TREATMENT OF JUVENILE OFFENDERS AND THEIR REINTEGRATION INTO SOCIETY

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DIVISION TRAINING: EDUCATION TRAINING AND DEVELOPMENT
RESEARCH & CURRICULUM DEVELOPMENT
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ABSTRACT

A Training Course in the Treatment of Juvenile Offenders was presented at the Faculty: United Nation Asia and Far East Institute (UNAFEI) (for the Prevention of Crime and the Treatment of Offenders) from 20 May 2007 to 29 June 2007 and brought together criminal justice professionals from 16 different countries, and 7 participants from Japan. The Course mainly focused on “Effective Measures for the Treatment of Juvenile Offenders and their Reintegration into society” and to share ideas among participants on challenges faced by their respective countries.

The reporter compiled a report to share information regarding challenges encountered by the participants, lecturers and visiting experts during the course in Japan. The report mainly focussed on the group report during group discussions and is as follows:

• Current situation and problems faced by each jurisdiction throughout the legal proceedings for juveniles and their effective counter measures.

• Effective measures in the institutional treatment of juvenile offenders.

• Effective measures for the community-based treatment of juvenile offenders.

• Effective measures to promote the reintegration of juveniles into the community.

It is recommended that all functional police members of the South African Police Service and members of other government departments such as: Department of Correctional Services, Department of Justice and Department of Social Development become more aware of the importance of the issue related to the juvenile justice system and the treatment of juvenile offenders. In view of the importance of the issue, actions need to be taken to establish proper standards for the administration of the juvenile justice system.
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<td>ACPF</td>
<td>Asia Crime Prevention Foundation</td>
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<td>COA</td>
<td>Criminal Offences Act</td>
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<tr>
<td>DQA</td>
<td>Developmental Quality Assurance</td>
</tr>
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<td>FGC</td>
<td>Family Group Conference</td>
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<td>NGO’s</td>
<td>Non Government Organisations</td>
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<tr>
<td>NICRO</td>
<td>National Institute for Crime Prevention and Reintegration of Offenders</td>
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<td>SAPS</td>
<td>South African Police Service</td>
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<td>S v</td>
<td>State versus</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UAFEI</td>
<td>United Nations Asia and Far East Institute</td>
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<tr>
<td>USA</td>
<td>United State of America</td>
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<tr>
<td>VOM</td>
<td>Victim Offender Mediation</td>
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CHAPTER 1: GENERAL ORIENTATION.

1.1 INTRODUCTION

Most states recognize the need to treat juvenile offenders differently from adult offenders within the Criminal Justice System. The international community has also established guidelines and rules to promote the rights of a juvenile.

In the United Nations Asia and Far East Institute (UNAFEI) Newsletter (2007:2), it is highlighted that it is necessary for more countries to become aware of the issues surrounding the treatment of juvenile offenders, and the importance thereof, and to take action to implement changes in their legislation and/or practices to improve their Juvenile Justice System.

Furthermore, in addition to improving the treatment of juvenile offenders, the need exists to establish a system that will assist juveniles to reintegrate into the community upon their release. For that purpose, it is important that restorative justice policies, procedures and programmes be developed to promote the rehabilitation of offenders, in the best interest of the victim(s).

1.2 BACKGROUND

The separation of juvenile offenders and adult offenders is of great importance. The establishment of task teams within the Criminal Justice System could achieve this. In most countries there is legislation ensuring special treatment, education and welfare of juvenile offenders.

The United Nations has taken actions to establish standards for the administration of Juvenile Justice Systems. In 1985, the “United Guidelines for the Prevention of Juvenile Delinquency” and the “United Nations Rules for the Protection of Juveniles Deprived of their Liberty” discuss the issue of treatment of juveniles and the prevention of juvenile delinquency/crime. In 2000, the Tenth United Nations Congress took place in Vienna. During this congress, the importance of taking measures to prevent juveniles from becoming delinquent, or to be recruited by adult criminal groups, was highlighted.

The Convention on the Right of the Child was adopted in 1998. It contains several provisions calling upon the State Parties to ensure an effective Juvenile Justice System. In many parts of the world, there is recognition of the importance to improve the Juvenile Justice System.
1.3 TRAINING PROGRAMME IN CRIME PREVENTION: (EFFECTIVE MEASURES FOR THE TREATMENT OF JUVENILE OFFENDERS AND REINTEGRATION INTO SOCIETY): UNAFEI, JAPAN

A Training Programme in the Treatment of Juvenile Offenders was presented at the Faculty: United Nations Asia and Far East Institute (UNAFEI), for the Prevention of Crime and the Treatment of Offenders from 20 May 2007 to 29 June 2007. The programme brought together criminal justice professionals from 16 different countries, namely: Bhutan; Brazil; Cameroon; China; Honduras; Iraq; Korea; Myanmar; Panama; Philippines; South Africa; Sri Lanka; Tonga; Vietnam; Zimbabwe and Japan. The foreign participants consisted of Senior Officials from the Ministry of Justice, as well as the Ministry of Interior, Senior and experienced Police Officers, Probation Officers, Correction Officers and Prosecutors.

The programme had the same objective, namely “to uphold justice”. The programme presented the opportunity to share knowledge and rich experiences on how best they can effectively deal with the problem of crime. The skills participants acquired from the programme, will be utilized in the best way possible with a view to realize the ultimate goal of the Asia Crime Prevention Foundation (ACPF) i.e. “Prosperity without Crime”. The main theme of the Training Programme was “Effective Measures for the Treatment of Juvenile Offenders and their Reintegration into Society”. The purpose of this Programme at UNAFEI was to share, examine and analyse the existing ways of juvenile treatment, and the reintegration of juvenile offenders in their respective countries. This enables the participants to identify the current challenges faced by each of their countries; but most importantly, to explore ways applicable and practical for each respective country that will be effective for the treatment of juvenile offenders.

The Programme mainly focuses on the following:

- The current situation and problems faced by each jurisdiction throughout legal proceedings for juveniles, and their effective counter measures in place.
- Effective measures for the treatment of juvenile offenders by various institutions.
- Effective measures for community-based treatment of juvenile offenders.
- Effective measures to promote the reintegration of juveniles into the community.

1.4 REASON FOR THIS REPORT

Superintendent Korff from the South African Police Service, placed at Division Training: Research & Development, was involved in the development of the Children and Youth at Risk Learning Programme for the SAPS. Supt Korff accordingly attended the programme in Japan as mentioned in Par 3. He intends to share valuable information and his knowledge and skills gained from the programme with role players such as the Department of Justice; Department of Correctional Services and Department of Social Development.
1.5 STRUCTURE

The structure is as follows:

Chapter 2 mainly describes the Juvenile Justice System in Japan. It aims to explain the structure of the Japanese Court System, and the Family Court and the flow of procedures during juvenile cases.

Chapter 3 mainly concentrates on an overview of the Justice Systems in the respective countries as mentioned in Par 3. The reporter focused on the following issues obtained from individual presentations by participants who attended the programme in Japan: Minimum/maximum age of a juvenile; criminal liability; types of crime committed; Juvenile Justice System (legislation); and juveniles arrested. This chapter will enable the reporter to do a comparative study among the different countries for findings and recommendations in Chapter 7.

Furthermore, group activities on how to use social skills to effectively communicate with juvenile offenders were conducted. Group work (three groups) with plenary meetings took place, enabling participants to fully comprehend the various issues relating to effective measures for the treatment of juvenile offenders and their reintegration into society. The valuable information and the knowledge gained provided them a useful platform to share their ideas and experiences; and in the workshops in particular, to formulate specific and concrete recommendations on the programme’s theme.

Concerning Chapters 4, 5 and 6, the group reports (minutes of discussion points) enabled the reporter to make certain comments on the following challenges identified:

Chapter 4 (Juvenile Justice System) focused on the following:

- The current situation with regard to the legal framework for arrest, detention, transfer, prosecution and trial;
- Assessment of the degree of risk of re-offending;
- Diversion.

Chapter 5 (effective institutional treatment of juvenile offenders) focused on the following:

- The current situation and problems faced by organizations that treat juveniles;
- Measures to assess individual characteristics;
- The development of an effective treatment programme in accordance with the risk and needs assessment;
- The development of an effective treatment programme considering victims and/or restitution of the harm caused to the victims;
- Continued collaboration with community based treatment through care; and
- After-care systems to reduce the risk of re-offending.
Chapter 6 (Effective community-based treatment of juvenile offenders) focused on the following:

• The current situation and problems faced by organizations treating juveniles;
• Measures for assessing individual characteristics, the degree of risk, individual needs and classification;
• The development of an effective community-based treatment programme in accordance with the risk and needs assessment;
• The development of an effective treatment programme considering victims and/or restitution of the harm caused by the offender;
• Continued collaboration with community based treatment through care; and
• After care systems to reduce the risk of re-offending.

In Chapter 7, the reporter made certain findings and recommendations on how to implement an Action Plan on the treatment of juvenile offenders and their reintegration into the community.

Lastly the reporter also made recommendations regarding communication with juveniles, diversion practices and restorative justice. For these purposes the reporter will extract certain points from the presentations delivered by the various experts.

Certain challenges within the Justice System in South Africa, with possible solutions, were identified:

• The Child Justice Bill is in the process of being promulgated.
• A comprehensive Crime Prevention Policy on Child Justice needs to be developed that aligns with the principles and objectives of the Child Justice Bill.
• Statistics regarding the treatment of juvenile offenders need to be improved.
• Speedy trials have to be arranged for juvenile offenders.
• The disposition of juvenile offenders needs to be addressed.
• Specialization has to be developed and increased.
• The protection of detained juveniles from possible torture during detention has to be improved.
• Collaboration between institutional treatment and community needs must be entrenched.
• The ensuring of an effective partnership between all Departments involving in child justice.
CHAPTER 2: AN OVERVIEW OF THE JUVENILE JUSTICE PROCEDURES IN JAPAN.

2.1 INTRODUCTION

According to Oshino (2007: 4), most western countries established juvenile law between the 19th century and 1920’s. Juvenile Law was enacted in 1922 and was put into effect in 1923. After the Second World War, it was suggested by the General Headquarters of the Allied Forces, that the legal framework should be changed. During 1940s, early 1950, fundamental changes were brought about in the legal system, including the Constitution, the criminal procedure law and the juvenile law.

Oshino (2007: 4), states that the main characteristic of the existing Juvenile Law is the philosophy of “Parents Patriae” (parent of the country). The aim is to rehabilitate delinquent juveniles through education and protective efforts.

2.2 THE JAPANESE COURT SYSTEM AND THE FAMILY COURT

The Japan Court System consists of five courts, namely, the Supreme Court, High Court, District Court, Family Court and the Summary Court. Delinquency cases are handled by Family Courts.

There are 50 Family Courts with 203 branch offices and 77 local offices in the four judicial districts (see figure 1). In the Family Court, there are approximately 700 judges including assistant judges, 1,300 court clerks and 1,600 family court probation officers. In addition, there are many other officers, including some medical officers and nurses.

The family courts strive to give the necessary protective measures to delinquent juveniles in civil and criminal cases. During the court procedures, the probation officer plays an important role to ensure safety and support to the juvenile such as education at a Juvenile Training School, with a view of protecting juveniles rather than punishing them. (Oshino, 2007: 5)
2.3 PROCEEDURES FOR JUVENILE CASES

2.3.1 Purpose, function and structure of the Juvenile Justice System

- Purpose and function

Oshino (2007: 6) says that the most important purpose is welfare and education, in order to promote welfare to rehabilitate delinquent juveniles. The Family Court in Japan provides protective and educative treatment to delinquent juveniles. In Japan, a probation officer plays an important role during the justice system procedures. The probation officer is actually the link between the juvenile offender, the family and the prosecutor.
• Structure of the Juvenile Justice System

The Japanese Judicial System utilises the “principal of Ex Officio” which means the Inquisitorial Principle. This principle is adopted in criminal trials in most countries (Oshino, 2007: 7).

• Judicial functions of the Juvenile Justice System

Oshino (2007: 7) mentioned that the four most significant functions are as follows:

- The **Principle of No Adjudication** without Referral: the Family Courts decide only on juvenile delinquency cases, which are referred by the police, prosecutor or probation officer.

- The **strictness of fact-finding**: Family Courts render protective measures to juveniles; conviction must be established by evidence beyond a reasonable doubt, the same as in criminal trials.

- The **Fundamental Rights** of juvenile must be upheld. The judge needs to inform the juvenile of the alleged delinquent act and give him/her the opportunity to make statements concerning the allegations.

- To protect and maintain the safety of the society and welfare of the public.

• Referrals

All juvenile delinquency cases are referred to the Family Court, no juvenile offenders can be prosecuted in a regular court without a decision from the family court.

• Non-publicity (In camera)

The public is not allowed to attend a juvenile hearing, in order to protect the interest of privacy of the juvenile. Even during investigation, great attention is paid not to harm the juvenile’s feelings and reputation.

