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VISITING EXPERTS' PAPERS

RECENT TRENDS OF ORGANISED CRIME IN EUROPE: ACTORS, ACTIVITIES AND POLICIES AGAINST THEM

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I. EUROPE: A CROWDED MARKET PLACE AND CROSSROADS

The internal situation of the European Union countries is characterised by the relevant and stable presence of Italian organised crime groups, not only in the country of origin. But also in France, Germany and sporadically, even in Austria and the United Kingdom. It is also characterised by the development of "domestic bilateral organisations" operating from country to country, e.g between Belgium or Great Britain and the Netherlands, for taking advantage of the opportunities offered by drug price differences in these countries. In other countries there is the presence of domestic organised groups (gangs), specifically in France, Great Britain and Spain.

The European Union is also the crossroads for other criminal groups operating internationally. The west Colombian cartels are still predominant in the importation of cocaine, helped by national criminal groups. Galicians in Spain and mafia in Italy co-operate with the cartels to import and distribute cocaine in the whole of Europe. From the south, Nigerian groups characterise the drug traffic and exercise their expertise in the area of fraud. Other groups from the Maghreb area are involved in hashish importation. From the East, Chinese Triads have established stable communities in Spain, the Netherlands, the United Kingdom, Italy, Austria, Belgium and Portugal, Their main activities of drug trafficking, alien smuggling, local extortion, illegal gambling and prostitution rackets are interrelated. Turkish and Pakistani groups control the trafficking of heroin from the Middle East and Central Asia, through former Yugoslavia or other Eastern countries.

Part of Europe's modern criminal history is the threat of the progressive expansion of organised groups from eastern and central Europe, mainly from Russia. But to call these groups "Russian" means keeping an old label for a new product. The process of criminal fragmentation that is happening today in Russia, in other CIS Republics and the states of the former Yugoslavia should be considered with extreme attention, especially for the future implications it could have on the European geography of organised crime. Talks with national law enforcement agencies in many European countries confirm that groups of Russian, Polish, Czech, Rumanian and former Yugoslav origin are active in Spain, Germany, Finland, Austria, the United Kingdom, the Netherlands and Sweden. Their main activities are drug trafficking, the export of stolen cars, alien smuggling and prostitution.

II. MULTIPLICATION OF TRAFFICKING ROUTES AND RAMIFICATIONS OF EUROPEAN KEY POINTS

The organised crime development in Europe shows a progressive multiplication of trafficking routes either by sea, air or land towards Europe and the ramifications

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from European key points to outside countries. Spain and Italy are still the major entry points for cocaine in Europe, along with Portugal. Spain and Portugal are, however, also increasing their importance as entry points for heroin coming from the south Asia area and Pakistan, via African routes (touching among others Angola, Mozambique and Cape Vert). Cocaine and heroin from Spain spreads into Europe through France or by sea from Italy. In both cases the Italian mafia plays a leading role in controlling the deliveries.

Transhipments of heroin, Coming from central Asian regions and Middle Eastern countries, and cocaine from South America, are also conducted by Nigerians via air through the main international airline points. Also Turks and Kurds are involved in heroin trafficking from the production points to Germany and the United Kingdom, passing through the Balkan routes and Greece. Heroin distribution inside these European Countries is carried out by specialised Turkish networks within their immigrant communities.

The entry of Eastern organised crime into the international market has changed and increased the routes traditionally used. Russia and the other eastern European regions are increasingly becoming the new transit routes for drug trafficking as well as for other criminal purposes, such as car theft from Germany, The UK and the Netherlands, and illegal aliens smuggling from South-East Asia. The Baltic States, Finland and Sweden are the main points of entry into Europe from the North. Two main migration routes lead through Poland. The eastern route, controlled by Russian organised crime, is used to transport Asians, mainly Armenians, Indians, Afghans and Africans (mostly Somalis, Algerians and Nigerians). The southern route is most often used by Balkan residents, mainly Romanians. The eastern route starts in Moscow, From Where the Asians and Africans take a train to Belarus and are then transported by car to the Polish border with Lithuania, or to the Ukraine, and finally into the European Union.

Due to consolidated interaction among Russian, Chinese and Vietnamese gangs, Austria has become a transit country for heroin coming from the central Asian regions and for cocaine arriving via central Europe and Russia. In the south of Europe, Albania has replaced the traditional transit route used through Yogoslavia for drug traffiking. This route is also used for aliens being smuggled into Italy, as a point of entry into Europe. France is a transit route for hashish originating in South-West Asia and North Africa. Ireland, due to its coastal extension, is another entry point for drugs (hashish from North Africa) destined to the United Kingdom and continental countries.

Ports and airports in Europe are the main points of ramification inside and outside Europe. Frequent examples show Nigerian criminals, specifically active in this context, as importers of cocaine and heroin along routes involving Lagos (Nigeria), London, Athens, Antwerp (Belgium) and other main international airline points. They also act as exporters towards the United States (Chicago) and Canada (Toronto). Part of the heroin imported by Nigerians and the hashish coming from South West Asia and Northern Africa, first crosses France, then is re-exported towards other European and North American or Canadian markets. Opium also enters through the French borders and, after being refined locally, is exported as pure heroin.

In the Netherlands, local networks are becoming the main producers of synthetic drugs in Europe. From here they are

exported through new routes leading out of the European Union, utilised also for trade in marijuana and hashish, which is still flourishing. Several internal routes are designed to transit synthetic drugs produced in the Netherlands, and amphetamines produced in Poland, into Sweden, Finland and other European countries via Dutch, Belgian and Polish networks. Also Belgium is a consumer market for synthetic drugs and trafficking is carried out through co-operation between rooted networks of Belgian and Dutch citizens.

III. ORGANISED CRIME TRENDS IN THE EUROPEAN UNION

Analysis of the inteaction between the patterns of organised crime money laundering cycles and patterns of anti-money laundering responses allows us to outline present trends. In this section, changes in opportunities and mutations in the structure of criminal organisations will be considered. Both variables are relevant in terms of policy implications because their modification through more effective policies could result in a reduction of the extension of the organised crime problem.

A. Developing a Mix of Illicit and Legitimate Businesses

The traditional distinction between illicit and legitimate activities, with reference to organised crime, is becoming less evident in the modus operandi of organised criminals. At the same time, the distinction between what is criminal and what is not becomes more and more vague. The escalation of traditional criminal activities (drug trafficking) and of the investment in legitimate industries (the contruction or tourist industry) of the proceeds generated by criminal activities is in a *continuum*.

Criminalisation of money laundering has solved the problem of distinguishing between what is formally criminal and the investment that becomes criminal because of where the proceeds come from. Organised crime and economic crime become more closely linked, and the future trends of organised crime tend towards those productive activities where opportunities are big, risk is lower and the organisation required from criminals reaches high complexity. Some of these activities are outlined in the following paragraphs.

Car theft has become an extensive problem in the European Union, where the number of stolen cars almost tripled between 1989 and 1993. A good indicator of the quantity of vehicles involved is the number of missing cars reported and never recovered by the police. Based on the first national crime statistics for 1993, it can be estimated that last year some 250,000 passenger cars disappeared without trace in the European Union.[1] The stealing of cars by Polish, former Yugoslav and Russian criminal networks has become a particularly profitable market because of the wide range of expensive cars "offered" especially in countries such as Germany, the Netherlands and Finland, and because of the huge demand for stolen cars coming from countries such as the former Soviet Union, the Asian states or North Africa. From Poland the vehicles are taken to the Baltic republics, or the Ukraine, to Russia, the Caucasus region or Kazakhstan (the nations that have emerged from the Soviet Union are a common destinations for the flourishing traffic in stolen luxury cars and sport or utility vehicles[2]). Bulgarian and Russian criminal groups have become a major force in this particular area of cross-border crime, together with indigenous crime groups who carry out the theft and rebuild the cars to give them a new identity. The results are evident in the consumer

states. While less serious than some of the other activities of organised crime, this is an additional source of revenue (often mixed with organised insurance fraud), helping these groups to consolidate their position in certain countries. In those cases, co-operation of criminal syndicates with the military is of special importance. Until recently, the main military air transportation centre was situatded on Polish soil. Thieves steal cars in Germany and drive them to Poland. Then the cars are put on board military transportation and flown to Russian military airports. Russian companies which run the business are not necessarily part of the criminal ring, and sometimes they are even unaware (or prefer to be unaware) of the real origin of the cars, though, of course, the majority at least guess where the cars come from. Practically, all Russian dealers in foreign cars insist on receiving already renovated cars from aboard. In cases of stolen cars (as opposed to genuine second-hand cars) the renovation takes place in Poland, the Baltic Republics and, on rarer occasions, in the Czech Republic, Slovakia or Hungary.

Since 1988, the counterfeit industry has considerably increased the sophistication of its products and, in some instances, counterfeit credit cards have been of better quality than the genuine cards they purport to be.[3] The American Bankers Association (ABA) and the International Bankers Association (IBA) have expressed concern over the extensive use of computer technology to counterfeit corporate cheques, bonds, securities and negotiable instruments of governments and corporations. The counterfeits are virtually indistinguishable from the genuine items. In addition to counterfeit currency, bonds and other monetary instruments, there has been an escalation in the international production and fraudulent use of counterfeit access devices: commercial credit cards, telecommunications, computers, identification documents.[4] The number of cases of counterfeit currency in western Europe seems to have tripled in 1993, compared to 1991.[5] In 1992 and 1993, printed counterfeit versions of the new one hundred and two hundred Deutschemark notes were discovered, coming from Poland and Italy. Counterfeit money is becoming big business in eastern Europe. The bleak economic outlook coupled with an unstable currency and high rate inflation, have led to the Deutschmark and the US dollar being used in place of the local currency in several Newly Independent States where even basic products can only be obtained with foreign currency. Such a situation provides ideal conditions for the production and distribution of counterfeit money.

Frauds against the financial interests of the European Union are a traditional source of illicit proceeds from the exploitation of legislation or from the lack of domestic controls. These criminal activities are not only carried out by professionals in the legitimate industry at the margin of their business but also by extensive organised crime networks, which, in Belgium, the Netherlands, Portugal and Italy, have grown into well-established criminal trading communities. On the expenditure side, in 1995 8% of the cases accounted for 74% of the amounts at stake. These figures lend further support to the Commission's belief that fraud against the European Community is not a question of petty pilfering but of large scale organised financial crime.[6] They intertwine with normal trade and industry and use their facilities to sell products and to launder profits. Frauds occur at different stages of the criminal process. Instruments such as front companies could either generate illegal proceeds from fraud, or they could be used to launder proceeds from other crimes such as corruption. The number of frauds against the financial

interests of the European Union is increasing, although we do not know if they are increasing in the number of those committed or those reported. Data recently produced by the Commission of the European Union[7] shows the dimension of the phenomenon and calls for more attention to be paid to the problems linked with international frauds, international organised crime and money laundering. This criminal phenomenon is not restricted to food or agricultural products but it involves goods of every kind through a wide range of more or less sophisticated methods. Other kinds of fraud, carried out by the same organisations, are VAT frauds and generally a wide range of financial and commercial frauds.

Criminal organisations are engaged in the massive smuggling of illegal aliens into the European Union from poor regions such as North Africa, eastern Europe, the former Soviet Union, Asia and South-East Asia. The Russian mafia group that controls the route makes an estimated $12 million a year on this traffic.[8] Most illegal immigrants coming from the East try to enter Poland through the porous, 102-kilometer Lithuanian border. In the first six months of 1995, border guards stopped 341 people in 14 groups, mainly from India, Pakistan, Somalia and Nigeria.[9] The Southern route is plied mainly by Romanian, Bulgarian, Turkish and former Yugoslav citizens. Most of them arrive legally in Poland, taking adventage of an international agreement on visa-free tourist traffic.[10] In Poland the government estimates that there are 100,000 migrants waiting to be smuggled into Germany.[11] German officials are collaborating very closely with the Polish government to tighten controls along the border, but the smugglers are diversifying their routes: Other landing places of choice are Mediterranean ports such as Marseilles and the coastal border in Italy. For the year 1993, the International Centre for Migration Policy Development (ICMPD) in Vienna estimated that migrants from between 100,000 to 220,000 in number had used the help of smuggling syndicates more or less intensely in one or several phases of the transfer, in order to reach a western European state. The estimate by ICMPD is based on the assumption that between 15% to 30% of immigrants (between 250,000-300,000) entering Europe illegally have used the traffickers and that between 20% to 40% of those requesting asylum without founded rights (estimated at 300,000) have done the same. On the assumption that immigrants pay traffickers sums between $500 USD (price for crossing of a west European or Middle Eastern border) to $25,000 USD (for bringing Chinese people from China into the USA), ICMPD believes that every foreigner who reaches western Europe with the help of traffickers, pays an average amount of $2,500,USD to $5,000USD. On the basis of this calculation, ICMPD finds it realistic to estimate the profit of the traffic syndicates for that year as a minimum of $100 million to a maximum of $1.2 billion USD. According to ICMPD, the world profits in this criminal sector for the same year was around $5 billion USD to $7 billion USD.[12]

This phenomenon has two effects, not only is it a threat to the basic ingredients of national sovereignty, it also places the immigrants themselves in jeopardy.[13] These would-be immigrants are highly vulnerable, and women in particular are often forced into sexual slavery in order to pay off their debt to the criminal smuggling organisations. In fact, the increase in the smuggling of aliens is directly connected with prostitution. Experts estimate that more than 10,000 young women have been recruited in east European countries.[14]

In Europe, considerable alarm has been

raised by nuclear materials trafficked by countries belonging to the former Soviet Union. Although it is almost clear that for the moment, rather than criminal organisations, the traffickers are greedy freelancers, traders, adventurers or opportunists[15], looking for a demand in the area. It is likely that in the future, criminal organisations will enter this market for extortion purposes. If purchasers cannot be found and the material is on hand, then extortion may appear particularly attractive. There are currently several hundred tons of weapon-usable fissile material under inadequate physical security and material control in Russia. Kilogram quantities of weapon-usable fissile materials have been stolen from institutes in Russia since the break-up of the Soviet Union. Part of this material is not intercepted before leaving the Russian borders. The quantities that have already been stolen (and fortunately intercepted) are sufficient to make small nuclear weapons. It has been noted[16] that sufficient fissile material can be diverted from Russian stockpiles, with a high probability of success, to provide a sub-national group with one or two nuclear weapons, or even a rogue state with a sizeable arsenal.

Infiltration by organised crime groups, both traditional and relatively new ones, into the legitimate economy stems mainly from the need to invest their illicit proceeds in order to obtain a legitimate income, but also to reduce the overall risk of being detected and having their capital seized and confiscated. Recent stringent anti-money laundering policies adopted by the member states have stimulated, via the money trail, a more efficient detection of the real owners of these proceeds, and the seizure of capital of illicit origin. It is therefore likely that organised criminals are seeking to internationalise themselves in order to reduce the risk that their criminal proceeds will be seized and confiscated.

Infiltration of the licit economy stems also from the need criminals have always had for respectability. The history of criminal organisations shows that infiltration in legitimate businesses belongs in the evolutionary ladder of many criminal organisations. American experience has shown that this has happened in the past, while the situation of the ex-Soviet Union already displays this evolution. In the latter country, today's criminal class, going through the process of contemporary infiltration into legitimate businesses and gaining respectability, will probably be joining the ruling classes of tomorrow.

It is possible to distinguish three different effects and four areas of the legitimate economy in which organised criminals operate: the product market, the labour market, capital and, as a consequence, the stock market.[17]

In the product market, the criminal enterprise can seriously distort competition among legal enterprises. It strives to dishonestly acquire a leading position in the market or to engage in a coalition with legitimate enterprises, and it is clear that, in this phase, it also tries to take over the role of the State. This means that criminal organisations or legitimate enterprises, in a context of different and varying relations, seek to acquire a leading position over the market, using weapons of voilence and breaking the rules of competition. The more the State or its institutions or markets are weak or weakly controlled and defended, the more easily attainable this objective becomes. In the European Union today, criminal organisations operate where profits are to be made, but also where the State or its institutions are weaker. Moreover, crimial penetration within the ex-Soviet republics is due also to these two fundamental requisites: the maximisation

of profits and the weakness of legislation and control instruments. It is therefore clear that the major distortions in competition produced by illicit methods stunts the entrepreneurial initiative of those actors operating in accordance with the law, and that it produces a major lack of equilibrium in the market.

Another important factor is distortion in the labour market. Two basic distortions arise in the labour market due to criminal infiltration. The first is that the criminal enterprise offers job opportunities at higher prices and with lower costs than those fixed in the legal market. Control is exerted over the work-force by the use or the threat of violence. By recruiting labour (especially foreign illicit aliens), criminal organisations directly handle job placements, negotiations, wages, thus protecting themselves against strikes or other forms of claimant behaviour.

Also of major importance for criminal organisations is the capital market. Almost all of the European Union authorities are aware of illicit capital entering capital markets. In investing their surplus money, criminal organisations increasingly tend to use professionals and lawyers who make it possible to conceal the real ownership of money thus averting the risk of its detection and seizure. It is evident that financial markets are certainly the most desirable sectors for criminal infiltration today.

But there is a further aspect of penetration which is of particular importance: the effect of stock markets. Today, an interesting phenomenon within the European Union is that criminal organisations tend to invest the laundered money by acquiring the property of enterprises. Through the acquisition of a limited corporation, the criminal investor can gain personal legitimisation, as well as a profitable, unsuspected way to commingle licit and illicit funds without directly using financial institutions. Depending on the surrounding economy or criminal culture, such penetration may be perpetrated through violence, extortion, usury or other more sophisticated financial methods. This kind of infiltration is particularly important because it clearly illustrates the type of distortion produced. It is also true that today, through the enterprise and its re-capitalisation with criminal proceeds, a distortion of competition mechanisms may be engendered. Legal enterprises in fact borrow capital by paying an official interest rate, not paid by those enterprises that have the opportunity of resorting to criminal proceeds to satisfy their need for liquidity and capital. Of course these enterprises can operate in the market with more competitive prices.

B. Changing Structures and Relations of Criminal Organisations

The increased activities generated by the new opportunities offered through the globalisation of the markets seem to induce criminal organisations to develop in two different directions: specialisation and diversification.

The trend towards specialisation in one or more markets or specific illicit goods is provoked by a combination of increased competition among criminal organisations and powerful investigations by law enforcement agencies. Both are forcing criminal organisations to develop their expertise and to become increasingly efficient in their activities. Galicians in Spain and the mafia in Italy have specialised as cocaine importers and main suppliers for Europe. Local criminal groups in the Netherlands and Belgium have specialised in the production and export of

synthetic drugs in and outside the European Union, whereas local groups of white collar criminals still based in these countries have developed a long-standing expertise in financial, European Union and VAT frauds. On the other hand, specialisation depends also on the traditional expertise and on the specific geographical position of the country of origin to the criminal groups. It happens that the Turkish and Kurdish drug traffickers for example, are devoted almost exclusively to heroin trafficking, because of the vicinity of Turkey to the source area, and because of the wide immigrant communities in the heart of the European Union.

With regard to the process of diversification as opposed to specialisation, some groups are developing a wide set of opportunities providing goods and services on an opportunistic basis. They are sold to other criminal organisations even though they may be competitors in a specific market or territory (arms trafficking and human smuggling, for example). Nigerians and eastern European criminal networks (headed by the Russian mafia) have developed their activity of delivery services for a wide range of products and customers. The former have started importing cocaine from the Colombian cartels, extending further to heroin from South-East Asia. The latter, due to the geographic position and the extension of the territory available, have diversified the products from drugs (both heroin and cocaine) to arms, alien and prostitute smuggling, and are in return exporting cars and synthetic drugs from Europe.

In terms of changes in organisational structure, there are two main changes that can be outlined; greater flexibility and more co-operation with other criminal groups.

1. More Flexibility

More flexibility occurs in the composition of the criminal groups and their operations. A market with a varying demand for illegal products or services, such as the European one, acts as a magnet for present and new adventurers. Criminal organisations require a flexible structure in order to promptly re-organise their acitivities according to demand and to the number of competitors. Occasional businesses or specific targets more often require small task forces of criminal specialised experts, who work with external individuals, providing services and expertise in fields unknown or not directly accessible to the criminal organisation. This networking can be observed in the drug market, where the example of the Nigerian networks is a classical one. Small groups of excutives or even individuals carry out the operational tasks or missions, co-ordinated and instructed by a strategic centre in the country of origin. In the field of fraud committed by Belgian or Dutch white collar criminals, and for car thefts carried out by Polish and Yugoslav networks, these networks have acquired a specific expertise in the division of labour for every task.

Flexibility also occurs in a wider gap between the ranks of the organisational structure. This means that the hierarchical distance between the leaders of a crime-enterprise and the rank-and-file is becoming increasingly greater. This also means that the "trail of evidence" linking the crime and the top level has become obscured, providing insulation against law enforcement. At the lower levels, work is carried out by small units (namely "cells") which are aware of only a part of the organisation's activities or which function only as servicing units. This phenomenon has been observed in the drug markets, where "veterans" are able to recruit a wide network of trusted executives.

The organised crime groups analysed above require a wide range of services, information and skills. Therefore, the problem of co-operation comes either through the collusion/conflict with other criminal groups or through corruption/ conflict with law enforcement and judiciary personnel.

2. More Co-operation among Criminal Organisation[18]

At the political and law enforcement levels, attention is being paid to the problem of collusive agreements among criminal groups. Recent alarm about such agreements denotes the awareness that the level of competition among criminal groups in some markets, and its development in some cases towards monopolistic positions or collusive agreement, is relevant for understanding the way in which organised crime faces opportunities and risks. Since collusive agreements are made with the purpose of optimising opportunities and risk (in this case, trading lesser opportunities against less risk), in regard to a monopoly where these two variables are high (higher prices are an easy target for the police), it is understandable that law enforcement agencies are concerned when a trend towards more collusive agreements develops. For the same reason there is the opposite concern on behalf of organised criminals. It is possible to hypothesise that these collusive agreements are favoured in a combination of:

- Systemic variables: such as a lengthy inter-criminal conflict with inevitable spreading of violence;
- Organisational variables: such as weakness of the organisations due to infiltration, turncoats, conviction of the top leaders;
- Economic variables: such as changes in the markets, reduction of resources, demand for specialisation;
- Perception of an increase of law enforcement risk.

There is a continuum from complete merger between organisations at the one extreme, to independent spot market transactions on a one-off basis, at the other. These alliances can take many forms, including operating linkages, licensing or franchise agreements and joint ventures. In this case, tactical arrangements, rather than strategic alliances are developed, because of the lack of long-term expectations. In many respects such activities seem to be typical of a significant part of the drug-trafficking industry, that is, they are carried out by small, independent organisations that have come together to exploit a particular trafficking route and a specific way of circumventing customs and law enforcement. Many of these are small-scale tactical alliances based on transnational networks, but when they prove effective they have an inherent capacity for growth. At the same time, their loose, fluid nature makes it equally plausible that they will be disbanded and their constituent elements reformed in different constellations. Tactical alliances are made for specific purposes and are often followed by a search for other partners to make shipments to different locations using different modes of concealment.

In the first place, alliances are a rational-response, multiplication of the business opportunities (legitimate and criminal) provided by the opening of the European markets. The development of alliances can be understood as a response by criminal enterprises to the business environment and as an attempt to overcome their own limitations. One of the most important ways to accomplish this is by aggressively

gaining access to new markets. Sometimes, at the lower level (mainly involving street drug smuggling or prostitution rackets), this access happens with the use of violence in order to establish supremacy among exploiters of the same market, as in Germany among east European groups or in the United Kingdom among street gangs.

The other way is to co-operate with those enterprises which are already entrenched in these markets, having greater knowledge of local conditions and being more attuned to local problems, rather than trying to insert themselves as competitors on unfamilliar territory. In this case, alliances can also provide an effective means of circumventing restrictions imposed by government or anti-governmental organisations, which can make it difficult for foreign organisations to penetrate the market. In this context, links are also increasing between criminal and terrorist organisations. Indeed, the distinction between terrorist groups pursuing essentially political objectives and criminal organisations pursuing economic goals is likely to become increasingly blurred as can be noted in terrorist groups such as the IRA and the INLA in lreland and the Kurds in Germany and Turkey. They all act to achieve economic support that could be instrumental in the case of terrorists, or the end result in the case of organised crime.

Paradoxically, co-operative tactics offer a rational and effective response to a highly competitive situation. Obviously the organisations already in the market have to be offered something substantial in return, or some other form of reciprocity has to be exercised.

Co-operation among criminal organisations is often aimed at circumventing law enforcement and national regulations. From this perspective, it is clear that at least some of the alliances among them can be understood as risk-reduction alliances. Criminal organisations make alliances with governments, either through corruption or coercion or, more often, a mix of both. A reoccurring feature of this behaviour is the extended use of bribery in Italy in order to enhance control on territory, to minimise the risk of law enforcement and to strengthen their position against external competitors. Another example is offered by the criminal networks carrying out European Union or VAT frauds which must necessarily develop ties with institutions both at a national and European level. Even criminal groups dealing with the transportation of illicit goods through the European Union borders must have accomplics at some level in the Customs sector.

IV. THE EUROPEAN POLICIES [19]

The European Union context gives criminals a fertile ground for their transnational activities. The Treaties establishing the European Community and following *Treaty of Maastricht* grant a total freedom in moving capital, goods, services and persons across the borders of the Member States. It is, therefore, understandabele how organised criminal rings are taking advantage of this situation, specialising themselves in transnational illegal behaviours, exploiting this large possibility of movement within the Union in connection with the loopholes of national legislation. Consequently criminals tend to become transnational and organised, building up illicit enterprises, moving criminal goods and criminal proceeds from one country to another, establishing their bases in the most secure nations and entering those illegal sectors where they perceive high opportunities for gain, with low risk.

Drug trafficking, money laundering, fraud (especially against the European Union's interests), corruption, trafficking of aliens with the scope of their exploitation are all illicit behaviours that are an ever increasing threat not only to the single states of the Union, but also to all the European Community. Money laundering in particular is advantaged by all the new technologies present in modern society. This is the way in which the European Union institutions try to define the phenomenon:

> "Organised crime is increasingly becoming a threat to society as we know it and want to preserve it. Criminal behaviour is no longer the domain of individuals alone, but also of organisations that pervade the various structures of civil society, and indeed society as a whole. Crime is increasingly being organised across national borders, also taking advantage of the free movement of goods, capital, services and persons. Technological innovations such as Internet and electronic banking turn out to be extremely convenient vehicles either for committing crimes or for transferring the resulting profits into seemingly licit activities. Fraud and corruption take on massive proportions, defrauding citizens and civic institutions alike".[20]

How can European Union organisms react to this complex situation? Since the existence of the European Union, with its rules and aims, is itself a push factor to the spreading of organised crime, how do the European institutions envisage to endow themselves with specific means for combating organised crime? Unfortunately, despite the general sovra-national power given to European institutions within the economic framework of the Union, as far as crime, legal co-operation in criminal matters and immigration are concerned, the situations differ widely.

Only since November 1993, does the Title VI of the *Maastricht Treaty*, through the so-called 'third Pillar' of the Union, make specific provisions in the field of justice and home affairs, which includes immigration, drug addiction and co-operation in civil, penal, custom and police fields, giving life to a special decision process. In these fields, Member States do not fully give up their sovereignty to the European Union, because decisions continue to be taken unanimously. The previous informal co-operation has now been transformed into an institutionalised method. That is to say that this particular decision-making standard is a half-way between the traditional Community system involving all the European institutions and intergovernmental co-operation at the diplomatic level.[21] While the European Parliament and the Commission have a very reduced role, the European Council, always unanimously, can adopt joint actions and decisions (which bind the Member States to the extent in which they contain explicit obligation) and predispose Conventions. It is mainly in this legal framework that, at European Union level, the fight against organised crime can be contained.

It is difficult to draw a detailed picture of the most recent actions developed against organised crime in the European Union's context. Anyway, the criterion adopted here is based on the different illegal activities contrasted, on the importance of the instruments settled and on the methods of fighting crime.

As drug trafficking and addiction are problems that afflict all of the Member States, some efforts have been undertaken to enhance international co-operation and data exchanges. The action by the European Union in this sector is based on

the 1994 Communications from the Commission to the Council and on the conclusions of the Cannes and Dublin European Councils (held in June 1995 and December 1996 respectively). The aim of these instruments is to combat drug trafficking, to reduce drug demand and to develop co-operation among countries.

During the European Council held in Dublin 13 and 14 December 1996, the need was underlined for harmonising laws, developing further co-operation among law enforcement agencies, paying attention to synthetic drugs and fully implementing the European Union's Directive on money laundering, considering its application outside the classical financial sector.[22] Also the role played by information, education and training on health matters in reducing drug demand was highlighted. In the field of co-operation among nations, the European Council also gave prominence to the implementation of international agreements, such as the *Vienna Convention against Illicit Trafficking in Narcotics Drugs and Psychotropic Substancs*, and to a better information exchange among partners about drugs (especially with countries of Latin American, Caribbean, central Asia, central and eastern Europe).

Following this advice, a joint action[23] was issued on the approximation of the laws and practices of police, customs services and judicial authorities to combat drug addiction and to prevent and combat illegal drug trafficking. This joint action, further to harmonising legal, police and customs systems within the nation so as to improve prevention and fight against illegal drug trafficking, urges Members States to: combat illicit movements of narcotic drugs and psychotropic substances within the Community (including "drug tourism"); punish serious drug trafficking offences with the most serious penalties available in their penal systems for crimes of the same gravity; endeavour to change their legislation or to fill the legal vacuums in regard to synthetic drugs; take appropriate steps to combat illicit cultivation of plants containing ingredients with narcotic properties; make it an offence to publicly and intentionally incite or induce others, by any means, to commit offences of illicit use or production of drugs. On 16 December 1996, the Council issued a resolution aimed at dismantling the illicit cultivation and production of drugs within the European Union. On 20 December 1996, the Council adopted a resolution on sentencing for serious drug offences, asking Member States to ensure the possibility of custodial sentences for serious illicit trafficking in drugs. On the same date, the Council adopted another joint action on the participation of the Member States in a strategic operation planned by the Customs Co-operation Council to combat drug smuggling on the Balkan Route. Recently, on 16 June 1997, the European Council enacted a joint action related to information exchange, risk assessment and the control of new synthetic drugs.

As far as police co-operation related to drugs is concerned, a special unit, the European Drug Unit (EDU), was created by ministerial agreement in June 1993. The initial task of this Unit was to solicit exchanges of information on narcotics and money laundering. When talking about Europol and police co-operation later on, EDU will be discussed in more detail.

Concerning fraud against the European Union's financial interests, in 1994 UCLAF (*Unitè Contre la Lutte Anti Frode*) was established by the European Commission. This is a special Unit in charge of the prevention and repression of fraud affecting the budget of the Union. This type of fraud, which is seriously damaging not

only the right functioning of the Community, but also the interests of all Member States, is more and more in the hands of organised criminal networks. UCLAF has both legislative and operational functions, being responsible not only for studying all kinds of measures for protecting the European Union's budget, but also, more generally, for developing a contrast strategy against economic and financial crime prejudicial to the Community and operational countermeasures against counterfeiting. Another task of UCLAF in that of information, publishing a yearly report on the outcome of its activity.[24]

The most noteworthy actions by the European Union in the fraud sector have been:

- Community regulations aimed at co-ordinating the administrative co-operation between Member States and the European Commission in the customs and agricultural fields;
- Directive issued on 18 December 1995, on the protection of the European Community's financial interests, that, amongst other things, defines the acts damaging the Union's budget;
- *Convention on the Protection of the European Communities' Financial Interests* (adopted by the Council on 26 July 1995), that fixed a common definition of fraud and binds the Member States to punishing this behaviour (and its instigation or attempt) as a criminal offence in their national penal systems.

Keeping in mind that corruption is a very common criminal activity practised in organised criminal networks when doing business, and in particular, considering the negative and prejudicial role played by corruptive practices both at the Community and national level, the European Council, on 26 May 1997, drew up the *Convention on the Fight Against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union*. The aim of this Convention is to strengthen judicial co-operation in the fight against corruption. The Convention gives legal definition of active and passive corruption, obliging Member States to punish these behaviours as crimnal offences if committed either by national or by European Union officers. Those committing these offences, or instigating the conduct in question, should be punished by effective, proportionate and dissuasive criminal penalties, including, in the most serious cases, deprivation of liberty, which can give rise to extradition processes. Other rules foresee the jurisdiction of the Member States and the total co-operation of Member States in investigating, prosecuting and carrying out the punishment of such offences, when they involve more than one country.

A more and more alarming criminal question within the European Union is the trafficking of migrants. This phenomenon is controlled mainly by powerful criminal organisations, capable of establishing contacts among nations, of corrupting officials, of counterfeiting documents and of controlling black labour markets. In this human trade, particularly weak subjects are women and children, as they can easily be sexually exploited in host countries. The European Union institutions have recently become more aware of this criminal issue.

A Communication, including immediately effective steps to combat child pornography on the Internet, and a Green Paper on the *Protection of Minor and Human Dignity* were adopted by the European Commission on 16 October 1996.

A Communication by Commissioner Anita Gradin on *Trafficking in Women for the Purpose of Sexual Exploitation* whose aim was:

> "to stimulate a broad policy debate and to promote a coherent European approach to this issue....such an approach should include measures to improve both international and European co-operation, whilst putting more effective measures in place at the national level".[25]

The European Council, on its behalf, has adopted:

- a joint action extending the mandate given to Europol Drug Unit's to include trafficking in human beings[26];
- a joint action to establish a programme for sharing information among Member States on trade in human beings and the sexual exploitation of children (the so-called STOP programme).[27] The STOP programme should develop co-ordinated initiatives on the combating of trade in human beings and the sexual exploitation of children, on the disappearances of minors and on the use of telecommunications facilities for the purposes of trade in human beings and the sexual exploitation of children. The specific aim of the programme should be providing training, exchanging programmes, holding meetings and seminars, doing studies and research, disseminating information for judges, public prosecutors, law enforcement agancies, civil servants or the public services that come to contact with this particular phenomenon;
- a joint action introducing a programme of training, exchanges and co-operation in the field of identity document [28] (the so-called SHERLOCK programme), run by the European Commission, with a view of making more effective the action against the false papers used, especially by clandestine immigration networks.

Another method for fighting organised crime within the European Union is to strengthen legal co-operation in the criminal area among all Member States. For example, to facilitate and simplify extradition procedures for criminals who have committed particular offences, could be a good way for speeding up processes against persons involved in organised criminal rings operating in the transnational arena. *The Convention on Simplified Extradition Procedures between the Member States of the European Union*, adopted by the European Council on 10 March 1995, is aimed at abolishing a number of bureaucratic formalities when the person in question agrees to be extradited. *The Convention relating to Extradition between the Member States of the European Union*, adopted by the European Council of Dublin on 27 September 1996, is aimed at increasing the posibilities of extradition. The requested State cannot refuse the demand for extradition if the fact is punishable under the law of the requested State with at least 12 months of liberty deprivation, and by the law of the requested Member State with a penalty of at least 6 months of deprivation of liberty. In the cases in which the offences are classified in the requesting State as conspiracy or association to commit an offence, the requested State cannot refuse the extradition, claiming that its penal law does not provide for the same facts to be an offence, if the conspiracy or the association is finalised to commit crimes related to terrorism and drug

trafficking or other forms of serious illicit behaviours against individual freedoms or creating a collective danger. It is, in any case, necessary that these acts should be punishable by the requesting Member with a penalty of at least 12 months of deprivation of liberty. Extradition may not be refused on the grounds that the person requested is a national of the requested Member State. These two Conventions are currently being subjected to the process of ratification by Member States.

Furthermore, in the European Union framework, a new inportant *Convention on Mutual Assistance in Criminal Matters* is currently being drafted. It tends to reduce difficulties deriving from cross-borders searches of evidence and to make procedures simpler and speedier, by making it easier to obtain evidence coming from other countries, bettering and intensifying cross-border investigations and allowing contact and information exchange among investigators and judges of different Member States.

Considering how criminal groups prosper, thanks also to the discrepancies among legal systems of the European Union's States, it not difficult to realise why, in the field of legal co-operation, the instrument used to contrast the activities of organised crime is the harmonisating of penal legislation of the Member states. A fruitful example of this attempt is the *Council Resolution on lndividuals who Co-operate with the Judicial Process in the Fight against International Organised Crime*, adopted on 20 December 1996. In this case the Council calls all Member States, to take appropriate measures to encourage persons who participate, or have participated, in an association of criminals or other criminal organisation of any kind, or in organised crime offences, to co-operate with the judicial process. To co-operate means to reveal essential information to the investigation authorities or to collaborate in helping authorities to deprive criminal groups of their illegal resources or of the proceeds of crime. Information may cover the composition, the structure or the activities of the criminal network; the existing links with other illegal groups or the offences committed or that might be committed by the criminal ring. Following the advice of the Council, Member States should introduce in their legislation rules granting benefits to these individuals who, breaking away from the criminal organisations they belonged to, help authorities in collecting evidence essential for reconstructing facts, identifying perpetrators of crimes and leading to their arrest. Stringent protective measures should be granted to these collaborators and to their parents, children or other people who, as a consequence of the revelations, are likely to be exposed to serious and immediate danger. In the end, the Council underlines the need for facilitating judicial assistance among States for processes involving individuals co-operation in the fight against international organised crime. Also keeping clearly in mind that the instrument of the resolution is not binding for Member States, the relevance of the Council's act must be stressed, for it represents a moral imperative and a well-defined way to address criminal organised networks operating in Europe.

The elaboration of an efficient strategy against international criminal syndicates should result in combating them on an international scale, and it should allow for the circulation of police information and knowledge among the law enforcement agencies of the Member States, at least as fast as organised crime gangs cross national borders. The European Union institutions have always felt the need for police co-operation in the fight against organised crime, and have acted

accordingly by establishing Europol and EDU.

In June 1991 in Luxembourg, Heads of Government or States of all Member States stressed, upon an initiative of the German Chancellor Kohl, the urgency for creating a force called Europol. While pending the drafting of the Convention establishing Europol, in June 1993 an embroyonic form of Europol, the European Drug Unit (EDU), was set up through a ministerial agreement. The initial task of EDU was the exchange of information among law enforcement agencies on narcotics and money laundering. With a joint action adopted by the European Council on 10 March 1995 [29], the role of EDU was better defined and this Unit was put in charge of the exchange of information and intelligence in relation to illegal organised criminal activities affecting two or more States, and of helping police and relevent national agencies combat them. The criminal activities to be covered by EDU were illegal drug trafficking, illicit trafficking in radioactive and nuclear substances, crimes involving clandestine immigration networks and illicit vehicle trafficking. With another joint action on 16 December 1996 [30], the Council extended the mandate of EDU also to the trafficking of human beings.

The creation of EDU was principally caused by the bureaucratic slowness linked to the birth of Europol. *The Convention on the Establishing of a European Police Office (Europol Convention*) was, in fact, drawn up by the European Council on 26 July 1995, but until now it has not yet been ratified by all Member States. On the basis of this Convention, and with the aim of improving the effectiveness of the competent authorities in the Member States and co-operation among them in preventing and combating terrorism, unlawful drug trafficking and all other forms of serious transnational crime, Europol has been endowed with different tasks: to facilitate the exchange of information among Member States; to obtain, collocate and analyse information; to notify the competent authorities of Member States (without delay) of any information and connections detected among criminal offences; to aid investigation within the Member States; to maintain a computerised system for collecting information. In each Member State a national Unit should be established or designed and should serve as a liaison body between Europol and national authorities.

At the Dublin European Council of 13 and 14 December 1996, conscious of the need for serious and co-ordinated approach by the Union to organised crime problems, the Council expressed the hope of a rapid ratification of the *Europol Convention* by Member States. In this Council further decisions have been taken, the most important of which was the establishing of a High Level Group to draw up an action plan with specific recommendations covering all the aspects of organised crime.

This action plan, drafted by the High Level Group, was adopted by the Council on 28 April 1997 and can be considered the most serious planning of the activities of the Union against organised crime. The final part of this paper will deal more at length with this action plan because of its relevance, its recent adoption, its broad and detailed range of proposals and its long-term programme, that involves all European institutions and Member States in an active future collaboration. The guidelines, expressed in recommendations, that the European Union and Member States should follow in enhancing their struggle against organised crime are very clear.

In the field of police co-operation, each Member State should grant a high level of co-ordination among all its law enforcement agencies, providing a single central contact law enforcement agency to exchange information and keep contact with the authorities of other Member States (Recommendations no. 1-2). The action plan also asks for the rapid ratification and implementation of the Europol Convention, stressing that the powers of Europol should be broadened to include the following:

"(a) Europol should be enabled to facilitate and support the preparation, co-ordination and carrying out of specific investigative actions by the competent authorities of the Member States...; (b) Europol should be allowed to ask Member States to conduct investigations in specific cases...; (c)Europol should develop specific expertise which may be put at the disposal of Member States to assist them in investigating cases of organised cross-border crime...; (d) Full use should be made of possibilities of Europol in fields of operational techniques and support, analysis and data analyses files (for instance registers on stolen cars or other property)...; (e) Access by Europol may be sought to the Schengen Information System or its European successor" (Recommendation no.25).

The possibility for Europol to collaborate with third party countries and international organisations should also be taken into account (recommendation n.24).

The Commission, Council and Member States should develop a comprehensive policy against corruption, trying to better the transparency of public administration. This object should be achieved by focusing primarily on prevention elements and:

"Addrµessingµ such issues as the impact of defective legislation, public-private relationships, transparency of financial management, rules on participation in public procurement, and criteria for appointments to positions ot public responsibility...", but also not forgetting "the area of sanctions, be they of a penal, administrative of civil character, as well as the impact of the Union's policy on relations with third States" (Recommendation no.6).

Commission, Council and Member States, together with the professional organisations concerned, should always study and define methods for reducing the susceptibility of liberal and other professions to organised crime, for examble through the adoption of codes of conduct (Recommendation no.12):

"The Member States and the European Commission should ensure that the applicable legislation provides for the possibility for an applicant in a public tender procedure,who has committed offences connected with organised crime, to be excluded from participation in tender procedures conucted by Member States and by the Community. In this context it should be studied whether and under what conditions persons who are currently under investigation or prosecution for involvement in organised crime could also be excluded. Specific attention should be paid to the illicit origin of funds as a possible reason for exclusion" (Recommendation no.7).

As far as fraud against the financial interests of the European Union is concerned, Recommendation no. 10 of the action plan states that;

"The Member States should consult regularly the competent services of

the Commission with a view to analysing cases of fraud affecting the financial interests of the Community, and deepening the knowledge and understanding of the complexities of these phenomena within existing mechanisms and frameworks. If necessary, additional mechanisms shall be put in place with a view to arranging such consultations on a regular basis. In this context, future relations between Europol and the Commission's anti-fraud unit (Uclaf) should be taken into account."

The action plan also considers the necessity for countries to harmonise national legal systems by adopting the same offences all over the European Union territory. So, on the basis of Recommendation no. 17:

"The Council is requested rapidly to adopt a joint action aiming at making it an offence under the laws of each Member State for a person, present in its territory, to participate in a criminal organisation, irrespective of the location in the Union where the organisation in concentrated or is carrying out its criminal activity."

On the basis of Recommendation no. 9, the structural funds of the Union should be employed to avoid large cities of the Union becoming grounds for organised crimial groups:

"Particular attention should be given to groups not fully integrated in society, since these may be vulnerable targets for criminal organisations."

In the field of money laundering and confiscation of the proceeds of crime, the action plan (Recommendation no.26) suggests to the Council, to the Commission and to Europol to endeavour to:

- improve international exchange of data;
- make as general as possible the criminalisation of the laundering of the proceeds of crime, considering the opportunity of extending this offence to negligent behaviours;
- introduce in the legal systems of the Member States confiscation rules that allow confiscation regardless of the presence of the offender (including dead or absconded);
- extend the obligation imposed by Article 6 of the *European Directive on Money Laundering* to all offences linked with serious crimes and to persons and professions different from financial institutions;
- address the issue of money laundering committed via Internet and other electronic means of payment (it has to be remembered that Recommendation no.5 calls for a crosspillar study in the field of high-technology crime);
- try to reduce the use of cash payments and cash exchanges by natural and legal persons serving to cover up the conversion of the proceeds of crime into other properties;
- Consider common strategies to be undertaken in the fields of economic and commercial counterfeiting and in the falsification of banknotes and coins, also in view of the introduction of single currency.

The action plan (Recommendations no.'s 13-14) also calls for the rapid ratification of the most relevant international Conventions concerning criminal matters, such as the *European Convention on Extradition* (Paris 1957), *the Protocol to the European Convention on Mutual*

Assistance in Criminal Matters (Strasbourg 1978); the *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime* (Strasbourg 1990), the *Agreement on Illicit Traffic by Sea*, implementing Article 17 of the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (Strasbourg 1995), the *Convention on the Fight against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (Vienna 1988). It also warmly invites Member States to ratify all the relevant European Union Conventions: the *Convention on Simplified Extradition Procedure between the Member States of the European Union*; the *Europol Convention*, the *Convention on the Protection of the European Communities' Financial Interests*, the *Convention on the Use of Information Technology for Customs Purposes*; the *Convention relating to Extradition between the Member States of the European Union*; the *Protocols to the Convention on the Protoction of the European Communities' Financial Interests*.

In conclusion, the *Amsterdam Treaty* should also be mentioned which, modifying yet again the essential structure of the Union, could also be considered a first attempt to follow some of the recommendations of the action plan. Although signed on 21 September 1997, this Treaty has not jet come into force, for it is waiting for ratification by all Member States. In many of its points the Amsterdam Treaty focuses on criminal problems, requiring different levels of co-operation among law enforcement and judicial authorities of Member States, and between them and Europol, and calling for the creation of a European research, documentation and statistical network on cross-border crime within five years. On the basis of the Articles of the Amsterdam Treaty, Europol can ask Member States to conduct joint investigations in specific cases; Member States are invited to set up joint crime-fighting teams, that can be supported by Europol; easer extradition of criminals among Member States should be made possible, and all over the Union a common minimum standard for rules and penalties in the field of organised crime should be adopted.

NOTES

1. J. Storbeck, "Developments of International Organised Crime and Future Expectations Within Europe", paper presented at the Europe 2000 Conference, The Hague, April 1994, p.4.
2. N. Onishi, "Stolen Cars Find a World of Welcome", The New York Times, July 10, 1995.
3. "Chinese Connections", The Banker, October, 1994.
4. The 1995 INCSR, p.478.
5. J. Storbeck, "Developments of International Organised Crime and Future Expectations Within Europe" paper presented at the Europe 2000 Conference, The Hague, April 1994, p.4.
6. Commission of the European Communities, Protecting the Community's Financial Interests, The Fight Against Fraud - Annual Report 1995, Brussels, 1996.
7. Commission of the European Communities, Protecting the Community's Financial Interests, The Fight Against Fraud - Annual Report 1994, Brussels, May 29, 1995.
8. E.U. Savona, G. Da Col and A. Di Nicola, "Dynamics of Migration and Crime in Europe: New Patterns of an Old Nexus", paper presented at the International Conference on Migration and Crime: Global and Regional Problems and Responses, Courmayeur, October 5-8, 1996.
9. G. Witkowski, "Illegal Migration West", The Warsaw Voice, September 10, 1995.
10. "The New Trade in Humans", The Economist, August 5, 1995.
11. Ibid.
12. J. Widgren, "Multilateral Co-operation to Combat Trafficking in Migrants and the Role of International Organizations", paper presented at the Eleventh IOM Seminar on International Response to Trafficking in Migrants and the

Safeguarding of Migrant Rights, Geneve, October 26-38, 1994, pp. 5-6. For more details on this topic, see TRANSCRIME, Migrazione e criminaltà - La dimensione internazionale del problema, CNPDS, Milano, June 1996, pp. 53-72. See also E.U. Savoma, G. Da Col and A. Di Nicola, op. cit.

13. J. Fredman, "Smugglers Move 1 Million Yearly to Industral World", The Houston Chronicle, June 12, 1994, p.31.
14. J. Storbeck, op. cit., p.6.
15. R. Atkinson, "Official Say Contraband Not a Threat", The Washington Post, August 28, 1994.
16. T.B. Cochran, Prepared Testimony Before the Senate Committee on Foreign Relations, European Subcommittee, August 23, 1995.
17. Ernesto U. Savona, "Svilppi delle attività criminali ed ii riflessi nel sistema economico nazionale ed internazionale", in Economia e Criminalità, Camera dei Deputati, Rome, 1993, p. 203-213.
18. This section draws upon the contributions of: P. Williams, "Transnational Criminal Organisations: Strategic Alliances", The Washington Quarterly, January 1995; R. Godson and W.J. Olson, "International Organized Crime", Society, n. 2. vol. 32, January 7, 1995; E. Kemmelmeier, "Latest Developments of Terrorism and their Relation with Mafia Type Organizations", paper presented at the European Round Table Conference on Institutional Threats to Parliamentarian Democracy - Organized Crime, Terrorism, Corruption and European Structured Answers, The Hague, 20-22 April, 1994.
19. This paragraph is mainly drawn on European Commission, Directorate-General X, Task Force on Priority Information Project, Security Supporting an Area of Freedom in Europe, Brussels, 1997, B Nascimbene (ed.), Da Schengen a Maastricht. Apertura delle frontiere, cooperazione giudiziaria e di polizia, Giuffrè editore, Milano, 1995.
20. Action Plan to combat organised crime, adopted by the European Council on 28 April 1997, Part I, Chapter 1, paragraph 1.
21. U. Draetta, Elementi di diritto comunitario, Giuffrè editore, Milano, 1994, pp. 44-45.
22. This Directive (no. 91/308, 10 June 1991) is aimed at preventing traffickers from laundering their money into European legal financial circuits, asking Member States to criminalise this behaviour and financial institutions to be more strict in controlling the identity of their clients.
23. Joint action 96/750/JHA, adopted on 17 December 1996.
24. See, as an example, European Commission, Protection of Community Financial Interest, Fight Against Fraud - Annual Report 1996, Luxembourg, 1997.
25. A. Gradin, Communication on Trafficking in Women for the Purpose of Sexual Exploitation, Brussels, November 1996.
26. Joint action 96/748/JHA, adopted on 16 December 1996.
27. Joint action 96/700/JHA, adopted on 29 November 1996.
28. Joint action 96/673/JAI, adopted on 28 October 1996.
29. Joint action 95/73/JHA, adopted on 10 March 1995.
30. Joint action 96/748/JHA, adopted on 16 December 1996.

THE THREATS POSED BY TRANSNATIONAL CRIMES AND ORGANIZED CRIME GROUPS

*Frank J. Marine**

I. INTRODUCTION

This conference is especially important and timely because in the 1990s, the problems to the world community posed by transnational crimes and organized crime groups have increased significantly and are likely to continue to increase in the near future. There are several principal reasons that account for this unfortunate increase in transnational and organized crime activities.

First, the increased volume of trade among nations, which of course has greatly benefited legitimate business interests, has also generated greater opportunities for criminals to criminally exploit such business and trade.

Second, the decrease in customs and other regulatory barriers to international travel and business has also had the unintended effect of aiding criminals engaged in smuggling of narcotics and other contraband.

Third, similarly, the proliferation of air transportation connections and the easing of immigration, visa and travel restrictions in many counties to promote legitimate interests has also facilitated criminal activity and the movement of criminals across international borders.

Fourth, modern advanced telecommunications and information systems that are used in legitimate international commercial activity can also be used by criminal networks to improve their own communications and to quickly carry out criminal transactions, especially money laundering.

For example, through the use of computers, international criminals have an unprecedented capability to obtain, process, and protect information and sidestep law enforcement investigations. They can use the interactive capabilities of advanced computers and telecommunications systems to plot marketing strategies for drugs and other illicit commodities, find the most efficient routes and methods for smuggling and moving money, and create false trails for law enforcement or banking security. The use of computers has enabled Colombian drug traffickers in particular to keep more flexible and secure records of transactions and money laundering activities. International criminals take advantage of the speed and magnitude of financial transactions and the fact that there are few safeguards to prevent abuse of the system to move large amounts of money without scrutiny.

Fifth, international criminals are becoming more sophisticated in their operations, using modern business techniques and technology to facilitate their criminal activities and to thwart law enforcement efforts. Such organizations also employ individuals with specific expertise to facilitate their criminal activities, including transportation specialists, computer experts, financial experts to launder their money and manage

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business investments, and attorneys to identify loopholes in laws and regulations that enable criminal networks to launder money and establish front corporations and businesses.

Sixth, unfortunately, consumption of illegal drugs has increased in some countries leading to greater problems posed by trafficking in illegal narcotics.

Seventh, the breakup of the Soviet Union in 1991 and the related break up of the Soviet Bloc has led to the development of many organized crime groups that have recently engaged in substantial criminal activities, especially effecting the European community and the United States.

Eighth, the new governments that have emerged from the former Soviet Bloc are making significant advances, but still have not yet had enough time to develop and implement laws, regulations and business practices to adequately address the problems of crime and public corruption posed by organized crime groups.

In sum, these and other recent developments and trends have contributed to growing transnational criminal activities and the expansion of organized crime groups. The cost to the world community caused by organized crime groups and transnational crimes includes not only loss of billions of dollars, lose of life and physical injuries, but also entails substantial public corruption. The combined effect of these adverse consequences tends to undermine the security and stability of governments themselves. Indeed, the adverse consequences of such criminal activities can not be understated. It is therefore essential that the international community continue to work together closely to address these very serious problems facing us all.

II. DEFINITIONS

It is important to note that the concepts of transnational crimes and organized crime are different and distinct, even though they are interrelated and overlap.

As I use the term, "transnational crimes" refers to serious crimes that either significantly affect more than one country or are carried out across national borders and thus involve criminal activity in more than one country.

As I use the term "organized crime", I am not referring to a particular offense or crime. Indeed, in the United States there is no criminal offense designated "organized crime"; as in the United States it is not a crime "per se" merely to be a member of an organized crime group. This is so because in the United States criminal offenses are defined by the specific conduct that is made criminal, and not by the nature of the group that is committing the offense. Therefore, it is a crime for anyone to commit conduct that is made criminal regardless of whether the offender is or is not a member of an organized crime group.

Moreover, United States law enforcement does not use any particular rigid definition of "organized crime". Rather, United States law enforcement uses an extended list of criteria or attributes that typically are shared by organized crime groups. Thus, organized crime groups possess certain characteristics which include but are not limited to the following :

(1) The groups have a hierarchical structure and continue over an extended period of time and are self-perpetuating. That is, the organization continues its illegal affairs even after the death or imprisonment of some of its leaders

and members.

(2) Their illegal activities are conspiratorial.

(3) In at least part of their activities, they commit or threaten to commit acts of violence or other acts which are likely to intimidate.

(4) They conduct their activities in a methodical, systematic, or highly disciplined and secret fashion.

(5) They insulate their leadership from direct involvement in illegal activities by their intricate organizational structure.

(6) They attempt to gain influence in government, politics, and commerce through corruption, graft and legitimate means.

(7) They have economic gain as their primary goal not only from patently illegal enterprises such as drugs, gambling and loansharking, but also from such activities as laundering illegal money through and investment in legitimate business.

As you can see by this criteria, United States law enforcement uses the term "organized crime" to refer to organized crime groups that reflect these characteristics, and the term does not refer to a particular offense or crime.

I realize that others may define "organized crime" differently and I do not mean to suggest that these criteria are the only criteria for defining or describing organized crime. Rather, I am only stating that these are the criteria that federal law enforcement uses in the United States.

By way of emphasis, the key attributes of an organized crime group are that the group has a hierarchical structure, continues its illegal activities over an extended period of time, is self-perpetuating, and engages in diversified criminal activities for profit.

It is also noteworthy that while virtually all serious and sophisticated criminal activity involves some degree of "organization", and some degree of joint conspiratorial undertaking, such organization, in my view, does not necessarily make such criminal activity "organized crime". If that were the case, then virtually all serious crimes would be considered "organized crime" because virtually all serious crime involves "organization".

It bears emphasis that, in my view, the terms "transnational crime" and "organized crime" are not synonymous. Although organized crime groups may commit transnational crimes, organized crime groups also often engage in criminal activities that mostly affect the country in which they operate with little direct effect on other countries. Conversely, transnational crimes are not only committed by organized crime groups, but are also committed by offenders who are not members of recognized crime groups.

I hope that the distinctions I am drawing between transnational crimes and organized crime will become clearer as I discuss these concepts in more detail and illustrate my point by specific examples.

With these definitions in mind, I would now like to briefly summarize the principal transnational offenses that in my view affect the United States and many other countries. By no means does the list necessarily contain all transnational crimes, however, I would like to focus on the principal ones in my view. Then, I

would like to briefly describe the principal organized crime groups that are operating in various countries that also have impact on many countries.

III. TRANSNATIONAL CRIMES

A. Drug Trafficking

The worldwide illicit narcotics industry is one of the greatest threats to social stability and welfare in the United States. In addition to the terrible human cost of addiction and associated health concerns-including HIV and AIDS-endured by users of illicit narcotics, drug abuse has a significant impact on the social fabric that affects all Americans. Drug abuse undermines family cohesion and has a terrible daily and often lifelong effect on the lives of children across the country. Drug abuse also promotes antisocial behavior and disrespect for laws and institutions. The drug trade brings with it high levels of street crime and violence by addicts needing to pay for drugs and by drug groups fighing for turf.

The economic costs to United States citizens are high—lost productivity at the work place, medical care, spending for drug rehabilitation and social welfare programs, and in the financial and personnel resources required by federal, state, and local law enforcement agencies and judicial and penal systems to deal with drug-related crimes.

- According to the most recent publicly available survey data, about 13 million Americans—6.1 percent of the total population—used drugs on a casual, monthly, basis in 1996. The survey data indicates that in 1995 there were approximately 3.3 million chronic users of cocaine and some 810,000 heroin addicts in the United States. It is estimated that nearly 5 million Americans have tried methamphetamine, an illicit drug associated with particularly violent aberrant behavior, in their lifetime. Every day, some 8,600 young try an illegal drug for the first time.

- In 1995, United States citizens spent approximately $57 billion dollars on drugs—including $38 billion to purchase cocaine and $10 billion on heroin from overseas sources. The economic costs to society are even greater; in 1990, the total costs of drug abuse—including health care costs, lost productivity, and the costs of crime—were estimated to be $67 billion, of which $46 billion was related to crime and criminal justice.

- Drug use costs United States citizens roughly $17.5 billion per year in health-related costs, according to a recent estimate. The annual death-related costs of drug abuse account for an additional $3.2 billion. At least $6.3 billion of these costs are estimated to be from AIDS transmission driven by drug use.

- Drug use has a significant effect on work place productivity. Drug users are times more likely to be late for work, 10 times as likely to be absent, and five times more likely to file worker's compensation claims. They are responsible for 40 percent of all industrial fatalities and incur medical costs three times as high as their drug-free coworkers.

- There is a strong correlation between drug abuse and crime. In 20 of 23 cities in 1996 in a program sponsored by the National Institute of Justice, more than 60 percent of adult males arrested for crimes tested positive for at least one drug. In 1995, almost 255,000 people were incarcerated in

state prisons and nearly 52,000 in federal prisons for drug offenses, about 60 percent of federal prison population was there for drug-related crimes.

To put it mildly, these costs in money and human suffering from use of, and trafficking in, illegal drugs are deplorable.

There in no doubt that the United States has a serious problem with the degree of illegal drug use. Unfortunately, other countries are also experiencing an increase in illegal drug use. For example, it is estimated that in the Peoples Republic of China the number of registered drug abusers increased between 1990 and 1995 from 70,000 to 520,000. In Pakistan the heroin addict population is estimated to have grown from virtually none in 1980 to two million. Likewise, the use of cocaine and other illicit drugs has substantially increased in Russia and other countries of the former Soviet Bloc since the breakup of the Soviet Union.

This demand for illegal drugs drives the supply. Regarding the supply, Southeast Asia remains the greatest source region for heroin in the world, accounting for 60 percent of the world's production. Burma is the world's largest producer of illegal opium and heroin, accounting for approximately 50 percent of the world's illicit production. Laos is also a large producer of opium and marijuana. Other countries in Asia are transit routes for illicit opium and heroin, including Thailand, Vietnam, Cambodia and the People's Republic of China.

Colombia continues to lead the world in cocaine production. Extensive drug cartels use Mexico and Central America as staging or transhipment areas for United States bound cocaine, which is smuggled into the United States primarily through the southwestern border and southeastern United States.

Colombian drug organizations are historically familial-based organizations involved in cocaine trafficking and, to a lesser extent, the trafficking of marijuana. Distribution in the United States is directed by sophisticated organized structured groups. Cocaine wholesale-level distribution and money laundering networks comprised of multiple cells function in a number of major metropolitan areas. These organizations are fully equipped with the most up-to-date technology, including personal computers, pagers, and facsimile machines for use in their daily operations. United States operations are coordinated on a daily basis by key figures in Colombia. Primary United States bulk cocaine distribution centers include southern California, southern Florida, southern Texas and New York City.

Recent cases indicate that Colombian drug organizations are increasingly using gangs operating in Mexico to provide drug smuggling services. The terrible violence associated with these drug cartels is well known. The violence and corrupting influence of these drug cartels is so significant that they constitute direct threats to the stability of governments in Central and South American countries where they operate.

Recently, Nigerian organized crime groups have become major suppliers of heroin to regions in the United States. Cases that have been prosecuted indicate that Nigerian drug organizations typically smuggle only small quantities of drugs at a time using thousands of couriers, rather than smuggling large bulk shipments as do other drug trafficking organizations.

Illicit drug trafficking clearly poses formidable problems for the law

enforcement agencies of the United States and other countries. The Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI) are the principal federal law enforcement agencies in the United States responsible for combating illegal drug trafficking. Their primary strategy involves the targeting of the largest or major drug trafficking enterprises for investigation and prosecution so that the enterprise itself can be dismantled or disrupted.

In addition to attacking the suppliers of illicit drugs, it is also imperative to reduce the demand for illicit drugs.

The Director of National Drug Control Policy in the United States has implemented a comprehensive five year strategy designed to reduce the demand for illicit drugs which includes: educational and advertising programs to educate children and parents about the harmful effects of drugs, to persuade people to reject illegal drug use; and to increase drug treatment and rehabilitation efforts to help people refrain from using illegal drugs.

B. Alien Smuggling

Sophisticated alien smuggling networks traffick in "human cargo". Alien smuggling is fast becoming a global problem as residents of many countries, particularly Mexico, the Peoples Republic of China, India, Pakistan and other counties seek new homes and economic opportunities in Canada, Japan, the United States, Western Europe and other countries. According to a United Nations Study, in 1994, the profits turned from smuggling illegal aliens across international borders approached $9.5 billion.

The United States is not alone in experiencing a serious problem with illegal immigration. In the last two years, estimates indicate that more than half a million illegal immigrants were smuggled into Western Europe. Japan has also experienced an increase in illegal immigration from other Asian countries.

The vast majority of migrants who enter the United States and other countries illegally are motivated by economic reasons - they seek jobs and greater economic opportunity. In some cases, the aliens are fleeing political persecution or are seeking greater political freedom in other countries. Therefore, there are substantial humanitarian concerns and issues related to the global problem of alien smuggling. However, alien smuggling also poses substantial problems for law enforcement in the United States and elsewhere.

According to the Immigration and Naturalization Service of the United States (hereinafter INS), approximately five million illegal aliens reside in the United States. By reside, I mean persons who have remained in the United States for more than 12 months. Therefore, this five million does not include many, perhaps hundreds of thousands, of temporary illegal migrants who may come to the United States to work for several months and then return to their home country, and does not include aliens who stay a short period of time beyond the legal limits of their admission. INS estimates that about 54 percent of these five million illegal aliens are from Mexico.

Although Mexico by far is the largest source of illegal aliens in the United States, other countries such as El Salvador, Guatemala, Honduras and Haiti are also principal sources of illegal migration in the United States. Moreover, Central and South America are increasingly serving as transit zones for aliens from other areas, including Asia and Eastern Europe. Alien smuggling networks and routes have been established throughout Central America to move local migrants, as well as illegal

aliens from other areas. Tactics used by alien smuggling organizations run the gamut of all available means of transportation including large boatloads of migrants, air travel of a few individuals to large groups of alleged tourists, to commercial buses, trucks and vans.

The smuggling of aliens from the People's Republic of China to the United States has posed particular problems for United States law enforcement. Between 1991 and 1997, the United States Navy and Coast Guard interdicted a total of 43 ships carrying over 4,000 migrants, mostly from the Fujian province in the People's Republic of China. A series of prosecutions in Boston, New York, Honolulu, San Francisco and Hawaii has established that an Asian organized group known as the Fuk Ching gang that operates primarily in New York and California was responsible for much of smuggling of boatloads of aliens from the People's Republic of China.

The dangers involved in such smuggling ventures are highly significant. The prosecutions I mentioned established that in many instances the boats were overcrowded, unsanitary, lacked adequate food and supplies and were unsafe. In one tragic incident in 1993, a ship, the Golden Venture, carrying over 100 aliens from the Peoples Republic of China ran aground off the coast of New York City and 10 aliens died as a result.

In addition, these prosecutions have established that the aliens and their families are exploited if the alien is successfully smuggled into the United States. The smuggling fee of $20,000 to $30,000 per alien is clearly beyond the means of a Peoples Republic of China migrant to pay. Consequently, the smugglers have threatened, kidnapped, and assaulted aliens and their family members to collect the smuggling fees and often force the alien to work illegal gambling or prostitution businesses, or sweatshops in the garment industry until the smuggling fees are paid.

Similar harmful consequences stem from smuggling operations involving migrants from Central and South America. For example, unsafe and overloaded vehicles have contributed to accidents resulting in death and injuries.

The costs to the United States associated with illegal migration is substantial. To address alien smuggling and related matters, the Immigration and Naturalization Service's overall budget has more than doubled within five years from $1.5 billion in fiscal year 1993 to $3.1 billion in fiscal year 1997.

A November 1997 report by the United States General Accounting Office indicates that illegal immigrant families receive over one billion dollars in welfare payments and Food Stamps alone. One state, California, alone spends about $830 million each year to incarcerate illegal aliens who have been jailed for criminal acts. The financial costs associated with United States interdiction and deportation procedures are also high. For example, the costs exceeded $7 million to deport 158 migrants and 11 crew members seized in a boat carrying migrants from the Peoples Republic of China destined for Hawaii in May, 1995. I would imagine that other countries are experiencing similar problems and costs related to the global prolems arising from illegal migration.

To address these problems, the United States has recently nearly doubled the size of INS border patrol agency. United States law enforcement working with the Coast Guard and Navy and other agencies has increased its efforts to interdict boatloads of illegal aliens and to repatriate them.

Criminal penalties for alien smuggling have been increased, a mandatory minimum of three years' imprisonment upon conviction for smuggling an alien for financial gain. For example, in January 1998, the ship's captain and two crew members convicted of smuggling a boatload of over 100 aliens from the People's Republic of China were sentenced in Boston to 12, 10 and 8 years in jail. INS also continues to work with other countries to identify alien smuggling networks and to standardize entry and documentary requirements for international travel to minimize the risks of counterfeit documents.

C. Money Laundering

Money laundering is designed to prevent governments and law enforcement agencies from knowing the source of illegal proceeds and from tracing the money to its sources. The primary motive of professional criminals is to obtain financial profits from their varied criminal activities. Thus the criminal activities that drive the need to launder money are very broad, ranging from laundering illegal proceeds from drug trafficking and racketeering enterprises to white collar crimes such as commercial and bank frauds, bribery and tax evasion.

- The amount of funds generated around the world by illegal activities requiring legitimization is on the order of hundreds of billions of dollars annually; most estimates place the amount of money being laundered annually between $300 billion to $500 billion.

- In addition to drug trafficking proceeds, substantial amounts of money are transferred abroad to be laundered or otherwise hidden, costing the United States Government tens of billions of dollars annually in tax revenue losses. A 1993 study on transfer pricing concluded that the United States was deprived of at least $30 billion—and possibly as much as $100 billion—in tax revenue that year as a result of tax evasion or money laundering through transactions between United States firms and their foreign partners.

The infrastructure for laundering criminal proceeds, all of which must be placed and "legitimized" in the legal economy, is extensive and worldwide. Banks, nonbank financial institutions — which include brokerage houses, commodities dealers, currency exchange services, and casinos — and other legitimate businesses are part of the money laundering network. Investment in legitimate business enterprises provides cover for criminal activities, as well as a plausible source of wealth and income to deny it was obtained illegally. Use of front companies to launder illegal proceeds and to finance illicit transactions are widespread by criminals worldwide.

The international banking and financial system is routinely used by launderers to legitimize and transfer illicit proceeds. Once illicit proceeds are in the international banking system, electronic transfers of funds makes it difficult to track how laundered money flows. Tens of thousands of banks worldwide are connected to electronic funds transfer systems. The flow of illicit money, however, is only a tiny fraction of the trillions of dollars that move daily through the international financial system, more than $1 trillion moves daily through the United States-based Clearing House Interbank Payments System (CHIPS), which handles nearly all international dollar transfers. In most cases, banking and other financial institutions probably serve more as avenues of opportunity for launderers

rather than willing participants.

Foreign banking systems that offer bank and corporate secrecy, or where there is weak enforcement or an absence of regulations against illicit financial activities, are most appealing to international criminals seeking to launder illicit proceeds or to stockpile funds in secret accounts and shell companies. Criminals also take advantage of corruption in many banking sectors, both to place money into banking systems and the economy, and to hamper any investigation of illicit financial activities.

D. Financial Fraud

Wide-ranging and complex financial fraud schemes by international criminal organizations are stealing billions of dollars annually from United States citizens, businesses, and government programs. Financial fraud crimes have become more prevalent in recent years as criminal organizations take advantage of the significantly greater amounts of personal and corporate financial information now available and the ability to access that information through computer technology. The Association of Certified Fraud Examiners estimated financial losses from fraud perpetrated by domestic and international criminals in the United States at more than $200 billion per year. A 1995 survey of personal fraud victimization estimated the annual tangible costs associated with fraud schemes to be $45 billion.

Credit card fraud is another major financial fraud that crosses international borders. Chinese gangs in the United States particularly have been adept at carrying out a wide variety of credit card fraud, including counterfeit credit cards. Major credit card issuers estimate fraud losses to have been in excess of $2 billion dollars in 1996, about one-third of which occurred outside the United States.

The expansion of computer technology throughout the world has also led to increased opportunities for transnational criminals to gain access to confidential information and to use the interactive capabilities of advances in computers and telecommunications systems to facilitate fraudulent schemes and the movement of illicit money other assets.

E. Bank Fraud and Threats to International Banks and Financial Institutions

The use of banks and other financial institutions by international criminals to launder money, finance illicit transactions, or facilitate fraud schemes can undermine their credibility, with significant repercussions for the international financial system. Financial institutions rely on their credibility in international financial transactions—including loans, investments, large fund transfers, and managing stock and equity funds—and the failure of a large institution can affect global makets. Allegations that a financial institution is involved in criminal activity raises the possibility that its services and business practices are corrupt, scaring away investors and customers.

Efforts by some countries to develop modern banking systems can be greatly inhibited by involvement in their burgeoning financial sectors. In cash-and-credit-scarce countries like Russia, for example, criminal groups can gain influence over banks and access to loans for their enterprises simply by threatening to withdraw their funds from the bank. Criminal organizations that acquire control or significant influence in banks or other financial institutions sometimes use them to make loans to front companies that are not repaid, which can undermine the credility and solvency of the banks,

sometimes forcing the international financial community to come to the rescue.

The collapse of Latvia's Bank Baltija in August 1995—the largest commercial bank in Latvia at the time of this failure—illustrates the threat posed by criminal control of financial institutions. Criminals used the bank to make loans to their own front companies, which were not repaid, and defrauded accounts of as much as $40 million. This massive fraud caused the bank to fail, provoking a major financial crisis in Latvia.

F. Counterfeiting

Counterfeiting of United States currency and the currencies of other nations remains a long standing problem, especially with improvement in copying and production technologies.

G. Transnational Crimes Involving Intellectual Property

Counterfeiting and other forms of copyright, trademark, and patent infringement and sale of pirated products distort international trade, undermine the legitimate marketplace, and cause extensive losses of revenue to both domestic and foreign industries. The illegal duplication of United States films, compact disks, computer software computer software, pharmaceutical, and clothing trademarks major—sectors of United States export earnings—causes annual to United States companies of up to $23 billion.

H. Corrupt and Criminal Business Practices

Companies in the United States and other countries are victimized by the global problem of corrupt business practices, including commercial bribery to obtain lucrative business and government contracts. In a three-year period between May 1994 and April 1997, foreign business companies were alleged to have offered bribes for 180 contracts valued at $80 billion.

I. Illegal Arms Trafficking

International criminal networks that are—or could be—used for illegal arms trafficking and brokering deals and smuggling sensitive materials and technologies related to weapons of mass destruction threaten interests of the United States and many other countries. Although United States prosecutions of such cases have been relatively few in number, they have been significant.

For example, in 1997, a group of individuals connected to employees of state- run arms companies in the People's Republic of China were convicted in California of smuggling 2,000 AK47s and other arms into the United States.

J. International Car Theft Rings

A relatively recent and significant criminal activity carried out by Russian and Asian organized crime groups involves extensive networks to steal luxury cars by hijacking or through fraud in the United States. The cars are then smuggled out of the United States for sale in foreign countries in Asia and Europe.

K. Prostitution

Asian and Russian organized crime groups are also significantly involved in obtaining women from Asia and former Soviet Bloc countries to work in the United States as prostitutes. Often the women are brought to the United States through fraudulent visas and passports under false promises of assistance to obtain legitimate employment. However, the women are forced into prostitution until they pay the organized crime figures substantial amounts of money under threats of physical harm and under threats to expose their illegal alien status to the authorities.

In my view, these are the principal, but by no means all, transnational offenses that adversely affect the United States and other countries, and they pose formidable problems to the global law enforcement communities. I would next like to briefly discuss the principal organized groups operating in the United States and other countries.

IV. ORGANIZED CRIME GROUPS

A. United States—Based Organized Crime Groups

As I stated earlier, United States authorities use a multi-faceted criteria to identify a group that constitutes "organized crime". To briefly repeat, the central factors are whether the group has a hierarchical structure, is self-perpetuating and continues over time and engages in diversified criminal activities for profit.

Under these criteria, La Cosa Nostra, commonly referred to as the LCN, is the most significant organized crime group operating in the United States. The LCN is a nationwide criminal organization divided into approximately 24 families that operate in the major cities in United States. Five families exist in New York City and 19 other LCN families are centered in other large cities in the United States. However, for most part, the LCN's criminal activities are focused in the United States and to some extent in Canada and have little direct effect on other countries. Of course there are some notable exceptions including, but not limited to, the LCN's involvement in narcotics trafficking, money laundering and stock frauds which are significant transnational crimes. But, these are exceptions to the general proposition that the LCN's criminal activities, especially the LCN families outside of New York City, involve matters largely confined to the United States.

The same is true for Asian organized crime groups operating in the United States. Thus far, the evidence indicates that Asian organized crime groups in the United States primarily operate in and are controlled in the United States without substantial ties to foreign organized crime groups. However, there are notable exceptions, such as their involvement in alien smuggling, money laundering, narcotics trafficking and trafficking in stolen cars which are transnational crimes with substantial ties to criminal associates in countries outside the United States. There may be other exceptions as well. Having said that, it remains generally the case that for the most part Asian organized crime groups in the United States consist of relatively small groups of various ethnic Asians that lack the structure, long term continuity and breadth of activities as does the LCN. The evidence thus far indicates that the principal criminal activities of these ethnic Asian organized crime groups in the United States include home invasion robberies and burglaries, robberies and extortion of businesses, other extortions, gambling, credit card and other fraud and related crimes of violence that are focused on the particular communities in the United States where the gang members live or operate.

B. The Boryokudan

I am sure most of us are familiar with the Boryokudan, which are large organized crime groups operating in Japan. However, thus far the evidence does not indicate that the Boryokudan poses a substantial threat in the United States. Indeed, over the past 15 years there have only been three or four federal prosecutions in the United States involving criminal activities in the United States by the Boryokudan.

C. Triads

Again as you may know, Triads are relatively large criminal organized crime

groups operating in Hong Kong, the People's Republic of China and Taiwan. However, thus far the evidence indicates that Triads, as such, do not pose a substantial threat to United States law enforcement. Various Triad members have been prosecuted in the United States, mostly for drug trafficking, and there is evidence that Triad members have used their Triad affiliations to facilitate their criminal activities in the United States. However, thus far the evidence does not indicate that Triads are firmly entrenched in the United States and does not indicate that Triads have cells operating on an ongoing basis in the United States. Probably, the greatest threat in the United States posed by Triads involves their drug trafficking activities.

D. Italian Organized Crime Groups

The principal organized crime groups operating in Italy are the Sicilian Mafia or Siclian Cosa Nostra, the Camorra based in Naples, the 'Ndrangheta based in Calabria and the United Sacred Crown based in Puglia. Although, these organized crime groups engage in transnational crimes affecting Europe and elsewhere, thus far the evidence does not indicate that these groups engage in significant criminal activities in the United States. In the mid to late 1980's there were several important prosecuions in the United States of Sicilian Mafia members and associates for drug trafficking and money laundering offenses. Since then, there has not been evidence in the public record that Italian organized crime groups have a significant presence in the United States, although there continues to be some drug trafficking and money laundering prosecutions of persons tied to Italian organized crime.

E. South American Drug Cartels

As I previously stated, South American Drug Cartels, such as the Cali and Medillin drug cartels, continue to have a significant impact on the United States through their extensive drug distribution and money laundering networks.

F. Russian Organized Crime Groups

United States law enforcement agencies use the term "Russian Organized Crime" to refer not only to organized crime groups operating in Russia, but rather the term more broadly encompasses two general components: First, Russian organized crime refers to organized crime groups operating in or headquartered in countries in Eastern Europe and Asia that were formerly part of the Soviet Union and the Soviet Bloc, which for example would include Russia, Poland, Hungary, Georgia, Armenia, Kazakhstan, Ukraine and others. And second, Russian organized crime refers to organized crime groups operating in the United States that have a nexus to the countries that formerly comprised the Soviet Bloc.

1. Outside the United States

I would like to first discuss the Russian organized crime groups operating in or which are centered in the former Soviet Bloc countries. The collapse of the Soviet Union and the Soviet Bloc in 1991 created a vacuum of authority. As new governments began grappling with the awesome problems of developing laws, regulations and business practices to govern emerging private businesses, economic activities and greater political freedom, criminals have exploited both the new economic and political opportunities and the absence of comprehensive legal structures. In particular, Russia's efforts to privatize the economy, that is—the sale of state-owned industries to the private sector, has been fertile ground for criminal exploitation.

In 1993, Russian President, Boris Yeltsin declared that crime was "the number one threat to national security." Figures for 1994 from the Russian Ministry of the

Interior, commonly referred to as the MVD, indicate that there are over 8,000 criminal groups in Russia with approximately 100,000 members. These criminal groups operate in over 50 countries, they are firmly entrenched in the Former Soviet Union and Soviet Bloc countries, and are expanding to the United States, the Caribbean, South America, Israel and the Middle East.

"Thieves-In-Law" represent the "old-guard"of these Russian organized crime groups. The MVD estimates their membership to be roughly 750 to 800. Thieves-In-Law is a loosely organized group of elite criminal leaders whose roots stem from organized gangs in former Soviet prisons. Thieves-In-Law are selected by their prison peers for membership, observe strict codes of conduct, engage in ritual cermonies and sport physical markings. In these respects the society of Thieve-In-Law are similar to traditional organized crime groups such as the Sicilian Mafia and the LCN in the United States.

There are at least 20 to 25 major Russian organized crime groups operating in or centered in the former Soviet Bloc countries. These are relatively large organizations, with key membership ranging from several hundred to 1,000 active criminals. They have a hierarchical structure and are devided into brigades or crews of members. These criminal enterprises engage in a wide variety of criminal activities, including murder, extortion, kidnapping, trafficking in drugs and weapons, money laundering, prostitution, fraud, theft and related public corruption.

I would like to briefly discuss a few of these criminal activities. Perhaps the greatest threat to the stability of the Russian Federation and other new govenments of the former Soviet Bloc that is linked to Russian organized crime groups arises from the looting and illegal export of natural resources and other assets, often carried out with the assistance of corrupt government officials.

A recent prosecution in the United States illustrates this. In January 1998, a Russian emigre was covicted in San Francisco, California, on tax charges. The charges arose from an investigation into an elaborate scheme to sell in the United States approximately $180 million in gems and precious metals obtained from the Russian Federation, with the assistance of corrupt officials in the Russian Federation. The gems were supposed to be processed in the United States, but the conspirators sold the gems and used the money to buy expensive residences, real estate, cars and other assets. Several officials of the Russian Federation have been charged with corruption offenses in Russia.

There are many other examples of corrupt capital flight from former Soviet Bloc countries. In the United States, there have been numerous investigations of highly suspicious wire transfers of substantial sums of money, in some cases in the millions of dollars to hundreds of millions of dollars, from entities in former Soviet Bloc countries to entities in United States where there is no apparent legitimate explanation for these transfers of money. Although some of these cases have led to successful prosecutions, many remain unsolved because of the difficulty to trace the money and to determine the ultimate believed illiegal sources of the money in the countries outside the United States.

Other kinds of fraud carried out by Russian organized crime groups also are becoming more prevalent. For example, in 1996, a group in Los Angeles was convicted for a $4 million fraud against the Government of Kazakhstan on a contract

to sell Cuban sugar to Kazakhstan. Advance payments were made by the government of Kazakhstan to the conspirators in the United States, but the sugar was never delivered. Indeed, the fraud was quite brazen since it is not lawful for companies in the United States to sell Cuban sugar to anyone. Similar contract fraud schemes have involved false promises in the delivery of meat, alcohol, petroleum and other products.

As previously stated, in the 1990's narcotics consumption increased in Russia and other former Soviet Bloc countries. There is evidence that Russian organized crime groups are responsible for much of the drug trafficking and have formed alliances with South American drug trafficking organizations and Italian organized crime groups to handle distribution of narcotics in the former Soviet Bloc countries.

Russian organized crime groups have been deeply involved in arms trafficking with the assistance of current and former corrupt government and military officials. Several recent prosecutions in the United States, including a pending indictment in Florida of a Russian emigre Ludwig Fainberg, involved efforts sell illegal arms allegedly obtained from Russia.

Some of these cases have also involved offers to sell nuclear grade weapons materials. However, thus far there have been no cases in the United States in which nuclear grade weapons materials have been delivered. But, given the significant dangers inherent in trafficking in nuclear grade weapons materials, the United States will, of course, continue to vigorously investigate possible cases of such trafficking.

2. In the United States

Next, I will briefly discuss Russian organized crime activities in the United States. There are two general categories of Russian organized crime groups operating in the United States. The first category consists of the traditional large organized crime groups based in Russia and other countries of the former Soviet Bloc that I have just discussed. Some of these groups are trying to establish a foothold in the United States, and are carrying out criminal activities in the United States through associates living in the United States.

The Ivankov organization centered in New York City illustrates the first category. Vyacheslav Ivankov operated an illegal organization in New York City involving extortion of an illegal organization in New York City involving extortion and fraud, and the organization had direct ties to Russian organized crime groups outside the United States. In 1996, Ivankov was convicted on extortion charges in the United States and sentenced to nearly to nearly 10 years in jail.

Another case illustrates the first category. In January 1997, Ludwig Fainberg was indicted in Miami, Florida, on federal charges involving drug trafficking efforts to smuggle cocaine from Ecuador to St. Petersburg, Russia and for the interstate transportation of stolen property. The conspirators were also attempting to purchase a Russian diesel submarine to be used to smuggle drugs.

In another drug case, in December 1997, Oleg Kirillov, a Russian organized crime leader based in Russia, was indicted in a federal court in Miami, Florida, for conspiring to export cocaine from the United States to Russia.

The second category of Russian organized crime groups in the United States commonly referred to as

"fraudsters", are emigres from the former Soviet Bloc countries living in the United States who engage in various kinds of fraudulent and other criminal activities. Fraudsters are smaller, less centralized and less hierarchical groups of criminals than the first category of more traditional organized crime groups. Moreover, while fraudsters may have some ties to Russian organized crime groups centered outside the United States, for the most part the fraudsters criminal activities are "home grown", that is, they focus on activities in the United States with little or no direction from groups outside the United States.

United States authorities are still not sure how much of Russian organized crime activity in the United States falls within the first or second category. Russian organized Crime activity in the United States is a recent development, and we still have a lot to learn. Thus far, the evidence indicates that most Russian organized crime criminal activity in the United States falls within the second category, that is fraudsters centered in the United States with little or no direction from Russian organized crime groups outside the United States. But, our assessment may change as we learn more about fraudsters' activities.

A few cases illustrate the activities of Russian fraudsters. A series of successful prosecutions in the late 1980s and 1990s, in Los Angeles, New Jersey, New York and Philadelphia established that Russian fraudsters formed an alliance with United States LCN members to defraud state governments of many millions of dollars in diesel fuel excise taxes. The conspirators carried out their scheme through extortion of businessmen and through establishing sham gasoline companies that evaded the payment of the excise fuel taxes.

The most notorious fraud scheme perpetrated by a Russian organized crime enterprise was the massive medical insurance fraud conducted by the Smushkevich brothers in Southern California in the late 1980's. Michael and David Smushkevich were emigres from Lithuania who together with their spouses and eight associates, embezzled private insurers and the United States government of over one billion dollars. The brothers operated mobile health care diagnostic laboratories. Patients were solicited by telephone to receive supposed "free" examinations at their mobile clinics. The patients were asked to sign forms giving the clinics the rights to their insurance benefits. The bills were then submitted to insurers claiming that doctors had ordered the tests. At its peak, the operation involved 500 companies.

There are numerous other prosecutions and investigations involving Russian fraudsters' carrying out similar health care fraud schemes to defraud state and federal governments. In addition to such fraud, money laundering by Russian fraudsters in the United States is a very significant problem. As I mentioned earlier, there are numerous cases involving suspicious transfers of hundreds of millions of dollars from former Soviet Bloc countries to the United States that are under investigation. As you can see, Russian organized crime is a very recent phenomenon that poses increasing threats to the United States and many other countries.

V. CONCLUSION

In conclusion, it is clear that transnational crimes and organized crime groups' criminal activities are very comprehensive and pose formidable problems for the global community. Therefore, I am sure that you will agree that it is imperative that we all continue to work closely together to combat these worldwide problems.

UNITED STATES RESPONSES TO THE THREATS POSED BY TRANSNATIONAL CRIME AND ORGANIZED CRIME GROUPS

*Frank J. Marine**

I. UNITED STATES DOMESTIC LAW ENFORCEMENT RESPONSES

In my first paper I described the nature of the principal transnational crimes and organized crime groups affecting the United States and other countries, and the substantial threats to the world community arising from these criminal activities. I would now like to discuss some of the investigative techniques and prosecutive tools and strategies that law enforcement has used with some effectiveness in the United States to combat such criminal activities. I hasten to add, however, that while I believe that these tools have been effective in the United States, they may not be transplanted easily into other countries. As we all know, there are differences among the countries of the world regarding their history, size in population and territory, geographical location, political, social and economic systems, cultural values and social structure that greatly influences the appropriate policies and procedures adopted by any particular country to address criminal activities and other problems. Therefore, I do not mean to suggest that the approaches of the United States are the only ways, nor do I mean to suggest they are the best ways. Rather, it is for each country to decide for itself on appropriate course of action to combat criminal activities.

Equally, I do not mean to suggest that law enforcement is capable of completely eliminating transnational crimes and organized crime activities. Such perfection simply does not exist in the real world. But, I firmly believe that working together we can substantially reduce the threats posed by the adverse consequences of criminal activities.

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II. INVESTIGATIVE TECHNIQUES

1. Electronic Surveillance

The single most important law enforcement weapon against organized crime by far is electronic surveillance. Virtually all the major federal United States prosecutions against the leadership and members of the La Cosa Nostra (LCN) over the past 20 years have involved electronic surveillance. Electronic surveillance is likewise becoming an equally important weapon against Asian and Russian organized crime groups.

The reasons are obvious. First, there is nothing as effective as proving the crime through the words of the defendant themself. There are often credibility problems with co-conspirators as witnesses since they are criminally involved and received some form of a deal or consideration for their testimony. Whereas electronic surveillance evidence provides objective reliable evidence of crimes through the statements of the participants themselves. Moreover, electronic surveillance enables law enforcement to learn of conspirators plans to commit crimes before they are carried out, which enables law enforcement to surveil the activities , such as delivery of contraband and conspiratorial meeting, or to disrupt and abort the criminal activities as

approriate. In that regard, electronic surveillance is particularly helpful in preventing crimes of violence from occurring.

Indeed, electronic surveillance is especially helpful in transnational crimes because it enables law enforcement to intercept conspirators in the United States discussing their crimes with their criminal associates in countries outside the United States. Without such electronic surveillance, it would be very difficult for United States law enforcement to obtain evidence of such conspiratorial planning against the co-conspirators operating outside the United States.

Although electronic surveillance is extremely valuable, it is also a very sensitive technique because of legitimate concerns for a person's privacy interests. Accordingly, United States law imposes significant restrictions on electronic surveillance. First, electronic surveillance is authorized to obtain evidence of only some specific serious offenses listed in the governing statute. To obtain electronic surveillance, agents and government attorneys must submit an affidavit to a United States district court judge which contains specific facts establishing probable cause to believe that subjects of the electronic surveillance are committing certain specified offenses and that it is likely that relevant evidence of such crimes will be obtained by the electronic surveillance. Thus, the government must obtain the approval of a neutral independent judge to conduct electronic surveillance.

Moreover, before electronic surveillance is permissible, the government must establish probable cause to believe that investigative techniques other than electronic surveillance have been tried and failed to obtain the sought evidence, or we must establish why such other investigative techniques appear to be unlikely to succeed if tried, or will be too dangerous to try.

In executing the electronic surveillance, the government must "minimize" the interception of innocent conversations. That is, the government must take reasonable steps to assure that only conversations relevant to the crimes under investigation are intercepted and that innocent conversations are not intercepted. In practice, the monitors must turn off the recording machines when conversations are not discussing matters relevant to the crimes under investigation.

Such court-authorized electronic surveillance is limited to 30 days, the 30-day period may be extended for additional 30-day intervals provided that all the requirements are met every 30 days and approved by the judge.

2. Undercover Operations

When it comes to organized crime control, undercover operations are second only to electronic surveillance; indeed, the two techniques often go hand-in-hand.

In undercover operations, law enforcement agents may portray themselves as criminals such as drug dealers, fences for stolen merchandise, money launderers or even hitmen willing to commit murder for hire. Through such undercover operations, law enforcement agents are able to infiltrate the highest levels of organized crime groups by posing as criminals because other real criminals will discuss their criminal plans with the agents to get their assistance in committing crimes.

The agents also gain the confidence of criminals, who will in turn often reveal their past criminal activities to the agents,

as well as plot with the agents to engage in additional ongoing criminal activities. Combined with eavesdroping, the undercover approach provides comprehensive coverage of the targets' day-to-day activities. But this technique also carries the potential for problems and requires exceptional preparation. For one thing, there is always the physical safety of the undercover agent to consider. To prevent the premature disclosure of his or her identity , the agent must be provided with a fully substantiated past history (called "backstopping") and careful briefings of the targets' modus operandi. Every conceivable scenario that might make the targets suspicious of or hostile to the agent must be considered in advance. And the undercover agent themself must undergo careful testing (including, if necessary, psychological profiling) to ensure that s/he possesses the intangible qualities whereby they will "fit" comfortably into the new identity.

Another danger in undercover operations involves potential danger — either physical or financial — to the public. Undercover techniques need wide public support to be successful. The quickest way to lose public support for undercover operations is to operate them in a way that victimizes the public. Unlike eavesdropping, which is relatively passive, undercover operations frequently deal with - and sometimes intentionally mislead — the public. For example, suppose there is an undercover business selling products to the public while advertising itself unofficially to criminal as a place where stolen property can be taken. Not only could the government be liable for any defects in the products it sells to the public, it might be indirectly responsible for encouraging thieves to steal property by virtue of supplying them with an outlet.

In order to balance these concerns and avoid harm to the public, our Department of Justice has set up Undercover Review Committees, comprised of senior prosecutors and investigators, to review, approve, and control all sensitive undercover operations. To be approved, an undercover proposal must:

i. Be in writing;

ii. Contain a full factual description of the suspected criminal activity and the participants therein;

iii. Set out in detail the proposed undercover scenario, the expertise of the undercover team, the duration of the project (not to exceed six months unless extended), and the anticipated legal issues (such as entrapment) ; and

iv. Evaluate the risk to the agents and the public.

Regarding such dangers, when law enforcement learns of potential crimes of violence, law enforcement authorities are required to take necessary steps to prevent the violence from occurring, which could include warning the potential victim or arresting the subjects who pose a threat or ending the undercover operation.

Undercover operations are especially essential and are very successful in narcotics trafficking cases because traffickers always need customers to sell their contraband. Agents, posing as buyers, can obtain direct and substantial evidence against the drug traffickers by buying their product. Likewise, long term undercover operations are essential to infiltrate organized crime groups that continue their illegal activities over many years. For example, FBI agent Joseph Pistone worked undercover for six years as a jewel thief under the alias Donnie Brasco to infiltrate

the highest levels of the Bonanno LCN family in New York City. This undercover work led to the convictions of many LCN leaders and members. A recent film - "Donnie Brasco" was made about his highly successful undercover work.

3. Informants

Another critical law enforcement technique involves the use of confidential informants. I am a big fan of sherlock Holmes, and as a law enforcement official, would love to think that we could solve organized crime problems using our deductive reasoning powers to sift through intricate clues and arrive at the correct conclusion "who done it" , like the famous Sherlock Holmes. Unfortunately, Sherlock Holmes is fiction. In reality, we do not solve organized crime cases the Sherlock Holmes way. Rather, we solve such crimes through electronic surveillance, undercover operations and also through the third most important tool, — the use of confidential informants.

When United States law enforcement uses the term confidential informant, we refer to an individual who is not willing to testify and who provides information or assistance to the authorities under a promise that we will try to keep their identity confidential. We cannot absolutely guarantee such confidentiality because in relatively rare circumstances courts may conclude that due process, or concerns of fundamental fairness, require that a confidential informant's identity be disclosed to a defendant charged with a crime where the informant can provide evidence that could exculpate the defendant. Absent such a rare case, we are able in most cases to keep an informant's identity confidential.

Confidential informants are typically motivated to provide information to the authorities in exchange for money or lenient treatment regarding charges pending against them or likely to be brought against them. In many cases confidential informants are themselves engaged in criminal activities which enables them to provide valuable direct evidence of criminal activities by their criminal associates. Confidential informants frequently provide the information that enables law enforcement officials to obtain judicial warrants authorizing electronic surveillance. Many successful prosecutions of the LCN leadership have involved information supplied by confidential informants who provided information for many years about the leadership of the LCN; indeed some of the informants have been made members of the LCN. Incriminating evidence by informants who deal directly with the LCN leadership is simply invaluable to break through the layers of insulation that the leadership uses to conceal their activities.

However, there are high risks associated with the use of informants. Sometimes, informants do not fully disclose their own criminal activities, or they falsely implicate their enemies in crimes, or they engage in unauthorized criminal activities. In that latter respect, under United States law, law enforcement may authorize informants to participate in some forms of non-violent criminal behavior that would otherwise be illegal, if they were not acting as informants with authority to engage in the activities. For example, depending on the circumstances, in order to protect an informant's cover and to enable them to be in a position to obtain incriminating evidence against others, informants may be authorized to participate in illegal gambling, trafficking in stolen property, and other non-violent crimes. Therefore, it is important for law enforcement to closely monitor the activities of informants to minimize the danger that the informant would use their association with law

enforcement to shield their own unauthorized criminal activities.

On balance, however, experience teaches us that as a general rule, the benefits from the use of informants greatly outweigh the risks. But, we must be ever vigilant of the risks.

III. PROSECUTION TECHNIQUES AND WEAPONS

1. The RICO Enterprise Theory of Prosecution

Obviously, the goal in every organized crime case is to convict the highest levels of a crime organization. To do so, prosecutors need the proper tools. First and foremost, prosecutors need an "enterprise" or "racketeering" statute designed specifically for this purpose.

Several countries already have enacted such legislation. Italy, for example, has an anti-Mafia statute; Japan, our host country, recently enacted statutes derected against the Boryokudan. Officials from Russia, Great Britain, and from several countries in Eastern Europe have recently shown interest in "enterprise" legislation. An "enterprise" statute in this context is one that explicitly prohibits participation in a crime group through specified unlawful activity.

In the United States, the most famous of all anti-racketeering laws is called RICO, an acronym for the Racketeer Influenced and Corrupt Organizations Statute. In general, it provides heavy penalties (up to life imprisonment under certain circumstances) when a defendant conducts (or conspires to conduct) the affairs of an enterprise through a pattern of specified acts known as "predicate" crimes. An "enterprise" can include anything from a corporation, to a labor union, to a group of individuals working together to commit crime such as an LCN family, or an Asian or Russian organized crime group.

In one sense the RICO statute did not actually create a new offense because murder, arson, extortion, and all sorts of business crimes (to name a few of RICO's 46 predicate offenses) were already made criminal when RICO was enacted in 1970. But RICO was still a dramatic legislative initiative because it permitted many of these generically different crimes to be charged in a single indictment, even, in a single count, so long as those crimes were part of a defendant's patttern of acts that related to the enterprise.

In addition, there are some features of RICO that are particularly effective in organized crime cases. For example, as long as one of the predicate crimes alleged against a defendant occurred within the last 5 years before the indictment is brought, the next previous crime in the pattern of racketeering need only be within 10 years of the most recent crime. The third most recent crime need only have occurred within 10 years of the second act and so on. The reach-back feature of RICO, therefore, can extend 15 or 20 years or more into the past. (Except for statutes like RICO, indictmnts in the United States generally cannot allege crimes that occurred more than five years prior to the date of indictment).

RICO's reach is not only long, it is broad. As noted, the predicate crimes which qualify as RICO predicates run the gamut from several forms of violence, robbery, murder, extortion to fraud, securities offenses, most forms of vice (gambling, extortion, obscenity, prostitution, etc.), and illicit investment in legitimate businesses. Were it not for RICO, most United States judges would prohibit the prosecution of such diverse crimes in a single case, especially if 10 or more defendants were

charged. Instead, the court would most likely require a series of smaller trials, which is exactly what crime groups hope for, because they understand that the best way to conquer a prosecution is to divide it. In a series of smaller trials no one jury gets to see the entire picture. Organized crime, by contrast, is a picture composed of many crimes, all linked by a single chain-of-command to the same enterprise. Any effective prosecution of a crime family would thus necessitate proof of these many crimes in a single trial. RICO permits this. RICO allows the jury to see the entire pattern of crimes committed by an organized crime group. In bringing a typical RICO prosecution, for example, we may charge six or more racketeers with perhaps a dozen of even more predicate crimes covering a decade. In each alleged predicate crime, some, but usually not all, of the defendants are named. In some cases, RICO indictments have charged numerous defendants with committing more than 50 offenses as part of a pattern of racketeering activity.

As powerful as RICO is, very few RICO prosecutions were actually brought against organized crime until the early 1980s even though RICO was adopted in 1970. Part of the reason was that RICO has always been a very complicated and powerful instrument; it took nearly 15 years for Federal prosecutors to feel comfortable enough-about RICO to make it the centerpiece of mob prosecutions. Another reason was that the investigative techniques necessary to build a suitable RICO case, such as electronic surveillance and undercover operations, were not routinely used against organized crime bosses in the 1970s. To be sure, there were a lot of investigations and prosecutions of racketeers for street crimes, but these cases rarely pierced the insulation behind which big organized crime bosses hid.

In the early 1980s, as already noted, the Federal Government (primarily the FBI) made a determined effort to infiltrate the secret headquarters of LCN bosses, listening to their plans and reconstructing their crimes. In turn, Federal prosecutors agreed to bring more and more complicated RICO charges. As a result, more successful cases against organized crime bosses have been brought in the last 15 years than in the prior 80 years. In fact, prosecutors discovered that RICO worked equally well whether the defendants were mobsters charged with murders and extortions, or public officials charged with taking bribes.

Naturally, due to their sensational revelations, RICO mob cases received extensive media coverage. At this point it is clear that control of organized crime in the United States would be inconceivable without RICO. In addition, RICO was the key charge against panamanian dictator Manuel Noriega and the Philippines' President Ferdinand Marcos. RICO cases have also been brought against hundreds of police officers, judges, and public officials for official misconduct, and against terrorist groups, radical hate groups, street gangs, stock manipulators, and drug cartels.

We are now successfully using RICO to attack newly emerging organized crime groups such as Asian and Russian organized crime groups, just as we did against the LCN.

Like any powerful tool, RICO could be abused. To protect against potential abuses, the Organized Crime and Racketeering Section (OCRS) has a special unit of attorneys who carefully review all proposed RICO indictments for legal and factual sufficiency. The unit also ensures in every case that RICO is necessary; when other, less powerful statutes would do just as well, the use of RICO charges is not

approved.

2. Organized Crime Strike Force Units

As I previously stated, the LCN is the number one organized crime problem in the United States. The LCN is an extensive nationwide criminal organization. Therefore, it was essential to attack the LCN through a closely coordinated nationwide effort. However, law enforcement is very fragmented and decentralized in the United States. The United States Department of Justice at the federal level is divided into 94 different United States Attorneys offices throughout the country that operate with considerable independence of the main Justice Department located in Washington, DC. In addition, there are literally hundreds, perhaps over 1,000 state, county and city prosecutors' offices and police departments that have criminal jurisdictions that are totally independent of the federal Department of Justice. This fragmented prosecutorial authority makes nationwide coordination difficult. These difficulties are made even greater when you factor in the large territorial size of the United States and its relatively large population of over 260 million people.

To improve coordination of federal efforts to attack organized crime, in the late 1960s the Department of Justice created 24 specialized prosecutive units called Organized Crime Strike Forces, located in the cities where the 24 LCN families were most active. These Strike Force Units were staffed by career prosecutors who were experienced in electronic surveillance, undercover operations, and long term proactive investigations. Moreover, these prosecutors are only allowed to work on organized crime matters. To assure that they work only on organized crime matters and to assure that the Strike Force cases are properly coordinated from a national perspective, supervising prosecutors in Washington, DC are able to maintain the focus of efforts against the LCN and to see to it that relevant information developed by one Strike Force office gets to another office in another part of the country that may need it.

Moreover, because the supervisors in Washington, DC, are aware of all LCN investigations and prosecutions in the United States, they are able to reduce duplication of efforts and coordinate investigations and prosecutions conducted by more than one office.

The creation of these Strike Force Units proved to be invaluable. Over the past 25 years, the vast majority of all the major convictions of LCN bosses and members were obtained by these Strike Force Units. Although the LCN remains strong in the metropolitan New York City area where roughly 80% of the LCN members operate, the LCN has been substantially weakened in other parts of the United States - particularly in San Francisco, Los Angeles, Kansas City, Milwaukee, St. Louis, and other cities.

Although the Strike Force Units were initially created to combat the LCN, their mission was expanded in 1990 to combat Asian and Russian organized crime groups. In 1990, the Attorney General of the United States adopted a national strategy to coordinate the federal attack against then newly emerging organized crime groups operating in the United States. The Strike Force approach became the centerpiece of that national strategy since it had been so successful against the LCN. The Strike Force Units were well equipped to handle the new challenges because of their experience, and also because the Strike Force Units were already located in the cities where the Russian and Asian organized crime groups were most active.

Not surprisingly, the Russian and Asian organized crime groups are active in the same large cities as the LCN.

To implement this national strategy, the Attorney General created the Attorney General's Organized Crime Council, the members of which are the heads of the Federal Bureau of Investigation, the Drug Enforcement Administration (DEA), the Division of Enforcement of the Securities and Exchange Commission, the Secret Service, the Marshals Service, the Customs Service, the Postal Inspectors, and the Internal Revenue Service. The Council meets as necessary, and at least once annually, to set the official priorities of the Federal Government's organized crime program, which currently are LCN, Asian, and Russian organized crime. In order to set these priorities, each agency and the country's 94 top Federal prosecutors (called United States Attorneys) are required each year to file written plans assessing the problems posed by organized crime groups in their districts and for attacking organized crime groups in their districts. The Department of Justice's Organized Crime and Racketeering Section then reports its analyses of these plans to the Council. The most important feature of this system is control. It obligates the regional prosecutors and agents to keep constant pressure on La Cosa Nostra and Asian and Russian crime groups, and prevents them from succumbing to periodic temptations to assign prosecutors and agents to non-organized crime cases.

Implementing this national strategy has enabled the Federal Government to coordinate its nationwide efforts against organized crime groups and to keep the pressure on them to prevent them from expanding their corrupt influences on society.

3. Witness Security

Another valuable asset of the prosecutor's arsenal has been the federal witness security program. Because of the violent nature of organized crime, witness intimidation is a significant problem. To address that program, in 1970 the Department of Justice created the federal witness security program. Witnesses are admitted to the program when they are able to supply significant evidence in important cases and there is a perceived threat to their security. Once in the program, the witness and his or her family are given new identities, relocated to another part of the United States where the danger to their security is lessened, and are given financial assistance until the witness is able to secure employment.

Since the beginning of the witness security program, 6,816 witnesses have been admitted into the program along with 8,882 family members for a total of 15,698 persons in the program. The average cost is $75,000 per witness per year and $125,000 per family per year.

As you can see, the program is very costly, but the results have made it worth the cost. Since 1970, over 10,000 defendants have been convicted through the testimony of witnesses in the program. Last year, 208 convictions were obtained and 2 million dollars was seized.

The vast majority of protected witnesses, about 97 percent, have criminal records. However, the recidevist rate for witnesses in the program is 21 percent, which is half the rate of those released from prison.

4. Forfeiture

It cannot be overstated that making money is the primary goal of organized crime and transnational criminal activities. Therefore, it is imperative to take the profit out of crime. Strong forfeiture laws do just

that. Forfeiture is a criminal penalty for many offenses in the United States. Generally speaking, upon conviction for an offense that carries forfeiture as a penalty, a defendant may be ordered to forfeit all profits or proceeds derived from the criminal activity, any property, real or personnel, involved in the offense, or property traceable to the offense such as property acquired with proceeds of criminal activity. For example, if a defendant uses a residence or car to distribute drugs, that property is subject to forfeiture. Thus, a convicted defendant may be ordered to forfeit all proceeds of the criminal activity including money and other forms of property.

In addition to criminal forfeiture, civil forfeiture laws also allow the government to obtain property used in criminal activities. The principal difference between criminal and civil forfeiture is that criminal forfeiture is limited to a convicted defendant's personal interest in property subject to forfeiture, whereas civil forfeiture focuses on the property itself.

For example, suppose a defendant repeatedly used a house to sell drugs, but s/he did not have an ownership interest in the house. If convicted of drug dealing, that house is not subject to criminal forfeiture because the defendant did not own the house. However, a civil forfeiture law suit could be brought against the house as a defendant, even if the owner of the house was not engaged in criminal activity. The house, nonetheless, is subject to civil forfeiture because it was repeatedly used to facilitate criminal activities, and the owner did not take adequate steps to prevent their house from being used for criminal activities.

There are various defenses to such civil forfeiture, such as the "innocent owner defense", but I do not want to digress into the complexity of United States forfeiture law. To some extent I have generalized and oversimplified United States forfeiture law which is complex, so as not to detract our attention from the main point I am trying to make. That is, that criminal and civil forfeiture laws are powerful weapons in the prosecutors' arsenal to take the profit out of crime.

5. Money Laundering

Strong money laundering laws go hand-in-hand with forfeiture laws to be powerful weapons against criminal activities. Under United States money laundering laws, it is a crime to knowingly conduct a financial transaction with the proceeds of certain specified unlawful activity set forth in the statute, with either the intent to promote the specified unlawful activity or with the intent to conceal the specified unlawful activity. The term transaction is broadly defined to include "a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition" and "with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected."

As you can see, the money laundering statute covers nearly every imaginable type of transaction. Moreover, the penalties for money laundering include forfeiture which greatly enhances law enforcement's efforts to take the profit out of crime.

For example, in one recent case in Boston, defendants were convicted of laundering $136 million in drug proceeds for Colombian drug traffickers. The defendants received the cash drug proceeds, and used it to buy money orders

cashiers checks, or gold to conceal the illegal source of the cash; this constituted money laundering. The defendants argued that they should only be required to forfeit the 5% laundering fee (or roughly $7 million) that they charged the drug traffickers since the $136 million belonged to the drug traffickers. The court rejected this argument and held that the defendants were liable for forfeiture of the entire $136 million that they laundered.

Other examples of money laundering illustrate the breadth of the statute. For example , proceeds of fraud that are deposited in bank accounts or other financial institutions which is commingled with legitimate money in accounts under the names of nominees constitutes money laundering subjecting, under some circumstances, the entire amounts in the accounts to forfeiture, including the money obtained legally as well as the crime proceeds.

In many cases, not just organized crime cases, money laundering violations coupled with forfeiture have proven to be powerful weapons to take the profit out of crime.

6. Sentences

Finally, I would like to briefly discuss United States sentencing laws. Fair punishment upon convictions of crimes to protect society is obviously the ultimate goal of all prosecutions. Perhaps most important is the protection afforded by incapacitating the convicted criminal through incarceration. To be sure, imprisonment substantially reduces, but does not totally eliminate, opportunities for criminals to continue their their illegal activities.

In 1987, the United States Federal Government adopted a comprehensive change in its sentencing laws to make punishment more definite and more uniform throughout the federal system. First, federal parole was abolished. Therefore, a sentence of 10 years in jail means a defendant will not be paroled at a shorter time and the defendant will actually serve 10 years in jail, with some modest reduction for good behavior while in jail. Other changes involved substantial restrictions on the discretion of judges in imposing sentences. Pursuant to the changes, sentences are now determined by application of a complex numerical weighing system. Under the formula, specific numbers are assigned to relevant factors such as the type of offense, the nature of the underlying circumstances, the defendant's role in the offense and the defendant's criminal history. The numbers are added up and the defendant is generally sentenced to a guideline range according to the resulting number. Again, I am oversimplifying complex legal provisions.

The end result of these reforms has been that more defendants have been sentenced to prison for longer terms. According to data from the Department of Justice's Bureau of Justice Assistance, the state and federal prison population in the United States rose 50 percent from 1990 to 1997, and has been increasing 6.5 percent annually. The state and federal prison population in the United States is now 1.7 million prisoners. During the last 25 years, the federal and state inmate population has increased six fold from 200,000 in 1972.

The increases in the length of jail sentences and the number of defendants imprisoned has been one important factor contributing to the reduction of serious crime in the Untited States. According to the FBI's Uniform Crime Reports released in 1997, between 1992 and 1996, overall crime in the United States dropped 10.3 percent, violent crime droped 16.3 percent, murder dropped 20.4 percent, robbery

dropped 23.2 percent, aggravated assault dropped 12.1 percent and property crime dropped 9.3 percent.

I recongnize that this drop in crime is due to a number of factors and not just putting more people in jail for longer periods of times. But career criminals do not just commit the one crime they are convicted for, rather they commit many crimes each year. Therefore, it seems to me that putting more career criminals in jail for longer periods of time will prevent them from committing those crimes which significantly contributes to a reduction in crime.

I would now like to turn my discussion from the principal aspects of the United States domestic responses to transnational crimes and organized crime to what we are doing together with other countries in the international arena to combat such criminal activities.

IV. UNITED STATES RESPONSES IN THE INTERNATIONAL ARENA

1. Extradition

It is imperative that international criminals be denied a safe haven. International extradition treaties remain the most effective legal mechanism to obtain the return of international fugitives. In 1990, the United States sought the extradition of 1,672 accused or convicted criminals. By 1996, that number had jumped to more than 2,894, including numerous fugitives wanted for murder, major drug trafficking offenses, money laundering, multi-million dollar financial scams, and other serious crimes committed against the United States.

The United States is currently party to over 104 such extradition treaties. The United States Departments of State and Justice, with appropriate input from other law enforcement agencies, are involved in an active program to negotiate modern treaties in order to replace old, outdated instruments, to create extradition treaties where none previously existed, and to ensure that new crimes are covered by extradition treaties.

In the past five years the United States has entered into new extradition treaties with Spain (1993), the Bahamas (1994), Jordan (1995), Malaysia, Bolivia (1996), Philippines (1996), Hungary (1997), Switzerland (1997) and Hong Kong (1997). United States extradition treaties with the following countries are pending approval of the United States Senate: Antigua and Barbuda, Barbados, Cyprus, Dominica, France, Grenada, Luxembourg, Poland, St. Kitts and Nevis, St. Vincent and the Grenadines, Spain, and Trinidad and Tobago.

The United States is also pursuing efforts to secure extradition without a treaty. We encourage the international community to work together to deny safe havens to international criminals through procedures consistent with domestic and international law.

2. Mutual Legal Assistance Treaties (MLATS)

In light of the international nature of transnational and organized crime activities, it is also essential to be able to timely obtain the testimony of witnesses, bank records, other financial records and other evidence from foreign countries, and in some cases from several different countries, and for the United States to give similar assistance to other countries. Therefore, Mutual Legal Assistance Treaties have become important tools to address international criminal activities.

Barely 20 yeays ago, the United States entered into its first MLAT. Today, there

are 19 MLATs in force that extend to 23 countries. In the 104th Congress, the Senate gave its consent to five additional MLATs with Austria, Hungary, Korea, the Philippines, and the United Kingdom. The number of United States made approximately 928 requests for mutual legal assistance in criminal matters. In 1996, that number had increased to approximately 1,644 requests.

The United States Department of State and Justice have worked together in negotiating 14 additional MLATs that will require ratification by the Senate, including agreements with Australia, Hong Kong, and Poland. The United States also has signed a multilateral MLAT with the Organization of American States (OAS), which potentially could create MLAT relations between the United States and the 33 other member states of OAS.

Where there is no MLAT in force, the United States is hopeful that law enforcement agencies will be able to exchange information and provide mutual assistance in ways that are fully consistent with the laws of the countries involved. Such joint cooperation is essential to effectively combat the international criminal activities of sophisticated criminals who seek to exploit the difficulties inherent in international investigations.

3. Expanding the Presence of United States Law Enforcement Agents Abroad

Tough United States laws that protect United States citizens and interests abroad will be of little value if the United States does not establish an investigative and law enforcement infrastructure to pursue violations of these laws. United States law enforcement officials stationed abroad work shoulder to shoulder with their foreign counterparts to investigate crimes against United States nationals committed overseas. Where offenders are identified, these officials also work to locate, apprehend, and return the perpetrators of such crimes through extradition, expulsion or other lawful means. They also facilitate the arrest and extradition of international fugitives located in the United States and wanted abroad.

The need for a major United States law enforcement presence abroad is well documented. For example, in 1996 and 1997, foreign offices of the United States Customs Service handled over 3,850 cases. Moreover, there is often a direct tie between the work of these overseas offices and domestic criminal investigations. For example, over 80 percent of the 7,068 cases pending in FBI Legal Attache offices overseas at the end of 1996 originated from United States FBI field offices. Also, the number of cases worked by FBI agents in the new Moscow Legal Attache office grew from 20 in July 1994, to 289 through July 1997 — a fifteen-fold increase. In their first year, the new Customs Service offices in Moscow and in Pretoria, South Africa, handled over 50 and 30 cases, respectively. A substantial number of these cases involve fugitives from United States courts, crimes committed abroad against United States nationals, and other serious violations of United States criminal laws.

The United States would like to expand its law enforcement presence in other countries to work with the host countries to respond to this growing need. For example, the FBI hopes to establish new FBI offices in 24 foreign nations and to expand existing offices in an additional 23 countries. Similarly, the Customs Service hopes to open 11 new offices in Europe, Asia, Australia, and the Americas, complementing 26 existing offices. The DEA hopes to augment its already sizeable presence with further expansion into the

Newly Independent States from the former Soviet Bloc, Latin America and other current and emerging centers of drug trade. These expansions will bolster United States law enforcement abilities to arrest and punish fugitives who have committed crimes against the United States, to dismantle international organized crime rings, and to strengthen law enforcement and judicial systems around the globe.

To complement the increasing number of United States law enforcement personnel overseas, it would be helpful to expand the Department of Justice's cadre of overseas attorneys. Their role includes facilitating requests for extradition and mutual legal assistance, providing substantive legal guidance on international law enforcement and treaty matters, and increasing cooperation between United States and foreign prosecutors. In 1990, the United States handled approximately 2,208 extradition and 1,784 mutual legal assitance requests both to and from the United States. By 1996,those numbers had nearly doubled, jumping to 3,963 extraditions and 3,407 mutual legal assistance requests. Furthemore, approximately 25 percent of all extradition requests and 9 percent of all mutual legal assistance requests were in support of state and local prosecutors. This increasing caseload requires United States attorneys in other countries to respond to requests for information, and to facilitate the transfer of fugitives and evidence to and from the United States. Currently, the Department of Justice has prosecutors in Brussels, Mexico City, Paris, and Rome. The planned expansion includes additional attorneys in Manila, Brasilia, Athens, and Asia.

4. International Training

In 1995, the United States working with Russia, Hungary and other countries in Eastern Europe established the International Law Enforcement Academy (ILEA) in Budapest, Hungary. This academy offers law enforcement officers from Eastern and Central Europe an eight-week personal and professional development program modeled after the FBI's National Academy in Quantico, Virginia near Washington, DC. The United States is working with other countries to establish a similar training academy in Asia.

In addition, United States law enforcement officials participate in a wide variety of other training and technical assistance with other countries concerning, among other matters, fraudulent document detection, alien smuggling, border control enforcement, narcotics trafficking, organized crime, money laundering and asset forfeiture. Such training is mutually beneficial to the United States and other participating countries because we are able to learn about each others' problems and develop strategies and techniques to address these problems. It affords a valuable opportunity to work together to address common law enforcement problems and issues of mutual concern. The United States is also working with the Ukraine and other countries to develop prosecutors' units modeled after the United States Organized Crime Strike Force Units.

5. Coordination with International and Multilateral Organizations

(1) The United States is currently working together with the G8 nations and the United Nations in the initial stages of developing an international crime convention addressing transnational and organized crime activities.

(2) The G7/P8 Senior Experts' Group on transnational organized crime has produced 40 recommendations to combat transnational organized crime,

inventories of international conventions and institutions relating to transnational crime and inventories of member countries' relevant domestic criminal laws.

(3) The United Nations International Drug Control program (UNDCP) is currently developing a global program on money laundering that includes a model money laundering statute and legal and technical assistance and training for Southeast and Southwest Asia. Similarly, the United States, Japan, and other countries created the Financial Action Task Force (FATF) to address international money laundering.

(4) The United States also continues to work with many countries on bilateral efforts to combat transnational and international organized crime criminal activities.

(5) Finally, the United States and over 170 other countries have long worked with the International Criminal Police Organization (INTERPOL) which facilitates a broad range of bilateral and multilateral police-to-police cooperation.

V. CONCLUSION

There is no doubt that the world community shares substantial common problems posed by transnational criminals and organized crime groups. Therefore, we must continue to work closely together to develop new techniques, as well as to implement approaches that have proven to be successful, in our common fight against such international criminal activities . We must share information and cooperate to identify, investigate and prosecute the most significant international criminals and organized crime groups. In the final analysis, we have no other choice but to cooperate, or else sophisticated international criminals who do not recognize international boundaries will triumph.

TRANSNATIONAL SMUGGLING OF ALIENS AND STOLEN VEHICLES

*Lau Yuk-kuen**

I. INTRODUCTION

Transnational smuggling is generally regarded as the moving of unmanifested goods across and beyond internationally recognized boundaries defining the sovereignty of countries. The intention is to evade the control on prohibited items or legitimate taxation. Since the end of the so-called Cold War, the liberalization of trade restrictions has increased the potential of both trade between nations and trade across the globe. The result has been a growth in organized transnational smuggling activities involving not only goods, but also aliens.

This paper, which will cover transnational smuggling of aliens and stolen vehicles, is based mainly on the knowledge and experience gained by the Hong Kong Police in the investigation of these types of crimes. Other law enforcement agencies are likely to have encountered similar criminal groups in their own jurisdictions and identified the methods of operation of such groups, as well as the extent to which they have globalised.

II. SMUGGLING OF ALIENS

The term "alien smuggling" was first coined in the United States of America to describe the organized passage of non-indigenous citizens into the country across its land border. "Aliens" are broadly categorized by the authorities into two groups according to their personal circumstances. Those seeking better lives away from impoverished homelands, increased employment and financial opportunities are classified as "economic aliens", while those fleeing persecution because of their different political, religious, cultural views or because of war are classified as "political aliens". It is the smuggling of the former category, i.e., economic aliens, that has become a concern for an increasing number of police forces in different parts of the world, and will be focused in this paper.

The smuggling of aliens is different to traditional smuggling in two respects. Firstly special attention is required to ensure the safe carriage of living people. Secondly illegal aliens represent a dual benefit for the criminal syndicates organizing the clandestine operation. While goods may earn a profit, aliens not only pay to be transported but they can also be used as indentured workers in slave-like conditions in destination countries. Thus the profits for the syndicate can be far greater and longer lasting.

The transport needs for trafficking in aliens varies between the use of air, sea and land routes. Related needs include the acquisition of visas, passports and other travel documents from corrupt officials or forgery syndicates, the provision of staging houses en route to destinations to accommodate the migrants, and the purchase and modification of vessels for the carriage of 'human' cargoes, plus the related registration, manifests and import/export documentation. It is, in short, a resource intensive operation.

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Investigations in Hong Kong and overseas uncovered criminal syndicates utilizing increasingly sophisticated means to transfer aliens out of their home countries. In 1992, fishing vessels specially modified for carrying Chinese illegal migrants were intercepted in Honolulu and Los Angeles. These dilapidated vessels were manned by a crew of criminals and enforcers and packed full of paying illegal migrants. The enforcers maintained discipline and abused the illegal aliens until they landed at their destination. The migrants were then disembarked and transferred into the criminal economy of the Chinese underworld. This was identified as the most common and cost-effective method used by smuggling syndicates at the time.

Before long, smuggling syndicates upgraded their means of transport to ocean-going vessels. However, the degree of human suffering inflicted on the human cargoes did not diminish with the change to more powerful conveyance. The grave tragedy was particularly highlighted in 1993 when the ship "Golden Venture" ran aground off New York, U.S.A. carrying 300 Chinese illegal immigrants, and ten of them died whilst attempting to swim ashore.

The use of open-top containers to smuggle aliens has been evident more recently in Hong Kong and interestingly enough several cases have revealed Japanese connections. One example which may illustrate this connection was that in January 1997 at the port of Kobe. Police intercepted and arrested 30 Chinese illegal immigrants who had been concealed in an open-top container onboard a vessel which had departed from Hong Kong and was operated by a Hong Kong-based shipping company. Intelligence was exchanged between the Japanese and Hong Kong Police which resulted in the successful prosecution of two persons in Hong Kong in connection with the incident.

A second example relates to information received which indicated that an unknown number of illegal immigrants were being transported to Japan in an open-top container, again in 1997. Close liaison between the Hong Kong and Japanese Police resulted in the container being searched on its arrival in Japan. Unfortunately no illegal immigrants were found. However the container contained the remnants of food, bottles of water and faeces, indicating that illegal immigrants had been loaded and later unloaded elsewhere.

Whilst smuggling by sea provides an effective means to transport a large number of aliens in one single run, the past few years have also seen the use of long, erratic and circuitous routes over land and by air for those aliens who are willing or able to pay a higher fee, involving the use of forged travel documents or passports substituted with false particulars. The land/air route from southeast Asia meanders through the former Soviet Union, Europe and South America to the U.S.A. There are two reasons for this: the dispensation with border controls within the European Union countries and the collapse of a centralized authority in Russia, and the Newly Independent States.

Whatever the mode of transport the smuggling syndicates use, one common feature that characterizes their operations is their reliance on clan relationships to develop local infrastructures to facilitate the recruitment of illegal migrants from their home countries, and to organize their subsequent illegal employment in the destinations. Although, when compared to drug trafficking and goods smuggling, alien smuggling is a relative new comer to transnational crime problems, its potential

for generating substantial criminal income for the syndicates involved is apparent.

It has been reported that the price for moving an alien from southern China to Japan is US$20,000 and to the U.S.A, US$33,000. To fund these fees, illegal migrants borrow money from relatives or friends but more usually from the smuggling syndicates at exorbitant rates set by them. As a result, both the immigrants and their family members may become indentured workers or forced to turn to crime to repay the debts.

An American estimate was that, in 1994, over 100,000 Chinese illegal immigrants had arrived in the United States by land, sea or air. A simple calculation indicates revenues in excess of US$3 billion is generated each year from passages alone but, when indentured work is taken into account the revenues derived by the syndicates will be much higher.

Intercepting transnational smuggling has never been an easy task, aliens smuggling is particularly so. Because of their illegal status, aliens do not normally perceive law enforcement officers as a potential source of assistance, but rather as a threat to their precarious stay. Such an attitude is shared by their fellow clansmen and employers, albeit for different reasons, and has resulted in additional obstacles to law enforcement agencies in their intelligence gathering. This, coupled with the fact that smuggling syndicates are difficult to infiltrate due to language and cultural barriers and that the true victims of this type of crime are less obvious, has naturally meant that the problem of alien smuggling has not received its deserved attention until recently.

III. SMUGGLING OF STOLEN VEHICLES

In contrast with the laborious requirements for the smuggling of aliens, the moving of vehicles involves comparatively simple procedures. There are three principal stages, beginning with acquisition.

