

REPORT for 1987

and

RESOURCE MATERIAL

No. 33

124255-
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124268

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REPORT for 1987
and
RESOURCE MATERIAL
SERIES No. 33

U.S. Department of Justice
National Institute of Justice

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UNAFEI

Fuchu, Tokyo, Japan

April/1988

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ISBN4-87033-000-8

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I. Report of the Main Activities and Events of the Year 1987

Introduction

In 1987 the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) organized one five-week international seminar (74th), one three-week international seminar (76th) and two three-month international training courses (75th and 77th), which were regular training programmes conducted at UNAFEI's headquarters in Fuchu, Tokyo. A total of 97 government officials engaged in criminal justice administration from 31 countries mainly in Asia and the Pacific region participated in these regular training programmes. Appendix I shows a breakdown of these participants by country.

UNAFEI also organized and conducted an overseas joint seminar in collaboration with the Democratic Socialist Republic of Sri Lanka.

Asia and the Pacific Region International Experts Meeting on Protection of Human Rights in Criminal Justice was another important meeting which was held at UNAFEI on the occasion of the 74th International Seminar.

In addition to this Meeting, UNAFEI organized and conducted a Workshop on Implementation Modalities for the Twenty-Three Recommendations Adopted by the International Seminar on Drug Problems in Asia and Pacific Region on the occasion of the 76th International Seminar.

In addition to these activities, UNAFEI convened the Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI Work Programmes and Directions for the purpose of making an evaluation of UNAFEI's on-going programmes and activities and advising on its future.

UNAFEI also endeavoured to perform research activities, provide information services and promote co-operation with related agencies, institutions, organizations and UNAFEI alumni associations and former participants.

These activities and events during the year 1987 are summarized hereafter.

Regular Training Programmes

1. The 74th International Seminar (9 February-14 March)
—Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration

The main theme for this Seminar was selected in consideration of the following factors. The development and safety of society are gravely threatened by crimes which have been rapidly increasing in number and complexity. In such circumstances, it is indispensable for the healthy development of a country to maintain order and safety through effective and efficient administration of criminal justice. Therefore, effective administration of criminal justice constitutes one of the essential pillars for the development and prosperity of a country, with economic development as a counterpart. Although various policies have been adopted and successfully implemented to fulfill the important tasks of criminal justice, it is fundamental and essential to effective criminal justice administration to act fairly and humanely toward and to strengthen the confi-

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dence of the public in the criminal justice system. In achieving these goals, the protection and promotion of the rights and interests of victims of crime are as important as the fair and humane treatment of offenders.

The protection of rights of offenders has been advanced significantly through international efforts, including the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the United Nations Standard Minimum Rules for the Treatment of Prisoners (1955), and domestic responses including amendments to various forms of national legislation. However, several problems remain to be examined, e.g., delays in trials caused by shortages of judges and a deteriorating environment for prisoners caused by overcrowding in penal institutions.

Protection of the rights and interests of victims of crime as well as psychological and economic assistance to them, to which little attention has been focussed in the field of criminal justice, are indispensable to fair implementation of criminal laws and public confidence in criminal justice administration. There is, therefore, an urgent need to explore and implement effective measures for the protection of and assistance to victims of crime.

Hence, it is very important to the effective implementation of criminal justice and, eventually, to the economic development and prosperity of a country, that officials in the criminal justice field deepen their understanding of the importance of, and explore effective measures for the promotion of, fair and humane treatment for both offenders and victims of crime. Accordingly, the 74th International Seminar was designed:

- 1) to examine the current situation concerning the treatment of offenders in the participants' countries, and to explore policies for more humane treatment;
- 2) to study international instruments on human rights, and to examine ways and means for a thorough implementation of such instruments; and
- 3) to deepen the participants' understanding of the importance of the protection of and assistance to crime victims, and to explore effective and humane methods of interacting with them.

A total of 28 participants representing twenty-two countries, i.e., Bangladesh, China, Ecuador, Fiji, Honduras, Hong Kong, India, Indonesia, Jamaica, Kenya, Malaysia, Nigeria, Panama, Papua New Guinea, Peru, Saudi Arabia, Sri Lanka, Sudan, Tanzania, Thailand (two participants), Venezuela and Japan (six participants) attended the Seminar. The participants in this Seminar were senior police officials, public prosecutors, judges, senior prison officers, and other high-ranking officials. A list of the participants is found in Appendix II-1 and the programme of the Seminar is shown in Table 1.

Among the various programmes of the Seminar, special emphasis was placed upon presentations by each participant and subsequent general discussions with regard to the main theme, which invited active participation by the participants utilizing their knowledge and experience to the fullest extent. Lectures by visiting experts, *ad hoc* lecturers and the UNAFEI staff were delivered on various important issues related to the main theme. In addition, observation visits to various related agencies and institutions were organized.

Discussions on the main theme consisted of presentations by each participant and subsequent general discussions on the issues raised during the preceding presentations. A list of the participants' papers is found in Appendix II-2.

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Table 1: Outline of the Programme (74th Seminar)
Total: 115 hours

	Hours
Self-Introduction and Orientation for the Seminar	2
Experts' Lectures	16
Faculty Lectures	4
<i>Ad Hoc</i> Lectures	12
Individual Presentations on the Main Theme of the Seminar	28
General Discussion and Report-Back Sessions on the Main Theme	12
Visits of Observation	10
Kansai Trip (Visit to Kyoto District Public Prosecutors Office)	12
Individual Interviews	2
Closing Ceremony	1
Reference Reading and Miscellaneous	16

(a) Protection of Human Rights at the Stages of Investigation, Detention, Arrest and Trial

The first general discussion, addressing the question of the protection of human rights at the stages of investigation, detention, arrest and trial, was chaired by Mr. Jyotoh Shimanouchi of Japan, with Ms. Nazhat Shameem Khan of Fiji as rapporteur. The participants devoted particular attention to the actual operation of criminal justice administration in regard to the protection of rights in their respective countries, and developed suggested remedies for infringements of rights identified by the participants.

The participants agreed that in most countries the formal rights of suspects and the powers of criminal justice officials were adequately covered in constitutional or statutory provisions. Practical difficulties arise, however, in the course of implementing those rights: for example, excessive detention pending trial; arbitrary arrests and detention; and a lack of compensation for unlawful custody or detention. It was observed that a principal cause of current prison overcrowding is the large number of persons remanded in custody awaiting trial. Practical remedies for these problems included expanded pre-trial release alternatives and more efficient court administration, as well as more adequate police training and efficient mechanisms for police accountability.

Difficulties at the stage of trial include delays in hearings, marginal competence of defence counsel, a lack of trained interpreters, and inadequate protection of the rights of juveniles. Modernised court administration can remedy some of these problems, as long as it does not interfere with the right of accused persons to a full, fair hearing. Juvenile exposure to adult criminal court proceedings should be minimised, in the participants' view.

In conclusion, the participants agreed that strict protection of the human rights of suspects is an ideal striven for everywhere, but not fully attained anywhere. They emphasised the need for mutual co-operation and exchange of information, so that each country can improve the efficiency and fairness of its system of criminal justice.

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(b) Protection of Human Rights of Offenders at the Stage of Treatment

The second general discussion session, directed at the protection of human rights of offenders at the stage of treatment, was chaired by Mr. Stephen Olaiya Abeji of Nigeria, with Mr. Suresh Chandra Dwivedi from India as rapporteur.

The chief focus of discussion was the extent to which participating countries have succeeded in implementing such controlling international instruments as the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Standard Minimum Rules for the Administration of Juvenile Justice, which address in particular the treatment and protection of the rights of a) unconvicted prisoners, b) convicted prisoners, c) juveniles confined in penal institutions and d) offenders undergoing community supervision.

The participants unanimously agreed that United Nations norms such as the Standard Minimum Rules for the Treatment of Prisoners have had a great impact on domestic legislation relating to the protection of the human rights of offenders. However, many problems remain to be solved in that regard, including the contamination of remand prisoners by convicted prisoners, prolonged detention of prisoners under investigation or awaiting trials, prison overcrowding, a failure to segregate juvenile prisoners from adult prisoners, and inadequate protection of the right of privacy of persons undergoing community-based treatment.

Finally, the participants identified several measures to resolve such problems, the most important of which is improved staff training. All criminal justice entities must cooperate in developing an integrated approach toward the protection of the human rights of persons undergoing treatment. In that connection, the several United Nations regional institutes, including UNAFEI, should play a significant role in developing prototype programmes based on United Nations documents.

(c) Protection of and Assistance to Victims of Crime

The third general discussion session was presided over by Mr. A.M.M. Nasrullah Khan from Bangladesh, with Mr. Mohamed Ahmed Hashim of Sudan serving as rapporteur.

The participants agreed that the victims of crime deserve much more care and attention than they receive at present and that the chief responsibility to protect and assist them rests with criminal justice personnel. Several participants stressed the need to simplify complaint and accusation procedures and to administer them more humanely, so that victims and witnesses are encouraged to come forward to criminal justice authorities with timely and accurate information about crimes. At the same time, safeguards must be instituted to forestall false or unreasonable accusations. Especially in sexual abuse cases, female victims are often embarrassed or humiliated by insensitive responses from law enforcement officials. To rectify that, systematic training in criminology and victimology must be required of such officials.

Finally, some participants urged the importance of traditional measures to settle disputes which, when properly utilised, can complement official systems of compensation for crime victims. Other participants asserted that state responsibility should extend to cases in which offenders are financially unable to make restitution, and damages caused by an offence are not covered by private or public insurance.

(d) International Co-operation, Training and Research

The fourth general discussion session was chaired by Mr. Munasinghe Chandra

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Prema Mendis of Sri Lanka, with Mr. Jacob Rongap from Papua New Guinea as rapporteur.

The first points for discussion were the implementation of international instruments on human rights and the roles of international bodies in the implementation process. It was generally agreed that full implementation of international instruments, even if incorporated in domestic laws, has been hampered by several factors, including financial constraints, shortages of staff and lack of training for officials. Therefore, the seminar participants stressed that United Nations entities and related organisations like UNAFEI should provide various forms of assistance to achieve full implementation of international instruments on human rights.

It was agreed that international agencies affiliated with the United Nations should promulgate additional or revised international instruments, and provide consultative services and international training programmes covering the protection and advancement of human rights.

The second discussion sub-topic was training and research. The participants emphasised the importance of sensitivity training for criminal justice system officials, because the insensitive treatment of victims of crime by such officials has sometimes compounded the victims' feelings of helplessness and frustration. Second, the participants recognised the necessity of cross-disciplinary training courses and seminars in which officials from different fields of criminal justice can discuss shared concerns and experiences. In addition, training for trainers is urgently required as a first step toward system-wide in-service training. Research into protection for and treatment of crime victims deserves the highest priority, particularly in light of the dearth of past attention to their needs.

For this Seminar, UNAFEI invited four visiting experts from overseas countries: Professor B.J. George, Jr., Professor of Law, New York Law School, United States of America; Professor Dr. Karl-Heinz Kunert, Head of Department of Criminal Justice, Ministry of Justice, Dusseldorf, the Federal Republic of Germany; Mr. Nor Shahid bin Mohd. Nor, Director of Prisons, Head of Security and Regime, Prisons Headquarters, Kajang, Malaysia; Dr. Yolande Diallo, Principal Human Rights Officer, Secretary of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, United Nations Centre for Human Rights, Geneva. They delivered a series of lectures or guided discussions on issues related to the main theme. Five *ad hoc* lecturers, and the Director and Deputy Director of UNAFEI also delivered lectures or guided discussions on various relevant topics. A list of lecturers and lecture topics is shown in Appendix II-3 and a list of reference materials distributed is found in Appendix II-4.

The participants visited the following criminal justice or related agencies or institutions for the purpose of observing the operations and discussing practical problems with officials and staff members: the Supreme Court; Tokyo Metropolitan Police Department; Ministry of Justice; Kyoto District Public Prosecutors Office; and Fuchu Prison.

2. The 75th International Training Course (20 April-20 July)
—Non-Institutional Treatment of Offenders: Its Role and Improvement for More Effective Programmes

The main theme for this Course was selected in consideration of the following factors.

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At present, in countries in Asia and the Pacific region various types of non-institutional treatment measures for convicted offenders (hereinafter referred to as "offenders") have been in practical use along with institutional treatment measures. Non-institutional treatment measures have been characterised as not only effective in light of the treatment accorded a given range of offenders but also as quite humanitarian and very cost-effective in comparison with other treatment measures.

However, one must point out that in actuality both the scope of practical utilisation and the methods emphasised in implementing treatment measures as a means of achieving criminal policy goals differ in the various countries of the region. Programme content and substance also vary because of the peculiar needs of offenders in the setting of non-institutional treatment measures. These phenomena are caused not only by the diverse historical circumstances reflected in these nations, but also by the view taken of non-institutional treatment as a practical instrument of criminal policy. The diversity is also attributable to the fact that non-institutional treatment has not been the subject of either informational exchanges or comprehensive research.

It should be noted, however, that some countries in the region have achieved notably effective treatment for a given spectrum of offenders through non-institutional treatment; their programmes and achievements offer a most important object of research and inquiry.

Moreover, for some years useful study of and debate about non-institutional treatment measures have been conducted at the regional level by UNAFEI and at the international level on such occasions as the United Nations Conference on the Prevention of Crime and the Treatment of Offenders, held at six-year intervals, most recently in Milan, Italy.

Very clearly, comprehensive and conjoint study of and inquiry into the role of non-institutional treatment measures and the results to be achieved through them in the form of offender rehabilitation are of great importance to the countries of the region, which can be enabled thereby to identify and implement humane and cost-effective programmes of non-institutional treatment. Furthermore, the identification and pursuit of implementation measures based on such non-institutional treatment should in practice produce a broader array of such measures than exists currently, as well as to serve to ameliorate problems of prison and jail overcrowding which all countries in the region now experience.

Therefore, the Institute designed the Course to provide participants, mainly from Asia and the Pacific region, with an opportunity to study and discuss various contemporary problems concerning the non-institutional treatment of offenders, to stress the importance of an examination of current and prospective roles on non-institutional treatment in each country represented as devices for the rehabilitation of offenders and the prevention of recidivism, and to devise means to increase the effectiveness of non-institutional treatment measures.

There was a total of 24 participants representing twelve countries: China, Fiji, Hong Kong, India, Lesotho, Malaysia, Peru, the Philippines (two participants), Sri Lanka (two participants), Thailand (two participants), Turkey and Japan (ten participants). They consisted mainly of government officials with relatively senior positions in corrections and probation services. A list of the participants is found in Appendix III-1 and Table 2 shows the outline of the Course programme.

During the Course special emphasis was placed upon participant-centred activities

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such as comparative study, group workshops and other programmes in which the participants were required to take part in collective discussions, actively and constructively, utilizing their knowledge and experience. A comparative study programme was organized to discuss the topics related to the main theme of the Course. It consisted of individual presentations, which were followed by group discussions. In the comparative study sessions, each participant was allocated one hour for the presentation of his or her country's paper, then all participants had an opportunity, which proved most meaningful, to compare the systems and practices of the treatment of offenders in correctional institutions in the countries represented. A list of the participants' papers is found in Appendix III-2.

During the Course, UNAFEI conducted group workshops and general discussion sessions focussed on the roles of non-institutional treatment of offenders and means to make them more effective. Four small group workshops were convened in advance of the general discussion sessions to consider topics selected and adopted by workshop participants. The following were the topics thus chosen and discussed:

1. Available forms of non-institutional treatment measures, the extent of their availability and the actual circumstances of their use in each country.
2. Role of non-institutional treatment measures in the treatment of offenders.
Sub-topics included:
 - 1) Criteria and procedures to select offenders eligible for various types of non-institutional treatment programmes and criteria for offender eligibility.
 - 2) Conditions governing offenders placed in non-institutional programmes and grounds and procedures for revocation, according to type of programme.
3. Measures for more effective implementation of non-institutional treatment programmes. Sub-topics included:

Table 2: Outline of the Programme (75th Course)
Total: 184 hours

	Hours
Self-Introduction and Orientation for the Course	2
Experts' Lectures	18
Faculty Lectures	12
<i>Ad Hoc</i> Lectures	10
Individual Presentations on the Main Theme of the Course	24
Group Workshops	16
Report-Back Sessions for Group Workshops	8
General Discussion and Report-Back Sessions	12
Visits of Observation	26
Nikko Trip (Visit to Kitsuregawa Branch attached to Kurobane Prison)	8
Kansai-Hiroshima Trip (Visit to Rehabilitation Aid Hostel "Wachu-kai")	16
Field Recreation and Excursion	6
Presentation of Video	1
Evaluation and Individual Interviews	6
Closing Ceremony	2
Reference Reading and Miscellaneous	17

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- 1) Evaluation of the various types of current or existing non-institutional treatment programmes.
- 2) Problems in implementing various types of non-institutional treatment programmes and measures to improve implementation.
4. Advantages and disadvantages in the practical use of the public (as volunteers, etc.) in non-institutional treatment measures. Sub-topics included:
 - 1) Methods and the scope of the practical use of the public.
 - 2) Limitations and practical problems in using lay persons.
 - 3) Training programmes for lay participants.

The group workshops were carried out under the guidance of UNAFEI faculty members. A rapporteur selected by the participants of each workshop from among their number prepared a discussion report which was reproduced and distributed as the basis of general discussions in plenary session. That process facilitated a broader-based discussion and evaluation of the results of the individual workshop sessions. In recognition of the need to develop new international standards for fair and humane administration in the field of the non-institutional treatment of offenders, to supplement those already existing in the fields of institutional treatment of offenders and juvenile justice in the form of the United Nations Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and taking into consideration the fact that non-institutional correctional programmes will be significantly advanced by the promulgation of pertinent United Nations standard minimum rules on the matter (with due allowance for a recognition of local concerns based on social, cultural and economic traditions), both the group reports and the results of the general discussion were reformulated as a first draft of United Nations Standard Minimum Rules for the Non-Institutional Treatment of Offenders.

These draft rules offer a good statement of general principles and practices in the non-institutional treatment of offenders, and incorporate the minimum circumstances that should be accepted as suitable by the United Nations. They also contain safeguards against inappropriate use of treatment methods and the mistreatment of offenders. To the maximum extent possible, the participants followed closely the pattern and focus of the existing United Nations standard minimum rules mentioned above.

This first draft of the United Nations Standard Minimum Rules for Non-Institutional Treatment of Offenders, which will be published in a forthcoming issue of the Resource Material Series, will constitute the theme for further discussion by the participants of a future Seminar Course at UNAFEI. The results of the contributions and recommendations of participants in such future courses will enable UNAFEI to formulate a final version of the rules to be transmitted to the United Nations for further consideration. The following are summaries of the general discussions:

(a) Available Forms of Non-Institutional Treatment Measures

The first general discussion session, concerning available forms of non-institutional treatment measures, the extent of their availability and the actual circumstances of their use in each country, was chaired by Mr. K.L. Gupta of India, with Mr. Juanito S. Leopando of the Philippines as rapporteur. The original group workshop participants represented China, India, the Philippines, Thailand and Japan (two participants).

Because of the importance of achieving the requirements of modern criminal justice administration and the economic and social conditions that affect a choice among alternative measures, the participants thought it desirable that non-institutional methods of

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handling offenders be developed and expanded at every stage of the criminal justice process. Non-institutional treatment is appropriate in the forms of mediation, arbitration, reference to social services and other diversion programmes administered by police or public prosecutors; supplementary measures like restitution, compensation or inter-party reconciliation conducted under the control of the sentencing court; and the use of alternatives to incarceration like probation or provisional release. Naturally, all such alternatives must be devised and administered to minimise dangers to the peace, good order and security of society.

In accordance with the above aim, the participants divided their discussions and focussed on the contents of draft rules bearing on the phases of pre-trial actions, sentencing and post-judicial correctional administration.

The consideration of the pre-trial stage identified various formal and informal diversion schemes, covering in particular petty crimes, which avoid unnecessary criminalisation. Diversion procedures, participants observed, forestall the negative effects generated in later phases of criminal justice administration, particularly the stigma of a conviction. Nevertheless, diversion programmes must be conceived of as governed directly by the so-called "rule of law." Hence, persons aggrieved in the course of diversion should have an avenue of redress from the courts, which would intervene to ensure equity, justice and fair play and to prevent miscarriages of justice.

The participants agreed that bail is an extremely effective measure to prevent the harassment of persons awaiting the completion of trial proceedings, as well as a useful means of reducing jail overcrowding. However, it is not fully or successfully utilized in some countries. Therefore, the participants adopted a draft rule that bail should be employed to the maximum possible extent to avoid unnecessary detention at every stage of criminal proceedings, especially the pre-trial stage.

In discussing sentencing, the participants unanimously agreed that courts should have as extensive an array of dispositional alternatives as possible, thus providing increased flexibility and avoiding excessive institutionalisation. This concept was also adopted as a draft rule which endorses such measures as admonition, absolute or conditional discharge, restitution or compensation, fines, suspended sentences, probation, limitation of liberty, community service or community attendance orders, and periodic or intermittent detention. Measures of that sort have been used to differing extents in various countries; in direct congruence with the theme of the Course, they have proven effective alternatives to institutionalisation and thus offer promising prototypes for replication and further development.

At the post-judicial stage of implementation of sanctions, it was agreed that intermediate measures should be taken during the transition from an institutionalised status to unrestricted reintegration in society, such as work release or home leave. The draft rule on the point, unanimously adopted by the participants, emphasises the need to formulate such intermediate measures and to provide a diverse array of facilities and services adapted to the differing needs of offenders as they re-enter the community. Appropriate authorities also should be empowered to the greatest extent possible to release offenders at the earliest possible time under such systems as parole, release on license, compulsory supervision orders, remission or good time allowances, and pardon or executive clemency. The participants embodied their discussions in a draft rule covering a wide array of intermediate arrangements.

(b) Role of Non-Institutional Treatment Measures in Treatment of Offenders

This topic was discussed under the chairmanship of Mr. P.H.M. Ratnayake of Sri Lanka, with Mr. Mustafa bin Osman of Malaysia acting as the rapporteur on the basis of the report of a workshop composed of six participants from Malaysia, Peru, Sri Lanka and Japan (three participants).

A primary topic of workshop discussion was the meaning of "role," which the participants thought implied the dual facets of rehabilitation and punishment. They agreed that the emphasis should be placed on rehabilitation of offenders through non-institutional or community-based methods, and that the specific role of each particular non-institutional measure should be clarified through an examination of criteria of selection, procedures for implementation, and the conditions governing and procedures for the revocation of each measure of non-institutional treatment. In addition, the participants endorsed the development of a set of general principles, common to all types of non-institutional measures.

Based on these points, the comprehensive report prepared by the group workshop participants contained the following eight parts: Introduction; General Principles (7 rules); Fines (5 rules); Community Service Orders (7 rules); Suspended Sentence (4 rules); Probation (8 rules); Work Release (10 rules); and Parole or Release on License (7 rules).

The general session first examined the general principles of non-institutional treatment, and identified an ever-present risk of overstressing the danger or risk to the society in treating offenders in the community which in turn impairs the full use of non-institutional measures. The participants also addressed the issue of the "fundamental human rights" of offenders in the setting of non-institutional measures. They agreed that, at a minimum, respect for human dignity and privacy of offenders must be given careful consideration in the course of implementing non-institutional measures.

Consensus was also reached that the major role of fines as a primary monetary sanction should not be to deprive offenders of the benefits of their offences, but to serve as a means of punishment. Fines do not serve a significant rehabilitative function, although some offenders subjected to fines may very well need some sort of rehabilitative assistance—assistance that should be provided by social welfare and not criminal justice agencies.

The draft rule proposed by the workshop participants did not specify the precise role of a community service order. Therefore, the participants were asked to provide concrete, practical information about the use of community service orders in their countries. Although such orders are usually conceived of as an alternative to imprisonment, in some of the countries in the region they are invoked against petty offenders, for example those convicted of alcohol-related crimes and juvenile offenders. The participants recommended that greater and more efficient use be made of community service orders.

Consideration was also given to conditions of probation, including those actually imposed on and enforced against probationers, as a means of isolating more specifically the role of probation. The participants also gave attention to the functions of other non-institutional treatment measures, based on the views and experience of the participants.

During the final phase of the discussions of the topic, the participants endorsed a draft rule covering a statement of general principles and specific procedural matters, including criteria for selection, implementation procedures, conditions governing the major types of non-institutional treatment, and procedures for their revocation.

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(c) Measures for the More Effective Implementation of Non-Institutional Treatment

The third discussion was chaired by Mr. Ignatius Thavayogam Canagaretnam from Sri Lanka; Mr. Walter Wai-wah Wong from Hong Kong served as rapporteur. It focussed upon a comprehensive paper produced by a group workshop composed of seven participants from Hong Kong, Lesotho, Sri Lanka, Turkey and Japan (three participants), covering the five sub-topics of more effective methods for the non-institutional treatment of offenders, recruitment and training of staff, public co-operation, mutual co-operation among concerned agencies and research.

Three principles of treatment, i.e., self-help, necessity and appropriateness, and individualisation, are fundamental to effective methods of non-institutional treatment of offenders. Against that background, the participants discussed issues of the duration of supervision, appropriate conditions imposed in an authorising order based on their suitability to the needs of offenders, and the various forms of treatment programmes.

The participants concurred that the recruitment of qualified staff is of major significance for the effective treatment of offenders, as is the provision of proper staff training to enhance professional skills and knowledge of suitable roles in the administration of treatment measures.

It was unanimously agreed that public co-operation is a crucially important prerequisite to the resocialisation and rehabilitation of offenders undergoing non-institutional treatment. Therefore, the participants discussed ways to mobilise and encourage the public to co-operate in the community-based treatment of offenders. Inter-agency co-operation involving concerned agencies was also characterised as an important factor in the effective treatment of offenders.

The participants believed that action-oriented research is indispensable to effective planning and policy-making, and that countries in the region should make the utmost efforts to exchange information and promote technical co-operation in research activities concerning non-institutional treatment of offenders.

(d) Advantages and Disadvantages in the Practical Use of Volunteers in Non-Institutional Treatment of Offenders

The fourth session, chaired by Mr. Indar Jeet from Fiji with Mr. Ibra D. Ondi from the Philippines acting as rapporteur, resulted in a detailed analysis of the proposals submitted by a group workshop composed of five participants from Fiji, Philippines, Thailand and Japan (two participants). The participants focussed upon three sub-topics, i.e., the method and the extent of the actual use of volunteers, the limits and problems of the practical use of volunteers, and the scope of training methods to be utilised for such volunteers.

Two types of volunteer programmes are in force in the setting of non-institutional treatment programmes in the region: (1) volunteers authorised by the government to assist probation officers in the rehabilitation of offenders (for example, the VPO in Japan and Thailand and VPA in the Philippines); and (2) volunteers who are not officially recognised or appointed (for example, BBS and WARA in Japan).

Because it may be inappropriate to formulate rules governing the latter category of volunteers, the participants directed their efforts at the provisions of rules governing the former only. The draft proposals generated by the general-discussion participants cover the role, qualification, selection, training, appointment, assignment criteria and supervision of such volunteers.

The general discussion centred primarily on the rationale for the utilisation and in-

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volvement of volunteers in implementing non-institutional measures, but included as well the consideration of such issues as the eligibility of former probationers for appointment as volunteers; their eligibility had been recommended specifically in one of the rules formulated by the workshop group. That recommendation reflected a policy condemning discrimination against former probationers, as well as the potential benefits of relying on persons who know from personal experience the problems experienced by probationers. During the general discussion, however, fears were expressed about the possible effects such a policy would have upon public confidence in non-institutional treatment generally and the detrimental effect it might have on the honourable and respected position that VPOs and VPAs hold in the community. The participants also thought it difficult to formulate standards on the matter because former probationers have not been utilised thus far as volunteers in any country in the region; the experiences gained in Europe and the United States on the matter do not have necessary application in the Asia region. Therefore, the discussants felt that the matter should be noted in the commentary as a matter for future inquiry and examination as the range of non-institutional measures expands in the region. In the course of such expansion, as the roles of volunteers expand, the appropriateness of greater participation by suitably motivated and qualified former probationers might become evident.

Throughout the discussion it was agreed that it is essential to identify and to give appropriate consideration to the interests, needs and capabilities of individual offenders, if the objectives of non-institutional treatment—rehabilitation and reintegration in the community—are to be achieved. A process of solution programming, in turn, is crucial to that, and itself must be based on a clear identification and delineation of the problem. The needs of offenders must be co-ordinated with the often latent, but potentially utilisable, array of resources available in the community. The public has a crucial role to play in that regard, and the use of lay volunteers is a highly practical way of expressing that role. It is, of course, significant that their services impose relatively slight burdens on the public treasury. More importantly, however, they are highly effective and serve an important symbolic function in the course of administering non-institutional treatment programmes.

The participants regarded training as a most significant aspect of any volunteer programme, covering such areas as (1) the criminal justice system, (2) probation procedures and practices, (3) report writing, and (4) counselling and guidance. They delivered a series of lectures and guided discussions on the issues related to the main theme. Six *ad hoc* lecturers and the Director, Deputy Director, Chief of the Training Division and other faculty members of UNAFEI also gave lectures on relevant topics. Appendix III-3 shows the list of these lecturers and their lecture topics, and a list of reference materials distributed to the participants is found in Appendix III-4.

The participants visited thirteen criminal justice and related agencies and institutions with the entire group and five in small groups to observe their operation and discuss practical problems with their officials and staff members: Tokyo Family Court, Ministry of Justice, a branch of Kurobane Prison (Kitsuregawa Agricultural School), Kanto Regional Parole Board, Tokyo Probation Office, a Rehabilitation Aid Hostel (Wachu-kai), Tama Juvenile Training School, Tokyo Juvenile Detention and Classification Home, Sunshine City, a Correction Exhibition, the Supreme Court, Tokyo Metropolitan Police Department, Fuchu Prison, Tokyo District Court, Shinjuku Police Station, Yokohama Probation Office, a Rehabilitation Aid Hostel (Kawasaki Jiritsu-kai and Tokyo Jikka Dojo). Further, the participants had a series of discussion meetings with Japanese volunteer probation of-

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ficers who were invited to UNAFEI during the Course.

3. The 76th International Seminar (31 August-19 September)
—Evaluation of UNAFEI's International Courses on Prevention of Crime and Treatment of Offenders, and Drug Problems in Asia

1 September 1987 was a momentous date in UNAFEI's long and proud history as it signified the 25th Anniversary of UNAFEI's International Seminar and Training Course programme as the sole United Nations regional institute for the prevention of crime and the treatment of offenders in the Asia and Pacific region. For this landmark event, many eminent professionals with distinguished careers in the field of criminal justice administration gathered at UNAFEI to pay tribute to its numerous significant achievements during the first 25 years of its existence.

We were most blessed to have the esteemed presence of the honourable Vice-Minister of Justice, Mr. Eiichi Kakei; the honourable Director-General, United Nations Bureau, Ministry of Foreign Affairs, Mr. Minoru Endo; the honourable Executive Director of the Japan International Co-operation Agency (JICA), Mr. Denro Yasaka; the honourable Interregional Advisor on Crime Prevention and Criminal Justice, Centre for Social Development and Humanitarian Affairs, United Nations, Dr. Pedro R. David; the honourable Regional Advisor of the Economic and Social Commission for Asia and the Pacific (ESCAP), United Nations, Mr. Hisashi Hasegawa; the respected Acting Director, HEUNI, United Nations, Mr. Matti Joutsen; the honourable Chairman, Asia Crime Prevention Foundation, Mr. Hisao Kamiya; the distinguished President, Japanese Correction Association, Mr. Yoshiho Yasuhara.

Dr. David was pleased to read a congratulatory address to UNAFEI on behalf of the Secretary-General of the United Nations, Mr. Javier Perez de Cuellar. The honourable Secretary-General recognized and congratulated UNAFEI on its solid achievements and thanked the Government of Japan for its unswerving support of the Institute's activities. He urged UNAFEI to continue assisting the United Nations in devising new policies for solving social problems through multilateral co-operation. He affirmed his confidence that UNAFEI will make an even greater contribution in the future to making the world a safer place.

The congratulatory addresses by the honourable Vice-Minister, Mr. Kakei, and the honourable Director-General, Mr. Endo, expressed their deep appreciation for the past contributions of UNAFEI to the field of criminal justice administration. They declared their hope and expectation that UNAFEI will continue to promote more effective and efficient criminal justice throughout the world. They asserted that their respective Ministries will spare no effort in co-operating in the further development of UNAFEI.

A special commemorative presentation was made by Mr. Matti Joutsen, Acting Director, HEUNI, Finland, to UNAFEI on behalf of his organization to symbolize the long and productive co-operation and warm friendship which exists between these two brother institutes. Congratulatory telegrams to UNAFEI were read from Mr. Ugo Leone, Director, United Nations Social Defence Research Institute, Mr. R.W. Harding, Executive Director, Asia and Pacific Conference of Correctional Administrators, Mr. Kazuo Yoshino, Mayor of Fuchu City, and Mrs. Beverly Garner, the wife of Mr. Thomas G. Garner.

In a subsequent commemorative ceremony held on 10 September 1987, the distinguished visiting expert from the People's Republic of China, Mrs. Zhang Yanling, made a

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special memorial presentation to UNAFEI on behalf of the Ministry of Justice of China signifying the good relations which have been developed between the Ministry of Justice and UNAFEI during the past 25 years. Mrs. Zhang Yanling read a congratulatory message from the honourable Minister of Justice, Mr. Zou Yu, in which the honourable Minister expressed his warm congratulations to UNAFEI on the occasion of its 25th Anniversary and his wish for UNAFEI's future success as well as a further strengthening of the friendly co-operation between the two organizations.

It is certainly a great honour and pleasure for me, as the Director of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, to mark the 25th Anniversary of this Institute and to offer some observations on this auspicious occasion of UNAFEI's rich history as well as to acknowledge with profound thanks those organizations to which we are gratefully indebted for their unselfish contributions to UNAFEI's outstanding success.

The history of UNAFEI began with the First United Nations Asia and Far East Seminar for the Prevention of Crime and the Treatment of Offenders held in Rangoon, Burma, in 1954, during which a unanimous resolution was adopted calling for the establishment of a regional training and research institute in the field of crime prevention and criminal justice. As a result, an agreement was subsequently signed between the United Nations and the Government of Japan on 15 March 1961, giving birth to the regional institute in Tokyo. UNAFEI was formally inaugurated on 15 March 1962 and its first International Training Course commenced in September 1962. A quarter of a century has elapsed since then.

During its 25 years of existence, UNAFEI has conducted 75 courses and trained more than 1,700 governmental officials in the field of criminal justice administration from 57 countries, and also conducted a number of research projects and information services. I am certain that the Ministry of Justice, as the agency executing the obligations of the Government of Japan, is delighted with the achievements of the Institute and I would like to express my profound gratitude and appreciation to the Ministry for its unstinting and generous support. From the moment when negotiations for the setting up of this Institute commenced to the present day, the Ministry of Justice has comprehensively supported the administration of UNAFEI.

Mention must also be made of other criminal justice-related institutions and agencies such as the Supreme Court, the National Police Agency, the Ministry of Health and Welfare, the Maritime Safety Agency and numerous others which have given their fullest co-operation to the practical work programmes of UNAFEI.

For guidance and support of the international aspects of our programmes, we have always turned to the Ministry of Foreign Affairs and JICA. Words cannot adequately describe the importance of their contribution to the success of UNAFEI. I feel strongly that without their financial support and administrative co-operation, UNAFEI could not have gained its present international reputation and status in the field of social defence. Especially in relation to those participants who were awarded fellowships under the Japanese Government's Official Development Assistance programmes, JICA has made a significant contribution by its ready and willing co-operation in making efficient arrangements for the travel, comfort and stay of the participants. I would also like to cordially extend my heartfelt thanks and felicitations to all of those people and agencies who have contributed so much to the Institute's activities in their own way.

We are especially appreciative of the generous guidance and co-operation of the United Nations such as the Crime Prevention and Criminal Justice Branch, Centre for

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Social Development and Humanitarian Affairs and Committee on Crime Prevention and Control, the regional and interregional institutes for the prevention of crime and the treatment of offenders under the flag of the United Nations, such as the Helsinki Institute for Crime Prevention and Control Affiliated with the United Nations (HEUNI), United Nations Social Defence Research Institute (UNSDRI), United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders (ILANUD), United Nations Fund for Drug Abuse Control (UNFDAC), ESCAP and United Nations University, and other friendly institutes and organizations which were closely involved with UNAFEI such as the Australian Institute of Criminology and the Arab Security Studies and Training Center.

The Governments in the region richly deserve a special word of thanks for their confidence and support which are the basic foundations upon which the success of this Institute is built. The great majority of those in the region sent participants to the seminar and training courses and assisted in the collection of information for research purposes. Almost all the participants sent by governments were of good calibre and were obviously those who occupied, or would occupy, responsible positions in their respective services. These high-ranking officials included Justices of the Supreme Court, Ministers and Vice-Ministers of the Ministry of Justice, Commissioners of the National Police Agency and Directors-General of Ministerial Departments. The regional governments will continue to send leading officials of good character to our seminar and training courses in spite of their heavy work schedules, and their numbers are increasing every year. For this they merit our deepest appreciation and gratitude.

Another key element in UNAFEI's success is the outstanding quality of the people whom the Institute has been able to enlist in the cause of further promoting and advancing its efforts for more fair and effective criminal justice administration. In this regard, the distinguished visiting experts not only from this region but also from around the world have made incomparable contributions to the work of the Institute. They came not merely to lecture, but to participate, and they brought with them experience not only from the academic world but more often from the hard world of reality. They gave not only of their knowledge, but also of their experience and, of equal importance, of their friendship. Some of them were glad to come again and again. We had the great honour and pleasure to welcome the return to UNAFEI of such respected colleagues and friends in this refresher course as well.

During this quarter-century, our alumni have dispersed throughout the Asian, Pacific, Latin American and African regions. Some alumni associations in the regions have formed a vast network and have supporters of our work at the regional, interregional and international level. They proved to be good ambassadors and carried the news of the value of the work of the Institute in an effective manner in spite of local difficulties and handicaps.

In this connection, it was an epoch-making event that the Asia Crime Prevention Foundation was established on 17 February 1982. The Foundation aims at organizing and conducting studies, research, training programmes and other activities of a similar nature, and also providing pertinent persons or organizations with technical and financial support for their activities of such a nature in order to contribute to the advancement of effective policies for the prevention of crime and the treatment of offenders.

Since UNAFEI is the sole United Nations regional training and research institute in the field of crime prevention and the treatment of offenders in this region, it is apparent that the Foundation is designed to mainly perform its function by encouraging the ad-

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vancement of UNAFEI's activities, offering moral and financial support to UNAFEI and its former participants or alumni associations in the region, and conducting its own research and study in close collaboration with UNAFEI. As UNAFEI on some occasions has had some difficulties furnishing the best possible services to its participants, offering comprehensive follow-up assistance to its former participants, and providing adequate support to the alumni associations of the respective countries, a more comfortable reception can be given to the participants, and more subsidy and assistance can be extended to the alumni associations and to individuals to help them conduct research and study with the precious moral and financial assistance of the Foundation.

Lastly, but certainly not least, I wish to express my sincere appreciation to Fuchu City and its citizens. Their warm-hearted welcome as well as their generous willingness to offer any necessary assistance to our guests have not only enriched their stay at UNAFEI but also left a memorable impression of the friendship and hospitality of the Japanese people which will be conveyed to the people of their own countries. For this, we owe a special word of thanks to all the members of the Fuchu Rotary Club who contribute so unselfishly to make this possible.

Needless to say, contemporary policy-makers and planners in the field of criminal justice desperately desire guidance and guidelines in their struggle against crime, being confronted with the disturbing phenomena of violence, social deviance, delinquency and criminality, which presumably at least in part stem from the abnormal and counteractive effects of socio-economic development. Criminal justice administrators in Asia and the Pacific region are at the forefront of this struggle.

In this light, it is our grave responsibility to contribute not only to the identification of the causes of criminality, but also to the research of the possible remedies and counter-measures to fairly as well as effectively control it, and also to the development of human resources and expertise in the field of crime prevention and control, so as to minimize the social costs of crime and its negative effects on the socio-economic developmental progress in the region.

UNAFEI has accepted this challenge and has initiated action designed to assist in ameliorating the situation. In 1987, besides conducting three regular international training courses and seminars, UNAFEI has been involved in a special Research Project on Development and Crime Prevention which intends to analyse the crime situation in relation to socio-economic development, and to address the question of what types of improved crime prevention measures are necessary to combat the serious crime situation resulting from such development in the region. This project will be a substantial contribution to the crime prevention policies, and also a positive contribution not only to sound national development planning in the region but also to the active discussion as one of the substantive topics to be included in the provisional agenda of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, i.e. Crime Prevention and Criminal Justice in the Context of Development: Realities and Perspectives of International Co-operation.

Nevertheless I feel that there is yet room for further improvement of UNAFEI work programmes and activities. Generally, it is not easy to perceive the impact of training and research in the field of social defence. UNAFEI has been fortunate to have been deemed to have contributed to the improvement of crime prevention strategy and criminal justice administration in the countries in Asia and the Pacific region. This is because it has been given continued advice and support by the United Nations, various governments, especially in the region, organizations and individuals related to its functions, visiting experts, and

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the former participants themselves. UNAFEI is determined, therefore, to make the utmost effort in co-operation with these organizations and persons to perform the mission entrusted to it by the United Nations and the governments of the region, and thus to contribute further to sound social development in the region.

Therefore, an important purpose of the 76th International Seminar was to evaluate the work of UNAFEI and its various training programmes, research activities, overseas joint seminars and alumni associations' activities in terms of their impact on criminal justice administration in the region and the work of former participants in their respective countries, with a view to effecting a further improvement in UNAFEI's future programmes. The Seminar also served as a follow-up meeting to the International Course on Drug Problems in the Asia and Pacific Region, which was convened sequentially in Tokyo, Hong Kong, Bangkok, Chiang Mai and Kuala Lumpur, between 4 and 22 August 1986. The participants of the 76th Seminar were requested to pursue implementation modalities for the 23 recommendations adopted by those in attendance at the preliminary seminar.

In accordance with the aforementioned, the visiting experts and participants of the 76th International Seminar performed three main tasks, namely:

1. Examined the impact of UNAFEI training and seminar courses on the criminal justice system of the countries they represent;
2. Studied the role and functions of a UNAFEI alumni association in each country; and
3. Re-examined and planned systems to develop more comprehensive and effective domestic policies for drug abuse control by examining implementation modalities bearing on the 23 recommendations mentioned above.

There was a total of 20 participants representing fifteen countries, *viz.*, Fiji, Hong Kong, India, Indonesia, Iraq, Korea, Malaysia, Nepal, Pakistan, Papua New Guinea, the Philippines, Singapore, Sri Lanka, Thailand and Japan (six participants). The participants in this Seminar were senior police officials, public prosecutors, judges, senior prison officers, and other high-ranking officials at the decision-making level having previously participated in an International Seminar/Training Course at UNAFEI. A list of the participants is found in Appendix IV-1 and the programme of the Seminar is shown in Table 3.

Accordingly, the 76th International Seminar placed primary stress on the opinions of participants concerning the impact of UNAFEI activities on their own work, resting on their own experience and discussion with former UNAFEI programme participants in their respective countries. Participants' papers formed the basis of the discussion. A list of the participants' papers is found in Appendix IV-2. The following main points were discussed during the Seminar:

1. Evaluation of UNAFEI Training and Seminar Courses and Other Activities
 - 1) UNAFEI training and seminar courses:
 - (a) Evaluation of programmes in courses, including comparative studies, group workshops, lectures, visits, etc.
 - (b) Effects of UNAFEI courses on participants' work
 - (c) The impact of recent UNAFEI seminars and courses on recent improvement and development of the respective countries' criminal justice administration
 - (d) Other comments on UNAFEI courses
 - 2) Other activities (overseas joint seminars, international workshops, research and information services):
 - (a) Effects of UNAFEI activities on participants' professional activities

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Table 3: Outline of the Programme (76th Seminar)
Total: 80 hours

	Hours
Self-Introduction and Orientation for the Seminar	2
Experts' Lectures	10
Faculty Lectures	2
<i>Ad Hoc</i> Lectures	11
General Discussions (Evaluation Session)	12
General Discussions (<i>Ad Hoc</i> Advisory Committee)	5
General Discussions (Drug Problems)	6
Report-Back of General Discussions	9
Small Group Visits	4
Visits of Observation	6
Fuji-Goko Seminar	4
Video Show	2
Opening and Closing Ceremony	3
Reference Reading and Miscellaneous	4

- (b) The impact of UNAFEI programmes on recent improvements in and development of national criminal justice administration
 - (c) Other comments on UNAFEI's activities
 - 2. Suggestions for Further Improvements in UNAFEI Activities
 - 1) Roles of UNAFEI in the development of criminal justice administration
 - 2) Comments or suggestions for future improvement of UNAFEI courses and other activities
 - 3. The Roles and Functions of a UNAFEI Alumni Association in the Respective Countries
 - 1) Recent activities of UNAFEI Alumni Association in each country
 - 2) Ways and means of enhancing UNAFEI Alumni Association activities in each country
 - 3) Role and functions of a UNAFEI Alumni Association in each country
 - 4. Implementation Modalities for the Twenty-Three Recommendations Adopted by the International Seminar on Drug Problems in Asia and the Pacific Region
- The general discussion included all the participants of the 76th International Seminar.
1. Evaluation of UNAFEI Training and Seminar Courses and Other Activities

Session I was for the discussion focussed on the impact of UNAFEI seminar and training courses and other activities on respective countries' criminal justice systems and was conducted under the chairmanship of Mr. Errol Carl Foenander from Singapore, with Mrs. Celia Sanidad Leones from the Philippines as rapporteur. The following is a summary of that discussion.

 - 1) Evaluation of UNAFEI Programmes
 - (a) Programmes in Courses

It is noteworthy that throughout the discussions the general consensus was that the UNAFEI training courses and seminars are highly commendable due main-

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ly to wise and dynamic leadership, careful planning, and effective programming of its activities by a very competent staff. The training programmes were found to be comprehensive and the courses' timeliness and relevance resulted in the broadening of the participants' outlook in their respective spheres of their criminal justice systems.

Throughout the discussions it was generally agreed that the comparative studies, group workshops, lectures and visits were very valuable, informative and effective.

Also mentioned by the participants was the positive benefit of "sharing rice cooked in the same pan" because it resulted in closer and better rapport amongst the participants and consequently contributed to regional and international co-operation.

(b) Overseas Joint Seminars

It was noted by the participants that overseas joint seminars had previously been held in Thailand, Malaysia, Philippines, Vietnam, Sri Lanka, Papua New Guinea, Indonesia, China and Singapore. Although the other participants did not have first-hand experience of this UNAFEI activity, there was a general consensus that overseas joint seminars were an effective means of making an in-depth study and analysis of local criminal justice system problems with a view to coming out with specific recommendations to solve these problems within the very environment where they exist.

Finally, it was recommended that UNAFEI should not only continue with this programme but that priority should be given to those countries which have not yet organized a joint seminar. It was also further suggested that follow-up overseas joint seminars be undertaken to be able to properly evaluate the effects of the seminar.

(c) Research and Information Services

In the discussion of these above-mentioned UNAFEI activities, not only participants but visiting experts as well gave due recognition to the Institute as a very important centre for the dissemination of information in the region mainly through publication of its Newsletter and Resource Material Series.

During the deliberations, it was the general consensus that these materials provided up-dated information on very relevant issues like reports on trends of crime, problems of drugs in the region, alternatives to imprisonment and other related topics.

In addition, it was also agreed that these materials provide a means of maintaining a feeling of attachment and closeness amongst the more than 1,200 UNAFEI alumni.

2) Effects of the Above-mentioned Activities

(a) Effects of UNAFEI Courses on Participants' Work

During the general discussion of this sub-topic the participants mentioned that UNAFEI courses greatly improved their way of identifying problems and provided them with a wider range of possible solutions/remedies and improved methods of solving these problems.

It was also mentioned by the participants that knowledge and skills gained improved their work efficiency and effectiveness.

(b) Effects of UNAFEI Courses on Criminal Justice Systems of Respective Countries

As it is, the participants noted that undoubtedly UNAFEI activities had a bearing on improvements and developments on the criminal justice administration of their respective criminal justice systems.

A noteworthy observation mentioned was the fact that, since former and current

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participants occupy key positions in their respective countries, they have and can contribute directly to the implementation of the most suitable criminal justice and crime prevention policies/programmes bearing in mind United Nations directions and guidelines.

Among the tangible results mentioned by the participants were the adoption of the Japanese volunteer probation system and other realistic/pragmatic measures not only for reintegration of offenders into the stream of society but also ensuring early trial dates for the offender.

3) Other Comments

Among the comments put forth by the participants was the possibility of increasing the number of participants and participating countries depending on such factors as the needs and significance of the training on particular countries.

Mentioned as well during the discussion was the possibility of incorporating behavioural science subjects in some courses. It was also suggested that the victims of crime together with their families should be considered in future courses.

It was also pointed out during the discussion that the UNAFEI Resource Material Series and Newsletter should be continuously sent to former participants so that they can be up-dated with recent activities of the Institute in particular and trends in criminal justice administration in general.

Finally, there was a general consensus amongst the participants that UNAFEI alumni members who are not only experts in their own fields but also hold important positions in the respective countries should be tapped as lecturers/visiting experts in future UNAFEI courses.

2. Suggestions for Further Improvements in UNAFEI Activities

Session II was devoted to the discussion on the suggestions for further improvements in UNAFEI activities. The session was chaired by Mr. Shaukat Mahmood Mian of Pakistan with Mr. Wing-lee Pi from Hong Kong as the rapporteur.

Members generally spoke very highly of the past achievements of UNAFEI, particularly its contributions in bringing about improvements and the continued development of the criminal justice system of the respective countries within the region.

Regarding its future, it was felt that UNAFEI should continue its established role as the regional training and research institute. With its acknowledged position, it should also function as the voice of the region within the United Nations family, and, at the Congress, to the world community at large.

On the subject matter of future courses, a number of specific suggestions were made. In the main, they include the following:

- (1) Treatment and rehabilitation of women offenders;
- (2) Economic crimes—prevention, investigation and prosecution;
- (3) Planning and research in crime prevention;
- (4) Police work—internationalization, co-operation with other countries.

The importance of having an integrated approach in the courses was also discussed. It was suggested that subject to overcoming financial and other constraints, UNAFEI should endeavour to allow more than one participant from one country for each course. This will facilitate the country/ies concerned to see their own problems in a better light.

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3. The Roles and Functions of a UNAFEI Alumni Association in the Respective Countries.

Session III was devoted to the discussion on the roles and functions of UNAFEI alumni associations in the respective countries. The session was chaired by Mr. Adi Andojo Soetjipto from Indonesia, with Mr. Francis Mathew Gesa from Papua New Guinea serving as the rapporteur.

The first point for discussion was the recent activities of UNAFEI alumni associations in the respective countries. It was reported that the countries which have alumni associations are: Hong Kong, India, Indonesia, Korea, the Philippines, Singapore, Sri Lanka, Thailand and Japan. On the other hand, associations have not yet been established in Fiji, Iraq, Malaysia, Nepal, Pakistan and Papua New Guinea. Some of the participants expressed concern about obstacles in reaching former UNAFEI participants because of geographical location and financial problems. Moreover, the fact that most of the associations do not have their own office was identified as one of the obstacles. It was emphasized, however, that the establishment of clear aims and objectives for the associations is more important than finance and offices for the further development of the associations.

The second point discussed by the participants was the roles and functions which UNAFEI alumni associations should undertake. The following roles and functions were pointed out:

- (1) to serve as a forum for the exchange of views, knowledge and experiences between UNAFEI and countries in this region;
- (2) to provide UNAFEI and governments in this region with professional advice and knowledge;
- (3) to serve as a problem-solving centre for its members; and
- (4) to serve as an information centre for expected participants who will attend training/seminars at UNAFEI or any other training institute in Japan.

Finally, it was unanimously agreed that all of the participants in this Seminar should make their best efforts for further development of the UNAFEI alumni associations despite various obstacles including lack of sufficient finance and offices.

For this Seminar, UNAFEI invited ten visiting experts from overseas countries, who were Mr. Thomas G. Garner, Consultant of Criminal Justice (Correctional) Administration, former Commissioner of Correctional Services, Hong Kong; Mr. "Cy" Shain, Research Director Emeritus, Judicial Council of California, U.S.A.; Mr. Matti Joutsen, Acting Director, HEUNI, Finland; Dr. Pedro R. David, Interregional Advisor, Crime Prevention and Criminal Justice Branch, United Nations, Vienna International Centre, Austria; Mr. David Biles, Deputy Director, Australian Institute of Criminology, Australia; Mr. Quek Shi Lei, Director, Prison Headquarters, Singapore; Dr. Mohsen Abd Elhamid Ahmed, Senior Consultant and General Supervisor of Research, Arab Security Studies and Training Center, Saudi Arabia; Mr. Hisashi Hasegawa, Regional Advisor for Crime Prevention and Criminal Justice, ESCAP; Mr. Stuart Blair McEwen, Assistant Commissioner of Police, National Headquarters, Wellington, New Zealand; Mrs. Zhang Yanling, Deputy Director, Foreign Affairs Department, Ministry of Justice, People's Republic of China.

During the Seminar six visiting experts delivered a series of lectures or guided discussions on the topics related to the main theme. Five *Ad Hoc* lecturers and the Director, Deputy Director, Chief of the Training Division and other faculty members of UNAFEI played major roles in the Seminar activities. Appendix IV-3 shows the list of these lec-

turers and their lecture topics, and a list of reference materials distributed to the participants is found in Appendix IV-4.

In commemoration of UNAFEI's 25th Anniversary, a series of slide and video presentations were made by Mr. Thomas G. Garner, Mr. "Cy" Shain and Mrs. Zhang Yanling reflecting events in the rich history of UNAFEI's first twenty-five years.

The participants visited 9 criminal justice-related agencies and other places to observe operations and to discuss practical problems with officials and staff members: Supreme Court, Tokyo District Court, Tokyo Family Court, Kanto Regional Parole Board, Tokyo Probation Office, Kawagoe Juvenile Prison, Tokyo Metropolitan Police Department, Tokyo District Public Prosecutors Office and Toshiba Corporation (Ohme Works).

4. The 77th International Training Course (5 October-5 December)
—Crime Related to Insurance

The nature of crime in every country is becoming more complicated and sophisticated as these societies change and develop. This is especially true of economic crime. It is remarkable how economic crime has been able to keep pace with economic advancement. However, it is clearly recognized that economic crime is one of the significant factors which impedes social and economic development.

Given the complexity of modern society, the insurance system has become indispensable for the steady development and progress of civil life and business activities; as such, various types of insurance programmes are available to protect the investment or cover the losses related to the risks involved in business ventures and the potential occurrence of accidents or costly damages.

However, the necessity, complexity and transnational aspects of the insurance system make it a prime target for insurance fraud in which small premium payments and false claims can yield enormous monetary settlements. The evidence indicates that crime related to insurance is a new type of economic crime which is rapidly increasing and consequently the insurance industry is becoming a hot-bed of such crime. A crime related to insurance comprises the significant characteristics of a typical economic crime; these include premeditation, sophisticated financial methods, concealment of evidence, difficulty of compiling evidence and potential transnational effects.

This difficult problem is further compounded by the fact that the victims of such crimes, the actual insurers, consider such crimes to be a small percent of the voluminous cases which they must process annually. Too often the insurers can cover their losses from such crimes through reinsurance or raising premium rates. They are thus not so keen to examine suspected cases, and to uncover and prevent such economic crimes.

Therefore it is rather difficult to prevent and control an economic crime related to insurance under the present situation. However, it would be incorrect to regard this as a "victimless" crime in which no one is harmed; on the contrary a great deal of harm is done. We must realize that the actual victim of this crime is society itself: specifically this includes the insurance users who will have to absorb the losses to insurance companies from this crime in the form of increased premium rates; insurance companies themselves who may refrain from developing new types of insurance programmes for their clients out of a fear of potential criminal abuse which again will have a negative impact on clients; maritime traders and insurers who, in light of the frequent occurrence of maritime fraud cases with concomitant financial losses to insurance companies, may restrain the advancement of maritime transport and free trade.

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As regards prevention and control of economic crime related to insurance which is one of the most ultra-modern types of crimes as has been outlined above, it is quite important and necessary to consider new investigative techniques such as the establishment of intelligence exchange systems between investigative organizations and insurance companies, and international organizations and insurance companies, and international assistance programmes among the countries concerned with investigating international fraud organizations.

In addition, it may be said that further countermeasures should be developed and implemented such as international or multinational agreements for jurisdiction of transnational criminal cases or international judicial assistance and establishment of a system for effective investigation, prosecution and trial against complicated criminal cases.

To sum it up, the issue of crime related to insurance has come to the situation where an integrated approach of all fields from investigation, prosecution and preventive administration to administrative policies concerning insurance and trade is crucially needed.

Therefore, it is an urgent and necessary task for experts in criminal justice administration in many countries who are confronting these problems to deepen their knowledge about this new type of sophisticated crime and to discuss the pursuance of the integrated countermeasures of the respective countries to combat this crime. The experts also must make earnest and determined efforts to enhance the establishment and reinforcement of a system of international assistance for the prevention and control of economic crime related to insurance.

The aim of this Training Course had been to provide participants with an opportunity to study and discuss various contemporary problems concerning the crime related to insurance and its prevention and control. Emphasis was placed on the exploration of innovative approaches for the prevention and control of such crime.

A total of twenty-five participants attended the Course from fourteen countries: Bangladesh, China, Colombia, Fiji, Indonesia, Korea, Lesotho, Malaysia, Peru, the Philippines (two participants), Saudi Arabia, Sudan, Thailand (two participants) and Japan (ten participants). The participants were relatively senior judges, public prosecutors, police officials, prison officers, and so forth. A list of the participants is found in Appendix V-1 and the programme of the Course is shown in Table 4.

Among the various programmes of the Course, special emphasis was placed upon such activities as comparative study, group workshops and other programmes in which the participants actively and constructively engaged and which made full use of their knowledge and experience.

The comparative study was organized to discuss the sub-topics related to the main theme of the Course. It consisted of individual presentations followed by general discussions. Each participant was allotted one hour for the presentation of his country's paper; a general discussion then ensued in which the issues addressed in the presentation were examined in greater depth from diverse aspects and perspectives. A list of the participants' papers is found in Appendix V-2. The following are summaries of the discussions:

(a) The first session was chaired by Mr. Alfredo G. Pagulayan from the Philippines with Mr. Arshad bin Haji Mokhtar from Malaysia acting as rapporteur. This session was focused on an analysis of the present situation of the insurance industry as a whole.

Insurance is universally understood and is an important appendage to the regulation of a person's financial affairs, especially in business. Besides developed countries, insurance development in the Third World countries varies from country to country. Con-

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Table 4: Outline of the Programme (77th Course)
Total: 238 hours

	Hours
Self-Introduction and Orientation for the Course	2
Experts' Lectures	40
Faculty Lectures	14
<i>Ad Hoc</i> Lectures	22
Individual Presentations on the Main Theme of the Course	25
General Discussion and Report-Back Sessions on the Main Theme	12
Group Workshops	18
Report-Back Sessions for Group Workshops	8
Visits of Observation	26
Nikko Trip (Visit to Tochigi Prison for Women)	8
Kansai-Hiroshima Trip (Visit to Nara Juvenile Prison)	16
Field Recreation and Excursion	8
Presentation of Video	1
Evaluation and Individual Interviews	4
Closing Ceremony	2
Reference Reading and Miscellaneous	32

versely, the intensity of crimes committed in respect of insurance roughly follows the development pattern.

The characteristics of insurance crimes, especially their motives, are both qualitatively and quantitatively similar to other "white-collar" crimes. For getting benefit, many types of crimes, even murder, have been committed. Such crimes were well-planned and the perpetrators took pains in ensuring that their designs were camouflaged.

The whole spectrum of insurance crimes could not be adequately gauged because of the deficiency of statistical data and the low rate of detection due to the fact that most of such crimes are invisible. However, from reports received, most patterns of insurance crimes can be classified into six as follows:; murder, fraud, arson, robbery, theft and destruction of property. These are almost the same the world over, varying only in the frequency of the incidents.

