including NGOs) in advancing victims' rights and victim assistance. Its activities have improved outcomes for victims and survivors.
Strategies
- Develop and advocate for laws and policy that advance victims' rights and address victims' needs.
- Participate with international authorities such as the United Nations and other regional authorities such as the Council of Europe on strategies aim to prevent victimisation and reduce harm.
- Encourage responses that protect victims, especially those prone to victimisation, including women, children, refugees and migrants.
- Educate government personnel and non-government employees on Victimology, victims' rights, and evidence-based victim assistance.
- Collaborate with the international community on ways to tackle victimisation and to properly address the effects of victimisation.

Goal Two
Increase compliance with international and domestic victims' rights law.
Success
By drawing attention to acts and omissions contrary to victims' rights, WSV helps improve the treatment of victims.
Strategies
- Help design and facilitate delivery of victim assistance programmes that match victims' needs.
- Inform individuals, governments, businesses and civil society about their obligations regarding treatment of victims and survivors.
- Promote the rights of victims of crime and abuse of power.
- Help victims and survivors exercise their rights and access assistance.
- Encourage mechanisms to enforce victims' rights and comply with these obligations

Goal Three
All nations have accessible, fair and just civil, criminal and administrative justice systems.
Success
WSV's policies, practices and activities have helped make justice systems throughout the world more accessible, more inclusive, just and more equitable for victims and survivors.
Strategies
- Pursue reforms that make criminal justice systems more timely and effective for victims and survivors, without unduly impacting on the rights of the accused.
- Encourage justice reforms that benefit victims and survivors, whilst being inclusive of suspects, defendants and offenders' needs, as well as criminal justice practitioners' needs.
- Recommend ways to make it easier for victims and survivors to interact with those tasked to help them.
- Consult victims, survivors and others affected by proposed justice reforms, and ensure as far as reasonably practical that they are given a voice on decisions that affect them.
- Sponsor workshops, courses, and seminars to enhance Victimological knowledge and skills.

Goal Four
Recognised as a top expert, not-for-profit organization of excellence.
Success
WSV embraces innovation and improvement, manages resources efficiently, collaborates on and invests in

ways to meet members' expectations and encourages others to become members.

Strategies

- Collaborate with WSV members, with other societies and associations that share the WSV's purpose and values and with international and domestic organizations such as the United Nations and the European Union.
- Improve our services by asking for and listening to feedback from members and others.
- Use technology to keep members informed and make it easier for them and others to work with us.
- Invest in ways to share the WSV's collective knowledge and skills to deliver results.
- Recognise and value our members.

(Retrieved on January 28, 2022, from: http://www.worldsocietyofvictimology.org/about-us/strategic-plan/).

APPENDIX B

World Society of Victimology
Recommendations to the 11th UN Crime Congress
Bangkok, Thailand
April 2005

The WSV calls on Member States to take the following actions through the UN Crime Prevention and Criminal Justice Programme as well as through their national overseas development agencies:

1. Victim Assistance Programmes
Invest in projects to implement victim assistance and support, including services provided to women and children by non-governmental organizations, health and mental health, and police professionals.

2. Research and Surveys
Invest in research to assess the extent to which victims receive services and justice as well as surveys to measure the extent of victimization and its impact, including the international victim survey and a regular survey focused on domestic violence.

3. Education and Training
Develop standards for police, lawyers, health professionals and others as well as establish appropriate training and educational courses.

4. Legislation
Adopt legislation that puts the principles in the *UN Victim Declaration* into the language of Member States in a form that it provides a framework for the implementation of the *Declaration*.

5. Permanent Network for Victim Assistance and Justice
Establish a permanent network of centres concerned with research, training, education, and action for victims.

6. Prevention
Implement national crime prevention programmes consistent with the *UN Guidelines* and the recommendations of the World Health Organization to significantly reduce violence and criminal victimization with a priority to violence within the family.

7. Convention
Establish the process to develop a draft convention for consideration by the UN Commission on Crime Prevention and Criminal Justice in the immediate future to foster universal implementation of the *UN Victim Declaration*.

APPENDIX C

Five Global Challenges from the Field
(*New Directions from the Field: Victims' Rights and Services for the 21st Century*, 1978)

While compiling the hundreds of recommendations from the field and in listening to the voices of victims, their advocates, and allied professionals who work with crime victims throughout the nation, certain key recommendations emerged. The following five global challenges for responding to victims of crime in the 21st century form the core of the hundreds of ideas and recommendations presented in this report.

- To enact and enforce consistent, fundamental rights for crime victims in federal, state, juvenile, military, and tribal justice systems, and administrative proceedings.

- To provide crime victims with access to comprehensive, quality services regardless of the nature of their victimization, age, race, religion, gender, ethnicity, sexual orientation, capability, or geographic location.

- To integrate crime victims' issues into all levels of the nation's educational system to ensure that justice and allied professionals and other service providers receive comprehensive training on victims' issues as part of their academic education and continuing training in the field.

- To support, improve, and replicate promising practices in victims' rights and services built upon sound research, advanced technology, and multidisciplinary partnerships.

- To ensure that the voices of crime victims play a central role in the nation's responses to violence and those victimized by crime.

New Directions provides recommendations that point specifically to the implementation of these five global challenges. Each section and chapter are based upon papers submitted by leading experts in the field as well as the input of victim advocates, justice system and allied professionals, crime victims, and others who participated in public hearings, working group meetings, and those who provided individual comments and review as the document progressed towards completion.

APPENDIX D

List of Key Dates for Victimology and Victim Assistance

- *1924* Edwin Sutherland included a chapter on victims in his new textbook *Criminology*.
- *1937* Beniamin Mendelsohn published his early writings on the rapist and his victim.
- *1940* Hans von Hentig published an article on victim and criminal interactions.
- *1947* Beniamin Mendelsohn coined the term and explained his concept of "victimology" in a speech to the Romanian Society of Psychiatry in Bucharest on 29 March (Hoffman 1992).
- *1948* Hans von Hentig published his textbook *The Criminal and His Victim: Studies in the Sociology of Crime*.
- *1949* Frederic Wertham first used the word "victimology" in English in his book *Show of Violence*.
- *1956* Beniamin Mendelsohn proposed the term and concept "victimology" in a French language journal, *Revue International de Criminologie et de Police Technique et Scientifique. Geneva.*
- *1957* Margery Fry proposed victim compensation in an article "Justice for Victims" in *The Observer* on July 7.
- *1958* Marvin Wolfgang studied homicide victims; and used the term "victim precipitation".
- *1963* New Zealand enacted the first state supported *Criminal Compensation Act.*
- *1965* California is the first state in the USA to enact state supported victim compensation law.
- *1966* Japan enacts their state supported *Criminal Indemnity Law*.
- *1966* USA conducted a national survey to measure crime victims not reported (dark figure).
- *1967* Canada creates a Criminal Compensation Injuries Act as does Cuba and Switzerland.
- *1967* Beniamin Mendelsohn gave a paper introducing his General Victimology theory applied to the horrors of genocide.
- *1968* Stephen Schafer wrote the first English language victimology textbook *The Victim and His Criminal: A Study in Functional Responsibility*.
- *1969* Beniamin Mendelsohn published his General Victimology genocide presentation from his 1967 paper.
- *1971* Erin Pizzey started the world's first domestic violence centre Chiswick Aid Center, in London, UK and wrote the first book about domestic violence, in 1974.
- *1972* The first three victim assistance programmes are created in USA St. Louis, Missouri, San Francisco, California and in Washington, D. C.
- *1973* The first (triennial) International Symposium on Victimology held in Jerusalem, Israel.
- *1974* The first police-based victim advocate project started in Fort Lauderdale, Florida, USA.
- *1975* The first "Victim Rights' Week" is organized by the Philadelphia District Attorney, Pennsylvania, USA.

- *1975* Susan Brownmiller wrote one of the first books about rape, *Against Our Will: Men, Women and Rape*, USA.

- *1976* John Dussich launched the National Organization of Victim Assistance (NOVA) in Fresno, California, USA.

- *1976* Emilio Viano launched the first scholarly journal *Victimology, An International Journal.*

- *1976* James Rowland created the first Victim Impact Statement in Fresno, California, USA.

- *1979* The World Society of Victimology (WSV) is founded in Münster, Germany (see: http://www.worldsocietyofvictimology.org/).

- *1980* Mothers Against Drunk Drivers (MADD) is founded by Candi Lightner after one of her twin daughters was killed by a drunk driver who was a repeat offender.

- *1981* President Ronald Reagan proclaims the First National Victims' Rights Week in April.

- *1982* The first Victim Impact Panel was established by MADD to educate drunk drivers about how their victims suffered, started in Rutland, Massachusetts, USA.

- *1982* The first WSV newsletter called *The Victimologist* was published; the editors have been Gerd Kirchhoff, Elmar Weitekamp, Jo-Anne Wemmers, and Michael O'Connell. •1983 The first victimology course is taught in the United States by John Dussich at the California State University, Fresno.

- *1984* The Victims of Crime Act (VOCA) establishes the national Crime Victims Fund from federal crime fines to pay for state victim compensation and services.

- *1984* The first two-week Course on Victimology and Victim Assistance, hosted by the Inter-University Centre for Post Graduate Studies and the World Society of Victimology, held in Dubrovnik, Yugoslavia with Co-directors; Paul Šeparović, Gerd Kirchhoff, and Paul Friday.

- *1985* The United Nations unanimously adopts the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

- *1985* The Council of Europe *Recommendation on the Position of the Victim in the Framework of Criminal Law and Procedure* is adopted.

- *1987* The US Department of Justice opens the National Victims Resource Centre in Rockville, Maryland.

- *1988* The first "Indian Nations: Justice for Victims of Crime" conference is held by the Office for Victims of Crime in Rapid City, South Dakota, USA.

- *1989* The journal *International Review of Victimology* was founded by John Freeman in London, UK.

- *1990* Victim Support Europe was launched. "Victim Support Europe (VSE) is the leading European umbrella organization advocating on behalf of all victims of crime. VSE represents 61 national member organizations, providing support and information services to more than 2 million people affected by crime every year in 31 European countries." (www.victimsupporteurope.eu). The European Forum for Victim Services was founded by all the national organizations in Europe working for victims of crime in consultative status with the Council of Europe and the UN.

- *1998* Under the auspices of the United Nations, *The Rome Statute* was adopted and ratified as a treaty to establish the International Criminal Court with a Victim Witness Unit which entered into force on July 17.

- *1999* The United Nations and the US Office for Victims of Crime publish the *Guide for Policymakers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* and the *Handbook on Justice for Victims: On the Use and Application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.

- *2002* On July 1 the International Criminal Court (ICC) became effective. It is the only international court with jurisdiction to prosecute persons for genocide, crimes against humanity, war crimes, and the crime of aggression. It's prosecutor's office included the creation of a Victim and Witness Unit.

- *2003* On October 2nd the Tokiwa International Victimology Institute (TIVI), in Mito Japan opened its doors to promote victim rights, to conduct seminars, courses, publish an international journal, and host annual symposia and lectures and conduct research on victimology and victim services. TIVI was under the leadership of John Dussich for ten years.

- *2003* The American Society of Victimology was founded in Kansas City, Kansas at the First American Symposium on Victimology.

- *2004* Japan puts the UN's *Declaration* into their national legislation by adopting the new *Fundamental Act for Crime Victims*. To ensure that these principles would be initiated, the Prime Minister established a cabinet level committee. The new law included services for victims, restitution from the offender, information about criminal justice and a right to formally participate in the criminal justice process.

- *2004* The journal *Victimología* was founded by Hilda Machiori in Cordoba, Argentina.

- *2004* The journal *International Perspectives in Victimology* was founded by John P. J. Dussich in Mito, Japan.

- *2005* In the Netherlands, the TiIburg University established the International Victimology Institute Tilburg (INTERVICT). Its mission was "Working towards a comprehensive, evidence-based body of knowledge of victim empowerment." This institute was under the leadership of Marc Groenhuijsen until its closure in 2015.

- *2015 Revista de Victimología / Journal of Victimology* founded by Josep M. Tamrit Sumalla in Barcelona, Spain.

- *2018* The *Journal of Victimology, and Victim Justice*, founded by GS Bajpai in New Delhi, India.

- *2019* Victim Support Asia was launched under the sponsorship of Victim Support Europe at its first conference in Seoul, Korea, on March 26.

- *2021* On December 29 Archbishop Desmond Tutu passed away. He was a member of the first Board of Directors of the Trust Fund for Victims at the ICC.

- *2021* On December 20 the office of the ICC Prosecutor launched public consultation on "a new policy initiative to advance accountability for the crime against humanity of persecution on the grounds of gender under the Rome Statue" (ICC; retrieved on January 25, 2022, from: http://www.icc-cpi.int/).

- *2022* The World Society of Victimology holds it 17th International Victimology Symposium in Donostia/ San Sabastian, Basque Country, Spain June 5-9.