• Separation of handling

A juvenile suspect or accused is separated from other suspects or accused and is kept, as far as possible, out of contact with them. Social inquiries and hearings in the Family Court are also conducted separately from other juveniles. (Oshino, 2007: 9)
2.3.2 Jurisdiction of the Family Court over juvenile delinquency cases

- **Juvenile Offender**

  In Japan law, a juvenile can be defined as a person under the age of 20 years. The minimum age of criminal reliability is 14 years. A juvenile between the age of 14 and 19 years who is involved in juvenile misconduct is called a “juvenile offender”.

- **Law-breaking Child**

  The Child Guidance Centre primarily handles children under the age of 14 years, when they have committed acts, which, if committed by a person over the age of 13, would constitute an offence under the penal laws. Only the Chief of the Child Guidance Centre refer them to the Family Court.

- **Pre-Delinquent Juvenile**

  Oshino (2007: 10) mentioned that the family Court have jurisdiction over a minor, when:

  - Habitually disobeys the proper control of the custodian;
  - Repeatedly runs away from home without proper reason;
  - Associates with persons having a criminal tendency; and
  - Habitually acts so as to harm or to endanger his/her own morals or those of others.

  In practice, only 0.5 percent of the juvenile delinquency cases are cases of pre-delinquent juveniles.

2.3.3 Referral of cases to the Family Court

Oshino (2007: 10) stated that with regard to arrest, the police should try to avoid arresting juvenile suspects. In the case of detention, if there is no such circumstances, but a need for custody, the persecutor may request a Judge to order an alternative measure, i.e., protective detention for ten days in a juvenile classification home.

2.4 **SAIBAN-IN SYSTEM**

On May 28, 2004, the Law for Implementation of the *Saiban*-in System in Criminal Court Procedures was promulgated. The outcome of the *Saiban*-in System is for a faster, friendlier, and more reliable justice system in which the general public can all participate. The Justice System was implemented in May 2009. (Source: Start of the Saiban-in System)

Cases that are being covered are serious cases that are of particularly high interest to the public such as murder cases. In order to select *saiban*-in fairly from a broad spectrum of the general public, *saiban*-in candidates will be selected by lot once a year from among people between the ages of 20 years and 70 years. (Source: Justice System Reform of Japan)
2.5 SUMMARY

In the Ministry of Justice Prospective Document, it states that in Japan, the Ministry of Justice not only prescribes rules (basic legislation) applicable in daily life, but also the basic judicial framework under which that rules are faithfully observed.

The Ministry also oversees the management of a system to ensure that the basic human rights of individuals are respected and that peace and order in society are ensured.
CHAPTER 3: AN OVERVIEW OF THE JUVENILE JUSTICE SYSTEM IN THE RESPECTIVE COUNTRIES

3.1 INTRODUCTION

The 136th International Training Course has brought together criminal justice professionals from 16 different countries, namely Bhutan; Brazil; Cameroon; China; Honduras; Iraq; Korea; Myanmar; Panama; Philippines; South Africa; Sri-Lanka; Tonga; Vietnam; Zimbabwe and 7 participants from Japan. The foreign participants consist of Senior Officials from the Ministry of Justice and the Ministry of Interior, Senior and experienced Police Officers, Probation Officers, Correction Officers and Prosecutors.

The aim is to have an overview of the respective countries regarding the criminal justice system, focussed on juvenile delinquency. The reporter wants to make certain recommendations in chapter 7 on what system could be implemented in the South African Justice System.

During individual presentations, the participants from the different countries focused on the following dimensions as mentioned on table 1 below.

- Juvenile Justice System
- Correctional Treatment
- Community-Based Treatment
- Probation Officer

<table>
<thead>
<tr>
<th>Juvenile Justice System</th>
<th>Correctional Treatment</th>
<th>Community-Based Treatment</th>
<th>Probation Officer</th>
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<tbody>
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<td>Brazil</td>
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<td>Cameroon</td>
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<td>Honduras</td>
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<td>Korea</td>
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<td>Tonga</td>
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<tr>
<td>Japan</td>
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### 3.2 JUVENILE JUSTICE SYSTEM

Table 2 below indicates the following concepts namely; age of a juvenile, criminal liability, types of crime, juvenile justice system, and juvenile arrested.

**Table 2: Juvenile Justice System**

<table>
<thead>
<tr>
<th>Country</th>
<th>Age of a juvenile</th>
<th>No criminal liability</th>
<th>Types of crime</th>
<th>Juvenile justice system</th>
<th>Juvenile arrested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bhutan</td>
<td>Between 10 and 18 years.</td>
<td>Below 10 years.</td>
<td>Burglary, drug abuse and battery.</td>
<td>No separate juvenile justice legislation or a comprehensive juvenile justice in place yet.</td>
<td>1153 Juveniles arrested, 128 juveniles convicted.</td>
</tr>
<tr>
<td>Brazil</td>
<td>Between 12 and 18 years.</td>
<td>Below 12 years.</td>
<td>Robbery, physical aggression, sexual offences and house breaking.</td>
<td>“Infraction” for the adolescent and “crime” for adults. A child is not recognising a prisoner, but an intern.</td>
<td>2186 Juveniles arrested.</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Between 14 and 18 years.</td>
<td>Below 10 years.</td>
<td>Not stated.</td>
<td>Penal Code of 2007: Arrest and police custody the same as adults, but must be kept separate from adults.</td>
<td>Not stated.</td>
</tr>
<tr>
<td>Honduras</td>
<td>• 18 Years or younger recognise as adolescent. • Between 18 and 21 year recognise as juvenile adult.</td>
<td>Males below 12 years &amp; female below 14 years.</td>
<td>Robbery, illegal guns currying, Illicit association gangs.</td>
<td>Constitution of Honduras states children younger than twelve place them into the disposal of parents or legal representative care.</td>
<td>6514 Juveniles arrested.</td>
</tr>
<tr>
<td>Iraq</td>
<td>• Child between 7 and 15 years. • Juvenile between 7 and 18 years. Young person between 15 and 18 years.</td>
<td>Below 7 years.</td>
<td>Gender violence and terrorism.</td>
<td>A young person from the age of 15 years may be sentenced in a correctional institution.</td>
<td>Not stated.</td>
</tr>
</tbody>
</table>
### Table 2: Juvenile Justice System (cont)

<table>
<thead>
<tr>
<th>Country</th>
<th>Age of a juvenile</th>
<th>No criminal liability</th>
<th>Types of crime</th>
<th>Juvenile justice system</th>
<th>Juvenile arrested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Korea</td>
<td>• Illegal behaviour: between 12 and 14 years.</td>
<td>Below 12 years.</td>
<td>Property offences, violent offences and</td>
<td>There is a juvenile justice system in place, but victims may suffer secondary. In this</td>
<td>Not stated.</td>
</tr>
<tr>
<td></td>
<td>• Pre-delinquents 12 years and older.</td>
<td></td>
<td>traffic violation offences.</td>
<td>case victims of crime may have to go through the criminal justice system to get</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Juvenile offender between 14 and 19 years.</td>
<td></td>
<td></td>
<td>compensation for their damages.</td>
<td></td>
</tr>
<tr>
<td>Panama</td>
<td>Person under age of 18 years,</td>
<td>Not stated.</td>
<td>Robbery, drug traffic, murder, sexual</td>
<td>Panama rectified the Convention of the Right of the Child. The law enforcement is the</td>
<td>1392 Juveniles</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>violations and kidnapping.</td>
<td>Family Code and Law 40 on the Special Regime of Criminal Responsibilities for Adolescent.</td>
<td>arrested.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Philippine Presidential Decree and protection against Abuse, Exploitation and</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Discrimination Act.</td>
<td></td>
</tr>
<tr>
<td>Sri-Lanka</td>
<td>• Child: under 14 years.</td>
<td>Proposed to change the</td>
<td>Theft, drug use, house breaking and</td>
<td>The Penal law and Children and Young Persons Ordinance, as Amended in 1978.</td>
<td>Not stated.</td>
</tr>
<tr>
<td></td>
<td>• Young person: over 14 less than 16 years.</td>
<td>age from 8 to 10 years.</td>
<td>sexual offences and vagrancy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Youthful person: Between 15 and 18 years.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 2: Juvenile Justice System (cont)

<table>
<thead>
<tr>
<th>Country</th>
<th>Age of a juvenile</th>
<th>No criminal liability</th>
<th>Types of crime</th>
<th>Juvenile justice system</th>
<th>Juvenile arrested</th>
</tr>
</thead>
</table>
| Vietnam  | Between 14 and 18 years | • Persons 14, less 16: penal liability for serious crimes  
• Persons older than 16: penal liability for all crimes. | Intentionally inflicting injury or causes harm, plundering property, extortion of property, robbery by snatching, theft and the breaching regulations. | Vietnam has special provisions stipulated in the Penal Code and Criminal Procedure Code, applicable to juvenile offenders. | Not stated.       |
| Zimbabwe | Between 14 and 18 years | • Children younger than 7 not criminally liable  
• Persons between 7 and 14 years are presumed to lack criminal capacity  
• Children over 14 years have capacity to commit crimes. | Not stated. | Not stated. | Not stated. |

3.3 CORRECTIONAL TREATMENT

Table 3 below indicates the following concepts namely: age of a juvenile and sentencing options for young offenders.

**Table 3: Correctional Treatment**

<table>
<thead>
<tr>
<th>Country</th>
<th>Age of a juvenile jail</th>
<th>Sentencing options for young offenders.</th>
</tr>
</thead>
</table>
| Hong Kong    | Below 18 years.        | • Pre-sentencing Assessment<br>The court will decide on the following conditions, namely: the character of young offender and the physical and mental conditions. In the process of pre-sentencing assessment, an intake officer will pay visits before compiling a report of the social history of the young offender. The major criteria for admission to a drug addiction treatment centre are drug dependence at the time of admission. <br>• Treatment programmes<br>  
  An alternative to imprisonment for young offenders ages between 14 and less than 25, who do not have a long string of previous convictions and whose offences are not serious in nature to receive rigorous programmes, provided young offenders with treatment emphasising strict discipline, hard work, physical training and foot-drill. The aim is to teach offenders to have respect for the law, self-respect, and an ability to live with other people in harmony. *(Cheung, 2007:2 to 9)* |
| Myanmar      | Between the ages of 14 and 19 years. | The Beijing Rules stipulate alternative sentences systems;  
  • Care, Guidance and Supervision Orders<br>A care, guidance and supervision orders place the child under the supervision of a specific adult or peer mentor to monitor the child’s behaviour.  
  • Community Service Order<br>Community service orders are very tangible methods to making children take responsible for their wrongdoing.  
  • Compensation and Restitution<br>Many countries now permit the child to compensate for the damage caused by the offence by performing some service for the victim’s benefit. |
<table>
<thead>
<tr>
<th>Country</th>
<th>Age of a juvenile jail</th>
<th>Sentencing options for young offenders</th>
</tr>
</thead>
</table>
| Myanmar (cont) |                        | **The Reporting to Open Training Centres**  
Day reporting or open training centres or day reporting centres are highly structured, community-based non-residential programmes for dangerous child offenders.  
**Open custody Group Homes**  
Open custody facilities are particularly appropriate for non-violent children offenders who are not dangerous to the community, but who are in lack of appropriate parental care. *(Kyaw, 2007: 10 & 11)* |
| Sri-Lanka     | Between the ages of 16 and 22 years. | Upuldeniya (2007: 2) refers to the history of rehabilitation for youth offenders that commenced in 1926 by the Scouts Troup formed by the Royal Scouts Headquarters. The said Scouts participated in processions and “Shramadana” movements outside the prisons.  
Later in 1940, the *Bostel* Institution was established for the training of youth offenders. It was the first institution established in Asia for youth offenders. Now youth offenders are being rehabilitated and sent back to the society.  
Youth offenders are accommodated in three different institutions, namely  
- Training schools for youthful offenders  
- Closed prison and open camp  
- Open camp  
The second and third institutions mentioned above detains youthful offenders between the age group of 16 – 22, especially children convicted for drug offences.  
A large number of children between the ages of 16 – 22 are convicted and imprisoned for various offences. The convicted children have increased from 2001 to 2005, and the main reason may be that after release into the society, they are falling back to criminal habits. The other reason is that there are non-availability of institutional facilities in Sri-Lanka.  
The rehabilitation programme’s objective is to develop a detainee skills, an educational level, vocational training through a number of formal training schemes. *(Upuldeniya, 2007: 4, 11 & 12)* |
3.4 COMMUNITY-BASED TREATMENT IN TONGA

“The Kingdom of Tonga (also known “The Friendly Islands) is a monarchy with King George V as the Head of the State”. (Source: Kuli, 2007:2)

Kuli, (2007:10) stated that the living arrangement for some juveniles is bad due to broken families. In some cases both parents migrated overseas and left the juveniles with some relatives who are equally neglecting the parenting of these juveniles.

