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## INTRODUCTORY NOTE

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It is with pride that the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) offers to the international community Resource Material Series No. 72.

This volume contains the Annual Report for 2006 and the work produced in the 133rd International Training Course that was conducted from 15 May to 22 June 2006. The main theme of the Course was “Effective Prevention and Enhancement of Treatment for Sexual Offenders”.

Most countries stipulate harsh penalties for those committing sexual offences. Nevertheless, despite punishments generally being increased in recent years, it appears that sexual offences are growing in number and severity in many jurisdictions. Moreover, many sexual offenders continue to re-offend after they have been convicted and served their sentences. It therefore appears that punishment alone is not the solution to this problem.

In response to this, some countries, such as Canada and the UK, have implemented treatment for the rehabilitation and reintegration of sexual offenders, both in an institutional and community setting. In some cases offenders are required to participate in such treatment as a condition of release on parole. Numerous studies have been carried out on the effectiveness of treatment programmes for sexual offenders which suggest that certain types of treatment can be highly effective, and recidivism rates for those that have received treatment have been reduced.

In addition to treatment, which it is hoped will have the effect of the offender curbing his behaviour, some jurisdictions have introduced various measures intended to place controls on the offender’s movements and activities for extended periods after they have served their sentences. Such measures allow the authorities to closely monitor offenders and hopefully prevent their re-offending.

The aim of this Course was to allow the participants an opportunity to discuss the most effective treatment and preventive measures for sexual offenders with a view to their possible implementation in their respective countries.

In this issue, papers contributed by visiting experts, selected individual presentation papers from among the participants, and the Reports of the Course are published. I regret that not all the papers submitted by the Course participants could be published.

I would like to pay tribute to the contributions of the Government of Japan, particularly the Ministry of Justice, the Japan International Cooperation Agency, and the Asia Crime Prevention Foundation for providing indispensable and unwavering support to UNAFEI’s international training programmes.

Finally I would like to express my heartfelt gratitude to all who so unselfishly assisted in the publication of this series; in particular, the editor of Resource Material Series No. 72, Mr. Simon Cornell, who so tirelessly dedicated himself to this Series.

August 2007



Keiichi Aizawa  
Director of UNAFEI

**PART ONE**  
**ANNUAL REPORT**  
**FOR 2006**

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- *Main Activities of UNAFEI*
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**UNAFEI**

## **MAIN ACTIVITIES OF UNAFEI (1 January 2006 - 31 December 2006)**

### **I. ROLE AND MANDATE**

The Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) was established in Tokyo, Japan in 1961 pursuant to an agreement between the United Nations and the Government of Japan. Its goal is to contribute to sound social development in Asia and the Pacific region by promoting regional cooperation in the field of crime prevention and criminal justice, through training and research.

UNAFEI has paid utmost attention to the priority themes identified by the Commission on Crime Prevention and Criminal Justice. Moreover, UNAFEI has been taking up urgent, contemporary problems in the administration of criminal justice in the region, especially problems generated by rapid socio-economic change (e.g., transnational organized crime, corruption, economic and computer crime and the re-integration of prisoners into society) as the main themes and topics for its training courses, seminars and research projects.

### **II. TRAINING**

Training is the principal area and priority of the Institute's work programmes. In the international training courses and seminars, participants from different areas of criminal justice discuss and study pressing problems of criminal justice administration from various perspectives. They deepen their understanding, with the help of lectures and advice by the UNAFEI faculty, visiting experts and ad hoc lecturers. This so-called "problem-solving through an integrated approach" is one of the chief characteristics of UNAFEI programmes.

Each year, UNAFEI conducts two international training courses (six weeks duration) and one international seminar (five weeks duration). One hundred and forty nine government officials from various overseas countries receive fellowships from the Japan International Cooperation Agency (JICA; an independent administrative institution for ODA programmes) each year to participate in all UNAFEI training programmes.

Training courses and seminars are attended by both overseas and Japanese participants. Overseas participants come not only from the Asia-Pacific region but also from the Middle and Near East, Latin America and Africa. These participants are experienced practitioners and administrators holding relatively senior positions in criminal justice fields.

During its 45 years of existence, UNAFEI has conducted a total of 134 international training courses and seminars, in which approximately 3257 criminal justice personnel have participated, representing 113 different countries. UNAFEI has also conducted a number of other specialized courses, both country and subject focused, in which hundreds of other participants from many countries have been involved in. In their respective countries, UNAFEI alumni play leading roles and hold important posts in the fields of crime prevention and the treatment of offenders, and in related organizations.

#### **A. The 132nd International Senior Seminar**

##### **1. Introduction**

The 132nd International Senior Seminar was held from 10 January to 9 February 2006. The main theme was "Strengthening the Legal Regime for Combating Terrorism". In this Seminar, eighteen overseas participants and seven Japanese participants attended.

##### **2. Methodology**

Firstly, the Seminar participants respectively introduced the current position regarding the role and function of criminal justice agencies in their country in regard to the main theme. The participants were then divided into three group workshops as follows:

Group 1: Strengthening the Legal Regime, in Particular the Issues of Criminalization and International Cooperation

Group 2: Financing of Terrorism

Group 3: Prevention, Detection, Investigation and Prosecution of Terrorism Acts

Each group elected a chairperson, co-chairperson(s), a rapporteur and co-rapporteur(s) in order to facilitate the discussions. During group discussion the group members studied the designated topics and exchanged views based on information obtained through personal experience, the Individual Presentations, lectures and so forth. Later, Plenary Meetings were held to discuss the interim outline of the Group Workshop Reports and to offer suggestions and comments. During the final Plenary Meetings, drafts of the Group Workshop Reports were examined and critiqued by all the participants and the UNAFEI faculty. Based on these discussions, the Groups further refined their reports and presented them in the Report-Back Sessions, where they were endorsed as the Reports of the Seminar. The full texts of these Reports are published in UNAFEI Resource Material Series No. 71.

### 3. Outcome Summary

#### *(i) Strengthening the Legal Regime, in Particular the Issues of Criminalization and International Cooperation*

The importance of criminalizing acts required by the 11 UN Universal Conventions/Protocols, irrespective of whether a particular country was exposed to the threat of terrorism because of its serious global effects, was discussed.

The obstacles to the provision of mutual assistance and extradition of terrorist offenders and possible solutions; obstacles where the offence is committed for political purposes and possible solutions; and obstacles to the obligation to extradite or prosecute, were also looked at.

The following recommendations were made.

- a) In order that no country can become a safe haven for terrorists all countries should accede to the 13 UN Universal Conventions/Protocols as soon as possible.
- b) Each country must criminalize terrorist offences and establish jurisdiction over them in order to implement the relevant Conventions/Protocols.
- c) Adequate resources must be allocated by all countries to ensure the implementation of the Conventions/Protocols.
- d) All countries should establish penalties sufficiently severe in order that they qualify as extraditable offences.
- e) All countries should offer mutual assistance.
- f) There is a need for cooperation among countries and criminal justice agencies, etc.
- g) The awareness of the judiciary needs to be raised so that they can distinguish "political offences" from terrorism acts.
- h) All countries must fulfil the obligation of *aut dedere aut judicare*.

#### *(ii) Financing of Terrorism*

Terrorist organizations require financial resources in order to carry out their unlawful activities. Although there is no specific definition of terrorism this did not preclude States from criminalizing actions that constitute the crime of financing of terrorism since the various acts that constitute an act of terrorism were commonly agreed upon. It is important to distinguish it from money laundering so that States are able to deal with both types of crime adequately.

The following recommendations were made. Each country should:

- a) Ratify and implement the International Convention for the Suppression of the Financing of Terrorism.
- b) Adopt and implement the FATF 40 Recommendations and nine Special Recommendations, in particular have a legal framework to detect and investigate terrorist financing, criminalize all acts of terrorism and bring the perpetrators to justice and ensure that all legal persons are subject to civil, criminal or administrative sanctions for non-compliance.
- c) Ensure all banks, etc. are properly licensed, including alternative remittance providers.
- d) Issue regulations for financial institutions with respect to terrorist financing obligations under



## MAIN ACTIVITIES

- the international standards and relevant domestic laws.
- e) Ensure the compliance of financial institutions with regulations such as the “know your customer” rule, etc.
  - f) Regulate gatekeepers with respect to the obligation to make suspicious transaction reports.
  - g) Enhance information sharing at the regional and international level.
  - h) Enhance inter-agency cooperation among relevant ministries and agencies.
  - i) Augment intelligence agencies.
  - j) Hold training programmes locally and internationally for government officials to familiarize them with the latest methods in combating terrorist financing.
  - k) Conduct awareness programmes for the general public.

### *(iii) Prevention, Detection, Investigation and Prosecution of Terrorism Acts*

The following in regard to effective measures to control entry of terrorists and dangerous materials were suggested.

- a) High performance detection equipment should be used to detect smuggling.
- b) Biometric I.D. systems need to be introduced to counter the problem of forged passports.
- c) The use of an Advanced Passenger Information System should be implemented.
- d) Severe penalties for those smuggling or aiding the illegal entry of terrorists or dangerous materials should be enacted.
- e) A monetary award system should be implemented to encourage people to provide information regarding illegal entry.
- f) Immigration and customs officials should be given greater powers.
- g) There should be greater cooperation with other enforcement agencies.
- h) Sniffer dogs should be employed to detect dangerous materials.
- i) Land, sea and air patrols should be enhanced to detect illegal entry.
- j) Immigration and customs officials should be well trained.
- k) A database of terrorists should be developed to ensure early detection.

The following measures in regard to the prevention and suppression of terrorism acts within each country's own territory were suggested.

- a) A better knowledge of the terrorists' activities should be gained.
- b) Terrorist activities and organizations should be criminalized.
- c) Terrorists should be prevented from getting materials that can be used for terrorism.
- d) Terrorist financing should be suppressed.
- e) Security measures at potential terrorists' targets should be strengthened.
- f) The public should be educated on the dangers and impact of terrorist activities.
- g) Strong inter-governmental agency cooperation should be built by exchanging and sharing information.

Specific issues related to the investigation and prosecution of terrorism offences, such as special investigative techniques, witness protection and the use and protection of intelligence information in criminal proceedings were also considered.

The final subject discussed was coordination and cooperation among relevant authorities. The following measures were suggested.

- a) Every agency should share information.
- b) Each country should adopt the measures relating to mutual legal assistance laid down in the 13 UN Conventions and Protocols.

It was recommended that every country should make every effort to enter into and fully implement the 13 UN Conventions and Protocols.

## **B. The 133rd International Training Course**

### **1. Introduction**

The 133rd International Training Course was held from 15 May to 22 June 2006. The main theme was “Effective Prevention and Enhancement of Treatment for Sexual Offenders”. In this Course, thirteen overseas participants, two overseas observers and nine Japanese participants attended.

## 2. Methodology

The objectives of the Course were primarily realized through the Individual Presentations and Group Workshop sessions. In the former, each participant presented the actual situation, problems and future prospects of their country with respect to the main theme of the Course. The Group Workshops further examined the subtopics of the main theme. To facilitate discussion, the participants were divided into three groups to discuss the following topics under the guidance of faculty advisers:

Group 1: Investigation, Prosecution, Sentencing Procedures and Preventive Measures

Group 2: Preventive Measures and Community-based Treatment Programmes

Group 3: Institutional Treatment of Sexual Offenders

The three groups elected a chairperson, co-chairperson(s), rapporteur and co-rapporteur(s) to organize the discussions. The group members studied the designated subtopics and exchanged their views based on information obtained through personal experience, the Individual Presentations, lectures and so forth. During the course, Plenary Meetings were held to discuss the interim outline of the Group Workshop Reports and to offer suggestions and comments. During the final Plenary Meeting the drafts of the Group Workshop Reports were examined and critiqued by all the participants and the UNAFEI faculty. Based on these discussions, the Groups further refined their reports and presented them in the Report-Back Sessions, where they were endorsed as the reports of the Course. The full texts of the Reports are published in this Resource Material Series No. 72.

## 3. Outcome Summary

### *(i) Investigation, Prosecution, Sentencing Procedures and Preventive Measures*

In regard to the above topic the following recommendations were made.

- a) In order to encourage the reporting of sexual crimes a victim friendly atmosphere should be created at police stations with staff especially trained to deal with such cases.
- b) The capacity of forensic laboratories should be improved so they are able to produce quick and accurate results.
- c) Existing laws should be amended to enable the criminal justice system to intervene in crimes, such as stalking, that could lead to serious sexual offences.
- d) Nationwide criminal record systems should be improved and a DNA database of convicted criminals considered.
- e) A proper monitoring system, such as the one implemented in England and Wales, should be established so probation officers and the police can monitor offenders after their release.
- f) Potential victims of sexual crimes, such as women and children, should be provided with knowledge about crime prevention and self-defence.
- g) The police and the community should collaborate by, for example, sharing information, making safety maps and promoting environmental design to reduce crime.
- h) The police, prosecutors, correctional officers and probation officers should cooperate by sharing information on sexual offenders, having regard for privacy issues.
- i) International cooperation should be enhanced by establishing a regional network to share information on sexual offenders.

### *(ii) Preventive Measures and Community-based Treatment Programmes*

With the increased prevalence of sexual crimes in the respective countries, it has become important for society to look at positive ways to re-integrate sexual offenders back into their families and the community.

The following recommendations were made.

- a) Identify suitable probation officers in each area as sex offender treatment personnel – in order that they can use their expertise to conduct group therapy sessions, etc. incorporating the viewpoint of the victim.
- b) Involve the community through focus groups to raise public awareness.
- c) Change social attitudes towards the control of pornography.
- d) Incorporate victim protection measures into the criminal justice system.
- e) Motivate probationers to participate in community-based treatment.
- f) Provide probation officers with training from experts of various disciplines.

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- g) Families and friends should be more involved in treatment.
- h) A system similar to MAPPA (Multi-Agency Public Protection Arrangements) should be adopted.
- i) Community leaders/professionals should form a focus group to attract common concern for sex offences.
- j) The “Good Lives Model” should be incorporated in the treatment regime.
- k) Achievements should be measured by data analysis and surveys.
- l) Governments should provide subsidies to employees to employ offenders, thereby providing a mechanism within the community to support offenders.

### *(iii) Institutional Treatment of Sexual Offenders*

It is important to consider institutional and community treatment of sexual offenders to reduce recidivism.

Taking into consideration Art. 65 and Art. 62 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, and Art. 10.1 of the U.N. Standard Minimum Rules for Non-Custodial Measures, it was agreed that there are three purposes of sex offenders’ treatment: protection of society by preventing recidivism, rehabilitation of sex offenders, and the need to address victims’ sentiments.

Individual countries have diverse problems in terms of the prevention and treatment of offenders and that while some countries have advanced in the development of modern treatment models others are trying to introduce treatment programmes relative to their social and economic conditions.

The following recommendations were made.

- a) Countries that have no treatment programmes in place should start raising awareness in their countries.
- b) There is a need to review or introduce legislation that addresses the necessity of offender treatment in participating countries.
- c) The introduction of scientific tools of assessment for treatment of sex offenders should be considered.
- d) The introduction of effective treatment programmes for sex offenders, such as cognitive behavioural therapy, should be considered. However, its limitations should be recognized and alternatives for those unable to benefit from such therapy considered.
- e) A central information bureau for collection and distribution of sex offender information for stakeholders should be established.
- f) Appropriate training programmes should be developed and used to train all stakeholders in the treatment programmes, to develop, implement and monitor the assessment and rehabilitation of sex offenders.

## **C. The 134th International Training Course**

### **1. Introduction**

The 134th International Training Course was held from 28 August to 5 October 2006. The main theme was “Challenges in the Investigation, Prosecution and Trial of Transnational Organized Crime”. In this Course, eleven overseas participants and nine Japanese participants attended.

### **2. Methodology**

The 134th Course endeavoured to explore the investigation, prosecution and trial of transnational organized crime. This was accomplished primarily through a comparative analysis of the current situation and the problems encountered. The participants’ in-depth discussions enabled them to put forth effective and practical solutions.

The objectives were primarily realized through the Individual Presentations and the Group Workshop sessions. In the former, each participant presented the actual situation, problems and future prospects of their country with respect to the main theme of the Course. To facilitate discussions, the participants were divided into three groups.

Each group elected a chairperson, co-chairperson, rapporteur and co-rapporteur(s) to organize the

discussions. The group members studied the situation in each of their countries and exchanged their views based on information obtained through personal experience, the Individual Presentations, lectures and so forth.

Group 1: Measures to Facilitate Information and Testimony by Key Witnesses

Group 2: Measures to Collect Key Evidence which Substitute for or Corroborate Witness Statements

Group 3: Measures to Deprive Ringleaders and Criminal Organizations of Crime Proceeds and Punish them Effectively

Plenary Meetings were later held to discuss the interim outline of the Group Workshop Reports and to offer suggestions and comments. During the Plenary Meetings, drafts of the Group Workshop Reports were examined and critiqued by all the participants and the UNAFEI faculty. Based on these discussions, the Groups further refined their Reports and presented them in the Report-Back Sessions, where they were endorsed as the Reports of the Course. The Reports will be published in full in UNAFEI Resource Material Series No. 73.

### 3. Outcome Summary

#### *(i) Measures to Facilitate Information and Testimony by Key Witnesses*

a) *Immunity from prosecution and mitigation of punishment and the use of prosecutorial discretion*  
Immunity from prosecution is a useful tool for countries that lack other effective means of gathering evidence.

b) *Witness protection*

All the participating countries already use emergency short-term police protection and suggested these measures be given a legal basis. In regard to protection for witnesses at the trial stage it was recommended that it be included in national legislation. Such measures could include video-link testimony, in-camera sessions and anonymous witnesses, etc. depending on what measures would be compatible with the country's constitution. It was recommended that prosecutors reveal only selected details of witnesses' identities and only then at the latest stage of the proceedings. Due to the reluctance of witnesses to come forward for fear of reprisal, formal witness programmes were essential. However, in order for such a programme to be effective it was considered necessary that law enforcement officers be properly trained in methods of protection and that there be selection criteria in place for those applying for protection, etc. In regard to obstruction of justice the penalties should be made harsher where an organized crime group commits the offence.

c) *International cooperation*

Cooperation is of paramount importance and informal relationships between officials are just as important as MLA legislation. Instruments aimed at fostering international cooperation should also allow witness protection programmes to be implemented across borders. The use of testimony via international video-link, which would allow for the examination of protected witnesses at the same time as safeguarding the rights of the accused to a cross-examination, was also recommended.

#### *(ii) Measures to Collect Key Evidence which Substitute for or Corroborate Witness Statements*

The operation of traditional techniques are still very useful and it is recommended they be combined with new investigation techniques as outlined by the UN Convention against Transnational Organized Crime (the Convention).

a) *Special investigative techniques*

Undercover operations were examined and it was concluded that they were one of the most effective ways of gathering information on the identity, structure and location of activities, etc. of organized crime groups. However, such operations were very dangerous and measures should be in place to protect those officers involved and rules should be in place to guarantee the control of execution of the procedure. The interception of telephone and data communications are an important tool for collecting evidence of criminal activity, subject to rules protecting the exercise of human rights. Discussing controlled delivery the group commented on how it had led to a great increase in drug apprehension worldwide and that it needed to be used with other tools, such as wire-tapping, in order to gather information about the structure of the criminal

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organisation under investigation.

- b) *International cooperation*  
States should actively take measures to revise domestic legislation to avoid legal obstacles to Mutual Legal Assistance. Agreements should be made bilaterally and regionally in order to realize some of the recommendations of the Convention. The establishment of regional international organizations with powers to facilitate this measure would also enhance international cooperation.
- c) *The exchange of information*  
It is important to keep close relations and cooperation among law enforcement authorities through international training courses. It is also important that all signatory countries adopt the Convention so that the differences between legal systems will decrease and make international cooperation, including extradition, easier.

### *(iii) Measures to Deprive Ringleaders and Criminal Organizations of Crime Proceeds and Punish them Effectively*

#### *Measures to deprive criminals of crime proceeds*

The following were suggested.

- a) In order to identify and trace the proceeds of crime effectively every country should establish an FIU and financial institutions should have an obligation to keep records for a substantial period of time and report suspicious transactions to the FIU.
- b) States should comply with the Customer Identification measures of the FATF.
- c) Confiscation of crime proceeds is as important as punishing criminals and should be carried out at the same time as the investigation. In addition, it is essential to have the necessary measures to enable the assets to be frozen before trial.
- d) Courts should be empowered to confiscate illicit assets when they are transferred to a third person or intermingled with property from legal sources.
- e) Judges and investigative agencies should be made more aware of the confiscation of crime proceeds.
- f) Prosecutors should only be required to prove on the preponderance of evidence that the proceeds of crime are derived from a predicate crime, provided this accords with the respective country's legal principles.
- g) Cooperation among agencies such as the police, prosecutors and FIU is indispensable in order to deprive criminals of their illicit proceeds.
- h) International cooperation among FIUs is equally important to eradicate transnational crime and investigators should utilize all modes of cooperation available.

#### *Measures to hold ringleaders and legal persons accountable*

- a) In order to tackle international organized crime at its root, the ringleaders need to be severely punished and have their assets confiscated.
- b) The use of the conspiracy/participation offence is one of the most efficient tools against ringleaders, allowing investigators to search, seize and freeze their assets at the earliest opportunity.

It is crucial that countries have uniform laws and measures towards transnational organized crime, based on the TOC Convention, to ensure there is no safe-haven for the criminals.

## **D. Special Seminars and Courses**

### **1. The Eleventh Special Seminar for Senior Criminal Justice Officials of the People's Republic of China**

The Eleventh Special Seminar for Senior Criminal Justice Officials of the People's Republic of China was held from 20 February to 9 March 2006. The main theme was "Towards a Criminal Justice System that Can Meet the Challenges of Globalization and Reflects the Citizen's Point of View". In this Course, twelve senior criminal justice officials from China attended.

### **2. The Second Seminar on Criminal Justice for Central Asia**

The Second Seminar on Criminal Justice for Central Asia was held from 27 February to 16 March 2006. The main theme was "A Criminal Justice System that Meets the Needs of the New Epoch". In this Seminar,

fourteen criminal justice officials from Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) attended.

3. The Third Training Course on Strengthening the Anti-Corruption Capacity in Thailand

The Third Training Course on Strengthening the Anti-Corruption Capacity in Thailand was held from 6 to 27 April 2006. This Training Course was the final course of a series of three and focused on effective prevention of corruption. Sixteen participants from the Office of the National Counter Corruption Commission attended.

4. The First Country Specific Training Course on the Revitalization of the Volunteer Probation Aid System for the Philippines

The First Country Specific Training Course on the Revitalization of the Volunteer Probation Aid System for the Philippines was held from 28 June to 10 July 2006. Ten Parole and Probation Officers and two Volunteer Probation Aids from the Philippines discussed measures to improve communication and feedback, and measures to promote Volunteer Probation Aids Associations.

5. The Seventh Training Course on the Juvenile Delinquent Treatment System for Kenya

The Seventh Training Course on the Juvenile Delinquent Treatment System for Kenya was held from 10 October to 1 November 2006. Sixteen participants from Kenya reviewed their progress in regard to improving the treatment of juveniles in correctional institutions and in the community and the progress they have made in establishing a Volunteer Children's Officers programme.

6. The Ninth International Training Course on Corruption Control in Criminal Justice

The Ninth International Training Course on Corruption Control in Criminal Justice was held from 18 October to 16 November 2006. In this Course, fifteen overseas and three Japanese officials engaged in corruption control comparatively analyzed the current situation of corruption, methods of combating corruption, and measures to enhance international cooperation.

7. Thailand In-Country Training Course

The Thailand In-Country Training Course jointly organized by the National Counter Corruption Commission of Thailand and UNAFEI was held from 27 November to 1 December 2006. The main theme was "Strengthening the Anti-Corruption Capacity in Thailand". Approximately forty-five participants from the Office of the National Counter Corruption Commission attended.

### III. TECHNICAL COOPERATION

#### A. Regional Training Programmes

1. Short-Term Experts in Kenya

Two UNAFEI professors were dispatched to Kenya, in August and September 2006, to assist the Children's Department of the Vice President and Ministry of Home Affairs in a project to develop nationwide standards for the treatment of juvenile offenders and vulnerable children.

2. Short-Term Experts in Latin America

Two UNAFEI faculty members visited El Salvador and Costa Rica from 17 July to 6 August 2006. In El Salvador they held a follow-up Seminar, focusing on the specific situation in El Salvador. In Costa Rica, they jointly hosted, with ILANUD, a course on Criminal Justice Reform in Latin America in which ten countries were represented.

3. Short-Term Experts in the Philippines

A UNAFEI professor was dispatched from 3 to 13 September 2006 to Baatan, the Philippines to attend and present lectures at the In Country Training Programme of the Philippines PPA.

#### B. Third In-Country Training Course on Strengthening the Anti-Corruption Capacity in Thailand

UNAFEI, in cooperation with the National Counter Corruption Commission (NCCC) of Thailand, held a third In-Country Training Course in Bangkok, Thailand from 23 November to 2 December 2006. Fifty-four participants from Thailand attended the Course. The purpose of the Course was to develop and enhance the

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capacity and efficiency of the ONCC (which supports the activities of the NCCC) in the field of suppression, inspection and prevention of corruption.

### IV. COMPARATIVE RESEARCH PROJECT

UNAFEI, in collaboration with the Research and Training Institute of the Ministry of Justice (Japan), completed its research into the effective treatment programmes for drug offenders and published a report, in Japanese, entitled “Research on the Trends in Drug Abuse and Effective Measures for the Treatment of Drug Abusers – Australia, Canada, United Kingdom and the United States of America”.

### V. INFORMATION AND DOCUMENTATION SERVICES

The Institute continues to collect data and other resource materials on crime trends, crime prevention strategies and the treatment of offenders from Asia, the Pacific, Africa, Europe and the Americas, and makes use of this information in its training courses and seminars. The Information and Library Service of the Institute has been providing, upon request, materials and information to United Nations agencies, governmental organizations, research institutes and researchers, both domestic and foreign.

### VI. PUBLICATIONS

Reports on training courses and seminars are published regularly by the Institute. Since 1971, the Institute has issued the Resource Material Series, which contains contributions by the faculty members, visiting experts and participants of UNAFEI courses and seminars. In 2006, the 68<sup>th</sup>, 69<sup>th</sup> and 70<sup>th</sup> editions of the Resource Material Series were published. Additionally, issues 119 to 121 (from the 132<sup>nd</sup> Seminar to the 134<sup>th</sup> Course respectively) of the UNAFEI Newsletter were published, which included a brief report on each course and seminar and other timely information. These publications are also available on UNAFEI’s web site: <http://www.unafei.or.jp/english>.

### VII. OTHER ACTIVITIES

#### A. Public Lecture Programme

On 27 January 2006, the Public Lecture Programme was conducted in the Grand Conference Hall of the Ministry of Justice. In attendance were many distinguished guests, UNAFEI alumni and the 132<sup>nd</sup> International Seminar participants. This Programme was jointly sponsored by the Asia Crime Prevention Foundation (ACPF), the Japan Criminal Policy Society (JCPS) and UNAFEI.

Public Lecture Programmes increase the public’s awareness of criminal justice issues, through comparative international study, by inviting distinguished speakers from abroad. This year, Mr. Javier Ruperez (UNCTED), Mr. John Forbes (ADB), Prof. Dr. Juhaya S. Praja (Indonesia) and Mr. Jean-Paul Laborde (UNODC), were invited as speakers to the programme. They presented papers on “Anti-terrorism Concerted Efforts by the United Nations and the International Community”; “Some Issues Relating to the Financing of Terrorism and Alternative Remittance Systems”; “Some Issues on Islam, Globalization, and Anti-terrorism – Post 9-11”; “Enhancement of the Accession to and Implementation of the 13 Universal Anti-terrorism Conventions and protocols, and the Role of the United Nations”, respectively.

#### B. Assisting UNAFEI Alumni Activities

Various UNAFEI alumni associations in several countries have commenced, or are about to commence, research activities in their respective criminal justice fields. It is, therefore, one of the important tasks of UNAFEI to support these contributions to improve the crime situation internationally.

#### C. Overseas Missions

Ms. Satoko Ikeda (Professor) visited Ottawa, Canada and Washington D.C., USA, to conduct research on identity theft from 10 to 20 January 2006.

Ms. Megumi Uryu (Professor) visited Macau, SAR, Peoples Republic of China to attend the Third Asia and Pacific Regional Conference of the International Association of Prosecutors from 12 to 14 January 2006.

Mr. Keisuke Senta (Deputy Director) visited Bangkok, Thailand to attend the High Level Seminar for the

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Asia-Pacific Region to Promote the Ratification and Implementation of the United Nations Convention against Corruption and discuss details of the forthcoming 3<sup>rd</sup> training course for the officials of the ONCC from 15 to 21 January 2006.

Director Masahiro Tauchi, Ms. Tae Sugiyama (Professor), Ms. Tamaki Yokochi (Professor), Mr. Kazunari Arakawa (Chief, General and Financial Affairs Section) and Ms. Tomomi Matsuoka (Staff) visited the Philippines with thirteen Volunteer Probation Officers to participate in the Third Session of the In-Country Training Programme on a Holistic Approach to Volunteer Resource Development. Mr. Kazunari Arakawa and Ms. Tomomi Matsuoka visited from 17 to 21 January, Director Masahiro Tauchi from 19 to 25 January 2006 and Ms. Tamaki Yokochi from 17 January to 11 February 2006, in order to monitor and evaluate the progress of the revitalization of the Volunteer Probation Aid programme.

Mr. Hiroyuki Shinkai (Professor) visited the United Nations Office on Drugs and Crime, Vienna to attend an Expert Group Meeting on Crime Data Collection from 7 to 12 February, 2006.

Mr. Motoo Noguchi (Professor) visited Kotakinabalu, Malaysia to act as Co-Rapporteur at the ACPF Workshop on the Guidelines on the Role of Criminal Justice to Minimize Socio-economic Damage Ensuing from Natural Disasters from 10 to 13 March 2006.

Mr. Iichiro Sakata (Professor) visited Vienna from 19 to 24 March, 2006 to attend the "Intergovernmental Expert Group Meeting of the U.N. Commission on Crime Prevention and Criminal Justice to Develop a Questionnaire on Standards and Norms Primarily Related to Crime Prevention".

Mr. Masahiro Tauchi (Director) and Mr. Iichiro Sakata (Professor) visited Vienna to attend and make presentations at the UN Commission on Crime Prevention and Criminal Justice from 23 to 29 April 2006.

Mr. Masato Uchida (Professor) visited Canada from 1 to 15 May, 2006 to carry out research on the sexual offender treatment programmes in Canada. Mr. Uchida met with officials from the Correctional Service of Canada and travelled to Ontario, Quebec and British Columbia.

Mr. Keisuke Senta (Deputy Director) visited Hong Kong SAR to attend the Third ICAC Symposium: Corporate Corruption, Integrity and Governance, from 8 to 12 May 2006.

Mr. Koji Yamada (Professor) visited Manila, the Philippines from 9 to 13 May, 2006 to meet Mr. Ismael Herradura, the Administrator of the Parole and Probation Administration, Philippines and visited the offices of several government departments.

Ms. Kayo Ishihara (Professor) visited Bangkok, Thailand from 5 to 9 June 2006 to attend the UNODC Regional Expert Group Meeting on Witness Protection and to moderate a group work session.

Deputy Director Keisuke Senta visited Bali, Indonesia to attend the Asia – EU Regional Workshop: Promoting Transparency and Accountability for Local Governments and Deterring Corruption in Public Contracting and Procurement from 27 to 30 June 2006.

Motoo Noguchi (Professor) visited Phnom-Penh, Cambodia to attend a Judicial Strategic Planning and Development Workshop from 1 to 12 July 2006.

Megumi Uryu (Professor) visited Taipei, Taiwan to give a presentation on Prosecutors as Representatives of the Public Interest: The Japanese Practice, at the Conference on the Prosecutorial Systems in Different Countries from 5 to 9 July 2006.

Deputy Director Keisuke Senta and Satoko Ikeda (Professor) visited El Salvador and Costa Rica from 17 July to 6 August 2006. In El Salvador they held a follow-up Seminar, focusing on the specific situation in El Salvador. In Costa Rica, they jointly hosted with ILANUD a course on Criminal Justice Reform in Latin America in which ten countries were represented.

Director Keiichi Aizawa, Megumi Uryu (Professor), Koji Yamada (Professor), Mr. Kazuyuki Kawabe



## MAIN ACTIVITIES

(Staff) and Ms. Yukari Ishikawa (Staff) visited China to discuss the theme of the forthcoming Country Specific Training Course for China from 23 to 29 July 2006.

Ichiro Sakata (Professor) visited Brussels, Belgium to attend the Expert Group Review Meeting on the Criminal Justice Assessment Toolkit (The Justice Sector) from 25 to 29 July 2006.

Tae Sugiyama (Professor) visited Kenya to monitor and assist in the training of Children's Officers and VCOs of the Children's Department and organized and participated in the programme for Children's Officers and Stakeholder's Workshop at Kenya School of Law Karen from 6 to 27 August 2006.

Shintaro Naito (Professor) visited Bangkok, Thailand to attend the Intergovernmental Group of Experts on Lessons Learnt from United Nations Congresses on Crime Prevention and Criminal Justice from 14 to 19 August 2006.

Masato Uchida (Professor) visited Kenya to assist in the training of officers of rehabilitation schools and children's remand homes, and organized and participated in the programme for Children's Officers and Stakeholders Workshop at Kenya School of Law Karen from 20 August to 10 September 2006.

Motoo Noguchi (Professor) travelled to the United States to enrol as a Research Fellow at Yale Law School from 23 August 2006 to 1 January 2007.

Deputy Director Keisuke Senta visited Paris, France to attend and speak at the International Association of Prosecutors Annual Meeting from 27 August to 3 September 2006.

Koji Yamada (Professor) visited Manila and Bataan, the Philippines from 2 to 16 September 2006 to attend the Philippines Parole and Probation Administration In-country Training Programme where he delivered a lecture on the Japanese Community Based Treatment System.

Mr. Hiroyuki Shinkai (Professor) visited Vancouver, Canada from 21 to 27 October 2006 to attend the Annual General Meeting of the International Prison and Correctional Association.

Mr. Keisuke Senta (Deputy Director) visited Beijing, China from 23 to 25 October 2006 to attend the IAACA Conference where he delivered a speech on the activities of UNAFEI in regard to anti-corruption.

Mr. Keiichi Aizawa (Director), Ms. Megumi Uryu (Professor) and Mr. Hitoshi Nishimura (Co-Deputy Chief of Secretariat) visited Jakarta, Indonesia from 18 to 24 November 2006 to attend and make an oral intervention at the 11<sup>th</sup> ACPF World Conference on Crime Prevention and Criminal Justice.

Mr. Keiichi Aizawa (Director), Mr. Keisuke Senta (Deputy Director), Ms. Kayo Ishihara (Professor), Mr. Shintaro Naito (Professor), Mr. Ichiro Sakata (Professor), Mr. Seiji Yamagami (Staff) and Mr. Etsuya Iwakami (Staff) visited Bangkok, Thailand from 23 November to 2 December 2006, to attend the In-Country Training Course under the three-year project on "Strengthening the Anti-Corruption Capacity in Thailand".

Mr. Hiroyuki Shinkai (Professor) visited Auckland, New Zealand from 25 November to 2 December 2006 to attend the Asia and Pacific Conference of Correctional Administrators where he made a presentation on UNAFEI's activities.

Mr. Keiichi Aizawa (Director) and Ms. Kayo Ishihara (Professor) visited Bangkok, Thailand from 27 to 29 November 2006 to attend and make an oral intervention at the ADB/OECD Ninth Anti-corruption Initiative of Asia and the Pacific.

Mr. Keiichi Aizawa (Director) visited the United Nations offices in Geneva, Switzerland from 14 to 20 December 2006.

Mr. Keiichi Aizawa (Director) visited Italy from 15 to 17 December 2006 to attend and contribute to the discussion of the 2006 PNI Coordination Meeting and International Conference on the United Nations Convention against Corruption as a Way of Life.

#### **D. Assisting ACPF Activities**

UNAFEI cooperates and corroborates with the ACPF to improve crime prevention and criminal justice administration in the region. Since UNAFEI and the ACPF have many similar goals, and a large part of ACPF's membership consists of UNAFEI alumni, the relationship between the two is very strong. As an example of this cooperation the Director of UNAFEI, Mr. Keiichi Aizawa, visited Jakarta, Indonesia from 18 to 24 November, 2006 to attend the 11th ACPF World Conference.

### **VIII. HUMAN RESOURCES**

#### **A. Staff**

In 1970, the Government of Japan assumed full financial and administrative responsibility for running the Institute. The Director, Deputy Director and approximately nine professors are selected from among public prosecutors, the judiciary, corrections, probation and the police. UNAFEI also has approximately 15 administrative staff members, who are appointed from among officials of the Government of Japan, and a linguistic adviser. Moreover, the Ministry of Justice invites visiting experts from abroad to each training course and seminar. The Institute also receives valuable assistance from various experts, volunteers and related agencies in conducting its training programmes.

#### **B. Faculty Changes**

Ms. Tamaki Yokochi, formerly Professor of UNAFEI, was transferred and appointed Parole Officer for Kanto Regional Parole Board on 1 April 2006.

Mr. Koji Yamada, formerly Chief of the Rehabilitation Service Development Section of Okayama Probation Office, joined UNAFEI as a Professor on 1 April 2006.

Mr. Masahiro Tauchi, formerly Director of UNAFEI, was promoted to the Supreme Prosecutors Office on 6 July 2006.

Mr. Keiichi Aizawa, formerly Director of the International Cooperation Department of the Research and Training Institute of the Ministry of Justice, joined UNAFEI as Director on 6 July 2006.

Mr. Tomoyuki Noge, formerly Professor of UNAFEI, was transferred to the Fair Trade Commission on 6 July 2006.

Mr. Shintaro Naito, formerly a prosecutor for the Special Investigation Division of Tokyo District Public Prosecutor Office, joined UNAFEI as a Professor on 6 July 2006.

### **IX. FINANCES**

The Ministry of Justice primarily provides the Institute's budget. The total amount of the UNAFEI budget is approximately ¥274 million per year. Additionally, JICA and the ACPF provide assistance for the Institute's international training courses and seminars.

# UNAFEI WORK PROGRAMME FOR 2007

## I. TRAINING

### **A. The 135th International Senior Seminar**

The 135th International Senior Seminar was held from 12 January to 15 February 2007. The main theme of the Seminar was "Promoting Public Safety and Controlling Recidivism Using Effective Interventions with Offenders: An Examination of Best Practices". In this Seminar, sixteen overseas participants, two overseas observers and seven Japanese participants attended.

### **B. 136th International Training Course**

The 136th International Training Course was held from 23 May to 28 June 2007. The main theme of the Course was "Effective Measures for the Treatment of Juvenile Offenders and their Reintegration into Society". In this Course, fourteen overseas participants, two overseas observers and seven Japanese participants attended.

### **C. 137th International Training Course**

The 137th International Training Course will be held from 5 September to 11 October 2007. The main theme of the Course is "Corporate Crime and the Criminal Liability of Corporate Entities". In this Course, twelve overseas participants, one overseas observer and six Japanese participants will attend.

### **D. The Third Seminar on Criminal Justice for Central Asia**

The Third Seminar on Criminal Justice for Central Asia was held from 26 February to 15 March 2007. The main theme of the Seminar was "Effective Measures and Enhancement of Treatment for Drug Abusers in the Criminal Justice Process". In this Seminar, thirteen participants from Central Asian countries attended.

### **E. The Twelfth Special Seminar for Senior Criminal Justice Officials of the People's Republic of China**

The Twelfth Special Seminar for Senior Criminal Justice Officials of the People's Republic of China was held from 5 to 22 March 2007. The main theme of the Seminar was "International Cooperation in Criminal Justice". In this Seminar, thirteen participants attended.

### **F. The Second Country Specific Training Course on the Revitalization of the Volunteer Probation Aid System for the Philippines**

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. In this Course, Eleven Parole and Probation Officers and one Volunteer Probation Aid from the Philippines discussed measures to improve the probation system, and the promotion of Volunteer Probation Aids.

### **G. The Eighth Training Course on the Juvenile Delinquent Treatment System for Kenya**

The Eighth Training Course on the Juvenile Delinquent Treatment System for Kenya is scheduled from 16 October to 8 November 2007. Sixteen participants from Kenya will review their progress in regard to improving the treatment of juveniles in correctional institutions and in the community and the progress they have made in establishing a Volunteer Children's Officers programme.

### **H. The Tenth International Training Course on Corruption Control in Criminal Justice**

The Tenth International Training Course on Corruption Control in Criminal Justice tentatively will be held from 24 October to 21 November 2007. In this Course, three Japanese and fourteen overseas officials engaged in corruption control will comparatively analyze the current situation of corruption, methods of combating corruption and measures to enhance international cooperation.

### **I. Regional Seminar on Good Governance for Southeast Asian Countries in Thailand**

The first Regional Seminar on Good Governance will be held in Bangkok, Thailand from 17 to 21 December 2007. The main theme of the Seminar is "Corruption Control in the Judiciary and Investigative Authorities". In this Seminar, approximately 30 participants from eight Southeast Asian countries will attend.

## II. TECHNICAL COOPERATION

### A. Short-Term Experts in Latin America

Two faculty members visited Argentina and Costa Rica in July and August 2007. In Costa Rica they jointly hosted, with ILANUD, a course on Criminal Justice Reform in Latin America in which ten countries were represented. In Argentina they held a follow-up seminar on the specific situation in Argentina.

### B. Short-Term Experts in Kenya

Two UNAFEI professors were dispatched to Kenya in July and August 2007. The professors assisted the Children's Department of the Vice-President and Ministry of Home Affairs in a project to develop nationwide standards for the treatment of juvenile offenders and vulnerable children.

### C. Short-Term Experts in the Philippines

A UNAFEI professor will be dispatched to Baatan, the Philippines from 9 to 29 September 2007, to attend the In-Country Training Programme of the Philippines PPA.

APPENDIX

**APPENDIX**

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**MAIN STAFF OF UNAFEI**

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Mr. Keiichi Aizawa  
Mr. Keisuke Senta

Director  
Deputy Director

**Faculty**

Mr. Motoo Noguchi  
Mr. Haruhiko Higuchi  
Ms. Tae Sugiyama  
Mr. Hiroyuki Shinkai  
Mr. Koji Yamada  
Mr. Masato Uchida  
Ms. Megumi Uryu  
Ms. Kayo Ishihara  
Mr. Shintaro Naito  
Mr. Ichiro Sakata  
Mr. Simon Cornell

Professor  
Professor  
Chief of Information & Library Service Division, Professor  
Professor  
Professor  
Chief of Research Division, Professor  
Professor  
Professor  
Professor  
Chief of Training Division, Professor  
Linguistic Adviser

**Secretariat**

Mr. Junichi Ebara  
Mr. Kazuyuki Kawabe  
Mr. Hitoshi Nishimura  
Mr. Hideshi Ohashi  
Mr. Seiji Yamagami  
  
Mr. Etsuya Iwakami

Chief of Secretariat  
Deputy Chief of Secretariat  
Deputy Chief of Secretariat  
Chief of General and Financial Affairs Section  
Chief of Training and Hostel Management  
Affairs Section  
Chief of International Research Affairs Section

**AS OF DECEMBER 2006**

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**2006 VISITING EXPERTS**

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**THE 132ND INTERNATIONAL SEMINAR**

Mr. Jean-Paul Laborde	Chief Terrorism Prevention Branch, United Nations Office on Drugs and Crime, Vienna International Centre, Vienna
Dr. Juhaya S. Praja	Professor Post Graduate Programme, Bandung Islamic State University, Indonesia
Mr. John Forbes	Anti-Money Laundering Specialist Office of the General Counsel, Asian Development Bank, Philippines
Mr. Javier Ruperez	Assistant Secretary-General Executive Director, Executive Directorate, United Nations Counter-Terrorism Committee (CTED), U.S.A.

**THE 133RD INTERNATIONAL TRAINING COURSE**

Mr. David Middleton	Head of Sex Offender Strategy and Programmes Public Protection & Licensed Release Unit, National Offender Management Service & National Probation Directorate, Home Office, United Kingdom
Dr. William L. Marshall	Research Coordinator Rockwood Psychological Services, Kingston, Ontario, Canada
Dr. J. Ruediger Mueller-Isberner	Director Haina Forensic Psychiatric Hospital, Germany
Dr. Barindra Nath Chattoraj	Government of India, National Institute of Criminology and Forensic Science, Ministry of Home Affairs, India

APPENDIX

**THE 134TH INTERNATIONAL TRAINING COURSE**

Mr. Juergen Kapplinghaus	Deputy National Member for Germany Eurojust Germany
Ms. Amy Chang Lee	Assistant Chief Organized Crime and Racketeering Section, Criminal Division, United States Department of Justice, United States
Mr. Severino H. Gaña, Jr.	Assistant Chief State Prosecutor National Prosecution Service, Department of Justice, Philippines
Mr. Giuliano Turone	Judge of the Supreme Court (Corte di Cassazione) Italy

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**2006 AD HOC LECTURERS**

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**THE 132ND INTERNATIONAL SEMINAR**

Mr. Rokuichiro Michii	Director International Counter-Terrorism Cooperation Division, Ministry of Foreign Affairs, Japan
Mr. Nobuyuki Muroki	Chief Superintendent Counsellor for Legal Affairs, Commissioner-General's Secretariat, National Police Agency, Japan
Mr. Hiroshi Kimizuka	Assistant to the Director Data Processing System Development Office, Immigration Bureau, Ministry of Justice, Japan

**THE 133RD INTERNATIONAL TRAINING COURSE**

Mr. Kenichi Sawada	Director of the Prison Service Division Correction Bureau, MOJ, Japan
Mr. Takashi Kubo	Planner and Coordinator of Treatment of Offenders for the Supervision Division, Rehabilitation Bureau, MOJ, Japan
Prof. Tetsuya Fujimoto	Professor Faculty of Law, Chuo University, Japan
Prof. Hisao Katoh	Professor of Criminology and Medico- Criminal Law, Faculty of Law, Keio University, Japan
Dr. P. Bruce Malcolm	Correctional Service of Canada Canada
Mr. Ko Shikata	Senior Police Superintendent Police Policy, Research Centre, National Police Agency



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**THE 134TH INTERNATIONAL TRAINING COURSE**

Mr. Shinichi Moriyama	Assistant Director Strategy-Planning and Analysis Division, Organized Crime Department, Criminal Investigation Bureau, National Police Agency, Japan
Mr. Kenji Miyanishi	Assistant Director International Investigative Operations Division, National Police Agency, Japan
Mr. Kentaro Sadahiro	Deputy Director of JAFIO Japan

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**2006 UNAFEI PARTICIPANTS**

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**THE 132ND INTERNATIONAL SEMINAR**

***Overseas Participants***

Mr. Sonam	Officer in Charge/Officer Commandant Wangdue Police Station, Royal Bhutan Police, Bhutan
Mr. Laercio Rossetto	Police Chief Civil Police of the Federal District, Brazil
Mr. Eddy Sigfrido De Los Santos Perez	Brigadier, National Police Director Institute for Superior Studies, Dominican Republic
Mr. Aldrin Enrique Lainez Cruz	Head of Post-Grade Unit at the Police University, Secretary of Security National Police, Honduras
Mr. Devendra Kumar Pathak	Inspector General of Police (Law & Order) Assam Assam Police Headquarters, India
Mr. Prima Idwan Mariza	Head Sub Division Preparation Material for Law Socialization The Office of the Attorney General of the Republic of Indonesia, Indonesia
Mr. Souphy Norintha	Head of Protocol and Foreign Relations Division Ministry of Justice, Laos
Mr. Mohammad Supian Bin Mohd Yaacob	Superintendent of Customs Preventive Division, Royal Malaysian Customs Headquarters, Malaysia
Mr. Thet Lwin	Commander No. 1 Police Battalion Myanmar Police Force, Myanmar
Mr. Harishchandra Dhungana	Law Officer Ministry of Home Affairs, Nepal
Mr. Hodges Api Ette	Principal Legal Officer Department of Police Konedobu, Royal PNG Constabulary, Papua New Guinea

## APPENDIX

Mr. Odelon Garrido Ramoneda	Chief (PSupt.) District Operations Division, Eastern Police District, Philippines
Mr. Ali Mohammed Alsahli	Colonel Naif Arab University for Security Science, Saudi Arabia
Mr. Jirawoot Techapun	Provincial Chief Public Prosecutor Juvenile and Family Litigation of Roi-ED Province, Thailand
Mr. Viliami 'Unga Afuha'amango Fa'aoa	Assistant Police Commander Ministry of Police, Tonga
Mr. Hugo Rodolfo Gamarra Atencio	Director Strategic Analysis and Monitoring of Information Directorate, Scientific, Penal and Criminalistics Investigation Organization, Venezuela
Ms. Le Thi Van Anh	Expert Department of Criminal and Administration Legislation, Ministry of Justice, Viet Nam
Mrs. Fortune Chimbaru	Principal Law Officer Attorney General's Office, Zimbabwe
<b><i>Japanese Participants</i></b>	
Ms. Masayo Doi	Deputy Director Nagoya Probation Office
Mr. Koichi Endo	Public Prosecutor/Professor The First Training Department, Research and Training Institute, Ministry of Justice
Mr. Tadashi Imai	Specialist General Affairs Department, Public Security Intelligence Agency
Mr. Ryuji Kuwayama	Principal Programme Supervisor International Affairs Division, Fuchu Prison
Ms. Mari Miyoshi	Director Registration Division Immigration Bureau, Ministry of Justice
Mr. Kazuo Sasaki	Judge/Professor Legal Training and Research Institute, Supreme Court

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Mr. Makoto Uemura  
Public Prosecutor  
Tokyo District Public Prosecutors Office

**THE 133RD INTERNATIONAL TRAINING COURSE**

Mr. Andi Likaj  
Specialist of Crime and Drugs  
Tirana Police Directory,  
Albania

Ms. Junie Agatha Ruddy  
Head of Probation Department  
Citizen Welfare Division,  
Ministry of Social Transformation,  
Antigua and Barbuda

Mr. Marlon Evandale Allen  
Inspector  
Government of Belize Police Dept.,  
Belize

Mr. Auta Moceisuva  
Superintendent of Prisons  
Administration/HQ,  
Fiji Prisons Service,  
Fiji

Mr. Fofana Naby Laye  
Commissaire Central  
Commissaire Central of Ratoma,  
Guinea

Mr. Miguel Angel Villanueva Andino  
Sub-official Criminal Investigator  
General Direction of Criminal  
Investigation,  
Honduras

Mr. Yanuar Utomo  
Head of Sub Section  
Division of Foreign Affairs of  
Legal Bureau,  
The Attorney General's Office,  
Indonesia

Mr. Gan Tack Guan  
Deputy Superintendent Police  
The Head of Serious Crime,  
Kuala Lumpur Police,  
Malaysia

Mr. Khin Maung Maung  
Deputy Director  
Prosecution Department,  
Office of the Attorney General,  
Myanmar

Mr. Vuttinone Promnil  
Professional Nurse  
Medical Correctional Institution,  
Thailand

Ms. Silvia Anabel Blanchet Zamit  
Chief of Sectional 7  
Montevideo Police,  
Uruguay

Mr. Ajaj Mohammed Ali  
Head of Information Section  
Administration of Anti-terrorism and  
Organized Crime,  
Yemen

## APPENDIX

Ms. Isabella Nyarai Sergio  
National Coordinator (Victim Friendly Unit)  
Zimbabwe Republic Police,  
Zimbabwe

Mr. Lam Kwok Leung  
Head  
Sha Tsui Detention Centre,  
Hong Kong

Mr. Dong Keun Lee  
Inspector (Manager)  
Seoul Detention Centre,  
Korea

### *Japanese Participants*

Ms. Naoko Fujiwara  
Chief Specialist  
Kifunehara Juvenile Training School for Girls

Mr. Motoki Horiuchi  
Assistant Judge  
Tokyo District Court

Mr. Eiji Ibuki  
Public Prosecutor  
Osaka District Public Prosecutors Office

Ms. Hiromi Kawaguchi  
Chief Specialist  
Chikushi Juvenile Training School for Girls