Insurance fraud is multifarious. There are many cases not only committed by the insured or beneficiary in various ways but also committed by persons or entities concerned, such as insurance brokers.

Marine insurance, which has developed as maritime transportation has increased, has become a hot-bed of insurance crimes. Although features of marine insurance crimes have been clarified considerably through research, actually it is very difficult to investigate such crimes, the main reason of which is the multi-jurisdictional nature of maritime transportation and marine insurance.

Automobile insurance is also susceptible to crime. Human or physical damage is faked with forged documents, false accidents or padded loss. Among this insurance, owner damage claims, third party property damage claims and third party personal injury claims are frequently utilized for insurance crimes.

Although assistance from insurance companies is necessary for effective investigation,

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they are reluctant to notify the investigative authorities. The main reason is that such effort is regarded as vain since it has not contributed to the companies. However, it seems true that a lack of understanding on the part of the investigating personnel in respect of insurance and lack of communication of the two entities have caused such an attitude of insurance companies.

Present investigative bodies are not sufficient to combat crime related to insurance because they are ill-equipped. Investigative organization in charge of economic crimes including insurance crimes should be established, where many professionals such as lawyers and accountants are housed, while insurance companies should develop strategies for foiling criminals who file fraudulent claims.

A factor which often thwarts efforts to throw the dragnet on international fraudsters is the inadequacy of legislations. For instance, some countries have laws which tend to inhibit the extradition of wanted persons to a requesting country and some others have laws which provide havens for these international criminals. Law systems providing control and prevention of insurance crimes should be established in respective countries regarding matters of both substance and procedure. Therefore, if need be, even radical changes should be undertaken.

It is acknowledged that the capacity or capability of a country to combat crimes is determined by its resources. However, the least that can be done towards this goal is the adoption of the "universality principle" in its domestic system.

(b) The second session was chaired by Mr. M. Enamul Huq from Bangladesh while Mr. Sirisak Tiyapan from Thailand acted as rapporteur. The main objectives of this sessions were 1) to develop various measures for more effective and efficient control of crime, 2) to explore innovative approaches to the prevention of crime and 3) to formulate overall preventive measures for crime related to insurance. After general remarks outlining the present-day situation and gravity of the problem, the chairman exhorted all the fellow participants, members of the staff, advisor, visiting expert and the guest speakers to contribute their mite through active sincere participation and meaningful discussion. Consensus was to evolve countermeasures under three sub-heads, e.g., non-criminal, criminal, and international assistance and co-operation.

Elements of insurable interest, limitation of claim and beneficiary, standardisation of quality education for insurance agent/broker, adoption of uniform policy particularly in maritime insurance, promotion of a working relation between the insurance community and governmental authority, introduction of a "black-list" system, improvement of professional acumen of all concerned were highlighted under non-criminal countermeasures.

Variations in criminal procedures of different countries were taken into consideration, particularly legal points which need be revised in such a way that it becomes acceptable—if not to all—at least to most of the countries concerning insurance transactions; question of differential treatment of the mastermind and abettor both in prosecution and sentence, parole and probation, forfeiture and special investigative unit, for better detection, prosecution and trial; acquisition of new technical aids and equipment ensuring desirable attainment of results were some of the important criminal countermeasures.

In the international sphere attempts need to be made to bring measures of uniformity and rationalization of common law because creative approach of law seems more imperative now than before. More attention towards developing countries particularly in their need of equipment and technical aids, signing extradition treaties, exchange of information and ideas, frequent seminars and co-operation meetings fostering harmonisation

to minimise difficulty arising out of conflict, sovereignty vis-à-vis jurisdiction, setting up of regional training seminars, further activation of international institutions and contemplation of more similar agencies to meet the existing deficiencies and inadequacies were recommended to be urgently required steps for international assistance and co-operation.

"Our sense of belonging to one world has never been keener than at present" and "we are so fond of one another because our ailments are the same" were quoted by the chairman who appealed to everyone for further active contribution with global perspective to the peace and prosperity of mankind through deeper understanding of international community to smoothly pass through "a stormy today" to "a better tomorrow."

Group workshops were conducted to give the participants an opportunity to discuss issues and problems which face them in their daily work. The participants were divided into four groups according to the similarity of topics they selected. All groups elected chairmen and rapporteurs. The results of each workshop were subsequently reported at a plenary session by the rapporteur and further discussion by all the participants followed. The topics discussed in each group were as follows:

Group I: Mr. M. Enamul Huq (Bangladesh), Mr. Yang Yuguan (China), Mr. Francisco Arca Patino (chairman, Peru), Mr. Nicasio M. Tortona (rapporteur, Philippines), Mr. Kazuo Inaba (Japan) and Mr. Kenji Ooyama (Japan).

a) Investigative and Legal Aspect Regarding Crimes Aimed at Defrauding the Insurance System and Their Consequences

The group discussed various issues relating to the investigative as well as the legal aspects with regard to the crimes aimed at defrauding the insurance system. The participants submitted actual cases concerning the subject matters, based upon which the discussions were developed. Eventually, the group summed up some of the possible countermeasures and remedies against defrauding, which should be carried out on the parts of the State (law-makers), the law enforcement agency, the insurers and the general public.

Group II: Mr. Jairo Mejia (Colombia), Mr. Iliesa Malualagi Suguturaga (rapporteur, Fiji), Mr. Arshad bin Haji Mokhtar (Malaysia), Mr. Ibrahim Ahmed Elhaj (Sudan), Mr. Shuichi Furuta (Japan), Mr. Masayuki Kawaai (chairman, Japan), Ms. Toshiko Suganuma (Japan).

b) Establishment of Co-operation between Insurance Companies and Law Enforcement Entities by Resolving Problems such as Neglect of Informing and Minimum Offer of Intelligence to Law Enforcement Entities by Insurance Companies and the Ineffectiveness of Law Enforcement Entities

The group analysed present problems of insurance companies and law enforcement entities which have hindered effective control and prevention of crime related to insurance. Then it examined proposals for resolving the problems including methods of improvement of relations between insurance companies and law enforcement entities.

Group III: Mr. Seo, Yeong-Je (Korea), Mr. Tankiso Philip Metsing (rapporteur, Lesotho), Mr. Alfredo G. Pagulayan (chairman, Philippines), Mr. Sirisak Tiyanpan (Thailand), Mr. Takayuki Aonuma (Japan), Mr. Masaharu Yamashita (Japan).

c) Difficulty of Criminal Investigation against an Insurance Case Including Transnational Problems because of the Differences of Criminal Justice Systems among Respective Countries, and International Assistance of Investigation as the Countermeasure

The group examined problems relating to criminal investigation against an

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insurance case including transnational problems. Six specific cases were presented by the participants. Thereafter, difficulties, problems and countermeasures of each specific case were discussed.

Group IV: Mr. Libersin Saragih Allagan (Indonesia), Mr. Fahad Abdulaziz Al-Medeimigh (Saudi Arabia), Miss Patana Puapatanakul (rapporteur, Thailand), Mr. Yoichi Hirokawa (Japan), Mr. Masatomo Maeda (Japan), Mr. Tetsushi Yukawa (chairman, Japan).

d) The Characteristics of Offenders of Crime Related to Insurance and the Effective Measures for Their Treatment

The group identified the characteristics of offenders of crime related to insurance, and discussed the appropriate sentencing and effective institutional and non-institutional treatment measures for them. The participants and UNAFEI staff were greatly assisted by three distinguished visiting experts: Sir Thomas C. Hetherington, former Director of Public Prosecutions, United Kingdom; Mr. Panat Tasneeyanond, Dean, Faculty of Law, Thammasat University, Thailand; Mr. Timothy D. Crowe, Director, National Crime Prevention Institute, School of Justice Administration, College of Urban and Public Affairs, University of Louisville, United States. They delivered a series of lectures and guided discussions on the issues related to the main theme. Ten *ad hoc* lecturers and the Director, Deputy Director, Chief of Training Division and other faculty members of UNAFEI also gave lectures on relevant topics. Appendix V-3 shows the list of these lecturers and their lecture topics, and a list of reference materials distributed to the participants is found in Appendix V-4.

The participants visited fifteen criminal justice and related agencies and institutions with the entire group and three in small groups, to observe their operation and to discuss practical problems with their officials or staff members: Maritime Safety Agency, Shochiku Ohfunu Film Studio, Kobe Customs House, Ministry of Justice, Supreme Court, Tokyo Metropolitan Police Department, Tochigi Prison, Tama Juvenile Training School, Sunshine City, Kanto Regional Parole Board, Tokyo Probation Office, Fuchu Prison, Tokyo District Court, Tokyo District Public Prosecutors Office and Marunouchi Police Station.

Overseas Joint Seminar

UNAFEI has conducted overseas joint seminars with host governments in Asia in response to a request, which had been frequently expressed in various international conferences as well as by an increasing number of former participants, to provide more training opportunities to social defence personnel in the countries of the region. In 1987, an overseas joint seminar was held in one country.

Joint Seminar in the Democratic Socialist Republic of Sri Lanka

The Sri Lanka-UNAFEI Second Joint Seminar on the Prevention of Crime and the Treatment of Offenders was held in Sri Lanka from 7th to 19th December 1987. The Joint Seminar was planned and organized jointly by the Department of Prisons of the Ministry of Justice of Sri Lanka and UNAFEI.

The UNAFEI delegation was composed of: Mr. Hideo Utsuro, Director; Mr. Kunihiro Horiuchi, Deputy Director; Mr. Yasuro Tanaka, Chief of the Training Division, Messrs. Yasuo Shionoya and Fumio Saito, Professors; and Mr. Kiyokazu Kitajima, Ad-

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ministrative Officer. Also, Mr. Hisashi Hasegawa, Regional Advisor for Crime Prevention and Criminal Justice, ESCAP, United Nations, participated in the Seminar.

This project had two phases. The first week of the operation (7th to 12th December) was spent on observation tours by the UNAFEI delegation to various criminal justice agencies in Sri Lanka (e.g., police office, court, prison, remand prison, other correctional institutions, probation office and other related agencies), which enabled them to have a basic understanding of the existing conditions of criminal justice administration as well as to conduct on-the-spot consultations with practitioners.

The second week (14th to 18th December) was fully devoted to the Seminar conference. The last day of the Seminar was utilized for the adoption of the final recommendations.

In order to facilitate the smooth and productive operation of the Seminar, several sessions of the Steering Committee and the Law Compilation Committee were also concurrently held.

As for the Seminar programme, the Joint Seminar was officially opened at the Bandaranaike Memorial International Conference Hall (B.M.I.C.H.) at 9:30 a.m. on 14th December with approximately 300 participants. Following the lighting of the traditional oil lamp and the national anthems of Sri Lanka and Japan, the Welcome Address was delivered by Mr. C.T. Jansz, the Commissioner of Prisons. The Opening Address was given by Mr. Hideo Utsuro, the Director of UNAFEI. Two Congratulatory Addresses were delivered respectively by His Excellency Mr. Yasuya Hamamoto, the Ambassador of Japan to Sri Lanka, and Mr. K.M.M.B. Kulatunge, Acting Attorney-General. Also, Mr. Jiro Hashiguchi, Director Resident Representative of JICA Office in Colombo, made an Opening Speech. Finally, the Keynote Address was delivered by the Honourable Dr. Nissanka P. Wijeyeratne, Minister of Justice of Sri Lanka. At the end of the Opening Ceremony, a brief Address of Thanks was given by Mr. H.G. Dharmadasa, Deputy Commissioner of Prisons.

On the occasion of the Opening Ceremony, the following officers of the Joint Seminar were unanimously elected.

Chairman:	Mr. Hideo Utsuro, Director of UNAFEI
Co-chairman:	Mr. C.T. Jansz, Commissioner of Prisons
Rapporteur General:	Mr. P.H.M. Ratnayake, Superintendent of Prisons
Editor of the Final Report:	Mr. H.G. Dharmadasa, Deputy Commissioner of Prisons
Co-ordinators:	Mr. H.G. Dharmadasa Ms. L.S. Perera, Assistant Secretary of Ministry of Justice Mr. Fumio Saito, Professor of UNAFEI

Following the Opening Ceremony, a total of seven sessions were held from 14th to 18th December in a conference room of B.M.I.C.H. The number of official participants from Sri Lanka was 57; in addition, approximately 20 officers took part in the sessions as observers. In each session, two papers were presented respectively, one from Sri Lanka side and the other from UNAFEI side; discussions from various angles were then developed. Exchange of opinions and experiences between Sri Lankan experts and UNAFEI staff and among Sri Lankan experts from various sectors in the criminal justice mechanism made these sessions very stimulating as well as informative and fruitful. The outline of the sessions was as follows.

Session I: Investigation

Chairman:	Mr. Hideo Utsuro, Director of UNAFEI
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- Commentator: Mr. J.D.M. Ariyasinghe, Deputy Inspector General of Police
- Rapporteur: Mr. P.H.M. Ratnayake, Superintendent of Prisons
- Speaker I: Mr. Chandra Fernando, Senior Superintendent of Police, Director, Police Higher Training Institute
Title: "Crime Prevention Through Environmental Engineering"
- Speaker II: Mr. Yasuo Shionoya, Professor of UNAFEI
Title: "Crime Prevention and Control Strategies in Relation to Recent Trends in Crime — The Role of Police"
- Session II: Non-institutional Corrections*
- Chairman: Mr. Yasuro Tanaka, Professor, Chief of the Training Division of UNAFEI
- Commentator: Mr. C.P.C. Fernando, Addl. District Judge
- Rapporteur: Mr. A.A. Batholomeusz, Superintendent of Prisons
- Speaker I: Mr. D. Ranasinghe, Commissioner of Probation and Child Care Services
Title: "The Role of the Probation Service in Sri Lanka"
- Speaker II: Mr. Fumio Saito, Professor of UNAFEI
Title: "Advancement of Non-institutional Corrections"
- Session III: Institutional Corrections*
- Chairman: Dr. A.R.B. Amerasinghe, Secretary, Ministry of Justice
- Commentator: Mr. Hideo Utsuro, Director of UNAFEI
- Rapporteur: Mr. P.H.M. Ratnayake, Superintendent of Prisons
- Speaker I: Mr. C.T. Jansz, Commissioner of Prisons, Sri Lanka
Title: "Sri Lankan Prisoners"
- Speaker II: Mr. Fumio Saito, Professor of UNAFEI
Title: "An Asian Perspective of Overcrowding in Prisons"
- Session IV: Prosecution*
- Chairman: Hon. G.P.S. De Silva, Judge of the Supreme Court
- Commentator: Mr. Hideo Utsuro, Director of UNAFEI
- Rapporteur: Mr. A.A. Batholomeusz, Superintendent of Prisons
- Speaker I: Mr. Kunihiro Horiuchi, Deputy Director of UNAFEI
Title: "Fair and Effective Implementation of Prosecution in Criminal Justice"
- Speaker II: Mr. P. Sunil C. De Silva, Addl. Solicitor General
Title: "The Role of the Public Prosecutor in Sri Lanka"
- Session V: Judiciary*
- Chairman: Mr. Kunihiro Horiuchi, Deputy Director of UNAFEI
- Commentator: Mr. J.F.A. Soza, Retired Judge of the Supreme Court
- Rapporteur: Mr. P. Jayasekera, Asst. Superintendent of Prisons
- Speaker I: Mr. S.P.K. Ekaratne, Sup. District Judge, Colombo
Title: "The Judicial Process in Sri Lanka"
- Speaker II: Mr. Yasuro Tanaka, Professor, Chief of the Training Division of UNAFEI
Title: "Towards a More Effective and Efficient System of Criminal Justice Administration in the Asian-Pacific"

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Perspective: Effective Measures for Fair and Speedy Trial”

Session VI: Overall Discussion

Chairman: Mr. P. Sunil C. De Silva, Adtl. Solicitor General
Rapporteur: Mr. P.H.M. Ratnayake, Superintendent of Prisons

Session VII: Finalization and Adoption of the Recommendations

Chairmen: Mr. Hideo Utsuro, Director of UNAFEI
Mr. C.T. Jansz, Commissioner of Prisons, Sri Lanka

Through these Sessions I to VI as mentioned above, some of the critical issues in the present practice of criminal justice administration in Sri Lanka were crystallized, and discussions were focused upon these critical issues. Among them were:

- 1) improvement of effectiveness of investigation and crime-preventive activities by the police,
- 2) appropriate use of discretionary power in prosecution,
- 3) effective measures for speedy trial,
- 4) comprehensive countermeasures against overcrowding in penal institutions, and
- 5) effective use of non-institutional treatment of offenders.

Finally, in the 7th session, the conclusions and recommendations, as mentioned later, were unanimously adopted by the participants.

The Closing Ceremony was held from 4:00 to 5:00 p.m. on 18th December in the Conference Room at B.M.I.C.H. On this occasion, two Closing Remarks were delivered respectively by Mr. Hideo Utsuro, Director of UNAFEI, and by Mr. C.T. Jansz, Commissioner of Prisons. They expressed their thanks to the participants for their enthusiastic support for and active participation in the Joint Seminar. Following this, the Honourable Dr. S. Ranarajah, Deputy Minister of Justice of Sri Lanka, made his Closing Address, in which he particularly mentioned the fruitful harvest of the Joint Seminar and expressed his determination that the fruitful result of the Seminar would be fully utilized for the further development of criminal justice administration of the nation in the future.

As mentioned earlier, the Law Compilation Committee was concurrently held during the Joint Seminar. The Committee, chaired by Mr. Kunihiro Horiuchi, Deputy Director of UNAFEI, was composed of Sri Lankan representatives from various sectors in the criminal justice system and the UNAFEI delegation.

The Law Compilation Committee, which comprehensively reflected the system-wide participation of all the concerned agencies in the criminal justice mechanism, performed an important task in launching the compilation of concise and practical introductions to and texts of significant elements of Sri Lankan criminal justice legislation, which included fundamental laws and regulations with regard to police activity, prosecution, court administration and judicial procedure, management of penal institutions and non-institutional treatment of offenders. Introductory notes attached to each chapter contained historical accounts of the development of existing legislation, the primary sources used as guides by legislative drafters, and the dates and reasons of revisions, if any. They also included definitions of basic legal terms in the criminal justice administration in Sri Lanka.

As briefly mentioned earlier, the UNAFEI delegation made observation tours to several criminal justice institutions in Sri Lanka, from 7th to 12th December, in advance of the Joint Seminar, so that they could have a better understanding of the existing conditions and actual practice of these institutions today in Sri Lanka. Among these institutions were: Supreme Court; Bullers Road High Court; Chief Magistrates' Court in

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Colombo; Police Station in Fort; Criminal Detective Bureau in Colombo; Probation and Child Care Office in Galle; Certified School in Hikkaduwa; Correctional Centre for Youthful Offenders, and Remand Prison in Negambo; and Bogambara Prison in Kandy.

Conclusions and Recommendations Adopted by the Sri Lanka-UNAFEI Second Joint Seminar

The Sri Lanka-UNAFEI Second Joint Seminar on the Prevention of Crime and the Treatment of Offenders, organized and conducted jointly by the Department of Prisons of Sri Lanka and UNAFEI under the auspices of the Government of Japan, which was held at the Bandaranaike Memorial International Conference Hall in Colombo from 14th to 18th December 1987, adopted unanimously the following recommendations, and called for their implementation to the fullest possible extent.

Recommendations

All the participants of the said Joint Seminar,

Expressing their gratitude to the Governments of Sri Lanka and Japan as well as to the Japan International Co-operation Agency (JICA) for their enthusiastic support and generous contributions,

Appreciating the thoughtful arrangements, active involvement and kind hospitality of the Department of Prisons and all other agencies concerned in Sri Lanka,

Requesting that domestic seminars of this nature, where all the agencies of the criminal justice system can meet together to exchange views and experiences, should be held on a regularized basis,

Requesting UNAFEI to carry out frequently overseas joint seminars of this nature in countries in the region for the benefit of the agencies in the criminal justice system as well as to further strengthen its capacity for training, research and information services in order to meet the ever increasing needs for technical co-operation in the field of criminal justice administration and giving due consideration to the rights of victims of crime,

- 1) Recommend that wide use of all mechanical crime prevention devices such as locking systems, audible alarms, camera and video equipment among others, should be considered in combatting crime.
- 2) Recommend that the integration of expertise of all agencies concerned with criminal justice should as far as permitted by law be sought at all stage of investigation, especially the initial stage.
- 3) Recommend that the investigating authorities should ensure closer consultation with the prosecuting authorities including where feasible the appointment of a legal officer for every judicial zone to advise the relevant authorities at every stage of investigation.
- 4) Recommend that prior to institution of prosecution, a careful consideration of the sufficiency of evidence and also the advisability of suspending the prosecution where permitted by law, should be strictly observed.
- 5) Recommend that fair and speedy criminal proceedings should be secured to protect the interest of suspects and the accused as well as the public.
- 6) Recommend that wider use of bail should be considered.
- 7) Recommend that efforts should be made by all criminal justice agencies to eliminate overcrowding in prisons.

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- 8) Recommend the wider use of non-custodial sentences so as to facilitate the reintegration of offenders in society. The imposition of a custodial sentence should be the last resort.
- 9) Recommend that environmental factors preventing crime should be included as a prerequisite in future urban and settlement projects.
- 10) Recommend that opportunities enabling contacts of officials at various levels among different criminal justice agencies should be further developed and enlarged in order to promote mutual co-operation.
- 11) Recommend that the public and voluntary organizations should be encouraged to play an active role in the treatment, rehabilitation and after-care of offenders.
- 12) Recommend that the importance of selective recruitment and training of personnel working for prevention of crime and treatment of offenders should be acknowledged.
- 13) Recommend that the importance of public co-operation in crime prevention and in the criminal justice administration should be acknowledged by all agencies concerned. An extensive survey should be undertaken to ascertain the reasons for negative public attitude and the appropriate remedial action.

Asia and the Pacific Region International Experts Meeting on Protection of Human Rights in Criminal Justice

On the occasion of the 74th International Seminar, in which many distinguished participants and visiting experts with eminent careers participated, UNAFEI convened the Asia and Pacific Region International Experts Meeting on Protection of Human Rights in Criminal Justice, on 17 February 1987, in the main conference hall of UNAFEI. The stated agenda topics for discussion were more effective measures to protect the human rights of offenders as well as victims, and methods of achieving a more humane treatment of both. Among participants were the following overseas experts: Professor B.J. George, Jr., Professor of Law, New York Law School; Mr. Nor Shahid bin Mohd. Nor, Director, Security and Regime Division, Malaysia Prison Department; Dr. Yolande Diallo, Principal Human Rights Officer, United Nations Centre for Human Rights; Mr. A.M.M. Nasrullah Khan, Deputy Inspector-General of Police, Criminal Investigation Department, Bangladesh; Ms. Chen Jing, Deputy Chief of Third Division, Public Order Department, Ministry of Public Security, China; Ms. Nazhat Shameem Khan, Senior Legal Officer, Office of the Director of Public Prosecutions, Fiji; Ms. Lu Chan Ching-Chuen, Senior Clinical Psychologist, Correctional Services Department, Hong Kong; Mr. Suresh Chandra Dwivedi, Chief Vigilance Officer, Indian Tourism Development Corporation, India; Mr. H. Abdul Halim Naim, SH, Head of the Prosecution Administration Sub-directorate, Attorney General's Office, Indonesia; Mr. Mohd. Sedek B. Hj. Mohd. Ali, Assistant Director, Criminal Investigation Department, Royal Malaysian Police, Malaysia; Mr. Jacob Rongap, Staff Officer, Operational Secretariat, Royal Papua New Guinea Constabulary, Papua New Guinea; Mr. Munasinghe Chandra Prema Mendis, Co-ordinating Officer of Puttlam District, Senior Superintendent of Police in charge of Chilaw Police Division, Sri Lanka; Mr. Wisai Plueksawan, Director, Central Hospital, Chief, Health and Medical Centre, Department of Corrections, Thailand; and Mr. Sirichai Swasdimongkol, Chief Judge, Phra Nakorn Si Ayutthaya Provincial Court, Ministry of Justice, Thailand. Local experts were as follows: Mr. Kuniji Shibahara, Professor of Law, Tokyo University; Mr. Tetsuya Fujimoto, Professor of Law, Chuo University; Mr. Mamoru Iguchi, Director of the General Affairs Division, Civil Liberties Bureau, Ministry of Justice; Mr. Hideo Utsuro, Director,

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UNAFEI; Mr. Kunihiro Horiuchi, Deputy Director, UNAFEI; Professor Yasuro Tanaka, Chief, Training Division, UNAFEI; Professor Yoshio Okada, Chief, Research Division, UNAFEI; Professor Yukio Nomura, Chief, Information and Library Service Division, UNAFEI; Messrs. Shu Sugita, Yasuo Shionoya, Masao Kakizawa, Koichi Watanabe, Professors, UNAFEI; Mr. Seishi Fujimoto, Director, First Examination Division, Kanto Regional Parole Board; Mr. Tateshi Higuchi, Assistant Director, Investigative Planning Division, Criminal Investigation Bureau, National Police Agency; Ms. Mioko Kuga, Professor, Training Institute for Correctional Officials, Ministry of Justice; Mr. Eiji Matsunaga, Principal Researcher, Second Research Division, Research and Training Institute, Ministry of Justice; Mr. Masafumi Sakurai, Public Prosecutor, Tokyo District Public Prosecutors Office; and Mr. Jyotoh Shimanouchi, Judge, Tokyo District Court. The following special participants also attended: Mr. Cesar Oswaldo Carrera Chinga, Immigration Chief, Guayas Province, Ecuadorean Police, Ecuador; Ms. Rosario Palma Villacorta, Professor, National Police Academy of Honduras, Honduras; Mr. Basil E. Grant, Regional Manager, Department of Correctional Services, Ministry of Justice, Jamaica; Mr. Filemon Kimutai Kirui, Acting Deputy Principal Probation Officer, Probation Department, Kenya; Mr. Stephen Olaiya Abeji, Controller of Prisons in charge of Lagos State Prisons Command, Nigerian Prisons Services, Nigeria; Mr. Guillermo Enrique Arauz Caicedo, Supervisor of Jail System, National Department of Investigations, Panama; Mr. Orlando Tafur del Aguila, Legal Advisor and Secretary to the War Tribunal, Supreme Court for Military Justice, Peru; Mr. Zaki Asad Rahimi, Jeddah Area Prisons Director, Ministry of Interior, Saudi Arabia; Mr. Mohamed Ahmed Hashim, Director of Police, El Gazira Province, Sudan; Mr. John Casmir Minja, Deputy Director, Legal Affairs and Rehabilitation, Prison Headquarters, Tanzania; and Ms. Arminda Oquendo Romero, Head of Division of Criminological Research, National Administration for Crime Prevention, Ministry of Justice, Venezuela.

The meeting participants elected Mr. H. Abdul Halim Naim, SH as chairman, Professor B.J. George, Jr. as rapporteur-general, and Ms. Lu Chan Ching-Chuen and Mr. Masafumi Sakurai as rapporteurs.

The meeting participants reviewed the current circumstances affecting the protection of human rights in criminal justice in the Asia and Pacific region and then explored more effective measures to promote the protection of human rights of offenders as well as victims of crime. The meeting was also designed to achieve the ambitious goal of providing the first institutional response from the Asia and Pacific region to the recently-adopted actions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Milan from 26 August to 6 September 1985.

The Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI Work Programmes and Directions

The Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI Work Programmes and Directions was convened during this Seminar on 4 September 1987 at UNAFEI. The Committee reviewed and assessed the functions and operations of UNAFEI and rendered various recommendations on the ways and means to further improve its activities so that UNAFEI can make more significant contributions to the region in the future.

Among the distinguished participants were overseas and domestic experts: Dr.

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Mohsen Abd Elhamid Ahmed, Director of the Research Division, Arab Security Studies and Training Center, Saudi Arabia; Mr. David Biles, Deputy Director, Australian Institute of Criminology, Australia; Dr. Pedro R. David, Interregional Advisor, Crime Prevention and Criminal Justice Branch, CSDHA, United Nations; Mr. Thomas G. Garner, former Commissioner of Correctional Services, Hong Kong; Mr. Akio Harada, Chief Secretary, UNAFEI Alumni Association in Japan and Director, General Affairs Division, Criminal Affairs Bureau, Ministry of Justice; Mr. Hisashi Hasegawa, Regional Advisor for Crime Prevention, Social Development Division, ESCAP, United Nations; Mr. Masaharu Hino, Assistant Deputy-Vice Minister of Justice, Ministry of Justice; Mr. Yō Ishiyama, Director, General Affairs Division, Supreme Public Prosecutors Office; Mr. Matti Joutsen, Acting Director, HEUNI, Finland; Mr. Keiji Kurita, Director-General, Rehabilitation Bureau, Ministry of Justice; Mr. Kōya Matsuo, Professor, Faculty of Law, Tokyo University; Mr. Kōichi Miyazawa, Professor, Faculty of Law, Keio University; Mr. Atsushi Nagashima, Justice of the Supreme Court; Mr. Quek Shi Lei, Director of Prisons, Singapore; Mr. "Cy" Shain, Research Director Emeritus, Judicial Council of California, U.S.A.; Mr. Minoru Shikita, Director-General, Correction Bureau, Ministry of Justice; Mr. Yoshiho Yasuhara, President, Japanese Correctional Association and Director, Asia Crime Prevention Foundation, participants of the 75th Seminar; Mr. Apolosi Vosanibola, Acting Deputy Commissioner of Prisons, Fiji; Mr. Wing-lee Pi, Senior Superintendent in charge of Shek Pik Maximum Security Prison, Correctional Service Department, Hong Kong; Mr. V. Apparao, Special Inspector General of Police, India; Mr. Adi Andojo Soetjipto, Deputy Chief Justice, Supreme Court, Indonesia; Mr. Al-Samarraie Ayad Bahjat Abdul Karim, Criminology Researcher, Institute of Crime Studies and Researches, Iraq; Mr. Lee, Tai Chang, Senior Public Prosecutor, Bugbu Branch Office, Seoul District Prosecution Office, Korea; Mr. Mustafa bin Ibrahim, Assistant Secretary, Ministry of Home Affairs, Malaysia; Mr. Baboo Ram Gurung, Deputy Superintendent of Police, Police Headquarters, Ministry of Home Affairs, Nepal; Mr. Shaukat Mahmood Mian, Inspector-General Prisons, Punjab, Lahore, Pakistan; Mr. Francis Mathew Gesa, Regional Correctional Commander of Northern Region, Papua New Guinea; Mrs. Celia Sanidad Leones, Assistant Commissioner, Crime Prevention and Co-ordinating Branch, National Police Commission, Philippines; Mr. Errol Carl Foenander, Senior District Judge, Singapore; Mr. Haupe Liyanage Piyasena, Senior Superintendent of Police, Nugegoda Division, Sri Lanka; Mr. Kanok Indrambarya, Chief Judge, attached to the Ministry of Justice, Thailand; Mr. Kenji Kiyonaga, Chief Researcher, Environment Division, Crime Prevention and Juvenile Department, National Research Institute of Police Science; Mr. Yukio Machida, Public Prosecutor, Tokyo District Public Prosecutors Office; Mr. Taro Nishioka, Director, Kanto-Shin'etsu Regional Narcotic Control Office, Ministry of Health and Welfare; Mr. Tetsuo Obata, Director, Fukui Probation Office; Mr. Satoshi Ohtsuka, Warden, Osaka Prison; Mr. Shogo Takahashi, Judge, Tokyo District Court.

The meeting elected Mr. Atsushi Nagashima as chairman and Mr. Thomas G. Garner as rapporteur. The meeting acknowledged UNAFEI's contribution to the region throughout its existence for twenty-five years, through conducting international training courses and seminars and in various other ways. Finally, the Meeting adopted the following recommendations.

Recommendations

The Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI Work

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Programmes and Directions held at UNAFEI, Fuchu, Tokyo, Japan, on 4 September 1987, recommended to UNAFEI:

1. That the present one international seminar course and two international training courses held each year should continue, supplemented by special courses or seminars, as the need arises.

2. That the duration of all seminars/courses be decided by the Director of UNAFEI, based on such factors as theme, course content and funding.

3. That the number of countries participating in each course be increased, as far as possible, taking into account the needs of the region, the increase in the number of applications, and the importance and significance of training.

4. That the feasibility of accepting more than one participant from a country be considered, taking into consideration the favourable response and usefulness of UNAFEI training courses and the need to train as many persons as possible.

5. The expansion of the programme involving overseas joint seminar courses, which are very valuable and have considerable impact in the countries in which they are held. Countries in the region which have as yet not organized overseas joint seminars should be given priority. This does not, however, exclude a country which has previously held a seminar from hosting a second or subsequent one. Second and subsequent seminars are meaningful and very useful as a follow-up to the previous one. For this purpose, UNAFEI should actively seek a way to expand its budget in order to accommodate all countries which apply.

6. That more frequent follow-up studies be carried out to determine the success of UNAFEI programmes and activities in relation to the management and administration of criminal justice in the countries in the region. To enable this to be done, the number of UNAFEI members in each delegation should be increased and the length of the follow-up study tour extended.

7. That, as the sole co-ordinating body in the region, further efforts be made to expand its research capacity and strengthen its available resources in order to carry out the following:

- 1) joint research projects in the region to be conducted in countries using UNAFEI and local experts and expertise;
- 2) joint studies with other institutes and agencies within the U.N. system;
- 3) research to be more closely involved with training programmes;
- 4) increase the number of research fellows accepted by UNAFEI from countries in the region;
- 5) establish a number of posts for staff specialized in research at UNAFEI.

8. That visiting experts be invited who have an understanding of the criminal justice systems of countries in the region and consideration be given to increasing the number of experts from the region.

9. That at agreed intervals a questionnaire be circulated to all countries which send participants calling for statistical data and relevant information on key indicators useful to the region.

10. Countries in the region be requested to make available research assistants for secondment to UNAFEI.

11. That due to the recent expansion of UNAFEI activities, special short-term seminars attended by UNAFEI alumni members be held at 3- to 5-year intervals for the purpose of evaluating UNAFEI activities.

**Workshop on Implementation Modalities for the Twenty-Three Recommendations
Adopted by the International Seminar on Drug Problems
in Asia and the Pacific Region**

At the 76th International Seminar held at UNAFEI, Tokyo from 31 August to 19 September 1987, participants examined ways and means of implementing the 23 recommendations arising from the 1986 International Seminar on Drug Problems in Asia and the Pacific Region.

Participants, in re-affirming their concern for the loss of human life, social dignity and threat to the well-being of their nations, noted the difficulties associated with balancing the need for extensive legislative powers against the need to preserve the civil liberties of the individual.

Notwithstanding the resource implications implicit in the adoption of some of the recommendations, participants urged all countries to closely examine and implement, where possible, all or as many as possible, of the strategies set out in order to achieve implementation of the 23 recommendations.

On 8 September 1987, participants of the 76th International Seminar were addressed by Assistant Commissioner Stuart McEwen with an overview of the drug situation in New Zealand and the South Pacific region as well as with a brief presentation on the International Drug Seminar held in Tokyo, Hong Kong, Thailand and Malaysia in August 1986.

Following the presentation, the Seminar participants were divided into three groups. The 23 recommendations arising from the 1986 International Seminar (Kuala Lumpur Appeal) were apportioned and the three groups were charged with providing strategies for implementation.

The Seminar participants later returned to the plenary session and presented their strategies. On the basis of the above-mentioned discussions, the following resolutions were drafted.

**“Kuala Lumpur Appeal” Recommendation 1-23 and the Strategies
for Their Implementation**

Recommendation 1

“That the most common factors leading to drug abuse were the fragmentation of the family unit, the ready availability of drugs, unemployment, the breakdown in traditional customs, the youth sub-culture, the lack of faith in the future, peer pressure, experimentation, the ease of travel and boredom. A typical abuser profile was that of a young male, 15-25 years of age, unemployed, unskilled and living in a large urban area. Wide publicity and educational programmes were needed to highlight these matters with special emphasis on the young.”

Resolution

- 1) Provision of educational awareness programmes.
- 2) Emphasise negative aspects of drug abuse.
- 3) Provision of alternative activities, e.g., sporting pursuits, academic achievement, work skills.
- 4) Promote “family” drug education.
- 5) Provide direction for sub-cultures.
- 6) Promote opportunities for increasing work skills and obtaining employment.

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- 7) Discourage attitudes reflecting boredom and inability to set worthwhile goals.
- 8) Concentrate education and other programmes toward "at risk" groups.

Recommendation 2

"That the highest priority in law enforcement efforts be directed toward large-scale illicit trafficking, manufacture and production of drugs."

Resolution

- 1) Sharing of drug intelligence and data amongst enforcement agencies.
- 2) Establish central organization for formulating and reviewing drug abuse.
- 3) Appointment of liaison positions in source areas and transit countries.
- 4) International forum for co-operation.
- 5) Monitor travel/movements of couriers/traffickers by passenger checks.
- 6) Interrogation of travel computers.
- 7) Implement effective legislation for:
 - (a) improving detection (electronic surveillance),
 - (b) searching individuals (internal),
 - (c) preventing travel (convicted/suspected persons),
 - (d) restricting passport/visa issue,
 - (e) licensing production of precursors,
 - (f) seizure of assets and forfeiture,
 - (g) authorise controlled deliveries.

Recommendation 3

"That a central co-ordinating committee for formulating and reviewing policies for all aspects of drug abuse control be established in countries where one does not exist."

Resolution

- 1) Uniformity of:
 - (a) education programmes,
 - (b) sentencing,
 - (c) legislation,
 - (d) travel agreements and controls,
 - (e) passport/visa entry.
- 2) Establish at the highest possible level.
- 3) Co-ordinate systems for collection and evaluation of data.
- 4) Effective communication of policy.
- 5) Greater co-ordination of each country's internal law enforcement agencies.

Recommendation 4

"That the use of sophisticated methods such as electronic surveillance and telephone interception with the necessary judicial approval be used as a tool against illicit traffickers in and producers of drugs."

Resolution

Notwithstanding financial and resource constraints:

- 1) Implement appropriate legislation.
- 2) Establish effective training programmes in order to:
 - (a) enhance enforcement capability,

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- (b) provide high-quality evidence,
- (c) incriminate organisers/financiers.

Recommendation 5

"That access to banking and other financial records of suspected illicit traffickers in and producers of drugs be made possible, where necessary, by way of judicial warrant."

Resolution

Notwithstanding possible legal/financial constraints, implement appropriate legislation in order to:

- (a) identify assets,
- (b) identify associates/business connections,
- (c) access records,
- (d) support observations,
- (e) negate possible defences,
- (f) show systematic course of conduct,
- (g) provide grounds for seizure/forfeiture,
- (h) prevent disposal of incriminating evidence.

Recommendation 6

"That controlled deliveries of illicit drugs or portions thereof be permitted in appropriate cases nationally and internationally, and that legislative or administrative arrangements be made to provide for the use of this technique."

Resolution

Those countries which do not already have official/governmental approval to allow for controlled deliveries should as a matter of urgency now seek such approval in order to:

- (a) increase likelihood of identifying/arresting other syndicate members,
- (b) observe importation chain and method of operation.

Recommendation 7

"That where there is a significant backlog of drug-related cases and this is undermining the effectiveness of the criminal justice system, then appropriate action be taken by expanding the judicial system, establishing special courts on a temporary basis or by reviewing the criminal justice system and its administration."

Resolution

A whole range of initiatives should be considered in order to alleviate the pressure placed on the courts both in the short- and long-term, e.g.:

- (a) automatic admission of certain evidence,
- (b) limiting the right of trial by jury,
- (c) encouraging multiple/joint trials,
- (d) restrict right of severance,
- (e) more presumption on accused,
- (f) limit freedom of accused while awaiting trial,
- (g) greater incentive for guilty plea,
- (h) use of signed depositions from witnesses,
- (i) appointment of more judges,
- (j) establishment of more courts,
- (k) vary court sitting hours,

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- (l) convening of special courts.

Recommendation 8

"That judicial officers at all levels be encouraged to participate in seminars organised by central co-ordinating bodies and drug specialists in order to ensure that they are kept informed of developments in drug abuse practices and illicit trafficking trends, so as to achieve harmonisation of sentences."

Resolution

In acknowledging and reinforcing the traditional independence of the judiciary, a perceived need exists for:

- (a) attendance at national seminars on sentencing policies and harmonisation of sentences,
- (b) attendance at international seminars on drug abuse and control measures.

Recommendation 9

"That consideration should be given to severe punishment for public officials convicted of drug-related charges."

Resolution

In acknowledging the difficulty of introducing legislation directed solely at public officials, sentencing policies should take into account:

- (a) abuse of position of trust,
- (b) prevention of spread of corruption,
- (c) compromising of agency's effectiveness,
- (d) need for public to be served by good "role model."

Recommendation 10

"That effective controls should, where necessary or practical, be established in order to monitor the production, importation and sale of precursor chemicals used in the manufacture of narcotic drugs."

Resolution

That the United Nations draw up and circulate to all countries a comprehensive list of all precursors known to be used in the manufacture of illicit drugs. Member countries are then urged to:

- (a) regulate importation and sale,
- (b) license supply outlets,
- (c) monitor trends in usage of specific chemicals, and
- (d) consider substitute chemicals.

Recommendation 11

"That provision be made for adequate training and education for personnel involved in the treatment and rehabilitation of drug dependants."

Resolution

That each country should establish one central agency to co-ordinate treatment and rehabilitative goals *after* determining:

- (a) agencies which should be involved,
- (b) the form which training is to take,
- (c) education programmes to be developed,
- (d) voluntary treatment or compulsory treatment,

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- (e) financial support.

Recommendation 12

"That greater efforts be made to identify the dimensions of the drug problem by the establishment of central drug data bases."

Resolution

In those countries where no central recording agency exists one should be established for the mandatory reporting of statistics to determine:

- (a) the extent of the problem,
- (b) cost to enforcement, justice, education, health and welfare system,
- (c) social cost in terms of loss of employment/production,
- (d) level of drug addiction and cost to society, so that effective countermeasures can be implemented.

Recommendation 13

"That a need exists for treatment and rehabilitation services to be available for drug-addicted prisoners serving sentences. Ideally, separate facilities should be provided for different categories of offenders."

Resolution

- 1) Enhancement of classification system and separate institutions for addicts.
- 2) More flexible transfer of identified inmates to separate facilities for male, female and young inmates.

Recommendation 14

"That drug treatment and rehabilitation facilities should be provided by governments and voluntary agencies. Funding should be provided not only by the government but also by the business community in order to encourage the active participation of the voluntary agencies."

Resolution

- 1) All programmes should be co-ordinated.
- 2) Funding should be provided by the government/business/community.
- 3) Promotion by the business community to be encouraged on the basis of increased production, healthy work environment and less work-related accidents.

Recommendation 15

"That endeavours be made to improve research into the effectiveness of drug treatment programmes and that detailed research be carried out into the psychological and sociological causes of illicit drug-taking. Significant findings should be forwarded to UNAFEI."

Resolution

- 1) Countries are encouraged to generate scientific studies to identify conditions and factors which may influence individuals and their environment toward drug abuse.
- 2) Determine most successful and cost-effective treatment programmes which are most acceptable to the country.
- 3) Encourage psychological research into causes of drug abuse.

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Recommendation 16

"That drug dependants leaving institutional treatment be provided with appropriate professional after-care supervision."

Resolution

In an endeavour to prevent a relapse by the drug addict provision should be made for:

- (a) adequate numbers of after-care officers,
- (b) psychological services,
- (c) assistance in gaining employment,
- (d) community resources to assist integration,
- (e) network of referral systems,
- (f) drug addiction to be promoted as a chronic recurring disorder which responds to treatment.

Recommendation 17

"That a need exists to harmonise penalties for drug offences. Such harmonisation may be achieved, *inter alia*, through international seminars of legislators and Chief Justices."

Resolution

- 1) Promotion of greater international understanding.
- 2) National and international seminars with legislators, government officials and court officers.

Recommendation 18

"That greater efforts be made by developed countries to increase technical and financial assistance in order to improve community facilities and also consultancy services in the field of preventive education, treatment and rehabilitation."

Resolution

- 1) Determine the principal need of the country and co-ordinate international support to achieve that objective.
- 2) Integrate programmes to provide continuous level of support.
- 3) Ensure on-going financial commitment.

Recommendation 19

"That interdisciplinary training and seminars be organized in the region, with respect to all aspects of drug abuse control and that training facilities be opened on a government-to-government basis."

Resolution

- 1) That law enforcement agencies or governments agree to provide inter-regional training facilities to pursue objectives.
- 2) Standardise operational training and treatment methods.
- 3) Useful platforms for the exchange of information and ideas.

Recommendation 20

"That details of training programmes and developments in drug abuse control should be forwarded annually to UNAFEI for publication."

Resolution

That the chief enforcement agency in each country be responsible for this task

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and to:

- (a) consider all training programmes on a regional basis,
- (b) report and up-date drug abuse control developments.

Recommendation 21

"That in view of negotiations proceeding for the repatriation of prisoners in many countries, this facility be extended to include persons released on probation so that they can serve their probation period in their own country."

Resolution

Notwithstanding difficulties of enforcement in the "home" country:

- (a) bilateral agreements should be negotiated at government level,
- (b) legislation should be enacted.

Recommendation 22

"That countries which are affected by the illicit production of drugs are to be encouraged to provide increased assistance for crop substitution programmes in the growing areas."

Resolution

While applauding the efforts of some countries' contributions toward crop substitution programmes, developed countries are encouraged in consultation with source countries to provide resources or greater resources.

Recommendation 23

"That all countries are strongly urged to become parties to the existing conventions on narcotic drugs and psychotropic substances."

Resolution

Each country in Asia and the Pacific region which is not a signatory should be reminded and encouraged, where applicable, to become a signatory in order to:

- (a) increase universal membership,
- (b) provide a forum for international co-operation and communication,
- (c) provide universal agreement on scheduling of substances,
- (d) tighten drug abuse controls.

Other Activities and Events

1. Research Activities

A main research activity carried out by the Research Unit of UNAFEI in 1987 was to carry out the Research Project on Development and Crime Prevention. This Research Project was designed to analyse the crime situation in relation to socio-economic development, and to address the question of what types of improved crime prevention measures are necessary against the serious crime situation resulting from such development. The objective of the research was concentrated upon the empirical situation in four major countries in the region, i.e., Indonesia, Korea, the Philippines and Thailand, because each country had valuable and successful experiences of crime prevention strategy against the crime situation resulting from socio-economic development.

Field research work for the Research Project was conducted in each country. The

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field research work was focused on five main issues, namely, (a) situation and issues of development, (b) relationship between development and crime, (c) development and crime prevention measures, (d) traditional informal institutions and crime prevention function, (e) related crime prevention measures in criminal justice system. The data was evaluated together with position papers written by a local expert selected in each country, and will be reported as one of the most important contributions from UNAFEI to the agenda of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

UNAFEI is in the process of developing the Survey Project on the Criminal Justice Administration in Asia to review the criminal justice profile of ten major countries in Asia, namely, China, India, Indonesia, Korea, Malaysia, the Philippines, Singapore, Sri Lanka, Hong Kong and Thailand. UNAFEI has been functioning as the sole United Nations institute in the field of crime prevention and the treatment of offenders in Asia and the Pacific region. UNAFEI has contributed as an information centre in the field of crime prevention and the treatment of offenders. Therefore, UNAFEI needs the most precise and up-dated information on the criminal justice administration in major countries in the region. A questionnaire on the criminal justice administration, namely, (a) police, (b) prosecution, (c) judiciary, (d) institutional treatment, (e) non-institutional treatment, was sent to related departments in charge in each country concerned to scrutinize carefully relevant information and statistics. Through the Survey, UNAFEI can contribute to the development of more effective criminal justice administration in the region.

UNAFEI intends to further expand these research activities in co-operation with other United Nations organs as well as to promote independent surveys to find really innovative and effective crime prevention measures using the same research approach as the study of pathology which attaches importance to the verification of effectiveness by objective evidence.

UNAFEI admitted a visiting research fellow in 1987, Dr. Schura Cook, an Austrian researching on "A Philosophic and Cultural Approach to Criminology." She continues to conduct her research at UNAFEI.

2. Information Services

During the year 1987, UNAFEI published Resource Material Series No. 31 which consists of its Annual Report for 1986 and articles and reports produced in the 73rd International Training Course and during other UNAFEI activities. Four Newsletters (Nos. 61-64) were published summarizing the contents and results of the 74th and 76th International Seminars and the 75th and 77th International Training Courses.

In addition to the publication mentioned above, UNAFEI gave assistance to the Asia Crime Prevention Foundation (ACPF) in publishing the Journal of Asia Crime Prevention which carried, among other items, the papers of UNAFEI experts and participants. The Journal was distributed to ACPF members as well as to institutes and organizations concerned with criminal justice.

As in previous years, UNAFEI endeavoured to collect statistics, books and other material on crime conditions and criminal and juvenile justice administrations not only in Asian countries but also in other countries. In addition to collecting information, UNAFEI made every effort to disseminate the information and to respond to requests for information from many agencies and individuals.

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3. Co-operation with Related Institutions, Organizations and Alumni Associations

1) Mr. Yasuro Tanaka, Chief of the Training Division, visited Great Britain from 1 January to 1 February 1987 to conduct field research on the British system of criminal justice and its operation in practice. During his field research period, he also attended the International Criminal Justice Seminar on the Role of the Prosecutor held at the London School of Economics and Political Science in association with the Home Office and the Crown Prosecution Service from Wednesday January 7 to Friday January 9, 1987.

2) Mr. Hideo Utsuro, Director, attended the Thirty-Second Session of the Commission on Narcotic Drugs from 2 February to 5 February 1987, held at the Vienna International Centre from 2 February to 11 February 1987. The final report of the UNAFEI International Seminar on Drug Problems in Asia and the Pacific Region was submitted for consideration at this session.

3) Mr. Yoshio Okada, Chief of the Research Division, and Mr. Mutsuro Yabe, Chief of the Secretariat and Hostel Manager, visited the Democratic Socialist Republic of Sri Lanka between 25 February and 1 March 1987, for the purpose of expediting a UNAFEI project of holding in Sri Lanka in December 1987 the Second Joint Seminar between Sri Lanka and Japan. During their stay in Sri Lanka, they met several leading officials from every sector of criminal justice administration. They also visited the Republic of the Philippines between 2 and 5 March, to advance a project of holding in the Philippines in 1988 the Second Joint Seminar between the Philippines and Japan. They also met several leading officials from every sector of criminal justice administration during their stay in the Philippines.

4) Mr. Kunihiro Horiuchi, Deputy Director, visited the People's Republic of China as the head of a group of four UNAFEI experts including Mr. Nobuyoshi Manabe, to follow up on the initial discussions of the China-UNAFEI Joint Judicial Seminar which was held in 1985 in Beijing.

5) Mr. Fumio Saito, Professor, participated in the First Seminar on Planning for Crime Prevention and Criminal Justice in the Context of Development, organized by UNAFEI, which was held in the Africa Hall of OAU (Organization of African Unity), Addis Ababa, Ethiopia, from 3 to 12 June 1987. He stayed there from 2 to 5 June. On his return to Tokyo, he also visited UNSDRI, Rome, Italy on 5 June.

6) Mr. Kunihiro Horiuchi, Deputy Director, participated in the International Conference on Drug Abuse and Illicit Trafficking which was held in Vienna from 17 to 26 June 1987. He stayed there from 20 to 26 June.

7) Mr. Kunihiro Horiuchi, Deputy Director, Mr. Masao Kakizawa, Professor, Miss Tazuko Saito, Officer of the Secretariat, and Mr. Takeo Momose, Chief Researcher, Research and Training Institute of the Ministry of Justice, visited the Republic of Korea and the Kingdom of Thailand from 8 to 16 July 1987 for the fulfillment of a special Research Project on Development and Crime Prevention which has been conducted by UNAFEI at the request of the United Nations.

8) Mr. Yukio Nomura, Chief of the Information and Library Service Division, Mr. Itsuo Nishimura, Professor, Mr. Mutsuro Yabe, Chief of the Secretariat and Hostel Manager, and Mr. Minoru Takashima, Administrative Staff, also visited the Republic of the Philippines from 1 to 5 July 1987 and the Republic of Indonesia from 5 to 9 July 1987 for the same purpose. They conducted a seminar on the Research Project and also met several high-ranking officials as well as UNAFEI alumni in the respective countries.

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9) Mr. Hideo Utsuro, Director, and Mr. Fumio Saito, Professor, attended the Eighth Asian and Pacific Conference of Correctional Administrators, which was held in Kuala Lumpur, Malaysia from 14 to 19 September 1987. They took part in the Conference from 14 to 16 September. On this occasion, Mr. Utsuro presented his paper entitled "A Quarter-Century Contribution of UNAFEI to the Development of Correctional Administration in Asia and the Pacific Region."

10) Mr. Hideo Utsuro, Director of UNAFEI, Mr. Itsuo Nishimura, Professor, and Mr. Naoyuki Uchida, Administrative Staff, together with Mr. Hisao Kamiya, Chairman of the Board of Directors, Asia Crime Prevention Foundation, attended the International Expert Meeting on United Nations and Law Enforcement which was held in Baden, Austria from 16 to 19 November 1987. On this occasion, Mr. Utsuro gave his special report on UNAFEI's contribution to the formulation of the United Nations Standard Minimum Rules for Non-institutional Treatment of Offenders.

11) Mr. Shigemi Satoh, Chief of the Research Division, attended the Eighth *Ad Hoc* Advisory Group Meeting on UNSDRI's (United Nations Social Defence Research Institute) Work Programme and Directions in Rome, Italy, from 13 to 14 October 1987.

12) Mr. Hideo Utsuro, Director; Mr. Kunihiro Horiuchi, Deputy Director; Mr. Yasuro Tanaka, Chief of the Training Division; Messrs. Yasuo Shionoya and Fumio Saito, Professors; and Mr. Kiyokazu Kitajima, Administrative Officer, attended the Sri Lanka-UNAFEI Second Joint Seminar on the Prevention of Crime and the Treatment of Offenders, which was held in Colombo, Sri Lanka, from 14 to 18 December 1987. In advance of the Joint Seminar, the UNAFEI delegation made observation tours to some of the criminal justice agencies in Sri Lanka from 7 to 12 December. The UNAFEI delegation stayed in Sri Lanka from 6 to 20 December 1987.

4. UNAFEI Staff

There were some changes in the staff of UNAFEI during 1987.

1) Mr. Yoshio Okada, former Chief of the Research Division, was appointed Director of General Affairs Division, Kofu Probation Office on 1 April 1987.

2) Mr. Shu Sugita, former Professor, was appointed a Public Prosecutor of Tokyo District Public Prosecutors Office on 27 March 1987.

3) Mr. Koichi Watanabe, former Professor, was appointed Chief Psychologist, Classification Division, Yokohama Prison on 1 April 1987.

4) Mr. Shigemi Sato, former Legal Officer of Rehabilitation Bureau, Ministry of Justice, joined the faculty as Chief of the Research Division on 1 April 1987.

5) Mr. Itsuo Nishimura, former Public Prosecutor of Osaka District Public Prosecutors Office, joined the faculty on 27 March 1987.

6) Mr. Fumio Saito, former Chief, Guidance Section, Hachioji Medical Prison, joined the faculty on 1 April 1987.

7) Mr. Masahiko Kikuchi, Director of Education Division, Fuchu Prison, concurrently joined the faculty on 20 August 1987.

8) Mr. Masao Kakizawa, former Professor, was appointed Chief, Supervision Section, Fuchu Probation Office on 1 October 1987.

9) Mr. Masakazu Nishikawa, former Probation Officer, Yokohama Probation Office, joined the faculty on 1 October 1987.

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The list of the main staff of UNAFEI at 31 December 1987 is shown in Appendix VI.

5. Activities of the Asia Crime Prevention Foundation

The Asia Crime Prevention Foundation, which was introduced in the UNAFEI Annual Report for 1982, performed various activities during 1987, including the following events:

(a) The participants of the 74th and 76th International Seminars as well as the 75th and the 77th International Training Courses were given receptions by the Foundation; (b) two visiting experts for the 74th International Seminar, Dr. B.J. George, Jr., Professor of Law, New York Law School, U.S.A., and Prof. Dr. Karl-Heinz Kunert, Head of the Department of Criminal Justice, Ministry of Justice, Land Nordrhein-Westfalen, Dusseldorf, Federal Republic of Germany, gave public lectures to an audience of approximately 130 persons at the Ministry of Justice, Tokyo on the afternoon of 28 February 1987. These public lectures were organized under the auspices of the Foundation, the Japan Criminal Policy Association and UNAFEI. Professor George lectured on "Current Problems Concerning the Exercise of Prosecutorial Discretion in the United States," and Prof. Dr. Kunert spoke on the subject of "The Prosecution System in the Federal Republic of Germany;" (c) overseas participants of the 75th International Training Course were invited to dinner by members of Japanese Alumni Association of UNAFEI assisted by the Foundation; and (d) several UNAFEI staff members were assisted by the Foundation in attending international meetings in several countries.

6. Activities of the UNAFEI Alumni Association of Japan

1) The UNAFEI Alumni Association of Japan held its General Meeting for fiscal year 1986 at Matsumoto-ro in Hibiya Park on 8 March 1986. Mr. Akio Harada, Chairman of JUAA, reported on the activities of the Association during the fiscal year. Mr. Hideo Utsuro, Director of UNAFEI, described the recent activities and future prospects of UNAFEI. The General Meeting was followed by a party to which the participants of the 74th International Seminar were cordially invited.

2) The General Meeting of UNAFEI Alumni Associations was held from 5:15 p.m. to 6:00 p.m. on 5 September 1987 in the auditorium of UNAFEI under the chairmanship of Mr. Akio Harada, Chief Secretary of the Japan UNAFEI Alumni Association. Mr. V. Apparao, Inspector General of Police from India, was the rapporteur.

At the outset, Mr. Masaru Matsumoto, Chief Probation Officer, Hachioji Branch Office of the Tokyo Probation Office, proposed the publication of a UNAFEI Alumni Association Newsletter as distinct from the UNAFEI Newsletter. Till now, the UNAFEI Newsletter has also been providing brief news about the activities of the UNAFEI alumni associations. The new proposal was mooted to give broader coverage to the activities of the alumni associations in their respective countries including implementation of criminal justice measures. We would have two fora, one the "UNAFEI Newsletter" and the other the "UNAFEI Alumni News."

This proposal was seconded by Mr. E.C. Foenander from Singapore. Mr. Hideo Utsuro, Director of UNAFEI, welcoming the proposal, opined that this publication would be a good medium to circulate news about alumni associations. He promised all co-

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operation from UNAFEI and said that a steering committee for the publication would be established. The proposal was carried unanimously by the General Meeting.

The chairperson informed the gathering that the Secretary of the Japan UNAFEI Alumni Association will be on the editorial board for the present, the "News" will be published once a year and circulated to all former-participants.

The secretariat for the "News" will be at UNAFEI. Editorial staff will meet annually to decide on the editorial policy for the "News" published in the same year. According to the editorial policy decided by the editorial staff, the secretariat will collect news with the co-operation of UNAFEI alumni associations of the respective countries. The "News" will be printed at UNAFEI and sent to every former participant with the "UNAFEI Resource Material Series." Modest honorariums will be paid to the individuals/alumni associations contributing to the "News" under the auspices of the Asia Crime Prevention Foundation.

The chairperson appealed to the members to co-operate and report about their activities to UNAFEI and also requested them to provide the latest address of each former participant. Mr. Adi Andoyo Soetjipto from Indonesia wanted to know the proposed contents of the "Alumni News." He was wondering whether it would contain information about participants' promotions, transfers, and so forth. The chairperson declared that it would carry formal as well as informal activities of the alumni. He felt that it would improve the channel of communication and would provide ready-made information to visiting alumni members. Mrs. Celia Sanidad Leones from the Philippines suggested that respective countries' newsletters may be sent to UNAFEI in a consolidated fashion so that this information could be incorporated in the "UNAFEI Alumni News." The chairperson welcomed the idea. However, Mr. Adi Andoyo Soetjipto felt that as the former participants were posted in different islands in his country, it would be a difficult task to gather all of them in one place. At this stage, Mr. Errol Carl Foenander from Singapore opined that since some alumni associations are being newly formed in some countries while others have been existing for many years, we need to take care that the objectives of associations are not divergent. They should be identical. It would be advisable to circulate model by-laws for the alumni associations. With a vote of thanks to the chair, the meeting concluded, followed by a grand reception.

