

GROUP 3

PROMOTION OF EFFECTIVE TREATMENT PROGRAMMES FOR OFFENDERS

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I. INTRODUCTION

The purpose of criminal justice is to maintain a safe society by preventing crime. Under criminal justice the offence and punishment is preset and the court decides and imposes the punishment on the offender in accordance with the law he/she has violated.

The prison department is responsible for the enforcement of the punishment imposed on the offender by the court. The imposition of the punishment on the offender will deter him/her from committing further crime after release from prison. Imprisonment deprives the offender of his/her freedom which he/she enjoys in the normal community. It also intimidates the criminal behaviour of the offender to make him/her realise the consequences of his/her criminal act.

Traditionally, the responsibility of prisons was to ensure safe custody of prisoners and the protection of society. Basically, such responsibility focuses only on effective treatment of prisoners to ensure that they maintain a healthy and well-ordered community life while in custody.

Alone, this approach has been considered a failure because when prisoners are released, the probability of their re-offending is relatively high because their criminal behavioural problems were not addressed and eliminated while in custody but were merely lying dormant and would re-surface when opportunity allows.

Given this background, most participating member countries' prisons have placed more emphasis on rehabilitation in the treatment of offenders in order to reduce recidivism, which is a common problem in all countries, in their efforts to prevent crime. The group in its discussion identified problems existing in the respective countries' prisons that restricts or hinders the effective implementation of treatment and rehabilitation programmes of offenders, and offered possible solutions thereof as contained in the following chapters.

II. PURPOSE OF TREATMENT PROGRAMMES

The SMR¹ clearly provides the general purpose of treatment of persons sentenced to imprisonment:

Article 65: "The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The

¹ "World Social Situation." ECOSOC Resolution 663 (XXIV). (Annex: Standard Minimum Rules for the Treatment of Prisoners.) 31 July 1957.

treatment shall be such as will encourage their self-respect and develop their sense of responsibility.”

Member countries have similar, or almost the same as the above SMR article, purposes stated in their legislation or organisation policies. For example:

- 1) To promote effective rehabilitation and resocialisation of prisoners in accordance with their individual characteristics and environments (Correction Bureau, Ministry of Justice, “Prison Administration in Japan”)

To protect the society and promote the individual and public welfare by aiding the reformation and rehabilitation of offenders, appropriately effectuating amnesty, providing for an impartial and proper system for administering parole and other pertinent affairs and facilitating the activities of crime prevention. (Article 1 of the Offenders Rehabilitation Law, Japan)

- 2) To provide safe, secure and humane treatment of persons in custody by providing opportunities to correct offending behaviour, develop life and work skills and perform community service. (Mission statement-Fiji Prison Services)
- 3) To encourage and enhance the offenders’ self respect, dignity, sense of responsibility and make them productive and useful citizens. (BJMP rules and regulations of the Philippines)

Types of treatment programmes vary according to the cultural, historical and economic background of each participating country. However, the countries are continuously striving to meet the purpose of the treatment of offenders as defined in the SMR as best as they can.

III. PROBLEMS AND COUNTERMEASURES IN RELATION TO IMPLEMENTING EFFECTIVE PROGRAMMES

In spite of the various treatment measures for offenders available in the participating countries’ prison systems, problems of treatment programmes emanate from a lack of proper resources and programmes, as evidenced by the high rate of recidivism experienced in the respective member countries. For example, in Fiji, the recidivism rate in 2001 was about 50.2%².