Mr. Kazuya Nagao  
Probation Officer  
Nagoya Probation Office

Mr. Kenichi Nakamura  
Public Prosecutor  
Tokyo District Public Prosecutors Office

Mr. Hiromi Nishikawa  
Family Court Probation Officer  
Tokyo Family Court

Mr. Tetsuya Uchida  
Assistant Judge  
Tokyo District Court

Mr. Kenji Yoshimura  
Probation Officer  
Kumamoto Probation Office

## THE 134TH INTERNATIONAL TRAINING COURSE

### *Overseas Participants*

Mr. Mohammad Wali Tarin  
Chief of Foreign Relations and Planning  
Attorney General's Office,  
Afghanistan

Mr. Fernando Cesar Costa  
Deputy Director  
Division of Combat/Repression of Organized Crime,  
Civil Police of the Federal District,  
Brazil

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Mr. Ping Zhu	Judge Beijing High People's Court, China
Mr. Tonny Renaldo Matan	Functional Attorney/Prosecutor Tangerang District Attorney Office in Banten Province, Indonesia
Mr. Aung Htay Myint	Commander No. 5 Police Battalion, Myanmar Police Force, Myanmar
Ms. Zenobia Beatrix Barry	Public Prosecutor Office of the Prosecutor-General, Ministry of Justice, Namibia
Mr. Sikandar Hayat	Superintendent of Police Diplomatic Protection Department, Capital Security Police, Ministry of Interior, Pakistan
Mr. Leonardo Ernesto Paul Aparicio	Major Officer Public Ministry, Panama
Mr. Netipoom Maysakun	Judge Southern Bangkok District Court, Thailand
Mr. Mohamed Kadhem Zine Labidine	Magistrate, President of a Research Team Legal and Judicial Research Centre, Tunisia
Mr. Musaed Dhaifalla Al-Dhaheri	Deputy Manager of Deputy Minister for Public Security Office Ministry of Interior, Yemen
<b><i>Japanese Participants</i></b>	
Mr. Yusuke Endo	Public Prosecutor Tokyo District Public Prosecutors Office
Mr. Masanori Hisaki	Deputy Director Transnational Organized Crime Strike Force, Japan Coast Guard
Ms. Junko Kawamata	Superintendent Strategy-Planning and Analysis Division, Organized Crime Department, Criminal Investigation Bureau, National Police Agency

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Mr. Kazuhiro Kikawa	Public Prosecutor Okayama District Public Prosecutors, Office
Ms. Emiko Nishimura	Public Prosecutor Sapporo District Public Prosecutors, Office
Ms. Ayako Sakonji	Probation Officer Kinki Regional Parole Board
Mr. Yusuke Suzuki	Assistant Judge Tokyo District Court
Mr. Shinichi Suzushima	Judge Osaka District Court
Ms. Chika Yamashita	Instructor Nagoya Juvenile Classification Home

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

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Mr. Wu Qiuzhen	Deputy Director General Ministry of Justice
Ms. Wang Bei	Division Chief Financial Department of Ministry of Justice
Mr. Bu Fancheng	Section Chief Criminal Legislation Department, Legislative Affairs Commission, Standing Committee of NPC China
Ms. Wang Ning	Deputy Director Criminal Legislation Department, Legislative Affairs Commission, Standing Committee of NPC China
Mr. Cheng Yongsheng	Judge Supreme People's Court of P. R. China
Mr. Zhou Gang	Judge Supreme People's Court of P. R. China
Mr. Dai Xianyi	Deputy Director Prosecutions Department of People's Procuratorate of Zhejiang Province
Mr. Wang Dong	Deputy Division Chief Tianjin Municipal People's Procuratorate
Ms. Zou Yang	Deputy Director-General Department of Justice of Guizhou Province
Ms. Liu Ya	Professor Institute of Crime Prevention of the Ministry of Justice
Mr. He Hairen	Assistant Professor China Social Science Academy
Mr. Li Hongwei	Section Chief Department of Judicial of Assistance and Foreign Affairs of the Ministry of Justice



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**SECOND SEMINAR ON CRIMINAL JUSTICE FOR CENTRAL ASIA**

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Mr. Serik Abdykarimov	Deputy Head, Department of Astana City Committee of Criminal Execution System, Ministry of Justice, Kazakhstan
Mr. Kurgan Kamzabayev	Head Department of Legality Control of Judgement, General Prosecutors' Office, Kazakhstan
Mr. Askar Sekishev	Judge Criminal Council, The Supreme Court, Kazakhstan
Mr. Ulanbek Asakeev	Head Bishkek City Department of Prosecutor's Office, Kyrgyz
Mr. Pamirbek Asanov	Head Investigation Department, Regional Office of Internal Affairs of Chuy Region, Kyrgyz
Mr. Nurlan Dosmambetov	Judge The Supreme Court, Kyrgyz
Mr. Shodmon Aliev	Chairman The Court of Nurek City of Khatlon Region, Tajikistan
Mr. Gayrat Sanginov	Chairman The Court of Isfara City of Soghd Region, Tajikistan
Mr. Faizmakmad Yorov	Chairman Court of Ismoil Somoni District of Dushanbe City, Tajikistan
Mr. Chary Hojamuradov	Chairman The Regional Court of Dashoguz, Uzbekistan
Mr. Hangeldy Serdarov	Chairman The Regional Court of Lebap, Uzbekistan

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Mr. Gaybulla Alimov	Head Department of Human Rights and Cooperation with International Organizations, Ministry of Internal Affairs, Uzbekistan
Mr. Bakhtiyor Miralimov	Judge The Supreme Court, Turkmenistan
Mr. Vakhitjan Sharipov	Judge The Court of Tashkent City, Turkmenistan

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**THE THIRD SPECIAL TRAINING COURSE ON STRENGTHENING  
THE ANTI-CORRUPTION CAPACITY IN THAILAND**

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Mr. Pas Passatta	Senior Investigator Corruption Suppression Bureau 1
Mr. Tinnakorn Khamavichanurat	Senior Investigator Corruption Suppression Bureau 1
Mr. Vittaya Arkompituk	Senior Investigator Corruption Suppression Bureau 2
Mr. Wanlop Yutidhammadamrong	Senior Investigator Corruption Suppression Bureau 2
Mr. Kitti Limpong	Senior Investigator Corruption Suppression Bureau 2
Mr. Boonsaeng Cheerapakorn	Senior Personnel Officer Personnel Division
Mr. Utit Buasri	Senior Legal Officer Policy and Planning Bureau
Mr. Sittipong Phungvongsanurak	Senior Investigator Report Division
Mr. Anant Petchmai	Senior Intelligence Officer Intelligence Unit
Ms. Pornphan Yuthrattana	Junior Investigator Corruption Suppression Bureau 2
Mr. Vachirachai Rattanachoe	Junior Inspector Asset Inspection Bureau 1
Ms. Sunanta Jampa-ngoen	Junior Inspector Asset Inspection Bureau 2
Ms. Chantira Patanakornsitanont	Junior Legal Officer Legal Affairs Bureau
Mr. Jakkrit Tunlerd	Junior Investigator Corruption Suppression Bureau 1
Ms. Visra Ratanasamai	Senior Administrative Officer Administrative Section
Mr. Thanachot Pairoh	Head of Foreign Affairs Section Policy and Planning Bureau

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**SEVENTH TRAINING COURSE ON THE JUVENILE  
DELINQUENT TREATMENT SYSTEM FOR KENYA**

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Mr. George Gachuhi Kibuku	Assistant Director of Children's Services Department of Children's Services, Ministry of Home Affairs
Ms. Elizabeth Adema Mbuka	Chief Children's Officer Department of Children's Services, Ministry of Home Affairs
Mr. Japheth Otieno Okomo	Senior Children's Officer Naivasha Children's Office
Mr. John Gichimu Miako	Headteacher Getathuru Rehabilitation School
Ms. Truphenah Chepteek Chemining'wa	Manager Kirigiti Rehabilitation School
Mr. Hadi Sheikh Mohamed	Senior Children's Officer Garissa District Children's Office
Mr. Charles Mageka Mogere	Senior Housemaster Eldoret Children's Remand Home
Mr. Henry Muthui Wamai	Volunteer Children's Officer Naivasha District
Ms. Lydia Nyokabi Ngatia	District Probation Officer Nakuru Probation Service
Mr. Cosmas Ndambuki Kimondolo	Manager/Probation Officer Kimumu Probation Training Centre
Ms. Teresia Mumbua Matheka	Senior Resident Magistrate Nakuru Law Courts
Ms. Judith Elizabeth Omange Ragot	Senior Resident Magistrate Nairobi Children's Court
Mr. Billy Parseen Koshal	Superintendent of Prisons Shikusa Borstal Institution
Ms. Beverline Ilego Lungatso	Chief Officer I Kamiti Youth Corrective Training Centre
Ms. Halima Abdi Mohamed	Chief Inspector Kitale Police Station
Ms. Grace Muchiru Maina	Chief Inspector Police Headquarters

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**NINTH SPECIAL TRAINING COURSE ON  
CORRUPTION CONTROL IN CRIMINAL JUSTICE**

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Mr. Jamal Khan Nasiry	President of Minister's Office Ministry of Justice, Afghanistan
Mr. S. M. M. Akhtar Hamid Bhuiyan	Deputy Assistant Director Anti-Corruption Commission, Bangladesh
Mr. Alpha Diallo	Administrator National Anti-Corruption Agency, Guinea
Mr. Hold Bun	Investigator Corruption Eradication Commission, Indonesia
Mr. Dudu Duswara Machmudin	Ad hoc Judge Corruption Criminal Court of the Central Jakarta District Court, Indonesia
Mr. Aibek Omokeyev	Head of Department National Agency of the Kyrgyz Republic for Prevention of Corruption, Kyrgyzstan
Ms. Carolina Azarias	Prosecutor Anti-Corruption Branch, Attorney General's Office, Mozambique
Ms. Sandra Miller	Chief Legal Officer Office of Prosecutor General, Ministry of Justice, Namibia
Mr. Lohit Chandra Shah	Registrar Special Court Kathmandu, Nepal
Mr. Jesus Alfredo Fuentes Gonzales	Associate Professor Academy of the Magistracy and Superior Judge, Huaura Superior Court, Peru
Mr. Clarence Joseph Nelson	Senior Judge Samoa District Court, Samoa
Mr. Mduduzi Eyril Yende	Senior Superintendent Commercial Branch, South African Police Service, South Africa

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Ms. Yuphawan Purisinsith	Judge Juvenile and Family Section, Phuket Provincial Court, Thailand
Mr. Francisco De Carvalho	Senior Auditor and Investigator Office of the Inspector General, Timor-Leste
Ms. Alice Komuhangi	Senior State Attorney Acting Head of the Fraud Unit, Directorate of Public Prosecutions, Uganda
Ms. Ayako Nakagawa	Judge Osaka District Court, Japan
Mr. Masafumi Nakamura	Prosecutor Nagoya District Public Prosecutors Office, Okazaki Branch, Japan
Mr. Shigeyuki Takaoka	Prosecutor Osaka District Public Prosecutors Office, Japan

APPENDIX

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**THE FIRST COUNTRY SPECIFIC TRAINING COURSE ON THE  
REVITALIZATION OF THE VOLUNTEER PROBATION AID SYSTEM**

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Mr. Ismael Juanga Herradura	Administrator Parole and Probation Administration, Department of Justice
Ms. Edita Katigbak Buemio	Assistant Regional Director National Capital Region, Parole and Probation Administration, Department of Justice
Ms. Judea Pabillar Asuncion	Chief Probation and Parole Officer Region III, Bataan Parole & Probation Office, Parole and Probation Administration, Department of Justice
Ms. Brigid Santes Tan	President/MetroBacolod Volunteer Probation Aid, Parole and Probation Office, Hall of Justice, Bacolod City
Mr. Ignacio Pascual Montero, Jr.	Volunteer Probation Aid Region III, Bataan Parole & Probation Administration, Parole and Probation Administration, Department of Justice
Mr. Allan Jose Bibal Alcala	Regional Director Parole and Probation Administration, Regional Office No. V, Parole and Probation Administration, Department of Justice
Ms. Emetri Jance Amoroso	Regional Director (Director II) Parole and Probation Administration, Regional Office No. VI, Department of Justice
Mr. Paulino Dolawen Ayang-Ang	Regional Director Regional Parole and Probation Office No. 3, Parole and Probation Administration, Department of Justice
Mr. Edgar JR. Belonio Leyson	Probation and Parole Officer II Regional Parole and Probation Office No. 6, Parole and Probation Administration, Department of Justice
Ms. Maria Cristina Cabatos Palaca	Supervising Probation and Parole Officer Sta. Rosa City Parole and Probation Office, Parole and Probation Administration Region IV, Department of Justice

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Ms. Grace Villagante Tomaro

Chief Probation and Parole Officer  
Bacold City Parole and Probation Office  
No. II,  
Parole and Probation Administration,  
Department of Justice

Ms. Charito Apacible Zamora

Chief Probation and Parole Officer/Chief  
Training Division,  
Parole and Probation Administration,  
Department of Justice



APPENDIX

**DISTRIBUTION OF PARTICIPANTS BY  
PROFESSIONAL BACKGROUNDS AND COUNTRIES**

*(1st International Training Course/Seminar - 134th International Training Course/Seminar)*

Professional Background Country / Area	Judicial and Other Administration	Judge	Public Prosecutors	Police Officials	Correctional Officials (Adult)	Correctional Officials (Juvenile)	Probation Parole Officers	Family Court Investigation Officers	Child Welfare Officers	Social Welfare Officers	Training & Research Officers	Others	Total
Afghanistan	7	9	6	4									26
Bangladesh	21	13		12	5		4			5		2	62
Bhutan				7									7
Brunei	4				2								6
Myanmar	5	1	1	4	1								12
China	13	4	5	10							8		40
Hong Kong	14			11	27	3	9		1	3	1		69
India	15	10		52	7	1	1			2	6	4	98
Indonesia	21	22	30	25	14		3			6		1	122
Iran	5	11	8	8	6						2	1	41
Iraq	5	3	3	5	5	5					2		28
Jordan				4									4
Cambodia	1	2	1	7	1								12
Oman			1	3									4
Korea	12	3	53	6	24	4					3		105
Kyrgyz	1			1									2
Laos	10	6	7	10									33
Malaysia	21	2	7	45	34	8	3		1	5	3	1	130
Maldives	1	2	1	1									5
Mongolia	1			2									3
Nepal	29	13	11	31								3	87
Pakistan	19	10	2	37	8	1	2				2	1	82
Palestine	1			1			1			1			4
Philippines	17	9	23	35	9	3	11	3	1	7	5	6	129
Saudi Arabia	5			6	3						1	1	16
Singapore	10	18	5	12	10	3	10			3	1	1	73
Sri Lanka	21	20	13	20	19	1	11		1	3		1	110
Taiwan	12	4	2	2	1								21
Tajikistan	1			1									1
Thailand	23	37	38	16	18	9	11	1		8	5	1	167
Turkey	2	1	1	2							1	1	8
United Arab Emirates	1												1
Uzbekistan												1	1
Viet nam	11	5	2	7	1					4	1		31
Yemen	1			1									2
<b>A S I A</b>	<b>310</b>	<b>205</b>	<b>220</b>	<b>387</b>	<b>195</b>	<b>38</b>	<b>66</b>	<b>4</b>	<b>4</b>	<b>47</b>	<b>41</b>	<b>25</b>	<b>1,542</b>
Algeria		3	2										5
Botswana	1			3									4
Cameroon	3		1										4
Cote d'Ivoire		2		1									3
Egypt	1	3		3							3	1	11
Ethiopia	3			1									4
Gambia				2									2
Ghana	1		1	5	1								8
Guinea			1	3									4
Kenya	6	4	1	12	7		7				2		39
Lesotho				1			2						3
Liberia											1		1
Madagascar				1									1
Mauritius		1											1
Morocco			1	4								1	6
Mozambique	1			1	1								3
Namibia			1										1
Nigeria	1			5	5							1	12
South Africa				2	3					1	1		7
Seychelles				3			1						4
Sudan	2		1	13	1						2		19
Swaziland				2									2
Tanzania	4	3	4	7	2								20
Tunisia		1		1									2
Zambia		1		6									7
Uganda			1	5								1	7
Zimbabwe	1		2	8									11
<b>AFRICA</b>	<b>24</b>	<b>18</b>	<b>16</b>	<b>89</b>	<b>20</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>9</b>	<b>4</b>	<b>191</b>

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Professional Background Country / Area	Judicial and Other Administration	Judge	Public Prosecutors	Police Officials	Correctional Officials (Adult)	Correctional Officials (Juvenile)	Probation Parole Officers	Family Court Investigation Officers	Child Welfare Officers	Social Welfare Officers	Training & Research Officers	Others	Total
Australia			1				1			1			3
Vanuatu				3									3
Fiji	6	1	9	21	17					1			55
Kiribati	1												1
Marshall Island	1			4									5
Micronesia				1			1						2
Nauru				1									1
New Zealand	1			1									2
Palau				1	1								2
Papua New Guinea	10	1	4	16	10		4			1		2	48
Solomon Islands	3		1	2									6
Tonga	2	1		7	3		1				1		15
Western Samoa	1			2			1					1	5
<b>THE PACIFIC</b>	25	3	15	59	31	0	8	0	0	3	1	3	148
Antigua and Barbuda							1						1
Argentina	2	2		2									6
Barbados				1			1						2
Belize	1			2									3
Bolivia		1										1	2
Brazil	2		3	17					1	1			24
Chile	1			4	2								7
Colombia	3	1	2	3					1			1	11
Costa Rica	3	4	4								1	2	14
Dominican Republic				1									1
Ecuador			1	4			1						6
El Salvador	1	1		2								1	5
Grenada				1									1
Guatemala					1							1	2
Guyana				1									1
Haiti				1									1
Honduras			1	6									7
Jamaica	3				1								4
Mexico	1												1
Nicaragua		1											1
Panama			3	2									6
Paraguay			1	9			1						11
Peru	4	10	4	2	1						1	2	24
Saint Christopher and Nevis			1	1									2
Saint Lucia	1				1								2
Saint Vincent				2									2
Trinidad and Tobago	1				1								2
Uruguay				1									1
Venezuela	1		1	11							1		14
U.S.A.(Hawaii)								1					1
<b>NORTH &amp; SOUTH AMERICA</b>	24	20	21	73	7	2	2	1	2	1	3	9	165
Albania	1			2									3
Bulgaria				1									1
Estonia			1										1
Hungary	1												1
Macedonia	1												1
Poland				1									1
Lithuania				1									1
<b>EUROPE</b>	3	0	1	5	0	0	0	0	0	0	0	0	9
<b>JAPAN</b>	112	163	259	96	90	81	190	62	38	2	48	69	1,210
<b>TOTAL</b>	498	409	532	709	343	121	276	67	44	54	102	110	3,265

**PART TWO**  
**RESOURCE MATERIAL SERIES**  
**NO. 72**

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Work Product of the 133<sup>rd</sup> International Training Course  
“EFFECTIVE PREVENTION AND ENHANCEMENT OF TREATMENT  
FOR SEXUAL OFFENDERS”

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## VISITING EXPERTS' PAPERS

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### THE ASSESSMENT AND TREATMENT OF SEXUAL OFFENDERS IN ENGLAND AND WALES

*By David Middleton\**



#### I. INTRODUCTION

The design and implementation of programmes to tackle offending behaviour have developed considerably in the last fifteen years. These programmes are now based on international evidence of “What Works” to reduce re-offending (McGuire, 1995; Andrews & Bonta, 1994).

The application of this approach to sex offending has been given a high priority by both UK Prison and Probation Services. We now offer, nationally, programmes of recognised quality, which put into practice the techniques that have been proven to be most effective by the latest research.

The UK Government is committed to ensuring that the assessment, treatment and management of sex offenders is coordinated seamlessly, from reports provided to judges prior to sentencing, through any period in custody to release and supervision in the community or a non-custodial sentence, where the court may direct programme attendance.

The programmes set out in detail in this document provide the principal means to reduce risk, within a strategic framework for the management of risk posed by sex offenders.

These programmes are delivered by staff who have successfully passed an Assessment Centre by demonstrating competencies known to be associated with successful delivery of sex offender treatment. The components of the assessment include making a presentation, conducting an interview in role play, receiving and responding to feedback and demonstrating knowledge and attitudes during a structured interview with the assessment panel.

#### A. Statistics

The Prison Service currently has a target to deliver 1240 offenders who have completed treatment in 2004. In the same year the National Probation Service (NPS) will have 1800 offenders on treatment programmes in the community. At any one time there are approximately 6,000 sex offenders in prison and 5,000 sex offenders who are subject to statutory supervision in the community. (The UK total prison population is currently 77,000). The programmes are delivered in 26 prisons and all 42 Probation Areas in England and Wales.

Since 1997 convicted sex offenders are required to notify details of their residence to the police. At the end of 2005 there were 28,994 sex offenders subject to these requirements (known as the “sex offender register”) and this number is expected to increase by approximately 3,000 per year.

#### B. “Duty to Co-operate”

The Criminal Justice Act 2003 places a “duty to co-operate” on a number of agencies in respect of sharing information concerning individual sex offenders who are living in the community. This information is co-ordinated by the Police, Probation and Prison authorities who have a statutory duty to prepare risk management plans on sex offenders who pose a risk of harm to the public. These arrangements known as Multi-Agency Public Protection Arrangements are one of the most important advances in the management

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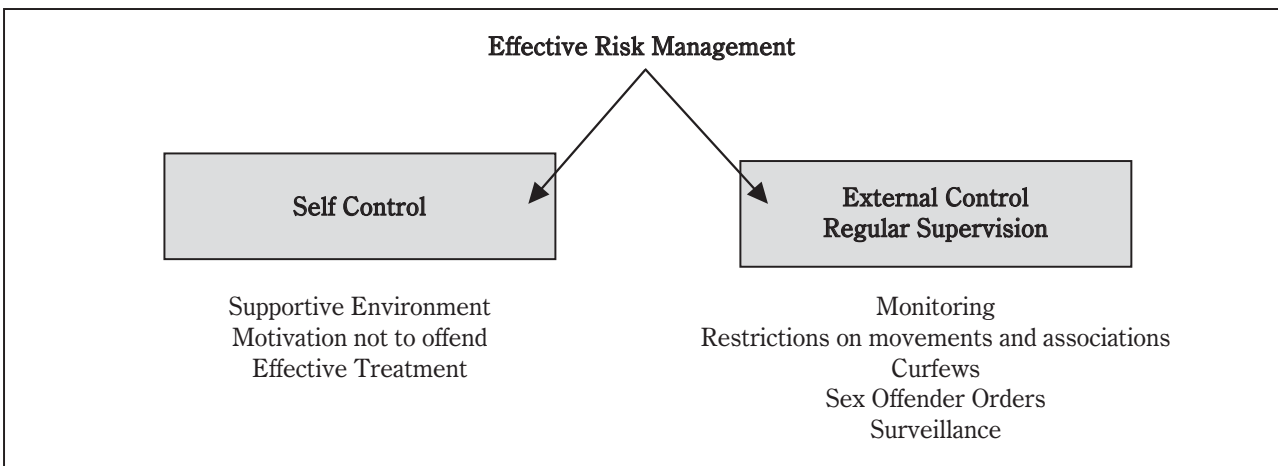
\* Head of Sex Offender Strategy and Programmes, National Offender Management Service & National Probation Directorate, Home Office, London.

of sex offenders in the community. It requires each local area to

- Maintain a register of residence details for each offender
- Formally assess the risk posed by each offender
- Share information between agencies
- Consider what intervention may be required in each case to protect previous victims and the public in general.

The National Probation Service, along with the Police, have a key role in the provision of external controls on sex offenders in the community, through statutory supervision in the form of Community Rehabilitation Orders or through supervision following release from prison.

The following diagram provides examples of the different forms of control that may be deployed to manage risk:



### C. Risk Management – A Multi-Agency Approach

Multi Agency Public Protection Arrangements (MAPPA) have a paramount role in determining the best local response to risk management of sex offenders in the community. Prison and Probation staff must ensure that timely referral is made to the MAPPA covering the area in which the offender is, or will be, living. Prison staff must make relevant information available to the MAPPA so that the appropriateness of applying for a Sex Offender Order, to assist in the risk management process, can be properly considered. Staff must ensure that information is exchanged between Prison and Probation staff concerning the release of each sex offender to satisfy themselves that referral is taking place to the relevant MAPPA and, if appropriate, to the Public Protection Group in the National Probation Directorate.

### D. Attendance as a Condition of Release from Prison

The NPS has a statutory responsibility to supervise sex offenders on release in order to protect the public. Wherever possible involving sex offenders in programmes to address their offending behaviour is part of the risk management plan. Therefore, all sex offenders due for release should be considered for referral to a treatment programme offered by the responsible Probation Area. This includes those offenders who have refused treatment in prison and those who deny their offence.

### E. Disclosure to the Public

The police have the power to make a public disclosure of details concerning an offender if this is required to protect the public and this is exercised in a minority of cases. The disclosure must be proportionate to the risk posed. In practice disclosure is rarely used since there can be negative consequences arising from such disclosure such as vigilante action, offenders moving into hiding or causing undue public alarm. However, the threat of disclosure is useful in persuading sex offenders to co-operate with the multi-agency risk management plan.

### F. Evidence of Effectiveness of Risk Management

The combined effect of treatment and risk management arrangements, is to protect the public, and in particular to prevent re-offences by known sex offenders. It is difficult to prove that events have not

occurred, which otherwise would have occurred, if these arrangements were not in place. The question could be “how many offences would have occurred but for these arrangements?” In answer the Home Office publishes annual reports concerning the MAPPA. In 2004 this showed that 2,500 sex and violent offenders were assessed as being the highest risk of reconviction. Of these 48 (2%) were arrested for further serious offences. A further 517 (18%) were recalled to prison for breach of release conditions or Sex Offence Orders which prohibited them from engagement in activities associated with their past offences. It is important to recognise that these 18% were recalled without having committed a further contact offence against a victim, but were recalled because their behaviour led the agencies to consider that such an offence was imminent. These actions can be estimated to have saved some 500 – 1000 victims from further serious abuse.

## II. THE LINK BETWEEN ASSESSMENT, TREATMENT AND RISK MANAGEMENT

Involvement in appropriate treatment is one of the most successful methods of protecting the public from future risk. As well as improving the skills and motivation of offenders to stop their abusive behaviour, treatment plays a part in gathering information that guides both assessment and management of future risk.

Sex Offender Treatment Programmes do not offer a “cure” for sexual offending, but risk of reconviction can be reduced by research-based treatment. However, it is the case that treatment will never be an option for all sex offenders. Treatment should be targeted at those who are best able to benefit from the programme, who are motivated, or can be motivated, to stop offending, and those for whom it is in the interests of the public that they should complete treatment. The aim is to motivate and equip offenders with the skills for self control over their behaviour. The UK Prison & Probation Service programmes enable offenders to develop strategies for self control. Self control may not be sufficient in itself, particularly in the early stages of treatment/release. Therefore, effective risk management requires a combination of self control and external control factors.

### Risk Assessment Methods

Sex Offender risk assessment needs to tell us three things

- What is the risk of this offender (or offenders like him/her) being reconvicted of further offences in the short, medium and long term? (The Static Risk Factors)
- What personality characteristics increase the risk of reconviction and can these be changed through treatment? (The Dynamic “Stable” Risk Factors)
- What are the factors in the immediate environment or behaviour of the offender that may increase the risk? (The Dynamic Acute Risk Factors)

#### 1. Static Risk Factors

In the UK the standard static risk assessment tool is the Risk Matrix 2000. This is an actuarial tool which gives a weighting to risk factors derived from research on those characteristics most associated with reconviction. Developed by Dr. David Thornton (Thornton et al. 2003) the tool is based on research studies which followed convicted sex offenders who were released from prison in 1979 and followed up for almost 20 years. The Risk Matrix predicts that offenders with

- previous sex convictions
- more than four previous convictions of any kind
- younger at the time of risk
- non-contact offenders
- those with a preference for boys
- stranger offenders
- those who have not been in a stable intimate relationship

tend to reconvict at a higher rate than those sex offenders without these characteristics. The combination of these factors allows assessment to assign offenders to those in a Low Risk Group, Medium Risk Group, High Risk and Very High Risk Group.

Table 1 below gives the relative risk of reconviction for each of these groups. It should be remembered that no risk tool can accurately predict the risk of a particular individual. What these tools tell us is that *individuals who share these characteristics* tend to reconvict at these rates, however human beings are notoriously prone to random responses to particular situations. To help us further therefore we need to assess the characteristics that may make some individuals given the same circumstances respond differently. These are the dynamic risk factors.

## 2. Dynamic Risk Factors

Dynamic risk factors by definition are capable of change. They tend to be relatively stable because personality characteristics are relatively stable, however many personality traits are the result of learnt behaviour and therefore new ways of thinking and behaviour can also be learnt. This is not an easy task since many sex offenders are thirty, forty or fifty years of age before entering treatment and therefore patterns of behaviour may be deeply entrenched. The use of structured risk assessment can tell us which factors on an individual case are present and how they increase/decrease the probability of reconviction. In the UK Prison and Probation Service the assessment tool used is the Structured Assessment of Risk and Need (SARN). This assesses the presence of personality characteristics which research has shown to be most associated with reconviction. These can be grouped into four “Risk Domains” where each domain contains a number of related specific risk factors. The SARN risk domains are

- Sexual Interests
  - Sexual preoccupation
  - Sexual preference for children
  - Sexualised violence preference
  - Other offence related sexual interest
- Distorted Attitudes
  - Adversarial sexual beliefs
  - Child Abuse supportive beliefs
  - Sexual entitlement beliefs
  - Rape supportive beliefs
  - View women as deceitful
- Management of Relationships
  - Feelings of personal inadequacy
  - Distorted intimacy balance
  - Grievance thinking towards others
  - Lack of emotional intimacy with adults
- Management of Self
  - Lifestyle impulsiveness
  - Poor problem solving
  - Poor management of emotions

In order to use the SARN tool effectively assessors are required to attend designated training run by HM Prison & Probation Service, however for the purposes of this paper a simplified account is given. In making an assessment the assessor looks for evidence of any of these risk factors in both the offence behaviour and more generally in the offender’s lifestyle. It is possible to use psychometric assessments for each of these risk factors in addition to clinical judgement. The greater the number of factors which can be evidenced in both offence and lifestyle suggests that both the degree of deviancy and treatment needs will be greater. Typically an assessment is made prior to treatment intervention and a full assessment follows completion of the treatment so that any change in dynamic risk can be identified. This may provide an indication of progress made by the offender, and additionally if assessments are combined for large numbers of offenders undergoing the same treatment programme, we may be able to draw some conclusions about the effectiveness of the programme itself.

Combining dynamic risk assessment with static risk factors appears to offer greater potential for assessing risk. Indeed Ward & Beech (2004) suggest that *dynamic* risk factors may indicate the causal/psychological vulnerabilities at the time of the assessment, while the *static* factors indicate the level of psychological vulnerabilities over an individual’s life history of offending. Therefore, we may be able to assess for both the level of risk of reconviction posed by an individual with particular historical factors and through dynamic risk assessment we may know the particular factors which make the offender vulnerable to offend. What Probation Officers or staff tasked with monitoring the risk of an individual in the community need however, is to recognise when a particular offender is moving closer to re-offence as signalled by deterioration in his behaviour or attitudes. This assessment is carried out by assessing for acute *risk factors*.

## 3. Acute Risk Factors

The research into acute risk factors is relatively recent and is still in some stage of development. The approach of Hanson and Harris (2000) in Canada has been to examine the case files, and conduct interviews

with supervising officers of sex offenders in the community. By comparing the factors present in the month prior to re-offence with those factors present on cases where there was no re-offence, Hanson & Harris have drawn up a list of indicators which can be monitored on each case. These are

- **Victim Access** – attempts to meet and engage with potential victims, behaviour which indicates that the offender is arranging his life so that they “naturally” contact members of their preferred victim group.
- **Emotional Collapse** – emotional disturbance which leads to inability to maintain normal routines, out of control thoughts and overwhelming emotions. Actions are taken which are aimed only at immediate relief of distress.
- **Collapse of Social Supports** – in particular the loss of contact with those who may act as a positive influence in avoiding risk behaviour, or an increase in social networks which are negative influences.
- **Hostility** – either irrational and reckless defiance or general hostility to the victim group which has increased from baseline level.
- **Substance Abuse** – increase from a baseline level may indicate loss of control or increasing disinhibition.
- **Sexual preoccupations** – using sex to handle distress, fixation on sexual matters, increase in sexual tension.
- **Rejection of supervision** – Whether the offender is working with or against the supervisor. Can be expressed through disengagement, absences, manipulation, deception, indirect hostility or open confrontation.

Hanson and Harris also suggest that some offenders have a unique characteristic that represent a risk factor for that offender such as

- a specific date (e.g. anniversary) that causes an emotional response possibly triggering substance abuse
- Homelessness
- Contact with a specific family member (mother?)
- Health problems of a cyclical nature
- Intrusive thoughts of own victimisation

Regular monitoring of these factors in supervision, or by home visit to the offender, can assist in detecting when an offender is beginning to lose control or direct more of his effort into new offence behaviour rather than offence avoidance.

Combining risk tools appears to be of assistance to sex offender management. Static risk has been the subject of most research and therefore is generally regarded as the best predictor of risk, and certainly better than clinical judgement alone. Research in dynamic risk factors is now being given greater prominence and is also considered better than clinical judgement. Monitoring of acute risk factors has the great advantage that the offender can still be assessed even if not engaged in a treatment programme. However, whilst these tools are useful in *assessing* risk the most effective method of *reducing* risk in the community for most offenders is through participation in high quality treatment programmes.

### III. TREATMENT OF SEX OFFENDERS

Sex offending can cause lasting trauma to its victims and their families. Sex offences are rarely a ‘one off’; perpetrators repeat their behaviour because it provides short-term gratification in the form of emotional and sexual release. The UK Prison and Probation Services have a responsibility to offer specialist help to sex offenders in order to reduce re-offending and thus protect the public and, specifically, potential future victims.

Current programmes are suitable only for male sex offenders. Work is in progress to develop programmes that will be suitable for female sex offenders. What follows here is applicable primarily to male offenders and, therefore, male terminology is used when referring to sex offenders.

In order for a sex offender to stop offending, he needs to be motivated to do so and he needs to possess the insight, skills and strategies to manage his risk and control his thoughts and behaviour. The programmes delivered by the Prison and Probation Services are based on established cognitive-behavioural principles of



the type known to be most effective in reducing risk of re-offending. The cognitive-behavioural approach to treatment teaches offenders to understand and control thinking, feelings and behaviour. Such programmes are based within the Risk/Need framework which focuses therapy on individual and social risk factors that are likely to reduce crime rates if suitably modified. (Ward, et al. 2006). The model suggests that if factors which are linked to risk of offence behaviour for an individual can be accurately assessed, these factors then become clinical targets for modification, control or elimination. Similar programmes for sex offenders in North America have been shown to reduce offending by up to one quarter.

The Prison Service Sex Offender Treatment Programme (SOTP) consists of five inter-related accredited group work programmes. In the Probation Service, four programmes have been accredited and each Probation Region has implemented one of the generic sexual offence programmes and the new programme for internet related sexual offending. All the programmes use methods such as group discussion, role-play and skills practice to help offenders understand and change their thinking, develop new skills and prepare for a new type of life.

The programmes are based on research into the most successful ways to help offenders stop offending. The content of the programmes has been and will continue to be revised periodically, as new information on effective treatment becomes available. The Correctional Services Accreditation Panel advises on development and ensures that the programmes are kept up to date with best practice elsewhere in the world.

The Prison and Probation treatment programmes are not mutually exclusive. Prisoners are not expected to choose between addressing their offending behaviour in custody or in the community. Ideally, a prisoner will attend a programme in prison and build on the treatment gains following release by attending a probation programme<sup>1</sup>. The Probation Service programmes have sufficient flexibility to allow access at different points, according to the amount of previous work undertaken whilst in custody, or to be the starting point for treatment intervention if the offender has not addressed his offending prior to release, or has received a community-based sentence. The Prison and Probation programmes use the same risk assessment methods.

#### **A. Different Structures – Same Treatment Model**

The Prison and Probation programmes all have a modular structure. The names and structures of the modules differ, which reflects their separate original design. However, all programmes

- share the same treatment model
- use cognitive-behavioural methods
- target the same dynamic risk factors
- have similar selection criteria
- are suitable for all forms of sex offending.

*Appendix A describes the programmes which are delivered in prison and Appendix B the programmes which are delivered in the community.*

#### **B. Treatment Style**

Research has indicated (Marshall et al. 2005) that the therapist's style has a strong influence on the effectiveness of sex offender treatment. The key features required of a good therapist are that they be warm, empathic, rewarding and directive. When challenging offence-supportive attitudes, the therapist must be able to be firm but supportive, rather than harshly confrontational. Therapists should also be supportive, respectful, genuine and confident, able to self-disclose and use humour appropriately.

#### **C. Treatment Outcome**

Three recent research papers have combined, using statistical procedures, the outcomes of individual evaluations. (Hall 1995; Alexander 1999; Hanson et al. 2002). In general they found that treatment had an effect on reconviction rates.

The most recent and comprehensive meta-analysis of sex offender treatment effectiveness, combined 69 studies published in five languages with a total sample size of over 22,000 (Losel et al. 2005) The majority of

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<sup>1</sup> Sentence length and the time on licence will affect whether this ideal is practicable.

studies confirmed a positive effect of treatment. Over all the studies, treated offenders showed 6 percentage points or 37% less sexual recidivism than controls. Castration and hormonal medication were the most effective treatments, although only cautious conclusions should be drawn from this because the group of offenders who received this treatment were highly selected and motivated. Among psychological programmes, only cognitive-behavioural or behavioural programmes impacted on recidivism. Additionally, only programmes designed specifically for sexual offenders were effective. Treatment drop-outs showed consistently higher rates of recidivism.

All four of the meta-analytic studies conducted in the last ten years have indicated that a cognitive-behavioural/relapse prevention type programme can reduce the levels of sexual re-offending by about ten percentage points, to less than 10%. Violent and general recidivism rates are also reduced by treatment. This seems to be a justifiable conclusion even when the programmes treat mixed offender types, and whether the programmes are sited in an institution or in the community.

#### **D. The Financial Benefit of Treatment**

It may appear that a reduction in recidivism of about ten percentage points is not very high. However, when this impact is examined in terms of financial cost-benefit, it is apparent that treatment saves far more than it costs. The costs of treatment are covered if only three or four people out of 100 are prevented from re-offending.

#### **E. Comparison of Effects of Sex Offender Treatment with Other Forms of Treatment**

It is useful to understand the impact of sex offender treatment by comparing it to other forms of treatment – e.g. treatment of other offenders, treatment for mental health and physical health problems. A recent paper (Marshall 2003) has examined this question by calculating and comparing “effect sizes” of various treatments. The effect size of modern sex offender treatment programmes, calculated from the ATSA study described above, was .28. This effect size is considerably larger than that achieved by many well-accepted medical procedures such as chemotherapy for breast cancer (effect size=.08), aspirin for myocardial infarction (effect size=.03), bypass surgery (effect size=.15), and AZT for AIDS (effect size=.23). The effect size for sexual offender treatment is about the same as the effect sizes for psychotherapy for general mental health problems and for treatment programmes for general non-sexual criminals. As a final point, it is interesting to note that deterrence programmes, such as imprisonment alone, or “scared straight” programmes, typically have an effect size of zero. It is concluded that “the treatment of sexual offenders produces results of sufficient magnitude to justify confident comparisons with treatment for various other disorders”.

#### **F. Effectiveness of the Prison Service SOTPs**

There have been some difficulties with the evaluation of SOTP because the number of convictions for sexual offences in the UK is falling – the rate has halved since 1981. This has meant that the “base rate” (untreated sexual offender recidivism rate) is too low for statistical comparison with the treated rate to show much statistical difference.

The impact on recidivism is only known for the SOTP Core Programme. Other subsequent programmes have not yet been subject to outcome evaluation. However, clinical evaluation has been conducted on the SOTP Extended and Adapted programmes, and findings are summarised below.

##### **1. The SOTP Core Programme**

The evaluation of the first four years of the SOTP (1992-1996) was published in 2003 (Friendship et al. 2003). This evaluation covers a time when just one treatment programme was offered for sexual offenders – the SOTP Core Programme (there are now four other SOTPs, forming together a flexible package for offenders of different risk and need levels). In the time period between 1992 and 1996, the SOTP Core Programme was shorter than it is now, and it focused more on overcoming denial and minimisation than on skill training (more recent research indicates that this was not an appropriate balance of treatment targets, and the balance in SOTP has consequently now been reversed). The impact of the early SOTP Core Programme on serious re-offending (i.e. sexual and/or violent) is shown in Table 1 below.

**Table 1: Two-year Sexual and/or Violent Reconviction Rates for Treatment (N= 647) and Comparison Group (N = 1,910) by Static Risk Classification**

Risk Category	Treatment Group – Percentage Re-offending	Comparison Group – Percentage Re-offending	Statistical Significance of Reduction?
	% (n)	% (n)	
<b>Low</b>	1.9 (5)	2.6 (25)	no
<b>Medium-Low</b>	2.7 (6)	12.7 (83)	yes
<b>Medium-High</b>	5.5 (6)	13.5 (31)	yes
<b>High</b>	26.0 (13)	28.1 (16)	no
<b>Overall</b>	4.6 (30)	8.1 (155)	yes

It can be seen that the impact differs according to the level of risk presented by the offender. The Core Programme is clearly effective with the medium risk group. With the low risk group, the base rate is too low for a statistically significant difference in recidivism to be achieved, but the difference in re-offending rates can be taken to represent a worthwhile impact. However, there is little or no impact of this programme on high risk sexual offenders – who by definition have more previous sexual convictions and thus a more strongly established pattern of sexually abusive behaviour.

This result was not a surprise, as it was already expected that the highest risk sexual offenders would require a higher dose of treatment than the 170 hours provided by the Core Programme. Accordingly, a second treatment programme for high risk sexual offenders was introduced in 1998 to supplement the Core Programme and provide an additional 140 treatment hours. This programme has not been running for a sufficient length of time for its additional benefits to be evaluated. This is because at least two years of follow up after release are required for the effectiveness of a programme evaluation to be reliable – as high risk offenders tend to have longer sentences, only a few who have completed both the Core and Extended programmes are presently at large.

## 2. Effectiveness of the Probation Service Programmes

The evaluation of the C-SOGP pathfinder programme, consisting of a sample of 155 adult male sex offenders (126 Child Sexual Abusers (CSAs), 13 adult rapists, 16 exhibitionists) found that in a three years period at risk, treated offenders were up to three times less likely to be reconvicted of a sexual offence than a group of matched controls (47 CSAs, 19 rapists, 8 exhibitionists).

Group	Sexual Reconvictions %	Violent Reconvictions %
<b>Treated CSAs (n=126)</b>	3.2% (n=4)	2.4% (n=3)
<b>Untreated CSAs (n=47)</b>	10.6% (n=5)	12.8% (n=6)
<b>Treated Rapists (n=15)</b>	7.7% (n=1)	7.7% (n=1)
<b>Untreated Rapists (n=19)</b>	26.3% (n=5)	26.3% (n=5)
<b>Treated Exhibitionists (n=15)</b>	18.75% (n=3)	12.5% (n=2)
<b>Untreated Exhibitionists (n=8)</b>	37.5% (n=3)	37.5% (n=3)

A study of the TV-SOGP followed 173 sexual offenders for a mean time of three years and eleven months. It found a reconviction rate of 9% following treatment. Whilst there was no control group in this study, a comparison can be made with the untreated reconviction rates quoted above.

### 3. Limitations of Reconviction Studies

Evaluation of sex offender treatment programmes are hindered by not being able to provide short term answers to questions of success. They take at least five years from set up to reporting findings. In addition there are problems of:

- Low base rates, and declining rates, of sexual reconvictions
- Small sample sizes
- Inadequate follow-up periods
- Inaccurate data sources
- Official reconviction rates underestimate sexual re-offending
- Ethical problems in conducting randomised control studies

Most of the treatment programmes however are able to demonstrate success in changing sex offender attitudes. Psychometric tests reveal evidence of in-treatment progress in all treatment targets which were assessed such as cognitive distortions about women and children; victim empathy; lower levels of denial and minimisation; self-reported lower levels of sexual dysfunction and sexual preoccupation; fewer justifications and rationalisations; higher levels of motivation to change; and improved relapse prevention skills.

## IV. CONCLUSIONS

It is established in the scientific literature that sexual offender treatment typically produces a small but robust impact on recidivism rates. It seems that the impact of cognitive-behavioural treatment is to reduce recidivism by about ten percentage points, and the re-offence rate of those who have received treatment is likely to be under 10%, whatever their age or offence type. Results to date from the Prison Service SOTP indicate that this pattern is followed for low and medium risk sexual offenders, but high risk offenders need additional intervention.

## APPENDIX A

### I. SUMMARY OF THE PRISON SERVICE PROGRAMMES

The SOTP currently runs in 27 establishments, throughout England and Wales. There are five different programmes, all of which are accredited. Sessions are run two to five times a week, depending on the programme and the establishment. A summary of each programme follows general points that apply to all programmes.

#### A. Suitability and Assessment

The SOTP is available to any male prisoner who has been convicted of a sex offence or an offence with a sexual element and who will have enough time in prison to complete a course.

All prisoners are assessed before joining a group. The assessment identifies the treatment needs that exist for each individual. It also provides a baseline from which change during treatment can be judged. The assessment process identifies those for whom SOTP is not suitable, perhaps for medical or personality reasons.

The assessment involves:

- interviews, usually with a psychologist;
- completion of questionnaires;
- and, in some prisons, a penile plethysmograph (PPG) assessment, that helps identify sexual preferences.

Some of the assessments are then repeated on completion of the treatment programme, to provide a measure of impact and to contribute towards further treatment planning.

#### Relationship between Static Risk, Treatment Need and Programme Suitability

Risk Category: RM2000	Low Treatment Needs (SRA)	Medium Treatment Needs (SRA)	High Treatment Needs (SRA)
Low Static	Rolling	Rolling	Rolling/Core
Medium Static	Rolling	Core <sup>1</sup>	Core + Extended
High Static	Core + Extended	Core + Extended + Rolling	Core + Extended + Rolling
Very High Static	Core + Extended	Core + Extended + Rolling	Core + Extended + Rolling

#### B. Core Programme

The Core Programme consists of 90 sessions lasting six to eight months at three to four sessions per week. It addresses a range of offending behaviours by:

- challenging thinking patterns used by offenders to excuse and justify their behaviour;
- enabling prisoners to understand how the offences appear from the victim's point of view and how a range of people are affected by sex offending; and
- developing prisoners' ability to recognise risk factors (things that might trigger future offending) and to generate strategies for living successful lives without offending in the future.

#### C. Adapted Programme

The ASOTP consists of 85 sessions lasting six to eight months at three to four sessions per week. It is designed for those who may have difficulty keeping up with the language and literacy skills required in the

<sup>1</sup> There is also an 'Adapted' Core programme for sexual offenders with learning or communication difficulties.

Core Programme. It has slightly different goals, which include:

- increasing sexual knowledge;
- modifying thinking patterns used by offenders to excuse and justify their behaviour;
- developing the ability to recognise risk factors (things that might trigger future offending) and to generate strategies for living successful lives without offending in the future.

#### **D. Extended Programme**

The Extended Programme consists of 74 sessions plus some individual work and lasts six months at three sessions per week. The EP is designed for those who have 'successfully' completed the Core or Rolling Programme (or equivalent offending behaviour work), but who could benefit from completing further work. This includes

- working with certain thinking styles that are related to offending and manifest themselves in other areas of life;
- effectively managing offence-related emotional states;
- developing skills to help manage intimate relationships successfully;
- understanding the role of offence related sexual fantasy and developing skills for managing this.

The Programme also aims to continue the development of skills needed to recognise things that might trigger future offending.

Individual work with a psychologist, to address offence related sexual fantasy and arousal, is part of the EP.

#### **E. Rolling Programme**

Extent of participation on the Rolling Programme is dependent on individual treatment needs. Average length of participation is three to four months at three sessions per week. The RP addresses the same range of behaviours as the Core Programme, but runs in a 'rolling' format so group members may join and leave when appropriate.

The Rolling Programme has two target groups, who may be mixed within a group. These are:

- low risk and low deviance offenders, who will normally be identified by the SOTP Structured Risk Assessment; and
- higher risk offenders who have already completed the Core (and possibly the Extended) programme but who need some additional work to achieve a satisfactory impact.

At initial assessment, the SOTP Treatment Manager will decide whether the Core Programme or the Rolling Programme is more suitable.

#### **F. Booster Programme**

The Booster Programme consists of 35 sessions and lasts two to three months at three sessions per week. It is designed for those who have 'successfully' completed the Core, Rolling and/or Extended Programme (or equivalent offending behaviour work) and are within 18 months of being released. The Booster programme revises the concepts of the Core or Rolling Programme and then allows participants to plan and prepare for release in more detail.

The Booster Programme is currently being revised with a view to providing more support in maintaining change for prisoners on long sentences.

## **II. EVALUATION OF THE PRISON SERVICE SEX OFFENDER TREATMENT PROGRAMME**

Evaluation of programme impact is an accreditation requirement and contributes towards programme improvement.

The following table presents data comparing outcomes in terms of reconvictions for prisoners who completed the Core Programme with imprisoned sex offenders of similar risk who did not undertake any treatment.

**Two Year Sexual and/or Violent Reconviction Rates for Treated and Comparison Groups by Level of Risk. (n=647 and Comparison Group n – 1910)**

<b>Risk of Re-Offence</b>	<b>1. Treatment Group %</b>	<b>2. Comparison Group %</b>	<b>% Point Reduction</b>	<b>Proportionate reduction %</b>
Low	1.9	2.6	0.7	26
Medium – low	2.7	12.7	10.0	78
Medium – high	5.5	13.5	8.0	59
High	26.0	28.1	2.1	7

## APPENDIX B

### I. SEX OFFENDER TREATMENT IN THE COMMUNITY

The National Probation Service has four accredited sex offender programmes. Each of the Probation regions will be running one of these programmes, together with a new programme for internet related sexual offenders.

The difference in the name and structure of the programmes reflects their original design in the West Midlands (C-SOGP), Thames Valley (TV-SOGP) and Northumbria (N-SOGP). Each has been designed to meet the needs of sex offenders living in the community who are subject to supervision either as a non-custodial sentence or on licence following release from a prison sentence. All three programmes have proved to be effective in work with adult male sex offenders. The work which is undertaken is similar. The selection requirements and length of attendance are similar. The programmes have a number of different entry points for offenders according to:

- Level of risk and deviance
- Whether they have completed sex offender treatment programmes in prison

The Treatment Manager responsible for the programme in the Probation Area to which a prisoner may be released decides the most appropriate method of addressing the risk presented by the sex offender after release from custody. This includes the point of entry into the community-based treatment programme. Treatment Managers will take into account the assessment of risk and deviance, the level of denial, and the standard criteria for inclusion on the programme (i.e. Male, Adult, I.Q. 80+)<sup>2</sup>.

#### A. C-SOGP

This programme has three main components.

##### 1. Induction Module

This is a 50-hour module designed as the main point of entry into the programme. Offenders will start this module if they have been sentenced from Court to attend as part of a 3-year Community Rehabilitation Order. Offenders released from prison who have not previously taken part in a treatment programme will also start the C-SOGP in the Induction Module<sup>3</sup>. The Induction Module is a closed group (i.e. all group members start the programme together and no new members join the group once it has started). The first week of the Module is a five-day block. Following this first week the Module continues in two-and-a-half-hour sessions. These sessions are usually delivered on a weekly basis for ten weeks. Some Probation Areas may run this Module on a twice-weekly basis or run two sessions on one day.

The Module aims to help offenders take greater personal responsibility for their offence and to reduce the minimisation often found in offender accounts. During the course of the Module, offenders will be encouraged to identify patterns in their offending behaviour.

