

# UNAFEI NEWSLETTER

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INSTITUTE FOR THE PREVENTION OF CRIME  
AND THE TREATMENT OF OFFENDERS

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## LETTER FROM THE DIRECTOR

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It is my privilege to inform readers of the successful completion of the 136th International Training Course on "Effective Measures for the Treatment of Juvenile Offenders and their Reintegration into Society", which took place from 23 May to 28 June 2007.

In this Course, we welcomed seven Japanese and fourteen overseas participants, and two overseas observers: nine from Asia, three from Africa, two from Central America, one from the Pacific and one from South America. They included police officers, correctional officers, public prosecutors, judges, probation officers and other high-ranking public officials.

As this newsletter demonstrates, the Course was extremely productive. It consisted of individual presentations, group workshop and plenary sessions, visits to relevant criminal justice agencies, and presentations by visiting experts, faculty members and ad hoc lecturers.

Most states recognize the need to treat juveniles differently from adult offenders within the criminal justice system. The international community has also established certain guidelines and rules to promote the rights of juveniles and to ensure that due process is followed. The most important of these are the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985); UN Guidelines for the Prevention of Juvenile Delinquency (1990); and the UN Rules for the Protection of Juveniles Deprived of their Liberty (1990). Although, these instruments have been adopted widely by the international community the actual situation in many countries concerning the treatment of juveniles falls far short of the applicable rules and guidelines.

In addition to improving the treatment of juveniles within the justice system, there is also a need to ensure there is an effective system in place to help juveniles reintegrate into the community upon their release. The Bangkok Declaration (2005) highlights the importance of developing restorative justice policies, procedures and programmes to promote, not only the interests of victims, but also the rehabilitation of offenders. Currently, few states have laws or procedures for the reintegration of offenders, but it is hoped that instruments, such as this Declaration, will lead to greater awareness of their importance.

In view of the ongoing need for the implementation of effective measures for the treatment of juvenile offenders and their reintegration into society, and the importance of such measures stressed by the various UN instruments, UNAFEI, as a regional institute of the UN Crime Prevention and Criminal Justice Network, decided to hold this Course.

During the Course the participants diligently and comprehensively examined the current situation of effective measures for the treatment of juvenile offenders and their reintegration into society, primarily through a comparative analysis. The participants shared their own experiences and knowledge of the issues, and identified problems and areas in which improvements could be made. After engaging in in-depth discussions with the UNAFEI faculty and visiting experts, the participants were able to put forth effective and practical solutions that could be applied in their respective countries.

I would like to offer my sincere congratulations to all the participants upon their successful completion of the Course, made possible by their strenuous efforts. My heartfelt gratitude goes

to the visiting experts and ad hoc lecturers who contributed a great deal to the Course's success. Furthermore, I appreciate the indispensable assistance and cooperation extended to UNAFEI by various agencies and institutions, which helped diversify the programme.

I would like to express my great appreciation to the Japan International Cooperation Agency (JICA) for its immeasurable support throughout the Course. At the same time, a warm tribute must be paid to the Asia Crime Prevention Foundation (ACPF) and its branch organizations for their substantial contributions to our activities. Lastly, I owe my gratitude to all the individuals whose unselfish efforts behind the scenes contributed significantly to the successful realization of this Course.

Upon returning to their home countries, I genuinely believe that, like their predecessors, the strong determination and dedication of the participants will enable them to work towards the improvement of their respective nation's criminal justice systems, and to the benefit of the international society as a whole.

Finally, I would like to reiterate my best regards to the participants of the 136th International Training Course. I hope that the experience they gained during the Course proves valuable in their daily work, and that the bonds fostered among the participants, visiting experts and UNAFEI staff will continue to grow for many years to come.

June 2007

相澤 恵一

*Mr. Keiichi Aizawa*  
Director, UNAFEI

## THE 136TH INTERNATIONAL TRAINING COURSE

### "EFFECTIVE MEASURES FOR THE TREATMENT OF JUVENILE OFFENDERS AND THEIR REINTEGRATION INTO SOCIETY"

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#### Course Rationale

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The establishment within the criminal justice system of a separate process for juvenile offenders from adult offenders gained greater importance from the second half of the 19th century<sup>1</sup>. At present, legal systems that, for example, ensure the physical separation of juveniles from adults at all stages of the criminal justice process and provide special treatment, education and welfare for juveniles, exist to some extent in many countries. However, the actual situation in regard to both the legal basis and practice concerning the treatment of juvenile offenders in many countries is far from satisfactory. Thus it is necessary that more countries become aware of the importance of this issue and take action to implement changes to their laws and/or practice to improve their juvenile justice systems.

In view of the importance of this issue, the United Nations has taken action to establish standards for the administration of juvenile justice systems. At the United Nations congresses on the Prevention of Crime and the Treatment of Offenders, held every five years since 1955, the management of the treatment of juveniles and the prevention of juvenile delinquency/crime has frequently been discussed. These discussions resulted in the "United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines)"<sup>2</sup> in 1985 and the "United Nations Rules for the Protection of Juveniles Deprived of their Liberty"<sup>3</sup> in 1990. Paragraph 24 of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (A/CONF.187/4/Rev.3), adopted by the Tenth United Nations Congress held in Vienna in 2000, also underlines the importance of taking measures to prevent juveniles in difficult circumstances from becoming delinquent or candidates for recruitment by criminal groups. And paragraph 25 stresses developing crime prevention strategies addressing the root causes and risk factors of crime and victimization (although these strategies do not cover only juveniles)<sup>4</sup>. The Convention on the Rights of the Child, adopted in 1989, contains several provisions which call upon States Parties to ensure a juvenile justice system based on humanitarianism, the guarantee of due process and the expansion of diversion (particularly in Articles 37, 39 and 40)<sup>5</sup>. Currently, more than 190 countries have ratified this Convention, and the Committee on the Rights of the Child<sup>6</sup> is monitoring and examining the progress made by States Parties in realizing the obligations laid down in

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<sup>1</sup> The establishment of a juvenile court in the State of Illinois in the US in 1899 was noted by justice systems around the world.

<sup>2</sup> Ibid, p.77.

<sup>3</sup> Ibid, p.87.

<sup>4</sup> Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century. Para. 24, 25.

[http://www.unodc.org/pdf/crime/a\\_res\\_55/res5559e.pdf](http://www.unodc.org/pdf/crime/a_res_55/res5559e.pdf).

<sup>5</sup> Convention on the Rights of the Child: General Assembly Resolution 44/25 November 1989: Art. 37, 39, 40.

<sup>6</sup> Established by sub-section 1, Art. 43 of the Convention on the Rights of the Child.

the Convention<sup>7</sup>.

While there is recognition of the necessity for the improvement of the juvenile justice system in many parts of the world, and the efforts by nations for the efficient treatment of juveniles in conflict with the law in accordance with United Nations instruments have continued, states are still faced with numerous challenges in administering juvenile justice.

Ensuring due process in the juvenile justice system is the number one priority. In this respect, in some countries the international instruments are often disregarded.<sup>8</sup> Juveniles are often subject to long-term detention pending trial, insufficient investigation into their background and circumstances of the offence they have committed, a lack of notification to parents/guardians, denial of legal counsel and incarceration with adult prisoners. These countries often face a host of problems that impede them following the international instruments such as a lack of legislation that specifically addresses juveniles, an inability to implement existing relevant legislation, poor management and administration, and a lack of record/data keeping. In addition, officials often lack an awareness of the rights and/or are insufficiently concerned about the well-being of the juveniles.