II. Work Programme for the Year 1988

In 1988 UNAFEI will conduct two international training courses and one international seminar for public officials mainly in Asia and the Pacific region (78th-80th). UNAFEI will also be involved in other important regional and interregional projects. Most of these activities have been planned in line with UNAFEI's continuing policy to make every effort to contribute to international endeavours regarding matters of urgent necessity in close co-operation with the United Nations, the governments in Asia and other regions, and related organizations and institutions. The following are several work programmes for the year 1988 as envisaged at this time.

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Regular Training Programmes

1. The 78th International Seminar (8 February-12 March 1988)

The 78th International Seminar on "Footprints, Contemporary Achievements and Future Perspectives in Policies for Correction and Rehabilitation of Offenders" will be held from 8 February to 12 March 1988.

In all countries, not only in Asia and the Pacific region, but also in all other regions in the world, great efforts have been made in the development of policies and measures which both provide an efficient response to offending and also humanely address the rehabilitation of offenders. Observing the path of these developments in our various countries, it is evident that long strides and great achievements have been attained in the past decades. At the same time, however, developments at present move at rather a dull pace, and perhaps have even lost their way in the mist, in terms of the general trend over countries. It is thus crucially necessary to renew our efforts to retrace our earlier footprints and examine the results achieved to date. Based on those results, we may be able more firmly to establish future perspectives on policies and to identify measures to facilitate further developments. Furthermore, the requirements of modern penal policy necessitate even greater efforts at co-operation and the exchange of ideas to strengthen and improve correctional and rehabilitative programmes.

Therefore, in the light of current circumstances, it appears a vital and urgent task to provide senior administrators, who in the future will become the driving forces behind the correctional and rehabilitative services of their countries, with an opportunity to study the course of past developments and achievements in the policies of their respective countries, and to exchange the results of their study with counterpart administrators from other countries. In that way, they can identify future long-range policies based on an awareness of impending problems, and thus promote the development and adoption of forward-looking correctional and rehabilitation policies for their own countries.

Remarkable achievements have been made in the development of policies, and may be expected to continue, in the domains of: 1) advancement of measures and techniques of institutional treatment directed at correction and rehabilitation; 2) advancement of measures and techniques of treatment based on linkages with the community including non-institutional treatment; 3) improvements in living conditions in the process of correction and rehabilitation; 4) solutions to overcrowding in correctional institutions; and 5) progress in international co-operation in the administration of correctional and rehabilitation services.

The discussions envisioned in the course of the 78th International Seminar are designed to focus upon footmarks, contemporary achievements and future perspectives in these five domains. Some of the major achievements and points of dispute arising in these domains may be exemplified by the following:

- 1) Advancement of measures and techniques of institutional treatment for correction and rehabilitation:
 - (a) advancement and enrichment of prison industry and vocational training,
 - (b) advancement and revitalizing of education programmes,
 - (c) introduction of a classification system,
 - (d) examination of stage system,
 - (e) wider use of treatment specialists, such as psychologists.
- 2) Advancement of measures and techniques of treatment based on a linkage with

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- the community, including non-institutional treatment:
- (a) introduction and proliferation of non-institutional treatment measures,
 - (b) development of intermediate treatment programmes such as half-way houses,
 - (c) establishment and development of a volunteer probation officer system to assist in the treatment of offenders.
- 3) Improvement of living conditions in the course of correction and rehabilitation:
- (a) introduction of rules governing minimum living standards,
 - (b) additional protections for the human rights of offenders,
 - (c) establishment of internal and external monitoring systems for the administration of the treatment of offenders.
- 4) Solution to overcrowding in correctional institutions:
- (a) development of diversion as an alternative measure,
 - (b) development of early release systems such as parole and release on license,
 - (c) establishment of new institutional facilities.
- 5) Progress of international co-operation in the administration of correctional and rehabilitation services:
- (a) exchange of ideas and efforts at co-operation through regional conferences and United Nations activities,
 - (b) international co-operation for the treatment of foreign prisoners,
 - (c) regional and international co-operation in staff training.

The First Draft of the United Nations Standard Minimum Rules for Non-institutional Treatment of Offenders was compiled through comparative study for drafting of the Rules on the occasion of the 75th International Course, held from 20 April 1987 to 20 June 1987. The Draft Rules focus on four main issues, namely, i) available forms of non-institutional treatment measures, ii) roles of non-institutional treatment of offenders, iii) measures to implement non-institutional treatment programmes in a more effective way, iv) merits and demerits relating to the practical use of volunteers in non-institutional treatment measures.

The Draft Rules set out are to be good general principles and practices in the non-institutional treatment of offenders aiming at the presentation of the minimum conditions which are accepted as suitable by the United Nations. Thus the First Draft Rules will be taken up for further discussion by the Seminar to pave the way for the formulation and framing of UNAFEI Draft Rules proposal for the ultimate United Nations Standard Minimum Rules for the Non-institutional Treatment of Offenders, which will be discussed in the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

The Seminar will have several visiting experts from Asian countries as well as from Europe.

2. The 79th International Training Course (18 April-9 July 1988)

The 79th International Training Course will be held from 18 April to 9 July 1988 with the main theme "Search for the Solution of the Momentous and Urgent Issues in Contemporary Corrections."

In many parts of the world, it is widely observed that, due to various reasons, correctional administrators cannot help accommodating inmates in their correctional institutions far beyond their normal capacity. Countries in Asia and the Pacific region are

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no exception to this. In fact, it is reported that, in some countries in Asia, the prison population is beyond the normal capacity by 150% or even more. The problem of overcrowding is one of the most serious and urgent problems to be tackled by correctional administrators in the region. When prisons are overcrowded, it is impossible for correctional officers to conduct fair and effective treatment for the rehabilitation of offenders. It is often claimed that vocational training, academic education and other innovative methods of correction cannot be carried out at all due to the fact that the prisons have to accept inmates beyond their capacity.

The result of overcrowding is even more harmful. For example, our experience tells that the number of incidents such as assaults and escapes increases according to the degree of overcrowding in prisons. In some extreme cases, even the maintenance of peace and security may be beyond the control of the prison authorities and eventually prison riots may take place in overcrowded prisons. Correctional officers, on the other hand, may lose their enthusiasm to rehabilitate offenders and correctional programmes often have to be reduced as a consequence of overcrowding.

Another acute problem in the contemporary correctional administration is the crisis management in prisons. Recently it is reported in some of the advanced countries that such critical incidents as riot, uprising, hunger-strike and hostage-taking by inmates do in fact happen inside the prisons. Without any doubt, such serious incidents are harmful not only for the prison authorities but also for the government of a nation, because the people may lose their confidence in the entire criminal justice mechanism of the nation once such incidents happen in prisons. Also, critical incidents such as escape of inmates from prisons may jeopardize the peaceful life of the community people. Needless to mention, such incidents as murder, assault and smuggling of weapons into prisons are extremely harmful for the maintenance of security in prisons. Although such serious incidents are not yet commonplace in most countries in the region, it is said that nowadays these incidents do occasionally occur in prisons. Therefore, innovative measures of crisis control and security management should be studied and examined immediately so as to prevent as well as control these serious incidents in prisons. Otherwise, problematic incidents may be increasing both in number and scale in the near future, and eventually may become a threat to the entire system of criminal justice.

In addition to the factors mentioned above, contemporary correctional administrators in Asia and the Pacific region have another heavy burden, which is the rehabilitation of offenders. In some parts of the world, especially in some of the advanced countries, there has been a growing skepticism regarding the "rehabilitative approach" to criminals. Nevertheless, it is yet a common and strong belief among correctional administrators in the region that the ultimate objective of correctional services should be the "rehabilitation" of offenders, and that correctional workers are expected to contribute to the reduction of criminality by way of successful resocialization of offenders into the community.

In order to meet the aforementioned expectation, correctional administrators today have been conducting various programmes such as academic education, vocational training and other innovative measures for the rehabilitation of offenders. Since the vast majority of the inmates in prisons are uneducated, unskilled and therefore unemployed in the society, they have to be given the chance to rehabilitate themselves while they are kept in prisons. If effective correctional programmes are actually carried out in prisons, they can be successfully rehabilitated and come back to the community as the law-abiding citizens as well as the useful members of the society. They can be productive

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human resources for the socio-economic development of a nation. Otherwise, they may commit offences again when they are released from prison, and subsequently return to prison again and again. These repeated offenders will be not only a heavy burden for the prison authorities but also an obstacle to the sound development of a nation.

In the light of the above-mentioned, it can be said that contemporary correctional administrators in the region have to take an even greater responsibility while being challenged by ever-increasing difficulties and problems. Further development of innovative measures in correctional management is certainly the most momentous and urgent issue to be examined jointly by practitioners and policy-makers in the region.

Further to mention, effective and efficient systems for the training of correctional personnel should be established in order to tackle the ever-increasing difficulties as mentioned above. The importance of staff training must always be kept in the mind of policy-planners in criminal justice administration. Well-trained personnel with professional skills and knowledge are certainly the indispensable fundamentals, based upon which successful administration of correctional treatment can be developed and implemented. In this sense, staff training is another momentous issue which needs thorough and joint examination. One may recall in this connection that the Eighth Asian and Pacific Conference of Correctional Administrators, which was held in Kuala Lumpur, Malaysia in 1987, adopted unanimously the resolution recommending that "UNAFEI shall deal with the momentous and serious issues in the field of correctional administration; *inter alia*, training of correctional personnel, not only at senior levels but also of middle-ranking officers."

The above-mentioned is the rationale of the training course, whose main theme is "Search for the Solution of the Momentous and Urgent Issues in Contemporary Corrections." It is apparent that the main theme is proper and timely for the contemporary correctional administrators who are earnestly seeking for the further improvement of correctional management. With the mutual co-operation and exchange of experiences among the participants, the training course will produce a very fruitful outcome for the further development of corrections in the region.

Accordingly, the following items will be among the topics for discussion:

1. Overcrowding in prisons;
 - 1) Actual conditions of overcrowding in prisons,
 - 2) Various harmful effects of overcrowding, and
 - 3) Causes of and countermeasures against overcrowding.
2. Crisis management and security control in corrections;
 - 1) Actual conditions of the most harmful and critical incidents in prisons,
 - 2) Control of prison riots,
 - 3) Countermeasures against other harmful incidents in prisons, such as hostage-taking, assault, suicide, escape, hunger-strike by inmates and trafficking of weapons and drugs into prisons, and
 - 4) Use of advanced technology in security management.
3. Effective measures of the rehabilitative programmes;
 - 1) Basic and advanced academic education in correctional institutions,
 - 2) Vocational training,
 - 3) Counselling, guidance and other specific measures for the rehabilitation of offenders,
 - 4) Classification and differential treatment in the rehabilitative programmes, and
 - 5) Use of specialists in correctional programmes.

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4. Training systems of correctional personnel;
 - 1) Existing mechanism of training of correctional officers,
 - 2) Training of middle- and/or lower-ranking officers,
 - 3) Measures to be taken for the improvement of staff training,
 - 4) Training of specialists working in corrections, such as psychologists, psychiatrists, vocational instructors, and
 - 5) Regional and international co-operation in staff training.

The course will be organized around group discussions, utilizing the knowledge and experience of the participants to the fullest extent.

Training programmes for this course are as follows:

1. Comparative Study on the Treatment of Offenders

This programme is intended to give the participants an opportunity to compare the most momentous and urgent issues in the countries represented and to explore workable solutions with regard to the discussion items enumerated above. Each participant will be allocated one hour for his or her presentation, which will be followed by a group discussion. Use of national or local statistics and other materials indicating the actual conditions of correctional administration will be most helpful in this programme.

2. Group Workshops on Topics Selected by the Participants

Small groups will be organized around the specific topics selected by individual participants with a view to affording group members an ample opportunity to exchange views and experiences on selected problems which they face in their daily work. Practical and pertinent suggestions are expected to be developed from these group workshops. The specific topics for the small groups will be selected by participants, but are expected to be somehow related to the discussion items enumerated above.

3. In addition, the course will include:

- (a) lectures by specialists on subjects relating to the main theme and other subjects of general interest,
- (b) visits to several relevant institutions and agencies, and
- (c) cultural and other programmes.

3. The 80th International Training Course (5 September-26 November 1988)

The 80th International Training Course will be held from 5 September to 26 November 1988 with the main theme of the various aspects of the international co-operation including criminal justice administration. In this Course, all the important issues on international criminality as well as every aspect of the international co-operation to cope with it will be thoroughly discussed.

International Meetings and the Overseas Joint Seminars

1. The Asia and Pacific Regional Experts Meeting for the Formulation of the Draft of Proposed United Nations Standard Minimum Rules for the Non-institutional Treatment of Offenders

On the occasion of the 78th International Seminar, in which many distinguished

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participants and visiting experts with eminent careers will participate, UNAFEI will convene the Asia and Pacific Regional Experts Meeting for the Formulation of the Draft of Proposed United Nations Standard Minimum Rules for the Non-institutional Treatment of Offenders, from 1 to 7 March 1988.

2. The International Experts Meeting for the Formulation of the Draft of the Proposed United Nations Standard Minimum Rules for the Non-institutional Treatment of Offenders

As the next step, the International Experts Meeting for the formulation of the Draft of the Proposed United Nations Standard Minimum Rules for the Non-institutional Treatment of Offenders will be held at UNAFEI from 13 to 15 July 1988 with the contribution and co-operation of experts, including representatives of the United Nations Secretariat, the International Penal and Penitentiary Foundation (IPPF) and the Helsinki Institute for Crime Prevention and Control Affiliated with the United Nations (HEUNI), as well as local dignitaries including Mr. Peter J.P. Tak, Professor of Law, University of Nijmegen, Netherlands.

3. The Overseas Joint Seminar

The forthcoming Overseas Joint Seminar on criminal justice administration will be conducted in Manila, Republic of the Philippines, in December 1988. It is expected that the top-ranking officials in the field of criminal justice in the Philippines and UNAFEI staff will participate in the Seminar in order to exchange views and opinions in the search for more effective and efficient administration of criminal justice. The details of the Seminar are now under consideration.

The UNAFEI delegation is due to be composed of the Director and five staff members.

Research Activities

Research activities are another area UNAFEI will emphasize in 1988. UNAFEI will carry out the Research Project on the Actual Situation and Recommendable Measures for Improvement in the Treatment of Offenders in Asia and the Pacific Region in 1988. The research will be to analyse the present overcrowding situation of institutions and its pressing problems and to address the question of what types of recommendable measures are necessary against the overcrowding situation of institutions. The objective of the research will be concentrated upon the empirical situation in four major countries in the region, i.e., Bangladesh, India, Fiji and Papua New Guinea, because each country suffers from a conspicuously overcrowded situation in institutions and therefore take such measures to cope with the situation as introduction of community-based treatment measures.

The field research work of the Research Project in each country will be conducted. The field research work will be focused on four main issues, namely, i) outline of existing treatment of offenders, ii) the present overcrowding situation of prisons and its pressing problems, iii) identification of factors attributable to the overcrowding situation of institutions, iv) role of non-institutional treatment measures

in treatment of offenders in each country. The data will be evaluated together with position papers written by a local expert selected in each country, and will be reported as one of the most important contributions from UNAFEI to the agenda of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

III. Conclusion

It is a great honour for the Director of UNAFEI to submit this report, which summarizes the Institute's endeavours during 1987, hoping that this will be accepted with much satisfaction by the United Nations and the Government of Japan, and that further advice will be furnished in order for UNAFEI to improve its programmes. The year proved to be one of the most successful that UNAFEI has ever had in terms of its various programmes and projects as well as the reception extended to all participants.

Since its establishment more than 25 years ago, UNAFEI has made the utmost efforts to meet the needs of the region and other international societies in the fields of the prevention of crime and the treatment of offenders. Due to the close co-operation and assistance given by the United Nations, the Government of Japan, the Japan International Co-operation Agency, the Asia Crime Prevention Foundation, governments in and outside the region, visiting experts, *ad hoc* lecturers, former participants and various other organizations, UNAFEI has been able to attain its aims and has gained a favourable reputation among international societies.

To cultivate personnel of ability in the field of crime prevention and the treatment of offenders is truly a matter of difficulty as well as of great importance especially in this region where most countries have been experiencing various types of change including rapid socio-economic development. In this connection, the 76th International Seminar on Evaluation of UNAFEI's International Courses on Prevention of Crime and Treatment of Offenders, and Drug Problems in Asia, and also the Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI Work Programmes and Directions played a vital role in reviewing and assessing the functions and operations of the Institute and rendering various recommendations on ways and means to further improve its activities. UNAFEI makes every effort to improve its programmes and activities by utilizing all of the advice and suggestions expressed at the meetings. The number of officials who have participated in international training courses and seminars totalled 1,760 as at the end of 1987. A list of these participants by professional background and country is found in Appendix VII.

The crime situation is becoming more complex and diversified. Many countries facing new phenomena are required to find more systematic and effective measures to cope with the changing situation. In order to meet the challenging needs of the region and international societies in the field of crime prevention and the treatment of offenders more effectively, UNAFEI needs a constant reassessment of its performance, and in this endeavour, it will rely heavily upon and seek the co-operation of related agencies throughout the world. On this occasion, I wish to express my sincere gratitude to those who have given us indispensable assistance and kindly solicit their ad-

CONCLUSION

vice and suggestions for the improvement and development of our activities in the future.

This report is respectfully submitted to the United Nations and the Government of Japan in compliance with Section 1(a) of the letter exchanged between the United Nations and the Government of Japan in March 1970.

31 January 1988

Hideo Utsuro
Director
UNAFEI

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*Appendix I***Distribution of Participants by Country (74th-77th)**

Country	74th Seminar	75th Course	76th Seminar	77th Course	Total
Bangladesh	1			1	2
China	1	1		1	3
Colombia				1	1
Ecuador	1				1
Fiji	1	1	1	1	4
Honduras	1				1
Hong Kong	1	1	1		3
India	1	1	1		3
Indonesia	1		1	1	3
Iraq			1		1
Jamaica	1				1
Kenya	1				1
Korea			1	1	2
Lesotho		1		1	2
Malaysia	1	1	1	1	4
Nepal			1		1
Nigeria	1				1
Pakistan			1		1
Panama	1				1
Papua New Guinea	1		1		2
Peru	1	1		1	3
Philippines		2	1	2	5
Saudi Arabia	1			1	2
Singapore			1		1
Sri Lanka	1	2	1		4
Sudan	1			1	2
Tanzania	1				1
Thailand	2	2	1	2	7
Turkey		1			1
Venezuela	1				1
Japan	6	10	6	10	32
Total	28	24	20	25	97

APPENDIX

Appendix II-1

List of Participants in the 74th International Seminar

- Mr. A.M.M. Nasrullah Khan*
Deputy Inspector-General of Police
Head of the Criminal Investigation
Department
Bangladesh
- Ms. Chen Jing*
Deputy Director of 3rd Division
Public Order Department
Ministry of Public Security
People's Republic of China
- Mr. Cesar Oswaldo Carrera Chinga*
Chief of Immigration, Guayas Province
Republic of Ecuador
- Ms. Nazhat Shameem Khan*
Senior Legal Officer
Office of the Director of Public
Prosecutions
Fuji Islands
- Ms. Rosario Palma Villacorta*
University Professor
Republic of Honduras
- Ms. Lu Chan Ching-Chuen*
Senior Clinical Psychologist
Correctional Services Department
Hong Kong
- Mr. Suresh Chandra Dwivedi*
Deputy Inspector General of Police,
& Chief Vigilance Officer
India Tourism Development
Corporation
India
- Mr. H. Abdul Halim Naim, SH*
High Ranking Public Prosecutor
Chief/Head of Prosecution
Administration
Sub-Director at the Attorney
General's Office
Republic of Indonesia
- Mr. Basil E. Grant*
Regional Manager
c/o Probation Office
Jamaica, West Indies
- Mr. Filemon Kimutai Kirui*
Acting Deputy Principal
Probation Officer
Probation Headquarters
Republic of Kenya
- Mr. Mohd, Sedek bin Hj. Mohd. Ali*
Assistant Director of Criminal
Investigations (Research and Planning)
Royal Malaysian Police
Malaysia
- Mr. Stephen Olaiya Abeji*
Controller of Prisons
Nigerian Prisons Service
State Headquarters Office
Federal Republic of Nigeria
- Mr. Guillermo Enrique Arauz Caicedo*
Supervisor of the Jail System of the
National Department of Investigations
Republic of Panama
- Mr. Jacob Rongap*
Superintendent of Police
Staff Officer, Operational Secretariat
RPNGC, Police Headquarters
Papua New Guinea
- Mr. Orlando Tafur del Aguila*
Legal Advisor and Secretary to the War
Tribunal, Supreme Court for Military
Justice
Republic of Peru
- Mr. Zaki Asad Rahimi*
Jeddah Area Prisons Director
Kingdom of Saudi Arabia

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Mr. Munasinghe Chandra Prema Mendis
Senior Superintendent of Police,
Chilaw Division, and Coordinating
Officer, Puttlam District,
Democratic Socialist Republic of
Sri Lanka

Mr. Mohamed Ahmed Hashim
Director of El Gazira Police
El Gazira Police Headquarters
Republic of Sudan

Mr. John Casmir Minja
Deputy Director, Legal Affairs and
Rehabilitation, Prisons Department
United Republic of Tanzania

Mr. Wisai Plueksawan
Director, Central Hospital of the
Department of Corrections
Chief, Health and Medical Center,
Department of Corrections
Kingdom of Thailand

Mr. Sirichai Swasdimongkol
Chief Judge attached to the Ministry
of Justice
Supreme Court
Kingdom of Thailand

Ms. Arminda Oquendo Romero
Jefe de la Division de
Investigaciones Criminologicas
Direccion de Prevencion del Delito
Ministerio de Justicia
Republic of Venezuela

Mr. Seishi Fujimoto
Director, First Examination Division,
Secretariat of Kanto Regional Parole
Board
Japan

Mr. Tateshi Higuchi
Assistant Director of Criminal
Investigative Planning Division,
Criminal Investigation Bureau,
National Police Agency
Japan

Ms. Mioko Kuga
Professor, Training Institute for
Correctional Personnel
Ministry of Justice
Japan

Mr. Eiji Matsunaga
Principal Researcher
Second Research Division
Research and Training Institute
Ministry of Justice
Japan

Mr. Masafumi Sakurai
Public Prosecutor
Criminal Investigation Division
Tokyo District Public
Prosecutors Office
Japan

Mr. Jyotoh Shimanouchi
Judge
Tokyo District Court
Japan

Appendix II-2

List of Participants' Papers

- 1) *Mr. A.M.M. Nasrullah Khan* (Bangladesh)
Advancement of Fair and Humane Treatment of Offenders and Victims in
Criminal Justice Administration
- 2) *Ms. Chen Jing* (China)
The Roles of the Public Security Organs in Crime Prevention and Criminal Pro-
cedure in China

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- 3) *Mr. Cesar Oswaldo Carrera Chinga* (Ecuador)
Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration
- 4) *Ms. Nazhat Shameem Khan* (Fiji)
The Protection of the Rights of Offenders and of Victims of Crime in Fiji
- 5) *Ms. Rosario Palma Villacorta* (Honduras)
Protection of Human Rights of Offenders in Honduras
- 6) *Ms. Lu Chan Ching-Chuen* (Hong Kong)
A Review of the Hong Kong Criminal Justice System with Specific Reference to the Consideration for Protection of Human Rights in the System
- 7) *Mr. Suresh Chandra Dwivedi* (India)
Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration
- 8) *Mr. H. Abdul Halim Naim, SH* (Indonesia)
Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration
- 9) *Mr. Basil E. Grant* (Jamaica)
Crime Prevention and Treatment of Offenders: Community Treatment: The Alternative to Incarceration
- 10) *Mr. Filemon Kimutai Kirui* (Kenya)
Treatment of Offenders Under Community Supervision in Kenya
- 11) *Mr. Mohd. Sedek bin Hj. Mohd. Ali* (Malaysia)
The Protection and Assistance of Victims of Crime in Malaysia
- 12) *Mr. Stephen Olaiya Abeji* (Nigeria)
Current Situation Concerning the Treatment and Protection of Human Rights of Offenders in the Federal Republic of Nigeria
- 13) *Mr. Guillermo Enrique Arauz Caicedo* (Panama)
Organization of the Criminal Police of the Republic of Panama
- 14) *Mr. Jacob Rongap* (Papua New Guinea)
Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration
- 15) *Mr. Orlando Tafur del Aguila* (Peru)
The Prison Problem in the Civil and Military Justice System in Peru up to 1987
- 16) *Mr. Zaki Asad Rahimi* (Saudi Arabia)
Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration
- 17) *Mr. Munasinghe Chandra Prema Mendis* (Sri Lanka)
Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration
- 18) *Mr. Mohamed Ahmed Hashim* (Sudan)
Protection of Human Rights of Offenders (Crime Prevention and Treatment of Offenders)
- 19) *Mr. John Casmir Minja* (Tanzania)
The Protection of Human Rights Principles at the Stage of Trial Under the Tanzania Criminal Justice System
- 20) *Mr. Wisai Plueksawan* (Thailand)
Correctional Principles and Social Medicine
- 21) *Mr. Sirichai Swasdimongkol* (Thailand)

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- The Protection of Offenders' Rights in Thailand
- 22) *Ms. Arminda Oquendo Romero* (Venezuela)
Victims of Crime in Venezuela: Current Situation and the Possibilities for Improving Assistance
 - 23) *Mr. Seishi Fujimoto* (Japan)
The Guarantee of the Human Rights in the Community-Based Treatment of Offenders in Japan
 - 24) *Mr. Tateshi Higuchi* (Japan)
Police Investigation and the Protection of Human Rights
 - 25) *Ms. Mioko Kuga* (Japan)
Treatment of Female Prisoners and Protection of Human Rights
 - 26) *Mr. Eiji Matsunaga* (Japan)
Crime Victims and Their Protection by the State
 - 27) *Mr. Masafumi Sakurai* (Japan)
Civil Rights Protection in the Criminal Procedure
 - 28) *Mr. Jyotoh Shimanouchi* (Japan)
Obtaining a Fair and Speedy Trial: Aspects of Human Rights in Japanese Criminal Justice

Appendix II-3

List of Lecturers and Lecture Topics

Visiting Experts

- 1) *Professor B.J. George, Jr.*
 - a) Law Enforcement Interaction with Victims
 - b) Protections for Victims and Witnesses in the Course of Judicial Proceedings and Execution of Sentences
 - c) Economic Protections for Victims
- 2) *Dr. Yclande Diallo*
 - a) United Nations International Co-operation, Training and Research (I)
 - b) United Nations International Co-operation, Training and Research (II)
- 3) *Mr. Nor Shahid bin Mohd. Nor*
Protection of Human Rights at the Stage of Treatment
- 4) *Professor Dr. Karl-Heinz Kunert*
 - a) Alternatives to Imprisonment
 - b) Drug Offences and Criminal Justice Administration

Ad Hoc Lecturers

- 1) *Professor Kuniji Shibahara*, Faculty of Law, University of Tokyo
 - a) United Nations Standards and Norms in Criminal Justice (I)
 - b) United Nations Standards and Norms in Criminal Justice (II)
- 2) *Mr. Shigeki Itoh*, Prosecutor-General, Supreme Public Prosecutors Office
Characteristics and Roles of Japanese Public Prosecutors
- 3) *Ms. Chikako Taya*, Attorney attached to the Bureau, Criminal Affairs Bureau,

APPENDIX

Ministry of Justice

Domestic Aspects of International Protection of Human Rights

- 4) *Mr. Masahiro Tsubakihara*, Deputy Superintendent-General, Metropolitan Police Department
Maintenance of Public Security in Tokyo Metropolis
- 5) *Mr. Yasutaka Okamura*, Director-General, Criminal Affairs Bureau, Ministry of Justice
Fair and Just Criminal Justice Administration in Japan

Faculty

- 1) *Mr. Hideo Utsuro* (Director)
Recent Activities of UNAFEI for the Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration
- 2) *Mr. Kunihiro Horiuchi* (Deputy Director)
Current Trends of Criminal Activities and the Practice of Criminal Justice in Japan

Appendix II-4

List of Reference Materials Distributed

1. Lecturers' Papers

- 1) *Professor B.J. George, Jr.*
 - a) Law Enforcement Interaction with Victims
 - b) Protections for Victims and Witnesses in the Course of Judicial Proceedings and Execution of Sentences
 - c) Economic Protections for Victims
- 2) *Dr. Yolande Diallo*
United Nations International Co-operation, Training and Research
- 3) *Mr. Nor Shahid bin Mohd. Nor*
Protection of Human Rights at the Stage of Treatment
- 4) *Professor Dr. Karl-Heinz Kunert*
 - a) Alternatives to Imprisonment
 - b) Drug Offences and Criminal Justice Administration
- 5) *Professor Kuniji Shibahara*
United Nations Standards and Norms in Criminal Justice
- 6) *Mr. Shigeki Itoh*
Characteristics and Roles of Japanese Public Prosecutors
- 7) *Mr. Hideo Utsuro* (Director)
Recent Activities of UNAFEI for the Advancement of Fair and Humane Treatment of Offenders and Victims in Criminal Justice Administration
- 8) *Mr. Kunihiro Horiuchi* (Deputy Director)
Current Trends of Criminal Activities and the Practice of Criminal Justice in Japan

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2. Statutes of Japan
 - 1) The Constitution of Japan
 - 2) Criminal Statutes I and II
 - 3) Laws for Correction and Rehabilitation of Offenders
 - 4) Court Organization Law and Public Prosecutors Office Law
 - 5) Laws Concerning Extradition and International Assistance in Criminal Matters

3. Explanation of Some Aspects of the Japanese Criminal Justice System
 - 1) Criminal Justice in Japan
 - 2) Guide to the Family Court of Japan
 - 3) Thirty-two Years of the Family Court of Japan
 - 4) Correctional Institutions in Japan
 - 5) Community-Based Treatment of Offenders in Japan
 - 6) Summary of the White Paper on Crime, 1985
 - 7) 1985 White Paper on Police – Summary
 - 8) National Statement of Japan for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders
 - 9) Bulletin of the Criminological Research Department, 1985

4. UNAFEI Publications
 - 1) Resource Material Series Nos. 28, 29
 - 2) UNAFEI Newsletter Nos. 59, 60
 - 3) Criminal Justice in Asia – The Quest for an Integrated Approach
 - 4) Recent Activities of United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders
 - 5) Delineation of Crucial Issues of Criminal Justice in Asia

5. Others
 - 1) Alternatives to Imprisonment (reprint from “*International Review of Criminal Policy*,” United Nations, No. 36, 1980)
 - 2) “Alternatives to Imprisonment and Measures for the Social Resettlement of Prisoners” (United Nations, *E/AC.57/1984/9*)
 - 3) Human Rights: A Compilation of International Instruments (United Nations, *ST/HR/1/Rev. 2*)
 - 4) Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders (United Nations, *A/CONF. 121/22/Rev. 1*)
 - 5) Public Administration in Japan

APPENDIX

Appendix III-1

List of the Participants in the 75th International Training Course

- Ms. Sun Yongxin*
Chief of the Foreign Affairs Section
Xining Public Security Bureau
People's Republic of China
- Mr. Indar Jeet*
Acting Assistant Superintendent of
Prisons
Fiji Prisons Service
Fiji Islands
- Mr. Walter Wai-wah Wong*
High Court Probation Office
Social Welfare Department
Hong Kong
- Mr. K.L. Gupta*
Deputy Inspector General of Police
I.T.B. Police Headquarters
India
- Mr. Canisius Lephotla Siimane*
Senior Chief Officer
Community Treatment Centre
Lesotho
- Mr. Mustafa bin Osman*
Deputy Superintendent of Prisons
Maktab Penjara
Malaysia
- Mr. Alfredo Ferreyros Paredes*
Judge of the High Court
Palacio Nacional de Justicia
Peru
- Mr. Juanito S. Leopando*
Acting Asst. Superintendent for
Custody & Security, Commander of the
Guards
New Bilibid Prison
Philippines
- Mr. Ibra D. Ondi*
Regional Probation Officer
Probation Administration
Regional Office, No. 12
Philippines
- Mr. Ignatius Thavayogam Canagaretnam*
Detective Senior Superintendent of
Police
Crime Detective Bureau Headquarters
Sri Lanka
- Mr. P.H.M. Ratnayake*
Superintendent of Prisons
Magazine Prisons
Sri Lanka
- Mr. Vitaya Suriyawong*
Penologist
Penology Division
Department of Corrections
Ministry of Interior
Thailand
- Mr. Slaikate Wattanapan*
Assistant to Director General of
Central Probation Office
Central Probation Office
Ministry of Justice
Thailand
- Mr. Yusuf Ziya Göksu*
Chief Inspector
Vice President of the Inspector
Commission
Ministry of the Interior
Turkey
- Mr. Morito Fujita*
Probation Officer
Investigation & Liaison Section
Maebashi Probation Office
Japan

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Mr. Hiroshi Gotoh
Assistant Judge
Juvenile Division
Tokyo Family Court
Japan

Mr. Mitsuhiro Hasegawa
Public Prosecutor, Osaka District
Public Prosecutors Office
Japan

Mr. Noboru Higuchi
Family Court Probation Officer
Japan

Mr. Toyoya Ikeda
Chief, Intelligence Section
Kanto-Shin'etsu Regional Narcotics
Control Office
Ministry of Health and Welfare
Japan

Mr. Kazuo Kodama
Director of the Security Section
2nd Division, Sendai Regional
Correction Headquarters
Japan

Mr. Yasushi Murakami
Superintendent of Police
Driver's License Division
Traffic Bureau
National Police Agency
Japan

Mr. Tatsuya Sakuma
Public Prosecutor
Niigata District Public Prosecutors
Office
Japan

Mr. Toshimi Sonoda
Probation Officer
Second Examination Division of Kanto
Regional Parole Board
Japan

Mr. Yoshinaka Takahashi
Specialist
Osaka Juvenile Classification Home
Japan

Appendix III-2

List of Participants' Papers

Comparative Study

- 1) *Ms. Sun Yongxin* (China)
Non-Institutional Treatment of Offenders – Chinese Style
- 2) *Mr. Indar Jeet* (Fiji)
 - a) Non-Institutional Treatment of Offenders: Its Role and Improvements for More Effective Programmes
 - b) Problems and Innovations in the Fiji Prisons Service
 - c) Fiji Prisons Service: Problem in the Area of Overcrowding in Fiji Prisons
- 3) *Mr. Walter Wai-wah Wong* (Hong Kong)
Non-Institutional Treatment of Offenders in Hong Kong
- 4) *Mr. K.L. Gupta* (India)
Non-Institutional Treatment of Offenders: Available Measures, Problems in Implementation, etc. in India
- 5) *Mr. Canisius Lephotla Siimane* (Lesotho)
The Work of Probation in Lesotho

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- 6) *Mr. Mustafa bin Osman* (Malaysia)
Non-Institutional Treatment of Offenders: Its Role and Improvement for Effective Treatment
- 7) *Mr. Alfredo Ferreyros Paredes* (Peru)
The Treatment of Offenders
- 8) *Mr. Juanito S. Leopando* (Philippines)
Non-Institutional Treatment of Offenders in the Philippines
- 9) *Mr. Ibra D. Ondi* (Philippines)
The Probation System: Philippines Setting
- 10) *Mr. Ignatius Thavayogam Canagaretnam* (Sri Lanka)
Non-Institutional Treatment of Offenders: Its Role and Improvement for More Effective Programmes – A General Discussion with Emphasis on Police
- 11) *Mr. P.H.M. Ratnayake* (Sri Lanka)
 - a) Non-Institutional Treatment of Offenders in Sri Lanka
 - b) Creating Public Awareness of Corrections in Sri Lanka
- 12) *Mr. Vitaya Suriyawong* (Thailand)
Non-Institutional Treatment of Offenders: Its Role and Improvement for More Effective Programmes
- 13) *Mr. Slaikate Wattanapan* (Thailand)
 - a) Probation and Drug-Abusing Offenders
 - b) Supervision of a Notorious Free-Loader, Mr. Poh Ngreen: A Case Study of Probation Supervision
- 14) *Mr. Yusuf Ziya Göksu* (Turkey)
Treatment of Convicts, Treatment Measures Applied within the Institution and Outside the Institution in Turkey
- 15) *Mr. Morito Fujita* (Japan)
Volunteer Probation Officer in Japan: Present Situation and Problems
- 16) *Mr. Hiroshi Gotoh* (Japan)
The Traffic Offence Cases in Tokyo Family Court
- 17) *Mr. Mitsuhiro Hasegawa* (Japan)
The Six Examples of the Second Suspension of Execution of Sentence Concerning the Subsequent Crime Committed within the Period of the Suspension of Execution of Sentence
- 18) *Mr. Noboru Higuchi* (Japan)
On the System of the Tentative Probational Supervision of Family Court in Japan
- 19) *Mr. Toyoya Ikeda* (Japan)
Measures to Implement Non-Institutional Treatment for Drug Abusers in a More Effective Way
- 20) *Mr. Kazuo Kodama* (Japan)
Non-Institutional Treatment of Offenders in Japan
- 21) *Mr. Yasushi Murakami* (Japan)
Treatment of Traffic Offenders
- 22) *Mr. Tatsuya Sakuma* (Japan)
Some Problems on Non-Institutional Treatment of Offenders
- 23) *Mr. Toshimi Sonoda* (Japan)
Probationary and Parole Supervision in Japan

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- 24) Mr. *Yoshinaka Takahashi* (Japan)
Psychological Approach to Non-Institutional Treatment

Group Workshops

- Mr. *Walter Wai-wah Wong* (Hong Kong)
Probation-Working with the Family of Juvenile Offenders

Appendix III-3

Lecturers and Lecture Topics

Visiting Experts

- 1) *Professor John Eryl Hall Williams*
 - a) The "Law and Order" Debate in Western Countries
 - b) New Kinds of Non-Institutional Methods
 - c) Monetary Penalties and Measures
 - d) "Diversion" and Non-Intervention
 - e) Crime Prevention
- 2) *Mr. Atthaniti Disatha-Amnarj*
 - a) Non-Institutional Treatment of Offenders in Thailand
 - b) Criteria for Selection of Probationers in Thailand
 - c) Volunteer Probation Project: Thailand
 - d) Trends and Development of Probation System in Thailand

Ad Hoc Lecturers

- 1) *Mr. Tomiyoshi Kawahara*, Secretary to the Director-General, Correction Bureau, Ministry of Justice
Extramural Treatment in Corrections
- 2) *Mr. Kazuhisa Suzuki*, Director of the Supervision Division, Rehabilitation Bureau, Ministry of Justice
Probationary and Parole Supervision in Japan
- 3) *Mr. Minoru Shikita*, Director-General, Correction Bureau, Ministry of Justice
Institutional Treatment of Offenders in Japan
- 4) *Mr. Hiroyasu Nagaoka*, Chief Researcher, Criminological Research Division, Research and Training Institute, Ministry of Justice
The Evaluation of Probationary and Parole Supervision
- 5) *Mr. Yoshiro Hayakawa*, Director-General, Family Affairs Bureau, General Secretariat, Supreme Court
The Present Situation and Problems of Juvenile Justice in Japan
- 6) *Mr. Keiji Kurita*, Director-General, Rehabilitation Bureau, Ministry of Justice
The Rehabilitation of Offenders in Japan

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Faculty

- 1) *Mr. Hideo Utsuro* (Director)
Recent Activities of UNAFEI
- 2) *Mr. Kunihiro Horiuchi* (Deputy Director)
The Aim of This Course and Current Trends of Criminal Activities in Japan
- 3) *Mr. Yasuro Tanaka*
The Criminal Justice System in Japan: The Courts
- 4) *Mr. Shigemi Satoh*
Halfway House in Japan – Rehabilitation Aid Hostels
- 5) *Mr. Yukio Nomura*
The Criminal Justice System in Japan: The Prison Service
- 6) *Mr. Yasuo Shionoya*
The Criminal Justice System in Japan: Investigation and Prosecution
- 7) *Mr. Masao Kakizawa*
The Criminal Justice System in Japan: System of Community-Based Corrections in Japan

Appendix III-4

List of Reference Materials Distributed

1. Lecturers' Papers

- 1) *Professor John Eryl Hall Williams*
 - a) The "Law and Order" Debate in Western Countries
 - b) New Kinds of Non-Institutional Methods
 - c) Community Service Order
 - d) The Suspended Sentence
 - e) Monetary Penalties and Measures
 - f) "Diversion" and Non-Intervention
 - g) Some Additional Features of Non-Custodial Treatment of Offenders in England and Wales
- 2) *Mr. Atthaniti Disatha-Amnarj*
 - a) Non-Institutional Treatment of Offenders in Thailand
 - b) Criteria for Selection of Probationers in Thailand
 - c) Volunteer Probation Project: Thailand
 - d) Trends and Development of Probation System in Thailand
- 3) *Mr. Hideo Utsuro* (Director)
Recent Activities of UNAFEI
- 4) *Mr. Kunihiro Horiuchi* (Deputy Director)
The Aim of This Course and Current Trends of Criminal Activities in Japan
- 5) *Mr. Yasuro Tanaka*
The Criminal Justice System in Japan: The Courts
- 6) *Mr. Shigemi Satoh*
Halfway House in Japan – Rehabilitation Aid Hostels
- 7) *Mr. Yukio Nomura*
The Criminal Justice System in Japan: The Prison Service

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- 8) *Mr. Yasuo Shionoya*
The Criminal Justice System in Japan: Investigation and Prosecution
 - 9) *Mr. Masao Kakizawa*
The Criminal Justice System in Japan: System of Community-Based Corrections in Japan
 - 10) *Mr. Wayne J. Morrison LL.M.*
Development of Non-Custodial Measures in New Zealand (1964-1986)
2. Statutes of Japan
 - 1) The Constitution of Japan
 - 2) Criminal Statutes I and II
 - 3) Laws for Correction and Rehabilitation of Offenders
 - 4) Court Organization Law and Public Prosecutors Office Law
 - 5) Laws Concerning Extradition and International Assistance in Criminal Matters
 3. Explanation of Some Aspects of the Japanese Criminal Justice System
 - 1) Criminal Justice in Japan
 - 2) Guide to the Family Court of Japan
 - 3) Thirty-two Years of the Family Court of Japan
 - 4) Correctional Institutions in Japan
 - 5) Community-Based Treatment of Offenders in Japan
 - 6) Summary of the White Paper on Crime, 1986
 - 7) 1986 White Paper on Police – Summary
 - 8) National Statement of Japan for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders
 - 9) Bulletin of the Criminological Research Department, 1985
 4. UNAFEI Publications
 - 1) Resource Material Series Nos. 28, 29
 - 2) UNAFEI Newsletters Nos. 60, 61
 - 3) Criminal Justice in Asia – The Quest for an Integrated Approach –
 - 4) Recent Activities of United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders
 - 5) Delineation of Crucial Issues of Criminal Justice in Asia
 5. Others
 - 1) Alternatives to Imprisonment (reprint from “*International Review of Criminal Policy*,” United Nations, No. 36, 1980)
 - 2) “Alternatives to Imprisonment and Measures for the Social Resettlement of Prisoners” (United Nations, *E/AC.57/1984/9*)
 - 3) Standard Minimum Rules for the Treatment of Prisoners
 - 4) Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders (Milan, Italy, 26 August to 6 September 1985, A/CONF.121.22)
 - 5) Public Administration in Japan

APPENDIX

Appendix IV-1

List of Participants of the 76th International Seminar

- Mr. Apolosi Vosanibola*
Acting Deputy Commissioner of Prisons
Fiji Prison Service
Fiji Islands
- Mr. Francis Mathew Gesa*
Regional Gaol Commander
Papua New Guinea Correctional
Services (Northern Region)
Papua New Guinea
- Mr. Wing-lee Pi*
Senior Superintendent
Correctional Services Headquarters
Hong Kong
- Mrs. Celia Sanidad Leones*
Assistant Commissioner
Crime Prevention and Co-ordinating
Branch, National Police Commission
Philippines
- Mr. Vootla Apparao*
Inspector General of Police
Civil Supplies (Vigilance)
India
- Mr. Errol Carl Foenander*
Senior District Judge
c/o Subordinate Courts
Republic of Singapore
- Mr. H. Adi Andojo Soetjipto*
Deputy Chief Justice, Supreme Court
of the Republic of Indonesia
Indonesia
- Mr. Haupe Liyanage Piyasena*
Senior Superintendent of Police
Divisional Police Office
Sri Lanka
- Mr. Al-Samarraie Ayad Bahjat Abdul Karim*
Researcher
Institute of Crime Studies and Research
Iraq
- Mr. Kanok Indrambarya*
Chief Judge attached to the Ministry
The Supreme Court
Thailand
- Mr. Lee, Tai Chang*
Director
1st Criminal Department
Bugbu Branch Office
Seoul District Public Prosecutors Office
Korea
- Mr. Kenji Kiyonaga*
Chief Researcher
Environmental Research Section of
NRIPS
Japan
- Mr. Mustafa bin Ibrahim*
Assistant Secretary
Internal Security and Public Order
Division, ('A' Division)
Ministry of Home Affairs
Malaysia
- Mr. Yukio Machida*
Public Prosecutor
Tokyo District Public Prosecutors
Office
Japan
- Mr. Baboo Ram Gurung*
Deputy Superintendent of Police
Police Headquarters
Nepal
- Mr. Taro Nishioka*
Director, Kanto-Shin'etsu Regional
Narcotics Control Office
Ministry of Health and Welfare
Japan
- Mr. Shaukat Mahmood Mian*
Inspector-General of Prisons
Pakistan

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Mr. Tetsuo Obata
Director
Fukui Probation Office
Japan

Mr. Shogo Takahashi
Judge of Tokyo District Court
Japan

Mr. Satoshi Ohtsuka
Warden of Osaka Prison
Japan

(Observer)
Mr. Chui Sum-Shing
Hong Kong

Appendix IV-2

List of Participants' Papers

- 1) *Mr. Apolosi Vosanibola* (Fiji)
Crime Prevention and Treatment of Offenders (Evaluation of UNAFEI's Courses and Drug Problems in Asia)
- 2) *Mr. Wing-lee Pi* (Hong Kong)
Evaluation of UNAFEI's Courses
- 3) *Mr. Vootla Apparao* (India)
Impact of UNAFEI Courses on the Criminal Justice of India
- 4) *Mr. Adi Andojo Soetjipto* (Indonesia)
25 Years of UNAFEI and Its Influence on Indonesia:
An Evaluation of UNAFEI's Activities
- 5) *Mr. Al-Samarraie Ayad Bahjat Abdul Karim* (Iraq)
For Many Reasons Iraq: No Drug Problem
- 6) *Mr. Lee, Tai Chang* (Korea)
Evaluation of UNAFEI Training/Seminar Courses and other Activities
- 7) *Mr. Mustafa bin Ibrahim* (Malaysia)
The Current Drug Situation in Malaysia
- 8) *Mr. Baboo Ram Gurung* (Nepal)
Evaluation of UNAFEI's Training/Seminar and other Activities
- 9) *Mr. Shaukat Mahmood Mian* (Pakistan)
Evaluation of UNAFEI's Training/Seminar and other Activities
- 10) *Mr. Francis Mathew Gesa* (Papua New Guinea)
Crime Prevention and Treatment of Offenders
- 11) *Mrs. Celia Sanidad Leones* (Philippines)
The UNAFEI Prospects and Retrospects: A Philippine Perspective
- 12) *Mr. Errol Carl Foenander* (Singapore)
76th International Seminar: Evaluation of UNAFEI's Courses and Drug Problems in Asia
- 13) *Mr. Haupe Liyanage Piyasena* (Sri Lanka)
Impact of Training by UNAFEI on Prevention of Crime and the Treatment of Offenders – Sri Lankan Experience
- 14) *Mr. Kanok Indrambarya* (Thailand)
In Commemoration of UNAFEI Achievements and Outstanding Services

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- 15) *Mr. Kenji Kiyonaga* (Japan)
UNAFEI and I
- 16) *Mr. Yukio Machida* (Japan)
Some Personal Observations on UNAFEI's Programmes
- 17) *Mr. Taro Nishioka* (Japan)
Draft Presentation for "Refresher Course," Far East Institute of Prevention of Crime and Treatment of Offenders
- 18) *Mr. Tetsuo Obata* (Japan)
Evaluation of UNAFEI's Activities and Some Suggestions
- 19) *Mr. Satoshi Ohtsuka* (Japan)
Selected Evaluation and Future Perspective of UNAFEI Activities
- 20) *Mr. Shogo Takahashi* (Japan)
An Evaluation of UNAFEI's Activities and Recommendations for Future Programmes

Appendix IV-3

Lecturers and Lecture Topics

Visiting Experts

- 1) *Dr. Pedro R. David*
UNAFEI: Twenty-Five Years of Existence
- 2) *Mr. Thomas G. Garner*
UNAFEI: The First Twenty-Five Years
- 3) *Mr. Quek Shi Lei*
Evaluation of the Singapore-Japan Joint Seminar on the Prevention of Crime and the Treatment of Offenders, at Singapore from 8 to 19 December 1986
- 4) *Mr. Hisashi Hasegawa*
Reminiscences of a Junior Faculty Member on the Pioneer Days of UNAFEI and Some Suggestions on Future Programmes
- 5) *Mr. Stuart Blair McEwen*
Drug Problems in Asia and the Pacific Region
- 6) *Mrs. Zhang Yanling*
Evaluation of UNAFEI's Role and Activities from the Experience of the China-UNAFEI Joint Judicial Seminar

Ad Hoc Lecturers

- 1) *Mr. Atsushi Nagashima*, Justice, Supreme Court
UNAFEI: An Epoch of Transition and Development
- 2) *Mr. Keisuke Iwai*, Director of Second Training Division, Kinki Regional Parole Board
Memories of UNAFEI in its Early Days
- 3) *Mr. Minoru Shikita*, Director-General, Correction Bureau, Ministry of Justice
The Role of UNAFEI in United Nations Activities on the Prevention of

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Crime and the Treatment of Offenders

- 4) *Mr. Hisao Kamiya*, Chairman, Board of Directors, Asia Crime Prevention Foundation
On the Administration of Criminal Justice in Japan
- 5) *Mr. Shigeki Itoh*, Prosecutor-General, Supreme Public Prosecutors Office
The Birth of UNAFEI and Its 1st International Seminar Course

Faculty Lecture

- 1) *Professor Hideo Utsuro* (Director)
A Quarter-Century Contribution of UNAFEI to the Improvement of Criminal Justice and United Nations Activities

Appendix IV-4

List of Reference Materials Distributed

1. Lecturers' Papers

- 1) *Dr. Pedro R. David*
UNAFEI: Twenty-Five Years of Existence
- 2) *Mr. Quek Shi Lei*
Evaluation of the Singapore-Japan Joint Seminar on the Prevention of Crime and the Treatment of Offenders, at Singapore from 8 to 19 December 1986
- 3) *Mr. Matti Joutsen*
Evaluation of UNAFEI Programme Activities
Notes on the Further Development of UNAFEI Programme Activities
- 4) *Mr. Thomas G. Garner*
UNAFEI: The First Twenty-Five Years
- 5) *Mr. Stuart Blair McEwen*
Drug Problems in Asia and the Pacific Region
- 6) *Mrs. Zhang Yanling*
Evaluation of UNAFEI's Role and Activities from the Experience of the China-UNAFEI Joint Judicial Seminar
- 7) *Mr. Hisao Kamiya*
On the Administration of Criminal Justice in Japan
- 8) *Mr. Hideo Utsuro* (Director)
A Quarter-Century Contribution of UNAFEI to the Improvement of Criminal Justice and United Nations Activities
- 9) *Dr. Mohsen Abd Elhamid Ahmed*
Comparative Study on Drug Legislation in Arab States
Prevention & Treatment Procedures to Combat Illicit Use of Drugs in the Arab Region (Field Survey)
Drug Crimes in Islamic Law

APPENDIX

2. Others

- 1) The International Seminar on Drug Problems in Asia and the Pacific Region
- 2) Delineation of Crucial Issues of Criminal Justice in Asia
- 3) National Statement of Japan for the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders
- 4) Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations, A/CONF, 121/22/Rev. 1)
- 5) Summary of the White Paper on Crime, 1986
- 6) 1986 White Paper on Police – Summary

Appendix V-1

List of Participants in the 77th International Training Course

- | | |
|--|--|
| <i>Mr. M. Enamul Huq</i>
Deputy Inspector General of Police
Police Headquarters
Bangladesh | <i>Mr. Tankiso Phillip Metsing</i>
Police Officer, Lieutenant
Police Headquarters
Lesotho |
| <i>Mr. Yang Yuguan</i>
In Charge of International
Organizations' Affairs, Foreign Affairs
Department
Ministry of Justice
People's Republic of China | <i>Mr. Arshad bin Haji Mokhtar</i>
Ketua Jabatan Siasatan Jenayah
Kedah & Perlis
Pejabat Ketua Polis
Malaysia |
| <i>Mr. Jairo Mejia</i>
Vice-President, Insurance Company of
Colombia
Colombia | <i>Mr. Francisco Arca Patino</i>
Partner, Alcorta, Barrios, Hondskoph,
Sas and Arca (Abogados)
Peru |
| <i>Mr. Iliesa Malualagi Suguturaga</i>
Deputy Superintendent of Police
Central Police Station
Police Headquarters
Fiji Islands | <i>Mr. Alfredo G. Pagulayan</i>
Assistant Commissioner of Police
National Police Commission
Philippines |
| <i>Mr. Libersin Saragih Allagan</i>
Chief of Division, Directorate of Law
Department of Justice
Indonesia | <i>Mr. Nicasio M. Tortona</i>
Assistant Chief Insurance
Specialist, Public Assistance and
Investigation Division
Insurance Commission,
Department of Finance
Philippines |
| <i>Mr. Seo, Yeong-Je</i>
Professor (Public Prosecutor)
Legal Research and Training Institute
Ministry of Justice
Republic of Korea | |

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Mr. Fahad Abdulaziz Al-Medeimigh
Criminal Cases Researcher
Drug Prevention Department
Ministry of Interior
Saudi Arabia

Mr. Ibrahim Ahmed Elhaj
Police Regional Commissioner
Police Headquarters,
Northern Region
Sudan

Miss Patana Puapatanakul
Chief of Classification Section
Department of Corrections
Ministry of Interior
Thailand

Mr. Sirisak Tiyanpan
Senior Public Prosecutor
Legal Advisory Division
Public Prosecution Department
Thailand

Mr. Takayuki Aonuma
Public Prosecutor
Tokyo District Public Prosecutors
Office
Japan

Mr. Shuichi Furuta
Deputy Warden of Matsumoto Juvenile
Prison
Japan

Mr. Yoichi Hirokawa
Probation and Parole Officer
Japan

Mr. Kazuo Inaba
Public Prosecutor
Osaka District Public Prosecutors
Office
Japan

Mr. Masayuki Kawaai
Judge
Tokyo District Court
Japan

Mr. Masatomo Maeda
Director of the Security Division
Osaka Regional Correction
Headquarters
Ministry of Justice
Japan

Mr. Kenji Ooyama
Deputy Director of Living and
Economic Affairs Division
Safety Department
National Police Agency
Japan

Ms. Toshiko Suganuma
Probation Officer
2nd Probation Section of Nagoya
Probation Office
Japan

Mr. Masaharu Yamashita
1st Grade 1st Engineer Officer
Patrol Vessel "IZU"
Yokohama Maritime Safety Office
Japan

Mr. Tetsushi Yukawa
Judge
Osaka District Court
Japan

APPENDIX

Appendix V-2

List of Participants' Papers

Comparative Study

- 1) *Mr. M. Enamul Huq* (Bangladesh)
Criminal Justice Administration Against Crime Related to Insurance
- 2) *Mr. Yang Yuguan* (China)
Insurance and Crime
- 3) *Mr. Jairo Mejia* (Colombia)
A Brief Analysis on Problems We Are Faced with When Regarding the Development of Insurance Related with Crime in Colombia
- 4) *Mr. Iliesa Malualagi Suguturaga* (Fiji)
Crime Related to Insurance
- 5) *Mr. Libersin Saragih Allagan* (Indonesia)
The Department of Justice, Republic of Indonesia
- 6) *Mr. Seo, Yeong-Je* (Korea)
Crimes Related to Insurance and Its Prevention and Control in Korea
- 7) *Mr. Tankiso Phillip Metsing* (Lesotho)
The Actual Situation of Insurance System and Crime Related to Insurance in Lesotho
- 8) *Mr. Arshad bin Haji Mokhtar* (Malaysia)
Malaysia: Insurance: Combatting Fraud in Property Damage and Theft Claims
- 9) *Mr. Francisco Arca Patino* (Peru)
Actual Situation of Insurance Systems in Peru
- 10) *Mr. Alfredo G. Pagulayan* (Philippines)
The Insurance Law of the Philippines
- 11) *Mr. Nicasio M. Tortona* (Philippines)
Insurance Crime Prevention in the Philippines
- 12) *Mr. Fahad Abdulaziz Al-Medeimigh* (Saudi Arabia)
The Criminal Justice System and Crime Related to Insurance in Saudi Arabia
- 13) *Mr. Ibrahim Ahmed El-Aj* (Sudan)
The Development and Present Situation of Insurance in Sudan
- 14) *Miss Patana Puapatanakul* (Thailand)
Insurance Industry and Insurance Crime in Thailand
- 15) *Mr. Sirisak Tiyyapan* (Thailand)
Crime Related to Insurance in Thailand
- 16) *Mr. Takayuki Aonuma* (Japan)
Actual Situation and Problems of Insurance Crime
- 17) *Mr. Shuichi Furuta*
On Insurance-Related Crime in Japan
- 18) *Mr. Yoichi Hirokawa* (Japan)
Parole for Offenders Related to Insurance
- 19) *Mr. Kazuo Inaba* (Japan)
The Actual Circumstances and Problems of Crimes Defrauding Insurance

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Money

- 20) *Mr. Masayuki Kawai* (Japan)
Facts and Problems of Crimes Related to Insurance in Japan
- 21) *Mr. Masatomo Maeda* (Japan)
Countermeasures for Prevention of Insurance Crimes
- 22) *Mr. Kenji Ooyama* (Japan)
Situations of Crime Related to Insurance in Japan
- 23) *Ms. Toshiko Sukanuma* (Japan)
Trends and Examples of Insurance Related to Crime in Japan
- 24) *Mr. Masaharu Yamashita* (Japan)
Actual Circumstances of Insurance Fraud Cases on the Sea and Their Points
- 25) *Mr. Tetsushi Yukawa* (Japan)
How the Court Treats Insurance-Related Crimes

Group Workshops

- 1) *Mr. M. Enamul Huq* (Bangladesh)
Crime Relating to Insurance: A Case Study of Bangladesh
- 2) *Mr. Yang Yuguan* (China)
Questions on Bribe
Situation of Attacking on Crime in China
An Introduction to the Criminal Procedure Law of China
- 3) *Mr. Ilesia Mahualagi Suguturaga* (Fiji)
The Royal Fiji Police and the Crime Situation in Fiji
- 4) *Mr. Seo, Yeong-Je* (Korea)
Automobile Insurance-Related Crimes
- 5) *Mr. Tankiso Phillip Metsing* (Lesotho)
Road Traffic Accident, Car Theft and Their Impact on Insurance in Lesotho
- 6) *Mr. Arshad bin Haji Mokhtar* (Malaysia)
An Integrated Approach to Control Crimes Related to Insurance: Harmonization of Specific Laws
- 7) *Mr. Francisco Arca Patino* (Peru)
Some Problems Related to Insurance Offences in Peru in Need of Solution
- 8) *Mr. Ibrahim Ahmed Elhaj* (Sudan)
 - a) Short Notes on Elements of Insurance
 - b) Some Problems Related to Insurance Needing Solution in Sudan
- 9) *Miss Patana Puapatanakul* (Thailand)
Situation Analysis of Crime Related to Insurance in Thailand
- 10) *Mr. Takayuki Aonuma* (Japan)
The Investigation of the Miura Case
- 11) *Mr. Kazuo Inaba* (Japan)
One Case of Defrauding Automobile Insurance Money
- 12) *Mr. Masayuki Kawai* (Japan)
Effective Repressive Measure of Criminal Justice Against Crimes Concerning Insurance
- 13) *Mr. Kenji Oyama* (Japan)
A Murder Case in Manila Aiming at Insurance Money
- 14) *Mr. Masaharu Yamashita* (Japan)