In certain villages, there are cases where the juvenile commute between his/her parents finally ending up in some “boys hut” living with a peer group where he/she can pick up kinds of criminal activities. Some juveniles left schools at a young age and do hard labour to seek an income.

3.4.1 Juvenile Legislative System

The 1875 Constitution of Tonga is still the Supreme Law in the country (this is also one of the oldest Constitutions of the world). Currently the Criminal Offences Act (COA) is the law that governs any criminal activities within the Kingdom. The law of Tonga does not provide what is the youngest age that could be charged with a crime in the Kingdom.

Tonga is in process to establish a separate court for juvenile and enact a separate Juvenile Act. The Convention for the Rights of a Child was launched a few years ago. (Source: Kuli, 2007:2 & 10)

3.4.2 Arresting and detention

Kuli, (2007:10) says that there is no difference within the arresting procedure of a juvenile and on adult offender. The juvenile is detained in the same way as the adult and placed into the same cell as the adult and treated the same way.

It was known that after the “16/11 Riot” in Tonga, so many people were arrested including a few juveniles. These juveniles were detained together with the adult offenders from overnight to a week or more.

Additionally, the same prosecution procedures are applied for the juvenile as the adult, and the same sentence is applicable.

3.4.3 Service provided by the probation division

The Probation Division in Tonga handles both the adult and youth cases. There are only a few probation officers and their work is limited only in those courts in the main island, unless there is an urgent need for an officer for the other islands. The new rehabilitation programme is in process to be implemented, where youth who are 17 years and younger and who is a first offender are to be diverted under the direction of the Prosecution. (Source: Kuli, 2007:3 & 4)
3.4.4 Trend of youth offending

According to statistics shown, the trends have fluctuated (decreasing and increasing) for the last four years (2002 to 2005) as indicated in the table below. Let look at the most criminal activities.

<table>
<thead>
<tr>
<th>Offences</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drunkenness</td>
<td>348</td>
<td>274</td>
<td>443</td>
<td>417</td>
</tr>
<tr>
<td>Common assault</td>
<td>106</td>
<td>102</td>
<td>82</td>
<td>74</td>
</tr>
<tr>
<td>Abusive language</td>
<td>40</td>
<td>31</td>
<td>45</td>
<td>39</td>
</tr>
<tr>
<td>Theft</td>
<td>57</td>
<td>113</td>
<td>191</td>
<td>39</td>
</tr>
</tbody>
</table>

It seems that the juvenile's commit no serious crimes. Drunkenness is the highest offence and it shows a fluctuation of figures, maybe caused by the fact that there is no sufficient recreational activities for the juveniles. The rest of all the other criminal activities as indicated on the above table shown that there is a decrease in criminal trends. (Source: Kuli, 2007:8 &9).

3.4.5 Effective measure for institutional/community-based treatment

Kuli, (2007:12) states that there is a lack of sufficient treatment centres in Tonga. There is a good relation with the NGO’s, which consist of the Tonga Salvation Army, Tonga Women and Children Centre, Legal Literacy and Tonga National Youth Congress.

Kuli, (2007:13) further mentions that there is a “restorative justice” system unofficially being practiced in one of the villages in Tongatapu. During the “fono” meetings, the offender makes some kind of apology and some kind of agreement is made between the offender and the victim. The offender will restore his/her relation with the victim.

Kuli, (2007:14) says that in Tonga, there is a good method used to include the youth offender in the community by means of a “Kava party”. During this the community gathers to give the youth offender “good advice” and let him/her understand that he/she is not an “outcast”.

3.5 EFFORTS OF THE SPECIAL TREATMENT UNIT: TOKYO PROBATION OFFICE

Otani (2007: np) said that the purpose is to improve treatment methods by the probation officer. This method was established in forty seven (47) Prefectural (Police Head Offices) offices in Japan.

The Special Treatment Unit has the following activities, namely:

- Direct treatment of persons who are difficult to treat;
- Preparation of the “Expressing Feeling Book” (annexure A);
- Holding of parent meetings;
• Implementation of sex offender treatment programme; and
• Family group conference, where juveniles are arrested for stimulant drug abuse

3.5.1 Persons who can benefit from direct treatment

- Juveniles who have developmental disorders, including pervasive development disorders;
- Juveniles who have mental disabilities;
- Juveniles whose family relationships are complicated, due to domestic abuse and the like; and
- Sex delinquents, and so on.

3.5.2 The use of the Expressing Feeling Book

Otani (2007) stated that the purpose of the Expressing Feeling Book (annexure A) is to help juveniles face up to their own anger and learn how to deal with this. During interviews with the juvenile, the probation officer can observe how the juvenile expresses himself or herself properly using the workbook during supportive and receptive exchanges.

The Expressing Feeling Book is used during regular interviews for 20 to 30 minutes. Homework is also assigned from time to time on what is learned is expected to be reflected in everyday life.

Otani (2007) emphasized that during the interview, the probation officer needs to evaluate juveniles’ efforts and to motivate them. They must listen to the juveniles’ feelings and backgrounds and carefully think together how to improve their situations.

Otani (2007) further mentioned that the probation officer should endeavor to let the juvenile express him or herself as they are without forcing exemplary answers on them.

3.5.3 The content of the work in the Expressing Feeling Book

The content of each work are as follows:

- Work A: “Face up to your anger”
- Work B: “Keep good company with anger”
- Work C: “How can you communicate feelings of anger”
- Work D: “Communicate your feelings”
- Work E: “Face up your attitude”

You are referred to look at the content of each workbook as attached on annexure A.
3.5.4 Effectiveness of the Expressing Feeling Book

The reporter refers to the following case studies, during interviews, which took place.

- **Case study 1: 14 year old boy**
  - Type of delinquency: Indecent assault
  - Type of probation: Probation by the decision of a family court.

(Characteristic of the case)

- He was poor at understanding others’ feelings.
- He might be suffering from Asperger Syndrome.

The Expressing Feeling Book was started to be used five months after he started probation. He verbally practices his feelings and communicates his feelings to others more in order to acquire the communication skills necessary for reducing stress. He also practices to understanding other’s feelings in order to become able to understand the victims’ pain. For that purpose, Work “A” to “E” in the Expressing Feeling Book was carried out.

Impact of the Expressing Feeling Book after treatment

- He began to make efforts to express his feelings with words.
- He began to put “I-Message” into practice in everyday life.
- He became able to deal with classmates’ provocations calmly, with the result that his stress from relationships decreased.
- His communication skills and sociability improved.
- He was released from probation one year after the beginning of probation.

- **Case study 2: 16-year old girl**

(Characteristic of the case)

- She began to associate with juvenile delinquents when she was a junior high school student. She has a tendency to play truant at school.
- She took a narrow view of things and easily lost her temper.
- A volunteer probation officer treated her.

She quarreled with a friend and used violence five months after the beginning of probation. This started the use of the Expression Feelings Book to develop her abilities to control anger and express her feelings with words. Work “A” to “D” in the Expressing Feeling Book was carried out.
Impact of the Expressing Feeling Book after treatment

• Through role-play games with the volunteer probation officer, she realized that her apologetic feelings disappeared when her anger came to the front. She began to make efforts to communicate her feelings with words.
• She did part-time work and her life began to center around her work.
• She was released from probation ten months after the beginning of probation.

• **Case study 3: 17-year old boy**

  • Type of delinquency: Indecent assault
  • Type of probation: Probation during provisional release from reformatory school

(Characteristic of the case)

• He was poor at understanding his and other’s feelings.
• He was also poor at noticing his stress.
• He might be suffering from Asperger syndrome.
• He was treated directly by a volunteer probation officer.

He was assigned to submit part of Work “A” as homework, so that he could notice stress from every relationships and it would be possible to talk during interviews about how to deal with stress. In addition, Work “D” was repeated to improve his ability to communicate feelings with words.

Impact of the Expressing Feeling Book after treatment

• He began to be aware of what feelings and stress he had in everyday life.
• He became able to talk about it during interviews. In addition, he began to put “I-Message” into practice in everyday life and became able to express his feelings.

3.5.5 Parent meetings

Otani (2007: np) says that parents are often isolated from their communities and don’t have anyone to share their worries and concerns with. She mentioned that there are two purposes for establishing parent meetings, namely:

• **Purpose 1:** To give parents an opportunity to talk with each other to reduce their mental burden; and

• **Purpose 2:** To give the parents appropriate advice as how to treat their children properly.

Otani (2007: np) defines “Solution-Orientated Brief Therapy” as follows “The Solution-Orientated Brief Therapy does not seek the cause of the problem; it develops the things that the juvenile has already become able to do. Moreover, the therapy sets little changes as objectives and aims to reach goals through the accumulated achievement of the objectives”.
Otani (2007: np) shares a few ideas on how to encourage parents to take part. She started to say that parents need to pay fully attention. She refers to the concept of the “I-Messages” and advises parents not to accept the consequences of their children’s acts. She advises parents to treat their children a little differently without criticizing them, and to “observe” their children objectively.

3.5.6 Style of meeting

Otani (2007: np) shortly discuss the style of meetings by mentioning the following; the members consist on a number of eight parties, namely: the parents, three or four probation officers who attend the meeting as facilitators. The meeting consists of five sessions, one session last two hours per session, which are held every two weeks. She stated that during a meeting, new members couldn’t join the meeting.

She mentioned that there are many parents who find something new in their relationship with their children when carrying out “I-Message” and other homework presented by the probation officer.

3.6 SUMMARY

Although the respective countries as mentioned in this chapter, they still have the same objective to uphold justice, even where the application of the laws might be different from country to country. It can be accepted that these countries have a system for treatment of juvenile offenders and also strive to act in the best interest of a child. The participants, by sharing ideas tended to implement a system for problems faced by each jurisdiction in effective treatment of juvenile offenders.
CHAPTER 4: ENSURING THE PROCESS IN THE JUVENILE JUSTICE SYSTEM

4.1 INTRODUCTION

During group discussions, they mainly focused on the process of the juvenile justice system and the appropriate adjudication/disposition of juvenile through considering current situation and challenges facing the respective countries. There was an agreement that some countries are already adhering to the United Nations standards, norms and guidelines.

4.2 CURRENT SITUATION AND CHALLENGES

4.2.1 Arrest and detention

In general it can be accepted that most of the countries has a system or law in place which provide prescriptions or processes of dealing with juvenile offenders who have been arrested. There are also countries that have no laws in place yet on how to deal with juveniles seperately from adults’ offenders.

In certain countries, the existing laws are not specifically followed by the courts and law enforcement agencies. Another problem that occurs is that the juvenile offender are not being brought before court in time due to practical or individual reasons. Reports from probation officers are not submitted in time or detail is lacking or is not thoroughly completed.

4.2.2 Trial

In Zimbabwe and Vietnam there are legal provisions for juvenile offenders to be represented by their parent/guardian during trail. It was noted that there are no specific courts to deal with juvenile offenders and there are no sufficient facilities for their detention.

In Japan the educative measure of a juvenile offender are very effective. Members from a social movement are of the opinion that the Family Court is being too lenient to juveniles amidst calls for severe punishment. That is mostly attributed to the fact that there is a lack of awareness campaigns to inform the public of the positive impact that the juvenile justice system has on juvenile offenders.

It was notified that in Sri-Lanka and Zimbabwe, incidents happened where there is an inordinate delay before juvenile cases are disposed of. In Japan there are strict limitations concerning detention. It is clear that only 23 days are allowed from arrest to referral to Family Court.

The Family Court has to decide final disposition, usually within 4 weeks, but maximum 8 weeks, as provided by the law.

In certain countries legal representation is available, but on the own expense of the juvenile offender. In Zimbabwe, legal representation is only provided for the state in indictable cases.
4.2.3 Probation officers and their assessment

In Sri-Lanka it is required that a probation officer should have the necessary sociology background. In Japan they are expected to be specialists in psychology, sociology and education.

In Vietnam the law does not provide for probation officers. The judge will proceed to deliver his judgment after considering this assessment of a juvenile offender by the police.

In Japan, assessment of a juvenile offender is carried out by a juvenile classification officer and the Family Court probation officer. The Family Court in Japan consider two aspects; the criminal facts of the case and the necessity for educative measures.

The Family Group Conference (FGC) in New Zealand and the Family Court in Japan are good models in minor cases. The FGC allows the offender and victim of both families to come together (face to face) to solve the problem without having to appear in court. As far as restorative justice is concerned, the probation officer and police officer attend the meeting and progress is reported to the prosecutor.

4.2.4 Diversion

During group activities it was found that there is no common understanding for the different concepts of the definition of diversion. The definition that was agreed to is “the channeling of juveniles away from the formal court system into reiterative programmes.”

In Vietnam provisioning is made for diversion in both criminal and administrative procedures in which courts play no part. In the administrative procedures, the police take the juvenile to the local government who sends the juvenile to a training school.

In Panama, the judge of adolescents deals with issues of diversion. The judge of adolescents can prescribe social or educative measures for a juvenile offender in non-serious cases.