Efficient management and treatment of juvenile offenders in correctional institutions is an area requiring particular attention. In some countries, due to the limited alternative measures of disposition and the insufficient management of diversion, many juveniles serve long periods in custody. In addition, young offenders and those in need of care and protection are often kept in custody with older juveniles/adult offenders. In other countries, where crime committed by juveniles is a serious social problem, the judicial organizations are urged to review and amend previous measures by which juvenile offenders have been treated in a 'protective' and 'educational' manner. In such countries, the juvenile's responsibility for his/her crime and the necessity for the protection of the community have being emphasized due to the fear and concern of the general public and the victims' complaints of a too lenient juvenile justice system. As a result juvenile justice has become progressively punitive, with the transfer of juvenile offenders to the criminal courts, extended detention and increased supervision upon release from correctional institutions. However, it remains to be seen whether these "harsher" measures are actually effective in preventing crimes committed by juveniles.

In addition, members of society are also increasingly voicing their concerns about the results of correctional treatment. The efficacy of the correctional treatment/education of juveniles (For example how the level of the juvenile's 'Risk' of offending/re-offending has been reduced; and how the treatment has addressed the juveniles 'Needs'<sup>9</sup> that have possibly led to their delinquency.) is becoming increasingly important to the agencies in charge of the treatment of juveniles.

Furthermore, the importance of the provision of effective community-based treatment for ju-

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<sup>7</sup> States Parties undertake to submit to the Committee reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights regularly. (Sub-section 1, Art. 44).

<sup>8</sup> United Nations Secretary-General's Study on Violence against Children (2005). Summary Report on the Thematic Meeting on Violence against Children in Conflict with the Law, 4-5 April 2005 Geneva. Available at: <http://www.violencestudy.org/r180>.

<sup>9</sup> In the juvenile justice system "needs" usually refer to the factors that are important for the rehabilitation of a particular juvenile offender. The offender may have problems relating to their physical/mental health, substance abuse, education, social skills, etc. The results of a needs assessment help determine which interventions or programs would be most beneficial for the particular juvenile.

venile offenders should be emphasized. Treatment in community settings is divided roughly into three areas in accordance with the stage of disposition, namely, educational/protective diversion without resort to trial; various final disposition measures including probation, community service orders, electronic monitoring, treatment for specific problems (drugs, alcohol, etc.); and supervision after release from correctional institutions. The provision of individualized treatment based on the risk/needs of each juvenile is required at each stage. In addition, investigation into the background and circumstances of the juvenile offender, assessment of his/her risk/needs, proper record keeping and the systematic coordination among the stakeholders is necessary. It is important that community-based treatment and institutional treatment are continuous and consistent ("Through-care").

Moreover, there is much debate concerning the reintegration of juveniles in conflict with the law into society. At present, there are many judicial systems that are under pressure to re-examine the current aftercare system premised on early release from correctional institutions; this has led to them being more cautious and thus subjecting juveniles to longer periods of incarceration. Society is increasingly demanding that juveniles take responsibility for their crimes, and the rights of victims and the safety of society are being given greater priority. However, there is some concern about the lack of 'socialization' of juvenile offenders who have served long periods of custody. The development of a program which will be effective both for the reduction of re-offending ('risk') of juveniles and for the juvenile's re-integration into society, considering the feelings of victims and the demands for safety by the community, is required.

One of the recent practices which merit our attention within the area of the rights, needs and interests of victims and communities and the reintegration of juvenile offenders has been the restorative justice approach. Recently, various types of restorative justice approaches such as "Victim Offender Mediation", "Family Group Conferencing", "Restorative Community Service", "Victim Impact Panels", etc. have been used in the frontline of juvenile justice systems in several countries. And more recently, a "Balanced and Restorative Justice Approach" has been introduced which tries to balance three demands, namely, community protection (administering punishment or supervision according to the risk posed by the juvenile), accountability of the juvenile (restoring the damage to victims and the community through compensation, social service orders, etc.) and competency development of the juvenile (administering treatment to a juvenile according to his/her needs to enable him/her to take a constructive and productive role in the community). The Balanced and Restorative Justice Approach attempts to give juvenile offenders more support by providing an educational, practical program for rehabilitation, taking into consideration both victims and the community. The above-mentioned Vienna Declaration referred for the first time to the necessity of restorative justice policies mainly in support of victims of crime (para. 27 and 28). In addition, the "Bangkok Declaration", adopted at the Eleventh United Nations Congress held in Bangkok in 2005, stressed the importance of further developing restorative justice policies, procedures and programs to promote not only the interests of victims but also the rehabilitation of offenders (para. 32)<sup>10</sup>.

Giving due consideration to the above, this International Training Course intends to identify the recurrent and newly raised challenges within the area of juvenile justice, especially the issue of the treatment of juveniles and their reintegration into society, as well as the best practices to meet these challenges. By analyzing the actual situation and problems, and sharing experiences of types of treatment which have achieved a certain degree of success, it is hoped that we will arrive at the most effective measures for each participating country.

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<sup>10</sup> Bangkok Declaration: Synergies and Responses - Strategic Alliances in Crime Prevention and Criminal Justice, Para. 32. <http://www.unodc.org/pdf/crime/congress11/BangkokDeclaration.pdf>.

### 3. Objectives

The focus of discussions in this Training Course will be as follows:

- (1) The current situation and problems faced by each jurisdiction throughout the legal proceedings for juveniles and their effective countermeasures
  - (i) Current situation and legal framework of arrest, detention, transfer between agencies, prosecution and trial
  - (ii) Current situation and challenges in relation to the investigation and social inquiry
  - (iii) Current situation and challenges in relation to the risk and needs assessment
  - (iv) Current situation and challenges in adjudication and disposition
    - a) Challenges involved in introducing a diversion program
    - b) Disposition considering the restitution/minimization of damage to the victim
  
- (2) Effective measures in the institutional treatment of juvenile offenders
  - (i) Assessment of the degree of risk ("high risk" juveniles vs. "low risk" juveniles) and individual needs and classification accordingly
  - (ii) Development of an effective treatment program in accordance with the risk and needs assessment
  - (iii) Effective institutional treatment program considering victims/restitution of the harm caused to the victim
  - (iv) Appropriate administration of the institution and staff
  - (v) Establishing and maintaining a complete record of each juvenile and linking it to a database
  - (vi) Cooperation and collaboration with community-based treatment services ("Through-care")
  - (vii) Cooperation and collaboration with other organizations for effective institutional treatment (judicial, welfare, educational agencies, NGOs, etc.)
  
- (3) Effective measures for the community-based treatment of juvenile offenders
  - (i) Assessment of the degree of risk ("high risk" juveniles vs. "low risk" juveniles) and individual needs and classification accordingly
  - (ii) Development of an effective treatment program in accordance with the risk and needs assessment
  - (iii) Cooperation and collaboration with Institutional treatment services ("Through-care")
  - (iv) Cooperation and collaboration with other organizations for effective Community-based treatment (judicial, welfare, educational agencies, NGOs, etc.)
  - (v) The possibility of using community resources, including volunteers, for effective community-based treatment
  
- (4) Effective measures to promote the reintegration of juveniles into the community
  - (i) Measures for an aftercare system which allows the effect of the correctional treatment to be maintained and reduces the risk of re-offending and also enhances the juvenile's ability to reintegrate into the community
    - a) Effective use of halfway houses/rehabilitation aid hostels
    - b) Cooperation among the related agencies (welfare/medical services, schools, NGOs, volunteers, etc.)
    - c) Effective programs to enhance the juvenile offender's ability to reintegrate into the community
  - (ii) Effective measures to restore the harm/damage caused by juvenile offenders

effective measures to restore the loss and damage caused by juvenile offenders school, NGOs, volunteers, etc.)

- a) General topics of restorative justice - theoretical basis
- b) The possibility of using restorative justice approaches within the field of juvenile justice, such as victim-offender mediation programs (VOM), family group conferencing (FGC) programs, balanced restorative justice approaches, etc.