Offenders have unique criminal characteristics hence the types of crime they commit varies. For example, in Japan, they have researched the factors contributing to recidivism (see Appendix A). The treatment programmes available in the prisons may not be suitable for certain types of offenders and there is a need to identify and establish appropriate programmes for these offenders. The Group identified some of the contributing factors that lead to crimes being committed by offenders in their respective countries, as follows:

- a) Unemployment
- b) Lack of basic academic background
- c) Lack of social relationships (poor family environment, poor personal relationships, poor background, inability to communicate with others, lack of understanding of social life)

The above contributing factors would determine the most appropriate rehabilitation programmes in terms of work, education, social relations and aftercare that the offender would be subjected to, however, the effectiveness of such programmes would very much depend on the existence of an efficient classification system, and also the provision of a privilege grading system that would enhance such a programme. In any rehabilitation programme, it is essential that the programme be holistic and at least should include the following components to realise its effectiveness as discussed and agreed by the group:

- a) Classification
- b) Privileges
- c) Work
- d) Education
- e) Social relations and aftercare

² Annual Reports for the Year 1997-2001, Fiji Prison Service, Ministry of Justice.

A. Classification

Classification is an integral part of the treatment process and is provided for by the relevant provisions of the SMR, as follows:

Article 67: "The purpose of classification shall be;

- (a) To separate from others those prisoners who, by reason of their criminal records or bad character, are likely to exercise a bad influence;
- (b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation."

Article 68: "So far as possible separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners."

Article 69: "As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions."

The classification is a dual process in that it determines the appropriate containment and reformation process of the prisoner. Some of the constraints that hinder the effectiveness of the classification system that exists in the member countries are due to archaic conditions of the prison facilities that restrict the implementation of such a programme and do not conform to the spirit of correcting the offending behaviour of inmates. It would be worthless to shift the emphasis from a custodial approach towards a correctional approach when facilities do not permit the implementation of such programmes. The following member countries have highlighted hereunder the existing problems in their prisons that affect their prisoners' classification process.

In the Philippines, the lack of prison space and overcrowding exacerbated by the lack of skilled human resources and financial resources to some extent limits the effective implementation of their classification process. Construction of additional facilities, recruitment of additional personnel skilled in special field sciences for therapeutic programmes would address these problems.

Conversely, in Fiji, the outdated infrastructure in most prisons is indeed a problem, which deserves to be highlighted as it borders on contravening certain aspects of the SMR. Fiji was a colonial state, which only gained independence from Britain in 1970. The colonial hangover cannot be discounted, as it is evident in all the prisons design and layout. Suva Prison, for example, was built in 1912 and exhibits the colonial legacy as emphasised in the way the infrastructure is set up. The prison cells are structured purely for containment and do not accommodate modern facilities for rehabilitation purposes. Also the problem of overcrowding and lack of proper rehabilitation programmes in the prisons have hindered, to a great extent, the effectiveness of its prisoners' classification system. Growth and development in the correctional circle has demanded an adjustment and improvement of the existing facilities so that proper rehabilitation programmes could be made available to conform to the spirit of correcting the offending behaviour of inmates and to enhance the effectiveness of the classification process.

In Japan, there are two sets of criteria, namely 'Allocation Categories' and 'Treatment Categories'; but almost all prisoners admitted to prison are classified in the 'G' category³. Therefore, it is difficult to properly assess the individual prisoner so that it would facilitate his/her treatment and rehabilitation. As a whole, the current classification only provides guidelines for the supervision of inmates. A combination of classification categories is too ambiguous and difficult to implement. The limited number of rehabilitation programmes available in the prisons is inadequate to cater for the various classification categories of inmates. The current classification system needs to be reviewed and improved in order to reflect the actual rehabilitation programmes existing in the prisons. It is also essential to increase the number of training programmes in the prisons to meet the various classification categories.

B. Privileges

The provision of a system of privileges is articulated in most of the statutes of the participating countries. Basically, the purpose of such provision is to encourage good conduct, develop a sense of responsibility and

³ 'G': Those who need living guidance.

secure the interest and co-operation of the prisoners in their treatment that are on par or near the SMRs⁴. Some of the existing problems and proposed countermeasures that came to light in the group's discussion, are as follows.