Various programmes for diversion for children in conflict with the law exist in Philippines, for example: Barangay Court System (village court); police prosecutors and lastly the courts. In minor cases diversion is allowed where the possible penalty does not exceeds 6 years.

In Zimbabwe there is no diversion programme for juvenile offenders yet. A principle called de mi nis non cura lex is used where the prosecutor can decline the prosecution in trivial cases. The problem is that there is no provisioning for the juvenile offender to take responsibilities for his/her conduct. The offender is not send for correctional and/ or rehabilitation treatment. A proposed diversion program is submitted to their National Committee on Community Service for Victim Offender Mediation (VOM).

The Family Court in Japan can be seen as special model of diversion. More than 70% of all juvenile cases have been dismissed without any disposition. However, in some cases, it is difficult for the court to fully reflect the victim’s voice in disposition.
At present there is also no diversion programmes in Sri-Lanka. The law actually enables a juvenile court judge to proceed with protective measures and diversion in cases of minor nature.

4.3 SUMMARY

From the information above it is clear that not all the countries are functioning at the same level and that there are gaps which need to be addressed. (Source: Group 1: Group Report of the Course. 27 June 2007)
CHAPTER 5: EFFECTIVE INSTITUTIONAL TREATMENT OF JUVENILE OFFENDERS FOR THEIR SUCCESSFUL REINTEGRATION INTO SOCIETY

5.1 INTRODUCTION

According to feedback from the group discussion, it was agreed on that we need the specialization of services regarding institutional treatment of offenders. There are some role conflicts amongst different departments due to various responsibilities.

There is a need to look at smooth communication and cooperation to solve the difficulties the different countries faced in their work field.

5.2 THE CURRENT SITUATION AND PROBLEMS FACED BY ORGANISATIONS THAT TREAT JUVENILES

Most of the participants are of the opinion that role players should take responsibility for specific duties, such as education, security, discipline and security for the juvenile offender. For these purposes, the smooth intersectional communication and cooperation to solve problems are needed.

In countries such as Sri-Lanka, Hong Kong and Bhutan, there is a separate (section/system) for giving attention to training, which includes counselling and education on the one hand, and security on the other hand. In Japan, it is (expected) that all the staff are (required) to be fully confident with all programmes including security matters as well as educational or psychological treatment.

In most of the respective countries, publicity through TV or radio programmes is broadcast to reduce the biased image of inmates. The acceptance of inmates is indispensable not only for the rehabilitation and reintegration of juveniles, but also to building supporting programmes among the community members.

One of the worst challenges identified by the group is the overcrowding in juvenile rehabilitation centres. It was agreed on that overcrowding would cause terrible conflicts among inmates. In Japan there is a parole system that overcomes the problem of overcrowding. It was mentioned by the participant from Sri Lanka that the parole system does not function well enough to succeed in reducing overcrowding conditions.

Another challenge is to establish family support systems for parents to assist with the stabilisation of juvenile behaviours and emotions. In most families the problems, which are faced, are broken and dysfunctional families which cause aggravated juveniles’ misbehaviours.

Judge O’Driscoll introduced the Family Group Conference (FGC) Model from New Zealand Justice System. O’Driscoll. (2007: 19) says that Family Group Conference allow a young person to participate in the fundamental questions and decisions that face the prosecution authority and the Court as a result of the young person’s behaviour. The type of decision to be made depends, naturally, on the reason for convening the FGC and the type of FGC being held.
A participant from Korea mentioned that in his country, they have a video meeting system between juveniles accommodated in institutions and parents in the community, in place. During the group discussion it was clear that most of the correctional systems in the respective countries are suffering from lack of sufficient human and financial resources. Most countries experience the difficulties of upgrading the equipment and facilities, because of the lack of financial input.

5.2.1 Measures of assessing the individual characteristics

It is important to understand the process of assessment of the individual characteristics. For this purpose, all probation officers, psychologist and social workers should be participating. In Japan and Korea, a new developed personality attitude test to assess the juvenile during interview was implemented. In Hong Kong, intake assessment for offenders would be conducted after their admission into correctional institutions for the purpose of placement.

It was mentioned by Judge O’Driscoll that the criminal history of the juvenile offender could be used to know more about the criminal pattern and re-offending. During group discussion, it was agreed upon that home visits or parents’ interviews are dispensable in order to get the proper information of criminal history, general live history, family background and living conditions/environments of juveniles.

In Sri Lanka, risk assessment is conducted to separate high risk inmates from low risk ones. To ensure an effective treatment programme, offenders are categorised offenders according to the level of criminal/delinquency level.

In Sri Lanka, mentoring and evaluation of risk assessment take place by submitting reports on released offenders every six months. All the participants are feeling that sharing of information among the respective countries is essential.

5.2.2 Development of effective treatment programmes in accordance with the risk and need assessment

According to Kiuchi (2007: 1), the 2005 statistics show that the Juvenile training schools in Japan have about 4,878 new inmates. Among them, 1,951 (40%) committed theft, 565 (12%) committed assault, 452 (9.3%) committed robbery and the rest more serious crimes like murder, rape and drug abuse.

Kiuchi (2007: 4), states that the justice system has a classification system in accordance with the juvenile sex, age, content of treatment, and degree of delinquent tendency. The training institutions have programmes that focus on problem areas for ex-addicts, family discordance or anti-social relations.

Kiuchi (2007: 5) further states that during treatment, lectures and group/individual sessions take place. During these sessions, juveniles with the same problem are treated simultaneously. It is very effective, because the participants can share their ideas, opinions, and awareness of their problems with each other. The juveniles tend to open when they participate in group discussions or role-playing activities.
All the participants visited the Tama Juvenile Training School for Boys from the different countries. The progress on rehabilitation of juveniles is assessing by means of the “Button System” comparing with colours of a traffic robot, and will be identified as follows:

- **Red button (First stage)**

  During the admission stage, children are carrying a red button on their chest to indicate that he is on the orientation stage (Lower class of the second grade). During this session, they receive counselling and basic life skills orientation, physical training, dairy composition, supplementary lessons and parents meetings. After assessment, he can be promoted to the next level.

- **Orange button (Second stage)**

  On the second stage, children are carrying an orange button on their chest to indicate that he is on the intermediate stage. They will be assessed on the following progress, namely: By solving one’s own problems and those of other inmates.

- **Green button (Third stage)**

  On the third stage, children are carrying a green button on their chest to indicate that he is on the advance stage. They will be assessed on the following progress, namely: Learning the ethics, knowledge and skills for job and life planning after release.

- **White button (Last stage)**

  On the last (fourth) stage, children are carrying a white button on their chest to indicate that he is on the pre-release stage. They will be assessed by means of self-evaluation of own life plan after release. They also receive the following treatment programmes, namely:
  
  - Social adjustment training class (role-playing, social skills training, group discussion and lectures);
  - Vocational training and outdoor training such as: family gardening, environmental maintenance and laundry;
  - Special activities (day leave, community service); and
  - Parole coordination (parent meetings and correspondence with parents).

(Source: Pamphlet Tama Juvenile Training School)

Dr. Hoge from Canada explained the concepts of assessments design based on the Risk Need Responsibly Principle, by introducing an Assessment Model, which is functional in Canada. Hoge (2007: 11) says the difference between risk factors and need factors are as follows, namely: “Risk factors refer to characteristics of the youth or his or her circumstances that place them at risk for antisocial behaviours. Need factors refer to the subset of risk factors that can change through interventions and reduce the chances of future antisocial behaviours”.

Hoge (2007: 14) said: “the purpose of assessment is to collect information about youth and his/her circumstances, we want to evaluate the likelihood that the youth will continue to engage in some sort of antisocial behaviour”.

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During Dr. Hoge presentation, he refers to the following integrated programmes, namely:

- “A Different Street”: it is a programme designed for young men released from custody that would normally be homeless and may become a high risk re-offending.

- “Boys Town USA, Staff-Secure Detention Programme for Female Offenders.” It is a somewhat unusual programme since it is designed for high risk/need girls detained prior to trial. The majority girls accepted for the programme, come from high-risk family environments, and need academic, social, behavioural, and emotional treatment.

- “The Ottawa Police Service Diversion Programme” This programme is managed by the Boys and Girls Club of Ottawa and Ottawa Police Services, to render a service on diversion of youth committing relatively minor crimes.

- “The Sexual Abuse: Family Education and Treatment Programme”. This specialised community-based programme is directed towards children and adolescents with sexual behaviour problems, including those convicted of sexual offences.  
(Source: Hoge, 2007: 30, 31)

To ensure effective treatment of juveniles, we need to construct some theoretical framework such as:

- Insight orientated therapies;
- Humanistic therapies;
- Behavioural treatment – behavioural modification;
- Cognitive behavioural strategies;
- Family and parenting interventions; and
- Medical and drug treatments.

In Hong Kong and Sri Lanka, special programmes for drug addicts are held in separate drug rehabilitation institutions. Drug addicted inmates will also receive vocational training, family group counselling, and after-release follow-up supervision. 
A method, which is used in Sri Lanka, is named the “mirror room therapy”, it is used for expressing views by offenders to tell life stories. In Hong Kong two training centres are established for different age groups, namely: one is for young juveniles under the age of 17 and another is for young adults under the age of 21.

In Japan, probationers with drug history were requested to have a follow-up medical check. During this follow-up check, urine test on voluntary basis was adopted to motivate them to keep away from drug relapse. According to Professor Sugano from Japan, statistical studies show that self-esteem does not always ensure the effectiveness for the reducing of re-offending rates.
During the work group discussion, it was identified by the group that the following types of resources for treatment should be considered, namely:

- Human resources – expert, staff and training resources;
- Social resources – community support, private companies, volunteers;
- Hardware – equipment, computerisation; and
- Assessment tools (standardised format)

To ensure effective treatment of juveniles, the following programmes are recommended:

- Anger management programmes;
- Social skills training programmes;
- Re-lapse prevention programmes; and
- Family education programmes

In addition, publicity activities like TV programmes are important for promoting smooth reintegration into society without stigmatisation.

5.2.3 Development of an effective treatment programme considering victims and/or restitution of the harm caused to the victims

In Japan juvenile training schools, the victims’ family members would be invited to give a speech to the inmates on a regularly basis. During these convension sessions, the inmates undergo sessions on how to write the apology letters to the victims before real mediation. It was agreed by the group that direct mediation should be done to help inmates deepen the remorse feelings towards victims.

It can be accepted that real family group conferences might be a good way for the juvenile offender to think more about the feelings and damage of the victims as well as the consequences of committed crimes. In Sri Lanka video programmes are conducted as training programmes to enhance the awareness regarding victim’s loss and damages and the sense of remorse.

One of the treatment programmes in Tama Juvenile Training School for Boys in Japan is to sensitize the boys on how to respect women's bodies. In the one room, a video as part of rehabilitation and education are shown to the young boys where a mother gives birth to a child. In the next room there is a simulation room of babies for the boys to display growing up and care of the child.

5.2.4 Continuous collaboration and maintaining links with community based treatment services and/or related organisations for the effective treatment of juveniles and their rehabilitation through care

From the group outcomes, it is clear that the non-government organisations (NGO’s) and related government organisations could provide more resources and assistance for the rehabilitation of young offenders.
In Hong Kong, private companies were more actively involved in rehabilitation services. The employers are encouraged to give a juvenile offender a job after discharge. Volunteers were invited to provide support and assistance for the offenders.

In Sri Lanka the Welfare Association in each prison are directly involved in the treatment after a child has been discharged. In Korea and Myanmar, volunteers and religious groups are involved to rehabilitate juvenile offenders.

In Sri Lanka, there is a “Cooperative Association” which provides jobs to the discharged juveniles. These juveniles perform jobs such as carpentry and masonry training. The association also runs some projects for these purposes.

It is also agreed that a monitoring system needs to be established where performance and functions of volunteers and NGO’s ensure service of good quality. It is also important to assist the discharged juvenile by making more “half-way” houses available for accommodation and after care purposes.

5.2.5 An aftercare system which helps maintain the effect of correctional treatment, reduces the risk of re-offending and enhances the juvenile’s ability to reintegrate into the community

After care supervision is provided in Japan and in Sri Lanka by probation officers, parole officers as well as welfare officers. In Hong Kong, after care supervision is provided by the officers from the rehabilitation unit, who provide close supervision and counselling to the supervisees and family members to ensure that contact be made continuously.

It was agreed by the participants that to motivate juveniles during after care treatment, strict regulation, monitoring and effective counselling need to be ensured. For social re-integration a pre-release programme for young offenders need to be in place.

In Hong Kong a multi-modality approach is used to enhance effectiveness of the supervision programmes. It implies that regular family group and individual counselling services are provided for family members before discharging of juvenile offenders. It was raised by Prof. Sugano from Japan that the US and Canada use the same idea of a Multi-Systematic Therapy Approach. In Hong Kong supervising officers conduct surprise home/work place visits to discharged offenders, to ensure that the after-care treatment programmes are effective. The Bhutan Police and regional community leaders also provide some assistance for the discharged juveniles.