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## Course Summary

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### Lectures

In total, six lectures were presented by visiting experts, five by ad hoc lecturers and seven by the professors of UNAFEI. Three distinguished criminal justice practitioners and scholars from abroad served as UNAFEI visiting experts. They lectured on issues relating to the main theme, and contributed significantly to the Course by encouraging discussions after their own lectures, participating in the discussions of other programmes, and conversing with the participants on informal occasions. Additionally, distinguished senior officials of the Government of Japan, university professors and the president of an NGO, delivered ad hoc lectures. The lecturers and lecture topics are listed on pages 9 and 10.

### Individual Presentations

During the first two weeks, each Japanese and overseas participant delivered an individual presentation, which introduced the actual situation, problems and future prospects of his/her country. These papers were compiled onto a Compact Disc and distributed to all the participants. The titles of these individual presentation papers are listed on pages 11 and 12.

### Group Workshop Sessions

Group Workshop sessions further examined the subtopics of the main theme. In order to conduct each session effectively, the UNAFEI faculty selected individuals to serve as group members for the sub-topics, based on their response to a questionnaire previously distributed. Selected participants served as chairpersons, co-chairpersons, rapporteurs or co-rapporteurs, and visiting experts and faculty members served as advisers. Each group's primary responsibility was to explore and develop their designated topics in the group workshop sessions. The participants, experts and UNAFEI faculty studied the topics and exchanged their views based on information obtained through personal experience, the individual presentations, lectures and so forth. After the group workshop sessions, reports were drafted based on the discussions in their groups. These reports were subsequently presented in the plenary meetings and report-back session, where they were endorsed as the reports of the Course. Brief summaries of the group workshop reports are provided on pages 13 to 15.

### Visits and Special Events

Visits to various agencies and institutions in Japan helped the participants obtain a more practical understanding of the Japanese criminal justice system. In addition to the Course's academic agenda, many activities were arranged to provide a greater understanding of Japanese society and culture, with the assistance of various organizations and individuals, including the Asia Crime Prevention Foundation (ACPF). For more detailed descriptions, please refer to pages 16 to 19.

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## Lecture Topics

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### *Visiting Experts' Lectures*

- 1) Dr. Ann Skelton (South Africa)
  - Reforming the Juvenile Justice System in South Africa: Policy and Law Reform
  - Reforming the Juvenile Justice System in South Africa: Parallel Developments
- 2) Mr. Stephen O'Driscoll (New Zealand)
  - Youth Justice in New Zealand: A Restorative Justice Approach to Reduce Youth Offending
  - Youth Justice in New Zealand: Family Court Conferencing
- 3) Dr. Robert Hoge (Canada)
  - Advances in the Assessment and Treatment of Juvenile Offenders: Assessment Issues
  - Advances in the Assessment and Treatment of Juvenile Offenders: Case Planning and Management

### *UNAFEI Professors Lectures*

- 1) Mr. Haruhiko Higuchi, Professor, UNAFEI
  - Challenges of the Koban (Police Box) System in the 21st Century
- 2) Ms. Kayo Ishihara, Professor, UNAFEI
  - Investigation and Prosecution in Japan
- 3) Mr. Shintaro Naito, Professor, UNAFEI
  - The Courts
- 4) Mr. Jun Oshino, Professor, UNAFEI
  - The Juvenile Justice System
- 5) Mr. Tetsuya Sugano, Professor, UNAFEI
  - Institutional Corrections in Japan
- 6) Ms. Tae Sugiyama, Professor, UNAFEI
  - Community-Based Treatment of Offenders in Japan
- 7) Mr. Takeshi Seto, Professor, UNAFEI
  - The UN and Juvenile Justice

### *Ad Hoc Lectures*

- 1) Mr. Masanobu Fukuda  
 Director of Juvenile Protection Office, Juvenile Division, Community Safety Bureau, National Police Agency, Japan
  - Present Conditions of Juvenile Delinquency and the Police Measures
- 2) Dr. Kei Someda  
 Senior Researcher, Research and Training institute, Ministry of Justice, Japan

- Restorative Justice: Theoretical Base, World Trends and Current Practices, Especially Focusing upon Juvenile Justice

3) Prof. Kenji Hirose

Professor of Rikkyo Law School, Japan

- Present Conditions and Trends of the Juvenile Law System

4) Ms. Yukiko Yamada

President Victim-Offender Dialogue Programme Management Centre (incorporated Non-Profit Organization), Japan

- Juvenile Rehabilitation from the Viewpoint of Victim Support Practice by the Victim-Offender Dialogue Programme Management Centre

5) Prof. Emeritus Kei Maeda

Emeritus Professor, Japan Lutheran Theological College, Japan

- Social Skills Training (SST) to Improve Interpersonal Behavioural Skills

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**Individual Presentation Topics**

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***Overseas Participants***

- 1) Mr. Karma Sonam (Bhutan)
  - Country Report
- 2) Ms. Iacy Monteiro Braga Caracelli (Brazil)
  - Country Report
- 3) Mr. Ndama Henry Asaah Ngu (Cameroon)
  - Country Report
- 4) Mr. Cesar Alexis Ruiz Rodriguez (Honduras)
  - Country Report
- 5) Mr. Abdelkhoder Mahdi Al-Taher (Iraq)
  - Country Report
- 6) Mr. Min Than Kyaw (Myanmar)
  - Country Report
- 7) Mr. William Antonio Parodi Pugliese (Panama)
  - Country Report
- 8) Mr. Agustin Esperanza Senot (Philippines)
  - Country Report
- 9) Mr. Braam Paul Korff (South Africa)
  - Country Report
- 10) Mr. Herath Mudiyansele T. N. Upuldeniya (Sri Lanka)
  - Country Report
- 11) Mr. Kapila Mudantha Waidyaratne (Sri Lanka)
  - Country Report
- 12) Ms. Loupua Kuli (Tonga)
  - Country Report
- 13) Mr. Thanh Quang Chu (Vietnam)
  - Country Report
- 14) Mr. Joseph Makwakwa (Zimbabwe)
  - Country Report
- 15) Mr. Shu-kan Kenny Cheung (Hong Kong, SAR)
  - Country Report

- 16) Mr. Hee Ho Park (Korea)  
• Country Report

*Japanese Participants*

- 17) Ms. Suwa Imai  
• The Enforcement of Article 20-2 of the Juvenile Law
- 18) Mr. Satoshi Imamura  
• Exploitation and Practical Use of Social Resources in Community-based Treatment
- 19) Ms. Ayumi Ishikawa  
• The Need for Risk Assessment and Management to Ensure Effective Juvenile Community-based Treatment
- 20) Mr. Hisami Katsuda  
• Juvenile Justice in Japan and the Role of Family Court Probation Officers
- 21) Mr. Masaru Kiuchi  
• Management Methods and Treatment Measures in Japanese Juvenile Training Schools
- 22) Mr. Kenji Nagaike  
• Trials of Juvenile Delinquency Cases in the Criminal Courts
- 23) Mr. Masaomi Nakazawa  
• The Role of Public Prosecutors in the Japanese Juvenile Justice System

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**Group Workshop Sessions**

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**Group 1**

**ENSURING DUE PROCESS IN THE JUVENILE JUSTICE SYSTEM AND THE  
APPROPRIATE ADJUDICATION/DISPOSITION OF JUVENILES**

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<b>Chairperson</b>	Mr. Kapila Mudantha Waidyaratne	(Sri Lanka)
<b>Co-chairpersons</b>	Mr. Masaomi Nakazawa	(Japan)
	Mr. William Antonio Parodi Pugliese	(Panama)
<b>Rapporteur</b>	Mr. Joseph Makwakwa	(Zimbabwe)
<b>Co-Rapporteurs</b>	Mr. Thanh Quang Chu	(Vietnam)
	Mr. Hisami Katsuda	(Japan)
	Mr. Agustin Esperanza Senot	(Philippines)
<b>Visiting Experts</b>	Mr. Stephen O'Driscoll	(New Zealand)
	Dr. Robert Hoge	(Canada)
<b>Advisers</b>	Prof. Jun Oshino	(UNAFEI)
	Deputy Director Takeshi Seto	(UNAFEI)
	Prof. Kayo Ishihara	(UNAFEI)
	Prof. Shintaro Naito	(UNAFEI)

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*Report Summary*

Group One discussed the above subject according to the following agenda. (1) Current situation and challenges in regard to the legal framework of arrest, detention, transfer between related agencies, prosecution and trial. (2) Current situation and challenges in regard to: (i) information gathering of offences and/or background of delinquency; (ii) information sharing; and (iii) cooperation amongst stakeholders. (3) Assessment of the degree of risk of re-offending and the factors important for the rehabilitation of each juvenile before disposition. (4) Measures for ensuring the appropriate adjudication/disposition of juveniles. (5) Adjudication/disposition considering the restitution/minimization of damage to the victim and/or community and effective measures to restore the harm/damage caused by juvenile offenders.