##### 2. Long Term Therapy Programme

Following completion of the Induction Module, offenders who are assessed as Medium and High Risk or High Deviance, will be entered into the Long Term programme. Offenders who have completed treatment in prison but who are still assessed as High Risk and/or Deviance will usually enter the C-SOGP in the Long Term programme. This contains six modules and the offender may enter at the start of any Module (other than Victim Empathy). The Long Term programme is usually run on a weekly basis of one session per week. The total number of 190 hours worked in this part of the C-SOGP will take seventy-six weeks to complete if the programme is run on a weekly basis. These modules are designed to continue the process of

- challenging distorted thinking
- identifying maladaptive relationship styles and core beliefs
- learning new skills to improve self-management

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<sup>2</sup> Whilst the NPS does not currently have an accredited programme for sex offenders with learning disabilities referral of such offenders should still be made. Many Areas have arrangements to deal with this offender group.

<sup>3</sup> Research suggests that it is inadvisable for sex offenders to commence treatment unless they are able to complete the programme. Therefore sentencers are recommended to use Sec 58, PCCS Act 2000 to apply extended sentence provision of three year post release supervision periods for sex offender cases. The Treatment Manager will make a judgement of suitability for the programme in cases of shorter licence periods.



- understanding the role that deviant fantasy plays in offending and techniques to control such fantasies
- developing victim empathy, relapse prevention skills and new lifestyle goals.

### 3. 50-Hour Relapse Prevention Programme

Offenders who have been assessed as Low Risk and Deviance following completion of the Induction Module will complete the 50-hour RP Programme. Offenders who have made treatment gains during successful completion of the sex offending treatment programme in prison, and who are assessed as Low/Medium risk and Low Deviance may enter the C-SOGP in the 50-Hour RP programme. This is run as a rolling programme; therefore, offenders can enter at any session and continue their attendance for twenty weeks.

This programme is designed for offenders whose behaviour may be less entrenched or who can build on treatment gains made elsewhere. The programme includes work on

- challenging distortions
- victim empathy
- relapse prevention and
- lifestyle change.

## **B. TV-SOGP**

This programme has five main components. Low deviance offenders will complete the Foundation Block, Victim Empathy and Relapse Prevention Blocks. High Deviance offenders will be required to complete the full 160-hour Programme. Successful SOTP completers can enter at the start of any of the Blocks

### 1. Foundation Block

This is a 60-hour block designed as the main point of entry into the programme. Offenders will start with this module if they have been sentenced from court to attend as part of a three-year Community Rehabilitation Order. Offenders released from prison who have not previously taken part in a treatment programme will also start the C-SOGP in the Foundation Block.

The Foundation Block is designed as a two-week full-time block. Some Probation Areas may run this as a block of seven days with the remaining three days run as weekly sessions; however, it will normally be run as ten days over a two week period. It will always be run as a closed group.

This block tackles the offence-specific areas such as

- offence details
- attitudes towards the offence
- identifying offence patterns and
- the role of deviant sexual thoughts.

### 2. Victim Empathy Block

The 16-hour Victim Empathy Block consists of eight two-hour sessions run on a twice-weekly basis. It is taken after the Foundation Block. The sessions could be run weekly, at the Probation Area's discretion, but twice-weekly sessions are recommended so that they retain their impact. It is run as a closed group.

Offenders work on perspective taking skills and relate these to victim perspectives of sexual abuse.

### 3. Life Skills Block

This 40-hour block is structured in twenty sessions that can be delivered either weekly or twice weekly, as a closed group.

The block covers work on

- problem recognition & solving skills
- coping skills
- relationship skills and
- other non-offence-specific factors which may have contributed to an individual's offending.

#### 4. Relapse Prevention Block

This 44-hour block is run as a weekly group of two-hour sessions. The ideal joining point is at the beginning of the block; however, to obtain maximum flexibility, arrangements can be made to join at other sessions during this block.

The block focus is on learning and practising strategies for leading a more satisfying life without sex offending. Sessions deal with the reduction of personal risk factors.

#### 5. Partners Programme

This is 36 hours in length and is intended for female partners who are intending to continue their relationship with the offender. It is particularly appropriate for partners of low risk/deviance intra-familial sex offenders, where the contextual risk may be high. Partners of men who have sexually abused adults or who have committed non-contact offences may also attend.

### **C. N-SOGP**

This programme has two components. Offenders assessed as High Risk/Deviancy will attend the Core Programme (144 hours minimum) followed by Relapse Prevention (36 hours), giving a total programme length of 180 hours. Low risk/deviance offenders will normally complete individual preparation work followed by the Relapse Prevention Programme. Offenders released from prison will follow similar routes, according to the assessment of their risk and deviance.

#### 1. Core Programme

This is a rolling programme consisting of four blocks of eight weeks each (total 32 weeks). Sessions of 4.5 hours are delivered on a weekly basis. This programme was originally designed to run in daytime sessions; however, some Probation Areas may choose to run two evening sessions of shorter duration to cover the same amount of material. The blocks are separated by a gap, usually two weeks, to allow for feedback to Case Managers and identification of individual work required. An offender may join at the start of any of the blocks. This group structure provides flexibility in terms of quick access into the programme and the possibility of offenders repeating a block if they are assessed as having made insufficient progress. Group sessions combine both "Personal" work, in which an individual presents his individual work to the group for challenge, and "Thematic" work which involves the whole group in structured exercises. Personal work includes "My Offence", "Cycle of Offending", "What's Changed" and "Risk Factors", which are the focus for each of the four blocks that make up the Core Programme. Thematic exercises include work on

- links between sexual fantasy and deviance
- cognitive distortions
- victim empathy
- risk awareness and management
- problem solving and social skills.

#### 2. Relapse Prevention

This is a closed group running over a twelve-week period of three hours per weekly session. All offenders who completed the Core Programme will be expected to complete the relapse prevention group. Other offenders may join

- on release from prison if they demonstrate sufficient learning from the SOTP or
- are low risk/deviancy offenders who have completed individual work with their Case Manager.

The emphasis of the group is on identifying new, pro-social ways of behaving and reinforcing the positive feelings that are associated with an offence-free lifestyle. The group itself primarily addresses the internal self management component of desistance from offending. Each member will therefore leave the group with his own relapse prevention (or "new life") plan.

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# THE ARRANGEMENTS FOR SENTENCING IN ENGLAND AND WALES

*By David Middleton\**

The UK Parliament has recently undertaken a major review of the sentencing framework which is detailed in the Criminal Justice Act 2003. It includes wide-ranging changes to the Orders under which the National Probation Service supervises offenders.

The Act specifies the matters to be taken into account in sentencing. These include the purposes of adult sentencing, principles for determining the seriousness of an offence, reduction in sentences for early guilty pleas and aggravating factors where the offence was motivated by the offender's race, religion, disability or sexual orientation. The purposes of sentencing are set out in statute for the first time. They are: punishment, crime reduction, reform and rehabilitation, public protection and reparation.

Prior to making a custodial sentence or community sentence with conditions, the Court should obtain a Pre-sentence Report. For adult offenders pre-sentence reports are written by the probation service on the basis of their analysis of the offender's behaviour, criminal history and needs. They suggest to the court the kind of punishment and rehabilitation that would be appropriate in each particular case and make recommendations as to the particular sentence that should be passed. In the case of mentally disordered offenders the court has to obtain a medical report before imposing a custodial sanction.

A new body, the Sentencing Guidelines Council, will produce sentencing guidelines for all criminal courts and guidelines on the allocation of cases between courts. Sentencing guidelines enable courts to approach sentence in any case from a common starting point. They are also intended to enable practitioners and the public generally to know what that starting point will be. The Act creates a new Council to promulgate those guidelines and provides for the existing Sentencing Advisory Panel to tender its advice to that Council. The Council will create guidelines across a wide range of issues that are relevant to sentencing and Courts will be obliged to take the guidelines into account when deciding a sentence. The Council will be chaired by the Lord Chief Justice and will consist of seven further judicial members and four non-judicial members. In addition, the Home Secretary will appoint an observer who will bring to the Council experience of sentencing policy and the administration of sentences. Courts have a duty to provide reasons and explain the sentence passed. The court is required to give reasons if it departs from a recommended guideline.

The law in relation to community orders has been revised. There are currently a number of different community orders: community rehabilitation orders, community punishment orders, community punishment and rehabilitation orders, curfew orders, drug treatment and testing orders, drug abstinence orders (being piloted), and exclusion orders (not yet commenced). This Act creates a *single generic community sentence*, which combines requirements currently available under different community sentences.

59. The range of requirements available with a generic community sentence will be:

- Compulsory (unpaid) work;
- Participation in any specified activities;
- Programmes aimed at changing offending behaviour;
- Prohibition from certain activities;
- Curfew;
- Exclusion from certain areas;
- Residence requirement;
- Mental health treatment (with consent of the offender);
- Drug treatment and testing (with consent of the offender);
- Alcohol treatment (with consent of the offender);
- Supervision;
- Attendance centre requirements (for those under 25).

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For sex offenders a number of these conditions will be combined within one Order. For example they will be required to undertake treatment, be excluded from areas in which their previous victims are living, be required to reside where directed (usually a household in which there are no children), supervision and possibly curfew.

New sentences of less than 12 months have been developed which are designed to provide a more effective framework within which to address the needs of offenders. These sentences will replace all short prison sentences of under 12 months (with the exception of intermittent custody). It will be made up of a short period in custody of up to three months (to fulfil the punishment purpose of the sentence) followed by a longer period under supervision in the community (to fulfil the reparation and crime reduction purposes of the sentence) of a minimum of six months. At the point of sentence the court will specify the lengths of the two parts *and attach specific requirements, based upon those available under the generic community sentence*, to the supervision part of the sentence so as to address the rehabilitative needs of the offender.

If the court deems it appropriate, and the offender consents, the custodial part of the sentence can be served intermittently. Where an intermittent custody order is made the custodial periods will be served in short blocks of a few days at a time, while the licence period runs between the blocks (and may continue after the last custodial period). Intermittent custody will enable offenders to maintain jobs, family ties or education, all of which have been shown to play a part in reducing re-offending. This will be a new type of sentence in England and Wales, although there are similar systems in Europe. It will be piloted in two sites before a decision is made on whether to implement it more widely. If an offender fails to comply with the terms of the community part of the sentence he will be returned to custody. As with all recalls, the Parole Board will decide when he/she is to be re-released.

The Act provides for the Court to suspend a short custodial sentence for between six months and two years on condition that the offender *undertakes activities in the community. These activities are chosen by the court from the list available under the generic community sentence*. If the offender breaches the terms of the suspension the suspended sentence will be activated. The commission of a further offence during the period of suspension will also count as a breach, and the offender's existing suspended sentence will normally be activated when the court sentences him for the new offence.

The Act introduces a new scheme of sentences for offenders who have been assessed as dangerous and have committed a specified sexual or violent offence. Under the new scheme, dangerous offenders who have been convicted of a trigger sexual or violent offence for which the maximum penalty is between two and ten years will be given an extended sentence. This sentence will be a determinate sentence served in custody to the half way point. Release during the whole of the second half of the sentence will be on recommendation of the Parole Board. In addition extended supervision periods of up to five years for violent offenders and eight years for sexual offenders must be added to the sentence.

If an offender has been assessed as dangerous and has been convicted of a sexual or violent trigger offence whose maximum sentence length is ten years or more, he will receive either a sentence of imprisonment for public protection or a discretionary life sentence. In cases where the offender has been assessed as dangerous and has been convicted of a trigger offence carrying a maximum sentence of life imprisonment the court must consider the seriousness of the offence when deciding upon which of the two possible sentences to impose. For both sentences the court will specify a minimum term which the offender is required to serve in custody. After this point the offender will remain in prison until the Parole Board is satisfied that their risk has sufficiently diminished for them to be released and supervised in the community.

Following release, those serving a sentence of imprisonment for public protection would be able to apply to the Parole Board to have their licence rescinded after ten years had elapsed. Offenders serving a discretionary life sentence would be on licence for the rest of their lives. The Act makes similar provisions for juveniles enabling the sentence of detention for public protection (and the extended sentence) to be passed for offenders aged under 18 who have committed a specified sexual or violent offence and have been assessed by the courts as dangerous.

Under the present system only half of a prison sentence of between 12 months and four years has to be served in prison. Following release the offender will be subject to licence conditions until the three-quarter point of his sentence. If the sentence is of four years or more then the offender may be released between the half and two thirds point of the sentence subject to a recommendation by the Parole Board. At the two-thirds point release is automatic and the prisoner is subject to licence conditions until the three-quarter point and remains on licence until the end of his sentence.

Under the new framework, offenders serving sentences of 12 months or more will be released automatically on licence at the half-way point of their sentence (subject to early release on home detention curfew (HDC) which will remain available). Upon release, the second half of their sentence will be subject to standard licence conditions and *any combination of the additional prescribed conditions that the Secretary of State may determine* by order. New custodial sentences of 12 months or more will therefore be served in full and licence conditions may be imposed right up to the end of the sentence. If an offender fails to comply with a licence condition or commits an offence on licence he is liable to be recalled to prison.

New arrangements allow courts to defer passing sentence if the offender undertakes to comply with any requirements as to his conduct that the court considers it appropriate to impose. He may have to complete undertakings in the community as set by the court. These can be activities such as reparation to the community. The probation service or other responsible body will monitor the offender's compliance with the requirements and will prepare a report for the court at the point of sentence. Failure to comply with a requirement will result in the offender being brought back to court early for sentence. As now, if the offender commits another offence during the deferment period the court will deal with both sentences at once.

Finally the Act provides for a new early removal scheme from prison for foreign national prisoners liable to removal from the UK. Eligible prisoners may be removed up to 135 days early provided the custodial part of the sentence is at least six weeks and a specified proportion of the sentence has been served. The provisions will apply to all determinate sentence prisoners. The provisions introduce an order-making power to allow the Secretary of State, inter alia, to reduce or increase the reference to 135 days as well as to alter the provisions specifying the minimum custodial part of the sentence and the proportion of the sentence that must have been served. If a foreign national prisoner who has been removed from prison and from the UK in these circumstances re-enters the UK then he is liable to be detained in pursuance of his sentence for the period he would have served if he had not been removed early from prison or his sentence expiry date, whichever is earlier.

# **THE REQUIREMENTS FOR NOTIFICATION BY SEXUAL OFFENDERS IN ENGLAND AND WALES (KNOWN AS THE “SEX OFFENDERS REGISTER”)**

*By David Middleton\**

## **I. INTRODUCTION**

Legislation relating to sex offenders being required to register their details with the police has developed rapidly over the last seven years. The notification requirements on sex offenders (or “sex offender registration” as the requirements are sometimes known) were introduced in the Sex Offenders Act 1997. The 1997 Act established that offenders convicted of certain sexual offences would have to notify certain personal details to the police and any subsequent changes to these details. The Sex Offenders Act was implemented on 1 September 1997.

In 2000 several changes were made to the Sex Offenders Act 1997 through the Criminal Justice and Court Services Act (CJCSA) to strengthen the requirements on convicted sex offenders. The maximum penalty for a breach of the notification requirements was increased to five years imprisonment and sex offenders had to make their initial notification within three days (rather than 14 days) of their conviction, caution, finding, etc. for a relevant sexual offence. In addition, the CJCSA 2000 introduced a requirement for registered sex offenders to notify the police if they intended to travel overseas for eight days or more. Parliament has recently completed a major review of sex offence legislation and the Sexual Offences Act 2003 has provided new definitions for sexual offences, penalties and arrangements to protect the public. The opportunity was taken therefore to further strengthen the registration requirements, learning from our experience of implementing the earlier legislation.

## **II. KEY CHANGES BEING INTRODUCED THROUGH THE SEXUAL OFFENCES ACT 2003**

The Sexual Offences Act 2003 is re-introducing most of the provisions on registration with some improvements. Below are listed the key changes that have been made to the notification requirements:

- A conditional discharge will now be considered a conviction for the purposes of the notification requirements.
- The notification period for a caution will be reduced from five years to two years.
- Offenders will have to notify a change to their notified details (such as name or address) within three days of the change taking place (the current period is 14 days).
- Offenders will have to notify any address in the UK at which they reside for seven days or more, whether that is seven days consecutive or seven days within any 12 month period (the current period is 14 days).
- All offenders will have to re-confirm their notified details annually (“periodic notification”).
- All notifications will have to be made in person and the police may take fingerprints and photographs at initial notification, whenever an offender notifies any changes to his details and at periodic notification.
- Offenders will have to notify their National Insurance numbers at initial notification. Those currently subject to the notification requirements will have to provide such information when they first notify a change to their details after commencement of the 2003 Act or at their first periodic notification (whichever occurs first).
- It will be possible to notify a change of details in advance of the change taking place.
- Schedule 3, which lists the offences which trigger the notification requirements of Part 2 of the Sexual Offences Act 2003, includes most of the new sexual offences contained in Part 1 of the 2003 Act (some have disposal or other thresholds that must be met before notification is triggered).
- Where a disposal threshold has to be met before the notification requirements are triggered for a specific offence, then the offender will not have to comply with the notification requirements until he receives a sentence which meets that threshold.
- The Secretary of State will have a power to amend the thresholds and offences in Schedule 3.

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## **A. The Sexual Offences Act 2003 is also Introducing New Civil Preventative Orders**

### 1. Notification Orders

- This is a new order which can be made, on application by a chief officer of police, in respect of individuals who have been convicted abroad of sexual offences equivalent to the sexual offences listed in Schedule 3 of the 2003 Act.
- The effect of the order is to make such offenders subject to the notification requirements of the 2003 Act as if they had been convicted in the UK of a relevant offence.

### 2. Foreign Travel Orders

- This is a new order which will enable the courts in certain circumstances, and on application of a chief officer of police, to prohibit those convicted of sexual offences against children aged under 16 from travelling overseas where there is evidence that they intend to cause serious sexual harm to children in a foreign country.

What follows is a more detailed explanation of the new legislation as it relates to sex offender registration. Much of the material is edited extracts from guidance to the Act provided by colleagues in the Home Office Criminal Law Policy Unit.

## **B. Notification Requirements**

### 1. Basic Principles of the Notification Requirements

The notification requirements of Part 2 of the Sexual Offences Act 2003 are an automatic requirement for offenders who receive a conviction, caution or finding for certain sexual offences. The notification requirements are not a punishment for a sexual offence and are not part of the system of penalties.

The notification requirements are not dependent on an order of the court. An offender who becomes subject to the requirements does so because he has been convicted, cautioned, etc. for a "relevant offence". There is no discretion, exercised by either the courts or the police, in imposing the notification requirements on relevant offenders and, similarly, the requirements can not be imposed at the discretion of the courts or police on a person who is not a relevant offender as specified in the Act.

In addition, discretion is not exercised by the courts or the police over the duration of the notification period. This is set out in the legislation and is based upon whether the offender has a caution, conviction or finding made in respect of a relevant offence and the type and duration of the sentence/disposal received. The court should not reduce a sentence in order that an offender is subject to the notification requirements for a lesser period.

### 2. Persons Becoming Subject to the Notification Requirements

Section 80 sets out the categories of person who will become subject to the notification requirements of the Sexual Offences Act 2003:

- people convicted (see Appendix) of an offence listed in Schedule 3 of the Act;
- people found not guilty by reason of insanity of such an offence.

The notification requirements extend to the whole of the UK. The offences at Schedule 3 are exclusively sexual offences. These are set out in separate lists relating to the relevant offences under the law in England and Wales, Scotland, Northern Ireland and under service law. Age and sentence thresholds have been applied to some of the offences to ensure that only the more serious level of offending will trigger the requirements. For example, in the case of the offence of sex with an adult relative, an offender will only be required to 'register' if they are sentenced to a term of imprisonment or detained in hospital. Where a person is convicted, etc. of an offence, any applicable thresholds have to be met for the notification requirements to be triggered

### 3. The Notification Period

Section 82 provides that the period of time an offender is required to comply with the notification requirements depends on how he was dealt with in respect of the relevant offence and, in some cases, the type of disposal received, as set out below:



<b>Where the offender:</b>	<b>He will be subject to the notification requirements for:</b>
Is sentenced to 30 months or more imprisonment (inc. life)	An indefinite period
Is admitted to a hospital subject to a restriction order	An indefinite period
Is sentenced to 6 months or more (but less than 30 months) imprisonment	10 years
Is sentenced to less than 6 months imprisonment	7 years
Is admitted to hospital, without a restriction order	7 years
Is cautioned	2 years
Is given a conditional discharge	The duration of the conditional discharge
Received any other disposal (such as a community punishment or fine)	5 years

These notification periods apply to offenders over the age of 18. Section 82 (2) provides that for those under 18 when convicted, cautioned etc., the notification periods of 10, 7, 5 and 2 years are halved.

#### 4. Initial Notification

Section 83 sets out the details which the offender must notify to the police upon initial notification. These are his:

- date of birth
- National Insurance number
- name, any other names used
- his home address (this means the offenders sole or main residence in the UK, or where the offender has no such residence, the location of a place in the UK where he can regularly be found and if there is more than one such place, such one of those places as the person may select.)
- the address on any other premises in the UK which, at the time of notification, he regularly resides or stays.

The offender is required to notify the above details within three days of the relevant date. This means that such offender must make his initial notification within three days of his:

- release from custody
- release from imprisonment or service detention
- release from hospital or
- return to the United Kingdom.

#### 5. Changes to Notified Details

An offender must notify the police of new details within three days of:

- his using a name that he has not already notified to the police;
- a change to his home address;
- having stayed at an address in the UK that he has not notified for a “qualifying period” as one or more periods amounting to seven days during any twelve month period);
- his release from detention in a prison, hospital, etc.

When offenders make such a notification, they must also re-confirm the other details they are required to provide at initial notification.

#### 6. Periodic Notification

Offenders must re-notify the details required of them on initial notification within 12 months of the last time he/she was required to notify. This is a new provision which will significantly curtail the opportunities for ‘registered’ sex offenders to evade the notification requirements.

The requirement on the offender is suspended while offenders are overseas (including when they are on holiday or business overseas), in prison or detained in a hospital until his release or return, as the case may be, following which he must comply within three days. For example, an offender notifies the police of his/her new home address on 1 June 2005 and re-confirms all of his/her notified details. It is anticipated that he/she would have to make his periodic notification on 1 June 2006. However, the offender is abroad on that date and does not return to the UK until 1 July 2006. In this case, he/she must make his periodic notification within 3 days of 1 July.

#### 7. Method of Notification: Registration at Prescribed Police Stations and Related Matters

Offenders will be required to notify at one of the police stations in their local area. When an offender makes a) his initial notification b) notifies any changes in his notified details (including an advance notification) or c) makes his periodic notification the police may require the offender to allow them to take his fingerprints and photograph any part of him (i.e. photographs may be taken of an offenders face as well as distinguishing features, such as a tattoo). This definition also means that iris scanning technology may be used. However, the purpose of taking fingerprints and photographs must be to verify the identity of the sex offender.

#### 8. Breach of the Notification Requirements

Section 91 provides that a person who is subject to the notification requirements commits a criminal offence if he fails, without reasonable excuse, to:

- make an initial notification in accordance with s. 83(1);
- notify a change of details in accordance with s. 84(1);
- make an annual re-notification in accordance with s. 85(1);
- comply with any requirement imposed by regulations concerned with the notification of foreign travel (s. 86(1));
- notify the fact that a change did not happen as predicted when it had been notified in advance in accordance with s. 84(4)(b);
- allow a police officer to take his photograph or fingerprints (s. 87(4));
- ensure that a young offender on whose behalf he is required by a parental direction to comply with the notification requirements attends a police station when a notification is made (s. 89(2)(b)); or
- in the first four cases set out above, if he knowingly provides false information.

A 'reasonable excuse' for failing to comply with the notification requirements could be, for example, where the offender is in hospital.

An offender convicted of such an offence on summary conviction (in a Magistrates' Court) will be liable to a term of imprisonment of up to six months or to a fine or both; an offender convicted on indictment (in a Crown Court) will be liable to a term of imprisonment of up to five years. Breach of the requirements is an arrestable offence.

#### **C. Notification Requirements: Travel Outside the UK (S. 86)**

The purpose of requiring offenders subject to Part 2 of the Sexual Offences Act 2003 to notify the police of their intention to travel abroad is twofold. First,

- it enables local police to know the whereabouts of serious sex offenders and, in doing so, avoids sex offenders claiming that they have not complied with the notification requirements of the Act because they were overseas. Second,
- it enables the police, where appropriate, to inform other jurisdictions that a sex offender is intending to visit their country.

The requirements do not prohibit an offender from traveling overseas - this is covered by foreign travel orders. It is important to note that the Sexual Offences Act 2003 makes no changes to existing police powers relevant to the exchange of information but that the information provided by the foreign travel notification requirements assist the police in making sensible judgments about whether to pass information about the risk an offender poses to other jurisdictions in order to prevent an offence from being committed overseas.

These regulations apply to any relevant sex offender in England, Wales or Northern Ireland, who intends to leave the UK for three days or longer. Separate regulations cover offenders in Scotland. The required information must be provided in person, at a prescribed police station, no less than seven days prior to departure. The details required of the offender in every case (if he holds such information) are:

- the date of departure from the UK;
- the destination country (or, if there is more than one, the first);
- and the point of arrival in that country.
- his point(s) of arrival in any countries he will be visiting in addition to the initial destination;
- the carrier(s) he intends to use to leave and return to the UK or any other point(s) of arrival while he is outside the United Kingdom (but not internal flights);
- details of his accommodation arrangements for his first night outside the United Kingdom;
- his date of re-entry to the United Kingdom; and
- his point of arrival on his return to the United Kingdom.

Where the offender has made a notification but the information notified has become an inaccurate or incomplete statement of the information required any time up to 24 hours before his departure from the United Kingdom, he must report in person and make a fresh notice to the Police of his intentions no later than 24 hours before his departure.

Where an offender does not hold the required information seven days prior to his intended departure date from the United Kingdom (because, for example, he needs to travel at short notice), he must notify the police either within 24 hours of the information becoming available or 24 hours prior to his departure, whichever is the earlier.

An offender who has given notice of his intention to leave the United Kingdom as described above must, within three days of his return to the United Kingdom, report in person to a prescribed police station and notify the police of the date of his return and his point of arrival in the UK. However, an offender will not have to notify the police of his return if, on notifying his intention to depart the United Kingdom, he provided details of his expected date and point of re-entry to the United Kingdom and then returned as stated.

It should be noted that a relevant offender cannot be prevented from travelling simply because he does not hold the range of information specified. The legislation is not intended for this purpose. An offender is, however, in breach of the requirements of the legislation where he holds the relevant information and fails without reasonable cause to disclose it. In situations where notified information changes for reasons beyond his control, for example, his accommodation arrangements are altered by the travel company on his arrival, this would not constitute a failure to meet the requirements of the Act

Failure to notify foreign travel (or make a false notification) is an offence, punishable by up to five years imprisonment.

#### **D. Juvenile Offenders and Notification**

Juvenile offenders will continue to be subject to the notification requirements but only when they have committed the most serious sexual offences. Therefore, for juvenile offenders, sentence thresholds have been introduced in Schedule 3 to most of the “lesser” new offences of Part 1 of the 2003 Act. The effect of these thresholds is that a juvenile offender (i.e. an offender aged under 18) only becomes subject to the notification requirements if they receive a custodial sentence of 12 months or more in respect of certain offences. This excludes completely offenders under 12 and will mean that final warnings, reprimands, community sentences and periods of detention of less than 12 months given for these offences to juvenile offenders will not lead to registration.

For the most serious offences in Schedule 3 there is no sentence threshold to registration for juvenile offenders and adult offenders alike and the notification requirements will apply to juvenile offenders who receive a final warning or reprimand and for those convicted in court, regardless of the disposal that is given. These offences are:

- rape (s. 1)
- assault by penetration (s. 2)
- causing sexual activity without consent (s. 4)
- rape of a child under 13 (s. 5)
- sexual assault of a child under 13 by penetration (s. 6)
- offences against persons with a mental disorder (s. 31 to 38)

- administering a substance with intent (s. 61).

### **E. Parental Directions**

Section 89 provides that a court may direct a person with parental responsibility for a juvenile offender to comply with the notification requirements on behalf of the juvenile offender. The effect of a direction under this section will be that the notification requirements that would otherwise have fallen on the juvenile offender will instead fall upon the parent or, in some cases, the local authority. The parent must ensure that the juvenile offender attends the police station with him when making a notification.

Parental directions do not require the consent of the parent but the courts may wish to seek the views of the parent prior to making such an order. Parents who fail in their responsibilities, despite the best efforts to ensure that the juvenile offender complies will not commit an offence. Section 91(a) provides that a person subject to the notification requirements only commits an offence if he breaches the requirements "without reasonable excuse". A reasonable excuse may include (although it is for the court to decide) a situation where the parent has made every effort to ensure the juvenile offender attends at the police station but is unable to do so.

Deliberate breaches by a parent of a parental direction should be prosecuted, with the maximum penalty at five years imprisonment. Breach of the notification requirements can considerably compromise the local police and probation services' efforts to manage the sex offenders within the community. Because a breach was not actually committed by the convicted sex offender does not mean that the offence is less serious. The fact of the matter is that the police have been denied the information they need to prevent and detect sexual crimes and protect the community they serve.

### **F. Notification Orders**

#### 1. Summary

Notification orders and interim notification orders are intended to protect the public in the UK from the risks posed by sex offenders who have been convicted, cautioned, etc. for sexual offences committed overseas. Such offenders may be

- British citizens convicted, cautioned, etc. abroad or
- foreign nationals who reside in the UK with a previous conviction, caution, etc. (and who have a right to remain in the UK).

Essentially, a notification order requires the offender to "register" their details to the police (covered by Part 2 of the Sexual Offences Act 2003) as if they had been convicted in the UK. An application for a notification order is made to the magistrates' court acting in its civil capacity.

#### 2. Effect of the Notification Order

Offenders subject to a notification order become subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 as if they had been convicted, cautioned, etc. in the UK. Offenders are required to make an initial notification within three days of the notification order being served and then (subject to any of the other eventualities in section 84) annually thereafter. They are expected to comply with all other notification requirements of Part 2 of the Act as if they had been convicted in the UK (such as foreign travel notification, notification of any changes to their details, etc.). If an offender breaches these requirements after a notification order has been made he should be treated as any other offender subject to the notification requirements for an offence committed in the UK.

#### 3. Retrospective Application

The Notification Order emulates the partially retrospective implementation of the Sexual Offences Act 2003 as it applies to offenders convicted, cautioned, etc. in the UK. For example, a caution in England and Wales for a sexual offence in 1996 would not require the offender to comply with the notification requirements and therefore a caution received overseas for a sexual offence in 1996 does not qualify for a notification order.

Similarly, if an offender received a community punishment for a sexual offence in England and Wales in 1997, then the notification period of five years would have expired in 2002 and therefore the same penalty received overseas for a sexual offence in 1997 would not qualify for a notification order.

#### 4. Decision to Apply For an Order

A decision to apply for an order will be made on intelligence that an individual with a conviction, caution for a sexual offence overseas is in, or is intending to come, to the UK and is likely to remain resident. Such intelligence could come from a variety of sources. For example:

- A British citizen is being released from custody overseas, after conviction for a sexual offence, and the diplomatic service are organizing return to the UK.
- A British citizen is returning to the UK after receiving a caution for a sexual offence overseas. During his dealings with the authorities in the foreign country he was assisted by the diplomatic service.
- A British citizen is being repatriated to a UK prison to serve his sentence received overseas for a sexual offence.
- Authorities in the UK have been informed by the diplomatic service of a foreign country that one of their citizens who has previous convictions for sexual offences is intending to come to the UK.
- An individual comes to the attention of the police, and on investigation of his criminal history it becomes apparent that he has convictions for relevant sexual offences overseas.

### **G. Foreign Travel Orders**

Sections 114 to 122 of the Sexual Offences Act 2003 introduce the foreign travel order. This is a new civil preventative order and is intended to prevent offenders with convictions for sexual offences against children from travelling abroad where there is evidence that they intend to commit sexual offences against children abroad.

For a foreign travel order to be made, the court must first be satisfied that the defendant is a qualifying offender. A qualifying offender will have been convicted, etc. for a sexual offence in Schedule 3 if the victim of that offence was under 16 at the time of the offence (references to a victim under 16 are to be read as under 17 as the Act applies to Northern Ireland).

Second, the court must be satisfied that the defendant has demonstrated by his actions that an order is necessary for the purposes of protecting a child or children in another country from serious sexual harm from him. The term ‘protecting children generally or any child from serious sexual harm from the defendant outside the United Kingdom’ means protecting a child or children abroad under 16 years of age (or 17 in Northern Ireland) from serious physical or psychological harm caused by the defendant doing anything that would constitute an offence under Schedule 3 of the Act if done in England and Wales or Northern Ireland. Such behaviour may have occurred before or after commencement of Part 2 of the 2003 Act but must have occurred since the first date when an offender was convicted, found or cautioned of an offence listed in Schedule 3 if the victim of the offence was under the age of 16 at the time of the offence.

#### 1. Effect of the Foreign Travel Order

Section 117 sets out the effect of a foreign travel order. The foreign travel order will have a duration not longer than six months and, in any case, will be specified in the order. The order can be renewed on further application to the court. The order can prohibit the offender from:

- either travelling to a country outside the UK named in the order (such as Thailand or the countries of SE Asia);
- or travelling to a country outside the UK that is not named in the order (this may be needed where the offender is banned from travelling anywhere in the world other than to a named country - which he may need to visit for family reasons);
- travelling to any country outside the UK (where the offender is such a risk to children that a universal ban is required).

The prohibitions in the order must be proven to be necessary in order to protect a child or children generally from serious sexual harm from the subject.

#### 2. Criteria for Seeking a Foreign Travel Order

For the chief officer of police to make an application for a foreign travel order he must:

- be satisfied that the individual is a “qualifying offender” by virtue of his conviction, caution, etc. for a relevant offence
- believe that the defendant has behaved in such a way, since his first conviction for a relevant offence, that a foreign travel order is necessary.

Additional intelligence will be necessary to satisfy a court that an offender intends to commit one of the offences listed in Schedule 3 against a child aged under 16 abroad. Such evidence could be, for example, email contact with a person in a foreign country through whom the defendant organises the sexual services of a child.

It is not necessary to establish or specify the type of sexual activity which a defendant intends to engage in and therefore which of the offences in Schedule 3 an offender will commit. It should be satisfactory to prove that, for example, the defendant has arranged to have any sort of sexual contact with a child under 16 and any sort of sexual contact with a child under 16 is covered by at least one of the offences in Schedule 3.

#### **H. "Verification" (Sections 94 and 95)**

Sections 94 and 95 of the Sexual Offences Act 2003 introduce a new power that will help the police to verify that an offender has notified the correct details and that he is not omitting any details (such as another name or address he uses) in compliance with sections 83, 84 and 85 or with the relevant sections of the Sex Offenders Act 1997. This will be done by comparing the details received at notification against those details offenders will have registered with:

- The various agencies which perform social security, child support, employment and training functions on behalf of the Secretary of State for the Department of Work and Pensions and the equivalent Northern Ireland Department.
- The agency which issues passports on behalf of the Home Secretary (i.e. the UK Passport Service).
- The agency which performs functions under Part 3 of the Road Traffic Act 1998 on behalf of the Secretary of State for the Department of Transport (i.e. the Driver and Vehicle Licensing Agency) or Part 2 of the Road Traffic (Northern Ireland) Order 1981. The DVLA holds details on everyone with a driving license. In addition, it is an offence not to inform the DVLA of a change to these details.

The power provides that the details notified to the police by registered sex offenders can be compared against the details held in relation to these three functions of Government. The proposed powers cover England, Wales, Scotland and Northern Ireland. The details the police may provide to the DWP, UKPS and DVLA are offenders':

- date of birth
- national insurance number
- any names he has notified
- home address and any other addresses notified.

This information may have been supplied by an offender at his initial notification, when notifying a change or at his periodic notification.

This information may only be shared for the purpose of verifying that the information supplied to the police, etc. by the offender is accurate. It could not, for example, be used by DWP to pursue someone for a child support payment. The information supplied by the police, etc. will be compared against the information held by the DWP, UKPS and DVLA and a report of discrepancies compiled. Subsection (6) provides that any transfer of data must still comply with the Data Protection Act 1998.

#### **I. Other Issues Relating to Sex Offenders**

Brief outline of other provisions, such as s. 72 of the Sexual Offences Act, provisions in the Criminal Justice Act 2003 on the MAPPA, ViSOR, etc.

##### **1. Section 72: Offences Outside the United Kingdom**

This Section makes it an offence for a British citizen or UK resident to commit in a foreign country, an offence listed in Schedule 2 of this Act against a child under 16 if such an act is also an offence in the foreign country concerned. The exact description of the offence does not have to be the same in both the UK and the foreign country. For example, the offence of rape could apply to a British man who raped a child in another country although that offence was described differently under the law in that country. This law is intended to cover, for example, an offender who commits an offence against a child family member or a child living in the foreign country while they are on holiday and the offence goes undetected until their return to the UK.

##### **2. The Multi-Agency Public Protection Arrangements**

Sex offender registration forms an integral part of broader public protection arrangements in England and

Wales which have become known as the MAPPA (Multi-Agency Public Protection Arrangements). The Criminal Justice and Court Services Act (2000) formalised these by placing a statutory duty on police and probation, working jointly as the Responsible Authority in each area, to establish arrangements for the assessment and management of the risk posed by sexual and violent offenders; work undertaken in partnership with a range of other agencies. These arrangements are monitored and reviewed by the Responsible Authority and an annual report is published. The MAPPA have been further strengthened by the Criminal Justice Act 2003, s. 325 – 327, which extends the Responsible Authority to include the Prison Service, establishes a reciprocal “Duty to Co-operate” between the Responsible Authority and other authorities and social care agencies such as social services, housing, health, youth offending teams and requires the Secretary of State to appoint two lay advisers to assist with the strategic review of the MAPPA in each area.

National Guidance on the MAPPA was published in March 2003. It clarifies that there are three categories of offender who fall within the MAPPA

- (i) Registered Sex Offenders (RSOs) - those sexual offenders required to register under the terms of the Sex Offenders Act 1997 (and now the Sexual Offences Act 2003);
- (ii) violent offenders and other sexual offenders not required to register; and,
- (iii) any other offender who, because of the offences committed by them (wherever they have been committed) are considered to pose a risk of serious harm to the public.

The purpose of the MAPPA is to increase public safety by the reduction in serious re-offending. However, while there is a need to make defensible decisions in relation to the risk management of all MAPPA offenders, the primary focus of the MAPPA is on those offenders who pose the highest risk of serious harm or who present particular difficulties in their management. They are commonly referred to as the ‘critical few’.

The focus on those who present a risk of serious harm is sharpened by the three level structure of case referral in the MAPPA:

**Level 1:** MAPPA activity at Level 1 involves a single agency, most commonly the probation service (for offenders on licence) or the police (for RSOs), managing an offender without the active or significant involvement of other agencies.

**Level 2:** Referral to this level is made where the active involvement of more than one agency is required. Some offenders posing the highest risks can be managed through referral at Level 2 where the management plans are not complex and do not require the commitment of resources at a senior level. No one term is used to describe meetings to consider cases at Level 2.

**Level 3:** Known in all Areas as **the Multi-Agency Public Protection Panel (or MAPPP)**, the ‘critical few’ cases referred to the MAPPP are those of offenders who pose the highest risks of causing serious harm or whose management is so problematic that multi-agency cooperation at a senior level is required.

However, it is important to clarify that the MAPPA is a set of administrative arrangements and has no authority itself. The authority rests with each of the agencies involved. This is why co-operation is important: at least to avoid a conflict of authority between agencies and at best to achieve co-ordination of risk management plans in which the whole is greater than the sum of its parts. This is particularly important in relation to sex offenders that are subject to the MAPPA (whether they are required to register or not) many of whom will pose a continuing risk of serious harm to the public. The highest risk offenders will require close supervision from police and/or probation and the contribution of partner agencies such as housing, social services, youth offending teams and health may be critical in enforcing licence conditions as well as providing appropriate support in the community.

**APPENDIX**

**Thresholds Which Must Be Met Before an Offender Becomes Subject to the Notification Requirements of Part 2 of the Sexual Offences Act 2003**

<b>Offence</b>	<b>Threshold to Registration in Schedule 3</b>
Indecent photographs of children under 16 (Sec 1, POCA 1978)	Where the offender is under 18: • 12 months imprisonment Where the offender is 18 or above: • automatic registration
Importing indecent photographs of children under 16 (Sec 170, Customs and Excise Management Act 1979 and Sec 42 Customs Consolidation Act 1876)	Where the offender is under 18: • 12 months imprisonment Where the offender is 18 or above: • automatic registration
Possession of indecent photographs of children under 16 (Sec 160 CJA 1988)	Where the offender is under 18: • 12 months imprisonment Where the offender is 18 or above: • automatic registration
Rape (1) <sup>1</sup> , Assault by penetration (2)	Automatic registration
Sexual assault (3)	Where the offender is under 18: • 12 months imprisonment Where the offender is 18 or above: • the victim was under 18; or • the offender received a prison sentence; or • was detained in a hospital; or • was made the subject of a 12 month community sentence <sup>2</sup>
Causing sexual activity without consent (4) Rape of a child under 13 (5) Assault of child under 13 by penetration (6)	Automatic registration
Sexual assault of a child under 13 (7)	Where the offender is under 18: • 12 months imprisonment Where the offender is 18 or above: • automatic registration
Causing or inciting a child under 13 to engage in sexual activity (8) Child sex offences committed by adults (9 – 12)	Automatic registration
Child sex offences committed by children or young persons (13)	(The offender will always be under 18): • 12 months imprisonment
Arranging or facilitating the commission of a child sex offence (14)	Where the offender is under 18: • 12 months imprisonment Where the offender is 18 or above: • automatic registration
Meeting a child following sexual grooming (15)	Automatic registration
Abuse of a position of trust (16 – 19)	Where the offender: • received a prison sentence; or • was detained in a hospital; or • was made the subject of a 12 month community sentence

<sup>1</sup> Number in brackets denotes section number in the Sexual Offences Act 2003.

<sup>2</sup> A 12 month community sentence is the equivalent of 112 days service detention.



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Familial child sex offences (25 – 26)	Where the offender is under 18: • 12 months imprisonment  Where the offender is 18 or above: • automatic registration
Offences against persons with a mental disorder (30 – 37)	Automatic registration
Care worker offences (38 – 41)	Where the offender is under 18: • 12 months imprisonment  Where the offender is 18 or above: • received a prison sentence; or • was detained in a hospital; or • was made the subject of a 12 month community sentence
Paying for the sexual services of a child (47)	Where the victim was under 16: • And the offender was under 18, 12 months imprisonment • And the offender was 18 or above, automatic registration
Administering a substance with intent (61)	Automatic registration
Committing an offence (62), or trespassing (63), with intent to commit a sexual offence	Where the offender is under 18: • 12 months imprisonment  Where the offender is 18 or above: • the victim was under 18; or • the offender received a prison sentence; or • was detained in a hospital; or • was made the subject of a 12 month community sentence
Sex with an adult relative (64 – 65)	Where the offender is under 18: • 12 months imprisonment  Where the offender is 18 or above: • received a prison sentence; or • was detained in a hospital
Exposure (66)	Where the offender is under 18: • 12 months imprisonment  Where the offender is 18 or above: • the victim was under 18; or • the offender received a prison sentence; or • was detained in a hospital; or • was made the subject of a 12 month community sentence
Voyeurism (67)	Where the offender is under 18: • 12 months imprisonment  Where the offender is 18 or above: • the victim was under 18; or • the offender received a prison sentence; or • was detained in a hospital; or • was made the subject of a 12 month community sentence
Intercourse with an animal (70) or sexual penetration of a corpse (71)	Where the offender is under 18: • 12 months imprisonment  Where the offender is 18 or above: • received a prison sentence; or • was detained in a hospital

# TREATMENT OF SEXUAL OFFENDERS AND ITS EFFECTS

By William. L. Marshall, Ph.D., FRSC\*



## I. INTRODUCTION

In the early 1980s research began to reveal high rates of sexual offending in various English-speaking countries (Baker & Duncan, 1985; Finkelhor, 1984; Russell, 1984). Unfortunately, the response by both the media and politicians to these revelations took the form of harsh punishments for the offenders (Freeman-Longo & Blanchard, 1998; Sampson, 1994). This approach was consistent with the sentiment of the time that rehabilitation efforts were wasted on criminals (Martinson, 1974). However, subsequent research has shown that harsh responses to crime (such as longer sentences and more severe sanctions) actually increase, rather than reduce, re-offence rates (Andrews, 2003; McGuire, 2002). Furthermore, there is now convincing evidence that treatment for all types of criminals can effectively reduce recidivism (Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen, 1990; Redondo, Sanchez-Meca, & Garrido, 2002). For sexual offenders the evidence is mounting that treatment can be effective (Marshall & McGuire, 2003). This paper will outline the governing principles of sexual offender treatment, the necessary issues that must be addressed in such treatment, how the treatment should best be applied, and the benefits of such treatment.

## II. PROVISION OF TREATMENT

### Allocation to Treatment

Many treatment programmes for sexual offenders place all of these clients in the same group, where they receive the same treatment components over the same period of time (Marques, Day, Nelson, & Miner, 1989; Schweitzer & Dwyer, 2003). Since sexual offenders display heterogeneity across every aspect of their history, personal characteristics, and sexual interests that have been evaluated (see Marshall, Anderson, & Fernandez, [1999] for a summary of this literature), it makes no sense to treat them all the same. In order to better allocate sexual offenders to treatment programmes that best meet their needs, some pre-treatment assessments are necessary.

While many programmes prior to treatment, engage in extensive assessments (Barbaree & Seto, 1997; Mussack & Carich, 2001) or in an elaborate case-formulation for each offender (Drake & Ward, 2003) it is not clear that such comprehensive pre-treatment evaluations are either necessary or sufficient (see Marshall, Marshall, Serran, & Fernandez [2006] for a discussion of this issue). In fact the distinction between assessment and treatment is artificial; these two processes are best seen as progressing together as mutually complimentary aspects of a process that will hopefully lead to effective changes in the clients. Instead of conducting comprehensive pre-treatment assessments, an evaluation using risk assessment instruments should provide sufficient information to effectively allocate sexual offenders to programmes best suited to their needs.

Andrews and Bonta (1998) have delineated what they refer to as “governing principles of offender treatment”. These governing principles were derived from extensive meta-analyses of studies that demonstrated effective treatment of non-sex offenders. Three principles were generated from these meta-analyses: risk, needs, and responsivity. Available resources (i.e., treatment and community supervision) should be allocated according to each sexual offender’s risk to re-offend where risk levels are determined by actuarial risk assessment instruments.

Actuarial risk instruments have been based on long-term follow-up studies of hundreds of sexual offenders where a variety of features of the offenders were examined to see which ones predicted subsequent re-offending (see Doren [2006] for a description). The features identified in the early versions of these instruments (e.g., the SORAG [Quinsey, Harris, Rice, & Cormier, 1998], the STATIC-99 [Hanson &

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Thornton, 2000], the RRASOR [Hanson, 1997], and the MnSOST-R [Epperson, Kaul, Huot, Hesselton, Alexander, & Goldman, 1999] are, however, mostly static and unchangeable. Nevertheless, scores on these instruments can usefully serve as a basis for allocating sexual offenders to levels of treatment intensity. Sexual offenders identified as high risk by actuarial measures, constitute the greatest threat to the public upon release from custody and, therefore, they require more extensive treatment than do moderate risk or low risk offenders. Accordingly it is best to allocate sexual offenders to treatment in the following way: high risk offenders should be involved in sexual-offender-specific treatment for three sessions per week for nine months; moderate risk sexual offenders should receive three sessions per week for four months; and low risk offenders should be exposed to two sessions per week for three months. If we were to place all these offenders in the same programme, then in order to most effectively treat the high risk clients, we would necessarily over-treat the low risk sexual offenders. Over-treating sexual offenders is likely to make them worse rather than better (Marshall & Yates, 2005), and should therefore be avoided.

The principle of need suggests that we should target in treatment those features of sexual offenders that have been shown to be criminogenic features (i.e., features that predict future risk to re-offend). The features that the early risk assessment instruments (e.g., the SORAG, STATIC-99, RRASOR and MnSOST-R) identified as predictors of re-offending were, as noted, primarily static unchangeable features. Thus these features could not be targeted in treatment. Fortunately, Hanson and Harris (Hanson, 2006; Hanson & Harris, 2000; Harris & Hanson, 2003) have developed an empirically-based scale (the Stable-2000) that measures these features, and, even more fortunately, the features this scale measures are potentially changeable. The Stable-2000 can, therefore, serve to identify the features of each client that should be the focus of treatment. Thus, the combination of the scores on the static actuarial risk instruments and the scores for each item on the Stable-2000, provide the basis for allocating sexual offenders to the required extent of treatment and for identifying what should be targeted in treatment.

The final principle of effective offender treatment derived from the studies analyzed by Andrews and Bonta (1988) is the responsivity principle. This principle essentially states that treatment should be adjusted to meet the learning capacity and style of each client and modified to match the client's cultural background. In addition, therapists should alter their approach to respond to the client's day-to-day fluctuations in mood and cooperation. In other words therapy should be delivered in a manner that allows the flexibility necessary to adjust to each client's unique features. This places a demand on the skills of the therapist and tends to deny the value of over-manualizing treatment.

Recent research has revealed the importance of the therapist's characteristics and style in achieving the goals of sexual offender treatment. For example, Drapeau (2005) found that sexual offenders responded to treatment best when they saw the therapist as someone who cared about them and treated them respectfully. Similarly, Marshall and his colleagues (Marshall, Serran, Moulden, Mulloy, Fernandez, Mann, & Thornton, 2002; Marshall, Serran, Fernandez, Mulloy, Mann, & Thornton, 2003) demonstrated that an empathic and warm therapist, who was also rewarding and directive, generated the greatest positive changes in sexual offenders. Marshall et al. also showed that a harsh confrontational style by the therapist led to a worsening of sexual offenders' problems while firm, but supportive, challenges produced clear benefits from treatment. These data on the role of the therapist in sexual offender treatment fits with the responsivity principle and with the need for flexibility in treatment that has been demonstrated in the general psychotherapeutic literature (Marshall, Fernandez, Serran, Mulloy, Thornton, Mann, & Anderson, 2003).

### III. TARGETS OF TREATMENT

Table 1 lists the targets for treatment with sexual offenders. These targets have been derived from extensive research that has identified the problems sexual offenders have that distinguish them from others. These targets have also been identified in studies of stable dynamic risks among sexual offenders derived from the work of Hanson and Harris (Hanson & Harris, 2000; Harris & Hanson, 2003). The offence-specific targets in the table are those that are the focus of our treatment programmes (Marshall, Marshall, Serran, & Fernandez, 2006). In the prisons where we work the offence-related targets are addressed in separate programmes run by experts in each area. During the sexual offender specific programme, the therapist helps each offender integrate what he has learned in these offence-related programmes. In other settings, where these additional programmes are not provided, these offence-related targets would have to be incorporated into the sexual offender programme thereby extending the length of the programmes that was suggested earlier.

**Table 1: The Targets for Treatment with Sexual Offenders**

Offence-Specific Treatment Targets

1. Life-line
2. Self-esteem
3. Acceptance of responsibility
  - Denial/Minimization
  - Cognitive distortions
  - Victim harm
  - Empathy
4. Coping skills/Style
5. Intimacy/Attachments
6. Fantasies/Preferences
7. Offense pathways
8. Self-management/Good life
9. Warning signs
  - Self
  - Others
10. Support group
  - Professionals
  - Others

Offence-Related Treatment Targets

1. Substance use/abuse
2. Anger management
3. Family violence
4. Parenting
5. Other psychological disorders
6. Cognitive skills
7. Spiritual issues

For the full details of the way in which each target of treatment is addressed, the reader is referred to Marshall, Marshall, Serran and Fernandez (2006), and Marshall, Anderson and Fernandez (1999). Brief descriptions will be provided here.

1. Lifeline

Each offender is asked, at the end of his first treatment session, to begin writing out his autobiography between the next few sessions. This lifeline is to cover his childhood, adolescence, early, mid, and late adulthood (where relevant) and is to include relationships (with parents and peers, and romantic attachments), health, education, work and hobbies, as well as significant positive and negative experiences. The lifeline is intended to help the therapist to better understand the client and to assist both the therapist and client in identifying factors that may have led the client to offend. A thorough autobiography can reveal aspects of the client's behaviour and attitudes that need to be changed if he is to function effectively, and it can also contribute to identifying his offence pathway.