APPENDIX

Difficulty in Criminal Investigation for Insurance Fraud Cases on the Sea and Its Countermeasures

- 15) *Mr. Tetsushi Yukawa* (Japan)
Fact-Finding of Intent by Circumstantial Facts in Insurance Crime

Appendix V-3

Lecturers and Lecture Topics

Visiting Experts

- 1) *Sir Thomas C. Hetherington*
 - a) The Development of the Agencies Responsible for the Investigation and Prosecution of Crime in England and Wales
 - b) Trends in Crime Relating to Insurance and in the Arrangements for Prosecuting Offenders
 - c) Measures to Improve the Prosecution of Crimes with Commercial and International Implications
 - d) The Confiscation of the Assets of Offenders Convicted of Profitable Crimes, Compensation for Victims of Criminal Violence and Extradition
- 2) *Mr. Panat Tasneeyanond*
 - a) Marine Insurance Frauds
 - b) International Co-operation in Combatting Maritime Fraud
 - c) The Delta Sigma Pi: A Genuine Sinking or a Scuttling?
- 3) *Mr. Timothy D. Crowe*
 - a) Insurance-Related Crime
 - b) Productivity
 - “If it ain’t apprehension, what is it?”
 - “What do you mean, you don’t have time?”
 - Spare Parts
 - c) Signals of Crime in Progress
 - Insurance Investigation Techniques: Casualty Property Insurance, Loss Investigation, Arson Insurance Investigation

Visiting Research Fellow

- Dr. Shura Cook*
Reflections on Economic Crime

Ad Hoc Lecturers

- 1) *Professor Klaus Tiedemann*, Professor of Fulda University, Federal Republic of Germany
 - Multinational Economic Crime with Special Regard to the Activities of Multinational Corporations and to International Insurance Fraud
- 2) *Mr. Takayuki Yamamoto*, 2nd Insurance Division, Insurance Department, Banking Bureau, Ministry of Finance
 - Actual Situation of Insurance Systems and Non-Criminal Countermeasures

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- against Crime Related to Insurance in Japan
- 3) *Mr. Daisuke Sekiba*, Director, Criminal Investigation, Tokyo District Public Prosecutors Office
Some Aspects of Criminal Investigation in Japan Focused on Crime Related to Insurance
 - 4) *Mr. Kinnosuke Hosoi*, Director, Cargo Claims Department, The Tokyo Marine & Fire Insurance Co. Ltd.
Insurance Companies Combatting Crime Related to Insurance
 - 5) *Mr. Cliff Swann*, HM Chief Inspector of Probation, Home Office, United Kingdom
The Probation System in England and Wales
 - 6) *Mr. Wataru Kotani*, Assistant Director of 2nd Investigation Division, Criminal Affairs Bureau, National Police Agency
Criminal Investigation Against Crime Related to Insurance
 - 7) *Dr. Shura Cook*, Philosopher, Crime Prevention Consultant, Japan Foundation Fellow
Reflections on Economic Crime
 - 8) *Mr. Yasutaka Okamura*, Director-General of the Criminal Affairs Bureau, Ministry of Justice
Some Aspects of Criminal Justice Administration in Japan
 - 9) *Dr. Knut Sveri*, Vice-Dean, Faculty of Law, University of Stockholm, Sweden
Health Insurance Fraud
 - 10) *Mr. Noboru Matsuda*, Director, Special Investigation Division, Tokyo District Public Prosecutors Office
Outline of the Special Investigation Division and Its Vital Role in Investigation Against Intelligent Crime in Japan

Faculty Lecture

- 1) *Mr. Hideo Utsuro* (Director)
A Quarter-Century Contribution of UNAFEI to the Improvement of Criminal Justice and United Nations Activities
- 2) *Mr. Kunihiko Horiuchi* (Deputy Director)
Current Trends of Criminal Activities in Japan
- 3) *Mr. Yasuro Tanaka*
The Criminal Justice System in Japan: The Courts
- 4) *Mr. Yukio Nomura*
The Criminal Justice System in Japan: The Prison Service
- 5) *Mr. Itsuo Nishimura*
The Criminal Justice System in Japan: Investigation and Prosecution
- 6) *Mr. Masakazu Nishikawa*
The Criminal Justice System in Japan: The Probation

APPENDIX

Appendix V-4

List of Reference Materials Distributed

1. Lecturers' Papers
 - 1) *Sir Thomas C. Hetherington*
 - a) The Development of the Agencies Responsible for the Investigation and Prosecution of Crime in England and Wales
 - b) Trends in Crime Relating to Insurance and in the Arrangements for Prosecuting Offenders
 - c) Measures to Improve the Prosecution of Crimes with Commercial and International Implications
 - d) The Confiscation of the Assets of Offenders Convicted of Profitable Crimes, Compensation for Victims of Criminal Violence and Extradition
 - 2) *Mr. Panat Tasneeyanond*
 - a) Marine Insurance Frauds
 - b) International Co-operation in Combatting Maritime Fraud
 - c) The Delta Sigma Pi: A Genuine Sinking or a Scuttling?
 - 3) *Mr. Timothy D. Crowe*
 - a) Insurance-Related Crime
 - b) Productivity
 - "If it ain't apprehension, what is it?"
 - "What do you mean, you don't have time?"
 - Spare Parts
 - c) Signals of Crime in Progress
 - Insurance Investigation Techniques: Casualty Property Insurance, Loss Investigation, Arson Insurance Investigation
 - 4) *Mr. Hideo Utsuro* (Director)
 - A Quarter-Century Contribution of UNAFEI to the Improvement of Criminal Justice and United Nations Activities
 - 5) *Mr. Kunihiro Horiuchi* (Deputy Director)
 - Current Trends of Criminal Activities in Japan
 - 6) *Mr. Yasuro Tanaka*
 - The Criminal Justice System in Japan: The Courts
 - 7) *Mr. Yukio Nomura*
 - The Criminal Justice System in Japan: The Prison Service
 - 8) *Mr. Itsuo Nishimura*
 - The Criminal Justice System in Japan: Investigation and Prosecution
 - 9) *Mr. Masakazu Nishikawa*
 - The Criminal Justice System in Japan: The Probation
 - 10) *Dr. Shura Cook*
 - Reflections on Economic Crime
2. Statutes of Japan
 - 1) The Constitution of Japan
 - 2) Criminal Statutes I and II
 - 3) Laws for Correction and Rehabilitation of Offenders
 - 4) Court Organization Law and Public Prosecutors Office Law

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- 5) Laws Concerning Extradition and International Assistance in Criminal Matters
3. Explanation of Some Aspects of Japanese Criminal Justice System
 - 1) Criminal Justice in Japan
 - 2) Guide to the Family Court of Japan
 - 3) Correctional Institutions in Japan
 - 4) Community-Based Treatment of Offenders in Japan
 - 5) Summary of the White Paper on Crime, 1986
 - 6) 1986 White Paper on Police – Summary
 - 7) National Statement of Japan for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders
 - 8) Bulletin of the Criminological Research Department, 1986
4. UNAFEI Publications
 - 1) Resource Material Series Nos. 29, 30
 - 2) UNAFEI Newsletter Nos. 62, 63
 - 3) Criminal Justice in Asia – The Quest for an Integrated Approach –
 - 4) Recent Activities of United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders
 - 5) Delineation of Crucial Issues of Criminal Justice in Asia
5. Others
 - 1) Alternatives to Imprisonment (reprint from “*International Review of Criminal Policy*,” United Nations, No. 36, 1980)
 - 2) “Alternatives to Imprisonment and Measures for the Social Resettlement of Prisoners” (United Nations, E/AC.57/1984/9)
 - 3) Standard Minimum Rules for the Treatment of Prisoners
 - 4) Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Milan, Italy, 26 August to 6 September 1985, A/CONF.121.22)
 - 5) Public Administration in Japan
 - 6) Japanese Insurance Laws and Japanese Non-Life Insurance Agency Contract Forms

Appendix VI

MAIN STAFF OF UNAFEI (As at 31 December 1987)

Director	<i>Mr. Hideo Utsuro</i>
Deputy Director	<i>Mr. Kunihiko Horiuchi</i>
Chief of the Training Division	<i>Mr. Yasuro Tanaka</i>
Chief of the Research Division	<i>Mr. Shigemi Satoh</i>
Chief of the Information and Library Service Division	<i>Mr. Yukio Nomura</i>
Chief of the Secretariat and Hostel Manager	<i>Mr. Mutsuro Yabe</i>
Professor	<i>Mr. Masahiko Kikuchi</i>
Professor	<i>Mr. Itsuo Nishimura</i>
Professor	<i>Mr. Yasuo Shionoya</i>
Professor	<i>Mr. Masakazu Nishikawa</i>
Professor	<i>Mr. Fumio Saito</i>

APPENDIX

Appendix VII

Distribution of Participants by Professional Backgrounds and Countries
(1st Training Course-77th Seminar, 2 U.N. Human Rights Courses and 1 Special Course)

(1962-Dec. 1987)

Country	Judicial and Other Administration	Judges	Public Prosecutors	Police Officials	Correctional Officials (Adult)	Correctional Officials (Juvenile)	Probation, Parole Officers	Family Court Investigation Officers	Child Welfare Officers	Social Welfare Officers	Training and Research Officers	Others	Total
Asia (25)													(925)
Afghanistan	7	8	5	3									23
Bangladesh	12	7		8	4		4			5		1	41
Brunei	2												2
Burma	3			1									4
China	6		1	3							1		11
Hong Kong	10			2	16	3	9		1	3			44
India	11	10		23	6	1	1			2	6	1	61
Indonesia	11	16		19	7		3			4		1	68
Iran	5	11	8	8	6						2	1	41
Iraq	5	3	3	5	5	5					2		28
Kampuchea		2	1	2	1								6
Korea	9	3	32	5	10	4					3		66
Laos	3	4	3	9									19
Malaysia	11		2	23	19	7	3		1	5	3		74
Nepal	15	11	3	21								2	52
Pakistan	11	6	2	9	6	1	2				2		39
Philippines	12	5	16	16	7	3	5	3		3		5	75
Saudi Arabia				3	1							1	5
Singapore	10	13	3	9	8	3	8			3	1		58
Sri Lanka	20	9	4	7	13	1	10			2		1	67
Taiwan	12	4	2	2	1								21
Thailand	14	18	13	8	13	7	8	1		7	4	1	94
Turkey	1	1	1										3
United Arab Emirates	1												1
Vietnam	10	5	2	1					4				22
Africa (11)													(38)
Egypt											1		1
Ethiopia	2			1									3
Ghana				2									2
Guinea			1	1									2
Kenya	2				2		2						6
Mauritius		1											1
Morocco				4									4
Nigeria	1				2								3
Sudan	2		1	8							1		12
Tanzania	1	1			1								3
Zambia		1											1
The Pacific (7)													(53)
Australia			1				1			1			3
Fiji	3		4	7	6								20
New Zealand	1			1									2
Papua New Guinea	4		1	4	3				1				14
Ponape (Micronesia)							1						1
Tonga	2	1		4	2						1		10
Western Samoa	1			1								1	3
North & South America (13)													(48)
Argentina		1											1
Brazil	2		1	3					1				7
Chile	1				1								2
Colombia	1	1	1						1				5
Costa Rica	1	2	2									2	7
Ecuador				1		1							2
Honduras				1									1
Jamaica	3				1								4
Panama				1								1	2
Paraguay				2									2
Peru	4	7										2	13
Venezuela											1		1
U.S.A. (Hawaii)							1						1
Japan	81	77	136	64	48	44	110	47	37	2	33	17	696
Total	313	228	256	292	189	80	167	52	41	42	61	39	1,760

RESOURCE MATERIAL SERIES

No. 33

UNAFEI

Introductory Note

The Editor is pleased to present No. 33 of the Resource Material Series including materials from the 76th International Seminar and the 77th International Training Course.

Part I contains materials produced during the 76th International Seminar on Evaluation of UNAFEI's International Courses on Prevention of Crime and Treatment of Offenders, and Drug Problems in Asia which began on 31 August and ended on 19 September 1987.

Section 1 of Part 1 consists of papers contributed by five visiting experts.

Dr. Pedro R. David, Interregional Advisor, Crime Prevention and Criminal Justice Branch, United Nations, Vienna International Centre, Austria, in his paper entitled "UNAFEI: Twenty-Five Years of Existence" describes the history of UNAFEI and its accomplishments from its inception.

Mr. Thomas G. Garner, Consultant of Criminal Justice (Correctional) Administration, Former Commissioner of Correctional Services, Hong Kong, in his paper: "UNAFEI: The First Twenty-Five Years" reviews the wide range of UNAFEI activities and indicates the guidelines for the future.

Mr. Quek Shi Lei, Director, Prison Headquarters, Republic of Singapore describes the valuable experience of the Joint Seminar in "Evaluation of the Singapore-Japan Joint Seminar on the Prevention of Crime and the Treatment of Offenders."

Mrs. Zhang Yangling, Deputy Director, Foreign Affairs Department, Ministry of Justice, People's Republic of China, discusses the impact of the Joint Seminar on China's criminal justice administration in her paper entitled "Evaluation of UNAFEI's Role and Activities from the Experience of the China-UNAFEI Joint Judicial Seminar."

Mr. Hisashi Hasegawa, Regional Advisor for Crime Prevention and Criminal Justice, Economic and Social Commission for Asia and the Pacific, United Nations, in his paper entitled "Reminiscences of a Junior Faculty Member on the Pioneer Days of UNAFEI and Some Suggestions on Future Programmes" describes his unique experience as a faculty member in the embryonic period of UNAFEI and makes interesting suggestions for future improvement of UNAFEI programmes.

Section 2 contains the Report of the Seminar.

Part II presents materials produced during the 77th International Training

INTRODUCTORY NOTE

Course on Crime Related to Insurance.

Section 1 of Part II consists of papers presented by two visiting experts.

Sir Thomas C. Hetherington, Former Director of Public Prosecution, United Kingdom, in his paper, "Recent Developments in the English Legal System and the International Effect of Changes on the Prosecution of Commercial Crime" discusses the problems which face all countries as regards the investigation of serious offences and commercial crime, and describes their emergence in England, how they are tackled, and what measures of international co-operation are needed in an effort to combat the problem.

Mr. Timothy D. Crowe, Director of the National Crime Prevention Institute, School of Justice Administration, College of Urban and Public Affairs, University of Louisville, United States, in his paper entitled "Insurance Related Crime: Problems, Needs and Solutions" provides a broad perspective on the problems of insurance related crime and advances potential counter-measures to cope with them.

Section 2 contains three papers written by participants of the 77th International Training Course, Section 3 presents the Report of the Group Workshops and Section 4 contains the Report of the Course.

Part III presents materials produced during other UNAFEI activities.

Section 1 of Part III contains the report of the Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI Work Programmes and Directions held at UNAFEI on 4 September 1987. The report, in which all committee members agreed that UNAFEI was endeavouring to carry out its duties diligently and hoped that UNAFEI would continue to provide valuable services to the Asia and Pacific region for many years to come, was adopted unanimously.

Section 2 contains the report of the Workshop on Implementation Modalities for the Twenty-Three Recommendations Adopted by the International Seminar on Drug Problems in Asia and the Pacific Region which was held on the occasion of the 76th International Seminar at UNAFEI on 8 September 1987.

This Workshop was a follow-up of the International Seminar on Drug Problems in Asia and the Pacific Region, which was held from 4 to 22 August 1986, in Tokyo, Hong Kong, Bangkok, Chiang Mai and Kuala Lumpur.

The participants examined ways and means of implementing the 23 recommendations and resolutions were drawn up.

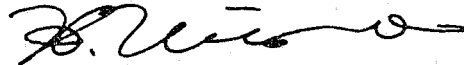
In both the 76th and 77th International Courses, many excellent papers

INTRODUCTORY NOTE

were submitted to the Institute. It is regrettable, however, that all the papers cannot be printed because of limited space in this volume. The Editor would like to add that, owing to lack of time, necessary editorial changes had to be made without referring the manuscripts back to their authors. The Editor asks for their indulgence for having to do it in this way because of editorial deadlines.

In concluding the Introductory Note, the Editor would like to express his gratitude to those who so willingly contributed to the publication of this volume by attending to the typing, printing and proofreading, and by assisting in various other ways.

April 1988



Hideo Utsuro
The Editor
Director of UNAFEI

PART I

**Material Produced during
the 76th International Seminar
on Evaluation of UNAFEI's International
Courses on Prevention of Crime and
Treatment of Offenders,
and Drug Problems in Asia**

SECTION 1: EXPERTS' PAPERS

UNAFEI: Twenty-Five Years of Existence

by Pedro R. David*

The Inauguration of UNAFEI

On 3 September 1962, His Imperial Highness, Prince Takamatsu, inaugurated the First International Training Course of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders in the presence of a large and distinguished gathering.

In the words of His Imperial Highness:

"...Crime is one of the great human problems common to all countries, and the processes of cultural interchange are so intimate that it may not be too much to say that problems in the field of the prevention of crime and the treatment of offenders can no longer be regarded as the particular burden of each separate country. Rather, the solution of such problems has to be regarded as one of the most urgent tasks facing the totality of countries in the region. . ."¹

Two capital ideas, both for the future role of UNAFEI and for the path of United Nations Crime Prevention and Criminal Justice Policy were introduced in this brief statement:

a) The recognition of the enormous challenge of criminality to all nations, and, b) that its nature and dimensions were international concerns "exceeding the particular burden of each separate country."

* Interregional Adviser in Crime Prevention and Criminal Justice of the United Nations, Officer-in-Charge of the Crime Prevention and Criminal Justice Branch, Vienna International Centre, Austria.

Editor's note: The author of this article has dedicated it to his close friend, Mr. Minoru Shikita, currently Chief Public Prosecutor, Kyoto District Public Prosecutors Office, Japan.

The report of the inauguration also stated that:

"In his address, Prince Takamatsu extended a warm welcome to all those who, by their presence and through messages of goodwill, had shown an interest in the work of the Institute, and forcefully stressed its social significance. He also expressed the hope that the trainees from outside Japan would, through their observation and understanding, further promote friendly relationships between their respective countries and the people of Japan."

Others who spoke on this occasion were the Minister of Justice, the Vice-Minister of Justice, the Director, Deputy-Director and Senior Adviser of the Institute. They emphasized the social problems facing countries in the region, and described the role of the Institute in helping to meet them.

The functions of the Institute are:

- 1) To provide training courses for officials in the region;
- 2) To pursue research into techniques of treating crime and juvenile delinquency, concentrating on problems in the region;
- 3) To disseminate information concerning correctional practices throughout the region;
- 4) To provide advisory services to governments.

The objectives and plan of action which were advanced at that historic occasion were confirmed, as we see today, year after year in the concrete development of UNAFEI's activities.

It is the purpose of my lecture today not only to review what has been done so effectively by UNAFEI, but to integrate these events into what is today, largely because of the work of UNAFEI, United

Nations Crime Prevention and Criminal Justice Policy.

The First Eight Years

On the front page of UNAFEI's Report on the first eight years of existence (1962-1970) there is imprinted a revealing text from a Buddhist scripture:

"It is better to light one small lamp than to hate the darkness."

Mr. Pillai, at the end of his report for those eight most fruitful years, added in reference to UNAFEI's work: "Where there was darkness at least one lamp has been lit to illumine the pathway to a better world."

Permit me to remark, 25 years later, and reviewing with care the many substantive accomplishments of UNAFEI, that the small lamp has radiated its light with the generosity and creativeness of the rising sun over the universe of crime prevention and criminal justice. This is not an exaggeration, only an approximation to objective reality.

In attempting to review the work of UNAFEI I intend not to recite the facts of a biography, the biography of an institution, but to ascertain the impact of them into our present situation in the fight against criminality both in previous and present forms and dimensions.

After an almost exhaustive appraisal of UNAFEI's work in these years (1962-1982) I could see that there is throughout a systematic and cumulative effort to innovate, to change the previous unsatisfactory state of affairs in the field, and to serve the region, the world and Japan in fulfillment of the purposes of the Charter of the United Nations.

The following is a report of those years by the Director concerning the establishment of UNAFEI.²

"UNAFEI being the first institution of its kind in its field, it would be of interest to set down some of the factors which in the opinion of the writer have contributed to its successful operation in the past. First in importance must be mentioned the positive contribution of the Ministry of Justice

and the Government of Japan. From the moment negotiations for the setting up of this Institute commenced, the Ministry of Justice revealed a positive and farsighted attitude. At every stage there was the highest degree of co-operation with the United Nations.

"Secondly, those sections of the United Nations Organization which were closely involved with the Institute, such as the Social Development Division, the Technical Assistance Services, ECAFE, and the Human Rights Division, gave their guidance and assistance to the fullest degree possible within the limits of their resources. The third basic element in the progress of the Institute was the co-operation from some of the governments within and beyond the region. The great majority of those within the region sent participants to the training courses and assisted in the collection of information for research purposes; many developed countries sent visiting lecturers at their expense.

"Our visiting experts made invaluable contributions to the work of the Institute. Fortunately, we were able to secure men of the widest experience in their respective disciplines; they came from universities, from the field of law and criminal justice, from correctional services, and from specific disciplines. They came not merely to lecture, but to participate, and they brought with them experience not only from the academic world but more often from the hard world of reality. They gave not only of their knowledge, but also of their experience, and not the least of their friendship. Some of them were glad to come again and again.

"In the final analysis, the work of an institute of this kind can best be judged by its impact on the nations it attempts to serve. In the field of social defence, as in the larger context of social development, it is known that changes are not easily discernible within a short space of time. Besides such influences as the training programme at the Institute has been able to exert in the region, which necessarily have to be promulgated through individuals rather than directly through governments

25 YEARS OF EXISTENCE

or government policies, it must be remembered that in the developing world, even more than in the advanced countries, priorities afforded to social defence projects and programmes tend to be at the lowest level.

"In spite of such formidable obstacles, it may be contended that the work of UNAFEI has shown some remarkable results within the short period of its existence. In Japan itself the presence of the Institute has exerted an indirect and perhaps subtle influence in the whole field of crime prevention and treatment. There are now 213 senior officials who have followed training courses at UNAFEI.

"UNAFEI has also enabled the correctional services in Japan to come into close contact with personnel from correctional services abroad, through both visiting experts and participants. This has enabled Japanese systems and methods to become better known throughout the world and, in return, Japanese correctional officials have been assisted in following up their training at the Institute by taking more intensive courses abroad. The Institute appears to have served in stimulating progressive action in various fields of social defence activities; the authorities have been encouraged to expand and improve their respective services in order to keep up with the ideas and ideals expounded at UNAFEI. The role of the open institution in the field of institutional treatment of offenders has begun to be more realistically understood by the discussions at the Institute. It was therefore a significant and welcome move when a new institution for traffic offenders was established recently in the vicinity of Tokyo."

Similar but less discernible changes are being attempted in many of the countries of the region which the Institute has attempted to serve. In the Republic of Korea and the Republic of China participants in our training courses occupy key positions in the correctional services, and visits to these countries have revealed considerable improvement in the correctional services.

In India, Pakistan and Ceylon, participants in UNAFEI courses have gradually

moved into responsible positions in their specific fields of activity and appear to be making headway in improving and expanding their activities by bringing to their work a deeper understanding of the problems and difficulties which confront them, and in seeking to find remedies which are consonant with their own cultures and resources.

Better co-ordination of resources and more humanitarian methods appear to be emerging out of the uncertainties of the past. There is no longer a sense of "isolationism" in social defence measures in the region. Where there was darkness at least one lamp has been lit to illuminate the pathway to a better world.

UNAFEI: 1972 to 1987

The impressive array of UNAFEI's activities during the first eight years of its existence had projected its vigorous impact upon subsequent years and up to the present time.

Since 1972 UNAFEI continued to expand its activities, and has succeeded in a most impressive manner in establishing itself as a major regional training institution in the field of crime prevention and criminal justice. In fact, to the 29 international training courses and international seminars the Institute has offered until mid-1972, one must add more than 50 such courses and seminars that have been offered since that date, and attended by well over one thousand participants. The importance of this academic activity for the criminal justice systems of the countries of the region cannot be exaggerated. These participants, among whom we find judges, public prosecutors, senior police officers, members of national criminology institutes, correctional, probation and welfare officers, and other officials of the administration of criminal justice, often occupy key influential positions in their respective countries, and have therefore substantially contributed to the diffusion of United Nations norms and standards in the region.

The topics of the courses and seminars cover a broad and ever-expanding spectrum

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of crime prevention and criminal justice themes, a spectrum so vast and diversified as not to lend itself to an item-by-item enumeration. The main emphasis, however, appears to lie, quite appropriately, in the administration of criminal justice and the treatment of offenders, including community participation therein, followed by topics in the area of the prevention of delinquency and the administration of juvenile justice. The role of human rights in crime prevention and criminal justice, itself the theme of several such courses and seminars, lends the unifying theme to the entire gamut of topics, from those already mentioned to sentencing theory and practice, roles and functions of the police or the reform of criminal justice.

In addition to the courses and seminars held at the Institute's headquarters, a pioneering development, in recent years, has been the geographical extension of this academic activity to other countries of the region. This innovation, which permits reaching a large number of participants at lower cost, has taken the form of regional joint seminars, held in different countries of the region under the joint sponsorship of the host country and UNAFEI, which address topics of particular interest for each respective country. At least six such seminars have been held since 1981 and have encountered great success.

Further, the assistance lent by the Institute to the Secretariat in the preparatory activities for the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which had always been considerable and very valuable, increased in a most remarkable manner on the occasion of the Seventh Congress, as illustrated by the organization, by UNAFEI, of four international meetings, from 1983 to 1985, which dealt with topics of direct interest for the Congress, such as the prevention of delinquency, the administration of juvenile justice, crime trends and crime prevention strategies, and the Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies.

In the area of research, the Institute, although fully aware of its crucial importance, was prevented, until recently, from a more active involvement by the clear realization that the bulk of the available resources should be allocated to the development and consolidation of its training capacity, which was undoubtedly a correct assessment of the priorities in the region. In recent years, however, UNAFEI has undertaken a growing number of research initiatives of a comparative and pragmatic sort, in the form of surveys in a variety of important areas, such as management issues in crime prevention and control, regional crime trends, interaction between criminal behaviour and drug abuse, etc. It appears likely that such research activities will continue increasing in the years to come, particularly since, as was already noted, the training programme has been so successfully-expanded and consolidated. In matters of advisory services, the appointment of a Regional Adviser is a most welcome development.

The Institute's functions as a disseminator of information in the region have been performed mainly by means of its *Newsletter*, of which some 60 issues have so far appeared, and through its *Resource Material Series*, of which close to 30 issues have been published. The first of these publications effectively serves, *inter alia*, to provide information concerning the Institute's ongoing activities and to maintain close contact with the more than 1,200 alumni of UNAFEI, who, as mentioned above, are of great assistance in the promotion of United Nations crime prevention and criminal justice policies and standards in the Asia and Far East region. The second publication usually prints articles and reports presented by visiting experts, faculty members of the Institute and participants at the various courses and seminars. Furthermore, UNAFEI has also published regional reports and training manuals of undisputed value for crime prevention and criminal justice experts and practitioners in the region, while its documentation centre is rapidly becoming the main regional re-

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pository of information in the field.

All the above is but a pale summary of UNAFEI's accomplishments since its inception, a summary that cannot possibly capture the dynamic nature of the institution and the high professional calibre of its personnel, both academic and administrative. The Institute's wholehearted commitment to the most advanced conceptions of crime prevention, criminal justice, and to the United Nations programmes and policies in this field are again to be seen in the overwhelming response UNAFEI has given to the mandates adopted by the Seventh Congress. In fact, we at the Secretariat are most encouraged by the promptness and adequacy of this response, which includes the organization of several international courses, seminars and meetings, six so far, starting already before the end of 1985 and continuing through 1986 and 1987, addressing problems examined by the Seventh Congress, and attempting to elaborate approaches to and strategies for the implementation of Congress resolutions in such areas as juvenile justice, prevention of new criminality, treatment of offenders, and illicit drug trafficking.

UNAFEI's assistance in the further implementation of the decisions of the Seventh Congress will, no doubt, be of great value to the Secretariat and to the countries of the region. In a similar manner, at a moment when the UNOV/CSDHA initiates the preparatory work for the Eighth Congress in 1990, the presence of UNAFEI and the assistance we know they will, as always, selflessly grant us, gives us the feeling that all the tasks ahead will be solved in a most efficient manner.

Priorities for Future Co-operation between UNAFEI and the United Nations Secretariat

The U.N. Crime Prevention and Criminal Justice Programme of activities has singled out some specific priorities for future work with UNAFEI and the U.N. interregional and regionally affiliated institutes:³

a) The prevention and control of crime of international dimensions, in order to

promote constructive dialogue among member states and to negotiate international conventions and treaties which would permit more effective international co-operation.

- b) Research and policy development in specific areas; in that context, the need to identify broad strategies for integrating crime prevention and criminal justice policies into socio-economic planning.
- c) Action-oriented research and development of problems related to juvenile justice and juvenile delinquency prevention.
- d) Special attention will be given to strategies dealing with juveniles deprived of their liberty and to alternatives to institutionalization.
- e) The question of victims of crime and the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and the Abuse of Power.
- f) Effective implementation of existing U.N. Standards and Norms and the formulation of new instruments in priority areas.
- g) Development of crime-related data bases and improved management of criminal justice systems.
- h) Information sharing and dissemination including the establishment of a global crime prevention and criminal justice information network.
- i) Strengthening technical activities in the field of crime prevention and criminal justice.
- j) Working more closely in the planning and in the execution of the United Nations work programmes including the regular secondment of staff and exchange of expertise, establishing a more integrated system of reciprocal co-operation among the Crime Prevention and Criminal Justice Branch of UNOV/CSDHA (Vienna), the interregional and regionally affiliated institutes and the non-governmental organizations in the field.
- k) Tapping existing sources of funding and exploring new ones.

In conclusion, I am fully confident

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that, as in the past and present, our future objectives will again become reality due to the recognized effectiveness of UNAFEI's leadership.

NOTES

1. From the address of His Imperial Highness, Prince Takamatsu, on the occasion of the inauguration of the First International Training Course.
2. The Story of UNAFEI by V.N. Pillai in *New Horizons in Social Defence Training and Research: A Survey of the First Eight Years' work at UNAFEI*.
3. See E/1987/43, U.N., ECOSOC, 10 April 1987.

UNAFEI: The First Twenty-Five Years

by *Thomas G. Garner**

Introduction

To put the story of the first 25 years of UNAFEI in perspective it is necessary, at least for me, to go back to the year 1962, when in the latter part of that year I was asked by the then Commissioner of Prisons in Hong Kong Mr. C.J. Norman who, while visiting a maximum security prison of which I was in charge, enquired if I would like to attend an international seminar course which was to be held at a new United Nations Training Institute which was located at Fuchu in Japan.

This was the first time that I had heard of this institute but without any hesitation I replied in the affirmative. He had very little information about the course at the time but I was given to understand that it would take place in the months of February to March 1963. Previously I had served with the British Military Authorities which had been responsible for my arrival in Hong Kong and from which I had opted for local demobilisation in order to join the Hong Kong Prison Service. I was without any knowledge of other prison services except those that I had chosen to visit of my own volition during spells of vacation leave in 1956 and 1960. These visits had proved to be most worthwhile and I appreciated the information gained plus the exchange of views with staff of another service.

At the time, I was responsible within

the department for some aspects of elementary training consequent to being appointed the department's first training officer. When I joined in 1947 I received no training of any kind and I realised then that this was a most unsatisfactory state of affairs and so my involvement with training at such an early stage in my career was therefore no coincidence.

It was against this background that my relationship with UNAFEI began. I was of course very pleased and I began to plan for what lay ahead. However, I did not realise at the time that what lay ahead was far beyond my own expectations, and what I was about to embark upon would make a lasting impression on me and have a profound effect on my thoughts and ideas and ultimately my achievements in the years ahead.

The early history of UNAFEI is well documented but as my theme for this address is its first 25 years I believe it important to recall it here.

The United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (now referred to as UNAFEI) was established in 1961 following an agreement between the United Nations and the Government of Japan to promote regional co-operation in the field of crime prevention and criminal justice through training and research and so contribute to a sounder, more beneficial social development in Asia and the Pacific.

The idea originated at the First United Nations Asia and Far East Seminar for the Prevention of Crime and Treatment of Offenders which was held in Rangoon, Burma, in 1954, when a unanimous resolution was adopted calling for the establishment of a regional training and research institute in the field of crime prevention and criminal justice. This same appeal was repeated at the second regional meeting

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Director's note: This article was delivered by the author on the occasion of the Public Lecture in the 67th International Seminar.

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held in Tokyo in 1957.

The agreement between the United Nations and the Government of Japan followed an offer by the Government of Japan to establish a regional institute in Japan. This was accepted by the entire region and by the United Nations and the agreement which finally brought about the establishment of this regional institute was signed in Tokyo on 15th March 1961. Fuchu was chosen as the site for the Headquarters and following construction of the buildings it was inaugurated on 15th March 1962 just one year later. The First International Training Course was held in September 1962.

The agreement between the Government of Japan and the United Nations stipulated that the United Nations was to provide the services of the Director, a Senior Adviser, 10 Fellowships and three Visiting Experts a year, plus teaching equipment. The Japanese Government was to provide the Deputy Director, teaching and administrative staff, furnished and equipped premises and their maintenance, as well as facilities for practical training in institutions and agencies. However, because of the United Nations policy relating to regional projects which normally limited assistance to a maximum period of 5 years, its assistance began to decline in 1966 and was discontinued in 1970. Since then virtually all financial as well as all administrative responsibilities have been borne by the Government of Japan. Since UNAFEI is still affiliated with the United Nations, the Director who is appointed in consultation with the United Nations is obliged to submit a report on an annual basis to the Secretary-General.

I was given to understand many years ago through a non-Japanese source that at the time the idea to set up an institute was mooted, at least one other country in the region made a bid to accommodate it.

Time has proved notwithstanding that although the country or countries concerned would have made strenuous efforts to have developed the institute in a positive way, they could never have matched the achievements of Japan either in enthusiasm

or efficiency and particularly with the large financial outlay which has been unstintingly given over the past 25 years. It is therefore right to record on this special occasion that the United Nations and regional decision to locate the institute in Japan was not only timely but one hundred per cent right.

Throughout the past 25 years, UNAFEI has remained steadfastly true to its original aims and objects. As a centre for study in the criminal justice field, it is without equal anywhere in the world. The fact that it can bring together and does at very frequent intervals groups of persons, some of whom are distinguished in their own field and all of whom work in one way or another in criminal justice is a feat in itself. Being of different nationalities, different races, different religions and as with all of us having our own points of view speaks for itself in a way that no other training facility in the criminal justice field can. What is more, under the umbrella of UNAFEI, these same groups of people (and I was a member of one of them) get on with each other extremely well and between them forge links not only professionally but also of sincere friendship.

In fact the very roots of UNAFEI serve to remind us of the goodness in men and women and is a shining example to all of us who work within the criminal justice field.

UNAFEI has often been at the spearhead of new and innovative ideas in the area of criminal justice. Some at the time they were put forward were controversial to say the least not only to those working in the field but also to members of the community. If we take corrections as an example, it is interesting to note that the first course which took place between September and December 1962 had as its theme "The Prevention and Treatment of Juvenile Delinquency and Open Correctional Institutions." The latter part of this theme was further developed during the second course which in reality was the First International Seminar Course that took place between February and March 1963 and in which I was so fortunate to

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participate.

Kenyon J. Scudder, while working at the California Institute for Men at Chino, pioneered an open institutional approach in the United States in the early 1940s. He later wrote a book which he titled "Prisoners are People" and this in turn was made into a film for which the now famous "Unchained Melody" was composed. The film starred Chester Morris as Kenyon Scudder.

Despite his work, and most certainly in this part of the world, the idea of open institutions or even minimum security institutions was considered too risky except for one or two countries such as Pakistan and India which in a small way had at that time special open institutions for confining a small number of special prisoners serving life sentences for murder who lived with their families on small farm holding projects.

I can recall very clearly the opposition to the idea of open institutions which at the time prevailed not only here in Japan but also in Hong Kong. This theme was further repeated in the 8th Course which was held between February and March 1965. However, just prior to that in January 1965, the United Nations in New York published a research report "The Open Correctional Institutions in Asia and the Far East" which had been prepared by UNAFEI.

I am fully aware that the enthusiasm generated by the thrust initiated by UNAFEI to encourage a change from hard line policies of maximum security conditions only, to the more relaxed and rehabilitative environment of minimum security and open conditions, has helped bring about over the past twenty-five years the changes which we today take for granted.

The Institute got off to a fine start in 1962 with the appointment as its Director of Mr. Norval Morris. He was ably assisted by Mr. Toro Ogawa as his Deputy and Mr. V.N. Pillai as the long-term Visiting Expert. In turn they were well supported by a competent and enthusiastic staff drawn from many different fields within the Criminal Justice System in Japan.

But then this efficient and most effective management policy has prevailed throughout the history of UNAFEI. I am fortunate to have known personally every Director and indeed virtually most of the staff and although for various reasons the staff has changed, nevertheless, their efficiency, effectiveness, hospitality and enthusiasm has never waned.

Three sister institutes exist: one in the Middle and Near East region, another in the Latin American region and a third in the European region. UNAFEI is the elder sister being the oldest of them all, the largest and by far the most active, and I should add the most successful in the family of Nations.

Organisation (Faculty)

At least twenty-six members of the staff of UNAFEI including the Director and Deputy Director are Japanese Government officials. Their various backgrounds and experience involving such areas in criminal justice as public prosecutors, judges, correctional officers, psychologists, probation officers, police officers etc. amply justify their appointments which are made on a highly selective basis. All of us appreciate that they must prepare their lectures in a second language (English) and despite the availability of simultaneous translation of Japanese to English they themselves never use this facility.

Usually several distinguished Visiting Experts are invited from overseas countries to participate in each course. I am sure that all of them would join me in saying that it is a great honour to be invited and always a pleasure to be able to participate in such meaningful and fruitful work. Many senior administrators, professors and various other experts working in criminal justice and coming from the Supreme Court, the Ministry of Justice, the National Police Agency, Rehabilitation Bureau, Universities, and other similar organisations in Japan are also invited as *Ad Hoc* Lecturers.

Together they all form the team which leads each course or seminar through from its earliest days to the day when it is time

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for the participants to leave.

Facilities

You will recall that early on I referred to the original headquarters building of UNAFEI as having been inaugurated on 15th March 1962. The original buildings were indeed satisfactory but as time went by the activities of UNAFEI not only expanded but were so successful that the activities and numbers to be accommodated outgrew them, so after only nineteen years they were demolished. The present buildings were opened in January 1982.

The main facilities in these fine buildings include a conference hall fully equipped for 56 persons with simultaneous interpretation in three languages, having 3 interpreters' booths and equipped with audio-visual facilities. There is a library which holds a great deal of valuable resource material including some which is unavailable elsewhere and a total of nearly 20,000 books. Included also is an auditorium, 5 seminar rooms, a meeting room, a lecturer's lounge and offices for the Director, Deputy Director, 3 Visiting Experts and 10 Professors. There is also a spacious dining room.

Accommodation for participants in the form of thirty-five single rooms along with two twin rooms for Visiting Experts are attached to the administration wing, each with its own bath, toilet, shower and telephone. There is a lounge and a Japanese style room available for use by the participants plus two laundry rooms.

At this point I would like to pay tribute to the chef and his hardworking staff who labour so hard and long to supply a variety of meals to cater for all the different races, religions, and to some extent taste.

I have never ceased to be amazed at the endless variety of meals which come out from the kitchen and a special word of praise is necessary not only for this but the cheerful disposition displayed at all times by everyone involved.

The same of course applies to the ladies who are involved in the cleaning of participants' rooms, the Visiting Experts' quarters and the premises generally. Every-

thing in typical Japanese fashion is always spotlessly clean and it all adds up to a rating of five star plus.

Such splendid facilities make UNAFEI an ideal venue for international conferences and it is pleasing to note that the Third Meeting of the Asian and Pacific Conference of Correctional Administrators took place in UNAFEI in April 1982. Situated as it is, close to Fuchu Prison and the Training Institute for Correctional Personnel, full use can be made of these facilities for training and visits of observation as and when necessary.

The buildings and grounds are in a lovely setting, the tennis courts are always in use and the auditorium doubles as an indoor recreation and sports hall for such games as table tennis. It is hard to believe that when UNAFEI was first opened it was in the countryside and not as is now part of metropolitan Tokyo. Nevertheless, Harumicho has retained its charm, the same charm I experienced during the 2nd International Seminar Course. A supermarket, shops and small restaurants are close by and the local inhabitants are clearly used to having foreigners living in their midst. Many of the shop keepers go out of their way to exchange greetings — a fact which is not lost on the participants.

Training Courses (Programmes) and Seminars

The initial decision to have two types of courses at UNAFEI has proved to be sound.

Training courses which are usually of 3 months' duration are in the main organised for middle management level staff working in the various branches of the criminal justice field. Seminar courses which last some 4-5 weeks cater for staff at a senior level usually within the directorate grades.

As a result, each year UNAFEI hosts two training courses and one seminar course; added to this is the occasional training course and of course the very important overseas seminar courses.

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Training programmes are arranged so as to give all participants every opportunity to discuss their individual role and work in the fields of crime prevention and criminal justice. It enables them to air various problems which they have encountered in their day-to-day working role, many of which are common to all. They have the opportunity to explore ways of dealing with such problems, or conversely state how specific problems in their respective countries have been successfully dealt with. This is a plus in any training programme.

All training courses provide background information in criminology, penology, sociology and other related areas including psychology.

Training courses are so organised as to give the participants who hold relatively important positions in the fields of crime prevention and criminal justice in their respective countries the opportunity to study in an atmosphere conducive to their own requirements, free of interruption and free of the day-to-day worries of their job. It enables them to devote their time to seeking and obtaining knowledge not only in formal lecture room settings but also in friendly discussion with fellow participants outside of the lecture room, in the evenings over a coffee or something a little stronger if preferred, and also during visits to various facilities and institutions.

Training programmes are aimed at being practically oriented towards problem solving, in order to meet not only the needs of the countries of the region but also those of the participants. It is considered essential to plan programmes bearing in mind the actual conditions and the urgency of such problems in relation to the administration of justice in the countries of the region. All programmes are planned in harmony with an approach designed to bring the best out in each participant.

It is this down-to-earth practical policy cultivated over the years, which is at the root of all planning, that has made UNAFEI so distinctively different in the world and so important in the Asia

and Pacific region.

UNAFEI over the past twenty-five years has continuously strived to deal with issues of general concern to countries in the region which are undergoing fairly rapid social change. This clearly calls for a need to keep a close and constant check on the changing criminal scene. Such changes are reflected in the training schedules at UNAFEI which make them more supportive and constructive to the countries which participants represent.

Among the problems which countries in the region have faced in recent years include: increases in crime and delinquency, unsatisfactory detection and investigation of criminal cases, delays in bringing cases to trial, overcrowding in prisons, drug dependence and the treatment of drug dependents. These are but a few of the many problems which have been made the main themes of courses.

One of the overriding strengths of UNAFEI is its integrated approach to the criminal justice system as a whole. I have personally witnessed changes in the attitude of participants towards others in different branches of the criminal justice system born of the knowledge and better understanding of the work and problems of others which has been gained through their stay at UNAFEI.

Comparative study sessions enable participants to compare systems and practices in relation to the main theme of the course and certain offshoots. This is done so as to bring out workable principles and effective measures capable of being adapted to actual situations in the countries represented by the participants.

Each participant is able to make during the session a presentation on the system and practice in his or her country. A general discussion follows during which the major issues are debated. The resulting report of the discussion prepared by a rapporteur is published in the UNAFEI Resource Material Series.

In group workshop sessions, each participant puts forward for discussion a specific problem which he or she has been facing in their everyday work schedule.

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The group which normally consists of about 8 participants all of whom generally have a common interest then discuss these issues before submitting a report for consideration at a plenary session of all participants. The resulting reports are also published in the Resource Material Series.

It is important right from the beginning of each course for all participants to be reminded that they are participating in a training programme from which it is expected that the respective countries which they represent will directly benefit. They are therefore encouraged to speak honestly and frankly in order to get to the root of problems. This is an essential requirement if there is to be any chance for a successful outcome.

The general atmosphere of each discussion is positively oriented. Members of the faculty and Visiting Experts under the guidance of the Director and his Deputy assist participants to confront problems and seek solutions always in a friendly harmonious atmosphere of positive thinking. The results speak for themselves and are as much a credit to the Director and his staff as they are to the participants and the countries which they so ably represent.

All training programmes have a specific input of lectures given by distinguished persons with many years of experience in the field to which their lectures are linked. They come under the title of Visiting Expert or *Ad Hoc* Lecturer.

The former, usually from overseas, is involved in training programmes for a period of a few days to several months. The latter is either locally from Japan or an overseas visitor passing through Tokyo who can spare a few hours or a day in order to visit the institute to lecture.

No matter which, it is a fact that the contributions of these distinguished ladies and gentlemen enhance the high standard of all UNAFEI courses and seminars. These visits which are also funded by the Government of Japan involve a considerable financial outlay each year.

As a result over the past twenty-five years UNAFEI has welcomed a significant number of leading figures who feature very

prominently in the Who's Who on the International Criminal Justice scene. In fact no less than 127 such persons (many of whom are recidivists) representing 27 countries and the United Nations Organisation had visited by 31st March 1987.

Interspersed throughout each course are planned visits of observation. These visits to facilities and different kinds of institutions within the Criminal Justice System in Japan are all-embracing and everyone involved in arranging such visits is clearly devoted to ensuring that no stone is left unturned to ensure that all the facts are made available to each and every participant.

I have never ceased to be impressed with the way in which information is made available before and during these visits and the frank and forthright way in which the general discussion at the end of the visit is carried out. Perhaps a general word of thanks will not be amiss here to all those many hundreds but surely it must be thousands of men and women most of whom are the staff who have helped make these visits to the various facilities and institutions not only a rich source of knowledge but also a pleasant and valuable experience.

As I previously mentioned much thought is given to the themes around which each course and seminar is based. It would be too long-winded for me to repeat here each and every theme of all courses and seminars but let me take as an example every fifth course and see the result:

Course

- | | |
|-------|--|
| No. 5 | Prevention and Treatment of Juvenile Delinquency |
| 10 | Treatment of Offenders |
| 15 | Human Rights in the Administration of Criminal Justice: Human Rights and Penal Sanctions |
| 20 | Role of Women in the Prevention of Crime and the Treatment of Offenders |
| 25 | Treatment of Offenders |
| 30 | Modern Ideas and Practices Concerning Crime and Treatment of Offenders |
| 35 | Planning and Research for Crime |

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- Prevention
- 40 Appropriate Treatment Measures for Re-integrating Offenders into the Community
 - 45 Increase of Community Involvement in the Treatment of Offenders
 - 50 Dispositional Decisions in Criminal Justice Process
 - 55 Institutional Treatment of Adult Offenders
 - 60 Securing Rational Exercise of Discretionary Powers at Adjudication and Pre-adjudication Stages of Criminal Justice Administration
 - 65 International Co-operation in Criminal Justice Administration
 - 70 In Pursuit of Greater Effectiveness and Efficiency in the Juvenile Justice System and its Administration
 - 75 Non-institutional Treatment of Offenders — Its Role and Improvement for More Effective Programmes

The results show how the many different facets of criminal justice have been subject to scrutiny and a continuing search for improvement. Bringing us right up-to-date is the present 76th International Seminar which focuses on Evaluation of UNAFEI's Courses and Drug Problems in Asia.

Over the years one tends to fail to realise the degree of effort which must be put into the preparatory work which goes on prior to each course or seminar. The Director and his staff are usually working many months ahead planning and preparing in order to ensure that all is ready on the appointed dates.

When you think of the mass of normal paper work which must go into each individual course, then add to it the additional workload created by the change of theme for every course, one begins to have an appreciation of what is required. I have witnessed on many occasions throughout the years how often the lights burn late in many of the rooms which house the professors and other lecturers and of course

in the offices of both the Director and his Deputy.

In fact it is most remarkable how each and every one of the staff cope with the many demands made upon them both during and between courses and how each and every one respond to the role of researcher in order to prepare material for discussion. Such demands extend to the secretaries, librarian, all the staff of the general office, and even the drivers, all of whom become involved in ways in which no average person in a similar position is called upon to function.

Today it is hard to visualise at least for those of us who work in the criminal justice field, the Asian, Far East and Pacific region without UNAFEI. It has become for most of us the fountain of knowledge from which many like to drink. It has become for most of us something of a second home, a place where we can meet different people with different backgrounds all working within the same field and with the same goals and ideals. A place where after serious study we can relax and enjoy the friendly spirit of the brotherhood of man, involve ourselves in friendly discussions, some serious, some light-hearted. A place where you will always find the invitation lamp glowing brightly and a large welcome mat at the door.

It is therefore not surprising that, as of the 1st of March 1987, a total of 77 Training Courses have been held at UNAFEI. These include 24 Seminar Courses plus 3 Special Courses.

In turn these courses were attended by no less than 1,694 participants hailing from a total of 58 countries all of whom were involved in the different branches of the criminal justice system in their respective countries. Included in this figure are 670 Japanese participants.

Japanese participants on all courses and seminars have in the main played a dual role, not only as fellow students but also as friendly welcoming ambassadors, always ready to befriend overseas participants many of whom they have received into their homes. All overseas participants have,

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as a result of the efforts of the Japanese participants, been on the receiving end of Japanese hospitality which is truly outstanding and unequalled anywhere in the world. The Japanese participants have in each course organised many social events often at their own expense. I am sure that not one overseas participant during the past 25 years has left this institute without failing to be impressed with the sincerity and friendliness of his Japanese counterpart. I personally would like to record here and now my admiration for their splendid achievements.

Research and Information

UNAFEI is rich in knowledge gleaned from all those who have passed through its doors, staff, Visiting Experts, *Ad Hoc* Lecturers and participants alike. It therefore gives great satisfaction to know that concrete steps were taken right from the beginning of its history to make a permanent record of such knowledge. I am of course referring to the Resource Material Series which now number 30.

Contained within these 30 volumes is a feast of information on the work of the various branches of the criminal justice field in many different countries in the world but particularly in Asia and the Pacific.

It provides for training purposes and research in individual countries knowledge of what is being done elsewhere and especially within this region and as such is of the greatest importance. This resource material is calculated in part to be thought provoking but most important of all to be a rich source of knowledge particularly for those who while working in the field will never have the opportunity to benefit from the experience of a course at UNAFEI.

UNAFEI undertakes a variety of workshops in co-operation with other United Nations agencies located throughout the world. Through the use of these workshops, UNAFEI has functioned as one of the most important information centres in regard to the prevention of crime and

the treatment of offenders in Asia and the Pacific region.

Workshops held in recent years have included:

A workshop in collaboration with the United Nations University to discuss criteria and procedures to assess strategies for crime prevention and control, and to exchange preliminary research data undertaken for the United Nations University project on Administrative Issues in Ordinary Crime Prevention and Control: A Cross-Cities Study. This took place in May/June 1984.

A workshop on the Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies for the purpose of examining and commenting on the regional results of the second survey. This took place in November 1984.

A workshop to discuss the role of youth organisations in the prevention of crime among youth in order to present a workshop report to the Seventh United Nations Congress. This took place in July 1985.

These are but a few examples of the depth of involvement which has occurred over the past 25 years. In addition to this, UNAFEI has produced some 15 self-generated publications covering practical research projects. Two of these I have already referred to, but they also include such topics as Criminal Justice in Asia, Alternatives to Imprisonment in Asia and Crime Trends and Crime Prevention Strategies in Asia and the Pacific region.

Newsletters

Of particular importance is the regular newsletter which emanates from UNAFEI usually at the end of a course. Such newsletters give details of the course or courses which have recently been completed along with an outline of the programme. It will include the names of the various lecturers and the topics for their lectures. A list of observation visits made by the participants during the course. A list of reference material distributed along with the names of the Visiting Experts. It will also

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include a list of the participants and their addresses and a list of the papers presented by participants.

Of equal importance will be a listing of events since the previous newsletter, staff news, including changes of personnel, information on forthcoming courses and overseas joint seminars along with a main list of the staff on strength at UNAFEI.

These newsletters over the years have become a link particularly between members of the Alumni and UNAFEI and they serve not only to keep us in touch with recent happenings but also to keep everyone up-to-date on progress achieved.

Perhaps of greater importance is that they are valuable as a monitoring tool for Governments and heads of the various branches of the criminal justice system in all countries particularly in Asia and the Far East and serve as a barometer to indicate current trends and thinking arising out of the information provided.

To date a total of over 61 newsletters have been distributed and I would like to place on record for the information of the Director and his staff that they are not only well received but very much appreciated.

Impact on Other Countries

There is little doubt that the work of UNAFEI has made an impact on virtually every country in the region. This has occurred either continuously or at some stage throughout the 25 years of its history. Some of us have been fortunate to have travelled widely throughout the region usually visiting counterparts in the criminal justice field. Such visits have in the main been born as a result of our involvement in activities either associated with or as a direct result of the work of UNAFEI. During such visits it is most noticeable how easily UNAFEI slips into discussions, and while each and every one of us have individual pride it is rather difficult to claim progress and achievement without giving at least in part some credit to UNAFEI from which the first seeds of many ideas devoted to progress have sprung.

Having served with the Hong Kong Correctional Service for 38 years and for close to 14 years at the helm of the service, I am personally aware of how much progress has been achieved as a direct result of the Department's involvement in UNAFEI's training and research programmes. I am proud of the relationship which has been forged between the Correctional Service in Hong Kong and UNAFEI and I am very pleased to note that during the past two years since I retired the legacy has continued. I mention this for it serves as an example of similar ongoing interaction between many other countries and UNAFEI involving different branches of the criminal justice system.

Demands for more training opportunities in countries of the region involving different aspects of criminal justice are today and have been over the years referred to at many international conferences. These include United Nations Congresses on the Prevention of Crime and Treatment of Offenders, Asian and Pacific Conferences of Correctional Administrators, and most certainly at the First Meeting of Commonwealth Correctional Administrators. One can add to this the many voices of former participants of courses at UNAFEI who of course, quite apart from anything else, realise the importance of training opportunities arising out of their own experience.

In my earlier reference to the use of resource material by those who would not be fortunate to have the opportunity to visit UNAFEI I was of course making an oblique reference to this. As a result the Directors and staff of UNAFEI decided that one way that this need could be met more effectively was to conduct seminars and training courses in various countries in the region by means of a visiting team of staff members from UNAFEI. Consequently since 1981 UNAFEI has regularly been conducting overseas Joint Seminars with host governments in the region. Obviously there were a number of difficulties encountered in setting up this programme, particularly on a regular basis; however, every effort has been made to meet the

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expectations of host countries and it is right to say that such expectations have always been met.

Now I am aware that some people overseas believe that Japan is paved with gold and that money comes as easy as water from a tap. Not so, of course, and neither is it a simple matter for Government Departments and Directors of Institutions such as UNAFEI to obtain all they would wish in their annual budgets. Procedures which exist in other countries regarding budget requirements also exist in Japan and the Director and staff of UNAFEI must comply with such procedures. However, it is to their credit and to the credit of the Government and people of Japan that the allocation of funds to UNAFEI has been done in such a way as to result in its ability to achieve so much during the past 25 years.

I mention this to highlight the fact that it is most gratifying to know that the Japan International Co-operation Agency has agreed to sponsor the conducting of seminars and training courses in host countries as part of its bilateral assistance to these countries.

Joint seminars have been organised in countries including Sri Lanka, Malaysia, Philippines, Papua New Guinea, Indonesia, Thailand, Singapore and the People's Republic of China. The themes for these seminars covered such topics as Crime Prevention and Treatment of Offenders, Crime Prevention Control, Correctional Administration etc. Their duration ranged from one to two weeks and usually involved three to nine members of the staff of UNAFEI who conduct the seminars jointly with persons appointed by the host governments.

It is now a matter of record that these training programmes have proved to be most effective in identifying problem areas in criminal justice systems in individual countries and in exploring ways and means to solve the problems while taking into account such important factors as the various socio-economic and cultural conditions in each country.

They have also been very successful in

bringing together participants from different branches in the criminal justice system and alerting them to the necessity to have an integrated approach for the betterment of their own criminal justice administration through improved co-ordination and co-operation. I doubt if there is one of us who has never been faced with this difficulty and I am sure we all applaud the splendid efforts made by the Director and staff of UNAFEI in this area.

The direct impact and benefit that such seminars and training courses have on the countries in which they are hosted is self-evident for there is little doubt that it acts as a focal point in the countries in which they are held, all of whom must be congratulated for taking full advantage of the splendid services which UNAFEI has to offer.

UNAFEI Alumni

One of the offshoots of the activities of UNAFEI is the establishment of Alumni status. I have already referred to the existence of close ties between many of the participants of courses which I know often become solid bonds of friendship.

The strength of the Alumni has steadily built up over the years and as a result of respective Governments usually selecting men and women of the right calibre to participate in training courses and seminars, many former participants are now holding or have held positions of high authority within the criminal justice system in their respective countries.

Alumni associations have been formed in many countries, some larger than others, some more active than others. However, irrespective of size, they do comprise a nucleus of knowledge and a ready-made think-tank for examining problems and seeking solutions. Some are very active in research while others continue to strive to apply practical solutions to the problems faced in their countries based on their experience at UNAFEI.

These associations and their related activities are very important and extremely valuable. A large number of problems

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can be successfully tackled using an international approach. (Trafficking in drugs is one example.) Many crimes today extend beyond the boundaries of individual countries and in setting up the Alumni, UNAFEI was deeply aware of this fact and obviously very much alive to the need to meet it.

It gives me great pleasure to know that there are so many Alumni Members here today. I hope that together we can firmly resolve to do our utmost to promote further co-operation and co-ordination so as to achieve one of the main aims of UNAFEI which is to contribute to the sound social development of the countries in the region.

I welcome the idea of the establishment of an Alumni Newsletter and hope that when published it will be made available to members on an individual basis who hopefully will be encouraged to write short snippets for the Newsletter along with supplying other items of news.

Asia Crime Prevention Foundation

Now I wish to pay a special tribute to a private organisation which was established on the 17th February 1982 by donations from private companies and citizens.

I am of course referring to The Asia Crime Prevention Foundation. Its objectives include moral and financial support to UNAFEI Alumni Associations in the region, to encourage the advancement of UNAFEI activities and to conduct research and study.

Such support as this to UNAFEI and the Alumni must be applauded by us all. Its objectives are very worthy ones stemming from the knowledge that UNAFEI can only work to a limited budget within the overall framework of Government finance. It is in a way furnishing funds for a programme of after-care directed at former participants who wish to become involved in further research and study particularly within their own countries and which inevitably will assist that country.

UNAFEI in co-operation with the Asia Crime Prevention Foundation is now

making an even greater impact in the region and as part of the 25th Anniversary and as a proud member of the UNAFEI Alumni I wish to say to all involved in the Asia Crime Prevention Foundation, Thank You for all you have done, thank you for what you are doing and every good wish for continued success in the years ahead.

Japan International Co-operation Agency

UNAFEI works in close co-operation with the Japan International Co-operation Agency which was previously known as the Overseas Technical Co-operation Agency. JICA as it is now referred to for short, is an executive arm of the Ministry of Foreign Affairs and is responsible for the funding of all overseas participants by way of fellowships except for the very minimal number who attend on a country to country basis.

On arrival in Japan, all overseas participants spend the first few days at the Tokyo International Centre.

This pre-cursor to all Training Courses is most certainly welcomed by the overseas participants, some of whom journey far to reach Japan and after overcoming the customary bout of jet-lag are given an introduction to things Japanese.

To the men and women in JICA who work so hard to give all overseas participants a friendly welcome, answer all their many questions and assist them in settling down in the early stages in Japan, I extend grateful thanks.