(1) First acquiring vehicles, which may be conducted by stealing by professional car thieves, or purchase through bogus trading and transportation companies using fraudulent means.

(2) Concealing the vehicles for transportation may involve the construction of secret compartments within the conveying vessel. On the other hand, vehicles can be dismantled and shipped as parts from the source and reassembled at the destination.

(3) Delivery can simply be by way of a driver taking it across a border, or may require a team such as the crew when a vessel is used.

In recent years smuggling syndicates have turned to use containers, which offer a more flexible alternative with far lower risks. The use of containers allows the smuggler to choose a land or sea route from source to destination, enables movement throughout the day and night, shields the contents from view and, of critical importance, allows the use of innocent parties to handle transportation.

Containers are an internationally accepted method for transporting goods by land, sea and air from source to destination and are thus a better vehicle for transnational syndicates as they expand their scope of their operations.

What is more significant is the low level

of risk faced by smugglers using containers through legally designated terminals and customs checkpoints. Take Hong Kong as an example. In a normal year, between 13 and 14 million containers are processed through Hong Kong's container terminals. Over 8 million cargoes carrying trains and goods vehicles arrive and depart each year, while about 300,000 sea borne cargoes are processed. The sheer volume of traffic renders comprehensive inspection of shipments impossible.

Actual inspection rates range between 1 to 3 percent. This low rate of inspection makes chance detection less likely, especially when combined with the concealment that comes with a carefully chosen mode of transport. Between 1991 to 1993, in the detected cases in Hong Kong only 2 percent of stolen vehicles were carried in containers. From 1994 to 1997, this had grown to a massive 71 percent.

Vehicle smuggling syndicates operate with a high degree of organization in which participants can be divided into a number of possibly overlapping roles, such as car thieves, jockeys, car yard workers, cross-border lorry drivers and the staff of bogus companies established locally or overseas. Other participants acting in a support role will provide concealment and storage of the contraband, and will arrange for the necessary manifests, licenses and other paper work.

Two cases of syndicated transnational vehicle smuggling will clearly illustrate the methods of operation used. In the first, in 1997, new left hand drive luxury vehicles were obtained by syndicate members in the United States by making the minimum down payments to genuine car suppliers. On receipt of the vehicles, the syndicate would organize its shipment to Hong Kong as perfectly legal goods. Once arrival had been confirmed by the receivers in Hong Kong, the syndicate would report the vehicles stolen in the U.S.A.

The remainder of the vehicle cost would be covered by insurance payments while the vehicles were exported to China from Hong Kong within a few days of arrival. It was intended that, by the time U.S. investigators had traced the route taken from the U.S.A. the vehicles would have long crossed the border into China.

The second case is equally illustrative but may be of more interest to vehicle owners in Japan. In January 1997, 14 containers in four shipments, originating from Japan were found on arrival to contain a total of 56 suspected stolen vehicles. The prompt assistance of liaison officers in the Consulate General of Japan in Hong Kong led to the early confirmation that all of these vehicles had already been reported stolen in Japan.

When the first nine containers arrived and before the forged papers could be presented for their release, the consignee named on the shipping documents was approached for payment of charges. Confirmation that he had not ordered the consignment triggered a joint Police, Customs and Excise Department investigation.

By tracing the syndicate back through the tractor driver who turned up to collect the cargo, three arrests were made. One of the arrested persons was known to the police for his involvement in vehicle crimes, and a web of false addresses, bogus companies and sham consignees was established.

Investigation by officers of the Tokyo Metropolitan Police Department confirmed not only the places from which the recovered vehicles had been stolen, namely, Chiba, Kanagawa, and Tokyo, but also

details of the shipping company and agent responsible for sending the containers to Hong Kong. Investigation also indicated that the syndicate comprises of probably five to six Chinese criminals who had sent a further six containers, containing 19 stolen vehicles, in three shipments to Hong Kong. These vehicles were subsequently recovered. This, however, is the only known case of transnational smuggling of stolen vehicles involving a Hong Kong Chinese syndicate.

The above examples have shown that international co-operation is vital in the detection of vehicle smuggling. Many law enforcement officers are already aware of the availability of the International Stolen Vehicle Database, which is maintained by the Interpol General Secretariat in Lyon, France. This facility enables countries to input and retrieve details of stolen vehicles which is an invaluable tool for international cooperation in the investigation and neutralization of vehicle smuggling syndicates.

IV. TACTICS IN TACKLING THE PROBLEM

Having detailed the scope and nature of the problem, it is worthwhile to describe some of the measures that have been taken to counter smuggling activities, unilaterally, bilaterally or multi-laterally by law enforcement agencies.

Firstly, the primary tool in all police investigations and operations is the timely and effective use of criminal intelligence to the benefit of prosecuting those involved. Anti-transnational smuggling is no exception. In the earlier part of this presentation, the difficulties in cultivating information on the activities of those syndicates involved have been explained. They include cultural and language barriers, the code of silence shared by those people who know what is going on, and the utilization of clan relationships by the closely knitted syndicates. Despite all these difficulties, given the large volume of trade and passenger traffic that goes through each major port every day, an operation that is not supported by good intelligence can not stand any realistic chance of success. To give the problems the priorities they deserve and to assign an appropriate level of resources will be the first important step towards developing a more effective intelligence system against these activities.

Secondly, and what many law enforcers consider to be of most importance, is the identification of the "money trails" and the seizing of the syndicates' assets. Money, in the quantities now involved cannot, despite the best efforts of criminals, move easily or without leaving a trace. Furthermore such trails often provide a clue to the size and the sophistication of the syndicates and their operations. As a result of making it an offence to assist criminals in laundering their crime proceeds and by empowering the court to confiscate such proceeds, enforcement actions have succeeded in bringing members of smuggling syndicates to justice and in tracing and seizing the assets that they have derived from their illicit activities.

Used intelligently, monetary investigation can be a great aid to tackling transnational organized criminal syndicates. Early detection of unusual monetary movements may provide a timely indication of how and where criminal groups move their funds. In this regard the Hong Kong Police is keen to continue with the development of efficient monitoring programmes in liaison with countries to which the flow of criminal assets is directed.

Thirdly, co-operation from those innocent parties that have been

unwittingly involved in the process is to be secured. In this regard, the Hong Kong Police has attempted to establish wider communication channels with its locally based shipping companies who can provide invaluable information concerning the booking of open-top containers or other circumstances which meet known smuggling profiles.

Fourthly, liaison with overseas authorities in the affected destinations is also maintained for the speedy exchange of intelligence and information on smuggling activities so that action can be taken to intercept and arrest syndicate operatives. Past investigations show that time is always a critical factor which can influence the outcome of anti-transnational smuggling operations. Hong Kong is in a fortunate position to have a number of Legal Liaison Officers from countries in the Pacific Rim posted to the Territory which enables the speedy passage of information to take place.

Last, but by no means least, weaving the disparate strands of information together to form a usable picture is now far easier. Technology has played a major role and the Hong Kong Police has been fortunate enough to be able to develop analytical programmes which can link scraps of information on people, places and things together in an orderly structure which can be interactively apprised by intelligence analysts.

These tactics are by no means exhaustive. To be able to keep an upper hand in the fight against the criminal syndicates who are a blight on society, continued effort in looking for new techniques is a must.

V. CONCLUSION

As long as smuggling is a profitable activity there will be criminals who will weigh the relative risks and rewards of their actions and decide to take the chance. Unchecked at an early stage, such activities will globalise, and become a major law enforcement problem.

To counter this trend, a way has to be found to increase their risk and to reduce their reward. If their chance to make profit is reduced, or the opportunity to keep it once made can be taken away, the incentive for them to become criminally involved in smuggling may be reduced; although it can never be completely removed.

Whilst increased efforts in identifying suspect vessels used in sea-borne smuggling operations, and increased penalties for those found to be modifing or adapting these for use in transporting illegal immigrants can reduce the means of transportation available to smuggling syndicates, an enhanced intelligence system can provide the much needed base from where enforcement actions can be guided with greater accuracy.

On the international level, co-operation between not only the countries directly affected, but those who will be affected by changes in routes or the influx of criminal funds, are needed to thwart the massive networks and resources that smuggling organizations possess.

Given the economic and political differences that exist amongst countries today, one does not require a crystal ball to predict that smuggling activities will continue to thrive. It has already been widely accepted among social scientists that "*social problems will rarely be solved but only be alleviated*". As far as smuggling of aliens and stolen vehicles is concerned, this statement only represents half of the truth. For police officers who have been involved in the fight against such activities,

they all know that even alleviation will not come easily, and not without a concerted international enforcement effort.

THE EVOLUTION OF DRUG TRAFFICKING IN THE PACIFIC RIM

*Lau Yuk-kuen**

I. INTRODUCTION

This paper concerns the evolution of drug trafficking in the Pacific Rim and the many changes that have taken place in the drug trafficking scene in this region during the past thirty years. It also covers a personal view on the probable evolution of illicit trafficking in the Pacific Rim.

Broadly speaking, the drugs that are being abused in the region can be divided into four major categories. These are opiates, cannabis, cocaine and psychotropic substances. In each of the following sections, the focus is on the current developments in the illegal trafficking of these substances in the Pacific Rim.

II. OPIATES

Opiates are considered first, not only because they are the oldest problem among the four categories, but also because they are the most widely abused in many countries. The term, "opiates" includes opium, morphine and heroin.

During the past thirty years, many changes have taken place in the illegal drug trafficking scene. Changes have included the personalities involved, the smuggling methods, the form of the drug being smuggled, the routes used and the locations of transit and storage centres. One thing which has gone virtually unchanged over this long period of time is the direction of the traffic.

Thirty years ago, the direction of the traffic in opiates was from the southeast to northwest, that is, from the source of their production in the Golden Triangle (the mountainous area lying between Thailand, Laos and Burma, now the Republic of Myanmar), to the United States where the drugs were sold at prices up to 20 times as high as the original cost in the producing country. After thirty years, the direction of traffic remains virtually unchanged.

On the production side, some changes have taken place, but these have been related more to the personalities involved than anything to do with the drug itself. Even the surrender of the infamous opiate drug lord Khun Sha in the Golden Triangle to the authorities in 1996 does not seem to have a significant lasting impact on the availability of the drug in the region.

To the pessimists, it can be very disheartening that, despite the resources that have been spent on the prevention and interception of drugs, and or the education and rehabilitaion of drug abusers, there has virtually been no change in the supply and demand of the drug over this thirty-year period. Law enforcement officers, however, see the situation quite differently. Compared to thirty years ago, numerous new check points have been set up along the routes and borders between the producing and the consumer countries as a result of the joint efforts of governments, making it much more difficult for drug traffickers to capitalize on any opportunities.

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Also, thirty years ago, opiate drugs were transported from the producing countries in large consignments using sea routes to intermediary countries in the region before they were transported onward to the United States. At that time, many countries in the region were not yet opened up, hence the choice of intermediary countries was quite limited. Hong Kong, being one of the more conveniently located cities between the United States and the Golden Triangle, was quite naturally chosen by traffickers as one of their transit centres. The capital, connection and the expertise required for transporting a large quantity of drugs in single consignments in those days, when international transportation was far less well developed than today, meant that the trafficking syndicates at that time had to be well organized.

In terms of seizures, the sixties and seventies must have been the more rewarding period for drug enforcement officers. They had fewer but bigger targets, and the drugs seized in each significant case could be weighed in hundred-kilogram units. Around that time, indeed up to the early eighties, the Hong Kong police had successfully intercepted many of these large drug consignments, and had brought the syndicates involved to justice.

To rid themselves of their reputation as major opiate transit centres, intermediary countries sought, in addition to enforcement actions, to strengthen legislative controls to make the life of drug traffickers more difficult. Some chose to introduce capital punishment as a deterrent. Hong Kong chose to tighten up the control of the chemical substances required for converting morphine base to heroin, and to introduce legislation to punish drug traffickers who used Hong Kong as their operating base, even though the drugs involved never transited through Hong Kong.

Both measures appear to have produced positive results. The joint shortage of the required chemicals, and effective enforcement action, have together forced drug traffickers to relocate their refining centre away from Hong Kong, reducing the chance of being caught red handed during the refining process. Morphine base, which is the basic ingredient for manufacturing heroin, and which at one time constituted a significant portion of the opiate drugs seized in the territory, has dropped from the 551kg seized in 1972 to zero in 1983 and after. The amended drug legislation has also given the enforcement agencies a powerful weapon to fight against international drug traffickers by prosecuting them for conspiracy to traffic in drugs outside Hong Kong. Many once infamous traffickers have ended up behind bars for lengthy periods of imprisonment, with sentences of up to 30 years.

The effective law enforcement in intermediary countries has seen many drug traffickers choose alternative routes to avoid losses. Increasingly they use other, less conveniently located, countries as transit centres even though this means greater costs and, in some cases, if caught, a more severe punishment. It is the changing patterns of transnational drug trafficking that have fostered a close working relationship among drug enforcement agencies in the region, something which, in the view of many drug enforcement officers, is the most important element for tackling international drug trafficking.

New air routes and the opening up of countries in the region have speeded up changes in the last decade. The direct supply of high-grade heroin rather than morphine base or opium from the source countries means that drug trafficking

syndicates are less dependent on pharmaceutical expertise. The prerequisite that a syndicate must have a chemist and refining centre before it could act as an international broker has gone. Anyone with the required connections can now, almost single-handedly, arrange his own supply of heroin, in small consignments, from the source to the consumer countries. The amount of capital required for financing this type of small run is substantially reduced, so is the size of the syndicates. The collapse of the large syndicates has seen an increase in the number of smaller syndicates operating under much less well organized structures.

Syndicates of all sizes have increasingly turned to countries which are less experienced in drug enforcement as their transit and storage centres. This is only natural. In countries with less experience in drug enforcement, the drug traffickers stand a lower chance of being caught. It is for this reason that countries which were rarely mentioned among drug enforcement officers in the sixties and seventies have gradually emerged as preferred intermediary countries by opiate traffickers, and a new chapter of international cooperation in the fight against drug trafficking has begun.

One of the countries exploited by international drug traffickers of late has been China. Its first major joint operation with drug enforcement agencies outside the country can be dated to 1988. In that ground-breaking joint operation 60 kg of heroin were concealed by a drug syndicate in gold fish that were shipped to the United States from Shanghai, China via Hong Kong. The operation was very complicated in view of the protocols and the formalities that the enforcement agencies in the three places had to go through, but was very successful resulting in the arrest of a total of 14 members of the syndicate including its master-mind. A close working relationship has since developed between the agencies and has been instrumental to the subsequent neutralization of a major drug trafficking syndicate in southern China. This, in 1996, resulted in the seizure of some 600 kg of heroin.

To sum up, the main direction of traffic of opiate drugs has been from the southeast of the region to the northwest, crossing the Pacific Ocean. This is likely remain so in the next few decades, although alternative markets have come to the fore as a result of economic development throughout the region. The syndicates involved in the trade have increased in number but now operate under a less well organized structure. Increasingly, emigration will see more networks of contacts between persons in the source countries and in the consumer market, based upon the common cultural identity of members, marking international drug trafficking no longer a privileged area for sophisticated criminal syndicates. Drug traffickers will continue to explore new routes to minimize their risk, and countries in the region which are currently not attractive to them for lack of transportation or communication facilities will soon find themselves being used as transit centres as and when they improve their facilities. The development of new routes from the Golden Triangle in the west to east and southern Chinese cities, as an example, is now well documented; something which was outside the imagination of even the most creative thinking drug enforcement officers say 30 years ago.

III. CANNABIS

Compared to the opiates, cannabis has a shorter history of abuse, at least on the eastern side of the Pacific Rim. Thirty years ago, in Hong Kong, cannabis was seen as a symbol of the liberal western society, and

was abused only by a handful of expatriate people. The main growers of cannabis are, according to the Hong Kong seizure record, Cambodia, Colombia, Laos, Mexico, the Philippines and Thailand, while the main markets would appear to be in the United States and Europe.

However, the westernization of Asia's own countries provides an ever growing market for a drug which is popularly thought of as less addictive than most. Take Hong Kong as an example. For the ten-year period between 1978 and 1987, a total of 743 kg of the drug were seized, compared to 20,826 kg in the following ten-year period. Indications were that, of the 20,826 kg seized, only some 7,200 kg had been intended to be on-shipped to overseas markets. The amount which is believed to have been for local consumption has increased by almost twenty times.

The rise in abuse of cannabis may eventually equal that of opiates, as the drug has been widely seen as a relatively harmless one. The belief that cannabis is less harmful is reinforced by the extremely low sentencing tariffs meted out by the courts, and the frequent calls for its legalisation in many countries.

The debate regarding the legalisation or de-criminalisation of cannabis is conducted on many levels, many of them political. Social issues aside, there is little doubt in the minds of many drug enforcement officers that there are cases in which progression towards opiate abuse has been facilitated by initial experimentation with cannabis. In their experience, addicts do not respond to situations with any degree of common sense. The search for a stronger experience has been quoted by many addicts as the reason for abusing opiates.

IV. COCAINE

All drugs that are widely abused today have their own legitimate use. Cocaine is no exception. The drug, in the limited amounts that could be ingested from the chewing of the raw leaves, helped indigenous natives in South America to function at high altitudes on a low-level subsistence diet. The upsurge in its abuse would appear to be a direct result of the boom years in North American society. Greater wealth and opulent lifestyles led to experimentation with a drug which was considered safe as it was not associated with needles or the less salubrious side of the drug culture. Like cannabis in the 1960s, it became fashionable to take "coke" in the 1980s and 1990s. In the lower levels of society, the major impact is more definitely attributable to the cheap, smokable form now known as "crack".

The source countries for cocaine continue to be Peru and Bolivia, with processing taking place in Columbia. Successful action against the infamous cartels has led to the development of smaller, lower-profile syndicates, in the same way as the opiate scene has developed in Asia. The popularity of cocaine goes through peaks and troughs, and seizures have shown a notable decline in the Americas over recent years. There have been indications that traffickers would seek to enter East Asian markets where other stimulants are prevalent, However, the high transportation costs and lack of significant Latino communities in East Asia, which could provide trusted middlemen, have hampered efforts in this respect. The current rising market for amphetamines in Asia would tend to indicate that cocaine will form only a small part of overall drug seizures in this section of the region.

V. PSYCHOTROPIC SUBSTANCES

After the opiates, cannabis and cocaine which are relatively natural products, the world has now seen a gradual shift to synthesized drugs. The use and trafficking of amphetamines and their derivatives are now increasing throughout the Region. Chemical synthesis does not create a reliance on large expanses of land or the weather when manufacturing amphetamines. Harvesting periods are of less importance in the clandestine manufacture of amphetamines although one of the necessary precursor chemicals remains plant-based ephedrine. It has thus been inevitable that where easier, and less visible methods of drug production are invented, the illegal syndicates will turn to them for profit.

The expansion of what is described as the "rave party" or "dance scene" throughout the region and the subsequent abuse of the tablets associated with it, has begun here as it did in Western cultures, and is likely to continue for the foreseeable future. Tablets such as the Ecstasy family are now generally thought of as "safe" drugs by those who abuse them.

The opening up of the two chemical giants-Russia and China-and the agricultural bases they represent have had definite effects on amphetamine abuse worldwide. Factories producing MDMA are allegedly rife in Poland and other counties of the old Soviet Bloc, while China is allegedly the largest supplier of organic ephedrine (the main precursor for methylamphetamine "ICE"). Syndicates based in China would appear to be the principal suppliers of ICE in the Region, for Hong Kong, Japan, the Philippines and the Republic of Korea.

VI. THE BROADER VIEW

Having examined developments in the illegal trafficking of different categories of drugs, it is useful to examine the broader picture of the Region. The term "Pacific Rim" encompasses the land masses which either border, or lie within, the world's largest ocean-the Pacific. The physical and cultural characteristics of the area's inhabitants are extremely diverse. Due to its enormous size, the Pacific Ocean has acted as a formidable natural barrier to cultural exchanges, not only in early times but also in modern times.

Politically, the region is as diverse as its peoples. Some countries are highly conservative, while others are very liberal. Some countries have governments drawn from the military, some are communist led, while others are more akin to Western style democracies.

Socially, there is an equally wide spectrum. The Pacific Rim includes some of the richest nations as well as some of the poorest. In terms of the legal systems in place, the nations of the Pacific Rim are equally diverse. Different laws and judicial practices exist, together with different standards of proof or admissibility of evidence.

It is against this background of difference that the enforcement agencies in the region have achieved far more successes than in most other areas of co-operation. Most of the countries of the Pacific Rim are signatories to the various international treatise and conventions in respect to drug trafficking. Even in the case of some of the poorer economies where there may be a lack of financial resources or expertise to tackle the trade in illegal drugs, genuine attempts are still being made to join forces to combat the traffickers.

In addition to international co-operation, another powerful weapon that has been adopted by nations against the illegal trade has been the introduction of legislation to empower courts to confiscate the proceeds of drug trafficking. The significance of this move is threefold.

Firstly, confiscation strikes directly at the power base of the drug syndicates, instantly stripping them of their assets once caught and convicted, making it difficult for them to recover.

Secondly, confiscation provides nations with an immediate financial incentive to put more resources into drug enforcement, as it can effectively shift a proportion of the financial burden of fighting drug trafficking from the government to the drug traffickers, who now finance the authorities with their ill gotten gains when caught.

Thirdly, and perhaps more importantly from the viewpoint of law enforcement, this approach opens up a whole new area of investigation which is much more revealing than the traditional methods. By following the money trail rather than the drug trail, investigators now find they have a much better chance of identifying the 'Mr. Big' of their targeted syndicates, and of bringing him to justice.

This new weapon was used in the United States in the 1980's, and has now become a standard item in many of the Pacific Rim nations' anti-drug trafficking policy. In terms of hard figures, Hong Kong has restrained or confiscated assets worth some US$63.5 million within the eight years since the confiscation law was introduced.

VII. THE FUTURE

The foregoing has been largely positive. However, despite concerted attempts to reduce illegal drug abuse through treatment and education, the consumer demand for drugs seems to have increased rather than decreased. This has created ever increasing financial opportunities for the trafficker to exploit.

Of particular concern must be the increasingly addictive nature of the derivatives now available. The modernization of communications and transportation systems throughout the world have not only enabled a growth in the sophistication of trafficking syndicates, but also expanded the markets through increased exposure to drug abuse. Huge financial rewards from such illegal enterprises can now be hidden through numerous legal and illegal financial vehicles and the scale almost defies the imagination. The annual turnover of some of the larger syndicates is estimated to exceed that of some smaller nations. Now more than ever, as the next century approaches, the strengthening of international co-operation will be of paramount importance with globalization of the drug trade.

As to the most widely abused drugs of the future, it is fairly easy to see that there has been a shift towards synthetic drugs. The reasons for this are apparent: large areas of land are no longer required and production is no longer limited to the two harvest seasons each year, each dependent upon the weather. Synthetic drugs, being far more potent, weight for weight, their transportation is much easier, and this increased potency can produce such intense effects that a craving for repetition or addiction can be generated by one or two exposures. This is contrary to the carefully fostered view that such drugs, which require no injection, are far safer. There are already suggestions that Thailand, a source country for heroin, now has an addict population which seems to have shifted almost completely to the abuse of

ICE because this drug, a stimulant rather than a depressant, is so much more intense and addictive.

VIII. CONCLUSION

For those who have been involved in attempting to reduce the trafficking in drugs of abuse, it is obvious that the region still suffers from a significant drug problem. While there is still a large demand for heroin, cocaine and cannabis, we are now seeing an ever increasing trend towards amphetamine-related and synthetic drugs. The traditional approaches adopted to target drug barons may not have the same effect when synthesis can be used to create a drug supply so simply and easily.

It is not known what new drugs may enter the market in the next few decades, a similar situation to that which precluded the prediction of Cocaine, ICE and Ecstasy, becoming common drugs of abuse. At the same time, technological change are taking place at such a pace that they may rapidly make currently used enforcement tactics outdated and ineffective. The search for answers to new challenges must, therefore, continue.

If any one lesson, learnt from the experience of the past thirty years, was to be singled out as of overriding importance, it would be that the globalisation of crime had to be met by a globalisation of legislative and enforcement efforts to counter it. Today, fewer barriers exist and officers from different nations are more able to share their experience, establish working contacts and explore new ideas. It is in this sharing that new solutions can be found.

CURRENT PROBLEMS IN THE COMBAT OF TRANSNATIONAL ORGANIZED CRIME

*Dimitris Vlassis**

I. TRANSNATIONAL ORGANIZED CRIME IN PERSPECTIVE

Law-abiding citizens are becoming increasingly aware of and concerned about common crime. Indeed, the fear of crime seems to permeate our lives. We worry about being mugged or robbed in a parking lot; our wives and daughters are afraid of being raped or molested while walking home from work or school; many of us live in terror of having our children kidnapped, or entrapped into drug circles. We put alarms in our cars, place bars on our windows, trying to make our homes as secure as prisons; at the same time we accept to live as prisoners.

The tools of crime have become frightening. Not to mention the misery it leaves in its wake, the financial damage to societies is staggering. The economic price exacted on our nations is enormous, while its social and hidden human costs are even higher. In addition to traditional and "street" crime, the consequences of certain new forms of criminality present real and present dangers to progress and a brake to development. Economic crimes, including fraudulent bankruptcy and illicit outflow of capital, tax evasion, computer crimes and the theft of works of art representing the cultural heritage of nations, have become especially troubling, as they are very difficult to detect and control, particularly when they are inter-linked to corruption and abuse of power. Environmental offences and criminal negligence damage the human habitat, sometimes irreversibly and disastrously. Sea piracy, including against refugees, the trafficking in persons across borders, particularly women and children, and other crimes, including smuggling of human organs or the mistreatment of migrants, add a new dimension to human exploitation. Violence is extending its reach far beyond national frontiers; with terrorism introducing a random and highly dangerous element into international relations, and with the covert arms trade creating a "deadly convergence" between subversive movements, drug traffickers and local warlords.

Crime strikes not only its most immediate victims, but seriously undermines the foundation of trust upon which government rests, by eroding its authority and legitimacy, wherever alleged offenders manage to escape apprehension and sanctioning. It is high time to promote worldwide a culture of legality and tolerance, instead of accepting a culture of lawlessness and violence, which dangerously threatens national institutions and their principal foundation: global values. Nations have decided to join efforts to reduce crime not only because it constitutes a serious infringement of our inalienable right to live in peace and tranquility, but also because it impedes the quest of countries to growth, stability and steady progress towards democracy.

Throughout the world, there is recognition of the need to develop more effective, ideally global, strategies to

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prevent and control crime, especially transnational organized crime. The task before us is in my view even greater, because the development of better and more effective solutions is not the only need; we must reassess the very nature and dimensions of the problem, and the policies that can serve the common purpose of dealing with it. But we must also reflect very seriously on the impact of crime in general, and transnational organized crime in particular, on our lives and economic activity. We must gear our minds to think beyond (and to challenge) perceptions more or less well ingrained. We need to reassess our interests and look beyond traditional roles and stereotypes. If we do that, I am sure we will discover that:

(a) transnational organized crime is a phenomenon with multiple facets which have hardly been thoroughly studied;

(b) organized criminal groups are conscious of and ready to seize the opportunities presented to them by globalization and the growing trends towards trade liberalization to expand their activities and operations, in spite of the increased awareness of the problem on the part of Governments;

(c) in view of the increased opportunities, but also in order to thwart efforts that go together with the increased awareness, organized criminal groups are forming alliances and re-examining their structures, as well as their targets and *modus operandi*;

(d) the public and private sectors share much more than we previously perceived. They share not only common interests but also common values.

We must begin, as a matter of urgency, to think in terms of new partnerships to safeguard these values and protect mutual interests.

While the forms of crime affecting our lives and the viability of our societies are numerous, organized crime is one of the most nefarious manifestations. Organized criminal groups are spreading their operations around the globe and are engaging in a variety of activities that range from the traditional to the modern, with an increased level of sophistication. They also display a remarkable ability to shift across borders and from activity to activity with speed and adaptability that would be the envy of any legitimate business.

The amounts of money generated by these activities are mind-boggling. Leaving aside some of the more "traditional" activities, like drug trafficking, by way of example, it is estimated that if car theft and its illicit trafficking were a legitimate business, it would rank fifth in the Fortune 500. Overall, the annual profits of organized crime are estimated, according to some sources, at one trillion dollars world-wide; almost as much as the United States annual federal budget.

Free trade and high-speed telecommunications make it easier to engage in multiple activities and to launder money across national borders, with an estimated one billion dollars in crime profits wire-transferred though the world financial markets every day. Moreover, the export of precious raw materials, including chemical, biological and nuclear material, is increasingly attracting the attention, and often falling into the hands of, organized crime.

Through its interfaces with other licit and illicit activities, organized crime is infiltrating national economies, taking advantage of the difficulties of following the trail of criminal proceeds. It has become

clear that only by tackling organized crime in a concerted manner can we hope to make inroads into a problem that transcends borders and exceeds the capacity of national mechanisms operating alone.

Developing countries and emerging democracies are becoming a target for organized criminal groups operating across borders, because of their vulnerabilities while their institutions are either young or in the process of being built. Often, the sophisticated *modus operandi* of these groups is no match to the criminal justice systems of developing countries and countries with economies in transition. The need for foreign capital to give new life to the economy and assist these countries in entering today's competitive and demanding global market, frequently obscures the long-term threat posed by the investment of criminal proceeds. Criminal groups are keen to enter developing countries and economies in transition, not only because of their potential, but also because of the decreased risks involved. The advantages that such groups enjoy, due to the sizeable amounts of money at their disposal and their ability to eliminate competition through intimidation and violence, make risks that would daunt any legitimate business perfectly acceptable. The consolidation of their power places in grave danger the growing economies of those countries, particularly in terms of their future development, their competitiveness in the international arena, and their stability.

The situation has become even more alarming with the expansion of organized crime and the growing tendency of organized criminal groups to diversify their operations in response to a principle that has been driving international business forever: reduce risks and maximize profitability. Some years ago, criminologists were drawing a clear distinction between the activities of organized crime and the areas in which it was operating, and another elusive form of crime known as "white-collar crime." This is no longer the case. While retaining traditional activities, particularly those that continue to be lucrative, and finding new ways of eluding law enforcement efforts, organized criminal groups are increasing their sophistication and turning to "borderline" economic endeavours. The advantages are obvious. Countries are still in the process of analyzing the potential for malfeasance of a broad range of new economic activities and products available to individual and institutional investors, before they can even attempt to conceive, elaborate and enforce adequate regulations.

In addition to the obvious advantage of concealing wealth and laundering proceeds, organized criminal groups are drawn to the great possibilities for reaping sizeable, perfectly legal profits before anyone has even realized whether there was anything wrong. Since this type of crime is often "victimless", such activities offer the additional advantage of not drawing public attention, which puts increased pressure on national authorities for action.

Finally, such activities come with added value: power, which organized crime has never shunned if the price for obtaining it was right. There is another feature in this type of crimes that is both an additional advantage for criminal groups and an incalculable danger for modern societies. The successful engagement of criminals in economic crimes is often viewed by the public as an act of cunning and even bravery. Social criticism for the perpetrator is directed not at the commission of the crime but at the failure to escape justice. This attitude is a sign of the times and amply demonstrates the corrosive effects

that such crimes have on the social fabric. It is fundamental that this attitude be reversed, because it can prove equally or more dangerous than the offences themselves. We must not shy away from this responsibility, which does not rest only on Governments, but must be equally shared by everyone, with the private sector playing a prominent role.

What are the problems facing individual countries and the international community in effectively dealing with organized crime? Policy-makers, legislators and criminal justice officials think in a certain way. We are all aware of the simple truth that everyone is captive of his/her own experience. We are trained according to certain principles and standards, and we are naturally inclined to base our reasoning, organize our work and approach problems and seek solutions on the basis of these principles. These standards may be part of our upbringing, our education, our professional training or our experience. Together with these standards and principles, we are also guided by certain values which we believe are paramount and should be protected.

Policy-makers are trained to think in terms or certain organizational structures that must be respected in making and implementing policies. Legislators and law enforcement officials are trained to think along the fundamental lines of their respective legal systems in elaborating laws and in implementing them. When faced with the necessity to put in place functioning and effective mechanisms of cooperation, responsible officials are constrained by the fundamental principles of their thinking and of the instruments defining their mandate and the margins within which they can operate or negotiate.

In order to comprehend the problem calling for cooperation, people have the tendency to try and either break it down to elements with which they are familiar or try to project the problem (and its constituent elements) within their own overall perspective and operating environment. This effort is manifested in several ways, principal among them being the use of terminology. Consequently, in discussions and negotiations on international cooperation, government representatives tend to reason in ways that conform to their terminology and to their national legal frameworks and structures. Furthermore, there are always effort to ensure that the mechanisms of international cooperation are designed in such a way that would, if possible, not run counter to national norms and legal regimes.

Organized crime attacks the very fundamental values that we are trying to protect and on which we base our perception of structures, norms and standards. It also exploits lacunae and gaps that exist in legal systems and in legal thinking. It benefits from the limitations that the mode of reasoning discussed above imposes on mechanisms of international cooperation. If we are to deal effectively and decisively with organized crime, we must challenge our way of thinking and change the way we operate.

Let me make one thing absolutely clear at this stage. The fundamental precept of criminal law is, and must remain, the protection of individuals and society. Any action against organized crime (or any form of crime for this matter) must not be designed or undertaken in a way that would jeopardize or compromise fundamental rights and freedoms of the individual or society. This is one of the reasons that the task is even more difficult.

Effective action against organized crime requires an unreserved commitment to

international cooperation. It also requires the will of Governments, and ultimately everyone involved in policy-and decision-making, as well as civil society to conform legislative instruments and practices to the needs of international cooperation, instead of the other way around. This means that countries should be willing and ready to amend their legislation in order to make their legal and law enforcement regimes able to converge with those of other countries in order to ensure that no matter which activity, no matter in which geographical region, and no matter who are the perpetrators, organized crime groups find no safe haven. Furthermore, this will and readiness must be manifested by all countries from all regions, and their commitments must be sustained over time.

Action cannot be limited because of the transnational nature of organized crime and its ability to shift its operations across borders in response to increases in the risks it is facing. The commitment must be sustained over time for two reasons. First, because of the strength and resilience of organized criminal groups and, second, because of the power organized criminal groups wield due to their wealth and the comparative advantage this wealth gives organized criminal groups over law enforcement authorities which invariably operate with limited budgets. One may be tempted to ask: is this a last cause? Are efforts by law enforcement authorities doomed to merely trying to catch up? Optimism, albeit with caution, should guide us in answering these questions. Pooling resources, relying on active and genuine cooperation, and constantly increasing the professional capacities and the knowledge of law enforcement and criminal justice personnel can be the elements of successful action. But, more importantly, there is need for functional frameworks for international cooperation, coupled with appropriate mechanisms at the national level.

II. UNITED NATIONS ACTION AGAINST TRANSNATIONAL ORGANIZED CRIME

The work of the United Nations in strengthening international cooperation against organized crime dates back twenty years. The issue and its various aspects have been debated and analyzed by successive congresses on the prevention of crime and the treatment of offenders, starting with the Fifth Congress in 1975. This debate has, of course, evolved through the years to reflect changing perceptions and priorities of States, but also the increased understanding of the real dimensions of the problem.

The Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders examined the “Changes in Forms and Dimensions of Criminality-Transnational and National” under agenda item 5. In what could today, with the benefit of hindsight, be termed prophetic, the Congress focussed on crime as business at the national and transnational levels: organized crime, white-collar crime and corruption. Crime as business was recognized as posing a more serious threat to society and national economies than traditional forms of crime. While it was a serious problem in many developed countries, the national welfare and economic development of the entire society in developing countries was found to be drastically affected by such criminal conduct as bribery, price-fixing, smuggling and currency offences.

In 1980, the Sixth United Nations Congress, under agenda item 5 entitled “Crime and the Abuse of Power: Offences and Offenders beyond the Reach of the Law,” added new elements to the international perception of organized

crime. Among these offences were those crimes with respect to which the law enforcement agencies were relatively powerless, because the circumstances under which they had been committed were such as to decrease the likelihood of their being reported or prosecuted. Organized crime, bribery and corruption were among the first examples listed.

The issue was considered further by the Seventh Congress in 1985 under Topic 1 "New dimensions of criminality and crime prevention in the context of development: challenges for the future." The Congress emphasized that multiple illicit operations carried out by international criminal networks represented a major challenge to national law enforcement and to international cooperation.

In 1988, a high-level plenipotentiary conference, held in Vienna, adopted the United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances. At the end of August 1996, 136 States were parties to the Convention, which represents one of the most important binding international instruments against drug trafficking, an activity in which transnational criminal organizations are regularly engaged.

In 1990, within the framework of its Topic III "Effective national and international action against: (a) Organized crime; (b) Terrorist criminal activities," the Eighth Congress examined the problem of transnational organized crime in the light of new historic developments. The rapid increase in the number of independent countries, together with the growing expansion of criminal activities beyond national borders, had created the need for new international institutions that could introduce a measure of order and enhance the effectiveness of crime prevention efforts. On the recommendation of the Congress, the General Assembly made a substantive step towards strengthening international cooperation by adopting the Model Treaties on Extradition, on Mutual Assistance in Criminal Matters, on Transfer of proceedings in Criminal Matters and on Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released (resolutions 45/116, 45/117, 45/118 and 45/119 respectively). The Congress also adopted a set of guidelines against organized crime in resolution 24, which was welcomed by the General Assembly in resolution 45\121. In resolution 45/123, the General assembly urged Member States to implement these guidelines and invited them to make available to the Secretary-General their national legislation against organized crime and money laundering.

Pursuant to General Assembly resolution 45/108 of 14 December 1990 the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme was held in Versailles from 21 to 23 November 1991. The General Assembly, by resolution 46/152 of 18 December 1991, adopted a proposed Statement of Principles and Programme of Action, which, *inter alia* established the Commission on Crime Prevention and Criminal Justice (a 40-member functional Commission of the Economic and Social Council).

The Commission was established and held its first session in 1992. On its recommendation, the Economic and Social Council adopted resolution 1992/22, by which it determined that one of the priority themes that should guide the work of the Commission and the United Nations Crime Prevention and Criminal Justice Programme would be "national and transnational crime, organized crime, economic crime, including money laundering, and the role of criminal law in

the protection of the environment". The Council also adopted resolution 1992/23, in which it noted the recommendations of two *Ad Hoc* expert group meetings held in 1991, in Smolenice, Slovak Republic, and in Suzdal, Russian Federation, and requested the Secretary-General to continue the analysis of the impact of organized criminal activities upon society at large. The Commission, also at its first session, adopted resolution l/2 by which it requested the Secretary-General to examine the possibility of coordinating efforts made at the multilateral level against laundering of the proceeds of crime and related offences, and to propose means for technical assistance to requesting Member States in drafting legislation, training law enforcement personnel, in developing regional, subregional and bilateral cooperation and in providing advice.

The efforts of the United Nations, and the awareness and interest displayed by the intemational community through the Commission on Crime Prevention and Criminal Justice, led to the organization of one of the most significant events in the history of the United Nations Crime Prevention and Criminal Justice Programme. The World Ministerial Conference on Organized Transnational Crime was organized in Naples, Italy, from 21 - 23 November 1994. The 142 States in attendance (86 of them at the Ministerial level, while others were represented by their Heads of State or Government) unanimously adopted the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, which was later approved by the General Assembly (resolution 49/159 of 23 December 1994).

The Naples Political Declaration and Global Action Plan emphasized the need and urgency for global action against transnational organized crime, focussing on the structural characteristics of criminal organizations. Countries were called upon to begin the process of harmonizing their legislation, while special attention was paid to the need for countries to ensure that their criminal justice systems had the capacity to prevent and control transnational organized crime in all of its manifestations. Equal attention was given to the need for the international community, particularly donor countries and financing institutions, to assist developing countries and countries with economies in transition, to bridge the gap between the capacity of their law enforcement authorities and criminal justice systems in general, and the ability of organized criminal groups to shift their operations from activity to activity and to elude efforts against them by using sophisticated methods of operation.

The Naples Political Declaration and Global Action plan stressed the need for the international community to arrive at a generally agreed concept of organized crime as a basis for more compatible national responses and more effective international cooperation. Particular attention was given to more effective bilateral and multilateral cooperation against transnational organized crime, asking the Commission on Crime Prevention and Criminal Justice to examine the possibility of a convention or conventions against transnational organized crime. Furthermore, the prevention and control of the laundering and use of the proceeds of crime were considered essential elements of any international effort.

The Commission on Crime Prevention and Criminal Justice followed up on the implementation of the Naples Political Declaration and Global Action Plan at its fourth and fifth sessions (Vienna, 30 May - 9 June 1995 and 21 - 31 May 1996 respectively). On its recommendation at its

fourth session, ECOSOC adopted resolution 1995/11 of 24 July 1995, in which the Secretariat was requested (a) to initiate the process of requesting the views of Governments on a convention or conventions; (b) to collect and analyze information on the structure and dynamics of transnational organized crime and on the responses of States to this problem, for the purpose of assisting the international community to increase its knowledge on the matter; (c) to Submit to Member States at the next session of the Commission a proposal on the creation of a central repository of existing legislative and regulatory measures and information on organizational structures designed to combat transnational organized crime; (d) to submit proposals to the Commission for the development of practical models and practical guidelines for substantive and procedural legislation in order to assist developing countries and countries in transition; (e) to provide advisory services and technical assistance to requesting Member States in needs assessment, capacity- building and training, as well as in the implementation of the Naples Political Declaration and Global Action Plan; and (f) to join effort with other relevant international organizations in order to reinforce common regulatory and enforcement strategies in the area of prevention and control of money laundering, and to assist requesting States in assessing their needs in treaty development and the development of criminal justice infrastructure and human resources.

An in-sessional intergovernmental working group was established at the fifth session of the Commission to review the views of Governments on a convention or conventions, as well as the proposals of the Secretariat described under (c) and (d) above. The Crime Prevention and Criminal Justice Division, on the basis of information provided by Member States, prepared a report for the Commission's consideration at its fifth session (Vienna, 21 - 31 May 1996), in which the actual situation of organized crime was reviewed. Most responding Member States expressed their favourable disposition towards a convention against transnational organized crime.

In November 1995, the Division organized a regional Ministerial Workshop on the Follow-up to the Naples Political Declaration and Global Action plan, hosted by the Government of Argentina in Buenos Aires. The Workshop adopted the Buenos Aires Declaration on Prevention and Control of Organized Transnational Crime, in which the countries of Latin America and the Caribbean expressed their support for expeditious follow-up to the Naples Political Declaration and Global Action plan, and endorsed the idea of developing a convention against transnational organized crime, offering a list of elements that such a convention should include.

At its fifth session, the Commission devoted special attention to the issue of organized crime in general, and to the follow-up of Naples in particular. On its recommendation, the General Assembly adopted, at its fifty-first session in 1996, the United Nations Declaration on Crime and Public Security (resolution 51/60). By this Declaration, Member States undertook to seek to protect the security and well-being of all their citizens, by taking effective national measures to combat serious transnational crime, including organized crime, illicit drug and arms trafficking, smuggling of other illicit articles, organized trafficking in persons, terrorist crimes and the laundering of proceeds from serious crimes. Member States also pledged their mutual cooperation and to promote bilateral, regional, multilateral and global law

enforcement cooperation and assistance; white taking measures to prevent support for and operations of criminal organizations in their national territories. In addition, Member States undertook, to the fullest extent possible, to provide for effective exdradition or prosecution of those who engage in serious transnational crimes in order to ensure that these criminals find no safe haven.

According to the Declaration, mutual cooperation and assistance in these matters would also include the strengthening of systems for the sharing of information among Member States, and the provision of bilateral and multilateral technical assistance. This is also important in connection with the agreement of Member States to take steps to strengthen the overall professionalism of their criminal justice, law enforcement and victims assistance systems, as well as relevant regulatory authorities. Member States were urged to become parties as soon as possible to the principal existing international treaties relating to the various aspects of the problem of international terrorism, as well as to the international drug control conventions. The Declaration called upon States to take measures to improve their ability to detect and interdict the movement across borders of those engaged in serious transnational crime, as well as the instrumentalities of such crime, and to protect their territorial boundaries. Such measures would include adopting effective controls on explosives and against illicit trafficking in certain materials and their components that are specifically designed for use and manufacturing nuclear, biological or chemical weapons; strengthening supervision of passport issuance and enhancement of protection against tampering and counterfeiting; strengthening enforcement of regulations on illicit trafficking in firearms; and coordinating measures and enhancing information exchange to combat the organized criminal smuggling of persons across national borders.

In connection with the control of the proceeds of crime, Member States agreed to adopt measures to combat the concealment or disguise of the true origin of the proceeds of serious transnational crime and the intentional conversion or transfer of such proceeds for that purpose. Member States also agreed to require adequate record-keeping by financial and related institutions and the reporting of suspicious transactions and to ensure effective laws and procedures to permit the seizure and forfeiture of the proceeds of serious transnational crime. Member States recognized the need to limit the application of bank secrecy laws, if any, with respect to criminal operations and to obtain the cooperation of financial institutions in detecting these and other operations which may be used for the purpose of money laundering.

Further, Member States agreed to combat and prohibit corruption and bribery and to consider developing concerted measures for international cooperation to curb corrupt practices, as well as developing technical expertise to prevent and control corruption.

On the very important issue of corruption, the General Assembly adopted another resolution, also recommended by the Commission at its fifth session (resolution 51/59). Entitled “action against corruption”, the resolution represents work carried out in the context of the United Nations Crime Prevention and Criminal Justice Programme for the last seven years. According to the resolution, the Assembly adopted an lnternational Code of Conduct for Public Officials, which sets out a number of principles which Member States

can use as a tool to guide their efforts against corruption. The crime Prevention and Criminal Justice Division is currently in the process of revising and expanding a Manual on Practical Measures against Corruption, which together with the Code of Conduct would form a package for advisory services, training and other technical assistance activities. We are also working on model legislation against corruption for use in the context of technical cooperation adivities. Countries requesting assistance in this field would be provided with the model law, which can be adapted to the particular legal requirements and other circumstances of the country, and assisted in making such adaptations and supplementing the legislation with regulatory and other measures.

In 1996, the General Assembly adopted another resolution (resolution 51/191) on the United Nations Declaration against Corruption and Bribery in International Commercial Transactions. The resolution, which approaches the issue of corruption from another, very important angle, contains a request to the Commission on Crime Prevention and Criminal Justice to examine ways, including through legally binding international instruments, to further the implementation of the Declaration, so as to promote the criminalization of corruption and bribery in international commercial transactions. The Assembly stressed that this action should in no way preclude, impede or delay international, regional of national actions in this field. The Assembly encouraged private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions to cooperate in the effective implementation of the Declaration. States committed themselves to take effective and concrete action to combat all forms of corruption, bribery and related illicit practices in international commercial transactions and to call upon private and public corporations, including transnational corporations, and individuals within their jurisdiction engaged in international commercial transactions to promote the objectives of the Declaration.

Further, in accordance with the Declaration, which among other provisions contains elements that bribery may include, States committed themselves to deny, where not already done, the tax deductibility of bribes paid by any private or public corporation or individual to any public official or elected representative of another country and to develop or maintain accounting practices that improve transparency of international commercial transactions and that encourage corporations and individuals to avoid and combat corruption and bribery. In addition, States committed themselves to develop or encourage the development of business codes, standards and best practices that prohibit corruption, bribery and related illicit practices in international commercial transactions. Our Commission took further action on the modalities of implementation of the Declaration at its sixth session in April last year, while an expert group meeting was organized in Buenos Aires in March 1997, which made a number of recommendations to assist the Commission with its work.

Reverting to the follow-up to the Naples Political Declaration and Global Action Plan, the Economic and Social Council adopted resolution 1996/27, in which it took note of the Buenos Aires Declaration and requested the Secretary-General to continue his consultations with Member States on the possibility of elaborating a convention or conventions against transnational organized crime. The Council also requested the Secretary-General to

assist in the implementation of the Naples Political Declaration and Global Action Plan and to meet the needs of Member States for increased knowledge on the structure and dynamics of transnational organized crime in all its forms, as well as trends in its development, areas of activity and diversification. In addition the Secretary-General was called upon to assist Member States in reviewing existing international instruments and exploring the possibility of elaborating new ones to strengthen and improve international cooperation against transnational organized crime and to intensify technical assistance in the form of advisory services and training. The Secretary-General has also been requeted to establish a central repository for national legislation, including regulatory measures, on transnational organized crime; information on organizational structures designed to combat transnational organized crime; and instruments for international cooperation, including bilateral and multilateral treaties and legislation to ensure their implementation. For the purpose of providing increased technical assistance to requesting Member States, the Secretary-General has been requested to develop training manuals for specialized law enforcement and investigative personnel on action against transnational organized crime, taking into account differences in legal systems.

In July last year, we organized a regional Ministerial Workshop in Dakar for the countries of the African region. In adopting the Dakar Declaration, the Ministers reaffirmed their commitment to fight against transnational organized crime and reiterated their collective political will to support the efforts of the Commission towards the elaboration of an international convention against transnational organized crime. In addition, the Ministers reviewed and approved two regional projects for technical cooperation aimed at providing assistance to the Governments of the region in strengthening their capacities to prevent and control transnational organized crime.

The issue of the convention has come to the forefront as a result of a resolution adopted by the General Assembly in December 1996 (resolution 51/120), following the initiative of the Government of Poland to submit to the Assembly the text of a draft framework convention against transnational organized crime. On the recommendation of the Commission at its sixth session, the General Assembly adopted resolution 52/85 of 12 December 1997. By virtue of this resolution, an in-sessional intergovernmental group of experts was established and held a meeting from 2 to 6 February in Warsaw. The group's mandate was to elaborate a preliminary draft of a possible international convention against transnational organized crime, on the basis of a number of documents and contributions from Governments, either individually or in the context of a working group established at the last session of the Commission.

All this is a summary of the political process at the intergovernmental level. This process may sometimes appear to be cumbersome and to require considerable time. It is, however, essential for international cooperation, since the objective cannot be expediency and strong language but consensus, together with conscious and genuine commitment, which are the cornerstones of successful action.

While this process is under way, and in order to encourage it and solidify the gains that are made, technical cooperation is crucial. The Centre for International Crime Prevention has been making every effott possible to advance the implementation of

the Naples Political Declaration and Global Action Plan and to provide assistance to Member States who wish to strengthen their capacity to fight organized crime. Of course, as with almost everything these days, this is also a question of resources. Technical cooperation activities are resource-intensive and the Centre's regular budget and extra-budgetary funds have not kept up with the emphasis placed by the international community on the Programme's priority role as the provider of timely and practical assistance. The problem we are facing has become more acute in the past couple of years with the multiplication of requests from developing countries and countries with economies in transition, whose needs have grown exponentially with the growth of crime in general, but also with the expansion of organized crime, and whose expectations have been raised by the emphasis placed by the Commission on the provision of practical assistance and the new orientation of our Programme.

With the limited resources at our disposal we have managed to provide assistance to the Economic Community of West African States (ECOWAS) in developing a regional convention on mutual assistance in criminal matters and in beginning a similar exercise with regard to extradition. In South Africa, we assisted the Government in developing a witness protection programme, while another project is under development to assist the country in strengthening its overall capacity to prevent and control organized crime. In Kyrgyzstan we are currently helping the Government to develop a specific project related to the establishment of a specialized department within the Ministry of the Interior to fight organized crime. We have also managed to respond to Some of the needs of Belarus and Ukraine, with the assistance of the United Nations International Drug Control Programme (UNDCP), and to carry out needs assessments in Angola, Argentina, Armenia, Bolivia, Georgia, Guinea, the Former Yugoslav, Republic of Macedonia, Togo and Pakistan. In Bosnia and Herzegovina we have developed a number of project proposals, together with UNDCP, while we are implementing a project on strengthening the criminal justice system. In Romania, we have developed a project for building and strengthening the capacity of the country's criminal justice system to prevent and fight corruption and organized crime. On the occasion of the Buenos Aires and Dakar Workshops mentioned above, the Division developed regional technical cooperation projects on action against organized crime and corruption respectively, which are now awaiting funding. In June 1996 we organized, together with the Organization for Security and Cooperation in Europe (OSCE) and UNDCP, a seminar on drugs and crime for the five Central Asian Republics. In November, organized with funding by the Government of the United States, an international conference on the theft of, and illicit trafficking in, motor vehicles was hosted by the Government of Poland in Warsaw. We are also planning regional Ministerial Workshops, along the lines of the ones held in Buenos Aires and Dakar for Asia and the Pacific in Manila in March and for Eastern Europe, in Kiev, Ukraine, in June.

In 1996, a joint technical cooperation project entitled "Global Programme against Money Laundering" - aimed at making international action against money laundering more effective - was finalized - by UNDCP and the Division. The project consists of a number of specific activities required at the international level to help adequately fight money laundering, raise awareness about the problem, put in place the necessary legal frameworks, and provide assistance to the judicial, financial

and law enforcement sectors. The project has six immediate objectives: (a) increased awareness and improved understanding of the money laundering phenomenon and acceptance of the need for countermeasures; (b) introduction of relevant legislation, including promotion of mutual legal assistance; (c) improved global infrastructure including for the delivery of training services; (d) improved capacity of legal and related law enforcement systems, including the establishment of financial intelligence units or similar bodies; (e) reduced financial system vulnerability: and (f) improved process of performance evaluation. Within this framework, the project will target Priority Countries and assist them to put in place necessary legislation and other regulations, to counter money laundering, as well as undertake activities in infrastructure-building and training in the judicial, financial and law enforcement sectors. To this end, materials will be developed, such as a compendium of relevant national legislation and procedures, as well as computer databases and training materials of general application. These materials will be tested in pilot projects. The project was approved in October 1996 and the bulk of the necessary financing has already been secured. Its execution, which has already begun and is expected to last three years, is being carried out by UNDCP in cooperation with the Centre. The project also foresees close cooperation with other organizations active in the field, such as the Financial Action Task Force (FATF), in order to ensure proper coordination of the work done at the international level.

But much more needs to be done. We must raise awareness among people and within the business community about the dangers, the methods of operation and the short and long-term impact of the activities of transnational criminal organizations. We must direct attention to the fact that organized criminal groups are now involved not only in traditional and violent crimes, but are shifting their attention to the economic and financial spheres. We must make everyone aware of the effects of these activities on our financial systems, our daily lives and, most importantly, on our values and institutions. We must all understand that no country is immune, no country is safe from the operations of criminal organizations, no matter what its level of development. The vast resources available to criminal organizations make the race with law enforcement and criminal justice an unequal one under any circumstances. It is only a question of degree of sophistication, and a question of type of activities which present less risk for criminal organizations. International cooperation holds the key. Genuine international cooperation, as well as forward looking concerted action, can only stem from knowledge. It is of the utmost urgency that we develop and disseminate information. The international community cannot afford to allow the situation to deteriorate further. It must take measures now and proceed to practical action based on agreement and founded on collective political will, as expressed in Naples and in every international forum since. It is still possible for such action to be proactive and not only be composed of damage control or containment measures. We must not lose this opportunity through further delay.

The role that the private sector can play in furthering the process and in developing and taking the appropriate action against organized crime, including money laundering is central and crucial. Assisting developing countries and countries with economies in transition to build and strengthen their criminal justice system to fight transnational organized crime in all its forms, including money laundering, is a sound investment, and one with high

long-term returns. In the last quarter century, private capital flows to developing countries have risen 35 times, from $5 billion to $176 billion. These investments, most of which are long-term can flourish and their potential and returns can be maximized only in an environment of security and stability. The cost of investment can be considerably lower when not compounded by expenditures for security of installations, personnel and products. It is fundamental to any business that competition be not restricted through the operations of organized criminal groups and their front companies, or that the integrity, image and viability of a corporation would not be compromised or threatened through infiltration by these groups or their laundered profits.

As the Secretary-General of the United Nations said in Davos a few weeks after he took office, "*in the post-cold-war era, peace and security can no longer be defined simply in terms of military might or the balance of terror. The world has changed. ...In today's world, the private sector is the dominant engine of growth; the principal creator of value and wealth; the source of the largest financial, technological and managerial resources. If the private sector does not deliver economic opportunity - equitably and sustainably - around the world, then peace will remain fragile and social justice a distant dream.*"

A partnership between the private sector and the United Nations is crucial and we must work together to forge and sustain it. The United Nations set the international norms and standards that make progress possible. The partnership between the United Nations and the private sector can help ensure that progress and development are not threatened by crime.

ORGANISED CRIME IN INDIA: PROBLEMS & PERSPECTIVES

*Madan Lal Sharma**

I. INDIA THE LAND AND PEOPLE

India is one of the oldest civilisations with a kaleidoscopic variety and rich cultural heritage. It covers an area of 32. 87,263 sq. kms extending from the snow covered Himalayan heights to the tropical rain forests of the south. As the seventh largest country in the world, India is well marked off from the rest of Asia by mountains and the sea, which give the country a distinct geographical entity. It has a land frontier of 15,200 kms and a coast line of 7,516 kms. In 1996, India's population was 931.9 million. Apart from English and Hindi, India has 17 other official languages recognised by the Constitution.

India is a Union of States and is governed by a written Constitution which came into force on 26th November, 1949. It consists of 25 States and 7 Union Territories. Due to its colonial heritage, India follows the Anglo-Saxon common law system. Article 14 of the Constitution provides for equality before the law. Article 21 guarantees protection of life and personal liberty. Article 20 provides protection against double jeopardy. Article 39-A mandates the State to secure equal justice for all. Article 50 provides for separation of the judiciary from the executive in the public services of the State.

'The Police' and 'Public Order' are in the State List but the 'Criminal Laws' and 'Criminal Procedure' are in the Concurrent List. Resultantly, the basic criminal statutes, namely, India Penal Code, 1860; Criminal Procedure Code, 1973; Indian Evidence Act, 1872; Indian Police Act,1861 and several others have been enacted by the national Parliament. The States also have limited authority to legislate on the subjects falling in the State List. The Police, being a State subject, is raised and maintained by the State Government. Each State and Union Territory has a separate police force. Thus, registration of crime, investigation and finalisation thereof is the mandate of the State Police. In addition to the State Police Force, the Central Government has set up certain Central Investigating Agencies, including the Central Bureau of Investigation (CBI). CBI was set up under the Delhi Special Police Establishment Act, 1946. It has concurrent jurisdiction in the investigative field in the Union Territories. It can also take up investigation of cases falling within the jurisdiction of the States under the orders of the Central Government, but only with the prior consent of the State Governments concerned. In addition, the Central Government has constituted certain other investigating agencies, namely, the Narcotics Control Bureau, the Enforcement Directorate, the Central Board of Direct Taxes and the Central Board of Customs and Excise. These agencies investigate criminal cases falling in the ambit of special statutes being administered by them and are empowered to launch prosecutions. The CBI, however, is the premier investigating agency of the Central Government and has an omnibus charter.

II. CRIME SCENARIO IN INDIA

Before I come to the subject of organised crime proper, it would be useful to have

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some idea about the general crime situation prevailing in the country. India, the land of Lord Budha and Mahatma Gandhi, is growing into a violent society. The violent crimes that constituted only 8.2 per cent of the total crimes registered under Indian Penal Code (IPC) in 1953 increased to 14.4% in 1994. Gulshan Kumar, a Bombay music magnate with Rs. 800 crore empire, was shot dead last year as he refused to pay a large sum of money demanded by Dawood Ibrahim gang. This was preceded by killings of several Bombay industrialists and politicialns. 48 persons in 1995 and 71 persons in 1996 were lynched in West Bengal by the public. 61 Harijan were killed in Jehanabad District (Bihar) in caste based violence last month. The caste and communal strife claimed 511 lives in 1997,with 3701 injured. The kidnappings for ransom of rich industrialists, businessmen, top professionals and their wards are lucrative for the criminal groups in the metropolitan cities. Delhi witnessed 40 such incidents in 1994; 43 in1995 and 23 in 1996. Brutal attacks by the domestic servants of lonely housewives and old couples for looting are a recurring phenomenon in Delhi. A Benaras businessman was kidnapped by a gang headed by a Member of State Legislature and even after extortion of a huge ransom, he was killed lest he approach the police and reveal the gang's identity. Terrorist crimes have also taken their toll in terms of human casualties and damage to public property. 308 bomb explosions in 1997 left 197 people dead and 1109 injured. Delhi city alone witnessed 26 such incidents last year. The crime scenario is, thus, rather grim.

Table I shows the incidence and the rate of cognizable crimes under IPC and Special and Local Laws (SLL) from 1986 to 1996: IPC crime, in absolute number, remained at about 1.6 million since 1990 but the SLL crime is increasing rapidly. In 1996, IPC crime constituted 27.1% of the total crime registered. Over the decade 1986-96, the IPC crime increased by 19.2% but the SLL crime increased by 39.8%. However, the lesser increase in the IPC crime does not

TABLE I

INCIDENCE AND RATE OF COGNIZABLE CRIMES UNDER IPC AND SLL FROM 1986-1996 (IN LACS)

YEAR	INCIDENCE			RATE**		
	IPC	SLL	TOTAL	IPC	SLL	TOTAL
1986	14.05	29.8	43.9	183.5	389.6	573.1
1987	14.06	35.8	49.9	180.1	459.3	639.4
1988	14.4	37.6	52.06	180.8	472.7	653.5
1989	15.2	38.4	53.7	188.5	474.0	662.4
1990	16.04	32.9	48.9	194	398.3	592.3
1991	16.7	33.7	50.4	197.5	396.8	594.3
1992	16.8	35.5	52.4	194.7	410.1	604.8
1993	16.2	38.03	54.3	184.4	430.4	614.8
1994	16.3	32.8	49.2	181.7	365.6	547.3
1995	16.8	42.6	59.4	184.2	465.3	469.6
1996	16.7	44.6	…614	179.8	479.1	458.9

*Alac=1,00,000.

**Crime per 1,00,000 of population

appear to truely reflect the intensity, gruesomeness and social impact of violent and organised crime.

In this context, it is be useful to look at the incidence of IPC crimes under major crime heads as shown in Table II. There has been 44.3% increase in murders in 1995 over 1985. The incidence of rape has increased by 88.7% over this period. Similarly, kidnapping and abduction has increased by 27.3%. However, the dacoity shows decrease of 25.9%. While robbery shows a negligible decrease over the the decade, there is about 11% decrease in burglary and theft cases and 3.2% in riot cases. The incidence of currency counterfeiting increased by 46.5% over this period. Overall IPC crimes showed an increase of 22.5% over the decade.

In 1993, the crime rate in murder offences in India was 4.32 which is lower than that of Canada (5.63) but higher than that of Bangladesh (1.99), China (1.95), Hong Kong (1.55), Indonesia (0.84), Japan (0.99), Nepal (2.32) and Singapore (2.02). The crime rate in theft and dacoity cases was 1.05 in India. It is much lower than that of Bangladesh (7.29), Hong Kong (390.86), Indonesia (28.39), Japan (205.97) and Singapore (146.18). In India, the crime rate in burglary offences was 13.91 which is much lower than most of the countries of the region. The crime rate in rape offences was 1.38 which is lower than that of China (3.62), Hong Kong (1.74) and Singapore (2.75) but higher than that of Japan (1.29), Nepal (0.98), Indonesia (0.71) and Bangladesh (0.44).

It is pertinent to mention that crime under the special and Local Laws (SLL) constitutes over two-thirds of the total cognizable crime in India (IPC crime constituting less than one-third).

Table V shows the incidence of SLL crime. About 4.29 million SLL cases were registered in 1995. There was 38.8% increase in SLL in 1985. Registration under the Arms Act has shown a marginal increase of 3.8% over the decade. However, there was increase of 41.4% under the NDPS Act. Suprisingly, registration under the Gambling Act, declined by 23.2 per cent

TABLE II

INCIDENCE OF IPC CRIMES UNDER MAJOR CRIME HEADS

Crime Head	1985	1991	1992	1993	1994	1995
Murder	25970	39174	40105	38240	38577	67464
Attempt to murder	-	29778	31202	29725	30020	29571
Rape	7289	10410	11708	12218	13508	16754
Kidnapping & abduction	16051	20079	20518	19830	20983	20426
Dacoity	11254	10831	11308	9357	9271	8335
Robbery	22501	26428	26444	24354	23933	22443
Burglary	130354	132087	127281	123020	121536	116507
Theft	330554	36282	350582	320434	303564	294306
Riots	99757	105309	104749	93838	94344	96520
Counterfeiting	1504	4467	5133	3728	2851	2203
OTHER IPC CRIMES	696069	886287	907071	903082	924342	722583
TOTAL:	1384731	1678375	1689341	1629936	1635251	1695696

TABLE III

INCIDENCE OF SLL CRIME UNDER MAJOR HEADS

CRIME HEADS	1985	1991	1992	1993	1994	1995
ARMS ACT	61987	62025	63893	65532	60289	64331
NDPS ACT	14277	20944	99478	21087	20304	20194
GAMBLING ACT	179419	167113	167193	162800	156926	137737
EXCISE ACT	106183	95863	95108	96578	102096	114355
PROHIBITION ACT	106183	95863	95108	96578	102096	114355
EXPLOSIVES ACT	3373	5458	8899	6163	4641	5113
IMMORAL TRAFFIC ACT	14815	14639	12580	12496	10132	8447
ANTIQUITY& ART TREASURE ACT	-	10	40	18	66	69
OTHER SLL CRIMES	2327129	22844958	2401039	2513251	2793225	3232633
TOTAL:	3096481	3773563	3350971	3808448	328638	4267476

but, registration under the Prohibition policy being pursued by the States like Haryama and Gujarat, creating a fertile ground for organised boot-legging. Crime under the Immoral Traffic (Prevention) Act decreased by 43% which is rather surprising.

A. Convivtion Rate

To secure high conviction rates is not the overall objective of the criminal justice system in any country. Even so, conviction rate is one of the main indices of its efficacy. Table IV shows the percentage of IPC trials completed in the courts and the percentage of cases convicted.

TABLE IV

DISPOSAL OF IPC CRIMES IN THE COURTS (PERCENTAGE)

YEAR	TRIAL COMPLETED	CONVICTION
1961	30.3	64.8
1971	32.0	62.0
1981	23.9	52.5
1991	16.8	47.8
1993	16.7	45.9
1994	15.5	42.9
1995	15.1	42.1

The percntage of trials completed in a given year is going down steadily. While about 30% trials were completed in 1961 and 1971, the percentage came down to 23.9 in 1981 and 16.8 in 1991. The percentage has further come down to only 15.1 in 1995. Crime head-wise, conviction rate in IPC crime is shown in Table V.

TABLE V

PERCENTAGE OF CONVICTIONS UNDER MAJOR CRIME HEADS IN 1995

CRIME HEAD	% OF CONVICTION
Muder	37.0
Attempt to Murder	36.0
Rape	30.0
Kidnapping & Abduction	30.3
Dacoity	27.3
Robbery	34.1
Burglary	42.7
Theft	45.7
Hurt	38.4
Sexual Harassment	73.1
Other IPC crime	45.9
TOTAL IPC CRIME	42.1

About one-third of the IPC crime are convicted by the trial courts, with the exception of sexual harassment cases wherein the conviction rate is quite high. This dose not compare favourably with most other nations, including UK, USA, Japan, France and China. However, unlike IPC crimes, the conviction rate is much higher in non-IPC (i.e SLL crimes). Table VI shows the conviction rate under major crime heads.

TABLE VI

CONVICTION PERCENTAGE IN SLL CRIMES IN 1995

CRIME HEAD	PERCENTAGE
Arms Act	59.6
NDPS Act	48.8
Gambling Act	82.9
Excise Act	74.3
Prohibition Act	69.1
Explosives Act	48.2
Immoral Traffic(P) Act	89.7
Indian Railway Act	96.7
Indian Passport Act	69.9
Forest Act	61.6
Other SLL Crimes	90.4
Total SLL Crimes	85.8

The cases instituted under the Arms Act, NDPS Act and Explosives Act are essentially recovery based. The Police recovers the contraband or illicit arms explosives from the possession or premises of the accused, filing the charge sheet. Almost 50% are acquittals in narcotic drugs related cases; which is mainly due to non-observance of statutory and procedural requirements by the investigating officers. This is rather disturbing and calls for proper training of officers and streamlining of systems and procedures.

B. Pace of Trial

The accused has a right of speedy trial as per the tenets of natural justice. Such a right is inherent in Art. 21 of our Constitution. However, the reality is different. In the end of 1995, 7.12 million cases- 4.12 million under IPC and 3.0 million under SLL- were pending trial. Of the IPC crimes, 0.77 million were pending trial for more than 8 years. Thus, 18.6% cases were pending trial over 8 years. It is common ground that delayed trials violate natural justice and are also prejudicial to the interests of the prosecution.

No data for the average time taken in trials is available on an all-India basis. However, according to a study conducted by S.Venugopal Rao, a distinguished police officer, in regard to 16 police stations in Andhra Pradesh State, the average time taken for trial is 15 months in convicted cases of murder and 28 months in acquittal cases. In rape cases, it is 21 and 9 months respectively. In burglarly cases, it is 3 and 6 months but in robbery cases the time taken is 1 month and 21 months respectively [7].

The study generally shows that the average time taken in trials is much higher when compared to countries like Japan, where the average time taken is only about 3 months. It is also higher compared to Korea, UK and USA. This is one of the main contributory factors to the low conviction rate.

III. ORGANISED CRIME-TOWARDS A CONCEPT

The core organised crime activity is the supply of illegal goods and services to countless numbers of citizen customers. It is also deeply involved in legitimate business and in labour unions. It employs illegitimate methods-monopolisation, terrorism, extorition and tax-evasion to drive out or control lawful ownership and leadership, and to extract illegal profits from the public. Organised crime also corrupts public officials to avert governmental interference[8] and is becoming increasingly sophisticated. In India, in addition to its traditional spheres of activities which included extortion, seeking protection money, contract killing, boot-legging, gambling, prostitution and smuggling, now added is drug trafficking, illicit arms trading, money laundering, transporting illegitimate activities based essentially on its readiness to use brute force and violence. By corrupting public officials and thereby monopolising or near monopolising, organised crime aims to secure for itself power. Later, the money and power it begets are used to infiltrate legitimate business and several other related activities.[9] The recent experience has shown that it attempts to subvert and corrupt our democratic processes. Involvement of Bombay based criminal syndicates in the serial bomb blast in 1993, and the contract killings of several important social and political leaders in Bombay, indicates that organised crime in this part of the country is emerging as a serious challenge to the State. The de-stabilising effect that organised crime has on the country's economy, trade and commerce can hardly be over-emphasised. Organised crime continues to grow at a disconcerting speed as the existing laws and procedures are not powerful enough to help the law enforcement agencies to collect adequate evidence to bring criminal charges and try other remedies against organised criminal syndicates as a whole and thereby incapacitate them from carrying out their nefarious activities. Since the real strength of organised crime lies in its money power with which it buys political power, it is imperative to destroy its money power base.

Organised crime is not confined to the boundaries of any one country and has become a transnational problem. This is evidenced in the fields of drug trafficking, money-laundering, terrorism, gun-running and illegal immigration rackets. Moreover, advances in science and technology enable members of organised criminal groups to operate with high mobility and sophistication, thereby aggravating the already grim situation.

Organised crime has been studied in depth in USA since the beginning of this century. The Kefauver Committee (1951) concluded that there was a nation-wide net work of criminal syndicates in the USA, fundamentally based on 'muscle' and 'murder' indiscriminately used in running their criminal enterprises.[10]

The U.S Task Force Report, 1967[11] , aptly describes the scourge in the following words:

"*Organised crime is a society that seeks to operate outside the control of the American people and their government. It involves thousands of criminals working within structures as complex as those of any large corporation, subject to laws more tightly enforced than those of legitimate governments. Its actions are not impulsive but rather the result of intricate conspiracies, carried on over many years and aimed at gaining control over whole fields of activity in order to amass huge profits*".

In 1968, the US Congress enacted the Omnibus Crime Control and Safe Streets Act. According to it :

"*Organised crime includes the unlawful activities of the members of a highly*

organised, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labour racketeering and other unlawful activities of such associations".

This language reflects both a growing knowledge of the extent and diverse nature of organised crime and a conscious effort to avoid restrictive definition that might limit application of the statute.

The 1976 Task Force on Organised Crime of the National Advisor Committee on Criminal Justice Standard and Goals did not endeavour to define organised crime but proposed a description that attempted to explain the nature of organised criminal activity. It listed seven characteristics of organised crime. It, *inter alia*, observed that organised crime is a conspiratorial crime, having profit as its primary goal[12] .

The Organised Crime Control Act, 1970, strengthened the existing laws in several respects in that it, *inter alia*, provided immunity to an organised crime witness and prescribed testimonial compulsion of the witness. It also criminalised use of money generated by the racketeering activity and prescribed longer jail terms[13]. The preamble of the Act captures the nature and magnitude of the threat posed by organised crime to the society[14] :

"Organised crime in the US is a highly sophisticated, diversified and wide-spread activity that annually drains billions of dollars from America's economy by unlawful conduct and illegal use of force, fraud and corruption; organised crime derives a major portion of its power through money obtained from such illegal endeavours as syndicated gambling, loan sharking, the theft and fencing of property, the importation and distribution of narcotics and other dangerous drugs, and other forms of social exploitation; this money and power are increasingly used to infiltrate and corrupt our democratic processes; organised crime activities in the US weaken the stability of the Nation's sconomic system, harm innocent investors and competing organisations, interfere with free competition, seriously burden inter state and foreign commerce, threaten the domestic security and underline the general welfare of a nation and its citizens".

The Racketeer Influenced and Corrupt Organisations statute (RICO-1970) has become the centre piece of U.S federal law proscribing organised criminal actibity. In lieu of a definition of organised crime, RICO defines rackteering activity:

"Racketerring is an act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion or dealing in narcotics or dangerous drugs and other denominated crime.....A pattern of racketeering activity requires at least two acts of racketeering activity".

The Witness Security Reform Act, 1984, empowers the US Attorney General to change the identify of a witness, relocate them and financially support them till they become self-supporting. The witness is also given physical protection. The US authorities secured several convictions of important mafia leaders in the 1970's under the deterrent laws (RICO) mainly due to the witness protection programme.

The penal statutes of several countries, including Italy, have criminalised organised crime. The Italian Penal Code dose not specifically define 'organised crime' but it dose define 'criminal association'. According to Article 416 of the Italian Penal Code, the criminal association is:

"When three or more persons associate for the purpose of committing more than one crime, who ever promotes or constitutes or organises the assochiation, shall be punished, for that alone, with imprisonment from 3 to 7 years".

Japan has a special law on the

Prevention of Irregularities by gangsters. It is meant to exercise necessary control on acts of intimidation and violence carried out by gangsters, to protect the activities of Civic Public Organisations and to prevent danger to the life of citizens from gang-land war. Article 2 of the aforesaid law defines gangs as:

"Gangs means any organisation likely to help its members (including members of affiliated organisation of the said organisation) to collectively and habitually commit illegal acts of violence".

The law appears to have wide canvass as it purports to cover all types of illegal acts of violence. The main emphasis is on the collective and habitual commission of illegal acts of violence of by the members of an organisation. The Acts also provides for designation of a gang by the Prefectural Public Safety Commission after giving an opportunity to be heard by such gangs and their members. It criminalises the act of being a member or associate of a designated gang. The punishment, however, is light i.e, imprisonment up to one year.

Interpol has sought to define organised crime as :

"Any enterprise or group of persons engaged in continuing illegal activity which has as its primary purpose the generation of profits irrespective of national boundaries".

No definition of organised crime can be perfect and universally acceptable. The evolution and the forms of organised crime differ from one country to another, which may be the result of different social, economic, historical and legal factors. Hence, any attempt to define organised crime has to be in the light of each country's experience in dealing with the problem. Let us not restrict organised crime to Mafia type bodies or secret societies with rigid rules and initiation rites. This is more romantic that what is found in practice.

IV. CHARACTERISTICS OF ORGANISED CRIME

According to the Presidents Commission on Organised Crime 1986 [14], organised crime is the collective result of the commitment, knowledge and actions of three components :

i) The Criminal groups;
ii) The Protectors; and
iii) The Specialist support.

A. Characteristics of the Criminal Group

(1) Continuity: The criminal group operates beyond the life time of individual members and is structured to survive changes in leadship.

(2) Structure: The criminal group is structured as a collection of hierarchically arranged inter-dependent offices devoted to the accomplishiment of a particular function. It may be highly structured or may be rather fluid. It is, however, distinguishable as the ranks are based on power and authority.

(3) Membership: The membership in the core criminal group is restricted and based on common traits such as ethnicity, criminal background or common interests. The potential members are subjected to a lot of scrutiny and required to prove their worth and loyalty to the criminal group. The rules of membership include secrecy, a willingness to commit any act for the group and intent to protect the group. In return for loyalty, the member of a criminal group receives economic benefits, certain prestige, and protection from law enforcement.

(4) Criminality: The criminal group relies on continuing criminal activity to generate income. Thus, continuing criminal conspiracy is inherent in organised crime. Some activities such as supplying illegal goods and services

directly produce revenue, while others including murder, intimidation and bribery contribute to the groups ability to earn money and enhance its power. The criminal group may be involved both in legitimate as well as illegitimate business activity at the same time.

(5) Violence: Violence and the threat of violence are an integral part of a criminal group. The violence or threat of it is used against the members of the group to keep them in line as also against the outsiders to protect the economic interests of the group. Members are expected to commit, condone or authorise violent acts.

(6) Power/Profit Goal: The members of the criminal group aim at maximising the group's profits. The political power is achieved through the corruption of public officials, including legislators and political executive. The criminal group maintains power through its association with the "protectors" who defend the group and its profits.

B. Protectors

They are corrupt public officials, attorneys and businessmen who individually or collectively protect the criminal group through abuses of status and/or privilege and violation of the law. As a result of the protector's efforts, the criminal group is insulated from both civil and criminal government actions. Corruption is the central tool of the criminal protectors. A criminal group relies on a network of corrupt officials to protect the group from the criminal justice system.

C. Organised Crime Support

(1) Specialist Support: Organised criminal groups and their protectors rely on skilled individuals or support to assist the criminal groups on an adhoc basis. They are nonetheless considered part of organised crime. The specialists include pilots, chemists, arsonists, hijackers, shooters etc.

(2) Social Support: Social support includes public officials who solicit the support of organised crime figures; business leaders who do business with organised crime figures at social gatherings and thus portray the criminal group in a favourabale or glamorous light.

My experience shows, that all the aforesaid characteristics are not apparent in all the ciminals group in India. Futher, the degree of these characteristics may vary from group to group. The quintessential element of organised crime is continuing illegal activities for generating illegal profits. Conceptually, as long as this condition is satisfied, a group can be termed as an organised criminal group. Indian experience, however, shows that there is continuing illegal activity by organised criminal gangs, sometimes even in the absence of profit motive. Rigging of elections, proventing voters from exercising their electoral rights, preventing public servants from the lawful discharge of their duty, and recurrence of caste or communal violence on a continuing basis are such examples. In my view, it would be apporopriate to bring such crime also under the ambit of organised crime.

V. LEGAL POSITION IN INDIA

Organised crime has always existed in India in some form or another. It has, however, assumed its virulent form in modern times due to several socio-economic and political factors and advances in science and technology . Even though rural India is not immune from it, it is essentially an urban phenomenon. In India, there is no comprehensive law to control organised crime in all its dimensions and manifestations, There is, however, substantive law regarding criminal conspiracy. There are also penal provisions

in various statutes against specific violations of those statutes.

A. Criminal Conspiracy

Sec. 120-A of the Indian Penal Code defines criminal conspiracy as:

"When two or more persons agree to do, or cause to be done-

(1) An illegal act, or

(2) An Act which is not illegal by illegal means. Such an agreement is designated as criminal conspiracy: provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursunce thereof.

Explanation: It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object".

Section 120-B of the India Penal Code provides for punishiment for criminal conspiracy. The punishment for the conspirator is the same as for the principal offender. It may, however, be emphasised that the criminal conspiracy by itself is a substantive offence. The conspiracy need not fructify and the mere proof of the cxistance of the criminal conspiracy is adequate to have the criminal punished for such criminal conspiracy.

B. Dacoity and Related Offences

Dacoity is one of the oldest forms of crimes in India and is committed purely for the purpose of looting or extortion. Section 391 of the Penal Code defines dacoity as:

"When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt amount to five or more, every person so committing, attempting or aiding is said to commit 'dacoity'."

In other words, if five or more persons commit the offence of robbery, they commit 'dacoity'. Dacoity is punishable with imprisonment for life or rigorous imprisonment up to 10 years and five months (section 395). The Code also criminalises preparation to commit dacoity (section 399) and assembly for the purpose of committing dacoity (section 402).

Importantly, section 400 of the Code criminalies the act of belonging to a 'gang'of persons associated for the purpose of habitually committing dacoities. The punishment is quite severe and may even extend to life imprisonment. Similarly, section 401 criminalises the act of belonging to a gang of thieves. It would, thus, appear that adequate legislative tools are available to the law enforcement agencies to deal with gangs of dacoits and thieves, but the proof of existence of a gang in Court requires painstaking investigation.

In view of increasing incidents of kindnapping for ransom, the parliament inserted Section 364-A in the India Penal Code to provide for stingent punishment for such offences, further strengthened in 1995. The amended Section 364-A reads as follows:

"Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or any foreign State or international inter-governmental organisation or to do or abstain from doing any act or to pay shall be punishable with death, or imprisonment for life, and shall also be liable to fine".

C. Law on Gangsters

There is no central legislation to

suppress 'gang activity' having country-wide applicability. The State of Uttar Pradesha, most populous and politically most powerful (population : 139.1 million in 1991), enacted Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, which is applicable in that State only. The gang has been defined as a group of persons, who, singly or collectively, indulge in anti-national activities by violence or threat of violence for gaining undue political, economic or physical advantages and includes, offences against the body, boot legging, forcible possession of immovable property, creating communal disturbances, obstructing public servants in the discharge of their duties, kidnapping for ransom, diverting an aircraft or public transport vehicle from its schedule path, etc [16] .

A gangster is punishable with minimum imprisonment of two years extendable up to 10 years (sec. 3). The rules of evidence have been modified and certain statutory presumptions can be raised against the gangsters by the trial court. Provision has also been made for the protection of witnesses. The trial may be held in-camera on the request of public prosecutor. The name and address of a witness can be omitted in the court records, if the Court so desires. The property of the gangster can be attached by the District Magistrate if satisfied that it was acquired through criminal activity.

This Act has a wide canvass and purports to cover large areas of organised criminal activity. It is, however, different from laws enacted in foreign countries, in that, apart from criminalising money making activities of the criminal gangs, it also criminalises infringement of election laws, causing obstruction or disturbance in the pursuit of lawful trade, business or profession and incitement to violence and disturbance of communal harmony etc. It appears to be more comprehensive than RICO.

There is no firm data available to assess its effectiveness. It appears that due to inadequate investigations and inordinately delayed trials by the courts, this legislation has not been able to make any dent on the criminal landscape of the State.

D. Other Laws

There are several other central statutes which deal with specific facets of organised crime. Some of them are: the Customs Act, 1962; the Narcotics Drugs and Psychotropic Substances Act, 1884; the Immoral Traffic (Prevention) Act, 1956; the Foreign Exchange Regulation Act, 1973 and the Public Gambling Act, 1867 etc. Besides, the State Government have also legislated on subjects like excise, prohibition and gambling etc.

E. Preventive Action

The National Security Act 1980, provides for preventive detention by the Central Government or the State Government or by the officers designated by these Government. The detention order is issued for one year with a view to preventing a person from acting in any manner prejudicial to the defence of India or to the friendly relations with foreign powers. The detention has to be approved by an Advisory Board headed by a serving High Court judge. The expression 'security of India' is open to liberal interpretation and this Act has been used, though sparingly, against anti-national elements and hard core gangsters. Detention is an executive action and the case does not go to the court for trial.

The illicit trafficking in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a destablising effect on the national economy. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act 1988, provides for detention of such

persons. The Central Government or the State Government or designated officers of these Government, can pass an order for detaining a person with a view to preventing him from engaging in illicit traffic in narcotic drugs. The detention can be made for one year but in certain circumstances it is extendable to two years.

Thus, India has laws scattered in various statutes to deal with various facets of organised crime. The existing laws, however, drastically fall short of the requirements to curb the menace. The Government of India is conscious of this and has drafted the Organised Crime Control Act.

The draft Act defines 'Organised Criminal Gang' in a very comprehensive manner, incorporating most of the essential characteristics of organised crime. A gang is defined as:

> *"A band of two or more persons who commit or attempt to commit or cause to be committed, either individually or collectively, in furtherance of a common object or objects and on a continuing basis, for material gains or otherwise, by taking recourse to use or show of violence or threat of violence, either direct or implied, or by fraudulent or dishonest means corrupting the public servants, any of the acts listed in Schedule I to this Act."*

Schedule I includes most major criminal offences, including murder, bodily harm, smuggling, traffic in drugs, kidnapping for ransom, espionage, causing bomb blasts, aircraft hijacking, hostage taking, mass killing, contract killing, gang rapes, extortion etc. The draft Act specifically provides for admissibility of scientific expert evidence; computer print-outs of telephone calls, confession of the accused person made to a police officer; identification by videograph; evidence obtained through Interpol and protection of witnesses. It also provides for the setting up of a national body to co-ordinate effort against organised crime and the setting up of Organised Crime Cells at the State and District levels. The Act also criminalises laundering the proceeds of crime. The trial under the proposed Act is to be conducted by a Designated Court. The Act provides for stingent punishment to the accused. It is not known when the National Parliament will enact the law, but the above effort shows the government's deep concern and anxiety about the growing menace of organised crime and the need to curb it.

The most significant aspect of the draft Act appears to be that continuing criminal activity, based on violence, even when not impelled by 'material gain' , is proposed to be brought within the ambit of organised crime. This is an obvious departure from prevalent definitions of organised crime in other countries.

VI. PROFILES OF SOME ORGANISED CRIMINAL GANGS

Criminal gangs have been operating in India since ancient times. The gangs of 'thugs' usually preyed on travellers or wayfarers while traversing lonely regions that passed through thick jungles. The 'thugs' travelled in gangs, large or small, usually un-armed and appearing to be pilgrims, ascetics or other harmless wayfarers. By means of ingenius tricks and false pretences, they won the confidence of their intended victims who were looted and murderd[17]. Sir William Sleeman was mainly responsible for destroying the 'thugg' organisation. Lord William Bentinck passed a series of special legislation to crush the gangs. Sir William Sleeman in his book "Rambles and Recollections" claims that between 1831-1837, as many as 3,206 thugs were proceeded against; 418 out of that number being hanged and 483 taken as approvers[18]. Approvers and their descendents were detained for many years in a special

institution at Jabalpur. The thug crime is almost extinct now.

Dacoity was a serious menace in some parts of the country, particularly in the Chambal ravines (trijunction of the present States of Madhya Pradesh, Uttar Pradesh and Rajasthan) in the 1940's and 1950s. Some dacoit leaders like Man Singh became legends in their life time due to their Robin-hood image. Several such gangs continued to operate in the States of Madhya Pradesh and Uttar Pradesh which have more or less been neutralised now both as a result of police action and social reform movements.

Depredations of criminal gangs in Bombay compelled the first Governor of the island to constitute a Special Force consisting of about 600 men in 1669 to control the menace of the criminal gangs who robbed the citizens and visiting sailors alike [19] .

No systematic study of organised crime-has been conducted in India either from a sociological or criminological angle. There is no firm data to indicate the number of organised criminal gangs operating in the country, their membership, their modus operandii and the areas of their operation. It whould not be wide off the mark to say that thousands of organised gangs operate in the country side. Their structure and leadership patterns may not strictly fall into the classical Italian Mafia module, and they may sometimes be operating in loose structures, but the depredations of such criminal gangs are too well known to be recounted. However, the most essential characteristic of organised crime i.e making money or "maximisation of profits" and acquiring political power through such money, exists in most of the gangs. The purpose of organised crime in India, as elsewhere in the world, is monetary gain and this is what makes it a formidable force in today's socio-political set up.

In view of the complexity of the problem, the continental size of the country and lack of authentic data, it is not possible to cover all, or for that matter even major, organised criminal gangs in this paper. I have, however, attempted to give profiles in brief, of some of the major gangs in metropolitan areas which cosiderably affect the nation's life.

A. Bombay Gangs

Bombay, being the financial capital of India, is the playground of several criminal gangs and their continuing warfare for dominance. The first systematic study of organised crime was conducted by VK Saraf, retired Commissioner of Police, Bombay City, in 1995, in which he has traced the origin of organised criminal gangs in the city, their criminal activities and the inter-gang warfares. He has also enumerated the chief characteristics of the Bombay gangs [20] .

After independence, due to prohibition policy adopted by the Government of Maharashtra, boot-legging or trade in illicit liquor, became a lucrative business for the criminal gangs. They made lot of money by supplying illicit liquor to the local citizens. Their activities also extended to the neighbouring State of Gujarat which was declared dry at the time of independence and continues to be so ever since that time. Varada Rajan Mudaliar, who started as a porter at VT Railway Station, took to thievery at the Bombay Docks and graduated to boot-legging in the 1960s. He acquired considerable wealth through this activity and compromised the law enforcement system considerably. In the mid 1980s, he became so influential that he used to hold 'durbars' in his areas of influence, to settle disputes.

Similarly, Haji Mastan and Yusuf Patel started off as a small time criminals and later took to smuggling gold and silver: They made a lot of money and invested it in legitimate business, mainly construction and real estate. Haji Mastan had an attempt made on Yusuf Patel's is life in the

1970s due to business rivalry but the latter survived. It was the beginning of gang warfare in Bombay which continues unabated to date and has claimed hundreds of lives.

The four major Bombay gangs are as follows:

1. Dawood Gang

Dawood is the most powerful, Bombay gangsters having a country wide networks with linkages abroad. He is one of the most powerful gangsters involved in trans-national crimes mainly narcotic drugs, smuggling, extortion and contract killing. He has lived in Dubai since 1985. He had a phenomenal rise in short time. Being the son of a Bombay Crime Branch Head Constable, he started off as a petty criminal and had the sympathies of Bombay Police due to his father's connections. He used to help smugglers recover money from those who did not keep up their word. In the 1970s other gangs had become relatively weak and he took advantage of the vacuum and took to smuggling gold and silver. He built up his criminal empire with the help of his brothers, and close associates. He is responsible for the elimination of hundreds of criminals belonging to rival gangs. He is now in narcotic drugs trafficking. The liberal bail policy pronounced by the Supreme Court helped him consolidate his gang. In 1980s he became the most feared gangster of Bombay. However, fearing risk to his life at the hands of rival gangs, he fled to Dubai, but his criminal network remains virtually intact. He operates his gang with impunity as there is no extradition treaty between India and Dubai, and his extradition has been refused by the Duabi authorities. He tried to win social respectability by playing host to influential politicians and film stars in Dubai.

His brother Anees Ibrahim looks after smuggling, drugs and contract killings. Noora looks after film financing and extortion from film personalities. Iqbal, a low profile person, looks after his legitimate business activities including share markets in Hong Kong and jewellery and gold businesses. His gang cosists of about 4,000 to 5,000 men. 50% of the members are from Bombay and the neighbouring districts. 25% come from Uttar Pradesh, including Abu Salem, his right hand man.

Due to changes in fiscal policies, smuggling of gold and silver has become less lucrative now. The main activities of this gang now are extortion, contract killing, film financing, drug trafficking, smuggling computer parts and illicit trade in arms and ammunitions. They have been supplying arms both to criminals and terrorists.

Dawood Ibrahim has invested heavily legitimate businesses. His brother Anees owns a Trading Company in Dubai. Dawood has invested about 20 crores in Diwan Shopping Centre in Bombay and is also said to have financial stakes in the Diamond Rock Hotel in Bombay. Noora runs Suhail Travel in Bombay, which has since come under severe enforcement pressure. Dawood reportedly has huge financial stakes in the East West Airlines. His legitimate business empire is estimated to have a turn over of about Rs. 2,000 crores per year.

Dawood's gang was secular in character before 1993 and used to attract volunteers from both the Hindu and Muslim communities. However, after his involvement in serial blasts in Bombay in 1993, most of the Hindu gangsters have parted company with him. Sunil Samant, a dreaded gangster who continued to be loyal to him, was shot dead in Dubai in 1995 by the Chota Rajan gang. Apart from his brothers, who are his chief counsellors, he now runs his empire through Abu Salem and Chota Shakeel. The heirarchical structure of his gang is shown in Appendix I.

2. Arun Gawli Gang

After the death of Ramya Naik, the mantel of leadership of this gang fell on the shoulders of Arun Gawli. There have been several inter-gang killings with the Dawood gang and they have been targetting the political and economic interests of each other. This gang consists of about 200 to 300 persons. Interestingly, Arun Gawli was sent to jail in 1990 and even though the Court granted him bail, he chose to remain in jail primarily to escape the wrath of the Dawood gang. He was running his criminal empire from within the jail premises by passing instructions through his visitors. His gang is involved in the collection of protection money from rich businessmen and contract killings. He came out of jail and started a political party, Akil Bhartiya Sena. He has again been sent back to jail for a contract killing case. Arun Gawli is politically very active and has considerable influence in the slum areas. He is posing a political challenge to the ruling Shiv Sena in Maharashtra.

3. Amar Naik Gang

This gang originated sometime in 1980 and was collecting protection money from the vegetable vendors in Dadar area of Bombay. When the leader of this gang (Ram Bhat) was sentenced to imprisonment in a robbery case, Amar Naik took over the reigns of the gang. The main thrust of his criminal activities was to collect 'haftas' from the vegetable vendors, hawkers, bootleggers and smugglers. This earned him good money. Due to a clash of interests, his gang had several violent skirmishes with the Arum Gawil gang, not only outside jail but even within the jail premises where gangsters of both the gangs were lodged, resulting in several killings. This gang has a strength of about 200 criminals. Amar Naik was killed last year and the mantle of leadership has now fallen on the shoulders of his younger brother, an engineer by profession.

4. Chota Rajan Gang

Chota Rajan started his criminal career in the Dawood gang. After the 1993 bomb blasts in Bombay, Dawood's gang was divided on communal lines. Chota Rajan fell out with Dawood and fled from India. He raised a new gang in 1994-95. According to one estimate, the membership of this gang is about 800. His areas of operation are Maharashtra, Karnataka, Uttar Pradesh and Delhi. He essentially is a drug-trafficker and contract killer. He joined hands with Arum Gawli and was responsible for the killing of Sunil Samant, a trusted lieutenant of Dawood Ibrahim, in Dubai in 1995. It was a retaliatory killing. He has targetted many Dawood loyalists and his gang has also suffered in retaliatory actions. Chota Rajan is presently operating from a foreign base.

5. Characteristics of Bombay Gangs

Based on the study of the Bombay underworld, VK Saraf has concluded that:

(i) 66% gangsters are in the age group of 19 to 28 years; 26% in that of 29 to 38 years and 6.5% are above 40 years.

(ii) 29% studied up to primary school, 42.5% up to secondary school and 5% had a college education.

(iii) Most have poor economic backgrounds and were propelled into the world of crime due to economic difficulties.

(iv) Majority of the gangsters come from outside Bombay city and about 30% from outside the state of Maharashtra.

(v) The gangs are not based on region or religion but after the 1993 bomb

blasts, the Hindu gangsters have diassociated themselves from the Dawood gang.

(vi) The Bombay gangster is a cool headed schemer and ruthless and un-hesitatingly employs terroristic methods when he percieves his interest jeopardised. He is prone to taking to violence on the slightest provocation.

(vii) There is no initiation ceremony or ritual for the members. However, a 'hopeful' is made to be involved in a criminal situation to test his metal.

(viii) The leaders have a caring attitude towards the members. The families are well looked after by the leadership when the members are killed or are in jail.

(ix) A gang leader is not a total autocrat. He consults experienced people in the gang. After the death of Sunil Samant, Dawood Ibrahim relies on his brothers and his decisions are executed through Abu Salem and Chota Shakeel.

(x) There is evidence of a loose confederation of gangsters. A smaller gang may merge into a bigger gang but does not lose its identity completely. The smaller gang carries out the decisions of the main gang but is left free to involve in any activities of its choice, so long as it does not clash with the interests of the main gang.

(xi) The gangsters have unflinching loyalty to the boss. Lack of loyalty means death.

(xii) The gangsters are divided in three categories, namely, shooters, money collectors and liaison workers. The liaison workers deal with the lawyers and law enforcemntt officials for helping the incarcerated gangsters. Each gang has certain auxillary members. They have criminal records and generally provide shelter to the gangsters and act as a depository for weapons. Their premises are used for holding meetings and making telephone calls by the gangsters.

B. Delhi Gangs

Delhi is the national capital of the country. It is a bustling metropolis, inhabited by about 10 million people, with high industrial and business activity. Despite heavy commitments, the police have hit organised criminal gangs hard, due to which they have not been able to develop such deep roots as in Bombay. Even so, there is large criminogenic population inhabiting the neighbouring States effecting Delhi.

As it is the home of rich industrialists, businessmen and professionals, kidnapping for ransom is a lucrative business here. The going rate of ransom ranges from Rs. 1.00 crore to Rs. 5.00 crores. Fortunately, most of the cases have been solved by the Delhi Police. Some victims paid huge ransoms to secure their release. Om Prakash Srivastava Babloo and other U.P gangs have been responsible for several kidnappings. Table 14 shows kidnappings for ransom in Delhi and the law enforcement action.

From the Table it is apparent that some fake cases were also registered. The proportion of cases worked out by police ranges between 80 and 90%. Most of the victims are rescued. Four gangs, namely, Tyagi gang, Dinesh Gang, Rajesh Dhahiya gang and O.P. Srivastava Babloo gang are most active in the city.

1. Veerappan Gang of Karnataka[23]

Veerappan is the most notorious criminal in the country today. The criminal 'empire' of Veerappan spreads over 6,000 sq. kms of thick tropical rain forests in the Nilgiri hills, stradling the trijunction of Karnataka, Tamil Nadu and Kerala. He started his criminal career as elephant poucher in 1965 and emerged as a real menace in 1986, when his gang started committing extortions, murders and kidnappings for ransom. According to one estimate, he has killed about 2000 elephants for their tusk and committed theft of 40,000 Kgs of ivory worth about Rs.12.00 crores. His gang has also indulged in large scale illegal felling of sandal wood trees which is used for cosmetics purposes in India and abroad. The gang has acquired expertise in laying land mines due to which a large number of police personnel were killed. At its peak, the gang had 150 members.

In view of the serious threat posed by Veerappan gang to wild life and forests, a Special Task Force was set up by the States of Tamil Nadu and Karnataka in 1993. Due to the relentless action of the Task Force, the gang has now been reduced to about 25 members, with only four original members of the gang surviving. 133 recorded cases of murder and attempted murder exist in the police records against this gang. Besides this, hundreds of grave crimes against innocent citizens remain un-reported to the police. Veerappan's gang is responsible for the killing of 119 persons and 60 police/forest officials. The police have recovered 125 firearms amd 5 tons of explosives from the gang. Veerappan is an intrepid criminal who often expresses his wish to surrender to the authorities, but always backs out. Last month, he announced his surrender but it was turned down by the Government due to unrealistic conditions imposed by him. Interestingly, he demanded CBI inquiry into the death of his brother Arjunan in police custody. He is one of the longest surviving notorious criminals and has succeeded in escaping the law so far.

2. Om Prakash Srivastava@Babloo,Gang of Uttar Pradesh

Om Prakash Srivastava was born to an educated family in Uttar Pradesh. He took to street crime during his student days in 1983. He is a law graduate and is fond of

TABLE VII

KIDNAPPINGS FOR RANSOM IN DELHI - 1993-1997

	1993	1994	1995	1996	1997 (upto 15.12.1997)
1.CASES REGISTERED	28	40	43	23	17
2.CASES CANCELLED	2	9	6	1	1
3.CASES ADMITTED	26	31	37	22	16
4.CASES WORKED OUT	26	27	29	20	13
5.CASES NOT WORKED OUT	-	4	8	2	3
6.VICTIMS KIDNAPPED/ ABDUCTED	30	41	44	23	17
7.VICTIMS RECOVERED	29	37	42	21	16
8.VICTIMS NOT RECOVERED	1	4	2	2	1
9.PERSONS ARRESTED	76	86	81	59	45

good living. To date, 41 cases of murder, attempted murder and kidnappings for ransom stand registered against him and his associates. Several cases remain unreported due to fear. His area of operation is Uttar Pradesh, Delhi and Maharashtra. He is responsible for organizing kidnappings in Delhi and Bombay in which ransom amounts were paid in foreign countries through 'hawala'. At its peak, his gang consisted of about 50 criminals, mostly from Uttar Pradesh and Delhi. He is presently in jail and half of his gang has been booked by the police. The gang, though still active, appears to have lost much of its power.

He was responsible for the killing of a senior Central Government Customs officer, L.D. Arora in 1993. Om Prakash Srivastava had organized this killing from a foreign country through his shooters. He was arrested in Singapore in April,1995 on the basis of a Red Corner Notice issued by Interpol. He was extradited to India in August 1995 for four cases, including the L.D.Arora murder case. It was reported that he succeeded in organising some kidnappings from within the within the jail premises through his associates. The ransom amounts were paid abroad to his associates through hawala.

There are 744 powerful mafia gangs operating in Uttar Pradesh, according to the State Government sources. They hold nearly every sector of the economy in a vice like grip, running a parallel economy which runs into thousands of crores of rupees. The reach and power of these dons is evident from the fact that so far only 81 gangsters, only middle level members, have been arrested under the NSA and the Gangsters Act. These gangs have the wide support of politicians and policeman alike.

3. Latif Gang of Ahmedabad

Ahmedabad is the capital of Gujarat state and is situated in the western part of India. The Ahmedabad underworld is synonymous with Latif who started his criminal career with a small time boot-legger in the mid 1970s and soon graduated to hving his own illicit liquor and gambling dens in the city. The Latif gang, which is believed to consist of 200 persons, owes its genesis and growth to the prohibition policy adopted by the Government of Gjarat. As the adjoining State of Rajasthan is wet, it is a lucrative and low risk to transport truck loads of liquor into the Gujarat state. Latif set up an elaborate network of illicit shops in Ahmedabad city and made a fabulous amount of money. With affluence came political clout and his gang thereafter used the tactics of intimidation, extortions, kidnappings and even murder against rival boot leggers and, thus, established a total monopoly over the liquor business. The communal riots, a recurrent phenomenon in the Ahmedabad city, gave him a chance to promote a Robin-hood image in the community by helping the riot victims. The result was that even when he was jailed, he won municipal elections from five different cities in 1987.

Latif and his gang become more audacious and were responsible for day-light murders in the city. The high-profile murder of an ex-member of Parliament was organised through his gang from Dubai, where he joined with Dawood Ibrahim.

He is responsible for landing explosives on the Western coast, some of which were used in the Bombay blasts. The gang is now deeply involved in contract killings, drug trafficking and gun running. A part of the gang is also involved in settling business and land disputes. The gang uses 'hawala' channels for collecting ransom abroad. It has linkages in several States in the country.

In 1995 he was arested. 243 criminal cases including 64 cases of murder, 14 of kindnapping and 21 offences against the Arms Act have been registered against his gang. The details of the offences registered against the Latif gang and organisational

chart thereof is enclosed as Annexure II.

4. Rashid Gang of Calcutta

Calcuta, a port town and one of the most populous cities in the country, is situated in the Eastern part of the country and is part of West Bengal. Several organised criminal gangs operate in this city and its surrounding areas. Examination of history sheets of 1,000 criminals involved in crimes of violence, insurgency and terrorist activities, between 1975 and 1985 revealed that the age group is between 21 and 25 years at the peak of crime. The criminals started their career rather early at the age of 16-18. More than 90% of them were unemployed and earned their living by smuggling and extortion. Most were from lower income group families and lived in slums. They were addicted to narcotics and alcohol. Most of them were without the benefit of education, though not illiterate. The study also revealed that the gang leaders (known as Dada or Nastan), generally, come from middle class strata of society. The gang leader is either semi-literate or an educated person with high organisational ability. The average age group of the gang leader is 40 to 50 years.

In Calcutta the most well known gang is that of Rashid Khan who started his career as a bookie in the 'satta' business, and developed a vast network of gambling business in the city. Due to his money power, he also became close to the ruling political party. Even though his activities were well within the knowledge of police, no serious effort was made to smash his network. However, his luck ran out when in March, 1993, a huge bomb explosion took place in a building under his control resulting in the death of 69 person and injuries to 46 others. The adjoining buildings also collapsed. Rashid Khan and his associates were arrested. Investigation disclosed that he had engaged his gang members in manufacturing bombs and was stock-piling them for use in communal riots and against rival gangs. Due to the gravity of crime, his political connections or money power did not help and he is now in jail.

VII. TYPES OF ORGANISED CRIME

A. Drug Abuse and Drug Trafficking

It is perhaps the most serious organised crime affecting the country and is truly transnational in character. India is geographically situated between the countries of Golden Triangle and Golden Crescent and is a transit point for narcotic drugs produced in these regions to the West. India also produces a considerable amount of licit opium, part of which also finds place in the illicit market in different forms. Illicit drug trade in India centres around five major substances, namely, heroin, hashish, opium, cannibas and methaqualone. Seizures of cocaine, amphetamine, and LSD are not unknown but are insignificant and rare.

Our borders have traditionally been most vulnerable to drug trafficking. In 1996, out of the total quantity of heroin seized in the country, 64% was sourced from the 'Golden Crescent'. The Indo-Mynamar border is also quite sensitive but the percentage of seizures is much smaller. Indo-Sri Lanka border has also started contributing considerably to the drug trade. The seizure of narcotic drugs from 1991 to 1995 and persons involved is shown in Table VII.

In 1996, 13,554 Persons were arrested under the Narcotics Drugs and Psychotropic Substances Act. Out of them 130 were foreign nationals. Besides, 80 persons were detained under PIT NDPS Act, in 1991; 80 each in 1992 and 1993; 123 in 1994 and 89 in 1995.

India has a draconian anti drug law, the Narcotics Drugs and Psychotropic Substance Act 1985, which provides minimum punishment of 10 years for offences under this Act. The conviction rate in drug offences is rather low. It was 48.8%

in 1995. The acquittals mainly result due to nonobservance of statutory and procedural safeguards viz, the enforcement officer failing to volunteer himself for personal search before conducting the personal or house search of the accused or failure in offering to have the accused searched by a gazetted officer or a Magistrate. It is being contemplated to amend the Act to plug the procedural loopholes and to calibrate punishments by grouping the offences.

Investigative skills need to be honed and trials expedited. Inter-agency exchange of information amongst the countries by the quickest possible means, coupled with expeditious extradition proceedings, would prove helpful in curbing the drug meance.India signed bilateral agreements with USA, UK, Myanmar, Afghanistan, UAE, Mauritius, Zambia, and the Russian Federation for 'drug control'.

B. Smuggling

Smuggling, which consists of clandenstine operations leading to un-recorded trade, is another major economic offence. The volume of smuggling depends on the nature of fiscal policies pursued by the Government. The nature of smuggled items and the quantum thereof is also determined by the prevailing fiscal policies.

India has a vast coast line of about 7,500 kms and open borders with Nepal and Bhutan and is prone to large scale smuggling of contraband and other consumable items. Though it is not possible to quantify the value of contraband goods smuggled into this country, it is possible to have some idea of the extent of smuggling from the value of contraband seized, even though they may constitute a very small proportion of the actual smuggling.

Table IX shows the value of goods seized. The high point of smuggling was in 1990 when contrabands worth Rs. 760 crores were seized. Introduction of various liberalisation measures, such as the gold and silver import policies in 1992-93, have had their impact on customs seizures. The total value of seizures came down by 30% (Rs. 536 crores in 1992) and subsequently to Rs.389 in 1993.

The value of seizures of important commodities from 1991 to 1996 is shown in Table IX. The value of seizures of gold and silver accounted for about 44% of the total seizures anually prior to the liberalised import policies. It came down to 21% after the invocation of the new policies. This value has been further falling. On the other hand, the seizures of commodities like electronic goods, narcotics, synthetic fabrics, wrist watches,

TABLE VIII[27]

SEIZURE OF NARCOTIC DRUGS & NO.OF PERSONS INVOLVED1991-1995

(in Kgs.)

Drug Type	1991	1992	1993	1994	1995
1.Opium	2145	1918	3011	2256	1183
2.Ganja	52633	64341	98867	187896	57584
3.Hashish	4413	6621	8238	6992	3073
4.Heroin	622	1153	1088	1011	1251
5.Mandrax	4415	7475	15004	45319	16838
6.Persons Arrested(No.)	5300	12850	13723	15452	14673
7.Persons Prosecuted(No.)	5546	7172	9964	9154	12918
8.Persons Convicted(No.)	855	761	1488	1245	2456

Indian currency, foreign currency etc rose during 1994-95. The value of seizure of electronic items rose from Rs.35 crores in 1993 to Rs. 51 crores in 1995. The value of Indian currency and foreign currency seized rose from Rs. 5 crores and 20 crores respectively in 1993 to Rs. 10 crores and 43 crores respectively in 1995.

In 1987, gold occupied the top position amongst smuggled items followed by narcotics, electronic watches and silver. In 1995, however, narcotics occupied number one position followed by gold, electronics, foreign currency and synthetic fabrics.

Table XI shows the number of persons arrested, prosecuted and convicted under the Customs Act. In addition, 758 persons were detained under COFEPOSA in 1991; 423 in 1992; 372 in 1993; 363 in 1994 and 350 in 1995.

TABLE IX[28]

VALUE OF SMUGGLED GOODS SEIZED 1988-1995

YEAR	VALUE OF GOODS SEIZED (in crores)
1988	443.14
1989	554.95
1990	760.08
1991	740.00
1992	535.71
1993	388.96
1994	535.22
1995	631.25

C. Money Laundering & Hawala

Money laundering means conversion of illegal and ill-gotten money into seemingly legal money so that it can be integrated into the legitimate economy. Proceeds of drug related crimes are an important source of money laundering world over. Besides, tax evasion and violation of exchange regulations play an important role in merging this ill-gotten money with tax evaded income so as to obscure its origin. This aim is generally achieved via the intricate steps of placement, layering and integration so that the money so integrated in the legitimate economy can be freely used by the offenders without any fear of detection. Money laundering poses a serious threat world over, not only to the only to the criminal justice systems of the countries but also to their sovereignty. The United National Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substances Act, 1988, (known as the Vienna Convention) to which India is a party, calls for criminalisation of laundering of the proceeds of drug crimes and other connected activities, and the confiscation of proceeds derived from such offences. There is no knowing how much

TABLE X[29]

VALUE OF SEIZURES OF IMPORTANT COMMODITIES 1991-1996

(in crores)

	1990-91	1991-92	1994-95	1995-96
Gold	198.8	188.5	55.4	50.8
Silver	146.6	147.7	3.6	0.54
Narcotics	25.1	21.8	54.3	77.94
Electronic Items	55.5	23.1	51.2	38.0
Foreign Currency	7.7	10.8	27.4	40.2
Indian Currency	6.5	5.6	6.6	5.6
Synthetic Fabrics	4.8	2.0	2.4	12.9
Watches	3.2	6.2	3.3	3.9

TABLE XI [31]

NUMBER OF ARRESTED, PROSECUTED AND CONVICTED 1991-1994

YEAR	ARRESTED	PROSECUTED	CONVICTED
1991	2358	1669	574
1992	1745	1051	381
1993	1234	679	350
1994	1210	301	352

money is laundered in India but the problem is quite serious. The tainted money is being accumulated and integrated into the economy by organised racketeers, smugglers, economic offenders and anti-social elements and is adversely affecting the internal security of the country. In order to curb the meance of money laundering, the Central Government is in the process of enacting the Proceeds of Crime and Money Laundering (Prevention) Act, 1997. In the proposed Act, money laundering has been defined as:

(i) engaging directly or in-directly in a transaction which involves property that is the proceed of crime; or

(ii) receiving, possessing, concealing, transferring, converting, disposing of within the territories of India, removing from or bringing into the territory of India the property i.e proceeds of crime.

'Crime', as defined in the Act, covers, several Penal Code offences viz., waging war against the Government of India, murder, attempted murder, voluntarily causing hurt, kidnapping for ransom, extortion, robbery, dacoity, criminal breach of trust, cheating, forgery, counterfeiting currency etc; certain provisions of the Prevention of Corruption Act, 1988; NDPS Act, 1985; Foreign Exchange Regulation Act, 1973 and the Customs Act,1962. Thus, 'crime' has been defined comprehensively in the Act. The money generated through 'crime' is liable to be confiscated by the State.

Illegal currency transfers via non-banking channels are called Hawala. It is an underground banking system. Secret flows of money can take place in free currency areas as well as in areas where currency conversion restrictions are practised due to the shortage of foreign exchange. It operates in the following manner. Someone in the USA, for example, deposits $1000 with an under-ground banker for payment to be made in India. The US under-ground banker contacts their counter part in India immediately on the telephone or by wire service and sends a coded message for payment to the Indian recipient. The hawala operator in India would contact the recipient and fix a meeting place. The recipient, in the meanwhile, would have received instructions on the telephone about the code word s/he has to exchange with the hawala operator. Thus, the hawala operator in India and the recipient of the money would exchange code words and the hawala operators would hand over the money to the recipient. Of course, the hawala operator in USA would charge a fee for the service rendered. There is no physical transfer of money in hawala operations as in the regular banking channels. This channel is generally used by drug traffickers, smugglers and kidnappers.

Basically, the system operates on an ethnic network. The network may include more than 3 or 4 countries. The principal operators engage agents and sub agents in various countries for collection and disbursement of money. Hawala is wide-

spread in India. Families who have members earning abroad are clients of the system. The dangerous aspect of the hawala system is the nexus between hawala and illicit arms smugling, drug trafficking and terrorist crimes.

Investigations in hawala related crimes are conducted under the Foreign Exchange Regulation Act. Even through the word 'hawala' has not been defined in FERA, the essence of the Act is that any person who retains foreign exchange abroad or sends foreign exchange abroad, without the Reserve Bank's permission is violating FERA provisions.

D. Terrorism & Narco-Terrorism

Terrorism is a serious problem which India is facing. Conceptually, terrorism does not fall in the category of organised crime, as the dominant motive behind terrorism is political and/or ideological and not the acquisition of money-power. The Indian experience, however, shows that the criminals are perpetrating all kinds of crimes, such as killings, rapes, kidnappings, gun-running and drug trafficking, under the umbrella of terrorist organisations. The existing criminal networks are being utilised by the terrorist leaders. India faced serious problems in the Punjab in the 1980s, which has since been controlled with the installation of a popular government. The North East still continues to be in turmoil due to the unlawful activities of ULFA and NSCN. The terrorist groups there are partly financing their operations by kidnappings for ransom of tea garden executives and extortion from businessmen. PWG and LTTE, in small pockets of southern India, continue to indulge in continual acts of violence.

Table XI gives profile of violence in Punjab. Besides, 9 judicial officers, 62 media personnel and 34 teachers were killed during this period. There was also a spill over of Sikh militancy in the neighbouring States.

In view of threat to the national security, the Central Government, enacted an anti-terrorist law, Terrorist and Disruptive Activities (Prevention) Act, 1985. About 60,000 terrorists were charged under this Act. However, the trials were slow and the conviction rate quite low. This Act was allowed to lapse in 1995. India at present does not have any anti-terrorist law.

India has become vulnerable to narco terrorism, bounded as it is by the 'Golden Crescent' on the West and the 'Golden Triangle' on the East. Narco terrorism assumes several forms, namely:

(a) terrorists themselves indulge in drug trafficking to support their movements ;
(b) sympathizers of terrorists living abroad indulge in drug trafficking and send part of their illegal profits to fund the terrorist movements ;
(c) terrorists join hands with drug lords to gain access to the powers, in the countries sympathetic to their cause, in order to utilise their connections with political powers ;
(d) terrorists give protection and support to drug traffickers with fire arms, and the drug traffickers, being acquainted with the routes, assist the terrorists in border crossings to bring arms and drugs in the target country; and
(e) Smugglers supply fire arms to the terrorists who are also drug traffickers.

The areas affected by terrorism in India are the border States which also happen to be transit roues for narcotics to their destinations in the Western world. It is not a concidence that the growth of terrorist movement in Punjab synchronised with the emergence of the Golden Crescent as a major drug producing area in the early 1980s. The emergence of drug mafias in the Golden Crescent countries and their linkages with smugglers in the border States of India have given impetus to gun-

running. There is positive evidence of narco-terrorism in the border States of India even though the magnitude there of is not significant. Some mixed consignments of narcotic drugs and arms were seized from smugglers in the Punjab. There is also evidence that the money generated abroad by the smugglers was used for purchase of weapons which were smuggled into the country for terrorist activities. To illustrate, Dawood Ibrahim, utilised the existing smuggling network in landing consignments of arms and explosives on the western coast in early 1993, used for causing serial blasts in Bombay.

E. Light Arms Proliferation & Trafficking

Light arms proliferation is a global phenomena. It has extracted a heavy toll in terms of human lives and socio economic development of entire regions, costs of which can never be adequately computed. In Afghanistan, the death toll has passed 1,00,000 and is still rising, while Cambodia, Sri Lanka and some African States continue to see conflict related deaths in their thousands. India has also suffered due to trafficking in illicit arms. The twin phenomenon of rising crime as well as armed conflicts and terrorism are directly linked to the global proliferation and movement of weapons. Appendix III shows the inextricable links between gun running, terrorism, narcotics trafficking and crime.[34]

The Purulia Arms Drop Case is the most glaring example of illicit arms trafficking. On 17th December, 1996, an Antonov 26 aircraft dropped over 300 AK 47/56 rifles and 20,545 rounds of ammunition, dragnov snipper weapons, rocket launchers and night vision devices in a Purulia village in West Bengal State. The aircraft was bought from Latvia for US$ 2 million and chartered by a Hong Kong registered company, Carol Airlines. Payments were made mostly through foreign bank accounts. The aircraft was ferried to a foreign country where it was registered. After a dry run over the air drop area, the aircraft moved to Bulgaria from where the consignment of arms was picked up using a end-users certificate issued by a foreign country.

The aircraft returned to a location in a foreign country and then flew over the air

TABLE XII[32]

PROFILE OF VIOLENCE IN PUNJAB- 1981-92

Year	No.of Persons Killed	No.of Policemen Killed
1981	13	2
1982	13	2
1983	75	20
1984	359	20
1985	63	8
1986	520	42
1987	910	95
1988	1949	110
1989	1168	152
1990	2467	493
1991	2586	493
1992	1461	252
TOTAL	11,584	1689

drop area, parashuting the arms and then flew on to Phuket. On the return journey, the aircraft was forced to land at Bombay, where the crew were arrested. CBI investigated this case and 7 persons were charged, including one British, 5 Latvians and an Indian. Several others absconded.

The seizures reflect only the tip of the iceberg. Similar caches have been seized in Punjab and the North East. Gun running in foreign-made and Indian made weapons is a lucrative business, in militancy affected and high crime areas. The premium on foreign made weapons is quite high, and relevant laws need to be made more stringent and speedy trials ensured.

F. Contract Killings

The offence of murder is punishable under section 302 IPC by life imprisonment or death sentence. Conviction rate in murder cases is about 38%. The chance of detection in contract kilings is quite low. The method adopted in contract killings is by engaging a professional gang for a monetary consideration. Part of the prefixed amount will be paid in advance which is called '*supari*'. The rest of the payment will be made after the commission of the crime. The Bombay gangs specialise in contract killings. The amont they charge is quite large and varies with the socio-economic status of the targets. Dawood Ibrahim gang has been responsible for contract killings of several rich businessmen, industrialists and politicians. Gulshan Kumar, the music magnate of Bombay, was the latest victim of this scourge.

G. Kidnapping for Ransom

Kidnapping for ransom is a highly organised crime in urban conglomerates. There are several local as well as inter-State gangs involved in it as the financial rewards are immense vis-a-vis the labour and risk involved. Generally, no injury is caused to the kidnapee if the Kidnappers' conditions are met. Terrorist gangs have also been occasionally involved in kidnappings for quick money to finance their operations. In one recent case, the kidnapee was killed even after his family paid a huge ransom amount to a U.P. gang. The leader of the gang was known to the victim and he feared the victim would disclose the gang's identity if released. Several arrests have been made in this case. Incidentally, the leader of the gang is a Member of the Legislative Assembly of the State of North India.

Delhi and Bombay are highly vulnerable to this crime. 43 cases were registered in Delhi in 1995, against 40 of 1994. The incidence was less in 1996 and 1997, as most of the cases were detected by the police and prominent gangs neutralised. The going rate in Delhi and Bombay ranges from Rs. 1.00 to 5.00 crores, depending upon the paying capacity of the victims. The gang headed by Om Prakas Srivastava is transnational in character and often operates from foreign bases, with payments made abroad through hawala channels.

In view of the aforesaid menace, a new section (section 364- A) was incorporated in the Penal Code to specifically criminalised kidnapping for ransom and prescribes a minimum punishment of 10 years.

H. Illegal Immigration

A large number of Indians are working abroad, particularly in the Gulf region. Young people want to move to foreign countries for lucrative jobs. Large scale migration is fostered by the high rate of unemployment in the country and higher wage levels in foreign lands. As it is not easy for the aspirants to obtain valid travel documents and jobs abroad, they fall into the trap of unscrupulous travel agents and employment agencies. These agencies promise to give them valid travel documents and employment abroad on the payment of huge amounts. Often the travel

documents are not valid, and sometimes they are simply dumped into foreign lands without giving them the promised employment.

A gruesome tragedy occurred in which 170 Indians and some others drowned in the high seas of the Malta-Sicily channel on 24th and 25th December, 1996. Investigation of this case was handled by the CBI which disclosed that the travel agents in India sent some groups of Indians to Alexandria (Egypt) and Istanbul (Turkey) by air in September 1996. Thereafter, they were taken in small ships to the high seas from Alexandria and Istanbul and were transferred to a big ship. There were about 460 people from India, and other countries on board. The ship headed towards Italy. In the Malta Sicily channel, they were required to shift to two smaller ships. While docking, the two ships collided and water started pouring into the small ship which created panic. There was rush to get back to the big ship and in the process 200 people, including 170 Indians drowned. Country-wide investigation was conducted by the CBI and 25 travel agents were charged with violation of the Emigration Act, 1983.

Emigration of Indians to foreign countries is regulated by the Emigration Act 1983, which empowers the Central Government to regulate functioning of the travel agents and employment agencies. The employment agencies are also required to give written undertakings regarding minimum wages and surety of employment to the emigrants. The loop holes in the system are, however, exploited by the unscrupulous elements by false representations and fraudulent deals. It is a transnational crime and involves unfathomable exploitation and human misery. International co-operation may pay a vital role in curbing illegal migrations.

I. Prostitution

Trading in sex and girl-running is a very profitable business in which the underworld plays an important part. Flesh trade has been flourishing in India in various places and in different forms. The underworld is closely connected with brothels and call girl rackets, making plenty of money through this activity. They supply young girls to brothels in different parts of the country, shuttling them to and from the city to minimise the risk of their being rescued.

According to a study conducted by the Indian Health Organisation, there are over 1,000,000 prostitutes in Bombay and an equal number in Calcutta. Delhi and Pune have an estimated 40,000 each. Even the relatively small town of Nagpur has about 15,000 prostitutes. According to a survey conducted by Patita Udhar Samiti, it is estimated that the total number of prostitutes in the country is about 25,000,000. About 300,000 enter the profession each year [36].

There is also evidence to show that it is a transnational crime. About 5,000 girls from Nepal enter the flesh market each year in India.

Prostitution is not an offence in India. However, running brothels, inducing girls for the sake of prostitution, detaining girls in brothels or running brothels in the vicinity of public places is a criminal offence. There is evidence of underworld networks running the brothels and the existing law has not been found strong enough to tackle the menace.

VIII. CASE STUDIES

A. Shankar Guha Neogi Murder Case

Shankar Guha Neogi, a top labour leader of Central India, was shot dead in September, 1991, while sleeping in his house. On the request of the Government of Madhya Pradesh, the CBI moved into action. Investigation disclosed that he had given a strike call to about 80,000 workers

of his union in Bhillai-Raipur Belt, demanding remunerative wages and permanancy of jobs for them. As the strike continued for almost nine months, this naturally disturbed the functioning of several industrial units, particularly, that of steel manufacturing units of the Shah family. Investigation further disclosed that a member of the Shah famly, alongwith three others, including two local dons, had gone abroad to purchase fire arms for murdering Neogi. The clue came in the form of an anynomous inland letter giving the above information and mentioning the names of persons who had gone abroad. Suspicion was strengthened due to the disappearance of a member of the Shah family after the incident. Working on this clue, CBI, with the help of the local police, arrested the perpetrators of this crime. The Shah family had assigned the task of eliminating Neogi to a local don who hired a professional killer belonging to a neighbouring State. It was a case of contract killing and some money was paid before the killing by the Shah family and the balance amount was to be paid after the commission of crime. The killer absconded after the incident and it took almost two years to track him down. There were three tiers in the conspiracy. In the first tier were the motivators i.e the Shah family who wanted Neogi killed. In the second tier was the local don who organised the killing. The third tier consisted of the actual shooter and his associates.

After painstaking investigation, the charge sheet was filed against nine accused persons. The case was decided last year and the trial Court convicted seven accused. While six persons were given life imprisonment, the killer was ordered to be hanged. The case is now pending High Court confirmation of the death sentence.

This is one of the few cases of organised crime in which three tiers of criminals, including two members of the Shah fimily, have been convicted.