APPENDIX E

United Nations A/RES/40/34

General Assembly

Distr. GENERAL
29 November 1985
ORIGINAL:
ENGLISH

A/RES/40/34
29 November 1985
96th plenary meeting

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

The General Assembly,

Recalling that the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders recommended that the United Nations should continue its present work on the development of guidelines and standards regarding abuse of economic and political power,

Cognizant that millions of people throughout the world suffer harm as a result of crime and the abuse of power and that the rights of these victims have not been adequately recognized,

Recognizing that the victims of crime and the victims of abuse of power, and also frequently their families, witnesses and others who aid them, are unjustly subjected to loss, damage or injury and that they may, in addition, suffer hardship when assisting in the prosecution of offenders,

1. Affirms the necessity of adopting national and international measures in order to secure the universal and effective recognition of, and respect for, the rights of victims of crime and of abuse of power;

2. Stresses the need to promote progress by all States in their efforts to that end, without prejudice to the rights of suspects or offenders;

3. Adopts the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, annexed to the present resolution, which is designed to assist Governments and the international community in their efforts to secure justice and assistance for victims of crime and victims of abuse of power;

4. Calls upon Member States to take the necessary steps to give effect to the provisions contained in the Declaration and, in order to curtail victimization as referred to hereinafter, endeavour:

   (a) To implement social, health, including mental health, educational, economic and specific crime

prevention policies to reduce victimization and encourage assistance to victims in distress;

(b) To promote community efforts and public participation in crime prevention;

(c) To review periodically their existing legislation and practices in order to ensure responsiveness to changing circumstances, and to enact and enforce legislation proscribing acts that violate internationally recognized norms relating to human rights, corporate conduct, and other abuses of power;

(d) To establish and strengthen the means of detecting, prosecuting and sentencing those guilty of crimes;

(e) To promote disclosure of relevant information to expose official and corporate conduct to public scrutiny, and other ways of increasing responsiveness to public concerns;

(f) To promote the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, medical, social service and military personnel, as well as the staff of economic enterprises;

(g) To prohibit practices and procedures conducive to abuse, such as secret places of detention and incommunicado detention;

(h) To co-operate with other States, through mutual judicial and administrative assistance, in such matters as the detection and pursuit of offenders, their extradition and the seizure of their assets, to be used for restitution to the victims;

5. Recommends that, at the international and regional levels, all appropriate measures should be taken:

(a) To promote training activities designed to foster adherence to United Nations standards and norms and to curtail possible abuses;

(b) To sponsor collaborative action-research on ways in which victimization can be reduced and victims aided, and to promote information exchanges on the most effective means of so doing;

(c) To render direct aid to requesting Governments designed to help them curtail victimization and alleviate the plight of victims;

(d) To develop ways and means of providing recourse for victims where national channels may be insufficient;

6. Requests the Secretary-General to invite Member States to report periodically to the General Assembly on the implementation of the Declaration, as well as on measures taken by them to this effect;

7. Also requests the Secretary-General to make use of the opportunities, which all relevant bodies and organizations within the United Nations system offer, to assist Member States, whenever necessary, in improving ways and means of protecting victims both at the national level and through international co-operation;

8. Further requests the Secretary-General to promote the objectives of the Declaration, in particular by ensuring its widest possible dissemination;

9. Urges the specialized agencies and other entities and bodies of theUnited Nations system, other relevant intergovernmental and non-governmentalorganizations and the public to co-operate in the implementation of theprovisions of the Declaration.

ANNEX

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

A. Victims of Crime

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

   (a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

   (b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

   (c) Providing proper assistance to victims throughout the legal process;

   (d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

   (e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependents of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

B. Victims of abuse of power

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of

internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

REFERENCES

Annon, Kofi, 2004, Foreword, *United Nations Convention against Transnational Organized Crime*, United Nations Headquarters, New York, NY, page iii (retrieved January 26, 2022, from: http://www.unodc.org).

Arif, Besa, 2015, Relevance Of Magna Carta To Rights Of Victims Of Abuse Of Power, *Seeu Review*, vol. 11, Issue 1. (retrieved January 23, 2022 from http://www.researchgate.net; DOI: 10.1515/seeur-2015-0008).

Bassiouni, M. Cherif, (ed.), 1988, Preface, *International Protection of Victims*, 7 Novelles Etudes Pénales, Association International de droit Pénal, érès, Siracusa, Italy: Zangarastampa.

Beccaria, Cesare, 1764. *Dei dellitti e delle pene*. Livorno, Italia.

Brownmiller, Susan, 1975, *Against Our Will: Men, Women and Rape*, New York, NY: Simon & Shuster.

COPS, *COPS Office Report, 100,000 Officers and Community Policing Across the Nation*, U.S. Department of Justice, Office of Community Oriented Policing Services, September 13, 1997:31.

Davis, Linda and Snyman, Rika, 2005, (eds.) *Victimology in South Africa*, Pretoria, South Africa: Schaik.

Doe, Norman, 2018, *Comparative Religious Law: Judaism, Christianity, Islam*, Cambridge, United Kingdom: Cambridge University Press.

Domingo, Rafael, 2018, *Roman Law: An Introduction*, New York, NY: Rutledge Press.

Dussich, John P. J., 1997, The Institute of Victimology in Sarajevo (IVS) in *The Victimologist*, Newsletter of the World Society of Victimology, Vol. 1, No. 2 December.

Dussich, John P. J., 2003, History, Overview & Analysis of American Victimology and Victim Services Education. In *Exploration of Higher Education and Professional Practice – Proceedings of the first American symposium on Victimology*, Kansas City, Kansas, (retrieved January 29, 2022, from: https://studylib.net/doc/8197906/the-proceedings-from-the-first-american-symposium-of-victimology).

Dussich, John P. J. ,2005, Victimology, Past, Present, and Future, in the *Proceedings of the 131st United Nations Far East Institute, The Use and Application of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power – Twenty Years after its Adoption*, 27 September, page 116.

Dussich, John and Kiyoko Kishimoto, 2000, Victim Assistance in Japan: History, Culture and Programmes. In Paul C. Friday and Gerd Ferdinand Kirchhoff (editors) *Victimology at the Transition: From the 20 th to the 21 st Century: Essays in Honor of Hans Joachim Schneider*. Mönchengladbach, Germany: Shaker Verlag.

Dussich, John P. J., 2016, Victim Recovery. In Karen Corteen, Shanon Morley, Paul Taylor, and Joanne Turner (eds.), *Crime, Harm, and Victimisation*, Bristol, United Kingdom: Policy Press at the University of Bristol.

Ellenberger, Henri. 1955. Relations psychologiques entre le criminel et la victime. *Revue International de Criminologie et de Police Technique* Vol. 8: 757-790.

Ferri, Enrico, 1892, *Sociologia Criminale*, 3ed. Torino, Italia: Fratelli Bocca, Editori

Freckelton, Ian, 2004, Compensation for Victims of Crime in Hendrik Kaptein and Marijke Malsch (eds), *Crime, Victims and Justice: Essays on Principles and Practice*, Farnham, UK: Ashgate Publishing.

Garófalo, Raffaelle, 1885, *Criminologia*. Torino, Italia: Bocca Editori.

Groenhuijsen, Marc, and Letschert, Rianne, (eds.), 2008, Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, in *Compilation of International Victim's Rights Instruments*, second (revised) edition, Tilburg and Nijmegen respectively: Intervict in cooperation with Wolf Legal Publishers.

Hentig, Hans von, 1940, Remarks on the Interaction of Perpetrator and Victim, *Journal of Criminal Law and Criminology*, vol. 31, Issue 3, September-October.

Hentig, Hans von, 1948, *The Criminal and His Victim: Studies in the Sociobiology of Crime*. New Haven, CT: Yale University Press.

Hoffman, Hanoch, 1992, What did Mendelsohn Really say? In Sarah Ben David and Gerd Ferdinand Kirchhoff (eds.) *International Faces of Victimology*, Mönchengladbach, Germany: WSV Publishing.

Horne, Charles F., 1915, The Code of Hammurabi: Introduction, *Ancient History Sourcebook: Code of Hammurabi, c. 1780 BC*. (retrieved on December 22, 2022 from https://sourcebooks.fordham.edu/ancient/hamcode.asp).

International Criminal Court, announcement: (retrieved on January 25, 2022 from https://www.icc-cpi.int/).

Kirchhoff, Gerd Ferdinand and Klaus Sessar, (eds.) 1979, *Das Ferbrechens Opfer*, Bochum, Germany: Studienverlag Dr. Norbert Brockmeyer.

Kirchhoff, Gerd F. and Morosawa, Hidemichi, 2009, The Study of Victimology Basic Considerations for the Study of Theoretical Victimology, in Frans Willen Winkel, Paul C. Friday, Gerd F. Kirchhoff and Rianne M. Letschert (eds.) *Victimization in a multidisciplinary key: Recent Advances in Victimology*, Nijmegen, The Netherlands: Wolf Legal Publishers.

Kramer, Samuel Noah, 1988, *History Begins at Sumer Thirty-Nine Firsts in Recorded History. Third Edition*, Philadelphia, Penn: University of Pennsylvania Press.

Landau, Simha F. and Sebba, Leslie, 1998, Victimological Research in Israel: Past and Current Perspectives, in Robert R. Friedmann (ed.) *Crime and Criminal Justice in Israel; Assessing the Knowledge Base Toward the Twenty-First Century*, New York, NY: State University of New York Press.

Latimer, Jeff, and Kleinknecht, Steven, 2000, The Effects of Restorative Justice Programming: A Review of the Empirical RR2000-16e, Department of Justice, Canada. January, (retrieved on February 26, 2022, from: https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr00_16/index.html).

Lombroso, Cesare, 1876, *L'Uomo Delinquente*. Torino: Italia: Fratelli Bocca, Editori.

Mendelsohn, Beniamin, 1937, Mćthode à Utiliser par le Dćfenseur pour les Recherches Concernant la Personnalite du Criminel, (Methods to be used by counsel for the defence in the research made into the personality of the criminal). *Revue de Droit Penal et Criminologie et Archives Internationales de Médicine Legal*. Brussels, Belgium, août-sept-oct, pp.877-891.

———. 1940, Il Stupro dentro la Criminologia. *Giustizia Penale*, Rome, Italy.

_____, 1947, Une nouvelle branche de la science bio-psycho-sociale, la victimologie, (A New Branch of Bio-Psycho-Social Science, Victimology), speech made to the members of the Romanian Psychiatric Society in the Coltzea Hospital, Bucharest, Romania on March 29th.

———.1956, Une nouvelle branche de la science bio-psycho-sociale, la victimologie. (A New Branch of Bio-Psycho-Social Science, Victimologie), *Revue Internationales de Criminologie et de Police Technique*, February, Genève, CH.

_____, 1967, Le Rapport Entre la Victimologie et la Problem du Genocide (Schema d'un Code du Genocide),

speech made at the International Congress on the Prevention of Genocide, Paris, France, July 10-13.

_____, 1969, Le Rapport Entre la Victimologie et la Problem du Genocide (Schema d'un Code du Genocide), *Etudes de Psycho-sociologie Criminelle*, Paris, 16-19.

_____.1976, Victimology and Contemporary Society's Trends, in Emilio C. Viano (ed.) *Victims and Society*, Washington D. C.: Visage Press.

Miyazawa, Koichi, 1965, *Basic Theory of Victimology*, Tokyo, Japan: Sekaishoin.

Miyazawa, Koichi, 1986, Comparative Aspects of Victimology – Reflexions on the Fourth International Symposium on Victimology, in Koichi Miyazawa and Minoru Ohya (eds,) *Victimology in Comparative Perspective*, Tokyo, Japan: Seibundo Publishing Co. Ltd.

Morosawa, Hidemichi, 1998, *An Interdisciplinary Study of Victim and Victimization*, (in Japanese), July 1. Tokyo, Japan: Seibundoh.

Morosawa, Hidemichi, 2012, Opening Address; The 13th International Symposium on Victimology August 23, 2009, in Hidemich Morosawa, John P. J. Dussich and Gerd Ferdinand Kirchhoff (eds.), *Victimology and Human Security: New Horizons*, Nijmegen, The Netherlands: Wolf Legal Publishers.

Morosawa, Hidemichi, 2016, *Victimology*, (in Japanese), September 1, Tokyo, Japan: Seibundoh.

Nagel, Willem Hendrik, 1949, *De criminaliteit van Oss*. Antwerpen, Netherlands: de Sikke.-Social Science – Victimology.

Nagel, Willem Hendrik, 1963, The Notion of Victimology and Criminology, *Excerpta Criminologica*, Vol. 3 May-June, pp. 245-247.

Nakata, Osamu 1958, Victimology of Mendelsohn, *Acta Criminologiae et Medicinae Legalis Japonica*, Vol. 24.

New Directions from the Field: Victims' Rights and Services for the 21st Century 1998, Office for Victims of Crime, U. S. Department of Justice, U. S. Government Printing Office, Washington, D. C.

O'Connell, Michael, 2020, Teaching Victimology: Yesterday, Today and Tomorrow – a South Australian perspective, in Beulah Shekhar and Sanjeev P. Sahni (eds.) A Global Perspective of Victimology and Criminology: Yesterday, Today and Tomorrow – A Festschrift for Professor Dr. K. Chockalingam 50 Years of Teaching in the Field of Victimology, New Delhi, India: Bloombury.

Pizzey, Erin, 1974, *Scream quietly or the neighbors will hear*, London, GB: Penguin Books.

Principles and Guidelines for Restorative Justice Practice in Criminal Matters, 2018, *Federal-Provincial-Territorial Meeting of Ministers Responsible for Justice and Public Safety*, Canadian Intergovernmental Conference Secretariat, (retrieved on February 26, 2022, from: https://scics.ca/en/product-produit/principles-and-guidelines-for-restorative-justice-practice-in-criminal-matters-2018/).

Radding, Charles M. and Ciaralli, Antonio, 2007, *Corpus Iuris Civilis in the Middle Ages*, Leiden, The Netherlands: Koninklijk Brill NL.

Rajan, V. N. & Krishna, K. P., 1981, *Problems of victims of homicide in Bangalore and Delhi*, Institute of Criminology and Forensic Science, New Delhi, India.

Schafer, Stephen, 1968, *The Victim and His Criminal: A Study in Functional Responsibility*, New York, NY: Random House.

Singh, D.R., 1978, *Victims of Dacoit gangs in Chambal Valley*, Unpublished Ph.D. thesis, University of Sagar, Madhya Pradesh, India.

Smith, Dietrich L. and Weis, Kurt, 1976, Toward an Open-System Approach to Studies in the Field of Victimology, in Emilio Viano (ed.) *Victims and Society*, Washington D. C., USA: Visae Press, Inc.

Snyman, H. F, Rika, 1997, Victim Empowerment and Support in South Africa, in *The Victimologist*, Vol. 1, Number 1, August.

Sutherland, Edwin H., 1924, *Criminology*. Philadelphia, PA: J. B. Lippincott Company.

Webster's, 1971, *Third New International Dictionary of the English Language Unabridged*, ed., Philip Babcock Gove and the Merriam-Webster Editorial Staff. Springfield, MA: GG. & C. Merriam Company, Publishers.