Extra Curricula Activities

No review of the work of UNAFEI would be complete without a special word of thanks and appreciation to the many private business concerns, commercial undertakings, private individuals and the various clubs who throughout the past twenty-five years have gone out of their way to hold out the hand of friendship and to shower hospitality on all participants who have been to UNAFEI. It would be unfair of me to name some for there

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have been so many over the years that I could not include them all. A number of them are in and around Fuchu whilst still others are as far afield as Hiroshima, Osaka and Kyoto. To them all I wish to say Thank You, we in particular and I am of course referring to foreign participants, are deeply grateful for all that you do to make us feel welcome in your country. I this you succeed and I am sure that like me all participants leave your shores filled with admiration for the depth of your kindness and hospitality the equal of which cannot be found elsewhere.

I started off by talking about the 2nd International Training Course and of course my participation. I did intend to elaborate on this with slides. However, and I do hope the Director will not mind my informing you, that the slides are now scheduled to be shown on the 9th September in the evening. These slides, 250 of them, were taken during the course in 1963. The narration which accompanies the slides was also made in April of the same year. For all nostalgia fans to take a look at Japan as it was 25 years ago, I can recommend them, but do not forget that like me they show the passage of time.

The Future

It would be presumptuous of me to attempt to indicate now any form of guidelines for the future. The thought and excellent sound planning which has gone towards deciding the direction that UNAFEI has gone in the past twenty-five years has been so unerringly correct that there really is no worry for the future. One of the reasons for this is because there is always an excellent series of drivers in the driving seat.

Indeed part of the activities of this seminar course will be devoted to not only reviewing the activities of the work of UNAFEI over the past years but also to invite and consider suggestions for further improvements of UNAFEI activities in the years ahead.

However, perhaps it would be amiss of me not to mention one or two matters

which may give food for thought at some time later.

We are all very much aware that the cost of crime has soared over the past twenty-five years but so too has the price of justice. Firstly may I say that notwithstanding that more police and police stations, more prison officers and prisons, more judges and courts, more prosecutors, more lawyers, more probation officers and more social workers are required to name some. The plain fact is that in terms of a defence counsel the cost of that too has escalated and in my view much more than it should in some countries.

At some stage, therefore, we need to turn our minds to this difficult but basic problem and see what can be done towards not necessarily a reduction in costs but to ensure justice for all. Legal aid is of course one means of doing this but it has its limitations, is not entirely satisfactory and in any case not applicable to all who may genuinely require it.

Secondly the United Nations Standard Minimum Rules for the Treatment of Prisoners which were originally drawn up using European standards must at some stage (I would prefer to say) be modified rather than amended in order to reflect the actual living situations in certain countries in Asia, the Pacific and African regions. As some of the rules read at the present time the balance is not correct.

Finally to combat crime in any community, you must have community involvement. This is particularly so in the field of crime prevention. Voluntary Probation Officers in Japan serve as an excellent example of what I mean.

Perhaps at some stage the Government of a country in the region will host a Seminar jointly with UNAFEI to which non-Government agencies active in the criminal justice system or crime prevention field will be invited. This I am sure would serve to stimulate further community involvement which I believe would eventually lead to an escalation of assistance on a scale which today appears too remote to ponder.

Twenty-five years is a very special mile-

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stone in any undertaking and it is for this reason that such an Anniversary is labelled a Silver one. One very important fact that has emerged as a result of the past twenty-five years is, that for each and everyone of us, no matter from whatever country we hail, it is good to know that UNAFEI will always be here to assist us in dealing with the many complex problems which we human beings encounter, as a result of the actions of other humans. It is also true that we find many of these problems difficult to deal with because being human and on the law-abiding side we have that special sense which we refer to as Justice and which we treasure in the Criminal Justice Field for the benefit of all people.

Mr. Director, I have deliberately refrained from becoming too formal, preferring instead to deal with the human side of UNAFEI rather than its formal professional one, for it is the people who work and have worked here who have made UNAFEI what it is today and I very much believe it is your day. Buildings and

programmes are very important but the people who dwell and work in the buildings and who prepare and direct the programmes are the most important of all.

To each and everyone and on behalf of all previous and present participants, previous and present Visiting Experts, previous and present *Ad Hoc* Lecturers and myself, Congratulations and a Happy Twenty-Fifth Anniversary.

You truly represent all things which stand for good in this world and the more good we have the fuller and richer are our lives.

Again to you Mr. Director, all your staff and all those who have preceded you, Thank You for helping us to make this world of ours and in particular this region a happier and safer place to live in. Thank You too, for all the wonderful, warm memories we can share together.

Finally I and all my fellow Alumni Members would be most grateful if you would convey these sentiments to the Government and people of Japan.

Evaluation of the Singapore-Japan Joint Seminar on the Prevention of Crime and the Treatment of Offenders

*by Quek Shi Lei**

1. The Minister of State for Home Affairs, in declaring the Joint Seminar open, touched on the pillars that support the penal world: the prevention of crime and the rehabilitation of offenders. The all-important effects of deterrence were compressed into the many objectives of prison incarceration, chief among which were:
 - a) for the protection of society through the incapacitation of criminals;
 - b) to deter criminals from future crimes and to deter like-minded or potential criminals;
 - c) to provide a period for rehabilitation towards the restoration of the status quo; and
 - d) to punish the criminal for the offence itself.

2. The guest-of-honour also underlined the fact that the Seminar was held jointly, which meant vast opportunities for the objective comparison and exchange of views gleaned from personal experiences of the criminal justice systems of the two countries. The express objectives of this first Joint Seminar, first mooted in 1983 by the Prisons Department, were:
 - a) to undertake a comparative study of the Singapore-Japan criminal justice systems with a view to formulating guidelines for the enhancement and effective functioning of the Singapore criminal justice system;
 - b) to review the goals set by the Government for the implementation of its policies on crime prevention and control; and
 - c) to strengthen the technical co-operation among the organs of the two criminal justice systems, particularly in training and research activities.

3. Other luminaries who delivered keynote addresses included the Japanese Ambassador to Singapore, the Director of UNAFEI and the Director of Prisons. They touched on the hopeful realisation of a relatively crime-free environment which would help to fulfill the socio-economic imperatives of Singapore, dependent as she is on, amongst other things, foreign investments, trade and tourism. Besides, that the Seminar was being held for senior officers meant that these men, and women, would be carrying with them the winds of change in the future directions of the penal policies. More significantly, that the Seminar was attended without exception by the various components of the criminal justice system would augur well for the future co-ordination and implementation of the aforesaid policies. Some seventy officers in central positions would benefit from their attendance as opposed to the usual one or two nominees being sent for the UNAFEI residential courses annually.

4. Topically, a comprehensive range of issues was presented on a parallel system. The five visiting experts from UNAFEI presented six papers, each immediately followed by a local presenter on the same topic. The discussion or dialogue and question-and-answer session that followed each presentation was lively and informative, stimulating the generation of a lot of interest. The cross-comparisons of the various components of the two criminal justice systems in both their structures and their functions allowed for valuable learn-

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Editor's note: The Singapore-Japan Joint Seminar was held at Singapore from 8 to 19 December 1986.

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ing from each other. How and why the respective laws and practices had been changed and modified to suit the conditions of the times were also reviewed. The greatest impact on the participants probably sprang from this part of the proceedings. The six papers presented were:

- a) Crime Prevention and Control Strategies in Relation to Recent Trends in Crime: The Role of the Police;
- b) Crime Prevention and Control Strategies in Relation to Recent Trends in Crime: The Role of the Public Prosecutors;
- c) Ways and Means to Improve Criminal Justice Administration: Effective Measures for Fair and Speedy Trials;
- d) Exploration of Better Treatment Programmes: Differential Treatment based on the Classification System;
- e) Institutional Treatment of Offenders: Prison Population Trends and Innovations of Correctional Systems; and
- f) Community-based Approaches to the Treatment of Offenders: Planning for Smoother Reintegration into Society of Offenders.

5. Other significant issues brought to the fore included the emulation of some of the Japanese enforcement methods by Singapore, notably the Neighbourhood Police Post (NPP) and the Neighbourhood Watch Scheme (NWS). It was learnt that, true to the Japanese psyche, their public make very positive contributions towards preventing and combatting crimes. The reasons for the success in this particular area of police work have been well documented as being due to the:

- a) sophisticated network of Japanese police organisations including the police box system and communications system;
- b) national character of the Japanese people who are more group-oriented than individual-oriented;
- c) good relationship between the police and the public, thus engendering high levels of co-operation;
- d) geographical position of Japan as islands surrounded by seas, and making it difficult to smuggle goods and criminals, or to hide them;

- e) strict enforcement of guns and drugs control; and
- f) low unemployment rate, homogeneity of society with one language and culture, where guilty parties are more prepared to plead guilty, thus allowing higher clearance and lower acquittal rates.

6. The obverse side of the coin showed the Singapore speakers sharing their experiences in crime prevention and control strategies in relation to recent trends in crime. The roles of both the police and the prosecutors were comprehensively explored. The Crime Prevention Department (CPD) had identified the following crime trends, registering increases in:

- a) Crime Against the Person such as murder, voluntarily causing hurt, and rape;
- b) Housebreaking and Related Crimes;
- c) Theft and Related Crimes;
- d) Fraud, Forgery and Related Crimes, with the number of "white collar" crimes more than doubling during 1974-1983; and
- e) Other Seizable Offences such as affray or vandalism; but
- f) decreases in Violent Property Crimes such as robbery, extortion or kidnapping.

7. Crime control, prosecutions, custodial and rehabilitation work by way of work therapy, education, recreation and social or religious counselling were comprehensively touched on. It was firstly shared that penal administrators had long recognised the importance of work in the rehabilitation of offenders. The value of work therapy is basically two-fold: it keeps inmates gainfully employed and it helps to restore the self-esteem and dignity of the incarcerated. Work is institutionalised in the form of "prison industry," meant to provide employment, instilling job discipline, and to provide job training through the imparting of skills to inmates. As part of its management strategy, the Singapore Corporation for Rehabilitative Enterprises (SCORE), enacted in 1975, instituted the "Private Sector Participation Scheme." Essentially, the Scheme encourages industries

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from the private sector to set up their workshops in prisons, effectively linking the prisons and the private sector, thus harmonising the apparently conflicting goals. Rehabilitation through work is achieved, while the private industries are able to compete in the open market. By setting up their workshops in prison, the private enterprises bring in technical know-how, equipment and materials. Market forces ensure that these participating industries would always be economically viable and relevant. Inmates are able to work in conditions similar to those of the outside factories, with the same job routine. The skills and job discipline they acquire would also be relevant to their post-release employment. Fifteen companies operate 30 workshops, dealing mainly with electronics, metal, engineering and furniture products, employing about 2,000 prisoners. SCORE itself operates 6 industries of its own in bakery, laundry, printing, tailoring, metal fabrication, cane furniture and related products, employing about 850 inmates. SCORE workshops and the private firms provide employment for over 80% of all employable inmates. A vocational training scheme was also launched in 1982. Selected inmates undergo skills training leading to the public trade tests conducted by the Vocational and Industrial Training Board (VITB). Successful candidates are awarded trade certificates. The courses available include electrical wiring, general welding, pipe-fitting and a non-certificate barber (hair-cutting) course. Of the 342 who have since sat, 310 or 91% successfully obtained the trade certificate.

8. True to our philosophy of inculcating in the inmates the work ethic, the Work Release Scheme for Short-Term Prisoners was launched in 1985. Prisoners are granted leave for employment to work for outside employers during the day and return to the prison at night. They receive the same remunerations, are assigned to the same tasks and treated as any normal worker in the same industries. 64 inmates have successfully completed the Scheme, prompting a similar scheme in 1986, the

Work Release Scheme for Long-Term Prisoners. The advantages of the Schemes include minimising the ills of imprisonment, especially for those with lesser offences, alleviating overcrowding, posing less security management problems, hence requiring less staff. Eligibility is designed for short-term prisoners serving a sentence of 6 months or less, or with a balance of 6 months to serve, and long-term prisoners serving 4 years or more with less than 12 months to serve. They should not have previous convictions for drug offences, sexual or other violent crimes, having been certified mentally and physically fit. Releasees may be paid either on a monthly or daily rated basis and are allowed a reasonable sum of money each week for incidental expenses such as fares or lunches. The balance of their earnings is then credited into their personal bank accounts. Their family members or dependants may draw on these accounts if the releasees so consent. They are not required to reimburse the Government for their food, board or other facilities. Of the 208 short-term emplaced, 156 have successfully completed the Scheme, while 37 are still on it, engaged in nursery, botanical, timber and metal works. Nine long-term untrained candidates were initially selected for a 2-month in-centre training in a building skill before a 12-month pre-release employment with construction companies. They will then sit for the Construction Industry Training Centre (CITC) Basic Builder Certificate trade test which confers on them the status of a skilled worker if they pass. Presently, there are 18 of these "trained" prisoners working in the various construction and engineering firms. Although still at a pilot stage, the results of the Schemes so far seem encouraging, and they may be enlarged to include more categories of prisoners, thus providing an answer to a more integrated approach to the rehabilitation of offenders.

9. Again, the parallel system of the module within the whole Seminar revealed how the prosecutors in Japan doubled up as

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investigators of major offences as well, whereas the Singapore prosecutors with their discretionary powers led the way for the police and other enforcement agencies. Or how prosecutions or detention for drug abuse in Japan were few and far between whereas it was an everyday affair in Singapore. In 1971, the Central Narcotics Bureau (CNB) was formed as a result of increasing drug abuse among youths. The Misuse of Drugs Act (1973) provides executive powers to detain a drug consumer for compulsory treatment and rehabilitation. In 1975, an amendment to the Misuse of Drugs Act provided the death penalty for trafficking of more than 15 grammes of pure heroin or 30 grammes of pure morphine. It was, however, with the mounting of Operation Ferret in 1977 that concerted efforts were directed at drug trafficking and consuming by the CNB, Police and Customs that success against the drug menace was clearly seen. The Prisons Department, which for years has been treating and rehabilitating these drug addicts, has since last year initiated the self-help groups by way of social counselling and a dilute form of therapeutic community work for both the hardcore and the softcore separately. The prime objective of such groups is to help addicts understand themselves better through a series of group sessions and self-help activities. Group members acquire mutual support from one another during and after their stay in the Drug Rehabilitation Centres. Modelled closely along the concept of social group work, each group comprises 8 to 10 inmates who have about 4 months of stay left, a facilitator and a co-facilitator. They meet twice a week to discuss problem-solving, re-socialisation, decision-making and the setting of life goals. Group members are expected to continue the activities after their release until their completion of the statutory supervision. The Singapore Anti-Narcotics Association (SANA) counsellors with experience in group counselling are involved in the project as co-facilitators whilst the Living Unit Officers act as the facilitators. A liaison committee has been set up to

monitor and co-ordinate the programmes. Criteria for assessment before selection include past drug or criminal activities, attitude towards employment, and relationships with family members.

10. UNAFEI has always aimed for an integrated approach to the prevention of crime and the treatment of offenders through the diverse judicial sectors collaborating in the exchange of information, knowledge and experience which will increase their mutual understanding, co-operation and co-ordination, resulting in a more efficient and effective administration of criminal justice. As society changes, so do the types of crime and the characteristics of criminals. The onus is then on the criminal justice system and its component agencies to foster a continual self-regulatory process through the review of their efficiency and effectiveness vis-à-vis new conditions, and the identification and implementation of appropriate measures to keep pace with these changes. A vital end-product of the Steering Committee representing the parties in this Joint Seminar was their work in the law compilation. The main purpose of setting up the Committee was to integrate every level of function of all the segments in the criminal justice system. The Seminar therefore scored a "first" through the Summary of the Law Compilation. This was the first attempt of its kind by UNAFEI to develop a set of clear, concise and practical introductory notes meant as a "bible" for future law compilations. The introductory notes contain a historical description of the development of the existing code, the primary sources used as guides, and the dates or reasons for their revisions. Also included is a definition of the basic terms where necessary, the subject areas by their main and sub-headings, and the scope, characteristics or practical applications of the policies and procedures covered by the code. The five main areas as guidelines are:

- a) the Laws concerning Police Powers;
- b) the Penal Code;
- c) the Criminal Procedure Code;
- d) the Prison Laws; and

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- e) the Fundamental Laws concerning the Rehabilitation of Offenders.
11. The week-long proceedings culminated in what it should be: a list of recommendations for consideration by the authorities. There were 22 in all, synopsized as follows, that:
- a) UNAFEI conducts further activities in the treatment of offenders and the prevention of crime in this region while inviting the Singapore criminal justice system to strengthen its co-operation with UNAFEI by sending more participants or experts to UNAFEI for training courses and seminars;
 - b) despite the goal differences among the criminal justice agencies, practicable opportunities to enable contacts among officials at various levels among these agencies be further promoted, developed or enlarged;
 - c) as the police form the most visible criminal justice organ, their relations with the public be further promoted to enhance their role in crime prevention activities;
 - d) effectively to combat the trend of increasing commercial crimes, the interchange of relevant information and personnel in the field of investigation and prevention be encouraged, especially through training and research programmes between Singapore and Japan;
 - e) police agencies seek help from the grassroots organisations in the two countries to prevent crime through campaigns and publicity exhibitions held jointly;
 - f) crime prevention education be targetted at the younger people by introducing it into the school curriculum;
 - g) where lacking, the prosecutorial discretion be vested in and exercised by an independent officer such as the public prosecutor, wherever permitted by law;
 - h) the public and individual interests be vital considerations in the exercise of the aforesaid prosecutorial discretion;
 - i) care be continued to be exercised that prosecutions are instituted on the basis of sufficient and credible evidence;
 - j) the public prosecutor and his deputies continue to exercise the vital function of advising and guiding the police and other law enforcement agencies so as to ensure that fair and just investigations of crimes are carried out in accordance with the law;
 - k) the prosecution, in playing an essential role in the process of bringing offenders to justice, serves the overall goal of controlling and reducing crime in society by promoting respect for the law;
 - l) fair and speedy proceedings be secured to safeguard the rights of suspects, defendants and injured persons;
 - m) each criminal justice agency compile reliable statistics and make them available to other agencies to improve the overall criminal justice administration;
 - n) in line with modern methods of classification, the treatment programmes for prisoners be accordingly adjusted for the maximum rehabilitative effects;
 - o) correctional services be upgraded with better staff training programmes through the recruitment of more specialists;
 - p) the eligibility for the Work Release Scheme (WRS) for selected short-term prisoners, in particular fine defaulters and traffic offenders, be liberalised as one pragmatic approach;
 - q) the Pre-Release Employment Scheme for long-term prisoners be extended to include more categories of prisoners to prepare for their smooth reintegration into society;
 - r) more skills training through structured courses leading to the award of nationally recognised trade certificates be introduced;
 - s) the community be further encouraged to play a greater role in the rehabilitation of offenders in its midst;
 - t) more alternatives to imprisonment be sought and used to facilitate the reintegration of offenders into society;
 - u) agencies and organisations concerned with social planning co-ordinate to design and implement a wide range of integrated programmes on education, welfare, culture, recreation and crime prevention to strengthen community

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ties which are the basis of crime prevention and treatment of offenders;

- v) more effective treatment measures for offenders such as short-term probation, group treatment, halfway houses and social welfare service be pursued to run with the conditions of the times and the evolving types of offenders.

12. One of the prime objectives of the setting up of UNAFEI was to contribute to a sounder social development in Asia and the Pacific region where it has spread its wings far and wide. It has over the last quarter of a century given a new dimension to the meaning of information sharing. Apart from research activities, UNAFEI conducts residential international courses and overseas joint seminars with host countries. Since 1961, it has conducted 73 international seminars or training courses and 8 joint seminars including that with Singapore.

13. In summary, I would say that no one would dispute the fact that the Joint Seminar was by any standard a huge success. The participants did learn in general terms from every viewpoint, not least of which was the professional. This should put them in good stead for the years ahead. All said and done, were it not for the good offices of the Japanese and Singapore Governments and their respective organs of State, and in their trains, bodies such as UNAFEI, JICA and my departmental colleagues under their respective charge, the Seminar would not have got started, let alone succeeded with such a flourish. In evaluative terms then, I would enumerate

the following spin-offs;

- a) a high level of professional and personal contacts built up between UNAFEI visiting experts and local participants;
- b) a workable amount of rapport built up among local participants representing the various components of the criminal justice system which would allow for better co-ordination henceforth;
- c) the Seminar has served as a comprehensive learning process for all participants;
- d) bringing home of the fact that the criminal justice system is never compartmentalised into mutually exclusive functions;
- e) viewed as a spring-cleaning session, the Seminar would henceforth provide impetus to remedial action where the need is most felt;
- f) an important opportunity to present the recommendations advanced to the authorities such that positive changes may not be long in coming;
- g) that crime being not isolated or peculiar to each country, international co-operation in the field of criminal justice and the treatment of offenders be vigorously promoted as imperative;
- h) bearing in mind the numerous changes occurring in any particular system, the cross-comparison of notes should all the more be pursued; and
- i) consequently, the mutual exchange of training or research programmes should be instituted, perhaps with the aid of seasonal representatives or lecturers from host countries of past joint seminars being posted to UNAFEI.

Evaluation of UNAFEI's Role and Activities from the Experience of the China-UNAFEI Joint Judicial Seminar

*by Zhang Yanling**

A

Today marks the 25th anniversary of the founding of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders. I am greatly honoured to be invited to this commemorative function. First of all, please allow me to extend my warm congratulations and high regards to the leading officials and staff of UNAFEI who have in the past 25 years made unremitting efforts to promote exchanges in the field of criminal justice in the Asian-Pacific region.

Twenty-five years ago when crime rates in the world were on the increase, new forms of crime kept emerging and the prevention of crime aroused the growing attention of the international community, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders was founded with the support and co-operation of the Japanese Government. It is the first U.N. institute set up to deal with crime prevention. Its formation gave expression to the expansion and intensification of the U.N. crime prevention endeavour and to the wish and determination of the Asian-Pacific peoples to prevent and combat crimes. In commemorating the 25th anniversary of the founding of UNAFEI today, we send this message to the people of the world: we are increasingly aware that crimes, especially certain types of crimes, have seriously affected the political, economic, social and cultural progress of

the people of the world and endangered world peace, stability and security. We call on the international community to take concerted and resolute measures to cut down and stop crimes.

As a pool of world-renowned and erudite specialists and scholars in criminal justice, UNAFEI has done much and achieved admirable success over the past 25 years in training judicial personnel from various countries in the Asian-Pacific region and in research on crime prevention and treatment of offenders. It has offered ample opportunities to police officers, prosecutors, judges, judicial administrators and correction officers from Asian-Pacific countries, including senior police officers, prosecutors, judges and high-ranking government officials responsible for judicial policies, to discuss crime prevention, judicial justice and other questions of common interest to various countries and exchange views on their crime prevention endeavour and policies so as to find solutions to issues of the greatest concern to the Asian-Pacific countries. UNAFEI has made a lot of fruitful preparations for the items on the agenda considered by the U.N. Conference on the Prevention of Crime and the Treatment of Offenders, which is held every five years. Here I should mention in particular the efforts made by UNAFEI in formulating the programme of U.N. Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), which have been praised by all. The leaders and competent officials of UNAFEI have also sponsored "overseas seminars" in some countries in this region, which have played a positive role in promoting exchanges of views on judicial systems and policies in different Asian-Pacific countries in a joint effort to prevent crimes.

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B

China has taken an active part in the judicial activities sponsored by the United Nations in recent years. Since 1982, China has entered into contacts and maintained good co-operative relations with UNAFEI. Chinese judicial departments send people to UNAFEI for further study every year. These people have acquired more knowledge and information and broadened their horizons under the careful instruction and guidance of leaders of UNAFEI and the specialists concerned. Here I want to mention in particular the Judicial Seminar sponsored by China and UNAFEI in Beijing towards the end of 1985.

Being one of the organizers of the Seminar, I wish to give you a brief account of it. This Seminar was convened with the support of the Government of the People's Republic of China and the Japan International Co-operation Agency. Over 60 people, including heads of UNAFEI and representatives of China's Ministry of Public Security, Supreme People's Procuratorate and Supreme People's Court and Ministry of Justice attended the Seminar. At the closing session of the Seminar, Mr. Zou Yu, Minister of Justice, and Director Masaharu Hino of UNAFEI issued certificates to all the participants. Taking into account the criminal judicial questions of common concern today and in the light of the judicial practice of the Asian-Pacific region, especially of China and Japan, the two sides chose four topics of importance to crime prevention:

- 1) The role of the police in the prevention and control of crime;
- 2) Prosecution in criminal justice;
- 3) The impact of trial and pre-trial activities on post-trial practice; and
- 4) Prison treatment of offenders.

At the Seminar, papers were read out and free discussions held.

Four representatives from the Chinese side presented their papers at the Seminar. They are Mr. Tao Jinliang, Director of the Department of the Basic Courses of the Chinese People's University of Public Security, Mr. Ding Muying, Deputy Director of the First Department of the Supreme

People's Procuratorate, Mr. Liao Boya, Director of the Department of Research of the Supreme People's Court and Mr. Wang Mingdi, Deputy Director of the Department in Charge of Reform-through-Labour of the Ministry of Justice. At the Seminar, they gave a fairly systematic presentation of the role played by China's public security organs, procuratorates and courts and its Ministry of Justice in the prevention and control of crime and in criminal justice, and of China's basic principles, principal measures and results achieved in the prevention and control of crime. Also present were Masaharu Hino, Director of UNAFEI, Hideo Utsuro, Deputy Director of UNAFEI, Yasuro Tanaka, Chief of the Training Division of UNAFEI, and Yukio Nomura, Chief of the Research Division of UNAFEI. They presented papers at the Seminar, too. Their presentations focused on the role, functions and powers of the police, procurators' offices, courts and prisons in Japan in criminal justice and the prevention of crime.

Thanks to the joint efforts and co-operation of the two sides, the Seminar proceeded in a spirit of candor, seriousness, friendship and understanding and yielded satisfactory results. First, it has helped each side to get a better understanding of the other's judicial system and criminal judicial principles and relevant policies. Second, a lot of information and experience have been exchanged. Third, valuable conclusions have been reached with regard to measures for the prevention of crime in the Asian-Pacific region. It should be emphasized that the comprehensive and penetrating presentation made by the four representatives of UNAFEI is both informative and thought-provoking to the Chinese participants. The Seminar shows that difference in social system is no barrier between countries in their efforts to conduct comparative studies, to learn from each other and to draw on each other's useful experience and practice.

C

An important achievement of the

Seminar was the presentation of 17 recommendations to the U.N. These recommendations are of practical value, especially in the following points: the Seminar "recommends nations to make efforts to promote the harmonious development of the economy and culture, pay attention to up-grading the moral ethics of the public, encourage consciousness of the law so as to prevent and control crimes;" "recommends that criminal justice institutions carry out their duties in accordance with law and encourage mutual contacts, co-operation and co-ordination" and "recommends that the public and other social institutions be encouraged to play an integral role in the matter of crime control and treatment of offenders." The recommendations regarding investigation, prosecution, trial and treatment of offenders and particularly of juvenile delinquents are also of practical value. The Chinese public security organs, procuratorates, courts, Ministry of Justice and its subordinate units attach great importance to these recommendations and use them for reference in formulating our own policies on criminal justice so as to advance our work in this respect. Since the Joint Seminar held by China and UNAFEI in late 1985, there has been further improvement and development in the work of the Chinese public security organs, procuratorates, courts and Ministry of Justice and its subordinate units. Through practice we have come to feel strongly that the recommendations made by the Seminar come in line with the objective of our criminal justice. In this regard, I would like to stress the following points:

1. Co-ordination and Co-operation between Judicial Organs

Point 7 of the final report of the Seminar recommends that criminal justice institutions carry out their duties in accordance with law and encourage mutual contacts, co-operation and co-ordination because creative experiences in this regard are of significant value in allowing the criminal justice system to play a full and effective role in crime prevention. In his

paper, Mr. Yasuro Tanaka rightly pointed out that efforts should be made towards co-ordination in the prevention of crime and the treatment of offenders so as to ensure a smooth and integrated development of the criminal justice systems. Under the existing criminal justice systems in different countries, inter-judicial departments co-ordination and co-operation are essential if an identical and interrelated policy of criminal justice is to be adopted. This is a question of universal concern for countries in developing crime prevention strategies.

China attaches great importance to this question. In 1986 the Chinese Ministry of Justice called a seminar devoted to a theoretical discussion on co-ordination and check and balance between judicial departments on the one hand and the public security organs, procuratorates and courts on the other. The seminar was called in a bid to improve their understanding of co-ordination and co-operation between themselves from a theoretical perspective and to become better adapted to the reform in China. China has enacted laws to clearly stipulate the relations between different judicial institutions. It has accumulated some experience in practice and developed original views of its own in theory. In China, the public security organs, procuratorates, courts as well as administrative judicial departments are all law enforcement agencies. They exercise their respective functions and powers independently on the basis of a division of labour with individual responsibility. Their relations are one of co-ordination and check and balance. All this is a guarantee for the faithful enforcement of the law and the joint fulfillment of the task of protecting the people, cracking down crime, reforming offenders and safeguarding China's national construction. In recent years, special efforts have been made to crack down those criminals who committed hooliganism, rape, robbery, murder, explosion, arson and other crimes seriously endangering public order. According to statistics, people's courts at different levels in China tried and wound up more than 1.4 million criminal cases and

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convicted over 1.721 million offenders from August 1983 to the end of 1986. The national crime rate in 1986 was 5.3 per 10,000 while it was 8.9 per 10,000 in 1981 and 7.4 per 10,000 in 1982 respectively. For three years running, the crime rate has been controlled at about 5 per 10,000 people. This crime rate is relatively low as compared with many other countries in the world. Over the past few years, special efforts have also been made to clamp down on serious crimes in the economic field so as to protect China's socialist economic system and economic development. The handling of criminal cases in China generally consists of four phases: investigation, prosecution, trial and execution of sentence. The public security organs are mainly responsible for investigation, detention and pre-trial inquiry. The procuratorates are mainly in charge of arrest approval, procuratorial work (including investigation) and the institution of prosecution. The courts take charge of trials, and the judicial administrative department the reform of criminals through labour. These four organs work for the common cause, each performing its own duties. Their relationship is one of co-ordination and check and balance. It is just like what happens in a factory where a product is turned out through four different processes in four different workshops. The better the four workshops develop the mechanism of co-ordination and check and balance, the higher the quality of their product and the efficiency in production. Malfunction in one process will adversely affect the whole course and the quality and quantity of the product, and thus harm the interests of the state and the people. Specifically speaking, when a public security organ finds it necessary, in the process of an investigation, to arrest certain offenders, it must seek approval from the procuratorate. If the latter finds any breach of law in the public security organ's investigation efforts, it should notify the public security organ to redress the matter. When the public security organ regards as incorrect a decision of the procuratorate disapproving an arrest or granting an exemption of prosecution, it

may ask for re-examination, and if its request is turned down, it may submit the case to the procuratorate at the next higher level for re-examination. With regard to prosecutions filed by the procuratorate, the court should decide to open trials if it finds the facts clear and the evidence sufficient. It may send the case back to the procuratorate for further investigation or withdrawal of the prosecution if it finds otherwise. The procuratorate exercises supervision on the execution of court decisions and rulings in criminal cases, the workings of the prisons, detention houses and reform-through-labour institutions to see to it that they conform with the law. With regard to an inappropriate ruling, the reform-through-labour institutions may suggest changes in the original sentences. It also plays a role in the investigation and prosecution of recidivists and in deciding on commutation or supplementary penalty according to the reform performance of the prisoners. All this embodies the principle of co-ordination and check and balance among the public security organ, the procuratorate, the court and the judicial administrative offices on the basis of a division of labour with individual responsibility. With the steady improvement and strengthening of China's socialist democracy and legal system over the past few years, this principle has been put into practice earnestly. Take the procuratorate for example. The People's Procuratorates at all levels have effectively taken the responsibility of legal supervision over the work of various judicial organs. In 1986, of the total number of arrests submitted for approval by the public security organs throughout the country, 89.7% were approved and 10.3% disapproved after case examinations by the procuratorates. Of the total number of cases transferred by the public security organs for prosecution, 91.8% were submitted to the courts for public prosecution, 7.4% were exempted from prosecution and 0.8% were disposed of after case examinations. The procuratorates at all levels exercise supervision over the investigation efforts of the public security organs, proceedings at the court, the

execution of court decisions and rulings in criminal cases and the workings of prisons, detention houses and reform/reeducation-through-labour institutions. Over the past year, they made written or oral suggestions to redress acts of breach of law to public security organs on 5,670 occasions, the court on 2,131 occasions plus counter charges on more than 2,200 occasions, and to detention houses and reform/reeducation-through-labour institutions on 18,144 occasions. Their efforts have helped correct enforcement of the law. We believe that co-ordination and check and balance complement each other, forming a relationship of dialectical unity. Co-ordination requires various judicial organs to respect each other and co-ordinate their actions while doing a good job within their respective terms of reference so as to ensure smooth progress of the criminal justice activities. Check-and-balance requires various judicial organs to supervise each other's activities, so as to redress any deviation in time and ensure accurate implementation of the law.

2. The Essential Need to Rely on the General Public

This is one of the key points in the 17 recommendations. The participating experts unanimously emphasised that an effective crime prevention mechanism and a sound criminal justice system have to rely on the people for support and co-operation and that the general public should be encouraged to play an important role in crime control and the treatment of the offenders. The two sides have found that there exist a number of similar practices in China and Japan in this regard. For instance, Japan stresses co-operation between the police and the public while China emphasises the adherence to the mass line by judicial organs. And good results have been achieved by both countries in the course of their practice.

In the long-term fight against crime, we have come to be fully aware that crime prevention is closely related to tens of millions of people whose active participation is the source of strength for all our successes.

Judicial organs should make thorough investigations of crimes to obtain reliable evidence, mete out accurate punishment to offenders without harming the innocent by mistake and adopt practical measures to protect the rights of citizens, including their democratic rights. In view of this, the best approach the judicial organs should take is to keep in close touch with the people, rely on them and accept their supervision, and should never be divorced from them and handle cases in isolation. Therefore, the principle of co-operation between the specialised organs and the general public not only is a fine tradition in China's work of criminal justice, but is also established in explicit terms in China's Constitution, Criminal Law, Criminal Procedure Law and other laws and decrees. In order to give the people an idea of how to support and assist the judicial organs, it is also stipulated in China's Criminal Procedure Law that upon discovery of facts of a crime or criminal suspects any unit or individual has the right and the duty to file complaints and accusations; that any citizen may seize and deliver to the public security organs those who are in the process of committing a crime or who have escaped from prison; and that any unit or individual who is in possession of evidence relevant to a criminal case is obligated to hand it over when required by judicial departments. These stipulations are of great importance in bringing into play the initiative of the general public to fight against crime and in helping judicial personnel to guard against mysticism, bureaucracy and the "special privilege" mentality. The adherence by the judiciary to the mass line does not mean to weaken professional work, which is a forceful instrument against crime. With cases involving professionally-trained special agents and spies and those cunning criminals who commit new forms of crimes and know how to tide over investigations and cross examinations, it is all the more necessary to redouble efforts and increase professional expertise in order to be able to deal with complex circumstances in the fight against crime. Therefore, the princi-

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ple of co-operation between the judiciary and the general public we refer to requires a combination of increased professional expertise and extensive mobilization of the efforts of the people.

In recent years, we have adopted the strategy of "comprehensive treatment" in maintaining public order. In our view, this is a higher form of crime prevention through reliance on mass endeavour and also a new development in the implementation of the mass line in judicial work.

By "comprehensive treatment" in maintaining public order, we mean that under the leadership of governments at all levels, efforts of the whole community are mobilised and all departments are organised to gradually eliminate factors and conditions for crimes, and prevent and reduce crimes through administrative, cultural, educational, economic and judicial means in a common endeavour to safeguard the socialist legal system. It mainly includes the following:

a) The endeavour to build a socialist society with advanced culture and ideological progress has been channelled into the execution of the general plan of nation-building. Over the past few years, in urban and rural areas, in factories and schools and in the Army and among civilians, people have been mobilized in a vigorous drive to build a socialist society with advanced culture and ideological progress. Efforts have been made to educate the people, youth and teen-agers in particular, so that they will all become citizens with a lofty ideal, moral integrity, knowledge and a high sense of discipline. Meanwhile, planned publicity and education in the legal system have been carried out among all citizens. Incomplete statistics show that in 1986 about 300 million people participated in the study of law, accounting for approximately 40% of the 750 million people who were capable of receiving education in law. Ninety per cent of the leading members of the nation's 29 provinces, autonomous regions and municipalities directly under the Central Government and over 80% of the leading members of the counties and prefectures participated in the study.

About 50% of the enterprises and institutions have started the work of popularizing the study of law, with a participation of more than 50 million workers and staff, about half of the total number of the workers and staff in the country. Schools are important places for legal education. Of the approximately 76,600 middle schools nationwide, more than 75,700, or 98%, have included legal education in their curriculum. There are 668,000 primary schools in China, of which more than 570,000, or 83%, have started legal education. Therefore, the total number of primary and middle school students receiving legal education has reached more than 150 million. Experimental courses of legal education began in selected institutions of higher learning in the latter half of 1986, and such education is to be given in all the institutions in 1987. After a year's efforts, a lively situation has emerged, in which workers, peasants, business people, students, soldiers and government functionaries and Party personnel are taking an active part in the study of law. This has in turn brought about marked results in enhancing the people's awareness of the law, improving the administration of all undertakings by means of law, protecting people's democratic rights and maintaining public order.

b) A responsibility system in maintaining public order has been introduced. The governmental departments, institutions and enterprises have linked their responsibility in maintaining public order with their economic responsibility, and observance of discipline and law and the statutes of public order with the performance of their duties. And this is taken as one of the criteria for assessing the work of a department or an individual. In this way, everyone is involved in the endeavour to maintain public order in his or her unit or department and fight against violation of discipline and breach of law, thus creating conditions reducing crime. According to the statistics of the public security departments, the widespread implementation of the public order responsibility system at the grass-roots level throughout the country has

resulted in the absence of major criminal cases in 70% of the nation's factories, mines and enterprises and 80% of all prefectures and townships in 1986.

c) Work at the grass-roots level has been strengthened. Neighbourhood committees, public security committees and mediation committees have been set up everywhere in the urban and rural areas of China. Members of these three grass-roots popular organizations are all selected on the basis of the results of democratic elections. Being fair and upright, they enjoy high prestige among the people. They often do educational work among the people in respect of morality, legal systems and ways to guard against fire, theft, accidents and so on. They are also entrusted with the task of solving problems and mediating disputes for the people. By the end of 1986, 957,589 mediation committees with 6,087,349 mediators have been established all over the country. In 1986, 39,421 cases of civil disputes were settled through mediation in Beijing alone. As a result, 443 cases of disputes were tackled despite of their gravity, and 157 cases of attempted homicide, 168 cases of attempted injury and 118 cases of attempted suicide were avoided. Thanks to their patient and earnest mediation, many couples who were about to divorce were reunited, misunderstandings among neighbours cleared up, the aged people respected and supported financially and a number of civil disputes which might have led to homicide were resolved. All this fully demonstrates the superiority of the system of popular mediation with Chinese characteristics.

d) Help and education for juvenile delinquents with minor crimes in breach of law have been enhanced. While meting out severe punishment to offenders with serious crimes according to law, China pursues a policy of educating, persuading and redeeming offenders, particularly juvenile delinquents with minor crimes. Help-education teams are set up in grass-roots units in many places. As parents care for their children afflicted with contagious diseases, teachers for their erring students and doctors for their patients, so do the mem-

bers of help-education teams earnestly, patiently and thoughtfully educate and guide the offenders so that they will turn over a new leaf in their lives.

3. *Treatment and Reform of Offenders*

When reviewing Topic 4 "the institutional treatment of offenders," participating experts have all acknowledged that in both China and Japan, the treatment and rights of offenders are satisfactorily ensured. They have also agreed that "prisons are capable of reforming offenders." Pursuing a policy of "reform first, production second" towards offenders, China has actively tried to turn prisons into special schools where offenders are rehabilitated and made useful to society. In Japan, too, good conditions are created for the re-socialization of offenders. In discussing production in prison, the experts have affirmed that it is an effective policy for China's correctional administration to reform the offenders through productive labour and also affirmed the success Japan has made in the co-operation between the prison industry and other sectors in society.

To reform offenders through labour is China's basic policy applied to offenders serving imprisonment, life imprisonment or death sentence with a two-year reprieve. There are two essential points for reforming offenders through labour in China. First, as human beings, offenders should be treated as such, and second, human beings can be remoulded. From a Marxist point of view, productive labour is the most fundamental social practice of mankind. Labour leads to the expansion of social productive forces, creates social wealth, cultivates fine human qualities, enhances cultural and ethical progress and gives rise to and develops a correct way of thinking. Therefore, labour is the best way to reform offenders. As early as in 1960, the late Chairman Mao Zedong pointed out: "Our prisons are nothing like the ones in the past. As a matter of fact, they are as good as schools, factories or farms." In this special school, offenders are not only asked to do productive labour, but also organized to take political, cultural, vocational and

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technical courses. Political education is the main subject focusing on the legal system, morality, self-cultivation and outlook on life. Cultural education is conducted mainly to help those with a sub-middle school level make up their missed lessons. Vocational and technical education is integrated with reform through labour. Training in various aspects is carried out to meet the employment needs in society. Vocational and technical education is the basic course in China's correctional institutions to reform the offenders, especially the juvenile delinquents. It is part of the regular rather than spare-time education. These measures are of great significance in turning offenders into persons useful to society. First, they help offenders change their negative mentality and through labour, restore their dignity as human beings. Second, they help to turn the offenders' negative elements detrimental to society into positive elements contributing to national construction, and transform potential into real productive forces. Third, they give offenders an opportunity to learn skills for production and earn their own living, thus creating conditions for them to abandon their parasitic life and turn a new leaf after return to society. At present, three quarters of offenders in China receive cultural education and more than one third attend vocational courses. More than one third of the correctional institutions have been transformed into special schools. Upon completion of their sentences and while being set free, offenders will be issued a release certificate and also papers stating their record of formal schooling and technical grades. The Chinese Ministry of Justice has decided to transform practically all the correctional institutions in the country (prisons, reform-through-labour teams and juvenile reformatories) into special schools in three to five years, where the offenders are to be reformed and made useful to society.

The Chinese Government has all along pursued a policy of "giving a way out" to those who are released after completing their sentences. Effective measures are taken to solve their problems in making a

living, provide them with opportunities for employment and study and continue to educate, help and guide them onto the correct course.

Thanks to the above-mentioned policies, the rate of recidivism in China, about 6%, remains fairly low. Most of the offenders released after serving sentences are now law-abiding. Many of them have become key members in production, and some are currently directors, managers, technicians or advanced workers in factories or enterprises. Facts have proved that offenders after being reformed will not only stop endangering society but also serve as positive elements in national construction.

The Milan Plan of Action adopted at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in 1985 points out: "Development is not criminogenic *per se*, especially where its fruits are equitably distributed among all the peoples, thus contributing to the improvement of overall social conditions; however, unbalanced or inadequately planned development contributes to an increase in criminality." This useful observation can be used by countries for reference in their efforts to prevent crimes. Experience accumulated in China's economic development also shows that crime prevention should be given comprehensive consideration within the framework of the overall strategy of the national development. On the one hand, continued efforts should be made to promote socialist democracy and the legal system, and on the other, close attention should be given to China's modernization drive and to meeting people's needs in the political, economic, employment, educational and cultural fields. This is the only way to achieve desirable results.

D

As the most important organization with the widest representation of the international community, the United Nations is charged with an important task for the prevention of crime and the treatment of offenders. The goal of prevention of crime,

realization of freedom, justice, peace and development pursued by the United Nations in the field of criminal justice gives concrete expression to the purposes and principles of the U.N. Charter. Since the adoption of Resolution 415 (V) by the U.N. General Assembly on 1 December 1950, seven world congresses on the prevention of crime and the treatment of offenders have been held. Thanks to the efforts made by the great majority of its member states, the United Nations and its specialized agencies have done a great deal in studying trends, formulating strategies and exchanging experience in the field of crime prevention, promoting co-operation in criminal justice among different countries and organizing seminars and professional training courses. They have made remarkable achievements in drafting and working out international documents, laws, regulations and declarations concerning criminal justice. Take for example, the United Nations Standard Minimum Rules for the Treatment of Prisoners, Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Code of Conduct for Law Enforcement Officials, Principles of Medical Ethics and the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules). All these were adopted at the U.N. Congresses on the Prevention of Crime and the Treatment of Offenders, and made an important contribution to the promotion and development of international legislation. However, numerous facts have indicated that international efforts towards the prevention of crime still face grave challenge. Crimes can be found everywhere in the world, and new forms of crime have kept emerging. Especially crimes such as smuggling, drug traffic, acts of violence against the person, regional and international terrorism, racial discrimination and massacre have all seriously infringed people's ethical, cultural and material interests, impaired human dignity, created terror and unease and lowered the quality of life, thus hindering the political, economic, social and cultural

development of countries and adversely affecting state-to-state relations. The question of juvenile delinquency still calls for close attention of the international community. The rates of juvenile delinquency in various countries remain very high due to disintegrated families, overpopulation in urban areas, decadent mass media and various difficulties with regard to education, employment, everyday life and medical care. This has not only disrupted the social order and stability, but also harmed the people's rights, including those of the young people themselves. The future of the victimized is another question worth close attention. Over a long period of time, the international judicial profession has paid much attention to the protection of the rights of the offenders and their treatment, but the victims' future is generally neglected by criminologists and criminal jurists. The victims have suffered immensely as a result of the spread of crimes. Therefore, their position in the procedures of criminal justice should be improved and they should be protected against undue damage to their person or property and their cases should be redressed and losses compensated. Over the past few years, the international judicial profession has started to pay attention to studying how to protect the rights of the victims, which is a good sign and should receive extensive support.

In the world of today, the world social and economic order is closely linked with the social and economic order in various countries and they are increasingly interdependent. At the same time, crime has become a political issue of the international community and a global issue instead of one that concerns one country only. Therefore, the prevention and control of crime call for exchange of information and co-operation among governments of all countries. First, international agencies at different levels should work together to promote and strengthen regional co-operation so as to enable countries with similar cultural traditions and those with different social systems and cultural traditions to collect and distribute relevant data and

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information, exchange results of their studies and increase technical co-operation and multilateral assistance with a view to dealing with different forms of crime and, in particular, new forms of crime. It is my sincere hope that the United Nations and its specialized agencies including the U.N.

Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders will play a greater role in this regard so as to advance the international endeavour in the prevention of crime, to the continued benefit of mankind. Thank you.

REMINISCENCES OF A FACULTY MEMBER

from Sri Lanka; for such conflicts and confusion. It is quite natural to find any newly-established organization suffering from a lot of problems.

UNAFEI was entirely a new experience for all staff members including senior administrators from overseas and particularly for Japanese officials.

Even among Japanese staff members, real communication and mutual understanding was a problem because of the different backgrounds they had when they joined UNAFEI from various agencies of the Ministry of Justice — some from the Ministerial Secretariat, some from the Prosecution Office, some from the Corrections Bureau, some from the Rehabilitation Bureau, some from the Immigration Bureau and so on. They had had no acquaintance with each other before they came to UNAFEI. Much more difficult was communication and understanding between overseas administrators and Japanese staff members, mainly because of the language barrier and sometimes because of different ways of thinking based on different cultures. As far as I remember, except for one public prosecutor there was nobody, even from among the faculty members, who had studied abroad for more than one year.

However, to my pleasure and surprise, a lot of the problems, conflicts and confusion they faced could not destroy UNAFEI, and UNAFEI succeeded eventually in overcoming them to establish itself as the first successful United Nations regional training institute in this field.

In Japan, there was a popular catchphrase, "Ima dakara hanaso," which literally means, "Now I can tell you."

In any field, political, diplomatic, academic or governmental, there is often something which cannot be revealed to the public for some reason at the time of its occurrence, but the lapse of time, say, 10 years or 20 years, eventually allows that something to be publicized.

Now I feel I can tell you some of the inside-stories about UNAFEI in its infant period. I am quite confident these inside-stories will neither defame UNAFEI in any sense, nor offend anyone concern-

ed with UNAFEI in those days, since UNAFEI now stands firm and will resolve those problems and overcome those hardships which may be incurred by my short stories.

Mr. Garner, who participated in the first international seminar course from 11 February to 11 March 1963, often and warmly refers to me as the first Japanese whom he met in Japan, a fact which he referred to in his speech last Saturday, and it is true. During the five years I worked at UNAFEI, it was one of my duties as a junior faculty member to receive all overseas participants, not to mention visiting experts, at Haneda Airport and also to see them off at the airport when they left Japan. As there was no expressway yet between Fuchu and Shinjuku, it took two to three hours by car from the Institute to Haneda Airport. The delay of flights was not rare at all in those days, certainly much more frequent than now. Arriving at the airport from Fuchu after a two to three hour drive, I was often disappointed to find the plane arriving at 3:00 a.m. the next day instead of the scheduled 9:00 p.m. that day! Then, there was no other way left for me but to stay until 3:00 a.m. the next day at the airport. Thus, by the time of the opening ceremony of a course, junior faculty members were usually all tired out.

We three junior faculty members doubted whether receiving overseas participants at the airport was a job of the faculty, but at the same time we realized there was no one else at UNAFEI to do even such a simple duty — the English of the clerical officers was not good enough to assign them to this duty. Moreover, they were very, very busy coping with problems arising almost every day which were quite new to them. On the other hand, the consensus not only among junior members of the faculty but among all Japanese staff members was not to cause any inconvenience or trouble to overseas participants from the beginning to the end of the course. They, in fact, however, must have experienced a number of inconveniences and troubles, but it is nonetheless absolutely true that

we tried to make their stay as comfortable as possible. Receiving them at the airport at midnight or even very early in the morning was one of the ways we did so, and the beginning of our sincere hospitality. I believe Mr. Garner remembers me as the first Japanese he met in Japan because he could feel my sincerity and understand my efforts in receiving and treating overseas participants like him as well as I could.

There was another side-job which fatigued junior faculty members and made them rather unhappy. On the day before special occasions such as the opening or closing ceremony of a course, we were asked to join the clerical staff members in cleaning all the buildings, sometimes until late in the night. Among the clerical officials there were some who were of superior rank in the governmental service to junior faculty members. They asserted that young faculty members should co-operate with the clerical staff in cleaning the buildings on such special occasions because they suffered from the lack of manpower. Even the clerical officials themselves should not have been engaged in cleaning work, not to speak of the faculty members however young they might be. We were not happy at all, but we knew collaboration was the supreme demand and necessity in that situation. We worked together with clerical officials in cleaning whenever ceremonies were going to take place.

Night-duty was another complaint of junior faculty members. For a short period after the first course started, clerical officials took turns in night-duty, which consisted of telephone operation, sale of postage stamps, information service mainly for overseas participants and so on. Some time afterwards, however, overseas participants began complaining about clerical officers' night-duty for the reason that they could hardly communicate in English with a night-duty official. Once again, junior faculty members were eventually asked to take night-duty in place of the clerical staff. Overseas participants were satisfied with this change, but we were not happy with telephone operation, postage stamp sale and other miscellaneous business

items, though we could enjoy personal conversation with overseas participants. Night-duty of this kind seemed to hurt our pride as faculty members.

Since I was just a junior member of the faculty, my inside-stories are limited to only trifling matters, however seriously I myself may have taken them. I have to confess they may be one-sided stories full of bias and self-conceit exaggerated from my stand-point as a junior faculty member. Without any doubt, clerical officials must have had their own complaints and dissatisfaction. And I am quite sure that the Director, Deputy Director and other senior officials must have faced much more difficult, serious, high-level and deep-rooted problems of various kinds. As UNAFEI was an entirely new experience for everyone, new problems, most of which were not known to the junior staff, must have happened one after another involving the administrators and senior officials. Just one example of those problems will be presented to you now. This is not a complaint of the young faculty members.

Japanese participants in the first international training course had a most bitter experience in UNAFEI life. In that course, meals served to overseas participants were different from those served to Japanese participants both in quantity and quality, not for religious or traditional reasons but simply for a budgetary reason. In those days, overseas participants were supported by the United Nations fellowship, their daily subsistence allowance being paid in US dollars, which was highly appreciated. One US dollar was equal to 360 yen. In a word, overseas participants were well paid. On the contrary, Japanese participants were given their daily subsistence allowance according to the relevant internal law. In fact, the largest sum of the allowance specified by the law was granted to them, but it was still far less than the United Nations allowance. Thus, different meals were unavoidable.

For example, an apple was served as dessert to overseas participants but not to Japanese participants who had already been unhappy with poorer dishes. Then,

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many of the overseas participants tried to share their apples with Japanese colleagues, cutting an apple into two. "Say, why don't you take half of my apple?," a foreign participant would say to a Japanese friend sitting nearby. In such a situation, however, no one was able to accept his offer without psychological resistance and hesitation, however sincerely and kindly his offer may have been extended. "No, no, thank you!" was the usual reply to the overseas participant from the Japanese.

I would like to stress with pleasure that it was only the participants of the first international course who suffered from unequal meals because this problem was solved soon after the course had been over by means of securing a budgetary subsidy from the finance authorities. I am old enough now and have served in the governmental administration long enough to realize that the success in obtaining the subsidy must have been at the cost of difficult, painstaking and persevering negotiation with the finance authorities by UNAFEI senior officials.

The UNAFEI of today has survived these difficulties and problems by the sincere efforts, diligence and wisdom of the staff as well as with the strong support and real understanding of agencies concerned like the United Nations, Ministry of Finance, Ministry of Foreign Affairs, OTCA or JICA, not to speak of the Ministry of Justice and other agencies directly related to crime prevention and criminal justice.

This new building of UNAFEI can be said to be a symbol of understanding and support of the Ministry of Finance to UNAFEI activities. It was in 1982 when the new building was completed. The old building of UNAFEI was demolished when only 18 years had elapsed, to be replaced by the new one. It was quite unusual for the Ministry of Finance to approve the demolition of a reinforced concrete building after only 18 years' use. The Ministry of Finance must have been moved by the enthusiasm of the then Director and other senior officials of UNAFEI as well as those of the Ministry of Justice to improve the physical facilities for interna-

tional training and also by the achievement UNAFEI had reached in the training of personnel and in research work in the field of crime prevention and criminal justice.

Now, it may be time for me to evaluate UNAFEI activities of the past. However, to be frank, the evaluation of UNAFEI activities of the past is not an easy task for me, because I myself was once closely involved in its activities and because I am a Japanese. We have a proverb, "The beacon does not shine on its own base."

For this reason, I think I had better give up making a detailed evaluation of UNAFEI activities. Moreover, the evaluation has already been done by experts attending this course.

I would like to point out two facts which show a high appreciation of UNAFEI activities by the Asian and Pacific countries.

The first is the very fact that UNAFEI still exists here, not only exists but has been continuously trying to strengthen and expand its activities. Why? Because I believe there are demands from countries in the region for UNAFEI activities in various fields of crime prevention and criminal justice. Why then are there such demands from those countries? I am sure it is because they can benefit from UNAFEI activities. When I worked here at UNAFEI, no participant came from African countries or countries of Central or South America, but UNAFEI Newsletters indicate that even those countries now send their officials to UNAFEI. I do not know in what ways and means the training or seminars at UNAFEI bear fruits in respective countries. I am ignorant as to what extent participants actually benefit from the course. I have no information how the governments in this region appreciate UNAFEI activities. However, it is quite evident that we cannot talk about the training of personnel and research work in the field of crime prevention and criminal justice of this region without referring to UNAFEI.

Secondly, I would like to focus on the fact that UNAFEI alumni associations have been organized in several countries and

still some other countries are going to organize them. If participants in the UNAFEI courses had not appreciated what they learned or experienced there, if they had been unhappy with the memory of UNAFEI life, if they had had no pride in their participation in the UNAFEI courses, they would have never thought of organizing the alumni associations.

My remarks on the evaluation of UNAFEI activities may be too simple, but I think I should be humble enough in appreciating UNAFEI activities as a Japanese who was once its faculty member.

If UNAFEI or UNAFEI activities are highly appreciated by the countries of this region and the participants, I think there are several elements which contribute to such appreciation.

In an article, "Recent Activities and Prospects of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders," with a subtitle, "Regional Co-operation in Social Defence," which is published in a booklet entitled "The 20-year History of UNAFEI," Mr. Ishikawa, then Director of the Institute, mentions four general principles of training at UNAFEI. They are as follows:

First, UNAFEI provides a practice-oriented and problem-solving programme. Second, the training programme at UNAFEI deals with areas of general concern to the countries of the region. Third, UNAFEI emphasizes an integrated approach to the criminal justice system as a whole. Fourth, an emphasis has been placed on participant-centred programmes.

Mr. Ishikawa expressed his view that these four principles were followed while he was Director, implying that these principles were applied to the programmes of every course in the past. We all know these four principles were reiterated by Mr. Utsuro, the present Director, in his presentation.

I think these four principles should be observed in the future too, because they match the needs of the countries in this region and correspond to the characteristics of the participants. The observance

of these principles is, in my opinion, essential in maintaining the high appreciation shown to UNAFEI so far.

In reference to the first principle, he writes, "Since all the participants are well experienced in the field of crime prevention and the treatment of offenders, the course would be of little value to them unless it is oriented to the solution of practical problems facing them in their daily activities. In order to accomplish this goal, all the teaching staff of UNAFEI are appointed from among those who have years of practical experience in this field, and visiting experts are also invited from among those who have not only profound scholarly attainment but also practical experience or a practically-oriented attitude." Regarding these four principles, please allow me to add a few words.

In reference to the first principle, I do not think Mr. Ishikawa or Mr. Utsuro advocates a total ignorance of academic theories. For officials long experienced in crime prevention and the treatment of offenders, academic theories may serve as a sort of ideological framework for their profession. As a matter of fact, quite a number of scholars well-known throughout the world were invited to UNAFEI as visiting experts and gave lectures which were highly estimated by participants. Their articles, which can be read in UNAFEI Resource Material Series are all very attractive and enlightening. However, UNAFEI is not a university. Participants are not young students. If the programmes at UNAFEI are not practice-oriented, not problem-solving, as a rule, the Institute will lose its *raison d'être* and much of the support from the countries in the region.

In relation to the second principle, Mr. Ishikawa comments, "The main themes of courses have been chosen from among those problems and issues which were felt to be in need of urgent solution." I am afraid there might be some difficulty to find new problems and issues in need of urgent solution which are common to a majority of countries in the region, although there are many well-known problems and issues already and often taken

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up as main themes at UNAFEI. In this connection, I hope the Regional Adviser, ESCAP, may make some contribution to UNAFEI according to his new experience and knowledge acquired from his advisory services in this region.

The third principle suggests the importance of promoting proper co-ordination and co-operation among the police, prosecution, the judiciary, corrections, rehabilitation and welfare services for the purpose of facilitating more effective and efficient prevention of crime and more humane and fruitful treatment of offenders. As indicated by Mr. Ishikawa, UNAFEI is in a very advantageous position in this regard as it can invite persons representing a variety of professions, cultures and religions.

The last principle, that is, the participant-centred programme, is the most important and attractive characteristic of UNAFEI activities. UNAFEI organizes three courses every year. Two three-month courses are called training courses, but even those taking part in those courses are called "participants," not "trainees." They have never been called trainees. They participate in the course. They do not just listen to lectures, but each of them teaches something to others. They learn from each other. I know even the least advanced countries have some merits in their crime prevention and criminal justice system and practices from which others can learn something. The more experienced, the more matured people have the wisdom to learn more from others. Just a simple suggestion implied in a colleague's report can be developed by an experienced participating administrator into a great improvement in his own administration.

Incidentally, I would like to comment in brief on the UNAFEI life in general. At UNAFEI, all participants, overseas and Japanese, stay in the living quarters which are actually part of the UNAFEI buildings. Even a Japanese participant living in Fuchu is required to move into the living quarters during the course. They live together in the same building. They learn from each other in the same building.