2. Self-esteem

Self-esteem is enhanced both because low self-esteem has been shown to predict recidivism in sexual offenders (Thornton, Beech, & Marshall, 2004) and because low self-esteem limits effective involvement in treatment (Marshall, Anderson, & Champagne, 1997). Clients are encouraged to increase the range of their social interactions, to pay attention to, and increase, their mildly pleasurable experiences, and to focus on their positive attributes. We have outlined the details of this approach and provided evidence on its effectiveness in enhancing the self-esteem of sexual offenders (Marshall, Champagne, Sturgeon, & Bryce, 1997).

### 3. Acceptance of Responsibility

Developing an acceptance of responsibility for all of their actions (including their offending) is a process that begins early in treatment and continues throughout the programme. Most programmes for sexual offenders attempt to elicit full responsibility within the first several treatment sessions. These programmes do not move on to the remaining targets of treatment until the client admits to all aspects of his offence as documented in the official police (or victim) report. Unfortunately, this approach can increase resistance in sexual offenders and encourage them to simply learn to say what they believe the therapist wants to hear rather than presenting themselves truthfully.

Cognitive distortions refer to perceptions and attitudes that serve to justify offending and reduce the offender's acceptance of responsibility. Sexual offenders distort their perceptions in a self-serving way in order to reduce feelings of shame about their offensive acts. These distortions emerge over the course of treatment; they can be challenged more firmly and directly as the client develops trust in the therapist. Similarly, although we raise the issue of victim harm within the first three to four sessions, the development of a full appreciation of this harm, and the associated empathy for victims of sexual abuse continues throughout treatment. Again denial of harm is a distortion that both allows offending to continue and reduces the shame the offender feels about his crimes.

Helping clients accept responsibility, overcome their distortions, and recognize the harm they have done, all require therapeutic skills. A therapist who is warm and empathic, who treats the clients with respect, and who encourages their progress, will soon win their trust and, as a consequence will more readily get the clients to accept full responsibility for their actions.

We have described in detail how we achieve these goals and we have provided evidence on the effectiveness of our procedures (Marshall, 1994; Marshall, O'Sullivan, & Fernandez, 1996).

### 4. Coping Skills/Styles

Inadequate attempts to cope with life's problems typically leads to a disturbed mood state (e.g., depression, anxiety, or anger), and among sexual offenders, mood disturbances trigger attempts to offend (Hanson & Harris, 2000). Not only do sexual offenders have a poor coping style (Marshall, Cripps, Anderson, & Cortoni, 1999; Marshall, Serran, & Cortoni, 2000), they also lack the skills necessary to cope with specific problems (Cortoni & Marshall, 2001; Miner, Day, & Nafpaktitis, 1989). Since poor coping inevitably leads to emotional distress, it is not surprising to find that sexual offenders also have poor emotional regulation skills (Ward & Hudson, 2000). It is, therefore, important to train sexual offenders to develop more effective coping skills and to approach problems with an adequate coping style. Research (Serran & Marshall, 2006) has shown that sexual offenders have deficits in the skills necessary for effective coping, that they adopt a poor approach (or style) toward problems, and that they respond to life's difficulties with acute mood states (e.g., anger, depression, or a sense of hopelessness).

We have outlined procedures for enhancing coping skills, for developing a more effective coping style, and for regulating mood (Serran, Firestone, Marshall, & Moulden, in press). Serran et al. (in press) also provided evidence on the effectiveness of these procedures.

### 5. Intimacy and Attachments

Marshall (1980) outlined a theory suggesting that sexual offenders attempt, in their offences, to achieve the intimacy they lack in the rest of their lives. Marshall's paper generated a burst of research activity that has focused on examining intimacy deficits and poor adult attachments in sexual offenders. This research has convincingly demonstrated serious deficits in these skills among sexual offenders (see Marshall, Anderson, & Fernandez [1999] for a summary of this evidence). If sexual offenders are to replace their deviant sexual interests with more appropriate sexual interests (i.e., sex with consenting adults), then obviously they must develop the skills and attitudes necessary to fulfil these changed desires.

We have developed a comprehensive approach to enhancing intimacy skills that includes exploring the clients' prior relationships, discussing what intimacy is and its benefits, training in communication skills, and understanding the broad range of human sexual expression, as well as considering the nature of jealousy and loneliness (Marshall, Bryce, Hudson, Ward, & Moth, 1996). Marshall et al.'s (1996) study also reported evidence indicating the effectiveness of this approach in increasing intimacy and in reducing emotional loneliness.

#### 6. Fantasies and Preferences

No doubt all sexual offenders have at least occasional sexual fantasies about their deviant acts; however, only a limited number display sexual arousal to deviant themes at assessments of sexual interests (Marshall & Fernandez, 2003). More to the point, even fewer complain about persistent deviant sexual thoughts. This latter few, however, need treatment to eliminate these persistent fantasies.

We (Marshall, O'Brien, & Marshall, in press) have described a variety of behavioural procedures that aim at reducing deviant thoughts and enhancing appropriate sexual interests. While these procedures are usually effective when applied appropriately, sometimes they do not achieve the desired goals. In those cases where behavioural procedures fail, we employ either a Selective Serotonin Reuptake Inhibitor (SSRI) or one of the anti-androgens. We use an SSRI (usually sertraline) for those offenders who display compulsive sexual activities (Marshall & Marshall, press), and we reserve the anti-androgens (usually luperon) for the highly dangerous or sadistic sexual offender. Kafka (1994) and Bradford (2000) have described the evidence on the use of pharmacological agents in the treatment of sexual offenders, and we (Marshall, O'Brien, & Marshall, in press) have summarized the evidence on the effectiveness of the behavioural procedures.

#### 7. Offence Pathways

The therapist helps the client develop an outline of the factors that led him to offend. The client's life-line is valuable in identifying chronic problems (e.g., low self-worth, antagonistic relationships, abuse of alcohol or other drugs, anger) throughout the client's life that might have created a state in him that led him to offend. We refer to these as background factors. These background factors generate a state (e.g., a feeling of hopelessness, a feeling of entitlement, a sense of being used by others) that leads the client to either create an opportunity to offend or take advantage of an unexpected opportunity. These states, and the background factors that generate them, as well as the client's strategies to access a victim, all form what we call the client's "offence pathway". Sometimes there are several offence pathways for each client (see Laws & Ward, 2006) but for the purposes of treatment one illustrative and typical pathway will usually do to reveal the issues to the client. Those offence pathways can serve to identify further treatment needs as well as situations and people to avoid in the future. These problematic situations and people are what treatment providers call "high risk events".

#### 8. Self-Management Goals

Using the "good lives model" (see Ward & Marshall [2004] for a description of its application to sexual offenders) as a guide, the therapist and the client work collaboratively to produce a set of goals for a better life. These goals should be realistically matched to the client's interests and abilities, and should be exclusive of opportunities to offend. Included in the development of the client's "good lives" goals should be a realistic set of plans for release from prison. He needs to begin the process of finding a job and accommodation, and he needs to plan for the development of meaningful relationships. In this segment of treatment, the offender is also required to identify signs that would alert him and his support group to the possibility that he may be moving toward a heightened risk to re-offend. This should allow the client to abort this movement toward offending at an early stage. Finally, the client identifies people who can provide him with support upon release from the programme. Two groups are typically formed: a group of professionals (e.g., parole supervisor, community treatment provider or clinician he can access, minister of religion), and a group of non-professionals (e.g., his family, friends, and workmates). These two groups are meant to assist the client with his reintegration back into the community, help him avoid risks, and assist him in implementing his "good lives" plans.

This, then, ends the summary of the treatment programme.

### **IV. TREATMENT EVALUATIONS**

There has been some disagreement in the literature regarding the effectiveness of sexual offender treatment with some claiming that it is ineffective (Quinsey, Harris, Rice, & Lalumière, 1993) while others point to evidence suggesting it can be effective (Marshall, 1993; Marshall & Pithers, 1994). The basis for this disagreement, however, is not about the published evidence but rather whether or not this evidence provides a basis for confidently asserting that treatment is effective. For example, Rice and Harris (2003) claim that the only satisfactory basis for unequivocally concluding that treatment for sexual offenders either does or does not work, are outcome studies employing the Random Control Trial (RCT). This type of study requires that sexual offenders who volunteer for treatment be randomly assigned to either a treatment group

or a non-treatment comparison group. All subjects would be followed for several years after release to determine differential recidivism rates.

Several authors have pointed to serious ethical, practical and technical problems with the RCT designed study (see Hollin, in press; Marshall, 2006; Seligman, 1996). For example, is it ethical to deliberately withhold treatment from a group of sexual offenders then release them into the community for several years to see how many innocent people they assault? Some would argue it is not. From a practical point of view, withholding treatment from some sexual offenders would, in most jurisdictions, lead to the creation of differences between them and treated offenders that might confound the comparison between them. For example, in the Canadian system, the National Parole Board will not release untreated sexual offenders until near the end of their sentence whereas treated offenders get released much earlier. Finally, from a technical perspective, the artificiality of the RCT design (e.g., highly manualized approach that rigorously monitors the therapist adherence to the manual) makes it irrelevant to the issue of how effective treatment is when it is conducted in an appropriate clinical manner. All these effects of the RCT design are likely to reduce the effects of treatment (Marshall, 2006).

As a result of these problems, other authors (e.g., Hanson, Gordon, Harris, Marques, Murphy, Quinsey, & Seto 2002) have suggested employing what they call “an incidental design”. In this type of evaluation study, the treated group is matched with a group of untreated sexual offenders from the same setting. While this “incidental design” has some appealing aspects, the comparison group is likely to have some features (e.g., later release from prison, housing in a non-programme institution, less supervision after release) that may increase the risk to re-offend thereby artificially inflating treatment effects. Nevertheless, the incidental design is typically seen as the only alternative available to evaluate treatment.

One other position, however, has been proposed (Barbaree, Langton, & Peacock, 2004; Marshall, 2006). It has been suggested that actual observed recidivism rates in the treated group could be statistically compared to the expected rate of recidivism based on actuarial risk instruments. Since actuarial risk assessment instruments are based on large scale studies of released sexual offenders, and since they are accepted by courts as a basis for establishing future risk, the estimates of risk provided by these instruments should provide a satisfactory comparison with actual re-offences to estimate treatment effects. Indeed such an approach appears to circumvent the problems inherent in both the RCT and incidental designs described above. As we will see, two large scale outcome studies (Barbaree, et al., 2004; Marshall, Marshall, Serran, & Fernandez, 2006) employed this actuarial-based approach.

In addition to the problems of the design of an outcome study, it is necessary to have a reasonably large group of treated offenders released into the community for at least four years (Barbaree, 1997). This is because the base-rate recidivism (i.e., the recidivism rate observed in untreated sexual offenders) is quite low; according to several studies the average re-offence rate among sexual offenders is in the range 16% - 20% (Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2004; Hanson et al., 2002). This low rate results from collapsing across all risk categories; the highest risk sexual offenders can be expected to have re-offence rates well above 30%, while the lowest risk offenders can be expected to recidivate at less than 6% - 8%.

Hanson et al. (2002) gathered information on a variety of treatment outcome studies with sexual offenders. They identified 43 studies that had a comparison group of untreated sexual offenders and used official re-offence information as the basis for determining long-term recidivism. Employing a meta-analysis to collapse all these studies into one evaluation resulted in over 4,000 subjects in each of the treated and untreated groups. Hanson et al. found that those programmes that utilized a cognitive/behavioural approach and/or employed relapse prevention strategies had the greatest effects. These programmes reduced the sexual recidivism from 17.3% in the comparison group to 9.9% in the treated group. In addition, it was observed that non-sexual re-offending was also reduced in the treated group (32.3%) compared to the untreated group (51.3%). Recently Lösel and Schmucker (2005) completed a similar meta-analysis but with over 80 studies including several from Europe that were not included in Hanson et al.'s study. Lösel and Schmucker found even more compelling evidence of the effectiveness of sexual offender treatment. The treated group in Lösel and Schmucker's study has a recidivism rate 11.1% compared to a rate of 17.5% in the untreated subjects. These two meta-analyses included some studies that were not effective and some that employed the RCT design. In fact, the four RCT designed studies in Hanson et al.'s study, were all

ineffective, just as was predicted in the discussion above.

Correctional Service of Canada (CSC) has been operating sexual offender treatment in prisons across Canada since 1973. It is not possible within CSC to conduct RCT studies and, in most areas of the country, such a large proportion of the available sexual offenders enter treatment that it is rarely possible to identify a matched comparison group of untreated offenders thereby ruling out the possibility of employing Hanson et al.'s "incidental design". It is important to note that CSC treatment providers have, to a large extent, led the field in developing sexual offender programmes. CSC researchers generate a significant number of studies, and treatment providers in CSC continually incorporate new evidence into their programmes. Thus CSC programmes are at the forefront of treatment for sexual offenders so we can expect them to be among the most effective in the world. For these reasons, appraisal of CSC-based programmes will be considered separately.

## V. CSC PROGRAMMES

Four CSC prison-based treatment programmes have been evaluated. The Clearwater programme in Saskatchewan, which targets sexual offenders at the higher end of the risk scale, was evaluated by Nicholaichuk, Gordon, Gu and Wong (2000). They followed 579 sexual offenders (296 were treated, 283 were not) for six years. Of the treated group 14.5% sexually re-offended whereas 33.2% of the matched untreated subjects committed another sexual offence. Looman, Abracen and Nicholaichuk (2000) completed a similar study of the treatment programme at the Regional Treatment Centre (RTC) in Ontario. This RTC programme is specifically designed for the most problematic and dangerous sexual offenders including sexual sadists, so we can expect the re-offence rates to be high. Looman et al. followed 89 treated subjects and 89 matched untreated subjects for 9.9 years. This study also showed significantly lower re-offence rates in the treated group (23.6%) than in the matched untreated group (51.7%).

Since these studies were published, it has been increasingly difficult to identify a matched untreated group of sexual offenders within CSC prisons. In Ontario, in particular, over 90% of sexual offenders in the region's prisons receive treatment. In these circumstances there is no alternative but to use, as a comparison, the expected recidivism. This expected rate is based on determining the risk to re-offend by scoring for each treated client, on actuarial measures, the risk group to which he belongs. An overall estimate of the average actuarially-determined risk of the group, can then serve as an expected recidivism rate against which to compare the actual recidivism rate of the treated group. Both Barbaree et al. (2004) and Marshall, Marshall, Serran and Fernandez (2006) used this strategy to evaluate their Ontario-based programmes.

Barbaree et al. (2004) followed for five years a group of 468 sexual offenders treated at the Warkworth Penitentiary, a medium security federal prison. The expected recidivism rate of Barbaree et al.'s treated subjects was 18% (based on STATIC-99 scores), but only 11.3% actually re-offended. Marshall et al. (2006) reported the findings of their study of the treatment programme they operate in Bath Institution (a medium security federal prison). They followed 534 treated sexual offenders for 5.4 years after their release from prison. The expected recidivism rate was 16.8% (based on STATIC-99 scores), but only 3.2% actually re-offended.

These four CSC programmes demonstrated statistically significant reductions in recidivism among the treated sexual offenders. Not only are these results statistically meaningful, they are also meaningful in terms of reducing the number of innocent victims who might otherwise have been harmed by these offenders. In addition, any reduction in recidivism saves money. Both Marshall (1992) and Prentky and Burgess (1990) showed that by preventing even 1% or 2% of re-offences, a saving is made sufficient to cover the costs of running the programme. All the results described above reveal far greater reductions in recidivism rates than simply 1% or 2%. Indeed, it can be demonstrated that each of the CSC programmes saves Canadian taxpayers as much as one million Canadian dollars per 100 sexual offenders treated (see Marshall, Marshall, Serran, & Fernandez [2006] for an illustration of a cost-benefit analysis).

## VI. CONCLUSIONS

This paper has described an approach to the treatment of sexual offenders, and provided details of the application of this treatment and of the role of the therapist in achieving the goals of treatment. The effectiveness of treatment was then evaluated. It was concluded that treatment can be effective and, that when it is effective, it is cost-effective. Most importantly, effectively treating sexual offenders saves from harm innocent people who might otherwise have been abused.



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# SEX RELATED OFFENCES AND THEIR PREVENTION AND CONTROL MEASURES: AN INDIAN PERSPECTIVE

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## I. INTRODUCTION

Sex related offences are universal phenomena, which take place in every society. Sexual offences aptly take the form of sexual violence, which sometimes cause severe and irreparable damage to the physical and mental health of the victims. Physical injury includes an increased risk of a range of sexual and reproductive health problems. Its impact on mental health can be equally serious as that of physical injury. Sexual offences, when they assume the form of sexual violence may lead to murder, suicide, acute depression, etc. of victims. It entirely disturbs the social well being of the victims because of stigmatisation and the consequential loss of status in their families and the neighbourhood. The main thrust of this paper is to understand the phenomenon of sex related offences in terms of forces operative in the process of their perpetration, their magnitude and prevalence, and their prevention and control measures.

A Sexual offence has been defined by the Law Reform Commission of Canada (1978) as sexual contact with another person (including touching of the sexual organs of another) or touching of another with one's sexual organs without that person's consent. Any person may understand sexual violence as any sexual act using coercion regardless of their relationship to the victim, in any setting, including but not limited to home and work. In sexual violence, coercion constitutes an important component, which covers a whole spectrum of degrees of force. Apart from physical force, it may involve psychological intimidation, blackmail or other threats (Bancroft, J., 1974).

## II. FORMS AND MAGNITUDE

A wide variety of sex related offences take place in different circumstances and social settings. Some of the most prominent ones are sexual assault (without intercourse), forcible rape, sexual abuse of mentally or physically disabled people, sexual abuse of children including statutory rape (sexual intercourse with or without consent with minors) adultery, sodomy, fornication, forced marriage and co-habitation including the marriage of children, violent acts against the sexual integrity of women including female genital mutilation and obligatory inspection for virginity and forced prostitution and trafficking of people for the purpose of sexual exploitation (H. J., Vetter, 1978). In India, sex crimes against women and girls are mainly manifested in the form of rape, molestation, sexual harassment, kidnapping and abduction for sexual purposes and trafficking of girls for sexual exploitation. Sexual molestation related cases have shown an increase of 11.7% in the last five years from 30,959 in 1998 to 34,567 in 2004. Sexual harassment cases increased 24.2% during that period. Buying and selling girls for sexual purposes as well as procurement of minor girls for inducement in sexual trade have shown an alarming increasing trend.

### A. Rape

Of all these crimes, rape is considered to be the most obnoxious and gravest form of human rights violation in the country. Rape cases are increasing in the country every year. It has shown a continuous rising trend during the last five years. The total number of rape cases of 15,151 in 1998 increased to 18,233 in 2004. It has been noted that rape cases have reported a mixed trend over the last five years with a decrease of 2.5% in 2001 over 2000, an increase of 1.8% in 2002, over 2001, again a decrease of 3.2% in 2003 over 2002 and a substantial increase of 15% in 2004 over 2003. Child rapes have also revealed an increase of 20.1 percent during this period. (Crime in India, 2004).

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Because of the unprecedented increase in rape cases, and a number of sensational cases which involved state officials, such as officers from the armed forces, police and government management of remand homes and women institutions, the matter has become a serious concern not only for the law makers and criminal justice system but also for the civil society in general and women organizations in particular.

The case, which created a historical movement by women's organizations covering various states, was *Tukaram vs. State of Maharashtra* known as the *Mathura* case. This case still remains as a blot on the Indian judiciary as the Supreme Court of India acquitted the accused persons on the ground that the testimony of the victims was not properly founded. The court further held that the victim was not able to prove that she did not consent to the act of sexual intercourse. The judgment was followed by widespread agitations and demonstrations before the Supreme Court with the demand that the case be reheard. This compelled the government to move for the amendment of the law of rape. It asked the Law Commission of India to study not only the substantial law relating to rape but also the rules of evidence and procedure followed in criminal trials.

### 1. Custodial Rape

Consequently, the Law was drastically amended and a new law entitled Criminal Law Amendment Act, 1998 came into existence in which the very concept of 'custodial rape' as being more heinous than ordinary rapes was accepted. This Act brought about some important changes in the existing provisions on rape in the Indian Penal Code. It has amended Section 376 of the IPC and has enhanced the punishment of rape by providing that it shall not be less than seven years. It has also provided enhanced punishment of 10 years of imprisonment for police officers or staff of jails, remand homes or other places of custody established by Law. The Act has further inserted a new section in the Indian Evidence Act Section 114A which lays down that where sexual intercourse by the accused has been proved and the victim states before the court that she did not consent, the court will presume that there was absence of consent and the onus will be on the accused to prove that the women had consented to the act. The Act has amended the Code of Criminal Procedure and also provides for trial in camera. It has also inserted a new section in the IPC – Sec. 228 (a) – which makes disclosure of the identity of the victim in rape cases an offence punishable with imprisonment for two years.

Custodial rape is an aggravated form of rape. It is an assault by those who are supposed to be guardians of the women concerned that are specially entrusted for their welfare and safekeeping. In case of custodial rape, the physical power that men have over women gets intensified with the legally sanctioned authority and power. Single women, widows with young children and women belonging to the lower strata of society who have to eke out a living against all odds, become easy pray to custodial rape because they are already deprived of the supportive mechanisms. Fortunately, reporting of custodial rape is not very frequent in this country. Three rape cases in police custody were reported in 2002 and one such case was registered in 2003 – which took place in Tamil Nadu. But even if one such incident takes place that denigrates the image of the entire criminal justice system.

The Judiciary has taken a very a serious view regarding the commission of custodial rape. Whatever amendments, brought in rape laws to make the punishment more stringent, is mainly because of those judgments. In the *State of Maharashtra vs. Chandra Prakash Keval Chand Jain* case, the court remarked 'decency and morality in public life can be protected and promoted' if courts deal strictly with those who violate the societal norms. When crimes are committed by a person in authority, i.e. a police officer, superintendents of jails, or managers of remands homes or doctors the courts approach should not be the same as in the case of a private citizen. When a police officer commits a rape on a girl, there is no room for sympathy or pity. The punishment in such cases should be exemplary.

### 2. Gang Rape

When one or more persons acting in furtherance of their common intention rape a woman it is treated as gang rape. It is the crudest and the most extreme form of male chauvinism and is considered an aggravated form of rape under the Indian Penal Code. For a man, it may be merely a calculated and cold-blooded instrument of oppression or revenge, whether on an individual woman, a caste or a class but for the woman it is a terrible experience. Gang rape, especially by criminals in uniform has become common. It is consistently used as an instrument of intimidation in India. It is also employed as a weapon of vengeance, a means of settling scores with other men and their families. It is a very serious crime. The minimum

punishment of this offence is 10 years, but it can be extended to life imprisonment.

In India, there is no dearth of cases of this sort. On the night of February 1988, a group of policemen helped by home guards and chowkidars entered the village Pararia in Bihar, and created terror by committing this type of offence, which even today villagers remember as a bad dream. It was to avenge the assault on two of their colleagues, which had taken place a week before. Fourteen policemen went on a rampage of looting, destructing and committing mass rape. These policemen were acquitted in court on the strength of their defence counsel's argument that those women could not be equated with such ladies as hail from decent and respectable society. These women were engaged in menial work so they were of questionable character. After the judgment, there was total silence. No one deemed fit to speak on behalf of these poor women who earned their living by the sweat of their brows. Another case of mass rape of 25 tribal women of Ujaimaidan Tripura in June 1991 follows exactly the Pararia pattern. The brutalization perpetrated by the counter insurgency outfit, the 27 Assam Rifles, who raped women from the age of 12 to 45 years. These are the two instances of many cases which take place from time to time in the country. Such instances appear in the newspaper and the public mind is stirred for the time being but gets lost in oblivion with the passage of time.

### 3. Problems in Dealing with Rape Offenders

Despite the stringency in the societal and governmental approach towards this dreadful menace the increasing trend of rapes has remained unabated. It is a known fact that recorded rape cases are only the tip of the iceberg as not only many cases of rape are not reported, but also many of those cases in our country are not registered. Even if they are reported, the unscrupulous officers in the police stations do not register the cases. Even if the case is registered and an investigation starts, the female victims mostly feel shy and embarrassed to answer delicate questions posed by male investigating officers; as a result, the truth is not revealed. In India, although, many rape cases are charge sheeted, a large number of these cases ultimately end in acquittal.

There are many reasons for the large-scale acquittal in rape cases. Prolongation of investigation, laxity on the part of the investigating officers, non-availability of witnesses, etc. have been identified as major contributing factors for the same. Medical evidence is a crucial piece of information, which is required for establishing the case of rape in a court of law. It has been observed that lady doctors in government hospitals in many cases hesitate to give frank medical opinion in rape cases for fear of appearing as a prosecution witness and being subjected to embarrassing cross-examination. The Law Commission of India in its report (1980) also pointed out that the report of the medical examination is often cursory or is not sent in time. The Commission recommended some addition to the provision in the Code of Criminal Procedure, the most important being that the report shall state precisely the reasons for each conclusion arrived at.

### **B. Trafficking of Women and Girls for Commercial Sexual Purposes**

Trafficking of women and children and their inclusion into the sex trade is a burgeoning form of organized crime. In recent years, this has become the flip side of globalisation. The international organization for migration estimates that the global trafficking industry generates up to \$ 8 billion each year from what may be described as "trade in human misery". Both the factors of increasing demand and supply ruthlessly drive the trafficking industry. Some key factors behind the trade are inadequate employment opportunities, lack of a social safety net, globalisation, feminisation of poverty, rise in sex tourism and so on.

Today, several international criminal organizations are more heavily involved in trafficking of women and children than ever before. International trafficking is a highly organized activity, involving a sophisticated international network of procurers, document forgers, escorts, corrupt officials and so on. The number of organized groups engaged in trafficking is likely to further increase in the coming years because it is becoming a lucrative and low risk operation.

Trafficking has grown in recent years since it is extremely profitable and the risk of prosecution is relatively low. This is because most countries have weak laws on trafficking and allied activities. Trafficking in women and children is big business today involving extensive international networks of organized criminals and unscrupulous government officials. It takes an organized effort to move large numbers of people across borders and over long distances. It takes "recruiters" to identify and procure young women and children. It takes transporters to take them across borders to their destination. Then there are

“receivers” to deliver them to brothels. Finally, there are the brothel managers and heads of criminal cartels that make the most profit in this trade in misery.

According to an estimate prepared by the Central Intelligence Agency on the magnitude of global trafficking of women and children, several international crime syndicates are involved in it. For example, Japanese organized crime groups, like the Yakuza, are involved in the trade in a big way. Local brokers approach women in their home countries and offer well paid jobs in legitimate professions abroad. Once in Japan, they are sent to their actual employers who have purchased rights from brokers at the source country.

The international organization for migration reports that Russian organized crime groups control European prostitution industries such as those in Poland and Germany. One major Russian crime syndicate, Mogilevich, owns nightclubs in Prague, Riga and Kiev and are engaged in trafficking women and children and force them into prostitution in these clubs. Russian traffickers, according to one report, have gone so far as to set up career booths in institutes and universities that promise work abroad. Traffickers also provide women with the necessary counterfeit travel documents.

The United Nations development fund for women maintains that every year seven million women and children are trafficked across the globe. The UN Development Programme, (1999) estimated that about 50,000 women and girls were trafficked annually for sexual exploitation to Western Europe alone. Though there is no concrete data on earnings from the sex industry, there are country reports that reveal significant profits. An analysis of the Thai economy shows that the earnings from trafficking Thai women to Japan, Germany and Taiwan are close to \$3 billion. In the United States of America, available data suggest that the traffickers earn about \$ 60 million per year from trading in women and children.

The Indian scene is also quite disconcerting. India serves as a source country, transit centre and destination country where thousands of women and girls are trafficked, initiated and exploited in the horrendous flesh trade every year. A study conducted by the End Children's Prostitution in Asian Tourism, 1991, estimates that there are two million prostitutes in India of whom 20 percent are minors. At any time, 20,000 girls are transported from one part of the country to another for prostitution. Research on the trafficking of Nepalese women and girls into India shows that around 5,000 to 7,000 Nepalese girls are trafficked yearly into India.

The Modus operandi of the traffickers includes promises of suitable employment and marriage and at times forcible kidnapping and abduction. In India, social acceptance of prostitution in some communities encourages the clandestine trade. The traffickers target women from refugee camps, girls from large and broken families and lure them with the promise of a better life abroad. Very often on arrival at the destination, travel documents are confiscated and the victims are forced into prostitution or are given positions of hard labour and exploitation. They are asked to pay for their transportation cost and living expenses with interest. Women are often controlled through rape, violence and threats about the harm that will be done to members of their family.

An important feature of the trafficking network is an efficient co-ordination of what appears to be a fragmented process. The actors in the trafficking network collaborate and protect one another. Persons who operate at the recruiting end often do not know the people or their activities at the receiving end. Each actor concentrates on his or her responsibility in a chain of activities that involve recruitment, passage, forging papers and placement in workplaces. Another principle of management in the sex trade is mobility. Women are rotated among different brothels after a fixed period of time. This has twin objectives. One is to disorient the women and the second is to prevent them from establishing long lasting contact with clients to seek help.

The 1999 United Nations Crime Commission and the November 2000 Convention Against Transnational Organized Crime are supplemented by two additional protocols concerning the smuggling of migrants and trafficking in persons, especially women and children. The latter is often referred to as the “Trafficking Protocol” and provides the currently agreed upon definition of trafficking as recruitment, transportation, purchase, sale, transfer, harbouring or receipt of persons (a) by threat or use of violence, abduction, force, fraud, deception or coercion (including abuse of authority) or debt bondage, for the purpose of, or (b) placing or holding such a person, whether for pay or not, in forced labour or slavery - like practices in a community



other than the one in which such a person lived at the time of the original act described in (a). As has been correctly pointed out by experts, at the core of any definition of trafficking there must be the recognition of the fact that trafficking is never consensual. It is this non-consensual nature of trafficking that distinguishes it from other forms of migration.

In India, apart from the provisions in the Constitution enjoining the equality of all before law, Article 23 prohibits trafficking in human beings and all forms of forced labour. The Directive Principles enlisted in Article 39 (e) and (k) declare that state policy should be directed towards protecting childhood and youth “against exploitation and material abandonment”. Building upon these, the Suppression of Immoral Trafficking in Women and Girls Act was enacted in 1956, whose aim is “to inhibit or abolish commercialised vice, namely, trafficking in women and girls for the purpose of prostitution, an organized means of living”.

Unfortunately, there is an inadequate response from law enforcement agencies in the respective countries towards trafficking. In many countries it has been found that law enforcement officials are either directly involved or complicit in trafficking. Strong measures are necessary to ensure that the law - enforcers acting in league with traffickers are prosecuted and punished. In India there are many reliable reports on the nexus between brothel keepers and the police and that between the traffickers engaged in cross border trafficking and the border security guards.

Often, policemen are also not at all sympathetic to the victims of trafficking. Low priority is accorded to this crime. There are occasional bursts in police activity in which only the prostitutes get arrested. The law still cannot touch either the pimps or the customers. Though there is a clear consensus on the fact that laws dealing with trafficking should focus on traffickers and not treat victims as perpetrators, few countries have adopted the requisite legislation and administrative measures for the protection of and assistance to victims of trafficking.

There is also a need to sensitise the law enforcement authorities to ensure the safety and well being of the trafficked persons. These agencies should be encouraged to work along with non-governmental organizations with a view to ensuring that the trafficked victims get full protection and assistance and are able to protect their identity during legal proceedings. They should also look into the proper resettlement or repatriation of the victims.

### **C. Sexual Harassment in Work Places**

Sexual harassment in public and work places is widely prevalent in India. The number of sexual harassment cases reported to the police has substantially increased during the last few years. As defined in the Supreme Court guidelines (*Vishakha vs. the State of Rajasthan*, August 1997) sexual harassment includes such unwelcome sexually determined behaviour as physical contact, a demand or request for sexual favours, sexually coloured remarks, showing pornography and any other unwelcome physical, verbal or non-verbal conduct of a sexual nature e.g. leering, dirty jokes, sexual remarks about a person’s body, etc. Any avoidable sexual advances either verbal or through gestures or through the use of sexually suggestive or pornographic material, whistling, sexually slanting and obscene remarks or jokes; comments about physical appearance; demands for sexual favours, threats, avoidable physical contact, touching, patting, pinching, physical assaults and molestation of and towards women workers by their male colleagues or anyone who for the time being is in a position to sexually harass the women under their fold. There were 12,325 cases of sexual harassment reported in 2003 which is a significant increase of 21.4% over the previous year (10,155). Among all union territories, Delhi has the highest share i.e. 76.08% of sexual harassment cases.

Several organizations have conducted survey research on Sexual Harassment of Women (SHW) in India. A Survey by Sakshi (Delhi) an N.G.O. throws up some worrying data where 80% of respondents revealed that SHW exists, 49% had encountered SHW, 41% had experienced SHW, 53% of women and men did not have equal opportunities and 53% were treated unfairly by supervisors, employers and co-workers.

### **D. Sexual Violence by Intimate Partners**

In many countries a substantial proportion of women experiencing physical violence also experience sexual abuse. In Mexico and the United States, studies estimate that 40-52% of women experiencing physical violence by an intimate partner have also been sexually coerced by the partner (Campbell, 1999). Sometimes, sexual violence occurs without physical violence. In the Indian State of Uttar Pradesh, in a

representative sample of over 6000 women, 17% reported having been sexually and physically abused by their husbands. About 50% of them reported that they were forced to have sexual intercourse at the advanced stage of their pregnancy (Heise and others, 1999).

### **III. VULNERABILITY TO SEXUAL ABUSE**

#### **A. Age**

Young women are usually found to be more at risk of rape than older women (Acierno et al. 1999). According to data from the United States Department of Justice, two thirds of all victims of sexual assault are aged 15 years or less (Greenfeld, L. A.). Certain forms of sexual violence, for instance, are very closely associated with a young age, in particular violence taking place in schools and colleges, and trafficking in women for sexual exploitation. In India, of the total rape victims of 18,239 in 2004, 8.9% (1,622) were girls below 15 years of age. 11.0% (2004) were teenage girls (15-18 years) and nearly two thirds (11,343) (62.2%) were women in the age group 19-30 years. It means about 82% rape victims were girls/women below 30 years (Crime in India, 2004). One Research Study recently conducted in India has revealed that the most affected age group were victims between 11-20 years (68.9%) followed by 0-10 years (12.2%). Two (2.2%) cases were above 50 years of age. Female victims were mostly in the age group of 16-20 years while male victims were of the age group 6-10 years. The total sample size of the study was 90. (Sarkar and others, 2003)

#### **B. Drugs and Alcohol**

Increased vulnerability to sexual violence also stems from the use of alcohol and other drugs. Consuming alcohol or drugs makes it more difficult for women to protect themselves by interpreting and effectively acting on warning signs. Drinking alcohol may also place women in settings where their chances of encountering a potential offender are greater. Alcohol has been shown to play a significant role in certain types of sexual assault (Miczec, K. et al., 1993), as have some drugs, notably cocaine. Alcohol has a psychopharmacological effect of reducing inhibitions, clouding judgments and impairing the ability to interpret cues (Abby A., Ross lt., 1995)). The biological links between alcohol and violence are, however, complete. Research on the social anthropology of alcohol consumption suggests that connections between violence, drinking and drunkenness are socially learnt rather than universal.

#### **C. Poverty**

Poor women and girls may have more risk of rape in the course of their daily tasks than those who are better off, for example when they walk home on their own from work late at night, or work in the fields or collect firewood alone. Children of poor women may have less parental supervision when not in school, since their mothers may be at work and unable to afford child care. The children themselves may, in fact, be working and thus vulnerable to sexual exploitation. Poverty forces many women and girls into occupations that carry a relatively high risk of sexual violence (Omorodion, F. I., 1998), particularly sex work. It also creates enormous pressures for them to find or maintain jobs, to pursue trading activities and, if studying, to obtain good grades - all of which render them vulnerable to sexual coercion from those who can promise these things (Omaar, R., 1994) Poorer women are also more at risk of intimate partner violence, of which sexual violence is often a manifestation. In India about 74% of rape victims are from poor economic class (Sagar, M. S., 1992).

#### **D. Isolation**

Isolation greatly facilitates the conditions for the commission of rape. Isolation may be of many types, physical, social, psychological, religious and even cultural. Most of the rape cases in India have taken place when the victims were found alone in isolated places like lonely and insufficiently lit parks, streets, lanes, etc. or any such places. Social isolation refers to individual's social status in society. If the person is a bachelor, separated or divorcee, or even an elderly person living alone, he/she could definitely be vulnerable to such crime. At the time of communal riot it has been observed that mainly women and girls from the minority religious community have become victims of rape.

### **IV. ETIOLOGICAL EXPLANATION**

#### **A. Psychological Factors**

There has been considerable research in recent times on the role of cognitive variables among the set of factors that can lead to rape. Sexually violent men have been shown to be more likely to consider the victims

responsible for the rape and are less knowledgeable about the impact of rape on victims. They have coercive sexual fantasies (Drieschner, K., Lange, A., 1999)), generally get encouraged by access to pornography, and overall are more hostile towards women than men who are not sexually violent (Koss M Dinero T. E., 1989)). In addition to these factors, sexually violent men are believed to differ from other men in terms of impulsivity and antisocial tendencies (Crowell, N. A., Burgess, A. W., 1989)). They also tend to have an exaggerated sense of masculinity.

### **B. Early Childhood Environment**

There is evidence to suggest that sexual violence is also a learnt behaviour in some men, particularly in regard to child sexual abuse. Studies on sexually abused boys have shown that around one in five continue in later life to molest children themselves (Watkins, B., Bentovim, A., 1992). Such experiences may lead to a pattern of behaviour where the man regularly justifies being violent, denies doing wrong, and has false and unhealthy notions about sexuality. An early faulty socialization continues to influence the further course of action in the matter of sexual behaviour.

### **C. Physical and Social Environment**

While fear of rape is typically associated with being outside the home, the great majority of sexual violence actually occurs in the home of the victim or the abuser. Nonetheless, abduction by a stranger is quite often the prelude to a rape and the opportunities for such abduction are influenced by the physical environment. The social environment within a community is, however, usually more important than the physical surroundings. For instance, in some places, rape can even occur in public, with passers by refusing to intervene. The police may also treat complaints of rape leniently, particularly if the assault is committed during a date or by the victim's husband or very close relatives. Where police investigations and court cases do proceed, the procedures may well be either extremely lax or else corrupt – for instance, with legal papers being “lost” in return for a bribe.

### **D. Societal Factors**

Factors operating at a societal level that influence sexual violence include laws and national policies relating to gender equality in general and to sexual violence more specifically, as well as norms relating to the use of violence. While the various factors operate largely at a local level, within families, schools, workplaces and communities, there are also influences from the laws and norms working at the national and even international level. In India, there are some local communities in which wives are often sexually assaulted by their husbands as a matter of custom. Assaulted women are also not very unhappy because they also accept that sort of assault as a mark of love shown to them by their husbands.

Sexual violence committed by men is to a large extent rooted in ideologies of male sexual entitlement. These belief systems grant women extremely few legitimate options to refuse sexual advances. Many men thus simply exclude the possibility that their sexual advances towards a woman might be rejected or that a woman has the right to make an autonomous decision about participating in sex. In many cultures women, as well as men, regard marriage as entailing the obligation on women to be sexually available virtually without limit (Sen, P., 1999), though sex may be culturally proscribed at certain times, such as after childbirth or during menstruation. Societal norms around the use of violence as a means to achieve objectives have been strongly associated with the prevalence of rape. In societies where the ideology of male superiority is strong – emphasizing dominance, physical strength and male honour – rape is more common (Sanday, P., 1981).

### **E. Global Trends and Economic Factors**

Many of the factors operating at a national level have an international dimension. Global trends, for instance towards free trade, have been accompanied by an increase in the movement around the world of women and girls for labour, including for sex work. Economic structural adjustment programmes, drawn up by international agencies, have accentuated poverty and unemployment in a number of countries, thereby increasing the likelihood of sexual trafficking and sexual violence in Central America, the Caribbean parts of Africa, and South East Asia. (Watts, C., Zimmerman, C., 2002).

## **V. THE CONSEQUENCES OF SEXUAL CRIME**

Physical force is not necessarily used in rape, and physical injuries are not always a consequence. Deaths associated with rape are known to occur, though the prevalence of fatalities varies considerably across the world. Among the more common consequences of sexual violence, apart from physical injuries, are those

related to reproductive, mental health and social well-being.

#### **A. Pregnancy and Gynaecological Complications**

Gynaecological complications have been consistently found to be related to forced sex. These include vaginal bleeding or infection, fibroids, decreased sexual desire, genital irritation, pain during intercourse, chronic pelvic pain and urinary tract infections. Women who experience both physical and sexual abuse from intimate partners are at higher risk of health problems generally than those experiencing physical violence alone (Campbell, J. C. 1999).

#### **B. Sexually Transmitted Diseases**

HIV infection and other sexually transmitted diseases are recognized consequences of rape. Research on women in shelters has shown that women who experience both sexual and physical abuse from intimate partners are significantly more likely to have had sexually transmitted diseases (Wingood G., 2000). For women who have been trafficked into sex work, the risks of HIV and other sexually transmitted diseases are likely to be particularly high.

#### **C. Mental Health**

Sexual violence has been associated with a number of mental health and behavioural problems in adolescence and adulthood. In one population-based study, the prevalence of symptoms or signs suggestive of a psychiatric disorder was 33% in women with a history of sexual abuse as adults, 15% in women with a history of physical violence by an intimate partner and 6% in non-abused women (Mullen P. E. et al., 1998). Sexual violence by an intimate partner aggravates the effects of physical violence on mental health.

#### **D. Suicidal Tendencies**

Women who experience sexual assault in childhood or adulthood are more likely to attempt or commit suicide than other women (Felitti, V. J. et al., 1998). The experience of being raped or sexually assaulted can lead to suicidal behaviour. A study of adolescents in Brazil found prior sexual abuse to be a leading factor predicting several health risk behaviours, including suicidal thoughts and attempts to commit suicide (Anteghini et al., 2001). Experiences of severe sexual harassment can also result in emotional disturbances and suicidal behaviour. A study of female adolescents in Canada found that 15% of those experiencing frequent, unwanted sexual contact had exhibited suicidal behaviour in the previous six months, compared with 2% of those who had not had such harassment (Bagley, C., 1997).

### **VI. IMPEDIMENTS IN THE JUSTICE DELIVERY**

#### **A. Low Reporting of Cases**

The most prominent difficulty in the delivery of justice to the victims of sexual offences is the very low reporting of cases. Data relating to sex related offences are mostly available from the police record, clinical setting, non-governmental organizations and survey research. But whatever information is available on the subject is merely the tip of the iceberg. Because of the very nature of the offence, incidents are not properly reported to the police on account of many reasons arising out of ignorance, illiteracy, and fears of retaliation from the offenders or merely because of an inability to have access to the police. There is also a fear of shame and stigmatization of the victims and their families, or reluctance on the part of the family to report the case, especially where the perpetrator is powerful and rich. Lack of faith of the common people in the official law enforcement mechanisms of the Police, Courts and laws also add to the problem of under reporting of sexual cases (Femate L. Devi, 1998).

Sexual Crime, unfortunately, is not the priority area of research and surveys in many countries. NGOs findings are not always dependable. Combined results of all those are poor visibility of the magnitude of the problem. The international crime survey in countries in transition conducted by the UN Interregional Crime and Justice Research Institute, Rome, in 1998 (UNICRI, Rome) has revealed that the reporting of assault cases had been mainly very poor ranging from 0.8% (Botswana, Africa) to 6% (Albania, Eastern Europe). Reporting of such cases in Asian Countries including, China, India, Indonesia and Philippines was between 0.3% (Philippines) to 2.7% in Indonesia. The situation in this regard is slightly better in Eastern European countries where the reporting ranged from 2% (Budapest) to 6% (Albania).

#### **B. Investigation**

Not only are many sexual cases not reported, but the unscrupulous officers in the police stations do not

register many such cases in India. Investigation of sex offences, particularly rape cases, require extra-sympathetic handling of the traumatized victims. The investigators must try to establish proper rapport with the rape victims and help the latter overcome shame, nervousness and reluctance. The investigator must impress on the victim that he is concerned not only with the arrests and conviction of the offender but also the victim's welfare.

Female victims also feel shy and embarrassed to answer delicate questions posed by male investigating officers. It will be useful if female investigating officers record the statements of rape victims wherever possible. Unfortunately, the number of women police personnel in the country is totally inadequate. It is almost less than one per cent of the total force and is available only in big cities and in special wings of the Criminal Investigation Department. In one dacoity (armed robber) case that occurred in a village the rape of the women folk in the house came to light only because of the proper interrogation of the victims by a woman Sub-Inspector who was brought from Rourkela. It is necessary that the strength of women investigating officers in the State Police be adequately increased and also to train them in supportive and sympathetic interviewing techniques. In countries like Australia, increased use of female officers and specially trained 'Sex Crime Units' have produced positive results.

Prompt police investigation is imperative for justice delivery to the victims. If the police investigation starts immediately after the event has taken place, witnesses not only are able to recall the incident easier but the suspects are less likely to develop a concocted defence. At this point, it is important to remember that police must start from the very beginning anticipating defences. This may be the reason behind some of the police abuses of victims.

### **C. Physical and Medical Examination of the Victim**

Immediate physical examination of the victim is of utmost importance because this is the beginning point of any investigation. Moreover, it helps in ruling out the possibility of false allegation, which happens many times because of many reasons.

In India, though about 80 per cent of the rape cases are charge sheeted by the police, a large number of these cases ultimately end in acquittal because of various factors like delayed reporting, unfavourable medical opinion, witnesses turning hostile, etc. One important factor behind the failure of a large number of cases in courts of law is the negative opinion given by the Medical Officers who examine the rape victims. Medical evidence is a crucial piece of information to establish the case of rape. The police investigator has to rely upon the examining physician collecting the best evidence in the case – evidence from the body of the victims. It is seen that lady doctors in government hospitals hesitate to give frank medical opinion in rape cases for fear of appearing as a prosecution witness and then being subjected to embarrassing cross-examination in courts of law. In one case, two officers of a well-known engineering concern raped a tribal girl by taking her out on the pretext of arranging a job for her. This created a commotion and the workers in the factory went on strike. The case ended in acquittal because of the information given by the lady doctor and also because of the gaining over of some witnesses who impeached the character of the victim. The Law Commission in its Report (1980) also pointed out that "the report of medical examination is often cursory or is not sent in time". The Commission recommended some additions to the provisions in the Code of Criminal Procedure, the most important being, that the "report shall state precisely the reasons for each conclusion arrived at".

In the U.S.A. and U.K., there are many 'Rape Crisis Centres' to advise the rape victims, Rape Crisis Centres send experts to stay with the victims during cross-examination by the police. They also advise medical officers regarding types of evidence to be collected in sexual assault cases. Rape Crisis Centres also send experts to lecture at Medical Colleges and Schools. Many hospitals in the U.S.A. now maintain "sexual assault evidence kits" containing items like an instruction sheet for the examining physician, packages of sterile cotton swabs and envelopes marked for clothing, fibres, hairs, secretions etc. It is necessary that such evidence kits should be maintained in Indian hospitals and medical centres.

### **D. Delay in Disposal of Cases**

There is very often, unfortunate delay in the disposal of cases involving crimes against women in the courts. From a sample study of 100 cases of rape, kidnapping and abduction, carried out by a study group of the Bureau of Police Research and Development, Govt. of India, it was found that only in 34 percent of cases

were trials completed in six months, in 48 percent cases within six to 12 months, and in 17 percent of cases it took more than a year. The rate of disposal of rape cases is about 18 percent. All efforts should be taken to review the time taken in the course for disposal of these cases in view of the trying and agonizing situation through which the victims and their family members pass through during the trial stage. Besides delay in the disposal of cases, punishment imposed by the courts in cases ending in conviction has been less than adequate. Though the law now provides a minimum punishment of 10 years in cases of custodial rape, the courts in the country in different cases have refrained from imposing the maximum punishment.

Another problem of the rape victims at the time of trial deserves notice. Section 155(4) of the Indian Evidence Act 1872, permits the cross-examiner to ask the victim of rape questions about her past character. These questions can be very embarrassing and places the victim under severe emotional strain. The questions can cover not only her immoral association with the accused in the past, but also her alleged immoral character. Only amending the law can check this. The Law Commission of India in more than one of its reports has recommended an amendment of this provision.

#### **E. Low Conviction Rate**

The conviction rate of sexual offences is unusually low. The average conviction rate of sexual offences, which is comprised of rape, molestation, sexual harassment and kidnapping and abduction for sexual purposes, is 6.8 percent. In 2003, out of 13,107 cases 9,664 (74%) cases of rape ended in acquittal. In 2004, the acquittal rate of rape was 70.2 percent. Of the total number of rape cases in which trials were completed, 28.8 per cent ended in conviction in 2004 (Crime in India, 2000). In case of molestation, it was 4.9 percent, sexual harassment 14.58 percent and kidnapping and in cases of abduction for sexual purposes, the conviction rate was only 3.59 percent. Other suspects of these cases had either been discharged because of lack of proof or their cases were pending. The major reasons for this state of affairs are mainly inadequate police investigation, incomplete medical reports and non-availability of witnesses because of inordinate delay in disposal of cases.

### **VII. LEGAL MEASURES**

Every society has its own set of laws to prevent and control a variety of sex offences. Through their laws, sexual behaviour of individuals has been redefined and restricted to the tune of national ethos. In terms of rigidity and liberalness again different countries view sex crime against females in the light of the value structure and general attitude towards women folk in a particular country. In this paper, the Indian position in this regard has been highlighted.

In India, where women are worshipped as goddesses and symbols of energy and the spirit of the universe, innumerable women are exploited, socially, economically and sexually because of orthodox tradition, superstitions, myths and beliefs. Equality before the law and equal protection of law between males and females is the constitutional guaranty on the strength of which several legal provisions are present in the Indian Penal Code (IPC). Some special legislation has also been enacted from time to time for the prevention and control of sexual exploitation of women and girls.

In India, the central government and state governments have taken several steps to protect woman through enactment of legislation and the prosecution of those who perpetrate violence against them. The Indian Penal Code (IPC) has been amended several times in relation to crimes against women largely as a result of campaigns against violence led by the women's movement in the country. Almost every campaign against gender-based violence on women in the 1980s resulted in new legislation providing protection to them. Each enactment resulted in making the punishment provisions more stringent, setting time limits for pending cases and extending compensation to the victims. Violence in its different dimensions has been sought to be tackled by legislative reforms, innovations in the structure and working of the police force, measures to sensitise the bureaucracy, media campaigns and new institutional structures.

As per section 375 of the IPC a man is said to commit the offence of rape when he has sexual intercourse with a woman under the following six circumstances namely (i) sexual intercourse against the victim's will, (ii) without the victim's consent, (iii) with her consent, when her consent has been obtained by putting her or any person that she may be interested in fear of death or hurt, (iv) with her consent, when the man knows that he is not her husband, (v) with her consent, when at the time of giving such consent she was intoxicated

or is suffering from unsoundness of mind and does not understand the nature and consequences of that to which she gives consent and (vi) with or without her consent when she is under sixteen years of age.

The *Criminal Law Amendment Act, 1983* has been subsequently brought to further strengthen the rape related provisions. The Act was passed by Parliament as a response to the growing public opinion demanding more stringent anti-rape laws. It amends section 376 of the IPC and enhances the punishment of rape by providing, that it shall not be less than seven years. If the sentence of imprisonment is for a term less than seven years, the court will have to mention in its judgment the adequate and special reasons for this. It also provides enhanced punishment of a minimum of 10 years imprisonment for police officers or staff of jails, remand homes or other places of custody established by law. The Act further inserts a new section in the Indian Evidence Act - Section 114A- which lays down that where sexual intercourse by the accused has been proved, and the victims states before the court that she did not consent, the court will presume that there was absence of consent and the onus will be on the accused to prove that the women had consented to the act. The Act amends the Code of Criminal Procedure and provides for trial *in camera*. It also inserts a new section in the IPC – Section 228(a) - which makes disclosure of the identity of the victim in rape cases an offence punishable with imprisonment for two years.