Wemmers, Jo-Anne, 2003, *Introduction à la victimologie*, Le Presses de l'Universitć de Montrćal, Canada.

Wemmers, Jo-Anne M., 2017, *Victimology: A Canadian Perspective*, University of Toronto Press, Canada.

Wertham, Frederic, 1949, *The Show of Violence*. New York, NY: Doubleday.

Wolfgang, Marvin E., 1958, *Patterns in Criminal Homicide*. Philadelphia, PA: University of Pennsylvania Press.

WSV, 2013, News and Announcements, *Affiliated Organizations*, World Society of Victimology website, (retrieved on March 2, 2022, from; http://www.worldsocietyofvictimology.org/nationalvs/japan.html

PARTICIPANTS' PAPERS

PROTECTION OF THE RIGHTS OF CRIME VICTIMS INCLUDING CHILDREN: THE KENYAN RESPONSE TO CHILD VICTIMS

*Caroline Karimi Kariuki**

I. INTRODUCTION

A. Current Situation of Protection of the Rights of Child Victims

Kenya has made great strides in creating a comprehensive legislative framework on the protection of the rights of child victims.[1] Kenya enacted the Victim Protection Act[2] (VPA) in order to safeguard and uphold the dignity and well-being of the victims in the justice system and to breathe life into Article 50 (9) the Constitution of Kenya, 2010. The objects of the VPA[3] are:

i) Provision of support services
The VPA makes provision for victim support services which include, *inter alia*, psycho-social support,[4] medical support[5] and the right to protection and security.[6]

ii) Active involvement in court processes
This practice is popularly known as "watching Brief". It is a practice that was developed in England as legal tool for protection of child victims in the criminal justice system.[7] The victim is entitled to a myriad of rights in Kenya,[8] which include the right to be present during trial, the right to submit on bail/bond and sentence,[9] the right to a legal representative of their choice, the right to be informed in advance of the evidence the prosecution and defence intend to rely on, the right to present their views, concerns and statements of the impact of the offence in court and the right to choose whether or not to participate in restorative justice.

iii) Protection measures before and during trial
Once a child victim enters the criminal justice system, the duty bearers are impressed upon by law to ensure that their vulnerabilities are assessed and appropriate measures are put in place. These include referral to the Witness Protection Agency or place of safety,[10] protection measures for the child victim during giving of evidence such as use of protection boxes, use of intermediaries, reduction of statements, in-camera proceedings etc.[11]

iv) Infrastructure
Kenya has made significant progressive steps towards putting in place policies and infrastructure such as separate holding places for children referred to Child Protection Units (CPU) at police stations, places of safety such a Remand homes and shelters, the Victim Protection Trust Fund, One-stop

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[1] The Sexual Offences Act (SOA) No. 3 of 2006, the Children Act, 2001, the Counter-trafficking in Persons Act No.8 of 2010.

[2] [Act No. 17 of 2014, Legal Notice 43 of 2015.]; and the Sexual Offences Act (SOA) No. 3 of 2006.

[3] Section 3.

[4] Also in Section 31 and 32 of the SOA.

[5] Also in Section 35 SOA.

[6] Section 10, 11 and 14 of the VPA.

[7] Patmalar Ambikapathy, 'The use of Watching Brief as a legal tool for the Protection of Child Victims in the Criminal Justice Process' (Malaysia).

[8] Section 9 of the VPA, 2014.

[9] Mary Kinya Rukwaru vs. Ragunathan Santosh & Another [2014] eKLR; Joseph Lendrix Waswa v Republic [2019] eKLR.

[10] The Witness Protection Act, the Children Act, the VPA.

[11] Section 31 of the SOA, section 76 of the Children Act, section 8 and 9 of the VPA.

Centre for Sexual and Gender based Violence victims (Policare)[12] and toll-free hotlines,[13] and the Office of the Director of Public Prosecutions (ODPP) is in the final stages of setting up seven child-friendly interview rooms across the Country.

II. CHALLENGES

Notwithstanding all these classic efforts towards victim protection, the journey of the child victim through the criminal justice system leaves the child with a bitter after-taste and sometimes in a worse state due to the secondary victimization occasioned (whether inadvertently or not) by the very system that was intended to restore the child's well-being and self-worth.

On the one hand, the attitudes of duty bearers handling the victims, the social and cultural response of the society to the victims of especially sexual offences, the handling of interviews/interrogation and observance of the rights of victims during trial and investigations are the key areas in which secondary victimization is perpetrated.

On the other hand, secondary victimization manifests through the victims themselves. This is by victims lacking knowledge of when and where to report an offence.[14] According to the Violence against Children Report (VAC),[15] a service seeking survey for victims of sexual abuse showed that 24.7 per cent of the females and 12.9 per cent of the males of 18–24-year-olds knew where to seek professional help, whereas 28.3 per cent of children between 13 and 17 years knew where to seek professional help. For those between 18 and 24 years, 6.8 per cent of the females and 2.1 per cent of the males tried to get professional help, whereas for children between 13 and 17 years, 7.9 per cent tried to get professional help. These low percentages are an indication that victims do catalyse the process of secondary victimization.

Notably several challenges present an obstacle to reducing or eliminating secondary victimization. These are:

(i) Lack of cooperation and coordination among the key government agencies. This leads to a breakdown of communication and response in the management of the child victim.

(ii) Lack of information and knowledge of the victim services that exist, where they are situated and how to access them.[16] In addition, most duty bearers in the justice system do not know what secondary victimization is and, therefore, cannot recognize it when it manifests during their interactions with victims. Consequently, they cannot address it.

(iii) Unskilled professionals and poor attitude of duty bearers within the justice system on victim management. Police officers, prosecutors and judicial officers do not possess the necessary skills to handle victims and especially child victims. What's more, the attitude of the duty bearers towards the victims is more often than not gravely wanting.

(iv) Lack of data on the number of victims. A country that cannot account for the number of victims being processed through its justice system cannot make any realistic strategic provision for them, neither can it benefit from facts that qualified data can provide.

(v) Lack of financial and human resource allocations by the Government. This manifests in lack of government infrastructure such as safe houses for vulnerable/at-risk victims and lack of resources for institutions to build the capacity of their personnel on victim management and support.

[12] www.nationalpolice Service.go.ke
[13] Child Helpline No. 116, 999, 1195/1193 Gender Based Violence, 1192 for Alcohol and Drug Abuse etc.
[14] The Violence Against Children Report in Kenya, Findings from a 2010 National Survey, 59 – 71.
[15] Supra.
[16] VAC page 17

III. SOLUTIONS

There does not exist a one-size-fits-all solution to addressing secondary victimization in the criminal justice system. It is a clarion call on the government of the day to begin by understanding the underlying issues that catalyse secondary victimization and that impede efforts to resolve the challenges of secondary victimization. This can be achieved through the following ways:

i) The Government should offer a strategic commitment to strengthen the existing legal and infrastructural framework on protection of child victims and creation of strategic partnerships to cater for insufficiencies.

ii) The Government must, thereafter, financially invest in human resources, physical and psycho-social support for child victims at all levels. For instance, increasing the number of safe houses and the number of courtrooms that have witness protection boxes and video-conferencing equipment, and building capacity of investigators and prosecutor on forensic interviewing of child victims.

iii) The state and non-state actors must create synergy by collaborating and coordinating their efforts in how they manage the victims and information dissemination to the public on victim support.

UPHOLDING THE RIGHTS OF CRIME VICTIMS: A PHILIPPINE STANDPOINT

*Giselle Marie S. Geronimo**

I. INTRODUCTION

The nature of the Philippine justice system ultimately reduces the role of the complaining victim into a mere witness who is supposed to provide the evidence that is needed in order to prove the case. Thus, in the prosecution of the offence, the complainant's role is limited to that of a witness for the prosecution.[1] Being a mere witness to the case, the risk of retraumatization can become high. Various stakeholders like the law enforcement officers, prosecutors and judges tend to inadvertently forget that the victims have various rights, other than being compensated as a form of support, that must be recognized and upheld. Victims have to endure successive interviews and examinations of their harrowing experiences from the offenders, starting from the law enforcement officer to the prosecutor and finally before the trial court. When the victim is a child, another interview with a social worker may be added to the list. While the Philippines has recognized the necessity of giving justice to the victims of crimes and not just bringing the perpetrators to the justice system, certain factors still deter its full realization.

II. CURRENT PROTECTIVE MEASURES FOR VICTIMS OF CRIMES

A. Restitution and Victim Support

A Victims Compensation Program[2] exists in the country in recognition of the need to compensate victims for the impact or even trauma that the commission of a violent crime[3] against them may have caused and even grants compensation for victims of unjust imprisonment. A maximum amount of Ten Thousand Pesos (Php[4] 10,000.00) may be given as compensation to a qualified claimant for expenses incurred for hospitalization, medical treatment, loss of wage, loss of support or other expenses directly related to injury.

A Rape Crisis Center[5] has been established to provide rape victims with psychological counselling, medical and health services, free legal assistance and to adopt programmes for the recovery of rape victims. Witnesses or victims of a grave felony[6] who are subjected to threats to life or bodily injury may avail themselves of the Witness Protection Program[7] of the country. Victims of the crime of trafficking in persons have preferential entitlement under this programme.[8]

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[1] *Yokohoma Tire Philippines Inc. v. Sandra Reyes and Jocelyn Reyes*, G.R. No. 236686, 5 Feb. 2020.

[2] Republic Act No. 7309 otherwise known as "Act Creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and For Other Purposes", 30 Mar.1992.

[3] Violent crimes under this law (R.A. No. 7309, Section 3-d) shall include rape and shall likewise refer to offences committed with malice which resulted in death or serious physical and/or psychological injuries, permanent incapacity or disability, insanity, abortion, serious trauma, or committed with torture, cruelly or barbarity.

[4] Php stands for Philippine Peso. 1 USD is equivalent to PHP 51.28 based on the February 2022 exchange rate bulletin of the Bangko Sentral ng Pilipinas (central bank of the Philippines).

[5] Sec. 3, Republic Act No. 8505, otherwise known as the "Rape Victim Assistance and Protection Act of 1988", 13 Feb. 1998.

[6] Grave felonies are those to which the law attaches the capital punishment or penalties which in any of their periods are afflictive, Section 9, Act No. 3815, known as "The Revised Penal Code".

[7] Republic Act No. 6981 otherwise known as the "Witness Protection, Security and Benefit Act", 24 Apr. 1991.

[8] Section 18, Republic Act No. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003".

For the special protection of children, the Philippines has enacted several laws addressing the vulnerabilities of the younger age groups, including the rising number of online child abuse cases. The following laws are all aimed at protecting child victims:

1. Republic Act No. 7610 or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act" declared it a State policy "to provide special protection to children from all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial to their development; provide sanctions for their commission and carry out a programme for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination"[9];

2. Republic Act No. 9775 otherwise known as the "Anti-Child Pornography Act of 2009" defines and penalizes a particular form of child abuse, which is child pornography. It declares among others, to "protect every child from all forms of exploitation and abuse"[10]; and

3. Republic Act No. 9262 otherwise known as the "Anti-Violence against Women and their Children Act of 2004" enumerates the rights of victims to be treated with respect and dignity, to avail themselves of legal and support services from the government and to be informed of their rights and the services available to them, including their right to apply for a protection order.[11] In all these laws enumerated, the confidentiality of the identity of the victim is of paramount importance and is enjoined to be respected.

B. Preventing Secondary Victimization

In recognizing the need to address the peculiar needs of a child who is a victim of a crime, the Supreme Court of the Philippines enacted the Rule on Examination of a Child Witness[12] which allowed the use of live-link television testimony, screens, one-way mirrors and other devices to shield the child from the perpetrator during the testimony in court.[13] Consistent with its objective to minimize trauma to children, a videotaped deposition presided by a judge may be done under this rule upon application by the prosecutor, counsel or guardian ad litem[14] should the child victim or witness be unable to testify in open court at trial.[15] On the other hand, a videotaped and audiotaped in-depth investigative or disclosure interview[16] in child abuse cases may also be done and be admissible in court, subject to the following conditions:

(a) The child witness is unable to testify in court on grounds and under conditions established under section 28 (c).
(b) The interview of the child was conducted by duly trained members of a multidisciplinary team or representatives of law enforcement or child protective services in situations where child abuse is suspected so as to determine whether child abuse occurred.
(c) The party offering the videotape or audiotape must prove that:
    (1) the videotape or audiotape discloses the identity of all individuals present and at all times includes their images and voices;
    (2) the statement was not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the statement of the child and not the product of improper suggestion;
    (3) the videotape and audiotape machine or device was capable of recording testimony;
    (4) the person operating the device was competent to operate it;

[9] Section 2, Republic Act No. 7610.
[10] Section 2 (b), Republic Act No. 9775.
[11] Section 35, Republic Act No. 9262.
[12] A.M. No. 004-07-SC, 21 Nov. 2000.
[13] Sections 25-26, Rule on Examination of a Child Witness.
[14] A "guardian ad litem" is a person appointed by the court where the case is pending for a child who is a victim of, accused of, or a witness to a crime to protect the best interests of the said child (Section 4 (e), Rule on Examination of a Child Witness.
[15] Section 27, Rule on Examination of a Child Witness.
[16] "In-depth investigative interview" or "disclosure interview" is an inquiry or proceeding conducted by duly trained members of a multidisciplinary team or representatives of law enforcement or child protective services for the purpose of determining whether child abuse has been committed (Section 4 (i), Rule on Examination of a Child Witness).

(5) the videotape or audiotape is authentic and correct; and
(6) it has been duly preserved.

The individual conducting the interview of the child shall be available at trial for examination by any party. Before the videotape or audiotape is offered in evidence, all parties shall be afforded an opportunity to view or listen to it and shall be furnished a copy of a written transcript of the proceedings.[17]

III. THE CHALLENGES

There is a certain bar between the numerous laws and promulgated rules vis-à-vis the actual implementation in different jurisdictions in the country.