They travel together. They enjoy holidays together. I know there are quite a number of international training centres for overseas people in our country, but as far as I've heard, at most of those centres they stay at the living quarters but they receive training at different places. In this sense, UNAFEI is rather unique. Anyhow, such a system as UNAFEI has been operating is the best way to cultivate a friendly feeling, intimacy and mutual understanding among participants. As several participants cited, a Japanese proverb goes, "Onaji Kama-no Meshi-o Kutta Naka," which may be literally translated into "We ate rice from the same cooking-pot." According to my dictionary, the English expression corresponding to this is, "We broke bread with each other" or "We ate at the same mess." UNAFEI participants are exactly like those who eat rice from the same cooking-pot. Friendship among participants in a course can be named "horizontal friendship." Then, I think there is "vertical friendship" among participants in different courses. They have similar experiences at UNAFEI, they share similar pleasant memories during the course, they have common acquaintances in Japan. This vertical friendship is so strong that it develops into the organization of UNAFEI alumni associations.

I hope you will be patient enough to allow me to touch on another feature of the UNAFEI course. That is the participation of Japanese officials in the course together with overseas people. Someone told me that such a style of participant composition was also rather unique. I do not know whether it is unique or not, but if it is unique, that uniqueness should be maintained. As a Japanese, I rather hesitate to say this, but honestly Japanese participants have played very important roles in every course not only in classes or on inspection tours, but in daily life and even at night despite their language difficulty. I appreciate very much Mr. Garner's kind remark on this issue in his special speech last Saturday. Actually, a Japanese participant is usually told by his superior when he leaves his office to join

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the UNAFEI course, "You should remember that you are in a sense a diplomat during the course." He may not be a true diplomat, but at least he is a host so far as UNAFEI is located in Japan and he is a Japanese. I believe most of the Japanese participants more or less act as hosts to their fellow overseas participants, particularly on holidays and perhaps in the evening. Without Japanese participants, I am afraid the UNAFEI life of overseas participants and their memories of Japan would be quite different.

Now, I would like to make some suggestions to UNAFEI for its future activities mainly from my standpoint as Regional Adviser for Crime Prevention and Criminal Justice, ESCAP.

First, UNAFEI should establish what we call focal points in each country of the region by asking for former UNAFEI participants' co-operation and understanding. Second, UNAFEI should strengthen its research and survey work. Third, UNAFEI should expand its joint seminar projects. Fourth, UNAFEI should promote co-operation with ESCAP.

Let me take up the first issue in a little more detail. In the ESCAP Secretariat, it is generally said among experts if one succeeds in establishing focal points in countries concerned, 90 per cent of one's work has been finished.

I shall never forget the shock I experienced on the first day when I went to my office in the ESCAP building. My office was like a barn. Several bookcases and shelves were full of old and musty papers, none of which were, however, concerned with crime prevention or criminal justice. My post was a newly-established one and I was the first to have assumed the post. Therefore, there was perhaps little wonder my office had nothing related to criminology, penology or crime prevention and criminal justice.

Then, I thought my first job as Regional Adviser must be to collect statistics and other information and materials from countries of the region so that I would have some knowledge of their crime situations and criminal justice systems and practices

as well as their relevant laws. So I called on my chief for his advice on how I should start. After listening to my intentions, he suggested to me to not depend on the official channels of communication when collecting the materials I wanted but to use my private resources if they were available. According to his view, if I followed the official procedures, it would take much time, 2 or 3 years, to get all necessary data. Later, I learned that what he called the official channels of communication are really complicated.

In such a case, if the Regional Adviser has established focal points in each country, he can write to them. However, as a matter of fact, to locate a person or persons suitable for being a focal point is not an easy task. To begin with, we do not know to whom we should write for that purpose. And moreover, usually, no one is willing to take such an additional and unrewarding responsibility of being a focal point.

I happened to know that UNAFEI authorities had asked the participants of this seminar to bring with them as much information as possible about UNAFEI alumni of their countries, indicating their present official position and other relevant information. I have no idea for what purposes UNAFEI is interested in having the up-to-date list of former participants of each country except the purpose of publishing a current UNAFEI Alumni Directory on the occasion of the Institute's 25th anniversary. But I sincerely hope and beg the UNAFEI authorities to choose proper persons from the list as focal points in the field of crime prevention and criminal justice. It is reported that in many countries of the region quite a number of UNAFEI alumni occupy a leading position in relevant fields. UNAFEI should realize there is no other organization in the world than UNAFEI which is in a blessed position to establish focal points in this field. If focal-point persons are requested to take part in a sort of refresher course at UNAFEI on "Research Work and the Role of Focal-Point Persons," for example, it will encourage and help them in perform-

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ing this extra duty smoothly.

Now I feel I have to confess my real intention in this regard. When the Director of UNAFEI writes the first letter to candidates for focal points in each country, it will be very much appreciated if he would kindly add a few words to the effect that they are cordially requested to co-operate with Mr. Hasegawa, Regional Adviser, ESCAP, who is also a UNAFEI alumnus.

Regarding the second issue of strengthening UNAFEI's research and survey activities, again let me tell you one story.

It was at the end of March 1985 that the Youth in Development Section of the Social Development Division, ESCAP, dispatched a questionnaire entitled "Regional Survey of Juvenile Crime and Delinquency and the Treatment of Juvenile Offenders, Asia and the Pacific, 1970-1983" to ESCAP's member and associate member countries through the so-called official channels of communication. When I began working as Regional Adviser in May 1986, I found out by chance that only a few countries had replied to the questionnaire more than one year after it had been dispatched. I am sorry to say Japan was one of the non-replying countries.

Before I knew of the inactive response from the countries, our Division had, by catching an incidental opportunity, requested the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs in Vienna to help implementing the questionnaire survey. The Branch kindly accepted SDD's request and sent the same questionnaire to their national correspondents of each country concerned in June 1986. Response from the countries was far better than on the previous occasion. In several months, many countries, I am happy to say, including Japan, replied to the questionnaire.

The national correspondents I have just mentioned are related to the United Nations Congress on the Prevention of Crime and the Treatment of Offenders. They are the focal points serving the Congress. Historically, the Congress inherited the national correspondent system from IPPC,

the International Penal and Penitentiary Congress. Because of its long history and the importance of the U.N. Congress, very prominent and influential persons in the field of crime prevention and criminal justice are nominated for the national correspondent post in each country. Incidentally, speaking of Japan, the second questionnaire was addressed to Mr. Hino, then Director of UNAFEI, who was one of the national correspondents.

This case I have just referred to shows us how difficult and time-consuming it is to conduct even a simple survey unless effective ways and means are available.

In this connection, again I would like to emphasize that UNAFEI is in the best position to conduct research and survey works. Even without proper focal points, I think UNAFEI might be able to conduct a survey by making use of coming participants in the future courses. The participants in the next course can be requested to bring with them the prison statistics, for instance, preferably on designated items. Roughly 10 to 20 countries are represented in each UNAFEI course. Thus, the prison statistics of 10 to 20 countries will be available from the participants of a course. Even simple array of those statistics without any analysis or comparison will be very useful information for agencies and individuals concerned in each country, and it can be a start for more sophisticated comparative study in this field.

The importance, significance and necessity of research and surveys in the field of crime prevention and criminal justice need not be reiterated here. These should be stressed to participants in every course at UNAFEI and they should be requested to co-operate with the Institute in conducting research and surveys.

UNAFEI has undertaken various research projects on topics such as open correctional institutions in Asia and the Far East, a comparative survey of juvenile delinquency in Asia and the Far East, the criminal justice systems in the Asian region, alternatives to imprisonment in Asia and so forth. All those researches are highly appreciated. Thirty volumes of UNAFEI

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Resource Material Series which contain papers by visiting experts, UNAFEI staff and participants as well as the gist of discussions in each course can be an invaluable source for comparative study. This series is very informative and useful. I may be one of those who most benefit from this series — whenever I go to any country in this region on an advisory mission, I read all the relevant articles in this series.

I appreciate UNAFEI activities in research and survey. However, compared with such outstanding achievements UNAFEI has produced in the training of personnel and taking into account such a blessed position it has been placed in to undertake research and survey projects, I do not think UNAFEI should be satisfied with its past attainments in this field. I dare to reiterate no other organization or institute in the world is in a better position than UNAFEI to conduct research and surveys in the field of crime prevention and criminal justice. UNAFEI should be a research centre as well as a training centre. If the Regional Adviser can be of any help to UNAFEI in promoting its research and survey projects, he will always be ready to co-operate with the Institute.

In regard to the third issue of expanding the joint seminar projects, Mr. Ishikawa, seventh Director of UNAFEI, wrote in his aforementioned article as follows:

“UNAFEI wishes to organize and conduct overseas joint seminars as frequently as possible. These seminars have proved very effective in identifying the problem areas of the entire criminal justice system in each country and for exploring ways and means of solving problems while taking into account the various socio-economic and cultural conditions in each country. They have also been very successful in sensitizing the participants from different agencies in the criminal justice system to the necessity of an integrated approach for the improvement of their own criminal justice administration through appropriate co-ordination and co-operation with each other. Thus, UNAFEI intends to continue this type of training programme in the

future in co-operation with related governmental authorities in the countries of the region.”

We can see that UNAFEI authorities have taken notice of the importance and effectiveness of joint seminars and intend to strengthen them. Therefore, I am afraid my remarks may be an unnecessary addition. However, my quite recent experience in a country of this region persuades me to venture to make an unnecessary addition in this regard.

A few months ago, I visited a small but beautiful country in the Pacific to discuss with concerned officials and individuals how to promote the implementation of the Regional Plan of Action on the “Role of Youth Organization in the Prevention of Crime among Youth,” which was adopted at a workshop held at UNAFEI in 1985 under the joint sponsorship of UNAFEI and ESCAP.

As you may guess from the purpose of my trip, I visited nongovernmental organizations and institutions concerned with activities for the prevention of crime and delinquency among youth as well as relevant governmental agencies. It was my real surprise to see how positively these organizations, particularly Christian churches and organizations, had been involved not only in activities for the general development of the youth but in activities for the prevention of crime and delinquency among the youth.

The Salvation Army, for instance, operates both a boys' hostel and a girls' hostel. They are institutions for delinquents as well as for those who need protection. Both hostels, including a small vocational training centre attached to the boys' hostel, are wonderfully managed. The staff members of these institutions impressed me with their passion, sincerity, pride and expertise.

The Salvation Army also organizes a small youth club in the centre of a slum area. Members of the club are encouraged to cultivate vegetables which are sold at a small shop run by the club.

A Christian organization called Montefort Brothers of St. Gabriel operates a

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vocational training centre for a fairly large number of boys — a large number when considering the small population of the country. What astonished me very much was the selfless devotion of four Brothers working there to the centre's activities and the treatment of boys who are not delinquents but school drop-outs.

The YMCA is located near one of the slum areas. Its gymnasium, football ground and other facilities are open to the slum youth.

In short, youth organizations work on similar lines to the Regional Plan of Action.

On the contrary, I was rather disappointed to see it was only the police which had a special unit or section to deal with juveniles. Though the juvenile court system had been established for long, it was rather nominal in the sense that magistrates' court judges dealing with adult criminal cases acted as juvenile court judges as well and that the same facilities were used both for adult criminal cases and for juvenile cases. The prosecution had no inclination at all to designate certain prosecutors for handling juvenile cases.

Juvenile delinquency in this country has been steadily decreasing since the late 1970s, but all the people I met were afraid it would increase in the near future. They said indications of delinquency increase could be seen. Yes, they were right — one Saturday afternoon, I followed a police inspector in charge of the drug section who had been invited to speak at a small gathering sponsored by the PTA (Parents and Teachers Association) of a mission high school. From a short speech made by the principal of the high school, I understood that 5 students of the school had been found using marijuana a few days before. According to the police inspector, marijuana cases this year will be almost 7 times as many as 2 years ago.

Finishing my mission tour in that country, I decided it is in such a situation that a joint seminar should be organized. The joint seminar will not provide any direct

solution to any problem but it will have some impact on and stimulation to the agencies and persons concerned to examine their systems and practices and delinquency problems.

I am now thinking of cordially asking UNAFEI authorities to organize a joint seminar in that country.

I believe the UNAFEI Director, Deputy Director and other faculty members should visit countries in the region as frequently as possible to find out problems they are most serious about in each country. Then, the joint seminars can be held to take up such problems in those countries which will most need and welcome the seminar.

The Regional Adviser would like to make a humble suggestion on this matter from time to time according to his mission tour experience.

The fourth issue is the promotion of co-operation with ESCAP and its Secretariat. It is well known that one of the principles in operating UNAFEI is to maintain good relations and to promote co-operation with United Nations and international organizations and institutes. ESCAP is, needless to say, one of the United Nations regional organizations with which UNAFEI has been maintaining co-operation in activities in the field of crime prevention and criminal justice. But I am afraid until recently something had been lacking on the side of ESCAP in promoting co-operation between the two, that is, ESCAP had no component in its Secretariat to deal with crime and delinquency problems. Despite the universal realization of the importance of crime prevention activities and international co-operation in such activities, ESCAP's involvement in this field has been, frankly speaking, less than great. ESCAP's lack of activities and interest in the field of crime prevention and criminal justice may stem from its historical background.

Now, please allow me briefly to touch on the history of ESCAP. ESCAP was called "ECAFE" when it was first established in 1947, just after World War II by the United Nations Economic and So-

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cial Council. "ECAFE" stands for the Economic Commission for Asia and the Far East, which was organized for the purpose of promoting economic restoration of Asia and the Far East region, and maintaining and strengthening economic relations within the region and with other regions. Therefore, ECAFE was naturally economics-oriented, putting its emphasis on the development of industries, trades, transportation and communication, water resources, energy resources, agriculture and so on. Even after it was renamed as ESCAP (the Economic and Social Commission for Asia and the Pacific) in 1974, ESCAP's fundamental policy did not change, although it had showed some interest in social development since the 1950's and had initiated some activities since the 1970's in population problems, human environments, women and children's welfare and so forth. However, in the process of tackling these issues, ESCAP came to realize the importance of crime prevention and criminal justice in relation to economic and social development. In developing countries, they say that poverty is the main cause of crime. Others assert that illiteracy or lack of education is the main cause. Perhaps, they are right — either poverty or illiteracy or both of them can be reasons for a number of adults and juveniles to commit offences. However, anyone has to admit that advanced countries suffer from more serious crime problems even without poverty, in its real sense, and illiteracy. Economic and social development cannot solve all crime problems. It may produce new causes of crime unless due consideration is paid to crime prevention.

The post of Regional Adviser for Crime Prevention and Criminal Justice was established according to a resolution adopted in the fortieth ESCAP session held in Tokyo in 1984, and I assumed the post in May last year.

Now that the Regional Adviser for Crime Prevention and Criminal Justice works as a crime prevention component at ESCAP, co-operation between UNAFEI and ESCAP must be renewed and can be

promoted further. It is obvious that such co-operation will benefit both UNAFEI and ESCAP and consequently the countries in the region.

UNAFEI is proud of its 25-year history and expertise in training personnel, organizing seminars and undertaking research and survey projects in the field of crime prevention and criminal justice. On the other hand, the ESCAP Secretariat as an organization which is entrusted with the execution of the will and policies of its 47 member and associate member countries can demonstrate the support of those countries.

Put very simply, co-operation between the two will produce some additional merit. A good example to show the significance of co-operation between UNAFEI and ESCAP is the Workshop on the Role of Youth Organizations in the Prevention of Crime among Youth. As I mentioned before, the Workshop adopted the Regional Plan of Action. This was reported to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which highly appreciated the Plan of Action. If the Workshop had been sponsored only by UNAFEI or only by ESCAP, the estimation for the Regional Plan of Action might have been different even though the contents were the same. The joint sponsorship of UNAFEI and ESCAP surely heightened the significance of the event.

Last of all, may I present my personal and humble suggestion on the renaming of UNAFEI. I think UNAFEI should be "UNAPI," that is, United Nations Asia and Pacific Institute, as ECAFE was renamed ESCAP in 1974. I have no idea whether there is any organization or institute, either governmental or non-governmental, which includes "the Far East" in its title, but we all know that the words "Far East" originate from a Eurocentric conception. Usually, Asian people do not like these words, and this is one of the reasons that ECAFE was changed into ESCAP.

Incidentally, "the treatment of offenders" in the title of UNAFEI had better

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be replaced by "criminal justice." So "United Nations Asia and Pacific Institute for Criminal Justice and the Prevention of Crime" is the new name I am suggesting. I am not sure which covers broader fields, "the treatment of offenders" or "criminal justice," but I feel "criminal justice" is a broader conception. It is true that until

1970, UNAFEI courses were mainly concerned with the treatment of offenders but since then criminal justice has been taken up as the main theme of courses more frequently or at least as frequently as the treatment of offenders. I hope UNAFEI authorities will kindly take note of my suggestion on this matter.

SECTION 2: REPORT OF THE SEMINAR

Summary Report of the Rapporteur

Session 1: Evaluation of UNAFEI Training/Seminar Courses and Other Activities

Chairperson: Mr. E.C. Foenander
Rapporteur: Mrs. Celia Sanidad Leones
Advisor: Mr. Yasuro Tanaka

Introduction

The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) was established as a United Nations Regional Institute in 1961 pursuant to an agreement entered into by the United Nations and the Government of Japan. Its role was that of a co-ordinating body for the promotion of regional co-operation among countries in the Asia and Pacific region, through training and research, and thus to contribute towards a sounder social development in this region.

During its 25 years of existence UNAFEI conducted 74 international seminars and training courses in Fuchu. In organising these activities UNAFEI continually endeavoured to improve its programmes for its courses and seminars in order to ensure that they will be beneficial, not only to the individual participant, in particular, of these courses/seminars, but their respective countries as well.

With this as a backdrop, therefore, UNAFEI decided to evaluate its various programmes organised for its seminars and training courses, and where warranted, to improve and upgrade such activities. This has resulted in the organisation of the 76th International Seminar which has, as its main theme, the "Evaluation of UNAFEI Training/Seminar Courses and Other Activities," with related topics on its role in the future and that of national UNAFEI alumni associations of the countries in the

region.

This report is a summary of the views of the participants at this Seminar, expressed both in their individual papers that were presented for this Seminar as well as in their oral contributions during the 1st Evaluation Session, when the main theme of the Seminar was discussed.

Adoption of the Agenda

The theme for discussion, "Evaluation of UNAFEI Training/Seminar Courses and Other Activities," was approached by the participants along the following lines, viz:

- 1) Evaluation of UNAFEI Programmes
 - a. Comparative studies, group workshops, lectures, visits, etc;
 - b. Overseas Joint Seminars, International Seminars, etc;
 - c. Research and information services.
- 2) Effects of the Above Activities
 - a. Effects of UNAFEI courses on the participants' work;
 - b. Effects of UNAFEI courses on the criminal justice systems of respective countries;
 - c. Other comments.

Deliberations and Findings

- 1) *Evaluation of UNAFEI Programmes*
 - a) Comparative Studies, Group Workshops, Lectures, Visits

It was the general consensus among the participants that the courses and seminars reflected careful thought and preparation by the staff of UNAFEI in their planning and implementation. They were found to be comprehensive, with a balanced treatment of the core subjects. These courses and seminars afforded participants the opportunity to compare the efficaciousness of their own criminal justice systems with that of others as well as permitting them, through such exposures, to appreciate and

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acquaint themselves with the systems of other countries.

In the training courses the comparative studies, group workshops, lectures and study visits were regarded as being immensely valuable and effective in focusing attention on the immediate need for the prevention of crime and the treatment of offenders. In particular, the lectures by UNAFEI staff and Visiting Experts were found to be comprehensive, well documented, and supported by extensive research so that the participants became thereby better informed of the relevant subjects in these courses and seminars. Of special mention too, were the benefits obtained from both a "participant-oriented programme" (e.g. comparative studies) and group workshops which broadened participants' outlook in their respective spheres of work in the criminal justice system.

The established practice of accommodation all participants under one roof was also a plus factor in the organisation of these courses and seminars as it resulted, as one Japanese participant so aptly described it, in "sharing rice cooked in the same pan." It encouraged closer and better rapport among the participants and, particularly, between foreign participants and their Japanese counterparts. There can be no question that, on an overall basis, this has contributed and will continue to contribute to the promotion of regional and international co-operation in the field of crime prevention and the treatment of offenders.

Just as significantly, it was felt that the organisation of the courses was such that, in promoting closer ties between the different segments of the criminal justice systems of each country, it aimed for a smoother functioning of those systems as a whole which could only lead to improved measures in administering criminal justice and preventing crime.

b) Overseas Joint Seminars, International Seminars, etc.

Overseas Joint Seminars have been held in Sri Lanka, Malaysia, Philippines, Thailand, China and Singapore. The impres-

sions of the participants on such Seminars, in particular, were to the effect that these were improvements on the traditional activities of UNAFEI. These Seminars afforded the opportunity for better in-depth studies of the criminal justice system of the particular country in which such a seminar is held and provided a very effective vehicle by means of which the attention of the government in such a country can be drawn to the importance of preventing crime and treating and rehabilitating offenders. It was the unanimous view of the participants, therefore, that more of such seminars, as well as International Seminars, should be organised.

c) Research and Information Services, etc.

With regard to research and information services, mention was made by both visiting experts and participants of the Institute's important function as a centre for the "dissemination of information" to countries in the region, mainly through the publication of its Newsletter, Resource Material Series, and other publications on specific subjects. These publications contained articles and reports on relevant issues, such as trends in crime and, more recently, problems of drugs in the region, as well as alternatives to imprisonment and other related topics. There was a consensus among the participants that these publications provided useful up-to-date information on the on-going activities of the Institute. Such a service also maintains and helps promote a sense of identity and solidarity amongst the more than 1,200 current alumni of UNAFEI.

2) *Effects of the Above Activities*

a) Effects of UNAFEI Courses on Participants' Work

While it was acknowledged that the exposure to the varied criminal justice systems of the many countries that were represented at these seminars and courses resulted in the broadening of the individual participant's outlook on the problems of crime prevention and criminal justice, it was nevertheless conceded that it would be rather wishful to expect any immediate

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and far-reaching improvements on a national scale to come about in any country following the attendance at such seminars and courses by that country's representative. What was certain to be achieved initially, however, was the implanting of the seed of awareness in the participant of the problems in his own country, if he was not previously aware of them, or a new perspective of those problems, if he was, which should lead, logically, to improved attitudes encouraging professionalism in his approach to his duties. In fact, the general view among participants was that the courses and seminars that they had attended had resulted in a change in their assessment of and concern for the offender, as well as the awareness of the vital linkage between the various segments of the criminal justice system. They felt they were no longer entrapped within the confines of the "frog in the well" syndrome and welcomed the opportunity to view old problems from new perspectives. They returned to their countries armed with a new range of possible solutions and remedies that could be applied in their own countries.

b) Effects of UNAFEI Courses on the Criminal Justice Systems of Respective Countries

There can be no doubts that the activities of UNAFEI have had an important bearing on the development of certain vital aspects of criminal justice administration in the countries of the region. It would be impossible, however, to pin-point any such development and to attribute it directly to the impact of the programmes organised by UNAFEI. The effect of such programmes can only be seen in the long run and even then it is manifested only discreetly. The only way, perhaps, that improvements in the criminal justice system of a country can be attributed to UNAFEI activities may be the similarity of such improvements to measures proposed during courses and seminars in UNAFEI and the fact that key personnel in the countries concerned comprise alumni of UNAFEI. In fact, many of such alumni now occupy key positions in the criminal justice systems of

their respective countries and thereby are in positions whereby they can contribute directly to the implementation of the most suitable policies and programmes in criminal justice administration in line with United Nations guidelines. In some instances, however, there was evidence of more tangible results that were effected as a result of these courses and seminars, such as the adoption of the Japanese Volunteer Probation System, the Japanese Koban System, and practical measures to ensure early trial dates for the offender.

c) Other Comments

While it was conceded that UNAFEI operated within certain financial and other constraints, the participants expressed views that called for consideration of the possibility of increasing the numbers of participants from each country for each course or seminar bearing in mind the needs of the countries concerned and the relevance of such courses and seminars to such countries. Another suggestion was the possibility of incorporating into the programmes the subject of behavioural sciences since the personality, attitude and overall human behaviour of law enforcement officers, prosecutors, judges, correctional officers and others involved in the rehabilitation and treatment of offenders is also relevant.

It was also suggested that the subject of victimology be included in future courses and seminars organised by UNAFEI.

With regard to the publications of UNAFEI, such as its Newsletter and the Resource Material Series, it was suggested that UNAFEI should continue to send these to past participants of the Institute for their information on current crime trends, for example, while yet maintaining a link with them.

With respect to Overseas Joint Seminars, the participants recommended that for the future such Seminars should be organised for those countries that had not as yet been chosen to host such an event. For those countries where such Seminars had already been held it was suggested that follow-up seminars be organised to gauge

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the effects of Overseas Joint Seminars held previously.

Lastly, the general view that was apparent from the deliberations at this Session was that, in view of the fact that UNAFEI alumni of past courses and seminars would by now have attained important and decision-making roles in their respective countries, UNAFEI should take note of this reservoir of talent and tap it for lecturers and visiting experts for future courses and seminars that it will organise. These personnel comprised men and women of wide experience and knowledge of the relevant factors and circumstances, peculiar to their respective countries, that had a direct bearing on their own criminal justice systems, so that it would be imprudent not to enlist their services.

Session 2: Suggestions for Further Improvements in UNAFEI Activities

Chairperson: Mr. Shaukat Mahmood Mian
Rapporteur: Mr. Wing-lee Pi
Advisor: Mr. Yasuro Tanaka

Session 2 of the Agenda dealt with "Suggestions for Further Improvements in UNAFEI Activities." In this aspect, we were expected to deliberate on:

- i) Roles of UNAFEI for the development of criminal administration; and
- ii) Comments or suggestions for future improvement of UNAFEI courses and other activities.

Mr. Mian started the discussion by itemizing the roles of UNAFEI as follows:

- 1) Courses, 2) Seminars, 3) Overseas Joint Seminars, 4) Research Activities, 5) Information Services, 6) Follow-up Studies, 7) Contribution to UN on Crime Prevention, and 8) Contribution of UN Congress.

He proposed to deliberate the above roles one by one, starting with courses.

1. Duration

This was discussed at length. There was

a feeling that the duration of 3 months was too long. Certain individuals had home sickness in the latter part of the course and could therefore not concentrate. It was proposed that the duration of the course be reduced to 2 months. It was felt that by so doing, more participants could be made to come. However, the consensus of the opinion was that 3 months was quite appropriate. Past experience showed that 3 months was needed for any subject to be thoroughly discussed and explored. Also, participants could have the time to do more library research which they could not otherwise do. The time frame of 3 months was also decided with a view to allowing the participants to see more of the Japanese history, culture, society, customs, traditions as well as industrial and economic developments.

2. Composition

The advantages and disadvantages of having a homogeneous group or a mixed group were discussed. It was felt that in order to have a more balanced view and to promote the co-ordination between the various branches within the Criminal Justice System, a mixed group was not only more preferable but essential. It was noted that from time to time, UNAFEI also conducted irregular seminars on special issues for personnel of a particular field. So on that basis it could be said that the composition of members on the courses actually depended on the need. The issue of allowing the more populous countries to have more representatives was also discussed. It was felt that since we were here to share our experiences, the principle of having a quota/ratio system could not apply. It was, however, noted that subject to the Director's approval, countries may send more representative(s) on their own funding. The point of allowing more than one participant from one country (from different fields of the Criminal Justice System) for each course was also raised. While the advantages of such a practice were obvious, the solution to the problem was not an easy one particularly in the light of financial and other constraints. Participation by

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personnel from non-governmental agencies related to the Criminal Justice Administration was also brought up and noted. Regarding the age of the participants, it was suggested that they must have sufficient time left in the service to make good use of what they have acquired from the course. Also, participants must be in a senior enough position to influence and bring about improvements to their system after the training. It was also suggested that participants should have a reasonable command of English. This was both for their own good and for the good of the other participants.

3. Visiting Experts

This was considered an excellent idea. There was however a feeling that more experts with an Asian background should be invited. It was also felt that certain Alumni, by virtue of their achievements and current positions, could be chosen as Visiting Experts or *ad hoc* lecturers in their own right.

4. Themes

A list of suggestions were put forward. They are as follows:

- a. Treatment and rehabilitation of woman prisoners.
- b. Victimology—the role of the victim in a crime.
- c. Economic crimes—prevention, investigation and prosecution.
- d. Planning and research in crime prevention.
- e. Speedy trial—reduction of court delays.
- f. Police work—internationalization, cooperation with other countries.
- g. Integrated approach to bring about a just, fair and humane criminal justice system (Systems Approach)
- h. Causes and remedies for over-crowding of prisons.
- i. Open prison—retrospect and prospect.
- j. Environmental offences—their prevention—a global approach.
- k. Role of Mass Media and Education and its impact on crime prevention and criminal justice.
- l. Preparation of a Model Prison Manual as

a guide to national prison manuals incorporating all the UN resolutions/suggestions.

- m. Standard minimum rules for incarceration of women on the lines of Beijing Rules for Juvenile Justice.
- n. Preventive detention or detention without trial—its ramifications on the criminal justice system.
- o. Foreign prisoners—problems faced by the police, prisons, prosecution and judiciary.
- p. Need for transformation of the role of police for ensuring a just, fair, and humane criminal justice system.
- q. Relevant subjects on social and behavioural sciences.

5. Course Content

The following composites of the course were discussed:

- a. Group Workshop—This was considered to be a most useful tool of learning. The current size of the group was considered to be the optimum.
- b. Visits—This was very well arranged in that we had visits both to official agencies and to other parts of Japan where the history and culture could be appreciated. Lately, it was particularly gratifying to note that visits to factories were also arranged. This would enable the participants to know something about the industrial aspects of Japan. The value of having these visits were also discussed in full. It was said that "Seeing is believing." Also, through these visits, we were able to discuss common problems with our counterparts. The number of visits in each course was considered to be sufficient.

6. Lectures

These were considered essential as they formed an integral part of the course. Certain lectures on Japanese culture and language were considered most interesting.

7. Comparative Studies

This was considered to be the most interesting part of the course. The exchange of information, particularly at a

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time when there were calls for closer international co-operation and a global approach to criminality, were considered most beneficial. It was felt that if possible more time should be allocated towards this end. Certain participants also felt that because of the time constraints, they found it difficult to produce a good quality country report. It was suggested that future participants should be informed of their acceptance much earlier in advance so as to allow them sufficient time to prepare a report. The quality of the papers produced were also discussed. It was felt that the onus of vetting the papers rests with the respective participating countries.

Having finished the deliberation on courses, Mr. Mian next moved to the discussion on seminars.

It was noted that seminars were intended for the most senior people. Here, the onus was on the respective countries to nominate the right people for the right seminar. It was believed that a seminar could only be as good as the people who make up the seminar.

It was hoped that through the seminars, the international dimensions of criminality as well as the emerging trends of crime could be detected in time.

It was also felt that the gains of UNAFEI should be disseminated to the United Nations as a whole rather than being restricted to this region.

There were apparently more ideas on this subject as well as the other roles of UNAFEI. However, due to time constraints, further discussion was not possible. The Chairperson therefore had to declare a close to the session.

Session 3: Recent Activities of UNAFEI Alumni Associations

Chairperson: Mr. Adi Andojo Soetjipto

Rapporteur: Mr. Francis Matthew Gesa

Advisor: Mr. Masao Kakizawa

Introduction

The formation of the UNAFEI Alumni Association by former participants of UNAFEI in countries of Asia and the Pacific is immensely vital and of great significance to the development of crime prevention and criminal justice in the region. Many countries especially in the Asian region have UNAFEI Alumni Associations whilst others have yet to start. Countries which do have Alumni Associations are Japan, Thailand, The Philippines, Indonesia, Sri Lanka, Korea, India, Singapore and Hong Kong. Whilst on the other hand, Fiji, Pakistan, Iraq, Papua New Guinea, Malaysia and Nepal have yet to start their associations.

Japan is notable in that it has the largest membership, followed by Thailand. The reason for this is obvious. Japanese participants are fortunate because of the geographical location of UNAFEI; thus one expects more participants than from other nations in the Asia and the Pacific Regions.

Alumni Associations: Role and Functions

UNAFEI Alumni Associations in countries will serve as contact points among former participants for the sharing and distribution of information for the improvement of crime situations. UNAFEI Alumni Associations in countries can play the roles or functions as suggested below.

- a) To serve as a forum for the exchange of views, knowledge and experiences between UNAFEI and countries in Asia and the Pacific;
- b) To establish a closer link with UNAFEI and countries in the Asia/Pacific region in the fight against crime;
- c) To be seen as an institution where ex-

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- pert advice, knowledge and experiences can be sought by UNAFEI or countries in the Asia/Pacific Regions;
- d) To serve as a problem-solving centre for its members, governmental bodies and groups; and
 - e) To serve as an information centre for participants who may be called to study or attend seminars at UNAFEI or any training institute in Japan.

Participants all agreed that JICA Association be a completely different entity from UNAFEI Alumni Association. This of course does not mean to say that the two Associations should be totally isolated from each other. Of course dialogue will be maintained but they, in all respects will be two totally different Associations or Institutions.

Future Initiatives of UNAFEI Alumni Associations

Many worthwhile suggestions were made by participants in their efforts. However all could not be discussed fully due to time limitation. However, some very notable suggestions were noted in both the participants' report and during the discussion sessions.

The following six suggestions were noted to be of great importance for UNAFEI Alumni Associations in countries in the years ahead. These were suggestions which each individual country having an Alumni Association could study.

- a) Organisation of international seminars by Association members on an annual basis;
- b) Bilateral or exchange visits by members of the Associations for the strengthening of closer links among UNAFEI Alumni member nations;
- c) To act as host for members of other UNAFEI Alumni Associations who visit countries in the Asia and Pacific basin;
- d) To undertake research projects in each respective country on crimes, treatment of its offenders and assess one's success;
- e) To present a joint regional paper on the theme of crime prevention and criminal justice to the United Nations Con-

- gress which is held every five years; and
- f) Finally, to set up and produce a UNAFEI Alumni Associations bulletin or newsletter for publication to brother Associations in other countries, governmental bodies and institutions.

Difficulties

Just about all participants expressed the concern over obstacles in contacting former participants of UNAFEI because of geographical location and financial problems. Most participants who did not have Associations in their countries expressed some doubts and hesitations in getting the Association moving.

The participant from Papua New Guinea and the rapporteur of the session highlighted that it was no excuse to sit back and lay blame on the lack of finance, as each participant could quite easily initiate the formation of a UNAFEI Alumni Association in his or her country using his or her office. This suggestion was promptly taken up by the participant from Hong Kong and followed by the participant from Singapore. It was then agreed on consensus that it really did not require any form of finance to establish such an Association in a country, and that the initial formation of the Association could be accomplished using participants' offices and staff.

A Japanese participant agreed with the suggestions and comments that finance was not a major concern and elaborated that the Japanese Alumni Associations were operating very effectively. He mentioned that it was simply a matter of setting clear aims and objectives and working towards achieving these objectives. He also mentioned too that there were over 600 members of the UNAFEI Alumni Association here in Japan.

Formation of UNAFEI Alumni Association

Having discussed the matter in the sessions and from information acquired from lectures and talks of leaders who were involved with UNAFEI activities in the

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years past and who are still active, the participants agreed that everyone on return to his or her country should endeavour to work on establishing an Association.

Participants were not in any way instructed to form Alumni Associations in their respective countries. But rather they were urged to make efforts in the initial formation of the Associations. It must be

noted here that some participants expressed doubts as to UNAFEI Alumni Associations formation due to problems in their countries.

No pressures were therefore applied to participants. However, all were kindly requested to pursue in a bid to eventually form a UNAFEI Alumni Association in their respective country.

PART II

Material Produced during the 77th International Training Course on Crime Related to Insurance

SECTION 1: EXPERTS' PAPERS

**Recent Developments in the English Legal System and
the International Effect of Changes on the Prosecution of
Commercial Crime**

*by Sir Thomas C. Hetherington**

Introduction

The purpose of this paper is to discuss generally the problems which face all countries as regards the investigation of serious offences and, in particular, commercial crime including insurance; to explain how these problems have emerged in England; and to discuss how we are tackling them and what measures of international co-operation may be needed in an effort to combat the problems.

It has been said recently in a different context that the only experts in fraud are those who commit fraud. It can equally be said that the only experts in commercial crime are those who commit commercial crime. As Mr. Robert G. Clark, a Litigation Branch Chief in the U.S. Department of Justice, recently wrote in a paper in this series, "the growth of economic interdependence between nations which has occurred during the last four decades, the increasing internationalisation of the world's capital markets, the extraordinary advances in communications and information-sharing technology, and the increased ease with which travel between distant places can be made with minimum loss of time and maximum convenience, have all served to enhance the opportunities for the international criminal as well as the opportunities for legitimate international commerce."¹

As the fight against crime, and in this context in particular commercial crime,

depends in the last resort on the machinery which is in place in individual countries for the purpose of investigation as well as prosecution, I propose to start in this paper with recent changes which have appeared in the investigation and prosecution elements in the English system of criminal justice.

The English System

First, who is responsible for the prosecution of the criminal in England? Just over 100 years ago, in 1879, there was appointed the first of my predecessors as Director of Public Prosecutions in England and Wales.² His duty, however, was to be responsible only for cases of particular importance or difficulty. In the great majority of cases, the police, who were then and still are responsible for investigating the crime, were also responsible for bringing the criminal before the courts. The policeman decided whether to charge an offender, and the policeman remained the prosecutor. Over the next century, it gradually came to be realised that this was not an entirely satisfactory position. Towards the end of the 1970s, therefore, the Government appointed a Royal Commission whose duty it was to consider both the present powers and duties of the police in respect of the investigation of criminal offences, and the process of and responsibility for the prosecution of offences. That Royal Commission, the Phillips Commission, reported in January of 1981³ and the result of their report has caused what has been described as a "quiet revolution" in relation to the prosecution of crime.

Their report is of general interest because they proceeded with their task by

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considering how the satisfactory working of any system of justice should be judged. In their view, the standards which should be applied were firstly fairness, secondly openness and accountability, and thirdly efficiency. As regards fairness, they accepted that "the proper objective of a fair prosecution system is not simply to prosecute the guilty and avoid prosecuting the innocent. It is rather to ensure that prosecutions are initiated only in those cases in which there is adequate evidence and where prosecution is justified in the public interest."⁴ They found in effect that too many cases were coming before the English courts where either the evidence was inadequate, and should have been seen to be inadequate, or where the public interest did not require that case to be brought before the courts, or both. They found that this failing was, to some extent, the result of the wrong evidential standards being applied. But they also found that there was not sufficient uniformity in applying the standards. This was because there were no less than 43 different police forces in England and Wales, each of whom was instructing its own lawyers and applying its own standards. They therefore recommended that there should be more uniformity in this.

The second standard which the Royal Commission applied was the standard of openness and accountability. They defined this term as "the extent to which the system makes it possible for those who take prosecution decisions to be called publicly to explain and justify their policies and actions."⁵ They looked at this from two points of view. The first was the extent of accountability for effectiveness and efficiency which they said should include accountability for the expenditure of public money. Secondly, they looked at accountability for policies, i.e. to what extent are the public entitled to know what policies are being implemented by a prosecuting agency? The Royal Commission called this "explaining accountability" and again they found the old system lacking in both respects.

The third standard was that of efficien-

cy. How efficiently did the old system work, the Royal Commission asked.⁶ They considered that this must include the economic use of resources, but other symptoms of inefficiency to which they drew attention included delays in preparing cases for trial, inadequately prepared cases, and employment of lawyers on tasks more efficiently done by lay staff—all examples of inefficiency which can cause injustice to the accused, inconvenience to witnesses and frustration to those employed in the system, as well as being wasteful of public funds.

Applying these standards, the Royal Commission decided that there must be a change. Their fundamental proposal was that there should be a division of functions between the policeman and the prosecutor. The policeman should have the responsibility for the investigation of an offence and for deciding whether or not to charge or arrest the offender. During that stage, the prosecutor should not be involved unless the policeman asked him for some legal advice on a particular aspect of his powers or on the nature of the offence which he was investigating. Once the investigation had been completed, and the offender had been charged, the whole responsibility for what happened thereafter should pass to the prosecutor. At that stage the policeman should have no power to dictate the course of events, although the prosecutor could now discuss the matter with the policeman if he so wished. The Government accepted these recommendations, and in due course there was passed the Prosecution of Offences Act 1985, which established the Crown Prosecution Service in England and Wales. As the Director of Public Prosecutions until the end of September of this year, I was the head of the new service and was thus able to observe not only its successes but also its shortcomings.

Fraud

The division which the Royal Commission had recommended between the policeman's responsibility for investigation and

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the prosecutor's responsibility for deciding whether to go ahead with the case, and, if so, to prosecute it, was excellent in principle and indeed was seen to be necessary in relation to most types of crime in England and Wales. But in relation to sophisticated commercial fraud it just did not work, because of the paramount need to bring together at a very early stage in an investigation all the different disciplines and talents which were required if those of us responsible for the maintenance of law and order in England were to have any hope of combatting the fraudster. Even before the introduction of the new system described above, we had moved some way down this road by setting up a group system which became known as FIG, namely the Fraud Investigation Group. The object of this was that the lawyer, the policeman, the accountant, and any other expert who it was necessary to use for the investigation of the commercial crime should be brought together at a very early stage, and should decide what was likely to be the most fruitful line of enquiry and should then guide the investigators in that line of enquiry. This change in the traditional methods, at any rate so far as England is concerned, of investigating and prosecuting crime became necessary because of the increased sophistication and expertise of the fraudster, very often operating in the international field, which I have mentioned already. To paraphrase what Mr. Clark wrote in the paper to which I have already referred, markets have grown and have become more international in character. So too have the scale of individual transactions and the opportunities to play for high stakes. Indeed, the last two decades have seen the arrival of multi-national conglomerates with assets and turnovers of a very high amount. Information technology has enabled deals to be concluded and money to be moved around with unbelievable speed. It was inevitable that the criminal should seize the opportunity to exploit this changing circumstance. In this he was aided and abetted by the existence of international boundaries which, while today they present little or no obstacle to the

free passage of people, goods and money, seem to remain capable of stifling most initiatives in the realm of international co-operation in the administration of criminal law.

Certainly, in England, our machinery was not sufficiently advanced to enable us to handle the increase in the number of serious fraud cases and indeed their complexity. We became increasingly alarmed, also, by the time taken to investigate such cases as did come to light. We found that our rather ancient legal system provided so many obstacles for the would-be prosecutor of this type of case that many of the cases were rejected by our own lawyers as offering no realistic prospect of conviction. And when a case did eventually come to trial, *if* it did, it was so stale that there were substantial problems about proving events which had taken place many years ago. One of the primary objects, therefore, of setting up the system of FIG was to speed up the process. However, it soon became apparent that this was not nearly enough. A new strategy was therefore evolved with the purpose of combatting commercial fraud. Part of this strategy, which I shall mention later in this paper, concerned the establishment of a comprehensive scheme for the self-regulation of the various markets in London. Another part of the strategy, which I shall discuss first, related to the establishment of a new body responsible for overseeing the investigation and prosecution of serious fraud.

Serious Fraud Office

The Government in England appointed a new Committee, called the Fraud Trial Committee, under the chairmanship of Lord Roskill, whose terms of reference were to consider in what ways the conduct of criminal proceedings arising from fraud might be improved, and to make recommendations for changes in existing law and procedure to achieve the just, expeditious and economical disposal of said proceedings. The remit of the Committee referred primarily to trial procedures, but it also concerned itself with examination of the

arrangements for the investigation of serious fraud. It had, indeed, some terse comments to make about the existing arrangements. In its report, it said:

"The public no longer believes that the system in England and Wales is capable of bringing the perpetrators of serious frauds expeditiously and effectively to book. The overwhelming weight of the evidence laid before us suggests that the public is right. In relation to such crimes, and to the skilful and determined criminals who commit them, the present legal system is archaic, cumbersome and unreliable. At every stage, during investigation, preparation, committal, pre-trial review and trial, the present arrangements offer an open invitation to blatant delay and abuse. While petty frauds, clumsily committed, are likely to be detected and punished, it is all too likely that the largest and most cleverly executed crimes escape unpunished."⁷

Later, the report went on to say: "It follows that fundamental change is required in certain areas of the law. Where we believe radical change is necessary, we have not shrunk from recommending it. We hope the Government will not shrink from giving effect to it. For the defects of the present system to be remedied, changes in the law will not be enough. Changes in practice and in attitude will also be necessary."⁸

The principle weakness in the existing arrangements for the prosecution and investigation of serious fraud in England was their fragmentation. To some extent this arose from the fact, which I have mentioned above, that there is not in England one national police force who could have responsibility for the investigation of crime, but a total of 43 separate police forces organised on a geographical basis. Each of those 43 forces has its own group of officers, a Fraud Squad dedicated to the investigation of fraud, but the size and experience of those squads is very variable. The longest established such squad is the London Metropolitan and City Police Company Fraud Department which was set up in 1946, but its present size remains modest due to the size of its commitments.

Thus, experience had shown that it was simply not possible for any police force to generate within its own organisation the wide range of skills necessary for the investigation of complex commercial fraud. Broadly speaking, these skills include accounting expertise, with particular reference to any specialist background, for example the commodity market or the reinsurance market, in which the fraud is alleged to have been committed; and legal expertise as regards the legal framework of the sphere of activity within which the fraud is alleged to have occurred, as well as criminal practice and procedure and complex rules of evidence. Just as important are the investigatory skills which are the major contribution of the police. The mounting of a successful prosecution for commercial fraud will always be dependent on those responsible for investigation identifying at an early stage the matters most likely to reveal the commission of criminal offences and what those offences might be. The efforts of the investigators, therefore, need to be concentrated on building up a case founded on admissible evidence, and focussing on the main participant, or participants.

It was our experience in England that police officers tended to approach the investigation of such fraud on the basis of a wide-ranging, all-embracing enquiry not only looking at the central issues but also at a number of peripheral matters which did not affect the main offenders. This was inclined to lead the police investigating the matter up a number of blind alleys, and added greatly to the length of the investigation. It was too often our experience that investigations carried out in this way concluded with a mountain of paper delivered to a prosecuting lawyer. It might then be too late to identify a fundamental flaw in the case, which might have been remedied if it had been brought before the lawyer at an earlier stage. Enormous waste of time and effort could have been prevented and, what is perhaps more important, resources could have been diverted to another case which had, perhaps, a better chance of success.

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With these considerations in mind, Lord Roskill's Committee recommended the creation of an entirely new body which would have powers available to it in addition to those which were available to the existing legal bodies concerned with the administration of criminal law. The Government accepted this recommendation, and the Serious Fraud Office (SFO) was born, via the vehicle of the Criminal Justice Act 1987. However, this Act did not fully implement Lord Roskill's recommendations. He suggested that there should be one organisation which would take on all the functions of detection, investigation and prosecution of serious fraud cases.⁹

The Serious Fraud Office does not entirely fulfill this recommendation. As it is, the policemen remain part of their own force, but it is provided in the Act that the SFO should carry out "in conjunction with the police" investigations into any suspected offence which appears to the Director of the SFO to involve serious or complex fraud.¹⁰ It is clear from that phraseology that the SFO, which has not yet been fully established, will be separate from the police, and we will not have the completely unified organisation which Lord Roskill would have liked to have seen. This is because it did not prove possible for the Government to devise an arrangement which would have enabled the police to work under the direct control of the Director of the SFO, while respecting the constitutional position of the police and the vital element of police independence from the Government in relation to operational matters. Some countries have, of course, overcome this sort of problem by creating a Ministry of Justice which has overall responsibility both for the judiciary and the prosecution and in some cases the police, but in England we have not followed that path. Instead, the Serious Fraud Office will be one part of a two-part arrangement, the other part being the team of experienced fraud officers working alongside the SFO, but under the command of a senior police officer. The Serious Fraud Office and the police will be independent of each other, but under a

duty to cooperate fully with each other in investigation of serious commercial fraud, including insurance fraud.

It is to be noted also that the Serious Fraud Office will be entirely separate from the new Crown Prosecution Service, described above. It would, indeed, have been very difficult to combine the two offices, because of the different philosophy behind each of them in respect of the investigation, in contrast to the prosecution, of crime. The Crown Prosecution Service was established on the principle that the functions of investigating and of prosecuting crime should be separated. The Serious Fraud Office is being founded on the concept of bringing together the investigation and prosecution functions. The justification for this in Parliament in England has been that the complexity of the investigation process is such in serious commercial fraud cases that the involvement of a lawyer is necessary to determine the legal implications *during* an investigation. Thus, in the rather special field of serious commercial crime it became desirable that there should be an office in which lawyers, accountants and various investigators from all the bodies concerned with serious fraud could work together using all their resources in order to grapple with the problems that arose. This approach has meant that the Serious Fraud Office must be quite separate from the Crown Prosecution Service.

The Serious Fraud Office is now in the process of being set up in England. It will consist for the most part of a mixture of accountants, lawyers and staff experienced in company investigation. It will also be able to engage the services of private practitioners where special experience and expertise is not available within the Office itself. In appropriate cases, these accountants and investigators can be joined by their counterparts in the Tax and Customs Department. However, none of these arrangements can be effective unless the new Office has adequate powers.

Powers of the SFO

These powers will in fact be vested in the Director of the SFO, and will be wider than those vested in the head of any other prosecution agency in England and Wales, such as the Crown Prosecution Service. The Director of the SFO may require any person whose affairs are to be investigated or any other person whom he has reason to believe has relevant information to answer questions and to provide information on any matter relevant to the investigation. That power extends to requiring such persons to produce any documents relating to the matter under investigation, and if there is a failure to produce those documents the Director may obtain a warrant from the court so that any premises where the documents are thought to be may be searched by the police, and the documents obtained.¹¹ Although these powers are very wide, they do not extend to any power of arrest nor to detention for the purposes of questioning nor to a general power of search and seizure. These more general powers are vested in the police who, of course, will where appropriate be able to exercise those powers when working in conjunction with the SFO.

This leads naturally to the questions of how the power will be exercised and how the police and the officers of the SFO will share out the work between them. What is intended is that the investigatory powers of the SFO will be invoked at an early stage of the investigation when there is not enough information available to enable the police to use their more general powers to arrest, search persons and premises, and seize evidence, but where there is "reasonable suspicion" that a particular offence may have been committed by a particular person. Once that initial stage is passed, it is likely that the major burden of any investigation will pass to the police, although the special skills of the SFO will be used as and when necessary during that stage.

Of particular significance, in the international context, is the provision in the 1987 Act concerning the disclosure of in-

mation to other agencies.¹² The provision is intended to make sure, first, that the effectiveness of the sweeping powers mentioned earlier is not reduced by the large number of laws in England which require that information given to Government Departments should be kept confidential, the most important of these being information relating to the tax affairs of citizens. Secondly, it is also recognised that there must not be unnecessary restrictions on disclosure by the SFO of information which indicates the commission of criminal offences which ought to be prosecuted by another public authority, or possible breaches of discipline which ought to be looked into by a professional body. The statute sweeps away all restrictions, save that information about the tax affairs of a citizen cannot, generally speaking, be passed on. But the fact that such information would be available at all to the SFO and can be passed to other authorities is in itself progress. Thirdly, the statute recognises what is perhaps self-evident, namely that so far as crime is concerned the world is becoming a smaller place and, in particular, fraud is not confined to the borders of any one country. In the international fight against serious crime, a nation can only be assisted to the extent to which it itself is prepared to assist other nations. Thus the statute gives the Director of the SFO power to make agreements about the supply of information—both by him and to him—so that it is possible for the SFO to establish clear working relationships with organizations in other countries that will permit the mutually satisfactory transmission of information.

Because of the international nature of serious fraud, it is impossible to imagine an office dealing effectively with crimes of that nature if it has no access to overseas information. It is recognized in England that there is no realistic possibility of obtaining assistance from overseas in this regard unless we are also prepared to offer assistance in return. Thus, if investigation of a commercial fraud by the SFO revealed evidence of wrongdoings by individuals or organisations elsewhere in the world, it

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would be unfortunate if that information could not be made available to the authorities in those countries so that they could prosecute or take any other appropriate action. The new statute is designed to meet this point.

Changes in Practice and Procedure

In addition to the establishment of the Serious Fraud Office, the Roskill Committee made a number of other recommendations, some of which either have been introduced already into English law, or are about to be introduced (provided that a Bill now before the English Parliament is enacted in due course).¹³ These reforms have a direct bearing on our ability in England effectively to investigate and prosecute commercial fraud. They are as follows:

1) *Mode of trial*: In England serious cases normally proceed in two parts. First there is a hearing before an examining magistrate who decides whether or not there is a prima facie case against the accused. If he does so decide, the magistrate commits the accused for trial to a higher court where there is a trial on indictment before a judge and jury. The defendant has the right to have each and every witness for the prosecution called to give oral testimony both before the magistrate and before the judge and jury. Where therefore the prosecution are relying on evidence from a witness who is a resident abroad, the defendant may insist on the attendance of that witness twice over, and this can clearly cause considerable problems for the prosecution. There is always at least a possibility that the witness will refuse to come twice to England to face the ordeal of giving evidence before two courts, and there is no way in which the prosecution in England can force him to come. The Roskill Committee therefore recommended that the prosecution should have a right to take such cases directly to the higher court, subject to there being a procedure whereby the defendant

might seek his discharge from that court without standing trial, if he is able to satisfy the court that there is no case to answer.¹⁴ This recommendation was accepted, and included in the Criminal Justice Act 1987.¹⁵

2) *Written pleadings*: In English criminal law there are no written pleadings of the type which are a feature of English civil litigation, and indeed of litigation both civil and criminal in some other countries. The effect of the new change in England is to introduce a form of pleading into criminal procedure. The prosecution will be required to serve a statement of their case at an early stage, and the defendant will be required to set out his response in order to assist the trial judge in identifying the crucial issues at the outset of the case. This new procedure, which relates only to serious fraud cases, enables the judge to order a preparatory hearing in a case which he finds sufficiently serious and complex to justify it. In considering whether to order a hearing the judge is to have in mind whether such a hearing would help substantially to identify important issues for the jury, improve the jury's comprehension, speed up the trial generally, or help in its management. The intention is that there should be a clear presentation of relevant matters, and relevant matters only, to the court. This new proposal, also enacted in the 1987 Act,¹⁶ neatly complements the establishment of the SFO and is designed to ensure a unified investigation aimed at the central issues, and conducted with a view to producing a case which is capable of being clearly understood by the jury. This proposal, and the preceding one, are designed to make fraud cases more manageable and more readily understood by juries, and should also result in cases which should be brought to trial being brought to trial more speedily. There should also be a substantial shortening of the trial itself.

3) *Documentary evidence*: Hitherto, in English criminal law, documents do not

prove themselves, but must be produced by a witness. Moreover, under English law, a statement made by a person in a document is not admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would have been admissible. He has to attend court himself in order to present oral evidence of that fact. The intention is that these rules should be modified so that a statement made by a person in a document should be admissible as evidence of any fact of which direct oral evidence by him would have been admissible. The main purpose of the change contained in the new Bill¹³ is obviously to sweep away unnecessary restrictions and limitations on the ability of the English courts to admit relevant evidence in relation to fraud cases, and will be particularly useful when there is a need to obtain the testimony of an overseas witness. It will also apply, of course, to proceedings resulting from an application by another country to an English court for the extradition of a fugitive offender. It should be noted, however, that the court will have the discretion not to admit any document which it considers should be excluded in the interests of justice. Examples of this could be where it appears to the court that the evidence is more prejudicial than probative. But the admissibility of the documentary evidence is not explicitly made conditional on the impracticability of securing the attendance of the witness to give oral evidence.

The Roskill Committee paid particular attention to the admissibility in the English criminal courts of certain business documents. They regarded the existing law as being unduly restrictive. They pointed out that the law as it stood required that the documents, to be admissible, had to be regarded as "records," and a number of documents had been held not to be such "records." There appeared to be an artificial distinction between "records" and "non-records." They therefore recommended

a change in the law¹⁷ and a further provision is now included in the new Bill¹³ to achieve this. The general effect of this is that subject to certain exceptions, and the court's discretion always to exclude a document in the interests of justice, business documents are generally admissible as such. Once the document has been admitted it is still for the court to assess what, if any, weight to attach to its contents, and indeed it is required that the court should have regard to all the circumstances from which any inference as to the accuracy of the document can reasonably be drawn. This new provision is clearly going to be extremely useful in relation to criminal proceedings arising from commercial frauds, but it is not restricted to such proceedings and can apply generally to all criminal offences. It is, however, restricted to documents arising from business transactions, and would not normally apply therefore to private correspondence or personal diaries, for example.

4) *Letters of request*: English law is very restrictive as to the form in which it will admit evidence from overseas. Even if the provision in the Criminal Justice Act,¹⁵ mentioned above, whereby the need for a witness to attend court may be restricted to one occasion only, is applicable, there can be severe problems about obtaining the presence of the witness for that one occasion. Although there is a procedure whereby it is possible for a written statement in a prescribed form by a witness to be read to the court, this requires the consent of the accused. The effect of this has been that even where another country has provision in its law for accepting letters of request, this can be of little assistance to the prosecutor in the English courts unless the relevant witnesses are willing to come to England to testify in person. The new provision¹³ is designed to place letters of request on a formal footing and to facilitate the admission of that evidence in the English courts. A procedure is

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now to be provided for requesting the assistance of foreign courts in obtaining the evidence from abroad, contemplating that such evidence will then be able to be admitted if properly taken. This too followed a recommendation of the Roskill Committee who took the view that the inadmissibility of foreign evidence and the absence of a procedure for obtaining it prevented much relevant evidence being available to the English courts in fraud trials.¹⁸ The new provision enables the court to authorise that a letter of request should be sent to the appropriate authority in the other country. The letter of request has to be specific as to the evidence to be obtained, and it must where necessary identify the individual from whom it is to be obtained. The provision does not only refer to the prosecution, as it contemplates that a defendant also might use this means to collect evidence from abroad. In the context of commercial fraud, it will clearly be extremely useful.

5) *Video links*: The proposals in regard to video links are also designed to meet the problem of witnesses from overseas not being available in the English courts to give oral testimony. The Criminal Justice Bill now before the English Parliament¹³ makes provision for the evidence of such witnesses to be taken live by a video link between the courtroom in England and the country where the witness is resident. The legislation is designed to ensure that the party wishing to call the witness does not lose the benefit of the witness' evidence simply because of the inability or unwillingness to travel to England, but at the same time it preserves the rights of the defendant to cross-examine the witness. This again follows a recommendation from the Roskill Committee in which it was noted that "the law should now take account of the fact that with a live video link via satellite a witness say in New York or Sydney could 'appear' on screen in a court-room and could be examined and cross-examined by coun-

sel here without loss of immediacy."¹⁹ The clause in the new Bill sets the statutory framework for this to happen where the witness is not the defendant, and where the facilities are available to allow the witness to be cross-examined in the usual way and to allow the jury to observe the demeanour of the witness. How useful this provision will be in the immediate future remains to be seen. It is perhaps unlikely that it will be practical to use this method of giving evidence in court except rarely. The procedure is likely to be an expensive one, and the problems of booking satellite time are themselves great. However, it may be that it will be acceptable to take the evidence of the witness before the trial begins, to video-record it, and to introduce it at an appropriate stage in the course of the trial. This is an interesting possibility, and certainly represents a welcome advance in relation to court proceedings in England. The advantages of such a scheme for the international control of serious commercial crime are also self-evident.

Regulation of Investment Business

Another part of the strategy formulated in England during the present decade to combat commercial fraud was the scheme for the regulation of the various forms of investment business as well as commodity and other financial markets. This has developed in a number of ways, and is designed to prevent the frauds being perpetrated in the first place, in contrast with the arrangements described above to bring an offender to justice *after* he has committed his crime. In 1981 Professor L.C.B. Gower, a solicitor who had formerly been a member of various legal reform groups, was commissioned by the Government to carry out an independent review of investor protection. This review was seen to be necessary because of the developments in the securities industry since the last statutory measure concerning such matters was enacted in 1958.²⁰ The period between 1958 and 1981 had seen the growth of business

offering a wide range of investment consultancy and discretionary management of both business and personal portfolios. The financial difficulties of several firms active in this field in England had been well publicised. It was therefore felt to be necessary to consider what changes were needed to provide for the adequate supervision of such activities. The terms of reference given to Professor Gower included therefore a request that he should consider the statutory protection now required by both private and business investors in securities and other property, and that he should consider the need for statutory control of dealers in securities, investment consultants and investment managers. He was also asked to advise on the need for new legislation and to take account of any relevant developments in the European Community.