In matters of Child Prostitution, Sections 366A and 366B are intended to punish the export and import of girls for prostitution. Section 366A deals with procurement of minor girls from one part of India to another for illicit sex use. Section 366B makes it an offence to bring girls into India from any country outside India below the age of twenty-one years for the purpose of prostitution. *As per Section 366A* whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from one place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to a fine. *Section 372* of IPC stipulates punishments for ten years for selling or abducting any girl under the age of eighteen years for the purpose of prostitution or other unlawful activities. Section 292 of the Indian Penal Code proscribes selling or demonstrating any published or printed matter containing pornographic material in any public or private places. It prescribes two years rigorous imprisonment along with a fine of Rs. 2000 for the first conviction and rigorous imprisonment of five years with a fine of Rs. 5000 for the second or subsequent conviction.

*The Immoral Traffic Prevention Act, 1986* prescribes rigorous imprisonment for a term of not less than three years and not more than seven years and also with a fine which may extend to two thousand rupees, and if any offence under this subsection is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years to a person(s) found guilty of causing or inducing any women or girl for the purpose of prostitution.

The National Commission for women in India brought out a Bill for the *Prevention of Sexual Harassment of Women at their Work Place* in 2003 which culminated in an act entitled ‘Sexual Harassment of Women at their Work Place (Prevention) Act, 2003. As per the Act, sexual harassment includes any avoidable sexual advances through use of sexually suggestive or pornographic material, and includes amongst other; whistling, sexually slanting and obscene remarks or jokes: comments about physical appearance; demands for sexual favours, threats, avoidable physical contact, patting, pinching, physical assaults and molestation of women by their male colleagues or any one who for the time being is in a position to sexually harass the women.

The Act provides that whoever sexually harasses a woman at their work place, shall be punished with simple imprisonment for a term, which may extend to simple imprisonment to five years or with a fine. The burden of proof shall be on the accused and the victims shall have the right to lead evidence in Court. The Act has the provision of a regular machinery to be operated through Complaint Committees and Special Officers are to be appointed by the Ministry concerned at the district and state level.

### VIII. OTHER PREVENTIVE MEASURES

Sex crime against women and girls is not an exclusive problem for the police or criminal justice system of any country as such. In fact, sexual crime is an outcome of a particular mindset of some erring individuals who develop a wrong perception toward women folk during the course of their socialization. Stringent legal

measures with their strong enforcement may definitely be useful in controlling such behaviours in society but that can not achieve the desired results, unless legal measures are supplemented by a wide range of extra legal preventive programmes developed in mutual co-operation and with assistance of governmental organizations, concerned professional associations, community organizations, research institutions, etc. in close collaboration with the police and other law enforcement officials.

Creating public awareness regarding the imperatives of human rights among the common mass, spreading, promoting and inculcating values of equality, mutual respect and shared responsibilities between men and women are gradually being realized as important ingredients for the evolvement of an environment which would, undoubtedly, facilitate upholding gender justice in society in general and forestalling sex crime in particular. In India several women's organizations have raised special units whose main functions are to educate common women folk regarding their rights and how to take precautions if they foresee any problem which may lead them to sexual harassment or sexual victimization of any kind. Another important function of these units is to identify those people in the locality who are a potential danger to women and girls for any possible sex offences. Once they identify the culprits, they immediately bring the fact to the notice of the police for prompt action against them. These units also organize camps of short duration where problems relating to these issues are discussed with women folk living in slums or on the streets.

In many metropolitan cities police have established Crime Against Women Cells to provide prompt help and assistance to women victims of any crime perpetrated against them, including sex crime. Most of the metropolitan cities in the country have crime against women cells, which are operated by the police. As a part of the Crime Women Cell, 'Women Mobile Teams' headed by senior level women police officers move around the city twenty-four hours a day to attend urgent and distress calls received from women. Some prominent NGOs have set up Rape Crises Intervention Centres to take special care of rape victims in the form of helping to register their cases with the police and providing them with counselling and at times some nominal financial assistance at the time of crisis.

With the active co-operation of local people and prominent NGOs, Police in metropolitan cities have also undertaken legal awareness and publicity campaigns as a part of which Police Community Relations (PCR) Mobile Patrolling Vans make frequent rounds to prominent women colleges and institutions to provide protection for female students from any sexual harassment by anti-socials.

At the initiatives of the National Commission for Women and National Human Rights Commission, many programmes have been organized in collaboration with the State Governments, university departments and prominent voluntary organizations which arrange many outreach programmes that provide information to women, including victims of violence about gender roles, human rights of women and the social, health, legal and economic aspects of violence against women with a view to empowering women to protect themselves against any form of violence. Several programmes have also been designed and organized to disseminate information on the different forms of violence against women and on their remedial measures, including modalities concerning the peaceful resolution of conflicts in a manner appropriate to the audience. These programmes are yielding good results. But in view of the vastness of the country, the number of these programmes is not adequate.

#### **A. Training Programmes**

Issues concerning sexual crime need to be addressed in the training programmes of all police officers particularly at the grassroots level in basic as well as in advanced training courses. Such training should, in the first place, impart ground level police functionary's greater knowledge and create awareness regarding the consequences of sexual violence, which in turn make them more capable to detect and handle cases of sexual crimes in a befitting manner. Higher-level police functionaries should also attend appropriate training programmes relating to policy decisions in the matter of handling sexual offenders as well as victims of sexual crimes.

#### **B. Community Based Programmes**

Attempts to change the public's attitude towards sexual violence include advertisements on the harmful impact of sexual crimes and the plight of victims of sexual crimes on public and police transport and in radio and television programmes. Nowadays television is being used effectively in primetime serials, which have shown extraordinary good results in changing the general attitude of common people towards victims and



perpetrators of sexual crimes. Neighbourhood dramas and street shows organized by NGOs are drawing focused public attention towards the necessity of identifying prospective sex offenders and to prevent them from the commission of such offences before they take place. At the initiative of some prominent NGOs some sex educational programmes have been initiated in schools to create awareness among the school children, particularly those from the lower economic status.

### IX. INTERNATIONAL CONCERN

Over the last few decades, concern and outrage over the prevalence, magnitude and impact of violence against women has grown to the point that any form of crime against women is now recognized as a global human rights problem that requires a comprehensive and coordinated response from civil society, the states and the international community. The 1990s saw the development of at least five major international declarations and platforms for action that specifically addressed this issue. Two of these, *the Declaration on the Elimination of Violence Against women (1993)* and *Prevention, Punishment and Eradication of Violence Against Women (1994)* were developed explicitly to guarantee women's rights to life and violence free lives.

In 1993, the United Nations General Assembly resolved "that violence against women is an obstacle to the achievement of equality, development and peace, that violence against women constitutes a violation of rights and freedom of women, that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared to men". Article 2 of the Declaration has included all possible forms of violence against women, including physical sexual and psychological violence perpetrated against women in the family, neighbourhood or anywhere in the state. The Declaration in its Article guarantees all possible rights of women and has directed the States to condemn violence against women and not to involve any custom, tradition or religious consideration to avoid obligations with respect to its elimination. States should pursue all appropriate means and without delay implement a policy of eliminating violence against women. The Declaration insists that organs and specialized agencies of the United Nations should endeavour to foster international and regional co-operation with a view to defining regional strategies for combating violence, exchanging experiences and financing programmes relating to the elimination of violence against women.

The Fourth World Conference on Women (Beijing Declaration and Platform Action) 1995, maintained that violence against women is an obstacle to the achievement of objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedom.

The Beijing Rules, adopted by the United Nations in 1985, provide guidance to States for the protection of children's rights and respect for their needs in the development of a separate and specialized system of juvenile justice. Limited provisions concerning juvenile justice may be located in regional human rights treaties and in the International Covenant on Civil and Political Rights 1966.

Similarly, the United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted in 1955, sets out certain basic requirements for all prisoners but does not address specific issues in relation to young offenders. The Beijing Rules was the first international legal instrument to comprehensively detail norms for the administration of juvenile justice with a child rights and development oriented approach. They were a direct response to a call made by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which was convened in 1980.

There are major international standards, which provide a framework within which countries can address issues of trafficking of women and girls, such as the following. The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949). The Convention has been ratified by 71 countries (1997) but has not attracted widespread support. The Convention on the Elimination of all Forms of Discrimination against Women, 1979 obliges States to enact legislation to suppress all forms of trafficking anywhere. One hundred and fifty five countries have ratified the Convention. The United Nations Convention on the Rights of the Child 1989 has near Universal ratification and 189 States are parties to it.

Women and Children are often vulnerable to abuses of the legal System. In India, a large number of

women in the sex trade are arrested but procurers, guardians, pimps and clients are barely touched. Further, the stigma associated with HIV/AIDS has undermined attempts to repatriate trafficked women or to rehabilitate them. Though trafficking of women and girls for the sex trade has been undertaken on a large organized scale involving regional gangs who have links with law enforcement agencies, there is no proper regional co-ordinating body to ensure cooperative and coordinated action. Therefore, there is an urgent need for evolving mechanisms both at the regional and international level to ensure the problem is combated with all its ramifications.

## X. SUGGESTIONS

1. There is a need to reform the images of women in society that have been created over centuries by history, mythology and social customs. Women must be considered as individuals who are equal to men in their own right. Parents should not impose crippling restrictions on their daughters, which prevent them from thinking and acting independently. Women also have to be assertive and develop a self-identity for themselves so that they can lead a life of security and dignity. They must be made economically independent to achieve this aim.
2. There is no dearth of laws for reducing sexual crime against women in any country, what is lacking is their proper implementation. There are many reasons for their inadequate enforcement. Some of the prominent ones are inadequate infrastructural facilities, lack of training and orientation of functionaries, lack of awareness among the victims, indifferent attitude of the community, etc. Therefore, instead of creating more laws, all efforts should be directed to enforce the existing laws.
3. There should be meaningful discussions between the police, lawyers, judges, legislators and the representatives of the women's organizations at regular intervals. Conferences, seminars and workshops should be frequently organized and mutual experiences should be exchanged. The difficulties that come in the effective implementation of the laws should be frankly discussed and suggestions based on experience should be put forward so that existing ones may be properly implemented and may be amended, if necessary to make them more effective.
4. Investigation of sexual crimes like rape, sexual harassment, eve teasing, etc. should be started immediately after getting information so that the real facts can be ascertained and the culprits do not have time to escape or to create evidence in their favour. Strict action should be taken against policemen who try to avoid arresting offenders against whom genuine evidence is present. Cases of crimes against women should be investigated with a definite timeframe by police officers specially trained to investigate such crimes. An explanation should be called for from police officers who fail to carry out a full investigation of the cases within the stipulated time.
5. A greater number of women police investigating officers specialized in investigating crimes against women should be appointed preferably in every police station. That will definitely restore the lost confidence of women, and women victims will be less hesitant to go to the police station alone.
6. There is an urgent need to re-orient law enforcement personnel to issues related to women. Training courses at all level should include a capsule on issues related to crime against women. The course content should be imaginatively designed to include significant areas of relevance to women, including legislation relating to crimes against women and its application.
7. Women's organizations should play a more constructive role in generating awareness and providing assistance to victims. It will then be easier to prosecute the offender and get him punished. The legal aid centres and women's organisations should be given *locus standi* to plead on behalf of the victim. They should also be permitted to meet the victim in the rescue homes so that they can offer her the necessary help, guidance and reassurance.
8. Tightening the dragnet around enforcement personnel who are involved in corruption is essential in making the laws effective. Most of such crimes go unreported because the culprit bribes the police officers and gets the case nipped in the bud. If he does not succeed with the police, he tries to bribe the court officials and at times tries to bribe the judges, even through the advocates. Such practices have to be stopped and stern action should be taken against those who are caught indulging in them. Such cases should never be allowed to go unpunished.

9. In view of the large number of pending sex related cases, it is felt necessary that some of the existing regular courts should be designated to try all cases of crimes against women exclusively. The appointment of the judges for these courts should be from amongst the judges who understand women's problems well.
10. The media should highlight cases in such a manner that a message is conveyed that sexual crimes against women do not necessarily go undetected or unpunished or that crime does not pay in the long-run. It should also bring into focus those cases, which could not be registered or prosecuted due to executive apathy so that timely action or enquiry by higher authorities can be undertaken and justice is delivered to the victim.
11. The media should carry a 'know your legal rights' campaign through interesting programmes and quiz type competitions. The coverage of these programmes should be educative, interesting and appealing.
12. All political parties and religious and social bodies should impose a condition on their members that if they are found indulging in sex crimes like bigamy, rape, offences against marriage prostitution, etc. they will be debarred from membership of the party. Citizens committees at the *Mohalla* or village level should be formed to act as watchdogs to prevent crimes like wife beating, torture or giving and taking a dowry. Leaders in various fields should desist from ostentatious marriages and take a lead in not accepting a dowry. The enforcement strategies should be made flexible so that they can be adjusted according to requirements without any delay.
13. Another imperative need of the hour is to consolidate all the provisions of various enactments relating to sex crimes under one head. This can either be done by passing a full-fledged central law on the subject of consolidating all these crimes under a separate chapter of the Indian Penal Code. This job of consolidation and amendment must be entrusted to competent law officers, experts in drafting rules and regulations.
14. Necessary amendments should be made in the existing laws to make them simple and easily comprehensible. Lack of clarity and ambiguity of expressions in the existing protective laws have been a major cause of protracted legal wrangles. Laws should be flexible enough so that various shortcomings found during enforcement can be rectified by the judges themselves while interpreting the laws.
15. Some sex crimes, particularly trafficking of women and children for commercial and sexual purposes have international ramifications. Perpetrators work in close networks in many countries spreading all over the world. They are highly manipulative and powerful and are capable of influencing the criminal justice system and political masters of the countries where they operate. One country cannot control their activities on its own strength alone. It is therefore necessary that affected countries enter into bilateral and multilateral treaties to fight this evil in an effective manner. More United Nations initiatives are also urgently called for in this sphere.

## XI. CONCLUSION

Sexual crime against women and children is universally condemned. In fact, this type of crime is a blot on the face of any civilized society. It reflects the mindset of a regressive era with patriarchal dominance. Whether overt or covert violence has seeped into the psyche of perpetrators these crimes are multi-causal and multidimensional. They are the manifestations of a very deep-rooted disease, which has socio-economic, cultural and political moorings. Many research studies have confirmed, and even experiences of different countries have shown, that simply the enactment of special laws will not serve the purpose unless laws are strictly implemented. The task cannot be accomplished only by the police alone but has to be shared by all the other wings of the criminal justice system. Particularly, the judiciary has to take it upon itself to see that no perpetrator of these crimes goes unpunished. Along with the criminal justice functionaries, non-governmental organizations, media people, political leaders, social workers and even the common man have to coordinate to create an environment in which sexual violence against women and children will not proliferate. What is most important is that the general attitude of society needs to be changed in favour of the dignity of women and children which would necessitate large scale literacy among women folk and the economic improvement of the downtrodden masses. International endeavours need to be further invigorated to such an extent that their outcome is reflected in the national efforts of different countries.

In many countries, data on most of the aspects of sexual violence are lacking, and there is a great need everywhere for research on all aspects of sexual violence. Of equal importance are interventions. These are of various types, but the essential ones concern the primary prevention of sexual violence, targeting both women and men, interventions supporting the victims of sexual assault, measures to make it more likely that perpetrators of rape will be caught and punished and strategies for changing social norms and raising the status of women. Health professionals have a large role to play in supporting victims of sexual assault - medically and psychologically - and collecting evidence to assist prosecutions. The health sector is considerably more effective in countries where there are protocols and guidelines for managing cases and collecting evidence, where the staff is well trained and where there is good collaboration with the judicial system. Ultimately, the strong commitment and involvement of governments and civil society, along with a coordinated response across a range of sectors, are required to end sexual violence against women and children.

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## PARTICIPANTS' PAPERS

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### COUNTRY REPORT - HONG KONG (SAR)

*By Lam Kwok Leung\**

#### I. CURRENT SITUATION OF SEXUAL OFFENCES IN HONG KONG

There is inevitably sexual crime, either violent or non-violent in nature, happening around the world everyday. Hong Kong is no exception. In 2005, there were 99 rapes and 1,136 indecent assault cases, signalling an increase of 7.6% and 9.9% respectively against the 2004 reports. Statistics from the Police below reflects the fluctuation of sexual crime cases within the past six years in Hong Kong. Fortunately, the information does not represent an upsurge in sex crime in general.

**Table 1: Crime Statistics from Hong Kong Police (cases reported)**

Year	2000	2001	2002	2003	2004	2005
Rape	104	95	95	70	92	99
Indecent Assault	1124	1007	991	1018	1034	1136
Other Sexual Offences	938	753	773	900	1082	1042

But in brief, we are still facing a sex crime situation in Hong Kong with one sex violence case, either rape or indecent assault, taking place roughly every seven hours.

Some researches suggest that most of the sexual offenders were only arrested after several attempts of sex abuse. In other words, the number of reported cases could be far less than the actual number of victims involved in sex abuse. A survey by the Hong Kong Social Welfare Department (SWD) in 2003 on their clients having committed sex offences generated an interesting profile. Almost 80% of sexual offences were committed by offenders aged below 40 and the age at which they first committed a sex offence was also mostly under 40.

**Table 2: Age of Sex Offenders**

Age of Offenders	Percentage
18-25	36%
26-30	16%
31-35	9%
36-40	18%
41-45	6%
46-50	6%
51-60	9%

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**Table 3: Age when First Committing a Sex Offence**

Age First Committing Sex Offence	Percentage
10-15	16%
16-20	36%
21-25	12%
26-30	12%
31-35	12%
36-40	6%
41-60	6%

On the other hand, the survey reinforced the research suggestion that sex offenders normally have re-offending records, and some of them started committing sex crime in their early boyhood. It is astonishing to note that more than half of the offenders within the sampling pool have committed a countless number of sex offences with scores of victims. Despite the fact that the survey could not by itself authenticate the full picture of the sex crime situation in Hong Kong owing to limitation of the size of the survey, our attention has already been drawn to the general profile of sex offenders and the harmful impairment caused to the huge number of victims involved in sex crime. The following tables obtained from the same survey are strongly indicative of the mentioned situation.

**Table 4: Number of Sex Offences Committed**

No. of Offences	Percentage
1-5	15%
6-10	9%
11-50	24%
51 & above	52%

**Table 5: Number of Victims**

No. of Victims	Percentage
1-5	30%
6-10	6%
11-50	12%
51 & above	52%

We all understand that sexual abuse or even simply an unwelcome sexual advance will bring about emotional distress and depression to the victims, either in terms of social life, interpersonal functioning, work performance or other aspects of daily living. A sexual offence is not merely traumatic to victims at the time when it happens. Victims also have to suffer from a wide range of physical and psychological consequences. Being members of the criminal justice system, we have to appreciate and share the public's concern for offences involving sexual abuse, particularly when they are persistently happening. Apart from preventive measures, such as enhancing public awareness of the situation, there should be measures



adopted that perpetrators of such offences be brought to justice, and if convicted, sentenced in such a way to reflect the gravity and seriousness of sexual abuse.

## II. LEGAL FRAMEWORK OF PUNISHMENT

At present, there are a number of laws in Hong Kong which provide protection to victims against sexual abuse. The major one is the Crimes Ordinance, Cap 200, Laws of Hong Kong. Throughout the years, the Crimes Ordinance has been reviewed and amended to lift the maximum imprisonment term appropriate to the gravity of the relevant offences. Just to mention a few examples - the maximum penalty for incest with a girl between the age of 13 and 16 was increased from seven years to 20 years; indecent assault towards a child under 16 was increased from five years to 10 years; the requirement of corroboration in respect of sexual offences was abolished to ensure that evidence given by victims in sexual offences is accorded the same treatment as evidence given by complainants in other kind of cases. The price to be paid for committing serious sex crime is in no way insignificant. Conviction for some sex offences such as rape, buggery, and sexual intercourse with a girl under 13 can result in a maximum term of imprisonment for life. Extracts of the common sections of the Hong Kong Crimes Ordinance below are illustrative.

**Table 6: Extracts of Crimes Ordinance (Cap 200), Laws of HK**

### **Section 118 (1): Rape**

A man who rapes a woman shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

### **Section 118 A(1): Non-consensual Buggery**

A person who commits buggery with another person who at the time of the buggery does not consent to it shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

### **Section 118D Buggery with Girl under 21**

A man who commits buggery with a girl under the age of 21 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

### **Section 122 (1): Indecent Assault**

Subject to subsection (3), a person who indecently assaults another person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

### **Section 123: Intercourse with Girl under 13**

A man who has unlawful sexual intercourse with a girl under the age of 13 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

### **Section 124 (1): Intercourse with Girl under 16**

Subject to subsection (2), a man who has unlawful sexual intercourse with a girl under the age of 16 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

Other than incarceration, Post-release Supervision of Prisoners Ordinance, Cap. 475, inter alia. requires that offenders convicted of certain categories of sexual offence and sentenced to two years or more shall be

subject to statutory post-release supervision for six months to two years at the discretion of the Post-Release Supervision Board. These sexual offences are:

- Incest
- Rape
- Buggery
- Gross indecency by a man with another man
- Bestiality
- Indecent assault
- Unlawful intercourse
- Indecent conduct towards a child under 16

The supervision terms, other than those generic law-abiding requirements, may include psychological treatment and follow-ups.

### **III. TREATMENT OF INCARCERATED SEX OFFENDERS**

In managing sex offenders incarcerated in a prison setting, there is not much in particular we can do in terms of custodial care. Other inmates alike, we are duty bound not to label them but to render appropriate assistance to facilitate their path to rehabilitation. But as a rule of thumb, sex offenders will be singly located in cellular accommodation to prevent them from nuisance of any sort caused by other inmates.

As sex offenders in a correctional setting are a group of people with an identified risk of recidivism, reducing their re-offending risk is a way to reduce the overall sex crime in Hong Kong. As far as a treatment programme is concerned, psychological therapy has definitely played a more important role in recent years in the prevention of re-offending of sex crime. In the last decade, psychologists have contributed greatly in developing the psychological services for incarcerated sex offenders in Hong Kong with a view to reducing recidivism.

The establishment of the Working Group on Assessment and Treatment of Sex Offenders in 1991 was a milestone of the Hong Kong Correctional Services in initiating a service team to focus on sex offender treatment. In 1998, the formation of the Sex Offender Evaluation and Treatment Unit (ETU) materialized the first residential treatment centre for sex offenders in South East Asia. The Unit provides thorough psychological assessment and renders a wide range of specialized treatment programmes conducive to reducing recidivism of sex offenders.

We all understand that sex offending is intertwined with biological, psychological and sociological factors. Every sex offender has a distinctive deviant behaviour to release sexual urges. A more focused methodology to assess sex offenders and to provide them with appropriate treatment will be more constructive than long-term penal custody which is purely punitive in nature.

### **IV. DEVELOPMENT OF PSYCHOLOGICAL SERVICES FOR SEX OFFENDERS**

Tracing back to the 90s, individual therapy is the only major intervention method to treat sex offenders. In other words, sex offenders will be treated individually by clinical psychologists on a needs basis. During the treatment process, it is not uncommon to find sex offenders denying their offending behaviour and refusing psychological therapy. Low motivation for treatment thereby greatly hindered the treatment process in the past. The transfer of inmates and change of the service personnel are also a hindrance to the therapeutic process.

Seeing the need to improve the situation, a special working group of clinical psychologists was formed in 1991 to study the means to improve the assessment and treatment of sex offenders incarcerated in the penal environment. A number of changes towards related rehabilitative service were made as a result of the uplift of service between 1991 and 1998. In the course of development, the clinical psychologists have tested different modalities of psychological treatments for sex offenders. For instance, starting from 1993, a self-help treatment programme with manuals and audio-visual aids was utilized to supplement individual therapy. On the other hand, group therapy had been tried out and found to be more effective than the individual treatment adopted in the past.

Summing up the above and making reference to overseas experience, it was determined that a separate therapeutic unit to accommodate sex offenders for assessment and treatment would be conducive to a quality service delivery. Based on this premise, the Sex Offender Evaluation and Treatment Unit (ETU) was set up in one of the correctional institutions exclusively for offenders with re-offending risk.

## V. SEX OFFENDERS EVALUATION AND TREATMENT UNIT

The Sex Offender Evaluation and Treatment Unit (ETU) is a residential treatment centre for sex offenders and is one of the service pioneers in South East Asia. It aims at providing comprehensive and systematic psychological evaluation and treatment services for sex offenders in a therapeutic environment, with a view to enhancing their motivation for treatment. There are three programmes offered in the Unit, namely, the Sex Offender Orientation Programme, the Self-help Programme, and the Core Treatment Programme.

Newly sentenced sex offenders will first go through a 14 day Sex Offender Orientation Programme. During this period, individual interviews will be arranged to enhance motivation for treatment. Group discussion among existing and new Unit participants will be conducted to facilitate positive influences and to increase their confidence about the effectiveness of psychotherapy. Participants will be assigned to complete three self-help packages. At the same time, systematic risk assessment of possible recidivism will be carried out. It is expected that after completion of the orientation programme, the profile and treatment plan specific to each participant could be drawn up. Simply speaking, low-risk offenders will be sent back to parent institutions to receive individual treatment as necessary; moderate-risk offenders will participate in the Self-Help Programme; and high-risk offenders will join the Core Treatment Programme.

The Self-Help Programme is a highly individualized programme, which may start and end on any day. Depending on the progress of individuals, the programme lasts from 2 to 26 weeks. The programme is run by means of self-help manuals, audio-visual materials and interactive exercise to help the participants. There are over 30 manuals covering a variety of topics. Offenders will be required to work on questions and answers, reading assignments and feedback, case studies, empathy training and so forth. A clinical psychologist serves as a personal tutor to monitor participant's progress, to prescribe new self-learning exercises, and to provide psychological intervention.

The 52 week Core Treatment Programme, however, is to deal with offenders with a high-risk of re-offending. The programme consists of comprehensive and intensive group therapy to be conducted on a weekly basis. Apart from the focused therapy modules, group discussion, assignment of therapeutic exercise and role-play is conducted throughout the treatment process. Similar to the Self-Help Programme, those participants having completed the programme are re-assessed with a standard psychological assessment package to identify their change, re-offending risk and future treatment needs. The following programme contents are the core issues included in the treatment of sex offenders:

- Sex knowledge
- Dealing with a deviant sexual attitude
- Dealing with a deviant sexual interest
- Relationship skills
- Mood management
- Victim awareness and empathy training
- Offence cycle and relapse prevention
- Building support and community reintegration

It is meaningful to quote some dialogues of the sex offenders to represent their inner world and the changes occurred after going through psychological treatment. The following are two insightful examples:

*"I did not use any violence and the victim never struggled; how could it be rape?"*

***"Sex without consent is rape. The victim did not struggle because of fear rather than consent to have sex."***

*"Since the victim is not a virgin, raping her would not bring her any harm."*

***"Being forced to have sex is a humiliation for women. Its traumatic impact can be life-long."***

Other than receiving positive responses from the sex offenders, these programmes must also be

evaluated on a scientific basis in order to assess their overall effectiveness. Between the period of September 1998 and February 2005, there were altogether over three hundreds sexual offenders admitted to the Unit. Among them, almost half of them had participated in either the Self-Help Programme or Core Treatment Programme. We studied this group of offenders having gone through the ETU programmes and found that the percentage maintaining an abstinence from sex offending after discharge is relatively high. On the other hand, the percentage of denial of low-risk sex offences having gone through the Sex Offender Orientation Programme is lower by around one-third than those without programme treatment in the past. In other words, sex offenders, after psychological intervention, tended to admit their fault in committing sex crime as well as causing harm to the victims.

The above information is a strong testimony that psychotherapeutic treatment can help sex offenders understand their own problems and prevent them from re-offending. Efficacy of psychological services in the therapy of sex offenders is manifest.

## VI. CONCLUSION

In the West, treatments with a similar theoretical framework and programme structures are able to significantly cut down sexual recidivism. In Hong Kong, the preliminary data in hand support a similar proposition that our treatment programmes are effective to rectify criminal thinking and enhance relapse prevention. Despite that, there remains a strong necessity for systematic treatment evaluation, programme development, improvement of evidence based assessment tools of re-offending risks and rehabilitative needs to further enhance the treatment efficacy for sex offenders.

Apart from professional therapy, equally important is interdisciplinary collaboration as well as a joint effort by the community in rehabilitating sex offenders. The chance of relapse into further sex offences could not be totally ruled out after an offender's completing psychological treatment. After discharge, they have to face situations that may trigger off their urges of re-offending. Continuous development of rehabilitative services for sex offenders in the community, including religious bodies and non-government organizations and enhancement of cooperation among professionals are very important.

Last but not least, is the community at large aware of the causes of sexual deviance? Is it possible that public awareness and education can be reinforced to help better understand sexual offenders? It is not until the day when public concerns are adequately solicited could a policy decision be aptly orientated to the correction and rehabilitation of the group of perpetrators of sexual offences. It is undisputed that sexual abuse and violence are highly detrimental to the victims, but what deserves deeper consideration is our attitude towards these perpetrators. Should the community treat them as offenders, deviants, or patients?

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# COUNTRY REPORT - KOREA

*By Mr. Dong Keun Lee\**

## I. INTRODUCTION

Sexual assault is now recognized as one of the more significant problems in modern society. The severity of the problem of sexual offences is the result of the number of individuals who are victimized and the degree of harm they suffer by their victimization.

### A. Concept of Sexual Offences

#### 1. Rape

Rape means to be forced to have sexual intercourse, usually by violence or threats of violence. If someone has sexual intercourse with a girl under 13, the crime of rape is constituted even if there was no violence. Rape is an offence based on accusation and it is possible to prosecute if there is accusation under the legal action. (Article 297, 305, 306, Criminal Law.)

#### 2. Aggravated Rape

In cases of aggravated rape the punishment is doubled for the offender under some circumstances. If the offender is armed, or if more than one offender attempts to commit rape by force resulting in injury to the victim, such offenders can be sentenced to life imprisonment or 7 to 10 years imprisonment or more. (Article no. 6, Sexual Violence law)

#### 3. Indecent Assault

Indecent assault is violence inflicted by threatening, and it infringes personal sexual independence. The offender can be sentenced to up to 10 years of imprisonment or up to a 15,000 dollars penalty. (Article no. 298, Criminal law)

#### 4. Sexual Harassment

In any workplace, one may commit sexual harassment verbally and it leads to scandalous feelings and employment disadvantages or other damage.

The concept includes not only physical attachment, but also includes all sorts of behaviour such as lewd talk, dirty stories, enforcing sexual relationships and showing or sending offensive pictures or publications.

### B. Types of Sexual Offence

#### 1. Conventional Sexual Violence

Sexual violence is any physical, verbal, and psychological behaviour which infringes upon a women's right to decide her own sexual behaviour. Sexual violence is not limited to rape but extends to sexual harassment, child molestation, indecent exposure, and stalking. Any behaviour causing the fear of sexual violence and constraints on a person's activity as a result is also considered indirect sexual violence.

#### 2. Cyber Sexual Harassment

Cyber sexual harassment means any behaviour sending one-sided sexual messages and giving discomfort to somebody through information networks.

##### *(i) Verbal sexual harassment*

Most cyber sexual harassment is comprised of abusive language. Users of the internet are able to remain relatively anonymous, and assaulters underestimate the magnitude of the sexual violence they inflict on the victim.

##### *(ii) Sexual violence by images and sound*

Sending obscene images or sound causes shame and discomfort to the victim. Usually it is done through on-line chatting, text messages and e-mails.

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## C. Types of Victims

### 1. Juveniles

Sexual violence directed to a child under 18 years is also categorized as child sexual abuse. About 80% of such crimes are committed by persons who are known to the victims. Those persons can be divided into two types. One is sexual abuse by relatives. The other type is sexual abuse by ordinary people the victims see in their everyday life. Many of the assaulters force the victims to keep the abuse secret.

It means sexual violence committed against youth who are aged between 13 and 19. There are many male victims. Young people are becoming the main target of gangsters and armed robbery. Also compared with other generations, there is a high percentage of sexual violence by relatives, classmates and teachers.

### 2. Homosexuals

Most sexual violence is deeply related to the social hierarchy; from male to female, from senior to junior and from elder to younger. Consequently, we tend to believe that there would be no sexual violence among the same sex. We should understand that victimization by sexual violence can occur regardless of the person's sexual preference. Moreover, if the victims are homosexual and are threatened, it becomes harder for them to ask for assistance from their parents or the police. In Korea, the court is said to be rather reluctant to acknowledge the damage to homosexuals. However, if such an offence is committed against their will, it should be recognized as sexual violence. Homosexual persons in Korea require additional legal assistance in realizing their rights.

### 3. Handicapped Persons

When a handicapped person is victimized by a sexual offence, the law provides for heavier punishment for offenders compared to normal cases due to their weak and handicapped position. Unfortunately, our understanding of handicapped persons is still not sufficient, and we tend to neglect the fact that they have sexual preferences and desires. We need to respect their rights, at the same time we need to understand their physical differences.

## D. Type of Offenders

### 1. Acquaintances

When the sexual violence is committed by a person close to the victim, the damage is often continued because victims are so disappointed with their relatives, and it is hard to ask others for help. Also other members of the family don't want to believe it's happened or even deny that it's happened because they are shocked and ashamed. People around them get angry or fearful and suffer from guilt that they couldn't help and protect the victim.

If the assaulter and victim are not separated the victim will require public help to be separated from the offender in order that he/she can recover from the harm.

According to a study conducted by the Korean Institute of Criminology (1990), 77% of offences were committed by persons who were known to the victim. It includes relatives (11.0%), neighbours (10.7%), colleagues (22.2%), date partners (6.3%), seniors and juniors (5.1%), teachers (2.8%) and clergymen (1.2%).

The victims tend to be very young when the offence is committed by relatives. The above study showed that 43% of victims of sexual offences by relatives were under 13 years of age and 40% of them were aged between 14 and 19.

### 2. Characteristics of Sexual Offenders

For the effective treatment of offenders, we need to discover the distinguishing characteristics of sexual offenders.

#### *(i) Family problems and educational background*

Research shows that most sexual offenders have low incomes and are poorly educated (Ford and Linney, 1995; Goodrow and Lim, 1998). They also have problems with relationships between their family members.

If there is no proper relationship between family members, one would find it difficult to relate with others in society. These facts may relate to the causing of sexual crimes by pressure.

*(ii) Sex offenders strongly tend to deny their crimes*

They are not able to recognize the true meaning of their behaviour and others' reaction due to their lack of proper communication skills. Sexual Offenders often lack proper communication skills; therefore, they are not able to imagine the consequences of their actions and the feeling of others that may be caused by their behaviour.

They are characterized by denial and rationalization of the results of their behaviour. Such characteristics often become obstacles in correcting their behaviour after they have offended.

*(iii) Sex offenders cannot easily control their anger and they lack skills to control their emotions*

A training programme is necessary to control their temperament.

*(iv) Sex offenders lack social skills*

Their limited social skills results in isolation. In order to treat sex offenders, training is required which can increase their social skills.

## II. CURRENT SITUATION AND PROBLEMS OF SEXUAL OFFENCES IN KOREA

### A. The Trend in the Number of Sexual Offences

Table 1 shows prosecuted cases of sexual offences in Korea. There was a slight decrease in cases of sexual crime from 1994 to 1997. But it shows the increasing tendency since 1998; 7886 cases in 1998, 8,830 cases in 1999, 10,189 cases in 2000, 10,489 cases in 2001, 9,435 cases in 2002 and 10,365 cases in 2003.

**Table 1: Trend in the Number of Sexual Offences Committed**

	No. of Occurrences			Rate (per 100,000)		
	Total No. of Sexual Violence Offences	Rape	Sexual Violence Law	Total No. of Sexual Violence Offences	Rape	Sexual Violence Law
1993	7,051	7,051		16.0		
1994	7,415	6,169	1,246	16.5		2.8
1995	6,174	4,912	1,262	13.8		2.8
1996	7,157	5,668	1,470	15.4		3.2
1997	7,120	5,665	1,445	15.5		3.2
1998	7,886	6,016	1,870	16.8		4.0
1999	8,830	6,410	2,420	18.6		5.1
2000	10,187	6,982	3,207	21.3		6.7
2001	10,495	6,911	3,584	21.9		7.5
2002	9,535	9,435		19.6		
2003	10,365	10,365		21.4		

Source: Prosecutors office criminal archives.



**B. The Relationship between Sexual Offence and Previous Convictions**

Table 2 shows the previous imprisonment experience of offenders who were sentenced to imprisonment for rape. As you can see the rate of offenders who have never been in prison is decreasing as the ratio was 53.6% in 1993, 49.4% in 1994, 40.8% in 1996, 36.6% in 1998, 33% in 2000 and 30.4% in 2001. On the other hand, the ratio of offenders who have a previous history of conviction is increasing. Notably, the percentage of rape offenders who have been in prison more than four times is increasing; 13.5% in 1993, 21.7% in 1996, 29.1% in 2000 and 30.6% in 2002.

**Table 2: Previous Imprisonment Experience of Rape Inmates**

Year	Rate of Offenders Previously Imprisoned	Once	2-3 Times	More than 4 Times	Numbers
1993	53.6	17.6	15.3	13.5	7311
1994	49.4	17.2	17.2	16.1	5247
1995	44.7	16.8	19.6	18.8	4682
1996	40.8	18.6	18.9	21.7	5254
1997	38.2	17.3	20.7	23.8	5092
1998	36.6	16.9	20.6	26.0	5113
1999	33.1	17.2	21.0	28.7	5750
2000	33.0	16.9	20.9	29.1	5627
2001	30.4	17.6	21.7	30.4	5241
2002	32.8	16.6	20.0	30.6	8166
2003	35.2	17.1	19.1	28.5	9044

Source: Jun Young Sil. Study on the rehabilitation programme for sexual offenders, 2005, p 16.

It is interesting to know whether an incarcerated sexual offender with previous imprisonment repeats the same offence (rape). Table 3 shows the result. The rate of offenders who committed rape was 12.7% in 1994, 12.4% in 2003.

**Table 3: Percentage of Persons who Committed the Same Crime Among Rape Offenders who have Previously Served Prison Sentences**

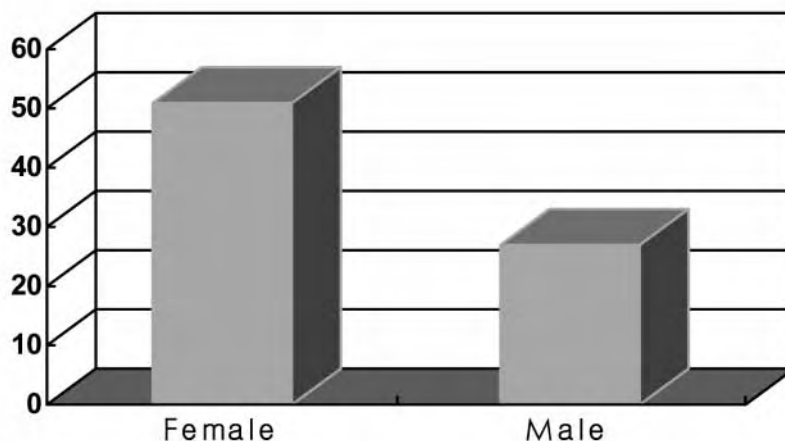
Year	Same Crime	Different Crime	Total
1994	12.7	87.3	2,655
1995	11.4	88.6	2,591
1996	12.1	87.9	3,110
1997	11.7	88.3	3,148
1998	12.7	87.3	3,244
1999	12.3	87.7	3,849
2000	12.2	87.8	3,770
2001	12.8	87.2	3,650
2002	14.1	85.9	5,508
2003	12.4	87.6	5,870

Source: Jun Young Sil. Study on the rehabilitation programme for sexual offenders. 2005. p. 17.

### C. Cyber Sexual Violence

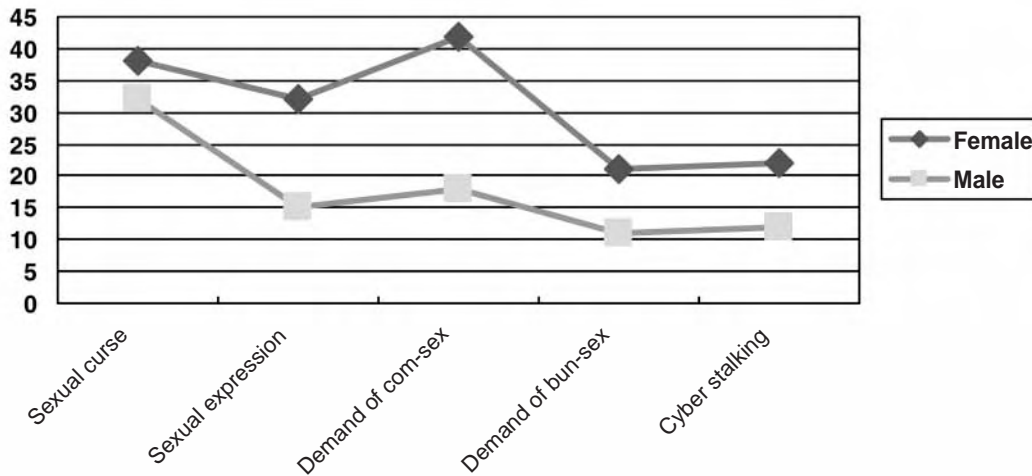
The Korea Women's Association (2001) conducted research on the situation of cyber sexual violence on the internet based on an internet survey. As you can see from Graph 1 and Graph 2, females tend to be victimized by cyber sexual harassment more than males. Among all internet users, 51.8% of women and 27.9% of men responded that they had experienced cyber sexual harassment.

**Graph 1: Rate of Experience of Cyber Sexual Damage by Gender**

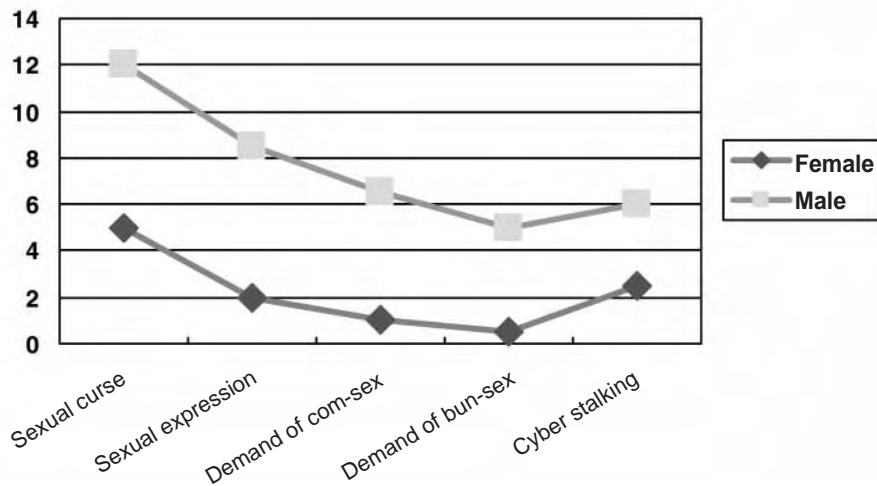


As you can see from Graph 2, the most frequent type of cyber sexual harassment against women was the demand for sexual intercourse on the internet (it is called "com-sex"). Graph 3 shows the ratio of respondents who have committed cyber sexual violence. As you would expect, a much higher rate of cyber sexual harassment is committed by men. However, a considerable amount of sexual harassment is committed by females.

**Graph 2: Types of Cyber Sexual Harassment Experienced by Victims<sup>1</sup>**



**Graph 3: Types of Cyber Sexual Violence Committed by Gender**



Source: Korea Sexual Violence Relief Centre, Delete cyber sexual violence, 2001.

**D. Problems of Hidden Crimes or Dark Numbers**

It is very difficult for victims of sexual crime to file a complaint to the authorities. We need to realize the existence of the dark numbers. In other words official statistics do not fully reflect the real magnitude of offences. We should acknowledge the limitations of the official record.

According to research conducted by the Korean Institute of Criminology in 1990, only 2.2% of rape is reported to the police. According to the research done by the same institute in 1998, only 6.1% of sexual violence was reported to the authorities.

The same study showed 76.3% of women who felt victimized were harmed by minor offences.

43% of victims of sexual offences by relatives were under 13 years of age and 40% of them were aged between 14 and 19.

<sup>1</sup> Bun-sex: asking to have sexual intercourse on the internet and having real sexual intercourse.

### III. THE CURRENT LEGISLATION ON SEX OFFENCES IN KOREA

Korea has endeavoured to stipulate various new laws to counteract the new sexual criminality in addition to the conventional criminal code.

#### A. The Juvenile Sex Protection Law

The Juvenile Sex Protection Law went into force on July 1, 2000. It includes provisions for: the protection of juveniles from sex offenders; the punishment of those purchasing sex from juveniles; the punishment for those who produce and/or distribute lewd materials involving juveniles; the punishment for sexual offenders; and rehabilitation and protection measures for juveniles subject to sexual offences.

This law also provides for the creation of the National Youth Commission, which is attached directly to the Office of the Prime Minister. The Commission unites Youth Policy faculties which were previously divided between the Ministry of Culture and Tourism and National Youth Protection Commission, and Office of the Prime Minister.

Most importantly, the Commission has the authority to register and decide whether to disclose the identity of sexual offenders to the public.

#### 1. Sex Offenders Registration

##### *(i) Persons becoming subject to the notification*

According to article 22 and 23 of the youth protection law, when an offender sentenced for a sexual offence which victimized youth is released from prison and it is believed he may repeat the sexual offence, the offender is required to go to the Commission and register their identity such as their name, age, occupation, home address and photograph.

##### *(ii) The period and sharing the information*

The offender is required to notify the above within two months of becoming subject to registration by the Commission. The Commission has to maintain the profile of the sexual offender for five years. The victims of the sexual offender, their lawyer and youth-related educational institutions can access the profile of the sexual offender. The Commission must inform the local police agency director of the registered information. And the Commission can entrust the permission and management of the registered information to the local police agency.

#### 2. Disclosure of Sexual Offender Profile

##### *(i) Detail of public disclosure*

According to article 20 of the Youth Protection Law, when an offender is sentenced for a sexual offence which victimized youth, it is possible to disclose the profile of the offender such as their name, age and occupation and detailed information about his crime.

Sentenced person means a person who has received punishment after the court has found him/her guilty of an offence; however, an offender who receives a suspension of prosecution or the non-institution of prosecution is not subject to this disclosure.

##### *(ii) Offender subject to public disclosure*

Under the youth protection law, the following criminals are subject to public disclosure.

- Sexual offenders who have victimized a youth
- Offenders of prostitution trafficking in youth
- Producers, importers and exporters of child pornography
- Offenders who trafficked youth

##### *(iii) Contents of public disclosure*

The following information on the offender is provided to the public:

- Name, age and date of birth;
- Occupation and address; and
- Information about their crime

*(iv) Methods of public disclosure and term of disclosure*

The information about the sex offender will be made public through the official gazette. Additionally the same information will be posted on the notice board of the Government building for a month and internet homepage of the Youth Committee for six months.

**3. Result of Public Disclosure: Has the Crime Decreased after Public Disclosure?**

A statistically significant decrease was not reported in sexual offences against youth after the introduction of the public disclosure system. Specialist often explain that it is because such policy increases social awareness towards sexual crime directed at youth and has resulted in a more strenuous effort by the police to control such crime. It is not easy to achieve the protection of youth in a short period of time.

**4. Additional Measures of Public Disclosure**

For the prevention of recidivism, the Committee carries out educational programmes for those who commit minor sexual offences instead of disclosing their information to the public. The programme started in the middle of 2003.

The Committee considers the eligibility of the offenders to participate in the educational programme but participation is based on the will of the offender.

The educational programme consist of the following: watching a video programme on victims' suffering and a documentary programme that relates to trafficking. The programme is designed so that the offender will eventually understand the damage caused to such youth and ultimately prevent them from repeating the same offence.

When the offender has used force in his offence, we provide such opportunities as interviews and testing by psychologists, psycho-drama group therapy and intellectual therapy.

So far, people who have received the educational programme seemed to have reacted positively. They seemed to understand the victims' suffering: more than 90% of the people who received the education have changed their attitude. The level of participation is evaluated high and the satisfaction in the subject is relatively high.

Moreover, for those who are dangerous sexual criminals, the Committee is planning to consider disclosing the pictures of the offenders and their detailed addresses. Amendments to the related laws are also under consideration to introduce limiting their employment in the educational sectors.

**B. Act on the Prevention of Prostitution and Protection of Victims Thereof (2004)**

The Act on the Prevention of Prostitution (Crimes) and Protection of Victims Thereof was enacted with the Act on the Punishment of Procuring Prostitution and Associated Acts to prevent prostitution, protect prostitution victims, and support their independence. The Act mobilizes support centres to shelter sex trafficking victims and prostitutes to receive medical treatment, legal aid and vocational training. These centres will facilitate victims for their smooth return to society and prevent re-entry into the sex industry. The director of the centre must accompany police during sex trafficking victim rescues, and the owner of the facility that maintains prostitution will face severe punishment.

**C. Act on the Punishment of Procuring Prostitution and Associated Acts (2004)**

The Act on the Punishment of Procuring Prostitution and Associated Acts was legislated by the National Assembly on March 22, 2004. The Act was designed to sever the channel between the supplier of prostitutes and middle persons by punishing human trafficking, specifically for the purpose of countering human trafficking. The solicitation to and extortion of prostitution is punished, and various types of punishment is enforced for each type of misconduct. The aim of the Act is ultimately to eradicate all forms of sex trafficking practices. Anyone who reports such acts will be rewarded; any profits received (money or other articles) through trafficking will be confiscated and penalized; and bonds issued by sex peddlers to prostitutes will become void. If a sex trafficker reports a crime to the authorities or surrenders him/herself, the punishment can be minimized or dismissed; and if anyone reports sex trafficking by a member of a crime organization, a reward will be issued.

#### **D. Act on the Punishment of Sexual Crimes and Protection of Victims Thereof (1994)**

The Act on the Punishment of Sexual Crimes and Protection of Victims thereof (1994) outlines the preventive measures for sex crimes, and protection of victims and punishment of the offenders. The Act has been revised nine times, and the eighth revision (December 11, 2003) strengthened the protection for victims in order to minimize any possible human rights violations during investigation and trials.

If the victim is under 13 years old or is disabled, a trusted person must be present during the interview by the authorities, and testimony shall be video-taped to preserve the evidence. The revision also allows video interviews for victims of sexual crimes such as rape and indecent assault.

#### **E. A Bill on Electronic Monitoring**

There is a high possibility that sexual crimes will be repeated by specific criminals. Therefore a bill on an electronic monitoring system was submitted to the Congress in September 2005 and it is currently under consideration. The bill stipulates that an electronic device be attached to sex offenders so the authorities are able to locate their position after their release from prison.

### **IV. PROTECTION OF THE VICTIM**

#### **A. Necessity of the Victims' Rights and Protection**

Society sometimes maintains beliefs that totally contradict the reality that is represented by scientific evidence. The power of belief is too prevalent and victims are afraid of revealing the incident more than offenders. They can't accuse offenders and even accuse themselves. Therefore, most sexual violence is unreported and the problem of sexual violence does not attract public attention. The pain which is caused after the victimization can be worse.

Regardless of age, occupation gender and religion, every victim should have the right to have their harm recognized and respected and provided every means to overcome the incident.

The following are the rights acknowledged to the victim of sexual crime:

#### **1. Rights during the process of investigation and trial**

- Right to be acknowledged as a victim and treated regardless of their occupation, age, previous experience and the situation on the day of the incident.
- Right to be asked questions relating to the incident.
- Right to have no questions asked about previous sexual experiences.
- Right to be protected and not have their identity revealed.
- Right to request personal safety measures.
- Rights to be with their own family, lawyer and counsellor and right to tell their story in a comfortable environment.

#### **2. Rights in the procedure of medical treatment**

- Right to be treated carefully during the process of medical examination.
- Right to see medical staff who have knowledge of sexual injury/assault.
- In every process, they have the right to have things explained in a simple way.
- Right to be with friends, family and counsellors in the surgery.
- Right to request evidence related to the sexual injury and receive a medical certificate.