The group then made the following recommendations. 1. Each country needs to establish a specialized court system competent to deal with juvenile offenders. 2. The formulation and improvement of a framework of arrest, detention, prosecution and trial applicable to handling juvenile offenders should be based on UN standards, norms and guidelines. 3. Judges should be given comprehensive reports to enable them to make appropriate decisions. 4. Specialists in psychology, sociology and education, such as probation officers, etc., should be involved in the process of decision-making and their reports and recommendations taken into account in making dispositions. 5. The use of volunteers, (volunteer probation officers, etc.) in community support programmes dealing with juvenile offenders, should be encouraged. 6. The competent authorities in their determinations should as a rule, give priority to the juvenile offender rather than the offence. 7. A restorative justice approach should be encouraged. 8. It is important to record methodically accurate statistics on juvenile offenders.

**Group 2****EFFECTIVE INSTITUTIONAL TREATMENT OF JUVENILE OFFENDERS FOR THEIR SUCCESSFUL REINTEGRATION INTO SOCIETY**


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<b>Chairperson</b>	Mr. Shu-kan Kenny Cheung	(Hong Kong SAR)
<b>Co-Chairperson</b>	Ms. Ayumi Ishikawa	(Japan)
<b>Rapporteurs</b>	Mr. Karma Sonam	(Bhutan)
	Mr. Herath Upuldeniya	(Sri Lanka)
<b>Co-Rapporteur</b>	Mr. Masaru Kiuchi	(Japan)
<b>Members</b>	Mr. Min Than Kyaw	(Myanmar)
	Mr. Hee Ho Park	(Korea)
	Mr. Kenji Nagaike	(Japan)
<b>Visiting Experts</b>	Mr. Stephen O'Driscoll	(New Zealand)
	Dr. Robert Hoge	(Canada)
<b>Advisers</b>	Prof. Tetsuya Sugano	(UNAFEI)
	Prof. Koji Yamada	(UNAFEI)
	Prof. Shintaro Naito	(UNAFEI)

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*Report Summary*

Group Two discussed the above subject according to the following agenda. 1) The current situation and problems faced by organizations that treat juveniles. 2) Measures of assessing individual characteristics. 3) Development of a treatment programme in accordance with the risk and needs assessment. 4) Development of a treatment programme considering victims and/or restitution to the victims. 5) Continuous collaboration and links with the community-based treatment service, and or related organizations, for the effective treatment of juveniles and their rehabilitation (Through care). 6) An aftercare system that maintains the effect of correctional treatment, reduces the risk of re-offending and helps the juvenile reintegrate into the community.

The group then made the following recommendations. 1. When conducting Risk/Needs assessment the different characteristic of juveniles should be considered. 2. Treatment programmes should be updated regularly by inviting experts from outside, etc. 3. An objective method should be established to assess the effectiveness of treatment programmes, such as the rate of recidivism. Accurate and up-to-date research and statistics should be kept. 4. Restorative justice mediation programmes provide an opportunity for the juvenile to consider the feelings of the victims and the consequences of crime. Juveniles should be given guidance before attending such programmes. 5. Before discharging juveniles, pre-discharge training and preparation should be provided and the parole board should be involved, even while the juvenile is still in the institution. 6. For the juvenile to lead a law-abiding life, employment is indispensable. Co-operation from private companies as well as the community should be sought. 7. An effective system to monitor volunteers and NGOs is necessary. 8. In order for the juvenile to maintain his motivation to rehabilitate himself after release, it is necessary to provide him with an innovative and creative programme. 9. Family plays an important part in the rehabilitation process; therefore, more effort should be made to build a trusting relationship with the family members of the juvenile. 10. After-care supervision, with control and care elements, is significant for the re-integration of juveniles; for this purpose, juveniles' needs should be assessed before release. 11. Staff should be given sufficient training and education on the rationale and mission of rehabilitation.

**Group 3**

**EFFECTIVE MEASURES IN THE COMMUNITY-BASED TREATMENT OF  
JUVENILE OFFENDERS AND ENHANCEMENT OF THE JUVENILE'S  
ABILITY TO REINTEGRATE INTO SOCIETY**

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<b>Chairperson</b>	Ms. Loupua Kuli	(Tonga)
<b>Co-Chairperson</b>	Mr. Braam Paul Korff	(South Africa)
<b>Rapporteur</b>	Mr. Ndama Henry Asaah Ngu	(Cameroon)
<b>Co-Rapporteurs</b>	Ms. Iacy Monteiro Braga Caracelli	(Brazil)
	Ms. Suwa Imai	(Japan)
<b>Members</b>	Mr. Abdelkoder Mahdi Al-Taher	(Iraq)
	Mr. Cesar Alexis Ruiz Rodriguez	(Honduras)
	Mr. Satoshi Imamura	(Japan)
<b>Visiting Experts</b>	Dr. Ann Skelton	(South Africa)
	Dr. Robert Hoge	(Canada)
<b>Advisers</b>	Prof. Tae Sugiyama	(UNAFEI)
	Prof. Haruhiko Higuchi	(UNAFEI)
	Prof. Ryuji Tatsuya	(UNAFEI)

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*Report Summary*

Group Three discussed the above subject according to the following agenda. 1) The current situation and problems faced by organizations that treat juveniles. 2) Measures of assessing the individual characteristics, degree of risk and needs, and classification. 3) Development of an effective programme in accordance with risk and needs assessment. 4) Development of a treatment programme considering victims and/or restitution of the harm caused to victims. 5) Collaboration and links with institutional treatment services, etc. for the effective treatment of juveniles and their rehabilitation (Through-care). 6) An aftercare system that maintains the effect of correctional treatment, reduces the risk of re-offending and enhances the juvenile's ability to reintegrate into the community. The group then made the following recommendations.

1. Community-based treatment must be in line with the needs of offenders. A board/governmental institution may screen these programmes and set relevant guidelines.
2. A treatment programme for the type of risk and needs assessment should be developed by specialists, etc. in cooperation with the department of justice, etc.
3. Communication and exchange of information between treatment agencies and the community is crucial in increasing collaboration and cooperation between them, taking into consideration the juveniles' right of privacy and best interests. Agencies should use standardized documents to improve the enhancement of cooperation and collaboration among stakeholders.
4. The use of community resources such as community and religious leaders, etc. should be considered.
5. Third parties are necessary for the successful conduct of victim-offender meetings but they need to be chosen carefully, taking into account both victims and offenders.
6. Aftercare residences (halfway houses, etc.) should be established/increased for the continuity of the juvenile's treatment.
7. Continuous supervision, assessment and treatment of juveniles, and support for their parents/family should be maintained.
8. UN standards and norms should be considered when establishing and implementing treatment programmes for juveniles.
9. Treatment programmes should provide juveniles with healthy distractions and hobbies to reduce negative peer influence and recidivism.