I should point out that, as appeared from Professor Gower's Report,²¹ the English legislation on insurance companies distinguishes between "long-term business" and "general business."²² As Professor Gower said, the former embraces various types of what can broadly be described as life assurance, whereas the latter includes the various types of indemnity insurance, i.e. fire, accident, marine and so on. Professor Gower's review was not concerned with this type of general business insurance, as it was designed as a protection against loss rather than a means of investment, although it may of course provide protection against loss of things acquired as investments. As Professor Gower's task was to review the protection of investors, he was thus not for the most part concerned with that general business insurance, except to the extent that it was of interest to investors in some circumstances.

Professor Gower's Report was accepted by the Government in England, and it was followed by a statute called the Financial Services Act 1986 to give effect to it. Whereas in some jurisdictions tighter supervision of the economic institutions would perhaps have been achieved through the creation of Government agencies charged with that function, that was not the ap-

proach recommended by Professor Gower and put into effect by the Government. Instead, the 1986 Act made provision for the establishment of a series of self-regulating organisations, each with a responsibility for the maintenance of proper standards of conduct in a defined sphere of activity. The purpose was to ensure that those who transgress the regulations laid down for the proper conduct of this type of business are swiftly and effectively discovered, convicted and punished. For this purpose the self-regulating organisations have extensive powers of inspection. They are themselves overseen by a Board called the Securities and Investment Board, which is appointed by a senior Minister in the U.K. Government. They are financed by levies on those whom they licence and oversee; in this way traders ensure the good standing and reputation of their markets. The whole purpose of these bodies is that they should be self-regulating, and consequently their powers of enforcement are confined to the enforcement of their own internal rules and regulations, and they do not have power of prosecution. However, the first warning signs of fraud are frequently breaches of market rules and conventions and where enquiries into apparent irregularities reveal evidence of fraud these can usually be passed to the police with a view to further investigation, and possibly subsequent reference to the Crown Prosecution Service, or the Serious Fraud Office. The main strength of the self-regulatory scheme is that markets will be administered by those who fully understood them and are best placed to recognise the tell-tale signs of malpractice. The scheme has not been in operation for very long, and it is therefore difficult to say whether or not it makes a substantial contribution to the investigation and prosecution of crime. However, one case which is at present in the hands of the Crown Prosecution Service pending trial is the fruit of this type of internal investigation. That is the Guinness case.

Mutual Legal Assistance

The need for international co-operation

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in the investigation and prosecution of serious commercial crime has been recognised for some time. Thus in the Report of the 65th International Seminar on International Co-operation in Criminal Justice Administration held at UNAFEI in the Spring of 1984, it was commented:

"The astonishingly swift achievements in the field of science and technology facilitating commission of large-scale international/transnational crimes have created situations which our social institutions are not really equipped to cope with. Facing said situations, the international community has made sincere efforts to tackle international crimes and criminals. And this leads to remarkable progress in the field of extradition. However, in such spheres as international assistance in investigation and adjudication, it seems that international society has not been able so far to devise enough workable systems or to set up satisfactorily effective mechanisms. . . . There are of course great obstacles which must be surmounted in order to achieve an integrated approach. As, for example, a question of national sovereignty is involved. This is of paramount importance, each nation being its own master. National laws and regulations, mainly based on tradition and custom, also differ from country to country. Another important factor is the level of development in different countries; in other words, how equipped and efficient they are to render meaningful assistance. Whatever the case may be, at no previous time in the annals of mankind has there been a more pressing need felt for international co-operation in the administration of criminal justice."²³

I echo those sentiments in the autumn of 1987. For the reason stated, there is no easy solution to the problem of providing mutual assistance for the purposes we need to combat international crime of a serious nature. We are conscious in England of this problem, and all I can offer are some comments on the way in which we are seeking to improve mutual legal assistance in criminal matters.

I should explain what I mean by "mutual legal assistance." In this context it

means help given to a state investigating or prosecuting an alleged offence by another state. Examples are the making available of witnesses or documents or other material of evidential value that is within its jurisdiction. Such forms of assistance could be the provision of documentary evidence, the granting of a request to search for and seize material required in evidence, arrangements for the provision of witnesses, and indeed the tracing of witnesses and suspects. Consideration of a scheme for mutual assistance in criminal matters has been discussed from time to time between various countries, and certainly European countries have been examining such a proposal. I understand too that the United States of America, for example, is anxious to conclude mutual legal assistance treaties with a large number of states. The United Kingdom has not hitherto been a party to mutual assistance treaties, conventions, or schemes of general scope in this matter. Indeed we could not do so without legislation in England conferring additional powers on the courts and other authorities. But that does not mean that this should not be considered, and indeed it is being considered now in England. There is of course already a great deal of most valuable assistance given by specific agencies in different countries to their counterparts overseas, notably by the police through Interpol and by various agreements between the customs authorities in different countries. This inter-agency co-operation is undoubtedly most valuable and effective in so far as it goes. Indeed, it is recognised as being an essential requisite for the investigation and prosecution of international and trans-national crime.

I recognise that until recently, at any rate, the United Kingdom has not been able to be particularly helpful in the area of mutual assistance. One of our problems has been that any arrangements we might feel able to make would in general be unlikely to be of any significant value because of the insistence in English law of testimony being given by a witness orally, i.e. present in court. This left little scope for the admission of witness statements and

other documents in the absence of the witness himself, but the changes to the law of evidence described earlier in this paper²⁴ should mean that if and when those provisions are enacted significant steps could be taken to enable documentary evidence to be admitted in English criminal proceedings, and thus make it easier to admit evidence taken overseas. This proposal undoubtedly has supplied a greater impetus to the feeling that in England we should do more about mutual legal assistance, because at last it appears as if it could be fruitful in bringing criminals to justice. I think it is not unfair to comment that the failure in England to participate in wider mutual assistance arrangements has earned us a bad reputation for negative responses to reasonable requests for assistance. Moreover, it caused me, when I was Director of Public Prosecutions in England, and the other prosecuting authorities some serious problems as a result of other states being unwilling to render us assistance because of lack of reciprocity. I have no doubt that the benefits of the United Kingdom subscribing to broader mutual assistance arrangements would be considerable, and I very much hope that developments will proceed in that direction.

Extradition

Of equal importance to the arrangements for mutual legal assistance are the arrangements for the extradition of an offender from one country to another to stand his trial. Clearly the major purpose of the investigation of a criminal offence is to bring the offender to justice, and that can be brought to nought if there is not an adequate arrangement to ensure his return. Again, everything depends on the mutual arrangements made between the two countries in question, namely the country where the offender is residing and the country which seeks his return to stand his trial. The procedure, so far as the United Kingdom is concerned, has undoubtedly been unnecessarily unwieldy. It is also extremely slow, both in respect of the return to another country of an offender

from the United Kingdom, and in respect of the return *to the United Kingdom* of an offender from another country. An attempt is therefore being made, so far as English law is concerned, to improve matters by introducing some measures of reform into the Criminal Justice Bill now before Parliament. Hitherto, under the extradition statutes in England, it has been necessary for a country requesting the return of an offender from the United Kingdom to show that the crime for which his trial is sought was a crime in both countries. Further, those crimes have to be listed in the schedule to the Extradition Acts in force in England, and with the proliferation of crimes, particularly in the commercial field, it was sometimes very difficult to show that those facts did amount to a particular crime in both countries. An attempt to get round this problem is contained in the new Bill. This provides that a person may be extradited for what is described as "an extradition crime." This is defined as a crime punishable with 12 months imprisonment or more in the U.K. and in the requesting state. It replaces the criteria previously applied in the U.K., which defined extraditable crimes by reference to the scheduled list; and it is particularly appropriate for multilateral extradition arrangements, because it is difficult to list offences in a way which is satisfactory to more than two states.

Another problem has been the requirement in English law that the country requesting the extradition of an offender must be able to show that there was a prima facie case against the offender. Under the new arrangements, an Order in Council can provide that it is not necessary to establish a prima facie case of guilt before a person can be returned to a requesting state.

Conclusion

The recent attempts in England to improve the machinery of investigation, and the procedures for dealing with serious "white-collar" crime are steps in the right

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direction, I suggest, so far as English domestic law is concerned. But this is basically an international problem. None of the new measures relating to offences with an international/transnational element apply unless there is an extradition treaty, convention or agreement, either bilateral or multilateral, between the United Kingdom and the other states. Many of the present arrangements are bilateral. But there is no need for them to be so. Perhaps, therefore, the way for improving international arrangements for the return of offenders in the future is by an increase in the number of general extradition arrangements on a multilateral basis. Each participating country can then seek to bring its own domestic laws and procedures into line with the international arrangements, whether multilateral or bilateral, it has made. That will require considerable effort and the will to succeed. But the situation is becoming critical and it must, I suggest, be the paramount aim of all those interested in maintaining the rule of law in the economic and commercial world to make it succeed.

NOTES

1. UNAFEI Resource Material Series No. 26, p. 52.
2. For background history of the office of the Director of Public Prosecutions, see: (a) "The Law Officers of the Crown" by Professor J.L.J. Edwards, published by Sweet & Maxwell, 1964; (b) "The Attorney-General, Politics and the Public Interest" by Professor J.L.J. Edwards, published by Sweet & Maxwell, 1984; (c) "The Case for the Crown" by Joshua Rozenberg, published by Equation, 1987.
3. Report of the Royal Commission on Criminal Procedure, HMSO, London.
4. Part II, para. 6.9.
5. Para. 6.48.
6. Para. 6.61.
7. Report of the Fraud Trials Committee, HMSO, London, 1986. Summary, para. 1.
8. Summary, para. 2.
9. Para. 2.48.
10. Criminal Justice Act 1987, s.1 (4).
11. S. 2.
12. S. 3.
13. Criminal Justice Bill 1987/88.
14. Roskill Report—see note 7—paras. 4.33 to 4.36
15. Ss. 4-6.
16. S. 7.9.
17. Paras. 5.33 to 5.39.
18. Para. 5.43.
19. Para. 5.45.
20. Prevention of Fraud (Investments) Act 1958
21. Report of the Review of Investor Protection, HMSO, London, 1984, Part I, para. 8.02.
22. See Insurance Companies Act 1982.
23. UNAFEI Resource Material Series No. 26, Report of Seminar Session II, p.
24. Under the Criminal Justice Bill 1987/88.

Insurance Related Crime: Problems, Needs and Solutions

by Timothy D. Crowe*

Introduction

The challenge of crime to society changes with the advance of civilization, particularly as technology continues to improve. Advancing technology brings greater opportunity and human comforts. But it also introduces new opportunities and temptations for human greed.

The great English writer, Charles Dickens, described 19th Century criminals in London in the book entitled *Oliver Twist*. Dickens wrote in the preface to the original printing of this book:

"I had read of thieves by scores — seductive fellows, amiable, faultless in dress, plump in pocket, choice in horse-flesh, bold, great at song and fit companions for the bravest. . .

But I had never met with the miserable reality. It appeared to me that to draw a knot of associates in crime as they really do exist; to paint them in all their deformity, in all their wretchedness, in all the squalid poverty of their lives; to show them as they are. . .

It appeared to me that to do this would be to attempt something which was greatly needed, and which would be a service to society."

Dickens wrote this preface to his book in defense of intense criticism by the public for his audacity in openly describing criminal conditions in England. The so-called good society was shocked that Dickens would publicly describe the actual conditions of crime, but his work

served to reinforce the notion that criminal behavior was limited solely to the lower classes of society.

Dickens's works forced the upper classes to acknowledge the existence of criminal conditions. This sentiment has prevailed into the Twentieth Century. Societal and scientific concepts of crime are related to the anti-social behavior of *bad people* or *career criminals*. It is popular to associate criminal behavior with the poor physical and social conditions of the impoverished segments of our population. Social scientists persist in identifying the origins of criminal behavior with the lack of *opportunity* and *improper education*.

Some attempts have been made to legitimize criminal behavior as the only means of existence for individuals who would otherwise be law-abiding citizens, if they were only given the chance in life that is enjoyed by the middle and upper classes. A small number of individuals, who are loosely associated with an ideology labeled *radical criminology*, believe that crime is caused by the military-industrial establishment through its denial of opportunity to all but the upper classes.

The popular musical stage show and subsequent film, *West Side Story*, implanted this notion, at least in American society, by characterizing delinquent behavior as the product of a disadvantaged environment. A quote from the lyrics of the song, *Gee Officer Krupke*, presents the popular notion about the cause of criminal behavior:

"Dear kindly Sergeant Krupke,
You gotta understand
Its just our bring-in upke
that gets us out of hand.

Our mothers are all junkies,
Our fathers are all drunks

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Golly Moses, natcherly we're punks!
Gee Officer Krupke, we're very upset,
We never had the love that every
child otta get.
We ain't no delinquents,
We're misunderstood
Deep down inside us, there is good!"

Unfortunately, much of the contemporary theory about criminal behavior and rehabilitation focuses on what may be a limited and myopic view of human behavior. The many diverse sociological, psychological and biological theories of criminal behavior do not explain the known, but officially unacknowledged, realm of criminal behavior that relates to dishonesty, cheating and breach of duty that may be pervasive in all societies, at all levels of class and social position. The problems of white collar crime, organized crime, insurance fraud, financial fraud and evasion of duty (e.g. tax cheating) may actually be greater than ordinary crime, in terms of overall social, economic and political effect.

Studies of individual honesty reveal the surprising fact that a great proportion of our society may be prone to dishonesty. Dr. W. Steve Albrecht of Brigham Young University's School of Business, has conducted numerous studies of white collar crime. In a recent film about the subject, entitled *Red Flags*, Dr. Albrecht cites the results of studies of honesty among the general public that reveal the following:

- 30% of the public will steal or be dishonest on a regular basis
- 30% of the public will steal or be dishonest depending on the situation (and risk)
- 40% of the public will never steal or be dishonest, regardless of the situation

Where does the definition of criminal behavior start and stop? Should we continue to limit our concerns to the individuals who are responsible for the *reported* crime rate and those arrested for *ordinary* crimes? Is it desirable to uncover the true extent of *criminal behavior* and *fraud* in our society, and its impact upon our lives?

Is it worth the *risk*?

This paper is dedicated to the exploration of this problem, with special emphasis on the subject of fraud and insurance related crimes. Insurance related crime is important, as a sole topic, because insurance is a critical, and often overlooked, factor in the continuing development of world economy, political stability and quality of life. Frederick Crane's textbook on *Insurance Principles and Practices* contains the following statement about the relevancy of insurance:

"Without insurance much that is critical and is now happening simply won't be underway in a free society"

Insurance is pervasive in our environment and culture. Most persons view the concept of insurance as a *necessary evil*. That is, it is one of the things that we buy that one can not *touch, taste, feel or enjoy*. But, insurance allows us to exist, to take risk and to have *peace of mind*. Moreover, it stimulates progress by reducing or spreading *risk*. The higher the risk, the greater the need for insurance. Otherwise, governments and private investors would be hesitant to try new things, or to attempt new projects.

Insurance is critical to *developed* countries in order to maintain stability and balance. Insurance is critical to *developing* countries, as well, to facilitate the acceptance of risk in the quest to improve the quality of life and the vitality of the nation.

The major sections of this paper provide answers to questions, guidelines for actions and information that may be used by the general public as a tool for promoting public policy, legislative change and political responses to the problems of fraud and insurance related crimes. This paper is not intended to be a scholarly treatise, but a laymen's guide to the facts, fallacies and required actions. Scholarly research and communication among scholars is still needed. But public action is often impeded by the complexities and limitations of social science and research. Research sometimes becomes a quagmire of ideological conflict that often resembles the proverbial

Briarpatch.

Many facts are known or are self-evident. Action can be taken while society awaits the final determination of science. This paper attempts to dispell some myths and set out a reasonable course of action.

The remaining sections of this paper cover:

- crime definitions and problems
- insurance concepts and descriptions
- prevention and control of insurance related crimes

For the sake of brevity, the very complex and far-reaching legal aspects of international insurance prosecutions will not be covered. This would take many chapters and a writer of greater knowledge and competency. Accordingly, this paper is oriented to providing a broad perspective on the problems of insurance related crime to the lay person and crime prevention or security professional.

Crime

Crime is so common to human existence that it is taken for granted. That is, everyone knows what it is, so it needs no definition. But does the general public really know what crime is? Do legislative and governmental bodies know? *Probably not!*

Few persons have a clear idea about the true nature and scope of crime and criminal behavior. The following definition of crime provides some insights into a broader understanding of the problem:

"An act or commission of an act that is forbidden or the omission of a duty that is commanded by the public law, and that makes the offender liable to punishment by that law"

This definition provides a broad description of crime that includes *behavior that is prohibited*, as well as *behavior, or acts that are required by law*.

What is the level and importance of crime to society? A special report by the United Nations summarized reported crime statistics from sixty-four nations between 1970-1975, with the following *proportions*:

- crimes against property 72%

- crimes against persons 20%
- crimes related to drugs 8%

These proportions come from a combined data base revealing a rate of crime for these countries that averaged 1,311.2 offenses per 100,000 persons. This international average is much lower than the approximate 5,000 offenses per 100,000 population in the United States of America.

A separate study of world crime trends, reported on in James Q. Wilson's *Crime and Human Nature*, presents a clear distinction between proportions of crime in developing countries versus developed countries. *Developing* countries experience a more even breakdown between crimes against persons (43%) and property (49%). *Developed* countries experience a higher proportion of crimes against property (82%) than crimes against persons (10%). However, drug related crimes do not vary proportionally between developing and developed countries.

The crime figures for the United States do not provide a true picture of crime, because unreported crime and minor crime are not included in official reports. U.S. Statistics on *reported* crime reveal a level of nearly 12 million serious crimes in 1985. These serious crimes are murder, rape, robbery, aggravated assault, burglary, larceny-theft and motor vehicle theft. These crime levels do not include a wide range of minor offenses. However, a breakdown of the major crimes reveals that approximately 89% are crimes against property and 11% are crimes against persons (FBI Uniform Crime Reports).

The U.S. Department of Justice's Bureau of Justice Statistics conducts a periodic survey of the American people that is referred to as the National Crime Surveys. These surveys reveal the startling fact that the U.S. public reports only about 35% of all criminal victimizations to the police. Therefore, the actual crime rate in America is three times that of the reported rate. It may be that the U.S. is not unique in the phenomenon of the failure of citizens to report all crimes, especially what may be perceived to be minor offenses.

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Unfortunately, even these inflated estimates of the U.S. crime rate do not account for much economic crime that is not reported or detected. The Hallcrest Report on private security in the U.S. contained a range of estimates of economic crime losses of US\$67-300 billion per year. The U.S. Chamber of Commerce was quoted in the Hallcrest Report of estimating that shoplifting and employee theft produced a loss level of US\$11.77 billion, which was said to account for 15% of the cost of consumer goods. The Hallcrest report quoted figures from the Firemen's Fund Insurance Company's estimate that one third of all business failures in the U.S. are caused by employee theft. The Internal Revenue Service of the U.S. Department of Treasury reported losses of US\$100 billion in 1983 due to income tax evasion. Finally, studies of employee honesty quoted in the Hallcrest report reveal that as many as one third of all employees will steal from their companies. These losses are absorbed by the companies and passed on to the consumer, or to reduced profits of stockholders.

Admittedly, some of these shocking trends in crime losses and dishonesty may be unique to the U.S. culture. But, it must be assumed that some level of unreported or undetected economic crime transcends all nations and societies.

Some important conclusions may be drawn from these findings:

- Most crime statistics are limited to reported crimes without counting the *higher levels* of unreported, unacknowledged or undetected crime.
- Public policy and public attitudes about crime, crime control and criminal behavior continue to be limited to the popular notions about violent crimes and common offenses against property.
- The potential impact of true crime levels upon the economy and the quality of life may be much more negative than imagined.
- The continued acceptance of dishonesty and cheating among the general public and government serves only to

legitimize this behavior for future generations, thus guaranteeing the continuing existence of public corruption, personal dishonesty and high crime levels.

- Contemporary social, psychological and biological theories of crime and criminal behavior do not explain the pervasiveness of economic crime throughout all levels of society and culture.

Insurance

Definitions and Volume

It was mentioned previously that insurance is one of the few things that one buys that one cannot see, feel, touch, taste or hear. Many persons buy insurance, for a variety of reasons, but they never really understand, nor appreciate the concept. Insurance is often perceived as a *necessary evil!*

Frederick Cranes book, *Insurance Principles and Practices*, defines insurance as:

"a system of handling risks by combining many loss exposures, with the costs of losses being shared by all participants"

Insurance, therefore, is a means of dealing with *risk*, which is the uncertainty about loss.

Risk is the underlying concept of insurance. Risk, in general, may be controlled in the following ways:

1. *Risk avoidance* - by not conducting or undertaking an activity that may result in loss.
2. *Loss control* - by adopting methods and procedures to prevent or reduce loss.
3. *Risk retention* - the conscious decision to accept the potential for certain losses.
4. *Risk transfer* - the formal process of passing on all or part of a loss potential.

Insurance is one form of risk transfer. It is limited primarily to losses due to natural or man-made *perils*. Risks that are incurred in gambling or in business speculation are not insurable.

Several terms that are important to the concept of insurance are:

- o *Loss* - is the unexpected reduction or

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- disappearance of economic value.
- *Peril* — is the cause of loss.
 - *Hazard* — is a condition that increases the likelihood of loss due to a particular peril.

The insurance company combines a large number of similar loss exposures, or the objects subject to loss, thereby spreading potential losses among a large group of insurees. The cost of this risk transfer is based upon the history and predictability of loss within a given loss exposure, or category of loss.

There are generally two fields of insurance: private and government. Private insurance covers a wide range of insured risks which come under the three general categories of life, health and property-casualty. Government insurance generally falls under the broad categories of social security, unemployment and catastrophic events (e.g. floods, hurricanes). Some other government insurance programs are military life insurance and commercial insurance against losses due to crime. Government insurance services often fill a need area that is too risky or unprofitable

for private insurance.

The volume and type of insurance is important to world economies. It was mentioned previously that, without insurance, much that is happening would cease to exist because of risk. A study of the insurance industry in worldwide economic development, entitled, *The Insurance Industry in Economic Development*, by Bernard Wasow and Raymond Hill, revealed the following facts about the volume and importance of insurance:

- The total world premium volume in 1981 for life and nonlife insurance was US\$450 billion.
- The United States and Japan were the leaders in total premium volume with 46.0% and 13.5% respectively.
- The range of premiums per head of population was from a low of US\$2.2 in Pakistan to a high of US\$900.8 in the United States.
- Insurance premiums represented an estimated 3.39% of the combined Gross National Product figures from major countries in all regions of the world.

Table 1 presents a further breakdown

**Table 1: Comparison of Insurance Volume by World Region for 1981
(for Larger Countries)**

Region	Premium Volume (%)	Ave. of G.N.P. (%)	Ave. Premiums per head of Population (US\$)
North America	49.14	6.27	766.25
Europe*	29.6	4.08	375.68
Asia**	16.0	1.84	45.85
Latin America	1.8	1.6	40.29
Africa	1.3	2.41	31.13
Oceania***	1.9	4.16	383.50

* excluding Eastern Bloc countries,

** excluding U.S.S.R., China and North Korea,

*** Australia, New Zealand.

Source: Nabholz, Max E. "The Position of The International Reinsurer in Developing Countries," from Wasow and Hill (eds.), *The Insurance Industry in Economic Development*, New York University Press, N.Y., N.Y., 1986.

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of the volume of insurance by major geographic regions of the world. It is clear that insurance of all types is a significant factor in world economies. Moreover, it is a significant part of the cost of living to all individuals and families.

Challenges Facing the Insurance Industry

Continuing economic development and shifting patterns of growth will increase the need for insurance. Some problems faced by developed economies will be experienced by newly developing economies. It must be expected that world needs will change constantly, so the insurance industry will have to respond and adapt.

Following are some of the many challenges that are facing the insurance industry:

- *Changing family structures* — The shift in social emphasis from extended family support systems to the nuclear, or immediate family, is contributing to changing attitudes about financial planning and protection.
- *Rising cost of medical care* — Rapid developments in medical care and extended service result in higher costs, which may lead to some form of national health care insurance to maintain affordability and wide-spread protection.
- *Internalization of business* — The trend toward the expansion of companies to the multi-national scale increases the demand for insurance in a variety of complex social and political systems.
- *Inflation* — drives up value and measurable cost, thus affecting the cost of insurance.
- *Affordability* — As economies grow and nations develop, there will be a greater demand for insurance protection for lower income and younger persons who were previously unprotected.
- *Threats to physical environment* — Both natural and man-made threats to our physical environment present a challenge to the insurance industry to accept new risks and perils of potential staggering dimensions (e.g. nuclear power).
- *Deterioration of cities* — The unforeseen

effects of previous patterns of uncontrolled community development have created central city zones which are vulnerable to fire, vandalism, crime and loss of business value.

- *Terrorism* — Increasing threats to government and business must be met with support for financial risk of property destruction, disruption of business activities, kidnap, ransom and extortion.
- *Tort laws* — The new incentives for civil litigation induced by social legislation and trends toward increasing punitive damage awards have created havoc for business, industry and personal liability.
- *Public education* — Wide-spread ignorance of the dynamics of the insurance industry contributes to a negative public attitude and tolerance of individual frauds, and acceptance of frivolous litigation and damage awards in the courts.

Cost of Insurance

Perhaps one of the greatest problems of the insurance industry is wide-spread misunderstanding of the costs of insurance. Insurance companies are supervised closely by government agencies to assure financial solvency, to control rates and to prevent unfair business practices. The price of the insurance product is based upon the total cost of predictable losses within each loss category. A reasonable profit margin is added, but it is usually no more than that allowed other state regulated industries, such as the telephone company and public utilities.

Insurance companies may make money, if their predictions are accurate. Many lose money because of higher than anticipated claims payments. Competition among the insurance companies is a cause of many lost profits. It is common for many insurance companies to lose money annually on the insurance side of their business, but to make up for these losses through outside investments that are facilitated through access to large funds and financial backing.

The cost of insurance to the individual

consumer is based upon precedence. The cost of apathy and fraud is passed on to the consumer. Otherwise, insurance would not be available. Without insurance, many things that are taken for granted would not occur. Who would buy a house or a car with a bank loan if the risk was not insured? What if the house burned or the car was stolen? No one would want to be responsible for a mortgage or a loan for a nonexistent home or automobile. Consider how devastating a long-term illness could be to a family's savings. What if medical care was denied to a son, or a daughter, or a parent, because of inability to pay?

Insurance is a critical factor in maintaining and improving the quality of life. One may not be able to see, hear, touch, taste or feel it, but it probably has more to do with providing "peace of mind" and a "sense of well-being" than any other tangible product, except for food.

Insurance Related Crime

Definitions

There is much confusion about what is meant by "insurance related crime." The first two things that usually come to mind are 1) *insured crime losses* and 2) *fraudulent claims* against insurance companies. In fact, the range of crime problems related to insurance is extensive, since insurance is so much a part of all human affairs.

Crime is one *peril*, among many, that is insured against in society. Crime insurance is, therefore, a significant subject within the concept of insurance. But, *insurance related crime* is a specific area of concern that is associated with *fraud*, *dishonesty* and *neglect* directed against insurance as a product. This paper emphasizes this latter area.

Fraud may be defined generally as follows:

"the intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right"

Insurance is largely an intangible product that relies upon *trust* and *good faith*

between the insurer and the insured. Therefore, fraud and misrepresentation are potential threats to the insurance industry.

Insurance related crimes are often complex and serious. An arson of a failing business establishment may require extensive scientific investigative skills to solve. Moreover, the same arson may result inadvertently in the death of innocent building occupants and damage to surrounding properties. It may also result in lost income for workers and supporting businesses, as well as in contributing to a local climate of fear. Loss of confidence in public safety is another, possibly overlooked, by-product of the insurance related crime.

What may appear to the public to be a simple fraud against a so-called *rich* insurance company, may be a complex crime with primary and secondary implications that would make a common criminal offense seem insignificant. Another type of fraud that is difficult to uncover, but is potentially pervasive is the "padding," or increasing of health insurance claims costs, by the delivery of unnecessary health care services where the patient is covered by dental and other medical insurance. Unnecessary X-rays and test procedures may be used to increase the insurance bill ostensibly in the interest of thorough diagnostic investigation. Often the patient is submitted to discomfort and pain that is written off as precautionary procedures. Many of these cases are *borderline* frauds where the patient and the insurance company suffers. The insurance customer is the ultimate victim because of higher rates that are imposed by the increased cost.

Types of Insurance Crime Problems

The following list provides a means of categorizing the types of insurance crime by object of attack or method of operation:

1. *Fraud against companies* — is perhaps the most prevalent form of insurance crime, where the insured party misrepresents a loss for the purpose of receiving an insurance indemnity. These

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offenses range from arsons to fake auto thefts.

2. *Fraud against customers* — is an offense where the customer is taken advantage of by an insurance company agent or by a third party such as a dentist or auto repair shop which delivers unnecessary services or pads the bill. The embezzlement of policyholder life insurance dividends or loan values is a known example. The sale of illegal insurance or the use of improper selling methods, such as misrepresentation or rebating commissions are other examples.
3. *Employee dishonesty* — includes insured risks of employee infidelity in conducting business as well as intentional theft or property damage. Employee theft is 3 to 4 times higher than customer shoplifting as a business loss. Moreover, employee theft of or destruction of property known to be insured is common.
4. *Theft/fraud by customers* — ranges from common shoplifting to baggage loss schemes. Other examples are attempt to obtain payment or free services for false injuries, property damage or alleged discrimination.
5. *Terrorism* — may be considered to be a crime related to insurance because of the insured risks of kidnap, ransom and extortion. The common knowledge of the existence of insurance support invites fraud and may lower inhibitions about the criminal acts themselves.
6. *Consumer/victim neglect* — may not always be a direct criminal act, but it is a clear failure of duty. Tolerance of known abuses by acquaintances and the practice of overvaluing property or padding insurance claims is wide-spread. Perhaps the greatest problem in consumer/victim neglect is the continued toleration and participation in a tort law system that has gotten out of hand. The primary and secondary effects of contemporary court decisions and jury findings and awards has produced a "pork barrel" or "pot of gold" mentality that negatively affects all people.

Abuse of the insurance system may be more critical than actual criminal fraud.

Persons determined to commit insurance crime are only limited by their lack of imagination. There are limitless and bizarre examples. One motorcycle gang member in California had friends chop off his leg and wreck his motorcycle to collect on his accident insurance. Instead he is now a one-legged prisoner, thanks to the efforts of an alert doctor. In another case, two foreign born businessmen in Atlanta, Georgia, purchased 28 separate life insurance policies on a non-existent man in India. They had collected nearly US\$1 million using a fake death certificate before they were discovered.

It is a common practice for individuals to seek disability retirements or attempt to receive worker's compensation for questionable injuries. During the mid 1970's, it was alleged that approximately 80% of Washington, D.C. area police officers retired on disabilities. The attitude is to try anything that you can get away with, since the insurance company or the employer has been getting your money for years. The general acceptance of insurance fraud is so great that retail and jewelry stores commonly issue appraisal certificates at the time of sale with values quoted up to 50% higher than the actual sale price.

Organized crime gets involved in insurance fraud. A number of cases have been documented where an unscrupulous doctor is provided with an office and considerable "kickbacks" from unnecessary medical tests conducted by mob-owned laboratories. Similar operations prey upon the elderly who are covered by Medicare Insurance. Some recent indictments on insurance frauds in Boston and New York have included doctors, lawyers, insurance claims adjusters and police officials.

The following list presents examples of what may be a limitless range of insurance related crimes:

- murder by beneficiaries
- fake injuries or disabilities
- fake deaths
- fake accidents

- "kickbacks" for false claims
- false thefts
- staged accidents
- food product liability schemes
- baggage loss schemes
- arson for profit
- reported theft of fake vehicles
- underdelivered services paid by insurance
- multiple claims in one loss
- maritime frauds
- misrepresentation of property value
- unnecessary services and tests
- embezzlement of insurance dividends or loan values
- illegal insurance sale methods
- intentional neglect of property to promote theft
- employee theft conspiracies
- sale of illegal or unlicensed insurance
- owner "give-ups" of autos to thieves for kickbacks of fenced value and additional insurance indemnity

Volume, Effects and Costs of Insurance Crimes

Surprisingly little is known about the true volume and cost of insurance related crime. Law Enforcement agencies do not classify insurance related crime as such. The few arrests that are made are for some form of theft, larceny or fraud.

Likewise, the insurance industry is aware only of the actual cases that are discovered. Many more are suspected, but are too expensive to investigate, so they are written-off.

Special industry service organizations, such as the Insurance Crime Prevention Institute and the National Automobile Theft Bureau, both in the United States, assist the insurance industry as investigators of suspected fraud cases. These organizations are responsible for thousands of arrests each year in the U.S. Individual insurance companies are now creating their own Special Investigative Units (S.I.U.'s) which are saving significant amounts of money that would have gone to fraudulent claims.

Some estimates of the volume of insurance crime have been made. Lee Cole's book *Claims, Costs and Crime* reports that

investigators use a rule of thumb measure of 10-15% of all premiums paid are due to fraud. James Garcia, Chairman of the National Health Care Anti-Fraud Association, estimates that losses of US\$10 billion are incurred each year alone in the health care industry. This figure is 11.2% of the total benefits paid annually. The National Fire Protection Association reported losses of US\$1.67 billion due to arson in 1985. The National Automobile Theft Bureau estimates that 20% of all auto thefts are insurance frauds. Approximately US\$1.5 billion was paid out for auto theft in 1981.

By taking only these limited estimates and comparing them against U.S. reported crime statistics, it is clear that the volume and cost of insurance related crime exceeds the total costs of all property crimes. For example, according to the FBI Uniform Crime Reports there were slightly more than 12 million property crimes reported in the U.S. in 1985, with an estimated dollar loss of US\$10.9 billion. By comparison, the combined estimated insurance fraud losses for arson, auto theft and health care fraud *alone* are between US\$10-13 billion. *This does not include the many other types of life, health and property-casualty coverages that are subject to fraudulent practices.*

A more scientific approach to determining the true nature and extent of insurance crime is required. But, it is reasonable to assume that the figures will not vary dramatically from the previously mentioned industry estimates. The actual levels of fraud must vary considerably by type of insurance product. However, the lowest estimate of fraud losses of 10% of premiums paid would indicate possible losses of *US\$20 billion* annually in the U.S. The application of this gross method of estimation to the world premium volume of US\$450 billion reveals a potential world-wide loss rate of *US\$45 billion*.

Although these costs are astonishing, it is possible that some analysts may consider them to be low in relation to the total cost and overall value of insurance to the quality of life. It may also be argued that attempts to reduce losses may be more

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costly, in terms of time and inconvenience to the honest customer.

Another way of assessing the importance of insurance related crime, in general, is to compute it as a cost per person using the gross estimate of 10% of premium cost. Following are some examples:

- cost of insurance per person in the world — US\$103.00
- estimated loss due to insurance crime per person in the world — US\$10.30
- cost of insurance per person in the U.S. — US\$900.80
- estimated loss due to insurance crime per person in the U.S. — US\$90.80

The annual cost of insurance related crime to a family of four individuals worldwide would, therefore be US\$41.20. The same cost to families of four in the U.S. would be US\$360.00. This form of analysis demonstrates that the problem may be viewed as significant by most families, *if they knew about it!*

Overall Effects of Insurance Related Crimes

What is the overall effect of insurance related crime? Is it limited to financial cost, or are there other variables involved? It appears that the effects are potentially more far-reaching than the matter of cost. The effects may be identified along three lines: primary, secondary and tertiary.

Primary effects are those direct costs of lost property or income. Pain and emotional discomfort are also primary costs.

Secondary effects include the increased cost of insurance to cover losses. Other effects include the increased costs of consumer products and services. Finally, there is the increased cost of inconvenience and extra effort required on the part of industry and the consumer because of prevention and enforcement efforts.

Tertiary effects are many. Loss of confidence in government and business is a by-product of their perceived failure to protect the public. Lowering of consumer morale increases cheating and neglect. The stability of economies comes into question. Continuing problems have led to the withdrawal of needed products and ser-

vices. New developments and developmental efforts requiring risk capital have been impeded. Quality of life is affected negatively.

The combined problems of insurance related crime and the abuse of the insurance system are damaging society and the quality of life. For example, hotels and municipalities are closing their swimming pools for fear of litigation. Doctors on the island of Maui in Hawaii will not deliver babies because of the high cost of malpractice insurance. Police and schools have limited their protective services for fear of litigation. Companies have eliminated products, such as athletic equipment, because of the prohibitive cost of product liability insurance. Some crimes go uninvestigated because of privacy regulations and concern over possible counter litigation.

Insurance related crime is truly a problem area worthy of increased attention. As a portion of the broader area of economic crime, it has many far-reaching effects on society.

Prevention and Control of Insurance Related Crime

Issues

There are a number of significant issues affecting the insurance industry and attempts to prevent or control insurance related crime. The issues are grouped into four categories: criminal justice, business, government regulation and social.

Criminal Justice

The criminal justice systems of many countries have been developed to deal with crime and criminal behavior at the common level. The emerging problems of economic and white collar crime present a challenge to contemporary legal systems. The systems of law and the criminal justice agencies must continually adapt to the changing problems, needs and complexities of modern crime. Some issues relevant to this area are:

- *Lack of information & uniform records*
 - Current information and crime reporting systems fail to differentiate

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between common crimes and economic crimes sufficiently to develop a clear understanding of insurance related crime. Industry records are fragmented and inaccessible.

- *Criminal justice system priorities* – are commonly centered on violent crimes and habitual offenders, which are highly visible to the public. Heavy workloads encountered by police, prosecutors and courts result in a primary emphasis on crimes that affect public safety.
- *Absence of a central clearinghouse* – Crime knows no boundaries, but legal and governmental systems do. Insurance underwriters, investigators and police are unable to share existing information about offenders or questionable claims.
- *Conflict between objectives and methods of insurance investigations and criminal investigations* – This is a highly sensitive, but real problem. Company investigators are obligated to minimize losses and to protect the company image. Police and prosecutors are concerned with the actual crime and apprehension of the offender. Police are constrained in their methods by criminal procedure, whereas company investigators may use other methods of achieving their objectives.
- *Insufficient laws* – to deal effectively with conspiracies and accomplices to insurance related frauds. Provisions for the undercover methods required to detect and control insurance and other economic crimes are not contained in many statutes governing the activities of public and private investigations.
- *Complexities of financial transactions* – Very little training is available to police and prosecutors to prepare them to deal with economic crimes.
- *Language barriers* – Impediments to communication and cultural differences are obstacles to effective control of economic crimes.

Business

Profit and loss guide the business community. Survival of business organizations depends upon the ability to maintain an

objective approach to achieving the maximum return from the investment of time and resources. The successful business manager must assume much risk and control it. Businesses are not inclined to spend more on loss prevention measures when these costs exceed the actual losses. Some issues relevant to this area are:

- *Effects of competition* – Many companies are naturally unwilling to subject customers to additional requirements and documentation to prove representations or claims for fear of losing them as clients to another competitor. Additionally, companies fear bad publicity regarding losses, as this reflects poorly upon their image of financial solvency.
- *Accounting procedures and inventory control* – Commercial, retail and industrial insurees often maintain loose procedures which invite employee dishonesty, resulting in large losses that are covered by insurance.
- *Toleration of shrinkage* – Many losses go unquestioned and are considered the cost of doing business. However, these costs are either passed on to the consumer or they result in business failures.
- *Owner scams* – It is common for certain business owners to steal, or to defraud themselves because of advantages which may accrue in taxes, franchise payments or insurance indemnities.

Government Regulation

The insurance industry is heavily regulated by governments to protect consumers from losses and unfair business practices. Many of these protections produce unintended opportunities for fraud. The regulations affect both private and public insurers. Some issues relevant to this area are:

- *Quick payment regulations* – are intended to protect the consumer from long delays in receiving compensation. Insurance companies find that this requirement impedes investigations into questionable claims, because of the potential costs of penalties and litigation which may result from the company's inability to prove an allegation.

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Accordingly, many questionable claims are paid to avoid the risk of a greater loss in penalties or legal costs.

- *Fear of "bad faith" charges* — is a similar regulation to quick payment rules. It prevents insurance companies from withholding claims payments when they failed to adequately verify an insuree's representations of property or property value. If the company offers the insurance product and accepts payment of premiums, then they are compelled to pay questionable claims.
- *Prohibitions against redlining* — Regulations prevent insurance companies from withholding insurance services from certain geographical areas with high loss experience to prevent unfair discrimination on a racial or social class basis. This produces high claims costs, higher premiums for similar loss exposures and invites the acceptance of fraud and other insurance-related crimes in those areas.
- *Fair Access to Insurance Regulations* — This requirement is similar to rules against redlining by requiring insurance companies to underwrite policies with customers possessing high loss histories or a high probability of hazard.
- *Security and privacy acts* — in many nations prevent unfair use of information by public and private agencies. Concerns about complaints and possible litigation, or penalties, serve as impediments to the sharing or use of information about insurees and related individuals involved in claims. This results in a hesitancy to pursue investigations or to cooperate in background checks conducted by underwriters, prior to accepting a policy. Police are inclined to deny even public information for fear of litigation.
- *Freedom of information acts* — are intended to allow an individual to have access to information that is kept by government and private agencies about themselves. These acts also make information open to public inquiry by the press. The negative side effect is that public and private organizations are re-

luctant to store information that could result in litigation or embarrassing disclosures. This results in many obstacles to investigations of economic and insurance related offenses.

- *National versus local regulation* — This is a controversial issue that impedes co-operation and information exchange. It also presents an obstacle to providing uniformity of records and information systems. Controls and regulation are fragmented by local systems of control, which makes prevention of insurance related crimes difficult.

Social

The concept of insurance depends upon honesty and good faith. Therefore, it is subject to the potential for fraud and abuse. Social policy and public opinion affect the response of the insurance industry and the criminal justice system. Wide-spread public acceptance and tolerance of insurance fraud is common, often due to apathy and misunderstanding of the role of insurance in modern society. Some issues relevant to this area are:

- *Ignorance of insurance system* — The lack of public and criminal justice understanding of the insurance system and the effects of insurance related crime pose the greatest threat to the control of this problem. It must be assumed that the misunderstanding of insurance is endemic to all levels of society. Government leaders, legislators, criminal justice officials, the press, the insurance industry and the general public are all subject to this misunderstanding. There are many complex reasons why this will be difficult to overcome.
- *Public apathy* — is related to the problem of misunderstanding. Many persons pay, what they consider to be large expenditures for insurance protection, because of legal requirements and fear of loss. It is difficult for many to realise the actual return on their investment, so it is easy to "close a blind eye" on abuses and to legitimize personal abuse. Therefore, the public is not generally supportive of efforts to control the

problem.

- *Toleration of the "deepest pockets" trends in civil litigation* – Civil court actions have now transcended to the level of deciding case-by-case findings based upon the ability to pay. Consequently, juries are apt to include defendants in litigation who have only remote relationships primarily because of their ability to pay, or to assume liability because of their position. Accordingly, it is common for large organizations to sustain compensatory and punitive penalties that are frivolous and unconscionable.
- *Social legislation designed to induce litigation* – Inducements to litigation been intentionally and, sometimes, unintentionally, placed in socially oriented laws to overcome abuses and improper social practices. These practices have gotten out of hand in many situations and have been abused by the legal profession. The public has been often apathetic to the serious consequences of these actions to the insurance industry. Many individuals have been hesitant to criticize these policies for fear of social disapproval. However, these policies have "backfired," or had opposite effects, by causing industry or government agencies to eliminate products, services or protections to avoid litigation and loss.

Actions to Prevent and Control Insurance Related Crimes and Abuses

It was stated earlier in this paper that the insurance system is comprehensive and pervasive in the world economy. Nearly every peril known is covered by some kind of private or government insurance. For every type of insurance, there is the possibility for fraud. It is clear that more than one means is required to prevent and control the problem, with the primary objective of enhancing the value of insurance to the quality of life. The potential solutions must come from many sectors. These include criminal justice, business, government regulation and social activities. A reasonable approach to improvements in each of these areas will pay off in lower

cost and an increased willingness for governments and businesses to assume risks, those risks that will result in improved services, products, community development and protection of people and assets.

Criminal Justice Measures

A general conclusion is that criminal justice systems would be wise in conducting a complete self-assessment of system capabilities and functions. Criminal justice systems world-wide encompass seven major generic functions, which are: prevention, detection, suppression, investigation, apprehension, prosecution and treatment. Following is a brief description of each of these functions:

1. *Crime prevention* – In this limited context is that process of eliminating or reducing the opportunity to commit an offense, or the denial of access to crime targets.
2. *Detection* – is the critical process of monitoring the activities and functions of the community to gather intelligence about the activities and associations of known offenders, and to identify and discover criminal activity that would have gone unnoticed. This is fundamental to crime prevention and crime control. You can't prevent it if you don't know about it!
3. *Suppression* – is the act or method of restraining or controlling the activities of would-be or known offenders. A simple example of suppression is the monitoring and intense supervision of habitual juvenile offenders. Another example is the practice of active warrant service, particularly for repeat adult offenders. The objective of these community control strategies is to prevent crime.
4. *Investigation* – is the follow-up procedure for examining a criminal incident with the objective of solving the crime and resolving the problem. Contemporary case management systems are limited to solving the crime and arresting the offender, instead the traditional practice of following up on an offense to resolve the situation, prevent it from

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happening again or to bring the offender to justice. Contemporary case management systems focus upon solvability factors that are valid for no more than the 20% of all serious crimes that are solved, thus overlooking effective case resolution for the 80% of the crimes that will not be solved. Case resolution and victim follow-up are good crime prevention.

5. *Apprehension* — is the first step in the application of legal sanctions to accused offenders. Traditional police values called for the use of prevention and suppression of crime, using the arrest and prosecutive process only where punishment was required. That is, apprehension and prosecution were traditionally viewed as a final resort when other methods of crime control failed, not the primary solution.
6. *Prosecution* — is the official presentation of fact to the court with the intent of denying an individual's basic right of freedom because of criminal activity. The courts are used where other social controls fail. Crime prevention can be enhanced by providing special support for the prosecution of habitual offenders, who have proven themselves to be career offenders. Offenders do not have to be locked up to be incapacitated. All that has to be done is to effectively control them, either through close supervision or residential treatment programs. The effective control of repeat offenders is good crime prevention. Prosecution programs can assist in crime prevention.
7. *Treatment* — is the attempt by correctional and/or penal authorities to carry out the sentence of the court for convicted offenders. Treatment or correctional approaches include probation services, non-residential treatment and counselling, residential therapeutic programs, incarceration, and post-release supervision (known as parole or after-care). The primary objectives of treatment and correctional programs are to control the behavior of the offender and to prepare the individual for re-

entry into society as a responsible and productive person.

An analysis of each of these areas suggests that prevention is inherent in each category. Moreover, the performance rates of the investigative process, in terms of actual cases cleared, or solved, indicates that a broader range of objectives is required. This includes emphasis upon prevention, early detection and suppression activities. A self-assessment of each of the seven areas, with specific attention to the largely undetected and unreported problems of insurance related and other economic crimes, would be an effective starting point.

Some additional actions to be taken include:

- *Incentives for Citizen Reporting* — Special crime prevention programs have proven their effectiveness, by setting up an anonymous telephone system for reporting tips on crimes and known offenders. The caller is given a code number and paid a sizeable reward for information that leads to an arrest and conviction of the offender. Police advertise the crimes in question. Funding is generally provided by the business community or other private and government donors. These programs are generally referred to as "CrimeStoppers Programs."
- *"Sting Programs"* — It is virtually impossible to conceive of a program designed to prevent and control insurance related crime that does not include undercover operations. "Stings," as they are known in the United States, are undercover operations designed to penetrate the stolen property distribution system, or conspiracy groups, under the guise of a fencing operation or co-conspirator group. Courts have allowed the use of these methods with-in reason, by finding that a limited amount of strategy and deception does not violate the rights of the accused, nor entrap them, as long as they are operating under a misconception, as opposed to falsified and illegal facts. Most major insurance crime conspiracies in the

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United States have been detected and broken-up through "Sting Programs."

- *100% Case Management Systems*—Many law enforcement agencies have adopted case screening systems based upon solvability, or solution factors. These factors are used to predict the potential for a case to be solved. Low solvability ratings for an individual case usually results in early case suspension. The most recent developments have broadened the limited objective of solution to *case resolution*. Low solvable cases receive a range of non-investigative follow-up aimed at case enrichment, intelligence gathering and prevention of further victimization. It is estimated that 10-12% of all reported crimes are insurance related, most of which are unsolvable (and suspended immediately by most police). The new system provides immediate clerical follow-up to determine if the case is a repeat (multiple reports from same victim), part of a series, or if there is an investigative lead. Victims also receive telephone follow-ups and visits from crime prevention officers. This system prevents repeat victimizations and uncovers frauds. Moreover, it puts the public on notice that all reports will be investigated using the most appropriate technique.
- *Crime analysis/link analysis techniques* — are now becoming popular in law enforcement agencies as a means of collating and interpreting large masses of information that is seemingly unrelated. Link analysis is the best known method of relating the activities and associations of co-conspirator in insurance fraud cases. Courts in the United States and some other countries are routinely accepting the link analysis charts during testimony. This form of evidence collation and presentation is a useful investigative technique and is a powerful tool in plea bargaining.
- *Extension of felony charges to co-conspirators or accomplices* — Existing laws in many jurisdictions do not include accessories, or they downgrade the seriousness of charges. This hampers

investigations, co-operation and prevention efforts. Many stolen property fences in the United States were immune from prosecution, because they never physically possessed the property.

Business

Every transaction of the insurance process goes through some level of the insurance industry. Sales agents, underwriters, claims representatives and claims adjusters deal with the insuree. Each transaction possesses its own unique objectives and motivations. The sales agent tries to increase the number of clients and volume of insurance sold. The underwriter determines and accepts the risk for the company. The claims representative and claims adjuster attempt to service the clients needs within a reasonable and fair manner, but they also have to protect the company from unfair claim levels or fraud. Skillful management in the insurance industry prevents what would be an obvious "push/pull" situation where the motivations and efforts of each of these opposing functions could work against the company. Some actions to be taken include:

- *Training* — Specialized training of all personnel involved in customer transactions is a must. This training has to be based upon a comprehensive and regularly updated model of insurance crime prevention, detection, suppression, control, investigation and company protection.
- *Incentives/disincentives* — The system of motivation for the critical job functions within the insurance process need re-examination to determine if the existing incentive or performance evaluation program is appropriate. Bonus levels and the means of payment may be subject to some form of incentive or disincentive for improved screening and prevention of fraud.
- *Profiles* — Where not already in use, companies should develop and validate a series of screening profiles that may be used to initiate more thorough reviews of transactions. The profiles may be included on the insurance forms to fore-

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- warn potential problem clients. Other profiles may be used informally.
- *Customer training and assistance* — could be provided to management and supervisory personnel of corporate, business and institutional customers. This training should encompass all aspects of loss prevention and assets protection.
 - *Customer incentives* — The existing incentives (e.g. discounts) provided to customers could be expanded to include other benefits for reduction of claims. Teachers in one California jurisdiction receive payments for unused sick leave and health care benefits. Conversely, disincentives may be necessary, such as surcharges, raised deductibles or cancellation. Insurance forms could be altered to create the impression that the company is thorough in its process of protecting itself and its customers from fraud.
 - *Cashless transactions* — have proven to provide a better paper trail for investigations, by improving the ability to properly identify the purchaser and claimant of questionable policies and claims. As corporate policy, the agent would be relieved of some pressure from the clients who are inconvenienced. In some cases, a dollar level could be established for the convenience of the small volume customer. "Sting Programs" have established the value of cashless transactions. Offenders have willingly provided legal names or other identification when it is clear that the transaction will be cashless.
 - *Limiting insurance sales by zone* — Fraud experts are known to travel some distance to buy insurance to make it more difficult to establish identifications or to misrepresent themselves and their property. Corporate policies limiting the authority of sales agents to their postal zip codes or similar zones would make it harder for the traveling fraud expert. Distance traveled is now a common profiling factor for child abuse, sale of stolen property and other frauds.
 - *New means of checking "utmost good faith"* — Revised and expanded procedures for checking the warranties, representations and potential concealment by customers must be developed. These include improved checking of vehicle identification numbers and verification of the official or legal identity of lienholders. A typical lienholder name on a title has been G.M.A.C. which insurance agents assumed was the prestigious General Motors Acceptance Corporation. It was really a co-conspirators fake company entitled George Mason Auto Company. Additionally, junked vehicle titles should be destroyed or suspended. Itemized statements need to be required as well. Training and legal preparation will be the most important steps in this process.
 - *Special investigative units (SIU)* — are internal investigative assignments or groups created within the insurance organization. Recent studies of SIU's have revealed a return on investment of 7-1 for the companies. The development of internal expertise will reduce the companies potential liability and enhance communication with outside law enforcement and governmental regulatory agencies.
 - *Master name index (MNI)* — Problems with security and privacy regulations need to be overcome by legal authorities, so that a MNI can be developed for several levels of repeating claimants and for intelligence sharing.
 - *Reporting and dissemination of fraud methods* — An industry-wide program of reporting new fraud methods needs to be established for the obvious reason of prevention.
 - *Close police relations* — Insurance representatives, sales agents, investigators and claims adjusters need to cultivate regular and routine contact and communication with police agencies, beyond the present practice of purchasing police reports related to claims. This contact could include intelligence exchange, joint crime prevention training and public programs, and active participation in

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- "Stings" and "CrimeStoppers" programs.
- *Close relations with professional licensing groups* — These groups include national or statewide/provincial bar associations, real estate boards, state medical associations, insurance boards and auditors certification boards. Other related professional or trade associations such as auto repair services, auto dealers, service station owners and other trades or professions operating in a support role to insurance claimants. The obvious objectives are to promote self-enforcement and information dissemination.

Government/Legislative

Government regulates the insurance industry to protect the consumer from losses and unfair business practices. Some government regulations, while achieving their primary purposes, create loopholes or inducements for fraud. Legislation has often been found to create incentives for litigation that may have been unintended. However, the result has been that insurance rates for professional and product liability, and general liability have soared. Some services have been eliminated and many products have been discontinued. Local government agencies and institutions have lost insurance coverage and have reduced programs and protections, accordingly.

Some actions to be taken are:

- *Government SIU's* — Insurance regulatory agencies should be empowered by legislative bodies to create their own SIU's with law enforcement powers. These SIU's need to have the authority to temporarily waive quick payment rules when an insurance company provides probable cause that a fraud or other insurance related crime occurred. The government SIU needs legal authority to investigate and to have access to criminal history and other reasonable personal information. Prosecutive remedies need to be spelled out in legislation.
- *Immunity laws* — Government insurance regulation agencies need to seek special immunity laws protecting insurance agencies from litigation where information about policies and claimants is released to public authorities involved in the investigation of fraud and other insurance related crimes.
- *Other immunity protection* — Rules, regulations and statutory changes need to be established authorizing a reasonable exchange and pooling of information by insurance companies, limited to the protection of the public from insurance related crimes. The system could be operated by the insurance industry or by the insurance regulatory agency.
- *Legal limits on punitive damage awards* — Legislation should be developed placing limits on punitive damage awards, with some provisions for exceptions in the most blatant or heinous of offenses or negligent practices. Laws against frivolous litigation may need to be stiffened or enforced more rigorously. Prosecutors may need to be given some level of investigative authority to deal with these matters, to more adequately represent the general public.
- *"Guest laws"* — are statutes which prohibit a passenger from suing the driver or owner of a vehicle, under certain conditions, as a result of injury or property loss due to an accident. These laws are intended to reduce the possibility of collusion between friends or associates who are attempting to defraud an insurance company through fake or prearranged accidents.
- *Income tax reporting* — Insurance claims payments should be required to be reported to the cognizant tax authority using the appropriate identifying numbers (even where payments are not taxable). A tax deduction should be required where the individual refuses to provide the appropriate identifying information. The actual deduction could be refunded on the annual tax return. This system will improve the identification of buyers and claimants, as well as provide warning signs of possible tax violations.
- *Litigation against individuals or groups accused of insurance fraud* — The gov-

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ernment regulatory agencies should be granted the authority to file litigation for compensatory and punitive damages from individuals and groups found guilty of insurance related crimes or improperly obtained claims payments. Subrogation clauses in insurance policy agreements should be authorized and assistance should be provided by the government agency where the insuree or insurer seeks legal redress against fraudulent practices.

International Problems, Needs and Solutions Regarding Insurance Related Crime

The preceding sections of this paper covered a wide range of problems, needs and solutions relating to insurance crimes. The information is relevant to most parts of the world. Some of the issues and recommendations may be considered to be too controversial. Many have, admittedly, been oversimplified as an expediency. However, nearly every example and recommendation has happened or is being used somewhere. Much knowledge and technical assistance is available.

One of the most important issues to be resolved is the lack of knowledge about insurance related crime. Many journal articles and newspaper clippings are available for review. But most of these refer to individual cases or general discussions about one unique area of fraud or insurance crime. There is also a great amount of confusion about the definition and scope of insurance crime. The literature review and inquiries that went into the development of this paper and the supporting materials presented an overall picture of fragmentation, confusion, ignorance and misunderstanding. Perhaps the greatest reason for this is the combined complexity and pervasiveness of the insurance system, itself.

Some major problems that must be addressed on an international scale are:

- *Data processing and information exchange* — Data processing systems and machine stored records are inaccessible

because of technical, logistical, legal and language reasons. Willingness to share information may be a greater problem because much of it is considered company sensitive or proprietary. Finally, sharing will be difficult, even if the technical and legal problems are solved, simply because of the lack of a formal network that would take the place of personal contacts.

- *Legal requirements for information searches and wiretaps* — These rules and procedures vary. Issues of accessibility and authority will have to be resolved.
- *Use of undercover operations* — The legal and liability concerns of covert operations are considerable, but there has been much success. However, combined operations on an international scale, using public and private agents/operatives, will be required. Many potential problems will have to be worked out in advance.
- *Cooperation in interrogation, alibi investigation and suspect identification* — Most local law enforcement agencies are limited in international experience, yet are capable of providing valuable assistance to investigators on an international basis. A major logistical and communication problem will have to be overcome. For example, the U.S. has approximately 19,000 independent law enforcement agencies.
- *Management of physical evidence* — This is a problem and issue of tremendous magnitude. The task of maintaining a chain of custody for legal purposes is exacerbated by the distances, languages and different legal systems involved. Of course, this is overshadowed by the need to establish and prove trust relationships among the potentially thousands of agencies.

It is clear that the existing legal vehicles for international co-operation — the United Nations and the International Criminal Police Organization (INTERPOL) — are the appropriate starting points for dealing with the problems of coordination in dealing with international insurance related crime. These organizations will have to be prompt-

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ted to address the following needs:

- enhance and expand the telecommunications of INTERPOL including the expansion of computer files to contain insurance related crime information and intelligence
- increase U.N. Covenants on Crime Prevention to address insurance and economic crime problems
- create a special commission to guide the development efforts of a uniform response to insurance and economic crime
- exchange police advisors for training and networking functions
- develop a system of direct contact between specialists, including an international registry
- conduct international seminars with different levels for, police, insurance and government officials
- design guidelines for uniform policies, procedures and training programs for insurance employees and investigators
- conduct a public education program
- prepare a model legislative package for use by the various nations, states and provinces which govern the insurance industry

Conclusions

Insurance is a fundamental requirement of continuing economic and community development. Risk by governments and business would be unacceptable without insurance.

The problems of insurance related crime, to some, may seem insurmountable. To others, it may seem inconsequential, in relation to the total volume of insurance, and to business in general. Each individual must decide.

This paper presented some gross estimates of the volume and extent of insurance related crime. These estimates indicate that many families would consider the problem as serious, if they only knew what it cost them. It has been found that there is much confusion and misunderstanding about insurance and insurance related crime. Moreover, the losses due to insurance related crime probably exceed

the total losses of all reported crime. But, insurance related crime is seldom reported or detected.