#### **3. Rights in the media reporting process and protection measures**

- Right to be protected without exposure of their identity in the report.
- Right to avoid infringement of their personality and privacy.
- Prior to interview, they have the right to be given a full explanation about predictable secondary damage.
- Right to be shown that they are able to overcome their damage in the reporting process.
- Right to be acknowledged as an independent identity without subjection or distortion by an image or matters which are not related to the incident
- Right to comply with the interview/not comply.

## **B. Victim Protection - Korea Sexual Violence Relief Centre (KSVRC)**

The Korea Sexual Violence Relief Centre (KSVRC), which was established in April 1991 by women who aimed to create a society free from sexual violence, is the first specialised centre to provide counselling services to victims of sexual violence. In addition to counselling services, KSVRC provides the general public with not only various counselling services, but also sexual violence prevention education with the public. It also promotes public policy on sexual violence issues. KSVRC ultimately aims to create a gender-equal and alternative culture on sexuality.

### 1. Victim Support

#### *(i) Counselling*

KSVRC provides comprehensive psychological, legal, and medical assistance to help sexual violence survivors overcome their injuries and enjoy their lives.

#### *(ii) Legal & medical assistance*

KSVRC provides free legal counselling services with the support of volunteer lawyers. They also provide direct legal assistance when clients want to file a legal charge. Related assistance is also given by a number of psychiatrists, obstetricians and gynaecologists.

#### *(iii) Shelters for sexual violence survivors*

'Yulimtuh' is a space for sexual violence survivors to help them heal from psychological and physical injuries and enjoy their new independent lives. 'Ha-dam' is a space where survivors of sexual violence, over 18, can receive support for their efforts to create their own independent lives.

### 2. Other Activities

#### *(i) Public education*

KSVRC provides both experts and the public with education to prevent sexual violence and to create a gender-equal society.

#### *(ii) Media monitoring & cyber activities*

KSVRC provides information on gender-equal culture on sexuality via the Internet and leads movements to eliminate cyber sexual violence. It monitors the mass media to prevent secondary victimization of sexual violence survivors by the mass media.

#### *(iii) Anti-sexual violence movement with men*

This movement organizes various cultural activities to eliminate sexual violence and promote gender equity with our male supporters.

#### *(iv) Citizen surveillance of the investigation and trial processes of sexual violence cases*

The 'Citizen surveillance of the investigation and trial processes of sexual violence cases' was organized in 2004 to improve and alert the public about habitual problems in the justice system. It has been working hard to address secondary victimization problems, which sexual violence survivors face repeatedly during the investigation and trial processes.

## **V. TREATMENT PROGRAMMES FOR SEXUAL OFFENDERS IN KOREA**

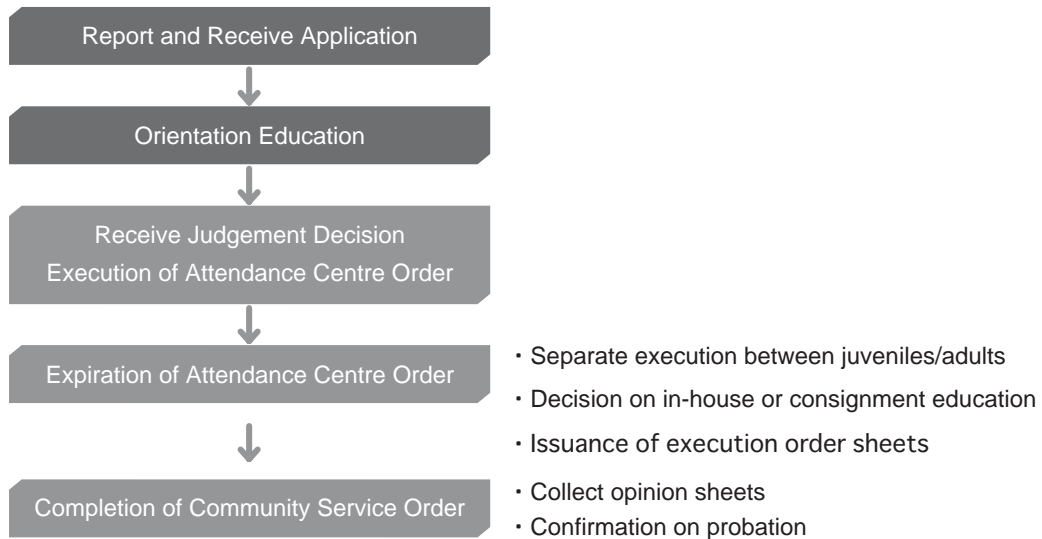
In the Korean correctional system, a stand-alone treatment programme for sex offenders is in its infancy. It is exercised as a part of various community orders.

### **A. Community-based Treatment Programme**

#### 1. Attendance Centre Order

An Attendance Centre Order is a court order given to a criminal who was engaged in habitual behaviours that are regarded as crime. Those who receive the order must attend lectures at their Probation & Parole Office or other organizations designated by the Probation & Parole Office for a certain period of time, while leading a free life, instead of being accommodated in prison. It is aimed to enhance a law-abiding spirit in the offenders, to make them understand the harm caused by sexual violence, to foster their physical and mental health, and eventually to foster adaptability to society in general.

**Figure 1: Procedural Map for an Attendance Centre Order**



*(i) For adults*

Attendance order programmes carried out by the Seoul Probation Office last at least five hours and up to six weeks. The purpose of the programme is to make offenders understand and find out about their problems, to practice social skills and to foster a proper understanding about sex.

By looking at assessment and evaluation programmes in terms of adult sexual offenders so far, the programme really seemed to assist them in understanding about themselves and victims. Individuals who require extra help can ask for special counselling.

*(ii) For juveniles*

Seoul Probation Centre is responsible for carrying out the Attendance Centre Order programmes for juveniles. The programme is based on “cognitive behavioural therapy”. A group will be formed based on an accurate assessment. The programme is divided into three phases: a six hour programme before assessment; 30 hours programme during processing and a four hours programme for after care.

Each element should be supplemented by personal counselling.

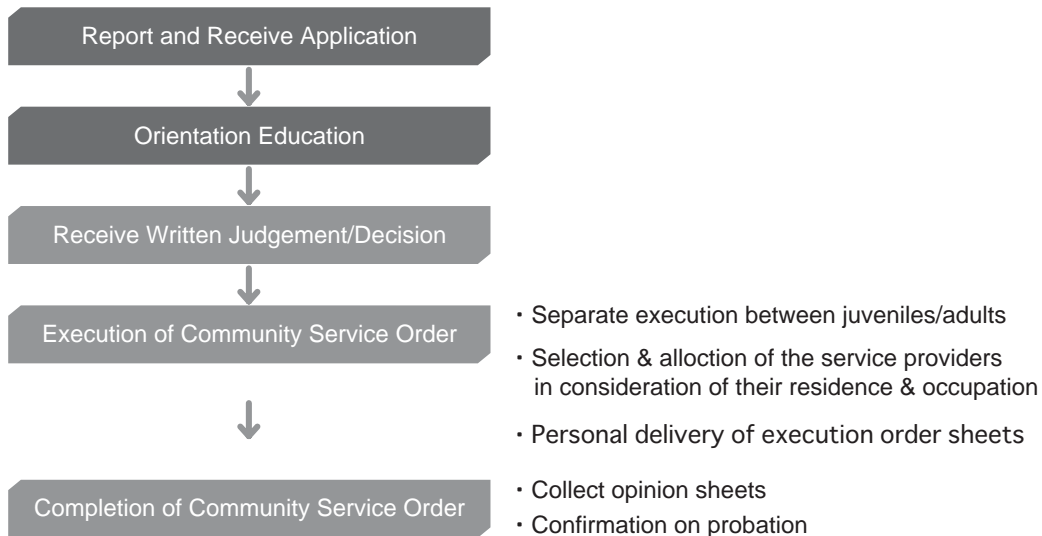
**2. Community Service Order**

A Community Service Order is an order in which an offender found guilty engages in unpaid labour services in society for a certain period of time while leading a free life, instead of being incarcerated in prison.

While allowing an opportunity to make up for the damage that was inflicted upon society as well as an opportunity to show repentance, this order aims to cultivate labour spirits and recover self-esteem in the offender; thus, help them to return to society as a healthy person.



**Figure 2: Procedural Map for Community Service Order**



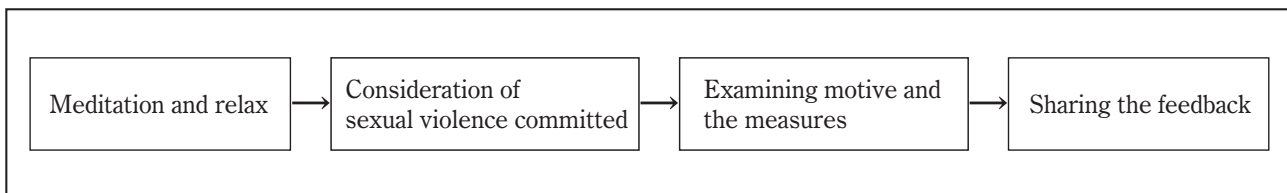
**B. Institutional Treatment Programme**

The primary purposes of the institutional treatment programme are to increase the offender’s motivation to avoid re-offending and to develop the self-management skills necessary to achieve this.

**1. Treatment Programme for Adult Inmates**

Suwon Detention Centre has been carrying out cognitive behavioural therapy for sexual offenders since March of 2006. Currently, five inmates participate in the programme.

**Figure 3: Treatment Process of Cognitive Behavioural Therapy**



The programme is divided into four stages as Figure 3 shows. In the first stage mediation and relaxation is provided for inmates. In the second stage, offenders need to consider their own sexual crimes. In the third stage, they have an opportunity to examine and face why they committed such a crime(s). Also, they need to consider what kind of measures they can take to counter their desire to commit such a crime again. In the last stage they have an opportunity to share their experience with others and receive feedback.

Generally, most of the participants were satisfied with the programme, but some were afraid that the contents of their offences were made known to the fellow participants around them.

**2. Treatment Programme for Juveniles**

Seoul juvenile training school carried out a cognitive behavioural therapy programme for juvenile sex offenders. The contents are the same as the one provided at Suwon Detention Centre.

## **VI. CONCLUSION: TOWARD AN INTEGRATED STRATEGY OF PREVENTION OF SEXUAL OFFENCES**

### **A. Improvement of Public Disclosure System**

A question was raised about the constitutionality of the public disclosure system of the sex offender profile. On 26 June 2003, the Constitutional Court of Korea ruled that the sex offender disclosure scheme stipulated by the Protection for the Youth Sex Act is constitutional. But some constitutional judges did not agree with the majority opinion and posed a question on the possibility of dual punishment. So the professors of criminal law and practitioners are expected to study and devise a better system which addresses the human rights of offenders.

### **B. Activating NGOs and Support**

NGOs are playing a significant role in preventing sexual offences. Therefore, we need to establish a more effective support system for such NGOs.

### **C. Consideration of an Electronic Monitoring System (E.M.S)**

In Korea, consideration is being made to realize the usage of an Electronic Monitoring System (E.M.S) such as by using electronic rings on offenders. However, it may cause both positive and negative effects on the current criminal justice administration. We need to study E.M.S more carefully and find out ways to minimize its negative effects.

### **D. Establishment of a Gene Bank**

A Gene Bank can maintain a database of sex offender's genetic resources. In Korea, sooner or later, it will be established. We need to prepare for it.

### **E. New Legislation against Cyber-Sexual Violence**

As explained in the previous sections, a considerable amount of victimization is reported concerning the sexual violence committed in cyber space. In the age of information technology, new laws to regulate cyber sexual violence may be also be required.

### **F. Comprehensive Treatment Programme**

Most treatment programmes for sex offenders in Korea are done by attendance order. The programme is intended to change the sex offenders' mind through cognitive behavioural therapy. It tries to correct the cognitive distortion of the offenders and thereby tries to correct their behaviour. However, such orders are still not effective in preventing sex offences.

Programmes for sex offenders in Korea are not streamlined. It is really hard to retain the attendance of the offender because participation in the programme is voluntary. We need to consider compulsory participation in the programmes for sex offenders and more effective ways of operating such programmes. Establishing a connection between a programme that the offender can receive during his incarceration and a programme after release is also important.

# ASSESSMENT OF JUVENILE SEX OFFENDERS IN THE FAMILY COURT

*By Hiromi Nishikawa\**

## I. INTRODUCTION

To begin, in order to help you understand the actual situation of sexual delinquency from the perspective of the Family Court of Japan, I shall give an example of a juvenile public indecency case which I investigated.

### A. Outline of the Facts

A 19-year old juvenile delinquent drank alcohol in large quantities during his part-time job at a club where male companions entertain women. He finished work and left his job in a drunken state, with memory loss, and went to an apartment complex after that. He defecated by squatting down in the parking lot, went up the stairs of the apartment, and took off the clothing from the lower half of his body on the landing of the stairs. He turned the doorknob of a stranger's apartment, and stood in front of the door with the lower half of his body exposed holding his penis in his left hand. The juvenile delinquent at the time of arrest explained to the policeman, "I was looking for my friend's house", "I wanted to go to the toilet", etc. However, at the time of the interview with a Family Court probation officer, he said, "Since I was drunk, I cannot remember what I told the policeman". He also said, "Although I get drunk and sometimes sleep a lot, this is the first time that I have exposed the lower half of my body".

### B. Features of the Case

When he was a schoolchild he had many problems, such as the separation and divorce of his parents, his father's dependence on alcohol, and his father's attempted suicide.

His mother, who is quite obese, lives alone in a social welfare facility and receives public assistance. The juvenile delinquent has a strong dependence on his mother, and even now, is greatly spoiled by her. In his second year of junior high school, during a school trip, the boy entered a female classmate's room at midnight and touched her body. As a result, the police were notified and the boy received instruction at a Child Guidance Centre. Moreover, he stole a bicycle around the same time.

### C. Educative Measures

The boy was placed on probationary supervision.

## II. JUVENILE DELINQUENCY CASES

First of all, juvenile delinquency cases are usually referred to the Family Court by officials such as police officers, public prosecutors, or chiefs of Child Guidance Centres. These cases may involve a juvenile who is presently under physical restraint, or those who are still at home. The detained juvenile delinquent enters a Juvenile Classification Home, and receives a psychological and physical evaluation there. Many of the juvenile sex offenders are under physical restraint when they are referred to the Family Court, and from there they enter Juvenile Classification Homes.

When a case is filed in Family Court, the judge orders a probation officer to conduct the investigation. This investigation could be termed a 'social investigation', 'environmental investigation', 'social inquiry', and so on. The investigation looks into the motivation of the juvenile delinquent, their personality, their behavioural tendencies, their personal history and environment, etc. Family Court probation officers usually interview the juvenile, his or her parents or guardian, and then carry out various kinds of psychological tests. Furthermore Family Court probation officers must examine several kinds of official documents, including junior and senior high school records and family registrations.

The Law provides that 'Investigations shall be conducted in regard to the behaviour, life history, genetics and environment of the juvenile, of his custodians or of other persons involved, making every effort to utilize medical, psychological, pedagogical, sociological, and other technical knowledge, especially applying the results of the physical and psychological examinations conducted in the Juvenile Classification Home'

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\* Senior Family Court Probation Officer, Tokyo Family Court, Japan.

(Art. 9, the Juvenile Law).

Moreover, the Law provides that 'the Family Court may order a Family Court probation officer to examine a juvenile, his custodians, or other persons concerned and to conduct other necessary investigations' (Part. 2, Art. 8, the Juvenile Law).

The judge decides whether or not it is necessary to conduct a hearing of the case on the basis of the juvenile social investigation report submitted by a family court probation officer.

The judge determines the measures to be taken for the juvenile based on the results of the investigation and hearing. These measures may include orders of a protective nature, such as placing the juvenile under the probationary supervision of a probation officer, or sending the juvenile to a juvenile training school. When the judge considers it unnecessary to take protective measures, the case is dismissed after giving an admonition to the juvenile.

The classification of actions is as follows: i) dismissal without a hearing, ii) dismissal after a hearing, iii) educative measures (including probationary supervision, commitment to support facilities for rehabilitation and the development of self-supporting skills, children's home, and juvenile training school), iv) referral to the prefecture governor or to a child guidance centre, and v) referral to the public prosecutor for criminal proceedings.

Although the objective of juvenile proceedings is both to uncover the offence and to evaluate the necessity of educative measures, a Family Court probation officer mainly takes charge of the investigation of the necessity of educative measures. The main concept of 'the necessity for educative measures' can be recognized as the risk of recidivism.

The main purpose of a social investigation is to understand the existence of, and the degree of the risk of recidivism. Through investigation, the Family Court probation officer clarifies the risk assessment of recidivism, and submits his opinion to the judge about possible measures to be taken.

As a general rule, the fundamental purpose in dealing with criminal cases is to prove their past crimes and to implement concrete penal punishment through applying criminal laws. As opposed to this, the purpose of juvenile proceedings is to consider the delinquent's future and to implement a healthy lifestyle for the future by administering suitable treatment measures. Ordinary criminal cases always refer to the past, whereas juvenile proceedings always look to the juvenile's future prospects. This is the big difference between these two proceedings.

### **III. AN OUTLINE OF THE ROLE OF THE FAMILY COURT AND THE FAMILY COURT PROBATION OFFICER**

The Family Court was established in 1949, under the concept of maintaining the welfare of families and seeking the sound upbringing of juveniles. The Family Court is a specialized court dealing comprehensively with juvenile delinquency cases and family affairs cases. The Family Court system has about 200 judges and about 150 assistant judges in Japan nationwide. In addition, about 1500 Family Court probation officers are assigned to these courts.

Typical examples of juvenile delinquency cases are listed as follows: theft, extortion, bodily injury, violation of stimulant drug control laws, fraud, violation of road traffic laws and sex crimes (including rape, indecent assault, public indecency, etc.).

The Family Court also handles family affairs cases. The main contents of family affairs cases are guardianship of adults, permission to adopt a minor, marital disputes, divorce, child custody rulings, child support demands, and inheritance issues.

Family Court probation officers investigate the facts and coordinate measures for the proper action in cases of family affairs, juvenile delinquency, etc., submitting a report to the judge. Family Court probation officers are specialists in the field of human sciences. They engage in the investigative function of family courts. Most of them have a university degree in human sciences, such as psychology, sociology, pedagogy,

and social work. However, after being accepted by the Family Court, they cannot immediately be engaged in a Family Court probation officer's work. In order to master their knowledge and skills of human sciences and to improve their practical capabilities, they must take a training course for about two years at the Research and Training Institute for Court Officers.

The Family Court performs both judicial and welfare functions. Probation officers play an important role in the welfare function of the Family Court.

Beside judges and Family Court probation officers, the Family Court has other officials, such as court clerks, court secretaries and medical officers who are experts in psychiatry.

#### IV. STATISTICS

##### A. Comparing the Number of Cases of Sexual Delinquency Treated by the Family Court

*Figure 1* (in the Appendix) shows a comparison of the number of juvenile rape cases and indecency cases in Japan for the past 50 years.

*Figure 2* shows the number of sexual delinquency cases compared to the number of theft cases. When seen over the longer period of half a century, the quantitative features of sexual delinquency are as follows:

- 1) The number of cases of sexual delinquency is decreasing every year.
- 2) At any given period, juvenile sexual delinquency cases were minimal in comparison with theft.
- 3) In the distant past, there were more rape cases than juvenile indecency incidents.
- 4) Presently, there are more juvenile indecency incidents than rape cases.

However, we cannot think that this statistical data truly represents the present condition of sexual delinquency in Japan. It is difficult to grasp the actual scope of sexual delinquency by the number of cases that are reported to the police. Sexual delinquency cases which surface are only the tip of the iceberg, and this is because the number of unreported cases is huge. Since not only a delinquent act, but also a crime is being committed, this crime is hidden, and the secret closely guarded, thereby difficult to uncover. The most reliable statistical data are the results of a damage survey. However, only once, in the year 2000, did the Research and Training Institute of the Ministry of Justice survey victims of sexual abuse, and these are the only statistics we have.

How many unreported cases of sexual crimes exist in Japan? According to the above-mentioned research, although many victims of sexual violence were greatly harmed by this crime, only about ten percent of the victims notified the police. In addition, in the above-mentioned research, victims aged 15 and younger were not included in the survey. When an infant is the victim, he or she may not notice that they have been abused. When the victim is a schoolchild, he or she may feel shame and may not talk to their parents in many cases. Since the assailant may be of the same household, and possibly even the father, many will never notify the police. It can be said, therefore, that the statistical data is just the tip of the iceberg.

##### B. Judgments Reached After Deliberation on Juvenile Sexual Delinquency Cases

Next, let us look at judgments reached by the Family Court after the investigation and hearing on sexual delinquency cases of juveniles.

*Figure 3* shows the percentage of various judgments reached in rape cases in 1974, 1984, 1994, and 2004.

*Figure 4* shows the percentage of various judgments reached in cases of indecency also in 1974, 1984, 1994, and 2004. The results are as follows:

- 1) It is clear that the trend of judgments of the Family Court in rape cases is moving from community-based treatment to accommodation or shelter-based treatment. The main method of community-based treatment is probation, whereas the main method of accommodation, or shelter-based treatment, is re-education for a juvenile in a training school, with the aim of reform. In 2004, according to the Annual Report of Judicial Statistics (vol. 4 Juvenile Cases), in all the juvenile rape cases 60% of juveniles were committed to a juvenile training school and 13% were referred to a public prosecutor for criminal proceedings. In contrast, according to the Annual Report in 1974, only 14% percent of juveniles were committed to a juvenile training school and only 9% of juveniles were referred to a public prosecutor for criminal proceedings.

- 2) Also, the judgment in cases of indecency made by the Family Court is still generally community-based treatment. However, the rate of accommodation or shelter-based treatment is increasing every year. In 2004, according to the Annual Report, in all the cases of juvenile indecency (indecent assault and public indecency), 50% of juveniles received probationary supervision and about 20% of juveniles were committed to a juvenile training school. By contrast, according to the Annual Report in 1974, 16% of juveniles received probationary supervision and only 2% were committed to a juvenile training school and dismissals after hearing, plus dismissals without a hearing, amounted to 80% of all cases.

## V. ASSESSMENT OF JUVENILE DELINQUENTS

Family Court probation officers (FCPO) are provided with an assessment of the juvenile sex offender for the purposes of determining the continued risk to the community and for recommending appropriate treatment plans and programmes. One of the major responsibilities of FCPOs is to consider the potential risk of re-offending, namely, the risk of recidivism.

When an FCPO understands the risk of recidivism, he/she evaluates each risk factor, as well as the protective factors. Moreover, a FCPO does not search for a single cause, but endeavours to find the mechanism of a tangle of various causes. A FCPO makes a careful evaluation, after examining both the developmental growth of the offender (vertical understanding), and the interpersonal/environmental associations of the offender (horizontal understanding). Since both the mind and body of a juvenile delinquent are immature and are in the process of development, a FCPO must pay attention to this present vertical stage of the youth's growth. At the same time, the FCPO must explore how environmental factors surrounding the juvenile delinquent and his interaction with others in this horizontal stage influence his delinquent behaviour.

The FCPO prepares various questions for the interview with the juvenile sex offender and his guardian, in order to perform an exact assessment. The FCPO interviews the juvenile and his guardian, hears their statements carefully, and strives to understand the juvenile's character, family, and delinquency. Since each case is rich in individuality, the FCPO must examine carefully the various details of the case. In addition, the FCPO needs to have several frameworks of assessment to understand the delinquency.

## VI. FRAMEWORK FOR THE UNDERSTANDING OF A JUVENILE SEX OFFENDER

### A. Denial and Minimization

Juvenile sex offenders are tough opponents for Family Court probation officers. After an interview, a novice Family Court probation officer may feel that the offender has deceived him. Many sexual offenders exercise denial and minimization. Even if the offender admits his offence, he is very likely to distort the truth by minimizing the frequency, severity, and variety of his criminal sexual behaviour. He sometimes denies his offence altogether. In addition, family members of the offender often support him in his denial.

H. E. Barbaree (1993) classified Denial and Minimization as follows:

Denial can take three forms: namely, denial of any interaction, denial that the interaction was sexual, and denial that the interaction was an offence. Minimization can also take three basic forms: the offender minimizing the harm done to his victim(s), the extent of his previous offensive behaviour, and the extent of his responsibility for the offences.

When a juvenile delinquent takes an attitude of "minimization" or "denial", the Family Court has to uncover the facts carefully. But even if the facts are proven, should the juvenile delinquent continue taking an attitude of denial or minimization during the process of the interview, the Family Court probation officer must consider this as one characteristic pointing to the possibility of re-offence.

Additionally, minimization and denial are also characteristics that indicate a future difficulty in responding to treatment. Denial is especially regarded as a significant impediment to successful therapy. While a juvenile offender steadfastly denies his offence, he often concludes that he has no problems and therefore sees no reason to enter a treatment strategy.

## B. Risk Checklist for Offenders

Denial and Minimization are not the only characteristics of the risk of recidivism. Thirty-one High-Risk Characteristics which Perry (1992) created is a very useful tool when Family Court probation officers evaluate a juvenile sex offender. Sixty-two statements have been arranged into 31 pairs that distinguish high-risk characteristics from low-risk characteristics (see *Figure 5*). Accurate assessment is possible by listening carefully to relevant information from the juvenile delinquent and his guardian.

## C. Classification Analysis

Furthermore, classification analysis is another tool that can be used at the time of evaluating a juvenile sex offender. Classification systems for juvenile sex offenders are a practical and effective means for the practitioner who has to evaluate many cases within a limited period of time.

Classification systems are also considered helpful in developing special treatment plans and programmes.

Graves (1996) identified three categories of sex offenders by the type of offence: the paedophilic offender, the sexual assault offender, and the mixed offence offender.

O'Brien and Bera (1986) used information from the assessment and treatment of over 350 adolescent sex offenders to develop seven typologies: 1) Naive Experimenter, 2) Under-Socialized Child Exploiter, 3) Pseudo-Socialized, 4) Sexual Aggressive, 5) Sexual Compulsive, 6) Disturbed Impulsive, and 7) Group-Influenced. The definitive feature of each type is indicated in *Figure 6*.

Phil Rich (2003) classified the various motivating factors by category, which differentiates juvenile sex offenders. *Figure 7* shows ten categories and forty-six specific motivators or maintenance factors for sex offenders. It is clear that sexual offences result from various factors; not only sexual desire, but also aggressive and distorted judgments.

## D. Cycle View

The Cycle Theory is a framework of understanding well used over the past twenty years. A sexual offence is a repeated action, as is child abuse, domestic violence, drug abuse, and some other aggressive crimes. We might call it an addiction model. Investigating the behaviour, thoughts, and feelings that lead to the sexual offence often uncovers a repeated, characteristic pattern. This Cycle Theory was discerned by focusing on these patterns. When the Family Court probation officer understands the core problem of the sexual offender, he can effectively create a treatment plan using the Cycle Theory.

Although there are many different Cycle Theories, I believe the one Way I. F. (1990) advocated is probably the most often used by the Family Court probation officer. This cycle of offence consists of specific steps in two phases: a smaller, pre-offence (or "everyday") cycle, and a larger specific-offence cycle (see *Figure 8*). The pre-offence cycle is divided into four steps, and the specific-offence cycle is divided into seven steps. The first is a cycle of intense mental conflict, and consists of the following stages:

### 1. Pre-Offence Cycle

- 1) Difficult situation, experience, or memory
- 2) Strong feelings
- 3) Avoidance of these feelings
- 4) Push people away by attempting to regain power and control
- 5) In the link between these two cycles, a sex offender has sexual thoughts or a desire for sex and power

### 2. Specific-Offence Cycle

- 1) Decision to dwell on the deviant thought and/or sexual feeling
- 2) Convincing oneself it is okay to offend/beginning to plan the offence (grooming)
- 3) Convincing oneself that it's possible to get away with the sexual offence/breaking down barriers
- 4) Setting the stage (selects and/or grooms the victim)
- 5) Sexual offence (pleasure, relief from tension and emotional pain)
- 6) Self-hatred, fear and/or guilt (pain returns)
- 7) Cover-up to self and others (denial and secrecy)

It is necessary to investigate and clarify each juvenile delinquent's cycle, using these frameworks as a "map".

## VII. CASE STUDY

In Japan today, incidents of juvenile indecency are a social problem. A juvenile may repeatedly sexually assault a young child, leading to serious abuse, and in some cases leading to homicide. This is probably a result of being a victim of paedophilia connected with aggressiveness and anti-social behaviour. I would now like to introduce a case of juvenile indecency.

### A. Outline of the Facts

A 15-year old first-year high school student shoplifted gum tape, a knife, a woman's swimsuit, a disposable camera, gloves, a muffler, and a rope from a store. Then, this juvenile physically embraced a first grade elementary school girl on the road while going home. Following this, the juvenile approached a ten year old girl and lifted up her skirt, but the victim escaped from his grasp. Then, as the juvenile was riding around the neighbourhood by bicycle, looking for a younger child to hug and touch, he found a female first-year junior high school student and became sexually aroused. The juvenile touched her breasts and her crotch, and later followed her on his bicycle. When the victim went into an apartment complex, the juvenile grabbed the victim from behind, threatened her with the knife, and sealed her mouth with gum tape. As the juvenile was about to blindfold her with the muffler, the victim escaped.

### B. Features of the Case

#### 1. Past Delinquency

When the juvenile was in the sixth grade of elementary school, he took care of a small child, and he has never forgotten the feeling of that child's soft body (he has named this feeling "punipuni"). When he was a first-year junior high school student, he stole a female classmate's underwear during a swimming session. Several months before this, he became bored with his studies in school and was quite disagreeable and irritated. He then desired to experience this feeling of "punipuni" again. From that time on he frequently hugged girls on the way to school, like the first grade elementary schoolgirl. Before this incident, the juvenile had already repeated such indecent acts about ten times. Once he took a sneak shot with a digital camera of a girl's underwear. He probably thought that the victim felt nothing because she was a young child. Moreover, he had recently touched the buttocks of a female high school student about three times on the way to or from school.

#### 2. The Juvenile Delinquent

With an IQ of 105, the juvenile had the habit of living in a dream world. In the Juvenile Classification Home, he seemed spaced out and suffered from insomnia. He liked violent video games, and he had a mania for collecting model guns. He said that he runs away from disagreeable things by letting them "sink deep into the bottom of my memory". Although he has an inferiority complex and a strong sense of powerlessness, he covers up well, even if he tells a lie. The juvenile tends to push responsibility to others and avoids facing reality. He is quick-tempered, with no patience, and it is easy for him to be impulsive. He cannot sympathize and has a very selfish character.

#### 3. The Family

His parents were divorced when he was in the fourth grade of elementary school. Presently there are three family members, including his mother, a younger sister and him. He likes his mother very much. He hangs onto her even when she is cooking, and sometimes gets into bed with her. His mother also treats him as a child. She sometimes touches his penis, just as a joke, and hugs him from behind by clinging to his back. The relationship between him and his mother is an unhealthy attachment.

#### 4. Interpersonal Relationships

The juvenile does not have an intimate friend. He has never experienced sexual intercourse. Although he received counselling periodically in junior high school, it was not effective.

### C. Educative Measures

The juvenile was sent to a juvenile training school.



#### **D. Additional Considerations**

The mother/child relationship is too close and extremely unhealthy. Many juvenile delinquents who repeatedly commit acts of indecency have mother/child-related problems. Sex offenders often come from homes with unhealthy interpersonal family relationships, rather than having a biological abnormality. After reaching adolescence, his hidden problem appeared as sexual delinquency at school. We can see in him the psychology of "minimization", as his "self-act" seems small to him. According to Perry's checklist of High-Risk Characteristics, Nos. 1, 2, 5, 6, 7, 12, 13, 15, 22, and 23 from the list of thirty-one can be applied to him. Even though he is a paedophilic offender now (a child sexual-love type), if Graves' classification is followed, the use of a knife and aggression indicate the risk of him becoming a mixed-offence offender in the future. The motives of delinquency are considered to be sexual drive, a desire for domination, aggression, emotional satisfaction and probably sexual fantasy fulfilment. He could not face the difficulties of reality. Moreover, he could not bear the stress of his studies or work. As a result, he chose sexual delinquency. Thus, his actions show a cycle that is repetitious or addictive.

The Family Court probation officer evaluated this case and reported his assessment to the Judge. Accommodation protection was recommended.

### **VIII. CONCLUSION**

The Family Court, which is an agency of assessment and judgment, cannot be engaged in the treatment of juvenile sex offenders. Moreover, doing so would not be appropriate. The objective of the Family Court is the accurate assessment of the juvenile offender. Specifically, it is the assessment of the necessity for educative measures for the juvenile sex offender, the appropriate selection of the treatment, and the clarification of the treatment plan. The Family Court probation officer must constantly strive to raise the level of accuracy in the assessment of a juvenile sex offender. In order to fulfil this objective, it is necessary for the Family Court (especially the Family Court probation officer) to work on the following points.

1. Competence in Accurately Evaluating both the Risk-Factors and the Protective-Factors Concerning a Sexual Delinquent

The Family Court probation officer often tends to observe only the risk-factors, but it is imperative for him to carry out an integrated assessment which will include the protective-factors as well.

2. Adequate Practical and Pragmatic Research on the Juvenile Sex Offender, in order to Form an Evidence-Based Assessment

Presently, the Family Court probation officer tends to depend heavily on his past experience and assesses the situation accordingly. However, it is of great urgency to advance practical and pragmatic research, not only on the risk-factors, but also on the protective-factors for juvenile sex offenders, and to carry out their assessment based on the results of this research.

3. Improvement in the Interview Technique of the Juvenile Sex Offender

In order to carry out exact assessments, it is indispensable for a Family Court probation officer to make progress in the interviews with a juvenile sex offender.

4. Better Understanding of the Actual State of Treatment in Juvenile Training Schools and the Probation Supervision Assigned to a Juvenile Sex Offender

The Family Court probation officer must continue to interest himself in the group work programmes of juvenile training schools and juvenile prison, as well as the special treatment programmes of the Probation Office which he is about to implement. In addition, the Family Court must also concern itself with not only the contents of the treatment programme, but with the effects of the treatment as well.

If the actual result of the treatment obtained in juvenile training school or through the supervision of the Probation Office is evident, this will greatly influence the judgment of future treatment selection of the Family Court.

Lastly, society's view of juvenile delinquency is becoming increasingly harsh each year. The trend is to view juvenile sex offenders as "monsters" and exclude them from society. I strongly believe it is the duty of society to give juvenile delinquents an opportunity to receive effective therapy and treatment before they reach adulthood.

APPENDIX

Figure 1: Comparison of the Number of Juvenile Rape Cases and Indecency Cases

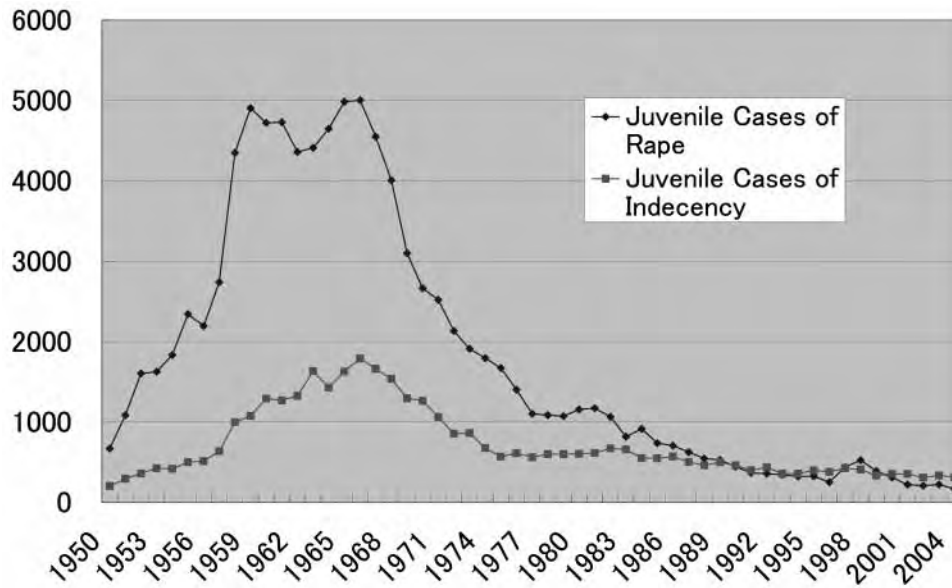
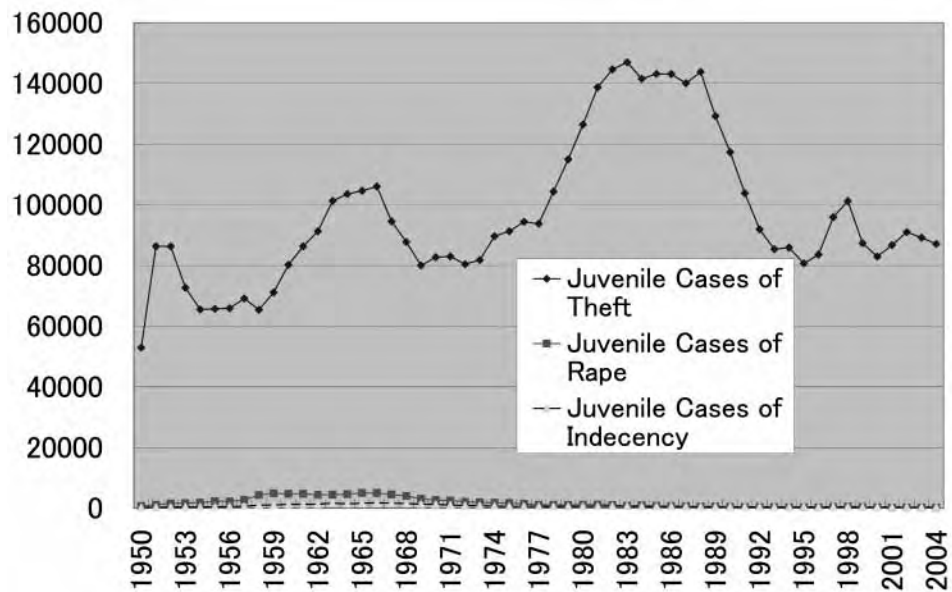
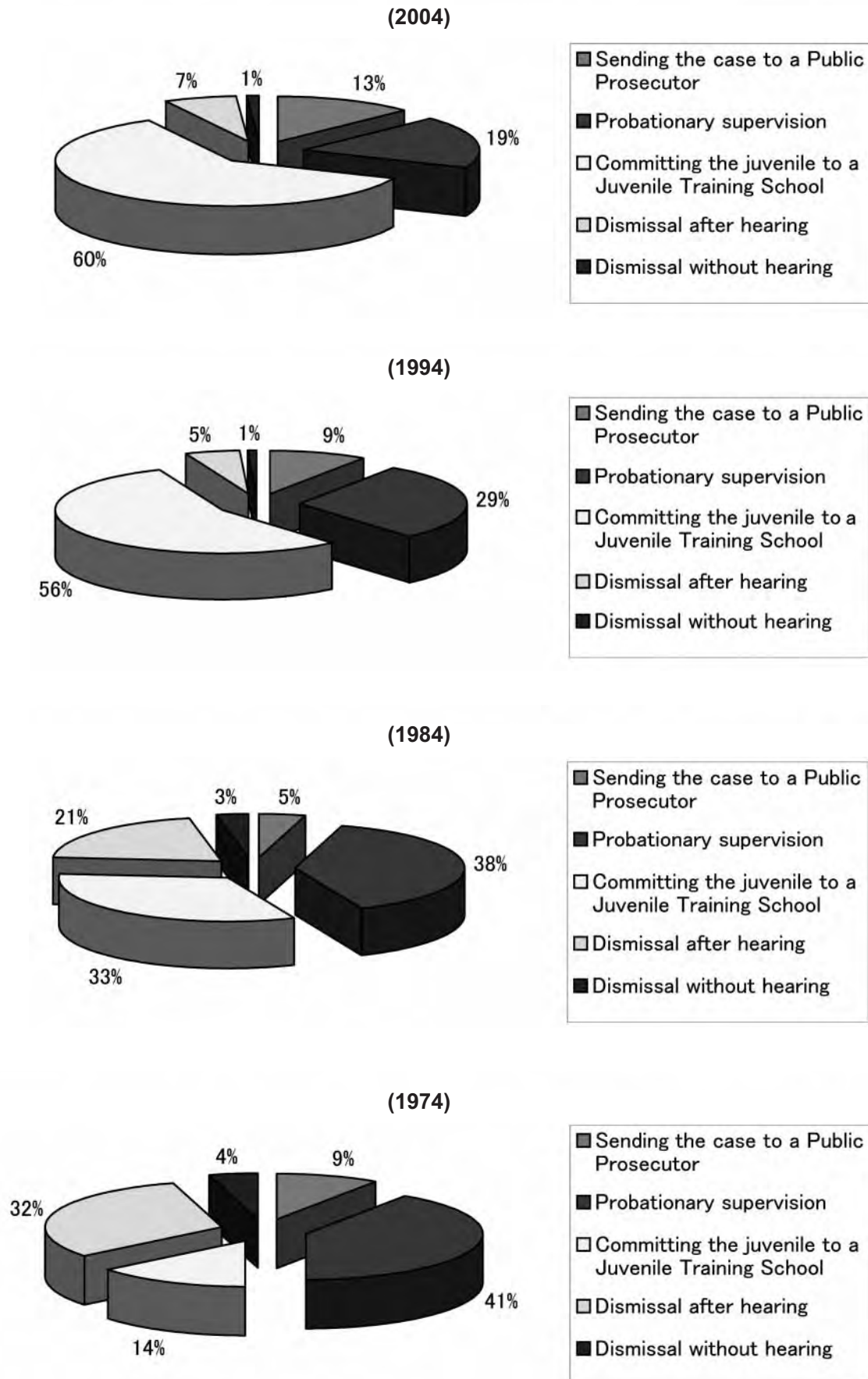


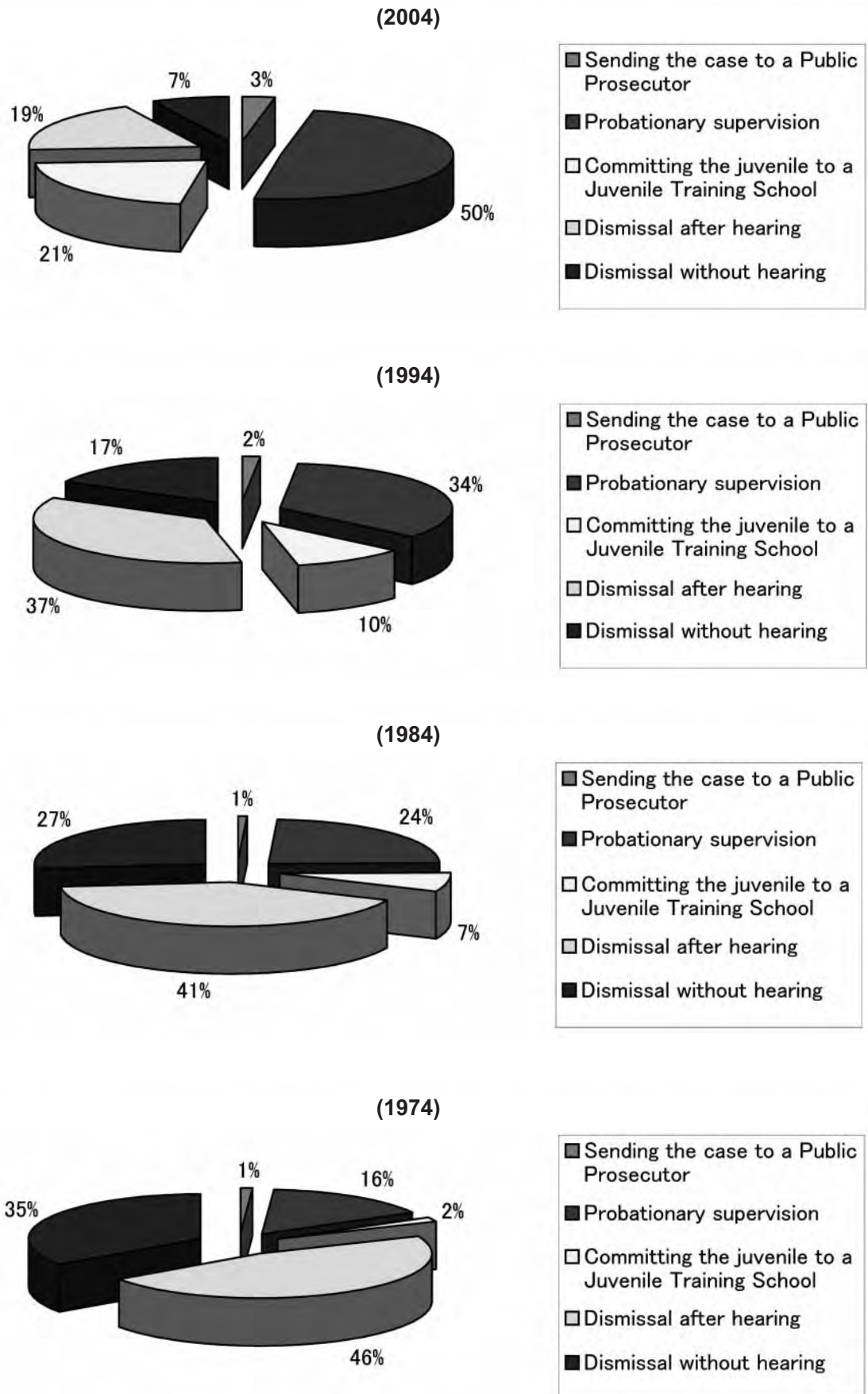
Figure 2: Comparison of Sexual Delinquency Cases and Juvenile Theft Cases



**Figure 3: Judgements Reached in Juvenile Cases of Rape**



**Figure 4: Judgments Reached in Juvenile Cases of Indecency**



**Figure 5: Risk Checklist for Offenders**

<b>Low-Risk Characteristics</b>	<b>High-Risk Characteristics</b>
1. One victim	Numerous assaults on one victim or has had a number of victims
2. No violence	Used physical force, a weapon, or threat of violence
3. No compulsive ideation about offences	Compulsive ideation about offences (e.g., sexual fantasies revolve around offences)
4. Terminated assault when victim protested or showed distress	Disregard for victim's objections
5. Narrow offence range (e.g., only committed one type of assault)	A broad range of offending
6. First apprehension for offending	A number of apprehensions for sexual-related charges
7. No escalation in offence patterns	Escalation in offending (e.g. frequency)
8. Sexual offending stopped after contact with the law	Continued to offend after contact with the law
9. No previous treatment for sexual offending	Has received sex offender-specific treatment
10. Admits he committed offences	Denies he committed offences
11. Accepts responsibility for planning and carrying out assaults	Blames the victim
12. Has some empathy for the victim	Limited remorse for his victim and never considered how assaults were affecting the victim
13. Comprehended the reasons why sexual assaults are morally and legally wrong	Does not understand why assaults are wrong
14. Willing to discuss the assaults	Resistant to sharing information; attempts to conceal facts from examiner
15. Has some perceptions on how to prevent future offences	Limited awareness of how to prevent future assaults
16. Understands he will need help to change	Resistant to becoming involved in treatment
17. Has a flexible belief system with regard to intimacy and sexuality	Rigid belief system with regard to intimacy and sexuality
18. No history of problems; not physically aggressive	History of being physically aggressive
19. No chemical abuse problems	Has a record of chemical abuse
20. Has not been a victim of sexual, physical, or emotional abuse	Victim of sexual, physical, or emotional abuse
21. No history of fire setting or cruelty to animals	History of fire setting or cruelty to animals
22. No substantial delinquent history	History of delinquent behaviours
23. Some awareness of the need to identify and express emotions	Attempts to deal with emotions by suppressing them

24. Reasonable social skills	Limited social skills (e.g., assertive skills)
25. Suffering from no other significant emotional, psychological, or behavioural problems	Sexual offending is confounded by some other psychological problem (e.g., psychosis)
26. Cooperative during assessment process	Resistant to the assessment process
27. Has a number of social support networks in the community (e.g., peers)	Offender is a loner with few social supports
28. Parents acknowledge their son's inappropriate behaviour and hold him responsible for offending	Parents are highly defensive and unwilling to accept facts
29. Family reasonably functional	Dysfunctional or multi-problem family
30. Family supportive of helping process and willing to participate in treatment	Family not supportive of treatment and unwilling to participate
31. No history of sexual, physical, or emotional abuse of parents or other siblings	History of sexual, physical, or emotional abuse of a family member

Source: Assessment & Treatment of Adolescent Sex Offenders Garry P. Perry, Janet Orchard 1992 Professional Resource Press Sarasota, FL.

**Figure 6: Typology of Adolescent Sexual Offenders**

By Michael J. O'Brien and Walter H. Bera.

Programme for Healthy Adolescent Sexual Expression (PHASE), Maplewood Minnesota.