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**Observation Visits**

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<u>Date</u>	<u>Agency/Institution</u>	<u>Main Persons Concerned</u>
May 30	Tokyo Probation Office	• Ms. Haruko Otani (Probation Officer)
	Tokyo District Public Prosecutors Office	• Mr. Shotaro Tochigi (Chief Prosecutor)
	Ministry of Justice	• Mr. Hiroshi Obayashi (Vice Minister of Justice)
June 7	Tama Juvenile Training School	• Mr. Noriyuki Kashimura (Deputy Director)
June 13	Tokyo Family Court	• Mr. Shouichi Yagi (Deputy Chief Judge)
	The Supreme Court	• Mr. Yuki Furuta (Justice)
June 15	Kawagoe Juvenile Prison	• Mr. Hiroshi Sasaki (Director-General of Education Division)
June 25	Fuchu Prison	• Mr. Hiroyuki Shinkai (Principal Programme Supervisor)

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**Group Study Tour**

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<u><i>Date</i></u>	<u><i>Location</i></u>	<u><i>Agency/Institution</i></u>	<u><i>Main Persons Concerned</i></u>
June 20	Hiroshima	• With Hiroshima Halfway House	• Mr. Kanichi Yamada Deputy Director
June 21- 22	Kyoto	• Uji Juvenile Training School  • Kyoto Prefectural Police	• Mr. Shunichi Ozono Superintendent  • Mr. Minoru Shoda Assistant Section Chief

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## Special Events

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May 23 *Welcome Party*

May 25, 28, 29 *Japanese Conversation Classes*

The overseas participants attended three Japanese conversation classes and learned practical Japanese expressions. The sensei (teacher) was Ms. Junko Toyoguchi of JICE.

May 26 *Grand Sumo Tournament and Party Hosted by the ACPF, Kisei-kai Branch*

The participants attended the Grand Sumo Tournament at the *Ryogoku Kokugikan*, Tokyo, and later enjoyed a party hosted by the ACPF, Kisei-kai Branch.

May 30 *Courtesy to the Ministry of Justice and Reception by the Vice-Minister of Justice*

After visiting the Ministry of Justice, a reception was held by the Vice-Minister of Justice, Mr. Hiroshi Obayashi at the Lawyers Club, Tokyo.

June 1 *UNAFEI Olympics*

The UNAFEI Olympic Games were held on the grounds of the Training Institute for Correctional Personnel. The participants competed in such events as racket relay, tug of war and the true or false quiz. Afterwards, a friendship party was held at UNAFEI.

June 9 and 10 *Home Visits*

ACPF Fuchu Branch kindly organized dinners for the participants in the homes of their members. The hosts were Mr. Rinshi Sekiguchi, Mr. Yoshiyuki Sakano, Ms. Yuriko Arai, Ms. Hiroko Maekawa and Ms. Chitose Sashida.

June 13 *ACPF Yokohama Cruise*

The participants enjoyed a sunset cruise and dinner aboard the *Marine Rouge* hosted by ACPF Yokohama branch.

June 16 *The Way of Tea*

The participants enjoyed lunch at Tanaka house in *Kyodo-no-Mori* park. This was followed by "Cha-no-yu" or "Sado", a formal Japanese tea ceremony. These events were kindly hosted by Soroptimist International Tokyo, Fuchu.

June 19

*ACPF Fuchu Party*

The ACPF Fuchu branch hosted an enjoyable party for the participants and their host families at UNAFEI.

June 27

*Suntory Brewery Visit*

The participants visited the Suntory brewery where they were given a guided tour. Afterwards the Fuchu Rotary Club hosted a very enjoyable party.

June 28

*Farewell Party*

A party was held to bid farewell to all the participants.

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## Reference Materials

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### **A. UN Conventions, Standards and Norms in Juvenile Justice, and Related Materials**

1. Universal Declaration of Human Rights, 1948.
2. International Covenant on Civil and Political Rights, 1966.
3. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.
4. Convention on the Rights of the Child, 1989.
5. Standard Minimum Rules for the Treatment of Prisoners (1st UN Congress).
6. United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules).
7. United Nations Guidelines for the Prevention of Juvenile Delinquency, 1990 (the Riyadh Guidelines).
8. United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990.
9. Guidelines for Action on Children in the Criminal Justice System, 1997.
10. United Nations Standard Minimum Rules for Non-custodial Measures, 1990 (the Tokyo Rules).
11. Vienna Declaration on Crime and Justice (10th UN Congress).
12. Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, 2002.
13. Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice (11th UN Congress).
14. United Nations Secretary-General's Study on Violence against Children, 2005.
15. Handbook on Restorative Justice Programmes, 2006 UNODC.
16. Juvenile Justice, Criminal Justice Assessment Toolkit, 2006 UNODC.

### **B. Juvenile Justice System**

1. Assessing the Youthful Offender: Issues and Techniques (Robert D. Hoge, D.A. Andrews) Chapter 1, 2, 3, 8.
2. The Juvenile Justice System: Delinquency, Processing and the Law (Dean J. Champion) Chapter 1, 3.
3. The Juvenile Act and Rules of Juvenile Proceedings contained in the Statutes on Family Justice of Japan 2006 (excerpt) (General Secretariat Supreme Court of Japan).
4. Juvenile Hearings: Encouraging Sound Juvenile Development (transcript) Planned by the Supreme Court.

### **C. Treatment of Offenders in Juvenile Justice Systems**

1. The Juvenile Offender: Theory, Research and Applications (Robert D. Hoge) Chapter 4, 5, 6, 7, 8, 9.
2. Multisystemic Therapy: Community-based Treatment for High Risk Young Offenders (Allan W. Leschield) (UNAFEI Resource Material Series No. 59).
3. Directions of Juvenile Justice Reforms in Singapore (Chomil Kamal) (UNAFEI Resource Material Series No. 59).
4. Probation Services in Singapore (Chomil Kamal) (UNAFEI Resource Material Series No. 67).
5. Reintegration, Supervised Release, and Intensive Aftercare (David M. Altschuler, Troy L. Armstrong, and Doris Layton Mackenzie).
6. Aftercare Services (Steve V. Gies).
7. Girls at Risk? Reflections on Changing Attitudes to Young Women's Offending (Ann Worrall) Probation Journal Vol. 48 No. 2 June 2001 p. 86-109.

**D. The Psychology of Criminal Conduct (D. J. Andrews, James Bonta)**

1. Chapter 1- An Overview of the Psychology of Criminal Conduct.
2. Chapter 2- Defining Criminal Behaviour and Exploring Variability in Criminal Conduct.
3. Chapter 9- Prediction of Criminal Behaviour and Classification of Offenders.
4. Chapter 10- Prevention and Rehabilitation.

**E. Compendium 2000 on Effective Correctional Programming  
(Correctional Service of Canada <http://www.csc-scc.gc.ca>)**

1. Principles of Effective Correctional Programs (Donald A. Andrews).
2. Offender Assessment: General Issues and Considerations (James Bonta).
3. Treatment Responsivity: Reducing Recidivism by Enhancing Treatment Effectiveness (Sharon M. Kennedy).
4. Obstacles to Effective Correctional Program Delivery (Paul Gendreau, Claire Goggin, and Paula Smith).
5. Implementation of Effective Correctional Programs (Alan W. Leschied).
6. Programming for Offenders with Substance Abuse and Dependence Problems (Lynn O. Lightfoot).
7. Contributing to Safe Reintegration: Outcome Measurement (Laurence L. Motiuk).

**F. FORUM on Corrections Research (Correctional Service of Canada <http://www.csc-scc.gc.ca>)**1. Dynamic Factors

- (i) Offender needs - Providing the Focus for our Correctional Interventions (Gilbert Taylor).
- (ii) The Case Needs Review Project: Background and Research Strategy (Shelley L. Brown).
- (iii) Using Dynamic Factors to Better Predict Post-release Outcome (Larry Motiuk).
- (iv) Dynamic Factors and Recidivism: What Have we Learned from the Case Needs Review Project? (Shelley L. Brown).