B. L.D. Arora Murder Case

L.D. Arora, a senior officer of the Customs Department, was shot dead in 1993, at point blank range, while getting out of his car in front of his residence in the Allahabad town of Uttar Pradesh. He had just returned from his office. The unknown assailant had been waiting for him under the stair case of the multi-storeyed building in which Arora lived. The Uttar Pradesh Police could not get a breakthrough. The case ultimately came to CBI. Investigation started from Bombay where the deceased was posted for a long time and had come down heavily on a number of smuggling gangs, including that of notorious smugglers Md. Dosa, Tiger Memon and Dawood Ibrahim. His general reputation and family life were also found to be good, therefore it seemed that the killing was committed due to professional reasons. Arora had been threatened by the smugglers in the past. Even after his transfer from Bombay to Allahabad, he was running his sources and passing on information to his counter-parts in Bombay, resulting in large scale seizures of contraband. A suspect telephone number of a neighbouring country and scrutiny of the telephone print out revealed that several calls had been made to several numbers in Bombay and Delhi. Subscribers of the called numers were questioned and one in Delhi disclosed that he was being called by notorious criminal Om Prakash Srivastava from abroad. When questioned about his relationship with Babloo, he disclosed that Babloo was his neighbour, living in a rented house, about a year back and had absconded after a murder case (not Arora murder case). The Delhi Police records were checked and it was found that Babloo was suspected in that murder case. It was also found that Babloo was a contract killer and smuggler. This made him a strong suspect. Invesigation also disclosed that Babloo had repeatedly called a hotel number in Allahabad, several times

on the days proceeding Arora's murder and also on the day of the murder. The hotel register disclosed that some of his associates had stayed in that hotel and received calls from Babloo. Babloo's associates had given correct names in the hotel records but wrong addresses. However, on further verification the names and addresses of the suspects were confirned. The shooter was caught in Delhi and his disclosure revealed that Babloo had organised this killing on the instructions of smuggler Md. Dosa from Dubai. He also disclosed how the conspiracy was planned, how the transport and arms were provided by Babloo and his associates, and how Arora was eliminated. The car involved in the crime was seized. He got Rs. 1.00 lac for the killing and Babloo got 15.00 lacs from Md. Dosa. Arrest warrants were taken from the Court and Interpol alerted.

In 1995, information was received that Babloo was travellng to Singapore from Dubai on a Nepalese passport. Interpol Singapore, was alerted and they detained Babloo at the airport. On being informed of this development, Indian officials flew to Singapore and submitted the arrest warrant and other relevant documents in the Court. The disconcerting aspect of this case was that Babloo was travelling under an assumed name on a genuine Nepalese passport. During questioning by the Singapore Police, he pretended that he was not the person wanted by CBI. It was necessary not only to establish a prima facie case in the Extradition Court at Singapore but also to firmly establish his identity. Indian officials persuaded his elder brother to swear an affidavit to prove his identity and fingerprints from Singapore and India were matched. The Extradition Magistrate held that there was a prima facie case against Babloo in all the court cases. He was extradited to India in August 1995 and is facing trial now. This was the first extradition case in 45 years.

C. Terrorist Funding Case

A militant was arrested by Delhi Police sometime back along with some foreign currency and objectinable documents, including letters written by a top militant leader from abroad to his associates in India. His interrogation revealed foreign links and remitance of a large amount of money into India from a foreign source through the 'hawala' channel. Due to its importance, CBI was asked to take over the case. One more accused was arrested whose questioning disclosed that he had gone abroad and entered into a criminal conspiracy with some terrorist sympathisers to develop a terrorist network in India. The money was to come from a foreign source via the 'hawala' channel. The money did come and the payment was made in Delhi by a low level 'hawala' operator. The money so received was used for purchasing bank drafts in the name of fictitious persons. This was, perhaps, done to keep the identity of the recipients secret so that this money could be used for terrorist funding without detection.

During investigation a number of 'hawala' operators were arrested who disclosed the names of their principals. Large scale searches were conducted in the business premises of the main 'hawala' operators which led to the recovery of Rs. 1.5 crores in cash and a personal diary showing payment of about Rs. 58.00 crores to various politicians and bureaucrats in India. This case is now popularly known as Jain Hawala Case. The charge-sheets were filed against several recepients of hawala money even though the evidence was not corroborated. While the main case (i.e terrorist funding case) is progressing well in the Court, the Jain Hawala Case, which was monitored by the Supreme Court under its writ jurisdiction, is presently embroiled in litigation in the Delhi High Court.

D. Advocate Shanmughsundram Case

Mr. Shanmughsundram, a practising lawyer, was brutally attacked in his residence in May 1995, in a southern State. The attack came in full view of his personal staff. The victim was attacked as he was about to file a petition in the High Court against the corrupt activities of a powerful politician. The local police made some arrests but that did not evoke the confidence of the legal community. The case was handed over to the CBI by the High Court. Investigation disclosed that the victim, though politically affiliated, was trying to seek judicial intervention. This angered the politician who had the attack organised through his underlings. The role of the local police was suspect in that they orchestrated the surrender of certain criminals who were actually not involved in the attack, but agreed to own responsibility with a view to shielding a politically powerful criminal gang. CBI investigation established the identity of the real culprits. They were arrested and sent to trial. Welding Kumar, the don who had organised the attack, was himself not present but was charged with criminal conspiracy. All the assailants, including Welding Kumar, have been convicted for life. However, the investigation could not go beyond Welding Kumar as adequate evidence could not be built up against the motivators, the third tier. This is a common problem faced in investigations of organised crime.

IX. PROBLEMS IN CONTROL EFFORTS

A. Inadequate Legal Structure

There are several difficulties in combatting organised crime. First of all, India does not have a special law to control/ suppress organised crime. Being a continuing conspiracy, the incidents of organised crime are dealt with under the general conspiracy law and relevant special Acts. The existing law is inadequate as it targets individuals and not the criminal groups or criminal enterprises. Conspiracies are hatched in darkness and proving them in a court of law is a herculean task. Being a member of the gang of dacoits or thieves is punishable under the Penal Code, but being a member of any other criminal gang is not. The prime purpose of organised crime is money through muscle power, comprising the officials operating the criminal justice system and the officials and politicians in power. It is, therefore, imperative that the criminal group and being its member or associate, is criminalised, as has been done in many countries.

Similarly, there is need to deprive the criminal groups of their ill-gotten wealth. India does not have a consolidated law on the subject.

The procedural laws in India are grossly inadequate to deal with organised crime. Under section 167 of the Code of Criminal Procedure, the police are mandated to file the charge sheet within 90 days from the date of arrest, failing which the accused is liable to be freed on bail. Organised crime is complicated in nature and has inter-state and even international ramifications which makes it difficult to conduct a thorough investigation within the statutorily pescribed time frame. This often results in the charge-sheets being filed on the basis of half-baked investigations. Such cases often result in acquittals. Besides, the bail provisions are quite liberal (sections 437 to 439 CrPC). In the early 1970s, the Supreme Court laid down that 'bail and not the jail' is the rule. This emboldened criminal syndicates and they took advantage of this judicial dispensation, frustrating efforts of the law-enforcerers in curbing crime. Further, section 438 of the CrPC provides for anticipatory bail even in heinous offences. This has been misused by politically influential and rich people.

Further, a confession made before a police officer is not admissible under section 25 of the Evidence Act, but a confession made before a Customs Officer or a Income Tax Officer is admissible. As it is difficult to get the eye-witness evidence in cases of criminal conspiracy, it makes the task of the police really very difficult. Furthermore, the investigating agencies look for oral, documentary and circumstantial evidence during investigation. With rapid advances in science and technology, forensic science has come to play an important role in criminal investigations. However, an accused or suspect is not legally bound to give his handwriting, finger prints, blood samples, photographs and intimate and non-intimate body samples viz hair, saliva, semen, blood etc to the Investigating Officer, despite the order of the Court. Thus, valuable pieces of evidence are lost due to this legal lacunae.

B. Difficulties in Obtaining Proof

As organised criminal groups are structured in a hierarchical manner, the higher echelons of leadership are insulated from law enforcement. It may be possible to have the actual perpetrators of crime convicted, but it is difficult to go beyond them in the hierarchy because of rules of evidence, particularly, non-admissibility of confessions made by criminals before the police. The witnesses are not willing to depose for fear of their lives and there is no law to provide protection to the witnesses against organised gangs. The informers are not willing to come forward as some kind of stigma is attached to being an 'informer'. In crimes of violence, there is hardly any documentary evidence. In some crimes like gambling and prostitution, the people in general are willing participants. Incidents of killing of witnesses or their being bribed or threatened do surface from time to time. Several judges and magistrates were killed in Punjab. These difficulties hamper the control efforts.

C. Slow Pace of Trials & Low Conviction Rate

'Justice delayed is justice denied' is a well known maxim. The pace of trials in India is very slow. Out of 7.12 million cases pending in the country, 0.77 million have been pending trial for more than 8 years (18.6% of the total). The average time of trial in grave offences varies from State to State but it is quite substantial and may run into years. This, coupled with other factors, has resulted in low conviction rates. Only about 38% murder and rape cases result in conviction in India. The percentage of conviction in dacoity cases is still lower. Hence, people are losing faith in the efficacy of the criminal justice system and have become cynical, apathetic and non-cooperative in control efforts.

D. Lack of Resources & Training

In our Constitutional frame-work, the police are the State's subject. Investigation of cases, their prosecution and the setting up of the criminal courts is the responsibility of the State Government concerned. Most of the States face a resources crunch and are not in the position to spare adequate resources for the criminal justice system agencies. The number of police personnel posted in police stations is inadequate. Besides, hardly any training facilities exist for the investigation of organised crime. Further, there are no special cells to handle organised crime investigations. The prosecutors neither have any special aptitude nor any specialized training for conducting organised crime cases. Moreover, they are vulnerable to frequent transfers resulting in discontinuity in prosecution efforts. Moreover, the number of courts is inadequate as organised crime case are tried by ordinary courts, there is inordinate delay in their disposal due to heavy

backlogs.

E. Lack of Co-ordination

India does not have a national level agency to co-ordinate the efforts of the State/city police organisations as well as central enforcement agencies, for combating organised crime. Further, there is no agency to collect, collate, analyse, document and function as a central exchange of information relating to international and inter-state gangs operating in India and abroad. Similarly, there is no system of sustained pursuit of selected gangs at the national and State level. Apart from lack of institutional frame-work, there are problems of co-ordination between the Central Government and the State Governments and between one State Government and another State Government due to differences in political perceptions. This problem becomes quite acute when different political parties are in power at the centre and in the States. Thus, there appears be no sustained effort to combat organised crime. The information that comes into the hands of Central and State investigating agencies is not exhanged and, if exhanged, not in real time. Thus, valuable clues are lost.

F. Dual Criminality

The crime syndicates do not respect national boundaries. Certain crimes, particularly drug trafficking, are planned in one part of the world and executed in another. Criminals also move fast from one part of the globe to another. Different nations have different legal structures. A certain act may be 'crime' in one country but not in another. To illustrate, money laundering is crime in USA and several European countries but not in India. Similarly, some countries have laws against terrorism but others do not. Extradition of criminals from one country to another is possible only when the principle of dual criminality is satisfied. India has faced problems in the extradition of certain fugitive criminals on this count.

G. Criminal, Political & Bureaucratic Nexus

There has been a rapid spread and growth of criminal gangs, armed Senas, drug mafias, smuggling gangs, drug peddlers and economic lobbiests in the country which have, over the years, developed an extensive network of contacts with the bureaucrats, government functionaries, politicians, media persons and democratically elected individuals at the local level. Some of these syndicates also have international linkages, including with the foreign intelligence agencies. In certain States like Bihar, Hryana and Uttar Pradesh, these gangs enjoy the patronage of local level politicians cutting across party lines. Some political leaders become the leaders of these gangs/armed senas and over the years get themselves elected to local bodies, State Assemblies and even the National Parliament through dubious means including rigging and killing of their political rivals. Some of them collect large funds from the criminal syndicates for electioneering. Resultantly, such elements have acquired considerable political clout seriously jeopardising the smooth functioning of the administration and the safety of life and property of the common man, causing a sense of despair and alienation among the people. Due to the political influence of these syndicates, the investigating and prosecuting agencies are finding it extremely difficult to deal effectively with them.

In view of the gravity of the problem. The Government of India constituted a Committee under the Chairmanship of the Union Home Secretary, N.N. Vohara in 1993. The Vohra Committee observed:-

"(i)On the basis of extensive experience gained by our various concerned intelligence, investigative and

enforcement agencies, it is apparent that crime syndicates and mafia organisations have established themselves in various parts of the country.

(ii) The various crime syndicate/mafia organisations have developed significant muscle and money power and established linkages with Governmental functionaries, political leaders and others to be able to operate with impunity (as recently exemplified by the activities of Memon brothers and Dawood Ibrahim)."

The law enforcement agencies are finding it difficult to smash criminal syndicates in the existing legal framework due to the money power and political linkages of the organised criminal gangs. The problem becomes compounded when the leaders of the gangs themselves become Parliamentarians and, sometimes, even Ministers. A Minister in the Central Government was prosecuted and convicted (later acquitted by the Apex Court) for harbouring members of a criminal gang. Another person who headed a dacoity gang 15 years ago and is still facing trial in several dacoity cases, rose to be a member of the National Parliament. Another individual who is facing trial in 12 serious crimes, including a murder case investigated by CBI, rose to be a Minister. When the law breakers become law makers or political superiors of the law enforcerers, it is unrealistic to expect the latter to come down heavily on criminal syndicates.

X. COMBATTING ORGANISED CRIME

It is the universal experience that organised crime is spawned by social economic and political factors and advances in science and technology have lent it a transnational character. Organised crime, like ordinary crime, cannot be rooted out completely from any society. It can certainly be kept within reasonable bounds by a deft mix of legal and administrative measures, coupled with social and political commitment. International co-operation can sound its death bell. I now propose to suggest some measures for combatting organised crime, keeping in view the Indian ground realities.

A. Strengthening of Criminal Laws

1. Substantive Law

India does not have an special Act to control/supress organised crime. The draft of the Suppression of Organised Crime Act is on the anvil but it is not known when it will be passed into law. Organised crime and money laundering have close nexus warranting immediate legislative intervention. The proceeds of Crime and Money Laundering (Prevention) Act is at a final stage and is likely to be passed into law soon. Besides, the ancillary laws such as the Arms Act, 1959; the Explosives Act, 1884; the Explosives Substances Act, 1906; the Immoral Traffic (Prevention) Act, 1956 need to be strengthened. Punishment provided for public gambling in the existing law is grossly inadequate resulting in recidivism by the same criminal goups.

2. Procedural Law

Certain amendments need to be made in the Code of Criminal Procedure. The maximum time for police custody remand in section 167(2) of Code of Criminal Procedure is 15 days from the date of arrest of an accused. It is our experience that this time is inadequate for investigating organised crime cases having inter-state and international ramifications. The police custody remand should be enhanced from 15 to 30 days in cases of grave crime. Further, the police are mandated to file the charge sheet in 90 days from the date of arrest of the accused, failing which s/he is liable to be released on bail. This period needs to be enhanced to 180 days in grave

crimes for in-depth investigation.

'Bail and not the jail' is the rule pursuant to a Supreme Court order of 1970s. Legislature should intervene to make the bail provisions more stringent. The provision for anticipatory bail (sec.438 CrPC) in grave crimes (i.e punishable with 7 years or more) should be deleted. Further, no exparte bail orders should be passed by a court in grave crimes without hearing the public prosecutor.

3. Evidenciary Law

(i) *Confession made to a police officer* : The Indian police are legally handicapped in collecting fool-proof evidence against ordinary criminals and, more so, against organised criminal gangs due to certain archaic provisions of evidenciary law. According to section 25 of the Evidence Act, a confession made before a police officer is not admissible in the court. Due to this valuable evidence gathered during questioning of the accused persons is lost. Such confessions are admissible in most countries of the world. Of course, this is not to say that the Court should base conviction only on the un-corroborated confession of an accused. What is being argued is that the Court should take into consideration the confession made by the accused before a police officer along with other corroborative evidence in formulating its opinion.

(ii) *Forensic evidence*: Forensic evidence plays an important role in criminal investigations. The police are duty bound to collect forensic evidence which may include the following types:-

  (i) Hand writing ;
  (ii) Finger/foot prints ;
  (iii) Blood samples for DNA profiling;
  (iv) Photographs ; and
  (v) Intimate and non-intimate body samples viz. hair, saliva, semen, blood etc.

There is no law which legally binds an accused to give specimen hand-writing, blood samples, foot prints or intimate or non-intimate body samples, even under the order of the court. The result is that valuable forensic evidence is beyond the ambit of the investigating agency. It is suggested that a provision should be incorporated in the Criminal Procedure Code legally binding the accused to give finger prints, samples of hand writing, blood samples and intimate and non intimate body samples, if required by the investigating agency. This will go a long way in building up forensic evidence against criminal gangs, particularly in violence-related crime.

(iii) *Monitoring of telephones etc* : The telephone facility is freely used by the gangs in organising criminal activities. Section 5 of the Indian Telegraph Act, 1885, empowers the Central Government or the State Government to monitor telephones and intercept telegraphic messages for a period of 60 days. However, the evidence thus gathered is not admissible in the trial. In the U.S.A, telephones can be monitored by law enforcement agencies under the orders of Federal Courts and the evidence so gathered can be used in the trial. The Indian Telegraphic Act should be suitably amended to provide for admissibility of evidence gathered by interception of telephonic conversation or telegraphs. Similarly, the evidence of computer print-out of telephone calls or fax messages sent or received on a particular telephone terminal should be made admissible as evidence.

(iv) *Undercover agents* : Law enforcement agencies run under-cover agents in most countries to gather information about criminal gangs, study their modus operandi and evaluate their future plans and strategies. This information is used both for preventive

and investigative purposes. In the USA, the evidence gathered by under cover agents is admissible as evidence - whether it is in the form of their oral testimony or recorded in audio or video form. Indian law does not permit this. The information so gathered can be used only as information but not as evidence. This handicaps the law enforcement agencies in building up cast-iron cases against organised gangs. It is suggested that the law should be amended to provide for admissibility of such evidence.

4. Witness Protection Programme

In cases of organised crime and terrorism, the witnesses are reluctant to depose in the open court for fear of reprisals at the hands of criminal syndicates/ terrorists. The cases of threat or criminal intimidation of potential witnesses are too many to be recounted. Some witnesses have also been killed by the criminal gangs/ terrorists. As the courts go by evidence on record for establishing the guilt of the accused, it is essential to protect the witnesses from the wrath of criminal gangs. Hence, legal and physical protection should be provided to crucial witnesses in sensitive cases so that they can depose fearlessly in the court. After the enactment of Witness Security Reform Act 1984, the US authorities could secure the conviction of several notorious mafia leaders. The US Witness Protection Programme, essentially involves changing the identity of the witness, relocation, physical protection if needed, and financial support till such time as s/he becomes self-supporting, subject to the condition that s/he deposes truthly in the Court. It is extremely necessary to provide protection to witnesses in India also, which could cover cases of national/ State importance involving criminal syndicates/terrorists.

5. Mode of Trial

The trial is generally held in the open court (section 297 CrPC). The court can, however, order in-camera trial if either of the two parties asks for it or the Court so desires (section 237(2) CrPC). Despite the express provision of law, the Supreme Court has discontinued this usage. It would be appropriate to legally mandate in-camera trial in organised/terrorist crimes.

6. Confiscating Proceeds of Crime

The main object of organised crime is acquisition of money and through money, power. It is through money power that the gangs corrupt the criminal justice agencies and the political leadership. A stage comes when the criminal gangs put a question mark on the existence of the State. It has already started happening in small pockets of India. It is, therefore, essential to deprive the criminal gangs of their ill-gotten wealth via stringent legislative measures. The laws relating to confiscation of proceeds of crime are strewn in several statutes. Some of the important Acts relating to this are as follows :

(a) Sections 102 and 452 of CrPC ;
(b) Sections 111 to 121 of the Customs Act, 1962;
(c) Sections 68 of the Narcotic Drugs and Psychotropic Substances Act, 1985;
(d) The Criminal Law (Amendment) Ordinance, 1944 (Ordinance XXXVIII of 1994);
(e) Foreign Exchange Regulation Act, 1973 (Section 63) ;
(f) Smugglers and Foreign Exchange Manipulations (Forfeiture of Property) Act, 1976 ; and

Notwithstanding the existence of the aforesaid legal provisions, it is common ground that organised criminal gangs have acquired huge assets. Annual turnover of Dawood Ibrahim gang is estimated to be about 2000 crores a year. Several Bombay smugglers have invested hundreds of

crores in real estate and other front businesses. This clearly shows an inadequacy of law. Hence, consolidation and strengthening of laws regarding seizure/confiscation of proceeds crime is essential. I must, however, add that the provisions in the Narcotics and Psychotropic Substances Act 1985, on the subject are quite stringent, but this Act is applicable only to drug related money and not to the money amassed through other crimes.

7. Immunity from Criminal Prosecution

As per section 306 of the CrPC, on the request of a police officer or a public prosecutor, a court may tender pardon to an accused at the investigation or trial stage subject to the condition of making full and true disclosure of facts and circumstances concerning an offence. This provision is applicable in offences punishable with imprisonment of seven years or more. The witnesses are not keen to turn approvers (State witnesses) as they have to remain in jail till the conclusion of the trial. As the trials take years, there is little incentive for them accept immunity from the State. As the evidence in conspiracy cases is rather weak, approver testimony helps a lot in securing convictions. It is suggested that the law should be amended to the effect that the 'approver' will be released on bail soon after the conclusion of his testimony in the Court. This may encourage some accused to turn approvers.

8. Presumptions against the Accused

An accused is presumed to be innocent until proved guilty. The entire burden is thus cast on the prosecution to prove the guilt of the accused. Silence of the accused in a given crime situation or his presence at the spot of crime at or about the time of the commisision of crime is not presumed to be a circumstances against which he must explain. This casts unfair and unreasonable burden on the prosecution. The British Government has updated their laws by empowering the courts to draw adverse inferences against the accused in certain circumstances in Criminal Justice and Public Order Act, 1994. Keeping in view the low conviction rates in grave crimes in India, and the reluctance of witnesses to depose against organised criminal syndicates/terrorists, it would be of immense help to the prosecution to raise certain presumptions against the accused, including that the following[38]:

(i) If the arms or explosives are recovered from the possession of the accused and there is reason to believe that similar arms or explosives were used in the commission of an offence, the Court shall presume that the accused committed the offence.
(ii) If the fingerprints of the accused were found at the site of the offence on anything, including arms and vehicles, used in connection with the commission of an offence, the Court shall presume that the accused had committed the offence.
(iii) If the co-accused has made a confession, the Court shall presume that the accused had committed the offence.
(iv) If the co-accused has made a confession, the court shall presume that the accused committed the offence.
(iv) If the accused had made a confession of the offence to any person other than a police officer, the court shall presume that the accused committed the offence.

9. Need for Speedy Trial

It is said that justice should not only be done but should be seen to be done. Punishment should visit the crime within a reasonable time, otherwise the confidence of the public in the efficacy of criminal justice institutions will be shattered. India has been enacting and enforcing modern laws for over a century now and has evolved a fair and equitable jurisprudence.

Nevertheless, about 0.77 million criminal cases have been pending trial for over 8 years. This does not include cases pending in High Courts all over the country. The slow pace of trial adversely affects the conviction rate and witnesses suffer from memory loss or are not available. Even prosecutors and judges lose interest in old pending cases. Speedy trial can be achieved by streamlining the procedural laws; improving the quality of judicial man-power ; increasing the number of courts and giving modern gadgetry to the courts. Co-operative disposition of the prosecutors and defence counsels is also essential. Besides, judges trying organised crime cases and the prosecutors handling them need to be given specialised training, and continuance in their respective offices ensured for a reasonable length of time.

B. Improving Co-ordination and Setting Up Specialised Units

1. Setting Up National Level Coordinating Body

India has a federal structure in which the States have the exclusive jurisdiction to investigate and prosecute criminal cases. The police forces in the States gather intelligence about organised criminal activities within their States and generally do not share it with other States or the central agencies. This insular attitude is equally true of central investigative agencies. It would, therefore, be advisable to set up a national level co-ordinating body outside the gamut of the present enforcement agencies. The main function of this body would be co-ordination between the police forces of different States and the Central investigative agencies. It would also conduct selective operations jointly with State Police Forces and Central enforcement agencies for nabbing the members of criminal gangs, including those living abroad and for seizure of their financial assets and arms. Further, this body would be responsible for collecting, collating, analysing, documenting and acting as central exchange of information relating to international gangs operating in India, the Indian gangs operating abroad and major gangs operating in the States. It would also be the duty of the national body to keep selected major gangs under surveillance and collect intelligence regarding them. It would be expected to take up investigation of specific and important organised crime cases having inter-State and international ramifications, unmindful of the views of the Sate Government concerned. The body would also be responsible for sustained pursuit of selected gangs having national and international dimensions until such time as the gangs disintegrate and all important members are proceeded against under the law.

2. Setting Up of Organised Crime Wings in City Police Organisations

Except for metropolitan cities, awareness about organised crime in the police force is very low. There is no system of collecting intelligence and pursuing investigations in a sustained and systematic manner. It is suggested that each State/Metropolitan force should have an Organised Crime Wing, the same at the State level as that of the apex body at the national level. The Chiefs of the Wing would keep in constant touch with the national body and their counterparts in other States/Cities.

3. Setting Up Organised Crime Cells at The District Level

The district is the basic administrative unit in India. The work of police stations is supervised at the district level. However, there is very little awareness about organised crime, its dimensions, and the harmful effect it eventually has on the national economy and security, at the district level. As districts are the most fundamental operational units in the police

hierarchical structure, it would be useful to set up organised crime cells directly under the control of District Superintendent of Police. Their main job would be investigation of important organised crime cases, collection of intelligence against the criminal gangs and proper documentation about their activities. They would also keep surveillance upon important gangsters.

4. Strengthening of Police Stations

Police station are the pivotal points in the enforcement machinery. No specialised body like the National Co-ordinatory Body or organised crime wings at the State level can function unless the police stations work effectively. It is, therefore, imperative to strengthen the police stations in areas affected by organised crime. This would be possible only if they are equipped with well-trained personnel, good systems of communication and means for mobility as also modern gadgetary necessary for investigation.

5. Common Database for Enforcement Agencies

No mechanism or institutional arrangement exists for collection of data regarding organised crime gangs either at the Central level or the State level. This hampers investigative efforts and planning. It is suggested that a common data base be built up and stored in a computer accessible to all enforcement agencies, through networking of the computers. National Crime Records Bureau could take up this job as it has the technical wherewithal to do so.

6. Education and Training

One of the weakest links in the struggle against organised crime is education and training at the local level. Public administrators, who are aware that organised crime exists in their community, are not spending sufficient time in educating and training citizens, law enforcement officers and other members in the criminal justice system. Consequently, local persons with interest in curbing organised crime are left to their own resources in securing information about those engaged in organised crime. There are three modes for transmitting information to those concerned with organised crime control. They are (i) education in academic institutions (ii) specialised training for law enforcement officers and (iii) greater public co-operation. To implement one mode of learning without the other will not produce the desired level of information about the criminal confederations.

It would be desirable to impart intense and highly select training to the police, probation officers, judges and public procecutors about the impact of organised crime on the society, the intelligence system, the statutes relating to organised crime, technology for investigation and the various types of organised crime and strategies for combating it.

7. Defending Honest Officers

There is strong evidence of a criminal-political nexus. The officers who have taken initiative to fight organised crime are sometimes transferred leading to their demoralisation. Crime syndicates by themselves or in concert with politicians sometimes launch a campaign of character assassination against honest officers, discrediting them. It would, therefore, be desirable that officers of integrity and professional competence be posted in organised crime prone areas and given a reasonable length of tenure, say 3 years. This would immunise them from the machinations of unscrupulous politicians and organised crime leaders.

C. Enhancing International Co-operation

We are living in an era of “globalisation

of crime". Speedy means of communication enable the transnational criminals to flee from one country to another within hours after the commission of crime, and to organise crimes spanning continents via the telephone. Illicit trafficking in narcotics drugs, illicit immigration, proliferation of illicit arms and smuggling of contrabands are the main transnational crimes affecting India. According to Section 3 and 4 of the Penal Code, any Indian national committing a crime abroad is liable to be tried in India. Similarly, any foreigner committing a crime in India is also liable to be tried in India. It is not possible to bring the fugitive criminals to justice without cooperation of the countries where they are living. In fact, international cooperation is the key to suppress transnational crimes. The international cartels comprising of criminals of various ethnicity regions and religions require response by the international community. International cooperation may entail various legal and governmental interventions.

1. Speedy Extradition of Fugitive Criminals

Speedy extradition can be a very effective method of bringing the fugitive criminals to justice. Extradition proceedings presuppose the existence of an extradition treaty between the Requesting State and the Requested State. Extradition requests must satisfy the principles of dual criminality and speciality. Besides, the identity of the fugitive criminal must be firmly established by the Requesting State.

India has signed extradition treaties with several countries. Such countries fall in three categories. The first category consists of 33 Commonwealth countries with which India has extradition arrangements, even though no formal extradition treaties have been signed. In the second category falls countries such as Bhutan, Belgium, Nepal, Netherlands, Canada, Switzerland, United Kingdom and USA with which extradition treaties have been signed. The third category consists of countries with which the treaties have been renegotiated. USA is one such country. Old treaty of 1931 with USA was renegotiated last year but is yet to be ratified. This Treaty provides for a 'political offence' clause, excluding some crimes such as murder of the Head of the State, aircraft hijacking offences, acts of aviation sabotage and crimes against internationally protected persons including diplomats, hostage taking and drug related offences etc. The Treaty also provides for a waiver clause which means that if the extraditee agrees to be extradited, the Requested State shall not go through the motions prescribed in law. India is negotiating extradition treaties with several countries, including the Russian Federation, Germany and UAE.

The basic problem with the extradition treaties is the 'political offence' clause. The world 'political' is open to varied interpretations both by the extradition courts as well as by the executive authority of the Requested State. Terrorist violence is often motivated by some kind of political considerations. If this logic is accepted, then it would not be possible to seek extradition of any fugitive terrorist from abroad. It may not be possible to totally exclude 'political offence' clauses from the existing treaties or the treaties which are under negotiation, but the scope of this clause should be narrowed down as much as possible. Article 1 of the SAARC Convention excludes certain terrorist offences from the 'political offence' clause viz, murder, manslaughter, kidnapping, hostage taking and offences relating to fire arms, weapons, explosives and dangerous substances. This principle could be adopted in bilateral and multilateral arrangements at the international level. This issue should be taken up in the international arena and effort made to narrow down the scope of

the 'political exception' clause, if not eliminate it all together.

India has succeeded in securing extradition of several notorious criminals including Om Prakash Srivastava from Singapore in 1995. We also succeeded in the securing extradition of two top terrorists from the USA last year. However, the case of another two is pending in the US courts since the last 10 years. Recently, two Karsen executives, namely, Tuncay Alankus and Cihan Karanci, involved in Rs.133 croses Urea import scam, were extradited to India from Sweden. India has also extraditied certain criminals to the UK, USA and other countries.

As extraditioin is an important instrument to bring fugitive criminals to justice, the laws and procedures prevailing in different countries need to be standardised on the basis of the model extradition treaty drafted by UNO.

2. Deportation

It is our experience that extradition is a time consuming and lengthy process, where, apart from satisfying the legal requirements of the Requested State, the judicial requirements of a foreign court have also to be satisfied. On the other hand, deportation of an undesirable alien is swift and speedy. India had sought extradition of a notorious drug smuggler Iqbal Mirchi from UK in 1996 but the request was turned down as the Extradition Magistrate held that the evidence on record was not sufficient to establish a prima facie case. This often happens in transnational crimes wherein the principal offenders organise crimes through telephone systems in foreign lands. After the failure of the extradition proceedings, the Government of India cancelled his passport and, thus, he became an illegal alien in UK. Some countries have deported Indians back to the country on finding them without valid travel documents and we have also reciprocated in equal measure.

As deportation is one of the easiest methods of getting rid of undesirable elements, standardised and universally acceptable norms should be evolved in the international community in this regard.

3. Agreement on Mutual Legal Assistance

Assistance from foreign countries is often required for effective investigation and prosecution of transnational crimes. Help is required in the matter of collecting information; collecting evidence during investigation; identification and location of persons and service of documents on them; access to records of financial institutions; production of foreign witnesses; conducting searches and seizures; forfeiture of proceeds of crime (including money deposited in banks); transfer of prisoners to give evidence or assist in criminal investigations. Help is also sought from a foreign country in the execution of Letter Rogatories. India has enabling provisions in the Criminal Procedure Code (SECTION 105) in the above matter (166-A and 166-B of the Code) .

India's experience shows that the response from foreign countries, with few exceptions, has generally been positive. India has made Mutal Legal Assistance arrangements with several countries in the recent past. Some of the recently concluded Agreements on Mutal Legal Assistance are - India and UK (1992); India and Russia (1993); India and Bulgaria (1994); India and Canada (1994); India and Egypt (1995); India and China (1996) and India and Oman (1996). We are also in the process of signing Mutal Legal Assistance Agreements with Kazakistan, Poland, Slovak Republic, Italy France, Hong Kong, Greece, and Georgia.

The agreement between India and UK provides for assistance in investigation and prosecution of crime and tracing, restraint and confiscation of the proceeds and instruments of crime (including crimes involving currency transfers) and terrorists

funds.

The agreement between India and Canada is quite comprehensive and covers all types of crimes, including crimes relating to taxation, duties, customs and international transfer of capital or payment. The assistance includes :

(i) measures to locate, restrain, forfeit or confiscate the proceeds of crime ;
(ii) taking of evidence and obtaining of statements of persons :
(iii) provision of information documents and other records including criminal and judicial records ;
(iv) location of persons and objects including their identification ;
(v) search and seizure ;
(vi) delivery of property, including lending of exhibits ;
(vii) making detained persons and others available to give evidence or assist investigations ; and
(viii) Service of documents, including documents seeking attendance of persons.

Our arrangements with UK and Canada are working well. Canada has deported a terrorist to India recently. We also assisted the Canadians in the Kanishka Bomb Blast Case. Such bilateral agreements go a long way in effective investigation and prosecution.

4. SAARC Convention for Suppression of Terrorism:Multilateral Arrangements

Apart from bilateral arrangements, India has also made multi-lateral arrangements for suppression of terrorism with its neighbors. India is a signatory to the South Asia Association for Regional Co-operation (SAARC) Convention for Suppression of Terrorism. SAARC countries consist of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka. Pursuant to the SAARC Convention, India enacted the SAARC Convention (Suppression of Terrorism) Act, 1993. It is important to mention that in Article 1 of the SAARC Convention, terrorist activities have ben excluded from the 'political offence' clause for the purposes of extradition. Extraditable crimes include unlawful seizure of aircraft; unlawful acts against the safety of civil aviation; crimes against internationally protected persons, including diplomatic agents; and common law offences like murder, kidnapping, hostage taking and offences relating to fire arms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property.

It would thus appear that SAARC Convention is an improvement on bilateral Extradition Treaties and Agreements on Mutal Legal Assistance in that the scope of 'political offence' has been drastically reduced.

5. Role of Interpol

Interpol has serviced law enforcers all over the world in their fight against crime in last 75 years of its existence. 'The Red Corner Notice' for the arrest of fugitive criminals are generally executed by Interpol. Sometimes difficulty arises when the requested Interpol does not have enabling provisions in the domestic laws for effecting arrests. Section 41 of the Indian Criminal Procedure Code empowers a police officer to arrest on the basis of a Red Corner Notice. Similar provisions need to be incorporated in the criminal laws of countries where such provisions do not exist. Secondly, help in investigations is sometimes declined by some Interpols on the perceived ground of the offence being 'political' in character. This problem is going to persist in the forseeable future but its impact can be drastically reduced if the principles ennunciated in the SAARC Convention are adopted at the regional and even international level regarding grave offences i.e terorism, organised crime etc.

D. Political Commitment

Incidence of organised crime is proportional to the will of the people to tolerate it. If there is strong political commitment, it can be suppressed by legislative action, strengthening of criminal justice system and building up of strong public opinion against it. Organised crime thrives when political commitment is lacking. The Vohra Committee Report has exposed the linkages between unscrupulous politicians and the criminal syndicates. A segment of politicians, cutting across party lines, are dependent on organised crime figures for financing their elections as well as giving them muscle power for rigging elections or overawing their political opponents. One of the ways of breaking the nexus between the criminals and politicians would be to enact stringent laws regarding election funding, with a view to preventing the tainted money from whatever source, including from the crime syndicates, seeping into the political system. Once this happens, people are likely to be elected to the State and National Parliament that would have no obligation towards the organised crime figures and are likely to have higher political commitment to stamp out organised crime. Another method would be to amend the election laws to prevent, apart from convicts, those against whom charges have been framed by the court in at least in two grave crimes, from running for elective offices. This would impel the political figures to keep themselves at a safe distance from the crime figures and thereby help in cleansing the political process. It needs to be reiterated that enforcement action, however efficient, is not by itself adequate to stamp out organised crime.

E. Public Awareness

The surest means of curbing organised crime is to involve people in its prevention and investigation and to build up public opinion against it through the print and electronic media, workshops, seminars, and by socially boycotting organised crime figures. It is not unusual to see leaders of criminal syndicates acquiring Robin Hood images and becoming legends in their life time. Quite a few have become Members of the State Assemblies and the National Parliament. Some have become Ministers in the State Governments and occupy other elected offices. They can be prevented from occupying high political offices by heightened public awareness.

F. Role of Mass Media

Mass media-both print and electronic media-can play an important role in exposing organised crime and help build public opinion against it. Indian mass media has been doing this job quite well and everyday we read lurid accounts of the activities of crime syndicates in the newspapers and magazines. Notable newspapers and magazines have also taken to investigative journalism in this field. In this process, some media persons have suffered at the hands of the criminals but undaunted by it, they are going ahead with the exposes. This is a very heartening trend and must be encouraged.

XI. CONCLUSION

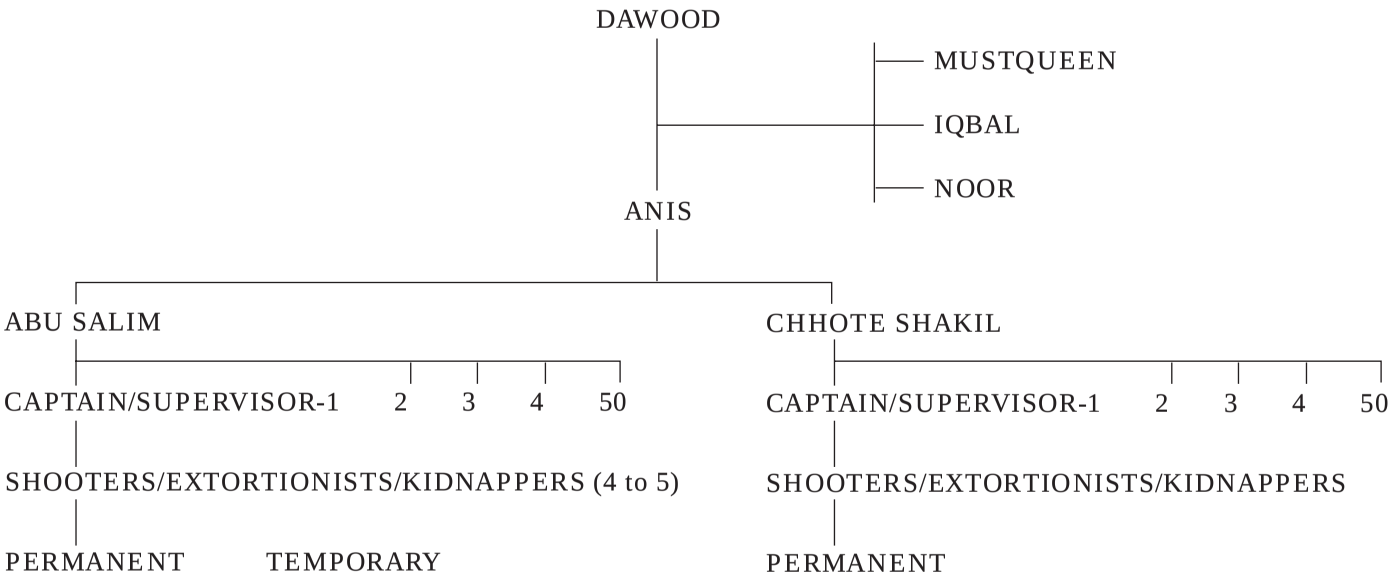
Organised crime is first of all a domestic problem and, when unchecked, it assumes a transnational character. Organised crime succeeds so long as nations permit it to succeed. The first and foremost step in our control efforts should be to keep 'incident' or ordinary crime within reasonable bounds by keeping criminal elements under reentless law-enforcement pressure. If we succeed in this effort, we would have obviated or at least diminished the possibility of unattached criminal networks and the phenomenon of organised crime. Organised crime, depending upon its intensity, spread and dimensions, must

be combated by a deft mix of strengthening of criminal laws and criminal justice system; institutionalising a national and State level co-ordinating mechanism and involving the mass media in control efforts. Law enforcement, however efficient, cannot succeed by itself without strong political commitment. This pre-supposes exclusion of criminal elements and their political sympathisers from elected public offices. As organised crime is for the acquisition of money power, it is imperative that the flow of money to organised criminal groups is dried up through stringent legislative and enforcement action.

A democracy has inherent infirmities which manifest themselves in the functioning of criminal justice agencies. Despite best efforts, domestic crime is likely to spill into the international arena and often does. Hence, the need for international co-operation in suppressing it in the form of expeditious extradition of fugitive criminals, deportation of undesirable aliens; mutual legal assistance in investigations and prosecutions and speedy execution of Red Corner notices issued by Interpol. Further, the international community must put their heads together to harmonise extradition and deportation laws and to narrow the scope of 'political offences' in extradition laws and the Interpol charter.

The fight against organised transnational crime is a formidable task, but heightened public consciousness, increasing governmental concern and mutually dependent interests of the international community do give us a ray of hope.

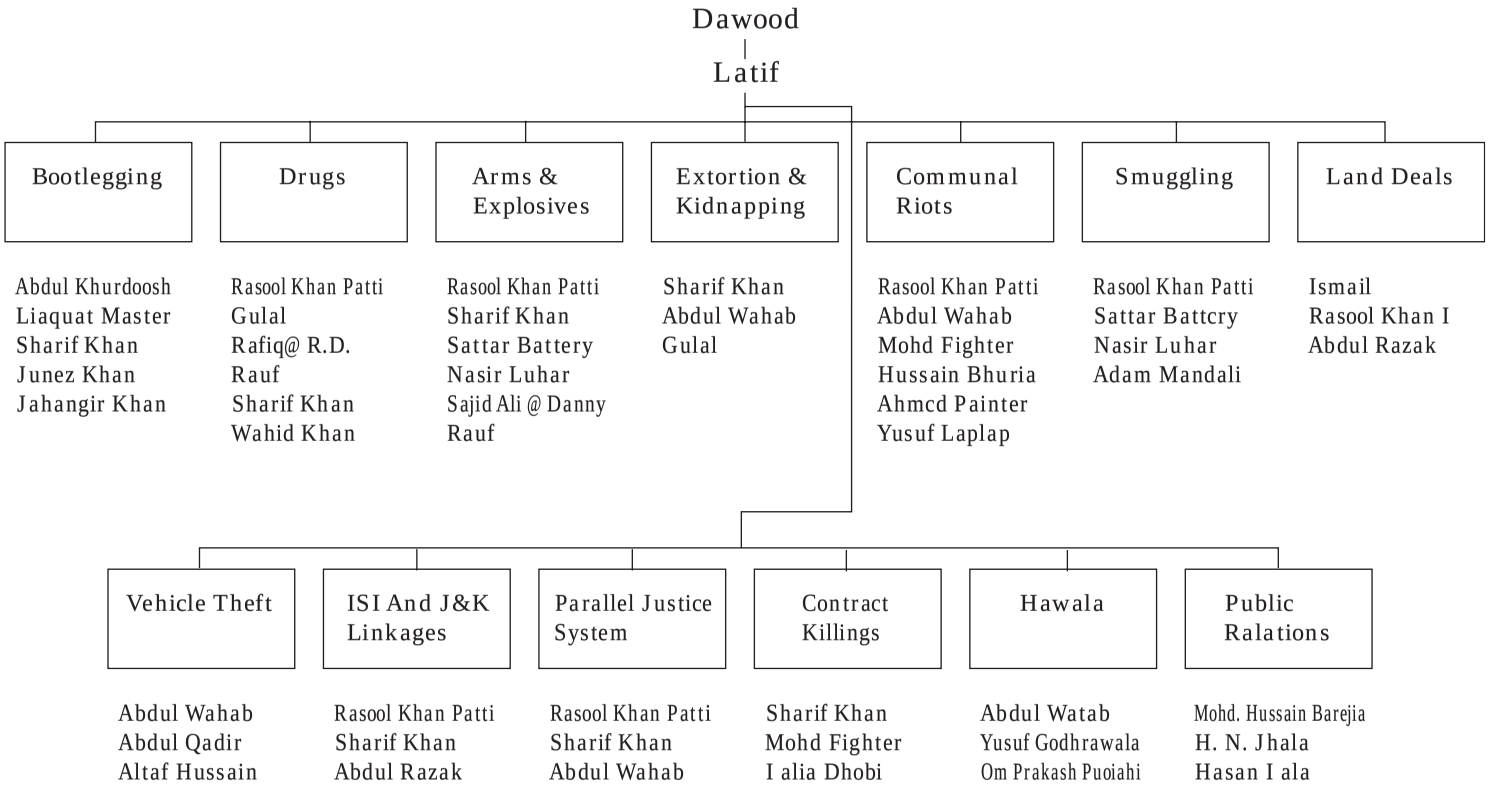
APPENDIX I



(1) PERMANENT MEMBERS PAID ON MONTHLY BASIS-work or no work.
(2) TEMPORARY MEMBERS PAID ON JOB BASIS.
(3) WEAPONS ISSUED THROUGH INTERMEDIARIES FOR JOBS AND RETURNED WHEN JOB IS OVER.

APPENDIX II

ORGANISATIONAL CHART



APPENDIX III

COUNTRY	Gun Running	Militancy/ Terrorism	Narcotics Trafficking	Crime
Australia	✓	✕	✓	✓
Cambodia	✓	✓	✓	✓
Indonesia	✕	✓	✓	-
India	✓	✓	✓	✓
Japan	✓			
Macau	✓	✕	✓	✓
Malaysia	✓	-	✓	
Myanmar	✓	✓	✓	✓
Phillipines	✓	✓	✓	-
Sri Lanka	✓	✓	✓	✓
Taiwan	✓	✕	✓	✓
Thailand	✓	✕	✓	-
Latin America	✓	✓	✓	✓
Central America	✓	✓	✓	✓
United States	✓	✓	✓	✓
Vietnam	✓	✕	✓	✓

(Sources:Patterns of Global Terrorism, US State Department, International Narcotics Control Strategy Report.)

REFERENCES

1. Crime in India : National Crime Records Bureau, New Delhi (1996).
2. Crime in India : National Records Bureau, New Delhi (1995).
3. Ibid (1995)
4. Ibid (1995)
5. Ibid (1995)
6. Ibid (1995)
7. Criminal Justice : Problems and Perspectives by S. Venugopal Rao (page 131).
8. Task Force Report - The Presidents' Commission on Law Enforcement Administration of Justice, 1967 (page 1).
9. Formation of Criminal Gangs in Big Cities by VK Saraf, former Commissioner of Police, Bombay (unpublished study sponsored by the Government of India).
10. Kefauver Committee concluded that :
    "(a) There is a nationwide crime syndicate known as the Mafia, whose tentacles are found in many large cities. It has international ramifications which appear most clearly in connection with the narcotics traffic.
    (b) Its leaders are usually found in control of the most lucrative rackets in their cities.
    (c) There are indications of a centralised direction and control of these rackets but leadership appears to be in a group rather than by a single individual.
    (d) The Mafia is the cement that helps to bind the Costello-Adonis-Lansky syndicate of New York and Accardo-Guzik-Fischeddi syndicate of Chicago as well as smaller criminal gangs and individual criminals throughout the country. These groups have kept in touch with Luciano since his deportation from this country.
    (d) The domination of the Mafia is based fundamentally on 'muscle' and 'murder' . The Mafia is a secret conspiracy against law and order which will ruthlessly eliminate anyone who stands in the way of its success in any criminal enterprise in which it is interested. It will destroy anyone who betrays its secrets. It will use any means available-political influence, bribery, intimidation etc. to defeat any attempt on the part of law enforcement to touch its figures or to interfere with its operations".
11. Op. cit note 8 (page 1)
12. The Politics and Economics of Crime by Herbert E. Alexander and Gerald E. Caiden (page 9). The Task Force listed the following seven characteristics of organized crime:
    (i) "Organised crime is a conspiratorial crime.
    (ii) Organised crime has profit as its primary goal.
    (iii) Organised crime is not limited to illegal enterprises or unlawful services but includes sophisticated activities as well.
    (iv) Organised crime is predatory, using intimidation, violence corruption and appeals to greed.
    (v) Organised crime's conspiratorial groups are well disciplined and incorrigible.
    (vi) Organised crime is not synonymous with the Mafia but knows no ethnic bounds.
    (vii)Organised crime excludes political terrorists, being politically conservative, not radical."
13. Organised Crime : Concept and Control by Denny F. Pace and Jimmie C. Styles (page 248).
14. Op cit note 12 (page1).
15. The Presidents Commission on Organised Crime, 1986 (pages 26-32).
16. Section 2 of the Act defines a gang as :

"Gang means a group of persons, who acting either singly or collectively by violence or threat or show of violence or intimidation or coercion or other unlawful means, with the object of gaining undue political, physical, economic or other advantage for himself or any other person, indulge in anti-social activities, namely:

(i) offences punishable under Chapter XVI or Chapter XVII or Chapter XXII of the IPC ; or
(ii) distilling, manufacturing, storing, transporting, importing, exporting, selling or distributing any liquor or intoxicating or dangerous drugs or other intoxicants or narcotics or cultivating any plant in contravention of any of the provisions of the UP Excise Act, 1910 or the Narcotics, Drugs and Psychotropic Substances Act, 1985 or any other law for the time being in force; or
(iii) occupying or taking possession of immovable property otherwise than in accordance with law, or setting up false claims for title or possession of immovable property whether in himself or any other person; or
(iv) preventing or attempting to prevent any public servant or any witness from discharging his lawful duties ; or
(v) offences punishable under the Suppression of Immoral Traffic in Woman and Girls Act,1956 (Act No.104 of 1956) ; or
(vi) offences punishable under section 3 of the Public Gambling Act, 1867 ; or
(vii) preventing or disturbing the smooth running by any person of his lawful business, profession, trade or employment or any other lawful activity connected therewith ; or
(viii) activities enumerated in clause (b) of Section 2 of the Uttar Pradesh Control of Goondas Act, 1979 ; or
(ix) offences punishable under section 171-E of the Indian Penal Code or in preventing or obstructing any public election being lawfully held by physically preventing the voters from exercising electoral rights ; or
(x) inciting others to resort to violence to disturb communal harmony ; or
(xi) creating panic, alarm or terror in public ; or
(xii) terrorising or assaulting employees or owners or occupiers of public or private undertakings or factories and causing mischief in respect of their properties ; or
(xiii) inducing or attempting to induce any person to go to foreign countries on false representation that any employment, trade or profession shall be provided to him in such foreign country ; or
(xiv) kidnapping of abducting any person with intent to extort ransom ; or
(xv) diverting of otherwise preventing any aircraft or public transport vehicles from following its scheduled course."

A gangster "means a member or leader or organiser of a gang and includes any person who abets or assists in the activities of a gang enumerated in clause (b), whether before or after the commission of such activities, or harbours any person who has indulged in such activities."

17. The Indian Mafia by S. K. Ghosh.
18. Ibid.
19. Ibid.
20. Formation of Criminal Gangs in Major cities by VK Saraf (an unpublished study sponsored by the Government of India).
21. Ibid.

22. Based on the data collected from the Office of the Commissioner of Police, Delhi.
23. Based on the report of Joint Task Force, Karnataka.
24. Based on a paper prepared by this author (unpublished).
25. Based on a report prepared by the Office the Commissioner of Police, Ahmedabad.
26. Based on the investigation conducted by CBI.
27. Narcotics Control Bureau Report (1995).
28. Data compiled by the Departmental of Revenue, Government of India, New Delhi.
29. Ibid.
30. Ibid.
31. Ibid.
32. Uncivil Wars by Med Marwah (page 390).
33. Ibid.
34. Paper on 'Proliferation and Smuggling of Light Weapons within the Region' by Tara Kartha Reseach Fellow, IDSA, New Delhi.
35. Op cit. note 32.
36. Op cit. note 17.
37. Based on a paper published by the author titled 'Crime Scenario in India : Need to Strengthen Criminal Laws' in CBI Bulletin (1996).
38. Such presumptions could be raised under Section 21 of the Terrorist and Disruptive Activities (Prevention) Act, 1987, which was allowed to lapse in 1995 and has not been substituted by another anti-terrorism law.

PARTICIPANTS' PAPERS

GENERAL PICTURE OF ORGANIZED CRIME IN JAPAN: THE ACTIVITIES OF ORGANIZED CRIMINAL GROUPS BASED IN OR OUTSIDE JAPAN

*Yutaka Nagashima**

I. INTRODUCTION

In Japan, the recent process of internationalization has brought about an increase of Japanese going abroad, as well as an expansion in the number of visiting foreigners who are permitted to stay for a limited period of time, or are staying illegally in Japan (hereinafter the "visiting foreigners"). It is quite natural that in line with such a change of Japanese society, transnational or international crimes and criminals have been attracting more and more serious concern, not only from those professionals in the criminal justice field, but also by the mass media, politicians and citizens in general.

In Japan, it seems that the traditional organized criminal groups, "*Bouryokudan*", are mostly involved in internationalized crimes. So, this paper will first explain the historical background and changing features of the activities of *Bouryokudan*, referring when appropriate to the special laws and ordinances like the Anti-Bouryokudan Law, enacted to prevent and counteract the organized criminal activities and to protect the victims and the people in general. The recent phenomena of the internationalization of *Bouryokudan*, in particular, dealing with crimes committed in and outside of Japan among the *Bouryokudan* and the organized criminal groups of other nations and regions, will also be considered.

The general trends in crimes committed by visiting foreigners in Japan, with the intention of providing overall information on the changing features of their criminal conduct in Japan, will be discuction in the second half of this paper.

Information on individual cases in which visiting foreigners staying in Japan committed crimes as part of a criminal group, mostly in connection with the Japanese and their native-land criminal syndicates will be provided. Crimes such as the mass smuggling of illegal migrants, robbery and burglary of jewelry etc., pick-pocketing, ticket swinding, defrauding *pachinko* (a kind of slot-machine) parlors, theft and transnational trafficking of stolen motor vehicles etc., will be considered in this paper (excluding crimes involving drugs).

II. TRENDS IN CRIMES BY GANG ORGANIZATIONS (*BOURYOKUDAN*) IN JAPAN

A. Realities of *Bouryokudan*

Bouryokudan, or gang organization, may be defined in general terms as "an organization or group which collectively and habitually engages, or is prepared to engage, in criminal activities accompanied by violence." A typical gang or gangster includes the categories of professional gamblers, street peddlers, delinquent youth groups, stevedore gangs and unscrupulous constructors. Their scale and sphere of activity vary from one organization to another, but there are some common characteristics peculiar to them. For example, externally they intervene in the civic life or business transactions of citizens, using the power of their

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organization to obtain funds unlawfully or improperly, and internally they try to strengthen the control and solidarity of their organization, based on the pseudo-kinship of all members.

Besides *Bouryokudan*, there exists another type of organized criminal group close to them. They are *Sokaiya*, who after obtaining rights as stockholders, demand undue gains from enterprises by throwing the general meeting of stockholders into confusion etc. They also pose as public campaigners or political adventurers who pretend or profess to be engaged in some social movements or political activities for the purpose of disrupting commercial enterprise. They meddle in civic life or business activities and gain undue profits to desist.

Such groups emerged through cracks in the social structure and under the influence of the socio-economic conditions of the time. They repeatedly split and merged among themselves and have survived persistently over the ages as a true antisocial and malignant element of society. Table 1 shows the trend in the number of *Bouryokudan* members cleared by the police for Penal Code offences, and referred for Special Law violations (1956-1996).

B. Comprehensive View of the Past Activities of *Bouryokudan*

During the period of post war chaos (late 1940s), a number of new lawless groups, small and large, mushroomed on top of the long-established gangs of gamblers and street peddlers. They advanced into various rackets such as street hawking, black markets, gambling, group robberies and strong-arm protection. The new groups repeatedly battled with the older groups over the command of territories and over the various interests involved.

The number of gang members arraigned on Penal Code offences cleared by the police was more than 30,000 in 1946 and 1947. This period was marked by frequent clashes between gangs fighting over their territorial rights and interests such as the running of black markets and other rackets. The fights were frequently large-scale and bloody, since the gangs were armed with military weapons and fired on each other indiscriminately, thus causing much public uneasiness. The gangsters became the most important target of the police at that time. After 1948, the number of gangster Penal Code offenders decreased, due primarily to: gradual recovery from postwar chaos; frequent crackdowns on gangs; and strong police efforts to force the gangs to disband, including the mandatory dissolution of specific gangs under Cabinet Order. These strict measures against gangster criminal activities seem to have worked effectively to reduce the incidence of crime, for a while.

The early 1950s to the early 1960s is called the "Period of Gang Wars". This was the time when new entertainment quarters arose in major cities, and newly industrialized areas developed along with the nation's rapid social and economic recovery, thanks to an economic boom fueled by the Korean War procurement. New *Gurentai* (street gangsters) came into power, preying on such quarters, and targeting the interests involved in *pachinko* (a kind of slot-machine) parlors, public gambling set-ups (bicycle races, etc.), sex-related business (massage parlors, etc.), prostitution, Philopon (a stimulant drug) and other rackets. The new and old gangs battled incessantly to stake out their territorial claims, and there were repeated breakups and mergers to establish the gangs' 'division of power' over the nation during this period.

From 1955 to 1965 Japan achieved remarkable economic success. During the decade, the boom stimulated international trade and multiplied the amount of work at ports. The resulting spending spree proved highly profitable for the entertainment business. This in turn

produced huge income for the gangs who controlled construction and harbor workers, and maintained strong-arm men to 'protect' the entertainment quarters. During this period, the so-called seven gang syndicates (later named as such by the National Police Agency (NPA)) achieved great power. The seven syndicates are *Yamaguchi-gumi, Honda-kai* (later renamed *Dainihon Heiwa-kai*), *Sumiyoshi-kai* (currently *Sumiyoshi Rengo-kai*), *Kinsei-kai* (currently *Inagawa-kai*), and *Matsuba-kai.*

The number of gang-associated Penal Code offenders was approximately 2,500 in 1952, but increased to approximately 11,000 in 1953. It rose to more than 80,000 in 1956. The number then decreased, but hovered at the 40,000 to 50,000 level until 1965. The total number of gangsters involved in crimes of violence, bodily injury and murder in 1968 constitutes 48.4 percent of the total number of gang-associated Penal Code offenders, reflecting the intense inter-gang confrontation and conflicts during that year. A significant number of cases of inter-gang conflict was shown in the decade beginning in 1955. With this situation as the background, the number of gang syndicates and their members drastically increased during the period. There were approximately 4,200 organizations with approximately 93,000 members in 1958. However, in 1963, the organizations increased to approximately 5,200, with a record-breaking membership of approximately 184,000.

In 1958, in order to properly cope with the situation, the government proposed in the Diet, a bill to introduce in the Penal Code a new article on the crime of intimidation of a witness, and the proposal became law. Also amended was the Code of Criminal Procedure whereby gang-associated inmates were placed under a status in which bail may only be granted at the discretion of the court, if the court deems it likely that they will retaliate against witnesses who testify against gangsters in detention. In addition, the Law Concerning Compensation for Damage Inflicted on the Witness, was promulgated to provide protection to witnesses. With a view to forestalling inter-gang conflicts, the crime of unlawful assembly with dangerous weapons was also introduced in the Penal Code. In the same year, the Firearms and Swords Control Ordinance was revised whereby heavier penalties were provided for the use and possession of dangerous weapons, including firearms and swords. In 1964, the Law for Punishment of Acts of Violence was amended to introduce an aggravated crime of bodily injury committed with firearms and swords, as well as to provide for heavier penalties for habitual offenders involved in crimes of violence. From around 1952, Local prefectural legislatures promulgated the Public Nuisance Prevention Ordinance to protect residents from the distasteful, annoying conduct of the gang members. This legislation paved the way for devising nationwide systems to restrain underworld criminal syndicates.

With the nationwide campaign for sweeping crackdowns on gang organizations as the background, intensive and comprehensive attempts to control gang members were conducted from 1964 to 1965. The main focus of the policy was the strict control of the illegal activities of leaders of gang organizations, crimes related to revenue sources of the syndicates and their weapons. These were called 'summit operations', by which police aimed at keeping the activities of gang syndicates in check. The operations were continuously performed, later joined by local governments who banned events sponsored by gangs at public facilities, throughout the nation.

Looking at the total number of gangsters cleared by the police for Penal Code offences and Special Law violations, approximately 59,000 gangsters were

cleared in 1964 and 57,000 in 1965, which accounted for one-third of the members of the criminal syndicates. The figure dropped to approximately 43,000 in 1966, and further declined to the 38,000 level between 1967 and 1969, which reflected the concerted 'summit operation' and the subsequent reduction in the overall activities of criminal organizations. Broken down in terms of offences, heinous crimes and violent offences markedly decreased in 1968 compared with those in the decade from 1955. The effects of the summit operation were also seen in the decrease of gang syndicates and their membership. The number was approximately 5,200 with approximately 184,000 membership in 1963. However, it decreased to 3,500 organizations in 1969, and membership decreased to approximately 139,000.

In the early 1970s, gangs managed to revive themselves through reorganization. Major gangs with extensive areas of the nation under their influence absorbed small and medium-sized gangs. A new map of territories governed by such syndicates was made as a result. The number of gang syndicates was approximately 3,000 and the membership was approximately 123,000 in 1972. The number decreased gradually to approximately 2,500 organizations and approximately 107,000 membership in 1979. However, during 1972 to 1979, the total number of organizations under the NPA-designated seven syndicates increased from approximately 870 to 1,000, and the membership from approximately 33,000 to 34,000.

The power of the gang syndicates, whose influence covered a wide range of areas, did not necessarily decline but was rather reinforced during 1970s. The 'summit operation' worked effectively on small and medium-sized gang syndicates as a result of a decline in the overall number of organizations and their membership. However, major gang syndicates placed such damaged small and medium-sized organizations under their umbrellas and thus their power was increased in general. Because of the economic slump in the period of low economic growth after the oil crisis in 1974, it became difficult for gangs to maintain their organizations while depending only on their traditional money sources. Some gangs disguised themselves into rightist political organizations, while others advanced into the field of *Sokaiya* stock racketeers (racketeers to blackmail a company at a general meeting of stockholders). They even intervened in economic transactions and sponsored overseas gambling tours. In this way they promoted multiple business operations, modernization and every possible illegal activity to survive, while trying to hide themselves from police crackdowns.

Small and medium sized gangs had only traditional illegal money sources, while major syndicates had abundant, diversified money sources, regardless of whether they were illegal or legal, and established the management system by collecting money from organizations under their umbrellas. Because the smaller organizations were vulnerable to invasions of larger organizations and police checks, it was a natural result that smaller organizations were dissolved or merged under major syndicates. Especially notable were the expansion of the three NPA-designated major syndicates, i.e the *Yamaguchi-gumi*, *Inagawa-kai* and *Sumiyoshi Rengo-kai*, and the progress of 'oligopoly of the gang world' by major syndicates. If the number of gangs under the umbrella of the three syndicates and their membership in 1968 is set as 100, the indicator increased to 153.9 for the number of organizations and 140.4 for membership in 1979.

The total number of gangster-related offenders cleared by police on Penal Code and Special Law violation charges gradually increased after 1970 and the

number topped 50,000 from 1973 until around 1975. Although the number of gangsters was decreasing during the period, the number of those cleared by police remained at a high level. From the statistics, we can conclude that the criminal activities by gangsters did not calm down, but were rather activated in the new drastic moves, including reorganization, of the gang world. Looking in more detail, homicide, bodily injuries and gambling, and Special Law violations of the Firearms and Swords Control Law, Stimulant Drug Control Law, Child Welfare Law and Horse Racing Law showed marked increases. This trend suggests the progress of gang armamentation and diversification of their money sources. Among them, increases in violations of the Stimulant Drug Control Law suggest that the sale of stimulant drugs is the most convenient and, also the most profitable, crime in terms of money sources for major syndicates (which were then rapidly growing during the period, taking advantage of the fact that their influence covered wide areas).

The 1980s was called the 'Period of Generation Exchange and Transition'. In the world of gangsters, major generation changes went on and the gangland experienced a major transition over a new hegemony. For instance, the third-generation boss of *Yamaguchi-gumi* died in 1981 and fights over the next boss started. In 1984, those against appointment of the fourth-generation boss spun out from the syndicate and established another syndicate named *Ichiwa-kai*. In 1985, the fourth-generation boss of *Yamaguchi-gumi* was shot and killed by members of *Ichiwa-kai*, triggering a series of fierce battles between the two major syndicates. *Ichiwa-kai* dissolved in 1989 and the confrontation was finally settled. The fifth-generation boss was appointed to head *Yamaguchi-gumi*. However, those against the appointment of the fifth boss left the syndicate and declared their independence from *Yamaguchi-gumi*. The similar problem of succeeding aged bosses was seen in other syndicates which covered major areas.

Also, since the 1980s, criminal syndicates are expected to face difficulties in trying to enlist new young members, a situation which they have probably never experienced before. In the gangland, gangsters are steadily aging since young people try to stay away from gangs. In the past it was said that the supply of gangland members would never be cut. However, each organization is now suffering from the shortage of new young members.

On March 1, 1992, the so-called Anti-Bouryokudan Law (the Law Concerning Prevention of Unjust Acts by *Bouryokudan* Members) came into force as a law to regulate the various activities of gangsters' organizations administratively. The purpose of the Law is to secure the safe and peaceful life of citizens and to protect the freedom and rights of the people. It authorizes the Government to exercise administrative control over dubious activities which, though suspected to be criminal, are difficult to control with only the investigative techniques available in the past. Under this Law, a gangsters' organization which comes under specific conditions prescribed by the Law is a "Designated *Bouryokudan*", and the members of such *Bouryokudan* are subject to control. As of the end of 1996, the number of designated *Bouryokudan* is 24. The acts to be controlled are those which unduly demand money or other things, through demonstrating the strength of their organizations. Administrative orders are issued against these acts. The number of cases where such orders were issued was about 4,700, as of the end of 1996. This Law also provides for: assistance to operators of businesses to prevent *Bouryokudan* from inflicting damage; restriction of the use of *Bouryokudan's*

offices at the time of fighting among *Bouryokudans*; prohibition of interference in the sucession of a member from the organization and so on; which is proving effective for promoting the measures against *Bouryokudan*. Since 1992, when the Anti-*Bouryokudan* Law was enacted, the number of struggling incidents between rival *Bouryokudan* organizations has rapidly decreased.

Looking at the changes in the number of gangs and their members since the 1980s, the number of gangs was approximately 2,500 (organizations) with approximately 104,000 members in 1980. However, the number of organizations decreased to approximately 2,200, with approximately 94,000 members, in 1985. These figures are about half or more of the corresponding figures in the beginning of 1960s. The number of sub-organizations under the three major syndicates decreased from approximately 770 in 1980, to approximately 720 in 1985. However, their members slightly increased from approximately 22,800 in 1980, to approximately 23,200 in 1985. As at the end of 1996, all the members of *Bouryokudan* were approximately 46,000, and the members under the three major syndicates were approximately 30,900. As a whole, the number of gangsters has been decreasing as a recent tendency.

The number of gang members cleared by police on Penal Code and Special Law violations decreased drastically after 1985. Especially, the number of Penal Code offenders has decreased remarkably. The number of Special Law violators has also decreased but the number of Stimulant Drug Control Law violations is still high, even after 1985. These crimes frequently take place because the trafficking of stimulant drugs are major monetary sources for gang organizations. These criminal offences of gangsters in general have, however, become less typical in gang organizations. One possible reason for this is that criminal activities of the gang syndicates have gone further underground. Also, diversification of their revenue sources, such as running companies, have further progressed, along with the economic expansion during 1980s as a background.

Although gangs meddling in civil disputes - civil disputes being those arising from the loaning of money, tenancy of real estate and amicable settlements in compensation for traffic accidents - are not new, gangsters are now living closely with the general public and have been utilizing civil troubles positively as major money source since the 1980s. This may be regarded as one of the diversified revenue sources of gangs. Also activities such as *Sokaiya* professional shareholders' meeting racketeers, and involvement in real estate racketeering, and stock speculation operations, are also regarded as activities creating a the diversified money source. Considering this situation, it is safe to conclude that the diversification and modernization of gangster syndicates management has been drastically progressing.

The main sources of income for *Bouryokudan* was gambling and transactions in contraband, such as drugs. In recent years however, *Bouryokudan* have apparently been engaged in large-scale fund-raising activities such as large-scale fraud and intimidation, to gain huge amount of funds, in addition to the activities they have been engaged in up to present. This trend is clearly demonstrated by the growing number of cases involving violent acts against enterprises; aimed at squeezing undue gains from enterprises which produce enormous profits. Also, as mentioned below, it appears that the activities of *Bouryokudan* have tended to become international.

Also in recent years, there has been remarkable changes taking place among *Bouryokudan*. As mentioned above, one

such change is the large syndicates' oligopolistic trend. Pursuant to the expansion of the scope of activities of the criminal syndicates, large syndicates absorb smaller ones in various parts of the country. At present, three large syndicates in Japan enroll two-thirds of all the members of the syndicates. Also, criminal syndicates in Japan tended to show off in the past, flaunting their existence and power at opportunities such as the succession of crime bosses or at the funerals of seniors, but after the enforcement of the Anti-Bouryokudan Law, there is also the tendency to try to hide their organization in order to avoid being "designated" under the Law.

In regard to cases of violence directed toward enterprises, *Bouryokudan*, *Sokaiya* and political activity interference groups can expect substancial gains because the victims are large companies. In recent years, there has been a tendency among these groups to work in closer cooperation. The tendency of Japanese criminal syndicates to become oligopolistic or borderless in their activities can be said to be a special feature of organized crime in Japan.

Another point of note is the progressive armament of gang organizations with guns and other weapons. Looking at the statistics concerned, the fluctuation in the number of weapons seized from gang syndicates and members show a marked change in weapons the gangsters use, from swords and daggers to guns, in step with the changing times. In terms of guns, the number seized and its percentage against the total weapons seized increased since 1970. Especially, the numbers increased in the early 1980s. In recent years, the number of guns occupied about one-third of the all weapons seized. The progressive armament of each syndicate is top secret and thus we project a large increase in crimes related to weapons. The armament number must be further progressing, thus, there is concern that the proliferation of high-powered weapons will increase as gang syndicates have to supplement declining strength due to difficulties in recruiting successors and the aging of the current members.

C. Internationalization of *Bouryokudan*

Internationalization is one of the important trends of gang syndicates in recent years. Data on internationalization is not necessarily sufficient, but the following points can be judged from the recent trend in crimes.

Crimes involving drugs and weapons, such as violations of the Stimulant Drug Control Law and the Firearms and Swords Control Law, are committed on the international stage in many cases. Drugs and guns have been smuggled into Japan for a long time and in recent years such smuggling has come to be committed, on a large scale, by organized groups. Large-scale smuggling cases, unprecedented in the past, are sometimes detected and cleared. As the smuggling and illicit sale of drugs, among others, bring huge profits, the *Bouryokudan* actively take part in unlawful drug transactions, and in recent years, smuggle and illicitly sell drugs in Japan. Considering the frequency that these crimes have been taking place, I have to assume that cooperation between Japanese gangs and foreign criminal syndicates has been considerably progressing. *Bouryokudan* may be linking with some overseas criminal groups which deal in drugs, in order to smuggle drugs into Japan. Gambling tours to other countries, and tours to obtain drivers' licenses, are assumedly done in cooperation between Japanese and foreign local gangs.

In recent years, the violation of regulations on businesses affecting public morals and illegal employment of foreign workers is becoming a social problem. Since the violators are illegal aliens,

domestic and foreign criminal organizations are usually involved in obtaining their entry into the country, and providing residence and employment. It is worrisome that Japanese gangs will strengthen ties with foreign syndicates through these activities.

The overseas activities of Japanese gangs, in addition to the above-mentioned activities, so far includes: operating nightclubs, bars and souvenir shops; introduction of gambling spots and prostitutes to Japanese tourists; and the sale of pornographic films. Because of limitations in their language ability, areas of activity are limited to countries where many Japanese travel. However, as the ties with foreign syndicates increases and strengthens at home and abroad, the internationalization of gang syndicates is expected to further progress the Japanese gangs.

III. TRENDS IN CRIMES BY VISITING FOREIGNERS IN JAPAN

A. Entering Aliens and Residents Who Illegally Overstay

The number of entering aliens started to show a prominent increase around the mid-1980s. It was approximately 1,787,000 in 1987, and exceeded 3,000,000 in 1991. It was approximately 3,410,000 in 1996. As for the breakdown by nationality (including regions; hereinafter the same) in 1996, those from Asian countries accounted for about 60% of the total and Koreans (26%) were the largest in number, followed by Taiwanese (20%), Americans (16%) and Chinese (4%), in that order. Regarding the status of residence, "temporary visitor" occupied the majority, accounting for about 93% of the total.

The estimated number of illegal residents who overstayed in Japan was 283,000 as of 1 November 1996. As for the breakdown by nationality, Koreans (18%) were the largest in number, followed by Philippinos (15%), Thais (14%), Chinese (13%) and Peruvians (5%), in that order.

B. General Trends in Crimes Committed by Foreigners

The number of Penal Code offences (excluding traffic professional negligence) committed by visiting foreigners, which were cleared by the police, has greatly increased since 1980. It was 867 in 1980. It continued to increase drastically, exceeding 10,000 in 1993. The number in 1996 reached approximately 19,500, which was 23 times as high as that of 1980 (refer to Figure 2 in Appendix A).

As for the Special Law violations by foreigners, the numbers of offences (excluding road traffic violations) cleared by the police have shown a similar trend as those of Penal Code offences committed by visiting foreigners, which started to increase in 1990. The number of Special Law offenders, who were visiting foreigners and who were referred to the public prosecutors offices (excluding road traffic violators), has increased from approximately 2,300 in 1980 to approximately 5,900 in 1996.

As for the violations of the Immigration-Control and Refugee-Recognition Act, the number of received violators (the number of offenders referred by the police or other investigating organizations and newly received by the public prosecutors offices) has been on the decrease since the early 1960s. It was on the 600 mark mostly during the period of 1966 to 1985. Since 1989, however, it has shown a drastic increase. It was more than 1,000 in 1990, when the total number of foreigners entering Japan exceeded 3,500,000. The number totaled some 8,000 in 1996.

The number of received violators of the Alien Registration Law had peaks exceeding the 20,000 mark every other year during 1952 to 1957 (namely in 1953, 1955, and 1957) and smaller peaks exceeding the 15,000 mark every three years since 1957,

the last of which was of some 18,300 in 1972. The number started to decrease in 1973. It has decreased remarkably since 1989, and has remained on the 300 mark since 1991.

The number of heinous offences (homicide and robbery) committed by visiting foreigners has still kept a high level despite a declining trend after a peak in 1993. As for homicide, the number of offences and offenders cleared by the police were 58 cases and 72 offenders in 1993, and 36 cases and 41 offenders in 1995. As for robbery, these numbers were 124 cases and 142 offenders in 1993, and 104 cases and 135 offenders in 1995. As to the victims of such offences, in 1995 persons of the same nationality were victims in 40% of the homicides committed by visiting foreigners, but Japanese were the victims in more than 80% of the robberies committed by visiting foreigners.

The number of visiting foreigners among the Stimulant Drugs Control Law violators cleared by the police increased greatly since 1989, when the number was approximately 70. The number in 1996 was approximately 560.

IV. ACTIVITIES OF SOME ORGANIZED TRANSNATIONAL CRIME GROUPS IN JAPAN

A. Activities Related to the Mass Smuggling of Illegal Migrants

More than 1,000 illegal immigrants had been arrested in Japan in 1997 (by the end of September). According to the National Police Agency (NPA), 1,070 people, 90 % of whom were Chinese, were arrested in 51 separate incidents in the same period. In 1996, there were a total of 670 illegal immigrants apprehended, compared with 350 in 1995. In 1996, 670 arrests were made in 28 separate cases, almost double the 15 cases in 1995. Police sources attributed the jump in these figures to increased activity by the "*Shetou*," or "Snakeheads" organized crime group, based largely in Hong Kong and Taiwan, who organized the smuggling of illegal immigrants from China.

The extent of organized smuggling involving Chinese nationals was revealed in 1997 by the January arrest of 86 Chinese in Okinawa Prefecture. Again in January, 31 Chinese were arrested at the Kobe Port. In February, the Maritime Safety Agency arrested a further 96 Chinese on board a vessel off Kochi Prefecture (Shikoku Province). Again in February, 67 foreigners were discovered after some of them landed on Hachijo Island, about 250 kilometers south of Tokyo. In another case in February, 29 Chinese, whose boat ran aground on a local beach, were arrested in Shizuoka Prefecture.

Most of the Chinese arrested in 1997 came from the Fujian Province. They were recruited by the Snakehead group and shipped to Japan where there is a sophisticated reception network for them. The illegal immigrants are lured by the prospect of high wages. Although several members of the Snakehead group have been arrested, police are still unsure as to the extent of its activities. The crime syndicates in Japan also cooperate in the smuggling racket. The following cases showed that the activities of the Japanese crime syndicates, in collusion with a syndicate Snakehead, were playing an increasingly major role in smuggling illegal Chinese immigrants into Japan.

In late March 1997, *W.Y.* (33, Chinese) was arrested on suspicion of illegally obtaining a Japanese passport. He was also suspected of helping 99 Chinese nationals attempt to enter Japan illegally in December 1996. Police believe *W.Y.* played a key role in bringing illegal immigrants from China, under instruction from the Snakehead smuggling ring, while residing in Japan.

In the early hours of a December 1996 day, a Maritime Safety Agency patrol boat

seized a Japanese fishing boat after the would-be illegal immigrants were transferred to it from a Chinese fishing boat off the tip of a peninsula in Aichi Prefecture. After arresting the Chinese passengers and a member of a gang affiliated with the *Yamaguchi-gumi* crime syndicate, police discovered the Chinese syndicate's involvement in the smuggling attempt. A Japanese gangster told police that he had been asked by *W.Y.* to arrange a ship for the Chinese.

W.Y., who once studied at a Japanese language school in Kobe on a student visa, frequently traveled to Kyushu and the Sanin region, where many Chinese have been arrested since the summer of 1996 for trying to enter Japan illegally. He also traveled between Japan and China, via Hong Kong in late 1996 allegedly using a passport he had obtained illegally, to meet with Snakehead members in China.

A failed Snakehead operation to smuggle about 40 illegal immigrants into Japan in 1996 involved 2 Chinese criminal groups and 2 Japanese crime syndicates. The illegal immigrants, smuggled in by the Sino-Japanese group, were arrested in Tokyo in December 1996. The illegal immigrants, mostly Chinese, were discovered crammed into a condominium in Tokyo. The smuggling ring was made up of criminal groups from the Shanghai and Fujian Provinces in China and from crime syndicates in Tokyo and Kyushu. However, the ring had no fixed membership or formal structure and was joined by some of the illegal immigrants being smuggled. Six Chinese Snakehead members who are residents in Japan and 12 Japanese, including gang members, have been arrested in connection with the incident.

According to police investigations, the unsuccessful smuggling operation was launched when *L.G.* (27, Chinese, from Fujian Province) received instructions from Snakeheads in China. *L.G.* sought the cooperation of *Z.L.* (40, Chinese), leader of the Shanghai group, and the Fujian and Shanghai groups agreed to jointly conduct the operation. *Z.L.* asked *T.H.* (28, Japanese), a member of a gang affiliated with the Tokyo-based *Sumiyoshi-kai* crime syndicate, to transport the Chinese to Tokyo. *T.H.* then asked *E.T.* (37, Japanese), members of the *Dojin-kai* crime syndicate in Kyushu, to arrange a fishing boat for the stowaways.

Two Japanese gang leaders, *T.H.* and *E.T.*, admitted making four attempts, with the Hong Kong crime syndicate Snakehead, to smuggle Chinese into Japan. Police quoted the men as saying that two of the attempts were successful, netting Snakeheads an estimated 300 million yen. The Tokyo and Kyushu based gangs each received a cut of 70 million yen.

T.H. told police Snakeheads enlisted his support in smuggling operations on four occasions in early November and December. The first and third attempts were unsuccessful as the smuggling boats failed to appear at a designated place. However, two of the attempts were successful with a total of about 100 Chinese smuggled into Japan. *T.H.*, accompanied by 2 Snakehead members, chartered a fishing boat and took the illegal immigrants to a fishing port in Nagasaki Prefecture (Kyushu Province). They were transported by a large truck to a local expressway and then transferred to two small buses, arriving at the condominium in Tokyo. When the Chinese secured work they would call their families and ask them to pay Snakeheads 3 million yen. Police believe *T.H.* received a total of 70 million yen from Snakeheads, and that after paying 10 million yen in truck and fishing boat rental fees, he divided the money between the two gangs.

Previously, Snakeheads had divided the profits equally between itself and local gangs. Police said the fact that *T.H.* was paid only about 20 percent of the profits indicated that many Japanese gangs were

vying for Snakehead's business.

The cost of arranging a smuggling operation of this type varies depending on the case and the degree of risk involved. In a case cleared in 1997, brokers (Snakehead members) who help an illegal immigrant enter Japan could expect to receive around 80,000 yuan (1.18 million yen). The sum increases to approximately 250,000 yuan (3.7 million yen) if they help them to find a job and somewhere to live.

With regard to the techniques of the mass smuggling, Kobe maritime police have established how 31 Chinese, found in a container aboard a freighter, were able to smuggle themselves into Kobe Port in January 1997. The Chinese stowaways were arrested and charged with violating the Immigration Control and Refugee Recognition Law after they emerged from the container.

According to police, the smuggling attempt was arranged by a Chinese broker based in Fujian Province. The 31 Chinese, all from Fujian and Guangdong provinces, in groups crossed the Chinese border into Hong Kong in late 1996 in cars provided by brokers. After staying at an apartment for one month, they were collected one day by a big refrigerator truck, which took them to the port. After spending five days in the truck, they finally transferred to a container that was connected to the refrigerator truck. Food and plastic bottles of water had been left in the 12-meter-long container to sustain the group during the week long voyage to Japan. They arrived in Kobe on a January morning, and waited at the port to be collected by a person sent by the broker. As the person responsible for collecting them never arrived, the stowaways emerged from beneath the canvas cover of the container and were spotted by police and arrested.

B. Activities of Robbery and Burglary Groups

The National Police Agency (NPA) announced that the number of well-planned robberies committed by organized crime groups, some of them foreign, increased in 1996. Gang members were arrested in more than 24,000 theft-related cases in 1996, an increase of 1.3 times over 1995. More than 25 percent of gang-related robberies were carried out by two or more people, a rate that is significantly greater than the 15.2 percent for all arrests for theft.

The growing role played by foreign gangs, like those from Russia, should be noted. Russian Mafias are believed to be the intended recipients of many of the luxury cars stolen by thieves in this country and then shipped overseas. Japanese gangsters were arrested in Hokkaido and Tottori in car-theft rings that sold their booty to Russian gangsters. Fukuoka Prefectural Police are also investigating allegations that a gang member played a leading role in a ring that stole luxury cars for sale in Russia.

Chinese gangs have also made their presence felt in recent years. As mentioned above, one Chinese triad, the Snakeheads, has been implicated in the smuggling of illegal immigrants into Japan. Members of the Snakeheads are also suspected of having used some of those smuggled migrants to rob clothing and jewelry outlets.

Of the 38 cases in which arrests were made in connection with organized heists at clothing and jewelry outlets 1996, 31 involved Chinese nationals. The robberies netted about 50 billion yen. Miyagi Prefectural Police arrested 11 Chinese - all of whom were smuggled into the country by the Snakeheads - in similar thefts involving about 380 million yen.

About 20,000 jewelry items and brand-name products, worth a total of about 1.2 billion yen, were stolen from 21 stores in Tokyo and seven neighboring prefectures over a one-year period since November 1996, by thieves who visited the stores

during the day and disabled crime-prevention sensors. Posing as customers, the thieves masked the sensors when clerks were not watching and broke into the stores after they had closed. The sensors, which were switched off during the day, were wired to security company offices. If the sensors are covered they cannot detect movement and trigger alarms.

In November 1996, about 200 brand-name products worth about 150 million yen, including Rolex watches and Chanel bags, were stolen from a display case in an imported-goods store in Tokyo. The robbers broke into the store by breaking a window on the second floor. In February 1997, about 1,700 rings and other pieces of jewelry worth about 200 million yen were stolen from a jewelry shop in Tokyo. In May 1997, 1,500 watches and items of jewelry worth about 65 million yen were stolen from a watch shop in Yamanashi.

According to police, many of the stores were visited by a group of two or three customers, apparently Chinese nationals, who reportedly had acted suspiciously at the stores several days prior to the robberies. While one of them kept the clerk busy by asking questions or asking to be shown various products, the other members apparently worked on the sensors, they said.

Police suspect a foreign theft ring capable of selling large amounts of stolen jewelry and brand-name products may be behind the robberies. Police also believe the thieves are knowledgeable about store security systems.

In some respects, Chinese and Japanese gangs operate along similar lines. Generally, they delegate particular tasks, such as making fake license plates or carrying out robberies, to individual members. However, the Chinese gangs differ in that their leaders instruct gang members via cellular phones and take a more behind-the-scenes approach to robbery.

C. Activities of the Pickpocket Rings

An increasing number of gangs of pickpockets, with Chinese leaders and Japanese subordinates, have been allegedly stealing wallets from salaried workers' jackets at drinking spots and shops in Tokyo. In the majority of cases, Chinese pickpockets, assisted by Japanese helpers, lift wallets out of jackets hung on the back of chairs or on hooks on the wall at drinking establishments and other places. The pickpockets call this sort of crime 'swing'.

Such thefts have been on the rise across the country since 1994. In Tokyo, police received about 200 reports of swing-type thefts in 1994, about 400 reports in 1995 and the same number in 1996. But the figure in 1997 (by the end of September) had already reached about 600. In addition, police suspect at least 10 times the reported number of crimes had actually occurred in 1997, because most of the victims probably assumed they had lost their wallets. Most of the thefts took place in bars, barber shops and mah-jong clubs in amusement districts frequented by salaried workers, such as Shinjuku in Tokyo.

A group of 5 pickpockets were arrested in July 1997 for allegedly trying to lift a wallet out of a company employee's jacket that was placed on the back of a chair at a Japanese restaurant in Shinjuku. Of the five, 2 were Japanese. Both were recruited by the group leader (37, Chinese).

The two Japanese helpers told police that the Chinese leader recruited them into the group with promises of lucrative work. The leader promised to pay them 20,000 yen a day if they successfully stole wallets and 10,000 yen daily even if they failed to do so. The leader ordered the pair to handle the risky elements of the crimes, such as actually picking pockets and using the credit cards they stole. He provided the men with jackets and ties so they could

pass for salaried workers.

The five visited the Japanese restaurant one night, pretending to be salaried workers out for a drink. While the group's Chinese members tried to create a diversion by making noise and speaking loudly to restaurant employees, the Japanese pair casually approached a man. The pair allegedly stood on either side of the man's chair, on the back of which his jacket was hanging. When one of them reached into the pocket of the jacket, plainclothes policemen, who had been staking out the restaurant, arrested them.

Police said the five members each played different roles in carrying out the crime. Some kept a lookout, while others diverted attention by creating a disturbance. The Japanese helpers were assigned the risky job of actually stealing the wallets.

Before their arrest, the Sino-Japanese pickpocket gang had committed similar thefts several times, police said. The Japanese pair told police that their leader made them use credit cards found in the wallets they stole to buy luxury goods within an hour after stealing the wallets. In most cases, staff and customers at the establishments targeted by the group thought the five were just being rowdy and rarely noticed the crimes, according to police.

In June 1997, *C.F.* (37, believed to be a Chinese national) was arrested on suspicion of theft after allegedly ordering ring members to steal a wallet from a jacket hung over the back of a chair at a bar in Osaka. The police suspect that *C.F.* is the leader of a pickpocket ring, with about 60 members, responsible for a string of thefts in Tokyo and Osaka. The group targets unsuspecting male office workers who leave their jackets unattended while drinking in bars. *C.F.* usually did not perform any of the thefts. He is suspected of using stolen cash cards to withdraw money from the owners' accounts, and of using stolen credit cards to purchase jewelry, which is easily pawned in exchange for cash. Police also speculate *C.F.* entered Japan illegally with the help of a Chinese Snakehead smuggling ring.

C.F. told police that he had formed the pickpocket gang, along with Chinese nationals who had entered the country illegally. He said he became acquainted with those individuals at coffee shops and pachinko parlors in Shinjuku, Tokyo. *C.F.* also lured Japanese who were in need of cash to the group with the promise of high financial rewards. He told police that he did much of his recruiting of Japanese members in the Kabukicho entertainment district of Shinjuku Ward, Tokyo. Ring members were allegedly informed of meeting times and places via mobile phones loaned to them by *C.F.*.

The number of similar pickpocket groups led by Chinese have been increasing. Some of the Chinese leaders enter Japan on a tourist visa, recruit Japanese assistants, direct them to steal as many wallets as possible during their short stay in Japan, then return to China. Police said the hit-and-run nature of the crime makes it very difficult for them to arrest the Chinese suspects.

D. Activities of the Ticket Fraudsters

A total of 15 people (6 Japanese, 8 Hong Kong residents and 1 Australian) were arrested in June 1997 on suspicion of a series of thefts of beer tickets and highway tickets nationwide. The 15 formed a group that stole and sold cash-convertible beer tickets and highway tickets in six prefectures, according to police. The gang is believed to have committed more than 30 crimes, netting more than 200 million yen.

The arrested Hong Kong residents include 3 members of a Hong Kong criminal group. These three played a central role in the thefts; allegedly stealing about 250,000 yen cash and 8,700 highway

tickets (worth 13 million yen) from a ticket shop in Tokyo, late December 1996. Two unemployed Japanese, *T.S.* (43) and *K.U.* (51) were arrested on suspicion of buying the tickets in the knowledge that they had been stolen. *T.S.* and *K.U.* exchanged the tickets for cash in ticket shops in Tokyo and Osaka.

The Metropolitan Police Department (MPD) began investigations in October 1996, when about 23 million yen worth of highway tickets were stolen from a company office in Tokyo. Police later arrested a woman (53, Chinese) on suspicion as she exchanged the stolen tickets for cash in Tokyo. The woman gave police information about the 3 Hong Kong suspects. The woman's home was used to store stolen items. Police searched the house and confiscated beer and highway tickets worth 100 million yen, 2 pistols and 16 bullets from the premises.

The arrested Hong Kong residents employed a hit-and-run technique; repeatedly entering, departing and reentering Japan to commit crimes. They entered the country with short-term visas, committed crimes within short periods and left the country to avoid police investigation.

E. Activities of the Groups to Defraud *Pachinko* Parlors

Some years ago, counterfeit prepaid *pachinko* cards were rampant in Japan. Recently, criminals are using high-tech knowledge to defraud *pachinko* (a kind of slot-machine) parlors out of large sums of money. Radio transmitters, for instance, are being used to interfere with the read-only memory system that functions as the machine's nerve center.

In one case, a construction worker (22, Japanese) was arrested in Osaka in December 1996, while trying to steal *pachinko* balls by using a wireless device. A parlor employee became suspicious of the construction worker when he saw the machine in front of the man in operation, even though the man was not manipulating the machine's handle. The parlor employee's suspicions were also aroused by the fact that the man was wearing a coat, despite the relatively high temperature inside the parlor. The man was equipped with a radio transmitter, a controller, an antenna, a switch and batteries. He had hidden the switch inside one of his shoes, the controller inside a money belt, and was holding the mini-antenna in his left hand. The whole system was designed to make the machine spit out extra balls. The construction worker told police that he had purchased the device for 200,000 yen from a Chinese man. Similar devices made their debuts in Tokyo and Osaka earlier in the same year.

Other cases have involved people sneaking into parlors late at night and installing bogus ROM systems. A partner visits the parlor the following day, targets the machine and cashes in the balls later.

In some cases, customers have even been kidnapped from pachinko parlors while playing on machines that had been secretly readjusted to release a large number of balls. In Yokohama, a man (22, Chinese) was abducted from a pachinko parlor in early May 1997 by a Chinese group. He had been operating a machine whose original ROM had been switched for a doctored one that radically increased the number of balls released. The kidnappers then demanded a 7 million yen ransom from the man's family. In Sendai, a former restaurant employee was also kidnapped in February 1997 by a group of men who appeared to be Chinese. The gang demanded a 5 million yen ransom, but then freed the man after he promised not to use the same machine.

The machine had been loaded with a doctored ROM system to pay out extra balls. The NPA reported that there were only two such incidents in 1992, 64 in 1993, 103 in 1995, and 53 in 1996. The agency

said that while the number of cases had decreased, the crimes had become more vicious. It added that the development of new prepaid cards had made crime hard for counterfeiters.

F. Activities of Groups Engaged in the Theft and Illicit Trafficking of Motor Vehicles

Cars and motorbikes stolen in Japan are being sent for resale on the black market in China, Hong Kong, Russia, Southeast Asia and the Middle East. Police in a number of prefectures have confirmed that non-Japanese and members of more than one large criminal organization have been involved in at least some of the thefts. There have been many instances nationwide of vehicles - from luxury Mercedes Benz automobiles to Super Cub motorbikes - being stolen and sent abroad. Japan has become a supply source for an international black market in motor vehicles.

In a case in March 1997, the Metropolitan Police Department (MPD) arrested 2 Japanese and 2 Chinese students on suspicion of stealing expensive scooters. One of the suspects told police they had stolen more than 300 scooters. More than 100 million yen, identified as a payment for stolen vehicles, was transferred from Hong Kong to a trading company bank account. The stolen scooters were transported to Hong Kong by a bogus company, with the 2 Chinese registered as board directors. As the scooters were sold at slightly more than 100,000 yen each, the number of stolen vehicles was estimated at more than 1,000. In this case, only 250cc scooter-type motorbikes made by Honda Motor Co. were targeted. It was found that the vehicles had been sent via Hong Kong to China, where demand for motorbikes has mushroomed.

In another case investigated by MPD, a man (30, Vietnamese) man was arrested on suspicion of stealing motorbikes over a long period. The bikes he stole were sent to Hong Kong and then on to other countries according to type. For example, Super Cub models, which are cheap and durable, ended up in Vietnam, while Harley-Davidson luxury models were sent to Thailand, where the make is very popular.

Chiba prefectural police investigating the theft of Super Cub motorbikes found that a group of Vietnamese refugees had set up a trading company and were able to export about 1,000 stolen motorbikes to Vietnam without arousing the suspicions of customs officials. Investigations revealed that the stolen bikes were sent to storage sites in inland prefectures around Tokyo where transportation and customs-clearance procedures were entrusted to a major transportation company. The bikes were loaded into containers at Yokohama Port and sent to Vietnam, via Hong Kong.

Kanagawa prefectural police arrested a group of non-Japanese, including a Pakistani and a Sri Lankan, for their alleged involvement in the theft of four-wheel-drive cars, such as the Toyota Land Cruiser, for the United Arab Emirates and Myanmar markets.

Fukuoka prefectural police were investigating the theft of luxury cars and have arrested a total of 23 people, including gang members. About 500 Toyota Crown, Nissan Cedric and Mitsubishi Pajero models stolen in Tokyo and surrounding areas were transported to some ports along the Sea of Japan, from which they were to be sent to Russia. Different gang organizations performed various roles in the operation, including the theft of the vehicles, transportation and negotiations on sales. Police suspect the involvement of Russian brokers. One of the suspects in this case told police that security at customs houses was laxer at ports along the Sea of Japan.

V. CONCLUSION

Organized crimes in Japan, as mentioned above, are characterized by the long existence of *Bouryokudan* and their organized criminal activities. Under traditional family-like set-ups these groups gain illegal profits through the most suitable ways and means to meet the changing social environment of the time. In recent years, the social environment in Japan may be characterized by the progressing internationalization of its society, as well as by the more severe watching of both the police and the citizens over the daily activities and movement of *Bouryokudan* (since the enactment of the Anti-Bouryokudan Law). Of particular mention are the citizens group movements to erradicate *Bouryokudan*, in close cooperation with the police, raising public awareness under the "Three Never Slogan"campaign; namely "Never Fear!", "Never Give Money!", "Never Try to Utilize!".

It seems that the future activities of *Bouryokudan* will become more internationalized as the *Bouryokudan* try to conceal their presence in Japan by supporting and secretly using visiting foreigners to organize themselves (with Japanese members) into criminal gangs in Japan, committing most profitable crimes; including the transnational trafficking of goods and people. These types of crime, are potentially assisted by the secret cooperation of criminal organizations of the native lands of the visiting foreigners. Also, the criminal activities of *Bouryokudan* and other newly developing criminal organizations may be strengthened by the (rapid development of the international communications) furthering the secret cooperation with other criminal syndicates.

To cope with the changing features of crime and criminal activities, the eradication or controlling of such criminal organizations, old and newly developing, in every country seems to be the most urgent task for all the states of the world. To win the battle against such criminal organizations, sufficient information of their movements, particularly of a transnational nature and of secret international group meetings, must be in the hands of the officers in charge of every country concerned.

Needless to say, the law enforcement agencies shall make continuous efforts, availing current information, to acquire key evidence and to make thorough investigations of such cases under close co-operation with the law enforcement agencies of the other countries concerned. Similar international co-operation is needed in the process of prosecution, trial and treatment of these criminals. Various treaties and agreements codifing such co-operation may well be developed, based on the model treaties adopted by the United Nations Congress.

Lastly, I must highlight that the references made in this paper to the criminal activities of the specific nationals does not intend to disgrace or negate the integrity of all other visiting foreigners staying in Japan, and or people of the same nationality.

TABLE 1

TRENDS IN THE NUMBER OF BORYOKUDAN MEMBERS CLEARED BY THE POLICE FOR PENAL CODE OFFENCES, AND REFERRED FOR SPECIAL LAW VIOLATIONS(1956-1996)

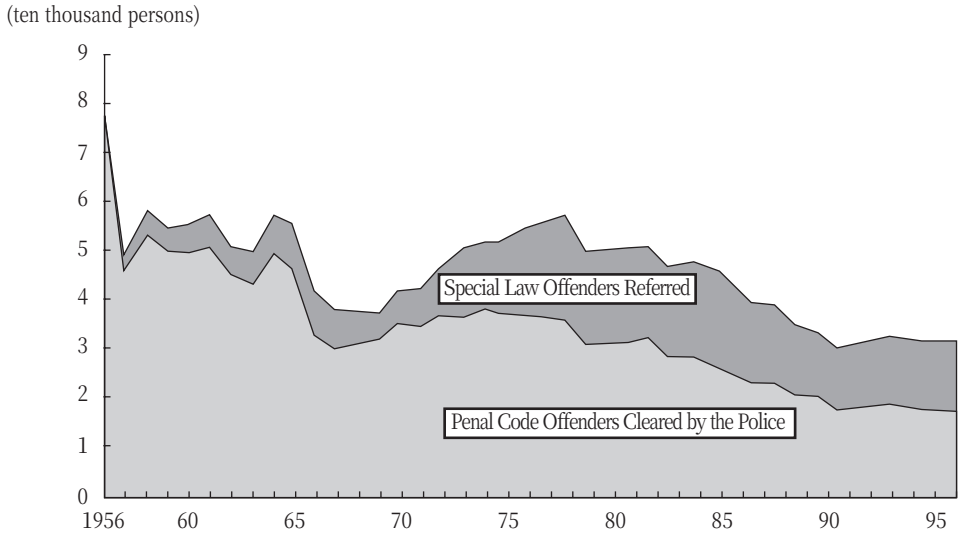
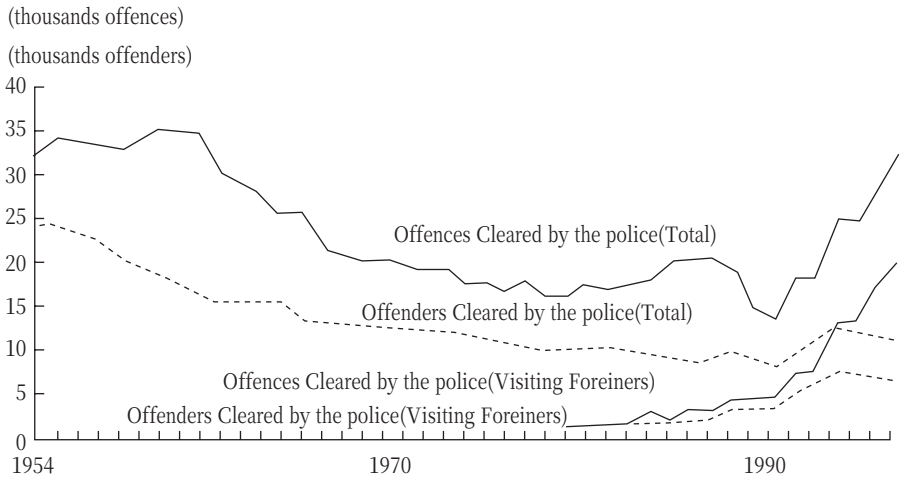


TABLE 2

TRENDS IN THE NUMBER OF PENAL CODE OFFENCES BY FOREIGNERS AND FOREIGN PENAL CODE OFFENDERS CLEARED BY THE POLICE(1949-1996)



Sources:Criminal Statistics by National Police Agency

CURRENT PROBLEMS IN THE COMBAT OF TRANSNATIONAL ORGANIZED CRIME (PAKISTAN PERSPECTIVE)

*Tahir Anwar Pasha**

I. INTRODUCTION

"Organized Crime", initially synonymous to a certain Italian phenomena like 'Mafia', 'Camorra' etc., has now extended to cover the whole world and is the most dificult challenge to criminal justice policies. Criminals no longer live within the parameters of national boundaries. It facilitates criminals to operate transnationally, both in terms of finance and their own security. They don't encounter the difficulties - which the law enforcers face - when crossing national borders for ulterior motives.

The recent decades have seen an information explosion which has reduced the world into a global village. Internet operations and satellite communications are biased in favour of criminals rather than the proponents of the criminal justice system. Just a delay of hours - which is not unusual in official channels - can create a gap of thousands of miles and man hours in the efforts to bring criminals to justice.

Law enforcers always fall behind in matching the wealth of crime syndicates. It is these riches which infact persuade the talented unemployed to keep on joining shady activities. They obviously get a greater benefit, with less effort than they could through legitimate sources. Crime organizers do not have to pass through the cumbersome procedural requirements of demands, budgets, requisitions, sanctions, spending rules and subsequent audits. Similarly, the proceeds of crime are not easily accessible to law officers on various counts. Criminals use intricate methodologies to camouflage the proceeds of crime and there are problems of jurisdiction across national borders. Under these circumstances it becomes almost an impossible task to prosecute and punish the offenders who operate transnationally.

The immunity so provided to crime operators is fast becoming the vehicle of a multi-fold increase in the transnational organized crime. This has been felt by most of the developed (and developing) countries and the issue of transnational organized crime began to echo in international forums. Think tanks remained busy for many million of hours to overcome the difficulties in combatting transnational crime. Discussions, Seminars Workshops, Symposiums, Conventions, Treaties etc. were designed to construct dams on the gushing flow of illicit channels. Some of these efforts, though slow, created an inpact and the desired results, but most of them remaind ineffective due to technology advances (of which the criminals are better availers).

It is in this context that the present paper has been written, to take stock of the problems which the world is still facing in the combat of transnational offenders. In this paper, I shall deal with issues from my own country's point of view on the following type of transnational crime:

(a) Illicit drug trafficking.
(b) Illicit firearms trafficking.

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(c) Smuggling of illegal migrants.
(d) Illicit trafficking in women and children.
(e) Illicit trafficking in stolen motor vehicles.
(f) Money laundering.
(g) Transnational economic crimes (e.g., large-scale fraud targeted at corporations or organizations, credit card fraud, counterfeit currency of financial cheques, fraud by way of manipulating computer systems or other high technology equipment).

As far as Pakistan is concerned, illicit drug trafficking and resultant money laundering are the most relevent issues. The other types of crime mentioned above are either not prevalent nationally - like large scale frauds targeted at corporations or organizations, credit card fraud, counterfeit currency or financial cheques, fraud by manipulating computer systems etc. - or if they are prevailing, they are not of much concern.

There may be sporadic cases of illicit firearms trafficking in Pakistan, but no organized gangs dealing in such nefarious activities have come to notice. However, there was the fallout of the Afghan war, when Afghan refugees sneaked into Pakistan's tribal area along with their arms, some of which were lethal and high tech, for barter trade. This issue has come to a lower level after the war turned into an internal civil war, and the Pakistan border side of Afghanistan came under the occupation of the Talibans.

There was a time when money values had changed in Pakistan - like many other developing nations - and most of the skilled/ unskilled workers sought employment abroad in move affluent countries. A mushrooming growth of gangs dealing in illegal immigrants was noticed. These gangs operated transnationally. With stringent laws and measures taken both nationally and internationally, this problem has almost come to a halt in Pakistan. There were periods in the previous years when zero illegal immigration was recorded.

Illicit trafficking in women and children is also not much of a problem in Pakistan. There was some illicit traffic from a neighbouring region and one far eastern country of women for prostitution (disguised at house maids). Similarly there was some trade of children from the southern part of Punjab (the biggest province of Pakistan) to some middle eastern countries for the purpose of camel races. Although the immigration was legal and was with the consent of the parents or guardians, it was still considered illicit on humanitarian grounds. Both these issues have since died down due to effective checks by the law enforcement agencies of Pakistan and elsewhere.

Transnational trade of stolen vehicles is a recent phenomena as far as Pakistan is concerned. Our western borders are inhabited by tribal groups on both sides. The area is called, in the local language, "Illaqa Ghair", meaning, the land of aliens. The tribes traditionally don't acknowledge the international boundaries. Their free movement provides opportunities to establish safe havens - on the other side of the border - for contraband items. These havens have become smuggling rendezvous points because of the restrictions or heavy duties imposed on certain items, which includes vehicles. The vehicles are transported to settled areas of Pakistan illegally and plied on roads with fictitious number plates. Similary, vehicles stolen from the settled areas of Pakistan - mostly luxury cars & vans - are transported to tribal areas from where they are sold at dirt cheap prices or returned to the actual owner after receiving "handling charges",

which often amount to millions of rupees. This problem is almost a localized issue which can only technically be termed as transnational.

This leaves us with the actual problem area for Pakistan i.e. drug trafficking and the resultant money laundering, which consumes most of the energy of law enforcment in Pakistan.

II. DRUG TRAFFICKING: CURRENT SITUATION

Drugs have remained a social menace, (in some form or other) since the time immemorial. We can not overlook the opium addiction in China, which paved way for the revolution. The Indian subcontinent too, has remained in the spiral of addiction. There is always a growing demand which, as per economic theory, creates the resultant supply. In this regard the situation in Pakistan is no different.

A. Pakistan a Victim - not a Source Country

At the time of independence in 1947, Pakistan was a unable to supply its own opium addicts, therefore opium was imported from India until 1956. After 1956, a few areas were allowed to produce 'licensed opium' under strict controls. The numer of opium addicts never reached a significant mark. The production of licensed opium continued until 1979, when two very important developments took place:

(a) The Islamic revolution of Iran in February 1979;
(b) The promulgation of the Islamic Hudood laws in Pakistan which totally banned opium production. Farmers were therefore left with huge stockpiles - about 800 tons of opium - and did not know what to do with them At this point, some Westerners taught them how to convert opium into heroin. This is how heroin - discovered back in 1898 - was introduced to this part of the world in 1980.

As against 800,000 square kilometers of territory, opium production is confined to only a few isolated pockets of Pakistan. The area under cultivation has been reduced from 32,200 hectares in 1978, to 5215 in 1995; and poppy production from an estimated 800 tons in 1978-79, to 109.5 tons in 1995. In 1996 opium production was further reduced to only 2.8 metric tons. Pakistan is thus no longer a central producer country. It is thus clear that a very negligible area of Pakistan territory was connected with narcotics in the past. Since 1996 Pakistan has ceased to be a producer contry.

The war in Afghanistan led to porous borders with the country, resulting in spread of the narco-guncultre. With no heroin addicts in 1979, Pakistan is now burdened with 1.52 million heroin addicts. Pakistan needs anything between 600 or 800 tons of poppy or 60 to 80 tons of heroin per year to feed its own drug addicts. We are, now therefore, net importers not exporters of heroin.

B. Alarming Domestic Consumption

On the consumption side of heroin Pakistan is badly effected. To know the actual ground situation, a "National Survey on Drug Abuse" was conducted in 1993. The survey dawned facts which created panic among sociologists. The following are the salient features of the survey:

(a) There are 3.1 million drug users (0.77 million in 1988).
(b) Most popular drug is heroin, which is used by 1.52 million (51%).
(c) Second most popular drug is hashish, used by 0.89 million (29.5%)

(d) Proportion of drug users:
Urban - 52%
Rural - 48%
(e) 71.5% of drug users were under 35 years of age with the highest proportion in the 26-30 year age group.
(f) Almost 60% were literate and a similar percentage were employed.
(g) Among occupational categories, the frequency of drug use was highest (53.3%) for those in skilled and unskilled labour categories, followed by sales (14.1%), students (11.4%) and agriculture (10.9%).
(h) The average monthly personal income of drug users was Rs. 3054/- (US $ 28).
(i) 97.2% drug users were male. 2.98% were female.
(j) Over time, the drug abuse pattern has changed in favour of heroin instead of hashish and other traditional drugs.
(k) Sources of introduction to drugs were mostly attributed to friends in 68.6%, and to casual acquaintances or drug pushers in 15%, of the cases. Family members made up another 9% of the cases.

No doubt the dark clouds of drug menace are surrounding Pakistan, but there is a thin silver lining also. About 60% of heroin addicts expressed desire to quit by having recourse to treatment centres. Also, the increase in the number of drug addicts was only 7% during the period 1988-93 while it was 12% during 1983-88.

C. Economic Factors leading to Transnational Traffic

Traditionally poppy cultivation is taken as a cash crop - like other cash crops elsewhere - in the tribal areas and in Afghanistan. This used to be the bread and butter, of the smaller land holders who, in the rugged terrains, had nothing else for subsistence. Cultivantion of poppy was also encouraged by the then colonial government for export to China. Still the area constitutes a very small fraction of the "Golden Crescent" of South West Asia. For centuries, the tribal area was the legitimate supplier of opium until the Islamic Hadood Laws were introduced in 1979. Evolution of heroin after this (due to reasons already explained) reduced the volume of opium but increased its price ten times. As heroin production took less hiding space than crops, clandestine operations became easy and resulted in handsome returns. Profit margins had a cumulative effect with the increase of distance from the source point. Price differentials sky rocketed when the drug reached the international market.

Price difference in the international market can be well illustrated by the fact that the heroin which costs Rs. 70,000/-to 1,00,000 (USD $ 1550 to 2200) per kg in Pakistan, is sold for over USD $100,000 in the streets of some developed western countries. The Criminal Intelligence Directorate of Royal Canadian Mounted Police have carried out an analysis of the international prices of illicit drugs in 1996 for comparative reference.

The huge difference in international and local market prices resulted in billions of dollars in illicit export trade. This has not only created a dearth of drugs inside our country, but also has inflated the domestic spending on drugs. A UNDCP (United Nation Drug Control Programme) study in 1994 estimated consumer expenditure on heroin in Pakistan to be in the range of Rs. 35 billion (US $ 1.2 billion) per year. This volume of drug trade has logically created and underground parallel economy with its own supply and demand mechanism, and its own style of corruption.

Pakistan has also been affected by what is known as the balloon effect. If drug production is reduced in a given area, the impact of continued demand inevitably ensures that greater production occurs in a neighbouring area. Thus while Pakistan has been able to reduce its output of opium considerably, increased production in Afghanistan (2300 tons in 1996 - UNDCP estimate) due to the prevalent political situation there has served to effectively negate whatever progress we have been able to achieve. The impact to the balloon effect has clearly shown that efforts at solving the narcotics problem must also be initiated at regional levels; as increased opium production and heroin laboratories across the borders in Afghanistan have contributed significantly to the supply of opium and heroin in Pakistan.

Drug production in Afghanistan is not only meeting the domestic demand of Pakistan but it is also forming the basis of an international supply route using Pakistan territory as a conduit. The most recent trend of international drug traffic is that Central Asian States are being used for the transportation of drugs to Europe/ U.S.. This fact is acknowledged by the INCB report for 1995 and 1996, and the Conference of 37 countries in Europe in February, 1995. Given the stringent measures adopted by the Government of Pakistan, Pakistan may soon cease to be a country utilized as a major conduit for the export of drugs.

According to one estimate, about USD $1 trillion is involved in the global narco-business, out of which at least USD $ 200 billion is the share of the United States of America alone. This huge volume of money dwarfs any thing earned by legitimate means, leading the former U.N. Secretary General to say before the General Assembly, "Drugs are the most profitable commodity in the world today" affecting the health of financial markets and even local economics. According to various estimates, not more than 5% to 15% of narcotic drugs and psychotropic substances are interdicted by the law enforcement agencies of the world. It is thus obvious that the drug interdiction enforcement strategy has failed to produce the desired results. It is estimated that 90% of narcotics slip through the net of enforcement agencies, and reach the drug market to meet the consumers demand.

III. INTERNATIONAL AWARENESS AND COMBATTING STRATEGIES

Due to the transnational nature of drug trafficking, it would be improper to think that it could be fought single handedly by any nation, no matter how developed it is. The international community as a whole has to embark on a crusade against drugs. The United Nations, being the sole reqresentative institution in this respect has come forward on this issue due to the continuing drug menace. Drug trafficking, coupled with the resultant money laundering, forms the major portion of organized crime transnationally. Efforts made to curb organized crime are, therefore, mainly targeted at these two specialized crimes. The seventh congress on the Prevention of Crime and the Treatmet of Offenders, held in Milan in 1985, adopted the "Milan Plan of Action". Key statements in that plan of action included:

"Crime is a major problem of national and, in some cases, international dimensions. Certain forms of crime can hamper the political, economic, social and cultural development of peoples and threaten human rights, fundamental freedoms, and peace, stability and security. In certain cases it demands a concerted response from the community of nations in reducing the opportunities to commit crime and address the relevant socio-economic

factors, such as poverty, inequality and unemployment. The universal forum of the United Nations has a significant role to play and its contribution to multilateral cooperation in this field should be made more affective".

and:

"Interested Governments should cooperate bilaterally and multilaterally, to the fullest extent possible, with a view to strengthening crime prevention measures and the criminal justice process by undertaking action-oriented programmes and projects".

In furtherance of the objectives of the Milan Plan of Action, in 1990 the eighth congress adopted four practically-oriented bilateral model treaties designed to assist states in building the necessary framework for increased co-operation. Those treaties, subsequently adopted by the United Nations General Assembly, are: the Model Treaty on the Transfer of Supervision of Offenders Who Have Been Conditionally Sentenced or Conditionally Released; the Model Treaty on the Transfer of Proceedings in Criminal Matters; the Model Treaty on Extradition; and the Model Treaty on Mutual Assistance in Criminal Matters.

The origins of international co-operation or mutual assistance in the suppression of crime date back to the beginnings of formal diplomacy. In what has been described as the oldest document in diplomatic history, provision was made for the return of criminals in a peace treaty entered into in (Circa 1280 BC) by Rameses II of Egypt and Prince Hattusili III of the Hittites. The need for mutual assistance, particularly in the granting of help in the provision of evidence to facilitate investigation and prosecution, has been recognazed for some time by the international community. For example, the Single Convention on Narcotic Drugs 1961 imposed a number of obligations on signatory states (Pakistan included as a signatory to it) to ensure that persons committing offenses could not escape justice. It required that each party make conduct proscribed by the Convention a criminal offense carrying an adequate penalty, and to try a person for such an offence committed outside territorial jurisdiction where the offender is found in that country's territory and there is no extradition.

1990 also saw the production of the final report of the Financial Action Task Force on Money Laundering set up by the Heads of State or Governments of the seven major industrial nations (the G7), in which 8 other nations were invited to participate. Another milestone was the adoption, by a plenipotentiaries conference on 20 December 1988, of the United Nations Convention, coming into force on 11 November 1990. The convention has broken new ground in number of respects. First, it creates an obligation on the part of all signatories (including Pakistan) to criminalise conduct constituting what may be loosely referred to as "money laundering" in relation to narcotics activity. This facilitates international cooperation which, due to the application of the dual criminality principle, is presently hampered by the fact that many countries do not at present criminalise such conduct.

Secondly, Article 6 dealing with extradition, imposes obligations on countries, interalia, to conclude bilateral and mltilateral agreements to carry out or to enhance the effectiveness of extradition and, in relation to the conduct proscribed by the Convention, to expedite extradition procedures and to simplify the attendant evidentiary requirements.

Finally, Article 5 deals comprehensively with identifying, tracing freezing and confiscating proceeds, or instrumentalities,

of conduct proscribed by the Convention and obliges countries to adopt such measures as are necessary to enable them to fulfill those obligations, both nationally and on behalf of other signatory states. It also adopts mutual assistance provisions for requests for action in relation to the proceeds of crime, and obliges countries to seek to conclude bilateral and multilateral treaties, agreements or arrangements to enhance the effectiveness of international co-operation in relation to the tracing, freezing and confiscating of proceeds of crime. The Convention also expressly prohibits a refusal of assistance based on bank secrecy. The principal reason for its emergence is the recognition that financial profit is the essential motivation of organized crime and that an effective countermeasure is the interdicting of such profits, which would otherwise be re-invested in further criminal enterprises. So seen, it is a significant deterrent and crime control mechanism. Furthermore, some countries utilize confiscate proceeds to strengthen the law enforcement armory and to finance, for example, rehabilitation programmes for drug addicts. Pakistan has already established for this purpose, a National Fund for control of Drug Abuse in accordance with the provision of the newly promulgated Control of Narcotics Substances Act, 1997.

IV. LEGISLATIVE MEASURES IN PAKISTAN

In line with the recommendations of the Convention against Illicit Trafficking in Narcotic Drugs & Psychotropic Substances 1988, Pakistan enacted comprehensive drug laws. A Control of Narcotic Substanes Ordinance was promulgated in 1995. After some positive amendment, the ordinance become an Act of Parliament in 1997. (Control of Narcotic Substances Act (CNSA), 1997. Similarly through an Anti-Narcotics Force Ordinance 1995 (subsequently enacted in 1997, the Pakistan Narcotics Control Board and Anti Narcotics Task Force were merged into one Anti-Narcotics Force for move effective operation.

A. Salient Features of New Legislation

Before independence Pakistan inherited the Opium Act 1878 and Dangerous Drug Act 1930 which covered most of the drug related issues relevant to that time. However with the passage of time, these laws gradually became obsolete because of the new dimensions that emerged in drug trade. With the introduction of the Customs Act of 1969 and Prevention of Smuggling Act 1977, the unauthorized flow of drugs was somewhat controlled. To enhance punishment, Islamic laws were enacted by the Prohibition (Enforcement of Hadd) Order 1979. Enactment of the Control of Narcotic Substances Act 1997 (CNSA), being a comprehensive law, covered most of the lacunas which had developed in the existing laws due to technological and information based advances. Very briefly, the following are the salient features of the CNSA:

(a) Progressive punishments from two years to death have been prescribed. For the first time, the intensity of punishment has been linked with the quantity and type of drug. Progression is well illustrated with the help of Table 1.
(b) Money laundering has been declared as a distinct crime and stringent anti-money laundering provisions incorporated.
(c) Comprehensive provisions for civil and criminal forfeiture of assets which are derived from the proceeds of drug trafficking.
(d) Creation of special courts for speedy disposal of cases.

(e) Compulsion to include public witnesses in narcotics seizures dispensed with.
(f) No bail for offenses punishable with 5 years or more. For other offenses no bail if public prosecutor so certifies.
(g) Controlled delivery operations legalized.
(h) Comprehensive provisions to enhance international cooperation.
(i) Provision for the registration of drug addicts.
(j) First time detoxification and treatment made statutory obligation of Government.
(k) National fund for drug abuse control set up.

In the past, drug laws were not applicable to Federally Administered Tribal Areas (FATA) and Provincially Administered Tribal Areas (PATA) but now the Islamic Hudood Laws have been extended to these areas. Frontier corps (a well organized force) have been empowered to perform enforcement duties in FATA where, previously, there was no such authority.

B. Enforcement Agencies

All of the above measures have resulted in activities entailing large seizures and interdictions. It is not out of place to mentioned here that the Anti-Narcotic Force (ANF) is not the only agency which takes action against drug pushers. Along with all the Provincial Governments, not less than five Federal ministries are, in someway or other, engaged in anti-narcotics activities. Details of agencies working in this respect are outlined in Table 2. The Anti Narcotics Force (ANF), however, is the primary enforcement agency. It coordinates the activities of all enforcement agencies in the field of interdiction. Important cases of other agencies are normally transferred to ANF for specialized investigation. Assistance and advice to other enforcement agencies is also provided by ANF. It liaises with the INCB, UNDCP, DEA and DLOs for latest developments and information exchange. Apart from this, the ANF is rendering commendable services in reducing the demand for drugs. The new Master Plan gives priority to demand reduction activities, such as preventive education and mass awareness, besides making drug enforcement more effective. Drug addicts will be treated as psychotropic patients rather than criminals. Registration of drug addicts and their first-time treatment has been made a statutory obligation of the government.

C. Enforcement Statistics

The salient feature of the enforcement campaign in 1995 has been two deep drug interdiction raids undertaken by the Frontier Corps (FC) in Tribal Areas. The Frontier Corps in a swift/massive raid in the Khyber Area on January 27 and 28, 1995 seized 480 kgs of heroin, 170 tons of hashish and arrested 19 drug offenders. The above raid was followed by more stringent action deep in the Choora Valley, where FC/ANF seized 6,300 kgs of heroin, 105,000 kgs of opium and 3,705 liters of Acetic Anhydride in March 1995. In addition to the above, 15 heroin processing units were also destroyed. Similarly raids in December 1996 led to the destruction of 10 heroin laboratories and the seizure of 143 kgs heroin, 38 kgs hashish, 757 kgs opium and 1,754 litres of Acetic Anhydride. In March 1997, also the Tribal Lashkar destroyed a non functional heroin laboratory and siezed 70 kgs of heroin, arresting 5 Afghans. The significance of this raid lies in the fact that the Tribals themselves took the initiative for destruction. Their self motivation is a development of monumental proportions.

Apart from these mentionable seizures,

other agencies have also remained active in drug hauls. The following figures recording seizures by all Agencies (in Tons) may be of interest:

	1994	1995	1996
Opium	14.36	107.233	7.377
Heroin	6.02	9.416	5.763
Hashish	178.29	294.525	189.136

Agency wise details are provided in Table 3 for the first 10 months of 1997.

A considerable reduction in seizures has been noticed after 1995, which is an indication that Pakistan has ceased to be a producing country. Drugs illegally imported from Afghanistan for domestic consumption and export to foreign countries are, however, intercepted regularly. Due to the stringent measures of enforcement agencies, Afghan drug traffickers are now diverting their illicit exports through Central Asian States instead of using Pakistan as transit conduit.

D. Two Recent Interesting Cases

The details of two interesting cases of drugs seizure are attached at Appendix A and B.

E. Seizure of Assets of Drug Barons

After years of international struggle, it has been concluded that only way to combat drugs is to control drug money laundering and to seize drug assets. In Pakistan, the concept of forfeiture of assets dates back to 1977 and our Prevention of Smuggling Act 1977, deals with it at length. Assets can be forfeited if acquired through the proceeds of the smuggling of narcotics. These assests could be in the name of the smuggler or any other person on their behalf. The law was also applicable to assets held outside Pakistan. The burden of proof was not on the prosecution, the onus was on the defendant. The seizure of assets has become easier after the CNSA 1997, through which money laundering has also been made a criminal offence.

The Anti-Narcotics Force has frozen assets worth Rs. 3612.92 million (US $ 82.1 million) of 60 notorious drug traffickers in the country. Prominent names among these drug traffickers are Mirza Iqbal Baig, Haji Ayub Afridi, Anwar Khattak, Ashraf Rana, Dawood Jat, Fahim Babar, Sarder Gujar and Munawar Manj. Out of these, assets worth $181 million belonging to Haji Ayub Afridi have been forfeited under court decision. Dawood Jat, a notorious cross-country drugs smuggler, also surrendered recently due to relentless ANF pressure, and is now on bail.