It was agreed by the participants that supervision should be conducted by the government authority (probation officers, parole officers, welfare officers of prison or aftercare officers) and the volunteer probation officer should play an assisting role. (Source: Group 2: Group Report of the Course. 27 June 2007)
5.3 SUMMARY

Risk and need assessments are the most important aspects to take into consideration during correctional treatment programmes. Family plays an important part for the rehabilitation process as well as after care rehabilitation. After-care supervision for the re-integration into the community is essential.
CHAPTER 6: EFFECTIVE COMMUNITY-BASED TREATMENT OF JUVENILE OFFENDERS AND ENHANCEMENT OF THE JUVENILE’S ABILITY TO REINTEGRATE INTO SOCIETY

6.1 INTRODUCTION

There is a need to look at effective measures in community-based treatment for juvenile offenders and how a child will be reintegrated into society without any restrictions or stigmatising by members of the community. The group was assigned to look at possible solutions and challenges on how to enhance the juvenile’s ability to reintegrate into society.

6.2 THE CURRENT SITUATION AND PROBLEMS FACED BY ORGANISATIONS THAT TREAT JUVENILES

In Honduras there is a problem of juveniles being members of gangs and their stigmatisation by society. A change in culture, the educational system and a sense of values are needed. The visitor expert from South Africa, Dr. Ann Skelton reacted to this statement. She said that in South Africa, some NGO’s have an adversarial position towards the government while others do not, and actually assist the government in providing services.

In Brazil, there is overcrowding of inmates in institutions, and the aftercare systems are not up to standard, because of the high recidivism rate. Dr. Skelton makes it clear that South Africa community-based treatment is less costly than institutional treatment, and it is easier to convince the government to introduce it.

In Iraq, since civil organisations are not performing well, there is a problem of war orphans who become offenders, because they have no one to take care of them.

According to Dr. Skelton, in South Africa, there is a good relationship between NGO’s and the government for community-based treatment, but the only problem is that accessibility between the rural and urban areas is not equal. She emphasised that NGO activities should be financed by the government since they render a public service.

In Cameroon there is too much emphasis on institutional treatment and there are no policy guidelines for community-based treatment. It seems that the probation officers do not have legal power to carry out the aftercare, because they work on a voluntary basis.

In Tonga the NGO’s rely more on community-based treatment. The only problem is that all the NGO’s are located in the mainland. In Japan statistics show that about 80% of juvenile offender cases are dismissed after family court probation officers’ investigations and it is also recognised as a protective measure. They are actually faced with the fact that cases have become increasingly difficult to handle from the viewpoint of the juvenile and the victim.
In Japan family and school problems have increased recently due to the revision of the educational system, including the amendment of the Fundamental Law of Education. The problem may also be caused by family court probation officers who are not being fully used in aftercare rehabilitation.

In Brazil, age and type of offence are being considered, but correctional measures are not enough to take care of juvenile offenders and the educational level is very low.

The problem that occurs in Honduras, is that the government has not established any concrete correctional measures, because the treatment measures are not adapted to the needs of the offenders and proper training is also lacking. The same problem is facing Iraq, because the statistics show that in the Middle East, a high percentage of the population (60%) are young people.

Dr. Skelton mentioned that in South Africa, training on diversion has been held by the government for judges and prosecutors. Statistics also showed that the number of people in custody has been decreasing through intersectoral collaboration and legal representation. It is also mentioned that the government received funds from donors to convince them to continue funding NGO’s activities.

Prof. Sugiyama from Japan add that professional probation officers have three years training consisting of lectures and on the job training, and another one month training after ten years to become senior probation officers. For volunteer probation officers, there is also training available at least six times per year. In Brazil, volunteers for several projects such as the midnight programmes come from the Public Safety Secretariat, the police and the community.

6.2.1 Measures of assessing the individual characteristics, degree or risk and individual needs and classification accordingly

During the group discussion the National Interim Protocol was referred to where the elements of assessment in South Africa were discussed. This is divided by the age, type of offence, family background and personal history. Dr. Skelton indicated that emphasis should be placed on the juvenile’s abilities and interests for reintegration. In Brazil the same conditions apply. In Honduras, the family background is a very important factor.

In Cameroon assessment by probation officers is based on the traditional elements of age. The medical approach is used in age determination and type of offence to determine diversion.

In Tonga there are two types of assessment, namely: one for pre-trial diversion programmes and the other for the court. During assessment, they make use of a score sheet assessment method. Marks are allocated as follows; 0-9 marks represent low risk, 10-17 marks moderate risk, and 18-25 marks represent a high-risk level juvenile. Drug abuse is a subtitle under the social circumstances. In Iraq, political situation is an important element and in Japan the social and economic situation should be considered.

According to Prof. Sugiyama, in Japan a psychological test is used by the Juvenile Classification Home Officer. However, Prof. Higuchi said that psychological tests are not always effective, because they do not guarantee that the juvenile will always speak the truth, therefore professional judgement is very
important. According to Dr. Hoge from Canada, it is important that assessment should be standardised and that the probation officers and police officers should be well trained. He also mentioned that there should be a clear distinction between juvenile and adults regarding assessments. There is always room for professional judgements and flexibility, especially school teachers should be trained, because there is dangers that they may overestimate risk of violence and do not always know how to deal with basic risk/needs assessments.

In Tonga, assessment results are based on the choice of panel members from the community, and in Japan assessment results are used to determine the appropriate disposition and elaboration of appropriate treatment programmes.

6.2.2 Development of effective treatment programmes in accordance with risk and need assessment

As concerns the characteristics of the juvenile, all the participants agreed that the juvenile abilities and interests should be considered. It was also suggested that the skills and ability, as well as community opinion be considered, since the community has to accept and admit the juvenile to favour his/her reintegration to the community.

According to a participant from Japan, characteristics are based on the following classifications elements: drug dependency, relationship with gangs, sex offenders, psychological disorder, unemployed juveniles, level of education, school violence, domestic violence etc.

The participant from Tonga explained that the juvenile's health; physical condition and changes in his/her circumstances should be considered before he/she is moved from one community to another.

Most of the participants agree that there is insufficient or poor enforcement of treatment programmes in their countries due to lack of finance and inadequately trained personnel.

6.2.3 Development of an effective treatment programme considering victims and/or restitution of harm caused to victims

The group focussed on the victim's feelings, expectations and needs; how, where and when offenders and victims should relate; and who are the third parties involved.

During the presentation of Judge O'Driscoll from New Zealand, he referred to an article that appeared in their newspaper where three teenager girls have compensated the victim for damage caused. The following extract is made from “The Oamaru Mail” article namely “From baddies to goodies teenagers”. An Oamaru pensioner's car was stolen by three juvenile girls of the age of 15 years and afterwards it was set on fire. The girls went trough Youth Court where they pleaded guilty to unlawful taking of the car. As part of their sentences, the girls decided to do work in Mrs. Woodrow's garden. Her car was replaced after several members from the community donated money to help her out. The girls had apologised to the old lady during a counselling session, and one of them had already paid reparations for her part in the crime.
Dr. Hoge from Canada refers to the personal feelings of the victim by anger and sorrow. He said that all the victims might blame themselves, lose interest and isolate themselves from the society. It was mentioned that in Brazil victims don’t want to talk, even after a simple offence. In Cameroon it is clear that some victims may want justice to be done while other may not bother much about the offence.

Prof. Higuchi from Japan, states that victims want severe punishment for the offenders and they expect the government to do it. According to Dr. Hoge from Canada, it is recommended that monetary compensation or community work needs to be implemented for all countries. It was also mentioned that face-to-face meeting between the offender and the victim could be useful, but it is very difficult and needs to be managed carefully. In some cases victims do not want to see the offender.

In Brazil, the communities are shown a movie on how juveniles are serving the community through voluntary work. Some victims become satisfied and less afraid after watching the movie. According to Dr. Hoge, although compensation is important, restorative justice has to continue after restitution.

In Iraq, the offender and victim meet in a tribe guesthouse, a countryside place called “Senate” or tribe police affairs where meetings are organised in conformity with the desires of the victims. It is also recommended that offenders could write letters to victims to apologize. Finally it was agreed that third parties were necessary for the successful conduct of victim-offender meetings, but they needed to be chosen carefully taking into account the desires of both victims and offenders.

In Japan, the Tama Rehabilitation Centre for Boys was visited where the system of compensation was explained and illustrated. During the pre-release stage the juvenile undergo self-evaluation sessions of his/her own life plan after release and own improvement. The juvenile also receives the following skills, namely:

- Helping juveniles realise their own problems and sympathise with their friends through direct communication with their parents, teachers via the probation officer.
- Providing juveniles guidance, which focuses on the reasons for their delinquency and the consequences of their actions.

During parole coordination, parent meetings are arranged where the juvenile must correspond with their parents/guardians through letters. (Source: Pamphlet Tama Juvenile Training School)

A Victim-Offender Dialogue Programme Management Center was established in Japan in June 2001 to practise restorative justice in Juvenile cases and was authorized in 2004 by Chiba Protectoral Government. The Centre’s activities have three purposes; “victims recovery from damage”, “juvenile rehabilitation” and “community safety”. (Source: Yamada, 2007: 1).

Yamada (2007: 2) refers to her experience during a juvenile trial. She made an example of a juvenile facing a trial because he hit a stranger with a metal bat because he thought that the stranger gave him a fierce look. During the trial the victim did not show any hate towards the juvenile. On the contrary, he made a slight bow to the juvenile before sitting down in the witness seat. He calmly and politely answered the judge’s questions. After finishing his testimony, the juvenile stood up and bent his head low. Tears welled up in the juvenile’s eyes. The juvenile after listening to the victim’s testimony realised that there had been a misunderstanding and that he had done an inexcusable act towards the victim.
Yamada further stated by directly listening to the victim talking about the actual condition of the damage, this will have a great impact on the juvenile offender and lead him/her to deep repentance and a sense of apology. According to Yamada (2007: 6 & 7) Victim Offender Dialogue Programmes take place in different stages, namely:

- **First stage**

  The participants talking about their “own experiences”. If the victim meets the offender without a programme, the victim may experience aggression or to blame the offender, saying *You* did such a horrible thing to me*, while the offender will only apologize or let his head drop.

  On the other hand, if the victim follows the rule that “talk about one’s own experience”, the victim will talk about the fact in such a form as “I suffered damages in this way and have been feeling pain since then”, instead of “*You* did such-and-such”. (See example of case study Annexure “B”: Attachment 2).

- **Second stage**

  The victim asks questions, for example. “Why did you attack me” The question can be put directly to the offender.

- **Third stage**

  Discussion takes place to determine what can be done for the recovering of the damages caused by the offender. The participants work out possible and flexible means for the juvenile offender to compensate the victim.

- **Fourth stage**

  During the fourth stage, an agreement through discussion needs to be reached. The facilitator compiles the contents of the agreement into a document and reads it to the participants for final confirmation.

Yamada (2007: 7 to 10) refers to the effectiveness of the dialogue programme by using three scenarios, namely:

- Theft and bodily injury case: (annexure B: Attachment 1);
- Burglary case (annexure B: Attachment 2); and
- Uninhabited structure arson case: (annexure B: Attachment 3).

In the case explained in Attachment 1, the juvenile offender was able to face himself as an offender by telling someone what he thought no one could understand. He also began to feel like pledging rehabilitation, noticing that, in order to apologize to the victim sincerely, he needs to request the victim to meet him.
In the case explained in Attachment 2, where the victim does not want to have a dialogue or does not have any spare time, the facilitator encourages the juvenile to write a letter of apology and deliver it to the victim. Although indirectly, this is useful at least for the juvenile to have a sense of accomplishment, such as “I have done what I can do for the victim now”.

In the case explained in Attachment 3. The Centre met two juveniles who were just released from reform school. Each of them had caused death through bodily injury. One of the offenders visited the victim’s home and offered sticks of incense before the memorial table of the victim soon after being released from the school. The other juvenile sincerely reported details of the offence scene in the Dialogue Program at the request of the victim’s mother, who had wanted to know her son’s last moment.

Lastly Prof. Yamada refers to the interview with the juvenile during the bodily-injured case, and rephrases his words: “I am sure to be wrong in that I injured the victim, I always played with him and, while frisking, he sometimes kicked me. I hit him, because he did a cowardly act”. She mentioned that if a juvenile does not understand his own problem deeply, the Dialogue Program will become ineffective and may give secondary damage to the victim.

6.2.4 Continuous collaboration and maintaining links with institutional treatment services and/ or related organisations for the effective treatment of juveniles and their rehabilitation through care

Under this topic three issues will be discussed; namely:

- How to strengthen the relation between related treatment agencies to create an integrated system;
- The efforts communities can start to take before they receive the juvenile; and
- The institutional change that can be introduced to enhance interagency cooperation.