In Japan, the progressive stage system does not in any way determine an inmate's eligibility for parole. In other words, even if a prisoner keeps good behaviour, it does not guarantee his/her early release. Also the progressive system is inadequate in motivating inmates serving short and long-term sentences, because inmates serving imprisonment for a short period, such as three months, would not be able to complete the whole progressive stage system and whereas inmates serving a longer prison sentence, such as twenty years or more, the benefits of the system is limited for them. So the motivating effects of such a system are also limited. A more gradual practical system should be established to cover both short and long-term sentences.

In the Philippines, there is no progressive treatment system, but good inmates can avail for early release through good conduct time allowance, in which an inmate with good behaviour may be given a one month reduction for a one year sentence. However, the progressive system can be introduced to improve the treatment programme.

Whereas in Fiji, the amount of stage gratuity being earned by inmates ranges from \$2 to \$6 per month according to their stage which does not have much of an effect as an incentive to their good behaviour and general discipline. An increase in their stage earnings would increase the incentive.

C. Work

The SMR provide that all physically and mentally fit convicted prisoners are required to work⁵. They are to be given adequate employment to keep them gainfully occupied. The group discussed and identified the existing problems in their respective countries and proposed countermeasures to these problems.

In Fiji, about 75% of convicted prisoners are employed in some form of agricultural work (Including the maintenance of cemeteries) with around 10% occupied in cooking and cleaning and the final 15% engaged in either manufacturing or maintenance of prison buildings. The emphasis on agricultural work may be desirable for prisoners who come from the villages or a farming background and are likely to return to them after release with newly acquired farming skills. However, for prisoners who do not come from villages or have a farming background and whose future employment is likely to be in the manufacturing or service industries, concerted efforts should be made to increase the range of manufacturing industries in the prisons to cater for the latter group of inmates. Such industries should have real prospects for the employment of ex-prisoners that would reduce the probability of their re-offending by giving them job skills which will assist their rehabilitation.

In the Philippines, a work programme is mainly used so that they can get jobs when they leave prison. Due to a lack of space, resources, and custodial personnel for security, specific work is only given to selected offenders based on their criminal record and behaviour inside prison. Remuneration is given to offenders according to the specific work they do. The money they earn is within their disposition either to spend it or give to their family during visits. Prisons have the authority to initiate efforts to improve facilities and provide work opportunities for all prisoners as far as the circumstances of the prison permits.

In Japan, the variety of work offered in prison is limited and insufficient orientation is given to prisoners. Prison authorities focus more on security than work and inmates are not given adequate training. The work they do does not make them conscious of the importance of work nor encourage them to work outside the prison. The prisoners should be offered work that can impress the significance of work on them. It is also important to acquire qualified work instructors to train prisoners.

⁴ Article 70 of the SMR states, "Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage good conduct, develop a sense of responsibility and secure the interest and co-operation of the prisoner in their treatment".

⁵ Article 71.(2) of the SMR states, "All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer".

D. Education

Article 77 of the SMR states that “Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration”. Problems existing in some of the participating countries’ prison education systems and their countermeasures are as follows:

In Fiji, in 2001 about 45.7% of the total number of prisoners admitted to prison either have no formal education or only attained primary education level. At present its education programme is mainly focused in one of the prisons (a Young Offenders Prison). The programme needs to be extended to other prisons to ensure that other prisoners are given a similar opportunity to further their education level.

In the Philippines, offenders in prison are often either school dropouts or have a low level of literacy. The government should provide a literacy programme through the department of education, culture and sports to enable them to know how to read and write. And provide an education programme to undergraduate offenders and give them accreditation after passing the examination given by the department of education, culture and sports, so they can continue their study after release.

In Japan, more emphasis is placed on labour rather than education. Most of the prisoners are sentenced to imprisonment with labour and required to work eight hours a day, leaving less time for educational programmes. Education is not mandatory for inmates although the prison administration may find it fit that the inmates need education. The current legislation needs to be reviewed to allow more emphasis on the importance of educational programmes for the rehabilitation of inmates.