F. Extradition of Drug Pushers

Pakistan extradited major drug barons like Haji Mirza Iqbal Baig, Muhammad Anwar Khattak, Tariq Butt, Khawaja Abdul Majeed, Hafeez-ur-Rehman, Zulqarnain Khan, Misai Khan, Khalid Khan, Taviz Khan, Shahid Hafeez Khawaja, Muhammad Saleem Malik and Main Muhammad Azam, while cases of others are being judicially scrutinized by the Interior Ministry. Haji Ayub Afridi also surrendered to the USA, in the UAE, due to ANF pressure.This was made possible only because Pakistan already had the effective Extradition Act 1972, long before the need was stressed in the UN convention against Illicit Trafficking in Narcotic Drugs & Psychotropic Substances 1988. Pakistan also has extradition treaties with 25 countries. Moreover extradition is permissible even to non-treaty states on a mutual basis. The present position of extraditions for drug traffickers is:

Extradited	14
Pending in courts	11
To be arrested	2
Total	27

G. Mutual Assistance Laws and Initiatives

It is true that the drug menace can not be tackled - because of its transformation into a transnational phenomena - without the mutual assistance of the affected countries. Simple exchange of information can lead to substantial success. Timely intimation from Drug Enforment Agencies (DEAs) regarding the seizure of 6,660 kgs of hashish at Antwerp, Belgium, led to the further seizure of 5,980 kgs of hashish from Islamabad by the ANF. Details of the case are Appendix A and B. The UN convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances 1988, stressed the need for mutual assistance on a reciprocal basis. A model mutual assistance treaty was also adopted in 1990 by the UN General Assembly.

In pursuance of the 1988 Convention, Pakistan added a full chapter on mutual assistance in the Control of Narcotic Substances Act 1997 (refer to chapter VIII of the Act). In the presence of this substantive law, there is little need for treaties, however, friendly countries still enter into protocols for special assistance.

H. Recent International Initiatives Undertaken by Pakistan

(a) UN International Drug Control Programme sponsored the PakIran Border Electronic Monitoring Project aimed at checking the flow of narcotics across the Pak-Iran border. Proposed to be extended to Afghan border.
(b) Pak-India cooperation inn drug related matters.
(c) Memorandum of understanding with Kazakhastan.
(d) Agreements to make joint efforts for control of drug trafficking have been signed with United Arab Emirates, China, Uzbekistan, Kyrghistan and Russia.
(e) Agreements with Saudi Arabia may soon be signed.
(f) Agreements envisaged with several other countries.
(g) Two helicopters have been provided for the ANF by the UK, to augment drug interdiction in Baluchistan and the coastal areas of Sindh.

I. Controlled Deliveries

Besides the US Drug Enforcement Administration (DEA), the following Governments have posted their Drug Liaison Officers in Pakistan: Australia, Britain, Canada, France, Germany, Iran, Italy, Netherlands, Norway, Saudi Arabia and Turkey. Their main function is to exchange information expeditiously in respect to narcotics offenses committed by Pakistani nationals in their countries, where the narcotics originated from Pakistan or were transmitted through Pakistan. The Anti-Narcotics Force in either case provides a timely two way exchange of drug related intelligence and assists them in those investigations. Also controlled deliveries are being arranged with the cooperation of these Drug Liaison Officers, to eliminate international drug gangs operating in Pakistan or in their countries for the control of drug trafficking. The controlled delivery means the technique of allowing illicit or suspected consignments of narcotic drugs or psychotropic substances to pass out through or into the territoy of one or more countries-with the knowledge and under the supervision of their competent authorities-with a view to identifying persons involved in the commission of offenses established in accordance with Article 3, Paragraph 1 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988. Therefore, in pursuance of the above, during 1996, 23 requests of controlled delivery operations were received from the following countries:

Australia (1), Canada (2), Germany (1), Kuwait (3), UK (13), & USA (3). A total 62 kilograms of heroin was exported through these operations. However, the results of only 2 controlled deliveries have been received. Those successfully culminated were in the United Kingdom, where 9 persons have reportedly been arrested. Other operations are under progess.

V. MONEY LAUNDERING

There has always been a parallel economy in Pakistan, whatever the financial system may be. We can call it a 'black economy', 'underground economy' or 'shadow economy' which challenges the regular financial channels. Changing values have created a lust for easy money which, of course, is often contrary to law. Money earned out of the (legal) systems cannnot be declared as taxable, therefore it is either kept hidden or it is laundered to appear legitimate. 'Money laundering' covers all procedures to change the identity of ill-gotten money so that:

(a) it appears to have originated from a legtimate source;
(b) to conceal the true ownership and origin of the money; and
(c) to put the proceeds beyond the reach of the authorities.

There is no one method of laundering money. Methods can range from the purchase and resale of a luxury item (e.g. a car or jewellery) to passing money through a complex international web of legitimate businesses and 'shell' companies. Initially however, as in the case of drug trafficking, the proceeds usually take the form of cash which needs to enter the financial system by some means. Street level purchases of drugs are almost always made with cash. Despite the variety of methods employed, the laundering process is accomplished in three stages which may comprise of numerous transactions by the launderers that could alert a financial institution to criminal activity:

(a) *Placement*: The physical disposal of cash proceeds devived from illegal activity.
(b) *Layering*: Separating illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity.
(c) *Integration*: The provision of apparent legitimacy to criminally derived wealth. If the layering process has succeeded, integration schemes place the laundering proceeds back into the economy in such a way that they re-enter the financial system appearing as normal business funds.

These three basic steps may occur as separate and distinct phases or they may occur simultaneously or, more commonly, they may overlap.

Certain points of vulnerability have been identified in the laundering process, which the money launderer finds difficult to avoid, and where their activities are, therefore, more susceptible to being recognised:

(a) entry of cash into the financial system;
(b) cross-border flow of cash; and
(c) transfers within and from the financial system.

Thus efforts to combat money laundering largely focus on those points in the process where the launderer's activities are more susceptible to recognition. These have therefore, concentrated to a large extent on the deposit taking procedures of banks and building societies in the placement stage.

A. Combatting the Menace

The U.S.A. was the first major country which initiated legislation in 1970 and began to plug some of the loopholes in the banking system. The Bank Secrecy Act of 1970 required all banks to report cash transactions of more than $ 10,000 per day and demanded that all individuals taking more than $ 5,000 in cash across borders, submit currency reports. Still, few banks took little more than passing notice of these new regulations, and some bankers were delighted to break large deposits into lots of $9,900 to avoid the reporting requirements. It took 16 years for the U.S government to crack down on such avoidance. In 1986, Congress made it a separate federal crime to avoid the reporting requirements of the Bank Secrecy Act of 1970. Moving cash in and out of U.S banking institutions became an increasingly high-risk operation.

The International Convention (the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1988) seriously addressed the need to attack the international problem of drug money laundering and the forfeiture of drug assets. The international community resolved to deal with the problem in an effective manner with collective will and cooperation. A sound foundation for a viable international mechanism to grasp and control the increasing menace of drug money was laid. It mandated that all signatory States criminalize any activities connected with money laundering. Since 1990, when this Convention came into effect, a large number of countries have ratified the Convention. Many States have legislated new laws, or have amended the existing ones, and have introduced regulations to implement money laundering counter-measures. Some countries have gone a step further and adopted the recommendations made by the Financial Action Task Force of the 'Group of Seven' which go beyond the scope of the 1988 Convention. Quite a few countries have enacted laws and have entered into treaties stipulating specific procedures to facilitate and promote mutual legal assistance, in accordance with the provisions of 1988 Convention Concerning Drug Trafficking, money laundering and assets forfeiture investigations. As a result of joint drug assets forfeiture efforts, countries like the U.S, Canada, U.K, Switzerland, Colombia, Venezuela, Paraguay, Guatemala, Costa Rica, Cayman Islands, Argentina, Egypt and Bahamas have shared the value of forfeited assets amounting to about USD $87 million up to December 1993.

The United Nations International Drug Control Programme (UNDCP) in its 1997 over-view in the World Drug Report has observed the following trends/issues in money laundering:

(a) The need to legitimize ill-gotten gains has grown in proportion to both the expansion of the illicit drug industry and to the propensity of criminals to operate in the legitimate business world.
(b) Two trends have characterized money laundering in recent years. The first of these is the increasing professionalization of the industry. The internationalization of money laundering is the second major trend, and has been brought about by two factors: the integration of financial markets into a complex, global, entity; and the efforts by traffickers to avoid detection by concentrating operations in countries where enforcement is weak and legislation is absent or embryonic.
(c) The above recent developments in national and international areas have created a favourable climate for drug traffickers, smugglers, tax

evaders and other corrupt elements to launder their ill-gotten proceeds increasingly through domestic formal and informal financial institutions. The magnitude of the problem indicates that the challenge is formidable, and the responsibilities immense, and if needs an all out effort from all affected fields to combat this menace. An integrated enforcement programme which embraces in its fold not only the arrest of traffickers and the interdiction of drugs, but also the confiscation of assets as well as an arrest of the growth of money laundering, thereby establishing integrity in financial institutions and the credibility of the economic system.

B. Pakistan Experience

In the past, some developments have created conditions which were conducive for money laundering in Pakistan. There was an exodus of a large number of Pakistani workers abroad in the early 1970s who, for sending their foreign remittances to their families, often relied on non-formal banking facilities or underground bank-like channels. Later, the same channels were used by businessmen and industrialists to take their capital/payment abroad due to strict foreign currency regulations; thus spawning a reliable, discreet and illegal alternate banking system which remained the preferred mode of banking for criminal elements in Pakistan.

As discussed earlier, large scale domestic heroin addiction created a booming market within Pakistan. A UNDCP study estimated the market volume at Rs. 35 billions (USD $ 1.2 billion). Obviously, this black economy created a number of drug barons, who had to resort to money laundering for 'whitening' their wealth. This process was further intensified when these drug barons joined hands with international syndicates and money laundering gained a transnational status. A UNDCP's report titled "The Illicit Opiate Industry of Pakistan" estimated the turn over of the Pakistan's heroin industry to be 5% of the 1992-3GDP and 20-25% of the total estimated 'shadow' or 'parallel' economy. The validity of the UNDCP's report estimates were later seriously questioned/contested by Pakistan authorities and economists. However one thing is very clear, that Pakistan's domestic heroin trade generates considerably large profits which are presumed to be laundered by criminals through formal and non-formal banking systems. The study estimates that drug export revenues were about USD$ 950 million in 1985, and increased to USD$ 1.6 billion in 1990. Drug earnings estimated in 1992 at USD$ 1.8 billion include a significant amount of withdrawals from overseas bank deposits built up in previous years. Drug earnings averaged USD$ 1.0 billion in the period 1985-91.

Is late 1980s, Pakistan (like many other resource-deficient, developing countries) had to liberalize the economy through deregulation, to create a conducive environment of savings and investments. In this regard, the government of Pakistan promulgated the Economic Reforms Ordinance 1992 to attract foreign exchange held by its citizens abroad. Although this law was designed to attract illegally stashed foreign exchange back to Pakistan, this law provided protection to the source of foreign exchange accounts from being questioned by the tax authorities in Pakistan. However, law enforcement agencies could still investigate the source of such accounts in the case of reasonable suspicion of involvement of the account holder in drug trafficking.

C. Principal Sources of Illegal Proceeds

In Pakistan, the main sources of illegal proceeds are as follows:-

(a) *Drug Trafficking*: As earlier mentioned, Pakistan has a very serious drug abuse problem which has spawned a large domestic drug market, accruing significantly large profits to the drug peddlers and drug barons. Mainly, it is the proceeds from the domestic heroin trade which forms the major part of money laundering in Pakistan. In addition to this, a considerable part of the drug proceeds must be coming from abroad to Pakistan, although most of it finds its way to various tax havens around the world.

(b) *Smuggling of Contraband*: In Pakistan, despite its best efforts to root out the evil of smuggling, considerable smuggling of contraband still takes place. This usually includes luxury goods, electonic appliances, gun running and gold smuggling. The proceeds from smuggling are one of the major sources of black money in Pakistan.

(c) *Organized Crime*: Organized Crime like gambling, counterfeiting, cheating, car theft, bank robber and abduction for ransom are also sources of Pakistan's black economy.

(d) *Criminal Malfeasance in Public and Private Sector*: Proceeds from corrupt practices, fraud or criminal misappropriation in the government/ public, commercial, banking and corporate sectors also contribute to black economy of Pakistan.

(e) *Evasion of Taxes and Duties*: The proceeds acquired by dishonest citizens/entrepreneurs by avoiding taxes and duties from various sectors of economy also contribute toward the black economy.

D. Principal Money Laundering Methods

The principal money laundering methods detected or suspected in Pakistan are as follows:

(a) Hawala/Hundi.
(b) Bearer Investment Schemes.
(c) Investment and Speculation in Real Estate.
(d) Expenditure on Luxury Goods.
(e) Over/Under Invoicing of Imports and Exports.
(f) Bogus Imports/Exports.
(g) Loan Bank Methods.
(h) Prize Bond Racketeering.
(i) Smuggling of Currency.
(j) Money Shown as Proceeds of Agriculture or Poultry.

Among these methods, 'Hawala' remains te preferred mode of money laundering in Pakistan. Users of Hawala services include non-resident Pakistanis working abroad, sending hard earned money to their familes back home; parties indulging in criminal activities ranging from smuggling of contraband to all types of money laundering; and organizations having a nexus to terrorist activities. Obviously the objectives of these users are different, while legitimate in one case, criminal and even anti-state in others. Some of the reasons are:

(a) In case of Pakistani expatriates sending money to Pakistan, the reasons include a time tested confidential system which is efficient and convenient for the parties at both ends. It hardly involves any formal documentation unlike the banking system, which becomes cumbersome for the semi or un-educated person. The "Hawala" dealer, like a good businessman, also offers a better rate of rupee conversion, being the difference of the official and the prevailing market rate, which may

range from 5-10% on account of higher demand of hard currencies. Yet another reason is the lack of banking facilities in the remote areas from where most of the Pakistani expatriates hail. Deregulation of foreign exchange controls since 1992 (after the introduction of Protection of Economic Reforms Act in Pakistan) have not affected the preference for the "Hawala" system on account of the aforementioned reasons against the formal banking system.

(b) Criminal organizations prefer this system for laundering their money, as well as making payments to the concerned parties in Pakistan or abroad. Their preference is basically on account of the anonymity afforded by it due to little formal documentation involved, leaving no paper trail. Obviously the use of formal international banking systems for conducting illegal transactions/trading is fraught with great risks of being traced and connected to unlawful activities, even at a later stage. The "Hawala" system therefore suits the criminal/drug mafia not only for laundering their dirty money, but also for settling financial claims in connection with their illegal trading and smuggling, without running the risk of being detected. However, it is pertinent to mention that taking advantage of bank secrecy provisions, and the absence of suspicion/cash transactions reporting requirements in the past, resulted in drug traffickers also using formal banking channels for the transfer of funds. The "Hawala" operators, now, after the deregulation of foreign currency accounts by Pakistanis and the free movement of foreign exchange to/out of Pakistan without questioning, are taking full advantage of the change in law and policy to promote their business. Without fear of being questioned, they are using foreign currency bank accounts opened in local banks to receive funds from interested parties, for payments to designated parsons in Pakistan. Instances have come to notice where some authorized money changers, maintaining foreign currency accounts in their own names or some other person, have helped drug traffickers receive payments of drug money from abroad.

(c) An other category of "Hawala" system users are the smugglers of consumer goods and arms dealers. On account of higher tariff rates on importable goods and restrictions imposed on the import of arms, the black market of smuggled goods keeps the demand for foreign exchange for payments abroad constantly at a higher pitch, thus making hard currencies more expensive in the currency market, as compared to the official sources.

E. Relationship Between Hawala System & Drug Trafficking/Gold Smuggling.

The Hawala bankers, in addition to large scale money transactions, are also indulging in gold smuggling. Reportedly, gold worth billions of dollars was being smuggled from UAE, Hong Kong and Singapore into Pakistan and India. Much of the smuggled gold through this system can be linked to narcotics trafficking. Subsequently, liberalization in the gold importation policy announced by the Government of Pakistan in the early 1990s was aimed at reducing the significant capital affiliated with the Undi or Hawala systems and to secure foreign exchange.

Presently, Dubai is the main centre for Middle Eastern and South Asian gold smuggling networks. Most of the gold imported in Dubai, comes from Swiss

Banks and metal dealers in London. The Hawala/Hundi systems facilitate the gold trade and smuggling activities in the Middle Eastern and South East Asian Regions. According to one estimate, 99 percent of gold purchased in Dubai is obtained through Hundi/Hawala transactions. It was also reported in an INTERPOL conference held in 1991, that if gold and silver smuggling in stopped, 80 to 90 percent Hundi/Hawala transactions would automatically cease. Moreover, Hundi/Hawala systems provide the hard currency to broker's need to finance gold purchases and smuggling operations.

F. Bearer Investment Schemes

The bearer investment schemes, introduced by the government in the last two decades, conveniently provided the opportunity for exploitation for money laundering purposes. These schemes are:

(a) Bearer National Bond Fund (no longer operative).
(b) Foreign Exchange Bearer Certificates (FEBC).
(c) NIT Bearer Units.
(d) WAPDA Bearer Bonds.
(e) Bearer Certificates of Investment/ Growth Certificates.
(f) Bearer Certificates of Deposits.
(g) Foreign Currency Bearer Certificates (FCBC).
(h) Prize Bonds Schemes of various denominations for Rs. 50, 100, 500, 1000 and recently introduced Prize Bonds of Rs. 10,000 and 25,000.

The government was moping up some revenue from these beasrer investment schemes by imposing tax ranging from 1% to 7.5%, which may be described as the cost of laundering black money. Bearer bonds/ certificates found in the possession of drug trafficker or their associates are still liable to forfeiture under the law.

G. Government of Pakistan's Measures to Control Money Laundering.

The Government of Pakistan, due to the worsening drug situation, has taken several legal, administrative and policy measures not only to counter money laundering but also to forfeit assets acquired through drug trafficking and the smuggling of contraband goods. In pursuance of the 1988 UN Convention, to which Pakistan was a signatory, the Control of Narcotics Substance Act (CNSA) 1997 (previously an ordinance of 1995) was promulgated, effectively putting an impediment on freely practiced money laundering, particularly for drug proceeds. It is the first time that money laundering has been declared a crime and the reporting of suspicious transactions by the banks and financial institutions has been made obligatory in this substantive law (refer sec. 67-69 of the Act). Section 67 (2) provides imprisonment for up to three (3) years if there is a failure to supply information. The State Bank of Pakistan (the Central Bank) has also issued the 'Required Prudential Instructions (1989) and Regulations (1992) to the banking sector. In contrast to USA laws there is no lower limit for reporting suspicious transactions, which eliminates the loophole of breaking the transactions in smaller parts. The State Bank has also agreed, in principal, to bring all types of financial institutions/corporate sectors, including money changers/stock markets, within the purview of money laundering laws and regulations. The State Bank has already issued guidelines to non-banking financial institutions for preventing their involvement in the money laundering activities of other unlawful trades.

Regarding money changers, it is relevant to mention that as part of exchange control reforms, Pakistani nationals and residents, Pakistani companies/firms have been granted licences to act as authorised money

changers (AMC). These licences are issued strictly in accordance with the procedure and conditions laid down by the State Bank. These conditions aim at making AMC's business transparent and for helping in identifying transactions.

Under section 12 and 13 of the CNSA, acquisition and possession of assets derived from narcotic offenses has been made punishable with up to 14 years of imprisonment, plus fine and forfeiture of drug money.

Although Pakistan is already extending legal assistance to requesting countries for carrying out investigations in the field of drug trafficking/money laundering, the Government of Pakistan, included in the CNS Act 1997 a separate chapter on mutual legal assistance. At the moment Pakistan has not yet entered into mutual legal assistance treaties with other countries.

In 1994, the Government of Pakistan discontinued Dollar Bearer Certificates in Europe and America for the primary reasons that these certificates could have been conveniently used for money laundering.

VI. CONCLUSION

From the above discussions it is clear that transnational organized crime can not be fought without developing transnational combatting strategies. That is why this issue has been taken up at the UN or international level. Numerous deliberations have resulted in the present state of awareness about this ever increasing menace. Still, the community of the world is lacking in its efforts to match the advancements being made by cross-country outlaws. We have already seen that the UN is just an advisory institution and can not interfere with the sovereignty of States. Some recommendations made may be considered as such interference by some States, because of their own internal political and financial circumstances. However such states must consider that in the long run they might be the losers. Pakistan, as we have seen in previous section, has honoured its commitment to all the international conventions to which it is a signatory. Enactments/actions may have been a bit late, but these are still a step ahead of the international response. The following are worth mentioning in regard to Pakistan:

(a) We have reduced poppy cultivation to almost "zero".
(b) Due to the non-production of opium, Pakistan has become an importing (illicit) country to fulfil the demand of its 1.52 million addicts.
(c) Effective crack downs by law enforcement agencies have compelled the change of route from Pakistan to the Central Asian States.
(d) Punishments for drugs have been made harsher.
(e) Pakistan is liberal in extraditions. We have Extradition Treaties with 25 countries, and extradition is still possible with non-treaty States.
(f) Special emphasis has been placed on mutual assistance and particular provisions have been made in the substantive/procedural laws.
(g) Laws for the forfeiture of ill-gotten assets are more effective then the required international standards.
(h) Money laundering has been considered as a distinctive crime and legal provision and prudential regulations have been promulgated.
(i) A fund has been established to rehabilitate drug addicts.
(j) Anti-narcotics agencies have been strengthened, despite financial restraints.
(k) Constitution of Special Courts for Drug Offences would go a long way

for speedy justice.

(l) Promulgation of Control of Narcotics Substances Act 1997 would be a landmark in the control of drugs.

Despite all of the above steps, we still feel handicapped in or efforts to combat transnational organised crime. Decreased poppy production in Pakistan has been countered by a reciprocal increase in Afghanistan, which means that there is hardly any difference in supply (except the source). So we have to concentrate now on demand reduction. The National Fund for Drug Abuse Control has been set up, but due to financial restraints, the required results are difficult to achieve. International aid agencies should now take stock of the situation and sufficient funds should be provided to augment the Fund. A consortium may be established for coordinating aid programmes.

A sound foundation has been laid by the Vienna Convention of 1998 to build a viable international mechanism to control the large scale international money laundering of illicit drug traffickers, through preventive measures and enforcement by the forfeiture of drug assets. There is evidence that drug trafficking organizations frequently make use of territories of countries:

(a) that are not parties to the international drug control treaties;
(b) that have formally ratified conventions without implementing their provisions;
(c) that suffer from civil war, terrorist activities, political instability, ethnic conflict, economic depression or social tension;
(d) that are not in a position to ensure government control over some parts of their territories; and
(e) that are not able to maintain adequate law enforcement, customs and pharmaceutical control services.

Drug traffikers also seek out countries and territories with weak central banks, restrictive bank secrecy practices and limited control on foreign exchange.

Although there are many extradition treaties and mutual assistance agreements between different countries, there are still pockets where no extradition treaties exist, and the drug pushers make full use of this. Similarly, despite the adoption of model mutual assistance treaty by the UN, there has not been a sufficient response from the signatory countries.

The desired objective of completely stopping money laundering can not be achieved unless a further measure of requiring banking and financial institutions to examine the origin of a deposit, and commercial activity generating it, before it is accepted, is universally adopted. Illicit funds must be stopped before entering the international banking system.

VII. RECOMMENDATIONS

In the light of the discussion on problem areas, the following recommendations are made to effectively deal with international money laundering and the enforcement of forfeiture of drug assets:

(a) There is need to educate and sensitize national governments to the evil effects of drug money and the universal need to combat it by the adoption of stringent counter measures through domestic policy on money laundering, as well as offering meaningful cooperation and assistance to a regulatory body (to be established, if not existing) and law enforcement agencies.
(b) The issue of the lack of universal

adoption and enforcement of viable anti-money laundering provisions, contained in the UN Convention of 1988 and supplemented by the recommendations of Financial Action Task Force (FATF), must be seriously addressed by all affected nations of the world. A mechanism of pressurizing the non-signatory, as well as signatory but non conforming, countries through economic and financial sanctions should be developed and adhered to as a matter of policy under the umbrella of the United Nations. One such action could be black listing the defaulting nations/banks and withholding international loans/aid to them; in addition to stopping the handling of any transactions originating or passing through black listed nations whose banks are prepared to handle illegally accumulated funds. These pressures could be applied by the loan giving countries, with the blessing of the United Nations.

(c) In order to ensure uniform and regular enforcement of various anti-money laundering provisions in the banking, financial and commercial sectors, there is need to create a true multi-national banking, financial and commercial regulatory body. This body should be empowered to inspect and ensure compliance of the various counter-money laundering provisions. Within each country also an effective central body comprising of banking experts, chartered accountants and law enforcement personnel should be charged with the responsibility of inspecting and ensuring the implementation of the various anti-money laundering provisions adopted under the local state laws.

(d) Equally important is the pressure from the client countries and important depositors in international banks, who must insist that they will not do business with instututions that fail to adhere to the new tough international reforms on examining money sources.

(e) Law enforcement agencies operating in countries who are just beginning to initiate assets forfeiture investigation, under newly enacted legislation, lack the necessary expertise. Extensive training programmes covering intelligence gathering, financial investigation techniques involving local and foreign jurisdictions, and prosectution aspects must be initiated in cooperation with the UNDCP and other such international organizations. The launching of joint financial drug assets investigations by various national law enforcement agencies, for better cooperation and co-ordination to trace drug assets for forfeiture, could prove to be very rewarding, especially for the less experienced enforcement agencies.

(f) Regular exchange of intelligence reports/data on transnational drug cartels, their modus operandi and their money laundering networks should be ensured.

(g) An international fund of forfeited drug assets may be set up, which may receive fixed percentage of all forfeited assets from all concerned countries. This fund should be utilized to:

- develop well researched intelligence database on international drug trafficking and money laundering organizations, their assets, bank accounts and other relevant information on their criminal activities;
- to set up an efficient communications network between

drug enforcement agencies in all countries, to enable them to make use of this database in their day to day operational work;

- to design and conduct various courses at the regional level for improving the professional skills of the intelligence, investigative and prosecution personnel of the law enforcement agencies.

APPENDIX A

CASE NO. 1 - RECOVERY OF 6660 KG HASHISH AT ANTWERP, BELGIUM (AUGUST, 1996) 5980 KG HASHISH AT ISLAMABAD (AUGUST, 1997)

In August 1996, customs officials of Belgium confiscated a container sent from Karachi containing household effects from which 6660 Kg hashish was recovered. The hashish was hidden in the personal luggage of an Egyptian diplomat, Muhammad Salah Sadiq, who was transferred from Islamabad. The luggage was being shifted to Switzerland, where the daughter of the diplomat was residing. The information was received by the Government of Pakistan through the Drug Enforcement Agency of USA. The Anti-Narcotics Force started the enquiry discreetly. It came to notice that the consignment was sent by one Kamran Gul, Managing Director of Total Cargo Company, Islamabad. On receiving the information of the hashish capture in Belgium, Kamran Gul registered a report in a Islamabad police station stating that the documents relating to the container were stolen and some other person, misusing those documents, shipped the container. Infact the report was registered by Kamran Gul to save himself. Kamran Gul had actually sent the hashish, after proper plannning, taking advantage of diplomatic immunity. His gang was operating transnationally and the following persons were the members of his gang:

i) Mehmat: He is a resident of Turkey and also holds citizenship of Holland. He was the financier of the gang. He came to Islamabad and stayed at the Holiday Inn Hotel where he settled the smuggling details.
ii) Kamran Gul: He was the Managing Director of Total Cargo Company who, along with his two workers Gul Afsar Khan and Mohsin Khalid, arranged the packing and subsequent despatch through the company.
iii) Muhammad Javed Baig: He belongs to Peshawar and procured the hashish from Afghanistan. He also arranged its safe transit from Afghanistan to Islamabad.
iv) Arshad: He is a Pakistani and was living in Holland. He was the organizer of this narco-gang.

The Anti-Narcotics Force of Islamabad kept close watch on the activity of Kamran Gul secretly. It came to notice that Kamran Gul was again trying to despatch a large quantity of hashish in the personal effects of some diplomat. After 7 to 8 months of surveillance, 5980 kg hashish was recovered from his wharehouse in Islamabad which was kept in 46 blue coloured plastic drums. The Anti-Narcotics Force registered the case and Kamran Gul, Gul Afsar and Mohsin Khalid were arrested. The case has been sent to court for prosecution, where it is still pending. Muhammad Javed Baig absconded, while requests have been made to Turkish and Dutch Governments for the arrest of Mehmat and Arshad. After the arrest of Kamran Gul it was disclosed that the hashish was brought from Afghanistan in the “Ilaqa Ghair” (Tribal Area), from where it was transported to Islamabad through a specially made oil-tanker. The hashish was kept in a warehouse for three months. The warehouse was obtained at a monthly rent of USD$ 1000. The consignment was again

shifted to another (lower rent) premises from where it was recovered.

APPENDIX B

CASE NO.2 - RECOVERY OF 26 KG HEROIN FROM ISLAMABAD INTERNATIONAL AIRPORT AND HOLIDAY CROWN PLAZA HOTEL, KARACHI

The proverb "where there is will, there is a way" was proved right by the Anti-Narcotics Force when, in November 1996, 26 Kgs of heroin was seized from Islamabad International Airport and the Holiday Crown Plaza Hotel, Karachi. As a result of the seizure, three African nationals, belonging to the Sudan and Zaire, were arrested. The ring leader was a Sudanese national, based in Nairobi, by the name of Tariq Hji Idris. The others, a woman, Hullu Kyamuno and a man, Ali Kaita, were just carriers who were promised USD $ 2000 for the successful trip, excluding hotel stay and air tickets. Mr Ali Kaita was traveling on a forged Zairian diplomatic passport and an interesting aspect was that the passport was in the name of a lady, Isankunya Fitila, which was written in French and the Immigration Officials at the Airport were not able to discern that it was a female name. Once Mr Ali Kaita arrived at Islamabad International Airport to fly to Karachi, he was accompanied by Tariq Haji Idris. When Tariq Hji Idris sensed danger, he left Ali Kaita and boarded the flight for Karachi. Later 13 Kgs of Heroin was recovered from the suitcase of Ali Kaita. Ms Hullu who had come to airport earlier, successfully boarded the aircraft along with the drugs. Ali Kaita was interrogated on the spot and he disclosed that Tariq Haji Idris had given him two suitcases and he did not know what was in it. One this information, the ANF and ASF (Karachi) were alerted. The moment Tariq Haji landed at Karachi Airport he was taken into custody by ASF and handed over to ANF Karach. Search of his person led to the recovery of USD$ 22,000. By then, ANF Karachi and ANF Islamabad had no knowledge of Ms Hullu being third member of the gang. Mr Tariq Haji was later brought to ANF Islamabad for interrogation. It was during the course of interrogation that Ali Kaita and Tariq Haji disclosed information about Ms Hullu being their third partner. It was too late to arrest Ms Hullu as quite some time had lapsed in the interrogation process, and it was expected that Ms Hullu, along with the drugs, must have left the country. Anyway, an effort was made by ANF to trace her and an officer was sent to karachi to find Ms Hullu. While going through the FIA immigration record, it was learnt that Ms Hullu had left the country a few days prior. The investigating officers traced the last address of Ms Hullu in Pakistan, which was the Holiday Crown Plaza Hotel, Karachi. On reaching the Hotel it was found that the woman left behind two large suitcases and had told the Hotel Administration that she would be returning to collect them later. The two suitcases were taken into custody and broke open by ANF officers in the presence of the Hotel staff, and another 13 Kgs of Heroin was found. The hotel staff were instructed to inform ANF whenever someone came and asked for the suitcases. Suddenly, after a few weeks, the Hotel staff found Ms Hullu asking for suitcases. She had come back from Nairobi, along with her boyfriend, to get them. She was arrested and sent to jail. The boyfriend however, was not found to be involved in the drugs business and was therefore released.

TABLE 1

PROGRESSIVE PUNISHMENTS ACCORDING TO THE CONTROL OF NARCOTICS SUBSTANCES ACT 1997.

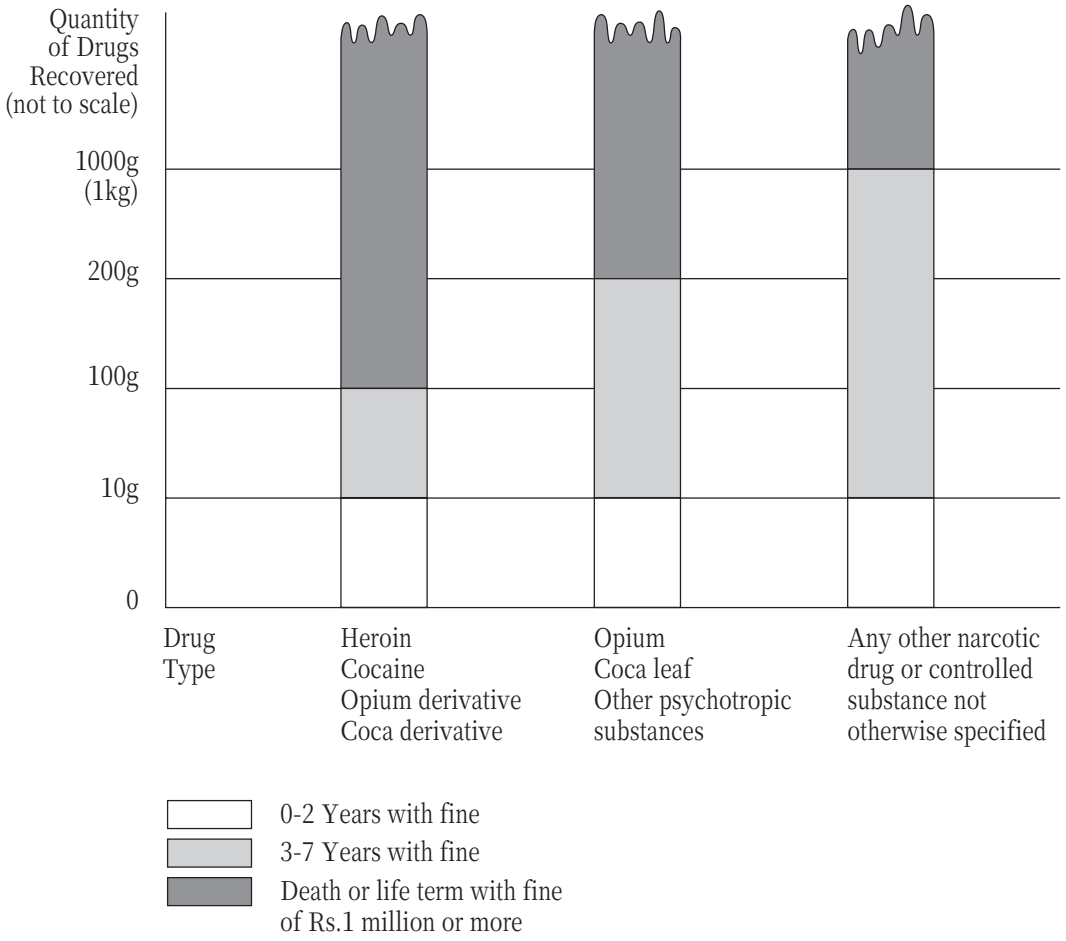
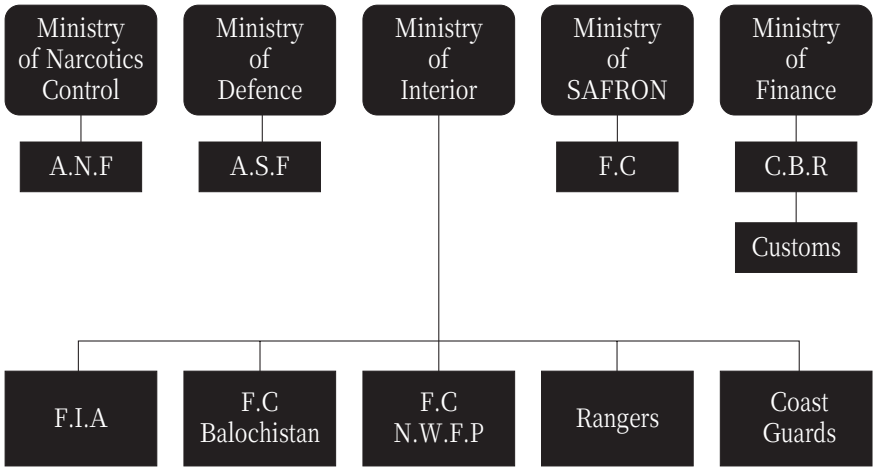
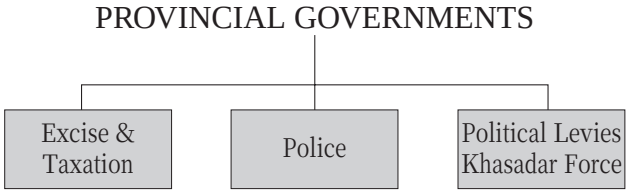


TABLE 2

GOVERMENT OF PAKISTAN





A.S.F	Airport Security Force
A.N.F	Anti Narcotics Force
C.B.R	Central Board of Revenue
F.C	Frontier Constabulary/Frontier Corps
F.I.A	Federal Investigation Agency
N.W.F.P	North West Frontier Provance
SAFRON	States & Frontier Regions

TABLE 3

ANTI NARCOTICS FORCE STATEMENT SHOWING NARCOTICS SEIZURES WITHIN PAKISTAN FROM PERIOD 01/01/97 TO 31/10/97

QTY. in Kgs./Nos.

	OPIUM			HEROIN			CHARAS			BHANG			OTHERS		
AGENCIES	No.of Cases	Qty. Seized	No.of Defend.	No.of Cases	Qty. Seized	No.of Defend.	No.of Cases	Qty. Seized	No.of Defend.	No.of Cases	Qty. Seized	No.of Defend.	No.of Cases	Qty. Seized	No.of Defend.
A.N.F	30	27	1033.795	119	163	868.422	123	179	21802.463	1	1	5.000	0	0	0.000
A.S.F.	0	0	0.000	10	10	150.773	6	6	1.785	0	0	0.000	0	0	0.000
BALOCHISTAN F. CORPS	12	1	3114.300	14	2	782.230	17	3	2239.075	0	0	0.000	0	0	0.000
COASTAL GUARDS	8	11	167.552	8	10	75.707	16	14	4217.800	0	0	0.000	0	0	0.000
CUSTOMS	2	4	261.100	318	102	495.324	18	29	39485.790	0	0	0.000	0	0	0.000
EXCISE	254	251	187.349	1045	1047	140.151	822	832	4807.962	11	12	1208.805	0	0	0.000
ISB.POLICE	3	2	1.045	13	14	3.333	32	37	34.963	0	0	0.000	0	0	0.000
N.W.F.P F. CORPS	0	0	0.000	1	1	36.600	0	0	0.000	0	0	0.000	0	0	0.000
POLITICAL AUTHORITIES	1	0	16.000	1	5	60.000	0	0	0.000	0	0	0.000	0	0	0.000
POLICE	1590	1656	1619.841	10331	10475	801.019	20746	20870	19633.965	99	107	2254.260	347	351	14660.00
PUNJAB RANGERS	0	0	0.000	1	1	0.030	0	0	0.000	0	0	0.00	0	0	0.000
RAILWAYS POLICE	36	41	10.816	108	108	20.830	178	100	71.434	16	16	326.000	0	0	0.000
SINDH RANGERS	1	5	6.250	1	2	0.500	3		27.300	0	0	0.000	0	0	0.000
Total	1937	1998	6448.048	11972	11942	413.859	121961	22122	92322.537	127	136	3794.065	347	3 51	14660.00

CURRENT SITUATION OF TRANSNATIONAL ORGANIZED CRIME IN THE PHILIPPINES

*Alberto Rama Olario**

I. INTRODUCTION

The maintenance of domestic tranquility and order is one of the principal responsibilities of government. To survive, the Philippines must effectively counteract the corrosive elements that tend to gnaw at its foundation, as well as the insidious forces that seek to undermine it from outside. Towards the first objective, the Philippine National Police, to which I belong, is one of the principal arms of the Philippine government in its campaign against lawlessness and criminality throughout the archipelago.

For the last four (4) years under the leadership and administration of President Fidel V Ramos, the Philippines had been steadily rising in terms of economic progress and stability, making it earn the distinction of being one of the fast-rising economic dragons in the Asia-Pacific (through the President's National Strategic Action Plan dubbed as "Philippines 2000").It has likewise achieved lasting peace among all Filipinos, as evidened in the most recent signing of the peace agreement with our Muslim brothers in Mindanao and the subsequent creation of the Southern Philippines Council for Peace and Development (SPCPD),which ended the decades-old rift.

To sustain the success that we have so far achieved, the maintenance of peace and order must be graranteed. Towards this end, the Philippine National Police (PNP) created a parallel National Strategic Action Plan dubbed "POLICE 2000" which envisions the PNP as a professional, dynamic and highly motivated police organization. It is regarded as one of the most credible institutions in the country today and ranked among the best in Asia.

In effectively meeting our mission and vision to serve our country, we in the Philippine National Police believe that in order to efficiently subdue all destructive elements in our society, utmost international cooperation with our neighbors must be made. These elements include international syndicates who operate in our country as well as yours. There should definitely be a continuing and harmonious coordination among all of us in this endeavor.

II. DRUG TRAFFICKING

Drug trafficking and abuse are serious issues confronting both developing and developed nations. Production, trade and consumption of illicit drugs is a threat to the well being of the global community, undermining legitimate institutions, eroding social values and creating broader economic development problems. The Philippines is no exception in this regard.

For many years the fight against illegal drugs and their abuse has been the subject of numerous discussions at the national as well international level. Powerful drug

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syndicates with their vast resources, modern technology and information have reduced the world into a small community where they bring illegal drugs from one place to another in furtherance of their nefarious activities without regard to national boundaries or domestic laws.

Countries affected by the problem have adopted their respective measures, like the enactment of laws and other policies, to include appropriate implementation by different governmental agencies and instrumentalities. Regional and international coordination and cooperation has been likewise resorted to in response to this global problem.

According to a recent survey, drug addiction is the second most important crime problem in the Philippines today. In 1992, there were only about 20,000 drug users, which increased to an estimated 1.7 million in 1997. Out of the 17 million, roughly 1.2 million drug users are from the youth population. Using 5 grams per month per drug user as an estimate, and translating this to money circulated due to drug use and trafficking, we have a monthly consumption of 8.5 million grams amounting to 17 billion Philippine pesos monthly or 204 billion Philippine pesos annually.

There are three (3) roles the Philippines play in the illegal drug scene. First, as a producer, exporter and consumer of cannabis products (marijuana). Second, as an importer and consumer of methamphetamine hydrochloride (shabu) and other regulated drugs. Third, as a transit point for heroin and cocaine. The country's penetrable seaports, airports and long irregular coastline provides ideal entry and exit points for drug smuggling and an alternate transshipment area of international drug syndicates.

A. Drug Situation

1. Marijuana Production

The Philippines is known as a major producer of high-grade marijuana. It continues to be one of the main drugs of abuse in the country due to its availability and low cost. Marijuana is grown in ninety five (95) drug source barangays located in nine (9) regions of the country. These areas are the subject of our continuos eradication.

2. Methamphenamine Hydrochloride (Shabu) Smuggling.

This drug popularly known in the Philippines as 'shabu' is illegally imported by some Filipino-Chinese syndicates from Hong Kong and Taiwan. Large supplies of methamphenamine hydrochloride (shabu) continues to come from illicit manufacturing and processing centers within the region, particularly from mainland China (PROC). The PROC continues to be a significant source of illicit drugs intended for the Philippines. Hong Kong and Taiwan remain as the staging point of Chinese Triad syndicates financing drug trafficking operations for smuggling multi-kilos of shabu for the Philippines. There are also reports that these traffickers facilitate shabu to Pacific States and the USA. In 1995, the PNP Narcotics Group seized more than 200 kilograms of shabu on different occasions. For 1996, the group seized 300 kilograms of shabu worth 600 million pesos as a result of major operations launched against Chinese syndicates based in the Philippines. This does not include the hundreds of kilos seized by PARAC and other PNP territorial units.

3. Trans-shipment Point of Heroin and Cocaine

The Philippines, due to its strategic location in Asia, is a logical choice for a trans-shipment point for heroin and cocaine. Heroin is usually shipped into the country from the Golden Triangle, through

the various airports and seaports. African and Thai couriers with American connections are also utilizing the postal services in transporting drugs. In 1994, a Manila-based Nigerian syndicate was neutralized for transporting 15 kilograms of heroin worth almost 400 million pesos, resulting in the busting of an American-Nigerian Connection. Another major seizure was made in the early part of 1997, with the arrest of a Taiwanese national for transporting high-grade heroin worth 27 million pesos. He was arrested in a controlled delivery operation participated in by the PNP Narcotics Group, Bureau of Customs, USDEA and Royal Thai Police.

Cocaine trans-shipment is being carried-out either by ship or airplane. It is believed that the destinations of these expensive, illicit drugs are the rich nations of Asia, more particularly Hong Kong, Japan and Tiwan. In 1995, 14 kilograms of cocaine was seized in Central Visayas, presumably left in haste by unidentified Chinese traffickers. Seizure of 14 kilograms of cocaine was made in 1996 in the Quezon Province.

B. International Drug Syndicates

1. Chinese Triads

These ethnic Chinese syndicates are mainly responsible for the smuggling of methamphetamine hydrochloride (shabu) into the country.

2. Nigerian Connection

These drug rings are engaged in the smuggling of heroin from the Golden Triangle to the USA and Europe, using the Philippines as a trans-shipment point.

3. Australian and Yakuza Drug syndicates

These groups are responsible for the smuggling of Cannabis from the Philippines to Australia, New Zealand and Japan.

C. Concealment Techniques

Internationally detected modes of concealment are generally employed by drug traffickers, such as:

i) Ingestion, leg casts and body wrap.
ii) Use of false bottoms of luggage, concealment in imported packages and false cavities of furniture.
iii) Concealment in containers and air freights.

D. Government Countermeasures

1. Legislation

In 1994, the government enacted the Republic Act 7659 which imposes the death penalty on certain heinous crimes and drug transactions involving a certain degree or amount of dangerous drugs.

In 1996, the government created the Special Dangerous Drug Court which shall try heinous drug cases against notorious, big-time pushers. This will speed-up the disposition of drug cases filed in different courts.

With the ratification of the 1998 UN Vienna Convention, the Philippine National Police, particularly the Narcotics Group, is pushing for immediate legislation of tough drug laws, i.e. legislation on asset forfeiture, financial management and wire-tapping. These laws will strengthen prosecution and eventually, increase the conviction rate in dangerous drug cases.

2. Law Enforcement Methods

At present, the law enforcement pillar of the Criminal Justice System still adopts the "Multi-Agency Approach" in its fight against the unabated drug abuse problem in our country. The PNP, through the Narcotics Group, contributes a major effort in the fight against the proliferation of

illegal drugs, working hand in hand with other law enforcement agencies like the NBI, EIIB, Bureau of Customs, the AFP, other Task Forces like the PARAC and PACC. Their respective anti-drug operations are designed primarily to prevent and control trafficking of illegal drugs, with an operational strategy of supply and demand reduction and international/regional cooperation and coordination.

III. FIREARMS SMUGGLING

This particular activity is carried out by transnational crime syndicates smuggling US-made firearms into the country. Philippine locally-made handguns on the other hand are smuggled to Asian countries particularly Japan, Taiwan, and other ASEAN countries through the employment of middlemen tasked to ship out firearms (transported by vessels), the misdeclaration of cargo (usually consigned to fictitious personalities) and the employment of jettison techniques.

The modus operandi of the Smugglers is the following:

i) Firearms arrive in the Philippines as undeclared or misdeclared items and included with other goods, consigned to fictitious names and addresses;
ii) Firearms can also be dismantled into pieces and included among metal items or machinery parts legally imported or exported;
iii) Firearms are sometimes thrown from vessels at prearranged areas some distance from the shore where they are later picked up by small boats and brought to undisclosed places.

Government Countermeasures :

i) *Liberalized Policies on Firearms Importation:* The (PNP) now permits licensed firearms dealers to purchase all types of firearms from abroad. As a result, smuggling of foreign-made firearms has considerably decreased since they are now available in country in commercial quantities.
ii) *Legalization of Domestic Manufacturing of Firearms*: The government has legalized local manufacture in the Province of Cebu in Central Philippines. This has resulted in the regulation and better monitoring of locally-made firearms.
iii) *Stricter Monitoring of International Gateways*: Entry points of smuggled firearms are now under strict monitoring by the different Philippine law enforcement agencies. As a result, from 1995 to 1996, a good number have been arrested in the country for gun-running and firearms smuggling. Confiscated from them were around 256 firearms of different calibers, ranging from caliber 38 to M-16 rifles, 1,600 rounds of assorted ammunition and 25 seacrafts. In the Southern Philippines, for the past year, a total of ten (10) major arms shipments form Sabah, Malaysia were reportedly made, three of which were for the Moro National Liberation Front (MNLF) and seven for the Moro Islamic Liberation Front (MLF).
iv) *International Cooperation/ Networking*: The PNP has developed increased international police and USA authorities to identify and monitor the activities of gun traffickers, to pre-empt or neutralize their gun-running

activities and to exchange information related to syndicated groups. This has resulted in a positive tone.

v) *Heightened Cooperation among Philippine Law Enforcement Agencies and Military Units*: The Armed Forces of the Philippines (AFP), the PNP and other law enforcement agencies have intensified intelligence coordination to determine big-time as well as small-time smugglers and illegal gun manufacturers.

vi) *Firearms Amnesty*: Simultaneous with the implementation of OPLAN PAGLALANSAG (or OPLAN "DISMANTLE"), the government offers amnesty to all holders of loose or unlicensed firearms.

IV. SMUGGLING OF ILLEGAL MIGRANTS

In the Philippines, the Bureau of Immigration and Deportation has primary responsibility for the administration and enforcement of immigration, citizenship and alien admission and registration laws. Recent incidents involing illegal migrants included seventeen (17) Iranian nationals who were excluded from entering the country and immediately deported after they were found to be carrying fake passports. Incidents of Filipino illegal entrants to other countries like the US, Canada and other Asian countries also abound and are causing grave concern to the immigration authorities of the affected countries.

In the Philippines, the Bureau of immigration authorities have sought the Philippine Congress to enact a bill increasing the penalty on persons convicted of smuggling illegal and undesirable aliens into the country. The immigration Bureau has gathered intelligence information which revealed that members of foreign-based human smuggling syndicates have been using the Philippines as a prime destination for illegal aliens who want to take advantage of the growing economic opportunities in the country. The Bureau of Immigration admitted that the technology used by these syndicates rivals the governments in the processing of spurious passports, visas and immigration stamps. It was also revealed that human smuggling syndicates were not only engaged in bringing undocumented aliens into Philippines, but also foreign terrorists, fugitives from justice and drug lords.

V. ILLICIT TRAFFICKING OF WOMEN AND CHILDREN

This crime activity has a direct bearing on foreign countries. The modus operandi employed by the syndicates are either to recruit Philippine prostitutes for employment in Japan, Brunei and other ASEAN countries or recruit foreign prostitutes from Colombia, Taiwan and Russia to enter the sex trade in the Philippines. Arrests of these foreigners were made on separate occasions throughout 1995,1996 and 1997.

Likewise, as recorded by our Social Welfare Department, there were fifteen (15) reported cases of pedophilia and child prostitution, with sixteen (16) foreigners arrested in 1995 alone. It is sad to note that this is the adverse result, as reported by the Defense for Children International, of young Filipino girls being recruited by international prostitution syndicates and advertised as virgins in Spartacus Magazine, a widely circulated pornographic magazine, which the syndicate uses as an information network for European pedophiles looking for cheap sex in Asia. It is for this reason that

concerned government agencies have joined hands to arrest the worsening situation. The Bureau of Immigration, for example, has revived its crusade against probable foreign prostitutes.

VI. ILLICIT TRAFFICKING OF MOTOR VEHICLES

Most of the apprehension in the country of illegally transported motor vehicles involves luxury vehicles from the US, Japan and Hong Kong. These vehicles, which are actually luxury vehicles, are entered through the ports but are declared as utility vehicles to avoid payment of ad valorem tax. Some other luxury vehicles entered through the ports are simply undeclared or misclassified. Other vehicles are disassembled and declared as parts, availing lower tariff duties, and then are assembled after release from the customs area. They are commonly known in the Philippines as "chop-chop".

Practically, the bulk of smuggled motor vehicles apprehended are motorbikes landed outside of customs entry points. They are unloaded shipside, often in international waters, into local small boats and landed at the shorelines. Most of these landings occur in Northwest Luzon, Eastern Visayas and Northern Midanao.

VII. MONEY LAUNDERING

Money laundering is another type of commercial crime. It is defined as a process of making or turning bad money/funds raised and earned through crime (for example drug money), into good. The Phillipines has no money laundering laws that will guide law enforcers in preventing this crime.

VIII. TRANSNATIONAL ECONOMIC CRIMES

Technological advancement has greatly affected the relationship among police forces in the region. The introduction and creation of internet and electronic mail (e-mail) in the computer realm has brought members of foreign nations closer to each other. Communication is now at the touch of a finger. However, this has also led to sophistication and a rise in commercial crimes. Syndicates, who have knowledge and skill about computers, known to be "computer hackers", can access bank transactions, imitate certain products and perfectly forge signatures through the use of computers.

Recently, the Philippines scored a significant breakthrough in credit card fraud through the arrest of five (5) suspected members involved in the manufacture and worldwide sale and distribution of falsified payment cards, last 29 November 1997. The arrest resulted from simultaneous raids conducted by the PNP Intelligence Group in cooperation with the US Secret Service and Interpol. Arrested during the operations were the following suspects who claimed/identified themselves to be:

(a) Raymond JACKSON a.ka. ALLEN MILLER
(b) Peter HORNE
(c) Otto URBAN
(d) Helen HORNE
(e) Jaime BUETA

Another suspect, a certain Horst SELIG, who was identified as being the mastermind of the syndicate, was able to elude arrest. Reportedly, SELIG is wanted by the police authorities in Germany.

INTERPOL and the US Secret Service disclosed that this syndicate has successfully operated and eluded arrest in the US, United Kingdom and other parts of Europe, Hong Kong and Thailand. It is believed that they transferred their base

of operation to the Philippines because of the absence of a specific law dealing with fraudulent payment cards. Apparently, they also underestimated the ability of our law enforcement agencies.

The initial investigation conducted disclosed that the local payment card industry listed to this syndicate approximately USD$15 million as a result of the flooding of counterfeit/cloned payment cards manufactured by above-cited suspects. Payment cards issued by at least fifty-two (52) local and international banks and credit companies have been cloned/falsified. These include American Express, Citibank, Bank Americard/ Deutsche Bank, Equitable Bank, MasterCard, VISA and others. Other firms could have been similarly compromised. The extent of the damage on the credit card industry and concerned banking institutions in particular, and the impact on the national economy and on global industry in general, can not be determined until a thorough review and analysis of the software and documents seized from the syndicate have been made.

The syndicate employs the following four (4) basic modus operandi:

1. Skimming Method

A member of the syndicate will go to a business establishment and introduce himself as a representative of a payment card issuing bank. They will then ask to examine the skimming device. Once permitted, they attache the skimming device to their computer, which then grabs and stores the data from the skimming device. The surreptitiously obtained data is then used to manufacture the cloned payment cards.

2. Courier-Intercept Method

Issuing banks, instead of directly releasing payment cards to clients, employ courier companies to deliver the cards. In this method, the syndicates bribe couriers to lend them the card in transient, the data of which is extracted. Once done, the cloned/compromise card is returned to the courier for delivery, a courier is bribed an average of P2,500-P5,000 per card.

3. Cardholder and Syndicates

In this method, the cardholder themself is approached by the syndicate for the cloning of their card in exchange for a certain amount. The syndicate can portray to the cardholder the advantages of having their card cloned.

4. Merchant-Syndicate

This method is done by bribing personnel with access to the account numbers of clients of a business establishment into revealing information about the account number of payment cards of said clients. The syndicate then creates multiple clones out of each account number elicited from the business establishment. As a support to the payment card cloning schemes, fake identification cards such as passports, driver's licenses and similar identification documents are manufactured. These are usually presented as issued by international banking institutions.

Given its enormous impact in the booming payment card industry in the country and business sector as a whole, the PNP appealed to Philippine legislators to expedite the passage of law that will specifically address Payment Card Fraud.

IX. ASSESSMENT

Through the foregoing discussion, we have come up with the following assessment:

i) Crime groups in the Philippines are still loosely organized and structured. These groups are still

in their infancy stages compared to their foreign counterparts who have systematically established broad social spectrums of influence essential to their operation.

ii) The illegal activities of crime groups in the country are largely domestic in implication and effect. Except for firearms smuggling, prostitution and illegal drug trafficking, all other crime activities in the Philippines has no direct bearing or relationship to other nations.

iii) As the Philippines progresses economically with its Medium Term Development Plan(MTDP),it is expected that transnational crimes sponsored by international crime groups will proliferate in the country. This will further be hastened by the displacement of Hong Kong based syndicates after its return to China in 1997.

iv) The Philippines needs to enact Anti-Racketeering and Anti-Money Laundering statutes to cope with organized crime. These statutes will no doubt arm our law enforcement agencies with effective measures to deny organized crime their substantial economic base of support.

v) With the existence of the extradition treaty between the Philippines and the United States, neutralization of crime groups seeking sanctuary in both countries will be accelerated. The Philippines needs also to expand and negotiate with other countries on the forging of extradition treaties and re-negotiation of existing treaties that are hampered by technicalities in enforcement.

X. RECOMMENDATIONS

The following measures involving international cooperation are suggested to effectively curb transnational crime groups:

i) Strengthening of diplomatic relations, networking and vigorous exchange of information and technology through INTERPOL, ASEANAPOL and other concerned international bodies. The establishment of direct linkages with other INTERPOL member countries should be pursued to expeditiously facilitate intelligence exchange and enable immediate action on all cases, particularly the activities of transnational crime syndicates. This could further be enhanced through the mutual sharing of technology, either by exchanging training or by other means.

ii) Forging extradition treaties among concerned nations. Extradition treaties with the other countries are of utmost necessity in suppressing international syndicates and containing the upsurge of transnational crimes. This is particularly true when offenders escape from their country and seek sanctuary in another, thereby evading the full force of the law. We need to re-negotiate existing extradition treaties that are hampered by technicalities in enforcement.

iv) Conduct of joint and coordinated patrols on common borders as a cooperative effort in thwarting organized crime.

TABLE 1

RESULT OF ANTI-NARCOTICS OPERATIONS CONDUCTED

1995 and 1996 statistical data of arrest and confiscation for dangerous drugs

ARREST	1995	1996 (January to December)
No. of Persons Arrested	1,425	1,311
No. of Foreigners Arrested	15 (2 killed)	27 (1 killed)
CONFISCATIONS/SEIZURES		
Heroin	0	1,534gms
Cocaine	14,424gms	1,392gms
Methamphetamine(Shabu)	207,593gms	280,699.24gms
Marijuana Leaves	1,754,956gms	964,062.10gms
Marijuana Plants	6,808,473pcs	9,164,052pcs
Marijuana Seedlings	22,847,193pcs	2,997,065pcs
TOTAL MARKET VALUE	P1.76 BILLION	P2.044 BILLION

TABLE 2

GOVERNMENT COUNTERMEASURES

Kinds of Drugs	Quantity
Morphine, Heroin, Cocaine	40 grams or more
Shabu (Methamphetamine)	200 grams or more
Marijuana(Cannabis)	750 grams or more
Marijuana resin or MJ hashish	50 grams or more

TABLE 3

RESULTS OF PHILIPPINE NATIONAL POLICE OPERATIONS

(1993 to 30 SEPT 1997)

	1992	1993	1994	1995	1996	1997	TOTAL
No of Narcotics Operations	4965	5068	4763	6126	21677	18,632	61,231
Buy-Bust	1977	1844	1516	2355	6246	6439	20,377
Service of Warrants	2811	2980	3093	3602	15231	11,184	38901
Marijuana Eradication	177	244	454	169	200	352	1,296
No. of Arrested Persons	6030	6537	5358	7273	12040	11,325	48,590
No. of Cases Filed In Court	876	345	3558	4374	7505	7,287	23,954
No. of Syndicates Busted	59	20	69	58	65	24	295
Total Amount of Drugs Seized	P1.198	P.828	P1.185	P2.089	P4.428	P1.283	P11.011

TABLE 4

DISPOSITION OF DRUG CASES FROM 1993-SEPT 1997

(PNP NARCOTICS GROUP STATISTICS)

	1993	1994	1995	1996	1997	Total
No. of Narcotics Operations	945	875	1,425	1,000	668	4913
No. of Arrested Persons	1,211	1,006	10,563	1,311	1103	6194
No. of Cases Filed in Court	345	948	854	941	736	3824
No. of Convicted Persons	156	131	50	30	16	383
No. of Cases Dismissed	137	48	6	2	1	197
No. of Pending Cases	52	769	795	909	719	3244

AN OVERALL ASSESSMENT OF TRANSNATIONAL ORGANIZED CRIME

*Muammer Yasar Özgül**

I. INTRODUCTION

Some factors such as technological progress, easiness of crossing frontiers and transition of the economic policies in countries have encouraged criminal organization and added an international dimension to such crime. For instance, while an illicit drug organization uses counterfeit passport and identity cards to hide its members' identity results in fraud ; to legalize the proceeds derived from such crime (by founding screen companies), with proceedings going to banks and foreign exchanges results in the crime of money laundering. Spending money to purchase weapon leads to gun smuggling and that also engenders terrorism. This causes more familiarity and cooperation among crime groups.

A. Definition of Organized Crime

Organized crime is, within an organization which could be in any form, to use violence or at least put pressure to provide benefits. Therefore, the term of "organized crime" consists of some elements below:

i) Existence of an association (2 or more persons)
ii) The aim of providing benefit (money or power)
iii) Violence or pressure.

i) *Existence of an association*: The main component that distinguishes organized crime from other crimes is that two or more people are participating in the crime and putting the desire directed towards the same goal.

ii) *The aim of providing benefit*: Organized crime groups expect material and social benefit as a result of their illegal activities.

iii) *Violence or pressure*: An organized crime group beats, wounds and kills as a violence element and uses threat and blackmail as a pressure element, aimed at providing benefit for itself or a third person.

B. Differences between "Mafia" and "Organized Crime"

Is the organization which is called "Mafia" in the press and public outside of organized crime? To most people the term organized crime and Mafia are the same. This unfortunate mistake arose because so many criminals who made great reputations in the 1920's came from Italy and, in particular, Sicily. The Mafia has for centuries been a notorious Sicilian organization. But it is difficult to hold the Mafia outside of the terms organized crime. Because the Mafia also contains each of the three components mentioned above, it has some characteristics comparable to other crime organizations. For example the Mafia:

- Infiltrates economic and social structures.
- Gets the management of public services and contracts, economic activities, privileges, and authorizations; or takes control at least.
- Gets into, directly or indirectly, the management of commercial and industrial organizations, or companies.

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- Prevents the carrying out of the administration freely.
- Unbalances social and economic life as related to the aforementioned.

In addition the Mafia has;

- A hierarchical structure that performs in solid manner.
- Organization membership tied to defined rules.
- A monopoly on their activities.
- The punishment of the treachery to the organization as death.

As shown, the Mafia influences economical and administrative decision processes. As a result, the Mafia is an organized crime group which threatens public security and affects the general economy and public administration.

II. CURRENT SITUATION OF TRANSNATIONAL ORGANIZED CRIME

A. General Situation Of Illicit Drug Trafficking

The illicit drugs phonemenon has three elements which are different in essence, but somehow intertwined. Therefore, the illicit drugs problem may well be regarded as a tri-fold menace which could be considered under the topics of illicit production, trafficking and consumption. It is not possible however to deny the existence of some organic linkage which enables us to move from one topic onto another between these essentially separate elements. Essentially, if there was no illicit production, there would be no illicit trafficking, and if there was no trafficking then there would naturally be no demand for illicit drugs. Therefore, non-existence of the demand would not give rise to the supply.

Both supply and demand are maintaining their very presence to some great extent. The distance between the supplier countries and the demanding ones causes illicit traffic in drugs. This feature of drug criminality necessitates that drug enforcement focus basically on the supply and demand aspect of the phonemenon. Supply control should include reducing opium poppy and cannabis quantities used to manufacture illicit narcotics; prevention of traffic in synthetic drugs and carrying out the related combat. Demand control on the other hand should include elimination of the possible means leading to drug abuse, carrying out the related combat and the treatment rehabilitation of abusers as well as addicts. Meanwhile, control of both supply and demand should be carried out at operational, political, diplomatic and socio-economic levels.

Any fight against drugs based solely on an individual nation's effort will not lead to absolute success because illicit drug criminality is linked to organized crime and terrorism. Effective international cooperation is necessary in this regard. The ever increasing work of nations on this issue and the direct actions they are taking to combat drugs are well commended. Turkey too is committed to the combat of drugs, both with national efforts and initiatives taken internationality.

B. Production Areas of the World

Drugs and the various materials that are used in drug production are produced in large amounts in each continent.

Cannabis is cultivated in a significant amount of the major countries in Africa. According to Interpol reports, South Africa is becoming a main source of the illegal cultivation of more than 175.000 tons of cannabis. The enterprises founding the clandestine laboratories for the production methaqualone or other psycotrophic materials have been detected in some eastern and southern African Countries (South Africa, Mozambique).

In 1996, as in the past, hashish was raised for domestic consumption in Middle America and the Caribbean. Jamaica continued to be an important source of hashish for consumption in Europe and Northern America. Hashish is also cultivated and produced in Mexico (Brasil and Colombia) for the USA. The illegal production of metamphethamin and LSD increased in the USA. In Colombia, poppy and opium poppy is also raised. Peru and Bolivia has remained the biggest producer of coca. The coca that is the raw material of cocaine is smuggled from Peru and Bolivia into Colombia, where it is transformed into cocaine and enters the world market [3]. The production of synthetic drugs and acetic anhydride that is used in the production of heroin is realized in the USA.

Cannabis grows naturally in a number of the countries in south-east Asia, such as Thailand. The illicit production of poppy and heroin and the cultivation of opium poppy have continued to increase in Burma. Acetic anhydride is produced in China, India and South Korea[4]. An important amount of ephedrine has been produced in the Russian Federation. In addition, cannabis has been grown in the Russian Federation, especially poppy in Khazakistan. Pakistan also has an important place in the production of resin hashish[5]. Opium poppy has been cultivated in legal ways in India, Japan, China and Turkey. Heroin that is significant part of drug trafficking, is produced from poppy which has been grown in the Golden Triangle (Burma, Laos, Thailand) and the Golden Crescent (Pakistan, Iran, Afghanistan) . Poppy has been grown in legal ways in France, Spain, Hungry. Holland has become a producer of cannabis in closed areas. Amphetamine has also been produced in Holland. A major number of LSD seized in Europe was welded in the USA. In Australia and Oceania, illegal cannabis and legal poppy has been grown and methamphetamyn has been produced.

As shown above, drug materials arise naturally or are grown on purpose for the reason of high profit, to finance terrorism or cold wars between countries. Drug trafficking has followed many various routes in countries throughout the World from east to west and south to north.

C. Illicit Drugs Problem In Turkey and Related Policies and Fight Against Drugs

We have tried to cover drug problems and the global fight so far. In this context, Turkey is a transit point because of features such as an adjacent geographical location which is in intersection with the continents of Asia and Europe. Having those producing regions in the east while the consuming regions are in the west-coupled with the passing of the Balkan Route through her-Turkey has, as the most important problem, the illicit trade of narcotics.

Fluctuations in this region have caused, as mentioned above, the emergence of new routes. Enhanced criminal capabilities for those drug syndicates which were new to the republics which gained independence upon dissolution of the former Soviet, coupled with crises caused by such economical transition, have led to the emergence of new criminal groups with either involvement in or cooperation with drug trafficking groups.

Turkey is facing traffic from east to west with the trafficking of synthetic tablets, such as Captagon and Ecstasy (and facing west-to-east traffic) of cocaine and it's precursors, mainly acetic anhydride, which

(3) INCB Report for Precursors 1995

(4) INCB Report for 1995

(5) INCB Report for 1995

is used in heroin production. In this context, Turkey is also an intersection for narcotics and their precursors in addition to her transit position for other drugs.

The majority of the narcotics moved into Turkey from the east and/or southeast, belong to the PKK terrorist organization. The same organization traffics some other parts of the narcotics across the border for drug trafficking organizations for a certain commission. Drug trafficking organizations, mainly the PKK, act as an intermediary for transporting their illicit 'cargoes' supplied from producing countries to consuming areas and markets.

In some other cases, as will be mentioned under the heading "Clandestine Laboratories," it has been detected that the PKK terrorist organization and other drug networks are attempting to supply morphine base at a lower cost, converting amounts of the substance into heroin in clandestine heroin laboratories, and finally moving end-products at a higher price to consumption locales in Europe. Turkey's location as an intersection plays a major role in such undesired formation.

Metaphorically speaking, it is impossible for Turkey to avoid the drug menace, given that she is already surrounded by such pervasive drug movement. Dangerous indications suggesting the emergence of addiction have recently begun to surface. However, more important for Turkey are the facts that drugs constitute the major financial support for the PKK terrorist organization, and that drug funding is known to benefit from this organization.

Subordinated to the Ministry of Interior, the General Directorate of Security, General Command of Gendarmerie and Coast Guard Command, General Directorate of Pharmaceuticals of the Ministry of Health, AMATEM (Treatment Center For Alcohol and Substance Addicts), Turkish Grains Board of the Ministry of Agriculture and Village Affairs, the General Directorate of Customs and the General Directorate of Customs Guard of the Undersecretaries of Customs are on duty to combat illicit drug trafficking in Turkey.

The General Directorate of Security is the main operational body for drug enforcement in Turkey. The General Command of Gendarmerie carries out drug interception efforts through its narcotic teams employed in rural and border regions. The Coast Guard Command carries out, with assistance from the Turkish Navy when necessary, the drug fight at sea.

The General Directorate of Pharmaceuticals of the Ministry of Health defines the procedure for drugs and psychotropic substances used for medical purposes, arranges licenses for legally imported chemicals and psychotropic substances control, and provides for the procedures for treatment of addicts.

The only treatment center for drug addicts, AMATEM (Treatment Center For Alcohol and Substance Addicts) has been established within the premises of the BAKIRKÖY MENTAL STATE HOSPITAL in Istanbul. This mental hospital, under the Ministry of Health, is the largest of its kind in Turkey. Plans exist to set up similar centers in five (5) other regions.

The Turkish Grains Board of the Ministry of Agriculture and Village Affairs is charged with overseeing licit cultivation; issuing licenses; making policies for the purchase of cultivated products, operating the Afyon Alkaloid Plant, and carrying out export transactions.

Subordinated to the Undersecretaries of

Customs, two Directorates are charged with the interception, investigation, and prosecution of any acts of smuggling, including drugs, within Turkish Customs areas.

D. Licit and Illicit Drug Production

i) Licit Poppy and Cannabis Growing

Turkey is a traditional licit grower of opium poppies and controlled and unlanced poppy growing is taking place in 13 provinces. The harvested crops are being processed at the Afyon Alkaloid Plant for medical use. Checks on licit poppy cultivation from poppy cultivation till the end of harvest are being rigidly carried out. This practice which was begun in 1994, and to date, no seizures of opium derived from Turkish poppies have been sighted either at home or abroad.

ii) Precursors Used to Manufacture Heroin

Forerunning among the precursors in illicit drug production, acetic acid is not produced in Turkey but mention can be made of its licit import as it has various domestic industrial uses. Both licit import and distribution of the substance has been under rigid control through the relevant Legislation. No diversion from the legally imported products has been sighted until now.

Turkey is seeing reverse precursor traffic from west-to-east, contrary to what is seen in regard to heroin or morphine base. This means that, Turkey is also an intersection in terms of the trafficking of such substances in addition to being a transit for illicit drug trafficking.

The successful seizure of fifty-three (53) tons of acetic anhydride thanks to conscientious efforts in 1995, has been considerably influential on the 1996 seizures record. Acetic anhydride seizure (25.2 tons) for 1996 has dropped according to the previous year by 49.1% .

iii) Clandestine Heroin Laboratories

As emphasized earlier, it is no longer a secret that some trafficking organizations have turned, in an attempt to magnify their profits, to derive heroin in Turkey through utilizing primitive methods from either acetic anhydride and morphine base supplied from producing countries, thus giving up the practice of carrying the ready-to-use heroin from the production sites to consuming communities. That trend is enhanced by the strategic location of Turkey in terms of illicit drug trafficking. Four clandestine heroin laboratories were detected in Turkey in 1996.

E. Drug Trafficking Passing through Turkey

In this part, the trafficking dimension of the drug problem will be considered first in the context of drug routes passing through Turkey, then an evaluation of drug seizures and the offenders.

i) Routes

The presence of the Northern Black Sea Route, the Balkan Route, and the Eastern Mediterranean Route in the east-to-west, against precursor routes from west-to-east, have already been mentioned. Being a transit point in that regard, Turkey is an intersection where there is some reverse traffic in terms of drug trafficking routes. Situated in the midst of such traffic, Turkey has many drug routes passing through her. Trailing along a west-to-east line, the precursors traffic is carried out with such substances originating in their production zones (the European countries) being moved to drug producing regions, particularly the Golden Crescent region.

ii) Seizures

In general, there is an increase as to the amounts of heroin, morphine base and synthetics, as against some decrease in hashish and cocaine quantities, in drug seizures in 1996. Factors like consuming

preferences, drug prices, etc. play a major role in such changes.

iii) Heroin

Ever increasing demand is the primary element to explain the increase both in heroin cases and related seizures. Destination of the heroin trail passing through Turkey, Europe, has long had consuming masses. Growing numbers of members are being added to those masses each and everyday. During 1996, case numbers increased by 31% while seized amounts increased by 28%, which is also an indication of the priority accorded to the combat of drugs.

iv) Hashish

Hashish amounts for 1996, when compared to the year 1995, show a considerable decline. Underlying reasons for that might be less lucrative profits from hashish and promotion of the more lucrative drug types preferred by traffickers.

The leading drug production sites are in Lebanon, although there has been a major decline due to the establishment and organization of a security system which is under way in Lebanon, and the substitutive agro-policies carried out by the U.S. and I.N.C.B.. Hashish seizures also declined last year, as in 1995, due to the African production which took route in European markets; the heroin preferred by traffickers and the ecstasy apreferred by consumers. The growing number of case discoveries are mostly due to the street teams set up.

v) Cocaine

Turkey is not in the mainstream of cocaine routes, which is keeping seizures low. Both the cocaine amounts and the seizures were in considerable incline during 1995, against a major decline in 1996.

Major decline in the cases and amounts of cocaine is mostly due to the increased general use of disco drugs, namely the stimulating ecstasy tablets, use of which saw in recent years a higher frequency in Turkey. It is considered that cocaine users in search of a new drug have now turned to ecstasy and that trafficking organizations are attempting to create a fresh avenue to push this drug widely abused, in almost the entire of Europe, to the Turkish market. Great amounts of ecstasy seizures in 1996 have supported such an assertion.

TABLE 1
Ecstasy Seizures

Year	Case	Quantity (unit)
1995	3	9
1996	4	3473

Note: The statistics of all tables are taken from police registrations in the Ministry of Interior.The amounts include the registration of police, General Command of Gendarmerie and Coast Guard Command.

vi) Morphine Base

Morphine base seizures were generally made at the clandestine heroin laboratories discovered. Seizure ratios, compared to last year's statistics, indicate a major decline from past years cases in number but also some partial incline in confiscated amounts, which suggests there is morphine base trafficking taking place in big lots.

vii) Synthetic Drugs

The basic synthetic drug of traffic is captagon. Captagon is not consumed in Turkey but mostly in the Middle-East countries. Illicit captagon production is concentrated in certain European countries. Manufactured tablets illicitly enter Turkey in the west and are transported to the Middle-East by certain organizations in the south and southeast

of Turkey. To that effect, land transport is utilized, making use of the existing commercial contacts with Middle-Eastern countries.

Another route in the illicit traffic is the one leading from European countries, via maritime lines, to the countries in downward location to Turkey. The relative decrease in seizures merits attention, despite a clear decrease during 1995 in Turkey.

F. Drug Trafficking Organizations

While illicit drug trafficking used to be run before the 1990's by people or groups, more recent times saw traffickers incredibly intensify their activity by forming large family organizations and/or establishing twopartite or threepartite family organizations to get higher profits and run their activities on a larger scale.

ASENA was initiated to make a general analysis and to further enlarge, based on information developed, the scope of existing measures by establishing matters such as general structures, modus operandi, targets, roles in the traffic of the mentioned organizations and what contacts are made with who.

With ASENA taking effect, information was established that:

- Drug trafficking organizations were running their illicit business intertwinedly.
- Activities conducted were limited to a main focus, based on shared fields of duty among them.
- Traffickers preferred to establish kinships, or reinforce existing internal relations, through marriages to unite their power and enhance trust in each other.
- Traffickers had become sectors of the production, transport, storage and distribution of illicit narcotics, and of the transfer of illicit profits derived from such criminal activities.

It is clear from the above the inter-organizational division of duties. Below are a few examples of the above mentioned points:

- The HAN organization was meeting the morphine base needs of such organizations. Hurshit HAN, leader of the organization was arrested in Istanbul on 9th, September 1996 in connection with some 750 kgs of morphine

TABLE 2
Drug Seizure Figures for Turkey in 1996 by Drug Type

TYPE	CASES	ACCUSED	QUANTITY(kg)
Hashish	1618	3287	12294
Heroin	519	1650	4422
Morphine base	5	24	1157
Opium	26	58	233
Cocaine	40	122	13
Acetic anhydride	7	29	42450
Synthetic drugs*	74	160	259097
TOTAL	2289	5330	319666

* Per unit

base seizure.

- Suppliers of morphine base, the AY and KONUKLU organizations were converting, in their own clandestine laboratories, volumes of morphine base into heroin. Located in Saray town, Tekirdag, the laboratories owned by these organizations were seized on 8th, March 1995.

- Heroin quantities produced were being transported by the KUYUCU and KASAR organizations, into Europe. Mehmet KASAR, leader of the organization, was arrested during an operation in Istanbul on 7th, April 1996 where some 158 kgs of heroin was confiscated.

- Illicit drug quantities moved into Europe are being stashed in Romania by the SITOCHI Organization, and pushed in various European local markets by the SITOCHI, POLAT and other organizations.

- With ASENA, twenty-five (25) illicit organizations have been schematized to present time. Of these, four (4) were smashed and finally disrupted through determined action taken.

G. Drug Trafficking and Related Criminality

While numerous drug trafficking organizations and cartels initially used to be small and established with individual leadings, drug trafficking organizations have increasingly sought partners in crime for individually conducted activities. These were easily found due to impressing people with the belief of becoming rich; and it is within such turn that they become organizations with rules, penalties, techniques and intimacies.

Many other forms of criminality follow the organization of drug related crimes. While illicit drug crimes are considered at early level stages such as illicit narcotics planting, dealings and abuse, many other crimes like the smuggling of precursors (including the smuggling of controlled precursors placed under international treaties), laundering drug money, violence, murder, fraud, theft, human trafficking, arms smuggling, and terrorism are gaining increased momentum largely due to illicit gains being shifted into other criminal channels.

III. CURRENT SITUATION OF TRANSNATIONAL ORGANIZED CRIME EXCEPT ILLICIT DRUG TRAFFICKING

The general situation of illicit drug trafficking has been clarified. The following will try to briefly explain other transnational organized crime, with statistics.

A. Illicit Firearms Trafficking

In 1995 and 1996, illicit firearms trafficking occurred in Turkey. The statistics of individual and organized illicit firearms trafficking are given below.

TABLE 3
Recent Firearms Trafficking

Year	Incident	Arrested Offenders	Fugitives
1995	145	603	46
1996	171	918	73
1997*	145	683	56

Confiscated Firearms and Other Materials

Year	Firearms	Bombs	Bullets
1995	1.006	132	37.479
1996	1.054	1	91.275
1997	1.316	-	61.571

The PKK play an important role in illicit fire arms trafficking in addition to drug trafficking.

B. Smuggling of Illegal Migrants

Because of the political instability in Northern Iraq, Turkey is having some problems in this regard. This problem has emerged recently and no certain statistics are available. Some organized groups are transferring the people of north Iraq via Turkey, Greece, Bulgaria to European Countries. These organized groups are providing false passports to Iraqi people and are manipulating them to apply as political refugees in European Countries. Besides this, some people who are unemployed are cheated by organized crime groups with the promise of work. The table below indicates the situation of illegal migrants cases by year.

TABLE 4
Illegal Migrant Cases

Year	Incident	Accused
1994	35	122
1995	49	173
1996	47	188
1997	35	171

C. Illicit Trafficking in Women and Children

In Turkey there may be illicit trafficking in women, but there is no such problem for children. This might stem from the cultural structure of Turkish society. After the collapse of the Soviet Union, considerable amounts of women, who are engaged in prostitution, entered Turkey from Russia and some Balkan countries. This incident is not generally a result of the activities of organized groups, but the individual preferences of the women from the above mentioned countries in which poverty has become one of the major problems.

D. Stealing Motor Vehicles and their Illicit Ttrafficking

The number of foreign stolen motor vehicles sold in Turkey is so limited that it is not worth mentioning. However, Turkish workers employed in various European countries are bringing their own cars of a high quality, which are comparatively cheap in Europe but expensive in Turkey, and selling them through various methods without paying customs tax.

TABLE 5
Stolen Motor Vehicles

Year	Confiscated Cars	Cars Searched
1994	275	413
1995	197	200
1996	171	165

E. Money Laundering

Predominantly, money laundering activities are performed at casinos. The owners of casinos are receiving a certain percentage of the illicit money from owners of this money for money laundering. Besides casinos, money laundering activities have been found in paravane companies, travel agencies, hotels and banks. These types of activities are performed both by organized groups and individuals. In order to camouflage these illicit activities, some fictious companies have been established and employed.

*The numbers of 1997 in the whole tables are taken from police registrations and do not include other security forces registrations.

F. Transnational Economic Crimes (Others)

In regard to transnational economic crimes, counterfeiting can be mentioned in Turkey. Counterfeiting is committed by organized groups or persons who have international relations. These groups or persons have the technical capability of imitating foreign or national currency by using press equipment or photocopy machines.

TABLE 6
False Banknotes Obtained

Year	$	DM	TL
1994	10482510-	717000-	24522500-
1995	873470-	607400-	35960000-
1996	1122020-	417850-	21904000-

IV. LEGAL FRAMEWORK AGAINST TRANSNATIONAL ORGANIZED CRIME BY THE CRIMINAL JUSTICE SYSTEM IN TURKEY

There is no specific act to penalize crimes committed by transnational organized crime groups. However, there are many provisions in the *Turkish Penal Code* to countermeasure such crimes. Also if the crime is committed by a group of people, the penalty is increased proportionally. Yet the *Turkish Penal Code* defined organized crime as below:

" They who become organized to commit crime ". Article 313- "*They who form an organization to commit crime in any form, are punished with prison sentence from 1 to 2 years.*"

According to *Turkish Penal Code* Article 36:

" *a-If some special tools are prepared for the purpose of community crime, these tools and equipment are confiscated by the state.*

b-If some materials which are prohibited of using, selling or owning by law, are produced, these materials are also confiscated.

c-If firearms are carried without the permission of the authorities, these firearms are confiscated. "

Beside this, *The Prevention and Controlling of Smuggling Act* also has articles to confiscate goods, tools and proceeds derived from crime. These articles are applicable to specific transnational organized crimes. Additionally *The Drug Control Act* contains provisions for the confiscation and destroying of drugs. Finally, firearms either obtained by security forces or confiscated by the courts are submitted to the defense secretary (the *Act About Firearms and Other Crime Tools*).

Moreover, *the Prevention of Money Laundering Act* has adjusted for the confiscation of 'black' money. According to the Act, offenders who money launder can be punished with imprisonment. The, 'black' money is confiscated and the offender has to pay twice that quantity of money back as a penalty. If the offender does not have enough money, their property is correspondingly distrained.

There are not any specific laws to criminalize organized crime groups in Turkey at present. However both the Ministry of Justice and the Ministry of Interior have prepared a Bill to regulate organized crimes which is expected to pass in Turkish Parliament in 1998.

Controlled delivery is regulated by an Act to prevent money laundering. There are some regulations about immunity in the *Police Duty and Authority Act*. Security forces can search private places with a warrant issued by a judge. Yet with the judgment of a court, the police can wiretap according to *The Criminal Judicial*

Procedure Act. The members of parliament have immunity in the sense that they can not be taken to court without the permission of the parliament.

There are provisions for the protection of witnesses for terror related crimes in Turkish legislation. We have a special Act with regard to criminal punishment in sentencing policy. The *Turkish Penal Code* and *The Criminal Judicial Procedure Act* regulates criminal law. As known, there are international treaties to facilitate international cooperation such as extradition and mutual legal assistance in criminal matters. All of these treaties have been accepted by parliament.

V. CURRENT SITUATION OF DETECTION AND INVESTIGATION IN TURKEY

In the Constitution of the General Directorate of Security, the Department of Anti-Smuggling and Organized Crime is established. In the structure of that department, seven (7) branch offices are formed as follows:

i) The section of economic crimes.
ii) The section of narcotic crimes.
iii) The section of illicit firearms.
iv) The section of organized crimes.
v) The search section.
vi) Technical services section.
vii) The bureau of official documents, statistics and computer systems.

Besides, the specific section, each respective section engages organized crime which is related to their own matters. The Department of Anti-Smuggling and Organized Crime is sufficiently organized and equipped to deal with crime all over the country.

In every province (there are eighty (80) provinces in Turkey) that anti-smuggling and organized crime units are constituted, they are subordinated to The General Directorate of Security via the Directorates of Security. In addition, Anti-smuggling Bureaus have been established and made operational in some fourteen (14) cities with strategic importance in terms of drug trafficking (such as Yüksekova, Hopa, Çesme and Iskenderun).

The Department is responsible for the collection, analyzing and dissemination of all information related to drug smuggling and organized crime, as well as the provision of instruction and guidance to local units. It also carries out the allocation of personnel, financial and logistical resources to local units. They also use a tele-drug system which provides computerized information exchange between other countries and Turkey.

The equipment which is called "Smuggling Network Project" has been recently procured for a more efficient combat of smuggling and organized crime nation wide; providing audio-visual communication between the center and its units. In this way it is possible to transfer suspect's pictures and crime evidence to form archives. This project will be operational in 1998.

During wiretapping (possible with a court order) tape recorders of out dated technology are used. Therefore it becomes impossible to transfer records into a digital environment and so cross-examine. But a digital record system was purchased for the Center and fifteen (15) provinces in 1997, thus the above-mentioned problem will cease. Turkey does not have any important problems regarding equipment and devices due to progress made.

In Turkey, as city-based investigators of organized crimes have sufficient ability and expertise, regional seminars have been arranged on the current legal and

administrative situation of smuggling and organized crime, new methods, technical and personnel possibilities, problems encountered for the managers of smuggling and organized crime units. The first of these seminars has been held in Diyarbak, the second in G.Antep, the third in Erzurum, the fourth in Samsun and the fifth in Ankara. Furthermore the specialized training program (for investigators in regional bases) has been carried out with the aim of more effective combat of such crimes that have increased lately.

In detection and investigation, gathering information is very important. In Turkey, the measures written below are taken to gather information;

- Wiretapping of conversations of suspects (people known to be related to such crimes), paravane companies and paravane financial constitutions.
- The accounts of suspects and companies, banks mentioned above are taken under control.
- The connection between ordinary crime groups and political crime groups such as the P.K.K. is watched closely.
- Suspected hotels and travel agencies are kept under surveillance.

There are a lot of difficulties in identifying transnational organized crime groups and gathering information about them. Some of those are;

- Such crime groups obtain and use some politicians, public administrators, journalists.
- Such groups look out for any weakness of police chiefs, judges, public prosecutors, politicians and public administrators and then blackmail them.

(Note : The two issues mentioned above are speculative, as no such cases have been detected yet in Turkey.)

- Sufficient information is not given by opponent countries and international investigation organizations, such as INTERPOL. The intelligence services of some foreign countries are behind such crime groups.

Yet the detection of such crimes has been quite successful so far. Besides, the persons who play major roles or who are in the highest position in such organized crime groups have been successfully arrested. (For instance the chief of crime group of SÖYLEMEZLER, Sena SÖYLEMEZ ; the chief of Hursit Han's group, Hursit Han; the chief of Havar Family, Halil Havar have all been arrested and jailed).

Some difficulties, encountered with regard to international cooperation, such as extradition and mutual legal assistance in criminal matters, are listed below:

- Opponent countries do not assist in the matters above mentioned.
- Controlled delivery can not be performed as required.
- There is no international databank concerning such crimes.

VI. CURRENT PROBLEMS IN THE COMBAT OF TRANSNATIONAL ORGANIZED CRIME AND SOME PROPOSALS

i) Some governments, intelligence services, companies and banks are at the bottom of such crime groups world wide and therefore an International Criminal Court must be founded.

ii) There are some deficiencies and conflicts in the law related to such crimes in some countries. For this reason, the laws

of countries must be united and an International Penal Code should be prepared to deal with such crimes.

iii) Cooperation among transnational organized crime groups is more intensive then international cooperation. International cooperation should be facilitated including extradition and mutual legal assistance in criminal matters.

iv) Gathering information is the most important factor in the combat of such crimes. So cooperation among intelligence services and national polices must be provided.

v) Special programs should prepared to protect witnesses in the course of investigations and trial proceedings.

vi) Confiscated illicit proceeds derived from specific transnational organized crimes must be expended for the combat of such crimes.

vii) Controlled delivery is very important to detect such crime groups. National police forces should be operative in foreign countries or international police authorized to operate in each country.

viii) International databank connected with all countries should be established.

VII. CONCLUSION

Organized transnational crime is one of the worst problems for all countries. Organized crime first disturbs public security and the balance of economy. It menaces public health because of drug addiction, reduces reliance on government and in this manner causes anarchy, and results in the judicial system becoming out of order.

It may be impossible to eliminate organized crime, but it can be reduced to a minimum level. It is impossible to prevent such crime with measures based solely on nation wide efforts. In this regard, it is necessary to combat crime on an international level. Therefore international cooperation is inevitable. Importance must be attached to international cooperation and organized crime must be taken seriously by governments. They must do everything they can to combat crime on a national and an international scope.

APPENDIX A

THE MODUS OPERANDI BEHIND THE SEIZURE OF SOME 22.440 KILOGRAMS OF ACETIC ANHYDRIDE

On 13th Feburary, 1996 a joint operation at the Alsancak Marine Bordergate was undertaken by the Izmir Narcotic Police and the Custom Directorate's officers and some 22,440 kg's of acetic anhydride, concealed in 379 barrels on TIR truck driven by a Belgian national, Willy DE DECKER, were confiscated aboard the ferry 'SAMSUN' on a cruise from Italy. The offenders, Ayhan YUMRUTAS, Ali KAZAKOGLU, Ridvan SERINKAN, Tolga TASDEMIR and Kemal ÖZ were arrested in connection with the case. The truck driver said, during the interrogation, that he had taken the 'cargo' from Belgium's Michelin city at the 'S.T.O.P.' hangar in the industry zone of Dender MONDA city, by means of the owner of 'GP CARGO', a Belgian, Paul GIDIER.

On 14th March, 1996 some 20kg's of heroin was seized in Izmir. The offender, Abu Bekir SIDDIK OKTAY, said during the interrogation that 11 tons of the 22,440 kg's of the acetic anhydride were going to Yüksekova; and 5 tons of the substance would be moved by the traffickers to the PKK camps in the village Cermi, Urumiye

of Iran. He also said that the PKK had the Tebriz of Iran as its illicit drug center.

APPENDIX B

THE MODUS OPERANDI OF THE 'HURSIT HAN' CASE

Acting on a tip, Istanbul Narcotic Police stopped and searched a TIR truck with entry from Iran to Turkey through the Gurbulak border crossing. The search led to discovery of some 750 kg's of morphine base - each in 1 kg packets - and concealed in a secreted parasitic attachment to the dorse of the vehicle. The offenders, Hursit HAN, his brother Sükrü HAN, Sevket ÇAGIRTEKEN, Hasan YILMAZ, Muhittin ARSLAN, Mustafa HANIFIOGLU, Mehmet Sait TURGUT, Halil GÜNES, Nusrettin HAN, Osman ABDULLAH, Mehmet ALAKEL, Mehmet KARABAG, Sükrü ÇAGIRTEKIN, Idris ÇAGIRTEKIN and the Iranian nationals, Süleyman Ferhadi GHOLANJI, Fardin AMJAD, Ramin GANIZADE, Mohammed Ali MAGHSOUDI, Hokmali Ghanizadeh DIZAH and Ahmet REGIKALES were apprenended in connection with the case. During the interrogation Hursit HAN said he had some acetic anhydride stashed on a farm in nearby Sapanca, Sakarya. The farm was stormed on that information and searched, which resulted in discoveries of some 6831 of acetic anhydride along with lab equipment used in heroin production and a tabulating machine to press the manufactured heroin.

REPORTS OF THE SEMINAR

TOPIC 1

CURRENT SITUATION OF ILLICIT DRUG TRAFFICKING

Chairperson	Mr. Tahir Anwar PASHA	(Pakistan)
Co. Chairperson	Ms Sakiko WATANABE	(Japan)
Rapporteurs	Mr. LAI Yong Heng	(Malaysia)
Co. Rapporteurs	Mr. Maring KATAKA	(Papua New Guinea)
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	Mr. Armogam GOUNDER	(Fiji)
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	Mr. Purushottam SHARMA	(India)
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PREFACE

UNAFEI arranged 108th Seminar to visualize the difficulties in combating transnational organized crime, as it has become a major concern due to the latest technological advances. Outlaws have better access to modern technology then the law enforcers. Organized crime groups are conscious of and ready to seize the opportunities presented to them by globolization and the growing trends towards trade liberalization to extend their activities and operation, inspite of the increased awareness of the problem on the part of governments. The subject of transnational crime was discussed at length in the seminar but given its vastness, it was decided to divide it into sub topics for elaborate and comprehensive discussions. The participants took active part in the discussion of all the four sub topics mentioned below, but the key note speakers contributed a lot in completing the final report on each topic:

- Current situation of illicit drugs trafficking,
- Current situation of other organized transnational crime,
- Legal framework against organized transnational crime by the criminal justice system, and
- Current situation of detection and investigation.

The views of visiting experts have also been incorporated in the reports. Of course, these reports were not possible without the able advice of the two faculty members attached with each topic.

I. INTRODUCTION

No steps can be taken to fight against any menace unless we first gather information and intelligence regarding its current situation and past trends. Drug trafficking figures very prominently in transnational organized crime. The annual

profits of organized crime are estimated, according to some sources, at one trillion dollars world wide; almost as much as the US annual federal budget (Ref.8; Vlassis, 1998). As per report of UNDCP 1994, out of it not less then 500 billion dollars is the share of profits coming out of the drug trade, which is about half of US$ 1,000 billion spent world wide on defense in 1991. As per estimates of Financial Action Task Force on Money Laundering of the G-7, the drug market in Europe and US alone amounted to more than US$ 122 billion in 1990. In 1995 US citizens spent approximately $ 57 billion on drugs including $38 billion to purchase cocaine and $10 billion on heroin from overseas sources. In comparison with this high-income society where average per capita annual income is $20,000, take the example of Pakistan where average annual income is about $500. As per UNDCP report 1994, estimated consumer expenditure in Pakistan on heroin alone was US$ 1.2 billion per year.

All the above figures point towards the heinousness of the situation, which is becoming worse with every day passing. Improved technological and administrative infrastructure facilitates both legal and illicit trade. Increased trade and liberalization of the market space, spells more opportunity for illegal transactions. Evidence for this generalization may be found in the example of the European Union. From the mid 1980s onwards, which is noted for the single European market, seizure of narcotics increased noticeably. Seizure of heroin grew by 7 times in 1985 to 1994 while for cocaine it jumped by a factor of 42. These increased seizure figures can not be attributed to stronger law enforcement as the annual number of deaths from drugs also increased by 5 times from 1982 to 1991. This suggests that absolute amount of drugs in Europe also increased (Ref. 7B; Savona, 1998). Increased seizure figures (as we shall see in the following sections of this report) in source and transit countries are also not an indicator of efficient law enforcement, rather it could be an increased activity of drug trafficking as we are still unaware of the "Dark Figure" of their successful operations.

To embark on the subject, we must first be aware of the types of drugs which are haunting the sociologists in particular and law enforcers in general.

II. TYPES OF DRUGS

A drug is any substance that can cause a change in body or way of thinking and feeling. Classification of drugs can be done by adopting different criteria as to whether they are natural, semi-synthetic or basing on their physiological and pharmacological action on the body. Drugs occurring in nature are called natural drugs. Plants make many drugs and store them in their roots, bark, leaves, flowers, fruits, seeds, resinous and milky exudations. These are crude and raw natural drugs. We can process these crude drugs to isolate the active compounds in it and chemically convert them into other compounds to make them more efficacious or reduce their ill-effects on the body. Such man-made drugs derived from natural drugs are called semi-synthetics.

Drugs which are wholly man-made starting from elements like carbon, hydrogen, nitrogen, phosphorus, sulphur, etc, or from simple primary chemicals, are known as synthetic drugs. Synthetic drugs, similar in properties to the natural ones, are produced in factories so as to make them available in greater quantities for medical use and at cheaper prices. These synthetic drugs make up the shortage, as the plants producing them are grown only in certain parts of the world under certain special climatic conditions and that too in limited areas. Natural and synthetic drugs exist side by side. Apart from classification,

which varies according to the origin of drugs, there can be many other classifications. As regards the effect of the drugs on the human body and mind, the following broad classification may be of interest:

A. Narcotic Drugs

In general, narcotics can be defined as those which, in therapeutic doses, diminish awareness of sensory impulses, especially pain, by the brain. In large doses it causes stupor (condition of insensibility), coma or convulsions. This would include:

(1) Cannabis preparation including hashish,
(2) Opium and opium alkaloids like morphine,
(3) Coca alkaloids like cocaine, and
(4) Synthetic narcotic drugs like pethidine.

B. Psychotropic Drugs

The Greek word 'psyco' means 'soul' and 'trope' means 'turning', therefore, any drug having peculiarity to effect the mind is a psychotropic drug. These include:

(i) Hallucinogens: These are both natural and synthetics drugs like LSD (Lysergic acid Diathylamide) and Tetrahydrocannibinals.
(ii) Hypnotics: Secobarbitone, Phenobartone.
(iii) Stimulants: These drugs induce an excitement in the body like amphetamines, cocaine.
(iv) Tranquilizers: Under this class would fall drugs which are painkillers, analgesics, sedatives, like barbiturates, opiates.

C. Opium

Opium is obtained from the poppy plant by making incisions into the unripened seedpod of the poppy. A milky substance oozes out and turns reddish brown upon contact with the air. The substance is collected and further refined. If it is intended for illegal use, it is mixed with glycerin and water and boiled down. The substance is processed further by cooking to evaporate the water, with the remaining glycerin keeping the final outcome opium-pliable. The opium is further processed to become illegal morphine or heroin.

D. Morphine

Morphine is the principal alkaloid of opium. Since morphine is a condensed extract, it is three times stronger than opium. There is wide variety of legitimate uses for morphine as a medicinal or pain-relieving agent. In its natural state, morphine is not readily soluble in water. Therefore it is treated with sulfuric acid. The texture is light, very similar to that of chalk dust.

E. Heroin

Heroin is another of the opiates. Public concern as to the opiates is focused primarily on heroin being regarded as the chief drug of addiction globally. Heroin is synthesized from morphine and, grain for grain is ten times more potent in its pharmacological effects. Heroin acts as a depressant to the spinal cord. The tolerance of this drug builds up faster than any other opiate. Consequently, the danger of drug dependency is considerably greater. It has come to known as the most dangerous and enslaving drug.

F. Cocaine

Cocaine is a white crystalline alkaloid that is a potent, dangerous, and habit-forming drug. It was first used scientifically as local anesthetic in 1884. Its medical use as an anesthetic is based on its ability to interrupt conditions in nerves, especially in the mucous membranes of the eye, nose and throat. Cocaine is obtained from the leaves of coca, a bush commonly found wild in Peru and Bolivia and cultivated in many other countries. After the coca crop is harvested, it is processed and, generally, shipped to Columbia for refinement into

cocaine. Its use is not new; for centuries Indians of Peru and Bolivia have chewed coca leaves, often mixed with ashes of plant and with limestone, for pleasure and to enable them to withstand strenuous work, walking, hunger and thirst. The chemical in the leaves produces local anesthetic of the stomach. The fine, white cocaine powder, also called snow or coke, can be sniffed and readily absorbed from nasal mucous membranes. Cocaine can also be injected in solution or smoked in a chemically treated from.

G. Cannabis

Cannabis is a plant belonging to the hemp family. The genus originated from Central Asia and is now cultivated widely in the Northern Temperate Zone. It is prized as the more abundant source of mildly hallucinogenic drug present in the resin (cannabin) of the flowering tops, leaves, seeds and stems. Cannabis is also known by many other names: hashish charas, bhang, ganja and marijuana. The dried crushed product varies in potency, depending on how and where it is grown, prepared, used or stored. It usually is smoked in cigarettes or pipes; it also can be sniffed, chewed, or added to foods or beverages. Compared to opiates, cannabis has a shorter history of abuse. Cannabis was seen as a symbol of the liberal western society in South East Asian countries.

H. Synthetic Drugs

Synthetic drugs existed in history since the development of modern medical science. Advances in chemical technology have opened vistas to new chemical substances which bring effects similar to most of the naturally grown drugs. Cost differentials have paved the way for the development of synthetic drugs. One kilogram of heroin costs more than $100,000 in the U.S. while 1/10th of its cost may manufacture the substance of equal psychotropic results. Narcotic traffickers have already seen the future in this as it substantially curtails the risks in long transportation. They would not have to depend on, weather effected, two crops in a year. Drug crops are vulnerable to destruction in the hands of law enforcers. Land space and little horizontal mobility are required in the manufacture of synthetic drugs as compared to natural drugs.

The world of abusers is embarking on a gradual shift to synthetic drugs. The use and trafficking of amphetamines (full name mythylemphetamine or short 'ICE') and its derivatives are now increasing all over in Europe, US and Asia. Clandestine manufacture of amphetamines is easy and risk free although one of its precursor chemicals remains the plant based ephedrine. It has thus been inevitable that where easier and less visible method of drug production are invented, the illegal syndicates will turn to them for profit.

III. SOURCE COUNTRIES FOR DRUGS

Drugs of some kind or other are produced in some quantity in almost every part of the world. But there are countries, which have become the source of supply to other countries. These countries have surplus production of drugs, which started there traditionally or by design of illegal producers. As per UNDCP database, up to 3.25 percent of arable land of some countries is under illicit cultivation. Bar graph in figure 1 indicates countries with such a high ratio. Most of the source countries are those which either had weak political systems or unstable governments in the past. While talking about traditional producers, China was on top, followed by India in the production of opium. After the revolution, production in China has been curtailed to a large extent and India is now the largest producer of opium in the world. As per INCB, 1995 figures legal production

in India was 807,000 kilograms while in China it was 20,190 kg. It is presumed that some part of the quantity of legal production is produced clandestinely, which finds its way to become derivatives.

World maps on the following pages show areas which produce different types of drugs (and routes also, which we will discuss later). We can see a concentration of producing areas for different drugs, types of which have been shown with distinct symbols. The prominent areas are as follows:

(1) South American concentration: Columbia continues to lead the world in cocaine production. Cannabis is also produced there, shared in production by Mexico. The cocaine producing countries in South America are Bolivia and Peru which are basically coca leaves producing countries; processing is done in Columbia.

(2) Golden Triangle: This is the oldest and most talked about source of heroin and marijuana in the world. This is a hilly tract lying in between Mayanmar, Laos and Thailand. It is estimated that 60 percent of the worlds supply of heroin and opium comes from this area. Mayanmar alone is sharing 50 percent of the world's illicit production of opium and heroin. Laos happens to be a big producer of marijuana along with opium.

(3) Golden Crescent: This area is in the shape of crescent stretching from the Pakistan-Afghanistan boarder to northern part of Iran. This is also a hilly area mainly inhabited by the tribals of the countries mentioned above. Due to stringent control by Pakistan, the production has now shifted from Pakistan to inside Afghan boarders. Afganistan alone is producing some 2,300 tons of opium annually.

(4) Synthetic Drugs Producing Regions: Due to reasons already mentioned the world is gradually shifting to synthetic drugs and in their production, China and Russia-two chemical producing giants-are leading. In Europe also, scattered pockets of the chemical industry can be found in Holland, Poland and some other eastern European countries.

FIGURE 1

ILLICIT CULTIVATION IN THE EARLY 1990s

FIGURE 2

SOURCE COUNTRIES AND ROUTES (COCAINE)

Source: The NNICC Report 1994, published in 1995.

FIGURE 3

SOURCE COUNTRIES AND ROUTES (HEROIN)

Source: The NNICC Report 1994, published in 1995.

FIGURE 4

SOURCE COUNTRIES AND ROUTES (MARIJUANA AND HASHISH)

Source: The NNICC Report 1994, published in 1995.

IV. CONSUMING COUNTRIES

It is a proverb that demand creates its own supply. The world forums are thinking along the lines that instead of putting futile efforts in curtailing the supply, focus should also be on reducing the demand. Abuse of drugs remained present since time immemorial, but in the recent decades it multiplied beyond geometrical dimensions. According to the recent survey data, about 13 million Americans-6.1 percent of the total population-used drugs on a casual, monthly, basis in 1996. The survey data indicates that in 1995 there were approximately 3.3 million chronic users of cocaine and some 500,000 heroin addicts. It is estimated that nearly 5 million Americans have tried methamphetamines, an illicit drug associated with particularly violent aberrant behavior, in their lifetime.

There is no doubt that the United States has a serious problem with the degree of illegal drug use. Unfortunately, other countries are also experiencing an increase in illegal drug use. In Pakistan the heroin addict population is estimated to have grown from virtually none in 1980 to 1.52 million in 1995 (as per Individual Presentation of Pakistan). Likewise, the use of cocaine and other illicit drugs has substantially increased in Russia and other countries of the former Soviet Bloc since the breakup of the Soviet Union.

In European countries, too drugs are hitting hard and more than 20 percent of population in some way or other is effected by drugs. Newly disintegrated States of former Soviet Union are fast developing a drug culture. They are not only consuming drugs but also rapidly becoming transit countries who reap huge profits for their black economies. Belgium has already become a big consumer of synthetic drugs and serves as a transit point also. In France the situation can be imagined from the fact that in 1991, 45,000 arrests were made of drug users which may be only 5 percent of the actual drug users.

Countries which remained known for their production are switching over to domestic consumption. As per some estimates, five to ten percent of the population of the countries comprising Golden Crescent, Golden Triangle and Golden Wedge, have become addicts of one type of drug or another. Countries in the immediate vicinity of these areas are also showing sign of high drug abuse ratios. As quoted by the Philippines participant there are 1.7 million drug abusers, 70 percent of which are located in Manila. There, the trend is mostly developing for Shabu (local name for mehtamphetamine) among young school and college students. Similar is the case with the transit countries which were known previously for their trade only. These countries have become user-dealers. Pakistan's example can be quoted in this respect. Pakistan claims to have eradicated poppy production altogether with stringent State measures, however, it still remains a transit country for Afghan Production. Due to this very reason Pakistan has a heroin addict population of more than 1.5 million.

The UNDCP (United Nations International Drug Control Program) has recently conducted a comparison of some selected countries for estimated heroin abuse and consumption expenditure on illicit drugs. The report has been published in 1997 and is an eye opener for sociologists.

In recent years, the most pronounced increase in drug abuse has been reported for synthetic drugs. This rise includes the abuse of ATS (amphetamine-type stimulants). Some 30 million people (0.5 percent of global population), more than heroin and probably more than cocaine, consume ATS worldwide (Ref. 5; World Drug Report).

As per UNDCP estimates more than 440 million people world over use some kind of drugs. Their classification may be seen in

Table 1. Their percentage of the total world population has also been calculated.

TABLE 1

ESTIMATED NUMBER OF WORLD DRUG ABUSERS (ANNUAL PREVALENCE) IN 1990s

Countries	Estimated Heroin Abusers (thousands)	Consumption Expenditure on Illicit Drugs (US$ Millions)	
		All drugs	Heroin
Australia	285	4,389	1,172
Italy	370	13,400	9,000
Pakistan	1,520	1,500	1,200
Sweden	5	400	100
Thailand	214	1,900	820
UK	100	n/a	1,330
USA	500	48,700	7,100

	Estimated total (million people)	in % of total population
Heroin and other opiate-type substances*	8.0	0.14%
Cocaine*	13.3	0.23%
Cannabis*	141.2	2.45%
Hallucinogens**	25.5	0.44%
ATS**	a30.2	0.52%
Sedative-type substances**	227.4	3.92%

Sources: UNDCP Annual Reports Questionnaires; UNDCP Mission Reports; UNDCP Country Profiles: UNDCP Country Programme Frameworks; United States Department of State, International Narcotics Control Strategy Reports: UNDCP estimates.

V. TRANSIT COUNTRIES AND DRUG ROUTES

Initially producing countries used to send drugs directly to consuming countries. But with awareness regarding the source countries in the effected countries, strict measures were adopted to block the supply. Effective enforcement techniques concentrated on the incoming traffic of passengers and cargo from producing countries. This gave birth to the phenomena of transit countries. Traffickers chose non-producing commercial countries with heavy out going passenger and cargo traffic as an intermediate point to avoid destination inspections. Today a vast web of trafficking has been created which, due to its complicated nature, undermines the efforts of law enforcement agencies.

Since the starting point of any drug is the source country, therefore we can plot the transit countries and resultant routes on the production map of the world. In the maps at Figures 2 to 5, we can see the general routes of drug flow with respective transit countries and ports.

Colombia being the leading producer of cocaine, carries extensive drug cartels using Mexico and Central America as staging or trans-shipment area for U.S.-bound cocaine through Southwestern and Southeastern bordering States. As regards European countries, Spain and Italy are still the major entry points for cocaine, along with Portugal. From these countries it spreads to all of Europe through France. Italian Mafia plays a leading role in controlling the deliveries. Cocaine is also air lifted from South American countries in small but steady quantities by Nigerians via international airline points. Austria has further become a transit point of cocaine for Russia.

The Asia-Pacific region is the location of the major opium cultivation sources i.e. the Golden Triangle that includes the areas of the northern part of Thailand, the northeastern part of Laos and Myanmar. Drugs from the Golden Triangle can be trafficked to the world market through India, China, Myanmar, and Thailand. India is used as a transit point for opium and heroin produced in Southeast Asia. Narcotics from the Golden Triangle enter India through its northeastern borderline before being further transported to Europe and North America. As for China, besides facing an upsurge in opium and heroin abuse, the country has now developed as a transit route for heroin from the Golden Triangle to Hong Kong. Traffickers have significantly increased the movement of heroin through the southern border provinces of Yunnan, Guangxi and Guangdong to Hong Kong, taking advantage of burgeoning commerce in the region.

At the international level, the French connection, the heroin smuggling route from Turkey to New York by way of Marseilles, has been replaced by the Chinese connection. Heroin from Southeast Asia begins in the poppy fields of the Golden Triangle and continues through Hong Kong to the United States with the ultimate destination as New York City. The DEA's reports indicated a substantial increase in the proportion of Southeast Asian heroin entering the U.S., and the Southeast Asian heroin trade is increasingly dominated by the Chinese. 56 percent of all heroin seized by U.S. authorities was seized in New York. Of that heroin, 70 percent was found to be of Southeast Asian origin (Ref. 14; Mr. Yodmani, 1993).

In its publication of February 4, 1998, "Sankei Shinbun" a Japanese newspaper, alerted the Japanese nation to a new stimulant drug "Ya-Ba" (Methamphetamine base) in tablet form. It is already in use in Golden Triangle and with the courtesy of "Yakuza" it is now being introduced in Japan. The paper has also given an elaborate map of drug movement in the Pacific Rim which is reproduced in Figure 6.

FIGURE 5

HASHISH TRAFFICKING ROUTES FROM MOROCCO

Source: The NNICC Report 1994, published in 1995.

FIGURE 6

SMUGGLING ROUTE FROM GOLDEN TRIANGLE

For the Golden Crescent, Pakistan remains the major transit country as the producing country Afghanistan is a land locked country. Afghanistan is also using Iran and C.I.S. for this purpose. Iran has, therefore, become both producing and transit country. Due to easy passage as compared to Pakistan, Central Asian States are now being preferred for transit to Europe and the U.S. This is evident from the INCB report for 1995; and the findings of conference of 37 countries in Europe in February1995.

Trans-shipments of heroin, coming from Central Asian regions and Middle East countries are also conducted by Nigerians via air through the main international airline points. Also Turkish crime groups are involved in heroin trafficking from the production points to Germany and the United Kingdom, passing through the Balkan routes and Greece.

Due to the consolidated interaction among Russian, Chinese and Vietnamese gangs, Austria has become a transit country for heroin coming from the Central Asian regions and for cocaine arriving via Central Europe and Russia. In the South of Europe, Albania has replaced the traditional transit route used through Yugoslavia for drug trafficking. France is a transit route for hashish originating in Southwest Asia and North Africa.

In the Netherlands local networks are becoming the main producers of synthetic drugs in Europe. From here these are exported through new routes leading out of the European Union, utilized also for the trade in marijuana and hashish which is still flourishing. Several internal routes are designed to transit synthetic drugs produced in the Netherlands and amphetamines produced in Poland to Sweden, Finland, and other European countries by Dutch, Belgian and Polish networks. Also, Belgium is a consumer

market for synthetic drugs and the trafficking is carried out through cooperation between rooted networks of Belgian and Dutch citizens.

VI. MODUS OPERANDI OF DRUG TRAFFICKING

The methods used to transport illicit drugs are often very ingenious. Traffickers use a variety of means to transport drugs including automobiles equipped with concealed compartments, planes, buses, trains, legitimate delivery services, boats, fishing trawlers, ocean-going vessels, etc. Drugs are smuggled by couriers using various concealment methods such as concealment in traveling suitcases, hiding among personal belongings, body packing, swallowing methods, etc. In addition to moving large shipments of the drugs, small quantities are often moved through the mail.

The most popular method used is concealment in traveling suitcases or overnight bags. Swallowing is also popular especially among African couriers. Some of them are able to swallow several hundred grams of drugs in balloons or condoms. The record seizure obtained in the swallowing method was 158 condoms with an estimated gross weight of 1,060 grams of heroin. Other methods used, include concealment in a carton of soap by pressing heroin into the form of soap bars; concealment in the case of an electrical cord, in the core of lace's roll; concealment in post-cards, envelopes, books, postal parcels, etc.

With the invention of latest techniques in the field of detection, like electronic screening, dog sniffing, etc., the traffickers are resorting to new methods every day. Bulk exporting materials are stuffed with small quantities of drugs. Double walled hollow export containers which look like normal containers are also used which can pass the screening test easily. Countries having vast international coastlines are often seen having influx through small vessels and boats. Air dropping is another method used in the U.S. and Australia for cocaine and heroin respectively. A very novel method is in vogue in Saudi Arabia, where camels are being used. Trained camels are taken out of Saudi Arabia to Iraq and Jordan and after loading them with drugs they are set stray without any driver. Since the camels know their destination, they reach safely home with the merchandise. In this way there is no risk of human arrest.

VII. DRUG TRAFFICKING MAFIA

Huge margins of profit in drug trade, paved the way for the emergence of big drug syndicates and cartels. Formulation of syndicates and cartels was also necessary to organize the criminal activity because of a continuous exposure to law enforcement agencies. It was first felt by Sicilian Mafia that crime could be better managed viz a viz the criminal justice system, if they were themselves properly organized. Mushroom growth of organized crime groups to reap the profits of drug trade necessitated the need of mutual interaction hence transnational groups, syndicates and cartels.

Existence of La Cosa Nostra (LCN) in the United States is no hidden truth. Large networks of LCN families, which are named for famous leaders i.e. Genovese, Gambino, Colombo, etc; is involved in all the narcotics imported and consumed in U.S. The LCN, particularly families operating in the Miami area, have numerous criminal contact with the Colombian cocaine cartels. The LCN also works closely with the Sicilian Mafia in the distribution of drugs.

Although more than 500 Colombian drug trafficking organizations have connections with Colombian cartels, the two largest are the Medellin and Cali cartels, named after

the cities near which their operations are centered. The cocaine cartels align themselves with various paramilitary and guerrilla organizations to protect their drug distribution networks. The participant from Colombia mentioned that action against these cartels has been taken and most of them are behind bars now. An action in the past was taken also when with the help of the Colombian Government, in 1992, FBI under cover operation "Green Ice" which resulted into 152 arrests. Those were the members of Colombian Cartels and were arrested from Italy (29), UK (3), Spain (4) and USA (112). In this operation seven of the top ranking financial managers of the Cali Cartel were also hauled up with US$ 44 million worth of assets (Ref.5; World Drug Report).

The cartels smuggle cocaine into the United States through a variety of geographic areas. In the mid-1980s, as law enforcement pressure on drug trafficking in Florida grew, the cartels began to shift their emphasis to Mexico. From Mexico drugs are easily being shipped into California. Currently, large shipments of cocaine enters the United States through Los Angeles, San Diego and Miami.

Besides the LCN there are other criminal organizations that originated in Italy and have operations in the United States. These organizations are: the Sicilian Mafia, the 'Ndrangheta, and the Camorra. Although these are still primarily located in Italy, all three organizations are involved in international drug trafficking and have various operations in the United States and Europe.

Galicians in Spain and the Mafia in Italy have specialized as cocaine importers and main suppliers for Europe. Local criminal groups in the Netherlands and Belgium have specialized in production and export of synthetic drugs in and outside the European Union. Nigerians and Eastern European criminal networks (headed by the Russian Mafia) have developed their activity of delivery service for a wide range of products and customers. The former have started importing cocaine for the Colombian cartels, extending further to heroin from Southeast Asia. The latter, due to the geographic position and the extension of the territory available, have diversified the products from drugs (both heroin and cocaine) to arms, alien and prostitutes smuggling, and in return exporting cars and synthetic drugs from Europe.

"Russian Organized Crime" refers not only to organized crime groups operating in Russia, but rather more broadly encompasses two general components. First, Russian organized crime refers to organized crime groups operating in or headquartered in countries in Eastern Europe and Asia that were formerly part of the Soviet Union and the Soviet Bloc, which for example would include Russia, Poland, Hungary, Georgia, Armenia, Kazakhistan, Ukraine and others. Secondly, Russian organized crime refers to organized crime groups operating in over 50 countries outside Russia. They are firmly entrenched in the Former Soviet Union and Soviet Bloc countries, and are expanding to the United States, the Caribbean, South America, Israel and the Middle East. In the 1990's narcotics consumption has increased in Russian and other former Soviet Bloc countries. There is evidence that Russian organized crime groups are responsible for much of the drug trafficking and have formed alliances with South American drug trafficking organizations and Italian organized crime groups to handle distribution of narcotics in the former Soviet Bloc countries.

Triads are relatively large criminal organized groups operating in Hong Kong (in collaboration with snakeheads) the People's Republic of China and Taiwan. Like other organized crime groups their activities include, but not limited to drug trafficking. They have links with

European, American and other Asian groups. Most of the Pacific Rim drug trade is conducted by them or their links. An estimated 70 percent of the Golden Triangle trafficking is in their hands.

Japanese Boryokudan are notorious for their influence and well-integrated organization, but their activities are mostly restricted to domestic distribution networks. However, now they are embarking upon this lucrative business and have started developing links with other international crime syndicates.

All other countries have local organized groups which operate in very secretive ways to hide their hierarchy and membership to avoid the risk of exposure to law. They, however, maintain links with big syndicates internationally for the disposal of merchandize. Iqbal Mirchi and Dawood groups in India; Ayub Afridi and Iqbal Beg groups in Pakistan are such examples (as quoted by respective participants). These small groups normally maintain their base outside the home country preferably where there is no extradition treaty.

VIII. CONFISCATION AND PROSECUTION SITUATION

During the course of group discussions and individual presentations, participants gave statistics on their countries in respect to drugs. Since each country has a different system of maintaining the statistics, it was not possible to compare those figures in one analysis table. Moreover, in every region, different types of drugs, with different and local names, are confiscated. There are different criminal justice systems which depict prosecution figures in their own styles. It was, therefore, thought proper to discuss the statistics separately for each country.

In Pakistan, seizure figures remained staggering over the years. A determined Government and efficient Anti-Narcotic Force rooted out opium production in its producing areas in 1995, therefore, the figures for that year are large because of the extensive operations. After that the seizures figures are mainly of interception of drugs coming from Afghanistan for domestic use, as well as for further transit. The following table shows the confiscation of drugs for last three years and for 1997 (Jan. to Oct.) in Pakistan.

	1994	1995	1996	1997(Jan-Oct)
Opium (tons)	14.360	107.233	7.377	6.448
Heroin (tons)	6.020	9.416	5.763	3.443
Hashish (tons)	178.290	294.525	189.136	92.322

For the same period the arrests of defenders are as follows:

	1994	1995	1996	1997(Jan-Oct)
Opium	3,157	3,366	2,736	1,998
Heroin	23,696	24,920	21,510	11,942
Hashish	27,281	31,399	29,210	22,133

Indian Statistics are available for 1992 to 1996 regarding the seizure of narcotics through the courtesy of that participant:

	1992	1993	1994	1995	1996
Opium (kg)	1,918	3,011	2,256	1,339	2,875
Heroin (kg)	1,153	1,088	1,011	1,678	1,257
Hashish (kg)	6,621	8,238	6,992	3,073	n/a
Arrests	12,850	13,723	15,452	14,673	13,554

The following are the figures for Saudi Arabia from 1992 to 1996 which were presented by the participant from that country:

	1992	1993	1994	1995	1996
Opium (kg)	28	12	17	30	155
Heroin (kg)	89	157	206	112	324
Hashish (kg)	3,723	1,949	2,472	1,972	1,809
Arrests	5,515	5,628	6,589	8,278	10,328

The participant from Nicaragua mentioned that drugs were not much of a problem in his country, but still there were 989 cases in 1996 (716 in 1995) and 2,757 kgs of cocaine was seized in 1997. Seizure of cocaine in 1996 and 1995 was 398 kgs and 1,512 kgs respectively. Recently there were some cases of heroin too, resulting into the seizure of 2 kgs.

Figures for Nepal regarding drugs seizure and persons arrested as quoted by the participant are as follows:

	1993	1994	1995	1996	1997
Cannabis (kg)	2,448.2	2,482.5	5,521.2	2,271.3	1,898.3
Hashish (kg)	517.9	1,273.6	2,133.4	1,917.3	790.5
Heroin (kg)	18.1	17.1	7.3	10.0	10.4
Opium (kg)	0.4	4.4	0.2	0.4	0.7
Arrests	687	785	810	788	452

Amount of seized drugs in Japan as supplied by the Japanese participants is depicted in the following table, while the numbers of suspects in Japan are at Table 2:

	1992	1993	1994	1995	1996
Stimulant	166 kg	97	314	88	652
Heroin	12	15	10	8	4
Cocaine	33	26	36	36	37
Cannabis resin	11	30	95	131	145
Cannabis (leaf)	232	607	94	208	173
LSD	0.6 (*1000t)	0.6	1	2,261	4

Statistics provided by other participants are placed in the Appendix A. Some countries such as Fiji, Madagascar, Mongolia and Tonga have only a few drugs related cases.

The United Nations have compiled a comparative list of countries regarding seizure figures along with the top ranking 30 countries in respect of different drugs. The lists are placed in the Appendix A. The UNDCP in its latest report published in 1997 (Ref.5; World Drug Report) have made a comparison of selected countries regarding persons arrested on drug charges. To make the figures comparable, the number of arrests have been converted into a per 100,000 population basis.

Persons Arrested on Drug Charges on per 100,000 people basis (1994)

Australia	313.0
Colombia	3.1
Italy	450.0
Pakistan	49.2
Sweden	103.0
Thailand	205.0
UK	150.0
USA	539.0

TABLE 2

NUMBER OF DRUG SUSPECTS IN JAPAN

	1992	1993	1994	1995	1996
STIMULANT					
total	15,062	15,252	14,655	17,101	19,420
smuggling	65	43	33	17	22
production	0	1	0	6	1
possession	4,749	4,814	4,504	5,824	6,797
transferring	2,495	2,499	2,256	2,242	2,398
use	7,752	7,884	7,850	9,001	10,191
others	1	11	12	10	11
NARCOTICS					
total	331	363	343	334	275
smuggling	77	75	55	52	42
production	1	0	0	13	0
possession	145	181	193	179	147
transferring	68	75	67	61	64
use	33	20	20	26	17
others	8	2	8	1	5
CANNABIS					
total	1,635	2,051	2,103	1,555	1,306
cultivation	19	25	21	16	40
possession	1,094	1,452	1,571	1,154	1,010
transferring	421	478	380	277	174
others	6	2	0	4	
OPIUM					
total	90	131	222	172	141
cultivation	69	62	128	111	102
smuggling	15	20	45	14	14
possession	6	49	38	34	24
transferring	0	0	7	6	0
others	0	0	4	7	1

FIGURE 7

DRUG SEIZURES BY REGION, 1985-1995.

Source: World Drug Report, a UNDCP publication, 1997.