A. Role of Victims in the Criminal Proceedings

1. Lack of Coordination of Victims with the Prosecutors

The role of the victims in the criminal proceedings, being reduced to mere witnesses, and the opportunity for victims to express their views and concerns in the criminal proceedings are sometimes taken for granted. In fact, these victims are merely instructed to bring the necessary pieces of evidence which may be in their custody and prepare them for their testimony in court. While their role and the procedure may be briefly explained to them, the same may not be as thorough as it should be due to lack of time and the numerous cases being prepared for trial. There are victims who are vigilant with their cases, but there are some victims who are pressed for time and money who only attend the court proceedings without coordinating with the prosecutor prior to the trial date. In fact, there are some victims who, after their testimony in court, never go back to court to look into the outcome of the case. It behoves the prosecutor to inform them to at least be apprised of the disposition of the case. It may seem as though it is the choice of the victim to be nonchalant about their case, but these victims could also need assistance in order to ascertain that they have properly moved on from the trauma caused to them and were in fact properly reintegrated back to society after such a painful experience.

2. Non-appearance/Disappearance of Witnesses

Victims often fear for their safety and retreat from prosecuting the case in exchange for a life far from their offenders. Some witnesses even just disappear for a number of reasons, despite the existence of a Witness Protection Program in the country. The disappearance of witnesses can be due to various causes, such as: a) at the initial stage of the proceedings, they have experienced revictimization due to insensitive or judgmental reactions of others that unnecessarily augmented their suffering. In sexual abuse cases, some victims have even experienced not being believed even by their own parents or relatives; b) some have either been paid or intimidated or forced to desist from the prosecution of the case; and c) other victims have simply made a rational choice to move on with their lives and forget the crime done.

B. Preventing Secondary Victimization

1. During the Investigation Stage

A criminal prosecution is initiated by the filing of a complaint to a prosecutor who shall then conduct a preliminary investigation in order to determine whether there is probable cause to hold the accused for trial in court.[18] In this stage, the victim/private complainant shall be examined by the public prosecutor to determine the existence of probable cause. This procedure takes place after the victim has already been interviewed by the law enforcement officer. From these stages, the victim has to recount all the dreadful experience in order to establish the elements of the crime allegedly committed. By narrating it all over again, the victim unfortunately suffers retraumatization, only to find out that another more stressful questioning will be done during the trial stage on direct and cross-examination. The quality of the testimony may vary as well as some details may change or differ from the earlier statements.

This is even harder for child victims who refuse to talk even just at the sight of their offenders, as not all the trial courts in the country have provisions for live-link testimony or a one-way mirror. The successive

[17] Section 29, Rule on Examination of a Child Witness.
[18] Secretary Leila de Lima v. Mario Joel Reyes, G.R. No. 209330, 11 Jan. 2016.

interviews of victims cause retraumatization as they have to recount the distressing ordeals that have befallen them several times before they could probably be said to have proved their case. For children, this is more traumatic, which could affect their mental and psychological health. It is sometimes a challenge to refer the victims for psychological/psychiatric help since not all jurisdictions are equipped with fully trained trauma experts.

While an in-depth video interview may be done in accordance with the Rule on Examination of Children, there are no trained law enforcement officers or members of multi-disciplinary teams in all jurisdictions who can conduct the forensic interview. Some who were trained, on the other hand, have been either promoted or are no longer connected with the same office which now discontinued the in-depth video interviews during the investigation stage in some places. Some jurisdictions are conducting the interview nonetheless without a trained law enforcement officer, at the risk of such video not being admissible in evidence in court should non-compliance with the requirements set forth be ruled by the trial court.

2. During the Trial Stage

The trial stage is when the victim will be subjected to thorough direct examination and rigorous cross-examination by the defence counsel. It is a stressful situation that will bring the victim back to the harrowing experience – after several examinations/interviews have been conducted on the same victim for the very same acts. For children, this stage is doubly traumatizing. Victim-blaming, judgmental behaviour or comments are also exhibited by some, from different agencies, whether it be the judge, the prosecutor, defence counsel and others. Some victims shy away from recounting their ordeal for fear of being retraumatized. And when these witnesses have to relay it all over again in front of strangers, they suffer trauma anew.

3. Implementation of Programmes and Services in Response to Violence against Women and Children

While there are several laws and rules enacted for the protection of crime victims, programmes and services vary in each locality, depending on the zeal of the local government as well as the proper allocation of the budget for each locality. Efforts of government as well as non-governmental organizations are not integrated with each other in order to achieve a nationwide programme that may be utilized for the recovery of victims.

IV. KAREN'S CASE – A REVICTIMIZATION

Karen was an employee who was raped by a former president of a local organization of businesses in the Philippines. The rape case dragged on for eight (8) years, and the trial led to the acquittal of the accused in 2005. The trial court held, among others, that Karen should have fought off the accused who was already in his sixties, in order to prevent the rape. Karen complained to the Committee on the Elimination of Discrimination Against Women, avowing that the action of the trial court subjected her to revictimization and violated articles 2(c), 2(f), and 5(a) of the Convention on the Elimination of All Forms of Discrimination Against Women and CEDAW General Recommendation 19,[19] which obliges a State to modify or abolish existing laws, regulations and practices that constitute discrimination against women. Karen averred that the decision was grounded in gender-based myths about rape and rape victims.

It was the Committee's recommendation that appropriate compensation be given to Karen, along with other recommendations for a review of existing Philippine laws. Ruling in Karen's favour, the Committee, thus, stated:

[T]he Committee finally would like to recognize that the author of the communication has suffered moral and social damage and prejudices, in particular by the excessive duration of the trial proceedings and by the revictimization through the stereotypes and gender-based myths relied upon in the judgement. The author has also suffered pecuniary damages due to the loss of her job.[20]

[19] May be easily accessed through the United Nations Human Rights website, https://www.ohchr.org/en/hrbodies/cedaw/pages/recommendations.aspx

[20] *United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, C/46/D/18/2008, 1 Sep. 2010, p. 16, par. 8.8.

V. RECOMMENDED ACTIONS

Victim retraumatization, or secondary victimization, may be avoided in the trial stage or even the preliminary investigation stage before a prosecutor if a duly recorded forensic interview by those persons authorized and trained for the purpose can be executed in such a way that it will be admissible to the courts even in the unexpected absence of the victim in the future. Continuous training must be done in order not to disrupt the process, and the protection of the victims will be ensured on this aspect.

Information campaigns must be improved in order to apprise victims of their rights and how to make these rights accessible to them. A number of victims are still unaware of the possibility of getting compensated from the Board of Claims or even how to avail themselves of the Witness Protection Program. Victim-shaming and victim-blaming must be avoided at all costs in order to encourage the victims to stand up, be heard and protect their own rights. Convergent programmes for nationwide implementation for the prevention, protection, recovery and reintegration of crime victims must be continually developed such that it caters to each and every locality, as it applies to them.

REPORT OF THE COURSE

The 1st International Training Course on Building Inclusive Societies (Online) "Protection of the rights of crime victims including children"

1. Duration and Participants

- From 2 March to 17 2022
- 13 overseas participants from 8 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 offered participants an opportunity to share experiences and knowledge on effective measures to protect the rights of crime victims including children. This programme was exclusively conducted online due to the Covid-19 pandemic.

3. The Content of the Programme

(1) Lectures

The participants were from a wide range of time zones, including Asia, Africa and Latin America, and they needed to continue their professional and family duties during the seminar. Therefore, all lectures were recorded in advance and broadcast on-demand in order to allow participants to view lectures at their convenience. After watching the on-demand lectures, participants were required to submit questions or comments via an online learning management system, and their questions were answered in Q&A sessions with the respective lecturers. This way, we tried to ensure both convenience and interactivity in lectures.

In addition to the lectures delivered by UNAFEI professors on the protective measures for crime victims including children in the criminal justice system of Japan, the lectures were delivered by the specialist lecturer and ad hoc lecturer, followed by Q&A sessions. As part of ad hoc lecturer's lecture, the participants took part in a role-playing session on forensic interviewing techniques. During the role-playing session, each participant took the role of interviewer, interviewee or support staff, and then experienced a forensic interview with a teenage witness.

- Specialist lecturer
  - Dr. John P. J. Dussich
    Professor Emeritus
    California State University, Fresno
    "International Victimology: Yesterday, Today and Tomorrow"

- Ad hoc lecturer
  - Dr. NAKA Makiko
    Professor
    Research Organization of Open Innovation and Collaboration, Ritsumeikan University
    "Interviewing vulnerable witnesses: Introduction to Forensic/ Investigative Interviews"

(2) Group Workshops

Participants were divided into two groups considering their time zones.

- Individual Presentations
  Participants shared the practices and the challenges in their respective countries regarding the theme of the training course through their individual presentations. All the presentations were recorded and uploaded online so that participants in other groups could watch them afterwards.

- Discussions
  Built on the knowledge gained through lectures and individual presentations, the participants engaged in live discussions to explore more about the theme of the training course. The participants shared challenges and good practices in their respective jurisdictions and discussed the root causes and necessary actions to address common challenges.

  During the discussions, participants pointed out the usefulness of forensic interviewing using a multi-agency approach as a preventive measure against secondary victimization caused by multiple interviews. The participants also shared the importance of providing crime victims with information on the status of ongoing criminal justice procedures, as well as continuous capacity-building on implementing victim protection measures, including forensic interviewing.

- Final Presentations
  Based on the lectures, discussions and presentations, the participants delivered their final presentations on the current challenges in their jurisdictions and possible solutions thereto.

4. Feedback from the Participants

At the end of the training course, we invited feedback from all participants. They said that, even though conducted online, they learned a lot from the lectures and group discussions. They also indicated that, if it were conducted in person, they would learn more about the Japanese system and practice by visiting relevant institutions in Japan.

5. Comments from the Programming Officer

The protection of the rights of crime victims including children is one of the most important issues in criminal justice systems in all jurisdictions, and efforts should be made continuously to improve victim protection measures and implementation thereof. The participants in this training course were highly motivated to learn from the experiences of other countries and the lecturers. They showed great discernment in analysing their current systems and practices, as well as recognizing the need to review their systems and practices. I also learned a lot from the participants. I hope that the participants' experiences in this training course will help them contribute to improving the protection of the rights of crime victims including children in their jurisdictions.

PART THREE

RESOURCE MATERIAL SERIES No. 114

Work Product of the 178th

International Training Course

UNAFEI

PARTICIPANTS' PAPERS

ADMISSIBILITY OF DIGITAL/ELECTRONIC EVIDENCE IN MALAWI

*Golda Chilembwe Rapozo**

I. INTRODUCTION

Digital/electronic evidence comprises of evidence found on electronic devices and can be relied on in a court of law.[1] This evidence includes, videos, voice recordings, text messages and electronic transactions to name a few. With the advancement in technology, more crimes are being committed online. People now solicit or offer bribes through text messages or e-mails. Bribes are often received through electronic monetary transfers rather than through cash. This has triggered an increase in digital forms of evidence for the Anti-Corruption Bureau. However, in Malawi, digital evidence is still a novel concept and, thus, not largely adjudicated on. This paper will analyse the admissibility of digital evidence in Malawi.

II. STATUTORY PROVISIONS

The starting point with regard to evidence in Malawi is the Criminal Procedure and Evidence Code (CP & EC). The Criminal Procedure and Evidence Code is the guidebook regarding the treatment and admissibility of evidence as well as procedure in criminal proceedings. The general rule under the Criminal Procedure and Evidence Code is that all admissible evidence must be relevant.[2] However, this does not mean that all relevant evidence is admissible. It must further be noted that the Criminal Procedure and Evidence Code is an old piece of legislation that was enacted at a time when Malawi did not envision that there may be evidence that would be submitted electronically and, due to this, the Criminal Procedure and Evidence Code unfortunately does not provide for the treatment of digital evidence.

In 2016, the Electronic Transactions and Cyber Security Act was enacted in Malawi. One of the reasons for the enactment of the Act was to provide for investigation, collection, and use of electronic evidence.[3] The Act makes a distinction between electronic messages and electronic records. Section 3 of the Act defines electronic messages as any communication created, sent, received or stored by electronic communication means, such as computerized data exchange systems, electronic mail systems and instant messaging. Examples of electronic messages may include e-mails, WhatsApp Messages and voice notes sent between parties. The most important qualifier is that electronic messages are about communication between individuals. Electronic records on the other hand are defined by the same section 3 of the Act as any record created, generated, sent, communicated, received and maintained by electronic means. This includes videos, pictures, documents and audio that are recorded for the sole purpose of recording and not to be used as communication.

Sections 15 and 16 of the Act provide for the authentication and admissibility of electronic evidence. Section 15 provides that the originality of an electronic record will be satisfied if:

(a) There is reliable assurance of the integrity of the electronic record;

(b) The electronic record is capable of being displayed to the person to whom it is to be presented.

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[1] https://nij.ojp.gov/digital-evidence-and-forensics
[2] Sections 171 and 172 of the Criminal procedure and Evidence Code.
[3] Short title of the Electronic Transactions and Cyber Security Act.

The criteria for assessing the integrity of information is stated to be: whether it has remained complete and unaltered, save from the addition of any endorsement and any change which may arise in the normal course of communication, storage and display. As for the standard regarding admissibility of electronic evidence, the Court will consider:

(a) The reliability of the manner the electronic record was generated, displayed, stored or communicated.

(b) The reliability of the manner in which the integrity of the information was maintained and stored.

(c) The manner in which the originator of the electronic evidence was identified and any other factor that the Court may deem relevant.

III. JUDICIAL PRECEDENT

The courts in Malawi will generally view electronic evidence, including videos, voice recordings and text messages as hearsay evidence and, thus, not admissible. In the case of *Brown Mpinganjira v Dumbo Lemani and Davis Kapito*,[4] the court stated that a video recording is not admissible in court as it is considered hearsay evidence unless there is testimony defining and describing the provenance and history of the recording up to the moment of its production in court. This was a contempt of court case where the plaintiff was accusing the defendants of uttering defamatory statements about him in the media even though the court had ordered that the case was not to be discussed in the media. As proof of the defamatory remarks, the plaintiff brought a video tape which showed the defendants uttering the disparaging remarks at a political rally. The court, however, refused to admit the video recording as evidence, arguing that mechanically produced evidence is susceptible to tampering and unless its authenticity and chain of custody is established, the Court would be remiss to admit it as evidence and doing so would be putting the court in danger of infringing the constitutional rights of the defendants.