2. "What Works" in Corrections

- (i) Defining Correctional Programs (James McGuire).
- (ii) Offender Assessment: General Issues and Considerations (James Bonta).
- (iii) Treatment responsivity: Reducing Recidivism by Enhancing Treatment Effectiveness (Sharon M. Kennedy).
- (iv) Treatment Resistance in Corrections (Denise L. Preston).
- (v) What Works With Young Offenders: Summarizing the Literature (Alan W. Leschied) (UNAFEI Resource Material Series No. 59).

**G. Restorative Justice**

1. Juvenile Justice Reform and Restorative Justice: Building Theory and Policy from Practice, 2005 (Gordon Bazemore, Mara Schiff) Chapter 1, 2, 6.
2. Balanced and Restorative Justice for Juveniles, A Framework for Juvenile Justice in the 21st Century, 1997 OJJDP (Gordon Bazemore, Mark Umbreit).
3. Restorative Justice Conferences as an Early Response to Young Offenders, 2001 (Edmund F. McGarrell).
4. Youth Court: A Community Solution for Embracing At-Risk Youth.

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## Experts and Participants List

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### Visiting Experts

Dr. Ann Skelton	Litigation Project Director Centre for Child Law, Faculty of Law, University of Pretoria, South Africa
Mr. Stephen O'Driscoll	Judge Dunedin District Court, New Zealand
Dr. Robert Hoge	Emeritus Professor of Psychology and Distinguished Research Professor Carleton University, Canada

### Overseas Participants

Mr. Karma Sonam	Officer In-charge Royal Bhutan Police, Division III, Bhutan
Ms. Iacy Monteiro Braga Caracelli	Special Agent Civil Police of the Federal District, Brasilia, Brazil
Mr. Ndama Henry Asaah Ngu	Administrator of Prisons Service Head for Probation and Training, Department of Penitentiary Administration, Ministry of Justice, Cameroon
Mr. Cesar Alexis Ruiz Rodriguez	Criminal Police Inspector Criminal Investigations General Directorate, Honduras
Mr. Abdelkhoder Mahdi Al-Taher	Deputy Minister of Interior for Southern Iraq Ministry of Interior, Iraq

Mr. Min Than Kyaw	Deputy Director Prison Department, Director General's Office, Myanmar
Mr. William Antonio Parodi Pugliese	Lawyer General Prosecutor's Office, Public Ministry, Panama
Mr. Agustin Esperanza Senot	Police Superintendent Chief of Firepower Section, Directorate for Logistics, Philippine National Police, Philippines
Mr. Braam Paul Korff	Superintendent Division of Training Research and Development South Africa Police Service, South Africa
Mr. Herath Mudiyansele T. N. Upuldeniya	Assistant Superintendent of Prisons Kegalle Remand Prison, Department of Prisons, Sri Lanka
Mr. Kapila Mudantha Waidyaratne	Deputy Solicitor General Attorney General's Department, Sri Lanka
Ms. Loupua Kuli	Probation Officer Officer in Charge of the Probation and Youth Justice Division, Ministry of Justice, Tonga
Mr. Thanh Quang Chu	Legal Specialist The Supreme People's Court of Vietnam, Vietnam
Mr. Joseph Makwakwa	Principal Law Officer (Public Prosecutor) Legal and Parliamentary Affairs, Attorney General's Office, Ministry of Justice, Zimbabwe
Mr. Shu-kan Kenny Cheung	Chief Officer Correctional Services Department, Hong Kong, SAR



Mr. Hee-Ho Park

Chief Inspector  
Correction Bureau,  
Ministry of Justice,  
Korea

**Japanese Participants**

Ms. Suwa Imai

Assistant Judge  
Tokyo District Court

Mr. Satoshi Imamura

Probation Officer  
Hiroshima Probation Office Fukuyama  
Branch

Ms. Ayumi Ishikawa

Probation Officer  
Kanto Regional Parole Board

Mr. Hisami Katsuda

Family Court Probation Officer  
Osaka Family Court

Mr. Masaru Kiuchi

Assistant Chief Programme Supervisor  
Nagoya Prison

Mr. Kenji Nagaike

Assistant Judge  
Tokyo District Court

Mr. Masaomi Nakazawa

Public Prosecutor  
Osaka District Public Prosecutor's  
Office

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**THE THIRD SEMINAR ON CRIMINAL JUSTICE  
FOR CENTRAL ASIA**

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The Third Seminar on Criminal Justice for Central Asia was held from 26 February to 16 March 2007 at UNAFEI. The Seminar was entitled "Effective Measures and Enhancement of Treatment for Drug Abusers in the Criminal Justice Process". Thirteen participants from Central Asian countries participated.

Mr. Sabyrzhan Kappasov	Head of Division Law Department, Ministry of Economy and Budget Planning, Kazakhstan
Mr. Azamat Achubayev	Senior Investigator Drug Control Agency, Kyrgyzstan
Mr. Marat Turgunbaevich Djamankulov	Head of Department of Penal Reform Ministry of Justice, Kyrgyzstan
Mr. Baktybek Suiumbaev	Senior Investigator Drug Control Agency, Kyrgyzstan
Mr. Az-zaybek Urustemov	Head of Department Main Department Fighting Crime Committed by Public Officials, The Ministry of Internal Affairs, Kyrgyzstan
Mr. Habibullo Saifulloevich Aliev	Deputy Chairman of Court City Court of Tursun-Zadeh, Tajikistan
Ms. Muhabbat Abdukahorovna Azizova	Chairman Khatlon Region Court, Tajikistan
Ms. Basbi Mizoevna Holova	Judge Supreme Court, Tajikistan
Mr. Anvarzhon Ibrogimovich Yusupov	Chairman Matcho District Court of Sogd Region, Tajikistan

Mr. Yorkin Abdullaev	Prosecutor of the Department General Prosecutors Office, Uzbekistan
Mr. Fakhridin Shamsitdinovich Djamolov	Senior Prosecutor of the Department General Prosecutors Office, Uzbekistan
Mr. Bahtiyorjon Satvoldievich Nizamov	Judge The Criminal Court of Andijan Region, Uzbekistan
Mr. Doniyor Bahtiyarovich Tashkhodjaev	Deputy Head Anti Corruption Unit, The Ministry of Internal Affairs, Uzbekistan

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**THE TWELFTH SPECIAL SEMINAR FOR SENIOR CRIMINAL  
JUSTICE OFFICIALS OF THE PEOPLE'S REPUBLIC OF CHINA**

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The Twelfth Special Seminar for Senior Criminal Justice Officials of the People's Republic of China was held from 5 to 23 March 2007. The theme of the Seminar was "Globalization of Crimes and International Criminal Justice Cooperation".

Thirteen senior criminal justice officials and the UNAFEI faculty comparatively discussed contemporary problems faced by China and Japan in relation to the above theme.