E. Social Relations and Aftercare

Article 79 of the SMR states, “Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both”. In relation to this, the problems existing in some of the participating countries’ prisons and proposed countermeasures are as follows:

In Fiji, the standard entitlement to family visits is one visit of fifteen minutes duration every four weeks. One must realise that one of the most important factors leading to a crime-free society is the maintenance of close family ties. The current frequency and duration of visits is inadequate to achieve that and hence the visits need to be extended. Consequently this would require provision of adequate visiting facilities and extra staff to supervise visits. It is recommended that the frequency and duration of the visits be increased to a desirable standard subject to the provision of adequate visiting facilities and staffing.

Also in Fiji, environmental adjustments before releasing offenders are conducted in a pre-release institution. Aftercare programmes are not part of the prison’s responsibility; however, within three months before discharge the legislation provides that the prison authorities should make arrangements with families or relatives of the prisoner to facilitate his/her smooth transition back into the community.

The Ministry of Fijian Affairs is tasked with the responsibility of aftercare programmes for Fijian prisoners when discharged. The Ministry makes necessary arrangements with village elders to assist in providing pieces of land for the prisoners to farm and produce derived from the farm is utilised for their consumption and the surplus sold to market for income to meet other expenses. However, due to lack of funding, the Ministry on most occasions is unable to fully implement this programme. So a provision of adequate funding is necessary if this programme is to realise its full potential.

In Japan, there are aftercare programmes, but the programmes are not obligatory for all offenders. Therefore, ex-offenders who do not go through the programmes are likely to re-offend. It is crucial that more aftercare programmes be in place to cater for the rehabilitation of offenders when released from prison in order to prevent them from re-offending, particularly for prisoners who are released at the end of their full term of imprisonment. The prison authorities need to share information and co-ordinate activities of aftercare programmes with their counterparts in the probation department to ensure the effective socialization of offenders or ex-prisoners in the general community.

IV. EVALUATION OF TREATMENT PROGRAMMES

Evaluation of treatment programmes of offenders is necessary to measure the success or otherwise of the programmes. Collation and analysis of programme data would determine this end. As discussed, most member countries do not have a specific system of evaluating their treatment programmes. However, the normal practice in some member countries, is to use their annual reports as a basis to evaluate their treatment programmes; however, the reports do not always cover the whole treatment programmes. All the members have agreed that a more structural evaluation system be implemented.

The Group determined that the provision of an evaluation mechanism should be established in all member countries' prison systems and propose a model for consideration (See Appendix B).

V. RECOMMENDATIONS

The following recommendations are drawn from the problems and countermeasures existing in the participating countries (For clarification, please refer to problems and countermeasures of each participating country as mentioned above):

- That improvement or replacement of archaic prison facilities be made to improve prisoners' living conditions.
- That provision of additional facilities and recruitment of additional personnel experts in psychology and psychiatry for therapeutic programmes be acquired.
- That review and improvement of the existing classification system be made to reflect the actual rehabilitation programmes existing in the prisons.
- That review and introduction of a more practical progressive stage system be made in all prison systems.
- That a review of stage gratuity (stage earnings) be made to increase the amount of money for stage earnings to be equivalent to the value of the prisoner's actual work.
- That industries with real work potential in the outside industries be introduced in the prisons for the benefit of prisoners on release.
- That suitable work be made available in all prisons to provide work for prisoners and prevent their deterioration.
- That all prison legislation be reviewed to incorporate in them provisions for prisoners' education.
- That all prisons be fully fledged with integrated rehabilitation programmes, including education.
- That the frequency and duration of the visits be increased to a desirable standard subject to the provision of adequate visiting facilities and staffing.
- That a mechanism is in place between the prison department and probation department to co-ordinate aftercare programmes.
- That an evaluation mechanism is in place in all prisons to evaluate the success or otherwise of their rehabilitation programmes.