This decision was followed in the case of *Dr. Thomson Mpinganjira v The Republic*.[5] This was a bail hearing pending the determination of an appeal. The substantive case involved an attempted bribery of constitutional court judges in the 2020 elections case in Malawi. The principal witness in the case was a judge who recorded phone calls between himself and the accused person where the accused person was asking for a phone number of the chairperson of the constitutional court case, claiming that he had a package to deliver. The evidence was tendered by the judge who recorded the phone calls, and the accused person admitted that it was indeed him on the other end of the line. The court at first instance deemed the recordings admissible and the accused was convicted of attempted bribery. However, the appellant is now seeking an appeal and in the application for bail pending appeal, the convict argued that his case had a high likelihood of success seeing as how the evidence that convicted him should not have been admissible in the first place.

The court agreed that the case had a high likelihood of success upon appeal because, following the decision in the *Brown Mpinganjira* case, the audio recording should not have been admissible. The court stated that:

> *The Human Rights and Freedoms enshrined in our Constitution will be rendered useless if the trial courts are not cautious and do not get satisfied or do not warn themselves of the danger of audio recordings as well as about the source and history of this type of real evidence. It should not matter that the Appellant confirmed or admitted a conversation ensued between him and a prosecution's witness. If such were to happen, would it not mean that the courts of justice will be allowed to admit illegally obtained evidence like for example wiretapping without the sanction of the court? It is trusted that the Court will investigate these questions on appeal if they arise. In any event, it is common knowledge that accused's evidence should never be used to augment the evidence of the prosecution.*

[4] Civil Cause No. 222 of 2001.
[5] MSCA Criminal Appeal No. 9 of 2021.

IV. CHALLENGES

Having looked at the legal framework with regard to the admissibility of electronic evidence in Malawi, it is important to note that the implementation of the law is not without issues. Firstly, considering the fact that in order for electronic evidence to be admissible, it must be authenticated, and a proper chain of custody must be established, there are issues of expert witnesses that would need to be paraded in order to establish the same. This brings on issues of lack of structures and personnel that can properly extract and preserve the evidence from the electronic devices without tampering with the authenticity of the evidence.

In order to curb this, the government and state agencies must invest in training investigators in digital forensics and state-of-the-art digital forensic labs, thus ensuring that issues of admissibility due to authenticity and chain of custody are of no consequence.

Another aspect that needs to be considered when admitting electronic evidence is the source. Most of the time, electronic evidence is evidence gathered after a seizure or as a result of phone tapping. There has been an argument in the courts that evidence obtained through search, seizures and phone tapping is illegally obtained evidence as it violates the accused person's right to privacy. However, the courts have dealt with this matter by stating that whether to admit such illegally obtained evidence is at the discretion of the court. In the case of *Mike Appel & Gatto Limited v Chilima*,[6] the court stated that:

> *Where evidence is obtained illegally, improperly or unfairly, two opposing views exist, one in favour of admitting the evidence as long as it is relevant and necessary, and the other view is to exclude it regardless of its relevance and whether it is necessary. The former position represents English common law while the latter represents the view that rejects the fruit of the poisonous tree in some jurisdictions. Malawi has over time followed the English common law position that a court will exercise discretion to admit relevant evidence if in its view the probative value outweighs the prejudicial effect. That remains the position under Malawi law.*

This was also echoed in the recent decision in the case of *The state on the Application of Kezzie Msukwa & another v The Director of the Anti-Corruption Bureau*,[7] where the Court held that:

> *There is no rule of law in Malawi to the effect that illegally obtained evidence is inadmissible as Counsel sought to suggest. It is my conclusion that the position in Malawi mirrors very closely that which was articulated by the Supreme Court of Ghana, which is that save for instances where the law as prescribed expressly disallows evidence obtained in specific circumstances amounting to violation of certain rights guaranteed by the Constitution or other law, the framework of our constitution and indeed our broader legal system anticipates that where evidence obtained in violation of human rights is sought to be tendered in proceedings, whether criminal or civil, and objection is taken, the court has to exercise its discretion and decide on a case by case basis, whether on the facts of the case, the evidence ought to be excluded or admitted.*

This is an ongoing case in which the evidence that led to the arrest of the accused persons was obtained through phone tapping. The accused persons brought a judicial review matter questioning the constitutionality of the arrest considering that the evidence was illegally obtained. This decision has propelled the fight against corruption in Malawi considering the fact that corruption is never conducted in the limelight. It has thus been hard for the Anti-Corruption Bureau in particular to balance the gathering of relevant, admissible evidence and the suspect's right to privacy.

[6] MSCA Appeal No. 30 of 2014.
[7] Judicial Review Cause No. 54 of 2021.

V. CONCLUSION

The handling of electronic evidence before the courts in Malawi is still in its infancy. There has not been a lot of jurisprudence regarding the issue of admissibility of electronic evidence, and Malawi still struggles from lack of technological advancement. Despite all this, all parties – including investigators, prosecutors and the courts – will have to adjust their perspective as the world is changing quickly and crime and the evidence proving the crime is no longer what it was. All parties involved in the justice system should focus on learning from other jurisdictions which have made advancements in the way they handle electronic evidence, which will, in turn, improve the way we handle corruption cases in Malawi.

CYBERCRIME AND DIGITAL EVIDENCE: THE NIGERIA POLICE FORCE IN PERSPECTIVE

*Olusoji Abraham Obideyi**

I. INTRODUCTION

Cybercrime refers to various forms of attacks against computers, digital devices and network systems which connect the cyberspace, whereas cyberspace is the interactive domain of digital networks that is essential for the effective running and operations of critical infrastructure sectors such as health, transportation, finance, energy, agriculture and food processing, including security. Cybercrime is notably a big challenge in Nigeria and all over the world, notwithstanding the criminal justice systems in existence. For any successful apprehension and prosecution of cybercrime in the society, a professional approach to finding, preserving, collecting, analysing and utilizing digital evidence is crucial.

Cybercrime is an act that violates the law, and it is perpetrated using Information and Communications Technology (ICT) to facilitate a crime or target networks, systems, data, websites and/or technology. Europol differentiates cybercrime into *cyber-dependent* and *cyber-enabled* crimes. The key distinction between these categories of cybercrimes is the role of ICT in the offence. When an ICT device is the target of the offence, the cybercrime negatively affects the confidentiality, integrity and/or availability of computer data or systems.[1]

The International Criminal Police Organization (INTERPOL) in Nigeria, among other security outfits within Nigeria, regularly churns out data on the trends of cybercrimes within Nigeria. These crime measurement tools and victimization surveys vary based on the types of cybercrime data collected and analysed, and the methods used in collecting and analysing the data.

Cybersecurity businesses and other private organizations that focus on security, business risk and/or threat analysis around the world publish cybercrime and/or cybersecurity trends reports based on historical cybersecurity incidents, and their types, frequency and impact. With the advent of new technologies – the Internet of things, drones, robots, self-driving cars and lots more – new cybercrime trends will definitely be unmasked.

A. Categories of Cybercrimes in Nigeria

There are diverse classifications and categorizations of cybercrime globally, for example, Maitanmi et al. (2013) classified cybercrimes into three main categories namely: Target Cybercrime (computer as target), Tool Cybercrime (computer as tool of cybercrime) and Computer Incidental (computer playing minor role in the crime).[2] However, the most common categorization of cybercrimes, and of course which was adopted by this paper, is as follows:

i. Cybercrime against people (individuals): These are activities targeted against individuals, their persons and property, and they include harassment via e-mails, cyberstalking, distribution of obscene materials, defamation, unauthorized control or access over a computer system, indecent exposure, e-mail spoofing, cheating and fraud, computer vandalism, transmitting viruses, net-trespass, intellectual property crimes, and internet time thefts.

ii. Cybercrime against Property: These are activities targeted against computer/digital infrastructures

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[1] https://www.unodc.org/e4j/en/cybercrime/module-1/key-issues/cybercrime-in-brief.html

[2] https://www.researchgate.net/publication/327111080_Impact_of_Cyber_Crimes_on_Nigerian_Economy

such as routers, communication masts and base stations (or BTS), database systems and corporate digital facilities. These crimes include DDOS attacks, hacking, virus transmission, cyber and typo squatting, computer vandalism, copyright infringement and IPR violations.

B. Cybercrime against Government[3]

Nigeria is made up of multiple and diverse ethnic groups, which by default, creates its own challenging social problems. After several pressing calls from business and civil society, legislators enacted the *Cybercrime Act 2015*, which created, among other provisions, laws related to the use and misuse of computer or electronic devices. But to date, yet to be identified is any breakthrough case that the Act has helped to conclude. This might not be unconnected to the lack of expertise required for law enforcement agencies and other stakeholders to convincingly prosecute offenders in the Courts of Law. So many times, court proceedings have had to rely on previous judgments to adjudicate on computer crime offences. This was the practice before the amendment of the Nigerian *Evidence Act of 2011*, which now provides for the admissibility of digital evidence. Out of all the hurdles against global works on stemming the threat of cybercrime remains the mysterious character of the identity of cybercriminals as noted by Ajayi (2016).[4]

It is instructive to note that even where there is legislation on cybercrime, the provisions of the said extant laws are not severe enough to deter cybercriminals from their illegal acts.[5] Also, a considerable number of law enforcement personnel do not really have an interest in technology; some of whom do not even care to surf the Web. Unfortunately, cybercriminals have advanced levels equal to, if not surpassing the skills of law-abiding technology professionals.

It is an established fact that cybercrime cases in Nigeria are mainly prosecuted by the Nigeria Police Cybercrime Units and the Economic and Financial Crimes Commission (EFCC) using documentary evidence collected during search and seizure raids carried out by the law enforcement agents. With the way cybercrime evidence is bring collected in Nigeria, all options must, therefore, be duly explored during digital evidence acquisition from collection through processing to preservation to ensure that when tendered in court, the suspect(s) related to the crime is/are undeniably and positively linked to the evidence for admissibility purposes during legal proceedings.

II. EFFECTS OF CYBERCRIMES AND GLOBALIZATION TO NIGERIA

Cybercrimes have inflicted severe consequences and loss to national economies in many respects. Governments world over, therefore, have engaged this monster in a serious fight in a bid to eradicate it. Serious and coordinated efforts have been made by governments, individuals and organizations on many continents of the world, including America, Asia, Europe and Africa, but the fight in Nigeria seems uncoordinated because the root causes of cybercrimes have not been unearthed or tackled. Consequently, the crimes seem to still be booming notwithstanding the pockets of efforts made by the government.

A. Effects of Cybercrimes on the Nigerian Economy

i. *Capital flight and loss of foreign investments:* capital which was supposed to have come to Nigeria is diverted to other African countries as a result of lack of confidence on Nigeria as a result of prevalent cybercrimes in the country.

ii. *Bad national image and reputation:* This creates lack of confidence in Nigeria and on Nigerians. Foreigners avoid dealing with Nigerians like lepers and this leads to lack of direct foreign investments. Also, many legitimate Nigerian online entrepreneurs are denied the opportunity to do business with nationals of other countries.

[3] Governments, firms, companies, and corporate bodies. These include hacking, accessing confidential information, cyber warfare, cyber terrorism against governments and corporations, operation/use of pirated software, espionage and so on.
[4] https://academicjournals.org/journal/JIIS/article-full-text-pdf/930ADF960210
[5] Ibid.

iii. *Rejection of certain countries by e-commerce communities or platforms:* This is one of the most visible and biggest challenges to genuine legitimate business personalities in Nigeria. Several e-commerce platforms or e-payment providers such as PayPal, eBay, MoneyGram, prohibit Nigeria, and some countries notorious to be safe havens for cybercriminals, from the use of their payment gateways.

iv. *Loss of revenue by banks, private individuals, government organizations to the activities of cybercriminals, especially in Nigeria:* This destroys confidence in the system and creates unnecessary fear in people having anything to do with online transactions.

B. Challenges in Cybercrime Investigation

With escalations in reports of serious cybercrimes, one would expect to see a corresponding increase in conviction rates. However, this has not been the case with many investigations and prosecutions failing to get off the ground. The chief causes of this outcome may be attributed to trans-jurisdictional barriers, subterfuge and the inability of key stakeholders in criminal justice systems to grasp fundamental aspects of technology-aided crime.[6]

Cybercrime has been on the agenda of the Nigerian Government for many years. Investigations – in particular of fraud-related cybercrime – have been carried out in particular by the Nigeria Police Cybercrime Unit, Economic and Financial Crime Commission (EFCC). The Federal Government of Nigeria adopted the National Cybersecurity Policy and Strategy otherwise known as "*The Cybercrimes (Prohibition, Prevention, Etc) Act, 2015*".

Gaps between the laws used for prosecution of cybercriminals and enforcement procedures in the Cybercrime Act, 2015 are often exploited by defence counsels when evidence tendered are found to be tainted and inconclusive to be admissible for successful prosecution of cases. When cybercriminals are apprehended, they have unfettered access to renowned private attorneys who charge very high legal fees. This is not a problem for the cybercriminals as they can readily afford to pay high professional fees to the best lawyers who specialize in cybercrime practice.

Similarly, presentation of digital evidence in legal proceedings is another important issue. Because lawyers and judges may have limited technical knowledge, the presentation of digital evidence must be done in a clear, easily understandable manner. It is noted that most legal professionals have a limited understanding of technology and tend to lack confidence in the ability of technical specialists to produce evidence that is admissible in a court of law. Judges should have some understanding of the underlying technologies and applications from which digital evidence are derived in order to justly evaluate the merit of such evidence.[7]

Other serious challenges that are worth mentioning are the issues concerning best practices, testing of digital forensic tools, and expert witnesses. Numerous digital forensic techniques are used by investigators and examiners; however, no best practice guides are currently available.