Mr. Dong Kaijun	Director General Judicial Research Institute of Ministry of Justice
Ms. Li Jing	Vice Director of Education and Correction Bureau of Prison Administration, Ministry of Justice
Mr. Lei Jianbin	Deputy Director Criminal Legislation Department, Legislative Affairs Commission, Standing Committee of NPC China
Mr. Xu Yongan	Section Chief Criminal Legislation Department, Legislative Affairs Commission, Standing Committee of NPC China
Mr. Wu Wenhe	Judge The Criminal Trial Division, Fourth Division, Supreme People's Court of the PR of China
Mr. Sun Jiang	Judge The Third Criminal Division, Supreme People's Court of the PR of China
Mr. Qi Zhanzhou	Vice Section Chief of Letter Section Procuratorial Department for Accusation, Supreme People's Procuratorate of the PR of China
Mr. Zhang Xiaojin	Vice-Director of Lodging Protest Section Public Prosecution Department of Supreme People's Procuratorate

Mr. Xiang Dang	Professor, Vice Dean Chinese People's Public Security University
Mr. Yin Yuanfang	Associate Professor Chinese People's Public Security University
Mr. Sun Yong	Division Director Department of Mutual Legal Assistance and Foreign Affairs, Ministry of Justice
Ms. Zhang Pingying	Division Deputy Director Bureau of Education through Labour, Ministry of Justice
Mr. Han Xiutao	Division Director Research Office, Ministry of Justice

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**THE SECOND COUNTRY SPECIFIC TRAINING COURSE ON THE  
REVITALIZATION OF THE VOLUNTEER PROBATION AID SYSTEM  
FOR THE PHILIPPINES**

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The Second Country Specific Training Course on the Revitalization of the Volunteer Probation Aid System for the Philippines was held from the 17 to 26 April 2007. Eleven Parole and Probation Officers and one Volunteer Probation Aid from the Philippines attended.

Mr. Rosalio De Guzman Balane

Deputy Administrator  
Parole and Probation Administration,  
Department of Justice

Mr. Arturo Ortega Gabrieles

Regional Director  
Parole and Probation Administration,  
Department of Justice,  
Region VIII

Mr. Jose Lino Matias Vibar

Regional Director  
Parole and Probation Administration,  
Department of Justice,  
Cordillera Administrative Region

Mr. Leo Sarte Carrillo

Regional Director  
Parole and Probation Administration,  
Department of Justice,  
Region XI

Mr. Angelito Aviguetero Ilano

Chief Probation and Parole Officer  
Manila Parole and Probation Office,  
Office No. 6,  
Parole and Probation Administration,  
Department of Justice

Ms. Neneitte Lopez Eugenio

Chief Probation and Parole Officer  
Community Services Division,  
Parole and Probation Administration,  
Department of Justice

Ms. Maria Lourdes Santos Guangco

Chief Probation and Parole Officer  
Zamboanga Sibugay Parole and Probation  
Office,  
Parole and Probation Administration,  
Department of Justice

Mr. Edgardo JR Geronimo Acuna	Probation and Parole Officer II Bulacan Parole and Probation Office, Office No. 2, Parole and Probation Administration, Department of Justice
Mr. Lloyd Daria Barrion	Probation and Parole Officer II Davao City Parole and Probation Office, Parole and Probation Administration, Department of Justice
Ms. Olivita Agton Alvaro	Volunteer Probation Aid Office of the Barangay Council, Davao City
Ms. Olivia Angobung Sales	Chief Probation and Parole Officer Isabela City Parole and Probation Office Parole and Probation Administration, Department of Justice
Ms. Corzena Taray Gentindatu	Supervising Probation and Parole Officer Davao City Parole and Probation Office, Office No. 2, Parole and Probation Administration, Department of Justice

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## INFORMATION ABOUT FORTHCOMING PROGRAMMES

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### **The 137<sup>th</sup> International Training Course**

The 137th International Training Course entitled "Corporate Crime and the Criminal Liability of Corporate Entities" will be held from 5 September to 12 October 2007.

#### Rationale

##### 1. Increasing Threat of Corporate Crime

Economic crime by a corporate entity, or its representatives acting on its behalf, is a critical issue for the international community. Large corporations wield tremendous power and influence due to their enormous resources, and thus have the ability to do considerable harm. Especially in recent years, improvements in communications and technology have shrunk distances between states, made state frontiers porous and opened up previously unimaginable opportunities for commercial, political and social interaction, and consequently have dramatically expanded international commercial transactions. We now live in a world of increasing economic interdependence where global markets provide attractive opportunities for firms to do business all over the world, 24 hours a day. This process of globalization has led to not only unprecedented opportunities for corporate activity, but also to an increase in the potential risk of economic crime or abuse committed by corporations in the course of their business.

This Course will deal with the most common types of crime as they relate to corporate entities such as fraud, embezzlement, breach of trust, tax evasion, submission of securities reports containing false information, insider trading, private monopolization, bid rigging, foreign bribery, bankruptcy fraud, money-laundering, etc. The Course will examine crimes involving corporations not only as criminals but as victims, such as when an employee abuses his/her position. However, we will not deal with corporate crimes which have no direct relation to economic crime, such as environmental crime and minor regulatory violations, etc.

##### 2. Response to the Increasing Threat of Corporate Crime

It is common knowledge that many large-scale corporate scandals have occurred recently, for example, Enron and WorldCom in the United States, Barings in Singapore and others such as Livedoor in Japan, which were committed in the course of doing business. In developing countries, economic crime has also become a critical issue and it is likely that corporate crime will become more prevalent as these countries develop.

Following the increased threat of illegal economic activities in the course of business, the international community has begun to recognize that such activities are a grave threat to the political, economic, and social fabric of their respective countries, and this has led many states to criminalize economic abuse.

Among the various types of economic abuse that have been criminalized, money laundering and concealment are two of the most damaging. Shell companies, which have no active business and usually exist only in name as a vehicle for another company's business operations, are often used to launder and conceal the proceeds of crime from illicit corporate activities. Complex corporate structures can effectively hide the true ownership of the proceeds, or particular transactions related to serious crime. In addition, criminals take advantage of easier capital movement, advances in technology and increases in the mobility of people and commodities, as well the diversity of legal provisions in different countries. Exploiting legal asymmetries, criminals transfer illegal assets instantly from place to place through both formal and informal channels, and they may appear finally as legitimate assets available in any part of the world.

In recognition of the fact that serious and sophisticated crimes are frequently committed,



through or under the cover of legal entities such as corporations, international agreements have been made in which each state adopts such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in corporate crime. The principle that corporations cannot commit crime (*societas delinquere non potest*) used to be widely accepted, although, the debate on whether legal entities can bear criminal responsibility has shifted to the question of how to define and regulate such responsibility.

Each country has its own legal framework defining criminal liability of legal persons. For example, in Japan this kind of penal provision is called "Double Punishment". In order to apply this Double Punishment provision to a corporate entity, investigative authorities have to first determine the identity of the natural person(s) who, acting on behalf of the corporate entity, committed the crime. When such person(s) have been proven to have committed the crime then the criminal liability of the legal person is presumed. In addition, in recent years in Japan, amendments have been made to the legislation to increase the penalties on legal persons for economic crime. In addition, in order to properly investigate corporate crime, the authorities have to conduct investigations with the help of mutual legal assistance and other measures in cooperation with other agencies.

In this Course, we will focus on the current situation of corporate crime and the response to the increasing threat in the respective countries.

### 3. Practical Issues in Investigation, Prosecution and Adjudication

An economic crime involving corporate activities is often complicated and sophisticated so that investigators need sufficient knowledge and experience of accounting, finance and taxation, etc. The Government needs to train investigators and organize special task forces or units to handle corporate crime.

There remain many difficult issues in regard to substantive and/or procedural laws concerning corporate crime which have not been agreed upon by judicial precedents. Investigators and prosecutors have to examine the interpretation closely prior to indictment in some cases. It is sometimes essential that the investigative authorities conduct the investigation of a large scale corporate crime in cooperation with other authorities; therefore, a close relationship with such authorities, founded on mutual trust, is indispensable to accomplish the task.

Corporate crime is usually committed secretly so that it is difficult for the investigative authorities to fully grasp the situation. It is true that there are some cases in which an investigative authority can obtain information from a secret informant inside the corporation, but most people are afraid to come forward because of reprisals from the corporation, which is very often their employer.

In order to secure a conviction, in a case involving a corporate crime, it is often necessary to obtain material and electronic evidence (financial statements, e-mail correspondence, etc.). Therefore, it is necessary for investigative authorities to seize and analyze, in an effective and thorough manner, the vast quantity of such evidence.