Communication and exchange of information between treatment agencies and the communication is crucial to ensure collaboration and cooperation.

In Japan a support team for aftercare treatment consists of the following: voluntary probation officers, police officers, child welfare centre officers and school teachers. In Honduras officials and bodies involved have access to only a part of the information.

Prof. Sugiyama from Japan shared the experience from her visit in Kenya where different agencies use different format documents and it creates misunderstanding. The challenges are to use the same format documents among all agencies to enhance cooperation and collaboration between them. In Kenya the exchange of personnel between agencies was also seen as a means of enhancing collaboration.

- Efforts of communities before receiving the juvenile and community sensitising

In South Africa there are community forums and the National Institute for Crime Prevention and Reintegration of Offenders (NICRO) officials, community members and other experts to prepare
the community to receive and accept the juvenile. The same approach is also applied in Brazil for community awareness and cooperation for reintegration of the juvenile.

In Tonga police officials and probation workers have connections with people who are influential in the community, and they can use them for sensitising within the community. Prof. Sugiyama stated that the community needs to know what the juveniles want to do after release, and what kind of training they have received by visiting the institution and exchanging letters with staff.

In Cameroon the community is involved in activities of vocational training and living guidance within the institution. This will make the community ready to receive and accept the juvenile after he/she has been released.

- **Institutional changes to enhance interagency cooperation**

In Cameroon the link between the institution and community can become difficult to establish, but it is nonetheless desirable to continue treatment after the juvenile’s release. It is therefore necessary to establish a formal public institution for aftercare.

In Japan there is a formal link between institutional treatment and community-based treatment, but it is not the case in many other countries. In Japan they also have a parole board that decides whether or not the juvenile would be paroled.

In Hong Kong the correctional institutions have a section in charge of aftercare activities such as job search. In Tonga the probation officer is the link between institutional treatment and community-based treatment.

In Cameroon a government agency is proposed which will coordinate several community resources regarding the juvenile because a too complicated system makes responsibilities unclear and vague.

6.2.5 **An aftercare system which helps maintain the effect of correctional treatment, reduces the risk of re-offending and enhances the juvenile’s ability to reintegrate into the community**

The topic focused mainly on: how aftercare should maintain the effect of correctional treatment; how it reduces the risk of re-offending; and how it enhances the juvenile’s ability to reintegrate into the community.

- **Aftercare should maintain the effect of correctional treatment**

In Brazil to find jobs for juveniles is very difficult, and there is no aftercare treatment other than institutional treatment. There are many cities so it is possible to work on continuous aftercare where the community can collaborate with the police and schools to help the juveniles.

It was recommended by the participant from South Africa that impact studies be done in order to determine the effectiveness of the treatment and the rate of re-offending.
In Cameroon there is a big gap between community-based treatment and institutional treatment, and it’s necessary to make efforts to reduce this gap, since treatment has to become a continuous process.

In Iraq, the juvenile will be released, whether he/she has family members or not. The problem is that the juvenile who is released may be taken care of by the probation officer for a few months, but after this the juvenile who has no family will go back to the street. In this country the government provides counselling to increase the self-esteem of juvenile and the community has to accept him/her. The government also provides money to juveniles without jobs to get married and to start a small business.

In Japan the government gives compensation or financial aid to companies that employ juveniles. Halfway houses established by private persons are subsidised by the Government to the amount of 80% of their budget.

Japan also plans to establish national halfway houses for offenders who are difficult to deal with; this may be a useful proposition for other countries as well.

- **How aftercare can reduce the risk of re-offending**

  In South Africa, the South African Young Sex Offenders Project (SAYSOP) was established for the purpose of developing innovative and effective interventions to treat and manage young sex offenders. The aim of this project is also to prevent a pattern of deviant behaviour, and to decrease the possibility that a young person will commit similar further offences, thereby contributing to safer communities in South Africa.

  In Honduras there is no aftercare system, coordination between NGO’s and the government is therefore necessary such as having a meeting among the stakeholders. Police officers are normally tasked to call the meetings.

  In Japan risk and need assessment will be done before and after release. Not only family problems, but relationships with supportive persons are important. Whether or not he/she has a job is important, not only money counts, but also his/her contribution to the community is important.

  The participants are of the opinion that the juvenile should also feel forgiven and not have a sense of guilt anymore in order to consider him/herself accepted and admitted in the community. Another concern is that the juvenile may be under bad peer influence, which may cause him/her to fall back into bad habits. It was suggested that bad peer influence and changing the way the juvenile uses his/her free time can reduce recidivism.

  In Brazil there is a treatment programme where juveniles use their free time for healthy distractions and hobbies such as the midnights programmes. In this regard it is also important to take the juvenile’s interest into consideration, and not impose on him/her, which will not work.

  According to Prof. Higuchi from Japan, the juvenile is relatively psychologically, mentally and even physically weak. This makes him/her wants to belong to a group and he/she tends to come back to
the bad peer group again after release. In Brazil, juveniles always talk about groups and they say the group is waiting for them. Therefore it is advisable to provide them with another group that will have a positive influence.

- **Aftercare to enhance the juvenile’s ability to re integrate into the community**

  Prof. Sugiyama said the juvenile’s parents always need continuous support because they tend to hide the juvenile’s case. She further stated that the parents are also afraid to ask for help, because they are always criticised by members from the community. In Japan each prefectural police office has a support centre where the juvenile’s parents can obtain free consultations.

In Iraq the volunteer system is very important, because it has a direct influence on the community. There is a child adoption system which works very well. (*Source: Group 3: Group Report of the Course. 27 June 2007*)

**6.3 SUMMARY**

Community-based treatment measures must be in line with the needs of offenders, and the government must set guidelines/regulations for guidance.
CHAPTER 7: CHALLENGES

7.1 INTRODUCTION

The aim of Chapter seven is to make certain comments on inputs from the participants from the various countries. The ideal is to focus on the recommendations from the participants with regard to the treatment of juvenile offenders and the reintegration into community. The reporter also wants to make recommendations on how to implement a system in South Africa that compares favourable with those in other countries.

7.2 COMMENTS

Skelton (2007: np) referred to the death of a juvenile offender when he was detained in police cells with other offenders under the age of 21. She mentioned that at that state 8 non-governmental organisations (NGO's) had been raising the issue of children in the criminal justice system. Dr. Skelton referred to the Law Reform in 1997 and mentioned that Cabinet approved the Child Justice Bill in November 2001 for introduction into Parliament in August 2002. She mentioned that the Child Justice Bill's aim is to establish a criminal justice process for children accused of committing offences that protects the right of children as entrenched in the Constitution. She said the Bill focused on the promotion of Ubuntu in the child justice system through the fostering of children's sense of dignity and worth, and reinforcing their respect for the human rights of others.

Furthermore Dr. Skelton stressed the importance of restorative justice, assessment and diversion concepts such as accountability and reconciliation and the involvement of families and communities. During her presentation she raised the importance of probation officers as role-players in an integrated criminal justice system in South Africa. There is still a shortage of sufficient probation officers in rural areas.

Skelton (2007: np) also referred to the promises made by President Nelson Mandela during his first address to Parliament that the issue of children will be dealt with, and that in future, the criminal justice system would be a last resort when dealing with juvenile offenders. The Government in South Africa also made provision for the protection of children's rights (Convention on the Rights of the Child). Dr. Skelton refers to one of the earliest cases to come before the newly constituted Constitutional Court, S v Williams 1995 (3) SA 632 (CC), which dealt with the sentence of corporal punishment. The court struck down corporal punishment on the grounds that it was cruel, inhuman and degrading treatment.

The Family Court in Japan, the Criminal Child Court in South Africa as proposed in the Child Justice Bill, as well as the Model of Barangay Court in the Philippines are considered as good models.

(Source: Group 1: Report 2007: 8)

It can be accepted that South Africa has an excellent justice system regarding children in conflict with the law. The problem is actually that the system is not always implemented properly.
The Inter-Sectoral Committee on Child Justice appointed a Task Team for Children in Conflict with the Law to do research on the treatment of detained children.

7.3 RECOMMENDATIONS

The reporter will make recommendations for implementation in South Africa to deal with the challenges in the treatment of juvenile offenders. A Task Team on Facilities compiled a Parliamentary Oversight Progress Report for Children in Conflict with the Law, and the reporter will also extract certain challenges from this document. Recommendations were also extracted from the Group Report from participants during the training programme in Japan.

7.3.1 The current situation and problems faced by each jurisdiction throughout legal proceedings for juveniles, and the effective counter measures in place.

The formulation and improvement of a fundamental framework on arrest, detention, prosecution and trial of juvenile offenders needs to be addressed.

It still happens that, contrary to instructions, some children who are arrested are detained in police cells with adult offenders, which causes abuse committed towards children. During the research done by the task team it was recommended that cases for children awaiting trial need to be prioritised. More places of safety and secure care facilities need to be established.

Research also showed that a process should be put in place to deal with the number of children awaiting trial, with bail amounts which they cannot afford to pay.

According to the Report from the Task Team, the causes of backlogs within the Criminal Justice System and causes of awaiting trials need to be looked at. An extreme example of hardship suffered by a juvenile appears from the unreported judgement of Hartzenberg, J on 2008-12-10 in S v Malatjie, Case no SH 332/06 in the Transvaal Provincial Division. The accused, a sixteen year old male was convicted of housebreaking with intent to steal and commit theft. The court ordered that he be committed to a reform school. He was detained in custody pending the determination of the reform school to which he was to be committed. Fifteen months later, he was still in custody and the relevant reform school had not yet been determined. On review, the sentence was set aside and substituted with a sentence of caution and discharge.

It is also recommended that separate remand facilities be established apart from correctional centres, for the detention of remand detainees.

Alternative sentences for juveniles who committed petty cases should be considered to ensure that they are not sent to the already overcrowded prisons. A Legal Aid Board Official should conduct regular visits and submit reports to the Portfolio Committees.

It is also recommended that a policy and strategy be agreed upon between the Directors-General of Justice and Constitutional Development, Social Development, Education and Commissioners of
the SAPS and Correctional Services. Theses policies and strategies will inform the relevant Minister regarding the establishment of more Secure Care Facilities at courts and One Stop Child Justice Centres.

During court hearings, the policy should be applied to ensure effective case-flow of children being arrested, charged and for children awaiting trial. *(Source Parliamentary Oversight: Progress Report January 2009)*

During group discussions, it was recommended that during arrest, detention, prosecution and trial, the United Nations Standards, Norms and Guidelines should be taken into consideration.

Magistrates must have relevant information to enable them to make appropriate decisions. It is also recommended that a system be put in place that could keep statistics on juvenile offenders.

The majority of the group also recommended that a specialist in psychology, sociology and/or education (probation officers, family court probation officers etc) should be involved in the trial process. The use of voluntary citizens (volunteer probation officer, volunteer social worker etc) as community support programme in dealing with juvenile offenders should be encouraged.

Restorative justice must be encouraged where the victim meets the juvenile offender and gets to understand why the latter committed the offence and, for possible compensation to be agreed upon. *(Source: Group 1: Report 2007: 9)*.

### 7.3.2 Effective measures for the treatment of juvenile offenders by various institutions.

According to the Parliamentary Oversight Document, the Department of Justice and Constitutional Development should ensure that there is sufficient education, sport and development programmes for juvenile offenders, both sentenced and awaiting trial.

The reporter makes the following recommendations based on the work group feedback from Japan, on the following challenges:

Different aspects and characteristics of juveniles should be taken into consideration for risk and need assessment, for that purpose the Assessment Model of Dr. Huge as discussed in Chapter 6 should be recommended.

Treatment programmes should be updated regularly by inviting experts and related parties' opinions. In the Parliamentary Oversight Document, the challenges are clearly stated. The Child Justice Training Reference group must develop training manuals. The establishment and management of One Stop Child Justice Centres and Child and Youth Care facilities are a priority. It was recommended in the document that all Departments need to agree upon the training strategy to train all officials working with children in conflict with the law, as part of the National Policy Framework for the Child Justice Bill.

Scientific measurements should be used for assessing the effectiveness of treatment programmes,
such as rate of recidivism and change of behaviour. It was also recommended that updated research and statistics should be kept constantly. It is recommended to bring in a multi-modality approach similar to the approach which is implemented in Hong Kong Correctional Services.

According to Dr. Skelton, there is still a shortage of sufficient probation officers, especially in rural areas. As far as restorative justice is concerned, the Family Group Conference (FGC) Model used in New Zealand and the Family Court Model used in Japan are good systems that could also be utilised in South Africa.

It is recommended to focus on pre-discharge training programmes to prepare the juvenile to be reintegrated into the society. For this purpose, parole board/probation officers should be involved. The process in Japan where the juvenile offender undergoes a pre-release session, where the juvenile must draw up his/her own life plan after release, can also being seen as a good system to be used in South Africa.