Laws and legislation regulating cyberspace tend to result in few prosecutions due to the jurisdictional difficulties and additional resources required in tracking down cybercriminals in different countries. The current legislation on cybercrime in Nigeria needs to be reviewed to meet the standards in developed countries. Nigeria was a country sorely challenged by weak forensic capacity, but it now has a state-owned, high-powered DNA Forensic Laboratory Centre which was described as the first in the whole of West Africa, known as the *Lagos State DNA Forensic Centre (LSDFC)* in addition to the EFCC's Digital Forensic Lab equipped by the UK government.

[6] Brown, C.S.D. (2015). Investigating and prosecuting cyber crime: Forensic dependencies and barriers to justice. International Journal of Cyber Criminology 9(1), doi: 10.5281/zenodo.22387

[7] Kessler, G. C. (2011). Judges' awareness, understanding, and application of digital evidence. Journal of Digital Forensics, Security and Law, 6(1). Retrieved from http://commons.erau.edu/db-security -studies/25

III. RECOMMENDATIONS

Having examined the various aforementioned concepts on this subject matter, below are some suggestions to ameliorate the already exacerbated situation on cybercrimes in Nigeria:

1. *Cooperation, awareness and enlightenment campaigns*: The existence of a suitable legal framework is not enough to fight criminality, such as cybercrime. An effective implementation based on the practice of the legal framework is also crucial. This can be achieved by, among other things, cooperation among investigative agencies and digital forensic laboratories (e.g. sharing information about procedures for preservation and collection of digital evidence, cooperation to obtain the results of analysis promptly, etc.).

2. *Computer technology curriculum*: Most law enforcement actors are not equipped with the necessary technological knowledge, whereas Internet criminals are experts in computer technology. To combat these crimes, it is necessary to educate and develop human resources as one of the most reliable strategies. In addition, universities, schools of higher education and academic institutions should open special courses designed to allow future generations of judges, prosecutors and lawyers to be trained in this very vital area.

3. *Capacity-building programmes for stakeholders*: There must be an improvement in the operational capacity and response of law enforcement authorities against cyberattacks. In this context, it is necessary to increase the number of experts in the field of investigating and prosecuting cybercrime. This is possible by frequently organizing specialized trainings and sending relevant officials abroad for specialization training. The specialization of experts in the field of cybercrime, as well as increasing their knowledge of domestic and international legislation in the field, and on the methods and ways of implementing this legislation in the most adequate and effective ways can be achieved through these trainings.

4. *Forensic expert qualification*: The reviewer of a forensic expert report should scrutinize the qualifications of a forensic examiner to avoid the unfortunate scenario wherein an unqualified forensic examiner produces a flawed or unreliable report. While no uniform set of standards exists to gauge the competency of a digital forensic examiner, reviewers should consider the most appropriate combination of certification, education and real-world experience, given the case at hand.

5. *Establishing reporting channels for individuals and public- and private-sector organizations*: Reports may trigger law enforcement investigations, provide intelligence for a better understanding of the scope, threat and trends of cybercrime, and allow for collating data to detect patterns of organized criminality.

IV. CONCLUSION

There is broad consensus that cybercrime investigations are hindered by insufficient knowledge and a skill gap of law enforcement officers as well as the relevant actors in the judiciary. This paper highlighted cybercrime trends in Nigeria, enumerates the effects of cybercrime and globalization on the economy of the nation, the challenges encountered by actors in criminal justice response to cybercrimes and other related offences. It concluded by discussing ways on how to bridge the gap that exists among legislators, investigators, and prosecutors in Nigeria, and furnished recommendations to address the peril of cybercrime threats.

Certainly, as digital evidence grows in both volume and importance in criminal and civil courts, judges need to fairly and justly evaluate the merits of the offered evidence. To do so, judges need a general understanding of the underlying technologies and applications from which digital evidence is derived. In order to meet the needs of stakeholders in a concerted, complementary and sustainable manner, awareness must be created among the key stakeholders (i.e., legislators and law enforcement officers).

CYBERCRIME AND DIGITAL EVIDENCE IN PANAMA

*Evelyn Medina**

I. INTRODUCTION

The development of the Internet and the proliferation of computer technology has created new opportunities for those who would engage in illegal activity. The rise of technology and online communication has not only produced a dramatic increase in the incidence of criminal activity, it has also resulted in the emergence of what appear to be some new varieties of criminal activity. Both the increase in the incidence of criminal activity and the possible emergence of new varieties of criminal activity pose challenges for legal systems, as well as for law enforcement.

The cybersecurity issues have gained renewed importance since the pandemic of the new SARS-CoV-2 virus causing Covid-19 disease in Panama. Cyber-criminals have increased significantly, such as phishing, identity theft, e-mail spoofing and others, as the world becomes more interconnected, crimes of this nature are rapidly expanding.

The complex nature of cybercrime, as one that takes place in the borderless realm of cyberspace, is compounded by the increasing involvement of organized crime groups. Perpetrators of cybercrime, and their victims, are often located in different regions, and its effects ripple through societies around the world.

The restrictions imposed by governments in response to the coronavirus pandemic have encouraged victims to work from home, and even stay at home. As a consequence, technology has become even more important in both our working and personal lives. Cyberattackers see the pandemic as an opportunity to step up their criminal activities by exploiting the vulnerability of their victims working from home. Prior to the pandemic, human error was already a major cause of cyberinsecurity, employees would unknowingly or recklessly give access to the wrong people. With more people working at home, however, the problem is even greater. People were affected because names, passwords, email addresses were stolen.

Information and Communication Technologies (ICTs) permeate all aspects of life, providing newer, better and quicker ways for people to interact, network, gain access to information and learn.[1] Digitization and the emerging use of ICTs has a great impact on procedures related to the collection of evidence and its use in court. As a consequence of this development, digital evidence has been introduced as a new source of evidence. Handling digital evidence is accompanied with unique challenges and requires specific procedures. One of the most difficult aspects is to maintain the integrity of the digital evidence. Digital data are highly fragile and can easily be deleted or modified.

Digital evidence plays an important role in various phases of cybercrime investigations. In a court of law, evidence is of supreme importance; it is crucial to establish facts.

II. CURRENT SITUATION IN PANAMA

Panama is a signatory to the 2001 Budapest Convention on Cybercrime, approved by Law No. 79 of 2013. The Convention on Cybercrime, also known as the Budapest Convention on Cybercrime or the Budapest Convention, is the first international treaty seeking to address Internet and computer crime (cybercrime) by

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[1] https://www.thehansindia.com/business/how-digital-forensics-helping-police-gather-evidence-against-cybercrime-721668

harmonizing national laws, improving investigative techniques and increasing cooperation among nations.[2] This law refers to the convention on cyber-crime, terminologies, measures to be adopted at the national level, computer crimes, crimes related to child pornography, crimes related to infringement of intellectual property and related rights, among others.

The institution responsible for the supervision and direction of matters related to information security is the National Authority for Government Innovation (AIG) that operates under the Computer Security and Incident Response Team of Panama (CSIRC). There are two agencies responsible for the coordination and judicial investigation of cybercrime.

The Computer Security and Incident Response Team of Panama (CSIRT) is the national entity in charge of facilitating security incident response information nationwide. The CSIRT of Panama maintains close collaboration with other national CSIRT's of the region and worldwide.

Panama does not have an independent law to investigate, prosecute and punish cybercrime. The legal framework for the investigation and prosecution of cybercrime is mainly contained in the Criminal Code of the Republic of Panama in its Title VIII, on crimes against the "Legal Security of Electronic Media" categorizes crimes against computer security.

The main challenge for national criminal legal systems is the delay between the recognition of potential abuses of new technologies and necessary amendments to the national criminal law. We need to update our laws to comply with the commitments made when we signed the Budapest Convention.

At this time everyone can be a victim of cybercrime. Prosecutors need more tools and need to gain more knowledge on this topic. Every day, new technologies are created and cyberattacks are becoming more constant. We need to pursue, adjudicate, prosecute our investigations in the need to obtain quickly digital evidence, before we lose the information that most of the time are stored in other servers. In criminal investigations we need to identify the relevant evidence, followed by collection and preservation of the evidence, the analysis of computer technology and digital evidence; finally, the evidence needs to be presented in court.

The most common attempts of breach come by impersonation and are sent through emails, WhatsApp messages or by phone calls. Most criminals leave a digital footprint; a suspect's IP address, posting on a social media platform or using their mobile device for everyday use in place of a traditional computer and camera. However, this task has not been easy, derived from the difficulty of determining different aspects of the commission and persecution of cybercrime.

The Public Ministry of Panama reports a 421 per cent increase in complaints submitted relating to cybersecurity compared with 2016. Statistics indicate that the overall number increased in 2020 and 2021. From January to April 2021 Panama received 794 complaints submitted relating to cyber-crime.[3]

The following numbers have been extracted from national crime statistics and presented only to provide an insight into our country information. Furthermore, statistics only list crimes that are detected and reported. Especially with regard to cybercrime, there are concerns that the number of unreported cases is significant. The financial damage caused by cyberattacks is estimated in USD 20 thousand dollars per day.[4]

Since the pandemic, the Public Ministry have called for various awareness campaigns with national institutions to inform citizens on cyberrisks and to foster the use of best practices related to information security and the fight against cyber-crime.

Digital evidence plays a critical role in solving crimes and preparing court cases, and we often have difficulties to obtain the digital evidence in proper time. The biggest thing prosecutors were facing pre-Covid,

[2] https://en.wikipedia.org/wiki/Convention_on_Cybercrime
[3] https://ministeriopublico.gob.pa/el-ciberdelito-es-real-ministerio-publico-y-policia-nacional-lanzan-campana-de-prevencion-del-delito/#:~:text=En%20Panam%C3%A1%20de%20enero%2Dabril,solo%20en%20el%20%C3%A1rea%20Metropolitana.
[4] https://www.laestrella.com.pa/nacional/210519/cibercrimen-dispara-aumento-344-ultimos

and continue to face today, is the ability to get access to evidence. For example, in crimes against morality, Facebook did not give us a response. They argue that they only respond to serious crimes like terrorism, making it very difficult to obtain the digital evidence that we need to follow up our criminal cases.

Digital evidence is a relatively new phenomenon for law enforcement investigations and yet more cases are relying on it. Investigators are limited to their own territory, and traditional ways to obtain evidence from other jurisdictions are often not effective. This underlines the need for effective criminal justice action.

A specialized investigation unit on computer crime was created in Panama within the Directorate for Judicial Investigation, and it is under current development. This specialized investigation unit will provide capacity and training to conduct investigations and digital forensics activities.

Our country is governed by an adversarial system of criminal procedure, which raises the standard of guarantees in favour of those processed or investigated. Therefore, the more elements that are provided in the formal letter of assistance on the seriousness of the facts and the relevance of the element that is requested through international cooperation, the more likely that we can have prior or subsequent judicial authorizations, depending on what is requested.

Internet service providers (ISP) are required by Law 51 of September 2009 to provide information at the request of the prosecutors. Subsequently, it must be brought before a Judge of Guarantees, to validate the obtaining of the data.

The Office of the Prosecutor has created an action protocol, precisely, to provide all requirements with diligent, fast and efficient treatment, for which we have consulted our Office of International Affairs, our forces of order and other intervening parties, to act in a manner precise and adequate to the request made by different colleagues from other countries.

Investigating and prosecuting cybercrime requires internet-specific tools and instruments that enable competent authorities to carry out investigations. In this context, instruments to identify the offender and collect the evidence required for the criminal proceedings are essential. These instruments may be the same as those used in traditional terrorist investigations unrelated to computer technology. But in a growing number of internet-related cases, traditional investigation instruments are not sufficient to identify an offender.

Cybercrime investigations need the support and involvement of authorities in all countries involved. This is the number one barrier to prosecuting cybercrime. Most of the time, the person committing the crime is located outside of the country (or at least outside the legal jurisdiction of the court and prosecutors seeking the conviction). It is hard enough to successfully prosecute cybercriminals if they originate in the same jurisdiction as the victim, but it is close to impossible when both reside in different locations.

III. PRACTICAL CASE

A practical case that we constantly see in practice since the Covid-19 pandemic is identity theft – when criminals steal a victim's personal information to commit criminal acts. Using this stolen information, a criminal takes over the victim's identity and conducts a range of fraudulent activities in their name.

Cybercriminals commit identity theft by using sophisticated cyberattack tactics, including social engineering, phishing, malware, stealing mail, digging through dumpsters, sending SMS or WhatsApp messages to victims' cell phones. Unfortunately, most people only discover they're victims of identity theft when they attempt to open a bank account, when someone collects government benefits owed to the victim or when the cybercriminal transfers funds out of the victim's account without the victim noticing.

This chain of events often starts with one strategically written phishing email. It convinces the victims to click a link to update their password, giving the cybercriminal access to a corporate database and the victim's personal information.

IV. CONCLUSION

The investigation and prosecution of cybercrime presents a number of challenges for law-enforcement agencies. It is vital not only to educate the people involved in the fight against cybercrime but also to draft adequate and effective legislation.

The world of cybercrime is complicated. There are too many cybersecurity incidents and too few law enforcement resources available to keep up with the crime. To add more complexity to the issue, there are jurisdictional boundaries that prevent criminals from being prosecuted. Criminals may deliberately choose targets outside their own country and act from countries with inadequate cybercrime legislation.

Effectively combating, investigating and prosecuting such crimes requires international cooperation between countries, law enforcement agencies and institutions backed by laws, international relations, conventions, directives and recommendations culminating in a set of international guidelines to fight cybercrime. There are many challenges to international cooperation and establishing international guidelines to fight global cybercrime across borders.