In addition, it is also critical for investigative authorities to take statements from witnesses and suspects in the investigation of corporate crime. In this regard, some countries judicial systems allow for the possibility of mitigating the punishment of an accused person and/or the possibility of granting immunity from prosecution to a person who provides substantial cooperation with the investigation or prosecution.

Especially in regard to the finding of facts in the trial of corporate crime, there is an enormous amount of evidence and disputes on legal and/or factual matters so that a vast amount of time and effort is required by judges, prosecutors, defendants and defence attorneys.

As globalization and the development of information technology make corporate activities more transnational, the geographical range of investigation has been widened to include foreign jurisdictions; international cooperation is therefore essential to properly execute the investigation. We will focus on these practical issues of corporate crime in this Training Course.

## Objectives

This Training Course aims at examining and analyzing the current situation, problems and challenges in the investigation, prosecution and trial of corporate crime. The objectives and their subtopics are as follows:

- (1) Liability of legal persons and criminalization in relation to corporate crime
  - (a) Liability of legal persons: (i) Current situation of criminal liability of corporate entities in respective countries, (ii) Legal framework of criminal, civil and administrative sanctions, (iii) Various kinds of criminal liability, (iv) Others
  - (b) Criminalization in relation to corporate crime

(NB: Participants are requested to refer to the current situation and legal framework of the criminal liability of corporate entities in their respective countries).

- (2) Current situation and issues concerning corporate crime listed below in the respective countries:
  - Economic crime committed by a corporate entity or its representatives acting on its behalf
  - Fraud, embezzlement, breach of trust, etc.
  - Tax evasion
  - Submission of securities reports containing false information, spreading rumours, market manipulation, insider trading, etc.
  - Private monopolization, unreasonable restraint of trade, illegal acts of trade associations, bid rigging, price fixing, etc.
  - Foreign bribery
  - Bankruptcy fraud
  - Money laundering
  - Others

(NB: Participants are requested to focus on any one or more of these offences for the purpose of preparing their individual presentation papers. Please note that domestic corruption in the public sector is excluded from the scope of this Training Course, since it has little direct relation with corporate crime.)

- (3) Issues concerning the investigation
  - (a) Specialized investigative authorities and training methods for investigators
  - (b) Cooperation between investigative authorities concerned at the state level
  - (c) Acquisition of information on corporate crime: (i) Complaint, (ii) Mass media, (iii) Confidential informants, (iv) Whistleblower protection, (v) Others
  - (d) Material and electronic evidence: (i) Identify, obtain and preserve, (ii) Obtain relevant computer data and recovery of deleted data, (iii) Forensic analysis, (iv) Others
  - (e) Measures to obtain statement evidence: (i) Techniques of interrogation, (ii) Plea bargaining, (iii) Immunity
  - (f) Special investigative techniques: (i) Electronic and other forms of surveillance, (ii) Undercover operations, (iii) Other special investigative techniques, (iv) Use of special investigative techniques at the international level

- (4) Issues concerning the prosecution
  - (a) Mitigating punishment of an accused person who provides substantial cooperation in the investigation and/or prosecution
  - (b) Granting immunity from prosecution to a person who provides substantial cooperation in the investigation and/or prosecution
  - (c) Considerations in the prosecution of a corporate entity
  
- (5) Issues in the trial and adjudication
  - (a) Disclosure of evidence before the trial
  - (b) Clarification of disputes before the trial
  - (c) Effective methods of fact finding: (i) Witness protection, (ii) Expert witnesses, (iii) Others
  - (d) Sentencing process
  
- (6) International cooperation
  - (a) Current situation of, and problems and challenges in, the investigation, prosecution and trial of the above-mentioned offences, in relation to international cooperation
  - (b) Problems and challenges in obtaining and providing mutual legal assistance
  - (c) Problems and challenges in the use of other types of international cooperation: i) Joint investigations, ii) Law enforcement cooperation (e.g. exchange of information).

(NB: Extradition issues are excluded from the main scope of this Course, which focuses on practical issues pertaining to the investigation, prosecution and trial of corporate crime).

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**ADMINISTRATIVE NEWS**

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**Faculty Changes**

Mr. Keisuke Senta, formerly Deputy Director of UNAFEI, was transferred and appointed Senior Legal Expert in Terrorism Prevention (Asia and the Pacific), Terrorism Prevention Branch, UNODC on 22 February 2007.

Mr. Hiroyuki Shinkai, formerly Professor of UNAFEI, was transferred and appointed Principal Programme Supervisor, Education Division, Fuchu Prison on 1 April 2007.

Ms. Megumi Uryu, formerly Professor of UNAFEI, was transferred and appointed Professor of Nihon University Law School and Shinshu University School of Law on 1 April 2007.

Mr. Ichiro Sakata, formerly Professor of UNAFEI, was transferred and appointed Judge at Sapporo District/Family Court on 1 April 2007.

Mr. Takeshi Seto, formerly Senior Attorney for the International Affairs, Criminal Affairs Bureau was appointed Deputy Director of UNAFEI on 1 April 2007.

Mr. Ryuji Tatsuya, formerly Chief Specialist for the Observation and Treatment Unit, Chiba Juvenile Classification Home, joined UNAFEI as a Professor on 1 April 2007.

Mr. Jun Oshino, formerly Judge of Ichinomiya Branch, Nagoya District/Family Court, joined UNAFEI as a Professor on 1 April 2007.

Mr. Tetsuya Sugano, formerly Chief of the Case Review and Assessment Section, Nagano Juvenile Classification Home, joined UNAFEI as a Professor on 1 April 2007.

**Overseas Trips by Staff**

Director Mr. Keiichi Aizawa and Ms. Kayo Ishihara (Professor) visited Vienna, Austria from 21 to 29 April 2007 to attend the 16th Session of the Commission on Crime Prevention and Criminal Justice. The Director made a presentation and statement and Ms. Ishihara made a statement to the Commission.

Mr. Shintaro Naito (Professor) and Ms. Yoko Hosoe (Staff) visited Bangkok, Thailand from 3 to 9 June 2007 to make preparations for the Regional Seminar on Good Governance to be held in December. While in Bangkok, they had meetings with personnel from the Office of the Attorney General, Thailand and UNODC.

Ms. Kayo Ishihara (Professor) visited Guangzhou, China from 16 to 27 June 2007 to attend the First IAACA Seminar. Ms. Ishihara gave a presentation on "Anti-Corruption Measures in Japan".

Deputy Director Takeshi Seto visited Vientiane, Laos from 25 to 28 June 2007 to attend the Fourth and Fifth ASEAN Senior Officials Meetings on Transnational Crime (SOMTC).

Deputy Director Takeshi Seto visited Bangkok, Thailand from 29 June to 4 July 2007 to prepare for UNAFEI's Regional Seminar on Good Governance to be held in December 2007.

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**FACULTY AND STAFF OF UNAFEI**

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**Faculty:**

Mr. Keiichi Aizawa	Director
Mr. Takeshi Seto	Deputy Director
Mr. Motoo Noguchi	Professor
Mr. Haruhiko Higuchi	Professor
Ms. Tae Sugiyama	Professor, Chief of Information and Library Science Division, 136th Course Programming Officer
Mr. Ryuji Tatsuya	Professor
Mr. Koji Yamada	Professor
Mr. Tetsuya Sugano	Professor, Chief of Research Division
Ms. Kayo Ishihara	Professor
Mr. Shintaro Naito	Professor
Mr. Jun Oshino	Professor, Chief of Training Division, 136th Deputy Course Programming Officer
Mr. Simon Cornell	Linguistic Adviser

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Mr. Kazuyuki Kawabe	Co-Deputy Chief of Secretariat
Mr. Hitoshi Nakasuga	Co-Deputy Chief of Secretariat

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**Training and Hostel Management Affairs Section:**

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**JICA Coordinator for the 136<sup>th</sup> International Training Course:**

Ms. Kazue Obayashi

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