IX. AMOUNT OF GAINS FROM DRUGS

For the major producers like Bolivia, Peru, Afghanistan and Myanmar, illicit drug exports make up a large percentage of export revenues. For example, since 1986, Bolivian coca-cocaine exports are believed to have represented between 28 and 53 percent of the value of total exports that include the value of coca-cocaine exports, or between 39 and 112 percent of those that exclude them. In Afghanistan and Myanmar, it is highly likely that the percentages are higher since neither country has important legitimate exports. Pakistan has a larger economy, still illicit drug exports in 1992 are thought to have amounted to US$1.5 billion; a sum equal to one-fifth of the US$7.2 billion of exports. Countries such as Mexico and Thailand have fairly diversified economies with many sources of foreign exchange; thus, while the illicit drug industry certainly affects their economies, the impact is likely to be less prominent than for the countries mentioned previously.

Sale of drugs, and laundering profits from these sales, undoubtedly contributes to the size of an underground economy. In many countries illegal drug expenditures are thought to account for the largest share of the illegal markets. Total illicit drug expenditures at the retail level in the U.S.A. alone were estimated at US$50 billion per annum in the mid-1990s. If the world drug trade were taken into consideration, the estimated amount of laundered money would range from US$300 billion to US$500 billion (Ref.6; Marine, 1998). The extent of money in drug business can be well visualized from the fact that one time US cover operation against Cali Cartel resulted in the seizure of US$ 44 million worth of assets (Ref.12; Mr. Proctor, 1993).

Hong Kong has seized HK$53 million worth of assets during the period 1989-97. In Pakistan also the Anti-Narcotics Force has up to now frozen assets worth Rs 3,612 million (US$82 million) from 60 notorious drug traffickers in the country. In 1995 India also confiscated local and foreign currency worth Rs 200 million (US$5 million) which was considered illgotten, irrespective of its source. Income tax authorities in India also seized assets worth Rs 4,580 million (US$115 million) due to unexplained source of income. In Japan, property worth 99.2 million yen has so far been confiscated (from July 1992 to September 30 1997) as the proceeds of drug trafficking and the like, while another 23.3 million yen has been frozen for confiscation.

X. CONCLUSION

From the foregoing analysis of the drug situation, we can feel the magnitude of the problem. No wonder that the issue finds its place at the top, whenever crime is discussed. International forums are very much concerned and millions of dollars are being spent in gathering the statistics regarding the drug situation prevailing in the world. It is only after knowing the gravity of the problem that steps can be taken with the proportionate intensity. Effective measures and recommendations for eradication of the drug menace could have been suggested here, but in the opinion of the members, it was not in the purview of Topic 1. This collection of information may, therefore, be taken as a food for thought to formulate future drug fighting strategies.

REFERENCES

1. All the papers of Individual presentations by the participants of UNAFEI's 108th International Seminar.
2. All the presentations of speakers during the General Discussion Sessions of the Seminar.
3. Report of International Narcotics

Control Board for 1996; a U.N. publication, 1997.
4. The National Narcotics Intelligence Consumers Committee Report for 1994, on the Supply of Illicit Drugs to the United States; a DEA publication, 1995.
5. World Drug Report, United Nations International Drug Control Program, a United Nations publication, 1997.
6. "The Threats Posed by Transnational Crimes and Organized Crime Groups and United States Responses" by Mr. Frank Marine from the United States, a visiting expert for the 108th International Seminar, 1998.
7. "Recent Trends of Organized Crime in Europe: Actors, Activities and Policies against Them" and "The Organizational Framework of European Crime in the Globalization Process" by Dr. Ernesto Ugo Savona from Italy, a visiting expert for the 108th International Seminar, 1998.
8. "Current Problems in the Combat of Organized Transnational Crime" by Mr. Dimitri Vlassis from the United Nations, a visiting expert for the 108th International Seminar, 1998.
9. "The Evolution of Drug Trafficking in the Pacific Rim" by Mr. Lau Yuk-kuen from Hong Kong, a visiting expert for the 108th International Seminar, 1998.
10. "Drug Trafficking, Illegal Trafficking of women and Children, Fire Arms Smuggling and Currency Counterfeiting (Philippines)" by Mr. Severino H. Gana Jr., International Director of the Asia Crime Prevention Foundation, 1998.
11. "Organized Crime in India, Problems and Perspectives" by Mr. Madan Lal Sharma from India, a visiting expert for the 108th International Seminar.
12. "Organized Crime in the United States and the Legal Tools Used to Fight it" by Mr. George W. Proctor from the United States, a visiting expert for 92nd International Training Course, Resource Material Series number 43, a UNAFEI publication, 1993.
13. "Narcotics and Laundering in France" by Mr. Pierre Dillange from France, a visiting expert for 92nd International Training Course, Resource Material Series number 43, a UNAFEI publication, 1993.
14. "Quest for Effective Methods of Organized Crime Control" by Mr. Chavalit Yodmani from Thailand, a visiting expert for 92nd International Training Course, Resource Material Series number 43, a UNAFEI publication, 1993.

APPENDIX A

[BANGLADESH]

STATISTICS ON CASES, ACCUSED AND SEIZURE FROM 1990 TO 1997 AS DETECTED BY THE DEPARTMENT OF NARCOTICS CONTROL

Drugs	Unit	Cases	Accused	Seizures
Heroin	Kg	1467	1875	81.94
Cocaine	Kg	12	19	7.46
Charash	Kg	76	78	43.88
Opium	Kg	40	34	21.84
Marijuana	Kg	6448	5947	12099.69
Marijuana plants	No.	190	191	349170.00
Marijuana Cigarette	No.	02	02	53715.00
Illicit Distillation	Litres	6590	5910	106685.90
Country Liquor	Litres	195	191	2683.03
Foreign Liquor	Litres	252	294	1742.18
Foreign Liquor	Quarts	519	492	4601.47
Foreign Liquor	Bottles	119	100	2749.00
Foreign Liq.(Beer)	Can	39	36	24710.00
Indian C.S	Bottles	42	14	869.50
Indian F.L.	Litres	26	09	465.55
Rect.Sprit	Litres	777	757	33548.81
Den.Sprit	Litres	129	126	1502.46
Hilly Liquor	Litres	12	08	127.00
Phensidyl	Bottles	2159	1400	223013.50
Phensidyl	Litres	52	24	8215.25
Mretosanjibini	Bottles	23	14	1360.37
Tari(Todi)	Litres	541	490	24338.14
Pachwai	Litres	102	101	1595.00
Pethidine	Ampules	54	57	22865.00
Tidi Zeshic	Ampules	133	135	23500.00
Bhang	Kg.	21	10	1031.77
Bhang plant	No.	03	02	96.00
Beladona	Litres	01	01	23.00
Zauwa	Litres	100	90	229406.60
Bakhar	Kg.	19	17	122.60
Baklar	Can.	02	03	108755.00
Sp.Medicine	Bottles	08	10	2574.00
Maddak	Kg.	09	13	9.26
Alcholist	No.	75	75	30.00
Nishadal	Kg.	01	01	360.00
Alcohol	Litres	09	09	179.11
Others	Kg.	01	00	20.75
Total		20248	18535	

[FIJI]

CASES UNDER	1992	1993	1994	1995	1996	1997 (Jan-Jun)
Drug Ordinance Act	236	326	396	352	352	218

[INDIA]

Year		1990	1991	1992	1993	1994	1995	1996
OPIUM	Qty(kg)	2114	2145	1918	3011	2256	1339	2875
	CASES	506	566	1286	1679	1171	871	977
HEROIN	Qty(kg)	2193	622	1153	1088	1011	1678	1257
	CASES	764	1158	2779	3303	3331	3236	3043
HASHISH	Qty(kg)	6388	4413	6621	8238	6992	3629	6520
	CASES	753	335	2516	2827	2672	2691	2593

[MADAGASCAR]

No. of Cases	1995	1996	1997
About Drugs	66	91	33

[MALAYSIA]

ARREST

CASES UNDER	1996	1997
Sec.39B	1,284 (800)	1,753 (1,045)
Sec.39A(2)	992 (753)	1,081 (831)
Sec.39A(1)	1,220 (987)	1,606 (1,305)
Other Sec.	8,705 (7,352)	7,806 (6,570)

SEIZURE

DRUG TYPE	1996	1997
Raw Opium	100 kg	138.72 kg
Opium	164 kg	159 kg
Morpine	0.002	-
Heroin Base	42.97 kg	76.85 kg
Heroin No.3	210.22 kg	191.99 kg
Cannabis	1,423.58 kg	3,737.03 kg
Psycitropic Pill	692,886 tablets	1,291,338 tablets
Ecstacy Pill	20,276 tablets	38,289 tablets
Shabu	1.21 kg	2.00 kg
Cocaine	2.80	-

[NEPAL]

NUMBER OF PERSONS ARRESTED AND QUANTITIES OF DRUGS SEIZED

(1991 TO 1997 UP TO SEPTEMBER)

		Nepalese		Foreigner		Cannabis			Hashish			Heroin			Opium			Others
Fiscal Year	No. of Person Arrested	Male	Female	Male	Female	Kg	Gm.	Mg.	Kg.	Gm.	Mg.	Kg.	Gm.	Mg.	Kg.	Gm.	Mg.	
1991	520	451	20	45	4	545	494	742	709	767	417	8	424	937	0	171	-	103 gm Bhang 8850 ml Phensedyl
1992	529	395	34	95	5	2133	324	760	958	105	590	21	395	488	0	737	-	2 kg of Bhang
1993	887	570	22	92	3	2448	194	-	517	897	550	18	147	810	-	4	-	Phensedyl 2898 Bottles
1994	785	844	43	95	3	2482	470	500	1273	617	138	17	119	177	4	477	-	Bhang 1 kg., Nitrazepam; 542 Pieces, Matulani Powder 14 kg, 32 gm; Dalzepam 954 Tablets; Valium Rose 12 Tab; Phensedyl 245 Bottle; Nitrosen 178 Tab; Nitravale 8 Tab; Codine Sulphele 159 Tab; Tidgesic Inl. 1789 Voll.
1995	810	842	42	116	10	5521	150	505	2133	428	131	7	320	245	-	205	-	Phansedyl 3088 bottle; Tidlgesic Inj. 4087 voll; Nitrazepam 588 pieces; Oxazepam 90 pieces; Nitrosen 3071 Tab; Bhang 11 kg. 500 gm; Morphin 175 bottle; \vallum 10 tab; and Tidlgesic 238 pieces.
1996	788	888	39	63	-	2271	309	158	191	7	372	489	989	985	-	440	-	Tidlgesic Inj. 7508 voll; Tidl. Tab. 40 Phensedyle 801 bottle; Nitrazepam 1214 tab; Vitration 120 tab; Roblgesic 25, Nitrosen 2148 Tab; Calmpoze Ini. 100 voll; Vellum 142 Tab; Nitrovale 120 tab; Lorazepam 158 Tab. Mlthllerogy mlthaln 100 voll; Dizepam 53 Tab. + Inj 1 Aspallne 4 cc; Cannabis seeds 250; Cannabis dust 8 kg; Phorkas 1, Cough Syrup 1; Nitrosil Tab. 804; Bruphine Inl. 14; Exolnon 79 cc Acellc Acid 280 Litres; Dormention Tab. 180;Codlne Sulpher Tab. 20; Hlplyach 14.
1997	452	385	9	53	4	1898	333	50	790	54	800	10	358	700	-	749	-	Phynsedyle-837 bottle; Tidlgesic Inl. 4054 Voll; Codine Sulphate 4971, Nitrazepam Tab. 2188; Brufen-2, Nitrosen Tab. 2300, Nldll-1, Remisl Syringe-47; Dalzepam Inj. 4 pieces. Nitravel 60.
Total;	4571	3773	209	559	29	17300	276	705	8300	260	874	92	754	340	6	783	-	

[NICARAGUA]

ILLEGAL DRUG TRAFFICKING CASES

YEARS	CASES	CLEARED CASES
1990	245	
1991	485	480
1992	500	495
1993	965	963
1994	986	986
1995	716	716
1996	989	988
1997	730	728

SEIZURE OF DRUGS

YEARS	COCAINE	CRACK	MARIJUANA			HEROIN
			Lb	PLANT	SEED	
1990	535.936 kg	– g	–	20c.	–	– kg
1991	762.642	–	1,052	–	–	–
1992	456.447	–	1,124	31,068	–	–
1993	96.209	–	519	9,808	–	–
1994	1,337.754	455	882	92,534	–	–
1995	1,512	1,069	765	53,776	–	
1996	398.444	3,531	1,884	53,528	15.5	1
1997	2,757.926	6,406	553	20,700	17	2

[PAPUA NEW GUINEA]

YEAR	No of Incidents
1985	45
1986	67
1987	53
1988	116
1989	255
1990	242
1991	320
1992	333
1993	1113
1994	949
1995	849
1996	1444

[PHILIPPINES]

ARREST	1995	1996
No of Persons Arrested	1,425	1,311
No of Foreigners Arrested	15 (2 killed)	27 (1 killed)

CONFISCATIONS/SEIZURES	1995	1996
Heroin	0	2,534 gms
Cocaine	14,424 gms	1,392 gms
Methamphetamine (Shabu)	207,593 gms	280,699.24 gms
Marijuana Leaves	1,754,956 gms	964,062.10 gms
Marijuana Plants	6,808,473 pcs	9,164,052 pcs
Marijuana Seedings	22,847,193 pcs	2,997,065 pcs
TOTAL MARKET VALUE	P1.76 BILLION	P2.044BILLION

[KOREA]

Breakdown by the Type of Violations and Drug-Related Laws(1994-1996)

Drugs / Type of violation	Narcotics			Cannabis			Psychotropic drugs		
	1994	1995	1996	1994	1995	1996	1994	1995	1996
Manufacturing	0	0	0	0	0	0	4	9	10
Smuggling	17	9	9	3	1	6	52	73	77
Trafficking	18	12	19	33	22	11	424	733	755
Cultivation	1,121	1,029	1,098	123	105	76	-	-	-
Consumption	20	18	9	885	951	804	1,021	1,682	2,400
Possession	24	17	17	349	264	169	99	102	239
Not specified	114	50	83	106	173	206	142	168	201
Total	1,314	1,135	1,235	1,499	1,516	1,272	1,742	2,767	3,682

Seizure of Drugs from Abroad (1993-1996)

Year / Drugs	1993		1994		1995		1996	
	number of cases	seized quantity	number of cases	seized quantity	number of cases	seized quantity	number of cases	seized quantity
metham-phetamine	11	1.6 kg	13	3.9 kg	24	7.6 kg	30	13.9 kg
cocaine	4	23.0 kg	2	37 g	1	0	5	766.8 g
heroin	2	22.4 kg	3	1.0 kg	3	3.5 kg	4	1.8 kg
raw opium	6	3.2 kg	5	2.9 kg	3	2.1 kg	2	0.47 kg
marijuana	1	5.4 g	3	143 g	1	0.5 g	6	3,155.8 g

Breakdown of Seizures of Drugs from Abroad by Source (1996)

Source/Transit country	Drugs	number of cases	smuggled quantity	seized quantity
China	methamphetamine	19	18.0 kg	12.7 kg
	ephedrine HCI	2	70 kg	47 kg
	raw opium	1	397 g	397 g
Japan	methamphetamine	5	5 kg	0.79 kg
Taiwan	methamphetamine	2	80 g	31.05 g
Hong Kong	methamphetamine	1	486 g	300 g
Pakistan	heroin	1	765 g	696.3 g
	raw opium	3	70 g	70 g
United States	cocaine	1	50 g	46.3 g
	marijuana	3	46.8 g	19.8 g
Philippines	methamphetamine	2	118.5 g	93.4 g
Thailand	heroin	1	160 g	95 g
Kazakstan	heroin	1	1 kg	1 kg
Nigeria	marijuana	1	3.1 kg	3.1 kg
New Zealand	marijuana	1	75 g	36 g
Colombia	cocaine	1	980 g	300 g
Argentina	cocaine	1	25 g	17 g
Brazil	cocaine	1	400 g	400 g

[THAILAND]

COMPARATIVE DRUGS SEIZURE STATISTICS
ROYAL THAI POLICE 1995-1997

TYPE OF DRUGS	NUMBER OF CASES			DRUGS SEIZED (KGS)		
	1995	1996	1997	1995	1996	1997
HEROIN	35,741	18,123	14,854	362,32	226,29	259,23
MORPHINE	14	0	3	0.02	0.00	1.84
OPIUM	2,778	2,200	3,405	1,366.51	640.65	1,422.16
CANNABIS	49,590	31,167	29,384	42,276.5	42,597.42	58,696.30
KRATOM	873	1,006	1,932	774.57	249.88	2,957.13
AMPHETAMINE	20,064	29,909	65,944	776.01	939.42	2,432.85
PRECURSORS	8	10	369	4,900.36	449.44	184.36
VOLATILE SUBS	37,142	24,317	28,002	1,148.90	719.40	1,053.47
ECSTASY	10	47	94	1.93	0.06	0.40
COCAINE	2	1	3	0.10	0.30	1.81
OTHERS	74	82	232	394.70	68.26	75.25
TOTAL	146,296	106,862	144,222	52,001.92	45,891.12	67,084.78

[TONGA]

Offences in 1997	Offence Report	Rejected	Convict	Acquitted	Undetected	Under Investigation	Pending Trial
Growing of Indian Hemp	7	–	1	–	–	3	3
Possession of Indian Hemp	17	1	4	–	–	6	6

[TURKEY]

in 1996

TYPE	CASE	ACCUSED	QUANTITY
Hashish	1,618	3,287	12,294 kg
Heroin	519	1,650	4,422
Morphine base	5	24	1,157
Opium	26	58	233
Cocaine	40	122	13
Acetic anhydride	7	29	42,450
Synthetic drugs	74	160	259,097 unit
TOTAL	2,289	5,330	319,666

[VIETNAM]

1993-1997

Discoverd	15,176 cases	24,453	persons	
trial	8,015	10,414	death penalty	46
			life imprisonment	53
			10-20 years	450
			7-10 years	389
			less than 7 years	8,629
confiscated	heroin			170 kg
	opium			7,108 kg
	hashish			10,718 kg
	methamphetamine			234 kg

Amount of Seized Cocaine (top 30 ranking country/area) by UN

kg

	1993	1994	1995
U.S.A.	110,963	100,845	100,001
Colombia	32,200	72,244	31,035
Mexico	45,835	22,113	22,708
Peru	8,872	10,634	22,661
Bolivia	9,055	10,021	8,497
Panama	2,870	5,177	7,169
Spain	5,351	4,016	6,897
Venezuela	2,866	6,035	6,650
Brazil	6,608	12,028	5,815
Netherlands	3,720	8,200	4,896
Dominica	905	2,898	4,391
Ecuador	1,195	1,790	4,284
Canada	4,469	8,357	3,598
Argentina	2,042	2,236	3,146
Chile	997	1,226	2,900
Italy	1,101	6,657	2,557
Portugal	219	1,719	2,116
Germany	1,052	767	1,846
Nicaragua	458	1,338	1,507
Virgin Islands	NO REPORT	NO REPORT	1,194
U.K.	709	2,262	970
France	1,721	4,743	874
Belgium	2,892	479	576
Jamaica	83	125	570
Honduras	48	930	409
Poland	107	526	383
Russia	1,038	1	372
Cuba	3,364	238	372
Costa Rica	460	1,411	361
Switzerland	334	295	262
Total	268,643	294,001	251,119

Amount of Seized Cannabis (top 30 ranking country) by UN

kg

	1993	1994	1995
Paraguay	11,541	12,756	2,203,691
South Africa	1,707,807	7,451,558	1,426,831
India	94,584	1,261,230	816,490
Mexico	494,665	528,425	780170
U.S.A.	392,850	373,982	479,722
Netherlands	110,049	290,477	275,035
Azerbaijan	NO REPORT	77,214	255,203
Ghana	1,018	28	209,507
Colombia	548,780	207,712	206,260
Canada	93,365	95,631	149,265
Laos	405,115	9,517	91,621
Senegal	1,939	1,392	79,775
Malawi	4,785	4,864	71,275
Sri Lanka	487,896	51,538	59,449
Jamaica	51,454	33,565	54,698
Thailand	85,986	85,446	45,205
Belgium	3,010	34,760	38,104
Morocco	265,375	40,516	35,808
Norway	NO REPORT	6,711	19,456
Nigeria	7,462	19,733	15,258
Armenia	NO REPORT	132	15,033
U.K.	11,976	11,582	14,159
Ecuador	110	161	13,946
Venezuela	526	9,989	13,685
Brazil	NO REPORT	18,837	11,731
Germany	8,524	21,660	10,436
Poland	2,966	164	10,087
Kazakhstan	288	3,504	8,329
Peru	424	404	6,443
Nepal	2,448	2,482	5,521
Total	5,282,124	10,620,042	7,507,621

Amount of Seized Cannabis resin (top 30 ranking country) by UN

kg

	1993	1994	1995
Pakistan	189,000	189,252	357,691
Spain	160,169	219,176	197,024
Morocco	106,289	97,048	110,245
Netherlands	28,173	43,229	79,985
U.K.	41,531	51,513	45,678
Canada	57,308	36,369	40,359
France	44,840	55,890	39,203
Belgium	32,207	25,166	32,582
Turkey	34,367	31,218	17,360
Iran	4,512	7,618	15,854
Ireland	4,200	1,461	15,529
Italy	10,661	18,128	14,922
U. S.A.	11,400	72,151	13,623
Mexico	5,427	-	13,477
Colombia	-	73	12,510
Poland	6,595	17	10,001
Portugal	52,655	40,393	6,334
Kenya	NO REPORT	-	5,707
Germany	4,245	4,033	3,809
Lebanon	18,287	39,872	3,760
India	7,979	-	3,629
Lesotho	NO REPORT	-	2,979
Jordan	4,332	1,726	2,911
Denmark	1,278	9,433	2,414
Nepal	518	501	2,133
Algeria	1,028	1,169	1,921
Kazakhstan	NO REPORT	-	1,522
Barbados	NO REPORT	NO REPORT	922
Malaysia	NO REPORT	NO REPORT	965
Kuwait	158	125	632
Total	848,420	979,025	1,059,859

Amount of Seized Heroin (top 30 ranking country) by UN

kg

	1993	1994	1995
Pakistan	4,000	6,444	10,760
Turkey	2,342	2,172	3,456
China	4,459	4,086	2,380
Iran	1,984	865	2,075
India	1,074	1,011	1,678
U. K.	655	745	1,336
U.S.A.	1,423	2,089	1,146
Italy	630	1,151	940
Germany	1,095	1,590	933
Hungary	413	812	568
Spain	604	824	546
Thailand	2,538	1,295	518
France	386	499	499
Hong Kong	128	446	411
Netherland	916	246	351
Saudi Arabia	206	112	324
Switzerland	179	225	213
Mexico	62	297	203
Bulgaria	557	474	198
Greece	153	285	173
Zambia	18	NO REPORT	153
Colombia	44	95	145
Belgium	76	137	129
Slovak	4	4	121
Malaysia	216	212	119
Macedonia	78	NO REPORT	111
Canada	154	62	106
Israel	87	118	94
Venezuela	13	15	81
Cambodia	NO REPORT	6	80
Total	26,692	29,129	31,107

Amount of Seized Opium (top 30 ranking country) by UN

kg

	1993	1994	1995
Iran	63,941	117,095	126,554
Pakistan	4,500	14,663	109,420
Thailand	2,530	606	18,124
India	2,908	2,256	1,339
China	3,354	1,776	1,110
Myanmar	2,416	1,689	1,061
Uzbekistan	241	226	835
Kyrgyz	NO REPORT	NO REPORT	727
Laos	369	293	696
Azerbaidjan	NO REPORT	12	255
Kazakhstan	NO REPORT	435	245
Mexico	129	149	223
Saudi Arabia	17	74	156
Malaysia	11	69	155
Colombia	281	128	144
Turkey	50	91	122
Belarus	10	882	89
Singapore	7	2	80
U. A.E.	43	161	62
U.S.A.	1,551	Å|	42
Japan	13	34	33
Kuwait	17	25	30
Russia	14	784	27
Peru	NO REPORT	581	24
Ukraine	120	NO REPORT	23
Cambodia	NO REPORT	1	19
Egypt	95	49	17
Germany	232	36	15
Macedonia	2	NO REPORT	14
Tunisia	NO REPORT	0.03	13
Total	85,270	144,517	261,723

TOPIC 2

CURRENT SITUATION OF ORGANIZED CRIMES (EXCEPT DRUG TRAFFICKING)

Chairperson	Mr. Abdul Wahhab Sarkar	(Bangladesh)
Co- Chairperson	Mr. Yutaka Nagashima	(Japan)
Rapporteurs	Mr. Alberto Rama Olario	(Philippines)
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	Ms. Kuniko Hokin	(Japan)
	Mr. Ken Umemura	(Japan)
Advisers	Mr. Masahiro Tauchi	(Deputy Director, UNAFEI)
	Mr. Ryosuke Kurosawa	(Professor, UNAFEI)

I. PREFACE

Topic two is the discussion of "the Current Situation of Organised Transnational Crime (except illicit drug trafficking)" happening in the respective participating countries. Transnational crimes to be discussed and analysed include 1) illicit firearms trafficking, 2) smuggling of illegal migrants, 3) illicit trafficking of women and children, 4) illicit trafficking of stolen motor vehicles, 5) money laundering, 6) transnational economic crimes. We also aim to look into the current trends and manifestations of such crimes, the types and names of groups involved, and the size and extent of their organisations.

II. CURRENT SITUATION

A. Illicit Firearms Trafficking

Among the participating countries, Japan and the Philippines manifested the most apparent problem. Japan is a destination of illicit firearms, mostly handguns, from several countries. In the last five (5) years, from 1992 to 1996 a total of 7,261 firearms were seized by the Japanese Police, 2,392 of which came from the U.S.A. (accounting for 32.9%), 1,352 from China (18.6%), 657 from the Philippines (9.5%), while the rest came from several other countries.

A total of 1,702 authentic handguns were seized in 1995, and over 90% of this number were of foreign manufacture. This shows the importance of stopping the smuggling at the country borders. Smuggling routes have increased to include Russia, China, South Africa and Peru in addition to the United States and the Philippines. Smuggling is also being done by fishing boats entering small unopen ports. The smuggling methods have become clever, and include use of foreign mail.

In 1997, from January to November 708 handguns were also confiscated by the Japanese police from Boryokudan members (an organised crime group in Japan) accounting for most of the firearms illegally shipped to Japan. This seizure however was a decrease of 28.3% from previous years confiscation from Boryokudan groups, indicating that the groups have managed to skillfully handle their illicit firearms trafficking.

Firearms trafficking in the Philippines on the other hand, is a two-way activity.

FIGURE 1

COUNTRIES OF PRODUCTION OF SEIZED HANDGUNS IN JAPAN

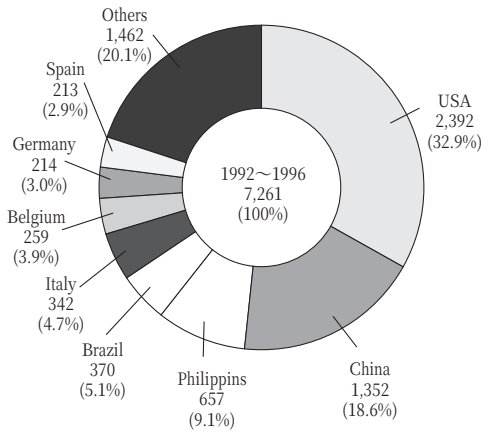

TABLE 1

SEIZED HANDGUNS FOR THE LAST FIVE YEARS FROM PRODUCING COUNTRIES IN JAPAN

Year	1992	1993	1994	1995	1996	Total	Ratio(%)
USA	407	469	489	591	436	2,392	32.9
China	233	297	311	304	207	1,352	18.6
Philippines	86	103	140	169	159	657	9.1
Brazil	73	56	71	91	79	370	5.1
Italy	66	91	82	81	22	342	4.7
Belgium	41	33	54	75	56	259	3.6
Germany	38	37	46	48	45	214	3.0
Spain	33	23	67	50	40	213	2.9
Others	313	247	253	293	356	1,462	20.1
Total	1,290	1,356	1,513	1,702	1,400	7,261	100.0

FIGURE 2

HANDGUNS SEIZED BY THE JAPANESE POLICE

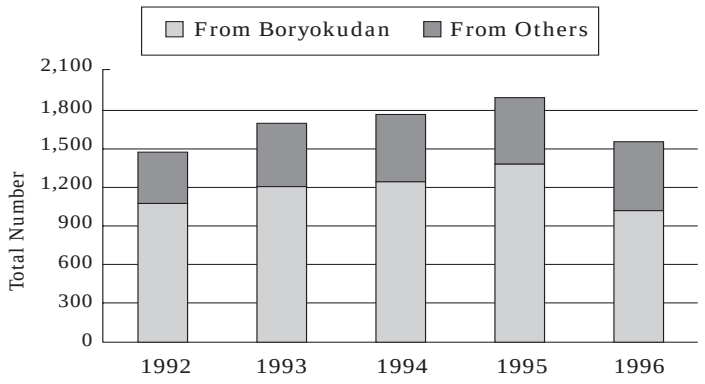

TABLE 2

COUNTRIES OF SHIPMENT OF SMUGGLED HANDGUNS IN JAPAN

Year	1992	1993	1994	1995	1996	Total
Total	27	60	64	9	14	174
USA	15	43	2	2	8	70
Thailand			61			61
Philippines	1	9			6	16
Argentina	7					7
South Africa	1	2		4		7
Russia	2	1				3
Others	1	5	1	3		10

Note: 174 handguns seized on the charge of smuggling during last five year.

TABLE 3

SEIZED HANDGUNS FROM DIFFERENT GROUPS IN JAPAN

Year	1992	1993	1994	1995	1996
Total Number	1,450	1,672	1,747	1,880	1,549
From Boryokudan	1,072	1,196	1,242	1,396	1,035
Ratio(%)	(73.9%)	(71.5%)	(71.1%)	(74.3%)	(66.8%)
From Others	378	476	505	484	514
Ratio(%)	(26.1%)	(28.5%)	(28.9%)	(25.7%)	(33.2%)

Crime groups and even ordinary individuals smuggle illegal firearms mostly from the U.S.A. to the Philippines through airports and seaports of the country. This is done by simply misdeclaring or non-declaring, and mixing or hiding firearms in cargo consigned to fictitious names and addresses. They also dismantle the gun parts and hide them among metal items or machinery legally shipped into the country. Clandestine shipments of high powered firearms, intended for rebel groups fighting the Philippines Government, is also done through the long coastline of the country from the north to the south. The other activity is the shipment of locally made firearms in the Philippines intended for some Asian countries particularly Japan, Taiwan and Hong Kong. The illicit trafficking is done aboard ocean-going vessels plying the Philippines and these countries.

Illicit firearms trafficking in the other participating countries of the Asia-Pacific region is also apparent in Korea, where organised groups bring in firearms

intended for local crime syndicates. The modus operandi of smugglers includes disassembling of the parts of the firearms and contraband and hiding them in other materials such as VCR's, vacuum cleaners and irons. Aluminium containers are used to evade X-ray detection at the airports.

In India, the problem is manifested by the on-going strife in the Kashmir Region, where illicit firearms are coming in via the land borders between India and Pakistan, and from sea and air routes inside India. The most recent and brazen illicit firearms trafficking in India was the Purulia arms drops case, where a Russian made Antonov 26 aircraft air-dropped 300 AK 47/56 rifles and 20,545 rounds of ammunition, dragnov sniper weapons, rocket launchers and night vision devices in the Purulia Village in West Bengal State. The aircraft was bought in Latvia for US$2 million and chartered by a Hong Kong registered company named CAROL Travel Company. The firearms were picked-up in Bulgaria by a syndicate composed of one (1) British, five (5) Latvians and an India national. Similar cases also happened in the Punjab and North East States of India.

In Pakistan, the country is a destination for illicit firearms coming from war-torn Afghanistan. Bangladesh and Malaysia likewise has problems of illicit firearms smuggling facilitated by crime groups engaged in drug-trafficking and gun-running for local crime syndicates. Thailand particularly is being used as a transhipment point for firearms intended for Tribal Warlords in the Golden Triangle area bordering Myanmar and Laos, for warring factions in Cambodia.

The other countries of Nepal, Fiji, Tonga, Papua New Guinea, Madagascar, Mongolia and Vietnam have little or no reported incidents of illicit firearms trafficking involving transnational crimes.

However in Turkey and Saudi Arabia, incidents of illegal firearms trafficking is very much apparent due to its proximity to strife torn areas of the Middle East. Turkey particularly has problems of this nature because of the on-going problems with the PPK, an organised crime group in Turkey, engaged in drug-trafficking. They are also very active in illicit firearms trafficking to protect their illegal drug business. While in Saudi Arabia, firearms arms entered the Kingdom through its boundaries carried by illegal immigrants. Most of the weapons are pistols, machine guns, shot guns and TNT. Some of these firearms fell into the hands of terrorist and criminal elements who uses them for bank robberies.

In the Latin America Countries of Colombia, Venezuela, Mexico and Nicaragua, firearm trafficking is also very apparent mainly due to the high profile drug production and drug trafficking in these countries, particularly Colombia and Mexico. Nicaragua was once a strife-torn country due to its internal civil war and illicit firearms poured into the country. In addition, Mexico and Colombia are facing an internal insurgency problem. Mexico in the Chiapas Region and Colombia by leftist and rightist rebel groups. Only Venezuela has manifested slight problems in firearms trafficking due to its relatively stable economy and peace and order conditions.

B. Smuggling of Illegal Migrants

Among the participating countries of the 108th seminar, serious cases of illicit trafficking of migrants were reported by presentors from the Asia-Pacific region like the Philippines, Malaysia, Thailand, Nepal, Bangladesh, India and Pakistan towards developed countries or regions like Japan, the U.S.A. and the Middle East. The Latin America countries of Mexico, Colombia, Nicaragua and Venezuela also reported illegal migrant trafficking

towards developed countries and regions like the U.S.A. and Europe.

Economic adventurism is the common motive for these illegal migrants to venture out of their native countries. They are the so-called "economic aliens" who seek better lives away from their impoverished homelands. The other type of illegal migrants are the so-called "political aliens." They flee from their native countries due to persecution because of their different political, religious, cultural views or because of war. These unfortunate people are easy prey of transnational crime groups who provide the incentive to travel abroad by facilitating their papers and transportation. It has been reported that the price for moving an alien from Southern China, particularly the Fujian Province to Japan is US$20,000 and to the U.S.A., US$33,000. To find these fees, illegal migrants borrow money from relatives or friends but more usually from the smuggling syndicates at extraordinary rates set by them. As a result, both the immigrants and their family members may become indentured workers or forced to turn to crime to repay debts.

In Japan, Boryokudan crime groups facilitate the entry of illegal migrants in collaboration with Chinese crime groups such as "Snakeheads." The number of arrested illegal immigrants and the number of incidents (cases) from 1995 to 1997 in Japan is as follows. In 1997, 90% of the arrested were Chinese and most of them came from the Fujian Province of Mainland Chaina.

TABLE 4

NUMBER OF ARRESTED ILLEGAL IMMIGRANTS

	1995	1996	1997(Jan.-Sep.)
Arrested Illegal Immigrants	350	670	1,070
Cleared Cases	15	28	51

Cases of illegal migrants from the Philippines, Malaysia, Thailand and Vietnam were reported to have been lured to Japan, Hong Kong, Europe and the Middle East hoping to find high paying jobs and better lives. In the transport of these illegal migrants, transnational crime groups collaborate with their counterparts in the countries of destination and along the routes to facilitate the transport of these illegal migrants. Some hapless victims have been said to suffer enormous difficulties and some have died in mishaps while being transported by the syndicates. One such incident happened in the Malta Sicily Channel (Italy) when 200 people, including 170 illegal migrants from India, drowned while crossing the channel in small boats. Many were also reported to have died while being transported across mountains and the Swiss Alps just to reach their destination in the Western European countries.

In the Republic of Korea, illegal immigration comes mainly from China. In 1994 through 1997, 2,667 Chinese entered the Republic of Korea illegally through sea routes. It is estimated that there are 40 groups engaged in facilitation of illegal immigrants who pay 40,000 to 50,000 Chinese yuan per head to the syndicates. Another modus operandi employed in the Republic of Korea by the syndicates is to arrange marriage of Chinese illegal entrants to Korean nationals to obtain residential registration cards.

In the Latin America countries, Mexico comes out as the most prominent, as exemplified by the never ending influx of illegal Mexican migrants to the U.S.. Colombia, Nicaragua and Venezuela also this problem where citizens leave their country to look for more economic opportunities in the U.S. and Europe.

The countries of Mongolia, Fiji, Papua

New Guinea and Madagascar have reported fewer cases of problems of illegal migration, at least in the context of organised migration facilitated by International Syndicates.

In Saudi Arabia and Turkey however, these two countries are destination points of illegal migrants from neighbouring war-torn countries. In the case of Saudi Arabia, illegal migrants from Iraq and some poorer countries from Asia and Africa find havens in the desert Kingdom. It is estimated that there are about 100,000 illegal immigrants staying in the country from Yemen, Ethiopia, Erithria and Somalia. Turkey likewise has a great number of illegal migrants or refugees from Northern Iraq and some neighbouring countries.

C. Illicit Trafficking of Women and Children

In the Asia-Pacific region, illicit trafficking of women and children are mostly apparent in developing countries like Bangladesh, Nepal, Philippines, Thailand, Malaysia, and Vietnam. Women victims in these countries fall prey to crime groups offering them high paying jobs in other countries like India, Japan, Hong Kong or some Middle East Countries and even Europe. However, some of the women who come under the control of the syndicates are sold to other crime groups and forced into prostitution. Some victims are somewhat fortunate enough to be sold only as maidservants in such countries as the Middle East and Europe. In Bangladesh, fifty-five women were confirmed to have been victimised during the period from January to September 1997.

In the Philippines, syndicates recruit would be victims as cultural dancers or domestic helpers but end up as prostitutes once they reach their country of destination. Others fall prey to "mail order brides" schemes prevalent in European countries and Australia, featuring 30-day trial marriages. When the trial marriage fails, these girls resort to prostitution to make ends meet and survive.

In the other participating countries like Mongolia, Fiji, Madagascar, Saudi Arabia and Turkey, the participating presenters reported no significant incidences.

However, in the Latin America countries of Colombia, Mexico, Nicaragua and Venezuela, incidents of illicit trafficking of women were very apparent, mostly for prostitution activities. Colombian women are favorite objects of organised crime groups and many arrests were registered in such countries as Japan, Hong Kong and the Philippines.

Trafficking of children cases were also reported in Bangladesh where seventy (70) children were victimised during the period of January to September 1997. In Bangladesh and Pakistan, children who were illegally shipped to some Middle Eastern countries, were reported to be utilised as camel boys.

In the Philippines and Thailand, young boys are the object of European and Australian Paedophiles who visit who visit these countries looking for child prostitutes. International syndicates advertise these countries in the "Spartacus" magazine as locations for cheap, perverted sex.

D. Illicit Trafficking of Stolen Motor Vehicles

This crime activity is prevalent is such countries as Japan and U.S.A. where vehicles are stolen and shipped to countries like China, Philippines, Russia, Thailand and Vietnam. Hong Kong has incidents of vehicles being stolen and shipped to China aboard fast crafts called "Dai Fei". Russian

Mafia Groups facilitate this illegal trade in Japan and Europe for shipment to Russia and former Soviet Union countries, while the Chinese Triads facilitate this business in Hong Kong and Japan for shipment to China. Japanese crime groups collaborate with Russian Mafia in these activities. In the Philippines, stolen vehicles from Hong Kong, Japan, Taiwan and the U.S. found their way into the country through ocean-going vessels and were smuggled to Philippines seaports or dropped at the high seas to be picked-up later by smaller boats.

In Pakistan, cases of stolen vehicles occur in the cities and urban areas, to be brought to tribal areas by local tribal crime groups demanding redemption of the vehicles in exchange for cash. Unredeemed vehicles are transported across the Pakistan borders to be sold to other neighbouring countries.

Stolen motorcycles from Japan are mostly shipped to China, Hong Kong, the Middle East, the Philippines, Russia, Thailand, and Vietnam.

E. Money Laundering

Among the participating countries, money laundering is most apparent in the developed countries where transnational crime groups are actively operating. Hong Kong rates high in this category due to the high profile activity of the Hong Kong Groups. Mexico, Colombia, Pakistan, Turkey, Thailand, the Philippines and India come close due also to organised crime group activities engaged in highly lucrative illicit businesses such as drug trafficking, illegal gambling, trafficking of firearms, stolen vehicles and other economic crimes like credit card fraud, bank frauds and money counterfeiting.

Other participating countries, where economic stability and progress is still wanting, like Vietnam, Nepal, Bangladesh, Mongolia, Fiji, Tonga, Papua New Guinea and Madagascar, have little or no significant reports of money laundering cases. Nicaragua and Venezuela have reported some incidents mainly coming from organised crime groups engaged in drug trafficking in these countries.

Of the countries mentioned, only Japan, Colombia, Hong Kong, Madagascar, Mexico and Pakistan have anti-money laundering laws, while the others are still drafting or deliberating on their respective laws governing money laundering.

In Pakistan, money laundering comes in the form of placement, where physical disposal of each illegal proceed is made. Layering is another form where separation of illicit proceeds from their source is created by complex layers of financial transaction designed to disguise the audit trail and provide anonymity. Integration on the other hand is the provision of apparent legitimacy to criminally derived wealth. There is also the so-called “Hawala” scheme in India and Pakistan where money is given to a person in one country, and intended for a beneficially in another country. His associates in the other country disburses the money to the recipient, of course with a fee or percentage.

In many countries, laundered money finds its way to business investments like hotels, night-clubs, travel agencies, construction businesses and other big business activities.

F. Transnational Economic Crimes

Again, these types of crimes are prevalent in the more developed countries like Hong Kong, India, Japan, Mexico, the Republic of Korea, Saudi Arabia, and Turkey. It is also prevalent in developing countries like the Philippines, Thailand, Malaysia and Colombia, where

transnational crimes groups operate.

Among this type of crimes, credit card fraud is mentioned as the most popular crime among participating countries. In the Philippines, an international syndicate was recently busted engaging in credit card fraud. Their modus operandi involved such schemes as skimming methods, courier-intercept methods, cardholder and syndicates and the merchant-syndicate method. In Japan, foreign organised crime groups are engaging in credit card fraud and counterfeiting pre-paid cards for pachinko, telephones and cheques. Incidents of credit card fraud have become prevalent and surfacing even in such countries as Tonga and Vietnam.

In Japan, transnational economic crime is not only perpetrated by the Boryokodan but also by another Japanese organised crime group known as "Sokaiya". The latter operates in the stock market business where, after obtaining rights as stockholders, they demand undue gains from enterprises by throwing the general meeting of stockholders into confusion. However, the activities of Sokaiya is presently domestic nature, but it is possible in the future it will become transnational.

In Thailand, Malaysia, the Philippines and Turkey, currency counterfeiting is also prevalent with many arrests registered. It is however, observed that present trends indicate a downward activity of currency counterfeiting, while activities in other economic crimes such as credit card fraud, bank frauds and other sophisticated computer-technology frauds are on the upswing.

G. Other Crimes

Peculiar crimes being perpertrated by transnational crime groups as reported by the participating countries include the following:

(1) Maritime fraud or phantom ship fraud. The Philippines and Thailand have experienced these types of fraud where ships loaded with goods mysteriously disappear in transit, and consignees turn out to be ficitious.

(2) Illegal Transport of internal organs. International syndicates kidnapped children and used their internal organs for sale in big hospitals in Europe and the U.S.A.

(3) Smuggling of rare and endangered animals. India, Vietnam, Madagascar and Thailand have cases reported on these activities. Tigers in India and Thailand are being killed for their bones and hides, and smuggled to China and Hong Kong. Elephant tusks in India are likewise the object of international smugglers. In Vietnam, smuggling of animals includes rare snakes, pangolins, monitions, wild ducks and turtles.

(4) Smuggling of cultural assets, religious artefacts, antiques, precious metals. international syndicates induce the theft of valuable cultural assets of such countries as India, Vietnam, Philippines and Thailand. In the Philippines, religious artefacts from churches, mummies from tribal grave yards, antiques from museums and private homes are being stolen and sold to foreign buyers for resale to big museums in the U.S. and Europe. Thailand also has cases of Buddha images being stolen and sold to foreign smugglers.

III. ORGANISATION OF MAJOR TRANSNATIONAL CRIME GROUPS

A. Japan

Boryokudan is estimated to have 80,100 members including associates, with 44,700

official members. There are three (3) major groups, Yamaguchi-Gumi, Inagawa-kai and Sumiyoshi-kai. Each group has a distict territory or "Nawabari" and practices the "Jonokin" or tribute system. Members are governed by the quasi-blood relationship or "Oyabun" and "Kobun" and entry into the organisation is made after an initiation ceremony or "Sakazukigoto". The group is characterised by high criminality and violence, often engaging in "Turf-War" to settle disputes.

Its traditional sources of income are the following:

(1) location fee (protection money)
(2) drug trafficking
(3) gambling
(4) bookmaking

A new source of income is derived from intervention in civil affairs, corporate racketeering and "Sokaiya". They recently have ventured into legitimate business by investing their illict proceeds into legitimate businesses.

B. Hong Kong

The Chinese Triad, 14K, Bamboo Gang, SUN YEE ON, WO GROUPS engages in drug trafficking, firearms smuggling, smuggling of illegal migrants, stolen vehicles, and economic crimes. They operate in mainland China, Hong Kong Taiwan, Japan, Philippines, Thailand and Malaysia.

C. India

(1) DAWOOD Gang: operates in the Bombay area. Has a membership of 4,000 to 5,000. Engages in extortion, contract killing, film financing, drug trafficking, smuggling in computer parts and firearms.
(2) Arun Gawli Gang: Has 200 to 300 gang members engaged in protection money and contract killings. Leader is an active politician in Maharashta province.
(3) Aman Nail Gang: Operates in the Dadar area of Bombay. Has a strength of 200 criminal gang members.
(4) Chota Rajan Gang: Operates in the Maharashta, Karnataka, Uttar pradesh and Delhi area. Has a membership of about 800.

D. Philippines

Indentified transnational crime group personalities:

(1) Alfred Tionko : Fil-Chinese, drug traficking
(2) Lawrence Wang : Fil-Chinese, drug traficking
(3) Relly Barbon Gang : Kidnap for ransom, robbery
(4) Solido Group : Bank robbery, drug traficking
(5) Paracale gangs : Bank robbery, drug traficking
(6) Andres Manambit Group : Kidnap for ransom, drug traficking
(7) Chen Ting Lun : Chinese Triad, drug traficking
(8) Chen Chi Chuing : Chinese Triad, drug traficking
(9) Wei Kuen Keung : Chinese Triad, drug traficking
(10) Wong Kuen Alan Tong : Chinese Triad, drug traficking
(11) Choo Yeh Leong : Chinese Triad, drug traficking
(12) Yan Po Weng : Chinese Triad, drug traficking

E. Colombia

(1) Madellin Cartel: Drugs, firearms trafficking
(2) Cali Cartel: Drugs, firearms trafficking

F. Mexico

(1) Arrellano Brothers: Drug trafficking
(2) Rapael Caro Quintero: Drug trafficking
(3) Juares Cartel: Drug trafficking
(4) Amado Carillo "lord of the sky" : Drug trafficking

G. Former Soviet Union(Russia)

(1) Russian Mafia: Drugs, illegal migrants,

prostitution, firearms trafficking, stolen vehicles trafficking, economic crimes
(2) MVD; 8,000 criminal groups in Russia with approximately 100,000 members, operate in over 50 countries.

H. Thailand
(1) Kun-Sa or Jang See Fu Syndicate: Engaged in drug trafficking and war arms smuggling.

I. Turkey
(1) Hursit HAN crime group.

IV. ANALYSIS AND CONCLUSION

Organised crime is first of all a domestic problem and when unchecked, it assumes a transnational character. Encouraged by apparent success in domestic crime, they graduate into large scale and transnational scenarios by collaborating with counterpart crime groups in other countries. Profit motive is the biggest inducement for transnational crime groups. Activities entered into like drug trafficking, illegal migrant smuggling, women trafficking (prostitution), firearms smuggling and economic crimes, brings in enormous, easy monetary incomes. Their accumulation of wealth translates into more power and clout as the transnational crime syndicates can now engage in corruption of public officials, invest in profitable businesses whether legal or illegal. The dimensions of the accumulation of wealth, power, influence and capabilities of organised transnational groups have in recent years transcended beyond imaginable means. Ironically, victim countries have abetted the growth and expansion of these transnational organised crimes groups through their continued poor economic conditions and status. Vivid examples of these are the illegal trafficking of migrants, and the trafficking of women and children who, in their desire to escape the poverty in their native homelands, have become willing or unwilling victims of these crime groups. On the other hand, richer or more developed countries, are targeted for the ready market and opportunities that exist for illegal drugs, illegal fire arms, stealing of motor vehicles, the entry of illegal migrants, prostitution, gambling and favourable atmosphere for the commission of transnational economic crimes.

Most ironic of all is the sad reality that despite the advance of the current trend of transnational organised crime, government policies of most of the countries of Europe may have encouraged and created a favourable climate of growth for these groups. As Dr. Savona, emminent criminologist and professor from Trento University in Italy has observed,"the Current trend of globalisation of the market (i.e., European common market) seems to have induced the criminal organisation to develop also globally in their operations and have in fact concentrated in two different directions, specialisation and diversification."[1] In the European context, Dr. Savona mentioned that the Russian Mafia have successfully adopted these globalisation strategies, ironically aided and enhanced by the open-market policies of the European common market nations.

In the Asia Pacific context, Mr. Lau, Director of Crime and Security of the Hong Kong Police, has likewise observed the rapid globalisation of crimes perpetrated by transnational organised crime groups operating in the Asia and Pacific region, like the Chinese Triad, Japanese Boryokudan and other groups. He contends that to effectively fight the transnational crime group in the next millennium, new strategies, new concepts, adoption of multi-agency approaches and more international efforts in co-operation and co-ordination must be made to insure

[1] 108th Crime Prevention Seminar presentation, UNAFEI, Tokyo Japan

victory against crime. Incidents of international crime group members escaping arrest and prosecution with have to be resolved by effective and stronger co-ordination and co-operation among nations.

Since the dimensions of the problem have become globalised, governments of the different nations of the world should now realise that the threat of these transnational organised crimes is very apparent and increasingly becoming bolder, and that countermeasures to the threat must be immediately put in place. As Mr. Dimitri Vlassis, Crime Prevention and Crime Justice Officer at UN Office at Vienna, mentioned in his lecture at UNAFEI, the international community cannot afford to allow the situation to deteriorate further. It must take measures now and proceed to practical action based on agreement and founded on its collective political will.

As a conclusion, the following issues should be given special emphasis:

(1) Governments of affected countries must effectively identify the problems posed by transnational organised crime groups, by looking into their organisation, scope and extent of their operations.
(2) Government policies, laws and practices must be looked into to develop up to date and effective countermeasures against the operation of transnational organised crimes.
(3) Inherent weaknesses in the economic and political conditions of affected countries should be addressed, so as not to become a continuing prey to these crimes groups.
(4) Stronger and efficient international, regional and bilateral co-ordination and co-operation among nations must be enhanced to thwart and negate the activities of transnational organised crimes.
(5) Political will among the community of nations to implement the countermeasures against transnational organised crimes must be affirmed and pursued.

APPENDIX A

Li Yung Chung Case

A deputy chief justice of a regional court, faces investigation for suspected involvement in the release on bail of drug suspect Li Yun Chung, accused of arranging the biggest shipment of heroin ever seized in the United States.

In November 1994 the US government requested extradition of 20 criminal suspects living along the border of Burma, China and Thailand who were under indictment in a federal court in New York for heroin trafficking, In combating Southeast Asian organized crime groups and heroin trafficking syndicates, the Tiger Trap Operation was set up with cooperation from the Office of Narcotics Control Board, Burma and US government to extradite those criminal suspects to the United States.

In February 1997 Li Yun Chung, who is wanted by the United States on charges of smuggling 486 kilograms of heroin-the largest heroin seizure in US history - into Oakland, California was first arrested in Thailand. He was freed on bail seven months late and fled to Burma. In May, three months after Li fled, Burmese authorites handed him back Thailand. On June 5, he was sent to the US to stand trial.

Li, part of Khun Sa's heroin trafficking networks, spent large amount of money to bribe high ranking officials. He jumped bail in Thailand and made a beeline for neighboring Burma. However, with good co-operation among Thai, Burma and the US, finally Li was arrested and sent into custody. Extradition is an important tool to allow prosecutors in any country to try all the people involved in trafficking syndicates, not just the smaller people who may just carry the drugs or sell the drugs on the street.

APPENDIX TWO

cooperation to use fake cards in japan

TOPIC3

LEGAL FRAMEWORK AGAINST TRANSNATIONAL ORGANIZED CRIME BY CRIMINAL JUSTICE SYSTEMS IN DIFFERENT COUNTRIES

Chairperson	Mr. Udaya Nepali Shrestha	(Nepal)
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I. INTRODUCTION

Under the theme of the 108th International Seminar "Current Problems in the Combat of Organized Transnational Crime", our group was assigned to explore the legal framework against organized transnational crime in different countries' criminal justice systems. The scope of our exploration was identified and finalized with the following issues being focused on:

(1) specific criminal provisions (substantive and procedural) for efficient countermeasures against crimes committed by organized transnational crime groups;
(2) provisions for the confiscation of illicit proceeds derived from the specific organized transnational crimes;
(3) provisions specifically directed at organized crime groups;
(4) provisions for pro-active and/or non-traditional strategies, such as, undercover operations, wiretapping, immunity, controlled delivery etc., in investigating organized transnational crimes;
(5) provisions for witness protection programmes;
(6) special provisions with regard to sentencing policy; and
(7) exploration of provisions for international co-operation in criminal matters, such as extradition and mutual legal assistance.

In our examination, a total of 22 countries' criminal justice systems were studied, namely: Bangladesh, Colombia, Fiji, Hong Kong, India, Japan, Madagascar, Malaysia, Mexico, Mongolia, Nepal, Nicaragua, Pakistan, Papua New Guinea, Philippines, Korea, Saudi Arabia, Thailand, Tonga, Turkey, Venezuela, and, Viet Nam. Our study was conducted by ways of referring to the individual presentation reports of participants attending this Seminar, holding of interviews with participants, of general discussion in forum, and, examining of concerned law books.

II. CURRENT PROVISIONS IN COMBATING ORGANIZED TRANSNATIONAL CRIMES IN THE RESPECTIVE COUNTRIES

A. Efficient Countermeasures

Defining the term "efficient countermeasures" in legal justice systems is difficult , the group is nevertheless of the opinion that it should be a formalized system or arrangement facilitated either by provisions or executive action

(procedural) which is to speedily and timely deal with the suspect in the course of investigation and/or offender upon his/her arrest. Performance indicators are therefore placed upon: simplified procedures in investigating and detecting offences; timely process of request for assistance; and speedy trial.

Upon examining the legal justice systems of these 22 countries, it was revealed that only the Philippines has the set-up of 'Special Dangerous Drug Court' to speed up the criminal proceedings for drugs trafficking cases. In this court, trials can be concluded within two months, following the arrest of the offender. In Hong Kong, authorization in conducting raid at premises for firearms is delegated to police officers of the rank of superintendent (under the Firearms and Ammunition Ordinance) to speed processes. In addition, under the Police Force Ordinance of Laws of Hong Kong, banking institutes upon receipt of the request from the police have to supply information whether the subject has any accounts drawn on the bank and all account records, if any, within 28 days. It is noted that some countries, such as India and Malaysia, will make use of the internal security provisions to speed up proceedings against criminal, however the group is of opinion that these kinds of countermeasures should not be encouraged.

B. Confiscation of Illicit Proceeds

Provisions for confiscation of illicit proceeds, although confined to illicit trafficking in drugs, are in force in more than half of the 22 countries assessed; namely Bangladesh, Colombia, Hong Kong, India, Japan, Korea, Malaysia, Madagascar, Mexico, Nepal, Nicaragua, Pakistan, Saudi Arabia and Turkey. Amongst them, Bangladesh, Colombia, Hong Kong, Mexico, Nepal, Pakistan, Saudi Arabia and Turkey further have provisions for confiscation of illicit proceeds derived other than from drug trafficking.

Of note, some countries have already had provisions in the final draft to regulate the confiscation of illicit proceeds derived from drug trafficking and/or organized crimes, although they are yet to be enacted, such as the Anti-Organized Crime Law of Japan, the Proceeds of Crime and Money Laundering (Prevention) Act of India, and the Money Laundering Control Act of Thailand.

C. Criminalization of Organized Crime Groups

Provisions for criminalizing members of organized crime groups can be divided into two categories: the first being provisions criminalizing the MEMBERSHIP of an organized crime group which making it an offence of being a member; the second category is described as provisions criminalizing SPECIFIC OFFENCES COMMITTED BY MEMBERS of an organized crime groups. By this criteria, the "Society Ordinance" of Hong Kong and the "Act for the Punishment of Violent Crimes" of Korea are under the first category; while the "Anti-Boryodukan Law" of Japan, and, the "Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act" which is only applicable in the State of Uttar Pradesh of India should be within the second's.

D. Provisions for Pro-Active Strategies in Investigating Organized Crimes

For easy reference, pro-active strategies in investigating organized crimes are confined to those assessed to be the most reliable and effective evidence-gathering techniques, such as undercover operations, wiretapping, immunity, and controlled delivery.

1. Undercover Operations

Under the laws of Colombia, Malaysia, Mexico, Pakistan (for drugs offences only), Madagascar, Saudi Arabia, Venezuela, and Viet Nam, in the course of investigation and detection of criminal activities, the mounting of undercover operations by the deployment of operatives is legally permitted and governed. Evidence so adduced is admissible in court. While in Bangladesh, Hong Kong, Japan, Philippines and Turkey, undercover operations are common practice and legal in the sense that there is no laws to rule it illegal. Undercover operations are basically illegal in the countries of India, Korea, Nepal, Nicaragua, Thailand, Tonga, and Fiji.

2. Wiretapping

The definition of wiretapping in our study is defined to the interception and/or the tapping of conversations over the telephone without the knowledge of both the calling and receiving parties.

Provisions permitting the wiretapping in the course of investigation exist in Colombia, India (mainly for information/ intelligence gathering and evidence so obtained is not admissible in court), Madagascar, Malaysia (applicable only to drug trafficking and kidnapping offences), Mexico, Pakistan, Philippines, Turkey (subject to the prior approval of the court), Venezuela, and Viet Nam.

3. Immunity

In view of the difficulties encountered in prosecuting the master-minds of criminal syndicates (principal offenders), especially for victimless crimes, due to the secret operation of most of the organized crime groups, the granting of immunity to members of the criminal syndicate or operatives in undercover operations, so as to obtain their testimonial evidence in court, is assessed as one of the most effective and reliable tactics. Immunity, in term of its types, can be divided into two categories in accordance with the approach of U. S. A.. The first type which is granted through legislation is called "formal" immunity, while the second type is granted by way of negotiation carried out between the defense counsel and prosecutor with the acknowledgment of the presiding judge. In respect of "formal" immunity, it can be further divided as "use" and "transaction" immunity.

(i) *Use Immunity*: briefly protects a witness from prosecution in respect of their testimonial evidence in court from incriminating themself for a particular offence.
(ii) *Transaction Immunity*: is a blanket protection to a witness from prosecution regarding their testimonial evidence in court for a particular crime, or a series of crimes (transaction), in which s/he is incriminated.

"Informal" immunity is basically an agreement as a result of the bargain and/ or negotiation between the defense counsel and prosecutor, with the cognisance of the presiding judge. By this agreement the witness is protected from prosecution.

Our study of these 22 countries' legal justice systems revealed that provisions to regulate immunity exist in Colombia, Hong Kong, India, Mexico, Pakistan, the Philippines, the Republic of Korea, Saudi Arabia, Venezuela and Viet Nam, although the circumstances under which it is granted may be defferent.

4. Controlled Delivery

"Controlled Delivery" is an effective tool in combating illicit drugs trafficking and is defined in the 1988 United Nations Conference for the Adoption of the Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic

Substances, as "the technique of allowing illicit or suspicious consignments, or substances substituted for them, to pass out of, through or into the territory of one or more countries, with the knowledge and under the supervision of their competent authorities, with a view to identifying persons involved in the commission of the offence".

Out of the 22 countries, adopting the tactics of controlled delivery in tackling illicit drugs trafficking, handling stolen goods, etc. is legalized in Hong Kong, India, Japan, Madagascar, Malaysia, Pakistan, Philippines, Saudi Arabia, Turkey and Vietnam. Nevertheless difficulties has been experienced in some countries affecting the success of these operations, due to the inadequate cooperation and coordination of involved countries, especially destination countries.

E. Witness Protection Programmes

The importance of witness protection is particularly pertinent in the success of combating organized crimes, not only because of preventing threat and/or violence to the witnesses but also as a guarantee in gaining the confidence of witnesses in support in of organized crime prevention and detection.

Most of the countries studied realize the essential need of protecting witnesses. Their witness protection programmes can basically be categorized in to three types:

(1) Countries with witness protection programmes regulated by legislation are: Colombia, Mexico, Philippines, Saudi Arabia and Turkey (applicable to terrorist matters only). While in Hong Kong (Witness Protection Ordinance) and Nepal (Witness Protection Act) are in the draft stages.
(2) Countries with the witness protection programme formalized by way of executive action are: Bangladesh, Hong Kong, Korea and Nepal.
(3) This group consists of those remaining countries in which the witness protection issue is not formalized nor legislated, but may be provided in case of need.

Of note is that despite witness protection programmes in force in law or otherwise in some countries, the extent and standards varied. Some countries only confine their protection to the trial period, although some countries provide a full range of protection including physical protection, relocation of residence, financial support, change of identity, and the extending of the scheme to cover the witness family and relatives. However it is unfortunate to note that some are hampered by the lack of financial and human resources to afford a comprehensive witness protection programme.

F. Special Criminal Punishment/ Sentencing Policy

Sentencing policy is basically a decision making process for the authority to determine the treatment of a convicted offender. It nevertheless implies the message of deterrence, punishment and rehabilitation, in accordance with the priority allocated and nature of the offence. Of course, the background of the offender should be taken into consideration as well.

Under this scope, a lot of factors such as the characteristics of the country, social, political economic, development stage, phenomenon of the country, may be brought up. For the sake of our study, focus is placed upon the issue of sentencing policy with regard to organized crime offenders. Amongst the countries studied, Hong Kong (Society Ordinance, and, Organized and Serious Crime Ordinance), Japan (Anti-Boryokudan Law) and Korea (Act for the Punishment of Violent Crimes) have special provisions to criminalize the members of an organized group by

enhancing the sentence for the offence committed, although in Japan being a member of Boryokudan itself is not an offence under the Anti-Boryokudan Law. Whereas Bangladesh, India, Malaysia, Pakistan, the Philippines, Saudi Arabia and Turkey, has capital punishment in force for drug trafficking offences.

G. Provisions for International Cooperation

There is no dispute that international cooperation becomes a "must" if organized transnational crime is to be combated effectively and efficiently. The effective means are the surrender of fugitives and mutual assistance in criminal investigation by the facilitation of national provisions and/or bilateral/multilateral agreements; although difficulty is experienced by requesting countries due to lack of bilateral agreements with the requested countries, or, in view of the principle of speciality and of dual criminality.

Upon studying the 22 countries, those with national provisions to facilitate the international cooperation are Bangladesh, Colombia, Japan, Madagascar, Mexico, Malaysia, Nepal, Pakistan, the Philippines, the Republic of Korea, Saudi Arabia, Thailand, Turkey and Venezuela, while Hong Kong is in the stage of drafting the fugitive offenders bill.

III. QUESTIONS TO BE ANSWERED

Amongst the above seven issues, adoption of pro-active strategies such as undercover operations, wiretapping, immunities, and controlled delivery in investigating organized crimes attracted active discussions in the forum; not only in the scope of human rights, individual freedom, personal privacy but also bringing up the dilemmas being encountered by law enforcement agents, the issue of entrapment, and the issue of police ethics.

Despite in some countries undercover operations and/or wiretapping are yet to be legally permitted (of course in this sense it should not be assumed as illegal), law enforcement agencies adopt them as a common practice for information/ intelligence gathering. This sort of practice apparently brings out a question of temptation and entrapment, should the law enforcement agent lack supervision and coaching. Meanwhile the belief that the law enforcement agency, as part of the social justice system, should reflect justice by maintaining the law and order with honesty and integrity, these practices are no doubt putting the law enforcement agent(s) in a dilemma. It is easy to imagine the next question of credibility of the officers concerned in their testimonial evidence under which the informational evidence is gathered. Should the officer intentionally deny or conceal the truth, or should s/he be holding to the ethic of honesty and tell the whole truth?

Immunity was another hot issue during the discussion session. By adopting the approach of the U.S.A., immunity (as described earlier), both formal or informal, basically puts a suspect under exemption from prosecution. This tool seems to be one of the most effective countermeasures in bringing the heads of organized criminal syndicates before justice. The question of abuse (such as what can be done if the witness whom the immunity has been granted turns hostile in court) should however become another concern of the legislators.

In the course of the forum, the meaning of immunity also attracted active discussion although it was eventually clarified that by adopting the U.S.A.'s approach and other countries' approaches, the application and circumstances under which it is granted might be different. In Hong Kong, the immunity (called Public

Interest Immunity) can be granted either before the commission of the offence, or after the commission of the offence. The former applies to police officers (operative) and/or witnesses (Informer) who have been tasked to take part in the undercover operation, while the latter can be granted to a suspect so as to testify against a principal offender.

Unless undercover operations, wiretapping, and immunity are formalized and founded with clear and specific legislation, the question of dilemmas and abuse remain to be answered.

The tactics of controlled delivery also causes concern upon the issue of lack of effective and efficient cooperation and coordination. In this aspect, the setting up of a joint action task force which not only involves law enforcement agencies of affected countries, but also includes legal counsel of concerned countries, appears to be a possible solution.

IV. CONCLUSION

Coming across the aforementioned scenario of organized crime, it is realized that perhaps there is no country in the world left free from organized crime one way or other. The problem of crime has been faced by all countries irrespective of economic and technological development or nation size. However, the crimes have flourished all over the world wherever there is a favorable atmosphere in respect of economic benefit and legal lacunas.

On the basis of general discussion of this group, it may be commented that there is no specific law in each country dealing with all transnational organized crime, that has substantive and procedural legal provisions for the efficient countermeasures against such crimes. In view of the rapid development of globalization, the realization of provisions for confiscation of illicit proceeds derived from specific organized crimes becomes urgent.

Provisions providing undercover operations, wiretapping, immunity, controlled delivery and so on have been discussed in length. Most of the countries have these sort of practices in their countries, necessary to overcome criminal activities, but very few countries have according legal provisions (without which the law enforcement agencies are handicapped to combat the targeted crime and criminals). It is almost a consensus that such laws should be materialized and formalized so as to enable crime combatting agencies, but with full respect for recognized human rights, individual freedoms and personal privacy.

Protection of witnesses is needed for cases to be actioned effectively. By such, witnesses as can not only be protected from the danger of threat and violence, but can also be confident in their support of organized crime prevention and detection.

Many countries are found to have domestic laws providing extradition and mutual legal assistance in criminal matters. Some of the countries, although there is no such laws, have entered into mutual assistance agreement with many countries, especially neighbouring countries, for the arrangement of transborder as well as international crimes. Beside this, countries studied have links with interpol, by which capability in combatting organized transnational crimes are further enhanced. Moreover, United Nation's instruments relating to drugs and other transnational organized crimes are in effect in almost all participating countries, such as Vienna Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, 1988. The Seminar was in consensus to make an

effort to adhere to such international arrangements and cooperation, either in bilateral or multilateral ways.

In sum, it is noted that the law enforcement authorities would require legal room to accommodate effective methods against organised crime, either through national or international means. Being transnational in nature, proper information, law and law enforcement agencies, as well as proper adjudication are always deemed necessary. Today, commitment has been shown by the world in such matters in many forums. However, proper arrangements for uniform and efficient countermeasures are still needed to be realized and explored as early as possible before new crimes come.

TOPIC 4

CURRENT SITUATION OF DETECTION AND INVESTIGATION

Chairperson	Mr. Armogam Gounder	(Fiji)
Co- Chairperson	Mr. Muammer Yasar Özgül	(Turkey)
Rapporteur	Mr. Purushottam Sharma	(India)
Co- rapporteur	Mr. Claude Ranjatoson	(Madagascar)
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I. INTRODUCTION

A. Introduction of Discussion Issues

The task given was to discuss the current situation of detection and investigation among the participating countries of the 108th International Seminar, specifically the discussion guidelines enumerated the following points:

(1) Structure and characteristic of investigative organization, its sufficiency in terms of personnel for investigation and devices (equipment).
(2) Ability and expertise of investigators.
(3) Collection of information for detection of transnational crimes.
(4) Difficulty in identification of transnational crime groups and in gathering information on them.
(5) Success of detection and reasons for failure in detection.
(6) Are the king-pins successfully arrested?
(7) Difficulties in gathering evidence.
(8) Difficulties in international co-operation.
(9) Use of international systems and organizations.

B. Definition/Characteristics of Organized Crime

If you notice the definition and/or characteristics of organized crime, you may realize that such characteristics may cause significant and specific problems in investigation and detection of organized crimes compared to others. Thus, this report touches upon these points.

The definition of "organized crime" may differ from country to country, or jurisdiction to jurisdiction, so it is better for us to try it and mention the characteristics of organized crime or organized crime groups here. The traditional definition and concept of organized crime is somewhat restrictive in its exclusion of general conspiracies to extort monies, services and associations of outfit, as well as by non-outfit organizations and groups. Organized crime in effect, consists of the participation of persons and groups of persons (organized either formally or informally) in transactions characterized by:

(1) An intent to commit, or the actual commission of substantive crime;
(2) A conspiracy to execute these crimes,
(3) A persistence of this conspiracy through time or the intent that this conspiracy should persist through time;
(4) The acquisition of substantial power and money, and seeking of high degree of political or economic security, as primary motivation; and
(5) An operational framework that sometimes seeks the preservation of institutions of politics, government and society in their present form.

It should be noted that any definition of organized crime or organized crime groups does not refer to a particular offence or crime. Even though some organized crime groups may tend to commit specific types of crime, most of them usually commits many types of crime in order to have economic gain and maintain its organization. As already reported in Topics 1 and 2, even if limited to organized crimes in transnational nature, various types of crime (such as drug trafficking, firearms trafficking, smuggling of illegal migrants, illicit trafficking in women and children, illicit trafficking in stolen motor vehicles, money laundering, etc.) are touched upon.

C. Investigative Agencies

In many countries, the police or/and other law enforcement agencies (like the narcotic control agency, immigration agency, etc.) investigate crimes including organized crime in general. On the other hand, it should be noted that in some countries like Japan, Korea and Turkey, public prosecutors investigate crimes in addition to the police. Although Japanese prosecutors initiate and complete investigation about white-collar crime (e.g., corruption, tax evasion, etc.), they do not initiate investigation about organized crime, which is primarily investigated by the police. Japanese prosecutors conduct supplemental investigation after the referral of such cases by the police. Needless to say, there is no significant meaning in whether prosecutors investigate crimes in terms of addressing problems in investigation and detection. However, since the current situation of investigation and detection is to be discussed, the word “investigator” in this report includes public prosecutors for those countries.

II. PROBLEMS IN INVESTIGATION AND DETECTION

A. Difficulty in the Collection of Information and Witnesses

Investigation begins when investigators recognize an occurrence of a crime in some way or feel that a crime has been committed. In many countries, law such as codes of criminal procedure stipulate a complaint, an accusation, etc., as the beginning of an investigation. This is meant to give special legal effect to these deeds, and not to restrict the beginning of an investigation. Although some cases (especially, damage to individuals or their property) tend to require a complaint/accusation of an interested party, to be investigated or prosecuted; the damage given by corruption cases is not concerned to a particular party but to the public and the state. Therefore, the clues to start investigation are not only a complaint/accusation etc., but also the investigation of other cases, anonymous letters, news articles etc. in order to initiate collecting evidence.

However, in most organized crime like drug trafficking, illegal trafficking in firearms, illegal, smuggling of illegal migrants (in case some are willing to do so), money laundering, etc., there is no complainant reporting to the police or other investigative authorities. A visiting expert of this Seminar mentioned that organized crimes are bloodless and victimless. Hence, there is difficulty in reporting such crime and consequently organized crime groups maintain and further proliferate.

Even in traditional and serious crimes having victims like murder, kidnapping, bodily injury, extortion, illicit, trafficking in stolen motor vehicles, economic crimes, etc., victims and other people concerned are reluctant to report those crimes to the police or other investigative agencies because of fear of revenge from organized crime members in the future. Thus, again

there is a difficulty in reporting such crimes.

Furthermore, although information from people inside or close to legitimate organizations, like in cases of corruption or economic crimes, may come out, such information seldom comes out in organized crime. This is because of the tight relationship among such group members which is often reinforced by strict internal rules and punishment.

B. Inadequacy of Existing Laws

Organized crime is a continuing conspiracy, hence the incidents of the organized crime are dealt with under the general rule of conspiracy in most of countries.

Existing laws are mostly inadequate to meet the challenge as they target the individuals and not the criminal groups or criminal enterprises. Conspiracies are hatched in darkness and proving them in a court of law is a herculean task. Being a member of the gang is punishable in a few countries.

In most of countries, anti-drug laws have been enacted after the so-called Vienna Convention. Such laws criminalize money laundering of illicit proceeds derived from drug-related crime. However, such laws are insufficient for many countries to combat organized crime or organized crime groups, since their activities are not limited to drug-related crimes.

C. Difficulty in the Arrest of Kingpins

As organized crime groups are structured in a hierarchical manner, the higher echelons of leadership are insulated from law enforcement. It may be possible to have the actual perpetrators of crime convicted, but it is difficult to go beyond them in the hierarchy because, more often than not, there is less evidence to get such kingpins arrested. For example, the witnesses are not willing to depose for fear of their lives and most countries have no law to provide protection to the witness against organized gangs, except for the Philippines.

D. Admissibility of Confessions

In some countries like Fiji, Hong Kong, Japan, Malaysia, Papua New Guinea, the Republic of Korea and Tonga, the confession made to investigators is admissible in trial, subject to the proof of its voluntariness, or other certain requirements. However, a confession made before a police officer is not admissible in other countries like India and Pakistan. There has been other practices for recording confessions in such countries. A police officer may take the accused before an executive or judicial magistrate to record the confession. Once recorded this way, it is admissible in trial. However, for example in India, when a police officer takes the accused for confession, the magistrate provides one to two days time to the accused for reconsideration, the accused may meanwhile alter this version. Hence, the investigative agencies find it difficult to effectively cope with organized crime. As it is difficult to get eyewitness evidence in cases of criminal conspiracy, inadmissibility of confessions before a police officer, can result in the failure to prove cases in the courts.

E. Time Lag between the Commission of Crime and Arrest or Trial

Even if investigators successfully obtain information about organized crime, it takes a long time to collect evidence, secure arrest, prosecution and conviction.This is the same in other crimes, but since organized crime groups would continue illegal activities and order their lower level members to commit other crimes, such time lag may give organized crime groups significant benefit. Even after the arrest of such members and acquisition of

evidence to arrest them, members in higher levels of hierarchy are still unlikely to be caught and more relevant evidence would disappear.

"Justice delayed is justice denied" is a well known exiom. In some countries like India, Malaysia, Pakistan, the Philippines, the pace of trial is very slow. Hence, people are losing faith in the efficiency of the criminal justice system and have become cynical, apathetic and non-cooperative in control efforts.

F. Limited Special Techniques in Investigation (Undercover Operations and Wiretapping)

Undercover operations are carried out in instances where a person approaches the investigative agencies and files an official complainant against the illegal conduct of offenders. In Hong Kong, Madagascar, Malaysia and the Philippines, this is functioning well. Normally, undercover operations require the approval of the designated authority in those countries, for example, Attorney General in Hong Kong, magistrates/judges in Madagascar. Since other participating countries have not legalized undercover operations, they face difficulties in penetrating organized crime groups by traditional investigation methods.

Similarly, wiretapping is not allowed in most of the participating countries like Hong Kong, Papua New Guinea, Tonga and Thailand, except for Turkey. Thus, most of the participating countries have difficulty in revealing cases and collecting evidence. Controlled delivery techniques are widely used in some countries like India. There has been good success in recoveries of drugs there, however it is not fully used in other countries like in Fiji, Tonga, etc.

G. Lack of Coordination

Crimes committed by organized crime groups are not limited to certain types of crime as mentioned in the introduction. On the other hand, some countries gives investigative power to several agencies, either exclusively for a particular crime or concurrently for some crimes. In such a case, coordination among several agencies are necessary because of the lack of or limited coordination may cause some difficulty in combatting organized crime groups. Most countries have good coordination but there is still a possibility of failure in investigating organized crimes because of un-streamlined coordination among agencies.

Moreover, in India, there is no national level agency to co-ordinate the efforts of the State/City Police Organizations, as well as the Central Enforcement Agencies, in combatting organized crime. Further, there is no agency to collect, collate, analyze, documents and function as a Central Exchange of information relating to international and inter-State gangs operating in India and about the Indian gangs operating abroad. Similarly, there is no system of sustained pursuit of selected gangs at the national and the State level. Apart from lack of an institutional frame work, there are problems of coordination between the Central Government and the State Governments and between one State Government and another State Government due to differences in political perceptions. This problem becomes quite acute when different political parties are in power at the center and in the States. Thus, there appears to be no sustained effort to combat organized crime. The information that comes in the hands of Central and State investigating agencies is not exchanged and, if exchanged, not in real time. Thus valuable clues are lost.

H. Political Influence

There has been a rapid spread and growth of criminal gangs, drug mafias, smuggling gangs, drug peddlers and economic lobbiests. Since some organized crime groups are close to some politicians,

political influence has been made during/after investigation in some countries. Due to the political influence of these syndicates, the investigating and prosecuting agencies are finding it extremely difficult to deal effectively with them. This problem was mentioned by India, the Philippines, Pakistan and Thailand.

I. Problems in International Cooperation

Different nations have different legal structures. A certain act may be crime in one country but not in another. Similarly, some countries have laws against terrorism but the others do not. Extradition of criminals from one country to another is possible only when the principle of dual criminality is satisfied. However, no country agrees to abolish this principle because it is natural for the requested country that fugitives cannot be extradited for conduct which is not criminalized in their country.

Bangladesh, Fiji, India, Nepal, Malaysia and the Philippines require an extradition treaty to honor an extradition request. This is known as the treaty prerequisite principle[1], which is the most significant impediment to extradition from the perspective of a civil law country (e.g., Japan, the Republic of Korea and Thailand are categorized as civil law countries in terms of extradition). A prima facie case requirement is the usual practice in common law countries. Some civil law countries, in extradition procedure, require reasonable grounds for having committed a predicate crime (tantamount to "probable cause"). Even if all legal requirements are satisfied, the execution of extradition takes a long time.

[1] Although such countries do not need a treaty for extradition within other commonwealth countries, they are categorized as treaty prerequisite countries since they still require a treaty with other countries.

J. Inadequacy of Equipment

In most countries like Fiji, India, Madagascar, Nepal, Pakistan, the Philippines (law enforcement equipment), Papua New Guinea (communication equipment), Tonga (especially on detection of drugs), there is problem of inadequacy of equipment to deal with sophisticated, high-tech crime.

K. Lack or Lesser Priority by the Government

In some countries like India, Malaysia, Pakistan and Thailand, there has been continued demand for increase in the work force. Due to the variety of duties and complexities of crimes, it is extremely difficult for the existing man power to cope with crime.

L. Insufficiency of Expertise and Training

Almost all participating countries mentioned the problem of insufficiency of expertise and training in investigative agencies. Investigation of cases, their prosecution and the setting up of the criminal courts is the responsibility of the prefectural Government concerned, like in India. Most of the prefectural States face resource crunches and are not in a position to spare adequate resources for the criminal justice system agencies. The number of police personnel posted in police stations, is inadequate. Besides, hardly any training facilities exist for the investigation of organized crime. Prosecutors neither have any special aptitude nor any specialized training for conducting organized crime cases. Moreover, they are vulnerable to frequent transfers resulting in discontinuity in prosecution efforts. As organized crime cases are tried, there is inordinate delay in their disposal due to heavy backlogs.

III. SUGGESTIONS

Realizing the problems the above mentioned pose to law enforcement agencies in combatting against organized crime, the following suggestions should be taken into consideration.

A. Projects to Collect First Information

Even though investigation begins with various clues, it is necessary for successful investigation or prosecution to obtain credible information as much as possible. However, such credible information is shared by the people who are officially or personally close to corrupted officers, because of the clandestine nature of corruption cases. Thus, how to encourage such people to release information must be taken into consideration. Investigators have to be cautious in dealing with anonymous letters because they are sent by someone to obtain a personal interest by making a false accusation against a particular person. Such information tends to be overstated or over-decorated. On the other hand, there are some anonymous letters, especially from persons who have inside information, which inform us of the important truth. In this regard, it is worth considering introducing the project, so-called "Crime Stoppers" as in Fiji.

In order to resolve the problems of having an uncooperative attitude from organizations concerned with criminal cases in Fiji, the Commissioner of Police has introduced a project called "CRIME STOPPERS" which is directly under his control. For the last two years, it has been functioning where anyone can address the letter without giving his identity and can forward information or lodge a complaint regarding criminal activities of a person. If people give information, and upon police investigation the case information proves to be true, the informer will be paid after successful arrest (depending how serious the information was). The source of information will never be disclosed, thus informers confidentiality is protected.

B. Effective Anti-Money Laundering Law

Money laundering regulations were initiated by the United States to deprive criminals of property together with the Asset Forfeiture system. The predicate crime of money laundering is now extended to almost of all the serious crime in some countries like Turkey and the United States. Even though some participating countries have money laundering regulations, the predicate crime is limited to drug-related crime. However, organized crime groups commit any type of crime in order to obtain economic gain, thus there is no reason to limit predicate crimes to drug-related crimes. Moreover, since the development of transportation and communication carries over cultures, once one country adopts stringent policies and complete legal systems for depriving criminals of illicit property, it is natural for such criminals and property to move to another country where such systems do not exist. Therefore, to protect one country from such a situation, it is indispensable to establish these legal weapons which extend money laundering predicate crimes as much as possible. Thus, for example, Japan is now considering to extend the predicate crimes of money laundering as well as asset forfeiture. Such predicate crimes may be serious crimes, including those crimes committed by organized crime groups. India has prepared a draft which is in consideration in Parliament.

C. Legalization of Undercover Operations

The law enforcement agencies in some countries run under-cover agents to gather information about criminal gangs, study their modus operandi and evaluate their future plans and strategies. This

information is used both for preventive and investigative purposes. In the United States, the evidence gathered by the under cover agents is admissible in evidence-whether it is in the form of their oral testimony or recorded in audio or video form. However, most participating countries laws do not permit this. This handicaps the law enforcement agents in building up cast-iron cases against organized gangs. It is suggested that amendment of the law should be taken into consideration to provide for admissibility of such evidence.

D. Immunity

Most of the participating countries do not have the so-called use and derivative use immunity. This is a statement given by a witness (e.g. accomplice) implicating the accused in a criminal enterprise involving them. The statement will make clear that the content therein will not be used as evidence to exculpate the witness of his criminal activity. Specifically, it does not imply any promise that the statement-maker will be given immunity from prosecution. However, since the prosecutor must establish that the evidence to be given to the court is not derived from such promises beyond reasonable doubt, prosecution against him is quite difficult.

E. Witness Protection Programme

In cases of organized crime, the witnesses are reluctant to depose in open court for fear of reprisals at the hands of criminal syndicates/terrorists. The cases of threat or criminal intimidation of potential witnesses are too many to be recounted. Some witnesses have also been killed by the criminal gangsters. As the courts go by evidence on record for establishing the guilt of the accused, it is essential to protect the witnesses from the wrath of the criminal gangs. Hence, legal and physical protection should be provided to crucial witnesses in sensitive cases so that they can depose fearlessly in the court. After the enactment of Witness Security Reform Act 1984, the United States authorities could secure conviction of several notorious mafia leaders. The United States Witness Protection Programme, essentially, involves changing the identity of the witness, relocation, physical protection, if needed, and financial support till such time as s/he become self-supporting, subject to the condition that s/he deposes truthfully in the court.

Some participating countries like the Philippines have witness protection programmes similar to the United States. However, most participating countries do not have such programmes. These should be taken into consideration to provide protection to witnesses especially in cases of national importance involving criminal syndicates.

F. Admissibility of Confessions

Although confessions made before police officers are admissible in most countries, in some countries like India, such a confession is not admissible. Of course, this is not to say that the court should base conviction only on the un-corroborated confession of an accused. What is being suggested is that the court should take into consideration the confession made by the accused before a police officer along with other corroborative evidence for formulating its opinion.

G. Enhancement of International Cooperation

If an extradition treaty has not been concluded between countries concerned, especially treaty prerequisite countries, even criminal fugitives who allegedly have committed serious crime cannot be extradited. However, it should be noted that Australia, recognized as a treaty prerequisite country, amended its extradition law so as to honor an extradition request from a treaty non-

prerequisite country.

It is our experience that extradition is a time consuming and lengthy process, where, apart from satisfying the legal requirements of the requested country, the judicial requirement of a foreign court have also to be satisfied. Thus, efforts to simplify or streamline extradition procedure should be made as much as possible. For example, some treaties provide that "the requested country may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority". This kind of simplified extradition procedure should be taken into consideration for effective international cooperation.

Furthermore, it should be noted that among some Asian countries (e.g., Malaysia and Singapore) having similar legal systems, special procedure for extremely simplifying the extradition procedure has been stipulated in their laws; which enables an arrest warrant issued by a court, a judge or a magistrate of one country effective in the other country if a magistrate of the latter endorses it under some requirements. Thus, various ways to enhance extradition should be taken if not precluded by the law of the countries concerned.

Moreover, if extradition is impossible, deportation may be sought as the last solution. Of most importance is to bring criminal fugitives to justice.

As for gathering more information on transnational criminal and their activities, Interpol should come to the effective assistance of affected countries. Interpol is an overloaded and overworked organization at present, with focus on drug trafficking and illicit transnational migrations. With the proliferation of transnational crime in its various manifestations, it is time to set up regional units of Interpol in Asia, Africa and Latin America.

H. Adequate Training Programme

One of the weakest links in the struggle against organized crime is the education and training at the local level. Public administrators, who are aware that organized crime exists in their community, are not spending sufficient time in educating and training citizens, law enforcement officers and other members in the criminal justice system. Consequently, local persons with interest in curbing organized crime are left to their own resources in securing information about those engaged in organized crime. There are three modus for transmitting information to those concerned with organized crime control. They are (1) education in academic institutions, (2) specialized training for law enforcement officers, and (3) greater public co-operation. To implement one mode of learning without the other will not produce a desirable level of information about the criminal confederations.

It would be desirable to impart intense and highly select training to the police, prosecutors, judges and probation officers, about the impact of organized crime on the society, the intelligence system, the statutes relating to organized crime, the utilization of technology in investigation and the various types of organized crime and various strategies for combating it.

IV. CONCLUSION

"Organized crime succeeds as long as a nation permits it to succeed." The first and foremost step in our control efforts should be to keep incidents of ordinary crimes within reasonable bounds, by keeping the criminal elements under relentless law-enforcement processes. If we reasonably succeed in this effort, we would have obtained or at least diminished the possibility of unattended criminal elements forging alliances with big crime figures, constituting criminals networks and

thereby spawning the phenomenon of organized crime. It is imperative to combat the crime, to strengthen the criminal law and tone up the criminal justice system. Law enforcement, however efficient, cannot succeed by itself without commitment by the Government.

Despite best efforts, the domestic crime is likely to spill over into international society and often does. Hence the need for international co-operation in suppressing it in the form of expeditious extradition of fugitive criminals, deportation of undesirable aliens, mutual legal assistance in investigations and prosecution, and speedy cooperation through Interpol.

PART II

Work Product of the 109th International Training Course "EFFECTIVE TREATMENT MEASURES FOR PRISONERS TO FACILITATE THEIR RE-INTEGRATION INTO SOCIETY"

UNAFEI

VISITING EXPERTS' PAPERS

THE IMPORTANCE OF THE APPROPRIATE MANAGEMENT OF RISK AND REINTEGRATION POTENTIAL

*Don A. Andrews**

This paper has been updated from the notes prepared for a session on Corrections and Conditional Release at "Beyond Prisons: Best Practices Along the Criminal Justice Process," an International Symposium held on March 15-March 18, 1998, at Queen's University, Kingston, Ontario, Canada. It is based on materials prepared for the National Parole Board of Canada in January of 1994 as well as materials developed for NIC, the Vermont Department of Corrections, the Ontario Ministry of Community and Social Services, the Ontario Ministry of the Solicitor General and Correctional Services, and Multnomah County Oregon.

I. INTRODUCTION

This paper is concerned in particular with how current research, theory and opinion within the human and social sciences may assist in decision making and practice in relation to risk management and risk reduction. In particular, how authorities with an interest in community corrections and conditional release may assess the quality of each of the following:

i) quality of understanding of intake risk/need
ii) quality of understanding of an individual's criminality (individualized assessment of risk/need)
iii) quality of the correctional plan and in-prison events
iv) quality of release plans
v) quality of progress reports
vi) quality of assessments of an offender's behavior on conditional release.

An introduction to the power of current knowledge and opinion regarding risk/need and recidivism follows but obviously does not imply that risk/need assessments and knowledge of program participation yield perfect predictions of recidivism. To the contrary, even the best of the empirically-based knowledge of the value of preservice risk assessments, reassessments of risk/need, and program participation yield predictions that are less than perfect. Some information, however, yields more accurate predictions regarding the possibility of future criminal conduct than does other types of information. For example;

i) assessments of antisocial attitudes, antisocial associates, psychopathic personality, a history of antisocial behavior, and problematic familial and educational/vocational conditions are much stronger risk factors than are assessments of personal distress, low intelligence, psychopathology or lower class origins;
ii) assessments of dynamic need factors increase the predictability of recidivism over that provided by an assessment of criminal history;
iii) assessments of current risk/need levels are more predictive of recidivism than are intake risk/need assessments;
iv) assessments of participation in treatment programs are more predictive of effects on recidivism than are assessments of the settings established by the severity of official punishment or of official processing such as levels of custody or of

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supervision;

v) assessments of the clinical and psychological relevance of correctional treatment participation are more strongly predictive of effects on recidivism than are assessments of undifferentiated treatment participation;

vi) assessments of changes under supervision are predictive of recidivism over and above the accuracy provided by prior risk/need assessments.

II. THE GENERAL PERSONALITY AND SOCIAL PSYCHOLOGICAL PERSPECTIVE ON CRIMINAL CONDUCT: SOCIAL LEARNING

There are few scholars or practitioners who would not agree that the occurrence of criminal acts reflects the outcome of particular individuals being in a particular situation at a particular time. The immediate causes of criminal activity reside in the immediate situation of action. Situations, by virtue of objective features and prior personal experience, may vary in the temptations and controls represented. In that immediate situation, a crime occurs when:

i) An intention to behave that way is formed.

ii) The personal choice is made.

iii) Self-efficacy beliefs suggest that "I am able to do it" and "it will payoff".

iv) The situation is defined as one in which it is "OK" to behave that way.

v) The balance of signaled rewards exceed the signaled costs of crime.

Understanding and managing risk of recidivism entails understanding:

i) Individualized situational risk factors, and:

ii) Understanding those personal, interpersonal and circumstantial risk factors which shape particular intentions, choices, self-efficacy beliefs, definitions of situations, or shifts in signalled rewards and costs.

The research evidence regarding risk/need factors is now overwhelming in that offenders may with some reliability and validity be grouped into lower and higher risk categories. Over and over again in the research literature, assessments of the following factors yields predictions correct in from 65% to 80% of the cases:

i) Antisocial attitudes, values, beliefs, rationalizations, and cognitive-emotional states (e.g., anger, resentment, defiance);

ii) Antisocial associates and relative isolation from anticriminal others (interpersonal support for crime);

iii) A history of antisocial behavior, evident from a young age, and involving a number and variety of harmful acts in a variety of situations;

iv) Aggressive, callous, and egocentric personality;

v) Weak problem solving and self-management skills;

vi) Generalized difficulties in the domains of home, school, work and leisure (these problems may be associated with substance abuse).

The above-noted risk factors are generally applicable but if one is interested in particular acts such as violent and sexual offenses then assessments are also conducted of attitudes, associates, behavioral history, and skill deficits particular to violent and sexual offending. Similarly, mentally disordered offenders may present some special considerations such as compliance with medication and ready access to mental health services.

The sets of risk factors labelled "antisocial attitudes," "antisocial associates," and "history of antisocial behavior" are of particular significance in the general social learning perspective on

criminal conduct.

A. A History of Antisocial Behavior

This set indicates that particular antisocial acts are part of the offender's repertoire, and typically this means that the person has experienced immediate reinforcement for engaging in those acts. In the language of relapse prevention, this entails the risk factor of PIG (the Problem of Immediate Gratification). Many forms of criminal behavior do deliver immediate positive sensations and events, including sometimes short-term relief from feelings of frustration, resentment, powerlessness, and boredom. The negative consequences of guilt, shame, disapproval of others, and the deprivations of official punishment are much more delayed (if they occur at all).

From the perspective of self-efficacy, a history of antisocial acts suggests that two key beliefs necessary for engaging in an act are readily present: "I am able to do that" and "It will be rewarding." From the social learning perspective, in many high risk situations the immediacy of the signaled rewards for crime is far more potent than the largely delayed costs.

In order to neutralize PIG, a good correctional plan will include elements aimed at avoiding high risk situations (for example, conditions around association patterns, locale, alcohol use, etc). More generally important, however, is that personal attitudes and thinking patterns and interpersonal support networks render the potentially costly consequences more immediate, more vivid and more dense, and that the personal and interpersonal supports for noncriminal behavior are strong.

B. Antisocial Attitudes

This set is a major contributor to the decision (or intention, or choice etc.) to engage in criminal acts. Generally, it includes having attitudes favourable to law violations, identifying with others who violate the law, having negative attitudes toward the law and criminal justice, holding beliefs that suggest it is "OK" to violate the law, and believing that even those laws that are generally worthy of respect may be broken when "one is out of control," "pushed too far," "the victim deserves it," "no one gets hurt," "everyone is doing it," and/or "the whole system is corrupt". The latter represents rationalizations for law violations, techniques of neutralization, or exonerating mechanisms. The attitude set also includes those cognitions supportive of crime that may be associated with feelings of anger, despair, resentment, and defiance. If anti-criminal alternatives to antisocial styles of thinking and feeling can be introduced into the immediate situation of action, then even PIG will not lead to criminal activity.

C. Antisocial Associates

Human behavior is strongly influenced not only by personal attitudes, values and beliefs but also by the support displayed by others for the particular behavior in question. Once again, even PIG can be overcome by the clear perception that important others would disapprove. This is why a good release plan attends to reducing association with antisocial others, increasing association with anti-criminal others, and building in social support for compliance and active participation in the release plan. Note too that while the immediate presence of others is particularly potent, even symbolic social support may be influential (for example, the use of published pornography in planning an offence).

D. What about the Other Major Risk/ Need Factors?

The process of self-regulation depends upon some minimal level of cognitive and interpersonal skill for attitudes, associates and behavioral history to translate into

particular acts in particular situations. Thus, cognitive skill programs have been found to reduce recidivism. Additionally, increasing the background levels of reward for noncriminal pursuits in settings such as family, school, work and leisure may reduce motivation for crime and enhance anticriminal attitudes and association patterns, while simultaneously greatly increasing the potential costs of crime (because there now is more to lose).

In addition to locating individuals according to risk/need through standardized instruments, correctional professionals and parole decision makers may wish to construct an appreciation of the criminality of particular cases. This entails an understanding of the particular risky situations, circumstances, and thought patterns for this case. As suggested repeatedly, risk is dynamic and individualized. It is here too that issues of age, gender, ethnicity and class may shape planning. This detailed information may then contribute directly to the correctional plan, release plan and progress reports.

Before turning to those plans, remember it is not just the ability of social learning perspectives to identify risk and need factors that is impressive. The social learning perspectives also suggest how these factors influence criminal conduct and identify powerful influence strategies. The powerful behavioral/cognitive behavioral/social learning strategies of change include all of the following (and more):

i) Modeling;
ii) Reinforcement;
iii) Graduated practice;
iv) Role playing;
v) Extinction;
vi) Interpersonal disapproval (if in a context of dense approval);
vii) Giving reasons;
viii) Cognitive restructuring.

III. ASSESSMENT OF CORRECTIONAL AND RELEASE PLANS

The following portions of this paper represent an attempt to build a checklist for assessing the quality of correctional plans and release plans. These indicators include relevance, specificity and clarity of shared understanding, feasibility, decency and legality, and value of proposed interventions.

Is the plan relevant to the criminal propensity of this case?

i) Has a standardized well-validated risk/need assessment been conducted and has the case been assigned to a risk category;
ii) If a low risk case, have minimal service and supervision conditions been established;
iii) If a higher risk case, have risk control and risk management been addressed;
iv) If a highest risk case, are you sure that the opportunity for early detection of violations has been maximized, and that services are very intensive;
v) Have relevant need factors been addressed through programming in the prison or in the community and/or through the setting of release conditions.

Is the plan specific and understood by the offender and involved others?

i) Does articulation of the plan by the offender and involved others indicate shared understanding;
ii) In the case of detailed analyses, are specific risk conditions indentified and have risk lowering actions been identified and rehearsed;
iii) When the offender discusses prior offenses, does the offender's

description touch upon specific risk/need factors addressed in the plan;

iv) When the offender discusses the release plan, does the discussion address risk/need in a manner consistent with the understanding of offender's criminality underlying the plan.

Is the plan feasible?

i) Are the community supports for the plan (accommodation, employment, treatment services, etc.) in place and reasonably stable;
ii) Are the external and internal controls and supports sufficient to maintain offender compliance and active participation.

Is the plan decent, humane, legal?

i) Watch out for plans that cover so many bases (conditions) that failure may be predicted in advance;
ii) Restraint by relevance to criminality is a good rule (experimental evidence regarding the effects of intensive, multi-conditioned community supervision is clear regarding increased revocation without reduced criminal offenses);
iii) Would victims and police understand this plan;
iv) Can you justify this plan considering risk, notoriety, and reputation of the agencies involved;
v) Could you state to a victim or to the press: good correctional practice was employed, control and assistance was directed at risk reduction.

Is the programming proposed valuable programming the value of particular programs and program participation?

i) Plans and programs may be assessed according to the extent to which criminogenic need factors are addressed (see list of promising and less promising targets for change: Appendix 1);
ii) Promising programs include certain core components in addition to addressing criminogenic factors (see list of indicators of promising programs: Appendix 2);
iii) The risk reduction potential of program participation is indicated by several factors, most notably by actual change on criminogenic factors (see list of indicators of quality program participation: Appendix 3);

A few cases will convincingly score low on both the static risk factors and the more dynamic risk factors. These cases may be managed in the community with the least intrusive supervision conditions consistent with "just desert" and "notoriety" considerations. Other cases, however, will require the more detailed planning and re-planning. Re-planning is not failure but a realistic recognition of the dynamic nature of risk, human behaviour, and life circumstances.

IV. ASSESSMENT OF THE CONTINUED RELEVANCE OF THE CORRECTIONAL PLAN AND THE RELEASE PLAN FOR THIS PARTICULAR PERSON

Has the correctional professional's understanding of this person's criminal propensity changed? For example:

i) Increased appreciation of the importance of particular risk factors that were seen as less important in earlier assessments (for example: use of alcohol is now seen to be interfering with familial and employment functioning, and instability in these areas is reasonably linked to criminal propensity in this case);

ii) Expressed sentiments suggest that rationalizations for law violations (e.g., discounting potential victims) and negative feelings (e.g., resentment) are emerging as risk factors;
iii) Problems of unemployment continue but without any other indication of increased risk (perhaps concerns around employment were over-rated initially).

Do circumstances in the community (service availability, labour market, etc.) suggest re-planning? Would any changes in plan better manage risk and/or better reduce risk?

V. ASSESSMENT OF PROGRESS SUMMARIES

i) Status on general risk/need factors has been surveyed and found satisfactory?

ii) Status on individualized risk factors has been surveyed and found satisfactory?

iii) Status on conditions of release has been surveyed and found satisfactory?

iv) Progress reports reflect view of involved others?

v) Any evidence of weak communication among involved others?

vi) Would any changes in plan better manage risk and/or better reduce risk?

vii) Overall, how do progress summaries rate on specificity, relevance, feasibility, shared understanding by all involved?

Remember, the lists of indicators of promising targets, promising programs, and quality participation apply here as well (Appendix 1, 2 and3).

VI. SPECIFIC POST RELEASE INTERVENTIONS

Referrals to quality programs in some of the major need areas may be indicated by progress summaries where judged relevant to criminal propensity (refer to Appendix 1, 2 and 3).A major source of control and assistance, however, resides in the relationship between the offender and the parole officer, and between the offender and other involved workers (for example, in group homes).It is now clear, for example, that the effectiveness of supervision programs does not reflect size of caseload, simple frequency of contact, or electronic monitoring. The critical components of supervision for purposes of risk reduction are the well-known ones first listed in the 1970s (and represented as worker characteristics in Appendix 2):

i) Quality of the interpersonal relationship between offender and worker: generally people learn more from and are more greatly influenced by others who are respectful, caring, concerned, interested, interesting, enthusiastic and engaged. In social learning terms, these supervisors have available high quality reinforcers, their expressions of disapproval function as high quality costs, and they make more effective models (their behaviours are more likely to be imitated, and their suggestions more likely to be tried out). In brief, it is simply counter to the psychology of human behaviour to expect high levels of interpersonal influence in the absence of open, warm and enthusiastic communication.
ii) Style of communication may also be

very important in the context of supervision, and particularly in interaction with types of offenders. Interpersonally anxious offenders do not respond well to highly confrontational and critical interpersonal exchanges, while the less anxious offender can respond as long as there is the background condition of caring and respect. Obviously, the less verbally gifted and cognitively immature offender will not pick up on highly verbal and analytic approaches to interpersonal influence. Similarly, the less empathic, less interpersonally sensitive offender may not be expected to respond to subtle cues and suggestions. Generally, in fact, it is best for communication to be direct and concrete.

iii) A major role for supervisors and correctional workers is the modeling and reinforcement of anti-criminal alternatives to antisocial styles of thinking, feeling and acting. Here the supervisors, workers and potentially even citizen volunteers provide the valuable service often missing in the offender's environment.

iv) Concrete assistance often takes the form of concrete problem solving efforts with the offender, and/or advocacy and brokering activity with other community settings.

v) Authority can be influential when exercised with respect, with explanation (giving reasons), with guidance on how to comply, and in a firm but fair manner. Overall, the authority figure would want to communicate that compliance is possible and that the offender can succeed. Failure is avoidable and compliance will be rewarded!. One of the few conditions under which deterrence works is the condition under which defiance is avoided through respectful guidance toward compliance. The child developmental literature reminds us of the importance of differentiating between rules and requests. It is best to reserve sanctions for situations in which rules are involved. Best too when the heavy sanctions (the "doomsday" contingencies which remove the offender from community control) are reserved for serious and immediate risk. Finally, there is no evidence from the meta-analyses of effective treatment that mandated intervention interferes with the success of intervention.

Probation and Parole supervisors are mandated to give directions, develop goals and objectives, and outline expectations to the offender. The nature and extent of support that will be offered by the supervisor is also outlined for the offender. Research with young offenders has shown that these activities were associated with reduced recidivism when the goals and objectives were judged clear, clinically appropriate, and achieved.

When risk is high, the monitoring and assistance functions of supervision are enhanced through increased frequency of contact in combination with the strategies of effective supervision. Parole supervisors are also mandated to engage in disciplinary interviews when it is judge that risk to the community may be increasing. Disciplinary interviews involve cautioning the offender in a clear and formal manner. Sanctions or new obligations or expectations may be imposed. Once again, the style of these communications and their relevance to criminal propensity may be crucial to their effectiveness.

REFERENCE

Andrews, D. A. and Bonta, James (1994). The Psychology of Criminal Conduct Cincinnati: Anderson.

Andrews, D. A. (1979) The Dimensions of Correctional Counselling and Supervision Process in Probation and Parole. Toronto: Ontario Ministry of Correctional Services.

Andrews, D. A. (1989) *Recidivism is Predictable and Can Be Influenced: Using Risk Assessments to Reduce Recidivism*. Forum on Corrections Research, 1(2), 11-18.

Andrews, D. A., Bonta, J., & Hoge, R. D. (1990) *Classification for Effective Rehabilitation: Rediscovering Psychology.* Criminal Justice and Behavior, 17, 19-52.

Andrews, D. A., & Friesen, W. (1987) *Assessments of Anticriminal Plans and the Prediction of Criminal Futures: A Research Note.* Criminal Justice and Behavior, 14, 33-37.

Andrews, D. A., Zinger, I., Hoge, R. D., Bonta, J., Gendreau, P., & Cullen, F. T. (1990). *Does Correctional Treatment Work? A Psychologically Informed Meta-analysis.* Criminology, 28, 369-404.

Antonowicz, Daniel H., & Ross, Robert R. (in press). *Essential Components of Successful Rehabilitation Programs for Offenders*. International Journal of Offender Therapy and Comparative Criminology.

Bonta, James, Law, Moira, & Hanson, Karl (Forthcoming). *The Prediction of Criminal and Violent Recidivism among Mentally Disordered Offenders: A Meta-analysis.* Psychological Bulletin

Braithwaite, John (1993). *Beyond Positivism: Leaning from Contextual Integrated Strategies.* Journal of Research in Crime and Delinquency, 30, 383-399.

Gendreau, Paul (1993). *Does "Punishing Smarter" Work? An Assessment of the New Generation of Alternative Sanctions.* A paper prepared for Corrections Research, Ministry Secretariat, Solicitor General, February.

Gendreau, P., & Andrews, D. A. (1990). *Tertiary Prevention: What the Meta-analyses of the Offender Treatment Literature tell us about "What Works".* Canadian Journal of Criminology, 32, 173-184.

Gendreau, Paul, Cullen, F.T., & Bonta, James (1994). *Intensive Rehabilitation Supervision: the Next Generation in Community Corrections*. Federal Probation, 58, March, 72-80.

Gendreau, P., Little, T., & Coggin, C. (1996). *A Meta-analysis of the Predictors of Adult Offender Recidivism: What Works.* Criminology 34:575-607.

Gendreau, P., & Ross, R. R. (1979). *Effective Correctional Treatment: Bibliotherapy for Cynics*. Crime and Delinquency, 25, 463-489.

Gendreau, P., & Ross, R. R. (1981). *Correctional Potency: Treatment and Deterrence on Trial.* In R. Roesch & R. R. Corrado (Eds.), Evaluation and Criminal Justice Policy. Beverly Hills, CA: Sage.

Gendreau, P., & Ross, R. R. (1987). *Revivication of Rehabilitation: Evidence from the 1980s.* Justice Quarterly, 4, 349-408.

Lipsey, M. W. (1990). Juvenile Delinquency Treatment: A Meta-Analytic Inquiry into Variability of Effects. A report to the Research Synthesis Committee of the Russell Sage Foundation.

Lipton, D., Martinson, R., & Wilks, J. (1975). The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies. New York: Praeger.

Logan, C.H., & Gaes, G. G. (1993) *Meta-analysis and the Rehabilitation of Punishment.* Justice Quarterly, 10, 245-63.

Losel, F. (1993). Evaluating Psychosocial Interventions in Prison and Other Penal Contexts. A paper for the Twentieth Criminological Research Conference, Strasbourg, November.

Martinson, R. (1974). *What Works? - Questions and Answers About Prison Reform*. The Public Interest, 35, 22-54.

Martinson, R. (1979). *New Findings, New Views: A Note of Caution Regarding Prison Reform*. Hofstra Law Review, 7, 243-

258.

*McGuire, James (Ed.) (1995). What Works: Reducing Reoffending. Guidelines from Research and Practice. Chichester: John Wiley.

Palmer, T. (1975). Martinson revisited. Journal of Research in Crime and Delinquency, 12, 133-152.

Sherman, Lawrence W. (1993). *Defiance, Deterrence, and Irrelevance: A Theory of Criminal Sanction.* Journal of Research in Crime and Delinquency, 30, 445-473.

Simourd, Linda & Andrews, D. A. (1994). *Correlates of Delinquency: A look at Gender Differences*. Forum on Corrections Research 6:26-31.

Whitehead, J. T., & Lab, S. P. (1989). *A Meta-Analysis of Juvenile Correctional Treatment.* Journal of Research on Crime and Delinquency, 26, 276-295.

* Note: the McGuire (1995) collection is very valuable. Please explore chapters by Andrews, Lipsey, Lozel, Bush and all of the other authors.

APPENDIX 1A

PROMISING TARGETS FOR CHANGE

- Changing Antisocial Attitudes
- Changing/Managing Antisocial Feelings
- Reducing Antisocial Peer Associations
- Promoting Familial Affection/ Communication
- Promoting Familial Monitoring and Supervision
- Promoting Child/Family Protection (Preventing Neglect/Abuse)
- Promoting Identification/Association with Anti-Criminal Role Models
- Increasing Self-Control, Self-Management and Problem Solving Skills
- Replacing the Skills of Lying, Stealing and Aggression with more Pro-Social Alternatives
- Reducing Chemical Dependencies and Substance Abuse
- Shifting the Density of the Personal, Interpersonal and other Rewards and Costs for Criminal and Noncriminal Activities in Familial, Academic, Vocational, Recreational and other Behavioral Settings, so that the Noncriminal Alternatives are Favored
- Providing the Chronically Psychiatrically Troubled with Low Pressure, Sheltered Living Arrangements and/or Effective Medication (risk is greatest during periods of active psychosis)
- Insuring that the Client is able to recognize Risky Situations, and has a Concrete and well Rehearsed Plan for Dealing with those Situations.
- Confronting the Personal and Circumstantial Barriers to Service (client motivation; background stressors with which clients may be preoccupied)
- Reduce Individualized need Factors (if reasonably linked with crime)

APPENDIX 1B

LESS PROMISING TARGETS

- Increasing Self-Esteem (without simultaneous reductions in antisocial thinking, feeling and peer associations)
- Focusing on Vague Emotional/ Personal Complaints that have not been Linked with Criminal Conduct
- Increasing the Cohesiveness of Antisocial Peer Groups
- Improving Neighborhood-wide Living Conditions, without touching the Criminogenic needs of Higher Risk Individuals and Families
- Showing Respect for Antisocial Thinking on the Grounds that the Values of one Culture are as Equally Valid as the Values of another Culture (no culture but a criminal culture

Values Harming others)
- Increasing Conventional Ambition in the Areas of School and Work without Concrete Assistance in Realizing these Ambitions
- Attempting to turn the Client into a "Better Person," when the Standards for being a "Better Person" do not link with Recidivism.

APPENDIX 2

INDICATORS OF EFFECTIVE PROGRAMS

- An Empirically-Validated Theory underlying the Intervention
- Empirically-Validated Strategies employed (or researchers involved in design/delivery of service)
- Adequate Dosage
- Trained and Clinically supervised Service Deliverers
- Printed Training / Program Manuals
- Addressing Criminogenic needs of Higher Risk Cases
- Uses Concrete Social leaning Approaches
- Structures Follow-Up
- Workers are Enthusiastic and Engaged
- Workers are able to handle their Authority without Domination/Abuse
- Workers are able to recorgnize Antisocial Thinking, Feeling and Acting, and are able to Demonstrate and Reinforce Concrete Alternatives
- workers are predisposed to Offer Concrete Problem Solving and to engage in Skill Building.
- Workers engage in Advocacy/ Brokerage where Appropriate

APPENDIX 3

INDICATORS OF QUALITY PARTICIPATION

- Check that Program is Appropriate on Risk, need and Social Learning Conditions
- Check that Program is Actually Delivered (integrity)
- Attendance
- Engaged in Process (active participation)
- Completion of Program (mature as opposed to premature program termination)
- Quality Relationship with Service Provider (respect, liking)
- Showing change on the Intermediate Targets (reduced criminogenic need)
- No Evidence that other Criminogenic needs are being Increased

SOME OLD AND SOME NEW EXPERIENCES: CRIMINAL JUSTICE AND CORRECTIONS IN FINLAND

*Matti Laine**

I. THE NORDIC MODEL?

First I would like to start from the question: "Is there a Nordic (Scandinavian) model in the field of criminal justice: the case of Finland?" Sometimes we joke in Finland about the question of Nordic co-operation. We say that Nordic co-operation means that Sweden makes all the mistakes first and after five years, Finland follows. A joke is a joke, but often things have gone in that order in the prison service. There are, of course, certain reasons for that. Let us not forget that the judicial system of Finland remained basically Swedish during the time when Finland was part of the Grand Duchy of the Russian Empire.

But "Nordic" or "Scandinavian" does not mean similar concrete solutions to all problems. Rather it means a similar way of thinking. This commonly shared way of thinking does not come from emptyness; it must be regenerated all the time. We can say that in criminal policy there are a lot of possibilities for this regeneration, including the following:

- Criminologists have regular meetings and a permanent council for co-operation
- Experts in criminal law have Nordic meetings
- Experts in criminal policy have meetings
- Experts in criminal statistics gather at seminars
- General Directors of Prison Administration meet annually
- Prison governors and other leading prison officials hold traditional seminars
- Unions of prison officers have good co-operation and regular meetings
- Researchers of prison matters meet on a regular basis
- There is a Nordic exhange programme for prison and probation officers

Much of this co-operation is taking place annually, sometimes with even more frequency. This is however, just the formal framework of this co-operation, a lot of meetings are informal; we just go and talk. Personal contacts and relationships are very important.

But Finland has not always been very "Nordic" concerning criminal and penal policy. For decades we were seen as deviant or the "black sheep" by other Nordic countries. Our criminal justice system was very punitive, repressive and hard compared to other Nordic countries. This period lasted neary 70 years, from the end of last century to the early 1960's of this century. Why was that?

Researchers of this question have provided several answers. First we can say that Finland was an agrarian society for much longer than our western neighbours. There is evidence that propety crimes are seen more seriously in agrarian societies than in modern, urbanized communities. Finland reformed the Penal Code in 1894 and this new Code saw theft as a crime which must be punished severely,with imprisonment used more. This move was soon seen in the prison figures. In the year 1893, 155 persons were put into prison

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because of theft, and after two years the figure was 720. The crimes of theft had not increased, but the penal policy had changed.

One explanation is our civil war in 1918 and its tragic aftermath. It created a very bitter atmosphere and division in the society. In these circumstances, liberal and "soft" criminal policy was not seen possible, as there was now a possible threat from inside. This situation continued after the second world war, but now the threat experienced was coming from outside. Societial demands and legislation stayed very punitive until the late 1960's.

We must remember that development was not linear and one-sided all the time. After the civil war of 1918, pardons were used and a parole system was introduced in normal criminal cases. Several reforms in the prison service took place after the war in the mid 1940's. That was no surprise; as some ministers and other high state officials had experienced imprisonment during the war.

In the beginning of the 1950's, we had "a cold spell in spring", as the penal policy became more repressive. Different coercive measures were used to cope with "the crime problem". Juvenile delinquency was seen as a special problem (although juvenile violence was at the lowest level ever in Finnish history, before and after). Moral panic was created.

The defining image of our repressive system of criminal justice was the amount of prisoners. After the second world war we had nearly 10 000 inmates daily and still, in the mid 1960's, nearly 8000. As of April 16th, 1998 there were 2955 prisoners in Finland, which is 150 less than for the same time last year. Our average daily prison population is reducing and we have reached and gone under the level of prisoners in Denmark and Sweden. This development has nothing (or very little) to do with the crime rates. The level of imprisonment used is the political choice of a society, not determined by necessity.

There are some other, often very symbolic, images of this repressive model in Finland. Prison rules were detailed and prisoners rights were very limited. I am not a very old man but I can remember newspapers pictures of remand prisoners carrying heavy hand and foot chains when standing in front of court. These chains were used in the late 1960's. In 1969, the secretary of the so called "November Movement", *Reino Lehtiniemi*, took these chains (nealy 20 kilos) to the United Nations Human Rights Commission in Geneva, put them on the table and said: "These are still used in Finland".

An other example was the excessive use of preventive detention. Hundreds of men, most of them petty property offenders, were kept in so called "coercive institutions" (that meant under indeterminate sentence). Some years ago there was a programme on Finnish TV about a man, a thief, who had spent 26 years in prison, mostly in "coercive institutions". He had stolen bicycles and other things.

Nowadays this preventive detention is used only for dangerous violent recidivists who (in practice) do not have normal possibilities for parole. At April 16th, 1998 there were 17 persons who have been detained by the Prison Court to the "coercive institution". The amount of "dangerous recidivists" has come down from nealy 500 to 17.

Strong criticism and discussion of the criminal justice system started in the 1960's in Finland. We had the "November Movement" which lobbied for different kinds of marginalized people. We had the

Prisoners Union 'KRIM' and critical discussion against the coercive treatment ideology (and treatment ideology in general). The neoclassical winds were blowing in criminal justice and a big part of this criticism was directed towards prison conditions and administration. Reform of the prison legislation was made in the middle of 1970's. Slowly but steadily changes started to happen. Former critics and radicals got remarkable positions in the state administration and universities.

If we simplify the picture a little bit, Finland, the Prodigal Son, returned to the warm home of the Nordic family. The Nordic model has sometimes been called "Nordic Minimalism". What are the basic features of this model? If I have understood it correctly, the idea is to make the criminal justice system as small as possible. Penal policy, and especially prison sentence, is the last way to tackle crime, the last resort. Punishments are not always the best way to prevent criminality (although sometimes necessary). As somebody has put it: if in a certain area there is a problem of dangerous alligators, we can of course try to shoot them all, but it is sometimes wiser just to drain the swamp.

There is also one very important idea in that thinking: crime cannot be prevented by any means. I think that is why we do not usually speak about the "war against crime" in Nordic countries. In a war, usually all kinds of fighting methods are used. However there are, and must be, values that are above the task to prevent crime, for example human rights principles. *Professor Raimo Lahti* (University of Helsinki) has demanded (1990) that the penal system be both rational as to its goals (utility) and rational as to its values (justice, humanness).

The utility criterion means that criminal justice measures shall be used for the prevention of unacceptable behaviour only to the extent that proves necessary in a cost-benefit comparison of criminal policy measures. This criterion can also be used in the prison service when considering various proposals. We can for example, make the prison like a bottle, where no-one or nothing comes in or goes out. If the various social costs of this policy are higher than the benefits, it may not be very wise to do so.

However the criminal justice system cannot be evaluated only on utilitarian grounds. Criteriums of justice and humanness must be taken into consideration. The harmful effects of crime and crime control must be distributed justly between offender, victim and society. The principles of equality, fairness and predictability are basic elements of the criminal justice systems. Thus when imposing criminal justice measures we must safeguard due process and also basic human rights principles.

In Finland, as in all of the Nordic countries, the prevailing view is that punishments primarily have, and should have, a general preventive effect. One component of prevention is general deterrence, which is related, inter alia, to the certainty and severity of punishment. Nordic criminal policy emphasizes certainty, but not severity.

General prevention, however, also involves the maintenance of standards of morality through the public disapproval that the punishment directs at the criminalized behaviour. Individual prevention is not considered the primary goal of punishment. The coercive treatment of offenders was found to be based on flawed arguments and raised problems with due process and the control of discretion.

This insight does not preclude the direction of rehabilitation efforts towards, for example, prisoners serving their sentence; as long as rehabilitative considerations are not allowed to determine the decision on whether or not to place someone in prison, or how long to keep him or her in that prison.

II. MODERN CORRECTIONAL PHILOSOPHY

The Scandinavian or Nordic model has also meant many practical changes in everyday prison service and administration. The basic approach is to keep the prison system as small as possible, with prison seen as the 'last resort' in crime prevention. Especially when it comes to juvenile delinquency, prison sentences have been seen as very harmful and we have tried to avoid using them as far as possible.

Mr. *William Rentzmann*, who is the Deputy Director General of the Danish Department of Prisons and Probation has very neatly presented the three cornerstones of modern correctional philosophy in Nordic countries. They are normalization, openness and responsibility.

A. Normalization

The idea of Finnish prison legislation is that prison sentence means only the deprivation of liberty and no more (in practice, of course it always means many other things). So at least the idea is that such things as coldness, darkness, hunger or restricted diet, prohibition of cigarettes, books, magazines, loss of civil rights etc. are not necessary elements of imprisonment. Everybody who has visited the Central Prison of Helsinki can say that the inmates are not surely living a "normal life without liberty", but at least normalization is the direction where we want to go. Mr. Rentzmann says that in Denmark, normalization means first of all that the norm is to place a person in an open prison, i.e. a prison without walls and bars. Approximately two-thirds of Danish state prisons are open prisons.

B. Openness

This principle is surely a kind of paradox. The task of the prison is to close people inside, away from normal life. At the same time, we try to keep the prison as open as possible. Openness means many kinds of things: open prisons; good possibility for visits; uncontrolled conjugal visits; basically no limitation or censorship in correspondence; possibility to study and work outside prison (so called 'night prison'); and prison leave.

We have good evidence from the western sociology of prison and prison communities that the more closed the prison is, the more unsafe it is inside. "Hard against hard", as it is called, is the atmosphere often created. The deprivation of safety is a crucial problem in western prisons, and also in Finland at the moment. In smaller, open prisons the atmosphere and relations between staff and inmates are different, although the inmates may be the same as in other prisons.

C. Responsibility

For the last two hundreds years, the basic problem of most western prisons has been that the main thing they teach inmates is how to live in prisons, how to survive. These skills are not always the best for living life in free world.

We know that this is often a typical feature of 'total institutions'. When I was in the military service, we were often discussing what is the basic skill you learn in the army. Very often the answer was: how the avoid your responsibilities, how to live lazy life.

When everything is done for you, when a special person opens the door in front of

and behind you, that does not strenghten your sense of responsibility. Western prisons can be like large hotels in a negative sense, and the effects can be seen. When I was working about ten years ago in the special after-care unit of paroled former prisoners, it happened very often that a newly released man couldn't shut the doors behind him.

Mr. Rentzmann sees it as possible and positive that prisoners buy and cook their own food, wash and repair their own clothes and take responsibility for their own treatment. We must not forget that professional help can very often deepen the process of institutionalization or prisonization.

One of the main ideas of the prison legislation reform in Finland in the middle of 1970's was that a prison sentence is always harmful for the offender. Because of its total and punitive character, it cannot rehabilitate inmates and usually makes their situation worse. That does not, however, mean that the harmful effects are always the same. It is possible to influence these and so the task was given to minimize the harmful effects of imprisonment. Nobody believed anymore in the coercive treatment ideology, and so the main task was to shorten the length of prison sentences.

Social services and participatory activities are necessary in the process to minimize the harmful effects of a prison sentence, but we must not expect too much of them; they cannot abolish criminality from the society.

Specialized professional skills are necessary, but one mistake was made when psychologists, social workers etc. came to Finnish prisons. We divided the personnel into two categories: into those who are always giving 'negative' services (guarding, control, disciplinary measures) and into those who are giving 'positive' services (personal help, listening, social services). I am not sure if this can be wholly avoided, but at least the canyon between these groups must not be so wide. That is why the Japanese experience is so interesting from our point of view. I have read that in Japan not only psychologists and instructors, but also uniform personnel with rank, are involved in treatment for rehabilitating convicted inmates. Correctional treatment officials take on double duties.

So we in Finland have once again started to follow other Nordic partners and set a task to broaden the scale of duties of basic prison officers. Let us not forget that they have one benefit: they often know the inmate best. A famous American criminologists, *Donald R. Cressey* put forward this demand in 1958:

> "What is needed is a correctional technique which is explicitly based on a theory of behaviour and of criminality and which can be routinely administered by a rather unskilled worker in the framework of the eight-hour shift".

We can draw some conclusions from the experience of reform of the Finnish criminal justice system:

- Nordic minimalism has worked rather well in our circumstances. Defending or protecting criminal policy seems to be a better way than attacking criminal policy ("war against crime").
- The sanction system must be predictable, not too complicated.
- If the prison sentence is the most severe punishment, it is not wise to use it extensively in petty offenses. There are alternatives: fines, suspended

sentences, community sanctions.

- Often a short prison sentence (together with the criminal justice procedure) fullfills the need for general prevention.

III. THE ROLE OF IMATE LABOUR IN FINNISH CORRECTIONS

Work has always been the heart of the prison. It is included in the definition of the modern prison system as a correctional method that will cure the criminal person. In the beginning the function of inmate labour was not to harden the sentence, but to make it more lenient.

The predecessors of the modern western prison were the so called workhouses, which started in the sixteenth century, first in England and in Holland. They gathered vagrants, criminals and other deviant persons to teach them how to work. In Amsterdam there was one workhouse in the sixteenth century where they used to place a wicked inmate in a cell into where water was flowing uninterruptedly. In the cell there was a pump that had to be pumped all the time if the inmate wanted to avoid drowning.

Always when I relate this piece of history, the listeners are laughing and saying or thinking: "were it they uncivilized at that time!", but let us look a ourselves in the mirror today. Do we still believe in the idea that when a man is doing something mechanically, this action will transform him or her from an evil person to a good one? That lazyness and idleness will make him or her worse? The positivist thinking - to find a proper and simple method to change and resocialize man - is very deep in our tradition. Because man is un-fortunately not so simple a creature, we must look into that mirror every day when developing our prison services and treatment methods for offenders.

Inmate labour has also been in the very centre of the Finnish prison service in this century. We had in our legislation the prisoners' work obligation which was more extensive than in other western European countries. Before the second world war, we concentrated on farming and the reclaiming of swamp areas in the central countryside prisons. After the war, we invented a new type of institution, the open labour colony. In the 1970's a rather heavy programme of building industrial workshops and halls started.