VI. CONCLUSION

This report was compiled following extensive group discussions, in which all members participated, expressing their ideas and bringing useful and relevant perspectives from their own countries. The paper explains the countermeasures to improve effective treatment programmes. "There is substantial evidence that rehabilitation programmes work. There is a body of research supporting the conclusion that some treatment programmes work with at least some offenders in some situations. Effective rehabilitation

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programmes are structured and focused, use multiple treatment components, focus on developing skills (social skills, academic and employment skills), and use behavioural (including cognitive-behavioural) methods (with reinforcements for clearly identified, overt behaviour as opposed to non-directive counselling focusing on insight, self esteem or disclosure.”⁶

The Governments of the various countries need to take the lead in committing resources to improve the conditions of the prison facilities and to introduce rehabilitation programmes that are holistic which would ensure promotion of effective treatment programmes for offenders so that the rate of recidivism is reduced.

⁶ Evidence-Based Crime Prevention Crime prevention in the courts and corrections Doris Layton Mackenzie, p. 385.

APPENDIX A

Research on Factors Contributing to Recidivism

There is a significant difference between recidivists and the rehabilitated group

Group A: recidivists
Group B: rehabilitated

1. Intelligence Quotient (a rate of less than IQ=59)

Group A: 22.7%
Group B: 9.0%

2. Educational background

(i) Unfinished compulsory education

Group A: 26.3%
Group B: 21.9%

(ii) Received a high level of academic education (more than high school)

Group A: 11.7%
Group B: 22.6%

3. Occupation (the rate of unemployed)

Group A: 50.5%
Group B: 12.7%

Note: Especially, recidivists who committed theft, have a higher unemployment rate

Group A: 65.0%
Group B: 37.8%

4. "Bouryokudan" Gangster group

Group A: 38.2%
Group B: 7.7%

5. Family condition

(i) Persons with no fixed abode

Group A: 21.5%
Group B: 9.8%

(ii) Those living together with wife and children

Group A: 6.5%
Group B: 25.0%

6. Relations with family (the troublesome person of the family)

Group A: 54.5%
Group B: 17.4%

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7. Habits

(i) Alcoholic dependence

Group A: 31.0%

Group B: 3.0%

(ii) Drug dependence

Group A: 11.1%

Group B: 2.2%

Source: The Research and Training Institute of the Ministry of Justice research bulletin 32 (1989), 33 (1990).

APPENDIX B

1. Basic model of evaluation research:

Input → Output → Outcome

Input: Treatment programme (i.e. vocational training)

Output: Product of the treatment (i.e. employment)

Outcome: Decrease of recommitment

2. Research on 'Output → Outcome'

To find out what kinds of outputs (factors) are effective in decreasing recommitment.

For example, if statistics show that offenders who have a steady job are less likely to commit crime again than others, 'Employment' shall be recognised as an important 'Output'.

3. Research on 'Input → Outcome'

To compare two groups of offenders; one group receives an 'Input' (treatment), while the other does not.

Research on 'Input → Outcome' has 3 major disadvantages:

1) Subject of the research is limited to treatments that are actually practiced.

2) The research is impossible to contribute to the improvement of basic treatments.

In the research, researchers compare offenders who receive an additional treatment programme with other offenders. Therefore we cannot evaluate basic treatment programmes, which both of the groups equally receive.

3) Ambiguity of definition of 'Input'

We sometimes discuss Inputs (treatment programmes) with no distinction between Outputs and treatment methods.

4. The above two research methods will work well in combination with each other. There is much research on treatment programmes, and some researchers have started making efforts to overcome the above disadvantages.

Reference: "KEISEI" Vol.110 No.7-9, "Research on Evaluation of Treatment Programmes (1) - (3)", Hiroshi Tsutomi (1999).

PART TWO

Work Product of the 128th International Training Course
“MEASURES TO COMBAT ECONOMIC CRIME, INCLUDING MONEY
LAUNDERING”

UNAFEI