**Naïve Experimenter**

1. Tend to be younger adolescents (ages 12 to 15)
2. No previous history of acting-out problems
3. Adequate social skills/socialization
4. Lack of sexual knowledge and experience
5. Sexual events are isolated opportunistic, exploratory, situational, non-violent acts with younger children

**Under-Socialized Child Exploiter**

1. More extensive patterns of sexual behaviour with younger children effected through manipulation, enticement, entrapment
2. Chronic social isolation and poor social skills
3. No history of other acting-out behaviour
4. Inadequacy, insecurity, low self-worth predominate
5. Family disengaged, father-distant

**Pseudo-Socialized**

1. Active peers - but manipulative relationships, superficial
2. Narcissistic quality - they play on being special, unique; immunity to other people's pain
3. Sociopathic streak
4. Normal on testing
5. Likes to break rules, not get caught, stealing, etc.
6. Seemingly lots of friends, gifted, successful
7. Magnetic, facile in group, plays at social wellness
8. Lack of intimacy - family has high expectations, little closeness
9. Do well in school, high I.Q., computer programmers, hang around adults
10. Love being viewed as precocious
11. Air of superiority

12. Love to do/dream of very adventurous things
13. Lacking intimacy skills, also their fathers lack intimacy skills while appearing very successful

**Sexual Aggressive**

1. Use of force or violence in commission of sexual assaults against peers, adults, or older children
2. Socially and sexually active with peer group
3. History of antisocial, acting-out behaviours from early childhood
4. Likely to use alcohol and/or drugs regularly
5. Difficulty handling aggressive impulses
6. Oversensitive to criticism, tense and anxious, emotionally unstable
7. Uses primarily denial and projection as defences
8. Family characterized by chaos, abuse, violence

**Sexual Compulsive**

1. Engages in repetitive sexually arousing behaviour that becomes compulsive, addictive in nature
2. Usually hands-off behaviours such as voyeurism (window peeping), obscene phone calling, exhibitionism, fetish burglary
3. Quiet, socially withdrawn
4. May be studious, tending toward overachievement and perfectionism
5. Constant state of tension and anxiety due to hypersensitivity to failure
6. Inability to express anger appropriately
7. Emotional constraint and anxiety results in tension-reducing acting-out behaviours that involve sexual arousal
8. Behaviour becomes patterned cyclical and repetitive because it is self-reinforcing
9. Family system rigidly enmeshed with closed external boundaries. Parents may adhere to rigid and fundamentalist religiosity

**Disturbed Impulsive**

1. Sexual offence is impulsive and signifies acute disturbance or reality testing
2. Offence may be single, unpredictable, uncharacteristic act or pattern of bizarre and/or ritualistic acts
3. Offences reflect malfunction of normal inhibitory mechanisms due to thought disorder caused by endogenous or drug-induced psychosis

**Group-Influenced Offender**

1. Sexual offence is an attempt to impress peers, gain approval or acceptance, or prove oneself in peers' presence, e.g., gang rape, "dare" exposing, bathroom abductions
2. Usually no previous history, personality and family characteristics normal

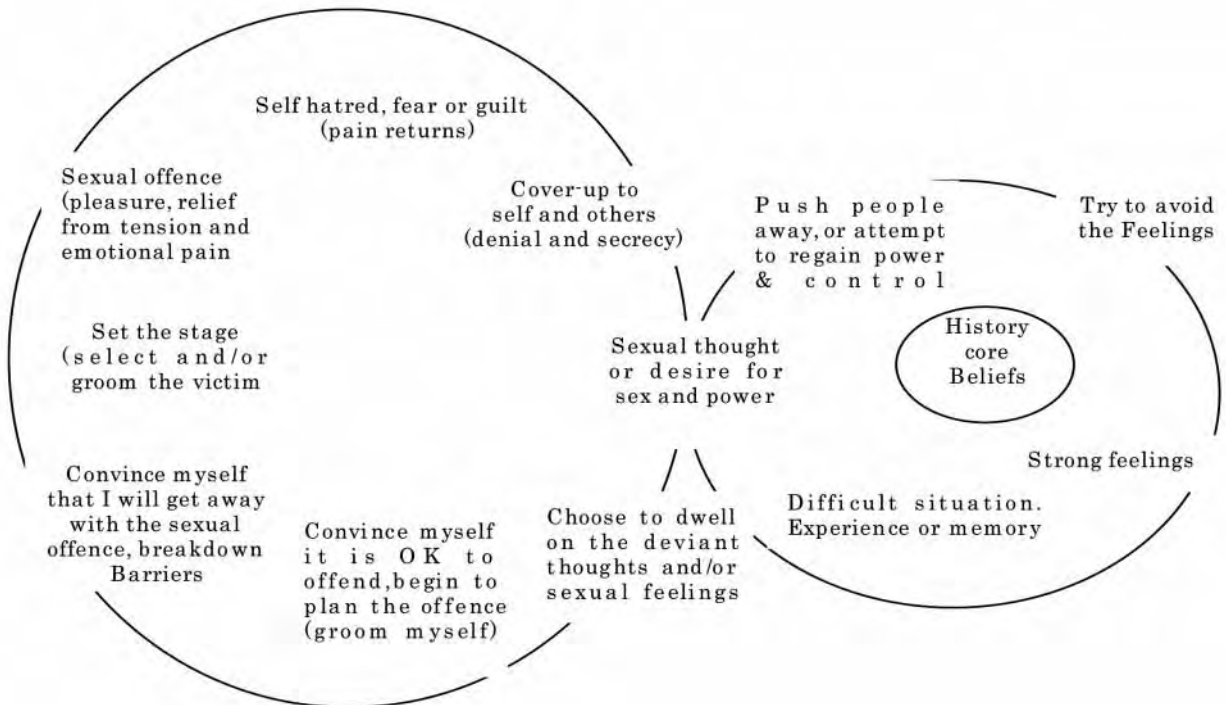
**Figure 7: Forty-six Motivators for Juvenile Sexual Offending Clustered by Category**

<p><b>Category 1: Aggression</b>                  Anger                  Power, Control and Domination                  Revenge</p>	<p><b>Category 6: Relationship Building</b>                  Affection: Demonstrating                  Affection: Seeking Intimacy                  Loneliness                  Mutuality: Actual                  Mutuality: Imagined                  Relationship Building</p>
<p><b>Category 2: Cognitive Impairment</b>                  Cognitive/Intellectual Deficit                  Incompetence                  Mental illness                  Psychosis                  Substance Use Driven</p>	<p><b>Category 7: Sexual Deviance</b>                  Fantasy Fulfilment (Deviant)                  Paraphilia (Sexual Fetish)                  Sadism and Cruelty                  Sexual Arousal: Deviant</p>

<p><b>Category 3: Coping Mechanism</b> Antidote Emotional Discharge Emotional Satisfaction Trauma-Reactive Recapitulation</p>	<p><b>Category 8: Sexual Preoccupation</b> Compulsion: Addictive Compulsion: Non-addictive Fantasy Fulfilment (Non-deviant) Hypersexuality, Re-enactment of Pornography Sexual Arousal: Non-deviant Sexual Gratification Sexual Impulsivity Sexual Obsession Sexual Preoccupation</p>
<p><b>Category 4: Sexual Experimentation</b> Experimentation: Curious Experimentation: Exploitive Experimentation: Naïve</p>	<p><b>Category 9: Social Environment</b> Peer-Cohort Encouragement Role Modelling Social Messages</p>
<p><b>Category 5: Sexually Opportunistic</b> Opportunity: Impulsive Opportunity: Predatory Opportunity: Situational</p>	<p><b>Category 10: Social Skills Deficit</b> Feel Normal Social Competence or Mastery Social Expectations Sexual Identity Exploration</p>

Source: Understanding Assessing and Rehabilitating Juvenile Sexual Offenders, by Phil Rich (Author) Chapter 5: p. 77-99, 2003 John Wiley and Sons, New Jersey.

**Figure 8: The Cycle of Offence**



Source: The Cycle of Offence. Ineke F. Way & Stephen D. Spiker, Jalice Publishers 1997.



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## REPORTS OF THE COURSE

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### GROUP 1

#### INVESTIGATION, PROSECUTION, SENTENCING PROCEDURES AND PREVENTIVE MEASURES

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<i>Co-Chairpersons</i>	Mr. Andi Likaj	(Albania)
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	Prof. Haruhiko Higuchi	(UNAFEI)
	Prof. Kayo Ishihara	(UNAFEI)
	Prof. Iichiro Sakata	(UNAFEI)

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### I. INTRODUCTION

The Group, which was assigned to discuss “Investigation, Prosecution, Sentencing Procedures and Preventive Measures”, agreed to conduct its discussion in accordance with the following agenda: Current situations, problems and solutions concerning 1) Definitions and characteristics of sexual offences and other related offences; 2) The legal framework of punishment and treatment; 3) Preventive measures for sexual offences; 4) Inter-agency and international cooperation.

### II. CURRENT SITUATION

#### A. Types and Characteristics of Sexual Offences and Other Related Offences

There are various types of sexual offences and every country has its own definition and forms of punishment for sexual offences and offenders. The Group first reviewed the situation with regard to sexual crime in each participant’s country. It became evident that interpretation of sexual offences as well as the current situation is different in each respective country.

##### 1. Albania

The participant from Albania, Mr. Likaj, said that in his country, child sexual abuse is a big problem, especially in the Roman community, where people are suffering from poverty. The situation was at its worst in 1997, because the government collapsed and many prisoners were released. They abandoned the children and some of them were raped by foreigners. In Albania, a person who has sexual intercourse with a girl under fourteen years old commits an offence, whether the victim consents or not to the intercourse.

##### 2. Honduras

The participant from Honduras, Mr. Villanueva, explained that at least three rape cases, nine domestic violence cases and three interfamilial violence cases are reported daily in two big cities, Tegucigalpa and San Pedro Sula in his country. He said that the cause of these sexual offences is mainly due to insufficient education for children, alcohol and drug abuse. He also said that many cases are not reported to the police, especially in rural areas, mainly due to the lack of transportation and telecommunication system.

##### 3. Japan

The participant from Japan, Mr. Nakamura, explained that the following are the sexual offences provided in the Japanese Penal Code: indecent assault; rape; gang rape; attempts of these offences; causing death or injury by indecent assault, etc. He said that a person who commits an indecent act upon a male or female, or

has sexual intercourse with a female under thirteen years old is punishable whether the victim consents to the acts or not. Then, the participant from Japan, Mr. Ibuki, explained that a person who commits an indecent act or sexual intercourse by taking advantage of loss of consciousness or inability to resist, or by causing a loss of consciousness or inability to resist commits an offence that is punishable. Mr. Nakamura said that the number of reported sexual offence cases showed an upward trend from 1999 (1,857 rape cases and 5,346 indecent assault cases) to 2003 (2,472 and 10,029, respectively) and slightly decreased in 2004 (2,176 and 9,184 respectively). He also said that the clearance rate decreased from 1999 (73.7 % in rape cases and 63.4 % in indecent assault cases) to 2003 (63.5 % and 38.8 %, respectively) and slightly increased in 2004 (64.5 % and 39.8 %, respectively). Mr. Uchida said that one reason for the increasing number of reports is that more and more victims are coming to report their damages, reflecting the public view that women's rights should be respected, and the decrease in the clearance rate mainly results from the sharp increase in the number of cases reported.

Mr. Ibuki said that felonious sexual offences, such as sexual abuse of children in the family, gang rape and consecutive rape cases are widely reported by the mass media and the prosecutors' recommendation of sentence for these cases are becoming severer. He also mentioned that molestation on crowded trains is a characteristic sexual offence in Japan. Mr. Nakamura added that although there were some gang rape cases and serious paedophile cases widely reported by the mass media, they were just a part of a whole range of sexual offences.

#### 4. Malaysia

Next, the participant from Malaysia, Mr. Gan, reported that sexual offences are divided into seven categories, such as rape, carnal intercourse, molestation and incest, under the Malaysian Penal Code. A person who has sexual intercourse with a female under sixteen years of age with or without consent commits an offence. The reported number of sexual offences was approximately 3,938 (1,765 of these were rape cases) in 2004 and 4,137 (1,931 of these were rape cases) in 2005. The rate of occurrence of sexual offences was one per 6,000 people. Mr. Gan stated that due to greater awareness of the victims by the government's promotion and a good criminal justice system, the reported number increased.

#### 5. Myanmar

The participant from Myanmar, Mr. Khin, explained that sexual offences are divided into nine categories including rape in Myanmar's Penal Code. Sexual intercourse with or without consent with a person under 14 years of age is an offence. The number of rapes is not so large. Even in the largest city, Yangon, the number of sexual offences is not more than ten per month. According to him, Myanmar has a good administrative, social and legal system, that's why the number of criminal offences, including sexual offences is very low.

#### 6. Yemen

The participant from Yemen, Mr. Ajaj, explained that the situation of sexual crimes is not as bad as other countries as far as rape is concerned. Although there were approximately 10,000 sexual offences reported in 2004, 4,000 of them were cases targeting children, such as molestation and illegal human trafficking, 5,800 of them were unlawful sexual contacts and exploitation of children; only 20 of them were rape cases, and four rape cases resulting in death. Among those four cases, one of the offenders was from Sudan the other one was a family member of the victim. Since Yemen is an Islamic country, there are many strict rules concerning sexual intercourse or contact with women. For this reason, some acts which are not considered a crime in other countries can be punishable in Yemen, and this fact makes the number of sexual offences in his country about 10,000. He analyzed the reason why sexual offences are not so serious in Yemen as follows: there are customs that if somebody rapes a member of a family, other members of the family will privately take revenge against the offender, so people do not attempt rape for fear that family members of the victim will seek revenge.

### **B. Legal Framework of Punishment and Treatment**

After reviewing types and characteristics of sexual offences and other related offences, the Group members reviewed the current legal framework of punishment for typical sexual offences and treatment for sexual offenders in their countries. They also pointed out the characteristics of each participating country.

## 1. Legal Framework of Punishment for Typical Sexual Offences

### (i) *Albania*

Mr. Likaj described the legal framework of punishment in his country as follows. The commission of sexual or homosexual intercourse with minor children who have not reached the age of 14 is punished by seven to 15 years of imprisonment. If committed repeatedly, it is punished by 15-25 years of imprisonment. If the offence causes death, it is punished with not less than 20 years of imprisonment. The commission of sexual or homosexual intercourse by force with children of the age of 14 to 18 is punished by five to 15 years of imprisonment. If re-committed, it is punished by ten to 20 years imprisonment. Mr. Likaj commented that the punishment works effectively in his country. Some of the participants pointed out that punishment that is distinguished by the victims' age is characteristic and rational.

### (ii) *Honduras*

Mr. Villanueva reported that in Honduras, rape is punishable by imprisonment for not less than nine years up to not more than 13 years, re-committed rape is punishable by imprisonment for not less than 15 years up to not more than 20 years, rape resulting in death is punishable by imprisonment for up to not more than 30 years, and incest is punishable by imprisonment for not less than three years up to not more than six years. He commented as follows: if a female is under 12, a person who has sexual intercourse with her would be punished whether the victim consented or not. It seems that in Honduras the minimum length of imprisonment for rape is comparatively long; i.e., not less than nine years imprisonment.

### (iii) *Japan*

Mr. Ibuki described the punishment in Japan as follows: Rape is punishable by imprisonment with labour for not less than three years up to not more than 20 years; indecent assault is punishable by imprisonment with labour for not less than six months up to not more than ten years. Rape resulting in bodily injury or death is punishable by imprisonment with labour for life or not less than five years up to not more than 20 years; gang rape is punishable by imprisonment for not less than four years up to not more than 20 years. The maximum can be increased up to 30 years, if the offender is proven to have committed more than one crime. Mr. Uchida said that the execution of sentence can be suspended under certain mitigating circumstances if the term of imprisonment is not more than three years.

All the Japanese participants mentioned that punishment for sexual offenders has become much heavier in the last five years and this tendency reflected the public's expectation for severer punishment, which had risen after the widely reported consecutive felonious gang rape and sexual motive offences against children.

In addition, Mr. Ibuki said that there are some laws for preventing sexual related offences in Japan, such as the Anti-Stalking Act 2000, Anti-Child Abuse Act 2000 and Anti Domestic Violence Act 2001. He explained these acts were enacted to respond to recently occurring social problems. All the Japanese participants agreed that these acts are contributing to some extent to prevent sexual offences, although they are not comprehensive and not specialized for sexual offenders.

### (iv) *Malaysia*

Mr. Gan said as for Malaysia, besides imprisonment, most sexual offences warrant the offenders being punished with whipping (with a cane) with not more than 24 whips but with certain conditions. Women, children under 21 years and adults above the age of 50 years cannot be whipped and when whipping is done, it is conducted in the correctional centre and under the supervision and advice of a government medical officer. Whipping is only applicable for possession of firearms and for sexual offences. He emphasized that most Malaysian people support its justice and effectiveness. As for imprisonment, life imprisonment is not provided for rape cases at this moment, but there is a movement in Malaysia which allows them to amend the penal code to include life imprisonment as the maximum punishment for rape cases.

### (v) *Myanmar*

Mr. Khin said in Myanmar, rape is punishable by *transportation for life* or imprisonment may extend to ten years and a fine. He added that *transportation for life* meant exile for life, which is a remnant of the colonial age. At present, even if the court sentences a person to *transportation for life*, the defendant will not be actually exiled. It is equivalent to imprisonment for 20 years. He also explained that the average term of imprisonment is from five to ten years in rape cases. If re-committed, the term would be from ten to 20

years. Rape with murder is punished by the death penalty.

*(vi) Yemen*

Mr. Ajaj explained that rape (ravishment) is punished by imprisonment for not less than two years up to not more than ten years and rape resulting in death is punished by the death penalty in his country. He also reported that the average term of imprisonment is from five to seven years in rape cases and from two to five years in attempted rape cases. The number of attempted rape cases is higher than that of rape cases. He said the statute stipulates that adultery and sodomy are punishable by 100 lashes or throwing stones but after 1990, these types of punishment are not actually practiced due to human rights issues.

2. Treatment

After the exploration of punishment in the respective countries, the Group discussed the treatment for offenders in prisons and the community. Before looking into special training programmes for sexual offenders, the Group started their discussion on the current situation of general treatment for offenders.

*(i) General treatment for offenders*

Most of the participants said that the main treatment for offenders should be educational programmes in prisons. Mr. Ajaj (Yemen) explained that the prisons have their schools, where educational treatment programmes are given to inmates in order to provide them with basic learning skills. Although most of the participants were aware of the importance of training programmes in prisons, except for Japan, the participants admitted a lack of such programmes. For example, in Myanmar, Mr. Khin explained that in his country, if the offenders were under 16, as stipulated in the Child Law and the Suppression of Prostitution Act, they will sometimes be sent to juvenile schools where they could receive training programmes. However, not many juveniles are sent to juvenile schools, they are normally sent back to their home under the supervision of their parents or guardians.

Having examined the backgrounds of the lack of proper treatment for inmates, Mr. Villanueva (Honduras) stated that in his country the budget of the correctional department is insufficient, and this is also the cause of the bad living conditions of prisoners. He emphasized the importance of improving the living conditions of prisoners to give them effective treatment.

*(ii) Special treatment for sexual offenders*

All the participants, except those from Japan, reported that they have no special treatment for sexual offenders in prison or in the community. Mr. Gan (Malaysia) mentioned that the Malaysian government and most of the public emphasize the importance of preventive measures of crime and do not have so much interest in treatment for offenders, he said.

Mr. Ajaj (Yemen) pointed out that although his country has no special programme, the re-offending rate is not so high. He thought that this is because the sentence for sexual offenders is generally harsh. Furthermore, he observed that there are some sex offence cases in which the offenders make out-of-court settlements with the victims or their families. These cases are not disposed through the criminal justice system. In these cases, the chiefs of the tribes to which the victim or the offender belong decide the compensation for the victim. If the offender is too poor to compensate the victim, the community will pay it instead of him. This custom results from their belief that problems in a certain community should be solved by themselves.

Upon the request of the other participants, the Japanese participants explained the outline of the special treatment programmes based on cognitive behavioural therapy that will be implemented in September 2006, conducted by correctional officers in prison and by probation officers in the community and is based on programmes already introduced in the UK and Canada. The main contents of this programme are as follows: risk assessment of sex offenders; group sessions based on cognitive behavioural therapy; understanding the process of sexual crime, the distortion of recognition of offenders and the feelings of the victims; and learning how to deal with their impulse to commit sexual crimes.

As it relates to treatment, Mr. Likaj (Albania), admitted that there is no special treatment programme for sexual offenders but the Government of Albania provides special treatment for victims, such as

psychological care programmes. He also said that there are many shelters, including one called the Linza Shelter, supervised by the Ministry of Justice and Ministry of the Interior, where victims of sexual and trafficking offences can seek help.

### **C. Preventive Measures for Sexual Offences**

#### 1. General Preventive Measures

The discussion continued focusing on preventive measures. The Group unanimously agreed that educational programmes, raising awareness of the public to avoid being victims of sexual offences, are important and they are actually practiced in participating countries. These kinds of programmes should target women and children who are regarded as potential victims of sexual offences.

Mr. Ajaj (Yemen) reported that the government published a journal about sexual crimes to prevent people from being harmed in 2002 and the police and the Ministry of the Interior started an educational programme for people under 20 in 2005. Mr. Villanueva (Honduras) added that in his country, the police give lectures about how to escape from sexual offenders (twice a year because of a lack of resources) and NGOs distribute pamphlets about sexual offences to the community, in which the ways to avoid sexual harm are described. Mr. Likaj (Albania) said that the government educate children to protect themselves from sexual offences and being trafficked not only through lectures in schools but also through TV programmes in his country. Furthermore, Mr. Uchida (Japan) reported that in some areas, the police, if requested, give parents information concerning suspicious persons and sexual offences or other sexual motive offences in their community, via email. On the other hand, Mr. Khin (Myanmar) explained that his country has no special preventive measure for sexual offences except for the one under The Anti Trafficking in Persons Law, because the occurrence of sexual offences in Myanmar is not as serious compared with other countries.

Apart from the above mentioned awareness raising programmes for potential victims of sexual offenders, the Group agreed that harsh punishment could be a preventive measure to prevent offending. In this context, a Japanese participant remarked that Japan made a recent amendment to its Penal Code to punish gang rape more severely than rape committed by one offender. For a similar reason, the Malaysian government is seriously considering the introduction of life imprisonment for rape cases, which is likely to happen in the next few years. Mr. Gan (Malaysia) also mentioned that whipping is definitely effective in preventing sexual offences in his country.

#### 2. Preventive Measures of Recidivism

As for preventive measures of recidivism, the Japanese participants explained that prisons have to provide information about prisoners who have committed violent sexual offences targeting girls under 13 to the police which have jurisdiction over their area of residence, when the offenders are released. The police, using this information, supervise the ex-offenders and try to prevent them from re-offending. Mr. Uchida (Japan) stated that the special treatment programmes for sexual offenders mentioned above, are also a kind of preventive measure against recidivism.

### **D. Interagency and International Cooperation**

#### 1. Interagency Cooperation

All participants stated that they have interagency cooperation, especially in the field of sexual crime prevention and offender's treatment, mainly by sharing information about sexual crimes and sexual offenders.

For example, Mr. Khin (Myanmar) said the Myanmar Women's Affairs Federation coordinates with the Ministry of Social Welfare, Relief and Resettlement and send victims or offenders to the stipulated places for medical treatment or training for reintegration and rehabilitation in his country. As for Yemen, Mr. Ajaj reported that the Ministry of the Interior cooperate with the Ministry of Education and the SANAA University to study preventive measures of sexual offences. Mr. Villanueva stated that in Honduras, the Catholic Church and international NGOs, such as Covenant House and the Save the Children Fund, are acting together for the prevention of crime by briefing each other. Mr. Likaj (Albania) stated that the police are cooperating with prisons by sharing information about sexual offenders released from prison. Also, the police collaborate with schools by providing sexual crime education to children.

The Japanese participants explained about interagency cooperation in Japan as follows: police officers and public prosecutors closely share information about sexual offenders in the investigational procedure; public prosecutors give correctional officers or probation officers information about sexual offenders so that the correctional officers or probation officers can appropriately treat the offenders; the prisons notify the release date and address of the sexual offenders if requested by the police or public prosecutors, and especially in regard to prisoners who have committed violent sexual crimes against girls under 13; the prisons must notify their release information to the police so that the police can prevent further offending.

## 2. International Cooperation

Mr. Likaj reported that Albania cooperated with Interpol and other neighbouring countries through liaison officers who were stationed in some neighbouring countries to investigate international crimes, including sexual offences. Also, the Albanian criminal police improve their skills through special training for police personnel assisted by ICITAP (U.S.A) and PAMECA (EU).

Mr. Ajaj (Yemen) added that bilateral cooperation between Saudi Arabia regarding the investigation of trafficking in children was recently launched. According to him, trafficking in children is a serious problem in his country, and it took more than five years of negotiation with their counterpart before they actually started the cooperation.

Other participants said they did not have special international cooperation in regard to sexual offences, although some of them had international cooperation in general investigation, through regional agreements such as the ASEAN framework or bilateral treaties.

With regard to sharing information about ex-offenders, including sexual offenders, no participating country has a comprehensive sharing system such as the one being carried out in the EU.

## **III. PROBLEMS**

After reviewing the current situation, the Group began to identify problems concerning the prevention and treatment of sexual offenders, following the order of criminal procedure. Since most of the members were police officers and public prosecutors, they argued there were many problems especially concerning the procedure of investigation and prosecution.

### **A. Investigation**

All the participants agreed that finding out what the offender did by a proper and speedy investigation is essential for the effective treatment of sexual offenders and the prevention of future sexual crimes. Sexual offences are usually committed in locked rooms and cars, on empty streets or in deserted woods, where few witnesses exist. In these cases, securing the testimony of the victim and collecting as much material evidence as possible are very important to identify the criminal and prove the offences. In addition, utilizing criminal records of offenders is sometimes very effective to immediately identify the offender. The Group, with this situation in mind, discussed the problems in the stage of investigation.

#### 1. Unreported Cases

Most of the participants acknowledged that there are quite a few unreported sexual offences in each country, and some of them analyzed the reasons as follows. Mr. Ajaj (Yemen) said that the reason comes from the fact that they have alternative community-based solutions other than the criminal justice system, as he mentioned above. He also added that Yemeni women are reluctant to report the crime because it may disgrace the name of their family. Mr. Villanueva (Honduras) stated that the first response of police officers to victims, which are not necessarily victim-friendly, is one of the causes, as well as the insufficient transportation and communication system, especially in rural areas. He said that male police officers sometimes interview victims in an inappropriate way, which makes it difficult for the victims to talk about the offence. Also, medical checks by male medical officers are a big burden on the victims.

In a similar perspective, Mr. Gan (Malaysia) pointed out that the lack of female investigators who have psychological and psychiatric knowledge, and are specialized in the investigation of sexual offenders, could be a problem. In this regard, some participants questioned the necessity of specialized female investigators. They expressed their views that during the normal training course at the police academy, they could be

given lectures on psychology and male police officers could be equipped with a better understanding of the victim's feelings. A Japanese participant mentioned that in Japan, since the number of female investigators is not so large, not all the victims are interviewed by female officers. In such cases, a female officer stays in the interview room to take care of the victim. The participants agreed, whether or not a special investigation section is created composed of female officers for sexual offences, it is apparently better for female victims to be interviewed by female police officers, especially when they first report the offence.

By contrast, in Malaysia, because of the establishment of a victim-friendly atmosphere, there are many reported cases, some of which are actually not rape, Mr. Gan said. He introduced their efforts to make it easy for victims to file a claim. There are one-stop service centres run by government hospitals for the victims of sexual offences. If a victim visits there and reports their injuries, the centre will report it to the police, and the victim can receive medical checks and treatment in the hospital. The centre has some psychological and psychiatric specialists, who interview and provide aftercare for the victims. Moreover, there are many female police officers who are specialized in sexual crime investigation, and they mainly embark on the investigation. Due to these positive efforts, reported rape cases are sharply rising, approximately 10% a year. However, the increase in the number of cases has created another problem for the police; a heavy workload for the police in his country.

## 2. Underdeveloped Technology

All the participants agreed that objective evidence to corroborate the testimony of the victim, such as sperm and pubic hair left on scene, are extremely important in sexual offence cases. Investigators have to promptly collect these kinds of objective evidence, submit it to forensic laboratories, and get the data. However, some of the participants said that it is very difficult to implement such investigations due to the lack of forensic laboratories or the underdeveloped technology. Mr. Villanueva (Honduras) reported that it takes too long to obtain the data of DNA profiling because of the shortage of forensic laboratories. Moreover, some participants said they have no facilities for DNA profiling.

## 3. Insufficient Criminal Record System

There were no participants who denied the importance of an accurate and systematic criminal record system for future investigations. It should be easy to search, of course. The participants from Albania, Japan and Malaysia reported that they have a comprehensive computerized criminal record system and they are working well at present.

Some participants, however, said that the criminal record system in their countries is incomplete and/or not computerized, so it is difficult to trace offenders when they move to other areas. For example, Mr. Ajaj (Yemen) said that because criminal records are manually registered in his country, it is hard for the police to immediately check the suspect's previous criminal record when they arrest him/her.

On the other hand, the criminal record system in Myanmar, even though it is not computerized, is working very well for the time being, Mr. Khin said. An adviser stated that about 20 years ago, criminal records were not computerized either in Japan, but it worked well, too, because at that time, people did not move from one region to another, and this maybe similar to present Myanmar. He also advised the participants where they record manually that they should have a detailed index to the records to facilitate the search.

## **B. Prosecution**

Even if a prompt and appropriate investigation is conducted, it is not sufficient. Prosecutors have to prosecute the offender and ask the court to impose appropriate punishment. In regard to this matter, the Japanese prosecutors, Mr. Ibuki and Mr. Nakamura, indicated the following problems in prosecution according to their experience.

### 1. Burden of Proof

Mr. Ibuki (Japan) said that it is sometimes very difficult to prosecute sexual offenders because of, as with most countries, the heavy burden of proof imposed on prosecutors. For example, when they prosecute a rape case, prosecutors must ensure that there was no consent to the intercourse between the parties, and the offender committed physical violence or intimidation. Also for serial rape cases, such as where a stepfather rapes his step daughter several times, it is difficult to specify the exact dates of the incidents.

## 2. Securing the Victims' Testimony

Many victims of sexual offences are reluctant to give testimony at the trial. In some cases, however, especially when the defendant denies his offence, the victim's testimony is necessary. Mr. Nakamura (Japan) highlighted that in those cases, a Japanese prosecutor must make a serious effort to convince the victim to give testimony in court. At this point, all the participants recognized that all criminal justice personnel should be aware of protecting victims from secondary victimization which could happen through the criminal justice process.

## **C. Sentencing**

The Group proceeded to a discussion about the problems at the next stage of the criminal justice process; sentencing.

### 1. Harshness of the Punishment

As a Visiting Expert, Dr. Bill Marshall (Canada) stated in his lectures that a longer term of imprisonment does not effectively prevent a person from re-offending and is quite costly. The Group discussed whether the sentences given in the respective countries were effective. With regard to the harshness of the means of punishment, Mr. Gan said that Malaysian punishment (imprisonment and whipping) must be the harshest one and this is effective. Some Japanese participants pointed out that a longer sentence leads to overcrowding in prisons, and according to a study, persons who received a sentence with suspension of execution had lower recidivism rates compared to those who received a longer sentence. Therefore, we have to examine the effectiveness of longer sentences once again.

Similarly, the Group also discussed whether "suspension of the execution of sentence" is applicable for sexual crimes in each country. The Group found that only in Japan, is a suspension of the execution of sentence applicable in rape cases. Mr. Uchida (Japan) commented that as for rape, the number of suspended sentences is limited and decreasing these days, and usually a settlement has been made between the defendant and the victim. In the case of sexual crimes, Japanese judges sometimes pass a suspended sentence together with a probation order so the offender is under the supervision of probation officers during the duration of suspension, but the number is not so large.

### 2. Alternative Sentence

An advisor brought up the German practice whereby a hospital order of the court, commits offenders to a psychiatric hospital to give them proper treatment, and asked each participant their views. In all the participating countries, a judge can make a hospital order for a mentally disordered person according to the report of medical officers before or during the trial, but this kind of system is not as comprehensive as Germany's. In this regard, Mr. Uchida (Japan) raised the problem that even in Germany, they have three rigid requirements for a hospital order, namely: i) severe criminal act with criminal intent; ii) 'irresponsibility' or 'severely diminished responsibility' during the criminal act due to a mental disorder; and iii) high risk of re-offending due to the mental disorder. According to these requirements, the court can make a hospital order in a case where the offender is responsible but has a high risk of re-offending, in which therapeutic treatment is needed for the offender. Moreover, Mr. Uchida wondered if judges would have sufficient information in order to decide whether the offender meets these requirements without a pre-sentence investigation by probation officers.

## **D. In Correctional Institutions**

The Group further examined the problems in correctional institutions. Except for Japan, no participating countries have special treatment for sexual offenders in correctional institutions. Moreover, in some countries, even general treatment programmes for inmates, such as educational or vocational training, does not necessarily work well. Mr. Villanueva (Honduras) explained that in his country, the condition of prisons is bad due to overcrowding and lack of resources. He admitted that the sense of treatment is lacking there and they do not provide prisoners with an effective vocational training programme. Some countries have general training programmes for inmates. In Myanmar, they have some vocational training in prisons, such as farming and handcrafting. In Yemen, the prison provides prisoners with basic education, such as reading and writing, along with vocational training, such as woodcrafting, metalwork and blacksmithing. Religious lectures are also supplied to inmates on religious values. Yemeni prisons even introduced a system of '*conjugal visits*', which allows inmates to meet their spouse and to stay together.



There are also countries which have already established treatment programmes but have not implemented them yet. Mr. Gan mentioned in Malaysia, there are special programmes for sexual offenders, but it is impossible to implement them due to lack of human resources, lack of experts who specialized in this topic, space and time. Since Malaysia is a multi-ethnic country, they need to hire psychologists who can speak two or three languages that are spoken in the country.

#### **E. Aftercare Programme**

The Group acknowledged the importance of treatment of sexual offenders after release from correctional institutions. Currently, not many countries have an effective parole system; some countries, however, have a system whereby the police supervise ex-offenders to prevent them from recidivism and it works well.

Mr. Likaj explained in Albania, after the completion of 75 percent of the term of imprisonment imposed by the sentence, the offender can be released on parole, and put under the supervision of police officers. During the period of parole, the police officers near the parolee's residence supervise him/her through collecting information. If the parolee wants to change residence, he/she must report that to the police.

In Myanmar, when offenders are released from jail, they must inform the police of their residence and what they will do, Mr. Khin said. Having obtained such information, the police supervise the offenders. There is no fixed term for this supervision system.

Mr. Gan reported that similarly in Malaysia, there is no parole system, but they have police supervision orders imposed by the court. The court can impose a police supervision order up to three years, in addition to a sentence of imprisonment for more than two years, when the offender has a criminal record of imprisonment of two years or more. During the period of police supervision, the ex-offender has to visit a chief police officer and provide information about himself every month. If the ex-offender wants to change residence, he must inform the police and receive permission from them. The execution of this order is secured by up to one year's imprisonment for breach.

### **IV. SOLUTIONS AND BEST PRACTICES**

After exploring current situations and identifying problems, the Group deliberated the solutions to the encountered problems and discussed the best practices.

#### **A. Capable Investigative Authority**

##### 1. Victim-Friendly Atmosphere and Well Trained Personnel

Since many sexual crimes remain unreported, all participants agreed that criminal justice officials should encourage victims to report the damage to the police. Therefore, the creation of victim-friendly atmosphere is very important. One of the good practices is the Malaysian one-stop centres run by the governmental hospitals. All participants agreed that, especially in the cases of sexual offences, the officers and investigators should be considerate to victims without bias and be empathetic with victims. The police officers who receive the report at first hand should be specially trained. With regard to the venue of the interview with victims, Mr. Ajaj (Yemen) proposed to hold interviews with victims in the victim's houses because visiting the police station to report the damage is a heavy burden for Yemeni women. Many participants supported the idea that the investigation of sexual offences should be carried out by female police officers.

##### 2. Sophisticated Methods of Investigation

As many of the participants have pointed out, they need to improve the investigative ability in terms of forensic science, especially the ability of DNA profiling. Although DNA profiling is one of the most effective methods of investigation for sexual offences, some countries have not yet introduced it due to the lack of technology, and even in the countries which have already established it; they have some troubles in the accuracy and promptness of testing. Therefore, all the participants reached the conclusion that they should introduce or improve DNA profiling to appropriately investigate sexual crimes, and if needed, they should share its technical know-how.

Moreover, Mr. Gan (Malaysia) suggested that the police should collect DNA information of sexual

offenders and organize a DNA database. He insisted that DNA information of sexual offenders is considerably useful for investigation in the future because objective evidence is often left at the scene of sexual offences; comparing the results of DNA analysis of these objects with a database would be helpful to identify the criminal.

While most of the participants agreed to his suggestion, some participants questioned its feasibility. They pointed out that it is impractical because of cost and problematic in terms of privacy protection to collect and systematize the DNA information of all sexual offenders. In regard to this matter, Mr. Gan argued that if the information is limited to that of sexual offenders who are sentenced to imprisonment and is strictly controlled by the police, it is feasible and does not infringe human rights.

Obviously, a DNA database is premised on the existence of a comprehensive and effective criminal record system, so the Group confirmed that the establishment of such system is a matter of first consideration for the countries where it has not been developed.

### **B. Shift of Burden of Proof**

As a Japanese participant pointed out above, in rape cases, it is sometimes considerably difficult for prosecutors to prove the fact that the victim did not consent to having sexual intercourse with the offender. The fact of having intercourse can be proven by scientific evidence like the sperm and pubic hair; contrarily, the absence of consent and the existence of a threat is difficult to prove, especially if no external marks or injuries are found.

In this regard, Dr. Barinbra Nath Chatteraj, a visiting expert from India, shared with the Group a very interesting practice in his country: the Criminal Law Amendment of 1983. Section 114-A, introduced in the Indian Evidence Act by this amendment, lays down that the court shall presume lack of consent in special cases of rape like gang rape and custodial rape cases where sexual intercourse by the accused has been proved and the victim states before the court that she did not consent. Rape by police officers, public servants, prison, hospital and remand home staff and gang rape are included in the section. He explained the background of this amendment as follows. In India, the rate of conviction in rape cases was extremely low mainly due to inadequate police investigation, incomplete medical reports and non-availability of witnesses, inordinate delay in disposal of cases, and the absence of an independent prosecution authority. He also pointed out the profiling of the victims; i.e. the majority of victims of sexual crimes in his country belong to the lower class and they are not educated enough to give concrete testimony before the court. Under this situation, in a custodial rape case, the Supreme Court of India irrationally acquitted the defendants on the ground that the victim was not able to prove that she did not consent to sexual intercourse. After a notorious case, known as the *Mathura* case (1979), there were widespread demonstrations with the demand of a retrial. This compelled the government to move for the amendment of the law of rape. Since the amendment alleviated the burden of proof on prosecutors to a certain extent, the conviction rate of rape cases gradually rose after the enactment of the amendment.

Based on this explanation, many participants, especially law enforcement officers and prosecutors, were in favour of introducing such a law which shifts the burden of proof on to the offender in particular rape cases. They examined the advantages of having such a shift in the burden of proof: this law would not only enable prosecutors to prove lack of consent more easily but would also reduce the burden of victims who must testify before the court. Mr. Uchida (Japan), however, expressed his reservation from the position of an assistant judge. He insisted that if such law were to be introduced, the offender could be convicted not because he committed a crime but because he failed to disprove lack of consent due to his poor ability to collect evidence.

### **C. Proper Punishment and Treatment of Sexual Offenders**

All the participants were informed of the special treatment programmes for sexual offenders in prison and in the community through the comprehensive and informative lectures by visiting experts from the UK, Canada and Germany in this training course. Above all, the programme in the UK seemed to be the most impressive and favourable for many of the Group. As a result, most of the participants understood the importance of such programmes, and some of them said it is worthy of consideration if budget and human resources permitted.

However, as some of the participants pointed out, even the general treatment programme in prison does not necessarily work well mainly because of the overcrowding in their countries. Under such situations, it is absolutely impossible to introduce special treatment programmes for sexual offenders. In these countries, an improvement of the basic conditions in prison is the urgent priority, the Group concluded.

Furthermore, the Group emphasized the significance of harsh punishment for sexual offenders as well as treatment. No one denied that severe punishment for sexual offenders is effective to prevent not only ex-convicts from recidivism but also non-convicted persons from committing sexual crimes. Some participants also stressed that the feelings of victims should be sufficiently taken into consideration in sentencing, and questioned the idea that harsh punishment does not necessarily reduce the number of offences. In addition, there were some participants who thought the death penalty should be available for sexual offences.

On the other hand, one of the Japanese participants said that there is also some merit to suggestions that lenient punishment is proper in particular cases. He showed hesitation to uniformly accept harsh punishment for sexual offenders because imprisonment itself often makes it difficult for them to find jobs and narrow the possibility of rehabilitation after release. In cases which the victim forgives the offender and the risk of re-commitment is not so high, the execution of sentence can be suspended according to the circumstances. Therefore, the Japanese Penal Code that leaves room for suspension of execution in rape and sexual assault cases is reasonable unlike other countries.

The Group, after such discussion, at least reached a consensus that the sexual offenders whose risk of recidivism was particularly high should be harshly punished, while offenders who acquired the forgiveness of the victim and whose risk of recidivism is low should receive relatively lenient punishment.

Moreover, the discussion proceeded to aftercare programmes for sexual offenders, focusing on the monitoring system. All the participants agreed with the idea that during the probation period, offenders should be properly monitored by the police or probation officers. As for the method of monitoring, some participants suggested an electrical monitoring system which has already been introduced in some states in the US, and one of the advisers mentioned the merits of using GPS, because monitoring by only human means does not necessarily work well.

By contrast, the participants were divided over the pros and cons of monitoring offenders after finishing their sentence. While most of the participants pointed out that monitoring after completing sentence can infringe the offender's human rights, some of them insisted that sexual offenders should be monitored for life.

#### **D. Registration and Notification of Sexual Offenders – Sharing Information among Agencies/the Community**

Under this topic, the Group debated whether they should establish a register of sexual offenders or not. As for the registration itself, there was no participant who had objections. Also, they agreed that relevant information of the offenders, such as their name, address, photos, fingerprints, DNA etc., should be registered. In this regard, Mr. Villanueva (Honduras) mentioned that the fingerprints and photos of juveniles cannot be collected in his country, so the law should be amended.

On the contrary, as for whom the registered information should be shared with, the participants did not reach agreement. Mr. Gan (Malaysia) and Mr. Likaj (Albania) strongly argued that the information should be shared not only by the police and other related agencies but also by the community, referring to Megan's Law in the US. They emphasized that it is essential for the community to have information on sexual offenders living in their neighbourhood to protect themselves and their family. On the other hand, Mr. Uchida (Japan) argued against that idea mainly for the following reasons: the effect of Megan's Law for the prevention of recidivism is not necessarily demonstrated; according to a survey, many of the offenders whose information is notified to the public have great difficulty in finding a job, and they and their families face serious harassment from neighbours. These situations could make it difficult for the offenders to be rehabilitated; notifying information to the community after completing sentence could be unconstitutional in terms of double jeopardy. In this regard, Mr. Ajaj (Yemen) argued that there are two kinds of information about offenders; one is very personal information such as names and addresses, and the other is not so personal such as high-crime areas of the community. The former should not be disclosed in order to protect the offenders' privacy while the latter should be, he said.

After the debate, the Group at least agreed that the information should be properly shared among the police, prosecutors and correction officers nationwide. On this point, Mr. Middleton (Visiting Expert from the UK) provided us with useful information on the Multi-Agency Public Protection Arrangements (hereinafter “MAPPAs”). He explained that the MAPPAs share relevant information about targeting offenders including sexual offenders, assesses the risk and recommend action to manage this risk, and monitors and reviews this action plan periodically. Every one in the Group acknowledged that the MAPPAs is an ideal model of interagency cooperation that is lacking in almost all the countries. The Japanese participants mentioned the difficulty of interagency information sharing because the protection of personal data is a controversial issue in their country.

#### **E. Early Intervention by the Police and/or the Judiciary**

There are some petty crimes, such as stalking and minor domestic violence, which themselves are not considered as serious but can lead to heinous sexual offences. The Group shared the view that the causes of this sort of sexual crime should be eliminated at an early stage. Most of the participants stated that the legal framework of early intervention by the police and/or the judiciary in Japan, such as the anti-stalking law and anti-domestic violence law, were a good example for other countries.

Meanwhile, the Japanese participants pointed out that all these laws were recently made, and such minor crimes used to be solved by the parties, the family or the community. The police were reluctant to intervene in private matters. They said that there are still some minor crimes that should be resolved without the intervention of the police, and the establishment of the above mentioned laws indicates a decline in the problem-solving capability of the community. In this regard, Mr. Ajaj (Yemen) commented that such early intervention by the police and judiciary might be impossible in his country because solving problems within the community was preferred.

The Japanese participants also noted that as Mr. Sikata, a police officer, mentioned in his ad hoc lecture, that the Japanese legal measures for preventing sexual offences are not comprehensive. They do not have any regulations or registration on sexual offenders or civil court orders to respond to risky activities. On the other hand, in the UK, the police can apply for court orders to ban an offender’s specific conduct if the offender is involved in risky activities that may lead to him/her reoffending. Although some participants were positive about introducing such a system, Mr. Uchida (Japan) had a negative opinion of it. He pointed out that the proof and assessment of the risk is too difficult for the police and the courts, and even if the police can get an order, it is also very hard to prove its violation. All the participants acknowledged that the early intervention conducted by the police or the judiciary may lead to infringements on privacy. The existing laws can be utilized to allow the police or the judiciary to intervene in private matters of citizens. If there are any difficulties in applying the laws, due to a lack of clarity or ambiguity, the laws should be amended.

#### **F. Preventive Measures – Coordination between the Police and the Community**

The Group agreed that the police alone can not perform effectively to prevent sexual offences but it is essential for them to have good coordination with the community in crime prevention. Many of them said the Japanese police have established a very good relationship with the community through the following activities: the police provide information about suspicious incidents to residents via e-mail, which is collected by both the police and the residents; they inform women and children how to avoid victimization through practical training sessions in schools; they advocate and assist crime prevention activities by residents, such as escorting children to school, offering their houses as “Child Shelter Houses” where children in trouble can ask for help and make a “Community Safety Map” which indicates high crime areas; they try to employ environmental design in streets, parks, parking lots, etc. to aid in crime prevention. These efforts by the police and the community impressed most of the overseas participants, and they said they would report these measures to the relevant agencies in their respective countries.

The Japanese participants pointed out that such measures do not have an immediate impact on crime prevention, and that not everyone in the community has a good relationship with the police and even in Japan, it is sometimes very difficult to get resident’s cooperation.

#### **G. International Cooperation**

As the Group reviewed the current situations, it was apparent there is little international cooperation

focusing on sexual offences or offenders. According to the information provided by Mr. Middleton (the Visiting Expert from the UK) and Dr. Mueller-Isberner (the Visiting Expert from Germany), the EU has an international information sharing structure concerning ex-offender's, including sexual offenders.

Based on this, some of the participants suggested that all the countries participating in the United Nations should conclude a treaty that enables the participants to share information on sexual crimes. However, as we mentioned above, there are various types of sexual offences and every country has its own definition and forms of punishment reflecting their difference in culture and legal system. Therefore, it was considered impossible to establish a convention among all the countries of the world.

On the contrary, it is not so difficult to make agreements with neighbouring countries, where the culture and the legal system are not so different, other participants pointed out. Consequently, the Group reached the consensus that they should start by improving regional cooperation in sharing information on sexual offences and offenders.

## V. RECOMMENDATIONS

At the end of the discussion, the Group reached a consensus that the following should be recommended as possible measures to tackle sexual offences.

1. Create a victim-friendly atmosphere at police stations, especially at the firsthand offices which receive the victim's report, by allocating female officers or specially trained officers who are equipped with basic knowledge of victim's feelings in order to encourage the reporting of sexual crimes.
2. Improve the capacity of forensic laboratories for their prompt and accurate deliberation.
3. Amend existing laws, or legislate a series of laws, which enable the criminal justice system to intervene in crimes, such as stalking, child abuse and domestic violence, that have the possibility of leading to more serious sexual offences.
4. Enhance a well-organized nationwide criminal record system of sexual offenders and consider creating a DNA database for convicted sexual offenders.
5. Establish a proper monitoring system of sexual offenders after release by probation officers or/and the police by referring to the British system as a good model.
6. Provide potential victims of sexual crimes, such as women and children, with knowledge about crime prevention and heighten their self-defence ability.
7. Improve collaboration between the police and the community for crime prevention by sharing information, making safety maps and promoting environmental design, referring to the Japanese system.
8. Enhance interagency cooperation among the police, prosecutors, correctional officers and probation officers by sharing information on sexual offenders, paying attention to the protection of personal data.
9. Strengthen international cooperation, especially regional networks, to enable the sharing of information on sexual offenders.

## **GROUP 2**

### **EFFECTIVE PREVENTION AND ENHANCEMENT OF TREATMENT FOR SEXUAL OFFENDERS**

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#### **I. INTRODUCTION**

With the increased prevalence of sexual crimes in our countries, it has become important for society to look at positive ways to re-integrate the sexual offenders back into their families and various communities. We the members of Group 2 have been charged with the task of looking at the “Preventive Measures and Community Based Treatment Programmes”, with special emphasis on “community-based treatment programmes and supervision – preventive measures and inter-agency co-operation” in identifying current problems and challenges faced by each country/jurisdiction and their practices concerning prevention of sexual offences, punishment and treatment for sexual offenders.

#### **II. CURRENT SITUATION**

##### **A. The Current Sexual Offences and the Legal Framework of Punishment and Treatment (See Appendix)**

Although reported sex crime in Antigua and Barbuda showed a significant reduction between 2000 and 2004 and the successful prosecution rate was very low, it is believed that the figures are under reported as they have seen a marked increase in unlawful carnal knowledge cases as reflected by the number of prisoners detained in 2005, nineteen compared to six each for 2003 and 2004. In Barbuda, due to its isolation and the uniqueness of the community where almost everyone is related, it affects the reporting of incest cases. Sentencing options for sex offences range from a minimum of five years to life imprisonment.

In Belize, the sex crime situation is stable, however recently they have seen an increase in child abuse (molestation cases) and carnal knowledge cases. It is now becoming alarming as police and court reports are showing that sexual offending is on the increase.

Sentencing options range from a minimum of three years to life imprisonment. Presently there is an ongoing debate on the matter of the reintroduction and implementation of capital punishment as compared to implementation of rehabilitative efforts to address the escalation of criminal situations, for example child sexual abuse cases.

In Guinea, although the laws are in place to govern sex crimes, there is no formal application as many incidents go unreported. Sentences for sex offences range from a minimum three year term to a maximum of 20 years of imprisonment, however capital punishment may be applicable when death occurs.

Hong Kong has seen an increase in the reports of sexual crimes. In 2005 there were 99 rapes and 1136 indecent assault cases; this was a 7.6% and 9.9% increase respectively over the previous years (2004)

reports. Police reports indicate that there is one violent sex case taking place every seven hours. Between 2000 and 2005 the sex crime situation was stable. The majority of the offenders are between the ages of 18-25 (36%). Hong Kong has several laws aimed at providing protection to victims against sexual abuse. The Crimes Ordinance, Cap 200, Laws of Hong Kong is the most prominent of all. This law has been amended to fit the maximum imprisonment term to the gravity of the offences committed. For example the maximum penalty for incest went from seven to 20 years and indecent assault toward a child under 16 was increased from five to 10 years. The maximum term for rape and buggery is life imprisonment. Treatment for incarcerated sex offenders is offered along with that of the general population; however they are housed singly in order to prevent ill treatment by other inmates.

Sex crime in Japan, in particular rape and indecent assault, is on the rise presumably due to a change in victims' attitudes towards making police reports. Treatment programmes for sex offenders were launched to address the issue (2006). Penalties for sex crimes range from fines, six months, three years in other cases to life imprisonment for grave offences such a rape with dangerous and deadly means of harm to murder.

In Uruguay, the sex crime situation is stable; however, the prosecution rate is low due to difficulties in investigation. Sentencing options for sex crimes range from six months minimum or up to 30 years for those who cause death to victims.

All countries/jurisdictions have parole, probation, a combination of both, suspended sentence, and under some circumstances there is a balance between a prison term and payment of fines. Some countries have maintained capital punishment on the law books, in Belize, however, due to human rights legislation, it is no longer practiced

Henry and McMahon (2000) found that 91% of cases of child sexual abuse had gone unreported, and Kilpatrick (1996) showed that 56% of women who were sexually assaulted as adults failed to report the crime.

## **B. Preventive Measures and Treatment Programmes for Sex Offenders**

In the case of Antigua and Barbuda there are no specific treatment programmes in place for sex offenders, some counselling is offered in prison, however, this is not mandatory. In terms of preventive measures there are basically two programmes offered in schools with regards to sex; one is "Health and Sexual Education" and the other "Physical Education". The effectiveness of these programmes however appears to be questionable, as the one is seen as a "How not to get Pregnant" programme, and the other about winning and losing in the sporting arena.

In Belize there is no treatment programme, although it was stated that a programme that would address both the psychiatric and clinical approach is needed. Prevention methods vary from amended legislation with stiffer penalties, social and situational crime prevention initiatives to education and the enactment of rehabilitation. They, however, boast a hotline for reports on criminal activities.

Guinea's prevention is associated with amended laws, education and the practice of social and situational crime prevention initiatives and there are no treatment programmes in place for sexual offenders.

Hong Kong has custodial care treatment and their best practice approach in their institution is to try to eradicate labelling of offenders in the general population. Appropriate assistance is directed towards rehabilitation. Separate therapy units are available to treat and isolate offenders by their typologies. Psychological therapy and working groups are available to address areas of deviant behaviour to prevent re-offending, including cognitive behaviour therapy and treatment evaluation programme development. Evidence based assessment tools are available; however there is need for interdisciplinary collaboration and community participation in rehabilitation and public awareness education. They too have a hotline and mail drop box for information on criminal activities.

Japan has had many initiatives in place over a period of time, not necessarily targeting sexual offenders; however certain aspects of these programmes along with other improvements are being instituted for the effective treatment of sexual offenders (2006). In terms of preventive measures, they have an army of (approximately 50,000) Volunteer Probation Officers, who have been assisting Probation Officers in their

role by interacting with the probationers/parolees on a regular basis.

Japan has several treatment facilities for offenders, these include Juvenile Training Schools and Classification Centres, where assessments are carried out and vocational training is provided. Behavioural/Cognitive therapy is also offered in a group setting. Role-playing and role-lettering from the offender to the victim is another tactic that is utilized to reach through to the offender.

Prisons provide the police with information about sexual offenders including their new address. The police periodically check the sex offenders' residence, and Japanese police departments address public awareness campaigns on how to protect themselves from attacks, also programmes geared at pre-school and school age children teach them of the dangers of abduction. In some areas they have a neighbourhood watch system.

In Uruguay their social and situational crime prevention initiatives, legislative reform, police intervention and cooperation with NGO'S and international organizations provides their basis for preventive measures, however there is minimal treatment in the form of a psychological approach in prison.

It was agreed that although preventive measures are in place for all participating countries/jurisdictions they are neither sufficient, nor for the most part, effective. It was also agreed that information on sex offenders should be kept by law enforcement agencies. Legislation would have to be reformed in order to allow sharing of information among relevant agencies and for supervision and follow-up treatment of offenders.