AUTHENTICITY OF DIGITAL EVIDENCE AND CURRENT CHALLENGES

*Avantha Lakmal Bandara Wickramasooriya**

I. INTRODUCTION

There are 11.34 million internet users, 8.20 million social media users and 32.29 million mobile connections in Sri Lanka.[1] There were 3566 cybersecurity-related incidents reported in Sri Lanka in 2019, whereas, in 2022, 16,376 incidents were reported to SLCERT.[2] The cybercrime unit of the Sri Lanka Police department receives about 2,500 cybercrime incidents per year.[3] This speaks volumes of the amount of electronic evidence which the courts of Sri Lanka will encounter in the future. Irrespective of the nature of the crimes the final expectation of criminal trials is the acceptance of the electronic evidence presented in a case and proof of the guilt of perpetrators. The conclusion of the judge is based on the context or evidence he/she is satisfied with and understands. However, the law may establish certain evidential rules for the judge to adhere to.

The traditional Sri Lankan legal regime consists of the Penal Code, Code of Criminal Procedure Act, and The Evidence Ordinance. The advancement of the legal regime of Sri Lanka on information Technology commenced with Information and Communication Technology Act No. 27 of 2003. Thereafter, Intellectual Property Act No. 36 of 2003 was enacted with several new features in relation to the protection of software, trade secrets and integrated circuits in relation to the protection of intellectual property rights. To facilitate and govern the use of ICT in government and establishment of e-government services, the Electronic Transactions Act No. 19 of 2006 was enacted. This was based on the standards established by the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce (1996) and Model Law on Electronic Signatures (2001). The Payment and Settlement Systems Act No. 28 of 2005 and Payment Devices Frauds Act No. 30 of 2006 were enacted to have certainty in the electronic payment systems and to preserve their integrity. The Computer Crimes Act No. 24 of 2007 provides for the identification of computer crimes and stipulates the procedure for the investigation and enforcement of such crimes. The applicable provisions related to evidence are stipulated primarily in the Evidence Ordinance and on the admissibility of electronic evidence, Evidence (Special Provisions) Act No. 14 of 1995 and Electronic Transactions Act No. 19 of 2006 are the two statutes applicable in Sri Lanka. This study aims to identify the extent of the authenticity, strength and challenges of digital or electronic evidence in criminal trials, by identifying legislative trends in Sri Lanka and the legal systems of other jurisdictions.

II. DEFINITION OF ELECTRONIC EVIDENCE

Evidence (Special Provisions) Act No. 14 of 1995 and Electronic Transactions Act No. 19 of 2006 of Sri Lanka do not contain any definition of the term electronic evidence. As defined by the Council of Europe, electronic evidence or digital evidence may take the form of text, video, photographs or audio recordings. Data may originate from different carriers or access methods, such as mobile phones, webpages, onboard computers, or GPS recorders, including data stored in a storage space outside the party's own control.[4] One

* Judge of the High Court of Sri Lanka and the Deputy Director of the Sri Lanka Judges' Institute, Sri Lanka.

[1] Digital 2022 Sri Lanka <https://datareportal.com/reports/digital-2022-sri-lankaaccessed > accessed 5 Jun. 2022.

[2] CERT Annual Activity Report<www.cert.gov.lk/Downloads/General/Sri_Lanka_CERT_Annual_Activity_Report_2020.pdf> accessed 5 Jun. 2022.

[3] Police cautions public about cyber crimes< https://www.newsfirst.lk/2022/02/26/police-cautions-public-about-cybercrimes> accessed on 6 Jun. 2022.

[4] Electronic Evidence <https://rm.coe.int/guidelines-on-electronic-evidence-and-explanatory-memorandum/1680968ab5>

of the most significant definitions of "electronic evidence" was given by the Evidence project, which operates under the auspices of USAID, according to which electronic evidence is any data resulting from the output of an analogue device and/or a digital device of potential value that are generated, processed, stored, or transmitted using any electronic device. Digital evidence is that electronic evidence that is generated or converted to a numerical format.[5] This definition of electronic evidence has broader applicability than description by the Standard Working Group on Digital Evidence or the International Computer Evidence Organization,[6] as it includes both digitally born evidence and that which in the course of its life is transformed and then stored or exchanged in electronic form.

III. CLASSIFICATIONS OF ELECTRONIC EVIDENCE

Electronic evidence can be categorized into several divisions and classifications according to various criteria.

A. Classification by Type[7]

This includes documents written on a computer, messages written and sent via e-mail, and texts sent by mobile phone or voice recordings. The electronic evidence can be recorded and stored on a cell phone or on an app. Digital photos, either as hard copies printed out or stored digitally, are clear examples of the visual facts of the crime.[8]

B. Classification by Method

Classification by method of data creation was established by the US Department of Justice in 2002.This includes records created with computer software, known as outputs, such as log files, ATM bills, and mobile phone records, records saved by plugging data created by computer programmes and software, inputs processed by Excel calculations, records kept on computer, such as written documents, and saved as word processing files, chat room messages, and saved e-mails.[9]

C. Classification by Purpose

The third category of classifying electronic evidence is according to the purpose for which it was created. Accordingly, electronic evidence is subdivided into two categories. The first is evidence fit to be means of proof.[10] This includes phone bills and computer records, records part of which has been saved in the machine and processed by software. The second subdivision is evidence not prepared as a means of proof. This type of digital evidence is unintentionally left behind by the perpetrator.[11]

IV. CHARACTERISTICS OF ELECTRONIC EVIDENCE

Electronic evidence has characteristics that distinguish it from other traditional forensic evidence, and the most prominent characteristic is electronic evidence being scientific.[12] Such evidence is used to provide valid data and facts that have been presented for proving or denying the culpability of an offender using high-quality science and data to make sure that the evidence can be relied upon by a court of law.[13] Therefore,

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accessed 5 Jun. 2022.

[5] Biasiotti MA, Cannataci JA, Bonnici JPM, Turchi F (2018) Introduction: opportunities and challenges for electronic evidence. In: Handling and exchanging electronic evidence across Europe. Springer, Cham, Switzerland, pp. 3–12.

[6] Scientific Working Groupe on Digital Evidence <https://www.swgde.org/documents/published> accessed 5 Jun. 2022

[7] Warken, C. (2018) Classification of electronic data for criminal law purposes, vol 4.

[8] Mason S, Seng D (2017) Electronic evidence. University of London Press <https://doi.org/10.14296/517.9781911507079

[9] Abdel-Muttalib MAM (2006) Search and criminal investigation in the digital computer and Internet crimes. National Library.

[10] Moussa, A.F. Electronic evidence and its authenticity in forensic evidence. *Egypt J Forensic Sci* 11, 20 (2021).

[11] Ibid.

[12] See note 6.

[13] See note 9.

each type of evidence is subjected to a test of its validity. This is an implementation of the rule that the law seeks justice or knowledge to elicit the truth. Therefore, electronic evidence presented to a court of law should be based on scientific logic, and there should be no doubt to its validity.[14]

Information technology includes many types of digital data that can be transmitted electronically. Electronic evidence is a link between that data and the crime, and also a link between the victim and the perpetrator.[15] Electronic evidence is analytical and able to monitor important information about the perpetrator and allow forensic specialists to analyse their electronic or digital footprints to identify the movements, habits, and electronic behaviours of a perpetrator. It is required for forensic evidence to be accepted as evidence if it is obtained legally. Investigators are required to collect evidence according to the policies and procedures set by law.[16]

V. CONCEPT OF TRUSTWORTHINESS

Any judge who hears and determines a case involving electronic evidence will certainly consider the trustworthiness of the witnesses and the evidence tendered. There are two qualitative dimensions of the concept of trustworthiness.

- Reliability
- Authenticity

Reliability means to demonstrate that the record can stand for the facts to which it attests. Authenticity means the record is what is claims to be.[17] Reliability and authenticity are conditions precedent to admissibility.[18]

VI. SRI LANKAN PERSPECTIVE

The admissibility of electronic evidence is considered in accordance with the provisions of the Evidence (Special Provisions) Act No. 14 of 1995 and Electronic Transactions Act No. 19 of 2006 in Sri Lanka. Section 4 of the Evidence (Special Provisions) Act stipulates how any contemporaneous recordings are admissible. In a similar manner, section 5 of the said Act stipulates the manner in which any information contained in any statement produced by a computer shall be admissible. In either case, it is a prerequisite to give 45-days' notice before the date fixed for inquiry or trial, in accordance with section 7 of the said act. In the case of *Abeygunawardena vs. Samoon and others*,[19] the Court of Appeal held that compliance with section 4 is mandatory for electronic evidence. In the case of *Attorney General vs Potta Nauffer and others*,[20] the court accepted the computer-generated evidence in respect of telephone call records as admissible as there was sufficient compliance with the provisions of the Evidence (Special Provisions) Act. Section 22 of the Electronic Transactions Act No. 19 of 2006 stipulates the situations where the Electronic Transactions Act is not applicable. Further, section 21 stipulates that the court shall, unless the contrary is proved, presume the truth of the information contained in a data message, or any electronic document. Therefore, it demonstrates that there is a dual regime applicable in Sri Lanka in respect of admissibility of electronic evidence.

[14] Golubtsov VG (2019) Electronic evidence in the context of e-justice. Civil Procedure Bull 9(1):170–188. https://doi.org/10.24031/2226-0781-2019-9-1-170-188

[15] Losavio MM, Pastukov P, Polyakova S, Zhang X, Chow KP, Koltay A, James J, Ortiz ME (2019) The juridical spheres for digital forensics and electronic evidence in the insecure electronic world. Wiley Interdiscip Rev Forensic Sci 1(5):e1337.

[16] Rajan AV, Ravikumar R, Al Shaer M (2017) UAE cybercrime law and cybercrimes – an analysis. In: 2017 International Conference on Cyber Security and Protection of Digital Services (Cyber Security). IEEE, p. 1-6.

[17] Heather MacNeil, Trusting Records, Legal Historical and Diplomatic Perspectives- Kluwer Academic Publishing 2000.

[18] Daniel K.B. Seng, Computer output as evidence, 1977 sing JLS 161-3

[19] 2007 I SriLR 276.

[20] 2007 2 Sri LR 144.

The United Nations Office on Drugs and Crime has formulated a module[21] for Digital evidence admissibility, assessment, consideration and determination.[22] This module consolidates common legal and technical requirements for evidence admissibility across jurisdictions. More importantly, this module paves the way for standardization of digital forensics practices, which is key to ensuring the admissibility of digital evidence across different jurisdictions. *Taking in to account the transnational nature of cybercrime, such a harmonization of digital forensics practices is not only of paramount importance to the investigation of cybercrime, but is also essential to international cooperation on cybercrime matters.*[23]

It will be crucial to see how the evidence collected after the Easter Sunday Attacks, May 9th Incidents and the evidence found in social media is presented to court as electronic evidence.

VII. CONCLUSION

The study leads to the conclusion about the need for the adoption of international agreements on harmonization of digital forensic practices to preserve electronic evidence from destruction and vandalism, and obligate countries to implement and abide by these agreements.

In order to achieve ultimate results from adopting uniform digital forensic practices, capacity-building of those responsible for investigating and prosecuting crimes related to computer and information technology must be implemented continuously. Further, it is also necessary to develop capacity-building programmes for judges on assessing electronic evidence, focusing on the technological aspects of electronic crime which would enable the justice professionals to find the perpetrators of cybercrime and obtain evidence to convict them.

[21] https://www.unodc.org/e4j/en/cybercrime/module-6/key-issues/digital-evidence-admissibility.html

[22] Albert Antwi-Boasiako, Hein Venter. A Model for Digital Evidence Admissibility Assessment. 13th IFIP International Conference on Digital Forensics (DigitalForensics), Jan 2017, Orlando, FL, United States. pp. 23-38, ff10.1007/978-3-319-67208-3_2ff. ffhal-01716394f

[23] Ibid.

REPORT OF THE COURSE

The 178th International Training Course on Criminal Justice (Online) "Cybercrime and Digital Evidence"

1. Duration and Participants

- From 14 June to 7 July 2022
- 29 overseas participants from 14 jurisdictions

2. Programme Overview

Criminals abuse newest cyber technologies and leave digital footprints at all stages of their activities. Digital evidence crosses borders so easily that investigation and prosecution have become even more challenging. This programme provided criminal justice authorities with knowledge and expertise to tackle all crimes that involve digital evidence. Particular focus was placed on (1) finding, preserving, collecting, analysing and utilizing digital evidence and (2) international cooperation regarding investigation of cybercrime and all other crimes that involve digital evidence. This programme was exclusively conducted online due to the Covid-19 pandemic.

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", "The overview of Rules of Evidence in Japan" and "Legal Developments Related to Digital Evidence in Japan". The visiting experts from overseas and Japanese experts also gave informative lectures:

- Visiting Experts
  - Ms. Lina Aksu
    Judicial Cooperation Officer
    Eurojust, SIRIUS Project Team
    "Challenges investigating cybercrime and gathering cross-border digital evidence"

  - 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"

- Ad hoc lecturer
  - Mr. YAMAZAKI Takayuki
    Deputy Director, Traffic Planning Division, Traffic Bureau National Police Agency
    "Tackling Cybercrime at INTERPOL"

  - Mr. WATANABE Kazuhiko
    Assistant Director, Cyber Policy Planning Division Cybercrime Affairs Bureau, National Police Agency "Cybercrime Realities and Countermeasures"

  - Mr. HARASHIMA Ichiro Public Prosecutor
    Criminal Affairs Department, Osaka District Public Prosecutors' Office "Practical Operations on Electronic Evidence, etc."

(2) Group Work

Participants were divided into four 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) finding, preserving, collecting, analysing and utilizing digital evidence and (ii) international cooperation regarding investigation of cybercrime and all other crimes that involve digital evidence.

  - Finding, preserving, collecting, analysing and utilizing digital evidence
    First, common issues mainly discussed were "capacity-building of criminal justice practitioners dealing with digital evidence", considering that there were differences in the legal systems and procedures for the handing of digital evidence in each country. The participants, based on the actual situation in their respective countries, exchanged opinions on the "necessity of acquiring specialized knowledge" and "enhancement of digital forensic technology and equipment". Proposals were made regarding the need for public relations and awareness-raising activities as part of measures against cybercrime, and many pointed out the importance of public-private partnerships for that purpose.