As we know, the prison system is like a big ship that turns very slowly, and the changes in inmate labour have not adapted well to the development of society in general. When rapid industrialization was going on in Finland, our prisoners were keeping cattle or reclaiming swamps. When we saw the first traces of the fall of the so called 'chimney industry', we built more room for metalwork and carpentry industries. Now, living in middle of the service trade and information society, we are thinking of what to do. The obligation of work was replaced in 1995 by a more comprehensive obligation to participate in various activities arranged in the institutions.

Most often, when talking about Finnish inmate labour, we mention the open labour colonies, which were established in the 1940's after the war. It has been said that these kinds of institutions are a specific Finnish invention. This view may be challenged by prison historians, but nevertheless this tradition is interesting and important.

Sometimes the open labour colonies have been seen as a new kind of correctional tool in the rehabilitation of the inmates. However the background of these institutions was not so much correctional, as economic. At the end of the 1940's we

had nearly 10,000 prisoners daily in prisons. Overcrowding was a big problem and a large portion of the prisoners were skillfull workers. The open labour colonies were seen as a solution to make use of this part of the prison population more efficiently than was possible in closed institutions.

This type of institution differed from the traditional prisons in many ways:

- The typical features of the prison milieu were abandoned: closed complex of buildings, walls, bars and steeldoors.
- Traditional guards and guarding were abandoned.
- Detailed regulations for inmates' everyday life were abandoned.
- Prison clothing was abandoned.
- The institution was in many ways more open than the closed prison

and the most important difference:

- The inmates performed ordinary work for the same wages available in the open labour market. That means today for example, that the prisoner in an open institution or labour colony earns ten times as much as a prisoner in a closed prison.

What were the benefits of open labour colonies? There was research into this question in the late 1960's (Paavo Uusitalo). It was shown that there was no significant difference in recividism between similar groups in open colonies as in closed prisons. So the labour colony was not a more rehabilitative option. It also seemed that the open colonies had the same deterrent effect than closed institutions (if there is a such effect in general). So the labour colonies were cheaper, more open and maybe more humane and more producitive.

We are now facing inevitable changes. During the last 25 years we have more than halved our prison population. Many workshops and industrial halls are nearly empty of prisoners. The inmates who are coming in are, in many cases, dropouts from basic school. They don't have any vocational training or experience. Even the traditional Finnish workman's ethic may be vanishing. With this labour force the prison industry cannot be very productive. Are there any lessons to learn from the experiences of the Finnish inmate labour? I'll try to make some generalizations. They are of course my own points of view and not official statements from our prison administration. I will present these in four principles.

A. The Principle of Meaning.

Work can be important, especially because meaningful action has an important role in personal development. I have worked for several years in the aftercare and employment of released prisoners and from that experience, I can say that even rather routine paid work can have an emancipatory role in a person's life.

The work carried out can however also be without any meaning: it can be pure forced labour. We must ask if some very traditional and mechanic industrial work or maintenance duties in prisons have any meaning, or to whom they have this meaning.

Although prisoners' skills and motivation for work are nowadays often very low, that doesn't mean that paid work does not have any meaning to them. Paid work and occupational development are so fundamental in the construction of our society that they cannot be replaced very

quickly. Work is work and a hobby is hobby.

B. The Principle of Normality

This is the lesson that comes from the open labour colonies and other open institutions. We can get much closer to normal life in prisons than we usually think. We must take the principle of normality very seriously, not just as usual rhetoric. Normality in work life means normal work conditions, normal leadership, normal products and services and before all, normal wages. It also means normal vocational training. Normality in worklife means today for example, computers, teamwork and so on. Can it be reality in prisons too?

C. The Principle of Flexbility

When society is changing very rapidly and unpredicably we shoud not create systems that will last the next 100 years. There can be a wide range of activities that are offered to the inmates. I think that traditional work can and must have a rather strong role in the future. The system of organizing the work must also be much more flexible. Education and work can occur alternately. The labour activities must be founded on the development of society, not from the history of corrections.

D. The Principle of Connection to the Society.

As you might know there have been some western sociologists who see the end of the labour society (Gorz, Illich). I am not going to challenge their arguments. At the same time I am saying that it may not be very wise to draw direct conclusions of their analysis to the employment of released prisoners.

Although we are probably heading towards a society of mass unemployment, I don't think it is good to start this "freeing from paid work" with former prisoners. He or she can be the person who needs employment most. Probably we (the so called 'middle class') are the persons who can more easily start to live in "creative idleness" than a former prisoner with various social and mental problems.

So I still believe in the idea of employment in the after-care of a released prisoner. Thus the activities organized during the prison sentence must have a role and connection to this after-care. We know that the prison is a social institution which usually teaches strategies of survival that are unusable in the society outside the prison walls. But it is not impossible to learn useful skills and experiences inside the prison. Let us think all the time what kind of skills obligatory work teaches to those persons who are forced to do it.

Finally, as a sociologist, I must remind you all of one fact. Paid work is much more essential to the maintaining of social order in society than all the efforts we are making in the whole criminal justice system.

IV. A NEW WAY OF THINKNG:CRIME-BASED PROGRAMS

In 1960's and 1970's there was widespread thinking both in the prison and probation service in the Nordic and Western Europe:the social circumstances of the offender were in the center when creating efforts to rehabilitate him or her. That usually meant that jobs, housing and social relations were the most important, and sometimes the only things, to work with in rehabilitation.

There was an active movement against the coercive methods of treatment. This line of solution was not always wrong, but the bettering of social circumstances did not solve the problems of very many offenders (some of them it did however).

Sometimes it was even said it was not necessary to talk about the crime offence at all. The offender has served his or her sentence, we can forget the crime. This concept of human mind was too simplistic, and it was soon found that ware modes of behaviour that were compulsive in nature, and they were not prevented by developing only social services.

At the moment, the idea is to develop offence and behaviour based programs, not for all offenders, but for those who have serious recidivism problems. One example of this kind of approach is The Cognitive Skills Training Program (The Reasoning and Rehabilitation) which has been bought from the Canadian company (T3 Associates, Fabiano & Porporino) by several Nordic Prison and Probation services. This program started in autumn 1997 in six Finnish prisons and in two regional offices of the Probation and After-Care Association.

According to the Canadian instructors (Elisabeth A. Fabiano & Frank J. Porporino) the basic idea in the program is not to treat, reform or cure the criminals, but to teach them. The offenders need to be taught the basic cognitive demands which, according the lecture of the instructors, are as follows:

- TO REFLECT (the offenders usually just react to the situation and then forget the whole thing).

- TO ANTICIPATE (the offenders do not anticipate a situation, usually they react harshly to the resultant circumstances.

- TO ADAPT (the offenders do not learn enough from their experiences, their thinking is too rigid)

The traditional western prison and other institutions are usually not very well prepared to teach these kinds of skills to the offenders. The program focuses particularly on six areas of deficit which are the following:

- Self control
- Cognitive style
- Interpersonal problem-solving
- Social pespective taking
- Values
- Critical Reasoning

The program is implemented by the basic prison officers who have been trained by the Canadian experts. The program was designed to be completed in thirty-five sessions of two hours duration over approximately 8 to 12 weeks.

Another example is to create programs for sex offenders. A special committee in Finland made a proposition to start this kind of special program (a British model) in one Finnish prison. The need for this is rather limited because we have only about 50 sex offenders in our prison population.

Finland has the highest rate of violent crime, especially homicide, in Western Europe. So what is needed, is some special program for violent offenders. We have a lot of co-operation between different authorities to prevent suicides in Finland, but now we must find some ways to prevent violence and homicides in our coutry.

A. What is the Result of Rehabilitation?

When you look at the comparetive research made of the possible results of different kinds of rehabilitative programs, usually the basic criteria for success is the recidivism rate or the arrest rate. ºI think that the recidivism rate or arrest rate are not appropriate for this kind of program evaluation. They do not always tell much about the possible changes that have

happened during the training or rehabilitation process.

Attitudes, values and skills can develop although you are still committing some crime (e.g. because of alcohol and drug abuse). So there must be different stages or a kind of hierarchy when thinking about the results of the rehabilitation of inmates and clients of the probation service. This can be described in a following way, for example:

1. "Full Rehabilitation" : no recidivism, no serious crimes

2. The partial improvement of the situation ; crimes are becoming more rare

3. The situation is not worsening ; some positive things remain

4. You are able to slow down the worsening of the situation

5. Just easing the pain

After presenting this model we must seriously ask if it is enough just to ease the pain of offenders and inmates? It might not be so, but we must remember that demands of absolute results may lead us to oversimplify the problem. The rehabilitation of inmates is not an industrial product, but a complicated human process, where there is no clear start point or end. Sometimes these rehabilitative programs can be seen like the Red Cross action during the wars: it is not ending the war but at least "easing the pain".

B. Assessment Criteria for the Rehabilitation and Treatment of Offenders

I have modified the work of some Finnish substance abuse treatment researchers (Saarnio et al.) to create an assessment criteria for, let us say, high quality rehabilitation. These are the following components:

1. 'Matching' as a general principle of the probation services, institutions and prisons. The idea that we can find a universal form of rehabilitation has vanished. Some programs or methods of rehabilitation work for one person, and not another.

2. We must take into consideration both the cognitive styles of offenders and the congnitive styles of staff members. We must try to match these as much as possible. (When there is only one therapist and 200 clients, it is not always so easy).

3. Problems of congnitive damage and injuries must be recognized. Many offenders have even physical injuries and damage because of alcohol and drug abuse for instance.

4. The cultural matching of programs and offenders. The elements of the programs and methods must not be culturally strange to the offenders.

5. The use of mini-intervetions is useful. Even the giving of basic information about crimes, drug abuse etc. can have at least short term impact.

6. Teaching of social skills and self control is necessary.

7. Teaching of stress management is necessary.

8. The mechnism of everyday family life must be taken into consideration.

9. Community Reinforcement Approach (CRA) means a combination of successful programs and working methods (family

therapy, learning of social skills, getting a job, group counselling etc.).

10. Systematic after-care and systematic evaluation are necessary.

The corresponding lists and meta-analyses can be found very often in contemporary literature. At the same time we can also try to make up lists which are telling us what is not likely to work. Programs that are less likely to succeed are those which:

- rely solely on punishment
- lack clearly stated aims
- are open-ended
- rest on medical or psychotherapeutic models
- provide few opportunities for active participation
- ignore or avoid program integrity
- are not monitored and evaluated.

C. "Portia vs. Persephone"

Finally I would like to raise an important and actual question and division, which we must analyze more when developing our criminal justice systems and the treatment of offenders. In their very interesting article (1998) two British scholars, *Guy Masters* and *David Smith* use a division of criminal justice systems into two different models. The "Portia" model means abstract, rational, rights based and in a way, masculine criminal justice. Contrast to that we can find the "Persephone" model, which is more concrete, relational, expressive and femine model of treatment of criminals.

In their analysis they use the theory and practice of re-integrative shaming (*John Braithwaite*) and also evidence and experiences from Japanese criminal justice and corrections to describe the "Persephone" thinking. In this connection they quote *Shitika* (1972) who writes:

> "The Ministry of Justice, by directive, requires guards to be thoroughly familiar with the backgrounds of all prisoners assigned to them...A guard...is expected to know the inmate's moods and to be in a position to readily detect any symptoms of worry, concern, or unusual behaviour on the part of the inmate. He is expected to counsel the inmate when these appear...Although some prisoners try to reject their guard because of the authority that he carries, the majority regard him as an older brother or father figure, and readily accept his guidance and advice."

They also refer to the importance and tradition of apology in Japan and they describe how offenders are expected to make amends informally to victims in exchange for a letter of absolution which is presented to the court. Well known is also the communal role of the police in Japan.

We must admit that the "Portia" model in the field of criminal justice has been rather dominant during the recent decades in Finland and also in some other Western European countries. Our experience of the coercive treatment ideology was so negative that perhaps we went too far when returning to the Classical School. Now it is time to think more about relational justice and to learn from that rich tradition and experience of Asian countries, such as Japan. As *Masters* and *Smith* finalize their article:

> "...we believe that the different voice of Persephone needs urgently to be heeded. The consequences of heeding only Portia would be unbearable."

REFERENCES

Anttila, Inkeri; Incarceration for Crimes

Never Committed. Research Institute of Legal Policy, No. 9. Helsinki 1975.

Christie, Nils: Crime Control as Industry: Towards Gulags Western Style. London 1993.

Cressey, Donald R.: The Nature and Effectiviness of Correctional Techniques. Law and Contemporary Problems, Vol. 23, 1958.

Garland, David: Punishment and Modern Society: A Study in Social Theory. Oxford 1990.

Lahti, Raimo: Sub-Regional Criminal Policy-The Experience of the Nordic Countries, in Bishop, Norman (ed.): Scandinavian Criminal Policy & Criminology 1985-1990. Stockholm 1990.

Masters, Guy & Smith, David: Portia and Persephone Revisited: Thinking about Feeling in Criminal Justice. Theoretical Criminology, Vol. 2, No. 1/1998.

Questions and Answers about Japanese Prison System. Correction Bureau, Ministry of Justice, Japan.

Rentzmann, William: Cornerstones in a Modern Treatment Philosophy: Normalization, Openness and Responsibility, in Prison Information Bulletin No. 16, June 1992. Council of Europe.

Ross, R.R. & Fabiano E.: Time to Think: A Cognitive Model of Delinquency Prevention and Offender Rehabilitation. Johnson City 1985.

Shitika, M.: The Rehabilitative Programmes in the Adult Prisons of Japan. International Report of Criminal Policy, vol. 30. No.1, 1972.

COMMUNITY- BASED TREATMENT FOR OFFENDERS IN THE PHILIPPINES: OLD CONCEPTS, NEW APPROACHES, BEST PRACTICES

*Celia Copadocia Yangco**

I. INTRODUCTION

The reintegration of offenders into their own community and society is one of the universally accepted goals of corrections, whether the latter is carried out in institutions or through non-custodial measures. To ensure that offenders discharged from detention centers, jails, penal institutions or rehabilitation centers re-claim their part and role in society, there is a need to assist them in their reunification with their families and re-entry into the community. Thus, it is imperative to sustain rehabilitation and achieve reintegration through the community-based treatment of ex-offenders.

Moreover, the commission of crime is a result or consequence of the inter-play of factors and conditions in one's self, the immediate and bigger environment, and one's choices and decision-making processes. Hence, it is necessary that these human and environmental factors are examined closely and appropriate measures adopted to assist ex-offenders in their reintegration efforts.

Recognizing that the community is usually also the locus of the offense or crime, the community must be harnessed to assume greater responsibility in reforming offenders and preventing recidivism. The community and society must also play vital roles in the elimination of the psycho-social, economic, and cultural barriers and other causes of crime in its environ, in order to prevent crime, ensure peace, and promote development in the locality.

To maximize the role of the community in an offender's reintegration process, there is a need to continuously re-examine the concepts related to community-based corrections. At the same time, new approaches that have evolved locally and globally, related to these concepts, should be appreciated. In this process, best practices in community based corrections must be documented and replicated, so that they continue to be viable alternatives to custodial care of offenders.

This paper is a modest contribution to the continuous quest for effective treatment measures to facilitate the reintegration of offenders into society. It examines these measures mostly from a social development perspective, with emphasis on the role of social institutions such as the family and the community within the Philippine experience. The term 'offender' rather than 'prisoner' has been adopted and used throughout the paper because it covers both adult and youth offenders, as well as examines effective practices before, during and after trial that are conducive to the rehabilitation of offenders.

II. RATIONALE FOR COMMUNITY-BASED TREATMENT

The international community has long recognized that the goals of a humane criminal justice system are best served if offenders are reintegrated and rehabilitated by means other than

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incarceration. In fact, it has been widely accepted that incarceration or imprisonment should be a last resort and utilized for those who have committed serious and heinous crimes, and that community-based treatment should instead be promoted whenever possible and feasible to hasten an offenders' reintegration into society.

Imprisonment leads to other problems related to an offender's stigmatization and desocialization. Often, prisons thwart the offenders' potential for growth and excellence, and spawn dependence and mistrust on their part instead. Prisons usually alienate offenders from their family, friends and acquaintances. Due to overcrowding, prisons lead to dehumanizing conditions, which make reintegration and resocialization even more difficult.

Prisons spawn the formation of "sub-cultures" among prisoners that tend to harden them. This is so because prisoners have to counteract the effects of deprivations of imprisonment and the conditions prevailing in jails which are often rigid and arbitrary.

Corrective actions and treatment measures are better achieved in a natural environment such as the community where offenders can highlight and re-live the areas of their life they want to change.

Since the community is the natural locus for legal, socio-economic and cultural changes and development, community based corrections enable offenders to adapt more effectively to such changes in a more realistic and flexible manner. The community also provides a network of relationships and a range of activities that enable offenders to know themselves better in a variety of real life situations, thus improving their social skills and enhancing their social functioning.

Moreover, offenders are able to continue dispensing responsibilities for many day-to-day basic socio-economic commitments such as managing a home, budgeting resources, deciding on family matters, etc. when s/he is with their family. This enables them to maintain self-esteem. Due to their exposure to the day-to-day realities of life in society, they are afforded more participation in planning, implementing and evaluating their reintegration plans in natural settings. The planning process is also more responsive and relevant because both constraints and resources in the community are taken into consideration by the offender in a "here-and-now" situation which calls for dynamic responses from them. This contrasts with imprisonment, where rehabilitation work is based more on a reflection of past failures and planning for the future.

The implementation and evaluation of rehabilitation and reintegration plans, on the other hand, can be monitored more closely as these are related to the offenders' daily living in the community. Due to this, re-planning can be easily resorted to, based on immediate feedback.

From an economic point of view, the burden of maintaining an entire prison bureaucracy is eliminated in community-based treatment. It is a fact that the cost of rehabilitation is relatively cheaper outside of prison, where huge personnel complements, operating costs, capital outlays and other costs have to be maintained. The cost of assisting and supervising offenders is supplemented and complemented by existing community resources and infrastructures, which are otherwise not present in institutional arrangements.

Moreover, community-based corrections offer opportunity costs that are not present in most custodial-care arrangements. Examples of these opportunity costs are the costs of income and productive efforts as head or a member of the family and the community.

III. OLD CONCEPTS AND NEW APPROACHES IN THE TREATMENT OF OFFENDERS

The Philippines has been supportive of the goals of community-based treatment and has continuously adopted measures consistent with the United Nations Standard Minimum Rules for Non-custodial measures or the Tokyo Rules.

In order to appreciate fully the goals and advantages of community-based treatment in the context of the Philippines, there is a need to revisit the old and traditional concepts of treating offenders and those of emerging ones, specifically from a social development framework.

Social development, as defined by the United Nations, is the greater capacity of the social system, social structure, institutions, services and policy to utilize resources to generate favorable changes in levels of living, interpreted in the broad sense as related to accepted social values and a better distribution of income, wealth and opportunities. Social development therefore, covers a comprehensive, yet integrated, field that encompasses education, health and nutrition, livelihood, social welfare, etc. It involves the services of educators, medical practitioners, social workers, psychologists and other social scientists that contribute to improvement in the quality of human life.

Doreen Elliott (1993) argues that social development values represent an ideology close to that of the values of social work, except that the values are less individually focused. She argues further that while social work is essentially individually oriented and politically conservative, social development is globally and radically oriented. Omer (1979) suggests that human dignity, equality and social justice are key values in a social development approach. These values are therefore consistent with those adopted by the United Nations Minimum Standard that encourages countries to pursue crime prevention and criminal justice within the framework of the promotion of human rights, social justice and social development.

From this social development context, it is best to examine old concepts related to the treatment of offenders vis-a-vis the new approaches in this field.

A. Individual Pathology vis-a-vis Empowerment Approach

The traditional concept of treating offenders has been towards examining the offender's characteristics, behavior, values and other personal traits and the causes behind committing a crime, among other factors. Criminals would be examined from a criminologic point of view, which usually led to self-blaming. Thus, the treatment approach would be individual therapy, focusing on behavior modification.

The empowerment approach, which is basically a social development approach, however, looks not only at simplistic uni-causal explanations, but at the offender as a "person-in-environment", i.e., one in a dynamic relationship with their environment and prescribed roles in varied social situations. It assumes an interdependence of relationships between the parts (the offender and his/her family) and the whole (community and society).

Thus, while behavior modification continues to be a goal in rehabilitation and reintegration, empowerment, which is the harnessing of the offender's adaptive capacities, decision-making abilities and capability to link and access to outside resources, is a tandem goal in our present efforts. Harnessing and honing adaptive capacities are deemed necessary because of the fast changing conditions in the environment brought about by globalization, information technology, accelerated development and other factors.

The failure of some individuals and families to adapt to such sudden and swift

changes brings about crisis in their adaptation and social functioning. This therefore calls for harnessing not only the offender's capacity to handle crisis, solve problems, and make right and timely decisions, but also their own and family's ability to identify resources. Through this empowerment scheme, they are made aware of what are the resources from within and outside the family, which they can tap to address their needs and problems.

B. Analytical cum Systems Approaches

Consistent with a lesser emphasis on individual pathology is the move from the analytical approach towards a systems approach. In the analytical approach, the whole is broken into parts and examined closely. Thus, an offender's mental, psychological and socio-economic conditions are examined thoroughly and dissected carefully as basis for treatment goals.

In the systems approach, on the other hand, the parts are linked and integrated as a whole. It is an inter-disciplinary and holistic approach. Elliott offers a context model or paradigm for the systems analysis node of guidance in approaching social problems, as shown in Table I. It ranges through the system levels: international, national, state, regional, local, organizational, family and individual, and sets these alongside functional social systems such as economic, political, socio-cultural, scientific and religious.

Through this paradigm, problems will be less likely viewed from an individual

TABLE I

Context Model for Systems Analysis

Social System System Level	Economic	Political	Sociocultural	Scientific	Religious
International	Production	Distribution of goods, services, income, wealth, opportunity	Structures, groups, sub-groups	Medical	Worship
National	Distribution	Identifying needs	Communication systems	Ecological	Unification and Bonding
State Regional	Exchange	Value/education rationalization	Creativity	Physical	Healing
Local		Power distribution and maintenance	Recreation		
Organizational		Access to goods	Education	Mathematical and services	
Family Individual					

pathology but from a systems approach. Elliott is cited as an example of the examination of the interface between economic (on the social system dimension) and the drug culture and the individual (on the system level). Drug culture offers many young people in the cities a quick way to achieve material goals, which may be closed to them through legitimate means. The lack of social stimulation and a poor environment clearly impinges on drug-related behavior. Current responses such as border control and the growth of prisons emphasize social control.

A social development approach, however, would address the problems at various levels, namely:

(1) individual therapy so that immediate and short term considerations are not ignored;
(2) economic re-structuring with a focus on urban and rural poverty;
(3) preventive educational campaigns; and
(4) empowerment schemes.

Thus, participants in the drug culture would not be seen as criminal or sick *per se*, but as underprivileged and victims of social injustice.

C. Micro-Macro Continuum Approach

The foregoing discussions lead to the adoption of a micro-macro continuum in the prevention of crime and treatment of offenders. It links micro, or individual therapy approaches, to macro or systems approaches that enable multi-level and multi-system intervention.

These multi-level approaches and interventions from the Philippines experience include:

1. Total Family Approach

A recognition of the importance which the family plays in the commission of crime and on the offender's rehabilitation continues to be the focus of contemporary community-based corrections in the country. Today not only is the offender the focus of intervention, but also their family as well. Realizing and recognizing that the crime offenders commit can be a symptom of a deeper problem or dysfunctioning within the family, the family members are assisted and harnessed to realize their potentials as individuals in this most basic unit of society.

The family has been considered as a primary support group for the offender's rehabilitation and eventual reintegration. Most rehabilitation efforts are focused on maintaining harmonious relations between the offender, their family and the community; strengthening and empowering them altogether. This stems from the realization that in a number of instances, the offender's reason for committing a crime is family-related i.e., the family is poor or hungry, lacking in basic amenities, needing hospitalization, etc.. Family-related concerns are also reasons frequently given by offenders for their escape from jails, prisons or rehabilitation centers and their desire to be free.

The influence of family members is also evident in the rehabilitation process, especially since most family members constitute the "significant others" in an offender's life; thus providing a source of motivation, help and "healing" to the offender.

The total family approach in community-based corrections looks at the offender in the context of their family - its strengths and weaknesses, its resources and problems, potentials and constraints. Family resources- both human and material - are pooled together so that the offender's reintegration can be hastened and facilitated, while at the same time addressing the problems of other family members.

Family-centered treatment is therefore

adopted and maximized by organizations to assist the offender and their family. For example, due to realization of the importance of the family as a support system, youth offenders who no longer have families are placed in foster care, wage homes or are afforded kinship-support assistance to ensure that they are provided the benefits and advantages of living in a natural, home-life situation and atmosphere.

2. Community Structure Support

Next to the family, the immediate community is seen as a valuable support system for an offender. The community should assume primary responsibility for the offender, as it is usually the origin of crime. It is in the community where the offender's roots are, where his/her peers and friends are often found, where they can be further educated and trained, where they practice their religion, pursue life goals and continuously strive to belong. It is also a resource for their and their family, in times of need and desolation, and to which they and their family also contribute their share and resources whenever possible. The community is thus the bigger locus for an offender's change and transformation given its resources, networks and the opportunities it offers to pursue a productive and useful life.

New approaches in community-based treatment involve the harnessing and maximization of community structures outside of the family. Schools, the church, community leaders and members, non-government, voluntary and people's organizations, civic associations, business groups and other sectors, in addition to government, should be tapped and mobilized to contribute their resources to the treatment and reintegration of offenders, and the strengthening of their families. These community structures complement and supplement the services for offenders offered by the State.

With the mushrooming of non-governmental organizations, people's organizations, civic, religious or professional groups, and other community structures, there are now many resources to help offenders and their families lead productive and meaningful lives.

Volunteer groups have become necessary components in the rehabilitation of offenders and their reintegration. Both at the institutional and non-institutional settings, volunteer groups form part of the rehabilitation resources. They are utilized in the educational, physical, spiritual, social and cultural activities of offenders.

The Department of Social Welfare and Development (DSWD) has a Volunteer Intervention Program for Youth in Conflict with the Law, which utilizes senior citizens, women groups, civic, religious and other organizations and individuals. These volunteers are trained and provided technical assistance in their volunteer work of assisting and monitoring the youth as they are rehabilitated and reintegrated into society.

The Department of Justice correctional bureaus also utilize volunteer groups to a large extent. The Probation and Parole Administration (PPA) utilizes volunteer probation aides which assist probation officers in rehabilitating parolees and probationers. Likewise, volunteers are utilized in penitentiaries and penal institutions.

The local government units and the Bureau of Jail Management and Penology, under the Department of Interior and Local Government, also utilize volunteers to a great extent in educational, medical, religious, cultural and recreational activities.

3. Maximizing Socio-Cultural Values as Treatment Stimulus

The role of culture in crime prevention and the treatment of offenders has long been recognized. In the Philippines,

certain cultural values are maximized to assist in the reintegration of offenders and in their "healing " process.

Among the strengths of the Filipino character is a deep faith in God or belief in a Supreme Being. Such belief arouses reverence, gratitude, the will to obey and serve and other positive values. In ordaining and promulgating the country's Constitution, and in everyday life, the Filipino people invoke the aid of Almighty God, whether this God at the individual level is Jesus Christ, Allah, Buddha, Jehovah, etc.. We ascribe human traits, our fate, and fortune to a supernatural God whom we honor and love. This enables us to accept reality in the context of God's will and plan. Due to this sense of spirituality, we can be optimistic even at the most pressing of times. Spirituality encourages a life with values based on truth and love rather than the acquisition of material things.

This sense of spirituality is thus recognized and considered in formulating treatment measures for the socially and economically disadvantaged, including offenders. The spiritual dimension of reintegration not only into the family and the community, but also with one's Creator makes the treatment plans more complete and holistic. It also makes the offender more remorseful and insightful because of the belief that "man does not live by bread alone" and that s/he must also take care of what happens to their spirit.

Spiritual programs are therefore integrated among the services and opportunities afforded to offenders, both in institutional and non-institutional settings, enabling them to strive towards moral purity and healthy living in accordance with God's intent and purposes.

Moreover, among the regular volunteers in prisons, jails or rehabilitation centers, as well as community-based programs, are spiritual and religious groups. These groups contribute to the improvement and betterment of the offenders' personality and character, by giving deeper meaning to life and the enhancement of the corrections' programs.

4. Devolution of Basic Services

Recent development of management practices at the sub-regional levels of the country have also contributed to the micro-macro continuum of the treatment of offenders. In 1992, the national government through the Local Government Code, devolved responsibility for the provision of basic services, together with the corresponding funds, manpower and other resources, to the local government units in the provinces, cities, municipalities and barangays (villages). This signaled the change of responsibility from national agencies to local government units over the provision of basic social services. Included in this devolution is the management of community-based services along with the socio-economic development of families within the local government's area of responsibility. Local government units have therefore taken primary roles in the alleviation of poverty among their constituencies, the promotion of peace and order, and socio-economic development in their areas.

Due to this devolution, support services needed for the rehabilitation and reintegration of offenders into the community became closer and more accessible to them and their families. In view of the autonomy given to local governments, they have embarked on new and innovative ways of managing and administering basic social services aimed at improving the lives of their constituents and promoting growth with equity. This move complemented the strengthening of families and communities as support groups for the disadvantaged such as the offenders. It also afforded local governments the opportunitiy to craft new services that are relevant and responsive

to the local residents, given their resources and the problems to be confronted. In fact, a number of provincial governments have made innovations in the management of provincial jails which are now under them, a welcome development in the reintegration of offenders.

5. Adoption of Social Reform Agenda

In 1994, the Philippines launched the Social Reform Agenda (SRA) which is the commitment of the Ramos Administration to attain a balance between economic growth and social equity. The SRA is a package of programs and reforms that addresses the minimum basic needs of families, and the reform needs of basic sectors to reduce poverty. It is likewise a strategy of effectively converging all sectors — government, civil society and business sectors-and matching their programs with the needs of target communities and families. It is aimed at improving the quality of life of Filipino families, especially those whose income falls below the poverty threshold.

A feature of the SRA that directly relates to the reintegration of offenders and strengthening of their family is the use of the Minimum Basic Needs (MBN) approach in assessing the socio-economic levels of poor families. It addresses purposively the survival, security and enabling needs of poor families through 33 indicators.

The MBN for survival comprise of maternal and child health, adequate nutrition, water and sanitation and basic clothing. The MBN regarding security is addressed by the program in terms of income and employment, security and safety of families, and housing. Specifically, under the security minimum basic needs, two indicators are identified directly with crime prevention, i.e., Indicator no. 18 (no family member is to be victimized by crime against persons) and Indicator no. 19 (no family member is to be victimized by crime against property).

Since there is a purposive targeting of families in given communities through the MBN, the poor conditions that spawn crime and impinge on the successful reintegration of offenders are improved. Also, the prevention of crime is made manifest at the family and village levels, because target families of the program consciously exert efforts to prevent crime and avoid being victims or offenders.

The enabling needs addressed are education, people's participation and family care/psycho-social requirements.

IV. MODALITIES IN THE TREATMENT OF OFFENDERS IN THE PHILIPPINES

Like many countries, the correctional system in the Philippines has both an institution-based and a community-based component. It also has separate treatment systems for youth offenders and adult offenders.

The custodial care of adult offenders is handled by the following:

1. The Bureau of Jail Management and Penology (BJMP) under the Department of Interior and Local Government (DILG) which has supervision over all district, city and municipal jails and detention centers. These jails house detainees awaiting judicial disposition of their case and offenders whose sentence range from one (1) day to three (3) years.

2. The Provincial Governments, which have supervision and control over provincial jails. These jails house court detainees and prisoners whose prison terms range from six (6) months and one (1) day, to three (3) years.

3. The Bureau of Corrections (BUCOR)

under the Department of Justice (DOJ), which has control over the national penitentiary and its penal farms, houses convicted offenders with prison sentences ranging from three (3) years and one (1) day, to life imprisonment.

Youth offenders in the Philippines are treated differently. A youth offender is defined as a child over nine (9) years but below eighteen (18) years of age at the time of the commission of an offense. Under the country's laws, these youth offenders are entitled to a suspended sentence. Instead of serving their sentence, they are rehabilitated in regional youth rehabilitation centers, which are managed and supervised by the Department of Social Welfare and Development (DSWD). There are ten (10) rehabilitation centers for youth offenders, one of which is a National Training School for Boys and the other, a National Training School for Girls. Their stay in the center can be shorter than their sentence term, depending on how they respond to the rehabilitation process therein.

The non-institutional treatment of adult offenders is managed primarily by the Department of Justice (DOJ) through its Parole and Probation Administration and the Board of Pardons. Probation for adult offenders is available to those whose penalty of imprisonment does not exceed six (6) years. It is considered as a matter of privilege and not of right. Hence, the adult offender has to apply for probation before the court upon conviction. This is also true for the parole system.

The Department, in cooperation with other agencies and the Asia Crime Prevention Philippines Inc. (ACPPI), now operates the recently constructed Philippine-Japan Halfway House, a new alternative for treating adult offenders.

On the other hand, community-based rehabilitation services for the youth are administered by the DSWD through its regional field offices nationwide, in coordination with the local government's social welfare and development offices. After-care and follow-up services are likewise carried out for youth offenders by the DSWD.

V. BEST PRACTICES IN COMMUNITY BASED TREATMENT

After revisiting the concepts, approaches and modalities in community-based treatment of offenders in the Philippines, an appreciation of the "best practices" or effective treatment measures during the pre-trial, trial, post trial and post institutionalization is in order.

1. Pre-Trial

(1) The "*Katarungang Pambarangay*" (Village Justice System)

The Philippines takes pride in the fact that it has a unique and indigenous way of settling disputes and treating offenders at its smallest political unit level - the village or "*barangay*". The system is called "*Katarungang Pambarangay*" and is aimed at the amicable settlement of disputes at the barangay level. Established in 1978, it aims to promote the speedy, peaceful and inexpensive administration of justice and to relieve the police, prosecutors' offices and courts of concileable cases. Settlements and awards rendered under this system have the force and effect of a final court judgment.

Under the jurisdiction of the "*Katarungang Pambarangay*" are all disputes which are punishable by imprisonment not exceeding one (1) year or a fine not exceeding P5,000 between and among parties actually residing in the same village, city or municipality. Non-criminal cases outside of the coverage of the *Katarungang*

Pambarangay may be referred, for amicable settlement, to the "*Lupong Tagapamayapa*" or peacekeeping board at any time before trial by the police, prosecutor or court.

This peace-keeping board carries out the functions of the *Katarungang Pambarangay* and is created in each of the more than 42,000 *barangays*/villages in the Philippines. It is headed by the *barangay* Chairman and not less than 10, nor more than 20, members selected every three (3) years from among the *barangay* residents or persons working in the *barangay* not otherwise disqualified by law.

A three-member "*pangkat na tagapag-kasundo*" or mediation team is constituted from among the *Lupong Tagapamayapa* to continue conciliatory efforts when the *barangay* chairman fails to amicably settle disputes submitted before the *Lupon*.

This form of justice administration enables both the victim and the offender the opportunity to amicably settle their disputes amongst people who have a more intimate knowledge of them, and therefore the reasons for their dispute. Due to their proximity to the locus of the crime, the *Lupon* members are also able to take stock of the socio-economic and cultural dimensions of the dispute and thus have a better understanding of the crime and the parties involved.

Consequently, since the *barangay* chairman, who is the chief executive officer at the village level, is also the chair of the *Lupon*, he/she can link the parties involved in productive and meaningful endeavors and address the root causes of or contributory factors to their problems which may be present in the community which she heads. These community factors may include the lack of employment, the presence of vices, negative peer influences and so forth.

Thus, the early detection of possible offenders and the correction of their negative behavior can hopefully be better addressed in a manner that is more responsive and relevant to them through the *Katarungang Pambarangay* which prevents their further involvement in crimes and offenses.

(2) Release on Recognizance and Other Diversion Services

A Filipino juvenile who comes in conflict with the law whether at the *barangay* or police level is immediately referred to the Department of Social Welfare and Development (DSWD), or the local social welfare offices, by virtue of the provisions of the Child and Youth Welfare Code or Presidential Decree (PD) 603 enacted in 1974, way ahead of the Beijing Rules. This law provides full protection of the rights of Filipino children and youths and enhances their meaningful participation in national development, regardless of their socio-cultural and economic status in life.

Through community-based diversion services, social welfare workers are called upon to assist youths who have come in conflict with the law as early as when they come to the attention of the *Lupon Tagapamayapa* at the *barangay*. They also visit detention centers and jails regularly i.e., at least once a week, to check whether there are women and youth offenders in detention. These workers also maintain close coordination with Women Desks and Child and Youth Relations Units of police stations, which have Women Desk Officers and Child and Youth Relations Officers among the police force. So juvenile offenders are diverted from the criminal justice system, released on recognizance and placed under supervision of a responsible adult or are reunited with his/her family under the supervision of a social worker. Once diverted or out of detention, the youths are assisted in their problems, in

the context of their family conditions and situations, through the formulation of a treatment and rehabilitation plan. Most of them are assisted to go back to school, to gain some skills or, if already able to work, assisted in having self or open employment. Their families' concerns are also looked into and they are linked to resources that can help them.

This scheme enables the youth to be protected, rehabilitated and trained for socio-economic and civic responsibility for the betterment of himself/herself, their family and community, without undergoing unnecessary detention and eventual alienation.

The Republic Act 306 or the Release on Recognizance Law also applies to offenders whose penalty is six (6) months or less and/or a fine of P2,000.00. They are usually released in to the custody of a responsible person in the community, instead of posting a bail bond.

2. Trial or Adjudication Stage

(1) Suspended Sentence for Youth Offenders

Under the provisions of the Child and Youth Welfare Code, the execution of the sentence of youth offenders is suspended and s/he instead is either committed to the care and custody of the DSWD's rehabilitation centers for youths, or placed under its custody supervision/ probation servise.

The probationary treatment of juvenile offenders in the Philippines preceded that of the adult offenders and started on December 3, 1924 when Act 3202, the first juvenile delinquency law of the land was passed. The probation service for the youth offenders starts when, after formal adjudication, s/he is released to their family, guardian or responsible person in the community under the direct supervision of the DSWD, instead of commitment to a youth rehabilitation center. The placement continues until such time that the Court terminates the case upon proper recommendation of the DSWD social worker.

The social worker and the youth, together with their family, prepare a treatment and rehabilitation plan that guides the youth. Linkages and referral to community services and institutions such as school, the church, non-government organizations and other government agencies are maintained to enable the early reintegration of the youth offender.

Commitment to a DSWD rehabilitation center for youths also offers various opportunities for an offender's early reintegration to the community. Since the DSWD's rehabilitation centers are open institutions and are situated in the regions where offenders come from, the youth is afforded an opportunity to interface with the community or experience homelife conditions in a number of ways that are conducive to reintegration and rehabilitation. These opportunities are integrated in a package of programs and services with the acronym "SHEPHERDS", namely:

(a) *Social Services:* The DSWD social workers in rehabilitation centers take the lead not only in the formulation of treatment plans but also in the integration of services for the offender and their family. The social worker ensures that offenders are afforded individualized treatment by the rehabilitation team. Case conferences are done regularly among the rehabilitation team members to monitor the progress of treatment plans.

In addition to providing the youth casework and counseling services, the rehabilitation centers provide opportunities for the youth to

continue contact with their family not only by mail, but also through regular visitations by the offender to their family and vice-versa. The centers also celebrate a "Family Day" once a month where the youths' families are invited to a day of inter-action not only with their children, but also with the latter's fellow wards, social workers, substitute houseparents and the Center's other personnel. The youth can also be granted an "out-on-pass" privilege through the court to attend important family developments such as when a parent is sick or passed away; during Christmas and New Year, and other significant occasions, based on good behavior.

To ensure the successful re-integration of the offenders into their community, the Center staff involve the community-based social workers in the treatment planning and implementation, where the latter attends to the needs of the offender's family. As early as the treatment planning stage, reintegration is already included as a goal for the offender's family. For instance, where an offender's problem stems from the fact that their family has a low income, his/her siblings are not in school, or his/her parents lack parenting skills, the community social worker addresses these concerns and reports progress on these efforts to the Center staff.

The center-based and community-based social workers also collaborate on the discharge planning for the offender. Eventually, the community social worker provides supervision and after care services to the discharged offender to ensure that the reintegration plan is put into action.

(b) *Homelife Services:* enables the youth to learn household chores such as shopping, cooking, cleaning, making beds, etc., as well as positive values in relation to their present home-based roles as son/daughter, brother/sister, etc., in addition to those roles they will assume in the future if they choose to have their own families.

(c) *Educational Services:* these centers utilize existing schools within the vicinity or, if the schools are within the center, the youths in the nearby community are allowed to avail of the center's school. This enables the youth offender to be mainstreamed and to interface with other youths without cases, thus preventing their further alienation. In a few instances, offenders are allowed to pursue education beyond high school in cooperation with nearby colleges and universities.

(d) *Psychological Services:* provide the youth opportunities to understand themselves better, to know how to behave in a group, and to relate with others. Upon admission, the youth undergoes psychological testing which is utilized in the crafting of the treatment and reintegration plan, and in helping them modify their behavior according to the socio-cultural norm of the community. Through this service, individual and group sessions are held with the Center's residents.

(e) *Health Services:* are provided to youth offenders to hasten their physical development. Medical and dental services enable the youth to attain physical well being that contributes to their personality development and sense of security as they prepare to be reintegrated into

their community.

(f) *Economic Programs and Services in Rehabilitation Centers:* provide skills training, entrepreneurial or business management exposure and direct experience in productivity or livelihood projects to the offenders. The skills or crafts they are trained in and exposed to are in accordance with their "back-home situation". For example, if an offender comes from an agricultural area, s/he is trained in agricultural productivity skills. The offender is also equipped with the appropriate work ethics and values relevant to their work when they are finally discharged from the rehabilitation center, thus ensuring that reintegration is easier.

(g) *Recreational Services:* are likewise made available to the offender in line with their interest and physical condition. Recreation can come in the form of indoor or outdoor games and sports, television viewing, painting, reading, and the like. Their exposure to sports enables the offender to practice discipline, sportsmanship and know how to relate with others.

(h) *Developmental Services:* are also afforded to the offenders through their exposure to group meetings, consultations, and other group experience. The offenders are organized into youth groups known as "*Pag-asa* (Hope) Youth Association (PYA)" which becomes a means for offenders to participate in the planning and decision-making processes inside the Center. Since the PYA is also present in the community where they live, it becomes easier for the offender to be re-integrated into the community by linking them with existing PYA groups in the area. Their experience as a member or leader of the youth group enables them to have planning and management skills that will be useful should they wish to be active members of their *barangay* development councils and/or assume community leadership roles in the future.

(i) *Socio-cultural Programs:* are likewise available in the DSWD's rehabilitation centers. These include cultural presentations that enable the youth to develop their talents and skills along theater, acting, drama, dancing, singing, etc., as well as to appreciate cultural practices handed over from one generation to another, to deepen their roots and love of country.

Spiritual programs are part of this category of services for the offender. By experiencing a deeper relationship with their Creator, the offenders are afforded more guidance, protection, liberation and friendship. Through this program, they are encouraged to have faith in their capacity to change, and in God, and in God's plan for them. They are made to understand that they are unique and have a distinct role to play to make the world a better place, hence are enabled to perform all their daily roles with care and enjoyment.

The statistics of the DSWD for 1996 and 1997 indicate that for every one (1) youth offender served in the Rehabilitation Centers, a corresponding number of four (4) offenders avail of custody supervision/ probation in the community, or a ratio of 1:4 institutional versus non-institutional treatment. Table II details these figures. From the figures in the table II, it can be gleaned that community-based treatment has been maximized for youth offenders by

the DSWD. This is not only in line with the country's support for the Convention on the Rights of the Child, but in accordance with the provisions of the Philippine Constitution which recognizes the vital role of the youth in nation-building, and promotes and protects their physical, moral, spiritual, intellectual and social well-being.

TABLE II

NO. OF YOUTH OFFENDERS SERVED BY DSWD (1996 - 1997)

Corrections Mode	1996	1997
1. Served in 10 Rehabilitation Centers	1,861	1,691
2. Served through Custody/Supervision	7,361	6,747
TOTAL	9,222	8,438

Source: DSWD Planning Service

(2) Probation for Adult Offenders

Probation for adult offenders in the Philippines came much later than that for youth offenders. Started in 1976 through Presidential Decree (PD)968, adult probation can be availed only once, and usually only by first time offenders, for penalties of imprisonment not exceeding six (6) years. Thus, an offender has to apply for probation before the court upon conviction.

Probation as defined in the PD, refers to a disposition under which a defendant, after conviction and sentence, is released subject to conditions imposed by the Court and under the supervision of a probation officer. The investigation and supervision of probationers are latched on the Department of Justice's Parole and Probation Administration (PPA) which was created upon the passage of PD 968 in 1976, and which has administrative authority over probation officers. Probation supervision aims to bring about the rehabilitation of the probationer and their re-integration into the community.

The probationers are afforded by the PPA the opportunity to continue education (whether formal or non-formal), be employed or engaged in income generating activities and pursue other worth-while projects while under supervision. These are carried out directly by the PPA or through coordination with other government agencies such as the DSWD, the Department of Education, Culture and Sports (DECS) and local government agencies, as well as private and civic groups. While already a form of community-based treatment by itself, probation in the Philippines allows for early termination of probation cases on certain grounds.

The following probationers are eligible for recommendation of early termination of their cases:

(1) Those who are suffering from serious physical and/or mental disability such as the deaf-mute, lepers, the crippled, the blind, the senile, the bed-ridden, and the like.
(2) Those who do not need further supervision as evidenced by the following:
   (a) Consistent and religious compliance with all the conditions imposed in the order granting probation;
   (b) Positive response to the programs of supervision designed for their rehabilitation;
   (c) Significant improvements in their social and economic life;
   (d) Absence of any derogatory record while under probation;
   (e) Marked improvement in their outlook in life through becoming socially aware and responsible members of the family and community; and
   (f) Significant growth in self-esteem, discipline and self-fulfillment.

Provided that, the probationers involved have already served one-third of the

imposed period of probation; and provided further, that in no case shall the actual supervision period be less than six (6) months.

(3) Those who have:
   (a) To travel abroad due to any of the following:
      · An approved overseas job contract or any other similar documents; or
      · An approved application for scholarship, observation tour or study grant for a period not less than six (6) months; or
      · An approved application for immigration;
   (b) To render public service:
      · Having been elected to any public office; or
      · Having been appointed to any public office.

Provided, however, that the probationers involved have fully paid their civil liabilities, if any.

(4) Other probationers who have fully cooperated with/participated in the programs of supervision designed for their rehabilitation and who are situated under conditions/ circumstances similar in nature to those above described at the discretion of the proper authorities.

3. Post-Trial Stage

(1) Open Prison Programs

The Bureau of Corrections (Bucor) under the Department of Justice also maintains penal colonies and farms outside of prisons where deserving prisoners can bring their families. They are also allowed to engage in livelihood by being contract farmers, cultivating a piece of land, raising livestock and poultry, engaging in different crafts for their subsistence and being involved in other economic and socio-cultural activities. This open arrangement also enhances reintegration efforts for ex-offenders and their re-adjustment in community setting.

(2) Pardon

The act of forgiving the wrongdoing of an offender and which is conducive to early reintegration, is also practiced in the Philippines. Under Philippine Law, a Board of Pardons and Parole oversees this program and recommends to the President of the Republic the grant of executive clemency to certain prisoners. Executive clemency refers to either the commutation of sentence, absolute pardon and conditional pardon, with or without parole conditions as may be granted by the President upon recommendation of the Board.

(3) Parole

Which refers to the conditional release of an offender from a penal or correctional institution after s/he has served the minimum period of their prison sentence under the continued custody of the State and under conditions that permit their reincarceration if s/he violates a condition for their release, is also administered by the Parole and Probation Administration (PPA).

The Board of Pardons and Parole, which recommends both pardon and parole privileges to the President, do so under the policy of "uplifting and redeeming valuable human material to economic usefulness and to prevent unnecessary and excessive deprivation of personal liberty".

4. Post-Institutionalization

(1) Halfway House for Adult Prisoners

An essential transition arrangement between institutional placement, especially among prisoners or offenders long confined in closed institutions, and

that of community-based services is that of a halfway house. A halfway house, as the term connotes, is a residential facility where released prisoners can be provided the opportunities to gradually adjust to community life, and to prepare them for full reintegration to society.

The first halfway house for offenders in the Philippines was that for youth offenders. Set up in the mid-1960's in a regular community in Quezon City, Metro Manila, this halfway house, known as a Youth Residence, was supervised by the DSWD for youth offenders released from the National Training School for Boys (NTSB). At that time, there was only one reformatory school for boys. When regional youth rehabilitation centers were established all over the country in the late 1970's, the need for the Youth Residence was no longer seen as necessary. This was because the regional centers provided a community-based setting for the youth offenders that hastened their reintegration process without the necessity of going through a halfway house. Thus, the Youth Residence was phased out in 1979.

It was, however, a different case for adult prisoners confined in the national penitentiary, who needed a halfway facility because the national penal institution was situated in Metro Manila. Thus in 1996, a Philippines-Japan Halfway House was started to provide residential setting for released or pre-released prisoners. The facility was a joint effort of the Asia Crime Prevention Foundation (ACFP), the Nagoya West Lions Club, and UNAFEI from the Japanese end, while the Asia Crime Prevention Philippines, Inc. (ACPPI), the Department of Justice, the National Police Commission, the Department of Social Welfare and Development, the Muntinlupa Lions Club, and other non-governmental organizations provided the support from the Philippines end.

The halfway house provides home life and group living experiences to the adult ex-offenders, offers them opportunities for vocational and economic skills, and subsequently job placement and employment. The residents are likewise afforded opportunities to grow emotionally, mentally, physically and spiritually for their eventual reintegration into their family and community. A multi-disciplinary team of social workers, psychologists, educators, and other rehabilitation workers manage the house.

(2) After Care Services

Youth offenders discharged from the DSWD's rehabilitation centers are provided after care services upon discharge up to a period of one (1) year. As discussed earlier in this paper, social workers in the communities where the youth come from are involved early in the formulation of the treatment and discharge planning. Thus, they are maximized in monitoring and assisting the discharged youth in the reintegration process. Communication is maintained between the center and community social workers on the minor's status, and those of their family, to determine if they need further assistance.

The youth is assisted by the community social worker to either go back to school, acquire productivity skills or be employed if of employable age. Meanwhile, the halfway house for adult prisoners also provides after-care monitoring for ex-residents of the house, in coordination with the DSWD and DOJ regional and field offices, local government units and other entities.

VI. LESSONS LEARNED: NEED FOR AN INTEGRATED APPROACH IN REINTEGRATING EX-OFFENDERS

The management of community-based treatment measures for persons in conflict with the law has its share of problems and weaknesses. Firstly, low priority has been given to budgetary outlays and support for offenders and prisoners because of the stigma attached to crimes and offenses. Secondly, the general public perception on offenders continues to be in the context that they have violated laws and human rights. Thus, continuous advocacy efforts have to be done to change the mind set about offenders and their capacity to be rehabilitated and be productive.

Thirdly, while village level efforts are welcome and widely used, personal and familial ties sometimes influence decisions at that level, thus, affecting the efficacy of some corrective measures. This is a disadvantage of the informal system, which can be addressed by constant orientation, information, and education of community leaders and residents.

Fourthly, while youth offenders are welcomed easily, adult offenders are less accepted by communities because of the fact that they are perceived to have full cognisance of their offenses and wrongdoing. Thus, there are more opportunities for youth offenders than adult, because of the perceived higher chance of rehabilitation by the latter.

The fifth, and most important lesson, is that investing in prevention and developmental programs, to ensure economic stability and social equity among the populace, is far better and less costlier than the treatment of offenders. This is in consonance with the old saying that "an ounce of prevention is better than a pound of cure." Thus, the government and civil services are investing in strengthening families as a basic unit of society that should nurture, care and develop its members to be useful and responsible members of society.

Crime prevention and the treatment of offenders are among the most important tasks and responsibilities of governments. This fact is confirmed by the 1997 World Bank Development Report that listed the five fundamental tasks of the States in our changing world. The five tasks are:

1. Establishing a foundation of law.
2. Maintaining a non-distortionary policy environment, including macro-economic stability.
3. Investing in basic social services and infrastructure.
4. Protecting the vulnerable.
5. Protecting the environment.

Clearly, tasks numbers 1 and 4 (above) cover crime prevention and control and treatment of offenders, respectively. Thus states of the world should invest in this endeavor in order to ensure that its development goals are achieved and its progress attained.

To fully operate these state tasks, particularly in the field of the community-based treatment of offenders and ex-offenders, there is a need for a comprehensive and integrated planning, implementation, monitoring and evaluation system between and among the five (5) pillars of the criminal justice. Since these pillars have the same goals that vary only in degree of congruence and emphasis, they form a chain of efforts to rehabilitate and reintegrate offenders. These pillars constitute the sectors in a reintegration continuum: community (development, prevention, early detection); law enforcement (interrogation,detention); prosecution (investigation); courts (adjudication); corrections (retribution, rehabilitation)

The initial step towards this integrated approach is ensuring a common paradigm in reintegration that starts and ends with the community as the vital and leading

component of a reintegration continuum.

Proceeding from a systems approach in rehabilitation, reintegration goals must permeate and be integrated in all pillars of the criminal justice system. This also calls for a comprehensive and wholistic view of reintegration as a continuum - starting at the point where an offender is separated from their community, to the time s/he is brought before law enforcement entities, the prosecution, the courts, the corrections authorities and finally back to the community. Thus, even at the first instance when s/he is apprehended, the police must view an offender not just as a criminal, but a human resource that can be a potential loss and a subject for rehabilitation and eventual reintegration. Subsequent pillars, to which the offender must be exposed, should also have these common goals.

At the initial stages of interrogation, detention and investigation, therefore, an offender must be seen not only as an individual whose criminal behavior needs to be contained or curtailed, but also as a person in an especially difficult circumstance who should nonetheless be helped in facing their problems and coping with life's realities. Similarly, while the prosecution and the court pillars treat offenders as worthy of deterrent measures and punishment, they must have reintegration in final view. Correction officials and staff should not, therefore, be the only advocates for reintegration.

This reintegration continuum approach, at the formal criminal justice pillar levels, must be supplemented and complemented by informal social control and economic growth mechanisms at the community level to improve quality of lives and strengthen the prevention of crime at its very source - the individual, their family and community. These efforts must be supported by all the elements and sectors of a nation that must see crime as a manifestation of weaknesses in a given society. For in ultimate analysis, the strength of a nation can only be truly tested at the level of its poorest and most vulnerable families, and those of its weakest communities.

REFERENCES

United Nations (1969). ' The Role of Social Factors in Development,' Expert Group Meeting on Social Policy and Planning, Background Paper No.2, p.2. Stockholm:UN.

Elliot, Doreen (1993) ' Social Work and Social Development: Towards an Integrative Model for Social Work Practice,' International Social Work, Sage; London, Vol.36 pp.21-36.

Omer, S.(1979) ' Social Development ' International Social Work, Vol. XXII (3):11-26

Department of Social Welfare and Development (DSWD) Reports for 1996 and 1997

Rules and Regulations of the Board of Pardons and Parole, Department of Justice, 1990

EFFECTIVE TREATMENT MEASURES FOR PRISONERS AND DRUG ADDICTS TO FACILITATE THEIR REINTEGRATION INTO SOCIETY

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It is a fact that the majority of prisoners will return to society at some point in time. The only difference being whether it is at an earlier or later date. Thus, it is very important or at least hoped for, that the time a prisoner spends in an institution would contribute positively to his or her rehabilitation. However in reality, for practitioners, ideology does not often transpose to social phenomenology. There are numerous factors that have to be taken into account in attempting to reduce criminal behaviour through treatment. These range from external social factors, to internal psychological factors. In most instances, modifying a person's overt behaviour alone is considered a notable and successful goal, if actually achieved. The psyche of a person, in terms of covert 'behaviours' like thoughts, attitudes and expectations, is however much more profound and difficult to change. In the attempt to modify behaviour, at least overt behaviour, we see the proliferation of expert opinions and treatment strategies in the modern penal setting and aftercare.

But now a quite different question of truth is inscribed in the course of the penal judgement. The question is no longer simply: 'Has the act been established and is it punishable?' But also: 'What is this act? What is this act of violence or this murder?' To what level or to what field of reality does it belong? Is it a phantasy, a psychotic reaction, a delusional episode, a perverse action?' It is no longer simply: 'Who committed it?' ... It is no longer simply: What law punishes this offence?' But: 'What would be the most appropriate measures to take? How do we see the future development of the offender? What would be the best way of rehabilitating him [or her]?' A whole set of assessing, diagnostic, prognostic, normative judgements concerning the criminal have become lodged in the framework of penal judgement.

Foucault (1977, parenthesis added)

In actuality, reducing offending behaviour is a time-consuming and difficult enterprise, with sometimes few rewards or success stories despite the rise of treatment programmes. Singapore does not purport to have the 'magic pill' nor does it intend to. However, through the sharing of penal and drug treatment practices, it is hoped that the Singapore Prison Service would be able to contribute to the knowledge of this greater community concerning corrections. Hopefully, we may all learn from both the strengths and weaknesses of each penal system to improve our individual programmes. It is within this framework that the issue of "effective treatment measures for prisoners and drug abusers to facilitate their reintegration into society" will be discussed. The paper will begin with a brief introduction to Singapore, and short historical accounts of our penal and drug systems, to set the context for the discussion of our current treatment programmes.

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I. INTRODUCTION

A. Singapore-Island State

Singapore has total land area of approximately 647. 5 sq km and is situated in Southeast Asia, approximately 137 km north of the Equator. Singapore was founded in 1819 by Sir Stamford Raffles, Lieutenant-Governor of Bencoolen. Self-government was attained in 1959 whereby Singapore's first general election was held with The People's Action Party (PAP) winning 53. 4% of votes. On 16 September 1963, Singapore joined the Federation of Malaysia. However on 9 August 1965, Singapore was separated from the rest of Malaysia to become a sovereign, democratic and independent nation. Singapore is a republic with a parliamentary system of government based on the Westminster model. Organs of State include: The Executive-Head of Government and Cabinet, The Legislature-President and Parliament, and The Judiciary-Chief Justice, The Supreme Court and Subordinate Courts. The Judiciary administers the law independently of the Executive and this independence is safeguarded by the Constitution. Singapore's official languages are English (language of administration) , Mandarin, Malay and Tamil.

B. Penal and Drug History

During the early 19th Century, prisoners were housed in semi-permanent attap and wooden dormitory-type buildings. These convicts of the past were active in public contributions like the building of roads and buildings - some of which have now become historical landmarks like, for instance, the present St Andrew's Cathedral that was completed in 1862. Colonel Butterworth-then the Governor of the Straits Settlement-in 1845 created a set of rules and regulations that emphasised redormative training and useful employment rather than punishment. As a result, Singapore's system at that time became a hallmark, which attracted visitors from the Dutch East India Company, Siam and Japan.

In 1872, a Commission of Inquiry into the Prisons concluded that the system had lost sight of the punitive aspect of prison life. As a result, the old system was abandoned and convicts were no longer employed on public projects. More severe 'punishments' were imposed.

However, in 1948, the Singapore Prison Enquiry Commissions recommended the removal of the punitive approach and in its place; safe confinement, creative activities, education, religion and recreation. This became the forerunner of the current prison system.

Opium smoking was prohibited in Singapore in 1946. The first opium treatment centre was set up on St John's Island (one of the some 60 small islets of Singapore) in 1955. The centre was gazetted as a prison for the custody and treatment of opium addicts. However, in 1960, the Prisons Inquiry Commission pointed out that drug addiction should be seen as essentially a social problem in a medical context, not as criminal. Thus in 1963, the Opium Treatment Centre was de-gazetted as a prison and its administration was handed over to the Ministry of Health.

In 1973, the government passed the *Misuse of Drugs Act* in July, providing for the compulsory treatment and rehabilitation of addicts with the emphasis now being on drug addiction as a social and behavioural problem. The Opium Treatment Centre was renamed as a Drug Rehabilitation Centre (DRC). More DRCs were later introduced.

However, incidents of drug abuse grew at an alarming rate. On 1st April 1977, a

nation-wide crackdown on abusers code-named 'Operation Ferret' was launched. Thirteen thousand (13,000) people were arrested and around 6,700 were detained in DRCs from April to December that year. It is from this historic incident that the drug scene evolved into today's current system.

II. THE SINGAPORE PRISON SERVICE

The Singapore Prison Service is part of the Home Team of agencies related to crime control, security and civil defence. These agencies fall under the purview of the Ministry of Home Affairs. Both penal and drug inmates fall under the jurisdiction of the Prisons Department. The mission statement of the Prisons Department is:

To protect society by ensuring the secure custody of offenders in a humane environment, and to facilitate their return to society as law abiding citizens by providing rehabilitative opportunities.

Our mission statement is operationalised by four (4) guiding principles that form the components of our Operations Philosophy. These are:

i) Prisons and Drug Rehabilitation Centres are not holiday resorts... conditions shall be spartan but not an affront to human dignity.
ii) Prisoners are here with us as punishment but not for punishment.
iii) Drug inmates are here with us, not as punishment, but for treatment and rehabilitation.
iv) Every inmate will be given opportunities to change, but more effort will be accorded to those genuinely desirous of changing.

The Director of Prisons is appointed by the Minister of Home Affairs. He is assisted by a Deputy Director and three (3) Assistant Directors. The Department operates on the staffline function system with the Superintendents of Penal Institutions and Drug Rehabilitaion Centres (DRCs) reporting directly to the Director. The Assistant Directors and their various Branches under their charge provide Staff Support functions (please see Organisation Chart Appendix A) .

There is a total of 2214 Staff comprising of:

i) 1612 staff in the Uniformed Prisons Service
   - 401 in the Senior Officer grades.
   - 1211 in the Junior Officer grades.
ii) 215 Civilian Staff.
iii) 387 staff in the Police Gurkha Contingent (who provide manpower to guard towers in the maximum and medium security Prisons/DRCs).

III. CURRENT PENAL SCENE

A. Description of Penal Institutions

The penal institutions are classified into maximum, medium and minimum security prisons depending on the physical structure of the institutions and the categories of prisoners that are accommodated therein. There are four (4) maximum-security prisons, four (4) medium-security prisons and one (1) - minimum security prison.

B. Approach to Rehabilitation of Prisoners

Criminal behaviour is regarded as a behavioural problem. The criminal is neither a victim of society nor circumstances, and is responsible for the consequences of his or her actions. Whether a criminal can be successfully rehabilitated depends solely on himself or herself. Those who are positive and show genuine desire to change for the better will be given all the help and opportunities to do so.

Having stated the above this is not to imply that sociological or circumstantial factors do not influence a person's actions. Indeed, social demographics, like low socio-economic status (SES), are often strong predictors of criminal offending. However, the emphasis is rather on a neo-classical notion of the volitional agent. Despite the circumstances and situational variables, the choice to offend still rests on the individual. It is precisely in recognising the existence of such sociological and circumstantial variables that help will be given to those who actually want to change.

C. Description of Reception, Processing and Allocation

The reception centre for all male convicted inmates is the Queenstown Remand Prison (QRP). As its name suggests, QRP also houses people on remand, i. e. , awaiting trial. Once admitted into QRP, a nominal roll will be opened for the new prisoner. All personal property and cash will be accounted for, verified and kept by the Officer-in-charge of Records and Reception. Each inmate will undergo a medical check-up. The Superintendent of the Prison will also interview each inmate. informing him of issues related to length of sentence, filing of appeals and property and cash. With the necessary documentation in order, convicted inmates are allocated to the appropriate institutions. This allocation is based on selection criteria that takes into account factors such as sentence length, seriousness of convicted offence and criminal antecedents.

Women offenders, both convicted and remandees, are received at the Changi Women's Prison cum Drug Release Centre (CWP/D). Because of the low population size of convicted female offenders, there is at present only one institution that encompasses both female prisoners and drug inmates.

D. Incare of Penal Inmates

The penal institution plays a two-fold function, namely, social control and rehabilitation. It must be recognised that other than a rehabilitative role of attempting to reintegrate a person back to society, the function of the penal institution is to perform the socially and legally sanctioned control functions of punishment (retribution) and deterrence (individual and general). As mentioned earlier, the prisoner is in the prison as punishment and not for punishment. The detention is the punishment he or she receives for the crime committed. The individual deterrence aspect comes from the regime that he or she has to undergo while under detention. Prisoners spend the initial stage of their incarceration under lock-up. This is considered as a highly deterrent aspect of imprisonment. The duration of this lock-up depends on the prisoner's conduct and length of imprisonment.

A convicted prisoner qualifies for a one-third-remission of sentence. However, the remission period is deducted up to a maximum of seven (7) days whenever the prisoner is adjudicated for breaches of institutional rules. The maximum period of punishment imposed is seven (7) days if given solitary confinement. In addition, the Superintendent can impose a maximum of twelve (12) strokes of the cane. All adjudicated cases are submitted to the Director of Prisons for confirmation of sentence. If the case is deemed very serious, the case can be referred to the Visiting Justice who can impose a sentence of canning up to twenty-four (24) strokes.

E. Rehabilitation Programmes in the Penal Setting

The purpose of rehabilitation programmes in the prison regime is three-fold:

i) Manage inmates effectively.

ii) Reduce reoffending behaviour.
iii) Facilitate reintegration to society.

While the onus of criminal offending is ultimately placed on the individual, there must be a balancing between justice and mercy. It is to this end that the Singapore Prison Service administers justice tempered with mercy, i. e. , assistance in the rehabilitation process not only for the purpose of reducing or modifying offending behaviour, but also for helping the inmate to effectively reintegrate into sociery.

Before discussing treatment strategies, it is to be noted that in assisting inmates to reduce offending behaviour, as well as to facilitate their reintegration into society, physical organisation plays an important role, albeit more indirectly, in the rehabilitation of the inmate. What is meant by physical organisation is that inmates are allocated not only to different institutions-as discussed earlier in reception, processing and allocation-but within institutions they are also segregated from each other; hard-core offenders are physically separated by walls, gates and doors from first-timers. Older inmates are also segregated from younger ones. This is to reduce 'contamination', i. e. , negative social modelling and sub-culture, from the more 'experienced' convicts.

Recent trends in rehabilitation programmes in western countries have shown a move towards community-based rehabilitation programmes. The reason for this shift being that institutionalisation tends to 'nullify' the effects of proactive efforts (Andrews & colleagues, 1990; McGuire & Priestley, 1995) . However, it is to be noted that this 'principle of using custody as the last resort' is still weakly established. For instance, Losel (1994) in his study of institutionalised juveniles found that an institutional climate that is characterised by openness, autonomy, cohesion, organisation and a low level of conflict, has also obtained success in reducing reoffending. The debate of whether the prison institution is effective in rehabilitation and deterring offenders from recidivating, while important, is nevertheless out of the scope of the current paper. The point for practitioners in correctional settings is that we have a pool of convicted offenders under our custody. It is thus our responsibility to at least attempt to provide effective treatment measures for prisoners to facilitate their eventual reintegration into society.

With this in mind, the general rehabilitation programme available for prisoners comprise of the following key elements in a five-fold package described hereafter.

1. Work

The inculcation of discipline (e. g. , the routine of working fixed hours in a day) and strong work ethic presented to the offender are major priorities in the rehabilitation programme. The ability to hold on to a job should serve as a stable foundation for reintegration in to society, as many inmates are either jobless or practice 'job-hopping' prior to conviction. In this area, the Singapore Corporation of Rehabilitative Enterprises (SCORE), a statutory Board which manages the prison industries and provides rehabilitative opportunities, sets up or invites companies to establish workshops in the prisons and DRCs, where the inmate may work and learn on-the-job skills. SCORE's bakery and laundry services are examples of enterprising industrial pursuits that have taken root in the prison setting successfully.

2. Education

As mentioned earlier, demographics like low education are often predictors of offending. Thus, an important priority is to reduce the statistical chance or

probability of reoffending. The provision of education, either academic or vocational, for the purposes of upgrading prisoners' educational status and skills is thus essential. In a competitive society like Singapore, education is highly valued. Helping to increase the education level of inmates would also increase their chances of finding a job and reitegrating back to society. Academic classes, conducted by qualified teachers seconded from the Ministry of Education, range from certification courses to GCE 'O' levels, and up to GCE 'A' levels. In 1997, inmates under the assistance of our teachers achieved an average of 86% pass rate for GCE 'O' Level examination, which is above the national figure of 76. 9% pass for private candidates. Vocational classes are conducted by qualified vocational trainers from SCORE who teach preparatory English courses, work induction, problem solving, food preparation, book binding cleaning skills, etc. In 1997, SCORE conducted vocational courses for 1,424 inmates from the prisons and DRCs.

3. Physical Training

Inmates are required to undergo physical training that includes drill, exercise and games. Physical activities help to keep the inmates healthy and fit, while recreational games help them to relieve the pressures of incarceration. This at the same time promotes healthy interaction between the inmates.

4. Religion

It is a well-known fact that religion has and continues to perform a major role in changing a person's life. It is thus a powerful force in the rehabilitation process, as it gives the individual a sense of direction and meaning to life.

Inmates are therefore encouraged to develop their spiritual side by turning to their respective religions. The Department has two Muslim religious teachers to provide religious activities to Muslim prisoners. Religious counselling is provided by counsellors from various religious organisations to look after prisoners' spiritual needs.

5. Counselling

Existing personal, social or family problems, as well as new ones that arise for some inmates as a result of incarceration, if not resolved, would distract them from the rehabilitation efforts.

Trained officers from the Prisons' Rehabilitation and Counselling Branch (RCB) handle referrals, requests and special cases. RCB is considered a specialised unit. RCB provides various forms of social services and intensive counselling to inmates and visits to their families. Its operational philosophy is to assist inmates and their families to learn to be independent through imparting coping skills.

Notwithstanding the importance of coping skills, certain problems and issues cannot be resolved to an acceptable level whereby inmates and their families are socially functional by counselling alone. Therefore, RCB handles referrals for investigation and assistance. These referrals can come from inmates and appeals submitted to Prisons Headquarters, from family members through the Members of Parliament (MPs). Upon receiving a referral, investigations will be carried out by the counsellors to determine the extent of the problem and help that can be rendered. Home visits will be conducted, if necessary. Cases will be referred to other social agencies for assistance if necessary. The more common problems referred are:

i) Financial problems.
ii) Housing problems.

iii) No visits from family.
iv) Marital problems.
v) Welfare of children.

Thus, in essence, RCB provides counselling for inmates to reduce offending behaviour as well as to prepare him or her for eventual reintegration into society. Service delivery is also rendered to the inmates' families when necessary.

The bulk of counselling and inmate interviews are however conducted by the respective Hall Officers who are Senior Prisons Officers in the grade of Rehabilitation Officer within the institutions.

The Prisons Department has a Psychological Unit to assist inmates that have depression and more serious forms of psychological maladjustment. Volunteer counsellors from external organisations also assist us in social counselling in preparing the offenders for reintegration to society.

F. Preparation for Release

The Prisons Department notes that incarceration, especially long-term imprisonment, can affect the chances of a person reintegrating into society. After spending a long time in prison, a person may be institutionalised whereby ironically, life on the 'inside' is somewhat preferred to the 'outside'. To some extent, this is not too surprising. Life inside the prison setting, although highly disciplined and regulated, is rather predictable with its fixed routines and expectations. One could get used to the life there. Thus, without preparation for the return to society, an inmate who has undergone long-term detention would be faced with the cultural-shock of the fast-paced and demanding society that Singapore is.

Thus, during the last stages of imprisonment, inmates all have to go through a pre-release counselling programme that lasts for around two (2) weeks. Pre-release programmes provide an avenue for imprisoned offenders to reintegrate into society, hopefully with minimal disorientation. If prepared and conducted effectively, they can impact upon relapse rates and enhance the effectiveness of the overall rehabilitation strategy. It may at the same time generate goodwill between the prison authorities and the departing offender, thereby reducing any lingering bitterness about the offender's prison experience and serve as a source of encouragement.

Contents of the package include not just coping strategies but practical help as well. In short the general structure of the package includes topics like prisons debrief, post-release plans, stress management, sources of support, work attitudes and job performance and rejoining the community. Inmates are also notified of sources of help available to them when they rejoin the community concerning life issues like housing, employment, social support and vocational training.

G. Early Release

As for early release, Singapore at present has not legally adopted any probation system for adult offenders. Currently, the only early release system that Singapore is using is the one-third remission of sentence. Inmates would normally have to serve only two-thirds of their original sentence. However, early release on license is one of the options being considered to ease overcrowding.

H. General Crime Statistics

Singapore's crime rate fell again in 1977, for the 9th consecutive year. The number of seizable offences reported fell by 5%, from about 47,100 cases reported in 1996 to about 44,800 in 1997. This is very

encouraging, as such trends are very rare in other countries.

IV. CURRENT DRUG SCENE

A. Description of Drug Institutions

In addition to penal institutions, the Prisons Department also takes charge of the Drug Rehabilitation Centres (DRCs) which house the different categories of drug addicts. There are altogether four (4) male DRCs and one (1) female DRC. First and second time offenders are housed in one institution. Third and fourth time offenders are housed in their respective institutions. Fifth time offenders and above are contained in another institution. As mentioned, Changi Women's Prison is also a DRC where all female addicts are housed. Lastly, there is also a work release camp-Lloyd Leas Work Release Camp-for drug addicts selected on the work release scheme.

B. Approach to Rehabilitation and Treatment of Drug Addicts

Singapore does not subscribe to the belief that drug addiction is a medical problem. As in the case of the criminal, drug addiction is viewed as a social and behavioural problem. An addict is responsible for the consequences of his or her own actions, and it is up to the addict to make a determined effort to kick the habit. If the addict does not want to change his or her ways, no amount of treatment and rehabilitation can make that person do so.

The present drug regime differentiates between non-hardcore and hardcore addicts. Non-hardcore addicts are addicts who have been admitted into the DRC for the first and second time, i. e. , first or second timers. Hardcore addicts are those that have been admitted into the DRC for three or more times, i. e. , third timers and above. This differentiation is essential for the determination of not only the period of detention but also the type of treatment and rehabilitation regime, which the addict will undergo. In general, a hardcore addict is not only detained in the DRC for a much longer period as compared to a non-hardcore addict, but that person undergoes a tough, penal-like regime with minimal privileges and greater measures of deterrence.

On the other hand, a non-hardcore addict is accorded more rehabilitative opportunities, is given more intensive counselling by trained counsellors in the DRCs (both individual and group counselling) and is given greater opportunities to enrol in educational or vocational courses for personal development through academic pursuits or the acquiring of new vocational skills.

C. Length of Detention

Drug addicts are detained under the executive order of the Director of Central Narcotics Bureau, under section 37 of the *Misuse of Drugs Act* (MDA). The addicts are detained in the DRCs for a minimum period of six (6) and up to a maximum period of thirty-six (36) months, depending on the number of previous admissions. Generally, inmates with greater number of previous DRC admissions will be kept longer in the DRCs. Each inmate's care is reviewed every six (6) months by a DRC Review Committee chaired by a medical practitioner with members comprising reputable persons from the public and private sectors. These appointments are made by the Minister. At present there are four (4) DRC Review Committees.

D. Description of Reception, Processing and Allocation

Sembawang DRC-the centre that houses 4th timer addicts-is also the reception centre for all male drug addicts. Female addicts are referred to the Changi Women

Prison/DRC. These drug addicts are brought in by law enforcement agencies, viz the Central Narcotics Bureau (CNB) and the Police. As with the reception of prisoners at QRP, there is the documentation stage of recording the individual's particulars and possessions. After which, they undergo a medical check-up. They are also medically examined over a period of three (3) days to ascertain their degree of opiate or heroin addiction.

E. Incare of Drug Addicts

The purpose of the stay in the DRCs is two-fold: addicts are detained in the DRCs not only for treatment and rehabilitation, but also to prevent the spread of the problem of drug abuse. By taking these addicts out of circulation from the general public, it reduces the chances of them 'contaminating' others.

F. Rehabilitation and Treatment Programmes in the Drug Setting

The purpose of institutional rehabilitation programmes in the DRCs is to reduce drug abuse and to facilitate reintegration into society. As mentioned, upon arrest, all drug addicts are sent to the reception centre. This is where they undergo a compulsory detoxification period of one (1) week. During this period, the drug addicts are under close medical supervision as they experience pangs of withdrawal symptoms whilst their bodies rid themselves of drugs. After detoxification, the inmates go through a recuperation period of rest for one (1) week. Inmates are then transferred to other institutions depending on their number of previous admissions. Fourth timers remain in Sembawang DRC. Orientation in the respective institutions late one (1) week, whereby inmates are told about house-rules, as well as other relevant information concerning drug abuse and its effects. Following which, inmates undergo a tough regime of drill and physical exercises to build up fitness levels, as well as discipline, before being introduced to other aspects of rehabilitation programmes which include work, education and counselling. These institutional programmes in the DRCs are very similar to the general rehabilitation programmes for prisoners.

It was mentioned earlier that physical organisation plays an important support function to the rehabilitation programmes. Negative peer group influence is an important determiner of drug-taking behaviour and this is the reason why non-hardcore addicts are placed in separate institutions from hardcore addicts. Even within the pool of hardcore addicts, there is delineation between the number of timers.

G. Specific Drug Treatment Programmes

Following a review of the drug programme, Community-Based Rehabilitation (CBR) was given greater emphasis in 1995 to assist the treated addicts to reintegrate into society. Upon completion of their minimum period of DRC detention, inmates will be placed in one of the following programmes:

i) Community-Based Rehabilitation (CBR).
ii) Extended Institutional Rehabilitation (EIR).

Under Community-Based Rehabilitation, inmates may be selected for any of the three schemes:

(1) The Halfway House Scheme (HWH)
(2) Residential Scheme, or
(3) Halfway House Scheme with Naltrexone/Residential Scheme with Naltrexone.

CBR was introduced with the intention of helping the drug addict 'kick' the habit through social support within the community. To some extent, the CBR programme is a form of 'early release' for

drug addicts from DRCs. However, these inmates are still under the jurisdiction of the Prisons Department. It is important to note that for the CBR scheme, once the inmate is selected, he or she may voluntarily opt out of the programme *only* before it starts.

Inmates who are selected for CBR are transferred to the Lloyd Leas Work-Release Camp in the last month of their DRC stay to undergo the Pre-Release Programme. The features of the one (1) month programme are:

i) Counselling involving coping skills and group dynamics to prepare them for work-release and reintegration into society.
ii) Physical training.
iii) Drills.

The Halfway House Scheme (HWH) involves the inmate staying in a halfway house for a period of six (6) months whilst undergoing the rehabilitation programme of the halfway house. Inmates placed on the HWH Scheme are required to work during the day and return to the HWHs in the evenings to observe curfew hours. Being able to keep a job would ideally increase the 'stakes' in conforming to society. Inmates in HWHs are given regular urine testing for drug consumption. This scheme particularly benefits those inmates who are genuinely desirous of changing but who have no family support, no home to return to, or whose family environments are not conducive for their recovery from drug addiction. It is intended that through positive interactions with other treated addicts, as well as HWH staff, in both social and counselling sessions, pro-social behaviour will develop to enable the inmate to forgo drug abuse.

The *Residential Scheme* also lasts for a period of six (6) months. It, however, involves the inmate being tagged with an electronic monitoring device and returning to his or her place of residence to stay. Like the HWH Scheme, the inmate is also required to work during the day but has to return home in the evenings to observe curfew hours. Inmates also have to report regularly back to Lloyd Leas Work Release Camp for counselling and urine testing. This scheme would only be offered to inmates whose families are supportive. Family support is an important aspect of facilitating two reintegration of the inmate into society.

As can be seen from the above programmes, the Prisons Department recognises the importance of psychosocial support in the efforts to help the addict 'kick' the habit. Unique to drug addicts though, is the fact that drug consumption affects not only the psychology but the physiology of the individual. Theories that explain drug-taking behaviour are various. They range from pleasure-seeking behaviour to reducing the pangs of withdrawal.

It is to these reasons that in August 1993, the Department launched a pilot programme involving the use of the drug Naltrexone on some inmates. This drug, which is an opiate antagonist, is consumed orally in pill-form. It blocks the gates of the relevant receptors of the brain that are responsible for the euphoric effects brought about by consuming opiates. In other words, a person who is on Naltrexone will not be able to 'get high' if he or she were to consume a narcotic drug. Importantly, Naltrexone is not addictive. Hence, it is not a substitute drug for the addict. Results of our pilot study project have been very encouraging and the Prisons Department has incorporated the use of Naltrexone for a selection of inmates in the Residential and Halfway House Schemes under Community Based Rehabilitation, with effect from June 95.

Selection of inmates for the three schemes is based on a set of stringent criteria. Only those inmates who are assessed as being responsive to their institutional rehabilitation, and have shown a desire to change, will be selected for the CBR programmes. In other words, only the most amenable inmates are chosen for these 3 Schemes. As mentioned earlier, the individual is ultimately responsible for his or her actions. More help will be given to those that are desirous of change. Notwithstanding this, it is important to emphasise that hardcore addicts are also allowed to participate in the CBR programmes.

Those inmates who do not qualify for Community Based Rehabilitation or who voluntarily opt out of CBR programmes are placed under Extended Institutional Rehabilitation (EIR). In effect, this means that detention period in the DRCs would be extended up to between 12 to 24 months, depending on their categories. During the extended period, they will continue their rehabilitation programme of work, vocational training and counselling. They will also undergo the 1-month Pre-Release Programme in the DRC, The activities in the Pre-Release Programme are similar to that carried out in the Lloyd Leas Work-Release Camp.

H. Central Narcotics Bureau (CNB) Supervision

Upon completing their CBR programmes or Extended Institutional Rehabilitation, as the case may be, the inmates are then pleced under compulsory Central Narcotics Bureau (CNB) supervision for period of two years. During this period, the inmates are required to report for regular urine tests at designated reporting centres an police stations, to ensure that they remain drug-free.

I. General Crime Statistics

Prison's treatment and rehabilitation of drug addicts encompasses part of the multi-pronged enforcement, rehabilitation, aftercare and prevention education strategy to proactively arrest the drug situation in Singapore. In 1994, our Minister for Home Affairs, Mr Wong Kan Seng, also mentioned that it was critical for the family and the community to get involved in preventive education and rehabilitation.

Since then, drug agencies and community organisations have collaborated in a holistic effort to make the multi-pronged strategy work. We are pleased to announce that the upward trend in drug statistics has been reversed. A striking point to be highlighted is that despite Central Narcotics Bureau's (CNB) intensified raids, i. e. increased surveillance and enforcement, the number of drug abusers arrested fell almost a quarter, from 6160 in 1994 to 4750 last year. The number of new drug addicts arrested also fell from 1340 to 1130 over the same period. The average daily population in our DRCs also fell significantly. Of greater concern and encouragement to Prisons, the relapse rate has declined from 81% in 1994 to 66% last year.

V. AFTERCARE

The Singapore Corporation of Rehabilitative Enterprises (SCORE), a Statutory Board, provides work for drug and penal inmates within the institutions. The organisation is also the lead agency in aftercare. The Prisons Department also works closely with other aftercare agencies: The Singapore Aftercare Association (SACA) catered for exprisoners; The Singapore Anti-Narcotics Association (SANA) ; and various Halfway Houses that also provide aftercare services for treated

drug addicts. Both SACA, SANA and Halfway Houses are referred to as Voluntary Welfare Organisations (VWOs) in Singapore. These VWOs provide various functions and services, ranging from social counselling for ex-Inmates and families, to practical help like finding lodging and jobs for ex-inmates.

SCORE has an Aftercare-Counselling Programme (ACP) which is a one-year programme providing counselling and support to recovering addicts. It was launched in November 1995 to complement SANA's Voluntary Aftercare Officer (VAOs). These VAOs have for many years helped recovering addicts cope with the demands of life after they have completed their rehabilitation and treatment in the DRCs. However, due to demands, this limited pool of VAOs were not able to cope with the services needed by recovering addicts-thus explaining the need for the ACP programme. Professionally trained full-time counsellors were recruited to compliment the role and functions of VAOs.

The ACP is greared towards placing the ownership of the drug problem, and action for recovery from drugs, on the supervisees themselves. These expectations are clearly articulated to the supervisees right from the beginning of the programme, and are systematically inculcated throughout the duration of the programme. The programme emphasises relapse prevention training, gainful employment, and family and peer support. The counselling schedule begins with twice a week for the first three months, once a week for the next six months and finally once in two weeks for the last three months. As can be seen, more counselling is given at the initial stage of the programme to the recovering addict, as adjustments and reintegration problems are usually the greatest upon discharge from DRCs.

Practical needs of ex-prisoners and recovering addicts are also tended to help them successfully reintegrate into society. SCORE has a Job Placement Unit (JPU) and its function is to assist released prisoners and addicts, who experience difficulty in securing a job, to find suitable work based on their qualifications and prior experience. As many as 14,000 inmates and ex-inmates have benefited from JPU's services since its inception. JPU is also responsible for arranging jobs for all our drug inmates who are emplaced on the CBR-Residential Scheme. Some of there inmates are placed on the Corporate Adoption Scheme (CAS). Initiated in 1992, this scheme aims to help inmates turn over a new leaf at work, gain confidence and boost their self-esteem by encouraging employers to play a bigger role in the inmates' recovery and reintegration into society.

Under the CAS, respective companies assign mentors to provide individualised attention and guidance to help the inmates adjust better to the work environment. The mentor, together with SCORE's job placement officers, regularly meet with the inmate to discuss progress and problems encountered at work.

VI. FUTURE DEVELOPMENTS

It is the wish of any correctional agency to discover the elixir to the successful rehabilitation and treatment of offenders. However, reality tells us that such an aim is difficult to achieve, if it is indeed ever achievable. Looking at Singapore, our statistics show that we may be on the right track. Perhaps part of our success lies not just in our rehabilitation efforts but our unique situation. Singapore is a small country, which makes it easier to manage. Success can also be attributed to the stern rehabilitative programmes and a strong and supportive community to pitch in the

Community-Based Rehabilitation Programme.

Nevertheless, there are still some areas that need to be improved in the effort to provide effective treatment measures for prisoners and drug abusers, to facilitate their reintegration into society. Some of these are as follows:

(i) Our current allocation of inmates to respective institutions is based more on security and procedure, rather than rehabilitation and treatment. The Prisons Department is currently looking into the arena of objective classification for inmates for treatment purposes, pertaining to the empirically established principles of risks, criminogenic needs and responsivity.

(ii) There is a need for greater co-ordination with aftercare agencies to consolidate a holistic treatment package for our drug and penal inmates. This is to maximise the use of resources as well as to prevent 'double work'.

(iii) There is a need to constantly improve and upgrade the knowledge and skills of our counsellors, so that they may possess the skills needed for effective counselling. Recently, a number of our counsellors were sent for a certification course in substance abuse counselling, conducted by two trainers from the Alcohol and Drug Abuse Division (ADAD) from Hawaii. The examinations were set and conducted by the International Certification and Reciprocity Consortium (IC & RC). Plans are underway to set up a Local Certification Board to certify all counsellors from the Prisons Department. Training is also required in more specialised topics like the treatment of sex offenders and violent offenders.

(iv) The Prisons Department is working on improving its research capabilities to objectively evaluate existing programmes and policies, as well as to propose new programmes that have been found to be effective in other correctional settings. Of course, such programmes would have to be contextualised and be evaluated for effectiveness in the Singapore setting.

VII. CONCLUSION

In sharing innovations concerning the rehabilitation and treatment of penal inmates and drug addicts, we can only begin to expand our knowledge base of 'what works' at a practical level, in correctional settings. The sharing of the 'Singapore experience' is based on a context that is unique-given our history, culture, geographical size and economy. Thus, what appears to work for the Prisons Department may not necessarily transpose effectively to other settings. Nevertheless, it is hoped that through this paper, the Singapore Prison Service would have contributed valuable knowledge to the wider community. May our combined efforts encourage and spur each other to provide effective treatment measures for prisoners and drug addicts to facilitate their reintegration to society.

REFERENCES

Andrews, D., Zinger, I., Hoge, R., Bonta, J., Gendreau, P. and Cullen, F. (1990) 'A Clinically Relevant and Psychologically Informed Meta-Analysis' Criminology, 28 (3) : 369-403.

Foucault, M. (1977) Discipline and Punishment: The Birth of the Prison, London: Allen Lane.

Losel,F. (1994) 'Protective Effects on Social Resources in Adolescents at High-

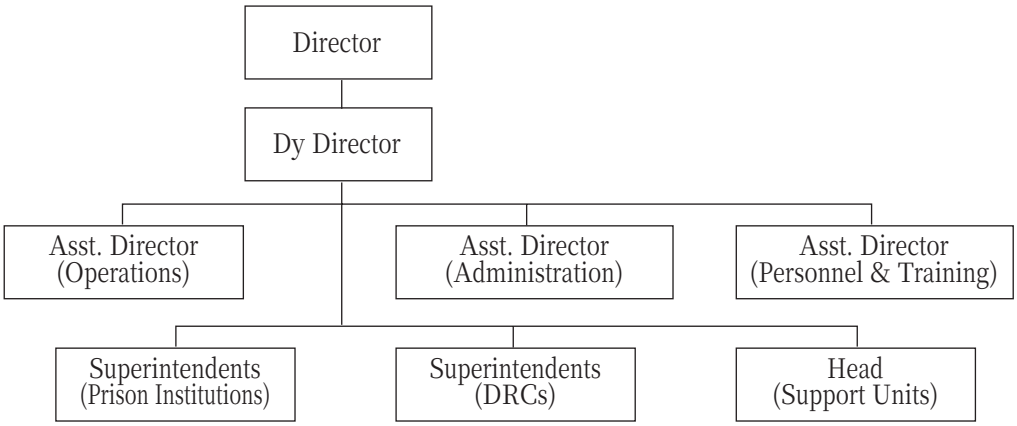
Risk for Anti-Social Behaviour' in E. Weitekamp and H. J. Kerne (eds) Cross-National and Longitudinal Research on Human Development, pp 281-301.

McGuire,J. and Priestley,P. (1995) 'Reviewing 'What Works':Past, Present and Future' in J. McGuire (ed) What Works: Reducing Reoffending, New York: John Wiley & Sons.

APPENDIX A

PRISONS DEPARTMENT

OGANISATIONAL STRUCTURE



CURRENT TRENDS IN CORRECTIONAL PROGRAMMING IN THE USA

*Kenneth G. Adams**

ABSTRACT

Correctional programming has undergone important changes over the past two decades. These changes have been instigated by rapid grow in prison populations, worries over public safety and concerns for reducing the cost of incarceration. Despite a lack of faith in the rehabilitative ideal, correctional programming continues to flourish, albeit in a form that is very different from the past. This paper discusses recent trends in correctional programming. Specifically, it discusses legally mandated services, changing characteristics of inmate populations, inmates with crime-related problems and cost-saving measures.

I. INTRODUCTION

The faith and optimism that once surrounded the "rehabilitative ideal" in the United States is largely extinguished. Decades of evaluation research showing negative results has left the public highly skeptical of treatment and other forms of prison programming. Prisons and jails were once viewed primarily as places where the business of rehabilitation was carried out. Now they are now seen as places where isolating offenders from society furthers the goal of public safety. One might think that as a result of this shift in penal philosophy that correctional programming is withering on the contemporary vine. On the contrary, while the patient is not always as robust as in the past, correctional programming is alive and well, and in some situations could be considered as flourishing. One reason is that some services are mandated by law and therefore cannot be eliminated. Another reason is the American spirit of pragmatism. Our practical view of the world leads us to develop and search out programs that do indeed work and to find cheaper and more efficient ways of delivering programs. We are always looking for ways to alter the cost-benefit equation to society's advantage.

While correctional programming continues to be a major activity of prisons, the face of these activities has changed radically. Indeed, correctional programming is very different today as compared to one or two decades ago. Three developments - a rapidly growing and changing inmate population, an emphasis on public safety and a concern for cost-effectiveness - have been primarily responsible for the transformation in correctional programming.

The United States has experienced tremendous growth in the number of persons under the custody of the criminal justice system. Over the past decade and a half, the average annual rate of expansion in correctional populations has been 7.6%. Currently, there are more than five million adults under custody, or about 3% of the adult population. Over one million adults are confined in prisons and jails. Some forecasts predict that by the year 2000 the prison population will increase by half again. This situation means that administrators will continue to scramble for resources to deal with an ever-growing number of inmates. At the same time, the large influx of inmates has changed the

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characteristics of prison communities because growth has not been even across the board. Shifts in the composition of inmate populations has created new challenges for prison administrators who are responsible for seeing that confinement does not become a form of idle time-out from society tediously spent.

A primary theme that underlies the prison boom is public safety. Americans believe that incarceration, through the mechanisms of deterrence and incapacitation, is an effective way of reducing the crime rate. For many observers, declining crime rates coinciding with rising incarceration rates is strong proof that incarceration works as a crime control strategy. Consequently, calls for more prisons and tougher laws that provide for longer prison sentences served under harsher conditions continue unabated. Also, correctional programs are being judged individually in terms of how much they contribute to a safer society.

Another theme that underlies the prison boom is strict economy. Americans are coming to realize that incarceration is expensive and that we may not be able to afford all of the prison capacity that we would like to have. As a way of dealing with this situation, economy and cost efficiency are being emphasized in every aspect of criminal justice administration. Prisons administrators are becoming obsessive in their determination to bring down the costs of incarceration. Correctional program administrators increasingly are being asked to cut costs and to justify a program's existence in terms of social and economic analyses.

In this essay, contemporary trends in correctional programming are explored. We will consider legal mandates for treatment, changes in inmate characteristics, offenders with crime-related problems and pressures for cost savings.

II. LEGALLY MANDATED SERVICES IN CORRECTIONS

Offenders have legal rights to treatment in certain circumstances. These rights, for the most part, are limited to medical and mental health care. Nevertheless, a large number of offenders receive services while in the custody of correctional officials because services are legally required. Three categories of inmates that receive legally mandated services and that present exceptional challenges to correctional programming are: mentally ill inmates, inmates suffering from AIDS/HIV and inmates with disabilities that may be protected under the Americans with Disabilities Act.

A. Mentally Ill Offenders

Over the past several decades the United States has pursued a policy of moving mental patients out of hospitals and psychiatric institutions into non-residential community-based treatment centers. Many scholars suspect that as a result of this policy of deinstitutionalization, an increasing number of mental patients are finding their way into the criminal justice system. This shifting of clientele from the mental health to criminal justice system is sometimes referred to as transinstitutionalization.

Inmates with mental health problems can present difficult challenges to correctional programming. Foremost, authorities must insure that necessary psychiatric services are provided while the offender is in custody. Some inmates may require special living arrangements that combine a sheltered environment with supportive services. For inmates with chronic and severe emotional problems, it may be unrealistic to think in terms of integrating them into the prison community. These inmates may have to spend their entire sentence, both within and without prison, in special facilities. For

inmates with acute, episodic problems, prison staff periodically face the challenge of reintegrating the inmate back into the prison community after periods of residential treatment. This may be difficult if the inmate has limited ability to cope with the regular prison environment. Also, mentally ill inmates may suffer discrimination at the hands of other inmates and even correctional officers, owing to callous attitudes based on stereotypes of mental illness.

As release approaches, correctional officials face the challenge of arranging for a smooth transition back into the community for mentally ill inmates. The success of reintegration depends, in large measure, on continuity of effective and appropriate psychiatric treatment. Arranging for treatment, and then seeing to it that the inmate participates in the treatment, can be difficult. Also, these inmates may require extra support services to help offset the social, emotional and intellectual liabilities that can accompany mental illness.

B. HIV/AIDS

The HIV/AIDS epidemic is unprecedented in recent modern history in terms of its scope and deadliness. Correctional administrators have been especially hard hit in terms the consequences of this epidemic because offender populations contain a large proportion of individuals who are high risk for HIV/AIDS. According to the U.S. Bureau of Justice Statistics, approximately 2.3% of all state and federal inmates are infected with HIV. In New York, the incidence of AIDS in prisons in seven times greater than in the general population.

In the early stages of the disease, correctional officials face the challenge of identifying those who are infected so that treatment can be provided. Many prison systems resist mandatory screening for HIV/AIDS because of the social stigma that attaches to the disease. Once the client population is identified, the next challenge is to provide treatment in a way that minimizes adverse social consequences. This challenge can be greater after release from prison, because community health agencies can be overwhelmed with local demands for treatment. Also, the social and physical consequences of the disease may negatively impact plans for normal reintegration.

In the advanced stages of the disease, the focus is on providing humane care to ease suffering. In many prison systems, AIDS is the leading cause of death among inmates. One in three inmate deaths were attributable to AIDS between 1991 and 1995. In 1995 alone, 1,010 inmates in the U.S. died of AIDS-related causes.

HIV/AIDS treatment has had a serious financial impact on prison expenditures for medical care. According to the Wall Street Journal, the total lifetime cost of treating HIV is about $119,000. When the high cost of treatment is combined with the large numbers of inmates suffering from the disease, the financial consequences can be staggering. For example, spending on HIV/AIDS treatment in the Illinois prison system increased ten-fold in a three-year period, jumping from $30,000 to $300,000 per month.

Some prison systems have implemented early release programs for inmates in the advanced stage of AIDS. In part, the motives are humanitarian. Inmates can spend their last few months in community hospice settings where they can enjoy greater contact with family and friends. In large measure, however, the motives are pragmatic. Seriously ill inmates present little threat to the community, and the combined costs of security and treatment are high. In returning inmates with AIDS early to the community, the prison system often attempts to transfer the financial burden of treatment to someone else. To the extent that the inmate's quality of care

is compromised in this process, humanitarian rationales for the program are undercut.

C. Americans with Disabilities Act

The Americans with Disabilities Act (ADA) prohibits discrimination in access to programs and services solely on the grounds of a disability. In pursuit of this goal, reasonable accommodation must be made in attempting to provide programs and services to the disabled. This year, the U.S. Supreme Court will review a Federal Appeals Court affirmative ruling that the provisions of the ADA apply to prison inmates. If the lower court decision is upheld, prison officials will be required to modify many prison programs in order to provide access to inmates who are now routinely denied participation. These changes could be expensive and may bring increased security risks. However, increased access to programs arguably will facilitate the reintegration of these offenders into society upon release.

III. CHANGING CHARACTERISTICS OF INMATE POPULATIONS

Inmate populations can be viewed as a composite of many different sub-populations, each with its own unique programming needs. As the size of various sub-populations wax and wane, demands for inmate services will shift accordingly. Since recent growth in prison populations has not been even across the board, changing characteristics of the inmate clientele has had an important effect on the types of correctional programs being offered.

A. Elderly Inmates

As a result mandatory sentences, long sentences, and increased restrictions on parole release, elderly inmates are rapidly growing sub-population within prisons. In state and federal prisons, the proportion of elderly inmates grew from 4.9% in 1990 to 6.8% in 1997. This change represents a 74% increase in 7 years.

The cost of incarceration is three times greater for elderly inmates compared to younger offenders. In particular, the cost of medical care, which is considerably higher, has become a major issue for prison systems. Some correctional systems have developed specially designed facilities in an attempt to meet the needs of elderly inmates. One such example is the Hocking Correctional Facility in Ohio. The facility contains 600 inmates, the majority of whom are over fifty years old. Depending on the life situation of the offender, traditional prison programs may be irrelevant. For example, an elderly inmate may have little need for additional formal education or for vocational training. The challenge for correctional programming is to keep these inmates active in meaningful and productive ways, and specialized facilities are better situated for this task. Such facilities not only can provide inmates with needed services during incarceration, they can prepare inmates better for release into the community through specialized programs.

Pre-release preparation and aftercare are very serious concerns for older inmates. If an elderly inmate has been in prison for a long time, the society to which he or she returns will be much different than the one left behind. Preparing an inmate for this transition can be challenging. Depending on their physical and mental condition, elderly inmates may not have the full degree of independence that younger inmates have, so they may need assistance with some of the daily tasks of life. Other key aftercare concerns include access to medical services and adequate nutrition. Since elderly inmates do not represent much of a threat to society, economic and political pressures are building for the early release of these offenders back into the

community. As with HIV/AIDS inmates, the idea behind early release partly is to transfer the cost of medical care and other supportive services to another organization.

B. Young Inmates

Increasingly, juvenile offenders who commit serious crimes are being tried and sentenced as adults by means of juvenile waiver statutes. The pace of revisions over the past decade in these statutes has been phenomenal. These changes have had the effect of subjecting ever-younger juvenile offenders to adult sanctions, which often result in placement with adult correctional authorities. The pressures of juvenile waiver statutes, on the one hand, and longer mandatory sentences, on the other hand, have squeezed correctional programming at both ends of the age spectrum with increasingly larger numbers of juvenile and elderly offenders. In terms of juvenile offenders, indications are that the problem will continue to get worse. The U.S. Bureau of Census estimates that the size of the juvenile population aged 15 to 19 years will grow by 15% in the near future.

Youthful offenders present a distinct and difficult set of challenges for correctional programming. Aspects of physical, social and emotional development differ considerably for juveniles as compared to adults, and addressing this situation can be a difficult task for correctional staff, especially when youth are mixed with adults in the same institution. In particular, youthful offenders often lack maturity and good judgment. They also may have problems with impulse and anger control.

Provision of basic correctional programs, such as education and job training, is more critical for youthful offenders, both because they are likely to have serious needs in these areas, and because there is potentially greater returns for successful programming. Some young offenders may still be of school age and therefore entitled to educational programs under the law. Other young offenders may be in the early stages of a work career. Care must be taken to insure that educational and vocational progress is not interrupted by institutionalization. Likewise, release from prison is another critical juncture in terms of continuity of programming. Lack of experience and immaturity may require that youthful offenders be provided with supportive and directive services upon release, if reintegration is to be successful.

C. Female Inmates

Another inmate sub-population that has grown considerably during the prison boom is female offenders. As a proportion of the total prison population, female inmates went from 4.1% in 1980 to 5.7% in 1990 to 6.4% in 1997. Throughout most of the period of prison expansion, the rate of increase in female inmates has exceeded the rate of increase for male inmates. For example, the female population in the federal prison system grew by 480% from 1980 to 1994 compared to 313% for the male population. In terms of numbers of inmates, the female population increased from 13,420 inmates to 64,403 inmates during this period.

In keeping with the general characteristic of offender populations, female inmates are disproportionately drawn from minority groups and suffer from high rates of alcohol and drug abuse. As compared to male inmates, female inmates are more likely to have communicable diseases and to have a history of childhood or adult abuse.

Female inmates also differ notably from male inmates in terms of problems created by family demands. About 6% of female inmates enter prison pregnant. For this reason, infant nurseries are common in female prisons. However, infants rarely stay with their mother throughout the

entire term of incarceration, and the separation of mother and infant causes anxiety during confinement. It also is significant that about 67% of female inmates have a child under 18 years of age for which they are responsible. Again, concerns about maternal responsibilities may become visible during incarceration, especially just prior to release. Family visitation programs in prisons can help to alleviate some of these problems. Both pre-release programming and post-release aftercare need to address the complexities of motherhood for female inmates.

IV. OFFENDERS WITH CRIME-RELATED PROBLEMS

Concomitant with the fall of the rehabilitative ideal, there has been firm rejection of the notion that all criminal behaviors are the product of abnormal or deviant processes that need correction. It follows from this view that not every offender is in need of treatment, and prisons today no longer try to rehabilitate every inmate. Correctional programs that are made generally available to inmates, such as education and work programs, are justified more on the grounds of keeping inmates busy and out of trouble than for any rehabilitative effects they might have.

Treatment programs that are designed to rehabilitate inmates and reduce recidivism have not disappeared from the inventory of correctional programming. Rather, a greater degree of selectivity has been implemented in defining the inmate clientele. Treatment programs now target inmates who have serious and consequential deficits or who have problems that are clearly linked to criminal behavior. The strategy is to concentrate limited resources on situations where the promise of reducing criminal recidivism is greatest.

A. Drug Addiction

A link between drug addiction and crime is firmly established in the criminological literature. According to the National Center for Addiction and Substance Abuse, drugs or alcohol were a key element in the crimes of 80% of inmates. Although the precise nature of causal relationships between drugs and crime is not fully understood, it makes intuitive sense that addicts will commit crimes in order to finance expensive drug habits. Thus, if we can eliminate the addiction, then the motivation for some crime will be removed.

Arguments in favor of drug treatment of offenders are gaining strong support from program evaluation research. Several recent evaluations are worthy of mention. A study by the Federal Bureau of Prison found that completion of a residential drug treatment program reduced short-term recidivism rates by about 75%. In particular, inmates who received treatment had a six-month recidivism rate of 3.3% compared to 12.1% for inmates who did not receive treatment. Furthermore, inmates in the treatment group had a drug use relapse rate of 20.5% for the first six months compared to 36.7% for controls. Another recent evaluation by RAND argues for the cost-effectiveness of drug treatment. The study concluded that for heavy drug users treatment produces the best return compared to various other options, including mandatory minimum prison sentences. At a cost of about $6,500 per year, substance abuse treatment appears to be a good investment. Thus, an accumulating body of solid evidence indicates that drug treatment is effective in reducing criminal recidivism.

If we are to have a policy of making drug treatment widely available to offenders, substantial increases in resources will be needed. For example, the Federal Bureau of Prisons runs 42 residential treatment programs with a combined capacity of 6,000 inmates. However, about 30% of the federal

inmate population, which stands at about 110,000, have moderate to severe drug and alcohol problems. Thus, the potential client population is about 33,000 inmates. Clearly, the demand for drug treatment among offender populations outstrips the supply.

In the past, the U.S. has showed a willingness to spend considerable sums of money on the drug problem, particularly with regard to law enforcement. President Clinton is currently seeking $17 billion for a variety of anti-drug-initiatives, a little less than half of which is earmarked for the Justice department. A new federal development raises the possibility that more funds will be made available for treatment. President Clinton has proposed that prisons test inmates for drug use on a regular basis to gauge the extent of drug use in confinement. Thus, the war on drugs has expanded its battleground into prisons. A logical follow-up of the President's proposed policy of inmate drug use testing is to expand treatment options to take advantage of periods of enforced drug abstinence.

B. Alcohol Abuse

The relation between alcohol abuse and crime is as strongly documented as that between drug abuse and crime. According to the U.S. Bureau of Justice Statistics, about 36% of offenders under correctional supervision, or about 2 million offenders, were drinking alcohol at the time they committed their offense. Yet, alcohol abuse remains an under appreciated factor in the etiology of criminal behavior. Perhaps, this is because alcohol, unlike drugs, is a legal commodity, so that only its abuse, and not its use, is seen as problematic.

As drug abuse treatment becomes more widespread in prisons, we can expect a spill over effect that will emphasize the importance of alcohol abuse treatment. Many offenders are polymorphous in their drug use, moving from one substance to another as availability and interest changes. Many drug addicts also abuse alcohol, because it is readily available and inexpensive. At a policy level, it may not make sense to distinguish too precisely among various forms of substance abuse. Well-developed treatments for alcohol abuse exist, and expanding these treatment options could bring benefits similar to the expansion of drug treatment programs.

C. Chronic Violence

Chronically violent officers are a problem of utmost concern to society, as well as to correctional officials who are charged with their care. In the U.S., the "super-max" prison has emerged as the primary strategy for dealing with persistent violence. These facilities, which are designed to house the "worst of the worst," have become very popular. Presently, there are 57 "super-max" facilities in the U.S. being operated by 36 states and the federal government. Human rights organizations have been extremely vocal in their criticism of "super-max" prisons, alleging that the conditions or confinement are extremely harsh. The incidence of mental illness in these facilities appears relatively high, further heightening human rights concerns.

Most of these prisons are modeled after the federal penitentiary in Marion, Illinois. The inmate regime typically consists of 23 hours a day of seclusion in a cell with 1 hour of sequestrated recreation. In recent years, there has been an increasing reliance on technology to minimize inmate interactions with other persons, including correctional officers, as a way of increasing safety. "Super-max" prisons are much more expensive to operate than traditional prisons; however only a small fraction of the inmate population is subjected to the regime. Indiana has a total of 198 inmates confined at two super-max facilities out of a total population of about 15,400 inmates.

We know very little about the effects of the "super-max" regime on inmates. Important questions of reintegration remain unanswered. Most inmates in "super-max" facilities come from, and return to, general prison populations; just as they come from and then return to the outside world. The characteristics of inmates selected for confinement in "super-max" facilities, the circumstances surrounding transitions in and out of these facilities, and the factors that contribute to successful reintegration into the community, are not known.

D. Sex Offenses

Of the nearly 5 million convicted offenders serving sentences in federal or state prisons, 4.7% are convicted of sex crimes. This group of offenders traditionally has been the target of treatment programs. The deliberately predatory, highly compulsive and privately erotic nature of many sex offenses suggests that psychological treatment is needed to prevent recidivism.

As a group, sex offenders have been the targets of tougher laws over the past several years. In Texas, longer sentences combined with curtailment of parole release has caused the number of sex offenders to double in four years, jumping from 6,262 inmates in 1991 to 11,782 inmates in 1995

Many new laws dealing with sex offenders run counter to reintegration goals. These statutes, which resulted from several highly publicized cases of heinous sex crimes, emphasize public surveillance over anonymity in the interest of safety. For example, some states require public notification of the release of sex offenders, as well as registration and tracking of their whereabouts. Citizens may be proactively informed that a sex offender has moved into the neighborhood, or they may access computer files that display the location of sex offenders by geographic area. Such laws make it considerably more difficult to reintegrate sex offenders back into the community.

Another development involves sexual predator laws that provide for indefinite terms of confinement in a mental hospital after expiration of a criminal sentence. These laws invoke the civil authority of the state to protect the public from clear and present dangers. The sexual predator laws, which are reminiscent of the preventive detention laws and dangerousness civil commitment laws popular in the 1960's, allow for psychiatric confinement until such time that the person no longer represents a threat to public safety. In some cases, the term of confinement could amount to a life sentence.

V. COST SAVINGS MEASURES IN CORRECTIONAL PROGRAMMING

Along with huge growth in prison populations, there has been a tremendous increase in prison expenditures. In some states, it is predicted that spending for corrections will soon exceed that for education. Much of the growth in spending is tied to the construction and staffing of new institutions. For example, the 1999 budget request for the federal prison system includes a 7.4% increase for salaries and expenses and a 62.3% increase for buildings and facilities. As prison expenditures skyrocket, government officials and correctional administrators are searching for ways to limit spending. Areas that often are scrutinized for possible savings involve non-security-related expenses such as medical care, food, transportation and inmate programming.

A. Program & Staff Cuts

In an attempt to reduce costs, some prison systems have adopted a very simple and direct approach: eliminate programs and cut staffing. For example, between 1994 and 1995, New York State eliminated

most higher education programs for prison inmates. In 1996, the state eliminated 263 program positions in prisons. The positions included drug counselors and teachers. In the following year, 155 additional positions were eliminated.

There is popular support for the elimination of inmate programs because prisons are perceived as being too comfortable. In order to be effective, punishment should involve discomfort, and so the public and many politicians have been pushing for a "no-frills" approach to leaner and tougher incarceration. Correctional administrators, however, while generally supportive of the "no-frills" approach, are careful to protect programs that enhance security by keeping large numbers of inmates productively occupied.

B. Technology

Technology is making strong inroads into all aspects of modern life, and correctional programming is no exception. The impact of technology is perhaps most evident in education where computers, televisions and video are being used to facilitate distance learning and forms of programmed learning. In general society, it is anticipated that these new technologies will be cost-effective in bringing educational programs to large numbers of students. Correctional officials are prepared to capitalize on this development in hopes of lowering existing costs and offsetting the effects of program cuts that may have occurred.

Computer technology can be used to deliver a wide array of instruction that often can be adapted to meet individualized needs. For example, a reading program can be set up to accommodate inmates with widely varying reading skills, and delivery of instruction is flexible enough to follow the inmate as he or she changes institutions. Occasionally, inmate access to technology creates security problems, but so far the benefits of these programs have outweighed the risks.

Computer technology also can be used to manage correctional programs in order to make them more efficient and effective. As computerized records of inmate participation in various programs becomes more available, we can anticipate that the delivery of services will become more finely tuned and evaluations of program effectiveness will become more commonplace.

C. Outcome-based Evaluations & Cost-benefit Analyses

As part of the emphasis on reducing prison costs, programs are being called upon to demonstrate their effectiveness. In most cases, programs have primary and secondary goals. Vocational programs, for example, may have as a primary goal teaching inmates marketable skills, while as a secondary matter it is hoped that better employment prospects upon release will facilitate reintegration and prevent recidivism. For some, the most important criteria by which programs are to be judged is reduction of recidivism.

Program evaluations can be useful tools for improving existing programs or for choosing among program alternatives in order to maximize results. However, program evaluations can serve a more narrow purpose of identifying programs for elimination. For example, the senate Criminal Justice Committee in Texas recommended that any substance abuse, job training or education program that cannot clearly demonstrate its ability to increase public safety in a cost-effective manner should be abolished.

D. Privatization of Facilities

The privatization of institutional corrections ranks among the most significant penological developments of the century. The growth in private corrections has been phenomenal both in the U.S and throughout the world. Since 1983, the

number of beds managed by private companies in the U.S. grew from 350 to 87,000. According to some estimates, private companies will manage about 400,000 beds in less than a decade.

Privately run correctional facilities have become popular in hopes of capitalizing on the management flexibility and innovation that is typical of the private sector. At minimum, competition from the private sector is forcing administrators in government-operated facilities to adopt a more business-like stance towards the running of prisons.

There is some evidence to suggest that privatization can increase a prison system's flexibility to respond to rapidly changing circumstances. For example, the Department of Corrections in Florida was unable to keep up with the pace of growth in the inmate population. They turned to private corrections as a solution to overcrowding, which brought the additional benefit of an increase in programming resources. Most critically, opportunities for inmates to participate in educational and substance abuse programs expanded.

Recently, private companies have expanded their operations into the area of mental health correctional facilities. Another likely area of future growth is juvenile facilities. Both these types of facilities require a greater than average investment of resources in programming. Also, both groups of clients present difficult reintegration challenges. It remains to be seen whether private corrections can maintain its competitive edge as the mix of facilities it operates changes and as the need for specialized staff for inmate programming increases.

E. Contracting for Correctional Services

Another aspect of the privatization movement is having government-run institutions contract for services by private companies in an effort to increase flexibility and reduce costs. While the private sector typically can provide a lower bottom-line, there are concerns that profit motives may adversely affect the quality of institutional life for inmates. This is especially true with regard to correctional programming, which is generally accorded a secondary status in the hierarchy of prison activities. However, competition could increase the quality of services especially if this factor is clearly emphasized in the evaluation of bids.

Prison systems now routinely contract for major program activities such as health care, substance abuse treatment and education. In particular, contracts with large health care providers, which involve payment of a flat fee per inmate for all medical care, appear to be successful in bringing down the cost of inmate health care without adverse consequences. In this regard, prisons are following the more general trend of capatization of health care costs in our society. It remains to be seen whether cost-savings can be sustained over the long term and whether use of similar approaches towards education and drug treatment services will be successful.

Another aspect of contracting involves housing inmates in out-of-state prison systems in an effort to relieve overcrowding. For example, Texas correctional facilities routinely house inmates from other states, from as close as Louisiana to as far away as Massachusetts. Confinement is a "foreign" prison system can make adjustment more difficult. Also, these arrangements make it difficult to maintain family ties during incarceration and post-release planning is harder to do.

F. Co-payment fees

Another popular strategy for reducing inmate program costs, borrowed from the private sector, is requiring a co-payment fee for services. According to a survey by the Association of State Correctional Administrators, 30 states now charge fees

for program services, such as educational programs. Often the fee involved is nominal. In Connecticut, for example, inmates pay $3 for elective education courses or vocational courses, $10 for extended family visits and $3 for sick calls.

The actual revenues generated from the fee, while not insignificant, cover only a small portion of program costs. Much of the savings come from discouraging inmates from requesting services in the first place. While the wisdom of this strategy is debatable, modest co-payment fees do have the effect of limiting capricious service requests. What the cost of this problem is, and whether the size of the problem varies by type of service is not known. Fees can have the advantage of restricting programs to the motivated inmates by requiring a tangible form of commitment from them. However, this may not be the group who can benefit most from the program.

In some instances, the motivation for the fee more clearly is to recoup program costs. Offenders have been required to pay for probation and parole supervision, use of community correctional centers and electronic monitoring. Concerns have been expressed, however, over the possibility that offenders may be denied participation in more desirable community-based sanctions based on their financial situation.

G. Short-term Intensive Programs

Another cost-reduction strategy involves use of short-term intensive programs, which often are described under the heading of "shock incarceration." These programs are gaining favor because they involve a shortened period of custody that brings reduced costs to the correctional system and quicker freedom to the offender. Higher levels of programming and services negate some of the savings that accrue through shorter custody, although this is thought to pay off in the longer term through reduced recidivism.

A good example of short-term intensive correctional programming is the juvenile boot camp. These programs are organized around an intensive, military-style regimen that continues for about 120 days. Activities include calisthenics, schooling counseling and manual labor. Participants for these programs are carefully screened. Good candidates include young, first time offenders with no history of violence. Some programs target drug users, and include this as an entrance criterion. In fiscal year 1995, the U.S. congress appropriated $22.5 million for boot camp programs.

Several large-scale evaluations of boot camp programs have been carried out. These evaluations indicate that boot camps are no cheaper and no more effective at reducing recidivism than other correctional options. Among the key findings of this research is that continuity in treatment between the residential and aftercare phases is critical to positive outcomes, and that quality aftercare is difficult to implement.

VI. CONCLUSION

Three major trends have affected corrections in the United States over the past decade and a half. The first trend is unprecedented growth in inmate populations owing to changes in police practices and criminal sentencing. Extended rapid growth has pushed some correctional systems to the edge of a breaking point, redefining "business as usual" into "crisis management". The second trend involves a shift in penal philosophy emphasizing the protection of society. Deterrence and incapacitation have become the dominant rationales for punishment, increasing the certainty and length of prison sentences. Society has become more concerned with the dark side of offenders, worrying about possible future harms, and more guarded in its confidence about the need for and the success of

correctional programming. The third trend is an emphasis on economy and cost-control. Recognizing that incarceration is expensive and that it may not be able to afford all the punishment it would like to dispense, society has chosen to deal with the problem by tightening its belt and cutting costs.

With regard to correctional programming, these developments have played out against a backdrop of a loss of faith in the rehabilitative ideal. This combination of circumstances has dramatically altered the face of correctional programs. Dramatic growth in prison populations has brought large increases in the number of offenders who are legally entitled to receive various services. Dramatic growth also has brought changes in the characteristics of inmate populations that are relevant to programming decisions. Numbers of elderly inmates, young inmates and female inmates are increasing disproportionately in prison systems. Each group has distinct program needs both during confinement and after release. An emphasis on public safety has meant that scarce program resources are concentrated on offenders who present the greatest threat to society or who have treatable problems that are clearly crime-related. Finally, the emphasis on cost reduction has led to a wide variety of initiatives. Most notable are calls for evaluations of program effectiveness and the privatization of many correctional activities. In the long run, these developments may benefit correctional programming by increasing its stock with the public, although there will be periods of chaos and turmoil before this happens.

These developments that are now shaping correctional programming probably will continue to do so for some time. We appear to have entered an era of realistic pragmatism in corrections; acknowledging, on the one hand, that there are limits to what can be done, while on the other hand, redoubling our commitment to take action where and when it matters most. In this process, correctional programming will continue to be transformed, occupying, as it does, a critical role in penal management and philosophy.

PARTICIPANTS' PAPERS

EFFECTIVE TREATMENT MEASURES FOR PRISONERS TO FACILITATE THEIR REINTERGRATION INTO SOCIETY: THE GHANAIAN EXPERIENCE

*Asiedu Willam Kwadwo**

I. TREATMENT OF OFFENDERS IN GHANA

A. Aim

This papers aims at examining the objectives and practice of treatment of the incarcerated, early release prisoners and the post-release offenders in Ghana. The various forms of treatment at different levels (of the penal system) will be evaluated to assess their effectiveness in transforming offenders into acceptable and useful members of society. Where there are shortcomings, suggestions and recommendations will be made.

B. Objective

Since independence in 1958, Ghana's penal system of forty-three (43) prisons and a juvenile facility, the Ghana Borstal Institute, has been guided by the objective of 'reclaiming' the criminal with the view of rehabilitation. All members of the Ghana Prison Service are trained to be very professional in their approach to work. By doing so, prison officers are able to exert the necessary moral influence over the prisoners.

All prison officers are particularly enjoined by section 165 of the Prisons Regulations, 1958 to " treat prisoners with kindness and humanity, to listen patiently to and report their complaints or grievances, at the same time being firm in the maintenance of order and discipline and enforcing complete observance of order and discipline".

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In the course of work, the officer is guided by a plethora of legislation constituting the Penal Law of Ghana. They are particularly mindful of section 2 of the Prisons Service Decree (NRCD 46) 1972,which makes it an offence to torture or subject a prisoner to inhuman or degrading punishment. By treating prisoners with dignity, the prisoner see themself as a worthy member of society who is undergoing correction.

As the first line of contact, prisoners learn to re-socialize from the prison officers. The officers closely monitor the progress of the prisoners and encourage them to be industrious. The Ghanaian prison officer serves the dual role of custodian of the prisoner, as well as a change agent in the inmate's quest for the acquisition of positive values.

II. THE FUNCTIONS OF THE SERVICE

Section 1 of the Prisons Service Decree requires the prison service to maintain "the safe custody and welfare of prisoners and, whenever practicable, to undertake the reformation and rehabilitation of prisoners". It is not only necessary to physically secure the prisoner (in custody) (remand and trial prisoners inclusive), but it is equally important to provide an environment which would guarantee their health and welfare. With this achieved, it is the further mandate of the service to adopt measures which would reform and rehabilitate the convicted prisoner. Reformation and rehabilitation programmes are solely for the convicted

prisoner. It is the foundation of the penal system in Ghana that it is the reformed person who can be successfully rehabilitated into society.

III. MECHANISMS FOR TREATMENT

To operationalize the functions of reforming and rehabilitating the prisoner, the service has adopted a combination of a sound physical infrastructure and treatment programmes. Treatment is based on formal and informal education; technical and vocational training in the walled prisons and agricultural training in the camp prisons. The camp prisons are open facilities in farming communities. The prisons along the coast engage in fishing as the choice of vocational training.

A. The Juvenile System

The same approach has been adopted in the treatment of the inmates of the Borstal Institution. This facility houses youth offenders who are not older than seventeen (17) years. The dual themes of reformation and rehabilitation are embodied in the charter of the institution; "training for citizenship and a concern that the young and careless should be saved from a wasted life of crime".

The juveniles are given four (4) years of formal education by prison officers who are professionally certified teachers. They are prepared for national examinations. There is an option for trade training and well-equipped workshops are provided for practical training. The inmates who opt for technical training are prepared for trade certification tests at the national level.

After serving the mandated years, no criminal records are kept on the former inmates of the Borstal Institute. It is an offence to refer to the criminal history of these juveniles for any purpose. This is very important for their reintegration into society. As a result, a lot of former inmates occupy responsible political, economic and social positions in the country.

B. Physical Conditions

The Industrial Unit of the Service carries out regular inspection and maintenance of its physical infrastructure. The Health Unit has responsibility for the maintenance of hygyienic conditions. The Ghana Prisons Service operates in an environment of close monitoring of its activities. As part of the Security Services of the country, the National Security Council, chaired by the President of the Republic, keeps an 'eagle eye' on the activities of the Service, as does the Parliamentary Committee on Defence and the Interior.

The Commissioner for Human Rights and Administrative Justice has the constitutional duty of ensuring that the prisons of Ghana are managed in the best interest of prisoners and the society as a whole. In particular the commissioners checks for violations of the human rights of prisoners. The various branch offices conduct inspections of the juvenile facility and all the prisons in the country, in the presence of the state and independent press. The officials of the Commission conduct interviews of the prisoners as to their impressions of the facilities and conditions. Prison officers are not allowed to be present during the inspection and interview. The Commissioner's reports on the conditions of the prisons and the facilities available are sent to the President for reaction and directives.

The Government of Ghana, mindful of its constitutional obligations and the benefits of sound penal administration, has set up the Prisons Service Council for ensuring that the Prison Service performs its role efficiently. The members of the Council are: the Chairman who represents the President of the Republic of Ghana; the Minister responsible for the Interior; the Attorney-General and Minister of Justice or his/her representative; the Director of

Social Welfare and Community Development; and representatives of the Bar and Medical Associations. Others are representatives of Chiefs and religious bodies, the Director-General of Prisons, two representatives from prison officers, the Chief Director of the Ministry of the Interior and two other appointees of the President, one of whom is a woman.

The Prisons Service Council advises the President of the Republic on matters of policy relating to the organisation and maintenance of the penal system in Ghana. The council regulates the conditions for imprisonment, the appointment and composition of welfare committees, and generally adopts measures for the humane treatment and welfare of prisoners and other persons in legal authority.

At the regional level, the Council appoints Prisons Committees to advise the Council and the Director General on any matters relating to the administration of prisons in the region. At the station level, the Service Council appoints a welfare committee for each prison. The Committee consists of two or more persons and excludes the medical officer of the prison. The Committee visits the prison at least twice a month to inspect all wards, cells, yards, solitary cells, kitchens, wash-rooms, toilets and every other part of the prison, and to hear the complaints of the prisoners and to inspect the registers, books and records of the prison.