### **III. CURRENT PROBLEMS AND CHALLENGES FACED BY EACH COUNTRY/JURISDICTION**

#### **A. Prevention and Punishment of Sexual Offences**

There is a proliferation of sex information in all countries, and the sex crime situation is grossly underestimated. There is a very low prosecution rate, which could be blamed on difficulties in investigations and judicial procedures. Many sex crimes go unreported due to low public awareness, inadequate victim protection (victims are afraid of stigmatization, as well as further assaults). There is ineffective information sharing among law enforcement bodies

#### **B. Institutional Treatment for Sexual Offenders**

Belize, Antigua and Barbuda, and Guinea have no institutional based programmes for sexual offenders, however Uruguay has a minimal inter-institutional programme which offers psychiatric treatment for the mentally ill, and also addresses the psychological and physical aspects of the offender.

Hong Kong implemented its institutional based treatment programmes in 1998 for all adult sex offenders which provides thorough psychological assessment and a wide range of programmes targeting the reduction of recidivism of sex offenders.

Japan's institutional based treatment programme for sexual offenders was implemented in 2006, based on the cognitive behavioural therapy model, with group sessions, role-play, and role-lettering to victims as part of its core programme.

#### **C. Community Based Treatment Programmes and Supervision**

In Antigua and Barbuda, Belize, Guinea and Uruguay there are no community based treatment programmes.

In Hong Kong, community based treatment in respect of sex offenders is only provided for those having been convicted of certain categories of sex crimes with a sentence of two years and above.

In Japan, a compulsory treatment programme for sex offenders on probation and parole was implemented in 2006 which involves cognitive behaviour therapy. In the first place, the community based programme consists of the use of Volunteer Probation Officers (VPO's). The VPO's provide much needed assistance to the Probation Officers, whose caseload on average numbers one hundred offenders with some as many as two hundred and fifty. Reports are generated by the VPO to the Probation Officers who will intervene with



the offender if the need arises. These volunteers have received some formal training, such as elementary training, secondary training, regular training four times a year and special training. However, recently it has become apparent that there are some types of offenders for whom the traditional form of probation treatment has had no effect, especially sexual offenders. This is because they are addicts and the cause of their offences arises from their own “acknowledgement”. In 2006 Probation offices started a new treatment measure based on a programme for sexual offenders. In this treatment, probationers/parolees must visit the probation office, and probation officers give them instructions directly based on a programme by the Rehabilitation Bureau of the Ministry of Justice. This programme is based on the cognitive-behavioural approach, and modelled on a programme used in England.

The group compared the features of Institutional based treatment programmes to those of Community based treatment programmes and agreed on the following that:

- (i) Institutional based treatment programmes have a pre-set environment, which is a condition that affects outcomes, there are more controls and the participation level is better. The programme implementation is scheduled and there is a time limitation on treatment sessions.
- (ii) With regards to community based treatment programmes, there is a certain level of time flexibility both in terms of the offender meeting with the volunteer to fulfil the conditions of the probation order, and delivery of the programme as there is flexibility in regard to the time and place and the amount of sessions one can attend. An ongoing relationship and rapport is also developed between both parties. Volunteers, NGO's, religious organizations and other volunteer organization/community groups can take part in offender rehabilitation (this available resource contributes in lowering the overhead of government institutions), their knowledge and skills provide additional community support to offenders. It is also much more cost effective than incarceration.
- (iii) On the downside for community based treatment programmes, we recognized and agreed that treatment providers would have to work alone without immediate expertise or support, that there is a level of difficulty in motivating parolees and probationers (particularly sex offenders) to take part in the treatment, and that the risk of re-offending is greater as there are more open opportunities.
- (iv) There is also the need to strike a balance between the offenders' rehabilitation and public safety as they cannot be monitored all the time. The community (volunteers) is made up of just ordinary people, it is important that their skill levels be developed in order to deliver treatment, and that the treatment be based on the offenders efforts to rehabilitate.
- (v) A “Through Care” concept which would see the continuation of supervision after release from prison would rely very much on community involvement and the agreement of the sex offender to participate.

#### **D. Preventive Measures**

For preventive measures, the group agreed that educating the public at large was critical to the success of any programme being instituted for treatment of sex offenders, and that various agencies and modes of communication could be used to deliver the message, this would include, community and charitable groups, schools, religious organizations and the media. As evident by the sex crime situation in all participating countries, although preventive measures are in place, (situational, social and environmental design and community policing) they are seemingly inadequate to properly address the problem.

#### **E. Inter-Agency Cooperation**

In small jurisdictions like Hong Kong, cooperation among government bodies, NGOs and other concerned parties is satisfactory; however for countries with limited resources, both financial and human, inter-agency cooperation is limited. For countries like Japan, sectionalism disturbs effective inter-agency communication.

All participants agreed that protection of personal data would be of major concern and that the focused priority of many of the agencies, like NGO's, religious bodies and charitable organizations would differ, and that a central governing or co-coordinating body to ensure compliance with legislation would have to be put in place.

#### **IV. EFFECTIVE MEASURES AND STRATEGIES TO IMPROVE PREVENTION AND TREATMENT PROGRAMMES FOR SEXUAL OFFENDERS AT EACH STAGE OF THE CRIMINAL JUSTICE SYSTEM**

##### **A. Best Practices and Empirical Studies**

1. The following were agreed upon as best practices based on the information and lectures we received. We also noted that both Canada and the UK utilize some form of drug therapy treatment; however, not extensively as there are side effect concerns with some of the drugs used. Germany's programme on the other hand deals primarily with persons who have psychiatric issues, and not the general population of sex offenders.

##### UK

The UK employs a "Risk Management" system which effectively measures static, dynamic and acute factors, and so they are able to project whether an individual is "High" "Medium" or "Low" risk in terms of re-offending. This allows the opportunity for the best treatment plan to be put in place.

The Sex Offender Treatment Programme, whether institutional or community-based utilizes the cognitive behavioural therapy approach, this includes group sessions as well as some role-playing.

Multi-Agency Public Protection Arrangements (MAPPA) is an organization that is responsible for ensuring the dissemination of information to be passed on to prisons, police, the probation service and the community where the offender will be living. In the event of a breach of a probation order a Sex Offender Order has to be issued.

##### Canada

A wide use of assessment tools to determine treatment needs is utilized by Canada in all of the federal penitentiaries. These also help in determining levels of risk of the sexual offender re-offending.

Principles of Effective Offender Treatment: Risks, Needs & Responsivity by Andrews and Bonta (1998)  
Good Lives Model (Ward & Marshall 2004) – goal setting for a better life.

##### Germany

Germany provides cognitive behavioural and pharmacological treatment for sexual deviant behaviour, and has experienced no relapse from offenders under treatment conditions since 1998 in Haina Forensic Psychiatric Hospital. However, Germany's model only deals with sex offenders who are mentally disturbed and not the general population of sex offenders.

##### Japan

VPOs accept most sexual offenders returning to their communities after release. It is far more cost-effective to prevent sex offences than to incarcerate and treat sexual offenders.

VPOs invite the probationers/parolees to his or her house about twice a month, and give them instructions and assistance by listening to their problems, etc. Approximately 50,000 VPOs live in the local community where the probationers/parolees also live, and they take charge of them within a so-called distance "so that the soup doesn't get cold", considering the local climate and characteristics. They also make various efforts to help the probationers/parolees be good members of the community, making the most of their local reputation and knowledge.

##### Hong Kong

Since the establishment of a sex offender evaluation unit in 1998, has observed a decrease in recidivism and effectiveness in ratifying criminal thinking and relapse prevention.

Ward advocated the 'Good Lives Model'. He stated that sexual offenders fail to achieve the goals necessary to have a satisfactorily fulfilled life and that in order to compensate for this they seek more immediate satisfactions without regard for the long-term consequences of these behaviours (Ward, 2002; Ward & Marshall, 2004; Ward & Steward, 2003).

Serotonin reuptake inhibitors (SSRIs) are effective with clients who manifest compulsive-like sexual behaviours (Pearson, Marshall, Barbaree, & Southmayd, 1992).

Most treatment programmes for sexual offenders in North America, Great Britain, Australia, and New Zealand are based on a cognitive behavioural model incorporating relapse prevention strategies (William L. Marshall & Sharon Williams).

## 2. Empirical Studies

Hanson et al. 2002 combined 43 studies with a sample size of over 9,000

- Sexual recidivism: treated 9.95, untreated 17.3%
- General recidivism: treated 32.3%, untreated 51.3%

Lostel et al. 2005 combined 60 studies with a sample size of over 22,000

- 6% to 37% less re-offending
- Castration and hormonal medication effective
- Cognitive behavioural therapy has an impact on recidivism

## **B. Effective Preventive Measures/Treatment Models at Each Stage of the Criminal Justice System**

While personal data of the individual is to be respected, protection of public safety takes precedence, it was suggested that there should be a data bank for registration and sharing of offender information with other relevant authorities (no consensus was reached on this matter). However, such a measure would need to have legislation put in place to clarify the limitations.

Since trust and consideration are two of the most important things to any human being, it is the opinion of the Group that should disclosure be used, mistrust would be borne and that would only take away from the general idea of community based treatment.

Accessibility to law enforcement agencies through the use of a hotline for reporting of actual or suspicious criminal activity should be available to the public. It was agreed that there is a need for goal setting with probationers (counselling) and to develop specialist probation teams to deal with the sex offenders/sex offences. Public information forums encouraging support for law enforcement agencies through community policing initiatives such as Neighbourhood Watch and Bicycle Patrols. Forums and opinion polls on crime prevention and effective treatment programmes can also be held to contribute to the change in social attitude towards the control of sex information.

It was further agreed that the sex offender should be involved in the goal setting and sharing in order to motivate his/her participation in the community-based treatment programme, and that family and friends should be involved in the process in order to facilitate the reduction in the risk of re-offending. They can provide needed support to both the case manager by providing valuable information about the offender, and to the sex offender, by ensuring to some degree that action plans/goals and objectives are clearly understood and adhered to.

Invite community leaders/professionals to form focus groups to discuss common concerns regarding sex offences and the individual's responsibility and commitment to rehabilitate.

It was also agreed that any initiative undertaken should have some measurement tools in place to check for effectiveness and efficiency.

The prevention of victimization should be our ultimate goal. This means that society as a whole must take some responsibility for reducing sex offences. The first level of intervention begins with parents who must foster self-esteem in their children, by setting good examples, teaching safe behaviour and how to distinguish between "good" and "bad" touching. Parents must also discuss sexual issues, attitudes and behaviour with their children and should monitor their children's caretakers, friends, activities and whereabouts. (Sharon M. Williams, Forum on Corrections Research, Correctional Service of Canada, Vol. 8 No. 2 Managing Sex Offender).

Public opinion has the power to shape legislation, funding decisions, and the political landscape related to the community supervision of sex offenders. Public opinion creates the boundaries within which the

community will support, or at least accept, policy. Public opinion about criminal justice is at times misinformed, and largely as a result of those misperceptions, the public has shown low levels of confidence in the criminal justice system. After learning about a criminal justice issues and having a chance to deliberate over it, the public is much more open to change than conventional wisdom would suggest. (The Office of Justice Programs, US Department of Justice, 2000, Public Opinion and the Criminal Justice System: Building Support for Sex Offender Management Programs).

Not every treatment programme or practitioner views or understands family treatment in the same way, and some apply a more general model, whereas others employ a model more in line with the practices typically associated with systemic forms of family therapy. The role is to help open up or build new channels of communication, to identify or aid in the self-identification of dysfunctional patterns of family behaviour, to empower individual members, and, in some instances, to educate and direct so that the family may become more effective and independent. (Phil Rich, Juvenile Sex Offenders).

Lambert (1992) found that the therapeutic relationship, or factors contributing to the therapeutic alliance, account for 30% of the variance in treatment outcome, regardless of treatment orientation. Included here are items such as caring, warmth, acceptance, affirmation, empathy, encouragement, positive regard, and genuineness. In addition, Lambert and Begin (1993) described reassurance, structure, advice, cognitive learning and cognitive mastery, changing expectations for personal effectiveness, and modelling and success experience as important factors in the therapeutic alliance.

### **C. Inter-Agency Cooperation to Establish an Integrated Sexual Offender Treatment Model**

Although some relationship exists between the police and probation offices, albeit somewhat ambiguous in some countries, it was suggested that meetings between both agencies be held to foster closer ties and discussions in dealing with disclosure of private information and crime enquiries.

The introduction of a system based on the principles of MAPPA (UK based example), filtered information sharing plan that assist each agency in the collective goal of prevention and integrated treatment with necessary confidentiality agreements is desirable.

In most countries there is a need for legislative reform on information sharing and disclosure among relevant agencies in their criminal justice system. Although it is believed that sharing of information is important to achieve improvement of integrated treatment models, in some jurisdictions there is legislation that prevents this from happening.

Components of effective sex offender management include the primary goal, shared by all stakeholders, of preventing future sexual victimization; and multidisciplinary, multi-agency, and collaboration responses on both the case management and policy levels. (The Office of Justice Programs, US Department of Justice, 2002, Managing Sex Offenders on the Community: A Handbook to Guide Policymakers and Practitioners through a Planning and Implementation Process).

### **D. Preventive Measures/Treatment Models Applicable To Each Country**

In Antigua and Barbuda, Guinea, Belize, and Uruguay there could be the introduction of an institutional based treatment plan along the lines of risk assessment, a classification system, and psychological pharmacological and cognitive behaviour with the support of a multi-agency approach. The law, however, would have to be reformed/applied in many instances, and also the necessary infrastructure put in place as some countries suffer from lack of resources.

In Hong Kong the use of pharmacological treatment would be applicable, however legislation is required.

In Japan, the new treatment, which includes cognitive behaviour therapy, will be implemented in 2006; however, there are some additional areas where systems such as MAPPA could be introduced. Introducing pharmacological treatment would be difficult because of the side effects, which have not been denied by the medical field. If it is introduced, it should be used strictly and in a limited way, especially on those who cannot be improved with socio-psychological treatment. Regarding preventive measures, prisons provide the police with information about sexual offenders including their new address; however, sexual offenders are not obligated to notify their new address to the police when a change of address occurs. Therefore, further

consideration should be given whether to place them under an obligation to notify their new address and impose penalty conditions in case of failure to comply.

In areas of prevention, Belize continues to use the community module and inter-agency approach having contact with the schools, neighbourhood watch groups, and citizen liaison and crime committees in discussions of what problems are occurring and developing solutions to address the problems. Similar situations exist in Antigua and Barbuda, Uruguay and Guinea.

#### **E. Possible International Cooperation**

It was agreed by all group members that in order to achieve international/transnational cooperation the following would be needed:

1. A memorandum of understanding/international-cooperation between nations for the sharing of knowledge, expertise, best practices, development of treatment plans and preventative measures and research.
2. Accessible website forums on strategies to assist in dealing with the problems of prevention and treatment (e.g. use of Interpol/JICC).
3. Exchange training initiatives among nations also with international/regional NGOs (United Nations, WHO, UNAFEI, etc.).
4. Participation in international conferences on sex offender treatment.
5. Internet forums on sharing and analyzing the challenges of sex crimes.
6. Exchange of outcomes of empirical studies.
7. A website on the latest information on sex crime and treatment of sex offenders for participating countries.
8. A cooperation agreement with participating countries on reducing sex crime.

#### **V. CONCLUSION & RECOMMENDATIONS**

- Identify suitable probation officers in each region/area as sex offender treatment personnel/manager/team - expertise, experience sharing, and group therapy sessions incorporating the viewpoint of the victim.
- Involve the community through focus groups to enhance public awareness.
- Change social attitudes through opinion surveys or public forums towards the control of sex information.
- Widely incorporate victim protection measures into the criminal justice system such as psychological assurance during police investigation, video or screening arrangements in court hearings, aftermath counselling, and expression of empathy or confession by offenders.
- Goal setting and sharing with probationers to motivate participation in community-based treatment programmes.
- Training to be provided to probation officers by experts of various disciplines.
- Families and friends of sex offenders to be involved in treatment and support of the offender and give valuable information to probation officers.
- A system similar to MAPPA should be adopted.
- Invite community leaders/professionals to form focus groups to attract common concern for sex offences and individual's responsibility and commitment for reducing sex crime.
- Incorporate the 'Good Lives Model' in the treatment regime.
- Measurement of achievement through data analysis and surveys.
- Governments should provide employers with subsidies to employ offenders; this would provide a mechanism within the community to support offenders.

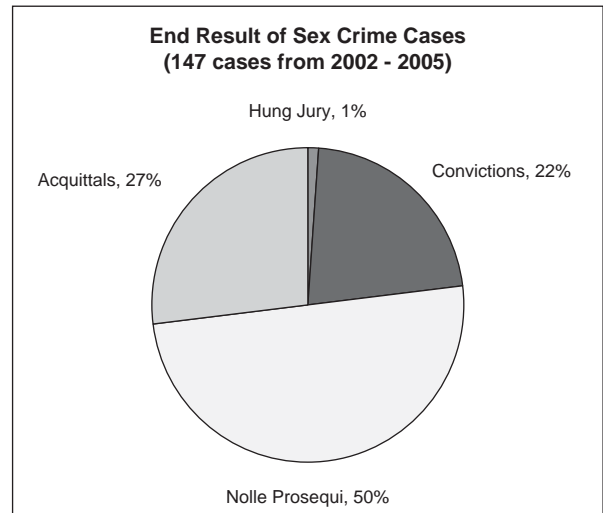
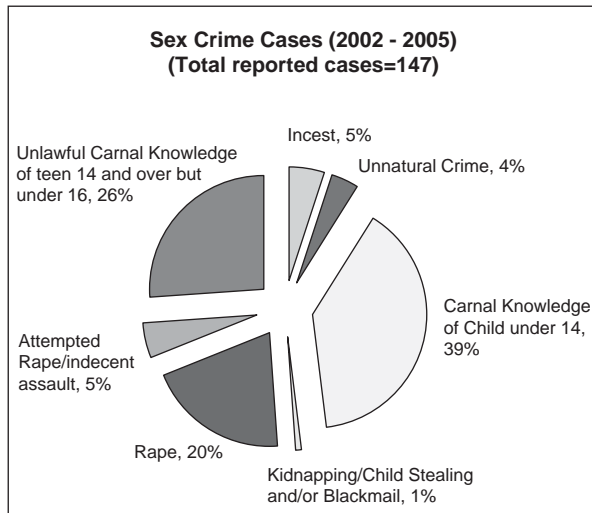
**APPENDIX**

**Current Situation of Sexual Offences and Other Related Offences**

**1. Antigua and Barbuda (pop. 70,000)**  
Rape cases – 2000-2004

	Reported	Detected	Arrested	Withdrawn	Prosecuted
<b>2000</b>	96	40	40	0	1
<b>2001</b>	73	0	49	0	0
<b>2002</b>	34	0	17	0	0
<b>2003</b>	55	0	23	3	0
<b>2004</b>	29	0	0	0	0

**2. Belize (pop. 250,000)**



**3. Guinea (pop. 7,518,000)**  
Court Cases

N*	Year	Number	Age	Nature of offence
1	2004/2005	6	1960/1980	Hit and wound wilfully
2	2004/2005	2	1951/1960	Abandonment of family
3	2004/2005	7	1946/1984	Rape
4	2004/2005	3	1956/1982	Removal of child
5	2004/2005	2	1956/1971	Own child killing

Source: Judicial Police Guinea

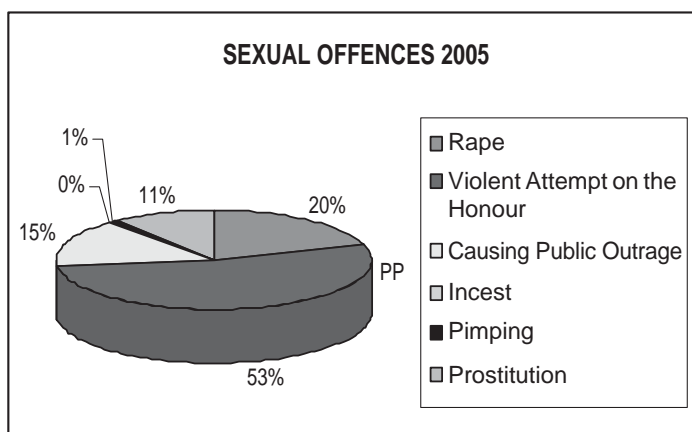
City Police headquarters Conakry Statistics 2005: 39 cases of rape, 1 own child killing case and 1 abortion case.

Child Rape Cases (Source: Police Judicial Guinea)

2002	2003	2004	2005
52	71	13	26

4. Uruguay (pop. 3,340,000)  
Cases 2005

Rape	138
Violent Attempt on the Honour	369
Causing Public Outrage	106
Incest	2
Pimping	5
Prostitution	74
<b>Total</b>	<b>694</b>



5. Hong Kong (pop. 6,940,000)

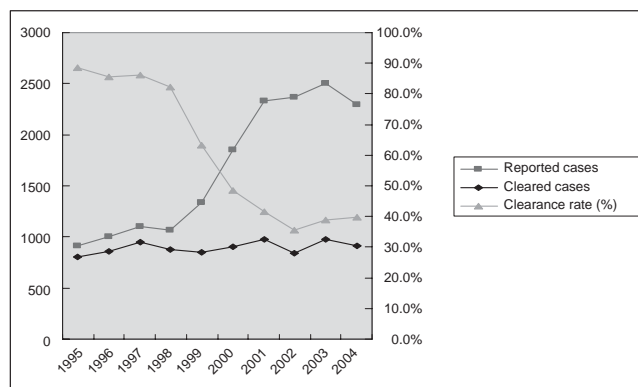
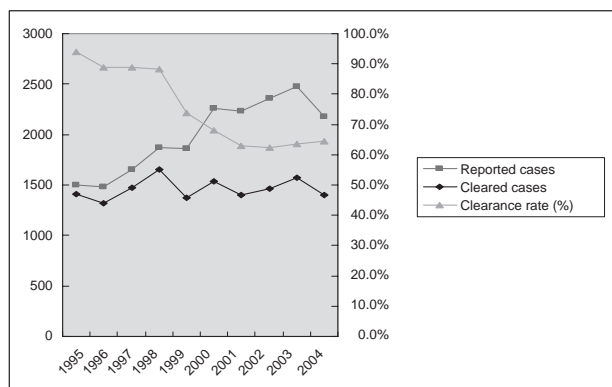
Year	2000	2001	2002	2003	2004	2005
Rape	104	95	95	70	92	99
Indecent Assault	1124	1007	991	1018	1034	1136
Other Sexual Offences	938	753	773	900	1082	1042

Table: Crime Statistics from Hong Kong Police (cases reported).

6. Japan (pop. 126,870,000)

Fig. 1: Number of reported cases and cleared cases, and clearance rates for rape

Fig. 2: Number of reported cases and cleared cases, and clearance rates for indecent assault



## GROUP 3

### INSTITUTIONAL TREATMENT PROGRAMMES

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<i>Chairperson</i>	Mr. Auta Moceisuva	(Fiji)
<i>Co-Chairperson</i>	Mr. Dong keun Lee	(Korea)
	Mr. Hiromi Nishikawa	(Japan)
<i>Rapporteur</i>	Ms. Isabella Sergio	(Zimbabwe)
<i>Co-Rapporteurs</i>	Ms. Naoko Fujiwara	(Japan)
	Ms. Hiromi Kawaguchi	(Japan)
<i>Members</i>	Mr. Yanuar Utomo	(Indonesia)
	Mr. Vuttinone Promnil	(Thailand)
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	Dr. Bruce Malcolm	(Canada)
	Dr. J. Ruediger Mueller-Isberner	(Germany)
<i>Advisers</i>	Prof. Masato Uchida	(UNAFEI)
	Prof. Hiroyuki Shinkai	(UNAFEI)
	Prof. Tomoyuki Noge	(UNAFEI)

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#### I. INTRODUCTION

Group three was tasked to look at institutional and community treatment of sexual offenders and interagency cooperation among stakeholders. There was a general consensus by the group that it is important to consider institutional and community treatment of sexual offenders in an effort to reduce recidivism by those that have gone through the criminal justice system. This can be achieved through institutional and after care treatment programmes after the release of offenders into their respective communities as an alternative to merely punishing them. However, the fact that various countries are at different levels of implementation, that is, those that already have structures in place for example, Japan, Korea, Thailand and Fiji, and countries like Zimbabwe and Indonesia, who are yet to consider implementation of similar treatment programmes, was not overlooked. The level of development and capacities to initiate the programmes in some developing countries was also discussed.

The presence of experts from Canada and Germany, that is Dr. Marshall and Dr. Mueller-Isberner, was a source of inspiration as they provided invaluable insight on contemporary offender treatment programmes.

#### II. CURRENT SITUATION OF RESPECTIVE COUNTRIES

Before discussing the contents of effective treatment, we shared information on the current situation of each country in order to make our tasks clear. As a result of that, it emerged that countries of group three members are at different levels of implementation; however, all group three members agreed on the necessity of treating sex offenders.

##### 1. Korea

Korea has institutional treatment programmes for juvenile and adult sexual offenders. The primary purposes of their programme are to increase motivation to avoid re-offending and to develop the self management skills necessary to achieve this. A Cognitive Behavioural Therapy Approach is used for both juvenile and adult offenders. The programme is divided into four stages. In the first stage, meditation and relaxation is provided for inmates. In the second stage, offenders need to consider their own sexual crime they committed. In the third stage, they have opportunities to examine and face why they committed such a crime. Lastly, they have an opportunity to share their experience with others and receive feedback from each other.

Korea has a unique feature where the court makes an order to the prison authorities for repeat or dangerous offenders to undergo treatment. However, the Korean programme is still on a pilot study basis for adult inmates, that is, it is still in its infancy and they are yet to evaluate it in order to check its effectiveness.



Generally, most of the participants are satisfied with the programme, but some are afraid that the contents of their offences may be known to their fellow participants. This is mainly because the aspect of confidentiality has not been clearly defined, hence the need to come up with a clear cut policy on handling offenders' information.

## 2. Thailand

Thailand also has a programme in place that is for both juveniles and adults. The difference with Korea is with the treatment model. In Thailand, after offenders are assessed, those exhibiting high risk tendencies are admitted into a hospital, where they undergo a rigorous medical examination and treatment is prescribed. The classification is done by doctors, multi-professionals and psychoanalysts. Firstly, treatment focuses on individual basic lifestyle and education. Secondly, it is followed by group therapy and counselling and lastly, Cognitive Behavioural Therapy. The objective of the Cognitive Behavioural Therapy is to try and change the offenders' behaviour and attitude.

## 3. Indonesia

In Indonesia the Directorate General of Correctional Services formed a psychology unit in an effort to provide correctional services to offenders. In the spirit of cooperation, some non-governmental organizations have funded training of correctional officers and have also been invited to give illustrations on therapy and rehabilitation that should be conducted by correctional officers. However, the programme is not specifically for sexual offenders but addresses all offenders in general.

## 4. Fiji

In Fiji, rehabilitation of offenders does not specifically focus on sexual offenders only but all offenders undergo a structured training programme like life skills, carpentry and joinery, agriculture, basic engineering and counselling. Cognitive Behavioural Therapy has also been introduced in Fiji and it is administered by trained prison officers. In order to enhance an approach based on a contemporary rehabilitation and corrections approach Fiji, in March 2006, passed the Prisons and Corrections Act, 2005, which amongst other issues provides for the introduction of probation and parole in their criminal justice system, to accommodate the need for community based treatment.

## 5. Zimbabwe

In Zimbabwe, rehabilitation is mostly agriculturally oriented; for example, maize production, poultry farming, dairy farming, vegetable farming and cattle ranging for adult offenders. For juveniles, academic education, smaller scale vegetable gardening and technical courses such as carpentry, motor mechanics and welding are provided. The Zimbabwean system does not have specific programmes for treatment and rehabilitation like the Cognitive Behavioural Therapy being offered to sexual offenders in Korea, Thailand and Fiji. At the same time the prison officers do not have specialized training in correctional services.

Between 1997 and 1998 some government and non-governmental organizations carried out an in-depth study on incarcerated sexual offenders. This was in an attempt to understand the characteristics of sexual offenders and situations that lead to and result in sexual assault. This was aimed to facilitate the development of an action plan on Crime Prevention and Rehabilitation of sexual offenders. This therefore shows that the idea is not new to Zimbabwe and what is required is a follow-up with the relevant ministry and probably sourcing of funds for implementation of the programme.

## 6. Japan

In November 2004, an ex-convict kidnapped and murdered a child, and it caused an outcry from the general public. It is against this background, the Correction Bureau and Rehabilitation Bureau, which have jurisdiction over offenders, jointly carried out a study on the sex offender treatment programme in April 2005. Among the eight researchers were experts in psychiatry, psychology and criminology. Based on research on the treatment of offenders in the US, UK and Canada the researchers endeavoured to establish a scientific and systematic programme to prevent sex offenders from recidivism and at the same time protect society from re-offenders. In March 2006, the society drafted a standard programme, which both bureaus will introduce shortly. As for juvenile treatment, specific programmes are now under development; however, it is quite likely that juvenile sex offenders will be treated in accordance with their needs.

### III. PURPOSE OF TREATMENT

Article 65 of the Standard Minimum Rules for the Treatment of Prisoners provides the general purpose of treatment of persons sentenced to imprisonment as follows:

“The treatment of persons sentenced to imprisonment or a similar measure shall have its purpose, to establish in them the will to lead law-abiding and self supporting lives after their release and to make them fit to do so. The treatment shall be such as will encourage their self respect and develop their sense of responsibility.”

Article 62 of the Standard Minimum Rules for the Treatment of Prisoners provides the necessity of medical treatment in correctional institutions as follows:

“The medical service of the institution shall seek to detect and shall treat any physical or mental illness or defects which may hamper a prisoner’s rehabilitation. All necessary medical, surgical and psychological services shall be provided to that end.”

Article 10.1 of the United Nations Standard Minimum Rules for Non-Custodial Measures provides the purpose of supervision.

“The purpose of supervision is to reduce re-offending and to assist the offender’s integration into society in a way which minimizes the likelihood of a return to crime.”

Taking into consideration the above articles, all members agreed that there are three purposes of sex offenders’ treatment: protection of society by preventing recidivism, rehabilitation of sex offenders, and the need to address victims’ sentiments.

#### **A. Protection of Society by Preventing Recidivism**

In simple terms the primary purpose of treatment is to protect society, especially women and children from re-offenders after their release. Research has shown that the recidivism rate in sexual offences is not high after short-term tracking; however, it goes up after longer follow-up periods. Sex offences cause extensive damage to victims and arouse social unrest. Therefore, governments should rehabilitate sex offenders in order to reduce incidences of possible re-offending and safeguard society.

#### **B. Rehabilitation of Sex Offenders**

When treatment and rehabilitation of sex offenders programmes are implemented, it is important to have a view that provision of programmes is not meant to just punish but help treat them. Programmes should be offered for the purpose of helping them become law-abiding persons. Therefore, appropriate treatment, including medication where necessary, should be administered for their rehabilitation. Practitioners often encounter cases where sexual offending and mental disorder co-exists in an offender. This may be due to various factors, for example, primary mental illness, mental illness as a result of substance abuse or anti-social personality disorders.

Characteristics of mental disorders may be as a result of poor management of problems; these may be difficult to manage due to non-compliance with interventions or medication. In Germany, their forensic mental health system includes a legal framework to manage mentally ill offenders. It distinguishes severe criminal acts from criminal intent, irresponsibility or severely diminished responsibility during the criminal act due to a mental disorder. Where offenders exhibit a high risk of re-offending due to mental illness the hospital recommends unlimited detention, and an annual review will be carried out by the original court. Discharge may be considered when there is eminent change in presenting risk factors.

#### **C. The Need to Address Victims Sentiments**

Victims are seriously injured by sex offences both physically and/or mentally. Recovery may not be totally achieved; therefore, survivors and their families might have a strong desire for revenge. It is also important for the criminal justice system to consider restorative justice in the form of restitution and or victim-offender mediation/dialogue. Therefore an offender programme should incorporate educating or informing offenders on how victims, their families and societies are affected by their actions and to give them an

opportunity to show remorse. Victims will also have the opportunity to understand the need for treatment and dispel the misconception that offenders are being treated leniently.

#### IV. EFFECTIVE TREATMENT PROGRAMMES

Developed countries such as the US, the UK, and Canada have effective sex offenders treatment programmes based on research consisting of assessment, strategic programmes based on evidenced research, and evaluation. In addition, they are designed in accordance with three general principles of classification for purposes of effective correctional treatment namely, risk, needs, and responsivity.

The risk principle stipulates that higher intensity services should be reserved for higher risk cases. This is predicated on observations that higher risk cases respond better to more intensive services than to less services, while lower risk offenders fare as well or better with minimal intervention.[...] [T]he need principal states that the targets of service should be matched to the criminogenic needs of the offender. Criminogenic needs [...] are characterized by their potential for change: they are case characteristics that, when altered, as associated with changes in the likelihood of recidivism. [...] [T]he responsivity principle asserts that the styles and modes of service should be matched to the learning styles and abilities of the offenders. This increases the potential for treatment gain, ultimately mitigating recidivism. (Blanshette, K. 1998<sup>1</sup>: p. 3.)

##### A. Assessment

The purposes of assessments are to explore critical factors of each case and to develop management strategies accordingly. In assessment, static and dynamic risk factors, individual needs and responsivity are identified. Comprehensive assessments inform clinical decisions, institutional treatment and community based after care. Therefore, the result of assessment is indispensable.

Due to diversity in individual characteristics, offenders have been found to share heterogeneous characteristics, hence, the need for assessment and classification in order to appropriately allocate treatment programmes that best meet individual needs. However, assessment is not a singular event but a multi-disciplinary process as confirmed by various experts from around the world. The invention of assessment models by experts contributes to the adoption of case management plans in advanced countries like Germany and Canada. Such sharing of innovative treatment models serve to be very effective, especially in Canada.

##### 1. Intake Assessment

The members of the group acknowledged that empirically supported and promising tools used in assessment are as follows.

- Static-99
- Sex Offender Needs Assessment Rating (SONAR, STABLE/ACUTE-2000)
- Sex Offender Risk Appraisal Guide (SORAG)
- Minnesota Sex Offender Screening Tool - Revised (MnSOST-R)
- Level of Service Inventory - Revised (LSI-R)
- Violence Risk Appraisal Guide (VRAG)
- Psychopathy Checklist - Revised (PCL-R)

A combination of the above provides the basis for allocating sexual offenders to the required extent of treatment and at the same time identifying what should be targeted in treatment.

##### 2. Assessment Before and After Treatment

Assessment even during treatment is necessary in order to check progress and effectively allocate individual offenders into appropriate treatment programmes. However, it is not a stand alone, or one time activity but it should be a continuous process.

##### 3. Assessment in the Community

Probation officers in the area to which the offender is released should have the responsibility to decide the most appropriate method of addressing the risk presented by the sex offender after release from custody.

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<sup>1</sup> Blanchette, Kelly. 1996. "Sex Offender Assessment, Treatment and Recidivism: A Literature Review". [http://www.csc-gc.ca/text/rscrh/reports/r48/r48e\\_e.shtml](http://www.csc-gc.ca/text/rscrh/reports/r48/r48e_e.shtml).

This should include the point of entry into the community-based programme. Here experts emphasize the need to take into account assessment of risk, and deviance, the level of denial and standard criteria for inclusion on the programme. Much of the information for establishing a treatment programme for parolees who have gone through institutional treatment is overlapped. Therefore, sharing of information among role players is crucial.

## **B. Treatment Programmes**

The group members acknowledge that the purposes of institutional treatment and after care treatment in society cannot be really separated from each other. It would be meaningless to implement vigorous institutional treatment without a follow-up system upon the release of offenders. Therefore, an equal proportion of injected effort must be enhanced to ensure continuity in terms of rehabilitation both in the institutions and community.

Treatment should be tailored to meet individual risk factors. Throughout this training course, the participants were informed that two types of approaches for sex offenders namely, cognitive behavioural therapy and medical care are effective in reducing recidivism.

### 1. Cognitive Behavioural Approach

Cognitive behavioural therapy aims to bring about behavioural change by addressing cognitions, or ideas, attitudes, and beliefs. The programmes based on cognitive behavioural therapy usually consist of cognitive skills training, cognitive restructuring, social skills training, anger management, victim impact, and relapse prevention. Oftentimes, sex offenders present distorted cognition concerning their offences; many researches suggest that this approach is effective to prevent them from re-offending.

For example, a study found that those programmes that utilized a cognitive/behavioural approach and/or employed relapse prevention strategies reduced the sexual recidivism from 17.3% in the comparison group to 9.9% in the treated group. In addition, it was observed that non-sexual re-offending was also reduced in the treated group (32.3%) compared to the untreated group (51.3%) (Table 1).<sup>2</sup>

**Table 1: Recidivism Rates for Treated/Untreated Offenders**

	<b>Treated</b>	<b>Untreated</b>
<b>Sexual Recidivism</b>	9.9%	17.4%
<b>General Recidivism</b>	32%	51%

Experience has shown that some offenders have a tendency to deny or minimise their blameworthiness. Research suggests that cognitive behavioural therapy is effective treatment for sex offenders in both institutional and community based treatment to prevent them from re-offending.<sup>3</sup> Therapists may learn from presented behaviour on how offenders perceive their victims, for example, when they are angry and the experiences are discussed at a cognitive level.

### 2. Medical Care

Medication is administered to sex offenders in some countries such as the US, Canada, German and Thailand to compliment therapy. In Canada, Selective Serotonin Reuptake Inhibitors (SSRIs) and Anti-androgens are used to calm down sexually compulsive and extremely dangerous sex offenders like sadists. After the medical care, sex offenders participate in other forms of psychological treatment. In such cases, medical care and other therapy are combined to improve their effectiveness.

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<sup>2</sup> Hanson, R. K. et al. (2002). "First report of the collaborative outcome data project on the effectiveness of psychological treatment for sex offenders" cited in Marshall, W. L. (2006). "Treatment of sexual offenders and its effect." A lecture delivered at the Research and Training Institute of the Ministry of Justice, 1 June 2006.

<sup>3</sup> Marshall, W. L. et al. (2006). *Treating Sexual Offenders; An Integrated Approach*. Routledge, NY USA.

Anti-androgens reduce circulation of testosterone levels. Although sexual offenders can still function sexually, their sexual urge is controlled. Anti-androgens are used in two classes of offenders, that is, in those who appear to be unable to control their high levels of deviant arousal, which are referred to a psychiatrist for hormonal examination. Secondly, they may be administered to sadists and other dangerous offenders and they may remain on the drug for an indefinite period after release, depending on how they function. In some extreme cases medication may be used to totally eliminate sexual urge.

The group was informed that, in Germany, Haina Forensic Psychiatric Hospital has structures and procedures to protect and rehabilitate mentally ill offenders within their forensic mental health systems. For example, those with severely diminished responsibility due to mental illness are detained in the institution for an unlimited period and the detention is subject to annual review by the court that gave the order. The offender can only be discharged if he/she has fully recovered and has gone through comprehensive assessment and treatment.

Provision of medical care should be a continuous process until the offender is reasonably cured. In dangerous offenders, treatment will remain until the risk no longer exists, thus, when there is evidence of repetitive behaviour, patterns of aggressive behaviour, failure to control sexual impulse and a likelihood of doing so in the future.

### **C. Community Based Treatment Programmes**

In an institutional setting, treatment is a continuous process, however, when it comes to an end it should continue after release. There is a need for a maintenance programme as a follow-up system that should be put in place. An ideal situation is that the treatment spreads from treatment to an after care programme. This may be achieved through interagency cooperation on what should be done and who does it in the community.

In coming up with the programme, risk factors exhibited should be taken into consideration. However, there is a need to be careful about what signals are sent to the community, for example, what injuries have been inflicted upon the victim, rather than minimising the degree of blameworthiness. Research has also shown that a database is useful when dealing with the release of sexual offenders, as it is crucial to monitor and catch them before they re-offend.

For example, Korea has a community based treatment programme, an attendance centre order, which the court issues to a criminal of habitual behaviour, including sexual offences. Those who receive the order must attend lectures in the probation and parole office or other organisations designated by the probation and parole office for a certain period of time, while leading a free life, instead of being accommodated in prison.<sup>4</sup>

### **D. Evaluation of Effectiveness of the Programmes**

It is important to evaluate offender treatment programmes in order to measure either the successes or shortcomings of the programme. Literature suggests that effective evaluation can be achieved after a reasonable number of years i.e. four to five years of tracking offenders. This can be through collection, collation and analysis of data to determine the rate of recidivism with and without treatment. For example, Correctional Services of Canada have a computerised case file management system that gathers, stores, and retrieves information required for tracking offenders and for making decisions concerning their cases. It also enables maintaining the continuity between institutional treatment and community treatment, helps in analysis of the effectiveness of the programmes and getting information for research.

Group member countries that have the treatment programme in place have not been in operation long enough to carry out an evaluation of the successes scored so far. Therefore, in the interim, reliance is based on achievements by some developed countries like Canada and the UK. There was also consensus from the group that for an evaluation to be effective there is a need to establish a database whereby role players agree

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<sup>4</sup> For adults, attendance order programmes are carried out by Seoul Probation Office for at least five hours up to six weeks. For juveniles, Seoul Probation Centre is responsible for carrying out the Attendance Centre order programmes. The elements of the programme are divided into three phases: a six hour programme before assessment; a 30 hour programme during processing and a four hour programme for after care. Each element should be supplemented by personal counselling.

on what information each player should provide. Evaluation may also help the courts to seriously consider recommendations by probation officers during sentencing of offenders.

## **V. PROBLEMS AND COUNTERMEASURES**

In order to implement programmes for the treatment of sex offenders effectively, there is a need to analyse individual country situations. For example, the cognitive behavioural approach is best administered by trained therapists or psychologists and these might not be readily available. Sometimes offenders have no choice but to respond positively to treatment. This might appear to be a motivating factor manipulated by those who are socially skilled. According to Dr. Marshall socially skilled sex offenders, for example sadists, are good pretenders and even professionals might find it difficult to read their minds. Medication that is administered on sex offenders in some countries such as the US, Canada, and Thailand are known to have serious side effects.

### **A. Budgets and Staff Strength**

This is a problem common to most countries where resources allocated to the various departments across the board are insufficient. For example, if the police and courts are allocated more resources as compared to prisons, this will result in the police being more efficient in terms of arrests. The courts will deal with an increased number of offenders and these are eventually incarcerated and this causes some strain on the prisons.

In spite of these circumstances, we have to step forward and tackle the problem; therefore, we have to make the most of our resources in order to introduce treatment.

### **B. Securing Staff and Training**

In Thailand the medical correctional institutions provide a full range of mental health treatment through staff psychologists and psychiatrists. Psychologists are available for formal counselling and treatment on an individual or group basis. In addition, two part time psychiatrists and a volunteer psychiatrist from the UK also help provide treatment for inmates with psychiatric problems. However, in Fiji, correctional services are being implemented, but the number of correctional officers is not enough, hence the need for additional trained staff.

Training programmes are different from country to country. First and foremost, there is a need to sensitise all the role players on the importance of treating offenders in order to motivate them and change their mindset. Staff who are involved in the treatment of offenders, and with relevant qualifications, should be further trained accordingly. In Canada, those with a first degree in Psychology go through a two week induction course then a two year internship. They are trained in how to interview, write reports, and assess inmates and how to evaluate. Consultants or experts may be hired from abroad to provide training to institutional staff, psychologists, doctors or experts.

### **C. Selection of Target Offenders**

In the UK and Canada, sex offenders are classified into three groups: high risk, medium risk and low risk, and individual needs and responsivity are taken into consideration to enable the provision of appropriate programmes. However, because of scarcity of resources, sometimes it is not feasible to provide programmes for all offenders we might require. Therefore, sensitisation is also important to enable policy makers and other stakeholders to realise the importance of allocating resources. From an economic point of view, high risk – high needs offenders should be given first priority and this can be expanded to other groups gradually.

However, treating offenders according to their risk factors is an exception, but not the rule; effective open sessions may be held with mixed groups of offenders with various risk needs. In such cases, the therapists decides on how many sessions an individual offender should attend based on individual needs. Periodic consultations and evaluations are also important to check understanding and progress. If necessary, the staff may provide supplementary private sessions to ensure the principles of effective treatment.

### **D. Measures to Motivate Sexual Offenders**

Most sexual offenders usually deny having offended throughout the trial process. This makes it difficult to enter them into a treatment programme, hence the need for motivation.

In Canada the consequences of not participating in treatment are no parole or other privileges, therefore offenders have no choice but to respond positively, this in itself is a motivating factor. It is therefore important to induct offenders prior to commencement of treatment. According to experts, research has shown that sex offenders who drop out of treatment programmes have a higher recidivism rate as compared to those who do not participate at all, therefore it is important to ensure that those who participate are motivated in order to remain on the programme.

Responsivity is also a good motivating factor, because the therapist would be dealing with a client who is acknowledging his behaviour, taking responsibility and has the will to change. Classifying and treatment of offenders according to their risk factors makes a comfortable atmosphere for sex offenders. Therapist skills also play an important part when dealing with sexual offenders. According to experts - treating offenders with respect not only improves their self esteem but also motivates them.

### **E. Responsivity**

Responsivity is about acknowledging one's own behaviour, taking responsibility for ones actions and the willingness to change. This is important when dealing with offenders, as opposed to imposing it on them. Cognitive Behavioural Therapy addresses a host of symptoms presented by sexual offenders. From lectures delivered by experts we should be able to select the right individual country programmes to put in place depending on availability of resources in each particular country and at the same time individual countries' cultural differences must not be discounted. For example, in Canada and New Zealand, programmes for Aborigines are conducted by community elders because they command respect.

However, it has been proved in Canada that it is difficult to treat offenders who are mentally ill, have a low intelligence quotient, those who try to justify their behaviour or see themselves as victims. Therefore, the way in which treatment is provided should match different requirements of the clients. Here, good therapeutic skills, for example, being sensitive or speaking the client's language might be helpful.

### **F. Necessity of Sharing Information**

Currently, many countries that are participating in this course do not have efficient information sharing systems on sex offenders. It is important that all role players be conversant with the importance of sharing information among them, this is helpful when making an initial assessment, which enables accurate classification in terms of risk factors. This makes possible planning suitable treatment which focuses on criminogenic needs of the targeted sex offender. Such information is crucial for a practical stage of intervention. Instruction based on facts leaves no room for sex offenders to maintain his/her distorted cognition - such as denial or minimisation. The police and courts are better positioned to provide circumstances surrounding the commission of the crime.

In addition, when an offender is released on parole it is also important that the correction officer provides the probation officer with information on what sort of treatment the offender has gone through and also his risk of re-offending. This enables the probation officer to structure an appropriate programme.

Some countries have introduced a registration system for this purpose, for example, in the UK, the Multi-Agency Public Protection Arrangements (MAPPA) has a paramount role of risk management of sex offenders in the community. The National Guidance allows all sex and violent offenders to be under the control of the MAPPA.

Upon release it is also important to advise the police of the intended release and the address where the offender is heading to. This enables the police to make periodic checks at the offender's residence. The police will also be able to provide probation officers with information about sex offenders who have absconded and to make efforts to re-arrest them.

In Korea, under the youth protection law, harmful criminals against the youth, sex offenders included, are subject to public disclosure. Information such as their name, age, date of birth, occupation, address and nature of crime committed is provided for public awareness through official gazettes, notice boards of government buildings for a month and the internet homepage of the Youth Committee for six months. According to Article 22 and 23 of the Youth Protection Law, when an offender is sentenced for a sexual crime which victimised a youth and is released from prison and there is the risk of the repetition of sexual

offences, the offender's profile must be registered, including name, age, occupation, home address and photograph. The offender is required to notify the above within two months of becoming subject to registration by the Commission. The Commission has to maintain the profile on the sexual offenders for five years. The victim of a sexual offender, their lawyer and youth-related educational institutions can also access the profile of the sexual offender. The Commission must inform the local police agency director of the registered information. And the Commission can entrust the permission and management of the registered information to the local police agency.

As a means of sharing information, an interagency database system is useful. The sharing of a database by correctional services, probation officers and other stakeholders will save the problem of going back and forth, interviewing offenders and or perusing lots of files. It also helps secure authentic and up-to-date information. When establishing such a system, it would be advisable to set up a committee consisting of members from each agency in order to come up with the structure of the database. However, if there are tight budgetary constraints, it is necessary to come up with an alternative system of communication among stakeholders that is a more feasible way of sharing information.

Sharing of information regionally and internationally is also crucial. This can be through memoranda of understanding, treaties, conventions, being members of Police Chiefs organizations, and international organisations such as Interpol and the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders.

## **VI. CONCLUSION**

It is clear from the discussions in this paper that individual countries have diverse problems in terms of the prevention and treatment of offenders. It is also true to say that while some countries have advanced in the development of modern treatment models, others are trying to introduce treatment programmes relative to their social and economic conditions.

This paper has explored these diverse problems based on the country's own experiences. Towards the end some ideas have been recommended for the participants to develop and perhaps implement in their own countries.

## **VII. RECOMMENDATIONS**

1. Countries that have no treatment programmes in place should start raising awareness in their countries, in professionals of treatment, victims, and civil society, on the importance of the treatment of sex offenders.
2. There is a need to review or introduce legislation that addresses the necessity of offender treatment in participating countries.
3. The introduction of scientific tools of assessment for treatment of sex offenders should be considered.
4. The introduction of effective treatment programmes for sex offenders should be considered. Evidence suggests that cognitive behaviour therapy is most effective in reducing recidivism, therefore, we need to consider it as a best alternative.
5. The limitations of cognitive behaviour treatment programmes should be recognized. Alternatively, special programmes for convicts not suitable for the cognitive behaviour programme, such as those with low intelligence, mental disorders, a short remaining prison term, and those who adamantly deny their guilt, should be considered.
6. The establishment of a central information bureau for collection and distribution of sex offender information for stakeholders in the criminal justice sector should be considered.
7. Appropriate training programmes should be developed and used to train all stakeholders in the treatment programmes, to develop, implement and monitor the assessment and rehabilitation of sex offenders.



## APPENDIX

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### *COMMEMORATIVE PHOTOGRAPH*

- *133rd International Training Course*
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UNAFEI

# The 133rd International Training Course



**Left to Right:**

**Above:**

Dr. Muller-Isberner (Germany), Dr. Chatteraj (India), Prof. Noguchi, Prof. Higuchi

**4th Row:**

Mr. Ohashi (Staff), Ms. Tanaka (Staff), Mr. Saito (Chef), Mr. Yamagami (Staff), Mr. Iwakami (Staff), Mr. Inoue (Staff), Ms. Tomita (Staff), Mr. Tanuma (Staff), Ms. Yanagisawa (Staff), Ms. Matsuoka (Staff), Ms. Inamasu (Staff), Ms. Ishikawa (Staff)

**3rd Row:**

Ms. Hosoe (Staff), Ms. Matsuura (Staff), Mr. Matsui (Staff), Mr. Yoshimura (Japan), Mr. Ibuki (Japan), Mr. Promnil (Thailand), Mr. Horiuchi (Japan), Mr. Lee (Korea), Mr. Gan (Malaysia), Mr. Nagao (Japan), Mr. Villanueva Andino (Honduras), Mr. Nakamura (Japan), Mr. Ajaj (Yemen), Mr. Fofana Naby Laye (Guinea) Ms. Obayashi (JICA)

**2nd Row:**

Mr. Nishikawa (Japan), Mr. Lam (Hong Kong), Mr. Allen (Belize), Mr. Moceisuva (Fiji), Mr. Khin (Myanmar), Mr. Utomo (Indonesia), Mr. Likaj (Albania), Mr. Uchida (Japan), Ms. Sergio (Zimbabwe), Ms. Ruddy (Antigua and Barbuda), Ms. Kawaguchi (Japan), Ms. Fujiwara (Japan), Ms. Blanchet Zamit (Uruguay)

**1st Row:**

Mr. Nishimura (Staff), Mr. Ebara (Staff), Prof. Ishihara, Prof. Yamada, Prof. Sugiyama, Prof. Uchida, Dep. Director Senta, Dr. Marshall (Canada), Director Tauchi, Mr. Middleton (UK), Prof. Sakata, Prof. Uryu, Prof. Shinkai, Prof. Noge, Prof. Ikeda, Mr. Kawabe (Staff), Mr. Cornell (L.A.)