  - International cooperation regarding investigation of cybercrime and all other crimes that involve digital evidence
    Regarding international cooperation, the general issues are the delay in responding to requests for mutual legal assistance in investigations, the complexity of procedures, and the small number of member countries of the Budapest Convention. As measures to promote international cooperation, the participants were in favour of promoting informal information exchanges, recognizing the necessity of collecting and analysing digital evidence in collaboration with law enforcement agencies in other countries.

(3) Action Plans
Each group 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

Almost all participants commented that they would have preferred face-to- face training in Japan; however, various lectures and discussions were enriched, and informative knowledge and practices were exchanged during the online course.

5. Comments from the Programming Officer

The theme of "Cybercrime and Digital Evidence" is an issue that all countries are interested in, and I felt the enthusiasm of each participant in the course. Information and communication technology is advancing day by day, and new types of cybercrime are appearing one after another. In this regard, effective countermeasures against them have become an urgent issue in each country. For this reason, as each lecture contained cutting-edge knowledge and practical experiences, including contents that were difficult for participants to obtain in their own countries, the participants were highly interested, which led to active discussions. We hope that the knowledge gained from this course will be utilized in the development and enhancement of each participant's jurisdiction.

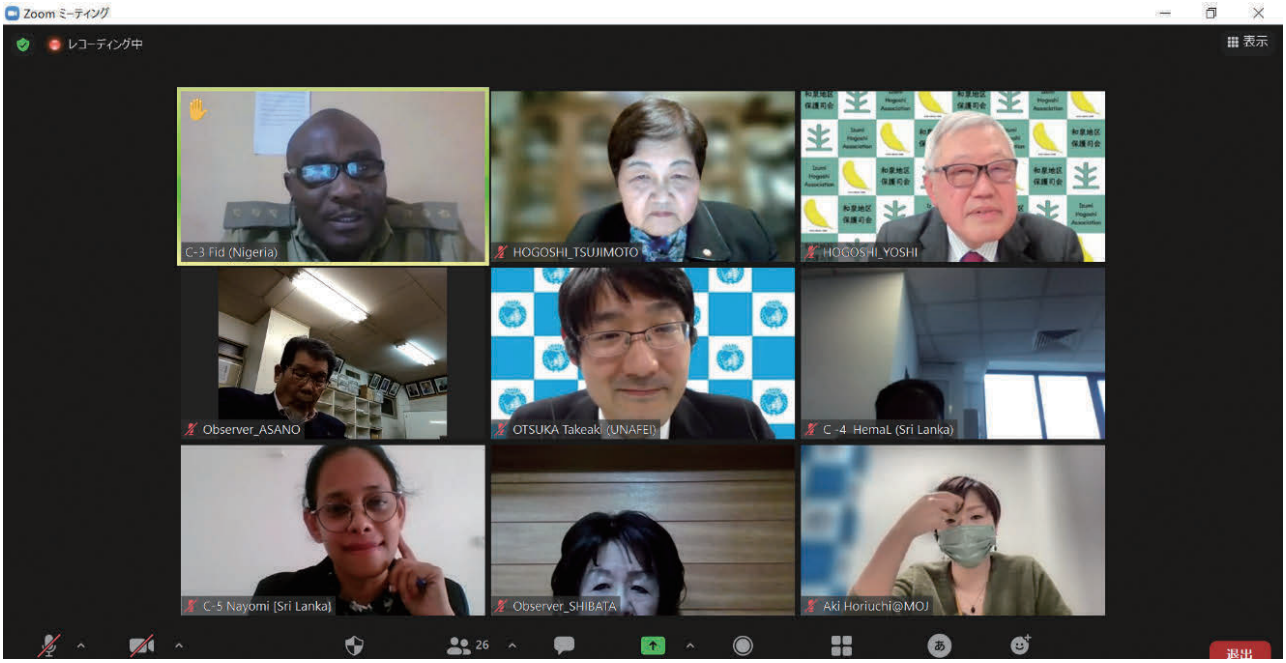
RESOURCE MATERIAL SERIES
No. 114

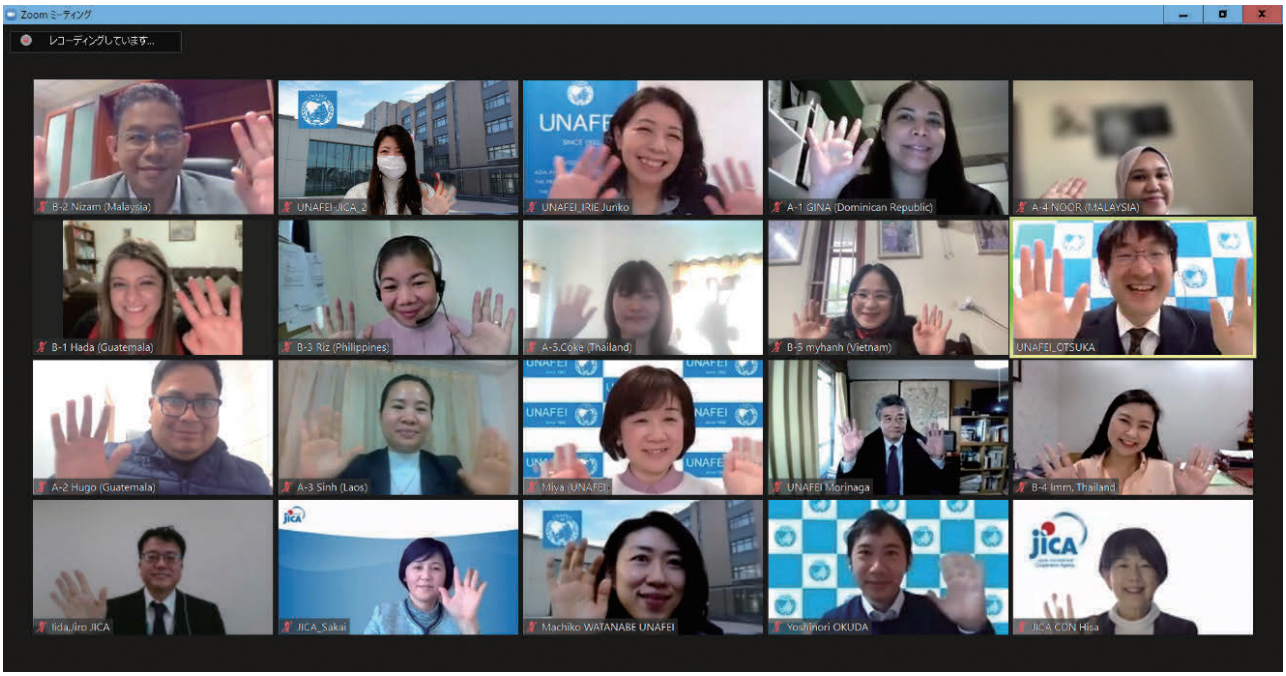
APPENDIX

UNAFEI

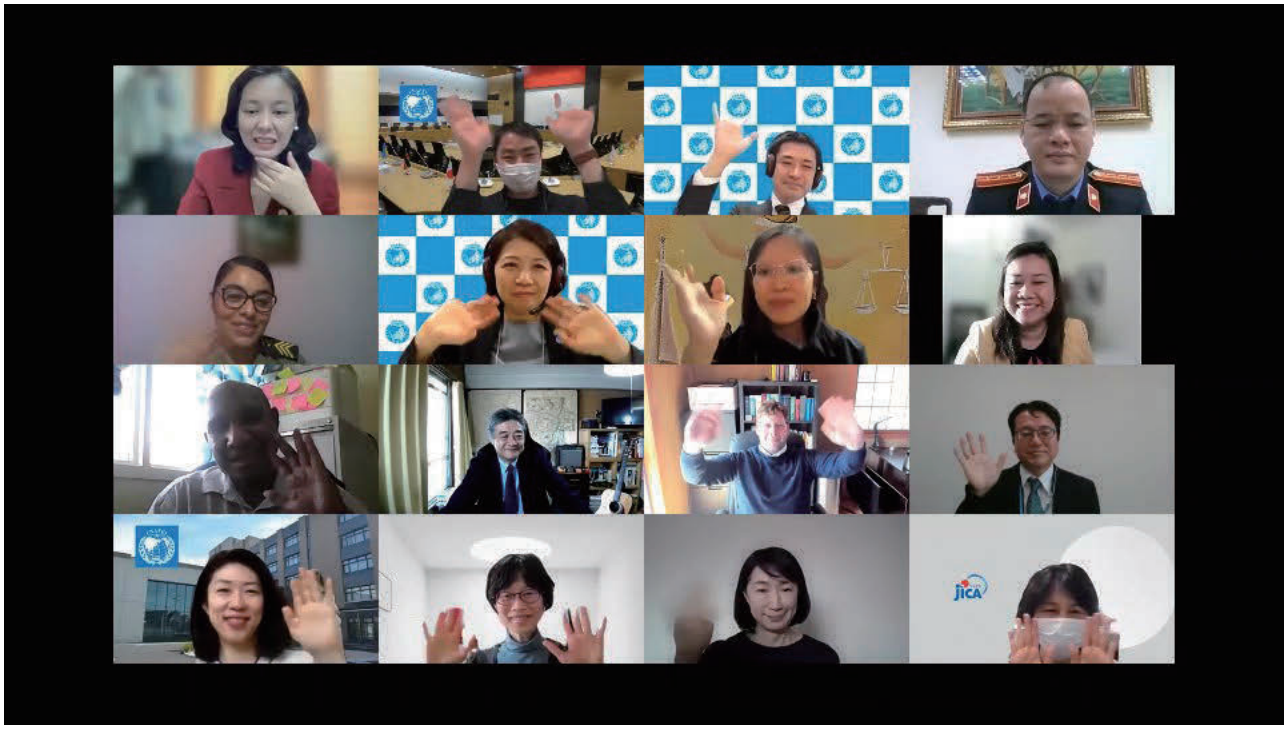
PHOTOGRAPHS

THE 177TH INTERNATIONAL SENIOR SEMINAR

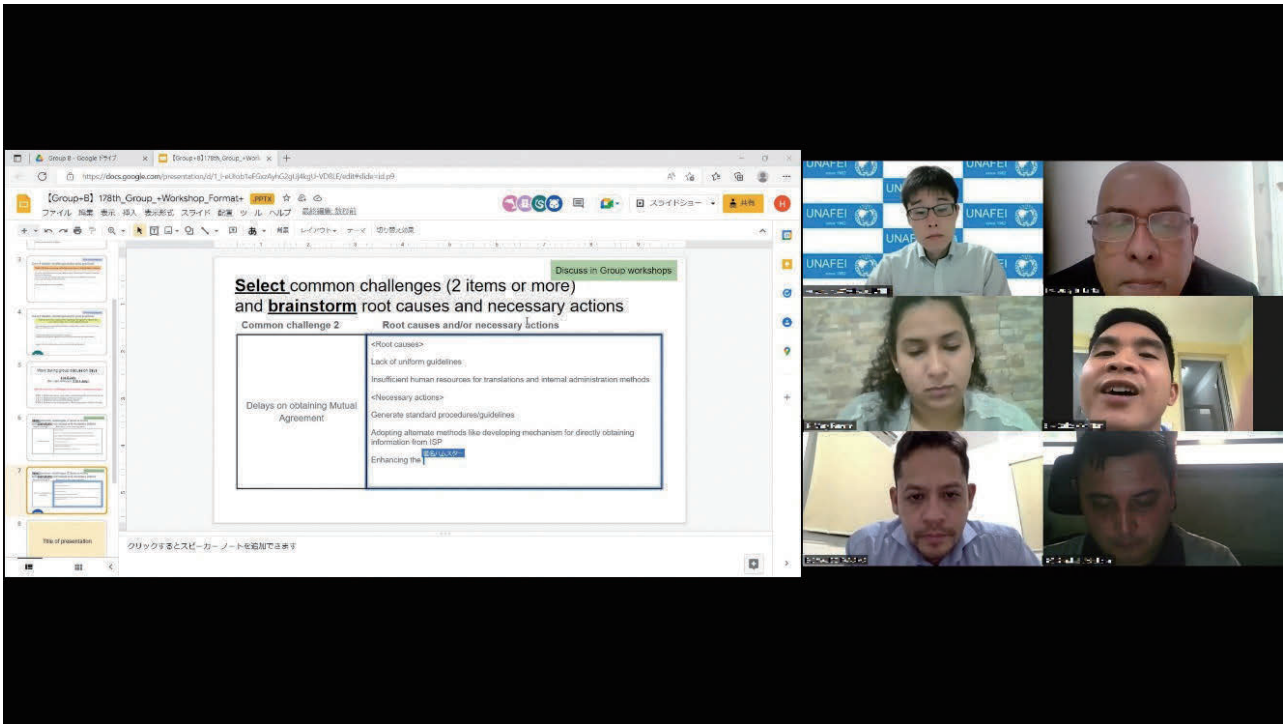




THE FIRST INTERNATIONAL TRAINING COURSE ON BUILDING INCLUSIVE SOCIETIES



THE 178TH INTERNATIONAL TRAINING COURSE



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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
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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
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9	International Evaluation Seminar	37	Jul 1974
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	NB: Resource Material Series Index, Nos. 1-10 (p. 139)	n/a	Oct 1975
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12	Formation of a Sound Sentencing Structure and Policy	42	Feb-Mar 1976
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17	Treatment of Dangerous or Habitual Offenders	51	Feb-Mar 1979
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18	Roles of the Criminal Justice System in Crime Prevention	53	Sep-Dec 1979
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20	Institutional Treatment of Adult Offenders	55	Apr-Jul 1980
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	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
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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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26	International Cooperation in Criminal Justice Administration	65	Feb-Mar 1984
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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
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	Report of the International Workshop on the Role of Youth Organizations in the Prevention of Crime Among Youth	n/a	Jul 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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	Innovative Measures for Effective and Efficient Administration of Institutional Correctional Treatment of Offenders	82	Apr-Jul 1989
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37	Crime Prevention and Criminal Justice in the Context of Development	83	Sep-Nov 1989
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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
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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
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57	International Cooperation to Combat Transnational Organized Crime—with Special Emphasis on Mutual Legal Assistance and Extradition	114	Jan-Feb 2000
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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
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