Giving them sufficient quantities of good quality food ensures the health and welfare of prisoners. Special diets are given to particular prisoners the medical officer recommends. Generally, prisoners are allowed to supplement their diet by making their own arrangements for food, provided they go through the proper channels. The prison authorities supply sufficient quantities of clothing, soap, bedding and sundries to maintain their decency, cleanliness and good health. The prisoners can arrange for the supply of special items of toiletries and have unrestricted oppertunity to use these items. Prisoners in Ghana also have unlimited opportunity to perform exercise and to engage in games like volleyball, basketball, tug of war, football and table tennis. They also play indoor games like ludu, cards, draughts, chess, scrabble and locally invented games.

Officers keep a close eye on the health of prisoners, as the death of a prisoner can have adverse consequences for the Service. In this regard, every effort is made to procure prescribed drugs for any prisoner in need and the Service bears the cost of any kind of surgery the prisoner has to undergo. These facilities are maintained even when the prisoner is undergoing punishment for breach of prison regulations.

C. Communication

Every convicted prisoner is entitled to write and to receive mail once every two weeks. Special circumstances can warrant an increase. Non-sentenced prisoners are not limited in the number of mail they can send or receive.

All categories of prisoners have the right to unlimited correspondence with their legal advisers, the Commissioner for Human Rights and Administrative Justice and their religious advisers. These rights are entrenched and are without prejudice to any infraction of prison regulations. The Department of Social Welfare and Community Development has welfare officers posted to the various prisons to help provide for the welfare needs of the inmates, in particular helping them seek redress at the courts and maintaining links with their families.

D. Visits

While non-sentenced prisoners are entitled to visits at all reasonable times, the convicted prisoner is limited to one visit every a fortnight, except when s/he has a medical problem. In such situations, the

number of visits would be increased. Visits by legal advisers are not limited. At all times prisoners are allowed to receive food, provisions and medical supplies from their families, friends, benevolent societies and philantrophists.

E. Religious Observances

There is freedom of worship in the prisons; ministers of all faiths are permitted to visit their adherents in prison. This is also an entrenched right. Since the prison administration cannot interfere with religion, and is conscious of its relevance to reformation, religious leaders are encouraged to offer moral and religious instruction during their visits.

Religious instruction is an important means of giving a positive belief system and values to the prisoner, thus helping them to reform. The Service has a chaplaincy serviced by ordained priests. This unit coordinates religious activities and liaises with religious groups and civic organizations like the Rotary Club, who donate food, clothing, medicine and equipment for industrial training to supplement the efforts of the government. These organizations show films with reformatory and rehabilitative messages to the inmates. They also offer entertainment facilities like television sets to the prisons. The prison libraries are also usually equiped by the religious groups who help finance educational and training programmes in the prisons.

F. Observation

Generally, Ghanaian prisons are safe and clean. Given the state of the economy, the utmost is done to make life comfortable for the inmates. Healthcare is provided by the state with a low mortality rate; 0.028% for 1996. With the strict supervision of the powerful organs of state and various interests groups, high standards are maintained.

In 1996 the escape rate from prison was 0.026%. Escape in Ghana presents an interesting phenomenon, especially at the camp prisons where security is minimal. Dissatisfaction with conditions or crippling objection to particular officers usually leads to the escape of prisoners who are sent out to work. Examples abound of escapees reporting at other prisons, or to the residence of the Director-General, to seek transfers.

IV. PROGRAMMES

A. Formal and Informal Education

The major focus of the treatment programmes is education. By 1967, the Service had established schools for the inmates at all the central prisons. The central prisons hold long-term prisoners who stand to benefit from such long-term schemes. Libraries have been established in some of the prisons to facilitate education.

At the Borstal Institution, certified teachers were involved in the general, technical and vocational education of the inmates. As far back as 1967, nine (9) out of eleven (11) inmates presented for national examinations passed. As a major training centre, the Borstal Institution has industrial installations comparable with the largest factories in the country. At present, some junior high schools in the nation's capital use the facilities of the Institution for their practical training, under the guidance of specialist prison officers.

The 1967 Commission of Enquiry into the conditions of the Service, (the Asafo Adjei Commission), while acknowledging the role of education in the prisons, urged the prison administration "to provide prisoners with facilities to promote their formal and informal education within the prisons service and institutions under its administration". The Commission further stressed: "Although they [prisoners] may be incarcerated as a punishment, every

thing done to avoid creating bitterness and resentment in them is ultimately for the good of the society to which they will eventually return. All programmes for civic or social education for the rest of the community may diminish in value, if prisoners, for whom there is ample opportunity now for their reform and help to become more responsible citizens than they have ever been, are neglected in the national effort for general re-education".

Following the recommendations of the Asafo-Adjei Commission, the Service intensified its efforts by recruiting more qualified teachers to undertake the urgent task of educating the mass of illiterate inmates. Ghana has a large population of illiterates and this is naturally reflected in the prison population. It has long been felt that ignorance prevents a large number of the incarcerated from presenting their cases properly. An examination of the educational background of inmates in two given years confirms this startling situation. Although recent statistics are not available, it is safe to assume that this situation is unchanged.

Of the categories of prisoners in Tables 1 and 2, the illiterate category registered the highest number of convicts. This defines the task of the Prisons Service in its bid to reform and rehabilitate the large band of illiterate and semi-literate prisoners who have overwhelmed the penal system. The correlation between illiteracy and criminality is well defined. The Service has adopted measures to enable illiterate

TABLE 1

EDUCATIONAL BACKGROUND OF CONVICTED PRISONERS, 1990

Illiterate	Elementary	Secondary	Technical	Graduate	Post-Graduate
48%	39%	8%	3%	1.5%	0.5%

Source; Ghana Prisons Service Annual Report, 1990.

TABLE 2

EDUCATIONAL BACKGROUND OF CONVICTED PRISONERS, 1992

Level of Education	First Quarter	Second Quarter	Third Quarter	Last Quarter
Illiterate	4028	3964	4106	4693
Elementary	3911	3569	2977	1781
Secondary /				
Commercial /				
Technical	558	491	899	1229
Tertiary	33	55	140	157
Other	57	134	99	195
Total	8587	8213	8221	8055

Source; Ghana Prisons Service Annual Report, 1992.

prisoners to learn to read and write, and to afford teaching in preparation for advanced studies to prisoners who may so desire.

Prisoners are permitted to engage in studying for self-improvement and are provided books and stationery by benefactors like the churches and the non-formal education division of the Ministry of Education, which has extended its national programme to the prisons. Prisoners are encouraged to prepare and sit for educational examinations. For the purpose of education, library services have, since 1967, been extended to all the prisons.

Since the promulgation of this decree, a massive drive has been made towards improving the education of inmates. A batch of professional teachers were recruited in 1976 to teach prisoners. Professionals and technicians are recruited annually. Added to the lack of education is the lack of skills as shown in Table 3.

From a study of table 3 it is obvious that the higher the skills, the lower the rate of incarceration. Farming in Ghana is basic and does not need formal education. Indeed most farmers are illiterate and farming is the only way to survival. Together with the mostly poorly educated commercial drivers, farmers are largely victims of ignorance.

B. Vocational Training

Vocational training, another component of the treatment package, is backed by Section 41of NRCD 46, 1972. The Prisons Service is specifically charged to " establish in every prison courses of training and instruction assigned to teach simple trades, skills and crafts to prisoners who may benefit from such training."

Vocational training is carried out in the walled prisons. These are the maximum and medium secrity facilities. Major industries exist in the central prisons. Trades such as carpentry and joinery, cane and basket making, black-smithing and masonry are undertaken, as well as taught. Other areas include shoe- making, tailoring and dress-making, textile manufacturing, ceramics, automobile repair, electrical and electronic goods repair. The Service relies exclusively on specialist prison officers for trade instruction and supervision of the industries. Trade training is in the form of theoretical instruction and practical experience in the workshop or on the field where the inmates serve as apprentices. Inmates who are already skilled are engaged as workers and are given incentives.

TABLE 3

OCCUPATIONS OF CONVICTED PRISONERS -1992

OCCUPATION	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	LAST QUARTER
Farmer (crop)	3347	3285	3463	3141
Fishermen	398	315	273	291
Artisans	359	307	355	640
Businessmen	137	101	108	88
Clerks	129	298	176	87
Drivers	1114	946	789	707
Teachers		8	21	9
Other	2162	2165	1924	1958
TOTAL	8587	8213	8221	8055

Source; Ghana Prison Service Annual Report, 1992.

C. Agricultural Training

An off-shoot of working on farms, agricultural training is the most popular activity in the prisons. Almost all prisoners have rural backgrounds and can easily cultivate crops and generally imbibe modern farming methods. The same 'learning on the job' approach is applied in the fishing camps where officers fish alongside prisoners.

D. Assessment of Programmes

Tables 4 and 5 show the recidivism rate for two years. The 1992 rate of 9.2% rose to 14.1% in 1996. Generally recidivism has been the measure of the success of treatment programmes. In Ghana's situation, the comparatively low rate must be treated with caution. Record-keeping is unreliable and their is virtually no monitoring of discharged offenders, enabling prisoners who relocate to be tried for subsequent offences without the Court's knowledge of the previous record.

In reality, the range and degree of treatment programmes in Ghana do not lend to an assertion of a positive effect on the rate of recidivism. As an observer-participant, one is of the opinion that the programmes are not structured and organized. Special programmes are required to treat the needs of some classes of prisoners. These would more particularly be seen during classification. At present, sexual offenders, substance and drug abuse offenders, prisoners with anger or psychological problems and psychiatric cases hang on without any programmes to take care of their needs. A lot of work needs to be done in the area of treatment inside the prison in this regard.

The greatest contributing factor to the probable low rate of recidivism is the ease of absorption of the discharged offender into their community, due to the cohesiveness of the social fabric.

E. Prison Labour

Prison labour is used in two ways in Ghana. One way is where prisoners are generally hired out for physical labour on farms and in industry. Skills are not required and the objective is to raise income for the state. The other form involves

TABLE 4

TYPES OF OFFENDERS, 1992

Quarter	First Offender	Second Offender	Recidivists	Total
First	6389	1494	704	8587
Second	6119	1240	854	8213
Third	6248	1249	724	8221
Fourth	5985	1321	749	8055
Total	24741	5304	3031	33071
Percentage	74.8	16.0	9.2	100

TABLE 5

TYPES OF OFFENDERS, 1996

	First Offender	Second Offender	Recidivists	Total
Number	6991	1904	1456	10351
Percentage	67.5	18.4	14.1	100.0

utilizing prisoners on contracts, especially for building constructions. Prisoners are placed on the field and work alongside the officers on such projects. These prisoners return to the prison in the company of their escort each working day. Except for a brief period during the revolutionary era when some prisoners were allowed to spend the weekend at home, prisoners in Ghana are not allowed to go out on their own.

Contracts are also taken for the manufacture of various items inside the prison, for instance, furniture and cabinets, tools, garment and baskets. Prisoners who have gained trade skills are exposed to the practical side of their training and are given work incentives.

Labour is governed by Section 42 of the Prisons Service Decree (NRCD 46) 1972, which requires every prisoner convicted of a criminal offence to perform work beneficial to the community or the Prison Service, or to assist them to lead a responsible life after release. Only the very strong prisoners get the chance to work outside. Even in the yard, sick, weak and old prisoners are not allowed to perform any duties. Prisoners are not forced to do any kind of work. It is enough that a prisoner claims they are ill, though the medical officer is always available to detect malingering.

Deployment of prisoners on jobs outside of the prison is becoming increasingly difficult. With a large mass of unemployed people, labour is cheap and readily available outside of the prison. Prisoners who perform duties in the yard, those who go on outside labour (if any) and those working in the shops are expected to be paid, but the very low level of income from the labour charges and the industrial activities make this almost impossible. In Ghana the problem is not getting prisoners to work; the issue is getting work for the prisoner.

V. ALTERNATIVES TO IMPRISONMENT

A. Fines

Fines have been the only traditional alternative to imprisonment in Ghana. Attempts made at introducing 'community service' as envisaged under the Public Tribunal Law (PNDCL 78), now replaced, were stillborn. Probation has not yet been introduced.

The Courts Act (Act 459) 1993 introduces 'restitution' as an alternative. By operation of section 35 of the Act, where an accused person, after conviction for causing economic loss, harm or damage to the state or any state agency, is willing and able to pay compensation or make restitution and reparation, the court may instead of passing sentence on them, make an order to pay compensation, make restitution, or make reparation. This is seen as a cross between imprisonment and the payment of a fine. It is however clearly limited and could be abused as a tool for the rescue of the affluent from the crminal justice system.

B. Bonds

A frequently used devise in misdemeanour cases is the 'bond'. This is usually granted upon the intervention of the community heads or leaders. The accused persons are bonded to be of good behaviour for periods normally not exceeding one year .If during the period the accused is found guilty of breaching the bond, s/he is given a prison term for the period s/he was expected to observe the bond.

C. Probation

At the juvenile courts, probation reports are prepared by social workers for the consideration of the court before issuing its orders as to the treatment of the offender. However the offenders are not usually granted probation. On conviction they are

sent to the Boys and Girls Industrial Homes or to the Borstal Institution, if the offence is serious.

Probation, as is commonly accepted, is not available in Ghana yet; it is part of judicial reforms being contemplated by the judiciary and relevant stakeholders.

D. Early Release System

Early Release in Ghana is usually by the 'remission system'. 'Amnesty', which is an annual affair, and 'medical release' are used in exceptional circumstances. 'Pardon' is a rarity.

E. Remission

Authority for the operation of the remission system is section 34 of the Prisons Service Decree (NRCD 46)1972 "A prisoner serving a sentence of six weeks or more may, by steady industry and good conduct, earn a remission not exceeding one-third of his sentence". Some categories of prisoners do not enjoy remission. These are those:

a) Serving a sentence of imprisonment for life;
b) Detained during the pleasure of the Head of State;
c) Committed to prison for debt;or
d) Committed to prison for contempt of court.

In theory, remission is earned while the prisoner is in custody and their conduct and enterprise are being observed. In practice, the third part of the sentence is calculated right at reception and the 'Earliest Possible Date of Release' (that is, having earned remission) and the 'Latest Possible Date of Release' (without remission) are known from the first day.

All remission (earned), or any part of it, can be forfeited when the prisoner fails to maintain steady industry or good conduct. The Director-General of Prisons and the Officer-in-Charge, the only authorities who can impose punishment on a prisoner, can respectively forfeit up to six (6) months earned remission and 28 days earned remission. In both respects, the period of forfeiture should not exceed the remission already earned. Remission is a requirement of the law and it is a duty incumbent on the Officers-in-Charge of the prisons and the Director-General.

F. Amnesty

The Head of State exercises their prerogative of mercy by releasing prisoners annually. The beneficiaries are (initially) recommended by the Officers-in-Charge of the various prisons. The Director-General studies the recommendations and seeks the approval of the Minister Responsible for the Interior, who would present the final list to cabinet.

Annually, a medical board made up of independent medical personnel, tour all the prisons and recommend the release of the very sick, the aged and the mentally incapacitated. If the recommendations are acceptable, the Head of State orders their release. Article 72 of the 1992 Constitution empowers the Head of State to exercise this prerogative of mercy and, in consultation with the Council of State, may:

a) Grant to a person convicted of an offence a pardon either free or subject to lawful condition or:
b) Grant to a person a respite either indefinite or for a specified period, from the execution of punishment imposed for an offence ; or
c) Substitute a less severe form of punishment for a punishment imposed on a person for an offence ; or
d) Remit the whole or part of a punishment imposed on a person or of a penalty or forfeiture otherwise due to Government on account of any offence.

An example of the exercise of this prerogative is the amnesty granted during the first anniversary of the Fourth Republic in 1997 for :

(i) Condemned prisoners who had served more than 10 years as at January 7 were to have their sentences commuted to life;

(ii) Prisoners condemned to death for economic sabotage were to have their sentences reduced to 15 years;

(iii) Prisoners serving life imprisonment who had served at least 10 years as at January 7, 1994 were to have their sentences reduced to 10 years. This excluded armed robbers, those convicted for rape and narcotic drug offences;

(iv) Prisoners serving sentences for 20 years and over and who had served five years thereof were to have their sentences reduced by 1/3 remission. This excluded convicts sentenced for armed robbery, drug trafficking and rape;

(v) First and second offenders who had served half of their sentences were to be released on parole and were obliged to undertake community service. This excluded persons convicted for murder, manslaughter, rape, armed robbery and drug trafficking and

(vi) Convicts found to be seriously sick and those 60 years of age were to be released. This excluded convicts sentenced for rape, murder, manslaughter, armed robbery and drug trafficking.

To give an idea of the effect of the amnesty on the prison population during a year which averaged a daily lock-up of 7630 in the prisons of Ghana, a break-down of the convicts who were affected by the amnesty of 1997 is as follows.

- First and second offenders **938**
- Death sentence now commuted to life **11**
- Life sentence now reduced to 20 years **6**
- Those serving 20 years and those condemned to death for economic sabotage now with sentence reduced by 1/3 remission and by 15 years respectively **18**
- Those serving above 20 years **26**
- Those who benefited from presidential pardon **2**

G. Qualification for Early Release

With the operation of the remission system and amnesty, prisoners in Ghana are generally beneficiaries of early release. In addition to four categories of convicts who do not benefit from the remission system-i.e those serving life imprisonment, inmates detained at the President's pleasure, debtor prisoners and those held for contempt-the amnesty policy excludes those convicted for armed robbery, murder, rape, narcotic offences and manslaughter. Amnesty and the remission system combine to release a lot of convicts yearly.

TABLE 6

PARTICULARS	POPULATION
Average population at the beginning of the year	8,752
Average population at the end of the year	7,639
Number of persons incarcerated during the year	9,158
Number of convicts discharged during the year	9,874
Average convict population	7,693
Rate of incarceration	25 times daily
Rate of release (1/3 remission, fine paid, court order) etc.	27 times daily

Source; Ghana Prisons Service Annual Report, 1994.

Table 6, for the year 1994 evidences this fact.Discharges in 1994 exceeded admission by 716 inmates, thus registering 14.6% decrease in the commutative prison population of 463,997 in 1993 to 396,474 in 1994.

H. Factors and Authority for Early Release

Considerations such as the victim's feelings and the prisoner's potential for reformation are not taken into account when amnesty is considered. The gravity of the offence, as the exemptions show, is contemplated. It is an exercise of mercy, entirely at the discretion of the President who has no obligation to heed the advice of the Council of State. It cannot be denied that the devise is also used as a means of decongesting the prisons and cutting down on prison expenditure.

I. Release on Licence

Male prisoners who have served a term of two (2) years or more for a felony or any criminal offence involving fraud or dishonesty, but excluding murder, are required by the Prevention of Crimes Ordinance (Cap. 38 of Vol. ll) of the Laws of Ghana to be released on licence after they have earned their remission. The range of offences which require release on licence includes the abetment, attempt or conspiracy to commit felony, fraud or dishonesty. All other prisoners who earn remission are released absolutely. Female prisoners are not released on license.

J. Conditions for Release on Licence

The prisoner released on licence shall not, for the unexpired period of his original sentence (the outstanding third) and while at liberty, be convicted of any criminal offence involving fraud or dishonesty. If he is so convicted, his licence is automatically forfeited. He is further required to notify the police of his presence and subsequent change of address.

K. Breaches

For breaches of the conditions of release on licence, the forfeiture of the licence means the convict has to serve the unexpired period of his original term and then the fresh sentence for the current conviction. For failure "to report as a convict on licence" or "failure to notify police of the change of address" the convict either receives a twelve (12) month term of imprisonment or serves the unexpired term of his original sentence.

L. Supervision

The police are charged to monitor the movements of the convicts on licence, by the system of periodic reporting of the convicts to the police. This is certainly not enough by way of supervision. All other discharged prisoners do not report to any authority.

M. Parole

Though parole was cited as one of the mechanisms of implementing the amnesty policy of 1994, in reality no prisoners were released on parole. They were released on licence or unconditionally, and did not engage in any community service. This is because there is no one to supervise the conditions under which parole is granted. The place of parole in the penal system has been appreciated in Ghana and the Constitution of 1992 enjoins the Prisons Service Council, in Article 208, to provide for its introduction. Six (6) years later there is still only talk of a bill under consideration.

N. Guidance

The only form of guidance is the advice offered to the prisoners on their release by members of the Prisons Discharge Board. The Board provides, on an irregular basis, transportation fees to some of the indigent prisoners who are making their way home.

O. Halfway Houses

There are no such facilities in Ghana. The Presbyterian Church of Ghana, in its Prison Ministry, is committed to creating such a facility and is preparing for the housing and trade training of ex-prisoners.

VI. TREATMENT OF DISCHARGED PRISONERS IN THE COMMUNTY

In Ghana there is no programme for the treatment of prisoners outside of the prison. On release, the prisoner barely has sufficient money to live on. They are only given transportation to their place of original conviction; no state or non-governmental organization has a programme to help them get settled.

Though by law, the only restriction on re-entry into the public service is for financial positions for prisoners with convictions for offences involving fraud and dishonesty, in practice there is no avenue of employment in the public sector for a discharged offender, no matter what the offence. The only recourse is the family. Social ties are still strong and sayings like "one does not cut off a limb because her child had soiled it", reveal that family bonds are not broken by criminal conviction and subsequent imprisonment.

In the urban areas, it is usual for a well-to-do member of the family in self-employment to engage the discharged offender and offer them accommodation in their house in order to monitor him/her. In the village, the discharged offender is welcomed and has the same right to cultivate family land or engage in a cottage industry. The family and community offer physical and material help to resettle. If s/he is a 'royal', the only disability as a result of imprisonment is the chance of becoming a chief.

It is easy for the discharged prisoner who is willing to go back to the family to be reintegrated and rehabilitated. In cases where there is difficulty because the offence was committed against a member of the community, the elders of the family pacify the offended party through the offer of money, livestock and drinks.

The problem of re-offending has to do with the discharged offender who is either ashamed of going back to their family or is still lured by the 'city lights'. In the face of massive unemployment and crippled by the stigma of imprisonment and general lack of education or skill, the attraction of crime soon claims him/her. The same persons, constituting the recidivists of the Ghanaian penal system, always revolve through the prison gates.

VII. FACTORS MILITATING AGAINST TREATMENT

A. Alternatives to Imprisonment

The absence of national policies for the institution of alternatives to imprisonment, such as probation, work release, community service, suspended sentences, committal to drug and alcohol detoxification centres and psychiatric centres, is a great disservice to the nation. Most of the convicted prisoners do not have to be in prison. Some offences are so trivial that community service orders could have been used. Many sentences are so short that it would have been better to convert them to any of the alternatives. Fines have been unreasonably fixed on many occasions, with the result that convicted persons in Ghana invariably serve prison terms. A lot of the drug-related cases need clinical help, not imprisonment, where the offenders deteriorate mentally. The same applies for alcoholics.

Prisons are full of offenders who could legally be serving their punishments outside the prison, thus avoiding overcrowding in the prisons. Alternatives to imprisonment does not mean avoidance of punishment, and recourse to amnesty can not be a long term panacea for the ills of the system.

B. Treatment in the Prison

1. Congestion

It is certainly difficult embarking on any meaningful programme with a bloated constituency. While short-sentenced inmates cannot be offered any meaningful treatment, their presence puts tremendous pressure on existing facilities and on the time and energy of the officers who could otherwise be deployed in treatment programmes for the long sentenced inmates. With a reduced inmate population, some of the buildings could be used as classrooms, libraries, workshops and rooms for group therapy. Parliament has also been slow in passing the Parole Bill; perhaps intimidated by the cost of creating a new bureaucracy, a National Parole Service.

2. Financing

Until the beginning of the 1998 financial year, there was no budgetary allocation for treatment programmes in the Service. The paucity of the allocation does not give room for comfort. Massive investment must be made in terms of the repair and provision of new machinery and raw materials where necessary. The Prisons Service has long been the orphan of the public service and funding for its activities has traditionally been poor. Yet the service has a great potential of bringing in large revenue if its resources are properly utilized.

3. Attitude

The attitude of post-independence prison officers has largely contributed to the current state of affairs. If the officers had maintained the programmes left by the British in 1957, the Service would have made head-way in its treatment programmes. Advocating reforms in the penal system should have been the constant refrain of the prison officer, yet focus has been on security, not reformation and rehabilitation.

Ghana has no problem with trained personnel in all aspects of treatment. The Service abounds in certified teachers in general, agricultural, technical and vocational education. These categories of employees, together with the psychologists and sociologists, were employed for the exact purpose of designing and implementing treatment programmes for reforming and rehabilitating the incarcerated, but now find themselves in general administration where their skills can not be fully utilised.

C. Treatment in the Community

1. Supervision

In the absence of a well thought-out supervisory system such as provided by the institution of a parole system, community based supervision is currently highly ineffective. The understaffed and over-worked police have no time to monitor the licencee system.

Moreover in Ghana it is difficult to track people down, as large parts of the country are virtually inaccessible. Record keeping is very poor and there is no national identification system. Unless somebody identifies the offender as a previous offender in the course of the trial, s/he can always hide the previous conviction.

VIII. RECOMMENDATIONS

The factors preventing the adoption of a systematic approach can be over come by a commitment of the Prisons Service Council and prison administrations to the ideals of reformation and rehabilitation. The Service has been obsessed with security, as it forms part of the Security Services of Ghana, and perhaps a re-designation to a socially-oriented ministry like Social Welfare or Justice would reshape the direction of the Service.

It is also plausible to amend the charter of the Service which requires it to "ensure the safe custody and welfare of prisoners and whenever practicable to undertake the

reformation and rehabilitation of prisoners". By removing "whenever practicable", it can make it mandatory for the prison service to perform the two tasks.

The Prisons Service Council also has a major role to play. By its composition, it is a very powerful and influential body which should be able to influence policy-making at the highest level. The 1992 Constitution charged the Council with the responsibility of introducing a parole system. With the Bill before parliament, the Council has to exert pressure to get it passed. Its passage would reduce the problems of post-release prisoners to a large extent.

The Council would do the penal system of Ghana a world of good by promoting the adoption of non-custodial sentences. This would revolutionize the system and pave the way for real reformation and rehabilitation programmes. However the Council would have to use its influence to secure adequate financing to enable the scheme to take-off. The Financial Administration Regulations must be amended to allow the Service to reinvest its self-generated income as capital for growth and expansion.

It would also be necessary for the Service to intensify its income generating activities by taking on jobs which can be undertaken inside the prison, for instance, assembling small components for outside companies.

Finally, all personnel who administer criminal justice must be re-oriented and sensitized on the need for reforms. This would involve holding refresher courses for prison officers in particular, and generally for police officers, social workers, the judiciary and staff of the Attorney-General's Department. Given the place of treatment in Ghana, immediate focus must be on alternatives to imprisonment and programmes inside the prisons. A step by step approach would have to be adopted in considering post-release programmes.

IX. CONCLUSION

Ghana can learn from many countries which have designed and successfully implemented programmes for the treatment of offenders at the pre-trial, incarceration and post-release stages. While it is true to say that the treatment methods reflect the level of sophistication of the various countries, the adaptation of commendable programmes to the local situation is possible.

Alongside the goal of reaching a middle-income country by the year 2020, there must be a recognition of the changing trends in society, and their possible effects on the penal system in Ghana. The adoption of reforms now would, in addition to solving a lot of problems, pre-empt a future situation where the system can no longer respond to the needs of society and the incarcerated.

TREATMENT PROGRAMMES FOR OFFENDERS RUN BY THE HONG KONG CORRECTIONAL SERVICES

*Chung, Wai Man**

I. INTRODUCTION

Correctional work today is different from that in the past in that it is directed towards offender rehabilitation and social re-integration, and no longer relies mainly on physical incarceration. Hong Kong has developed, in synchronized pace over the years, a penal system which places paramount importance on the rehabilitation and social re-integration of offenders. On the strength of legal provisions, the Correctional Services Department of Hong Kong, hereinafter referred to as HKCS, has taken up the important task of implementing a series of diversified treatment programmes tailored to meet the needs of different types of offenders. This paper outlines these treatment programmes exclusively run by the HKCS, which are typically rehabilitative and socialy reintegrative.

II. THE HKCS

With an establishment of over 7,000 staff, the HKCS is responsible for the administration of 23 correctional institutions, which now accommodate more than 12,000 offenders. These include minimum, medium and maximum security prisons; training, detention and drug addiction treatment centres; and a psychiatric centre. The HKCS also operates four half-way houses providing residential accommodation for about 200 supervisees.

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In carrying out its functions and roles, the HKCS aims to achieve the objectives of:

(i) providing safe and humane custody of offenders as ordered by a court of law;
(ii) providing purposeful employment for offenders in the Correctional Services Industries to enhance their ability to eventually resettle in the community; and
(iii) facilitating the social re-integration of offenders as law-abiding and constructive members of the society.

The HKCS has its own vision, mission and values. They are being inculcated deeply in its staff members for their strict observance. The vision is to serve the community, by providing quality custodial and rehabilitative services, in which the public can be confident and its staff members can take pride. The mission is to detain persons committed to its custody in a manner which is secure to the public, safe for offenders and compatible with human dignity, and to provide the best possible opportunity for all inmates to make a new start in life by offering timely, apt and comprehensive rehabilitation programmes. The values stress integrity, dedication, humanity and discipline. In terms of 'integrity', the HKCS staff members are to value personal honesty and frankness. Of 'dedication' they are committed to their work and together strive for efficiency, competence and quality of service. Of 'humanity' they are to recognize that all persons have the right to be treated correctly, fairly and with due respect to their dignity; whether they are members of the public, members of staff or persons

in their custody. Of 'discipline' they are to have loyalty and duty to the principles of law and order, and a respect for orderliness and harmony.

III. GENERAL TREATMENT IN PENAL INSTITUTIONS

All offenders in the HKCS institutions are required to work unless otherwise directed by medical officers. They can purchase canteen items from their earnings which are credited to them through a progressive earning system. Such earning systems aim at increasing their employability and developing positive incentives towards work.

Offenders will also be provided with a wide range of treatment programmes which include medical check-ups, counselling sessions, academic studies, vocational training, physical education, recreation, welfare services, religious services, family visits, etc. All of the above aim at making the offenders better socially equipped for their adjustment to the outside world.

IV. CLASSIFICATION OF OFFENDERS IN HKCS INSTITUTIONS

For the sake of better management and for meeting rehabilitation needs, offenders are classified into different categories according to their major characteristics, e.g. sex, level of security risk, age etc. They are also divided broadly into the following groups for which special programmes have been developed to achieve both punishment and rehabilitation :

(i) Young offenders aged from 14 to 20.
(ii) Young adult offenders aged 21 to 24.
(iii) Young prisoners aged between 14 to 20.
(iv) Drug addicted inmates.
(v) Adult prisoners.

V. TREATMENT PROGRAMMES FOR OFFENDERS RUN BY HKCS

Treatment programmes for various types of offenders are comprehensive and unique. They are specially tailored to cater for the needs of particular types of offenders. All in all, they are characterized by being rehabilitative and reformative, as well as reintegrative.

A. Detention Centre Programme for Young Offenders and Young Adult Offenders

The Detention Centre programme is carried out under the Detention Centre Ordinance (Chapter 239 of Laws of Hong Kong). A young male offender aged between 14 and 20 years sentenced to a Detention Centre can be detained for a minimum period of 1 month to a maximum period of 6 months, whereas a young male adult offender aged between 21 and 24 years sentenced to a Detention Centre can be detained from a minimum period of 3 months up to a maximum period of 12 months.

The programme places emphasis on strict discipline, hard work and counselling to teach offenders respect for the law, while providing positive training conducive to their rehabilitation and social re-integration. The highly disciplinarian regime enables the offenders to gain insight into their recalcitrance and to motivate their determination for reformation.

A Board of Review assesses the progress, attitude, efforts and response of each offender at monthly intervals. An offender may be released if the Board is satisfied with his/her institutional performance and that s/he has secured suitable employment or a place in school. However, upon release, s/he is placed under a statutory period of aftercare supervision for one year. An aftercare officer of the HKCS will monitor

their progress in complying with the conditions of supervision. A breach to any of the supervision conditions may result in being recalled for a further period of institutional training :

(i) in the case of young offenders, until the expiry of 6 months from the date of first admission or 3 months from the date of arrest under the Recall Order, whichever is the later; and

(ii) in the case of young adult offenders, until the expiry of 12 months from the date of first admission or 3 months from the date of arrest under the Recall Order, whichever is the later.

A very successful result has been attained, and maintained year after year, that over 94% of the offenders discharged from the Detention Centre completed the one-year aftercare supervision without reconviction for any criminal offences.

B. Training Centre Programme for Young Offenders

Under the Training Centre Ordinance (Chapter 280 of the Laws of Hong Kong), the Training Centre Programme provides for young offenders, aged between 14 and 20 years convicted of a criminal offence, an indeterminate period of training ranging from a minimum of 6 months to a maximum of 3 years.

Prior to sentence, each case is assessed by a Selection Board which, having considered the offender's family, social and criminal background, makes a recommendation to the court as to whether the particular offender will benefit from the programme.

All offenders, after admission to the Training Centre, have to undergo half-day educational training and half-day vocational training commensurate with their previous educational attainment and work experience. The educational training provides an opportunity for young offenders to continue their education while in custody. They are encouraged to participate in public examinations.

Vocational training enables them to cultivate good working habits. It equips them with a level of training in skills, commensurate with their aptitude and capacity, so that they can compete for related and satisfying employment upon release; and so adjust more readily to the open community after release and refrain from crime.

Scouting and guiding activities are incorporated in the programme to refine the character of the offenders. Parent-offender meetings and home leave are arranged to strengthen family interactions.

Again, similar to the Detention Centre programme, a Board of Review will assess the progress of each offender on a regular basis. Depending on their response to training, and exhibiting a determination to lead an honest and industrious life upon release, an offender may be released after receiving a minimum of 6 months training, and thereafter placed on mandatory aftercare supervision for 3 years. An aftercare officer of the HKCS will monitor their progress in complying with the conditions of supervision. A breach of any of the supervision conditions may result in them being recalled for a period further of institutional training until the expiry of 3 years from the date of first admission, or 6 months from the date of arrest under the Recall Order, whichever is the later.

C. Drug Addiction Treatment Centre Programme

The Drug Addiction Treatment Centre Programme is operated on the strength of the Drug Addiction Treatment Centre

Ordinance (Chapter 244 of the Laws of Hong Kong). The Ordinance empowers the courts to sentence a drug addict found guilty of an offence punishable by imprisonment, to detention in a drug addiction treatment centre.

Before sentencing a person to an addiction treatment centre, the court will consider a report prepared by the HKCS regarding the suitability of such person for treatment, as well as the availability of places in the addiction treatment centres. The period of treatment ranges from a minimum of 2 months to a maximum of 12 months.

The programme bears the objectives of: detoxifying and restoring the physical health of the offenders; uprooting the offenders' psychological and emotional dependence on drugs, and preparing for offenders' re-integration into society.

Offenders are assigned to work aimed at improving their health, and establishing self-confidence and a sense of responsibility. The work is commensurate with their capabilities, skills and fitness. Offenders who are medically unfit for work will attend special occupational therapy classes.

A Board of Review reviews the progress of each offender and make decisions on their release during the second month after admission. This is also done at least once every 2 months during the 4 months following the first interview, and thereafter at least once in each month.

On release, each offender is placed under one year mandatory aftercare supervision aimed at assisting and guiding them in social re-integration and a drug-free life. The HKCS aftercare officers will conduct visits to the ex-offender's residence and workplace. Urine samples are collected to check if s/he has relapsed with drugs. A breach of any of the supervision conditions, including drug relapse, may result in the ex-offender being recalled for a further period of ex- treatment until the expiry of 12 months 10 the date of first admission, or 4 months from the date of arrest under the Recall Order, whichever is the later.

D. Young Prisoners Programme

Offenders under the age of 21 years who are sentenced to imprisonment (classified by the HKCS as Young Prisoners) are separated from the adult penal population. They will participate in an institutional programme based on half-day education and half-day vocational training.

Education classes are provided for these young prisoners so that they can continue their education while in prison. They will be provided with every possible assistance to participate in public examinations run by local educational authorities or overseas professional bodies.

Vocational training, covering a wide spectrum of trades, is provided to young prisoners with the objectives of cultivating good working habits and equipping young prisoners with a level of training in skills commensurate with their aptitude and capacity, so as to enable them to compete for related and satisfying employment upon release. This will enable them to adjust more readily to the open community after release and refrain from crime by gaining confidence, satisfaction and self-respect through the acquisition of vocational training skills.

Under the Criminal Procedure Ordinance (Chapter 221 of the Laws of Hong Kong), a young offender sentenced to imprisonment, for 3 months or more before the age of 21 years, and released from prison before the age of 25 years for an offence other than default of a sum of

money, is subject to a statutory period of supervision for 1 year. A breach of any of the supervision conditions may result in them being recalled for a period equivalent to the amount of remission earnt.

E. Release Under Supervision Scheme

The Prisoners (Release Under Supervision) Ordinance (Chapter 325 of Laws of Hong Kong) allows offenders sentenced to imprisonment (i.e. prisoners) to participate in the Release Under Supervision Scheme and the Pre-release Employment Scheme.

Under the Release Under Supervision Scheme, prisoners after serving 20 months, or at least half of a three-year sentence or more (other than life imprisonment), may apply for early release. If approved, they will be released and remain under mandatory aftercare supervision for the balance of the sentence. The aftercare officers of the HKCS will conduct visits to ensure that they comply with the specified conditions including residence, employment, refraining from visiting notorious places and association with criminal characters, etc.

Under the Pre-release Employment Scheme, prisoners in the last 6 months of any sentence longer than 2 years may apply to engage in open employment outside of the prisons. Upon approval they, will be transferred to a designated half-way house where they will spend their last 6 months engaging in open employment in the daytime, while returning to the half-way house at night. During their stay in the half-way house, they will participate in counselling sessions to enhance their intergration into society and to sustain the efforts leading them to a productive and law-abiding life. During the weekends or on general holidays, when they are not required to work, they may apply for home leave which is aimed at encouraging the re-establishment of family relationships and facilitating the process of social re-integration.

Both of the above schemes provide for the re-imprisonment of any participant who contravenes any of the supervision conditions, for a period equivalent to the remaining portion of their sentence reduced by the period for which the supervision order was in effect. This may be further reduced by remission in accordance with the Prison Rules (Chapter 234 of Laws of Hong Kong).

F. The Post-Release Supervision of Prisoners Scheme

The Post-Release Supervision of Prisoners Ordinance (Chapter 475 of the Laws of Hong Kong) provides a statutory supervision scheme for certain categories of adult prisoners. The objectives of the Scheme are to assist certain categories of discharged prisoners rehabilitate and reintegrate into society, and to protect the public from serious harm in preventing discharged prisoners from reoffending.

The Scheme applies to every adult prisoner who is sentenced to imprisonment of 6 years or more, or imprisonment of 2 years or more but less than 6 years in respect of a conviction for some specific types of offences. These offences mainly include triad (organised crime) related offences, sexual offences and crimes of violence. The Scheme also applies to prisoners serving any sentence of imprisonment ordered to be served consecutively to the sentence mentioned above. The Scheme does not apply to some adult prisoners who are subject to deportation, supervision for early release or supervision after release under other Ordinances.

A Post-Release Supervision Board,

consisting of not less than 8 members appointed by the Chief Executive, considers whether a prisoner should be placed under supervision on release, and if so, makes a supervision order specifying the conditions and length of supervision in accordance with the objectives of the Scheme. The objectives of the Scheme are as follows: to consider applications from prisoners (supervisees) for the varying or discharging of supervision orders; consider applications from prisoners (supervisees) or supervising officers for varying the terms or conditions of supervision orders subsequent to a material change in the circumstances of the prisoners (supervisees); and to consider applications from the HKCS for suspending supervision orders.

The supervision period is decided by the Board and shall not be longer than the remitted part of the sentence earned by the prisoner. Each prisoner to whom the Board has made a supervision order is to be assigned to the care and supervision of a team of supervising officers comprising of two Aftercare staff from the HKCS and one Assistant Social-Work Officer from the Hong Kong Social Welfare Department. During the supervision period, the supervising officers either visit the supervisees at their home/work places, or require them to attend interview sessions at any other place as appointed by the supervising officers. These visits/ interviews are to be conducted on a regular basis. The supervising officers endeavor to help supervisees tackle any adjustment difficulties after discharge, and to ensure that the supervision conditions are complied with by the supervisees.

If the Commissioner of Correctional Services considers it to be in the public interest that a supervisee should be detained in custody without delay, s/he may recall the supervisee and detain them in prison, for a period not exceeding 72 hours, pending a decision as to the issue of a temporary recall order from the Chairman or Deputy Chairman of the Board. If the Chairman or Deputy Chairman of the Board considers that there are grounds for the Board to suspend a supervision order, the Chairman or Deputy Chairman may order the supervisee to be temporarily recalled and detained in prison for a period not exceeding 14 days pending the deliberation of the Board. The Board may order that a supervision order be suspended for a specified period, not exceeding the unexpired term of the order, if it is satisfied that: the supervisee has failed to comply with any term or condition of the order without lawful authority or reasonable excuse; or because of conduct or a change in circumstances since release, they are likely to commit an arrestable offence; or in case s/he has been recalled to the prison under the summary recall by the Commissioner of HKCS or temporary recall by the Chairman / Deputy Chairman of the Board, s/he was at the time of recall a person likely to commit an arrestable offence.

VI. ESTABLISHMENT OF A NEW REHABILITATION DIVISION

Testimony to its full commitment to facilitating the rehabilitation and social re-integration of offenders, the HKCS set up a new Rehabilitation Division in January 1998. It is headed by an Assistant Commissioner whose responsibility it is to take charge of the rehabilitation services, and oversee the policy and programme development for rehabilitation.

The Division, consisting of 15 staff members who are mainly professionals, plans and utilizes the resources in the programme area of reintegration and rehabilitation services provided for offenders, scrutinizes and reviews existing policies and programmes of reintegration and rehabilitation; and develops new

initiatives in a coordinated manner. Illustratively, the Division is now engaging in the examination and implementation of the proposals contained in the research report on "The Effectiveness of Rehabilitation Programmes for Young Offenders" recently put forward by the City University of Hong Kong.

VII. PROBLEMS AT PENAL INSTITUTIONS AND COUNTERMEASURES

In 1997, the penal population of Hong Kong remained high and averaged 30% over the certified accommodation. Overcrowding has inevitably led to problems. Accommodation and facilities are less than adequate and the increased wear and tear exacerbates this. There are also chronic shortages of work-places for prisoners. Such conditions create exceptional strain on prisoners and staff. Despite the difficulties, the HKCS has managed to effectively discharge the responsibilities entrusted to it, as reflected by the low level of escapes and incidents of disciplinary problems. However, the Department considers any disciplinary incident as one incident too many. After each and every incident, a prompt and thorough investigation is conducted and remedial measures are implemented as far as practicable. To relieve the overcrowding at penal institutions, the Department continued to redevelop the existing institutions and to build new ones in conjunction with other government departments.

VIII. CONCLUSION

Throughout the 20th century, the philosophical traditions of rehabilitation and punishment have fueled debates surrounding the development of penal systems in every part of the world. The struggle between rehabilitation and punishment has been on going, with the balance tipped recently in favor of the former. The rehabilitation-oriented approach in penal systems would now seem victorious.

Hong Kong has increasingly become more rehabilitation oriented in the way it deals with offenders. The rehabilitative and social integrative approach has been mcorporated into the Hong Kong penal system. The HKCS has adopted a differentiated approach to the treatment of various types of offenders in recognition of their rehabilitative needs. Different treatment programs have been designed and implemented to cater for the needs of such offenders. The existing programmes would not have been so successful without the constant review of their feasibility and effectiveness which was initiated by the HKCS. The recent setting up of the Rehabilitation Division is among these initiatives. Yet, the HKCS has not rested on its laurels. By learning from the experience of other successful penal systems in the world, it keeps on striving for the best in implementing programmes for offenders that are universally accepted and recognized.

EFFECTIVE TREATMENT MEASURES FOR PRISONERS TO FACILITATE THEIR RE-INTEGRATION INTO SOCIETY

*Yossawan Boriboonthana**

I. INTRODUCTION

The treatment of Thai prisoners is under the responsibility of the Department of Corrections, Ministry of Interior, which has the duty to take into custody and rehabilitate prisoners through institutional and non-institutional treatment. Institutional treatment is carried out in prisons and different types of correctional institutions, i.e., correctional institutions for women, young offenders, drug offenders and open correctional institutions. Non-institutional treatment is carried out through parole, sentence remission, pardon and penal settlement. Some measures might be similar to the correctional systems of other countries, others may be different. Therefore, this paper hopes to provide an opportunity to review the present the Thai correctional treatment methods and bring about comparative study which would to be beneficial to the Thai correctional system as well as other systems.

II. CORRECTIONAL TREATMENT IN PRISONS

As stated in the Corporate Plan for the Next Decade of Department of Corrections B.E.2536-2545 (1993-2002), one of the missions related to correctional treatment is "to rehabilitate prisoners and foster their re-integration into society as law abiding citizens." To carry out this mission, the Department has implemented several measures for rehabilitating, reintegrating and developing the living skill of prisoners. These measures range from classification to pre-release programs and cover different types of activities, such as vocational training, contact visits, medical care and drug treatment. The details of correctional treatment in prison are presented in this section.

A. Classifications of Prisoners

The Department recognizes the importance of prisoner classification and regards this measure as a major means to successful prisoner rehabilitation. Accordingly, effort has been made to implement prisoner classification systems as much as possible. The following are the departmental directives on prisoner classification in Thailand:

(i) Each prison shall set up an induction section or designated cells for newly admitted prisoners. This is to allow new prisoners to adjust to the new environment and to become familiar with the prison regime.

(ii) Appropriate numbers of classification officers shall be appointed in each prison to carry out the above. Such officers shall be fully trained and equipped with knowledge about the classification process.

(iii) The staff in every prison shall recognize the importance of prisoner classification, and provide support to and cooperate with classification officers. Trained Classification officers shall not be assigned to work on duties other than carrying out classification tasks.

(iv) Every new prisoner shall undergo the classification process from admission

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until release. This applies to both convicted and prisoners awaiting trial. Classification reports shall be kept in prisoner information files for further use when considering the granting of privileges or punishment.

(v) There shall be a classification committee at every prison. This committee is responsible for assigning treatment programs and places of confinement for each prisoner. The determinations on placement and programs are made in light of the knowledge obtained about the individual's needs, background, offense and severity, term of imprisonment, capacities, interests and so on.

(vi) A monthly report on the progress of classification at each prison shall be made to the Department Headquarters.

Despite having encouraged every prison to implement prisoner classification systems, the overall success rate is still far from reaching optimum. There are only 12 prisons that have a separate section for newly admitted prisoners, and another 33 percent have a designated area for new prisoners. In terms of the numbers of prisoners, only 59 per cent of prisons could have all prisoners undergo the classification process.

B. Work of Prisoners

According to the law, every convicted inmate is required to engage in useful work in all prisons and correctional institutions, while unconvicted prisoners (ie, remand) are required to work only for the cleanliness, health or sanitary conditions of the prison. The work that is available in the prison cover almost 25 areas of trade. The aim in providing work programs is to instill in the inmates good working habits, to provide basic skills in trades which will assist them in earning a living after release, and to make the best possible economic use of prison labor.

In accordance with the ministerial regulations, work provided to a prisoner shall take into account the following factors:

(i) The term of punishment.
(ii) The physical strength of the prisoner.
(iii) Intelligence.
(iv) Disposition and skills or knowledge expertise.
(v) Results from an economic standpoint.
(vi) Results from the standpoint of training and instruction.
(vii) Conditions of the prison.

Having used their labor in the work programs, inmates receive 50% of the net profit of prison industry sales.

C. Vocational Training

The purpose of vocational training in the prison is to provide skills and knowledge which will be of value to inmates after their release. Vocational training is offered both in classes and workshops. There are various types of vocational programs which include: agriculture, carpentry, barbering, welding, automobile repairing, dress making, tailoring, radio repair, carpet making, compositor, wood and bamboo craft, mat making, masonry, etc.

The teachers who work with the inmates can be classified into two main groups:

(i) Prison officials who hold teaching certificates and the officers (who are in the workshops) assigned to teach at the Adult School in prison. In addition, assistant teachers are selected from inmates who hold teaching certificates, and have shown themselves to be of good behavior, to help with some teaching duties.

(ii) Visiting teachers, experts and specialists from various institutions, such as local vocational schools and the Department of Industrial Promotion, invited to teach the inmates.

D. Academic Education

The main policy of the Department of Corrections is to provide inmates various forms of education according to their individual differences. Educational services are carried out under the close supervision of the prison authority. The Department of Corrections reguires that every prison and correctional institution provide at least one adult education school for inmates.

Adult education curricula are employed under control of the Non-Formal Education Department, Ministry of Education. The inmates who attend classes provided by the prison authority are eligible to take equivalent certificates issued by the Ministry of Education or the authority concerned.

1. Curricula for Inmates

(i) General Education: General education programs are provided for inmates on 4 basic levels:
   - First Level : this level is for the illiterates. The program will take six months to complete early primary school.
   - Second Level : this level serves the inmates who are able to read and write the Thai language. It will take approximately six months to finish middle primary school.
   - Third Level : the inmates who have completed Level 2 will be able to study at this level. One year and a half is needed to get through this level.
   - Fourth Level : this level is provided for the inmates who have already completed Level 3. A period of one year and six are needed for them to succeed.

(ii) Higher Education: The Department of Corrections also has a policy to support inmates who are interested in further education by providing them the chance for higher education through correspondance courses with the Open University.

E. Religious Activities

Buddhism courses are provided to prisoners at 3 levels: beginner, intermediate and advanced. Religious instructors are either prison chaplains or qualified Buddhist monks who are invited to instruct in the prison. As for other religions, religious instructors of each religion, like Muslim, Christian and so on, are invited regularly to conduct religious courses according to their own faith. Moreover, during weekends or on special occasions, these instructors are invited to perform religious rites inside the prisons.

F. Drug Prevention and Treatment Programs

Although drug addicted prisoners have to quit using drugs during incarceration, drug spread still exists in some prisons. Therefore, the Department has to implement some measures to prevent and suppress this problem. Some of these measures are as follows:

(i) Segregation of prisoners who have a history of drug misuse to the Drug Rehabilitation Center or special units. Those prisoners will be closely watched on their behavior and communications with outside visitors.

(ii) Routine searching and inspecting of those who enter the prison.

(iii) Searching of packages, mail, food etc that is sent from outside to prisoners.

(iv) Random searching of the rooms and personal items of the prisoners, without advance notice.

(v) Regular urine tests of prisoners in order to identify drug addicts. Those who are found to have drugs in their urine are transferred to institutions for drug addicts or special units for drug addicts, and they will be closely watched on their behavior.

(vi) Establishing of a prison canteen in the

front of the prison. Relatives who want to bring goods and items to prisoners are urged to buy them from the prison canteen. Goods and items from the prison canteen would be wrapped and sealed by prison officers in order to assure that such packages, are drug free.

(vii) Establishing a mobile unit which is authorized to conduct random searches at any institution, without advance notice, in order to seach for drug smuggling into the prison. This unit, headed by the Department's inspector, consists of well trained prison staff from various prisons. The work time-table of this unit is confidential.

Besides the preventive measures, the correctional institutions for drug addicts have provided treatment programs for drug addicted prisoners which consists of 3 stages:

(i) *Withdrawal stage*: Detoxification methods used in institutions are based on going "cold turkey" without methadone. According to this method, the patient may suffer from side effects, such as insomnia, anxiety, nausea and vomiting or diarrhoea. Some medicine may be given in order to relieve these symptoms.

(ii) *Psychological and physical recovery stage*: Psychological treatment is aimed to restore and reconstruct self - confidence, morals, and an attitude to be independent from drugs. Individual and group counselling, moral training, as well as community therapy, are significant tools in this form of treatment. Physical reconstruction, which is done at the same time as mental treatment, is aimed to restore body strength and fitness, as well as to instill order and discipline. Daily exercise and drills are used in this stage.

(iii) *Rehabilitation stage*: Besides psychological and physical treatment, vocational training, formal education and work are the main elements of the rehabilitation program. There are more than 25 kinds of vocational training offered in prisons. The Adult Educational Scheme, ranging from elementary to undergraduate level, is also provided in prisons. Moreover, those who work in prisons gain the benefit of 50% remuneration of the net benefit.

Moreover, the Department of Corrections has implemented the Therapeutic Community (T.C.) to rehabilitate ex-drug addicts mentally and physically. T.C. was firstly introduced to the Department by the Office of the Narcotics Control Board (ONCB), and developed in the correctional setting by Daytop International Inc., USA and Communita Incontro, Italy. In 1996, the T.C. program was implemented in 75 prisons and correctional institutions where drug addicted prisoners were imprisoned. There were 2,316 ex-drug addicts who actively participated in this program.

G. Regular Visits and Contact Visits

1. Regular Visits

In general, prisoners are entitled to have visits as often as circumstances and the facility permit. Visitation is allowed on weekdays for a period of 30 minutes during office hours. Prison officials have the right to: hear conversations between prisoners and visitors; patrol around visiting areas; search visitors; and to remove visitors out of the prison when necessary. In the typical visiting room, there is iron bar barrier, providing a one meter distance between the prisoner and visitor, to ensure that there is no contact. Prisoners are allowed to receive permitted items that visitors bring in for them. Cash given to prisoners must be deposited into the prisoner's account.

As for visitors, there is no limit on the number of persons wishing to visit the

prisoner, but the visitor's Identification Card and information must be recorded, and they are subject to search before entering the prison. Visitors are requested to stay within designated areas.

In terms of frequency, prisoners are normally allowed to have a visit at least once a week. In some prisons, where circumstances permit, prisoners may be allowed to have visits a few times per week. Visits may be suspended for a period of no more than 3 months if the prisoner breaches any rules or regulations.

2. Contact Visits

This program aims to strengthen the ties between prisoners and their family members, by allowing visits where there is no barrier that hinder their communication. Visitors (no more than 5 per prisoner) are allowed to enter into the prisons and remain in designated areas. While having a contact visit, prisoners are allowed to take meals and talk freely with their family for a period of 2 hours. Visitors and prisoners are subject to being searched thoroughly before and after a visit. Prisoners who are eligible for this visit must be in the 'good' class or above. The contact visit may be revoked if a prisoner breaches prison rules and regulations. The Department holds contact visits twice a year, and each visit period lasts for 10 days. The Department also holds a contact visit for foreign prisoners during the Christmas holidays.

H. Medical Care

During custody, sick inmates are treated according to their illness by the Department's physicians. Facilities for minor treatment are available in each prison. Serious medical or psychiatric cases, requiring emergency treatment or intensive care, are referred to either outside hospitals or the Medical Prison located in Bangkok.

Like other governmental agencies in Thailand, the Department has faced a shortage of medical doctors. So the Department has hired part-time doctors to look after sick prisoners. In 1996, 49,321 sick prisoners were provided treatment by 8 part-time doctors in 9 prisons.

I. Child Care in Prison

Nursery units will be provided for the day care of children in prisons where there are pregnant prisoners or children attached to their mothers. Mothers and children will receive adequate nutrition based diet, medical services, and learning activities. During the night time, children sleep with their mothers and are nurtured by baby-sitters during the day. According to the Department's regulations, children are allowed to stay in prisons until they are 3 years of age. Prisoners' children can stay in correctional institutions only when there are no outside institutions available for them.

J. Prisoner Welfare

The Department of Corrections has provided social welfare services for prisoners as follows:

1. Prisoner's Hygiene

In 1996, the Department has provided 1,100,000 Baht to every prison to purchase hygiene materials for prisoners.

2. Sport and Recreation

Recreation and entertainment facilities, both indoor and outdoor, are available to inmates in all institutions. These include reading libraries, televisions, film showings and various types of sports and games. Participation in recreational programs is voluntary. Recreational activities in institutions provide many benefits to prisoners, such as relaxation, good health and group relations.

3. Music

The Department has supported prisons/

institutions to have musical instruments, both traditional and modern ones, as well as prison bands, especially in institutions for young offenders.

4. The Sparrow Home

The Department has cooperated with NGOs to establish a house named "Sparrow Home" to take care of the prisoners' children until they are 7 years old. Children will be taken care of by this charity group and will be taken to visit their parents regularly. This project has become very successful and represents well the attempts of the Department to treat inmates humanely.

5. The Assistance to No-relatives Prisoners

Every year, the Department holds contact visits to provide the opportunity for relatives to visit inmates inside prisons without any barriers. However, there are a number of prisoners who have no relatives who visit during their period of incarceration. The Department has tried to help these prisoners by seeking assistance from various agencies. Every year there are charity organizations donating food and necessities for these prisoners.

III. EARLY RELEASE SYSTEM

The existing early release measures in Thailand are parole, sentence remission, pardon and penal settlement. Some measures like parole, sentence remission and pardon might be similar to other countries, but the measure of penal settlement might be rarely known. The details of all these measures are discussed below.

A. Parole

Parole was implemented in Thailand in 1937. This mechanism is granted to prisoners who show good conduct and progress in rehabilitation, and who have served the minimum period of their sentence as specified by the law. That means that parole is not the right of all prisoners, but will be a benifit applied to selected and eligible ones.

1. Parole Board

There are 2 levels of parole board ranging from the prison level to departmental level. The parole board at the prison level consists of the superintendent and 2 other heads of the subdivision. The parole board at the departmental level consists of 7 high ranking officials, including the Deputy Director-General of Department of Corrections who acts as a chairman of the board, and other relevant officials from concerned departments such as the Department of Public Welfare, Department of Public Prosecution, Department of Public Health and Police Department respectively. The board has to submit its suggestion to the Director-General of Department of Corrections for final approval. Therefore, the decision to grant parole to qualified prisoners by the Director-General is final.

2. Eligibility for Parole

The rule of Penitentiary Act of 1936 states that the qualifications for prisoners to be eligible for parole as follows:

(i) Must be a convicted prisoner showing good conduct and progress in education.
(ii) Must have already served more than two-third of the time fixed in the warrant of imprisonment as the term of sentence, or not less than 10 years in the case of life imprisonment.
(iii) Must be an 'excellent' class, 'very good' class or 'good' class prisoner.
(iv) The 'excellent' class of prisoner may be granted parole for not more than one-third of the time fixed in the final warrant of imprisonment.
(v) The 'very good' class of prisoner may be granted parole for not more than

one-fourth of the time fixed in the final warrant of imprisonment.

(vi) The 'good' class of prisoner may be granted parole for not more than one-fifth of the time fixed in the final warrant of imprisonment.

B. Sentence Remission

Sentence remission was introduced into the Thai correctional system in 1978. It is used as the benefit for the 'good' conduct prisoner. There are two different types of sentence remission:

(i) Good time allowance which is given to prisoners who: serve their sentence for at least 6 months, show good conduct, and are in the 'good' class or above. The number of sentence remission days given to those prisoners will depend on their class, i.e.: Excellent class earns 5 days a month, Very good class earns 4 days a month, Good class earns 3 days a month.

(ii) Public work allowance which is given to prisoners who are participating in public work programs. Prisoners who are convicted and are in the 'good' class or above will be eligible for the public work allowance when they serve half of their sentence.

The aim of the public work program is to provide an employment opportunity to prisoners and to utilize prison labor for public and community interest. Under this scheme, prisoners who are eligible to work outside the prison, and have passed the screening process, will be assigned to work in various types of public work projects such as drain-pipe cleaning and canal dredging. Apart from remuneration, prisoner shall have a one-day sentence remission for each day of working outside.

The days of sentence remission from this system can be counted together with the allowance from the good conduct allowance system. Regarding incentive payments for prisoners, 85% of net profit is divided among the prisoners who have engaged in the work.

C. Royal Pardon

The Royal King's Pardon is part of the sovereignty that the King, as the head of state, may grant to anyone. Under the Constitution, the King has power to grant pardon to commute, reduce or terminate sentences with or without conditions. Such pardons would overrule all the previous convictions. There are two types of Royal King's Pardon; the collective pardon and individual pardon.

1. The Collective Pardon

Whenever there is an important event in the country, such as to mark their Majesties 60th Anniversary, the Golden Jubilee and so on, the Cabinet may submit a recommendation to His Majesty the King to consider granting the Royal King's Pardon to commemorate these important events. The Royal Pardon will be in the form of release or sentence remission. Statistics of the Royal King's Pardon granted during past 10 years are shown in Table I.

2. Individual King's Pardon

Any convicted prisoners, or their relatives, have the right to submit a petition to His Majesty the King for royal clemency. This is stipulated in the Penal Code and the Penitentiary Act. Prison officials, upon receipt of such a petition, shall forward it to His Majesty the King through a designated channel. The channel begins at the prison where all information on prisoners is filed. It is then forwarded to the Department Headquarters, to the Minister of Interior, to the Prime Minister, to the Office of His Majesty Principle Privy Secretary, to the Privy Council and to His Majesty the King. However, once the petition is denied, a prisoner has to wait for two years to re-submit their petition again.

Death sent ence prisoners shall not be

executed once they have submitted a petition to His Majesty the King for Royal Pardon. As long as there is no notice whether or not the Royal King's Pardon is granted or denied, such prisoners remain on the death row.

D. Penal Settlement

Penal settlement is another type of program which has been set up as a place for pre-released prisoners, as the next stage after prison, so as to help them re-adjust to the community. At present, there is only one penal settlement in Thailand called *Klongpai* Penal Settlement. The *Klongpai* Penal Settlement, established in 1977, is located in *Nakornrachasima* Province and the total area is 4,450 acres. Prisoners who are selected to enter the *Klongpai* Penal Settlement, are required to practice farming and agricultural schemes. They are, of course, given land for living and agricultural purposes. Moreover, they are allowed to settle down at the penal settlement after their sentence has expired, as the period of stay is unlimited.

Qualified and selected convicts are allowed to bring their family to stay with them while being treated in the penal settlement. They are also required to build their own house or cottage in the area provided by the penal settlement. Nowadays, the Department has ceased to send prisoners to the penal settlement due to problems in land sharing.

E. Pre-release Programs

The Department has recognized the importance of preparing prisoners before release into society. The pre-release program was separated into 2 services that are 'Group Counseling' and 'Group Guidance'. The operation of the pre-release program is as follows:

(i) Interview of individual prisoners so as to find out living problems, such as problems in employment and education of their children.
(ii) Group Guidance provides knowledge and information on career management to prisoners.
(iii) Group Counseling provides psychological counseling to prisoners to build up their ability to adapt themselves to society.
(iv) Persuasion of prisoners' relatives to participate in rehabilitation programs before release.

IV. TREATMENT FOR DISCHARGED PRISONERS IN THE COMMUNITY

At present, the major 'treatment' method for discharged prisoners in Thailand is probation. This measure is applied to parolees and sentence remission releasees. The responsible organization for probation is the Probation Bureau, which is under the Department of Corrections. Meanwhile, other kinds of treatment for unconditional releasees are not fully developed. There are only some services provided to releasees by NGOs.

A. Probation

Prisoners who are released on parole or by sentence remission are subject to supervision under the conditions set by the Department. These conditions are as follows:

(i) To refrain from committing crimes.
(ii) To refrain from entering any areas so determined by the competent authority.
(iii) To abstain from consuming narcotics and from gambling.
(iv) To report in person to the competent authority designated by the Director-General of the Department.
(v) To carry on with the occupation arranged and supervised by the competent authority.
(vi) To resume their former occupation or take up the occupation as arranged and supervised by close friends or relatives.
(vii) To practice his/her religion.

1. Investigation

Investigation is the method before prisoners are released on parole or sentence remission. A probation officer will interview the prisoner and visit their home to investigate the background of their family, education, job and way of life, in order to inform the results to the Committee. In this case, the prisoner must have a guarantor who promisses to accommodate and monitor him/her.

2. Supervision

This method is applied after prisoners are released into the community on parole and by sentence remission. Supervision is conducted by the probation officers and the volunteer probation officer in regard to the living conditions of releasees, including relations to family, job and neighbors, and to give guidance to them.

3. Breach of Conditions

If parolees or probationers fail to comply with any conditions, they may be arrested without warrant and imprisoned for the remaining period of their term of sentence. Disciplinary charges will also be brought against them. The number of releasees who breach conditions are shown in Tables II and III.

As seen in the statistics, although the percentage of breach of conditions is very low, the early release measures are not popularly used in the Thai correctional system. When compared with the total releases, the percentage on early release is only 30-40%. The reason for this is that there are not enough probation officers to supervise releasees, and the grant process takes so much time that most qualified prisoners are released before parole is granted.

B. Halfway House

While probation is the major form of treatment for parolees and other conditional releasees, the halfway house is the treatment for all releasees. The purpose of establishing halfway houses is to provide substantial assistance to immediately released prisoners during the critical readjustment period, as an aftercare scheme. The types of assistance include places to live, meals, help in finding jobs and counseling services. Furthermore, by sharing their environment with others in the same situation, the prisoner will no longer feel that their problem is unique, and their will be in an environment which understands the special difficulties and frustration of their status. It is expected that, by a combination of their own initiatives and relevant help from the other residents and staff, the resident will soon be able to emerge from difficulty and become confident in making post-release adjustment successful .

The construction of the halfway house was finished in September 1996. It will serve as a welfare residence for prisoners who have problems upon release. It is expected to be fully operative by the fiscal year of 1997.

C. Volunteer Probation Officers

In 1977, the Department of Corrections, Thailand established the Volunteer Probation Officer Program for assisting probation officers of the Department to supervise parolees and those who are on sentence remission. In 1998, there were about 14,000 volunteers who work throughout the country. These volunteers are interested persons who are aged above 25 years and have secure jobs. They will be trained for 2 days on probation work and related topics, and will attend a seminar every year to promote their knowledge and to exchange experiences and problems. They do not receive any payment except the transportation fee which is 120 baht or 400 yen per case.

Generally, volunteers are recruited from respected persons in the local community. They come from all types of occupations,

such as teachers, farmers, chiefs of village, monks and retired government employees. Thus, for nearly 20 years the volunteer has played a significant role in helping the probationer readjust to society.

V. CONCLUSION

The Department of Corrections of Thailand agrees with the assumption that the rehabilitation and reintegration of offenders should start at the time offenders enter prison, and should continue until they are released into the community. However, the implementation of measures for fulfilling this goal are not easy.

In 1998 there were 138,000 prisoners confined in prisons and correctional institutions all over country, while there is only 80,000 capacity available. The influx of offenders coming into prison is because of the government's crack down policy on 'Speed' pills (Amphetamine), which has resulted in a great number of drug offenders being incarcerated. When serious overcrowding situations occur in the Thai correctional system, the Department's resources have to mainly be employed for custodial projects such as the construction of new prisons, the remodeling of outdated prisons and an increase in manpower. Moreover, the economic crisis which we are now facing creates a limited budget. Many projects and programs related to the rehabilitation of prisoners are held back or have had their budgets cut.

However, the Department of Corrections has continued to achieve the goal of rehabilitation and reintegration of prisoners, athough there are many obstacles for rehabilitation like the overcrowding situation and the budget cuts. The outcome of the rehabilitation of prisoners in Thailand might not be very impressive for colleagues in other countries, but progress as our goal still persists.

TABLE I

NUMBER OF ROYAL KING'S PARDONS GRANTED 1977-1996

Occasion	Year	Unconditional Release	Sentence Remission
Royal Marriage of HRH Crown Prince	1977	13,359	22,319
His Majesty the King's 50th anniversary birthday	1977	17,539	23,010
Royal Ordination of HRH Crown Prince	1979	12,033	32,158
Her Majesty the Queen's birthday	1980	16,164	29,661
Bangkok Bicentennial	1982	18,438	36,188
His Majesty the King's 60th anniversary birthday	1987	37,400	46,603
His Majesty longest accession to the throne	1988	22,922	34,215
90th anniversary of the Princess Mother	1990	20,133	32,697
Her Majesty the Queen 60th anniversary	1992	30,620	35,861
His Majesty the King's 50th year accession to the throne	1996	24,751	57,815

TABLE II

NUMBER OF PROBATIONERS FROM 1987 TO 1997

Year	Sentence Remission Granted	Parole Granted	Breach of Conditions	Percent of Breach of Conditions
1987	11,490	2,778	88	0.6
1988	10,871	787	20	0.2
1989	9,721	1,220	48	0.4
1990	10,392	1,768	43	0.4
1991	9,363	956	44	0.4
1992	11,321	945	54	0.4
1993	12,020	1,282	50	0.4
1994	14,003	2,088	86	0.5
1995	17,460	2,114	88	0.4
1996	17,543	805	62	0.3
1997	19,824	1,114	42	0.2

TABLE III

THE PERCENTAGE OF CONDITIONAL RELEASEES COMPARED WITH ALL RELEASEES

Year	Released on Conditional Release	Released by Termination of Sentence	Total Releasees	Percent of Conditional Release
1992	12,266	28,733	40,999	30
1993	13,302	24,293	37,595	35
1994	16,091	31,987	48,078	33
1995	19,574	32,315	51,889	38
1996	18,348	32,387	50,735	36
1997	20,938	27,119	48,057	44

REPORTS OF THE COURSE

GROUP 1

REHABILITATION PROGRAMMES IN THE PRISON TO PREVENT PRISONERS' RECIDIVISM: THE ACTUAL SITUATION, PROBLEMS AND COUNTERMEASURES

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I. INTRODUCTION

There is a notion that rehabilitation programs reduce recidivism quite markedly with some types of offenders in some circumstances. It is not surprising to find that some questions will be raised, for example, with whom they are implemented and under what circumstances the programs work. To answer these questions, we have to analyze the characteristics of offenders and the treatment programs in use.

Since criminals commit crimes because of different reasons, the characteristics or types of offenders are varied. Some types of offenders, especially those who commit crimes because of external factors, such as economic problems, peer group pressure or lack of knowledge, etc., can be rehabilitated by general treatment programs like vocational training and education. For those who commit crimes because of internal factors, such as psychological problems, behavior disorders, or antisocial attitudes, their situations are more complicated and they are in need of special psychological treatment programs for rehabilitation.

To address the distinctive needs of individuals, appropriate treatment programs should be applied to the respective types of offenders. Normally, the treatment programs being implemented by some countries are referred to as programs promoting the socio-economic ability of offenders, such as prison work, vocational training, and education. These types of treatment programs are provided to almost all offenders in some countries. However, there are some specific types of offenders who need special treatment due to the complexity of their problems, for example, drug addicted offenders, sex offenders, violent offenders and organized crime offenders. To rehabilitate these types of offenders in prisons, the application of specially designed treatment programs is

considered to be indispensable.

We believe that if offenders are provided with proper treatment programs in prisons, there will be a higher chance to reduce recidivism. However, the implementation of this idea cannot be made possible in some countries, due to a lack of resources or other reasons. Thus, our group tried to study the actual situation of the rehabilitation of prisoners in the 17 participating countries, as well as the problems that impede the success of rehabilitation, and attempt to determine the countermeasures to be taken. Moreover, we realize that treatment programs cannot be effective without the participation of prison staff. Therefore, ways to secure the treatment potential of prison staff will also be explored.

II. GROUP DISCUSSION

After being assigned the topic of "Rehabilitation Programs in the Prison to Prevent Prisoners' Recidivism", our group decided to focus discussion on the following issues:

(a) Treatment programs to enhance the socio-economic ability of prisoners.
(b) Categorized treatment programs according to the offence type and/or problems of individual prisoners.
(c) Treatment programs addressing the psychological problems of prisoners, specifically their emotions, cognition, attitudes, etc. which lead to the offence.
(d) Ways to secure the treatment potential of prison staff.

According to the work plan devised by all the group members, the relevant information was collected through different resources, such as the individual presentation papers of participants and visiting experts who attended the 109th International Training Course, professional articles and resource materials kept at UNAFEI. Moreover, our group distributed two sets of questionnaires to the course participants of the 17 participating countries, for data collection. The approach of the study was by comparing the situations of those 17 countries. Moreover, the specific treatment programs conducted in some countries were also analyzed.

The 17 participating countries of the 109th International Training Course are listed: Bangladesh, Botswana, Fiji, Ghana, Hong Kong, Indonesia, Japan, Kenya, Kiribati, Malaysia, Nepal, Pakistan, Papua New Guinea, Philippines, Republic of Korea, Solomon Islands, Thailand.

III. TREATMENT PROGRAMS TO ENHANCE THE SOCIO-ECONOMIC ABILITY OF PRISONERS

Rehabilitative treatment programs to enhance the socio-economic ability of prisoners are offered in various ways in prisons. According to our observation of the actual situation, prison work and education are the two main and common rehabilitative treatment methods being implemented by most participating countries. In this paper, we intend to identify the problems commonly encountered by those 17 countries and to offer some countermeasures to address the problems.

A. Prison Work and Vocational Training

Prison work covers a wide range of activities whereby prisoners are physically involved in some kind of work while serving a term of imprisonment in prisons. Under the scope of work in prisons, general prison work and vocational training are the two integral parts which will be discussed in the respective sections below.

1. Actual Situation

(a) *Prison Work*

Regarding the statutory requirement of prison work, 14 participating countries

have obligatory prison work while the remaining three(3); Nepal, Philippines and Solomon Island, have voluntary prison work (see Appendix 1).

In the context of obligatory prison work, we are referring to two(2) specific types of situations. The first situation is when prisoners are sentenced by a court of law under a penal code with work (i.e. hard labor or light labor). The second situation is when the prisoners are sentenced to imprisonment and must work under a specific prison regulation.

As for voluntary prison work, we are referring to the situation under which prisoners are sentenced to imprisonment without work, in accordance with the laws of a country. However, they can volunteer to do prison work in prisons.

In countries with job-oriented work programs, prisoners can easily find jobs after release. However, other countries with inappropriate work programs will not have this favorable result.

Among those 17 participating countries, 14 countries have prison obligatory work. Seven (7) out of these 14 countries can provide prison work to prisoners because of some problems which will be discussed later on. Prison work commonly employed by those participating countries are:

- Primary industries (e.g. agricultural, fisheries, etc.).
- Secondary industries (e.g. textile, wood work, metal work, handcraft, etc.).
- Routine and maintenance work in prison (e.g. laundry, painting, carpentry, plumbing, cooking, cleaning etc.).

(b) *Purpose of Prison Work*

Prison work is organized so as to serve a constructive purpose in the treatment of prisoners. Its objective is not only to provide inmates with vocational knowledge and skills, but also to strengthen their will to work, sense of self-help and spirit of cooperation through working together in well regulated circumstances. Thus, the prison industry contributes to the correctional aims of re-socializing offenders.

Some of the other purposes of prison work among the participating countries are to make profit out of prison work (to lighten the running costs of the prison experienced by prison administration) and to provide an opportunity for a prisoner to make some earnings to before s/he is released from prison.

Our group basically agreed that the purpose of prison work is not only to rehabilitate the prisoners by providing them working skills or habits, but also to prevent the prisoners from degradation. Accordingly, those with working skills or habits, such as offenders of white-collar crime or corruption, should also be provided with prison work.

(c) *Vocational Training*

Vocational training in prison can be regarded as part of prison work. However, it should be more skill-oriented in the sense that the training so provided can enhance the competitive ability of prisoners to fined work after release. With the exception of Kiribati, 16 participating countries introduced vocational training not only to enhance the productivity of prison, but also to improve the vocational skills of prisoners (see Appendix 1).

In some countries, prisoners who have passed the qualifying examinations of certain training courses are awarded trade certificates or licenses, for example, for operating construction machinery, barbering, auto-repairing, electrical repairing and so on. With the exception of Kiribati, the other 16 Participating countries have introduced vocational training in their prisons, but most of them concentrate their vocational training in forms of trade-related prison work, such as electrical plumbing and carpentry

conducted in the workshop.

(d) *Purpose of Vocational Training*

The purpose of vocational training is:

- To provide the prisoners with vocational training, up to a qualifying level of training, in and type of skill appropriate to their aptitude and capability, that would enable them to compete for related and satisfying employment upon release from prison.
- To give the prisoners confidence, satisfaction and self-respect, through acquiring these new found skills, so that the offender may adjust more easily to normal society after release and refrain from a deviant way of life.
- To cultivate good working habits.

With these purposes borne in mind, we have studied the situations of those 17 participating countries and found that only a few countries have appropriate vocational training programs and qualified instructors to conduct such programs accordingly.

2. Problems

The over-all assessment of the actual situations in the 17 participating countries enabled our group to identify certain types of problems. Although these problems differ in their magnitude among those countries, we considered some of them to be common. The common problems experienced by those 17 countries are as follows:

(a) *Insufficiency of Work*

Although we acknowledge both prison work and vocational training as rehabilitative treatment programs to enhance the socio-economic ability of prisoners, we find that there is an insufficiency of work to accommodate all the prisoners in some countries. It is understandable that prison administrators in the participating countries will encounter different kinds of problems in their own settings. Apart from the financial stringency, the following are the most common problems for those countries:

- Inadequacy of facilities to carry out work or conduct vocational training for the prisoners.
- Lack of qualified specialists to provide various specialized training.
- Lack of marketable skills.

(b) *Security Problems*

In addition to the obligation to provide prison work and vocational training for prisoners, prison administration has the responsibility to protect society by providing the safe custody of prisoners. With the overcrowding situation in prisons, prison officials will always encounter some kinds of security problems while implementing the above programs. The security issues that prison officials worry most about are:

- Escape of prisoners from custody.
- Assault with tools in workshops.
- Prison riots or breakouts from prison with tools.

The above incidents cannot be avoided without adequate and close supervision by staff.

(c) *Inadequate Follow-up and Evaluation*

According the current practice of most participating countries, they do not make any evaluation on the effectiveness of the aforementioned treatment programs provided by prisons. For example, after the release of a prisoner who has received vocational training on auto-repair trade, no follow-up action is taken to find out whether s/he can secure a job of the same nature.

3. Countermeasures

After assessing the common problems now being experienced in the participating countries in relation to their actual situations about prison work in prisons, it is necessary to offer a practical solution.

We would like to give the following suggestions as countermeasures for those counties with not so well-developed programs. On the other hand, those countries with developed programs may also use these suggestions, in combination with their experience, to further develop their current programs.

We consider that in order to help prisoners find jobs easily after release, the work and training provided to them in prisons should be, as far as possible, of a similar nature. Since the aforementioned problems are considered to be inter-related, it will be necessary to offer the countermeasures in a package as follows:

(a) *Cooperation with Other Public Organizations*

As far as practicable, prison administrators should provide sufficient work and training to the prison population with full cooperation with public organizations. For example, some prisoners of Botswana are employed by other government organizations, like the defense force and police, to do work like cleaning barracks, packing stores, cooking etc. In Japan, some governmental organizations organize automobile repair workshops and training institutions for operating construction machinery etc. in the prison. These authorized facilities can provide prison work and vocational training to prisoners.

(b) *Joint Venture Projects in Prison*

Joint venture is regarded as a type of cooperation between the prison administration and private sectors in providing management and resources to utilize prison labor both within and outside of prison. A joint venture project provides an alternative avenue for prisoners to do both work and vocational training. This is a practical solution for the prison administration of the participating countries to provide both work and vocational training for the balance of the unengaged prisoners in their prison population.

According to the questionnaire distributed, 6 out of the 17 Participating countries have introduced joint venture projects, to their prisons. Most of the private organizations supply materials and machinery to prisons, and the prison administration provides manpower. Hereunder are the experiences of Japan and Singapore.

The Prison Industry Cooperation Division(PICD) was set up by the Correctional Association of Japan in 1983, and has been very useful to activate the prison industry. The main task of PICD is to provide raw materials for the operation of prison industries, instead of the government. In particular, it created the brand “CAPIC” to establish a corporate identity and to improve the image of prison products. It also established a well-planned product system to increase productivity.

In Singapore, The Singapore Cooperation of Rehabilitative Enterprises(SCORE) is a statutory board which manages the prison industries and provides rehabilitative opportunities. It sets up, or invites companies to set up, workshops in the prisons where the inmates will work and learn the on-the-job skills. SCORE's bakery and laundry services are examples of enterprising industrial pursuits that have (successfully) taken root in the prison setting.

(c) *Security and Motivation for Work*

To address security concerns, adequate staff should be allocated to supervise work programs and prisoners should be carefully classified when they are assigned to work. Incentives like payment and other privileges should be encouraged to motivate prisoners to engage in prison work.

(d) *Evaluation of the Programs*

Any given programs should be followed up and evaluated to assess the success and failure rate, and the findings should be used to improve the deficiency. Because each program will have its own objective, statistics should be maintained to list how many ex-prisoners have been employed with a steady job relating to the skills or trade they learn in prison. This kind of information should help the prison administration review their work or training programs and make necessary improvements to suit actual situations outside the prison.

This may only be one aspect of the study as there are many other indicators that can be used to determine the success or failure rate of any given program. The results may improve existing programs to suit the conditions outside of prison.

B. Education

Globally, education is an essential basic need to enhance human development. Demographics like low education, in this instance, are often predictors of offending. Thus, an important priority is to reduce the statistical chance or probability of re-offending. The provision of education, either academic or vocational, for the purpose of upgrading prisoners' educational status and skills is thus essential in a competitive society.

1. Actual Situation

The main purpose of education is to enhance a prisoner's competitive ability for employment in free society after release from prison. Our assessment of the 17 participating countries shows the following: 13 out of 17 countries have introduced fundamental(literacy and numeracy) education in view of global trends in literacy, and these programs are funded by the state.

As for further education such as correspondence courses, high school, secondary school and undergraduate studies, 11 out of 17 countries facilitate correspondence courses for their prisoners. In most cases, a government meets the cost of these types of programs as long as the prisoner is still serving their sentence of imprisonment. In other cases these programs are assisted by Non-governmental Organizations like churches and others.

In order to offer educational programs to prisoners, they have to pass a selection or classification process. Depending on that consideration, those prisoners who really have the need for a specific type of educational course are offered places to undertake various types of courses. We observed that, the type and level of educational courses varied among the 17 participating countries. This was because the aptitude of each individual prisoner also differed by country.

We also learned that in those 13 countries which conduct fundamental educational program, the participating prisoners will be awarded a certificate of attainment at the completion of the appropriate course. This is also true for the 11 countries that also have prisoners engage in further education through correspondence. The award of certificates of attainment depends upon the appropriate education authority in the respective countries.

2. Problems

In our observations, we found the following concerns to be common problems; again the magnitude varied widely among the participating countries.

(a) *Difficulty in Grouping Prisoners to Attend the Class*

Difficulty was experienced when trying to group prisoners into classes, because it is not like ordinary school when all the intake can start together, as prisoner are admitted to prison on different dates. One

other related matter has to do with individual educational backgrounds, or the specific needs of the individual prisoner.

(b) *The Lack of Qualified Specialized Teachers to Carry Out Academic Programs in Prison*

Prison administrators of some of the participating countries cannot provide educational programs. This is because they do not have qualified teaching staff within their existing staff strength. For the purpose of education there must be qualified teaching staff to teach the prisoners the training material. This is also true for those other countries that have supplementary educational programs. They rely on relevant state agencies to assist them with their programs, as they do not have their own qualified staff.

(c) *Poor Learning Environments*

The experiences of some participating counties show us that prisons are in lack of educational programs, materials and suitable facilities to carry out their programs. These matters are the essential components of any educational programs, without which we cannot conduct any programs.

3. Countermeasures

Our general observation about the actual situation re educational programs in the 17 participating countries also exposed a number of problems commonly shared by those countries. In the context of educational programs utilized to enhance the socio-economic ability of prisoners in prison, we are of the view that the three common problems are somewhat closely related. Therefore, in a practical sense, any countermeasures should be offered in a package to complement each of the problems being identified. The following suggestions are considered as the countermeasures:

(a) *Development of School Calendar Year*

In order to address the problem relating to difficulties resulting from the different admission dates of prisoners, we suggest that school calendars be developed and enforced in prison. However, should there be any large intake of prisoners at any time, a special class should be organized to cater for need. Thailand is adopting such a measure. Another suggestion would be to engage volunteers, like retired teachers, from the surrounding community.

(b) *Utilization of Existing Staff*

Available staff should be reorganized and re-deployed for the purpose of conducting educational programs. Selected staff should be identified and trained adequately to carry out the intended programs. If this can not be done with available manpower and resources, then it is necessary to sell this idea to the public at large, where there is bound to be some kind of assistance forthcoming from volunteer organizations or other government agencies.

(c) *Cooperation with Other Public Organizations*

To solve the problem of insufficiency of teaching staff, prison administrator may consider cooperator with public organizations. There are specific examples of this approach as follows:

- In Japan, The Ministry of Education set up a branch of a junior high school in one of the juvenile prisons, where teachers are seconded from the main school campus;
- In Singapore, academic classes and certificate courses are conducted by qualified teachers seconded from the Ministry of Education.

(d) *Development of Education Materials*

At this point the programs will need educational material to provide courses. Again, if it is not possible to provide those

needs within the prison then it is necessary to go to the relevant government agency to assist the prisons

(e) *Improvement of Educational Facilities*

With whatever resources are available, the educational facilities needed for educational programs should be renovated or developed. Desirable learning environments will enhance the willingness of prisoners to participate in the educational programs. If improvement is not possible from within the prison setting, efforts should be made to seek assistance from the public, like voluntary organizations and government agencies.

(f) *Evaluation of Educational Programs*

Evaluation on the results of course examinations will help prison administrators assess the effectiveness of the educational programs and make corresponding improvements.

IV. SPECIAL TREATMENT PROGRAMS FOR SPECIFIC TYPES OF PRISONERS

In addition to the treatment programs enhancing the socio-economic ability of prisoners, there are other special treatment programs aiming to rehabilitate some specific types of prisoners in prisons. The treatment programs provided to those prisoners are different and distinctive. Thus, the group will discuss the treatment programs for some specific types of prisoners as follows:

(a) Prisoners with psychological problems
(b) Drug addicted prisoners
(c) Sex offenders in prison
(d) Violent offenders in prison
(e) Organized crime offenders in prison

It is noted that the interpretation of the above classification of prisoners varies from one country to another and the different viewpoints of scholars and legislators will make interpretation more complicated. Nonetheless, the main objective of the group discussion was to study the treatment program; so that the definition of each type of offender is briefly stated below in order to limit our scope of discussion.

(a) "prisoners with psychological problems" mean those who have psychiatric problems, adjustment problems and criminal behaviors
(b) "drug addicted offenders" mean those who habitually abuse illegal drugs;
(c) "sex offenders" mean those who commit offences of rape, indecent assault, public indecency, etc.;
(d) "violent offenders" mean those who have the tendency to solve their problems by violent actions, for example physical assault, bodily injury, murder, homicide etc. excluding "organized criminal offenders", which we mention below;
(e) "organized criminal offenders" mean those who are members of a gang engaging in various kinds of crimes like drug smuggling, extortion, intimidation, physical assault, bodily injury, murder, homicide etc.

A. Treatment Programs for Prisoners with Psychological Problems

1. Actual Situation

According to our questionnaire: 14 out or 17 participating countries have prisoners with psychological problems; 12 out of 17 countries consider psychological treatment programs to be critical; 11 out of 17 countries have classification systems to detect the psychological problems of prisoners; and 8 out of 14 countries have psychological treatment programs.

For those countries where psychological treatment programs do not exist, some other measures are taken to lessen the problem. Those measures are as follows:

- Counseling programs conducted by welfare officers, religious groups or prison officers.
- Family visits.
- Transfer of prisoners with psychological problems to receive treatment from outside mental hospitals.

Summing up the collected data, there are three kinds of 'psychological problems' and 'psychological treatment programs'. They are 'psychiatric problems', which should be treated in mental hospital; 'adjustment problems' inside institutions, which could be handled by other ways such as family visits and religion; and 'criminality' behavior. Although psychiatric and adjustment problems are important, this paper is to address "rehabilitation programs in the prison to prevent prisoners recidivism". So the programs aimed at changing behavior and decreasing psychological tendencies to commit crime should be focused.

In this meaning, only Japan and Hong Kong have some of those programs, but they are far from sufficient. Other countries do not have psychological programs aimed at changing criminal behavior, not the concept/idea of these kinds of treatment programs. Actually, for some countries, psychological programs should and could not get priority. In these countries, the first priority is to have good enough living and security conditions. Secondly, they need work and education programs. Then thirdly, they can deal with the psychological programs of prisoners. As the programs aimed at changing criminal behavior are rather new in the world, no country has achieved the goal of establishing these programs. Thus the programs which disturb the implementation of treatment programs aimed at changing criminal behaviors, will be the focus of this paper.

2. Problems

a) *Lack of Full Understanding of Crime Causes and/or Characteristics of Criminals*

There has been some research on the causes of crime and/or criminal behavior, which revealed that individual criminal characteristics include biological and personality aspects, and family characteristics. However, no single factor can predict criminal behavior. Although some general factors that might enhance criminal behavior could be addressed, it is difficult to estimate and predict individual criminal behavior. When we cannot understand the causes of crime, it is hard to treat the criminals.

b) *Lack of Effective Methods to Change Behavior*

Behavioral science and psychology are rather new sciences and psychotherapies aimed at changing behavior, having a history of only two hundred years. Human behavior is very complicated and difficult to change once reaching adult hood. Furthermore, when criminal behavior is identified, changing it becomes difficult. Usually, you find clients who lack the motivation to change, often tell lies, distrust you, and decieve you. They are persons who have some difficulty in having good relationships with people; while trust and a good relationship is the basis of making people change.

Also psychotherapy has been developed in the framework of medical hospitals and/or clinics for patients. Usually those patients want to be cured and follow the framework of psychotherapy. However, since prisons confine different kinds of people, and have another kind of purpose, they have different type of framework. Contradictions in the frameworks of prisons and traditional psychotherapy could be another factor disturbing the psychological treatment of offenders in prisons. After all, effective methods to change criminal behavior have not been established yet.

c) *Lack of Reliable Statistical Methods to Evaluate the Effectiveness of Programs*

Lastly, there is a problem in evaluation the effectiveness of treatment programs. You need feedback to improve the programs, however statistical methods to evaluate treatment programs have some difficulties, such as random sampling and selection of independent and dependent variables. As a result, some say that no rehabilitation program works effectively, and others say that some programs do work. No lay people understand the statistical methods to get these results fully. People doubt that any kind of valid result could be drawn. In this type of situation, people tend to believe what they want to believe. Treatment programs can not be improved if you do not understand what kind of programs is effective for what types of offenders, and to what extent.

3. Countermeasures

The countermeasures to these problems are basically to work with each factor disturbing implementation of effective treatment programs, and to break through the vicious circle created by these factors. Below are some countermeasures to solve or improve each problem factors disturbing the implementation of effective treatment programs to reduce criminality.

a) *Greater Understanding of Crime Causes and/or Characteristics of Criminals*

Concerning the cause of crime, some characteristics of criminals are becoming clear. One factor is the psychology of aggressive and psychopathic personalities. Hare made a Psychopath CheckList Revised(PCL-R)(4), which is an objective assessment measure based on his research and Cleckley's concept to the psychopath, "Mask of Sanity". This measure makes it possible to operationally define psychopaths and Gacono and Meloy have studied psychopaths using PCL-R and Rorschach Tests. Those studies found psychopathic criminals to have more ability to ward off anxiety, or decrease dysphoric affects, and this ability had obvious impact in eliminating the deterrents to criminal activity. They also found that psychopaths had aggressive and narcissistic personalities with some extent of cognitive disorder(Gacono & Melay, 1994; Hare, 1995).

There are also some bio-psychological findings. One aspect of the psychopath's physiology is evident in the differential patterning of lower skin conductance level, an under-aroused EEG profile and higher heart rate in anticipation of aversive stimuli when compared to non-psychopaths. This pattern suggests a decreased sensitivity and active psychological coping in preparation for an aversive stimulus. It is not clear how those biological aspects, family background, socio-economic background, and personality make an individual criminal. However, all negative factors are required to be a perfect criminal. If one of those factors is lacking, other positive factors can prevent them from becoming a criminal.

Another kind of concept concerning the personality of criminals and delinquents is the Antisocial Personality Disorder (ASPD) and Conduct Disorder in DSM-IV(American Psychiatric Association, 1994). When the Diagnostic and Statistical Manual of Mental Disorders third edition(DSM-III) employed the Axis concept and mentioned Personality Disorders in 1980, it became possible to define antisocial personality disorders operationally, and study them with some reliability. Now people believe a criminal does not become a criminal in one day. Hardcore criminals have started their criminal carrier before the age of 10 years, committed a variety of delinquent and criminal conduct.

Juveniles under 16 years who have

behavioral problems could be diagnosed as having conduct disorders. Among those with conduct disorders, some would grow up to become adult criminals diagnosed as having antisocial personality disorders. Other juveniles diagnosed with conduct disorders quit criminal conduct and become law abiding people. What makes this difference is now believed to be the: ability of attachment; ability to have a relationship with real human beings (not idealized); and ability of impulse control. Even though causes of crime are not understood perfectly, it is possible to differentiate juveniles who become chronic criminals and those who do not to some extent, and these criminals who are dangerous and those who are not. Anyway, it is a good idea to continue to try to gain more understanding of crime causes and/or characteristics of criminals.

b) *Establishment of Effective Methods to Change Criminal Behavior*

Even though psychological treatment to change criminal behavior is still developing, DSMs have also contributed much to the development of psychotherapy for personality disorders, including antisocial personality disorders(ASPD). Although there are some psychiatrists who believe it is impossible and/or unnecessary to treat ASPD, others have addressed some ways to treat ASPD affected. Basic techniques to treat ASPD are concerned with: how to motivate for change, how to have and maintain relationships, and how to treat therapist's counter transference (Davio, 1990, Dergsen, 1995; Fujioka, 1998;. Livesley, 1995).

Some psychiatrists emphasize types of conduct disorders. According to them there are 4 types of conduct disorders; socialized, characterological, neurotic, and psychiatric. The prognosis and appropriate treatment differs according to types. The extent of psychological problems and necessity of psychological treatment also differ according to types (Fujioka, 1997; Weiner, 1992). This means that classification aimed at making treatment plans is important. Some might need more psychological treatment, others might need other kind of programs such as vocational training and education.

Still some psychiatrists prefer cognitive-behavioral treatment. They tend to be practitioners and prefer group treatment. They believe that even if they do not understand the causes of crimes, it is possible to treat them. They do not believe in the medical model, which emphasizes professional people who have full understanding of the causes and methods to cure the disease and help patients. They tend to believe in the ability of criminals to help themselves. Since professional people can not follow criminals and prevent criminal behavior all the time, it is the criminals themselves who must prevent themselves from committing criminal behavior again. So, the basic idea of treatment is to help the criminals enhance their ability to help themselves. They focus on specific types of offenders such as sex offenders, violent offenders and drug addicts. Now most people believe some treatment programs will help some offenders to prevent recidivism, to some extent. So the topic should be focused on what treatment programs are effective for what types of offenders. Programs should be developed according to these lines. These types of treatment programs for specific types of offenders will be dealt with in detail in the next sections.

c) *Establishment of Statistical Methods to Evaluate the Effectiveness of Programs*

It is very important for improving treatment programs to evaluate the results of programs and have feedback on them. Because of computerization and progress in the field of statistics, methods to evaluate the effectiveness of the treatment

programs have been much improved and the effectiveness of some programs has been proved (Andrew, 1998). Efforts to evaluate the effectiveness or ineffectiveness of treatment programs should be continued and will help improve the understanding of causes of crimes and treatment programs of criminals.

B. Treatment Programs for Drug Addicted Prisoners

1. Actual Situation

According to the distributed questionnaire, we observed that among 17 participating countries, only Japan, Hong Kong, Malaysia, and Thailand have special treatment programs for drug addicted offenders in their prisons; whereas Botswana, Fiji, Kiribati and Solomon Island do not have any programs. The other 9 participating countries treat drug addicted prisoners with the treatment programs available for the general prison population. The actual situation of the treatment programs implemented in the relevant countries will be discussed hereunder.

(a) *Hong Kong*

In Hong Kong the Drug Addiction Treatment Centers Ordinance(Cap.244) empowers the courts to sentence a drug addict, found guilty of an offence punishable by imprisonment, to detention in a drug addiction treatment center. The aim of the compulsory drug treatment program is threefold:

a) Detoxification and restoration of physical health;
b) Uprooting of psychological and emotional dependence on drugs; and
c) Preparation for the inmates reintegration into the society

The period of treatment ranges from a minimum of two months to a maximum of 12 months, followed by 12 months of statutory aftercare supervision. The actual length of treatment is determined by the prisoner's health and progress, and the likelihood of remaining completely drug free after release. The work program in the treatment center aims at improving the inmate's health, developing good work habits and establishing self-confidence and a sense of responsibility. Inmates are assigned with work commensurate with their capabilities, skills and fitness. Those who are found to be medically unfit for a work program will attend occupational therapy classes. Prisoners released from addiction treatment centers are subjected to 12 months of supervision, which aims at assisting the released inmates to reintegrate into society.

(b) *Japan*

In Japan, the situation of the treatment program of drug addicts prisoners in prison is organized in groups at three points in time: upon entry, at the mid-point of their custody and at the time of discharge. The general treatment program summarized as follows:

i) Fact Finding Survey: A survey is done to find out how drug abusers become addicted to drugs by answering a set of questionnaire.

ii) Stimulants' Effects on the Mental and Physical Aspects of Abusers: The prisoners are made to consider the effects of drugs on their body and mind. In this, prisoners record experiences, such as illusions and delusions.

iii) Social Effect of Drugs Abuse: Prisoners are made to record their own experiences and discuss the negative effects of drug use on them and their families.

iv) Legal Restrictions: In this particular step, prisoners are made to understand the significance of legal restrictions and the actual system of court trials. The strict implementation of trial sentences and imposition of punishment are explained to them.

v) Methods and Determination on the Abandonment of Stimulant Abuse: Prisoners are told to make a commitment to completely give up stimulant drugs. Prisoners prepare methods for abandoning stimulant drugs, and consider how to resist temptations from their peer groups.

vi) After Receiving Drug-Free Education: Lastly after receiving drug free education, the level of comprehension of the course content is checked. In addition, female prisoners are taught to understand that stimulant drug abuse affects not only themselves but also their fetus and newborns.

(c) *Malaysia*

In Malaysia, a Therapeutic Community(T.C) Program is implemented together with the general treatment programs such as orientation, prison work and physical training. This program bridges the communication gap between staff and drug addicted prisoners typically found in correctional institutions, and also utilizes the prisoners' peer influence and self-help concepts. Drug addicted prisoners who live and work together meet with the staff regularly with a desired goal of improving post-release performance. By employing (under staff direction) open communication, discussion, as well as other T.C treatment methods, participating prisoners can adjust their behavior through learning, testing and projecting themselves as effective role models.

(d) *Thailand*

In Thailand, drug addict prisoners will be sent to special prisons which provide treatment and rehabilitation programs. At present there are 6 prisons to cater for such prisoners. Treatment programs provided for drug addicted prisoners consist of 3 stages:

i) Withdrawal stage: Detoxification methods used in institutions is based on 'cold turkey' without applying methadone.

ii) Psychological and physical recovery stage: Psychological treatment aims to restore and reconstruct self-confidence, morale and attitude. Physical reconstruction, which is done at the same time, aims to restore body strength and fitness.

iii) Rehabilitation stage: Besides the psychological and physical treatment, vocational training, formal education and work are the main elements of the rehabilitation program. Moreover, the Department of Corrections has implemented the Therapeutic Community (T.C) program to rehabilitate the ex-drug addicted prisoners mentally and physically. The T.C program is implemented in 75 prisons and correctional institutions where drug addicted prisoners are imprisoned.

(e) *Singapore*

In Singapore, drug addicted prisoners are detained in Drug Rehabilitation Centres for a minimum period of 6 month up to a maximum period of 36 months depending on the number of previous admissions. Prisoners with greater number of previous DRC admission will be kept longer in the DRCs. Upon arrest, all drug addicts are sent to the reception centre. This is where they undergo a compulsory detoxification period for one week. After detoxification., inmates are transferred to DRCs.

Following a review of the drug program, Community-Based Rehabilitation was given greater emphasis to assist the treated addicts to reintegrate into society. Upon completion of their minimum period in DRC detention, inmates will be places in one of the following programs:

a) Community-Based Rehabilitation(CBR)
b) Extended Institutional Rehabilitation(EIR)

Under Community-Based Rehabilitation, inmates may either be selected for any of the three schemes: the

Halfway House Scheme(HWH), Residential Scheme or Halfway House Scheme with Naltrexone/Residential Scheme with Naltrexone. Once the inmate is selected for the CBR scheme, they may voluntarily opt out of the program only before it starts. Inmates who are selected for CBR are required to undergo the Pre-Release Program.

The Halfway House Scheme requires the inmates to stay in a halfway house for a period of six months, work during the day and return to the HWHs in the evening to observe curfew hours. The Residential Scheme lasts for a period of six months. However, the inmates are required to be tagged with an electronic monitoring device when released. The inmates are also required to work during the day but have to return home in the evening to observe curfew hours. They must report regularly back for counseling and urine testing.

In August 1993, the Department launched a pilot program involving the use of the drug Naltrexone on some inmates. A person who is on Naltrexone will not be able to 'get high' if he or she consumes a narcotic drug. Naltrexone is not addictive, hence it is not a substitute drug for the addicts.

Those inmates who do not qualify for the Community-Based Rehabilitation or who voluntarily opt out of CBR programs are placed under Extended Institutional Rehabilitation(EIR). In this way their detention periods in the DRCs would be extended up to between 12 to 24 months, depending on their categories.

2. Problems

In order to implement special treatment programs for drug addicted prisoners, we will identify various problems faced by those related countries. The population of drug addicted prisoners in many countries has been soaring, thus making the special treatment of drug addicted prisoners a global and urgent issue. The problems concerning special treatment programs for drug addicted prisoners are as follows:

a) *Lack of Treatment Programs or Other Related Resources*

In Bangladesh, Indonesia, Nepal, Ghana, Papua New Guinea and Kenya, drug addicted prisoners are treated together with other prisoners by giving them counseling and religious guidance. In the Philippines, there is no special treatment program for drug addicted prisoners. In Korea, drug addicted prisoners are segregated from other prisoners, but general treatment will be given to them. In Pakistan, drug addicted prisoners are sent to hospital outside of the prison to undergo the medical treatment.

b) *Difficulties Encountered in Implementing Special Treatment for Drug Addicted Prisoners*

(i) Lack of motivation of drug addicted prisoners: From our experience, drug addicts have very weak willpower. They can maintain a drug-free life while in prisons, but once they are released, due to easy access to drugs and for other reasons, they soon relapse. This implies that the programs are not effective enough to motivate drug addicted prisoners to quit drugs when they are released from prison. On the other hand, drug addicted prisoners have some health problems, e.g., HIV, physical deficiencies etc. which need special care from the prison authorities.

(ii) Lack of specialists to implement the program: Due to increase of drug addicted prisoners in some countries, e.g. Malaysia and Thailand, prison authorities faces the insufficiency of specialists who are able to conduct treatment programs effectively.

3. Countermeasures

a) *Establishment of Treatment Centers for Drug Addicted Prisoners*

As far as resources and security factors

permit, it is preferable to separate all drug-addicted prisoners from those non-addicts, and to centralize them in separate, designated institutions. This is to facilitate the implementation of treatment programs especially designed for drug-addicted prisoners. It is also the best way to treat the various types of drug addicted prisoners such as the seriously addicted prisoners or the drug addicted prisoners with health problems e.g. HIV, physical deficiency. For those countries where there are no specific treatment programs for drug addicted prisoners, they may consider adopting the treatment programs that we have discussed.

b) *Countermeasures to Solve Problems in Implementing Special Treatment Programs for Drug Addicted Prisoners*

(i) Cooperation with other agencies outside prisons: Successful rehabilitation programs for drug addicted prisoners require strong and sustainable systems, especially to prevent the ex-drug addict prisoners from relapse.

Cooperation with other related agencies, outside of prison, is required to give aftercare or counseling services to the ex-drug addict prisoner to maintain their drug-free life and motivate them to keep away from drugs. Facilities and programs provided by halfway houses, community rehabilitation centers etc. can be utilized in order to monitor the ex-drug addicted prisoners, having personnel to educate and supervise them closely within certain period.

(ii) Recruit and train more specialists: To cater for the needs of special treatment programs for drug addicted prisoners, and in accordance with the increasing number of drug addicted prisoners in prison, more specialist in related fields should be recruited. The other alternative is to train selected staff in the respective treatment programs.

C. Treatment Programs for Sex Offenders in Prisons

1. Actual situation

According to the questionnaire distributed to all the course participants, only 4 out of 17 countries have special treatment for sex offenders. These countries are Botswana, Hong Kong, Korea and Japan. Therefore, we introduce the treatments measures for sex offenders in those countries and discuss the problems and countermeasures.

(a) *Botswana*

There are special treatments for sex offenders in prisons in Botswana. They include interviewing the sex offender, individual counseling, sex education, group counseling and group discussion. The purpose of this treatment is to help an offender realize their problems and how to deal with them. These treatments are conducted by prison social workers and chaplains. These social workers and chaplains are sent to training institutions, like the university for social work training or theology, which cover psychology as a major subject. The group counseling is held once per a week with a duration of one hour, whereas individual counseling is conducted frequently. However, it normally takes long time for prisoners to open up and talk about their problems.

(b) *Hong Kong*

The objective of the treatment programs for sex offenders is to provide comprehensive assessment and treatment services for incarcerated sex offenders, as well as for those referred by the court and relevant review boards for evaluation purposes. At present both individual treatments as well as a structured treatment program, “The Sex Offenders Self-Help Program”, is offered to inmates. The Sex Offenders Self-Help Program has

a combination of self improvement stratergies covering the following areas:

- Sex knowledge;
- Managing stress and negative emotions;
- Identifying and changing distorted sex attitudes;
- Improving social skills;
- Victim empathy training;
- Understanding offending patterns and relapse prevention;
- Community reintegration and resources.

The Sex Offender Self-Help Program is designed to supplement individual psychotherapy. The program provides a non-coercive and supportive environment for motivated offenders to learn, through using the multi media materials contained in the self-improvement packages, with the assistance of the Duty Psychologist. Weekly group sessions to consolidate learning and contact with a personal tutor for in-depth therapy is also arranged. The treatment period for offenders varies depending on individual needs and may range from a few weeks to six months.

(c) *Korea*

There is specific treatment for sex offenders in Korea. The contents of the treatment are counseling, interview and education about sex, HIV and sexual morals. This treatment is conducted by psychologists or religious leaders (such as priests, monks, etc) who emphasize the importance of the family. Prison officers makes prisoners exercise to have a sound mind. The purpose of this treatment is to prevent the offenders from relapsing into sex offences.

(d) *Japan*

Not all sex offenders are given specific treatment in Japan, but some ambitious treatment is conducted in juvenile prisons such as Kawagoe and Nara Juvenile Prisons (Correctional Bureau, 1994). The purpose of these special treatment programs is to make the sex offender in prison aware of their problems, to remove their problems and to realize their re-integration. The detailed objectives are as follows:

- To motivate them and to make them aware of their own problems;
- To make them think of how to solve these problems;
- To make them have sympathy to others;
- To make realize the damage to victims and have respect for women;
- To make them realize how to express themselves in an unselfish way;
- To make them internalize treatments.

Necessary treatment is given to the sex offenders six to twelve times in accordance with the treatment programs. The content of this treatment is summarized as follows:

- Counseling;
- To make them write a composition titled “My future”;
- Group discussion;
- Role playing;
- To make them watch videos about sex, HIV and sexual harassment;
- Role lettering (to make them write a letter titled “If I were the victim”).

2. Problems

There are many problems concerning the treatment of sex offenders in prisons. These problems can be broadly divided into two categories. One is the lack of specific treatment programs and/or other necessary resources in most countries, and the other is related to the difficulties in implementing the special treatment programs for sex offenders.

a) *Lack of Treatment Programs or Other Related Resources*

As we described above, only 4 countries have specific treatment programs for sex offenders. That means the other participating countries do not have specific

treatment methods. According the questionnaire, the reasons why specific treatment for sex offenders does not exist in those countries are as follows:

- Because there are few sex offenders (e.g. in Nepal and Pakistan)
- Because treatment for sex offenders in prisons is not established yet (e.g. in Ghana, Kiribati, Philippines, PNG, Solomon stands and Thailand.)
- Because there are no specialists who can give specific treatment for sex offenders (e.g. in Fiji and Malaysia)

For the countries who have few sex offenders, specific treatment for them is still needed because sex offenders mostly have psychological problems resulting from, for example, child abuse or incest. Therefore, even though there may be few sex offenders in a country, the importance of specific treatment for sex offenders cannot be ignored.

b) *Difficulties Encountered in Implementing Special Treatment Programs for Sex Offenders*

There are special treatments for sex offenders in prisons in Botswana, Hong Kong, Korea and Japan. However, the psychologists or specialists who treat sex offenders in prison encounter the following difficulties in implementing these treatment/methods:

(i) Unwillingness to participate in Specific Treatment by sex offenders: Counseling or group discussion is contrary to their privacy, especially when themes are related to sex offences. As sex offences are of a shameful nature, most offenders just express "I feel repentant deeply" and do not speak or discuss actively their crime.

(ii) Variety of sex offenders: There are many type of sex offences such as sexual perversion, fetishism, exhibitionism, voyeurism, pedophilia, sadomasochism etc. Consequently, those offenders are inclined to think "I am different from others" and are not motivated to join group activities.

(iii) Deep-rooted causes of sex offenders: It is difficult to change the base character of sex offenders because the cause of these offenders have sometimes arisen from their infant experiences such as child abuse or incest. Accordingly, specific treatment for them, other than prison work or academic education, should be implemented.

(iv) Changes of counselors or trainers: From time to time, the counselors or trainers will be changed due to transfer, promotion or retirement. However, it is difficult to change the trainer of sex offenders because the treatment of sex offenders is based upon the trust relationship between the trainer and the prisoner.

3. Countermeasures

The group members agreed that it would be difficult to solve the above-mentioned problems, but the following countermeasures might be useful to ease off the present situation.

a) *Introducing Treatment Programs or Other Related Resources*

For those countries that lack specific treatment for sex offenders, they may give due consideration to the types of treatment programs being implemented in other countries.

For those countries that lack psychologists or specialists, the present situation can be improved if some selected correctional officers are educated in psychology and used to assist the psychologists to provide necessary the treatment for sex offenders. If the authority doesn't understand the importance of specific treatment programs for sex offenders, these officials should be invited to attend relevant international seminars, conferences or committees in order to make the governments of those countries aware of the importance to the treatment of sex offenders

b) *Countermeasures to Solve Problems in Implementing the Specific Treatment Programs for Sex Offenders*

(i) Privacy and good atmosphere: If the sex offenders doubt that their privacy is not well secured, they will not speak frankly in counseling or group discussions. Accordingly it is most important to teach the inmates strictly keep others secrets and privacy. In addition, the atmosphere of group discussions should be made as relaxing as possible, for example by arranging the allocation of tables in the form of circle or by adopting individual counseling when needed.

(ii) To teach them sex offenders have common ground: The study of by Jonathan E. Ross, M.A. "New Hope Treatment Centers" (1-800-776-6482, 1994) teaches us that sex aggressors, for example those steal who sexual items, sexually harass, commit pedophiles, forcibly rape and commit sexual homicide, drives are based on the same background. Accordingly, sex offenders should be convinced that other sex offences come from common ground and they should be motivated to understand each others problems.

(iii) Relapse Prevention Program: It is hard reform the character of sex offenders, but it is possible to make them prevent relapse. George and Mariatt suggested a "Relapse Prevention (RP) Program for sex offenders". The purpose of the RP Program is to make an offender anticipate the relapse problem and manage it. The method of the RP Program is to make them write what problems may happen in a day and how to manage them, individual counseling, group discussion, role playing etc (George and Mariatt, 1989).

(iv) To standardize methods and keep good records: It is unavoidable that the trainers are sometimes changed because of transfer, promotion or retirement. Accordingly, it is very important to standardize the methods of treatment via working manuals and to keep good records of treatment for proper hand-over from one to another.

D. Treatment Programs for Violent Offenders in Prisons

1. Actual Situation

In this paper, violent offenders are referred to as those with a tendency to solve their problems by resorting to violent actions. Those with this propensity will inevitably bring into prisons their violent behaviors when convicted. Therefore, some kind of psychological treatment is deemed necessary to reduce the risk of their re-offending.

As indicated by the questionnaire distributed, none of the 17 participating countries have treatment programs for violent offenders, but the psychologists, of some countries will provide some sort of treatment to them if necessary. For Botswana and Fiji, counseling is the only treatment measure they employ. In the case of the Solomon Islands, violent offenders are encouraged to attend religious activities and participate in religious seminars that are normally provided by church organizations. In Indonesia, they arrange a "SHOLAT" session that requires the violent offenders to pray to God five times a day. The other participating countries like Bangladesh, Pakistan and Thailand segregate violent offenders in separated cells. In Ghana, Kenya, Kiribati, Malaysia and Papua New Guinea, violent offenders are treated like any other prisoners. They have no special treatment programs but they are treated like the rest of prisoners who participate in prison work, education or vocational training.

It is essential to identify the motives of the commission of violent crime and the causes to enable us employ the appropriate treatment.

2. Problems

a) *No Specific Treatment Programs for Violent Offenders in Prisons*

According to the questionnaire, none of the participant countries have any comprehensive treatment programs for violent offenders. The common treatment is only the separation of violent offenders from the rest of the prison population. Chronic violent and aggressive prisoners are locked up for their own safety, and for that of staff and other inmates.

The absence of specific treatment programs in prison for violent offenders has been identified as a problem. This is because violent offenders are prone to violent actions and their treatment is essential to reduce re-offending when returned to normal society. Why do we need treatment programs for violent offender? The reasons are as follows:

- Some of them have cognitive behavioral problems.
- Some of them have a tendency to solve their problems by violent actions. This is a common factor in all countries and most of these offenders are recidivists.
- Some violent offenders may have mental problems and or alcohol problems.

3. Countermeasures

a) *Implementation of Packaged Programs for Violent Offenders*

The mere segregation and locking up of violent offenders is seen to be a non-rehabilitative measure. The violent offender will not receive any treatment for their violent behavior. For this reason, we intend to introduce a treatment program that has been initiated by the Canadian Services for Correction(CSC). The program has been researched and tested by this agency and proved effective. Seeing that none of the 17 countries have such a treatment program, the introduction of the CSC treatment program for violent offenders may help in formulating such programs in the those countries. The program may not be suitable to some countries but it will give them some ideas.

b) *Intensive Treatment Program for Violent Offenders*

The treatment program conducted by the Regional Health Center in Abbottsford, Canada offers an intensive treatment program for violent offenders, specifically for federal inmates who are seen as being at a very high risk of re-offending (Mulloy & Brown, 1994). The staff involved in the program include a psychologist, social worker and nurses, who implement the treatment provisions. Staff from other disciplines are also involves as needed. The treatment team model is used with all staff involved in treatment.

The program is a multi-model, with emphasis on cognitive-behavioral therapy and relapse prevention. There is also focus on amending specific offender skills deficits, such as communication and anger management. The setting of pro-social group norms by participants is encouraged through daily group psychotherapy and group living. Two methods included in the program are:

i) Cognitive-behavior therapy: cognitive-behavior therapy is the predominate treatment model, and has been shown to be one of the most effective treatment methods. A strong emphasis is placed upon the group experience and the importance of forming supportive relationships with other group participants. Teaching offenders different ways to think and to form relationships, while at the same time encouraging them to practice their developing skills on each other in a supportive environment, is believed to have a promising effect in terms of recidivism on re-entry to the community. It is also seen to be effective in improving self-regulatory cognitive, emotional and behavioral controls.

ii) Anger Management: The important element in this therapy is the creation of a delay between the provoking event and the emotional arousal. Criminal or delinquent populations have often been described as impulsive people who 'act before they think'. For this reason, the program will incorporate a number of elements intended to extend the amount of time between the event and the response. These elements include relaxation training, the identification of an internal observer and the recognition of internal dialogue about the provoking event. The inclusion of these delaying events should act to reduce the impulsive nature of the inmates anger response.

E. Treatment Programs for Organized Crime Offenders in Prisons

1. Actual Situation

According to the questionnaire distributed to all the course participants, no country, other than Japan, has special treatment programs for organized crime offenders. However we agreed that there was an increase in the trend toward organized crime in some countries, and efforts should be made to help those offenders re-integrate into society. Notwithstanding the tremendous difficulties encountered in the new challenges, in 1994 the Correctional Bureau of Japan set forth a new guidelines for those hard-core offenders.

a) *Characteristics of Boryokudan Inmates*

In Japanese prison 'Boryokudan' members are regarded as dangerous habitual offenders and have the following characteristics:

- Generally speaking, the Boryokudan inmates are classified as 'B class' in terms of allocation category, and 'G class' as to treatment category. 'B class' inmates have a propensity toward committing crime and 'G class' inmates should be given guidance and life skills training;
- They like to show off and are easily driven by impulsive characteristics. They have high loyalty to the organization and have little self-repentance;
- They undermine prison regulations and general treatment, and even disturb the rehabilitation of other inmates.

According to the statistics of Osaka Prison, which accommodate 2003 inmates, in May 1998 the number of Boryokudan inmates was 338(16.9%). While the total number of prison penalties during 1997 was 1792, the number of penalties imposed on Boryokudan inmates was 399(23.3%).

Consequently, special treatments are conducted for the Boryokudan inmates from a security view point, such as:

- Boryokudan prisoners are administered according to the group they belong to. They are separated from each other not only in cells but also in institutions.
- To avoid contention or strife in prisons, prison officers prohibit them from talking about the group struggles outside of the prison, and from organizing group with in the prisons. Letters are sensored carefully for this purpose.

b) *Some Aspects of Boryokudan Members*

Research on the life of Boryokudan made by the National Research Institute of Police Science in 1994 indicates that:

- The motivation to become members of Boryokudan is ostensibly the affluence of the Boryokudan.
- Over half answered that they blindly obey the direction of their boss.
- Most of them have no clear goal in their group.

c) *The Consciousness of Boryokudan Members*

Research on the life of Boryokudan members made by the National Research Institute of Police Science in 1994 indicates that the main reasons for leaving the organization is due to anxiety for their family, financial independence from the organization, being arrested by the police, having an appropriate occupation and being persuaded by their family or friends to leave the organization.

d) *Treatment Programs for Organized Crime Offenders in Prisons*

In the past, there was little treatment methods for organized crime offenders other than segregation and tight security control. To help the offenders leave the Boryokudan, in 1994 the Correctional Bureau of Japan set forth guidelines for the treatment of organized crime offenders in prisons.

e) *The Content of Treatment for Organized Crime Members*

The Correctional Bureau set up 10 types of treatment programs for organized crime members. These treatment programs are given to organized crime offenders 12 times, and the content of this treatment is as follows:

- To make them realize that it is impossible to continue as a member of the Boryokudan, 'that there are specific organizations to help their breakaway. Also that it is impossible to live as a Boryokudan member without committing illicit acts, especially after the enactment of the Anti-Boryokudan Law and that the "Giri and Ninjyo (duty and love)" in Boryokudan is just deception;
- To make them think about: the bad influences when living as members of the Boryokudan, the image of the Boryokudan in the future, the inconvenient life of the Boryokudan, the importance of the free citizenship and the reason why they became members of the Boryokudan;
- To make them understand how: to leave the organizations and to make their intention to leave the organizations more strong; they caused difficulty for their family and how to re-build good relationship with them;
- To make them understand the importance of lawful work and to teach them how to work in the community.

Target of Treatment	All the members, semi-members and Boryokudan-related prisoners.
Division of prisoners	1. Those whose intention to leave the organization is very strong. 2. Those who have the will to leave the organization, but hesitate to proceed with the breakaway. 3. Those who will not leave the organization.
Form of Treatment	Generally speaking, treatment of the first period is held in group and the second half is held individually.
Cell	Those who will not leave the Boryokudan are obstacles to those who intend to leave the organization. Accordingly, those who intend to leave the organization should be incarcerated in solitary cells if possible.

2. Problems

There are many problems concerning the treatment programs for organized crime offenders in prisons. These problems can be broadly divided into two categories. One is the lack of treatment programs and the other is related to the difficulties in implementing specific treatment programs for organized crime offenders.

a) *Lack of Specific Treatment Programs for Organized Crime Members*

As described above, only Japan has specific treatment for organized crime offenders in prisons, among the course participating countries. That means, that the other 16 countries, have no specific treatment programs except segregation. According to the questionnaire, the reasons why specific treatment programs for sex offenders do not exist are as follows:

- Because there are no organized crime offenders (e.g. in Fiji, Ghana, Kiribati, Nepal, PNG and Solomon Islands);
- Because there are few organized crime offenders (e.g. in Botswana, Pakistan and Thailand);
- Because it is very difficult for prison officers to make the organized crime offenders re-integrate into the community, so the treatment of them should be carefully implemented (e.g. in Indonesia).

It was noticed that as the transportation network developed, crime has become more internationalized and border less. In addition, as a country develops and becomes richer, the criminal organizations will increase their influence. Furthermore, the criminal organizations are always trying to extend their sphere of influence to get more money by illegal acts. Accordingly, even if there are few organized criminal offenders in a country, the importance of the specific treatment for them cannot be ignored.

b) *Difficulties Encountered in Implementing Special Treatment for Organized Crime Offenders in Prisons*

There are special treatment programs for organized crime offenders in Japan. However the implementation of this treatment is very difficult due to the following reasons:

(i) Lack of Personal or Other Resources: This problem has three aspects, that is:

- The prison officers provide little treatment for those who will not leave the criminal organizations, because it seems to be a waste of time.
- The main treatment for the Boryokudan is to encourage them to leave the organizations. However, the reasons why they cannot leave the organizations are quite different from each other. Accordingly individual treatment is most ideal for Boryokudan members. However, it is very difficult to conduct such programs for each of the Boryokudan members, because of a lack of personnel or other resources.
- The treatment programs for Boryokudan members have been newly introduced to the penal system. It is noticed that teaching materials such as videos, brochures and cassette tapes are still limited.

(ii) Lack of Cooperation by Related Divisions: Three divisions are involved in the treatment of organized crime offenders; the classification division, educational division and classification board. However, it is difficult for the officers of these three divisions to cooperate with each other, because Japanese administaration is divided vertically.

(iii) Lack of Care and Investigation After Release: Many organized crime members submit documents in which they pledge to leave the organizations. However, many of them may submit the documents because

they want to get parole. Moreover, there are still no measures to follow-up these cases and confirm whether prisoners really leave these organizations after release. More than that, it is difficult to help these prisoners find a job after release.

3. Countermeasures

In conclusion, it is difficult to solve all of the above-mentioned problems, but the following countermeasures may help to ease the present situation:

a) *Introducing Specific Treatment Programs for Organized Crime Members*

For those countries with a lack of specific treatment programs for organized crime offenders, the treatment system of Japan, as explained above, may be helpful. In addition, those countries where there are few organized crime offenders should study how to treat organized crime offenders in preparation for the future.

b) *Countermeasures to Solve Problems in Implementing the Special Treatment Programs for Sex Offenders*

The problems we mentioned above may be solved by following countermeasures.

(i) Development of New Group Treatment Programs and Materials: Prison officers should be reminded of their important role in the rehabilitation of offenders, notwithstanding that prisoners are organized crime offenders.

Furthermore, those who need treatment most are those whose want to remain in the Boryokudan, because they have more likelihood of recommitting crimes than others. Accordingly treatment should be extended to those Boryokudan members who want to remain in the criminal organization.

Due to the lack human resources, more emphasis should be put on the group treatment and the combination of group and individual treatment from the viewpoint of expense and effectiveness. Since the existing treatment programs are still at the primitive stage, more effective teaching materials such as videos, brochures and cassette tapes should be developed and introduced.

(ii) Close Cooperation of Related Divisions and Agencies: Close communication and cooperation should be maintained among the three divisions, that is the classification division, education division and classification board. Moreover, other authorities, for example police and public prosecutors office, should also be involved in follow-up action.

(iii) Effective Care and Investigation After Release: Following the release of a Boryokudan member on parole, joint follow-up action should be taken to confirm whether they have organization by the Probation Office and the Police. Working in the community is one of the best ways of re-integration, though it is difficult to help them find jobs after release. Accordingly, the Public Probation Officers should help them find jobs in conjunction with the Voluntary Probation Officers and other agencies.

V. WAYS TO SECURE THE TREATMENT ABILITY OF PRISON STAFF

A. Recruiting Capable Staff

1. Actual Situation

Normally, the process of recruitment, selection and appointment of prison staff is basically similar in most countries. Firstly, all the applications are strictly tested against the requirements of the job specification as advertised. The job specification will comprise of the educational qualifications, academic status, work experience, age, gender, general health, marital status, criminal

records and other information.

Secondly, the preliminary selection process begins soon after all applications have been received with a short list of candidates drawn up. The shortlisting of applicants will then have to undertake an intensive selection process conducted by the boards or commissions.

Thirdly, the examinations are composed of personal interviews, other specific job-related or job-oriented questions and examinations. If the applicants references and examination results meet the desired standard of the Selection Board, then the candidates will appear for a complete medical examination.

Having studied the actual situations among the 17 participating countries on the recruiting of prison staff, the group found that most countries recruited prison staff and some kinds of specialists to conduct the rehabilitation program, such as social workers, psychologists, doctors, nurses, vocational trainers, religious instructors, teachers, etc. However, some of those countries, for example Indonesia, Thailand, Malaysia, Kiribati, Nepal, Papua New Guinea etc., cannot recruit sufficient specialists in to their system. For some countries like Hong Kong, Malaysia and Nepal, some specialists are deployed from other government agencies, such as the Department of Health, Ministry of Education, etc.