In South Africa, unemployment poses a problem for juveniles released, because they could be falling back into bad habits. Therefore, the Government needs to seek more co-operation and assistance from private companies as well as the community through publicity. The Hong Kong correctional institutions have a section in charge of aftercare activities as well as job searches. In Japan and Iraq, the governments provide money to support the juveniles who seek jobs.

Family plays an important part for the rehabilitation process, more effort should be made to built trustful relations with the family members of the juveniles and start the intervention and communication upon their admission to the institution. They should also keep close contact with the juveniles during the parole or supervision period. The process used in Canada, Japan, Sri-Lanka and Hong-Kong are good examples (see discussions in Chapter 5).

After-care supervision with control and care elements are significant for the re-integration of juveniles. For this purpose juveniles' needs should be assessed before release. An example is that in Hong Kong, where supervising officers conduct surprise home/workplace visits to discharged offenders to ensure that the treatment programmes are effective.

Lastly from the view of the participants during group discussions, it is important to enhance training and education for staff on the rationale and mission of rehabilitation of juveniles. Some culture change and motivation programmes could be good ways to enhance the team spirit and cooperation amongst staff members. (Source: Group 2: Report 2007).

7.3.3 Effective measures for community-based treatment of juvenile offenders.

Community-based treatment measures must be in line with the needs of a juvenile offender. It is recommended that governmental institutions, before allowing implementation by NGO's and other community organisations, must establish a screening programme. During Dr. Skelton's presentation, she referred to juvenile's ability and interest for reintegration.
South Africa can also use the Assessment Model, which is implemented in Tonga, where they use a score sheet assessment method to judge a juvenile offender as a high risk or low risk offender. For this purpose, a treatment programme for the type of risk and need assessment should be developed by specialists and role players, in cooperation with the Department of Social Development, Department of Correctional Service, Department of Justice and the South African Police Service (SAPS).

During the workgroup discussions, the feeling was that human rights need to be protected and more financial support needs to be brought in during the treatment programmes.

Communication and exchange of the information and the community resources between treatment agencies and the community are crucial in increasing collaboration and cooperation between them, taking into consideration juveniles’ right of privacy, and should be done in the juveniles’ best interests.

The use of community resources such as religious leaders, community leaders and the police community forums should be highly considered for community-based treatment. Treatment programmes in the community must ensure that juveniles are provided with healthy distractions and hobbies in which they are interested to reduce bad peer influence and recidivism. (Source: Group 3: Report 2007).

In the Parliamentary Oversight Document of 2009, the challenges are clearly stated that additional human resources, such as Magistrates, Prosecutors, Clerks of the Court, Recording Clerks and Interpreters, will need to be planned and additional funds be secured for each One Stop Child Justice Centre. Furthermore, it was also identified that SAPS need additional personnel and orderlies for each centre.

In this Document it was also suggested that the Legal Aid Board and the Department of Correctional Services would need to plan for attorneys and personnel relating to correctional supervision. (Source: Parliamentary Oversight: Progress Report January 2009)

7.3.4 Effective measures to promote the reintegration of juveniles into the community.

The community in South Africa are from different cultures and religions. During the group discussion, it was recommended to look at the juveniles’ parents, because they will always need continuous support. The community has a tendency to criticise the juveniles and their family and by rejecting them.

To promote reintegration for the juvenile offender, the third parties are necessary for successfully conducting victim-offender meetings, but they need to be chosen carefully, taking into account the desire and situation of both victims and offenders.

More aftercare residences (halfway houses, etc.) should be established for the continuity of the juvenile’s effective treatment within the community. Aftercare agencies should cooperate and collaborate with all institutional organisations. (Source: Group 3: Report 2007).
7.4 CLOSURE

In the Document: Ministry of Justice: (2007: 1) it is stated: “It is also essential for the maintenance of peace and order in society that when someone causes an injury or steals property, that that person is appropriately punished”. In Iran an eight year old child was caught stealing a bread. Having his arm crushed by a car, which would effectively leave him handicapped forever, will punish him. Is this a religion of peace and love? No religion can ever justify such hideous crimes. (Source: www.metacafe.com)

Youth are the leaders of tomorrow and need to be guided in order to behave accordingly. This cannot only be the responsibility of parents, but all of us, including the international community. The principle of “UBUNTU” must be upheld. “UBUNTU” means the inner person. If we all join our hands, we will succeed.
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S v Malatjie (unreported judgement) on 2008-12-10, in Case no SH 332/06, Transvaal Provincial Division.


Website: www.metacafe.com Dated 12/04/2008

ANNEXURE “A”

THE CONTENT OF THE WORK IN THE EXPRESSING FEELING BOOK

The content of each work are as follows:

- Work A: “Face up to your anger”
- Work B: “Keep good company with anger”
- Work C: “How can you communicate feelings of anger?”
- Work D: “Communicate your feelings”
- Work E: “Face up your attitude”
EXPRESSING FEELING BOOK

Work A: “Face up to your anger”

• (1) The juvenile recalls a scene where they felt anger and clarifies the “situation,” “thoughts,” “physical condition,” “behaviour,” and “result.”

• (2) The juvenile thinks about the “feelings they wanted to communicate” which caused the anger.

• (3) The juvenile looks back on the other party’s response and thinks whether they could appropriately communicate the feelings they wanted to communicate.

• Work A: “Face up your anger”

• (4) The juvenile considers in what situations they easily feel anger.

Step 1
Recall instances in which you became irritated or angry and fill in the spaces

I become irritated or angry when:

Feelings and thoughts in your mind

Physical signs (heartbeat, sweat, clenched fist, etc)

How did you act?

What was the result?
EXPRESSING FEELING BOOK

Step 2
Regarding the event you recalled in Step 1, consider what feelings you wanted to communicate to the other party

• At that time, what did you want the other party to do?
  I wanted the other party to

• What did you want to communicate to the other party?

What feeling is your anger associated with?

Step 3
Regarding the “feelings you wanted to communicate to the other party” recalled in Step 2, consider whether it was communicated to the other party.

• At that time, how do you act?

• How did the other party respond?

• What was the result?
EXPRESSING FEELING BOOK

Work B: “Keep good company with anger.”

- (1) The juvenile learns how to notice signs of anger and calms themselves before releasing their anger impulsively.
- (2) The juvenile changes their way of understanding and thinking about things to learn how to control their feelings.

**Step 1**

There are various methods for calming yourself. Try the following methods:

1. **Leave the place**

   Leave the place before you fly into a rage. This is not an escape. The purpose is to calm oneself. Leave the place by finding something to do, such as going to the restroom, making a cup of tea, or buying a canned coffee.

2. **Refresh yourself**

   - Deep breathing
     
     (1) Adopt a comfortable posture.
     (2) Concentrate your consciousness on breathing.
     (3) Repeat “calm yourself” in your mind when breathing out.
     
     - Method to stop thinking
       
       (1) If your mind is full of anger, repeat, “Stop” in your mind. It is more effective to repeat it aloud.
       (2) After that, recall something pleasant for you.

3. **Consult with a third party**

   If your anger or disgust does not subside, it is important to consult with someone reliable (family member, friend, volunteer probation officer, etc). Do not accumulate unpleasant feelings in your mind.
EXPRESSING FEELING BOOK

Step 2
So as to not accumulate stress caused by anger, it is useful to change your pattern of thinking.

Everyone experiences times where things do not go as planned or where they feel ashamed of failure. In such instances, whether the result is good or bad depends on how you think.

Scene 1
You are working as a part-time worker. Your superior has warned you that your attitude to the customers is poor.

If you think as follows, how do you feel? In that case, how do you think?

(1) My superior always scolds no one but me. This is because they hate me.
(2) My attitude might have been wrong. I should be careful.
(3) My superior never understands me. I will ignore them.

Advice from the volunteer probation officer
EXPRESSING FEELING BOOK

Work C: “How can you communicate feelings of anger?”

- The juvenile considers how to express feelings of anger. The juvenile does a role-playing game where they express feelings of anger through their face, attitude, words, and so on in order to understand how the other party feels in response to their expression.

- (The content is elementary for the benefit of juveniles who lack sympathy.)

Work C: “How can you communicate feelings of anger?”

Consider how to communicate your feelings to the other party when you become angry.

A bear is walking with a cup of coffee in his hand. Behind the bear a rabbit is kicking a ball.

The ball hits the bear in the head, resulting in the bear-dropping cup.

Although the coffee spilled and made the bear's clothes dirty, the rabbit passed the bear without noticing it.
EXPRESSING FEELING BOOK

- Bear's feelings

My clothes have become dirty

Ouch!

My coffee has spilled

Which is the best method for the bear to communicate his feelings?

(1) The bear expresses his feelings with an angry face.

- Rabbit's feelings

Why does the bear have an angry face. He may be in a bad mood?

(2) The bear expresses his feelings with an angry attitude

The bear pushed me. He treated me badly. I'm annoyed!

(3) The bear expresses his feelings with words

It hurt when your ball hit me. Moreover, coffee spilled and made my clothes dirty. You should be careful from now on

I'm sorry. I will be careful

The bear pushed me. He treated me badly. I'm sorry.
EXPRESSING FEELING BOOK

Do a role playing game with your voluntary probation officer to find which is the best means of expressing your feelings; face, attitude, or words.

Let's try

Although you had promised to meet your voluntary probation officer, you were delayed in finishing your work, could not phone him/her on your way to their home, and arrived at their home one hour late. You faced him/her thinking “I’m sorry”.

• **Feelings the officer wants to communicate to you.**

  ![Cloud with text: Because there was no call from you for one hour, I was worried that something had happened to you. I want you to call me if you expect to be late. I didn't know how to react when I was waiting for you because I could not go out or do anything else.]

(Method)
  • Speak to the volunteer probation officer as always.
  • The volunteer probation officer communicates their feelings by each means.
EXPRESSING FEELING BOOK

Work D: “Communicate your feelings.”

- The juvenile learns methods for communicating anger, hurt, and other unpleasant feelings to the other party more effectively through “I-Messages” without making the other party feel unpleasant.

“I-Messages”

When the juvenile communicates their feelings to the other party, if the subject is the other party (“you”), their message is likely to be received by the other party as an expression of blame. Therefore, when the juvenile communicates their feelings to the other party, it is proper to use “I” as the subject.

---

**Step 1**

Try to use “I-Messages”.

---

**Compare two ways of speaking**

1. Way of speaking that begins with “you”

   - You quickly forget promises!
   - You are really irresponsible!

2. Way of speaking that uses “I-messages and begins with “I”.

   - I had been expecting it for a long time. I hope you will not forget from now on.

**What differences are there between the two ways of speaking?**

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<table>
<thead>
<tr>
<th>Difference 1</th>
<th>Difference 2</th>
<th>Difference 3</th>
<th>Difference 4</th>
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</table>
EXPRESSING FEELING BOOK

If you begin speaking with “you”, such as:

- “Why do you always forget promises right away?”
- “You are so forgetful!”
- “You always forget promises so quickly?”

There are expressions that make the other party feel they are being blamed one-sidedly and cause them hurt. As a result:

I do not always forget promises. It is unjust of you to say so

The other party will get angry at your way of speaking and become unable to reflect on what they said or to apologise to you.

Therefore,

Try to use “I-messages”

• What are “I-messages”?

An “I-Message” is it way of speaking that begins with “I” when you communicate your feelings to the other party.
EXPRESSION FEELING BOOK

- Way of speaking through the use of “I-Messages”

<table>
<thead>
<tr>
<th>Your feeling</th>
<th>“think in this way”</th>
<th>What you want the other party to do</th>
</tr>
</thead>
<tbody>
<tr>
<td>“I”</td>
<td></td>
<td>“I want you to do this”</td>
</tr>
</tbody>
</table>

Example

x “You always forget promises”.
  o “I had been looking forward to it. I want you to not forget promises”.

x It is awful of you to be late
  o “I had been looking forward to it for a long time. I want you to not be late from now on”.

x “It is unjust of you to say so”.
  o “I was hurt by what you said. I want you to not say it in that way.”

In this way. You should convey your feelings instead of blaming the other party.

Together with the voluntary probation officer, practice communicating your unpleasant feelings to the other party with this method.
EXPRESSING FEELING BOOK

Work E: “Face up to your attitude.”

- The juvenile tries to understand objectively how they feel about people around them and what attitude they take towards them.

<table>
<thead>
<tr>
<th>Temperatures</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0°C</td>
<td>Cool as ice. You feel as if you were frozen stiff.</td>
</tr>
<tr>
<td>5-15°C</td>
<td>Like in winter. You feel somewhat tense and chilly.</td>
</tr>
<tr>
<td>-40°C</td>
<td>Like in a bath. You feel relaxed when together with the person.</td>
</tr>
<tr>
<td>-60°C</td>
<td>A slightly warm drink. The maximum temperature you can put up with.</td>
</tr>
<tr>
<td>-80°C</td>
<td>Very hot drink on the verge of boiling. If you drink it, you will burn your throat.</td>
</tr>
<tr>
<td>-100°C</td>
<td>Boiling water. You feel as if you were boiling briskly.</td>
</tr>
</tbody>
</table>

Step 1

What feelings do you have about the people around you? Compare your feelings to a thermometer.