Some countries also recruit specialists in accordance with their relevant qualifications. However, other countries like Botswana, Indonesia, Thailand and Malaysia, the educational requirements for the posts of specialists are generally required to hold a diploma or degree of social science or education, which include various majors. Thus, the personnel so recruited will undertake the jobs which may not be relevant to their knowledge, for example, those who graduated with a major in politics may work as a social worker. It was also observed that the educational requirement for recruiting prison staff in most countries, except Ghana and the Philippines, does not include the fields of criminal justice, criminology or corrections. For the recruitment of prison staff who works as prison guards, the minimum educational requirement specified by all countries, except the Philippines, is a high school certificate.

In conclusion, those 17 countries have recruited some kinds of specialist to conduct the rehabilitation programs in prisons. However, most of them cannot sufficiently recruit these specialists into their own system.

2. Problems

a) *Difficulty in Recruiting Rehabilitation Staff*

Most participating countries encountered great difficulty in recruiting the appropriate of people for positions. This results in an insufficiency of qualified staff who are capable of implementing the rehabilitation programs effectively, like psychologists, teachers, prison officers, technical instructors in various fields of trade etc. The difficulties of recruiting rehabilitation staff are mainly due to the unattractiveness of correctional work including low salary, poor working environments, poor working conditions and a bad public image.

As revealed by the questionnaire, for some countries like Bangladesh Indonesia, Papua New Guinea and the Solomon Islands, their situations may be worse than the other countries. For example, their prison buildings lack maintenance and the working conditions are far from satisfactiory.

b) *Inadequate Educational Background of Prison Staff*

While correctional work is viewed as a profession which requires specific knowledge on criminology, criminal justice and corrections, many countries do not

include these fields of knowledge in the educational requirements for recruiting prison staff. Prison staff are only required to have an educational background in social science or education. In many countries, prison guards have only a high school education. The lack of specific knowledge and advanced education of prison staff results in the inadequacy of educational backgrounds for working in correctional services. This problem will have adverse effects on the ability of staff to rehabilitate prisoners.

3. Countermeasures

a) *Enrichment of Recruiting Qualified Staff*

To solve the problems of recruiting the right caliber of people for prison jobs, the correctional administrators must have an effective recruitment system with a view to attracting and selecting qualified persons to join the correctional service. This involves the ability to publicize and maintain a good public image, and also the ability to set up an effective staff selection process.

Moreover, the government and correctional administrations in various countries should consider the necessity of awarding a premium to correctional officers who have to work under demanding prison conditions.

b) *Quality Training for Prison Staff*

To equip the new recruits with the necessary knowledge and skills for discharging their duties and implementing the various treatment programs, correctional administrators should provide quality basic training and constant guidance. In addition, appropriate development training should be provided to currently serving staff, in order to enhance their job performance and develop their potential for taking up higher responsibility. To motivate staff to achieve academic qualification, correctional administrators could render assistance by providing scholarships or study leave etc.

B. Training of Prison Staff to Enhance Their Treatment Ability

1. Actual Situation

After selection has been made, recruited prison staff should be put through intensive and extensive training programs, conducted by a training institute.

Apart from Bangladesh, Kiribati and Nepal, most participating countries have established staff training institutes to conduct training courses for prison staff. In general, the major levels of training, provided by training institutes, can be divided into two types:

(i) Basic Recruit Training: This training aims at providing new personnel with the basic knowledge and skills for carrying out their duties. The basic recruit training also aims at imparting a sense of professional ethics, conduct etc. The course content for this training includes: basic prison laws, rules, and regulations; correctional treatment programs; counseling skills etc. Other practical skills taught in training programs are self-defense, use of firearms, first aid, foot drill, riot drill, fire drill and so on. According to the questionnaire, we found that all participating countries, except Nepal, have these kinds of training course.

(ii) Refresher and Developmental Training Courses: Refresher courses are organized regularly for correctional staff to update their operational knowledge. This also serve to inspire a renewal of interest in their daily duties. Developmental training courses for promotional purposes are conducted for selected personnel to give them a thorough grounding in the theoretical aspects of their work. This is to prepare them for a higher level of responsibility.

Apart from the above training courses, in most participating countries, training

courses relevant to the rehabilitation of prisoners are provided. In Papua New Guinea, the training courses on conflict resolution, and for religious educational instructors and trade instructors, are provided by training institutes. In Thailand, there are training courses on classification, Therapeutic Community and religious activities

In Malaysia, the training courses on crisis management, counseling, Therapeutic Community and handling HIV related prisoners, are provided by a training institute; while training for trade instructors is conducted by the National Council for Vocational Training. Apart from that, opportunities have been given to serving officers to pursue their education of local universities in the areas of counseling, psychology, human resource management etc.

The training institute in Hong Kong runs various development/specialist courses such as Management Development Courses, Hospital In-service Training Courses for Assistant Officers (General and Psychiatric) , Detention Center Courses, Drug Addiction Treatment Center Courses, Emergency Services Training Courses and Personal Computer Training Courses, etc.

In Japan, a training institute conducts training courses for psychologists, social workers, religious instructors, vocational trainers in progressive techniques. In the Philippines, there are training course in first aid, counseling and stress management. In Indonesia, the training courses relevant to rehabilitation programs are conducted by outside agencies, such as the Department of Industry, Department of Manpower and Department of Education.

2. Problems

a) *Lack of Systematic Training Program*

According to the survey conducted during the workshop, many countries have held training courses for newly recruited prison staff and training courses relevant to the rehabilitation of prisoners. However, it was observed that the training programs are not systematic. One of the reasons is that training programs are established without assessing the training needs of the prison staff. Thus, the curriculum of some training programs does not include essential knowledge on the rehabilitation of prisoners, e.g. psychology, criminology, social work, etc.

Moreover, lecturers in the training programs are normally senior prison staff who are not well skilled to be trainers. Mostly, they teach in accordance with their own experience and knowledge, without a full understanding of related theories or concepts. The lack of training assessment and qualified lecturers are the two main factors attributing to the ineffectiveness of treatment programs.

b) *Lack of Proper Guidance to Perform the Job*

In some countries, prison staff who have just undergone basic training are often placed on their own to perform their jobs in prison, without any proper assistance or guidance from the senior or peer officers. Due to the lack of experience and confidence in work, newly recruited prison staff are at risk of being tempted by prisoners and misguided by bad staff.

Since correctional work now requires prison staff to play a greater role than before, improvement in treatment programs will be more complicated. In some countries, prison staff have to perform security tasks as well as rehabilitative tasks. Both security tasks and rehabilitative tasks require high skill and understanding from prison staff, since these tasks sometimes conflict. To secure safety and prevent disturbances in prisons, staff have to carefully supervise prisoners, the rehabilitative task requires prison staff to provide the necessary services to prisoners with understanding. Without

proper guidance, it is difficult for new prison staff to perform their duty professionally and effectively.

3. Countermeasures

a) *Establishment of Systemic Training Packages*

Systematic and standardized training programs are essential and vital for equipping prison staff with necessary knowledge, skill and concepts. Such training programs should be job-oriented and useful in helping them discharge their statutory duties effectively.

In order to provide systematic training programs, it is suggested that the training package should be developed by assessing the training needs of prison staff at different levels and in different fields. After assessing the training needs, the curriculum of the training program should include subjects for enhancing staff performance, skill and concepts relating to the rehabilitation of prisoners, e.g., criminology, psychology, social work etc.

The training package should also include a training manual providing the method of teaching, and a presentation of the course content fro the trainer which provides the method of teaching and the presentation of the course content. The training manual will assist the trainer, as well as the lecturers, to conduct the training program consistantly from one trainer or training center, to another. The adoption of a standardized and systematic training package will improve the standard of training programs and guarantee that trainers will deliver the necessary knowledge and skill to trainee constantly.

b) *Development of 'On The Job' Training*

It is suggested that newly trained staff are, when possible, given on-the-job training so as to promote their skill and experience. Well structured on-the-job training will protect prison staff from the bad influence of prisoners and improper guidance from more experienced prison staff who have misconceptions about correctional work, as well as improve their understanding of their roles.

On-the-job training courses conducted in some countries like Hong Kong may be considered and applied. In Hong Kong, the correctional Services Department provides in-service training sessions for serving staff once per week in order to update their knowledge on laws, rules and regulations, operational duties and treatment programs etc. The officers also take the opportunity to discuss among themselves ways to promote the effectiveness and efficiency of the correctional work in their institutions. This kind of training is organized by the Staff Training Committee of the respective institutions, with close monitoring by senior officers and assistance from the Regional Training and Liaison Officers deployed from the Staff Training Institute. For officers under probation for a period of 2 years, the Regional Training and Liaison Officers will provide them with guidance and counseling in order to help them cope with their work environment.

VI. CONCLUSION

In conclusion, our group has studied the rehabilitation programs conducted in 17 countries as well as some specific countries, e.g. Finland, Singapore, Philippines, Canada, USA, etc. The rehabilitation programs, which are explored, are as follows:

- The treatment programs to enhance socio-economic ability of prisoners, i.e., prison work, vocational training joint venture schemes and education systems.
- The treatment programs for specific types of prisoners, i.e., prisoners with psychological problems, drug addicted prisoners, sex offenders, violent offenders and organized crime offenders.

After studying the actual situation for implementing these treatment programs in the 17 countries, we found that most countries sustained prison work and vocational training to rehabilitate prisoners. However, only a few countries could provide special treatment programs for specific types of prisoners in need of rehabilitation. In fact, many countries did not separate the specific types of prisoners from the general prison population. As such, some countries confined drug addicted offenders, violent offenders and sex offenders together in the same correctional institution, without the provision of special treatment programs.

The problem of lack of special treatment programs partly resulted from the lack of specialists capable to implement the treatment programs. The study revealed that the lack of a financial budget was the main reason for this fall short. It was commonly said that countries have budgetary and personnel constraints, so they could not implement any new treatment programs. These problems seem to be the major obstacle for some countries in rehabilitating prisoners and they prevent new kinds of progressive treatment from being introduced.

Nevertheless, our group has identified some countermeasures for such problems. Some countermeasures are proposed by way of securing the rehabilitation ability of prison staff. This means that trained prison staff may be deployed to plays these roles. Prison staff do not only play the role of security guards, but also that of the correctional staff who can perform rehabilitation roles and act as social worker or teachers. To play a different role in the rehabilitation of prisoners, prison staff should be trained and equipped with professional know ledge and skills in order to meet the requirements of the treatment programs.

Furthermore, cooperation with outside agencies is another countermeasure proposed to solve the problem of budgetary constraints. Group treatment programs are also introduced in order to increase the cost-effectiveness of programs. To assure the effectiveness of rehabilitation programs, the following recommendations might be taken into consideration.

A. Necessity of a Classification System for the Rehabilitation of Prisoners

A classification system is a method to investigate the characteristics of prisoners in order to provide them with suitable treatment programs that address their problems. Therefore, without an effective classification system, it will be hard to identify the needs of individuals and to implement treatment programs accordingly. It was also noted that some prisoners need special treatment programs; whereas others may just need general treatment programs like prison work, vocational training and education.

Therefore, it is suggested that prisoners be classified in accordance with their distinctive problems prior to receiving any kind of treatment programs; and should be reclassified after the treatment programs are provided in order to enhance follow up treatment.

B. Combination of Various Types of Treatment Programs for the Rehabilitation of Prisoners

Since the problems of prisoners are complicated, no single treatment program will be applicable to all types of prisoners. In addition, each type of prisoner may need more than on type of treatment program. It is recommended that prison work is necessary for almost all types of prisoners. However, prisoners should also be treated by other programs in accordance with their own needs. Prison officers should consider adopting appropriate treatment programs, or a combination of such, to address the problems encountered by different types of

prisoners, in order to help them rehabilitate.

C. The Importance of the Willingness and Motivation of Prisoners in the Effectiveness of Rehabilitation

The common problem repeatedly identified in this paper was the lack of the willingness of prisoners to participate in the treatment programs. Thus, it is strongly recommended that prison staff encourage prisoners to voluntarily participate in treatment programs. The ways of persuasion may be different from one country to another, depending on their correctional systems. In some countries, incentives, for example, remuneration or wages, can be employed to persuade prisoners. Other countries may persuade prisoners to participate by providing non-monetary privileges, e.g., promotion to a higher class and eligibility for early release, etc.

D. The Importance of Evaluating to Rehabilitation Programs

Despite some countries not having any evaluation systems for their rehabilitation programs, it is considered that these kinds of follow-up measures are necessary and important for correctional administrators to assess the effectiveness of the programs. As such, necessary improvements can be made accordingly.

Finally, we are fully aware that the correctional system in each country is different and distinctive. Some treatment programs may be applicable to some countries, but not to all. Thus, the respective countries may consider the feasibility of adopting the treatment programs as recommended by this report in order to meet their own needs.

REFERENCE

American Psychiatric Association (1994), Diagnostic and Statistical Manual of Mental Disorders. 4th ed.

Andrews,D. (1998), An Overview of Treatment Effectiveness: Research and Clinical Principles. Paper presented in UNAFEI 109th training course.

Anechiarico,Barry. (1998), "A Closer Look at Sex Offender Character Pathology and Relapse Prevention", International Journal of Offender Therapy and Comparative Criminology, 42(1), 16-26

Correction Bureau, Ministry of Justice (1994), Cases of Educational Treatment.

Correction Bureau, Ministry of Justice (1991), A Handbook for Prison Officers 112-134

Correction Bureau, Ministry of Justice (1997), Manual of Classified Treatment, "Guidance on Leaving the Boryokudan"

Davis, D. (1990), *"Antisocial Personality Disorder"* In Beck, A. & Freeman, A. Cognitive Therapy of Personality Disorder. Guilford.

Derksen, J. (1995), Personality Disorders: Clinical and Social Perspectives. Wiley.

Fuchu Prison, (1997), Statistics of Classification.

Fujioka, J. (1997), "Rorschach Assessment and Treatment Planning for the Conduct Disorder". Japanese Journal of Adolescent Psychiatry, 7(1), 13-20.

Fujioka, J. (1998), "Guidance of SST", Keisei vol.109 p96-102.

Fujioka, J. (1998),"Assessment and Treatment of Antisocial Personality Disorder". Psychotherapy, 24(1), 23-29.

Gacono, C. & Meloy,R. (1994), The Rorschach Assessment of Aggressive and Psychopathic Personalities. LEA: NY.

Hare, R. (1995), Without Conscience: The Disturbing World of the Psychopaths Among Us.

Ikushima, H. & Muramatsu, T. (1998), Practice of Clinical Treatment for Juvenile, Kongou Shuppan.

Imafuku, S. (1997), "Sex offenders and Community-based Treatment", Crime and Delinquency, 111,114.

Jonathan E. & Ross, M.A. (1994), New Hope Treatment Centers.

Kawagoe Juvenile Training School (1997), Manual of Classified Treatment and Standard of Classification.

Livesley, J. (1995), The DSM-IV Personality Disorders. Guilford.

Miner, Michael H. &. Dwyer, M. (1997), "The Psychosocial Development of Sex Offenders", International Journal of Offender Therapy and Comparative Criminology, 41(1), 36-44.

Mulley, R. & Brown, C. (1994), Canadian Psychological Association. Abbotsford British of Columbia.

Osaka Regional Correction Bureau, Correction and Education, vol.304, 305 and 308.

Perry, Garry P. & Orchard, J. (1992), Assessment & Treatment of Adolescent Sex Offenders.

Strain, C. & Sheath, M. "Groupwork as a Basis for Assessing Sex Offenders", Prison Service Journal, Issue 103 40-43.

Weiner, I. (1992), Psychological Disturbance in Adolescence. 2nd ed. chapter 8 Delinquent Behavior. Wiley.

TABLE I

PRISON WORK

	Prison Work		Vocational Training		Joint Venture		
	obliged	voluntary	yes	no	inside	outside	none
Bangladesh	○		○				○
Botswana	○		○				○
Fiji	○		○				○
Ghana	○		○				○
Hong Kong	○		○				○
Indonesia	○		○			○	
Japan	○		○		○	○	
Kenya	○		○				○
Kiribati	○			○			○
Malaysia	○		○		○	○	
Nepal		○	○				
Pakistan	○		○				○
Papua New Guinea	○		○		○		
Philippines		○	○				○
R. of Korea	○		○		○		
Solomon Is.		○	○				○
Thailand	○		○		○		

TABLE 2

EDUCATION

	Fundamental level		Advanced level		Illiteracy rate*	
	Int.	F.A.	Int.	F.A.	Male(%)	Female(%)
Bangladesh	Yes	Gov	No	-	50.6	73.9
Botswana	Yes	n/a	Yes	Gov,Pri	19.5	40.1
Fiji	No	-	Yes	n/a	6.2	10.7
Ghana	Yes	Gov,Pri	No	-	24.1	46.5
Hong Kong	Yes	Gov	Yes	Gov,PTA	4.0	11.8
Indonesia	Yes	Gov	No	-	10.4	22.0
Japan	Yes	Gov	Yes	Gov,Pri	-	-
Kenya	Yes	Gov	No	-	13.7	30.0
Kiribati	No	-	No	-	-	-
Malaysia	Yes	Gov	Yes	Pri	10.9	21.9
Nepal	Yes	Gov	Yes	Gov	59.1	86.1
PNG	Yes	Gov	Yes	Gov	19.0	37.3
Pakistan	Yes	Gov	Yes	Gov, Pri	50.0	75.6
Philippines	Yes	Gov,NGO	Yes	Gov,NGO	5.0	5.7
R.of Korea	Yes	Gov	Yes	Gov	0.7	3.3
Solomon Is.	No	-	No	-	-	-
Thailand	Yes	Gov	Yes	Gov	4.0	8.4

Int: Introduction, F.A.: Funding Authority, Gov: Government, Pri: Prisoner(s), PTA: Prison Trust Account, n/a: Not available, *: UN Statistics Division (1995)

GROUP 2

EARLY RELEASE OF PRISONERS TO FACILITATE THEIR RE-INTEGRATION INTO SOCIETY: THE ACTUAL SITUATION, PROBLEMS AND COUNTERMEASURES

Chairperson	Mr. Mohammad Yamin Khan	(Pakistan)
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Rapporteur	Mr. Elizabeth Malebogo Masire	(Botswana)
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I. INTRODUCTION

This group consisted of 8 participants from Bangladesh, Botswana, Japan, Nepal, Pakistan and Philippines. The group is composed of an Assistant Judge, a Psychologist, Social Worker, Police Officer, an Under Secretary, Probation Officer and 2 Prison Officers. The group was assigned to study and present a detailed report on the above subject, keeping in view the following points:

i) selection of early release candidates in balance with the risk of recidivism;
ii) time of early release to facilitate the reintegration of prisoners into society in balance with the execution of sentence as a punishment;
iii) adjustment and/or improvement of the living environment to which prisoners will return after their release from prison;
iv) composition of the decision making body for prisoners' early release.

In an effort to facilitate the prisoners' smooth re-integration into the mainstream of society upon their release, many countries have adopted remission, parole, pardon, amnesty, extra mural employment/ labour etc, as early release measures. It is necessary to point out here that there are two types of extra mural employment/ labour existing in some of the participants' countries. In one, prisoners are allowed to go out from the prison for work or labour, and they come back in the evening to the prison. This type of extra mural employment/labour cannot be considered an early release measure. However, in some countries, prisoners are released from prison to work in the community under supervision, and they are not required to come back to the prison. In this paper, only this latter type of extra mural employment/ labour is discussed as an early release measure.

However, these early release measures are confronted with many problems in the participants' countries such as:

i) improper selection of early release candidates in balance with the risk of recidivism;
ii) timing of early release;
iii) consideration of living environment to which prisoner will return after release;
iv) inappropriate composition of decision

making body;
v) negative public perception;
vi) lengthy procedure involved; and
vii) inadequate trained staff to supervise the releases.

It has been recognized, through research studies, that prolonged imprisonment does not serve the purpose of the reformation of prisoners. Rather, it has been observed that the early release of prisoners increases the chance of reformation and rehabilitation, and also the risk of their recidivism decreases. As such, the release of an inmate before the expiry of his/her sentence, under supervision, is seen as a logical step in the total correctional process; designed particularly to assist the prisoner to become a productive, useful and law-abiding citizen. It is believed that the conditions imposed upon their release are close to those they will again experience as a free citizen after the expiration of their sentence. At the same time, for a prisoner, early release is an opportunity to test their self-control and ability to adjust in the community. For society, it offers immediate protection through a degree of control over the prisoner's behavior and long term protection through a reduced likelihood of recidivism.

However, offenders can best be helped to be come law-abiding citizens in the community rather than in prison. The most important aspect of the early release measure is its efficacy; when well administered it assists the prisoner to successfully re-adjust into community living.

This report covers the aims and objectives of the early release system; the actual situation, and problems and countermeasures existing in the early release systems of all participating countries. Conclusions will be reached on the basis of the detailed study of actual situations and problems existing in the participants' countries.

II. AIMS AND OBJECTIVES

A. To Help in the Prisoners Reintegration and Adjustment in Society

Prisoners, especially those who have been incarcerated for long periods, often find it difficult to readjust to life in the community. Therefore, early release under any circumstances must provide a means whereby a prisoner may make a smooth transition from prison life to living in the community. With some degree of supervision this will reduce the incidence of criminal behavior and recidivism, while at the same time ensuring the safety of our communities.

B. To Act as an Incentive for Good Behavior

The granting of early release to inmates based on good behavior serves as an incentive to the prisoners. It helps most prisoners to make an effort to be of good behavior and improve their discipline by observing rules and regulations in anticipation of an early release. On the other hand, prison officials are assured that with this kind of incentive, it is expected that there will be fewer incidences of jail disturbances such as riots, noise barrage, escapes, etc.

C. To Decrease Prison and Jail Overcrowding

Some correctional administrators are confronted with prison overcrowding, which poses more problems and has a great influence in the decisions made in the criminal justice system. Therefore, early release measures on the practical side, are seen as a temporary solution to alleviate this problem. However, this should not be seen as the major objective, as the prisoners' re-integration into the society should be of paramount consideration.

D. To Cut the Costs of Maintenance

A major justification generally given in support of the early release system is that it is cheaper to maintain offenders in the community than in prison. Countries with limited resources tend to use this system more in order to cut the costs of maintenance in prisons.

III. ACTUAL SITUATION

A. Situation in Participants' Countries

1. Bangladesh

Bangladesh has the following early release measures:

a) Remission
b) Pardon or Clemency

a) Remission

The aims and objectives of remission are to rehabilitate the prisoner in society, to ease the problems of overcrowding and to reduce the cost of running expenses. It is granted to prisoners of good conduct and those who have showed the willingness to work and to learn a skill in prison. On the other hand, prisoners who donate blood also benefit from the remission exercise. The minimum period of imprisonment required to be served before release is 3/4th of the sentence or 75% of the total term of imprisonment.

b) Pardon

Pardon is granted on Independence Day and on Eid festival day by the President of Bangladesh to all convicted prisoners with the exception of violent and dangerous prisoners. They are denied this privilege because they are considered to be a danger to the society, and that there is a high possibility that they will re-offend during the period of early release. No statistics were given about the re-offending rate of the early releases, which made it difficult for us to determine its effectiveness and the recidivism rate.

2. Botswana

In Botswana, the early releases available are:

a) Remission
b) Parole
c) Extra mural labour

a) Remission

It is granted to prisoners of good conduct for the purpose of integrating and rehabilitating prisoners in the community. On the other hand, it is used as an incentive and reward for good conduct and behavior. There are two types of remission in Botswana:

i) The officer-in-change of a prison is empowered to release all prisoners with a sentence of one month and above on remission. One third of their sentence is set aside and normally they will be required to serve two-third or 66% of the total sentence before they can be released. The officer-in-charge may also recommend to the Commissioner the forfeiture of their remission in case of a breach of the disciplinary rules. Prisoners sentenced to life or under the Presidents' Pleasure or death, do not benefit from the remission exercise. About 99% of all the releases are due to the remission exercise, while the remaining 1% is for those released on parole. Apart from good conduct, there are no other requirements to be fulfilled before the release. There is no after care of those released and no conditions are imposed at the time of release.
ii) Under section 90 (4) of the Prisons Act, the Parole Board may recommend to the Minister of Labour and Home Affairs to grant special remission to prisoners on any of the following reasons:
    - Meritorious conduct and/or achievement;
    - Special circumstances such as mental or physical conditions;
    - To commute a life term prison or for

those serving under the President's pleasure.

This article, although enshrined in the Prisons Act, has never benefited any prisoner. The Parole Board and The Prisons Department have, for unknown reasons, chosen to ignore it.

b) Parole

The Prisons Act of Botswana governs all issues pertaining to parole. The parole system provides encouragement to prisoners to make greater effort toward rehabilitating themselves while in prison, as well as in the community. Its purpose is to encourage inmates to display a positive response to rehabilitation programs. On the other hand, it helps inmates to adjust to community life and lead a normal life with both their families and the community before the actual expiration of their sentence.

According to the 1996 statistics, only 1% of the total releases were on parole. The period actually served by parolees before being released was about 80% of the total term of imprisonment. However, it should be mentioned here that prisoners released on parole benefit twice, that is, as a result of the remission and the parole exercise.

Eligibility for Release on Parole:

i) The prisoner should be serving four years or above, neither the whole nor part of it was imposed for stock theft or being found in possession of precious stones. They must have served half of the term or three years imprisonment, which ever is the longer;
ii) They must be serving more than five years, the part or whole of which was imposed for stock or possession of precious stones. They must have served half of that term or five years imprisonment, which ever is the longer; or
iii) A term of imprisonment for life or confined during the President's pleasure and has served seven years imprisonment.

The Minister of Labour and Home Affairs is responsible for nominating members of the Parole Board. The Parole Board consists of the following:

i) A Judge who is the Chairperson,
ii) A Medical Practitioner,
iii) A Social Worker,
iv) Two other persons who are members of the public.

Before deciding to release prisoners on parole, the following aspects are taken into consideration by the Board:

i) That there is no possibility of re-offending during the period under parole supervision, and they pose no risk to society;
ii) views of the victim and society;
iii) previous criminal and disciplinary records;
iv) Whether s/he has learnt a skill or benefited from any of the treatment programs offered by the prison;
v) Whether s/he has accommodation, employment and or a support system after release.

Supervision of parolees is done by the social workers of the area where the prisoner will be residing after release. In areas where there are no social workers, the chief, headman, teachers or police normally do the supervision. Parolees are required to comply with conditions which will be stipulated to them during their parole period. In case of breach of conditions, a parolee may be reprimanded or the release license may be revoked. Action taken depends on the gravity of the violation. Upon recall to prison, the period stayed outside prison is not considered as time served.

c) Extra Mural Labour

Extra mural labour is the conditional release of an inmate from prison to complete their sentence outside prison

under the supervision of a public authority. It benefits prisoners sentenced to six months or less; or for non-payment of fine not exceeding P400. Under this order, prisoners of good conduct are required to do public work with no pay for the duration of their remaining part of the sentence. Failure to comply with release conditions may result in the revocation of the release license and the prisoner will be arrested and serve the remaining sentence in prison. The advantage of this scheme is that the offender lives at home and can therefore, continue to fulfil family responsibilities. About 9% of prisoners were released on extra mural labour in 1996. Only 0.05% were recalled back to serve the remaining terms of their imprisonment for failure to comply with the release conditions.

3. Fiji

In Fiji, the following early release systems exist:

a) Remission
b) Pardon
c) Extra mural labour
d) Compulsory Supervision Order

a) Remission

Remission is granted by the officer-in-charge of a prison to all convicted prisoners with a total sentence of 30 days or more, with the exception of those sentenced to life imprisonment. One third of the sentence is set aside at the beginning of the sentence but prisoners are required to serve a minimum of 2/3rd of the total sentence. No factors are considered in awarding it. Statistical data was not provided.

b) Pardon

The President of the Republic Fiji has the authority to grant pardon to prisoners serving more than 10 years with a good conduct and industry record.

c) Extra Mural Labour

Prisoners sentenced to imprisonment not exceeding 12 months may on commitment or thereafter, apply to the Commissioner of Prisons for their desire to undertake public work outside the prison. Upon release, such prisoners are employed and supervised by a public authority during the period of extra mural labour. Those with previous extra mural labour breaches may not be considered for release. Only 387 prisoners were released in 1996. The re-offending rate during the early release period was not provided.

d) Compulsory Supervision Order

The Minister of Justice has the authority to release a prisoner on Compulsory Supervision Order at any time, as she may think fit. On the other hand, the Commissioner of Prisons too can release a prisoner, under the Compulsory Supervision Order, who has been sentenced to prison on not less than two previous occasions, and is serving a sentence of 3 years or more. This is after the prisoner has served 2/3rd of the sentence and until released under Compulsory Supervision Order for the period of 12 months.

Prisoners serving life imprisonment can take advantage of early release/ Compulsory Supervision Orders after serving more than 10 years in prison, with favourable reports. 12 such prisoners were released in 1996.

Prisoners are allowed to apply for release under Compulsory Supervision Order and the officer-in-charge of a prison will forward such an application to the Commissioner, together with other relevant reports. It is then sent to the Minister of Justice and Minister of Home Affairs for final decision.

Remission is the only release measure granted without imposing any conditions. Statistics on early releases, as compared with the total number of releases, was not given, not was data on the re-offending rate of early releases as compared with releases at expiry of sentence.

4. Ghana

Ghana has the following early release measures:

a) Remission
b) Pardon/Amnesty

a) Remission

Section 34 of the Prisons Service Decree(NRCD 46)1972 of Ghana authorizes the officer-in-charge of the various prisons to release prisoners who meet the requirements for release on remission. It is granted on the basis of good conduct and study and is used to solve the problem of overcrowding. Prisoners serving determinate terms of imprisonment are required to serve a minimum of two third of their sentence.

b) Pardon/Amnesty

Amnesty is granted to all prisoners. Life sentenced and condemned prisoners are required to serve 15 and 25 years respectively before release under amnesty. In granting amnesty, the conduct of the prisoner is taken into consideration. No statistics were provided for the number released and the re-offending rate during the period of early release.

5. Hong Kong

Hong Kong has the following early release measures:

a) Remission
b) Release Under supervision

a) Remission

The officer-in-charge awards it as an incentive for good behavior. The minimum period required to be served before early release is 2/3rd of the sentence.

In the event of a breach of disciplinary offences, as enumerated in the Prison Rules and punished with forfeiture, the prisoner may lose part or the whole of the remission. One third of the prisoners got remission. No figures on prisoners released on remission, or those who re-offended during early release, were provided.

The pre-release employment scheme is available to all prisoners (who are not serving life terms or facing deportation) who have served terms of ten years or more and are within six months of completing their sentences, after deduction of remission.

b) Release Under Supervision

The factors which are considered before granting Release Under Supervision are:

- repentance on committing the crime
- less possibility of re-offending and risk to society
- type or gravity of the offence
- good conduct and achievement
- whether the prisoner would be able to fend for themself
- whether s/he has anyone to support them.

All prisoners, other than life term prisoners, may apply for Release under Supervision after serving 20 months or half of a 3 year sentence or more. Following approval by the Release Under Supervision Board, successful applicants will be discharged within the last six months of their sentences and required to go out to work and reside in a designated hostel under the supervision of the Aftercare Officers for the balance of the sentence. In practice, prisoners are released after serving 20 months or half of the sentence. The percentage of those released under this scheme, as compared with total number of releases, is 0.26%.

Prisoners released on early release system are required to comply with the conditions imposed upon them. No statistics were produced for the re-offending rate of those released on early release, versus those released at the expiry of their sentence in prison.

6. Indonesia

The following early release measures are

available in Indonesia:

a) Remission
b) Parole
c) Pardon

a) Remission

The following aspects are take into consideration by authorities before granting remission:

i) good conduct and achievements;
ii) whether the prisoner has a place of abode after release;
iii) whether the prisoner has a job or supportive system.

Remission is granted to prisoners on the basis of work in prison, good conduct, educational achievement, learning a skill, as well as helping prison management in detection of riots or a breach of prison discipline. Participation in religious practices and the donation of blood are also recognized. Statistics for the minimum period required to serve before being released on remission, for those who benefitted under this scheme, were not available.

d) Parole

The following aspects are take into consideration by authorities before granting parole:

i) good conduct and achievements;
ii) whether the prisoner has a place of abode after release;
iii) whether the prisoner has a job or supportive system

The President of Indonesia has the power to release any prisoner who applies for release on parole. However, he does so on the advice of the Minister of Justice and the Cabinet Secretary, after reviewing the prisoner's application and recommendation from the prison. For a prisoner to be eligible for release on parole, s/he must have served 2/3rd of the sentence.

e) Pardon

Pardon is given to prisoners by the President of Indonesia on humanitarian grounds, good conduct and old age. All the early release measures are conditional releases, which may be revoked in the event of a breach. The statistical data about percentage of early release in the total number of prisoners, average length of sentence that prisoners actually served before release and re-offending rate of prisoners released earlier than the expiry date, were not available.

7. Japan

In Japan, the following early release measures are available:

a) Parole
b) Amnesty

a) Parole

The aims and objectives of Parole are to release at an optimal time, an inmate who is capable of leading a law-abiding life in the community, if adequate supervision and assistance is provided. In order to be eligible for release on parole the prisoner must satisfy the following requirements:

i) s/he should have served one-third of the sentence for a determinate sentence, or 10 years for a life sentence.
ii) s/he evidences the state of reformation.

The average percentage of original sentence actually served by prisoners before being paroled is from 80 to 90%.

Warden of the Prisons can apply for parole on behalf of the prisoners. The body responsible for granting parole is the Regional Parole Board, which consists of 3 Board members who usually have the experience of working as Chief of Probation Office.

The adjustment and improvement of the living environment to which a prisoner will return after release is conducted by the probation office that has jurisdiction over the prospective place of residence. Usually the Professional Probation Officer entrusts

the duty of inquiry and adjustment to a Volunteer Probation Officer (VPO) living near the inmate's family. The VPO must visit the prospective home to determine the feasibility of an inmate's return there, and tries to eliminate any negative factors in cooperation with the inmate's family members. Regarding the information obtained by the VPO, the probation office provides a report of the home conditions to the prison and the Regional Parole Board.

The following aspects are taken into consideration by the authorities before granting parole to a prisoner:

i) repentance on committing crime
ii) reduced possibility of re-offending
iii) good conduct and achievements
iv) whether the prisoner has residential accommodation after release
v) whether the prisoner has a job or support system
vi) reaction of the society on his/her release
vii) willingness to progress

The prisoners who are released on parole are subjected to some conditions which the prisoners are required to comply with.

b) Amnesty

There are two kinds of amnesty in Japan, namely, General and Individual. General amnesty is promulgated in the form of a Cabinet Ordinance in commemoration of special occasions of national significance. Individual Amnesty has far greater significance in rehabilitation, as it is granted in accordance with individual's merits on the recommendations of the National Offenders Rehabilitation Commission. The individual Amnesty, which is conferred by the Cabinet, is attested by the Emperor. The Amnesty granted to the prisoners is without conditions.

c) Statistical Data

The percentage of parolees as compared with total number of releases was 57.6% in the year 1996. The re-incarceration rate of prisoners released before the expiry of their sentence is 25.8% (within 3 years after release). The re-incarceration rate of prisoners who are released at the expiry of their sentence is 46.1% (within 3 years after release).

Positive aspects of early release are:

i) The parole system has good effect on prisoners' reintegration into society through the supervision after release.
ii) Re-incarceration rate of the parolees is lower than that of those who are released on the expiry of sentences.
iii) Many prisoners try to keep good conduct in the prison to be granted parole.
iv) The environmental adjustment is conducted effectively before their release.

8. Kenya

In Kenya, the following early release measures are available:

a) Remission
b) Parole
c) Pardon/Clemency

a) Remission

Remission is granted on the basis of work and good conduct, and to solve the problem of congestion in prison. The minimum period of imprisonment required to be served before release is two-thirds of the sentence. Statistics about the number of prisoners released on remission was not available.

b) Parole

To be eligible for release on parole, the prisoner must be sentenced to four years and above. The average percentage of original sentence actually served by prisoners before release on parole is about 90%. The prisoner themself or the Commissioner of Prisons can apply for or on behalf of a parole. The Review Board is responsible for granting parole and it is

composed of the Commissioner of Prisons and Director of Probation and After Care.

In granting early release, the following aspects are taken into consideration:

i) Victims feelings;
ii) Repentance and acceptance of blameworthiness for the crime;
iii) Less possibility of re-offending;
iv) Type and gravity of the offence;
v) Good conduct;
vi) Whether the prisoner has accommodation after release;
vii) Whether the prisoner has a job or support system after release.

c) Pardon or Clemency

Pardon is granted by the President of the Republic of Kenya on the basis of ill health, age, and to petty offenders sentenced to 6 months or less. The early release awarded under parole and pardon are with conditions while remission does not have any conditions. Statistical data was not available. The positive aspect of early release is to encourage harmony and the respect for security and management.

9. Kiribati

In Kiribati, the following early release system are available:

a) Remission
b) Parole
c) Pardon

a) Remission

As a means of encouraging good conduct, all convicted prisoners sentenced to one month and over are eligible for release after serving 2/3rd of their term of imprisonment. The percentage of prisoners who get remission as compared with total number of releases is 90%.

b) Parole

The factors which are considered before granting parole are:

i) victims feeling;
ii) type or gravity of the offence;
iii) good conduct and achievement;
iv) reaction of the society on his/her release.

Prisoners sentenced to 6 months and above are eligible for release on parole. The Parole Board has the power to release on parole and revoke parole licenses. It is composed of 5 members: Secretary of Cabinet who is the Chairman, a Religious Member, Medical officer and Social worker. The authority to apply for parole is the warden. The percentage of parolees as compared with total number of releases is 90%.

c) Pardon

The factors which are considered before granting pardon are:

i) victims feelings;
ii) repentance on committing the crime;
iii) less possibility of re-offending and risk to the society;
iv) type or gravity of the offence;
v) good conduct and achievement;
vi) reaction of the society on his/her release.

It is awarded in commemoration of special occasions of national importance and significance. The President has the power to release inmates, particularly the long sentenced prisoners, on the advice of Cabinet. The percentage of those released on pardon as compared with total number of releases is not available.

All early release measures are awarded with conditions and the prisoner is expected to comply with these conditions; failure to do so may result in the revocation of the release license. The statistical data about average percentage of sentence that is actually served before release, and the re-offending rate of prisoners released earlier than the expiry date, was not available.

10. Malaysia

In Malaysia, remission is the only early

release measure available. Remission is granted to all prisoners with the exception of life termers and those sentenced to death. One third of the sentence of prisoners is set aside on the basis of good conduct. Officers-in-charge of the prison are the competent authority who can award remission. Police supervision in certain circumstances may be imposed by the courts for a specific period of time, in accordance with the law. Remission is used as an incentive to reward good conduct in prison, as well as to induce compliance to law and order.

The statistical data about the percentage of prisoners who get remission, the average percentage of sentence actually served before release and the re-offending rate of prisoners released on early release, was not available.

11. Nepal

In Nepal, the following early release measures are available:

a) Remission
b) Pardon

a) Remission

Remission is granted on the basis of work, good conduct, learning some kind of skill, helping prison administration on various accounts and involvement as a teacher for other prisoners. The minimum period of imprisonment required to be served before release is 50% of the sentence. It is awarded by His Majesty the King during the Constitution day, His Majesty the King's birthday and Democracy day. The average percentage of prisoners released on remission was 8.73% during the period from 1995-97.

b) Pardon

Pardon is granted on the basis of prisoners' good conduct and behavior. The authority to award pardon is His Majesty's the King. The following aspects are taken into consideration by the authorities before granting remission or parole to a prisoner:

i) less possibility of re-offending;
ii) types or gravity of the offence;
iii) good conduct and/or achievement.

Pardon is awarded with conditions while remission is awarded without them. Statistical data concerning the figures for re-offending rates by both prisoners released before expiry of sentence and at expiry of sentence were not available.

12. Pakistan

In Pakistan, the following early release measures are available:

a) Remission
b) Parole
c) Pardon or Clemency

a) Remission

It is granted on the basis of: work, good conduct, qualifying some educational examination, learning some kind of skill, helping prison administration on various accounts, performing religious practices, blood donation, surgical sterilization, teaching other prisoners to read and write, teaching handicrafts, and special assistance in detecting or preventing breaches of prison discipline or regulations. The total remission period on various accounts, excluding on passing an examination, blood donation and surgical sterilization, shall not exceed 1/3rd of an inmates' sentence.

b) Parole

In order to be eligible for release on parole, the prisoner must have good conduct and be recommended by the prison authorities. The average percentage of the original sentence actually served by prisoners before being paroled was not available, but is estimated to be not less than 50%.

Prisoners can apply for parole either directly or through a lawyer. The body responsible for granting parole is the Provincial Government, while the Home

Secretary of the Ministry of Home Affairs decides the cases on behalf of the Provincial Government. The following aspects are taken into consideration by the authorities before granting parole to a prisoner:

i) less possibility of re-offending;
ii) types or gravity of the offence;
iii) good conduct.

c) Pardon

Pardon is granted usually on special occasions. The authority to award pardon is with the Head of State, i. e. the President of Pakistan.

The early release awarded with conditions is parole, while remission and pardon/clemency are unconditional releases. The exact figure concerning percentage of early releases, as compared with total number of releases, was not available. The exact re-offending rate of prisoners released before the expiry of the sentence was not available. However, generally their re-offending rate is not high. The exact re-offending rate of prisoners released at expiry of the sentence was not available. It was approximately from 20 to 30%. The positive aspects of early release are to provide an incentive to prisoners for acquiring education, skill and improving good conduct and behavior in prison, which are important factors in their rehabilitation in the society.

13. Papua New Guinea

In Papua New Guinea, the following early release measures are available:

a) Remission
b) Parole
c) Pardon
d) Extra mural labour or employment

In Papua New Guinea, early release measures are seen as alleviating the problem of prison overcrowding and as an incentive for prisoners to be of good conduct.

a) Remission

Remission is granted to prisons as an incentive for good behavior in prison, and to solve the problem of prison overcrowding. All prisoners are automatically granted 1/3rd of their sentence as remission, except for those who were sentenced for escaping from lawful custody. Two thirds of the sentence must be served before one can be released. In the event of a breach of prison discipline by a prisoner, if charged and convicted before a visiting magistrate, s/he losses 10 days remission for any offence committed within a month.

b) Parole

In awarding parole, the following aspects are taken into consideration:

i) victims feelings;
ii) repentance by prisoner for committing the crime;
iii) compensation to the victims;
iv) less possibility of re-offending and risk to the society;
v) type and gravity of the offence;
vi) good conduct and achievement;
vii) whether the prisoner has a job or support system;
viii) reaction of society on his/her release.

All prisoners are eligible for release on parole after having served 2/3rd of their prison term. The Officer-in-Charge of a prison compiles and submits a dossier of an inmate to the Commissioner who then transmits it to the Parole Board with recommendations. The Parole Board is composed of three members: a lawyer nominated by the Chairman of Papua New Guinea Law Society, two other members nominated by the Commissioner of Correctional Services and Chief Parole Officer or Secretary for Justice. The nomination has to be endorsed by the Minister of Justice. The lawyer is the Chairman. The average time normally served by prisoners is 66.6% of total sentence.

c) Pardon

In awarding pardon, the following aspects are taken into consideration:

i) victims feelings;
ii) repentance by prisoner for committing the crime;
iii) compensation to the victims;
iv) less possibility of re-offending and risk to the society;
v) type and gravity of the offence;
vi) good conduct and achievement;
vii) whether the prisoner has a job or support system;
viii) reaction of society on his/her release.

Pardon is granted on special occasion and under special circumstances, for example, Independence celebrations, special medical grounds, and in the event of natural disasters such as flooding or volcanic eruptions resulting in the prisons being affected. The Governor General, acting on the advice of the National Executive Council, has the authority to award pardon. Statistics on release by pardon were not available.

14. Philippines

In Philippines, the following early release measures are available:

a) Parole
b) Pardon or Clemency

a) Parole

Parole is available only to prisoners who have been convicted of final judgement, sentenced to an indeterminate prison sentence of more than one year and have served the minimum period of their indeterminate sentence, and if the Board finds that there is reasonable probability that if released, the prisoner will be law abiding and that such release will be compatible with the interests and welfare of society.

The following can apply for parole on behalf of a prisoner:

i) prisoner himself/herself.
ii) warden or officer-in-charge of a prison.

The body responsible for granting parole is Board of Pardons and Parole. It is composed of the following:

i) Chairman-Secretary of Justice.
ii) Acting Chairman-Under Secretary of Justice.
iii) Secretary-Executive Director of Board of Pardons and Parole.
iv) Members-Parole and Probation Administrator, Sociologist, Educator, Lawyer, Priest and Correction Expert.

Statistics were not available on parole rates.

b) Pardon

Pardon is granted under the following circumstances:

i) For commutation of sentence-the prisoner must have served at least one-third of the minimum of the indeterminate sentence.
ii) For conditional pardon-the prisoner must have served at least one-half of the indeterminate sentence.
iii) For absolute pardon-10 years must have elapsed from the date of release of the petitioner from confinement, or five years from the date of the maximum sentence.

The authority to award pardon is with the President, through recommendation of the Board of Pardons and Parole, and with the assistance of the Director of Corrections. The following aspects are taken into consideration by the authorities before granting Pardon:

i) subject will be legitimately employed at release;
ii) subject has a place where s/he can establish residence;
iii) availability of after-care services for a prisoner who is old, seriously ill, or suffering from a physical disability.

All the early release measures are awarded with conditions. Statistics were not available.

Positive aspects of early release are:

i) To uplift and redeem valuable human material to economic usefulness;
ii) To prevent unnecessary and excessive deprivation of personal liberty by way of parole or the exercise of executive clemency;
iii) To solve the problems of person congestion.

Early release reduces or cuts the expenses of the government incurred in prisons.

15. Republic of Korea

In Korea, the following early release measures are available:

a) Remission
b) Parole
c) Pardon or Clemency

a) Remission

Remission in Korea is granted on the basis of work, good conduct, and having passed an educational examination or for learning a skill. The minimum period required to be served is one third of the sentence.

b) Parole

All prisoners are eligible for release on parole. Prisoners must serve one third of the original sentence before they can be paroled. A warden may apply for a parole on behalf of the prisoner, while the Parole Board is responsible for granting parole. Members of the Parole Board are the Vice-Ministers of Justice and 9 others.

c) Pardon/Clemency

The Minister of Justice grants pardon on the basis of good behavior. In granting Parole, the following aspects are taken into consideration:

i) Repentance and acceptance of blameworthiness for the crime;
ii) Less possibility of re-offending;
iii) Good conduct.

Statistics show that the re-offending rate at expiry of sentence is 58%.

16. Solomon Islands

In Solomon Islands, the following early release measures are available:

a) Remission
b) Parole
c) Pardon or Clemency

a) Remission

Remission is granted almost automatically to all prisoners who keep good conduct and industry. The minimum period of imprisonment required to be served before release is 30 days. The average percentage of original sentence actually served by prisoners before being released on remission is 1/3rd. The officer in charge of prison is the competent authority to award it. Statistics were not available.

b) Parole

In order to be eligible for release on parole, the prisoner must satisfy the following requirements:

i) A prisoner having good conduct and industry and has been sentenced to 6 months or more. They must, thereafter serve 6 months, in intervals of not less than 6 months, after the first consideration and denial of parole.
ii) The life sentence prisoner must have served 5 years, and in the case of denial, their case can be reviewed after every 3 years.

The percentage of parolees, as compared with total number of releases, is about 1% to 2%. The average percentage of original sentence actually served by prisoners before being paroled is about 80 or 90%. The following can apply for parole on behalf of a prisoner:

i) prisoner himself/herself;
ii) warden or officer-in-charge of a prison;
iii) others/relatives, doctor, any family members).

The body responsible for granting parole is Ministry of Police & National Security. The Minister makes the decisions on the advice of the Trial Judge or the Chief Justice.

c) Pardon

Pardon is granted on merit, good conduct and industry, provided the prisoner serves 5 years of their sentence. The authority to award pardon is the Governor General, on the recommendation of the Committee of Prerogative of Mercy. The following aspects are taken into consideration by the authorities before granting pardon to a prisoner:

i) victims feelings;
ii) repentance on committing crime;
iii) compensation to the victims;
iv) type or gravity of the offence;
v) good conduct and/or achievement.

The early release awarded with conditions is Parole and Pardon on Condition, while Remission and Free Pardon are unconditional releases. The re-offending rate of prisoners released before the expiry of the sentence is 1%, while the re-offending rate of prisoners released at the expiry of the sentence is 10%.

17. Thailand

In Thailand, the following early release measures are available:

a) Remission
b) Parole
c) Pardon
d) Penal Settlement

a) Remission

Remission is granted on the basis of: work, good conduct, qualifying some educational examination, learning some kind of skill, helping prison administration on various accounts, performing religious practices, etc. His Majesty the King grants remission on special occasions, e. g., Royal birthday celebrations. The minimum period of imprisonment required to be served before release is 6 months. In 1997, 16.5% of prisoners were released on remission.

b) Parole

In order to be eligible for release on parole, the prisoner must satisfy the following requirements:

i) Convicts must show good conduct and progress in education.
ii) Serve 2/3rd of the sentence or 10 years in case of life imprisonment.

The following aspects are taken into consideration by the authorities before granting remission or parole to a prisoner:

i) less possibility of re-offending;
ii) good conduct and/or achievement;
iii) whether the prisoner has residential accommodation after release;
iv) whether the prisoner has a job or support system.

The average percentage of original sentence actually served by prisoners before being paroled was not specified.

The Warden or Officer-in-Charge of a prison can apply for parole on behalf of a prisoner. Director-General grants the parole under the suggestion of Departmental Parole Board. This Board is composed of 7 officials: Deputy Director-General and other relevant officials, Director of Probation Bureau, Director of Parole Division and representatives from Department of Public Health, Police, and Prosecution. The percentage of parolees in total releases is 0.9%.

c) Pardon

Pardon is granted on important events, such as the King's Birthday Anniversary, Royal Marriage etc. The authority to award pardon is with the King. In 1996, 22.5% of releases were on pardon.

d) Penal Settlement

Prisoners are selected to practice farming and agricultural schemes. They are given land for living with their families

and allowed to live there as long as they want. However, they can not sell the land. To qualify for a penal settlement, the prisoner must satisfy the following conditions:

i) Good behavior;
ii) Diligence;
iii) Showing good result in education and work;
iv) Serve 1/4th of the sentence;
v) The remaining term not less than 2 years or 7 years in case of life sentence. The early release awarded with conditions are remission and parole, while pardon is an unconditional release. Percentage of early releases as compared with total number of releases is 40%.

The re-offending rate of prisoners released before expiry of the sentence was not available. The percentage of recidivist in newly admitted prisoners is 14%. Positive aspects of early release are:

i) To save the budget costs of running and maintaining prisons.
ii) To reduce overcrowding in prisons.

B. Summary

After having discussed, the actual situation of the 17 countries represented in the 109th International Training Course at UNAFEI, it was discovered that there were some similarities and differences in these countries, which are summarized below:

a) Remission

Remission is practiced in all the Participant's Countries except Fiji, Philippines and Japan. The period remitted also varies from one country to the other, ranging from one-fourth as in the case of Bangladesh, one-third as in Botswana, Ghana, Kenya, Kiribati, Malaysia, Papua New Guinea, Pakistan and Korea, to half of the sentence as in Nepal. In all these countries, it is awarded as an incentive for good conduct and behavior.

In the case of remission, prisoners are assured their earliest date of release, contrary to parole. There is no investigation about the prisoner's background, living conditions, victims feelings or the need for adjusting the environment prior to release, again, as opposed to parole. In some countries, remission is used to solve the problem of prison overcrowding, however in such situations, the factors regarding the re-integration and rehabilitation of prisoners and public safety are ignored. There is no supervision in the case of prisoners released under remission.

b) Parole

In countries such as Botswana, Fiji, Indonesia, Japan, Kenya, Kiribati, Korea, Pakistan, Papua New Guinea, Philippines, Solomon Island and Thailand, parole is highly structured. However in the case of Hong Kong, the terminology used for parole is 'Release Under Supervision' and in Fiji it is known as a 'Compulsory Supervision Order'.

There are bodies responsible for deciding the release or revocation of parole licenses, as well as for supervising parolees. There are a number of factors taken into consideration before release on parole e.g. conduct and achievement in prison, victims feelings, whether the prisoner will have accommodation and a support system after release and most importantly, the risk of re-offending and the safety and security of the community.

In terms of facilitating prisoner's re-integration and rehabilitation in the community, parole is considered a good system because it takes into consideration all important factors for the rehabilitation of the prisoner and also the safety of the society. A prisoner released under parole remain under supervision till the expiry of their sentence.

However, in most of the participant's countries, parole is not being properly used because of the process involved before

deciding release. Most countries can not afford it because it involves a lot of investigation, and needs more manpower both inside the prison and in the community.

c) Environmental Adjustment

Adjustment of the environment to which the prisoner will enter after release is very important if they are to be fully reintegrated and rehabilitated in to society. In order to make the right decision about an early release, whether under the remission or parole system, the decision making bodies have to know about where the prisoner will go after release and whether they will pose a danger to society. Therefore, the environment to which they will return is required to be adjusted before their release. The use of community resources e.g. Voluntary Probation Officers as in the case of Japan, Philippines and Thailand, seems to be important, as they are from the community and can be helpful in the rehabilitation process. The use of community members in the after care of released prisoners is seen as the right direction because they act as a cushion between the prisons, the prisoners and the community.

d) Pardon

Pardon is granted automatically to prisoners by the Heads of State in commemoration of national days and events, and on humanitarian grounds such as pardon for sick and aged prisoners. However no consideration is taken into account for the safety of the community, prisoner conduct or achievement. It is a privilege accorded to prisoners by political figures or monarchs which has nothing to do with the reintegration and rehabilitation of prisoners. Generally there is no supervision after release. However, in case of the Solomon Islands and Philippines, pardon is with conditions.

e) Statistical Data

No concrete data was available for almost all of the participants' countries, except Japan, regarding prisoners release on remission, parole and other early release measures. The re-offending rate during the period of early release to the expiry of sentence was also not available. The non-availability of the statistics makes the task of the authorities difficult when deciding cases of early release. It is important that prisoners are supervised as per the conditions of their release until the expiry of their sentence.

f) Decision Making Bodies

It was observed that all the early release measures have a body or bodies responsible for administration. In the case of remission, it was found that either Officers-in-Charge of prisoners or the Head of State or Province is responsible for awarding it.

On the other hand, parole issues are either handled by Parole Boards as in Botswana, Japan, Papua New Guinea; a Review Board in Indonesia, a Board of Pardon and Parole in the Philippines. These boards are composed of three to seven members depending on the country, and are drawn from the Probation Office, social workers, law and courts, police, medical fields and members of the public. It was also observed that some of these boards members are political appointments, while others are independent of political influence and/or the prisons or correctional bureaus.

IV. PROBLEMS IN THE EARLY RELEASE SYSTEM

A. Problems in Participants' Countries

1. Bangladesh

In Bangladesh, the early release measure that exists is Remission. The remission period is 1/4th of the sentence, however, this period is not considered

sufficient for the purpose of motivating prisoners to improve their behavior and conduct which may be helpful in their rehabilitation in to society. In 1980, a commission was formed by the government to look into the problems existing in the prison system and concerned officials submitted their recommendations, including the enhancement of the remission period from 1/4th to 1/3th of sentence. This issue has not yet been given priority for consideration and still pending with the government.

2. Botswana

In Botswana, the following two problems are noted in regard to parole:

i) Inadequate Trained Staff for Supervision: There is a problem in supervision and follow up of releases. This deprives the Board of knowing whether the releases re-offend or not during the period, and whether they practice what has been taught to them before their release.
ii) Lengthy Procedure: The procedure involved is lengthy and it usually takes 6 months to decide a case.

3. Fiji

There is no formal after care system in Fiji. Prisoners are released based on two early release measures: the Extra Mural Punishment (EMP) and the Compulsory Supervision Order. Under the Compulsory Supervision Order, there is no supervision and the releasee is required only to report to the police station nearest to their place of residence on the first week of every month until their term expires. Because of this procedure of supervision, it has been noted that those who are released do not comply with the conditions imposed, and the supervising police officer just reports this and the releasees are re-arrested and sent back to prison. The purpose of rehabilitation is not achieved.

4. Ghana

Just like Fiji, the supervision of the releasees rest with the police, and the releasees are required to report to the nearest police station at a specified time. As there is no formal aftercare system on 'Release Under License' the rehabilitation and re-integration into society is not taken into consideration.

Another problem is public perception. Public perception is positive only for minor offenders and in the case of child molesters, sexual offenders and murderers, perception is negative. The public wants these dangerous offenders kept in jail and executed.

5. Hong Kong

In Hong Kong, there appears to be no problems in the early release measures because there is a good system of monitoring the after-release program of the releasees. The success rate under the 'Release Under Supervision' is 100% and since its introduction in 1987, there were only 25 inmates who have availed the said privilege (to 1996).

6. Indonesia

Public perception regarding the early release of prisoners, especially the dangerous ones, is negative because the public believe that prisoners should be kept behind bars so that they may not pose a danger/threat to the society.

Another problem is the limited number of trained staff, which affects the supervision of the releasees and because of this, the response to the need of the parolees.

7. Japan

i) Ineffective Supervision for Short-term Parolees: In Japan, the problem in the parole system is that the term of supervision is considered too short (in the case of a short original sentence) for the prisoner's rehabilitation and re-

integration into society. The statistics for the year 1996 show that 3.3% of parolees were supervised for only less than one month, and 45% supervised for a period of less than 3 months. When the period of parole supervision is only a month, parolees receive guidance only twice from the Volunteer Probation Officer in charge. This would not allow enough opportunity for the Volunteer Probation Officers to extend sufficient support to effectively rehabilitate the releasee. No special programmes or measures are available to deal with such short-term parolees, however some intensive supervision methods yielding positive results need to be devised.

ii) Problems concerning Administration of Parole of Arsonists and Sex Offenders: The perception of Japanese Rehabilitation Aid Hostel officials is harsh towards arsonists and sex offenders, which usually results in the rejection of those types of offenders as residents. This rejection is often the reason for denial of parole to those prisoners. Since arsonists and sex offenders in general pose a threat to the society, it is inevitable that they are perceived negatively. However individual examination of such offenders reveals that not all of them demonstrate a high risk of recidivism. For instance, if the motive of the commission of arson is one's own grudge, then by improving the relationship between parties may reduce the chance of recidivism. Similarly, in the case of an individual involved in a gang rape case only due to one's inclination to go along with the rest of the peer group, with no sexual problems of one's own, the possibility of recidivism of the said individual is not always high; provided that the undesirable association with the peer group is discontinued, leading the offender to lead a more independent life of their own. Therefore, the phycological aspect of the commission of the crime should also be taken into consideration, and the rehabilitation services may consider the case on an individual merit basis.

8. Kenya

There are several areas for reform in Kenya. Firstly, public perception regarding the early release of prisoners is negative, because not all who were released have shown reformation and sometimes cause trouble in the community.

Secondly, The procedure involved in reviewing the cases of long-term prisoners is lengthy: reviewed every ten years. Thus only a limited number of cases are accepted in each year.

Thirdly, prisoners are not screened properly for early release, because in most cases, the release scheme is done to solve the problem of prison overcrowding.

Finally, because of a limited number of trained staff, only few releasees are given supervision and aftercare.

9. Kiribati

In Kiribati, the total prison population during the year 1997 was 82. The prisoners who are released on parole are supervised by the police. In fact, this is not a proper system of supervision, because the parolees are only required to report to the police after specific periods of time. Therefore, the parole system is confronted with the problem of introducing proper supervising measures.

10. Malaysia

The only system that exists is remission and it is not confronted with any problems.

11. Nepal

i) Lack of Equal Opportunity: In Nepal, all prisoners are entitled to fifty percent

(50%) remission on the condition that they must have good conduct while serving their sentence in prison. Remission is granted on three National Festivals namely; Constitution day, His Majesty's The King Birthday and Democracy day. These three National Festivals occur in the months of November, December and February. With this procedure, some prisoners who are supposed to be released on remission after completion of their 50% imprisonment term will not be released, for example, if a prisoner gets a sentence of 6 months in the month of January, he will serve the total imprisonment and will not be able to avail remission. However, if a prisoner who gets 6 months imprisonment in the month of September gets remission, they will be released in the month of December, i.e., on the His Majesty the King's birthday. This procedure is not providing equal opportunity to all prisoners, who are eligible for leveling remission.

ii) Lack of Proper Screening of Inmates: All types of prisoners are being released on remission without taking into consideration the types or gravity of their offence. Since there is no proper screening of the inmates, dangerous offenders are also getting the benefit of early release and thus pose a threat or danger to the society.

12. Pakistan

Public perception about dangerous offenders and their early release of is negative. The public do not want to see prisoners, especially hardened criminals, move freely in the society and pose a danger or threat to them. Because of this, the laws regarding early release on parole and probation are not fully utilized. The competent authorities hesitate to decide on early release cases because of this negative perception.

Another problem is the procedure of early release is lengthy because many offices/department are involved in the decision making process. Because of this, the inmates cannot fully take advantage of this system. As with the others, there is also a problem in supervision of the releasees because of the limited number of trained staff in Pakistan.

13. Papua New Guinea

The procedure of processing early release on parole is very slow because there is only one Parole Board throughout the country. It takes almost a year before a case is decided by the authorities. Similarly, the supervision of the releasees is affected because of the limited number of trained staff.

14. Philippines

In the Philippines, the early release of prisoners is confronted with the following problems;

i) Youth offenders are welcomed easily, while adult offenders are less accepted by communities because they are perceived to have full discernment of their offences and wrongdoing.
ii) Weak linkages between and among members of corrections because of the fragmented correctional system.
iii) Indequate database and statistics on prisoner's recidivism.
iv) Inadequate budget for the aftercare program of released prisoners.

15. Republic of Korea

There appears to be no problems in the early release system.

16. Solomon Islands

In Solomon Islands, public perception regarding the early release of prisoners is negative because the victim's feelings are given importance. There is also a problem

in the supervision of releases because of the limited number of trained staff. Some prisoners do not receive aftercare and supervision, and therefore their chances of re-offending increases.

17. Thailand

The problems in the early release of prisoners are as follows:

i) There is negative perception about the early release of prisoners because they believe that the punishment imposed on the offenders is lenient and that a prisoners are released too early.
ii) There is a problem in supervision because of the limited number of trained staff.

B. Summary

While discussing the problems existing in the various types of early release systems in the participants' countries, it has been observed that the most common early release measure available is remission. Generally, remission is granted to prisoners subject to their good conduct and behavior in the prison, but in a few countries, such as the Solomon Islands and Papua New Guinea, it is awarded automatically without fully taking into consideration the factors of conduct or behavior, or gravity of the offence.

The other commonly used early release measure is parole. However, it is observed that while granting parole, the chance of re-offending the prisoners is basically taken into consideration, but factors such as their living conditions, employment opportunities and family support etc. are less considered. In fact, in most of the participants' countries, proper supervision of or aftercare services for, the parolees was not available. In the absence of such services, the chance of re-offending increases. However, statistics regarding the re-offending rate during the period of supervision were not available in almost all of the participants' countries, except Japan and Hong Kong. On the basis of the above discussion, problems existing in the various early release systems in participant's countries are as follows:

1. Improper Selection of Prisoners for Early Release

It has been noted that in most of the participant's countries there are problems in the selection of candidates for their early release. Important factors which are to be considered from the point of view of the rehabilitation of the prisoners, are often ignored. In some of the participating countries such as Kiribati, Malaysia and Papua New Guinea, the award of remission is automatic. In such situations, the chance of release of high-risk prisoners increases and the question of the safety of society arises.

2. Absence of Adjustment and/or Improvement of Living Environment

In all the participating countries except Japan, Philippines and Thailand, the factors of adjustment and/or improvement of the living environment to which the prisoners will return after their release from prison are not considered before granting remission or parole. In the absence of such adjustment, the chance of re-offending increases and the rehabilitation of prisoners become difficult.

3. Improper Composition of Decision Making Bodies

It was also noticed that in most of the participating countries, the composition of the decision making body is not organized in view of the prisoners rehabilitation. In some cases, it is the minister in charge of the prison, a politician, who is the competent authority to decide the cases of early release. In some other cases it is a board composing of two, three or more members nominated by the Minister or the Government. In such situations, the

question arises about the independence and competency of the decision making body. If the decision making body is not independent, nor professionally competent, it may draw the wrong conclusions about the merit of the case; which may effect the rehabilitation processes as well as the safety of the society. It was also reported that in some of the participants' countries, there are complaints about the misuse of power by the competent authorities, such as asking for bribes for making a favorable decision, etc.

4. Lengthy Procedure

It has been observed that in many countries such as Botswana, Fiji, Nepal, Pakistan, Papua New Guinea, Solomon Islands and Thailand, that there are lengthy procedures involved in deciding the case of early release. This situation not only delays the rehabilitation process, but may also contribute to the overcrowding problem.

5. Lack of Supervision and Aftercare

It has been noted that almost all of the participating countries are confronted with the problem of the inadequacy of trained staff. Because of this, the prisoners released under parole, or other early release systems under supervision, can not be properly supervised which ultimately increases the risk of re-offending.

6. Public Perception

In some countries, public perception about the early release of prisoners is negative. The public wants to see the offenders, especially those who commit serious crimes, behind bars. In such situations, the competent authorities show their reluctance in issuing orders for early release.

V. COUNTERMEASURES

A thorough examination of the actual situation and problems existing in the early release systems in the participants countries revealed that the following important factors are not taken into consideration when awarding early release to prisoners.

A. Selection of Prisoners for Early Release

In many countries, it has been noted that criteria for selecting the candidates for early release under remission and parole is not appropriate. In some countries, remission is automatic, but in other countries the only criteria is good conduct and behavior in the prison, without taking into consideration the risk of recidivism. While in case of parole, apart from good conduct and behavior, the risk of re-offending is given importance, but other important factors are ignored. It is therefore suggested that the competent authorities, before granting remission and parole or similar early release measures, should also consider the following factors such as:

i) The criminal record.
ii) Type and gravity of the offence.
iii) Achievement in prison.
iv) The safety of society.
v) Family support.
vi) Job opportunities.
vii) Environmental adjustment.

The observance and application of the above mentioned factors places the decision making body in a better position to balance the positive effect of the early release, i.e. reintegration and rehabilitation of the prisoners in to society against the risk of recidivism that may pose a danger to the society.

After selecting the prisoners for early release, the question arises as to when to be released. As regards the timing of release, it has also been observed that the minimum period required to be served in the prison before release on remission and parole differs from country to county,

ranging from 3/4th of the sentence in the case of Bangladesh; 2/3rd in the Botswana, Ghana, Kenya, Kiribati, Korea, Malaysia, Papua New Guinea and Pakistan; and 1/2 in Nepal. However, no specific period can be fixed for any prisoners. Here the important factor is that the timing of early release should be selected in such a way that the prisoners should have completed some portion of the sentence in prison as a punishment according to the gravity of the offence; because it creates a deterrent effect for the prisoner as well as for others in society. The remaining portion may be served in the society under supervision. The other factor to be considered is the prospects of the prisoners' re-integration into society.

B. Adjustment and Improvement of the Living Environment

It has also been observed that in all of the participants countries, except Japan, Philippines and Thailand, competent authorities do not consider the adjustment or improvement of the living environment of the prisoners at the time of making a decision about early release.

In fact, the living environment plays a vital role in the reintegration and rehabilitation of a prisoner after release. The living environment does not only mean a place of living, but also includes other factors such as the family, friends or associates, financial situation etc. For example, in the case of drug addicts, the company of friends or relatives in which the addicts associate and the take drugs, play a significant role. Such associations encourage drug use and it becomes very difficult for the addicts to leave their habits, despite their willingness. If such an environment is changed and improved, there is greater chance of reformation in the release and this will ultimately help in their reintegration and rehabilitation into society. Therefore, it is very necessary that before releasing a prisoner, the adjustment and/or improvement of the living environment be taken into consideration.

C. Composition of the Decision Making Body

It was observed that in many countries, the composition of the decision making body for granting early release is not appropriate. In some cases, it is the Minister of Justice or minister concerned with the portfolio of prisons, but in other cases it is a Parole Board comprising of two, three or more members nominated by the Minister or the Government. In most of the cases, it is only one person who makes the decision. In fact, the professional competency of the members is of paramount consideration, because awarding an early release to a prisoner may have positive as well as negative effects. It is, therefore, very important that the composition of the decision making body be comprised of professionals from respective fields such as psychology, social work, police or prison administration, to ensure that the decision making body makes the right decision about early release; keeping in view the safety of society and also the rehabilitation aspects of the prisoner. Such composition will also ensure the independence of the body.

D. Reviewing Lengthy Procedure

It has been noted that in some countries like Botswana, Nepal, Solomon Islands, Papua New Guinea and Thailand, the procedure for early release is lengthy. It is suggested that:

i) The laws/rules governing early release must be reviewed and evaluated with the intention of taking advantage of the said privilege.
ii) There must be a specific timetable to complete the procedure and a speedy review of the cases of those who are to be released.

E. Reinforcement and Training of Supervising Staff

Supervision and aftercare is necessary to ensure the rehabilitation of released prisoner.

Therefore it is suggested that:

i) There is a need to improve the professional skill of the probation/ parole staff engaged in the supervision activities.
ii) The Volunteer Probation Scheme be taken into consideration by those countries where such schemes are not being used.
iii) Training of staff is necessary for the supervision of the released prisoner.

F. Improving Public Perception

It has been noted that in most of the participants' countries, the public perception about the early release of prisoners is negative for dangerous or hardened criminals, but positive for minor offenders. In fact, the early release system which is being used with the objective of the rehabilitation of the offenders in to society needs wider publicity.

In participant's countries, the public do not realize the importance/advantage of the rehabilitation aspects of the early release measures. They think that all criminals must be kept behind the bars. Perhaps in this way, they feel a sense of security from the realization that prisoners released before the expiry of their imprisonment may pose a danger or threat to them. It has been observed that not every prisoner is a threat to society. There are various types of offenders, with different backgrounds and offences, and thus they should not be considered equally. There is a need to emphasize the important aspect that there are different types of offenders. Only those prisoners who are dangerous and pose a threat to society should not be released, in order to protect society. However, non-custodial measures could be considered for low risk offenders.

The advantage of early release systems such as remission or parole may be taken into consideration with the sole objective of prisoner rehabilitation. There is also a need for educating politicians on this subject, so that they may extend their full cooperation in making new laws for early release systems, or for making amendments of the existing laws as required.

Therefore, there is a need to create a greater public awareness about the advantages of the early release system for the purpose of the rehabilitation and re-integration of prisoners in society. The public should also be made aware of the cost of keeping and maintaining offenders in prison. It may also be emphasized that imprisonment separates the prisoner from their family and this may have a negative effect on their personality and behavior.

VI. CONCLUSION

In most of the participants' countries, the prison system is confronted with risk of recidivism. The conclusion drawn on the basis of the above discussions, is that the policy of exercising proper early release measures for suitable prisoners seems to be the correct policy. However, it is emphasized that while exercising the option of early release, the authorities must differentiate amongst the various types of offenders, the gravity of offences and the risk of recidivism, keeping in view the safety of society and the rehabilitation prospects of the prisoners.

GROUP 3

REHABILITATION AND CORRECTIONAL PROGRAMMES IN THE COMMUNITY TO PREVENT RECIDIVISIM BY DISCHARGED PRISONERS: THE ACTUAL SITUATION, PROBLEMS AND COUNTERMEASURES

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I. INTRODUCTION

The search for effective measures for the rehabilitation of the offender has led the criminal justice world to look beyond the walls of the prisons for programs in the community, which are effective in complementing the rehabilitative efforts of the penal institutions.

Rehabilitation, the philosophy that has gained root in modern penology, is in itself a very useful concept. The prisons however, are choked with cases which could have been best dealt with outside it; either thorough alternative non-custodial sentences or by preventing the re-offending of some of the convicts through treatment programs while they were on release from prison. Studies and experience have shown that the prison setting is not always ideal for preparing the offender to reintegrate successfully into society. They can be worse-off on release.

It has also been felt that the ultimate aim of correctional programs is the rehabilitation of the convict-prisoner in society. By keeping the prisoner away, they are further removed from society, thus making readjustment very difficult. Therefore, community-based treatment programs have been commended as having more hope for rehabilitation than the prisons.

Accordingly, some countries have evolved packages of community-based treatment programs. So much importance has been placed on non-custodial measures that various international forums have been convened to design and recommend measures for effective treatment programs in the community.

Rather than see issues as domestic, with the need to implement local prescriptions, the world community has, through various forums, treated the search for effective measures as a global concern. The efforts of the world community have resulted in the formulation of the Standard Minimum Rules for Non-custodial Measures (the

Tokyo Rules) drafted by UNAFEI and subsequently adopted by the General Assembly of the United Nations, for the guidance of all communities in the treatment of offenders.

Since our scope of discussion is limited, we intend to discuss community-based programs for discharged prisoners. The group's plan is to conduct a comparative study of the various types of programs in actual use for preventing discharged prisoners from re-offending, and for promoting their reintegration into society. We will also consider the categories of discharged prisoners who benefit from specific programs and the roles played by formal and informal organization. An in-depth study of the problems of implementation follows. The group further attempts to propose pragmatic countermeasures that take the socio-political and economic situations of the various countries into consideration.

II. GENERAL ISSUES

A. Discharged Prisoners in Selected Countries

The scope of the discussion is on early and full-time release of prisoners as far as it relates to their supervision, aftercare and guidance. Whenever practicable, young offenders serving prison terms will be discussed in the course of the study. It will become apparent that different terminologies are used for systems and problems that are essentially similar.

The discussion is based on the practice of countries not only of group members; Fiji, Ghana, Japan, Kenya and Korea, but also four countries with programs of which information is available: Hong Kong, Papua New Guinea, Philippines and Thailand. These practices will be discussed for identification of shortcomings and countermeasures. The discussion on the early release of prisoners focuses on following systems:

(i) Parole in Japan, Korea, Papua New Guinea, Philippines and Thailand;
(ii) Remission in Ghana (with license), Kenya (for long-term prisoners) and Thailand;
(iii) Release Under Supervision in Hong Kong;
(iv) Extra Mural Punishment (EMP) and Compulsory Supervision Order (CSO) in Fuji;
(v) Release on License in Kenya (for young offenders).

III. PROGRAMMES IN ACTION

A. Operation of Various Programs for Different Categories of Discharged Prisoners

1. Working Definition of Supervision, Aftercare and Guidance

Supervision in the context of community-based corrections involves the institution of control measures to prevent the offenders from re-offending. Aftercare involves measures to help them to reform and reintegrate into society by meeting the material and immaterial needs of discharged prisoners. Guidance generally involves counseling the discharged prisoners and teaching them life skills in order to overcome the many obstacles and frustrations they would come across after release.

2. Classification System

In Japan, the classification system has been in operation since 1971. Probation officers use Needs/Risk Assessment to classify parolees. This system was implemented to classify and treat individual discharged prisoners according to their limited resources of Professional Probation Officers. Parolees are classified into two groups: Groups A requires more attention and intervention by probation officers, and Group B does not present any

acute or serious problems. Factors in classification to be considered are: unemployment, no fixed residence, drug or alcohol abuse, recidivism, poor attitude toward supervision and association with organized criminals. Cases are reviewed occasionally for possible re-classification. As of December 1997, 22.3% of adult parolees throughout Japan were classified as Group A.

Meanwhile other countries do not have classification systems for parole and other forms of early release.

3. Supervision, Aftercare and Guidance for Early Released

Conditions

Supervision is largely based on conditions. The objectives that are supposed be achieved include the prevention of recidivism and facilitation of rehabilitation and reintegration.

(a) *Japan*

Articles 34 of the Offenders Rehabilitation Law of Japan stipulates the conditions for granting parole as:

(i) To live at a fixed residence and engage in an honest calling:
(ii) To be of good behavior;
(iii) To keep away from persons who are of criminal or delinquent tendencies; and
(iv) To ask their supervisor for permission in advance for changing residence or going on a long journey (exceeding a week).

In addition to general conditions, the parolee is also required to abide by special conditions such as no gambling, over indulgence in alcohol and dealings with drugs. Special conditions vary widely as they are designed to meet the individual needs of each parolee.

(b) *Korea*

The parolees of Korea are subject to supervision these conditions:

(i) Refrain from committing crimes;
(ii) To live at a fixed residence;
(iii) Report to probation office once a month and sometimes more if necessary; and
(iv) To be of good behavior.

(c) *Papua New Guinea*

In Papua New Guinea, the parolee immediately reports to the office of the Parole Service. The other conditions are: reporting to a Parole Officer or Voluntary Parole Officer as and when required by the office of the Parole Service; keeping the peace and being of good behavior; following any direction or instructions given by a Parole Officer; and not changing the place of residence unless s/he has given the Parole Officer reasonable notice of the intention to do so, as well as the reasons for the proposed change.

The Parole Officer must give permission for the change of residence and the parolee must comply with any orders given by the Parole Officer in relation to the change of residence. The Parole Officer must be notified in reasonable time of the intention of the parolee to change their employment, the reasons for wanting to do so and the nature and place of his /her proposed employment.

The parolee must give reasonable notice to the Parole Officer of any contracts, debts or financial undertakings they propose to incur or enter into which might have a significant effect on their income or family situation. They shall allow a Parole Officer or Voluntary Parole Officer to enter their home, during reasonable hours, in executing their duties. The parolee in Papua New Guinea may be further ordered by the Parole Board to follow special conditions of the Parole Order. The Board has discretion in imposing additional conditions. The goals of the Board are ensuring compliance of the order and the good conduct and welfare of the parolee.

These additional conditions may include: residing in a named place for the period of parolee, refraining from entering a named town, actively looking for employment or for a legal means of supporting the parolee and their family, undertaking alcohol counseling, family counseling, marriage counseling and avoiding contact with a named person. They may also be ordered to refrain from using alcohol or illegal drugs, or be required to participate in other rehabilitative programs offered in the community and view videos on law and order.

The parolee is however, exempt from paying compensation, doing community work or paying a fine since these are alternative punishments at the sentencing level.

(d) *Thailand*

Prisoners who benefit from early release in Thailand, either through parole or remission, are given conditions on their early release. They are to refrain committing crimes, from entering areas determined by the competent authority and are required to report in person to a competent authority as designated by the Director-General of the Department of Corrections.

They are to continue with the occupation arranged and supervised by the competent authority, to resume their former occupation or take the occupation arranged and supervised by close friends or relations, and to practice their religion.

(e) *Fiji*

The conditions or release in Fiji are: (1) the prisoner released on Compulsory Supervision Order shall at all times produce the order when demanded by a magistrate or police officer, (2) they shall abstain from any violation of the law, (3) they shall not habitually associate with notoriously bad characters such as reputed thieves, law breakers, receivers of stolen properties and the like, (4) they shall not lead an idle or dissolute life, (5) they shall report personally to the person named as responsible for their supervision within seven days after release, (6) they shall not change their place of residence without prior notification of such change to their supervisor and (7) they shall, during the first week of every month, report in person to the person named as being responsible for their supervision.

(f) *Ghana*

There are only three conditions for release on licensee in Ghana. The licensee on their immediate release has to report to the police with their license. Thereafter they report to the police periodically on their movements and change of address. For the unexpired period of the original sentence, and while at liberty, the licensee must not be convicted of any criminal offense involving fraud or dishonesty.

(g) *Hong Kong*

The conditions of release under supervision in Hong Kong are: (1) the prisoner released shall comply with the conditions of their release specified in the order, (2) s/he shall comply with the directions of their supervising Probation Officer on matters concerning work placement and rehabilitation and (3) s/he shall immediately notify their supervising Probation Officer of any change in address.

(h) *Philippines*

The conditions for release in the Philippines are: (1) the released prisoner shall be placed under the supervision of a Parole and Probation Officer so that s/he may be guided and assisted towards rehabilitation, (2)s/he shall report in person to the Parole and Probation Office as specified in the Release Document for supervision, (3) s/he shall comply will the terms and conditions appearing in the Release Document and (4) s/he shall not

transfer from the place of residence designated in the Release Document without prior written approval of the Board.

Duration and Routine Process of Supervision

(a) *Japan*

In the case of a person serving life-imprisonment in Japan, the parole period is for the rest of their life unless s/he is paradoned in the course of the parole period. In all other cases, the average duration of supervision is five months. There was no data on duration of supervision for most counties.

In Japan, the Probation Officer takes into consideration all information presented at the various interviews, together with the data in the case records, to assess the individual's needs and problems which require special attention, and to eventually work out a treatment plan. The Professional Probation Officer and Volunteer Probation Officer, who is working under the supervision of the Professional Probation Officer, work in tandem according to the treatment plan.

The methods of supervision are: (1) Volunteer Probation Officer is to observe the behavior of the parolee by maintaining close contact with parolee. The parolee visits the Probation Officer or the Volunteer Probation Officer twice a month. In turn the Probation Officer or the Volunteer Probation Officer visits the parolee once a month; (2) the Professional Probation Officer and the Volunteer Probation Officer give the parolee such instructions as are deemed necessary and pertinent to make them observe all the conditions given and (3) the Professional Probation Officer and the Volunteer Probation Officer take other measures necessary to make the parolee a law abiding member of society.

The Volunteer Probation Officer submits a regular monthly progress report to the Probation Office. In the addition they send a report whenever an unusual incident occurs, in relation to the parolee. When considered necessary, judging from the report of the Volunteer Probation Officer or information of the police or parolee's family, the Probation Officer visits the parolee, sends a letter to the appear at the Probation Officer or other local offices. The Chief of Probation Office has power to summon and interrogate, even though s/he has no power of arrest. The Chief of Probation Office can have the parolee, who is in breach of the conditions of their parole, arrested under a warrant (in advance) by a judge.

(b) *Papua New Guinea*

In Papua New Guinea, supervision of parolee is conducted by a Parole Officer from the Attorney General's Department. If a parolee is going to stay far away from the probation centers, s/he is required to report to a volunteer parole office in their community. The Volunteer Parole Officer will then work closely with the Parole Officer. Supervision requires always ascertaining that the parolee is of good conduct and observes the conditions of parole.

(c) *Thailand*

Supervision in Thailand is conducted by the Probation Officers who belong to the Department of Corrections of the Ministry of Interior and Volunteer Probation Officers. They supervise the living conditions of the early release. They pay attention to the releasee's relationship with their family, neighbors and attitude towards work. The supervisors give guidance to the family and neighbors, as well as the release.

(d) *Hong Kong*

Supervision of the early released is done by Probation Officers of the Hong Kong Correctional Department's, Secretariat for

Security. The objectives of supervision are to assist the early releasees to be rehabilitated and reintegrated into society, as well as to protect the public from the perils of re-offending.

(e) *Philippines*

The Philippines operates a system where the Probation Officer of the Department of Justice supervise the parolees. They are assisted by Volunteer Probation and Parole Aides whose task is to assist in supervising parolees, pardonees and probationers. They are specifically tasked to supervise their charges by devoting not less than 4 hours a week. They have a maximum of 5 clients and must prepare and submit to the Chief of Probation and Parole Office monthly reports on their clients.

They must keep all information about the job in strict confidence and in close consultation and cooperation with Chief, perform incidental duties periodically. The Probation and Parole Office where the parolee reports to, will issued with a copy of the release documents of the parolee. The office must then ensure that the parolee reports within 15 working days. They must also ensure that the parolee complies with the terms and conditions of the release and make immediate report to the Board of any breath of the conditions.

(f) *Fiji*

In Fiji, the early released prisoner under EMP will undertake public work for 6 hours each day, or not less than 30 hours per week, at any identifiable government department or provincial office near their residence until their term expires. They will be under the supervision of a government official appointed by the government department or provincial office during their extra mural labor.

The prisoner released on CSO is under no supervision but s/he must report to the police station nearest their place of residence during the first week of every month, until their term expires. A life term prisoner will be released on pardon and s/he will be under CSO for the average duration of 12 months. In other cases of CSO release, the average duration of supervision is the unexpired portion of the sentence to the date of discharge.

(g) *Ghana*

A person released on license in Ghana is supervised by the police until the term of imprisonment expires. The prisoner reports immediately after s/he leaves the prison, with a copy of the license. The police are sent a separate copy by the prison authorities. The licensee must subsequently report on their movements to the police on fixed days. This works as a controlling and check mechanism against reoffending. The licensee is aware that the community is monitoring him/her. The community, knowing the offenders in a particular crime, is reassured. Of course there is a lot of goodwill between the police and communities in Ghana.

(h) *Korea*

The parolee in Korea is supervised by probation officers. The duration of supervision is the remaining days of the original sentence. This system of supervision was introduced in 1989. The parolees engage in community services like snow-clearance, rubbish collection at historical sites and palaces. They perform library services like bookbinding and also engage in ecological activities.

Suspension and Revocation

(a) *Japan*

The Regional Parole Board in Japan may suspend probationary supervision which means supervision can no longer be carried out because the Probation Office does not know the whereabouts of the parolee. The penal term shall cease to run and shall be restored on withdrawal of the ruling of

suspension of probationary supervision. Revocation takes place when the Regional Parole Board which has jurisdiction over the parolee, upon the request of the Chief of Probation Office, decides that the breach of conditions of the parole is serious enough to warrant revocation. The parolee is then recommitted to prison.

(b) *Papua New Guinea*

When a parolee is in breach of the conditions of parole in Papua New Guinea, by either committing another offence or failing to adhere to the parole conditions, s/he is taken to court and the parole is cancelled. Subsequently s/he is made to serve the unexpired period of the original sentence, and any new sentence that may be imposed for the subsequent offence. The consequence for breach of the conditions for early release is re-arrest without warrant and re-imprisonment for the remaining period of the original sentence. S/he will face additional disciplinary charges.

(c) *Hong Kong*

In Hong Kong a beach of supervision conditions or a relapse with drug use (under the drug treatment programs) would result in the parolees recall for further treatment for twelve months from the date of first admission, or four months from the date of recall. A general breach of the conditions for early release under supervision, or pre-release employment, may result in suspension of the order and recommittal into prison for the unexpired term of the original sentence.

(d) *Fiji*

In Fiji, a prisoner released on EMP, upon breach of a condition of release, would be returned to the prison to serve the remaining portion of the sentence; in addition to any other punishment the Commissioner of Prisons would impose for breaching the condition of release. In the case of CSO, the releasee who breaches a condition of release, would be apprehended after their CSO is revoked by the Minister of Home affairs and Justice, and a magistrate issues an order of apprehension. They would then serve the unexpired portion of the sentence from the date of release on CSO, plus a sentence of three months imposed by a magistrate for breach of condition.

(e) *Ghana*

A person released on licensed on license in Ghana who breaches the conditions by being convicted of any criminal offence involving fraud or dishonesty, automatically forfeits their license and has to serve the unexpired period of the original sentence, in addition to any fresh sentence for the new case.

For failure to notify police of their movements, change of address or failure to report as a convict on license, the licensee receives a twelve-months term of imprisonment or serves the unexpired term of the original sentence.

(f) *Korea and Thailand*

Also in Korea and Thailand, if parolees fail to comply with any condition, they have to be re-imprisoned for the remaining period of their terms of sentence.

The statistics on revocation rates are available in Appendix one.

Aftercare and Guidance

(a) *Japan*

In Japan aftercare and guidance, referred to as the method of rehabilitation aid, is effected by helping the parolee to obtain the means of education, training, accommodation and vocational guidance. The discharged prisoner is helped to reform and adjust to their environment and is aided to return to a destination suitable for rehabilitation.

Parolees are specifically assigned to

Volunteer Probation Officers who counsel them in various areas of life, for instance, their human relationship with friends, family members and neighbors. The Volunteer Probation Officers use their abilities and knowledge to impart social and living skills to the parolees. They are actively involved with the parolees and even assist them in finding jobs. Sometimes the Chief of Probation Office requests halfway houses accommodate parolees who have need or are designated by the Probation Office.

(b) *Thailand*

The service providers in Thailand are not clearly identified. Some organizations liaise with the Department of Public Welfare and Labor to help releasees. They are not restricted to prisoners, but help ex-prisoners who call for assistance.

(c) *Hong Kong*

Hong Kong's aftercare system is delivered by experienced aftercare works who use a dynamic, therapeutic and out-reach methods to monitor the programs or work of the releasees. During the period, regular contact is maintained between the supervisor and client. The aftercare agents provide timely and appropriate guidance and assistance. The agents are anxious that their success rate, which is measured by the percentage of releasees who complete supervision, is always high.

(d) *Philippines*

The Volunteer Probation and Parole Aides of the Philippines provide guidance, counseling and placement assistance for their clients. Since 1996, the Philippine's halfway house has been offering aftercare monitoring of its ex-residents in cooperation with the Department of Social Welfare and Development, the Department of Justice and the Department of Local Government.

(e) *Fiji and Ghana*

Although Fiji and Ghana have no formal aftercare systems, there are several attempts currently being made by the Presbyterian Church of Ghana and a few religious groups and district councils in Fiji to provide halfway house for releasees. In addition, in Ghana the society is so cohesive that a released prisoner who goes home, repentent, would be taken in quickly and helped to be financially independent. S/he is offered help in putting up a house or preparing a farm. The chiefs, elders, pastors, schoolmasters and the public are all agents for guidance and counseling. When a young person misbehaves, s/he is asked if there are any elders in their community to advise them. Guidance and counseling are expected to come from the elders of the community and the well-placed in society.

(f) *Korea*

Parolees in Korea receive help from the Probation Officers in terms of lodging, vocational training and job referrals. The Korea Rehabilitation Protection Foundation provides accommodation, food and commutation allowance to the parolee.

(g) *Papua New Guinea*

Papua New Guinea has no aftercare system.

4. Supervision, Aftercare and Guidance for Full-time Released

(a) *Japan*

Japan has no supervision system for prisoners who serve full time. It has aftercare for this category for a maximum period of six months from the date of release. The Chief of the Probation Office in Japan interviews and investigates the background of released offenders who request aftercare services. Decisions are based on the urgency of the situation and the willingness of the released person to

rehabilitate themself. Aftercare services are temporary and cover meals, clothing, travel fares, lodging and referral to public employment of welfare services. Issues of accommodation are referred to halfway houses which can provide lodging, board and living guidance.

(b) *Thailand*

Thailand does not have programs for full-times released, except the invitation to settle in penal colony for those selected. This system allows discharged prisoners to treat parcelled-out land as their private property. While they are still serving time on the penal colony, they can invite their families to live with them. This arrangement continues after release, but due to the problem of land sharing, this system has been stopped.

(c) *Fiji, Ghana & Papua New Guinea*

Fiji, Ghana and Papua New Guinea have no programs of supervision or aftercare for the full-time released.

(d) *Kenya*

In Kenya, in the case of a high-risk offender, an order is sometimes made for supervision after completion of the sentence. The Court decides the period of supervision. When on supervision, the releasee is required to report to the police station or post nearest to their home at least once a month. The releasee's movement and actions are monitored closely during this time by the police.

5. Young Offenders

(a) *Japan*

In Japan, Article 58 of the Juvenile Law provides that parole may be grated to a young offender sentenced to imprisonment (with or without labor) when s/he was a juvenile, after the lapse of the following periods: seven years in the case of a penalty for life; three years in the case of a penalty for a determinate term and one-third of the minimum period in the case of indeterminate sentence.

Also the young offender must show genuine reformation, which is judged by the Regional Parole Boards, taking into account the following factors: the degree of repentance; eagerness to rehabilitate; the likelihood of recidivism and the society's willingness to accept parole.

The following general conditions, as provided by law, are automatically imposed upon a parolee from juvenile prisons: to live at a fixed residence and engage in a lawful occupation; to be of good behavior; to keep away from persons who are of criminal or delinquent tendencies and to ask their supervisor for permission, in advance, for changing residence or going on a long journey.

In addition to these general conditions, the parolee is also required to abide by special conditions which the Regional Parole Board sets forth as a guide towards a law-abiding life. Guides to rehabilitation contain prohibitions, obligations and encouragement. Special conditions vary widely as they are designed to meet the individual needs of each parolee.

The parole board may terminate only indeterminate sentence. Clause 1 of Article 48 of the Offenders Rehabilitation Law provides that in case the minimum period of the penalty which has been imposed upon a person under the provisions of the Juvenile Law has passed while s/he is on parole from the prison, the execution of the sentence may be regarded as having been completed by a ruling rendered by the Regional Parole Board, at the request of the Director of the Probation Office, if it deems it proper in view of the merits s/he has achieved while under probationary supervision.

The Regional Parole Board revokes parole upon the application of the Director of Probation Office. The parolee may be confined in the prison for the original

parole period, but s/he may be granted parole on the revoked sentence in the future.

(b) *Kenya*

Kenya has a well-designed treatment program for young offenders who go on release on license, either early or after serving a full-time sentence of maximum three years at the Borstal Institution (under prisons). In Kenya the After-Care Committee decides on early release issues. Probation Officers have been called upon to provide the above services, through an administrative arrangement, until the "Parole Bill" is enacted by Parliament. Supervision and aftercare services are provided by the Home District Probation Officer. The immediate aim of the program is to resettle them back home so they report to the Probation Officer immediately on release. Assistance usually ranges from tools (for various trades undertaken in the institution), counseling and ensuring that they go back to school if they are off formal school-going age. They are also assisted to get trade training in the local training institutions like polytechnics. The Probation Department has also established an aftercare resettlement fund that assistant the released inmates with tools and payment for their training, depending upon the availability of funds. The probation officer actually helps the ex-inmate and their families in order to facilitate proper reintegration.

Kenya's conditions of supervision and aftercare for young offenders include: being of good behavior; being truthful; reporting to the Probation Officer at least once a month or as required, refraining from keeping bad company, especially bad peers; informing the Probation Officer of their movement; remaining in regular employment, school or training program; avoiding intoxicating liquor or drugs; and observing any other condition laid down by Probation Officer.

On failure to observe any of the conditions, the Probation Officer would first issue a warning. That failing, the releasee would be recalled by the Corrections Commissioner to the Borstal Institute where s/he would be detained for a period not exceeding three months. After this s/he would remain on suspension for the period s/he was originally committed to serve.

6. Specialized Programs for Solving Specific Rehabilitative Needs

(a) *Hong Kong*

Drug addiction treatment centers are used in Hong Kong to commit a minor offender who is found to be a drug user. S/he is committed for a period of not more than twelve months, with discharge depending on progress. The program aims at detoxifying and restoring the health of the offender, by attacking the basis of their drug use and re-integrating them into society. Treatment involves counseling, work and vocational training.

On release, such an offender is placed under a year's mandatory aftercare and supervision, aimed at assisting social reintegration. The correctional staff visit the offender's and work place to check on possible drug use. The Hong Kong Correctional Services Department requires the released prisoner to submit to urine tests and notify their supervisor on change of residence. On violation of the conditions, the Commissioner of Corrections, if satisfied, would issue a recall order. The prisoner would be recalled and required to serve the remaining sentence or serve four months imprisonment, whichever is longer.

(b) *Japan*

Referred to as categorized treatment in Japan, the Regional Parole Board classifies parolees with special situations into six groups; thinner sniffing, stimulant drug abusers, gang members, sex offenders,

mentally disturbed and long termers. Probation officers re-classify them during the supervision process.

(c) *Thailand*

Chemical substance abuse programs exist in Thailand's prison, but they have not been extended to the community to benefit discharged prisoners specifically. Non-governmental organizations run similar programs for the general public, although not discharged prisoners in particular.

(d) *Other Countries*

There are no drug or substance abuse treatment programs in the other countries. In the countries which have some form of treatment, the information gathered was not enough to warrant fuller discussion.

7. Halfway Houses

Halfway houses can be defined as community-based centers where offenders can obtain basic necessities like food, clothing and shelter. They generally cater for probationers, parolees and discharged prisoners.

(a) *Japan*

In Japan, all halfway houses are run by a private association(Juridical Person for Offenders Rehabilitation Services). Halfway houses accommodate nearly a quarter of parolees lacking a suitable place to live.

Japan has 99 halfway houses which are under the authority of the Ministry of Justice. The capacity of each facility ranges from 10 to 110. Currently their total capacity is 2,267. During 1996, the number of adult parolees who received assistance from halfway houses was 4,595. The number of full-time discharged prisoners who received assistance was 3139. Residents comprised 61.4 percent of authorized capacity of all halfway houses, countrywide. Average term of stay in halfway house is about 3-4 months. Resident's of halfway houses are spoken to and treated by staff in a homelike atmosphere. When the staff notice any slight change in the mood of the residents, the staff take it upon themselves to resolve the problem. Halfway houses offer vocational guidance to discharged prisoners and help them to find suitable employment. Most residents work outside the halfway house on a daily basis. Employment offers them financial independence and builds in them good work ethics. Guidance on life skills is also offered at the halfway house.

The Japanese system has a nationwide special type of supervision and aftercare for discharged prisoners whose sentences are eight years and above, including life sentenced prisoners. They are accommodated for the first month after release on parole and receive intensive group counseling, as assistance and guidance to help them cope with social life. The halfway house in Japan has historically been operated by private people.

(b) *Korea*

In Korea, if the discharged prisoners have no family or house, the Korea Rehabilitation Protection Foundation provides accommodation, money, food as well as training and job referrals for the discharged prisoners. There are 72 halfway houses in Korea. In 1995, the total number of discharged prisoners who received some kind of services mentioned above was 18,537 (capacity for the accommodation was not available).

(c) *Thailand*

In Thailand, there is only one halfway house run by the Rehabilitation Bureau. Referred to as "Baan Sawaddee" which means Greeting House in English, the Halfway house is available to all releasees.

The assistance includes the offering of accommodation, meals, job placement and counseling services. This system has just started, so no assessment has yet been made of it.

(d) *Philippines*

1996 saw the operation of a real halfway house for adults in the Philippines. The Philippines-Japan Halfway House aims at providing residential facilities for released and pre-released prisoners. The occupants receive home life and group living experience. They acquire vocational and economic skills and are subsequently placed in jobs.A multi-disciplinary approach by social workers, psychologists, educators and people in allied occupations, create the opportunity for emotional, mental, physical and spiritual growth, They would require these ingredients in their eventual reintegration into the family and community.

(e) *Hong Kong*

In Hong Kong, accommodated in the halfway house as a condition of their Supervision Orders are those: released from prisons under the Pre-release Employment Scheme; young offenders identified as having special needs on discharge from training centers or detention centers; and those in need of temporary accommodation support immediately after release from drug addiction treatment centers. They are required to go out to work or attend full-time school during the day and return in the evening.

B. THE ROLE OF FORMAL AND INFORMAL ORGANIZATIONS

1. Public Institutions

While public institutions play a major role in community-based supervision and aftercare for discharged prisoners, different departments may be tasked with jobs aimed at either controlling and incapacitating the offender, or providing for their needs after serving the term of imprisonment.

In Japan, the Rehabilitation Bureau of the Ministry of Justice has been performing such role and the Probation Service is part of the Bureau. Supervision is provided by Probation Officers and Volunteer Probation Officers working for the Probation Service. Probation Officers offer aftercare and guidance as well. The government gives not only financial support to the halfway house but also supervision, so that it can provide appropriate services.

In the Philippines, the Department of Social Welfare and Development plays a very important role in the area of community-based treatment of offenders. The Department was instrumental in creating the halfway house for adults.

In Ghana, the police have the mandate to supervise the discharged prisoners. In Fiji, public authorities supervise prisoners on EMP while the police supervise prisoners released on CSO. The particular institutions liaise with the prison authorities in this respect. In the same manner, breaches of the conditions are reported back to the prison authorities. In Korea, the Ministry of Justice controls the correctional service as well as the agency which governs parole and probation.

2. Private Institutions

The Cooperative Employers of Japan play an important role by employing released offenders in the construction, manufacturing, service, wholesale and retail sectors. This is a very important step in assuring reintegration, for with employment comes confidence and self-dignity. Thereby the discharged prisoner is able to meet their material needs, pay bills and live up to responsibilities. They can also have the means to make reparation to their victims.

In Papua New Guinea, it is the church

that plays a role in this regard by accommodating selected discharged prisoners whom they had been in contact within the prison. The church provides basic necessities like food and clothing. The discharged prisoners are given counseling and guidance, and after grounding in doctrine, they participate in anti-crime campaigns and sometimes take up the mantle of leadership in the churches.

3. The Community and Families of Victims and Discharged Prisoners

Before parole is granted, the probation officer conduct investigations into the families of the victims, the families of the prisoners and in the community. They can provide probation officers with relevant information for the rehabilitation plan.

Victim's acceptance of a releasee back into the community leads to the understanding and reintegration of the releasees. Compensation is a method used to facilitate victim's understanding and acceptance of releasees. If releasees recognize that the victim has suffered both physical and mental damage, they will recognize the seriousness of their crime.

The family of the offender, in developing countries like Kenya and Ghana, normally welcome the offender back, offer them their old accommodation in the family house or help to build a new one. Members of the family help to prepare a farm or start a business venture and generally to begin a new life. So long as the discharged prisoner goes back to their roots, there is enough goodwill for them to build on in rehabilitation. The chiefs and elders offer guidance and counseling together with the head teacher, the post-master and the local priest. With such tremendous support, the discharged prisoner has a great chance of reintegrating into society.

In addition, interchange between the families of the victims and the offender who is now discharged, can only happen in small communities where they are expected to live together; in the urban sector the situation is different. It is often seen in small and traditional communities that the community leaders bring the two parties together, and peace is made after the offender and his or her family.

At the same time as s/he lives among the community, the released offender is monitored as they are known by everyone. S/he is thus inhibited and this serves as a check on the tendency to re-offend. At the community level, the policeman is regarded as kin and the community cooperates with the police in checking the movements of the discharged prisoner. Supervision, thus, is known as quite effective.

4. Volunteer Probation Officers and Other Volunteers

Japan utilizes the services of volunteers in an extensive manner. With 50,000 Volunteer Probation Officers, supporting 700 Probation Officers, who are directly working with parolees in the field, it is obvious that volunteers perform the bulk of the work in controlling and monitoring the discharged prisoners, as well as in assisting the family through counseling and guidance.

Voluntary Probation Officers in Japan promote crime prevention programs, as well as educate individuals and the general public on rehabilitative measures and the needs of the discharged prisoners. They also promote cooperative efforts to eradicate environmental conditions which lead to crime.

Another feature of the voluntary spirit of the Japanese is the existence and activities of the Women's Association for Rehabilitation Aid. With a membership of 194,000 nationwide, the Association is concerned about matters of crime, delinquency, and the problems and welfare of offenders and their families. They provide financial, material and moral support to Volunteer Probation Officers, halfway houses and also help the public to

understand the rehabilitative ideas and efforts through discussions at meetings. Their activities are supported by Probation Officers in the neighborhood.

With the introduction of the parole system in 1991, Papua New Guinea has been using Volunteer Probation Officers to assist the regular Probation Officers in supervising the parolees. Until then, Volunteer Probation Officers were assisting in looking after probationers. They receive training in counseling and interviewing skills and are very effective in their roles. Coming from the same community as the parolee, the Volunteer Probation Officer has good rapport with their client. By 1986, there were 300 active Volunteer Probation Officers. Through their activities, they help in getting the community to support the parolee in ways which facilitate rehabilitation.

Thailand's Volunteer Probation Officers who number 14,000 work with Probation Officers of the Department of Corrections of the Ministry of Interior. They are drawn from among local people who have stable jobs and fixed addresses and no criminal record.[1] The parolees who are supervised by the Volunteer Probation Officers are subject to observation of the conditions attached to their release. Although, most of the countries studied have no Volunteer Probation Officers who substitute for regular Probation Officers, it should be noted that volunteers in many countries implement informal supplementary programs.

[1] They are distinguished from the Volunteer Probation Officers who work for the Department of Probation. While the former supervise parolees, the latter takes care of probationers.

IV. PROBLEMS OF IMPLEMENTATION AND SOLUTIONS

In the implementation of community-based programs for the treatment of offenders we considered whether the needs of discharged persons and the needs of the community have been met by the programs. We further considered if the problems are the result of flaws in the design of the programs or that the programs are not suitable for the needs they seek to address.

A. Inadequacy of Personnel

The issue of inadequate staff to carry out community-based programs was recognized as common to all the countries studied. Japan for instance, was cited as having only 700 Probation Officers directly working with parolees throughout the nation. Supported by 50,000 Volunteer Probation Officers, the number is still not enough to offer top level service for, parolees especially, those with high risk/needs such as drug offenders, mentally disordered offenders, sex offenders and violent offenders who require special treatment programs.

This problem extends to all other agencies involved in community corrections in the nine countries represented, and conceivably all over the world. Many probation officers are young and inexperienced. Combined with other problems such as lack of good supervisory systems, shortage of staff and poor training opportunities, the quality, of fieldwork and casework suffer. Specialization is missing, especially in relevant fields like psychology and sociology. Administration of probation services, generally suffers from lack of managerial and supervisory skills on the part of some administrators. At the root of the problems of treatment staff is the lack of adequate compensation, incentive and good conditions of service.

B. Lack of Aftercare Programs

Many countries are obsessed with security at the cost of developing treatment programs for the reintegration of the offender. The countries studied gave the impression that the needs and concerns of the discharged prisoner are less important.

For instance, a common phenomenon throughout the countries we studied reveals the crippling disadvantage the discharged prisoner faces in the job market. A bedrock of rehabilitation, employment enables the discharged prisoner to meet their responsibilities, yet, the lack of skills and the stigma of imprisonment play negative roles in ready absorption into the job market; as most prisoners are in the first place unskilled and do not receive adequate training in the prisons.

Programs like vocational training and job placement are limited. It is very difficult to fully implement and develop resources for programs of such kind. This phenomenon is attributable mainly to the values of the society. Kenya, for instance, has focused on protecting society from the activities of the criminal. Aftercare services are hampered by lack of funding for programs. Many useful programs have had to be shelved because of this problem.

It is perceived by the group that development of aftercare programs in the community may require the modification of administrative organizations. For instance, further involvement of social welfare agencies or the rehabilitation of released offenders is necessary. With probation officers as service providers, they are not always oriented towards rehabilitation and aftercare, instead focus is towards control and monitoring.

C. Inadequacy of Supervision

Supervision tends to create loopholes for the released offender bent on committing another offense. The releasee is only controlled and monitored for a short part of the day and in cases like Fiji, Ghana and Kenya, reports on average once a month. Releasees are virtually on their own. Particularly, more effective and intensive ways to supervise offenders posing high risk to the society should be explored including adequate conditions.

It is very easy for parolees and others under supervision to run away. So many parts or these countries are virtually inaccessible and record-keeping is very poor. It is difficult to track them. In the absence of citizen registration or identification systems, chances of re-arresting an escapee are bleak.

Some participants expressed the view that increasingly complex cases saddle supervisors with heavy workloads. Though statistics are not readily available, it is obvious that they find it impossible to pay the necessary attention to detail. With logistical support not forthcoming, especially vehicles and monitoring devices, the supervisors are crippled in their work.

D. Lack of Programs for Specific Rehabilitative Needs

Countries do not seem to pay much attention to programs which address the specific rehabilitative needs of the offenders, outside the prison. Though there are many categories of offenders who require specific treatment, like psychiatric cases, sexual offenders, violent offenders and alcoholics, we could only identify drug and substance abuse programs in the communities of three countries; Hong Kong, Japan and Thailand.

The programs do not address the specific rehabilitative needs of the offender who is in the community for treatment which would complement their progress to eventual social reintegration. Although there appears to be no need for such programs, it is our view that the lack of treatment for specific types of offenders is attributable to some forms of ignorance. Several factors, such as limited awareness of the seriousness of the harm done by

those offenders due to non-availability of data, and limited faith in criminal justice administration, can contribute to the ignorance about special treatment measures.

Even though the necessity for these treatment measures is acknowledged by practitioners and policy-makers, considerations such as the following, deter them from implementing these treatment measures:

(i) Absence of established and effective treatment programs.
(ii) Prohibitive cost of programs.
(iii) Lack of community support for the implementation of such programs.

E. Absence of Inter-Departmental Cooperation and Support

Various organizations are involved in the running of community-based correctional programs. Since they have similar objectives, they are expected to cooperate with each other. While state and private institutions are likely to cooperate with each other, for instance, the prisons and the churches, the same cannot be said about governmental bodies, particularly probation and prison officials.

The exchange of information between the two is not smooth; yet the two bodies could complement the work of each other; the prison officer letting the probation official know about the nature and peculiarities of the offender before release, and the probation officer letting the prison authorities know in advance the peculiarities of the convicted person as they are being brought in to serve their sentence. The interchange of information would help both bodies plan their treatment measures in respect to the offender. Many countries reported this problem of lack of inter-departmental cooperation and mutual support.

It was observed that the prisons are reluctant to offer information about the attitudes, health situation and other details the probation officers need, to work out case plans. Several reasons for this situation were pointed out. In some countries, restrictions are legally placed on the giving of information and prison officials have to be careful.

Though it is desirable that programs instituted in the prisons for the rehabilitation of prisoners should be carried through to the community, there is a lack of cooperation between the correctional and probation agencies on the program design. Many countries pointed out the lack of coordination among supervisory agencies, social welfare and social development services engaged in similar rehabilitation efforts.

F. Unfulfilled Expectations

1. Victims and Families

Victims and their families cannot accept discharged prisoners easily. Inadequate compensation is a major source of the victims and their families' inability to tolerate the releasee. Generally speaking, discharged prisoners lack funds and the support systems for them are insufficient.

Although some countries such as Hong Kong, Japan and the Philippines have some official compensation systems for the victim and the family, other countries like Fiji, Ghana and Kenya do not have clearly structured compensatory systems for victims of criminal activities.

The victim needs to see the offender pay for the crime, and observing them come back in the community without having paid for their criminality dose not satisfy the psychological craving of the victim. The urge is for the victim and their family to visit retribution on the offender. The victim and their family are appeased when they see the offender making restitution through their earnings in the prison, or during the period s/he is on the community correctional program. Post-release programs in the community however, do

not address the psychological needs of the victim. The victim is also not protected from re-victimization by the offender. The programs fail to impose conditions which would restrict the offender from coming into contact with the victim.

2. Community

The community's first need is to be protected from re-offending by the released prisoner. The recidivism rates all over show that this need is not satisfied by the treatment of the discharged prisoner in the community. The need to appreciate change and reformation in the discharged prisoner is of great importance to the community. If the community-based programs do not address this need and released offenders are held in trepidation and fear by the community, it would be impossible for discharged prisoners to reintegrate into the community.

Society also expects the discharged prisoner to find employment and contribute their quota to the efforts to improve the community. Without the requisite skills to obtain jobs, the discharged prisoner becomes a burden on the community. This is the case all over. Stigmatization is a difficult tag to cope with. Many discharged prisoners cannot cope and prefer hanging at the fringes of society, afraid to come in and be rehabilitated.

To carry out successful community-based schemes, the community is expected to support materially and non-materially, but all the countries represented complained about the absence of such community help.

G. Lack of Social Assistance for Discharged Prisoners

1. Volunteer

Volunteerism in Japan is traditionally high. Apart from the Volunteer Probation Officers, the Juridical Person for Offenders Rehabilitation Services and Women's Association for Rehabilitation Aid have been supporting the operation of the halfway house system. Declining fortunes have created financial problems for these associations and their support has suffered as a result. Membership of the WARA has declined as younger people are not interested in rehabilitation goals.

Mobilizing public interest is not easy and requires resources which are not available. There is a lot of potential in the informal sector and such resources must be tapped for community support of the programs.

2. Private Institutions

The problem of lack of skills of the discharged prisoner is endemic. Most prisoners have no skills before incarceration. They acquire no skills in the prisons nor in the rehabilitation programs in the community. Coupled with the stigma of imprisonment, they are heavily disadvantaged.

Business establishments in the community are unwilling to offer jobs to released offenders because they lack the requisite skills and face antagonism of the public towards discharged prisoners. The economic slump has worsened the situation in many countries. Private institutions which give job opportunities to discharged prisoners are scarce in many countries.

V. RECOMMENDATIONS

Our recommendations are divided into two parts. The first part consists of program design for general and specialized packages for rehabilitation of the early released offender. The halfway house is also considered in this part. Some of the prescriptions are suitable as programs for full-time releasees. The second part touches on prescriptions for implementation of programs, stressing personnel, inter-departmental cooperation and community involvement.

A. Program Design

1. General Program
   - It is desirable that programs are designed in such a way as to have the functions of supervision, aftercare and guidance.
   - As much as possible, programs are to be based on research. It is necessary that they have clear objectives of offender rehabilitation and reintegration.
   - In designing programs, factors such as consistency, adaptability, feasibility, suitability and affordability ought to be given prime attention.
   - Management information systems may have to be improved to keep and maintain up to date records of releasees. As far as practicable, computers should be utilized.
   - Citizen identification systems could be improved by taking advantage of tried and tested methods like social security numbers and national identification cards, so that the chance of re-offending can be reduced.
   - It is important that program designers recognize that employment is the key to rehabilitation for the released offender. With the prisons having failed to equip the prisoners with employable skills, it is incumbent up on the community-based programs to focus on skills training to increase the chance of the released prisoner in getting a job.
   - At various stages of implementation, programs ought to be evaluated and adapted to suit the objective conditions.

2. Specialized Program
   - Policy makers would have to explore the special needs of the community which require solution-including types of offences/offenders, prevalence of these offences and seriousness of harm done by them-through the collection of data.
   - Practitioners have to contribute to identification of the problems by expressing their views and experiences to policy makers, as they are in the front line and know the realities of these problems.
   - Programs should be planned to address the criminogenic needs of particular offenders. The subjects, approaches, duration and providers of services should be elaborated on in the programs.

11. Priority would have to be placed on programs for the high risk/need offenders in order to reduce the chances of reoffending and effectively utilize limited resources.
12. Government organizations involved in forensic science, health and social welfare services, particularly those specializing in the treatment of offenders with multi-faceted and serious psycho-social problems, could further exchange information and collaborate with each other in implementing treatment programs for special categories of offenters.

3. Halfway House

13. Countries which have halfway houses are to utilize them extensively. Countries which do not have these are invited to consider introducing them.
14. Halfway houses in addition to providing boarding and lodging, may offer mental care, living skill guidance and job placement services to the discharged prisoner.

B. Program Implementation

1. Personnel

15. To raise the level of efficiency, the conditions of service of personnel

involved in community-based programs, for example probation and parole officers, may have to be improved to motivate them and also to attract highly qualified personnel.

16. Training facilities require improvement to offer Probation/ Parole workers access to new techniques in carrying out their tasks. The staff would have access to institutions where they can acquire higher knowledge and qualifications. Incidentally, the various clauses of article 16 of the Tokyo Rules[1] advocate making training part of the conditions of service to attract and to retain staff for the demanding requirements of the job, and offering opportunities for improving their professional competency.

- To reduce the burden on Probation/ Parole Officers, countries which do not have the Volunteer Probation Officer system may consider its introduction.
- To complement the staff strength, capable Volunteer Probation Officers may be appointed permanent Probation Officers. Incentives to Volunteer Probation Officers must be substantive, even if non-material.
- Efforts have to be made to seek the involvement of volunteers with relevant specialization to implement specialized programs at minimum cost.
- To achieve greater efficiency, it is important to maintain a close relationship between Volunteer Probation Officers and Professional Probation Officers.

2. Inter-departmental Cooperation

- To resolve the issue of non-cooperation and lack of inter-departmental support, top management of correctional and probational departments may have to recognize the necessity for cooperation with each other, particularly when they belong to the same parent organization. This requires having continuous dialogue and regular meetings.
- It is necessary that personnel engaged in the delivery of programs, exchange information with each other.
- Private institutions could be approached to contribute towards offenders' rehabilitation by offering vocational training and employment to discharged prisoners.
- The government may want to motivate private institutions by offering incentives like tax breaks.

3. Community Involvement

- In the designing of programs, public relations outfits may be incorporated to tap the informal resources in the community. The public relations units have to survey the community and network with groupings and organizations, that can be asked to contribute to the rehabilitation efforts and which can mobilize

[1] 16. Staff training

16.1 The objective of training shall be to make clear to staff their responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society. Training should also give staff an understanding of the need to cooperate and coordinate activities with the agencies concerned.

16.2 Before entering on duty, staff shall be given training that includes instruction on the nature of non-custodial measures, the purposes of supervision and the various modalities of the application of non-custodial measures.

16.3 After entering on duty, staff shall maintain and inprove their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

community support, especially in small communities where programs are sited.

- It is desirable that responsible state agencies respect informal activities done in the community in pursuit of offender rehabilitation, give public recognition and where necessary, recommend improvements.
- It is important that the victim is firstly compensated by the offender by means of public or private assistance. Then the victim and offender can be reconciled, to prevent retaliation by the victim or society. This would make the offender recognize their antisocial behavior and assume responsibility for the damage they have caused the victim.
- It is important to avoid re-victimization through effective supervision. It is equally important to offer adequate psychological care and counseling to help the victim overcome the trauma of victimization.
- Reduce stigmatization from the society by involving the offenders in various local community activities like sports and cultural events.

VI. CONCLUSION

The goal of the group was to discuss effective rehabilitative programs for the released prisoners for their proper reintegration into society. It must be recognized that the kind of rehabilitation treatment given to offenders differs from country to country. The group has realized that there are no well-structured programs in most countries, as discussed in the paper. Emphasis is mainly placed on observance of conditions of parole or license, rather than on specialized treatment for the different categories of releases. There is, therefore, the need to come up with comprehensive plans and strategies on how to reintegrate these releasees through effective programs. Emphasis should be on effective and efficient aftercare programs if the goal has to be achieved. The essential question to ask ourselves is how we can improve the existing supervision and aftercare methods applicable today. There is need for international cooperation and more research on these issues.

APPENDIX 1

TABLE I

BREACHES OF CONDITIONS OF EARLY RELEASE IN FIJI

Year	EMP	Breach of EMP	Percent of breach	CSO	Breach of CSO	Percent of breach
1986	508	122	24.0	40	2	5.0
1987	637	91	14.3	42	0	0.0
1988	456	47	10.3	6	0	0.0
1989	460	86	18.7	88	2	2.3
1990	424	60	14.2	25	2	8.0
1991	358	41	11.5	55	8	14.5
1992	349	30	8.6	39	2	5.1
1993	296	31	10.5	45	1	2.2
1994	211	10	4.7	13	1	7.7
1995	204	5	2.5	11	0	0.0
1996	387	23	5.9	12	1	8.3

Source: Reseach in Planing Section, Prison Headquaters, Fiji

TABLE II

NUMBER OF PAROLES IN JAPAN

Year	Termination of Parole	Expiration	Percent of Expiration	Revocation	Percent of Revocation
1987	17,396	15,783	90.7	1,438	8.3
1988	17,262	15,607	90.4	1,489	8.6
1989	16,427	15,017	91.4	1,207	7.3
1990	15,393	14,119	91.7	1,109	7.2
1991	14,272	13,118	91.9	979	6.9
1992	13,098	11,995	91.6	891	6.8
1993	12,745	11,655	91.4	908	7.1
1994	12,556	11,485	91.5	915	7.3
1995	12,312	11,244	91.3	891	7.2
1996	12,202	11,223	92.0	846	6.9

Source: Annual Report of Statistics Rehabilitation, Ministry of Justice, Japan

TABLE III

NUMBER OF EARLY RELEASEES AND BREACHES OF CONDITIONS IN THAILAND

Year	Sentence remission granted	Parole granted	Breach of condition	Percent of breach conditions
1987	11,490	2,778	88	0.6
1988	10,871	787	20	0.2
1989	9,721	1,220	48	0.4
1990	10,392	1,768	43	0.4
1991	9,363	956	44	0.4
1992	11,321	945	54	0.4
1993	12,020	1,282	50	0.4
1994	14,003	2,088	86	0.5
1995	17,460	2,114	88	0.4
1996	17,543	805	62	0.3
1997	19,824	1,114	42	0.2

Source: Department of Corrections, Ministry of Interior, Thailand, 1998

APPENDIX

COMMEMORATIVE PHOTOGRAPHS

- ***108th International Seminar***
- ***109th International Training Course***

UNAFEI

THE 108th International Seminar

Left to Right:

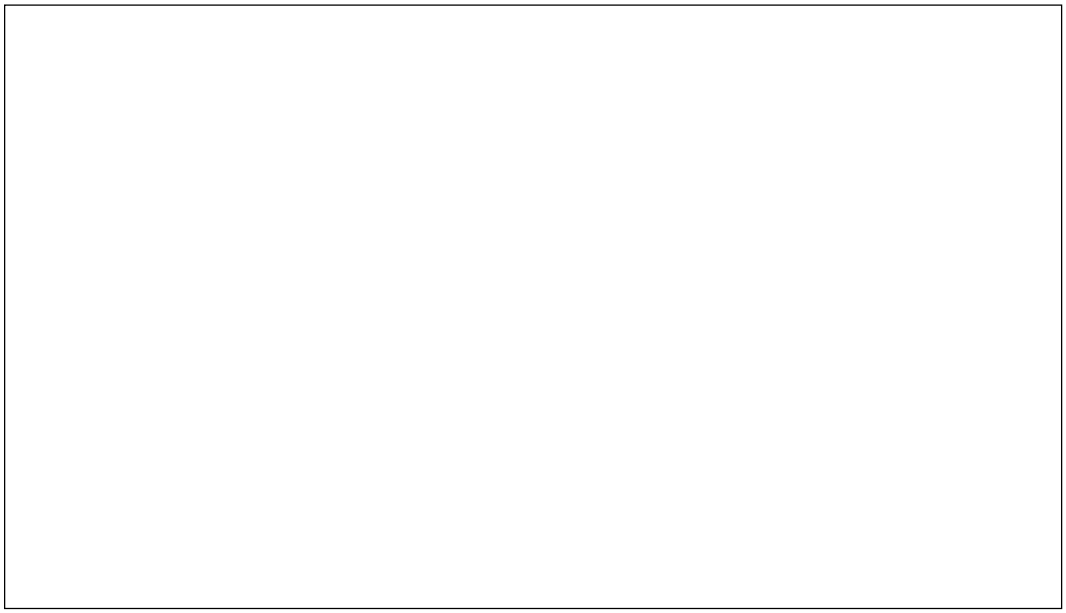
4th Row:
Khiem(Viet Nam), Boza Guerrero(Nicaragua), Kataka(P. N.G.), Sharma(India), Matsuda(Staff)

3rd Row:
Kai(Staff), Mitsui(Staff), Tezuka(Staff), Sudo(Chef), Suenaga(Staff), Kaneda(Coordinator), Saito(Staff), Umemura(Japan), Fifita(Tonga), Harada(Japan), Yang(R. O. K.), Lai(Malaysia), Surasakdi(Thailand), Enkhtsogt(Mongolia), Marin Taborda(Venezuela), Todaka(Staff), Okada(Staff), Okeya(Staff), Tatsumi(Staff)

2nd Row:
Komatsu(Staff), Miyamoto(Staff), Abe(Staff), Kusunoki(Japan), Al-Shihry(Saudi Arabia), Nagashima(Japan), Hokin(Japan), Özgül(Turkey), Watanabe(Japan), Osawa(Japan), Cheung(Hong Kong), Barclay Arce(Mexico), Ranjatoson(Madagascar), González(Colombia), Shrestha(Nepal), Sarkar(Bangladesh), Gounder(Fiji), Pasha(Pakistan), Olario(Philippines)

1st Row:
Takayama(Chief of Secretariat), Kurosawa(Professor), Yoshida(Professor), Akane(Professor), Tauchi(Deputy Director), Dr. Gaña, Gaña(Expert for ACPF Working Group), Lau(V. E.), Marine(V. E.), Fujiwara(Director), Savona(V. E.), Vlassis(V. E.), Sharma(V. E.), Huq(Course Counseller), Takahashi(Professor), Yamashita(Professor), Konagai(Professor), Imafuku(Professor), Vander Woude(Linguistic Adviser)

THE 109th International Training Course



Left to Right:
Above:
Laine(V. E.), Andrews(V. E.)

5th Row:
Okeya(Staff),Tezuka(Staff), Komatsu(Staff), Ueta(Staff),
Todaka(Staff),Matsuda(Staff),Suzuki M.(Japan), Takatsu(Japan), Ono(Coordinator)

4th Row:
Takagi(Chef), Gohda(Staff), Ishizuna(Japan), Kiyono(Japan),
Maeki(Japan), Nakazawa(Japan), Szetu(Solomon Islands), Kagawa(Japan)

3rd Row:
Miyamoto(Staff), Imai(Staff), Saito(Staff), Shibata(Japan), Yoon(Republic of Korea),
Aranas(Philippines), Fujioka(Japan), Masire(Botswana), Murakami(Japan),
Yossawan(Thailand), Suzuki A. (Japan), Matsushita(Staff), Mitsui(Staff)

2nd Row:
Tewaniti(Kiribati), Nakamura(Japan), Yamanda(Japan), Osman(Malaysia),
Frandono(Indonesia), Asiedu(Ghana), Udas(Nepal), Waipo(Papua New Guinea),
Hemayet(Bangladesh), Yamin(Pakistan), Chung(Hong Kong), Murege(Kenya),
Tuisalia(Fiji), Tatsumi(Staff)

1st Row:
Ito(Chief of Secretariat), Watanabe(Professor), Sato(Ptofessor), Konagai(Professor),
Tauchi(Deputy Director), Benitez(Course Counsellor), Adams, Dr. Adams(V. E.),
Fujiwara(Director), Yew(V. E.), Yangco(V. E.), Iitsuka(Professor), Akane(Professor),
Kurosawa(Professor), Imafuku(Professor), Vander Woude(Linguistic Adviser)