Write how you feel.
### EXPRESSING FEELING BOOK

<table>
<thead>
<tr>
<th></th>
<th>0°C</th>
<th>5-15°C</th>
<th>-40°C</th>
<th>-60°C</th>
<th>-80°C</th>
<th>-100°C</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Other party</strong></td>
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<tr>
<td>Ex) Life guidance Officer</td>
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<tr>
<td><strong>Family members</strong></td>
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<tr>
<td><strong>School/workplace</strong></td>
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<tr>
<td><strong>Friend</strong></td>
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<tr>
<td><strong>Friend</strong></td>
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</tbody>
</table>
EXPRESSING FEELING BOOK

Step 2
What attitude do you adopt toward the people around you?
Apply the following types to your attitude and complete the table in the next page:

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Cooperative/feeling safe</td>
<td>Although you assert yourself, you can listen to what the other party says and find a solution on which both can agree</td>
</tr>
<tr>
<td>B</td>
<td>Under the other party's thumb</td>
<td>You are under the other party's thumb without asserting yourself. Because repressed feelings are accumulated in your mind, your stress is building up.</td>
</tr>
<tr>
<td>C</td>
<td>Letting things take their course</td>
<td>You frequently change your attitude, depending on the other party's attitude or the situation. Although there seems to be no trouble, there is a lack of confidential relationships.</td>
</tr>
<tr>
<td>D</td>
<td>Defeating by force</td>
<td>You put the other party under your thumb by violence or argument</td>
</tr>
<tr>
<td>E</td>
<td>No involvement</td>
<td>You do not state your opinions or give cooperation. You withdraw into your own shell.</td>
</tr>
</tbody>
</table>
## EXPRESSING FEELING BOOK

<table>
<thead>
<tr>
<th>Other party</th>
<th>A Cooperative feeling safe</th>
<th>B Under the other party’s thumb</th>
<th>C Letting things take there course</th>
<th>D Defeating by force</th>
<th>E No involvement</th>
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<tbody>
<tr>
<td>Ex.</td>
<td>Father</td>
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<td>Family members</td>
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ANNEXURE “B”

VICTIM-OFFENDER DIALOGUE PROGRAMME : SCENARIOS

1. Theft and bodily injury case: (Annexure “B”: Attachment 1);
2. Burglary case (Annexure “B”: Attachment 2); and
3. Uninhabited structure arson case: (Annexure “B”: Attachment 3)
Theft and Bodily Injury Case

Facilitator: Hiroyuki Daibo

[Case summary]

In a winter evening, two men riding on a motorcycle approached a woman from behind and snatched her bag (theft). At that time, the female victim fell and suffered an injury that would take two weeks to heal completely.

The offenders were an adult man and a high school student boy. The adult man was connected with an organized crime group and had a friendship with the juvenile offender through a common friend.

The juvenile offender was forced to drive the motorcycle by the adult man. He could not reject this and participated in the offence. They committed similar offences several times.

[Details of application for Dialogue Program]

The counsel for the juvenile offender applied for a Dialogue Program. To rehabilitate him, the counsel thought it important for him to recognize his own weak will and sin fully and have a strong will not to repeat offense. Because the counsel considered it necessary to “face and apologize to the victim,” which is the motto of the Dialogue Program, he submitted an application to us.

[Preliminary interview with juvenile offender]

Because the juvenile was accompanied by his father first, I interviewed both together. During the interview, the juvenile offender said “I’m sorry for the victim” and made extremely exemplary answers. However, I strongly felt that he considered himself a victim rather than an offender.

Because of this, I had a preliminary interview with the juvenile only.

When I questioned “Why did you not reject to drive the motorcycle” he replied “I was frightened.” To my question “What frightened you?” he answered “I feared that I might be killed.” I questioned “Did you talk to the police or a family court investigator about your fear?” he said yes and added that they had said “When you are frightened, would you do anything?” He had not been able to say anything, thinking that no one would understand him.

The juvenile told that because he had thought about various things and had looked at himself since the arrest, he had greatly changed and that he had been able to reconfirm his affection for his family and really felt that he was supported by his family’s affection. While the juvenile was talking, I felt that he was gradually getting out of a sense of victimization and was ready to face the victim of this case. The juvenile also told that “I want to meet the victim for apology and burn the victim’s image into my mind to use it as a support for weak self.”
Because I thought it necessary to deepen his awareness of “being an offender,” I recommended him to write an apology letter to the victim. When I received a letter from the juvenile several days later, I said “Could we confirm whether something hurting the victim is written in the letter?” He replied “Please do so by all means” with a smile. I guessed that because he had sealed the letter without showing it to the parents, he strongly felt anxiety and wanted someone to confirm it. I felt that he began to notice that, in order to meet the victim for apology, he needs to request the victim to meet him. I completed the preparations for his meeting with the victim.

[Preliminary interview with victim]

The victim continued to refuse meeting with the juvenile. She had the fear of the juvenile offender’s revenge, the embarrassment at changes in her life, the aftereffects of the injury and a hatred feeling for the juvenile offender. As a result, we could not conduct a Dialogue Program. However, because facilitators, including me, conveyed the juvenile’s apology to her and listened to her for many hours, I think we helped her recovery to some extent.

[Rehabilitation of juvenile offender]

The juvenile offender was able to face himself as an offender by telling someone what he thought no one could understand. He also began to feel like pledging rehabilitation, noticing that, in order to apologize to the victim sincerely, he needs to request the victim to meet him.

I think it advantageous for the juvenile offender to tell his feelings to ordinary older men and women not related to the case. The same may not apply to all cases, but persons who liked to do things for others existed everywhere in the neighborhood when I was a child. Although we could not realize a Dialogue Program, when I last met him, I told him that “Rehabilitation is what you should prove in the rest of your life.” With a smile, the Juvenile replied “I will make best effort. I deeply appreciate your kindness.” Seeing his behavior, I felt his pledge and determination to rehabilitate himself and my pleasure in having had something to do with him.
Attachment 2

Burglary Case

Facilitator: Aiko Daibo

[Case summary]

Before eight at night, the juvenile offender and his friend intruded into a locked house by breaking a windowpane on the second floor, and stole two rings.

[Details of application for Dialogue Program]

When the counsel for the juvenile offender negotiated with the victims for out-of-court settlement, the victims told that they wanted to express their feelings directly to the juvenile offender. Thinking that the Dialogue Program would be suitable, the counsel made an application. The counsel also told the Center that the victims wanted to meet the juvenile at a near place as early as possible.

[Preliminary interview with juvenile offender]

I interviewed the juvenile offender, his mother and the counsel together.

During the interview, I was informed that the juvenile offender had sent letters to the victims twice for apology and compensation.

The juvenile was a cheerful and talkative 16-year-old-boy.

During his junior high school days, he belonged to a sport club and had no leisure because of hard practice until the end of the summer competition when he was a third-year student. He said “I became delinquent after I left the club. I rode a motorcycle with someone without license and was sent to a family court, which imposed no disposition on me.”

Regarding the five cases that he committed before this case, he began to talk about them not voluntarily but by the encouragement of the counsel. Moreover, he did not talk about another burglary case that he had committed after this case, this seemed to indicate that the juvenile was still problematic.

I was informed of the following: Negotiations for out-of-court settlement of the five cases were progressing, and one of the cases where he and his three friends had intruded a house and had stolen and used one million yen was already settled; The rings stolen in this case were kept by the police because the juvenile had kept them in his desk; His family would move to another place by chance, and he was eager to enter another high school and start a new school life.

His mother told that he would become sincerely repentant if he directly met the victims, because, seeing his careless speech and behavior in every life, she doubted that he was really repentant. To be
Treatment of Juvenile Offenders and their reintegration into society

Because it was difficult to contact the wife directly, we requested the husband to tell her at a suitable time about the Dialogue Program.

[Second preliminary interview with juvenile offender]

After interviewing one of the victims, we contacted the offender again.

We told the juvenile that the house had been built only six months before the offence and that the stolen rings were the couple’s wedding rings. We also informed him about the condition of the wife and how to think about compensation for damage. After that, we requested him to think about these matters deeply. Because we had not been able to agree on a schedule, we contacted the offender by phone. However, we judged from the results of the preliminary interviews with both parties that we would be able to conduct the Dialogue Program.

[Holdiing of meeting for Dialogue Program]

Of the victims and people around them, only the husband participated in the Dialogue Program, because the wife was not able to participate and local people did not want to participate. As for the offender’s side, the juvenile and his parents participated. His counsel also participated as an observer.

Although the juvenile seemed to be talkative at the time of the preliminary interviews, he was very nervous at the meeting.

Obtaining confirmation from time to time, the husband talked about the then situation and his feelings, such as anger, continuing uneasiness and indignation. The husband sometimes admonished the juvenile.
Although the juvenile was nervous, he was able to talk about his repentance, apology and hope for the future and sincerely replied to the victim’s questions.

[At end of Dialogue Program]

When we are going to finish the Dialogue Program after both parties signed an agreement on the offender’s payment of 300,000 yen as compensation for damage, the offender’s father advised his some to shake hands with the husband. Feeling self-conscious, the juvenile shook hands with the husband, who encouraged the juvenile to endeavor not to commit offense again.

I thought that his parents’ hope that he would become sincerely repentant if he directly met the victims came true.

In addition, I thought that the juvenile deeply understood the damage to victims was not limited to tangible assets.
Uninhabited Structure Arson Case

Facilitator: Chieko Tabei

[Case summary]

As a facilitator, I participated in a case where three 16-year-old boys set fire to structures.

The arson occurred in a large park with a museum in it. A shell mount was located there in the Jomon period. Natural forests and traditional topography remain in the park and are often used for study of natural environments. The park is a place of rest for residents. There were eight restored Jomon-style pit dwellings in the park.

During midnight in January, three juveniles gathering in the park planned to build a fire in the Park because it was cold. They collected fallen leaves and straws around the pit dwellings, and Juvenile A set a fire with a lighter. The fire immediately extended to the pit dwellings. Amazed, three juveniles escaped. During the escape, a policeman questioned them and took them to the police station. One of the eight dwellings was totally destroyed by fire.

[Details of application for Dialogue Program]

The council for the juveniles made an application for the Dialogue Program. Because the park is a public facility, the director and the vice-director of the museum, managers of the park became representatives of the victim.

[Preliminary interview with juvenile offender]

Although Juvenile A was working without going on to high school, he refused participating in the Dialogue Program. He was dissatisfied with Juveniles B and C because, while Juvenile A had insisted on their innocence during the police’s interrogation, they had soon confessed, which had compelled Juvenile A to confess.

Regarding compensation, Juvenile A said “Because I have just begun to work on the introduction of my senior, my salary is too small to pay it.” To our advice to do volunteer activities in the park, he replied “I don’t want to because it is disgraceful to do it. The Dialogue Program is useless for me, “expressing no repentance or apology. He seemed to be irritated because he could still not sort out his feelings.

It was two and a half months after the preliminary interview that I was informed that Juvenile A had changed his mind and showed the intention to participate in the Dialogue Program. This was because the counsel and the employer of the juvenile had spent a lot of time to encourage the juvenile.
The director and the vice-director of the museum plainly explained to the juveniles how rapidly they had dealt with the case. They talked about consideration for park lovers and the juvenile offenders, saying “Soon after receiving a call from the police, all the staff members gathered and began to clear the site of the fire. We harried by giving up two holidays because we thought that, if the site of fire was exposed to the people who came to the park, the case would be rumored variously. It was never good.

They also told that it took a lot of trouble to build a pit dwelling, saying “It takes a lot of labour and time to build a pit dwelling. It is necessary to gather thatch, dry it for several months and keep it until spring before starting to build the pill dwelling. If we appeal to many citizens to build pit dwellings, an offense like this will never occur again.” They also said to the juveniles “We hope that you will love this park.” Because the director and the vice-director have a deep understanding of juveniles’ mental problems and are generous to juveniles, they did not seek compensation for damage and told the juveniles that “We want you to participate in volunteer activities as ordinary citizens, although we will not compel you to do so.”

As a facilitator, I was very pleased at Juvenile A’s response. He completely changed from three months before, when he had showed an irresponsible and apathetic attitude. I could imagine his clam life from his mild face and careful replies.

During the dialogue, Juvenile A said “To tell the truth, I came to this park many times from my childhood and felt a sense of closeness to the park.” Without so much intervention of the facilitators, Juvenile A continued a dialogue with the director and the vice-director in a good atmosphere. Juvenile A, who had said before that volunteer activities were disgraceful, voluntarily said that “I want to participate in the citizen volunteer group.”

At the end of the meeting, with the encouragement of the counsel and the counsel and the investigator, Juvenile A handed over to the director a thick report in which he wrote what he had studied about the park, such as its history. When the director praised him for his effort, he responded with a 16-year-old boy’s gentle smile.