Insurance related crime takes on a greater significance when it is combined with the broader area of economic crime. Much of economic crime is unreported or goes undetected. Moreover, insurance related and economic crime raise a very serious issue about public attitudes, as well.

Common property crimes and acts of violence are abhorred by the public. Crime and criminal behavior are considered by the general public to be the acts of depraved or moral-less individuals. Irresponsibility and evilness are terms that creep into most discussions. But, this is coming from a general public that tolerates tax cheating, insurance fraud and white collar crime. It comes from a public that consumes nearly 100% of all stolen property. Where else would stolen property be sold?

It is the public that is hurt by economic crime. The commitment to prevent and control the problem will have to come from collective action on the part of an informed and changed general public.

Corporations, governments and criminal justice agencies may influence this direction by studying the problem of insurance related crime and developing a strategy and plan of action.

Some level of fraud will always exist. Efforts to eradicate it all would be too costly and counterproductive. It appears, however, that there is a significant level of fraud and abuse that can and should be eliminated.

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SECTION 2: PARTICIPANTS' PAPERS

**Malaysian Insurance: Combatting Fraud in
Property Damage and Theft Claims**

*by Arshad Bin Haji Mokhtar**

Early History and Development

The development of insurance in Malaysia and Singapore was only known by the end of the nineteenth century, although the sea-faring Portuguese had conquered Malacca in 1511 A.D. and the Dutch had ruled the said state in 1641 A.D. There was no trace of fire or marine insurance in existence despite the fact that Malacca was a trading port. The first insurance company to set up in business by appointing agents and providing underwriting facilities in Singapore was the Alliance British & Fire Insurance Company of London in the year 1827 (the era of Stamford Raffles). In 1846, Boustead & Company, an import and export firm, was appointed as the legal representative of the Royal Insurance Company (London). Before Malaysia (then known as Malaya) achieved its independence, the agency houses like Boustead, Guthrie and Sime Darby acted as agents of the leading insurance companies of the United Kingdom. Only in the first quarter of the twentieth century, did insurance companies from the neighbouring continents such as India, China and Australia establish their branch offices in Singapore.

The Second World War interrupted their business operations. The post-war period was the time which saw the establishment of many branch offices of foreign insurance companies. In the beginning, these companies started by writing only specialised risks—such as fire, marine and motor insurance. The provision of good infra-

structure and the modernisation of the transport system in Malaysia and Singapore led to the increased import of motor vehicles. The usage of these vehicles gave rise to many road accidents. To safeguard human lives and property, the Government enacted the Road Traffic Ordinance 1938 (Third Party Motor Cover). This Ordinance made it compulsory for motor vehicle owners to have at least third party motor insurance cover in respect of third party death or bodily injury liabilities. This Ordinance was later replaced by the Road Traffic Act 1955.

The relevant ordinance applicable to Malaysia is the Road Traffic Ordinance of Malaysia 1958. A new Act (The Road Traffic Act 1987) has been passed by Parliament recently to replace this one. It has yet to be enforced. The Singapore Road Traffic Act 1955 was amended twice. The first was in 1960—Motor Vehicles Act 1960 (Third Party Risks and Compensation). The second was the Motor Vehicle Act 1980 (Third Party Risks and Compensation—Amendment). This Act (Amendment) requires that the liabilities towards passengers of all vehicles should be covered by the policy of insurance. Earlier, such requirement was limited to passengers carried for hire or reward only.

In 1952, the Workmen's Compensation Ordinance was enacted. This Ordinance, which was for the first time introduced in Malaysia, had the objective of providing compensation to the employees as a result of injury or death arising out of and in the course of employment. This Ordinance established the liability of employers for Peninsular Malaysia (then known as Malaya). In 1969, the Employer's Social Security Act was enacted. According to this Act, employees are entitled to invalid pen-

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1985, the insurance industry was estimated to have grown by only 9.1 per cent compared to 11.7 per cent in 1984. The total premium income of the insurance industry which amounted to (M) \$1.9 billion in 1984 was estimated to have increased to (M) \$2.1 billion in 1985. In 1985, the sum insured in force for life insurance was estimated to grow by a lower rate of 22.9 per cent compared to 27.6 per cent in 1984. With the continued economic recession, the forfeiture rates in 1985 deteriorated further to 29.6 per cent compared to 19.7 per cent in 1984. This high lapse is mainly attributed to the unsatisfactory practices of certain agency forces as are reflected in high agency turnover and rebating. Against this background, the insurance industry was prompted to sign an Inter-Company Agreement on Agency Remuneration, which aimed to reduce the first year commission and thus improve the lapse rate. As a further step, the industry is also looking into the introduction of rules and regulations to control the agency forces.

The potential for growth in the life insurance industry is great. The sum insured in force as a percentage of GNP at market prices stood at 55.7 per cent in 1985, while the premium income as a percentage of GNP rose to 1.27 per cent. In 1985, one in ten Malaysians owned a life policy, compared with a ratio of one in twenty-five in 1975.

The general insurance industry is still experiencing numerous problems, due to the unsatisfactory market structure, the deteriorating financial performance, poor claims experience and underwriting management, risks control and cash flow problems. The Malaysian insurance market is largely characterised by small-sized insurance companies with significant dependence on reinsurance support. To protect public interests, it has thus become necessary for the Government to monitor closely the solvency position of insurers. Toward this end, the Government is revising the format of insurance returns, with a view to obtaining greater disclosure of information and consistency in the preparation of statutory accounts. To consolidate the

insurance industry, the Government is also reviewing the minimum capitalisation of insurance companies. Mergers among companies to enhance capacity, increase efficiency and help reduce the unhealthy competition in the market have also been encouraged. The general insurance industry has also begun to work towards self-regulation mainly through Inter-Company Agreements on market practice to reduce unhealthy competition. The agreements comprise rules and regulations aimed at stabilising the agency force and have been initially introduced in the motor and fire insurance fields.

The insurance industry is expected to grow at a slower pace in 1987, in the face of the continuing economic slow-down. This will be particularly felt in the general insurance sector which is more vulnerable to economic vagaries.

The Laws Relating to Insurance

The present law governing the insurance industry is contained in the Insurance Act 1963 as amended. The 1963 Act repealed the Life Assurance Companies Ordinance 1948, the Life Assurance Companies (Amendment) Act 1961 and the Life Assurance Act 1961.

Other relevant laws which are applicable are:

1. The Penal Code Cap. 45 (especially sections 379, 425 and 471).
2. The Road Traffic Ordinance 1958. (A new Act has been passed by Parliament but has yet to be enforced.)
3. The Workmen's Compensation Ordinance 1952.
4. The Second-Hand Dealers Act (Revised in 1977.)

Crime Situation—Crime Related to Insurance

From statistics compiled, using the year 1980 as the base year, it is observed that the general crime trend in the country is on the upward move (see Figure 1). The crime index shows that there was an increase of 24,273 cases or 34.3 per cent in

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sion and disablement benefits, which includes medical treatment for personal injury. Contributions to this scheme are made by both parties—the employers and the employees.

The early period of the 1960's was a period of expansion for insurance companies in Malaysia. They transacted life and non-life insurance business. In order to regulate the activities of the various insurance companies and to safeguard public interests, the Government introduced in 1963 the Insurance Act of Malaysia. Several years later, and in line with the New Economic Policy, the Government of Malaysia encouraged the local people to increase their equity participation in the insurance industry. The objective of localisation has achieved some progress and many equity participations have taken place. At the end of 1986, 40 foreign branches had been restructured in 30 domestic companies (see Table 1).

Today we can see a much better development in the insurance industry in Malaysia. Most insurance companies have gained considerable experience in writing the various types of risks. Its growth is parallel to the development and expansion of finance, banking and other commercial sectors. By the end of 1986, 63 insurance companies were licensed to operate in Malaysia, of which 53 were incorporated in Malaysia, while 10 were branches of foreign companies. The type of insurance business transacted is: 4 companies transact life insurance, 45 general insurance and the balance both life and general insurance.

An Overview of the Insurance Industry

The performance of the Malaysian economy in 1985 was adversely affected by sluggish external demand and contraction of domestic demand. The reduced income, particularly of individuals and the corporate sector as well as the contraction of domestic economic activity or the GDP in real terms by 1 per cent due to the poor demand, affected the performance of the insurance industry.

With the reduced economic growth in

Table 1: List of Restructured Companies

-
1. Guardian Royal Exchange Assurance (M) Sdn Bhd.
 2. British American Insurance Co. (M) Sdn Bhd.
 3. Malaysia & Nippon Insurance Bhd.
 4. United Continental Insurance Sdn Bhd.
 5. Universal Life and General Insurance Sdn Bhd.
 6. The People's Insurance Company (M) Sdn Bhd.
 7. Royal Insurance (M) Sdn Bhd.
 8. Nanyang Insurance Co. (M) Bhd.
 9. United Oriental Assurance Sdn Bhd.
 10. Mayban-Phoenix Assurance Bhd.
 11. Norwich Winterthur Insurance (M) Sdn Bhd.
 12. Supremet Q.B.E. Insurance Bhd.
 13. N.E.M. Insurance (M) Sdn Bhd.
 14. Commercial Union Assurance (M) Sdn Bhd.
 15. Taisho Marine and Fire Insurance (M) Sdn Bhd.
 16. Industrial and Commercial Insurance (M) Sdn Bhd.
 17. Amanah South British Insurance Sdn Bhd.
 18. Tokio Marine and Fire Insurance (M) Sdn Bhd.
 19. Provincial Insurance (Malaysia) Sdn Bhd.
 20. General Accident Insurance (Malaysia) Sdn Bhd.
 21. Malayan Insurance (M) Sdn Bhd.
 22. Sun Alliance Insurance (Malaysia) Sdn Bhd.
 23. Perima Assurance Bhd.
 24. Union Insurance (Malaysia) Sendirian Bhd.
 25. MBF Insurance Sdn Bhd.
 26. Netherlands Insurance (Malaysia) Sdn Bhd.
 27. Public Assurance Malaysia Sdn Bhd.
 28. Prudential Assurance Sdn Bhd.
 29. Overseas Union Insurance (M) Sdn Bhd.
 30. Mercantile Insurance Sdn Bhd.
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Fig. 1: Crime Index (1980-1986)

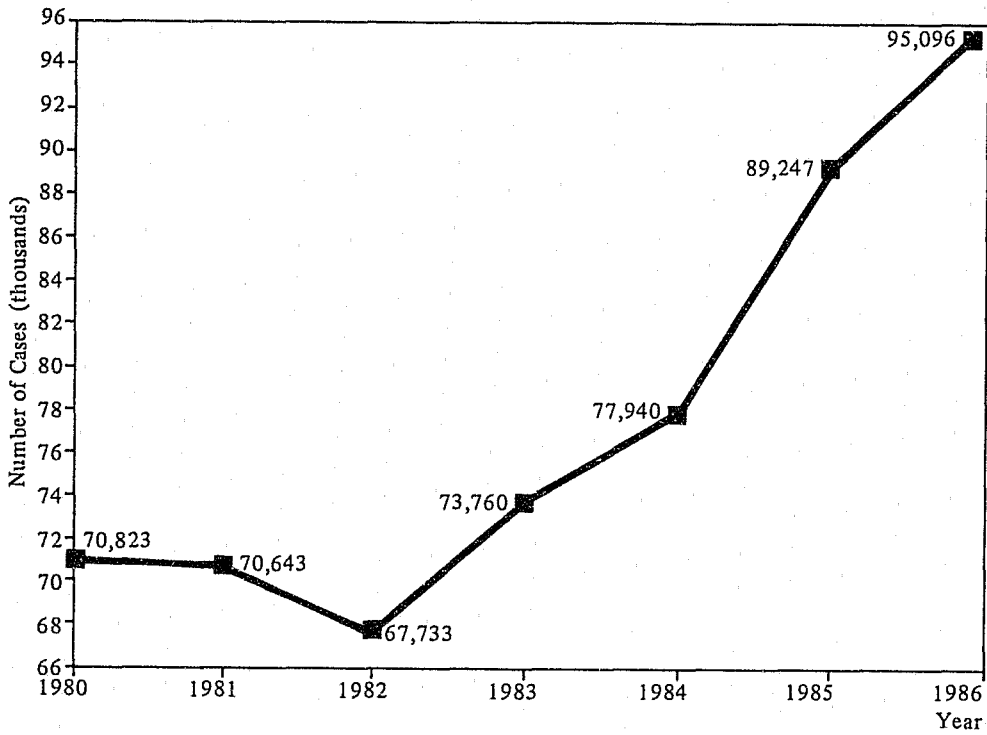


Table 2

	1980	1986
1. Robbery with firearms	489	1,078 (+12%)
2. Robbery without firearms	4,248	7,957 (+87%)
3. Housebreaking & theft (day & night)	19,668	25,545 (+29%)
4. Theft of motor vehicles	8,282	20,426 (+146.6%)
5. Other thefts	28,133	32,508 (+15.6%)

Table 3: Number of Accident Cases Reported between 1984-1986

Year	Total Number of Cases	Fatal Cases	Serious Injury	Minor Injury
1984	80,526	3,637	6,593	16,383
1985	82,059	3,607	6,876	14,662
1986	79,804	3,525	6,609	14,290

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1986, i.e., 70,823 cases were reported in 1980 compared with 95,096 cases which were reported in 1986. Table 2 shows five types of preventable cases which recorded increases.

62.5 per cent to 65.2 per cent over the same period. Correspondingly, there was a marked increase in the theft of motor vehicles from 1984 to 1986.

Theft

It will be observed from Table 2 that as far as the insurance industry is concerned, theft of motor vehicles is the most prevalent crime in this country. This is amply reflected in the claims ratio. In addition to theft of motor vehicles, the number of road accidents is also reflected in the percentage of the claims ratio (see Table 3).

The overall claims ratio on an incurred basis increased sharply from 52.7 per cent in 1984 to 58.4 per cent in 1985, compared with an average claims ratio of 53 per cent over the past 5 years. The claims ratio for 1985 was also the highest recorded in the past ten years (see Table 4). Motor insurance registered the highest claims ratio, both in respect of "Act" and "Others." The claims ratio for Motor "Act" cover deteriorated drastically from 94 per cent in 1984 to 104.8 per cent in 1985. The claims ratio for the Motor "Others" sector also deteriorated from

Year	Number of Cases
1984	13,924
1985	17,260
1986	20,426

Arson

The Fire sector registered a marginal improvement in its claims ratio from 39.4 per cent in 1984 to 39 per cent in 1985. The claims ratio of 39 per cent for this sector has remained high in 1985 compared with an average of 35 per cent over the past 5 years. By comparison with the other sectors, this sector recorded the lowest claims ratio for 1985. There were 5,124 cases of fire which were reported between 1984-1986.

Unlike the theft of motor vehicles, crime relating to arson cases is difficult to detect. In the absence of cogent evidence that the fire was premeditated, the insurance companies are hard put to reject claims.

Table 4: Claims Ratio* (in percent)

Year	Marine, Aviation or Transit	Fire	Motor		Miscellaneous	All Sectors
			"Act"	"Others"		
1976	65.8	36.4	115.9	57.6	37.3	56.5
1977	77.8	36.2	139.2	49.7	37.9	56.4
1978	59.9	25.0	95.1	54.0	33.6	47.3
1979	73.5	33.6	96.9	56.1	35.2	52.2
1980	65.3	38.6	88.3	60.3	33.0	52.0
1981	56.1	34.5	103.1	61.6	32.0	52.3
1982	56.4	31.1	88.2	66.1	30.7	50.4
1983	53.1	32.7	97.5	63.8	32.7	51.3
1984	45.0	39.4	94.0	62.5	36.9	52.7
1985	54.9	39.0	104.8	65.2	48.3	58.4

*Net claims incurred as ratio of earned premium income.

Motor Insurance Claims Fraud

Motor insurance claims fraud occurs in all three areas of claims, viz:

1. Owner damage claims;
2. Third party property damage claims;
3. Third party personal injury claims.

Property Damage Claims

Based on reports, it may be summarised that fraudulent property damage claims in the main occur by the claimant:

1. Making double or multiple claims by having double or multiple insurance cover for one vehicle.
2. Making double or repeated claims from the same insurer on the basis of one damaged vehicle.
3. Insuring vehicles which have been damaged or even classified as total-loss vehicles without the vehicles first being repaired.
4. Buying brand new cars and setting them in fake accidents purported to have been involved with old cars with the intent to make Owner Damage Claims as if the brand new car is at fault, while a Third Party Damage Claim is made on the old car.
5. Exaggerating the extent of damage in cases of genuine accidents.

Exaggerating the extent of damage in cases of genuine accidents has become a way with motor insurance. For the insured already inconvenienced by an accident, working-in the cost of replacements for wear-and-tear is a desired objective. Add to this the lure of avoiding the provisions of the "excess clause" and the vagaries of personally attending to his claim and the scenario is complete—the tow-truck operator/repairer assumes all responsibility for claims documentation, for negotiations with the insurer and the repairs to the damaged vehicle. Effecting exaggerated claims by either replacing undamaged parts or causing further damage is then a matter of course. Damaged vehicles are currently inspected after they are in the possession of repairers who will be making the repairs. The use of loss-adjusters in such a situation is of little value since by the threat of physical harm or by inducement of bribes the

repairer makes the loss-adjuster ineffective.

Theft of Vehicles

As can be seen from the figures in Table 2, motor vehicle thefts have shown a marked increase in recent years. The vehicles stolen are subject to one or more of the following:

1. Use in crime (thefts, robberies and smuggling, etc.). Such vehicles may be abandoned after commission of the crime and hence recovered.
2. Having their identification marks (chassis/engine numbers) changed before use with forged vehicle registration cards.
3. "Stripping" or "knocking down" for their spare-part value. The recent appreciation in the value of the Japanese yen and Deutschmark has meant a corresponding increase in the cost of spare parts for cars from Japan and Germany.
4. Smuggling out of the country, especially to Thailand and Indonesia.

Modus Operandi (M.O.) in Theft of Motor Vehicles

Listed hereunder are some of the common M.O. used in the commission of the above crime.

1. Screw-driver

A screw-driver is used to prize the front door lock. A duplicate key is made on the spot. The steering lock is immobilized. The engine is started with the help of the duplicate key or by cutting and joining the ignition wiring. This is common with cars having one key for all purposes (door, oil tank and boot).

2. Duplicate key

Car thieves have connexions with those working in car-selling firms or finance companies. Normally, these workers have duplicate keys made in respect of these cars.

3. Master key

Master keys are used to open the door and start the engine. If this fails, the engine is started by cutting and joining the ignition wiring.

4. Service station connexion

Duplicate keys are made by workers in service stations who are in league with car

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thieves. The same goes for some repair shop workers.

There has also been an increasing number of instances of vehicles being reported stolen so as to evade hire-purchase or loan repayments. There is an inevitable link between property damage claims and theft claims. Often the insurer is doubly cheated. The stolen vehicles are stripped for their parts and used when new parts have been approved in property damage claims.

Insurance company personnel and agents, unwittingly or otherwise, facilitate the motor vehicle theft and fraud in that:

1. Motor vehicle insurance is granted without any verification of the physical state or even actual existence of a motor vehicle.
2. Total-loss vehicles are disposed of to shady repairers and second-hand parts dealers.
3. Motor vehicle registration log-books are not surrendered to the Registrar of Motor Vehicles when total-loss vehicles are sold because these wrecks fetch a high price when sold along with the registration log-books.
4. Failing to provide the policy-holder with an itemised list of repairs and details as to the parts to be changed.
5. Post-repair inspections are seldom conducted to determine whether in fact the repairs were made.

Steps Adopted to Mitigate Loss

Various measures were adopted to combat fraud pertaining to property damage claims. They are:

1. Designated Car Pound

This scheme called for the towing to the car pound of all seriously damaged vehicles and those involved in personal injury and death claims. This scheme was introduced in Kuala Lumpur in 1976. However, the scheme was discontinued as the authorities were unable to obtain appropriate land to serve as a car pound and the lack of manpower.

2. Cover Note Scheme

The introduction of a new system of issuing cover notes in triplicate—one for

retention by the insured, and two others to be submitted to the Road Transport Department. One of the two submitted to the RTD was meant for the RTD to return to the insurer. These are collected by the General Insurance Association of Malaysia (GIAM) (a governing body of the insurance industry) or its representative offices, sorted out and are collected by the respective member companies.

This scheme has had some success in uncovering forged cover notes.

3. Authorised Repairers' Scheme

a) Effective 1st March 1983, GIAM introduced a scheme which required motorists to have their vehicles repaired only at authorised repairers. This was effected by requiring members to include an endorsement in the policies to the effect that the insured shall obtain the prior written approval of the company for the removal of the insured vehicle to the workshop approved by the company for repair. Failure to comply would be treated as a breach of the endorsement.

b) The Approved Repairers List was introduced in Kuala Lumpur City, the States of Selangor and Penang. The scheme, however, has bogged down, inter alia, for the following reasons:

i) The industry was unable to defend itself against the charges that the consumer was being inconvenienced, and, that the legitimate repairers were being kept off the list by their competitors who had connexions with some insurers.

ii) The scheme does not cover vehicles involved in third party claims, and,

iii) The industry itself was unable to accept the list approved by GIAM. Some insurers had their own list and refused to deal with others in the list.

iv) Photographers' scheme: In May 1983, GIAM introduced a Photographers' Scheme in the city of Kuala Lumpur designed to photograph all motor vehicles reported at the time the report is made. The scheme was costly and was subject to a number of limitations and it was terminated effective 1st

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April 1987. One of the reasons was due to the failure of some companies to pay for reports submitted and because some other companies considered the scheme of very limited value.

4. Police Actions

The campaign against theft of motor vehicles has, to a large extent, been placed onto the shoulders of the police. The success of police actions towards this end will greatly affect the insurance industry. The police actions taken in respect of thefts of motor vehicles are summarised below:

- 1) Nation-wide spot checks.
- 2) Planning committees on how to combat the menace.
- 3) Use of the media to educate the people on safety measures to be adopted. This is done through regional programmes.
- 4) Campaigns carried out in secondary schools on safety measures. Spot checks are also carried out.

Conclusion

The insurance industry in Malaysia, as has been emphasised in the preamble, is nascent. The general economic activities reflect the trend of this industry. As can be seen from Table 2 (*supra*), the divisions in the claims ratio indicate that the "Motor" sector predominates the scene. "Losses" incurred by the industry, besides being due to poor claims experience, are caused by thefts of motor vehicles.

The success rate in solving the theft of motor vehicles for the year 1986 is 16.2 per cent. This is far from satisfactory. It is observed that currently there is little co-ordination that exists between the interested parties pertaining to this problem. In order to be more successful in combatting this type of theft, it is envisaged that the relevant departments, viz. the Insurance, the Road Transport and the Police, should hold permanent forums to hatch out strategies at federal and state levels. In addition, car-manufacturing countries can help to abate theft of motor vehicles by having the engine and chassis numbers em-

bossed in a secret place, not as it is now, that is only known to the local distributors and the police, in time of need.

General Recommendations

In addition to the above, herein are some of the measures that the industry will have to urgently adopt in order to minimise losses and improve overall claims experience:

1. The establishment of a National Loss Prevention Association (NLPA) to be founded by the industry and with the participation of the public institutions (police, RTD, fire brigade, etc.) which addresses itself to reduction in the frequency and severity of losses by the nation.

2. The compilation of detailed claims statistics to enable a rational revision of tariffs and the adoption of loss prevention measures. The data collected must reflect a breakdown of the actual claims costs—repairs, replacements, processing and legal fees. Data also needs to be collected to reflect the areas of physical and moral hazards, e.g. in motor and fire insurance, to reflect the classes or categories of higher risks.

3. The revised fire tariff be implemented immediately. (The RFT meets the requirements of penalising the poorer physical hazards and compensating the better physical hazards.)

4. GIAM to undertake to review the motor tariff so as to induce loss prevention measures by the insured and to compensate the better physical and moral hazards.

5. Claims settling be undertaken by insurers and this function is not to be delegated to agents.

6. Settlement awards and judgement awards arising from claims be made payable to the public trustee so as to minimise unauthorised deductions by intermediaries.

7. A depot for damaged vehicles be established in principal urban centres to which damaged vehicles can be towed. Such depots will be manned by authorised staff/agencies. Total-loss vehicles and repairs can be tendered out to garages. This measure will reduce the extent of fraud

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related to repairs of damaged vehicles.

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Crimes Related to Insurance and Their Prevention and Control in Korea

by Seo, Yeong-Je*

Introduction

A. History of Insurance Business in Korea

A primitive form of a life insurance system may be said to have existed among the civilian population in Korea in the form of "Keh" and "Bo" since the days of Shilla Kingdom (BC. 57-AD. 935) and flourished throughout the succeeding kingdoms of Koryo (AD. 918-1392) and Chosun (AD. 1392-1910).

Keh and Bo were voluntarily organized on the basis of a village unit or an occupational unit, mainly for the purpose of promoting and fostering mutual amity, assistance and cooperation among the village folks and the people of the same occupation.

Modern insurance in Korea dates back to 1921, when the Chosun Life Insurance Company, the first local company, was organized for life insurance activity in this country.

In case of non-life insurance, the Oriental Fire & Marine Insurance Co., Ltd., established on October 1, 1922, is Korea's first non-life insurance company and a living witness of the nation's early market.

These companies, however, did not prosper because Japanese insurance companies dominated the Korean market until the end of World War II. (Korea was occupied by Japan from 1910 to 1945). Afterwards, four life insurance companies were founded in 1947 and five non-life insurance companies were founded until 1949.

Unfortunately, the industry again had to face many trials and hardships caused by the outbreak of the Korean War in 1950. Indeed the war was a catastrophic misfortune not only for the Korean economy as a whole, but also for the fledgling insurance industry. For example, all the important documents including account books, ledgers, policy certificates and premium receipts were either burnt or destroyed during the war, thus aggravating disorientation of the market.

Furthermore, the socio-economic disorder and sky-rocketing inflation under such circumstances caused a psychological factor hampering continuous development of the insurance industry in Korea. However, in 1953, when the Military Armistice Agreement took effect, the insurance industry was able to make a break-through in rebuilding its structure, thereby accelerating both the reopening of the existing companies and the emergence of new ones.

Entering the decade of the 1960s, the insurance industry marked a turning point in its development, that is, a series of mergers and takeovers among existing insurance companies took place.

In 1962, a year after the May 16th Revolution, the government enacted The Insurance Business Law and National Saving Association Act, which incorporated insurance companies as an integral part of the Association. These two laws opened for the insurance companies new avenues for expanding business activities and opportunities for rapid growth, especially in the group insurance field.

The insurance industry in Korea was able to make a successful take-off, as it were, during the period of the 1960s owing to a series of ambitious Five Year Economic Development Plans being launched. In the 1970s, the insurance industry began to

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undertake the task of managerial rationalization and, at the same time, renewed its efforts to present a fresh image to the general public.

The insurance industry then constructed its firm foundations and assumed a great role in stabilizing the people's ordinary life, and also in industrial capital formation in order to promote key industries in Korea with the government's positive support. The Ministry of Finance designated 1977 as a "Year of Insurance" and launched a program to develop and modernize the insurance industry.

In 1977, the income tax deduction system adopted by the Government to the life insurance premiums paid made a great contribution to the development of the life insurance industry in Korea.

Since the beginning of the 1980's the status of insurance in the national economy has largely improved as the sustained high growth of the Korean economy rapidly increased the use of insurance for people's financial and life planning in general.¹

Since 1970, any new establishment of an insurance company has not been permitted. Now, there are 6 life insurance companies and 13 non-life insurance companies as given in the following tables.

The rapidly expanding Korea life insurance market is attracting alien underwriters.

But at present, the life insurance industry is on the "negative list," in which foreign equity investments are absolutely prohibited. Korea allows U.S. life insurance firms to open only branch offices here. As of today, two U.S. life insurance firms—Life Insurance Co. of North America (LINA) and American Life Insurance Co. (ALICO)—operate underwriting businesses here through their branches.

However, U.S. life insurance companies will likely be given permission to establish joint ventures with Korean businesses here next year.

Ministry of Finance officials said recently that the government, in principal, has decided to allow U.S. underwriters to set up joint life insurance ventures with Korean partners, and will revise the enforcement decree of the Foreign Capital

Inducement Act.

The business area of joint life insurance firms will be restricted at first, but the restrictions will eventually be abolished, allowing them to operate here as Korean underwriters do. The timing of authorization and other detailed guidelines are under study, the officials said.

The government decision follows the U.S. movement decision that it will impose retaliatory tariffs on Korean products in violation of Section 301 of the Trade Act if Korea continues to close its insurance industry to U.S. underwriters.

In the non-life insurance sector, the situation is different. Korea allows foreign non-life insurance companies to have equity participation in Korean non-life insurance companies.

In the non-life insurance sector, three foreign firms have equity shares in Korean firms. Royal Insurance Co. of Britain has a 20 percent stake in Oriental Fire & Marine Insurance Co., Tokyo Marine Insurance Co. of Japan holds 15 percent of Koryo Fire & Marine Insurance Co. and Continental Insurance Co. of the United States has 15 percent of the total equity of First Fire & Marine Insurance Co.⁴

B. Outlines of Insurance Business in 1986

1. General Economic Trends

The world economy was expected to achieve a high growth rate in 1986 due to the three so-called "low" effects of the reduction in oil prices, the weakening U.S. dollar and the lowering of international interest rates; but could not exceed the low growth rate of the previous year as the economy of the advanced countries that lead the world economy remained stagnant.

On the other hand, our Korean economy scored the highest growth rate of 12.5% in real terms since last 1976 when the economic growth rate reached up to 14.1% as our country's gross national product amounted to 83 trillion and 833 billion won (US\$95,112 billion) with the active investment on fixed capital goods and increase in export demand from the

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Table 1: Life Insurance Companies

Name	Established	Assets (million won)
Dae Han Life Insurance Co., Ltd.	Sep. 9, 1946	1,066,597
Hung Kuk Life Insurance Co., Ltd.	Jan. 20, 1950	586,216
Je Il Life Insurance Co., Ltd.	Dec. 21, 1954	639,192
Dong Bang Life Insurance Co., Ltd.	Apr. 17, 1957	3,403,564
Dae Han Kyo Yuk Insurance Co., Ltd.	Jun. 30, 1958	2,918,236
Dong Ah Life Insurance Co., Ltd.	Nov. 26, 1958	518,775

Table 2: Non-Life Insurance Companies

Name	Established	Assets (million won)
The Oriental Fire & Marine Insurance Co., Ltd.	Oct. 1, 1922	107,135
The Shindongah Fire & Marine Insurance Co., Ltd.	Apr. 1, 1946	73,824
Daehan Fire & Marine Insurance Co., Ltd.	May 20, 1946	81,315
International Fire & Marine Insurance Co., Ltd.	Feb. 1, 1947	102,058
The Koryo Fire & Marine Insurance Co., Ltd.	Mar. 2, 1948	73,039
First Fire & Marine Insurance Co., Ltd.	Mar. 22, 1949	77,321
Haedong Fire & Marine Insurance Co., Ltd.	Aug. 25, 1953	51,992
Ankuk Fire & Marine Insurance Co., Ltd.	Jan. 1, 1952	184,702
Hyundai Marine & Fire Insurance Co., Ltd.	Mar. 5, 1955	158,882
Pan Korea Insurance Co., Ltd.	Jan. 27, 1959	154,370
Korean Reinsurance Company	Apr. 1, 1963	225,295
Korea Automobile, Fire & Marine Insurance Co., Ltd.	Nov. 1, 1968	124,119
Korea Fidelity & Surety Company	Feb. 19, 1969	144,512

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overseas occurring in spite of the world-wide economic slowdowns.

The total investment ratio to G.N.P. was 30.2% while the national savings ratio increased to 32.8% from the previous year's 28.6% with increasing corporate savings from the improved trade surplus. Thus the national savings rate surpassed the investment rate by 2.6%, making it possible to fund investments by domestic savings.

Total money supply by the end of 1986 amounted to 33 trillion and 833 billion won (US\$39.3 billion), realizing a stable money supply during the year and an increase of 18.4% over the previous year. The consumer price index increased only 2.3%, recording a single digit increase every year since 1982.

In conclusion, our Korean economy consolidated the basis for a stable economic growth during the year with the achievement of US\$4.6 billion surplus in current balance not only by fully utilizing the benefits of the aforementioned three "low" effects but also by boosting the investment on fixed capital goods to strengthen the mining and manufacturing industries. As a result of these efforts, per capita G.N.P.

rose to US\$2,296, an increase of as much as US\$249 over the previous year.⁵

2. Life Insurance Business

The life insurance industry in Korea achieved a continuous stable growth during the fiscal year 1986 owing to the high growth in the domestic economy. Of special note, the U.S. pressured the Korean government to open the insurance market in 1985, and thus the Lina-Korea branch office of the U.S. Life insurer obtained an operational business license on April 23, 1987. Our insurance market passed a busy year establishing the countermeasures for the coming of the internationalization era during the fiscal year 1986.

As part of the measures taken, the Life Insurance Association made the Intermediate Course Examination take root among the life insurers in order to promote their solicitors' professionalism, and the asset operation guide-lines were revised to improve the efficiency and profitability of the asset operations. In addition, by revising the life insurance reinsurance transaction regulations, our government would abolish the restrictions on reinsurance

Table 3: Policies in Force

Year	Number (thousands)	Total Amount (bil. won)	Average Amount (thou. won)	Amount per Capita (thou. won)	Increase over Prev. Year (%)
76	4,601	1,432	311	33.9	27.2
77	5,210	2,489	478	68.4	73.9
78	6,282	4,387	698	118.7	76.2
79	6,986	6,342	908	169.0	44.6
80	7,549	11,378	1,507	304.1	79.4
81	8,570	19,881	2,316	513.4	74.7
82	10,610	46,047	4,340	1,170.8	102.4
83	10,306	47,290	4,589	1,183.7	2.7
84	10,638	55,673	5,233	1,372.0	17.7
85	11,798	79,644	6,751	1,939.9	43.1
86	12,902	113,767	8,818	2,736.8	42.8

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ceding activities from the year 1990 in order to provide for the internationalization of our domestic insurance industry. Thus our Korean life insurance industry reinforced self-reliance and self-development capabilities through free and fair competition in the market.

Coping with the hardships in rapidly changing insurance environments and improving the policyholder services and products, our life insurance industry pursued a continuous growth in the integrated marketing systems.

As a result of these efforts, our life insurance industry achieved 97 trillion and 958.9 billion won (US\$115.6 billion) of new business, 113 trillion and 767.5 billion won (US\$134.3 billion) of policies in force, 5 trillion and 555.9 billion won (US\$6.6 billion) of premium income, and 9 trillion and 132.6 billion won (US\$10.78 billion) of total assets by the end of the fiscal year 1986 that ended on March 31, 1987.⁶

1) Business in force

As of the end of the fiscal year 1986 the total life insurance policies in force by the six companies reached 113,767.5 bil-

lion won or 1,290 thousand policies, a growth, respectively, of 42.8% or more than 34,123 billion won in amount and 9.4% or 1,104 thousand policies in the number of contracts, as compared with the previous year.

The ownership of the total number of policies in force stood at 30.8% of the entire population, if each policyholder owned only one policy.⁷

2) New business

The total value of new business transactions written during the fiscal year 1986 by the six domestic insurance companies amounted to 97,958.9 billion won, indicating an increase of 28,829.9 billion won compared with the fiscal year 1985. Moreover, the number of new policies contracted stood at around 7,132 thousand indicating an increase of 11.6% from about 6,389 thousand in the fiscal year 1985. However, an average amount per policy reached 13,735 thousand won, indicating an increase of 27.0% from about 10,819 thousand won in the previous year.

Of the new life insurance business deals concluded, when classified on the basis of individual and group insurance, the

Table 4: Policies in Force by Type

(in billion Won)					
Year	Pure Endowment	Against Death	Endowment	Group	Total
77	599	630	823	437	2,489
78	1,122	871	1,755	638	4,386
79	1,467	1,860	1,824	1,191	6,342
80	2,229	3,243	4,276	1,630	11,378
81	2,945	6,282	8,163	2,491	19,881
82	12,481	16,144	13,086	4,366	46,047
83	12,749	15,886	13,072	5,583	47,290
84	13,664	19,645	15,397	6,967	55,673
85	18,362	30,210	23,937	7,134	79,644
86	28,141	41,054	36,786	7,786	113,767

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purchases of individual insurance totaled 93,109 billion won or 5,110 thousand policies, showing an average amount of 18,221 thousand won per policy.

The individual insurance market, as is well known, consists of pure endowment (including short-term saving plans and juvenile insurance), death insurance and endowment insurance policy. The share of pure endowment is 25.3%, and 34.6% for the endowment of the whole individual insurance market in the fiscal year 1986.

The total value of death insurance policies sold marked 37,262 billion won showing an increase of 32.5 percent but the number of death insurance policies sold marked 1,639 thousand policies, showing an increase of 31.4 percent compared with the previous year.

However, from around 1970, a multi-

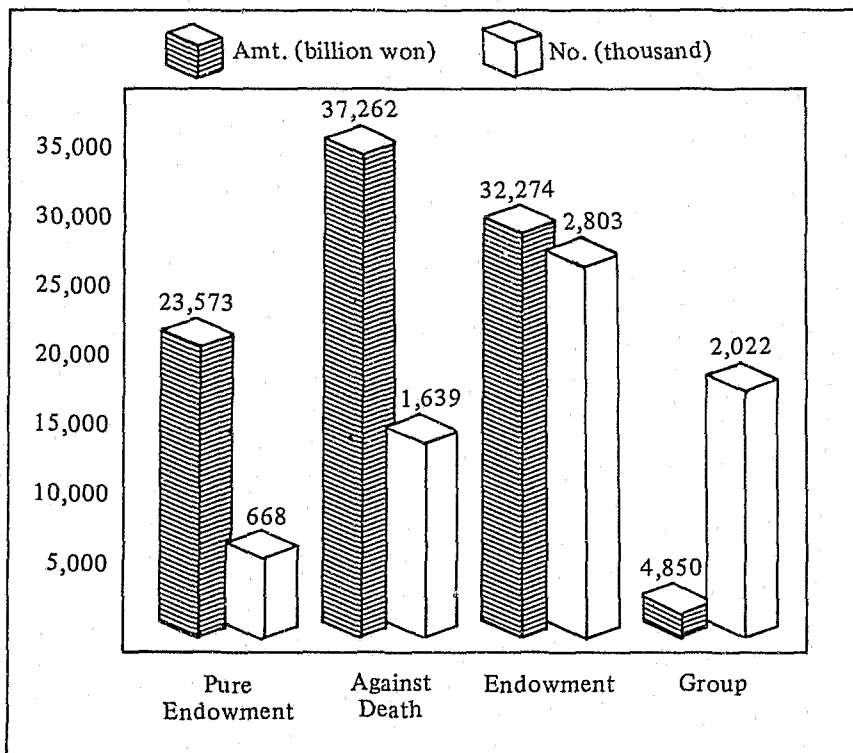
ple protection policy was put on sale and gained popularity as the demand for death insurance among consumers has been growing rapidly.

In the fiscal year 1986, the number of group insurance policies sold marked a rapid decrease over the previous year in contrast to the rapid increase in the fiscal year 1985. The purchases of group insurance reached 4,850 billion won with 2,022 thousand policies showing a decrease of 2.7 percent in amount and a decrease of 6.2 percent in number from the previous fiscal year. The average amount of new business for group insurance was 2,398 thousand won per policy, an increase of 85 thousand won over the previous year.⁸

3) Income and expenditure

The total incomes of the six life insurance firms during the fiscal year 1986 a-

Fig. 1: New Business by Policy



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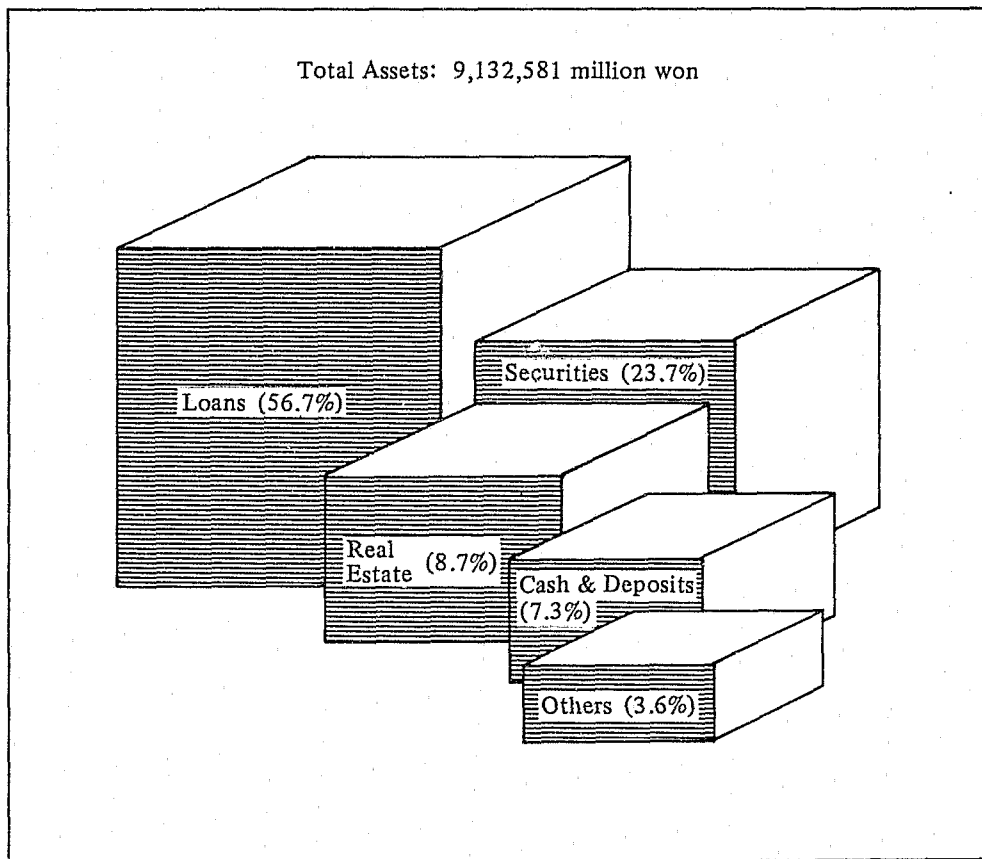
mounted to 6,525.3 billion won, showing an increase of 1,841.4 billion won or 39.3% more than the previous year's 4,683.9 billion won. Of the total incomes, the total premium income accounted for 5,555.9 billion won or 85.1%, showing the same increase rate as that of the previous year, whereas the total investment income accounted for 950.7 billion won, an increase of 263.7 billion won over and above the previous year's 687.0 billion won, the rate of return on assets being 12.6% in 1986, a slight improvement over the previous year's 11.9%.

The total expenditure during the fiscal year 1986, including 2,279.5 billion won newly added to the reserve liability, was

6,523.8 billion won, an increase of 39.3 percent compared with the previous year. Of the total expenditure, the payments to policyholders amounted to 3,457.9 billion won including 1,949.1 billion won for lapses and surrenders, which represented an increase of 38.9% from 2,490 billion won of the previous year.

The balance between the total incomes and the total expenditure showed an excess of 2,281.0 billion won. However, the net result was a surplus of 1.5 billion won when the excess was balanced against the sum of 2,279.5 billion won representing new additions to the policy reserve fund.⁹

Fig. 2: Distribution of Assets¹¹



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4) Assets

The total assets of the six life insurance companies reached 9,132.6 billion won at the end of the fiscal year 1986, indicating an increase of 2,211.0 billion won or 31.9% over the previous year. In the distribution of the assets, the loans amounted to 5,173.3 billion won and occupied 56.6%, securities 2,166.3 billion won and 23.7%, and real estate 793.3 billion won and 8.7%. Securities, in particular, increased by 859.4 billion won from the previous year's 1,306.9 billion won, due almost exclusively to a 129.3% rise in stocks.¹⁰

3. Non-Life Insurance Business

Owing to these favorable economic trends, the increase of investment income

and improvement of loss ratio, our non-life insurance industry's performance was satisfactory during fiscal year 1986.

1) Premium income

The total premium volume increased by 17.6 percent to 1,195,345 million won during the fiscal year 1986 ending in March 1987.

Regarding the annual growth rate of 1986, the highest rate was marked by long-term premium income with 27.6 percent. The second highest annual growth was registered by the automobile category's 23.7 percent. This growth ratio was brought about due to the increased number of motor vehicles and the rise in auto insurance rates. The third was the bonds category with 20.1 percent, followed by the fire, marine and casualty categories.

Table 5: Share of Premium Income by Lines and Years

(in percent)						
Years	Fire	Marine	Automobile	Bonds	Casualty	Long-term
1985	9.4	16.4	45.1	4.6	12.6	11.9
1986	9.0	14.7	47.4	4.7	11.2	13.0

Table 6: Premium Income

(in million Won, %)						
Classification	Result of 1985		Result of 1986		Comparison	
	Amount (A)	Component Ratio	Amount (B)	Component Ratio	Increased Amount (B - A) - C	Increased Ratio C/A
Fire	95,483	9.4	107,266	9.0	11,783	12.3
Marine	166,623	16.4	176,198	14.7	9,575	5.7
Auto	458,547	45.1	566,998	47.4	108,451	23.7
Bonds	46,878	4.6	56,299	4.7	9,421	20.1
Casualty	127,899	12.6	133,038	11.2	6,038	4.7
Long-term	121,178	11.9	154,647	13.0	33,469	27.6
Total	1,016,608	100.0	1,195,345	100.0	178,737	17.6

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The market share of direct premiums written in 1986 was as follows: The biggest share was recorded by the automobile category with 47.4 percent which is an increase of 2.3 percentage points over its share of 1985. Marine insurance took the second position, but its share decreased by 1.7 percentage points against the value of fiscal year 1985, recording 14.7 percent. The third was long-term savings insurance with 13.0 percent, up 1.1 percentage points in comparison with the ratio of 1985. Casualty and fire recorded 11.2 percent and 9.0 percent, respectively.¹²

2) Claims paid

In fiscal year 1986 the claims paid totalled 680,951 million won, which corresponds to a 12.5 percent increase in comparison with 605,090 million won paid in 1985. While the amount of claims paid in the marine and automobile categories increased by 79.0 percent and 13.2 percent respectively, that of fire insurance sharply decreased by 50.4 percent from 37,704 million won to 18,717 million won.¹³

The overall loss ratio of the non-life in-

surance lines during 1986 was 57.0 percent which is a slight betterment (a 2.5 percentage point decrease) over the loss ratio marked in 1985.

The highest loss ratio among the lines in 1986 was 70.6 percent by automobile insurance, which is a 6.3 percentage point improvement against the value of fiscal year 1985. Marine insurance marked the second highest loss ratio of 63.7 percent. This is a 26.4 percentage point worsening against the previous year's value. Third was casualty insurance with 50.9 percent, followed by bonds insurance (42.9 percent), fire (17.4 percent) and long-term (7.9 percent).

3) Assets

Total assets reached 1,483,723 million won as of March 31, 1987, which is a 20.0 percent increase during the year.

Total invested assets were 1,021,146 million won which are 68.8 percent of the total assets. The invested assets are analysed as follows:

Owing to the brisk stock market, securities' values were sharply increased by

Table 7: Claims Paid

Classification	(in million Won, %)					
	Result of 1985		Result of 1986		Comparison	
	Amount (A)	Loss Ratio*	Amount (B)	Loss Ratio*	Increased Amount (B - A) - C	In- creased Ratio C/A
Fire	37,704	39.0	18,717	17.4	18,987	50.4
Marine	62,721	37.3	112,252	63.7	49,531	79.0
Auto	353,659	76.9	400,188	70.6	46,529	13.2
Bonds	65,874	139.4 (59.7)	69,369	123.2 (42.9)	3,495	5.3
Casualty	72,191	58.7	68,187	50.9	4,004	5.5
Long-term	12,941	10.7	12,238	7.9	703	5.4
Total	605,090	59.5	680,951	57.0	75,861	12.5

*Loss ratio after the recovery.

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52.1 percent from 264,007 million won to 401,559 million won during one year. The share of securities also increased by 5.6 percentage points.

The share of loans was 9.8 percent with 145,490 million won, which is an increase of 42.7 percent in comparison with 83,310 million won as of March 31, 1986.

Investments in real estate reached 178,968 million won with a share of 12.1 percent of the total assets, an increase of 28.9 percent as compared with 138,876 million won at the end of March, 1986.

As for cash and deposits values, the amount decreased from 318,510 million won to 295,129 million won during the year.

The other assets increased 462,577 million won, which corresponds to a 7.3 percent increase against the value of the previous year.¹⁴

4. World Ranking¹⁵

If premiums are any guide, Korea was

the 11th largest insurance market in the world in 1985.

Sigma, a monthly magazine published by Swiss Re., a leading reinsurance company in Switzerland, said in its May issue that the premiums collected by Korea's 13 non-life and six life insurance companies amounted to U.S.\$5,621 million in 1985, up 23.4 percent from 1984.

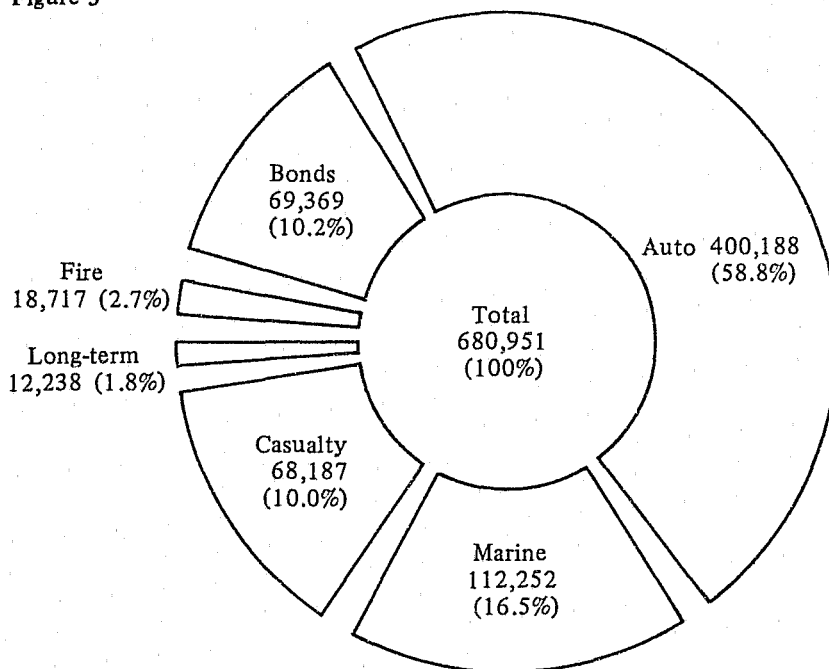
The figure accounts for 0.89 percent of the world insurance market, estimated at U.S.\$630.5 billion, up 12 percent from U.S.\$498 billion in 1984.

The U.S.\$630.5 billion breaks down to U.S.\$286.5 billion in life insurance and U.S.\$344 billion in non-life insurance markets.

In the life insurance sector, the Korean underwriting industry placed seventh with U.S.\$4,479 million in premiums, or 1.56 percent of the world market. The Korean life insurance industry was also seventh in 1984 with premium income amounting to U.S.\$3,728 million.

The nation's non-life insurance sector,

Figure 3



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Table 8: Assets

Classification	March 31, 1986		March 31, 1987		Comparison	
	Amount	Component Ratio	Amount	Component Ratio	Amount	Increased Ratio
SECURITIES	264,007	21.4	401,559	27.0	137,552	52.1
National Investment Fund	81,689	6.6	53,065	3.6	28,624	35.0
Other Government Bonds	20,411	1.7	90,211	6.0	69,800	342.0
Corporation Bonds	34,717	2.8	50,987	3.4	16,270	46.9
Listed Stocks	117,588	9.5	198,425	13.4	80,837	68.7
Unlisted Stocks	9,602	0.8	8,871	0.6	731	7.6
LOANS	83,310	6.7	145,490	9.8	62,180	42.7
Loans for Medium Industries	30,587	2.5	64,879	4.4	34,292	112.1
Loans for Commons	33,768	2.7	43,475	2.9	9,707	28.7
Others	18,955	1.5	37,136	2.5	18,181	95.9
REAL ESTATE	138,876	11.2	178,968	12.1	40,092	28.9
For Own Business	135,798	11.0	175,634	11.8	39,836	29.3
Others	3,078	0.2	3,334	0.3	256	8.3
CASH & DEPOSITS	318,510	25.8	295,129	19.9	23,381	7.3
TOTAL INVESTED ASSETS (A)	804,703	65.1	1,021,146	68.8	216,443	26.9
OTHER ASSETS (B)	431,264	34.9	462,577	31.2	31,313	7.3
(Insurance Balance Receivable)	270,700	21.9	263,251	17.7	7,449	2.8
TOTAL ASSETS (A B)	1,235,967	100.0	1,483,723	100.0	247,756	20.0

however, dropped from 17th in 1984 to 19th in 1985 with premiums amounting to U.S.\$1,142 million, accounting for 0.33 percent of the world market.

In terms of ratio of premium-to-G.N.P. (gross national product), Korea was seventh with 6.92 percent, similar to 6.94 percent for Japan and 7.52 percent for the United States.

In terms of per-capita insurance premiums, however, Korea placed 22nd with U.S.\$136.4—U.S.\$27.7 in non-life insurance premiums and U.S.\$108.7 in life insurance premiums.

The magazine said Korea is typical with the biggest gap between its life and non-life insurance sectors. In 1985, the life insurance industry accounted for 81.5 percent of the Korean underwriting industry, up 1.8 percentage points from 79.7 percent in 1984, while the share of non-life insurance sector dropped from 20.3 percent to 18.5 percent.

The world average was 45.4 percent for life and 54.6 percent for non-life insurance sector in 1985.

Regulation of Insurance Company

A. The need for Supervision

The business of insurance, like other public utilities, has a strong effect on the public interest. Therefore, the broad underlying reason for government supervision of insurance is to protect the public from incompetent and unfair operations of insurers, so that insurance today is, in almost every country, under a complicated network of governmental supervision. First of all, the insurance business is technical and mysterious to the general public. It is a contract in which the insurance company promises to make specified payments under certain conditions when or if certain events concerning the insured occur in the future, such as death, disability, fire, marine or automobile accident, etc. The contract may be for a certain period of time and the risks covered by the policy may never materialize. For example, in the case of life insurance, they may not materi-

alize for 60 or 70 years. Consequently, the real cost of an insurance policy is never definitely known until the contract expires and all claims have been paid.

A second reason for the supervision of the insurance industry is the fact that its large size and scope is closely connected with our economic life. Any industry as large and important as insurance is generally considered a fit subject for government supervision, especially when large amounts of people's money are involved. When an industry is entrusted with such huge sums of money, government supervision is inevitable, because the industry must have a close relationship with the development of our economic life.

A third and most important reason is to prevent destructive competition. In other words, uncontrolled competition in the insurance business would be destructive and inevitably work against the public interest. Some people may consider competition necessary and even desirable to keep business dynamic and vibrant. However, uncontrolled competition could bring on rate wars, and force rates below safe price standards, that is, the financial structure of the companies would be weakened, and finally all claims cannot be paid.

Thus, to a certain extent, government control and supervision of the industry is unavoidable to maintain solvency of the companies and also to protect the interest of policyholders, beneficiaries in life insurance, and of such innocent third parties as the injured in liability insurance.¹⁶

B. The Insurance Business Act

For the aforementioned purpose, that is, in order to efficiently guide and supervise insurance business to protect the rights and interests of the persons effecting insurance, the insured and other persons concerned, and thus to contribute to the sound development of insurance business and the balanced growth of the national economy, the Insurance Business Act was enacted in 1962. This Act was amended wholly in 1977 and partially in 1980. The administrative authority prepares and enforces

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regulations within the scope of the 1980 Act, and exercises substantial supervision.

1. Permission for Conducting Insurance Business

No one shall operate an insurance business without obtaining permission from the Minister of Finance (Article 5 of the 1980 Act). The party who is eligible to obtain permission shall be limited to those representing stock companies, mutual companies or foreign insurers. Actually there does not exist a mutual company which obtained permission in Korea.

The supervision and control of the insurance business, in fact, is exercised chiefly through the government's licensing power, an effective weapon of control.

The government licensing power, to my knowledge, involves two ways of control; that is, qualitative control and quantitative control. Control of the existing companies with emphasis on the maintenance of financial solvency may be defined as qualitative control, and in contrast, control through licensing of new companies may be defined as quantitative control. It is true that, in general, there is no provision in the 1980 Act which prescribes the specific number of companies under certain conditions. However, considering that government has the power not to issue licenses, if, in its opinion, such issuance would bring ruinous competition and jeopardize the public interest, quantitative control could also be effectively exercised together with qualitative control. In other words, quantitative control is a part of administrative discretion.

2. Capital or Foundation Funds

1) No insurance business shall be commenced unless its paid-in capital or foundation fund is more than 300 million won in the case of a non-life insurance business, and 200 million won in case of a life insurance business.¹⁷

2) In the case of foreign insurers, a deposit fund shall be instated as follows.¹⁸

A foreign insurer desiring to conduct insurance business for Korean nationals

and foreigners in the Republic of Korea; more than 500 million won;

A foreign insurer desiring to conduct insurance business mainly for foreigners in the Republic of Korea; more than 100 million won; and

A foreign insurer desiring to mainly solicit insurance for foreigners as its main business in the Republic of Korea; more than 20 million won.

3) When the Minister of Finance deems it necessary in consideration of business scale, financial status and market conditions, etc., he may order the insurer to increase its capital or foundation fund or may restrict its increase. (Article 6)

3. Maintaining Solvency Margins

1) The concept of the solvency margin has been central to insurance company supervision in Korea. Therefore an insurer should appropriate a liability reserve and a contingency reserve, in accordance with the type of his insurance contract, at the close of each accounting period, and should make separate entries thereof in a separate set of books. By this means, it is hoped, insurers will never approach actual insolvency. (Article 98 of the 1980 Act.)

2) In addition to that, a foreign insurer should hold assets in Korea equivalent to the liability reserve and contingency reserve set aside in accordance with the provisions of Article 98 together with business funds, with respect to the insurance contracts concluded in Korea. (Article 83 of the 1980 Act.)

3) A joint stock company as an insurer shall not make distribution of profits until after the whole amount of expenses for incorporation and business expenses for the first five business years have been cleared off.

4. Non-Insurance Activities

1) An insurer shall indicate, in its name or denomination, the kind of principal insurance business it carries on. (Article 8 of the 1980 Act.)

2) The insurer should not operate any business other than insurance except for the business of acting for or intermediating

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the transactions of insurance business on behalf of another insurer and business incidental to the respective insurance business if approved from the Minister of Finance. (Article 9 of the 1980 Act.) In short, insurers cannot carry on activities other than in connection with or for the purposes of their insurance business.

5. Concurrent Operation of Life and Non-Life Business

No insurer shall operate life and non-life insurance businesses concurrently; however, an insurance business falling under personal accident insurance and reinsurance business of life insurance shall be exempt. (Article 10 of the 1980 Act.)

6. Additional Jobs by Officers

Any director, auditor or representative attending to regular business of an insurance company shall not be a regular officer or employee of another company unless he obtains approval from the Minister of Finance. (Article 11 of the 1980 Act.)

7. Cancellation of Permission, etc.

The Minister of Finance may, in case an insurer violates laws or regulations, or orders and disposals under this Act, or commits an act injurious to the public interests, have the insurer dismiss its director, auditor or representative, or take other necessary measures, or may order the suspension of the whole or part of its business or may cancel the permission of insurance business.

When the Minister of Finance orders suspension of the whole or part of the business, or cancels the permission of the business, deliberation of Insurance Council shall be required. (Article 20 of the 1980 Act.)

The Insurance Council was set up in the Ministry of Finance for the purpose of deliberating on matters described in this Act and providing advice and suggestion as requested by the Minister of Finance.

8. Reports, Accounts and Actuarial Investigations

More detailed accounts are required of insurance companies than of limited com-

panies generally.

In this vein, the Minister of Finance may at any time require an insurer to make a report or to submit materials on its business. (Article 14 of the 1980 Act.)

An insurer shall close its books each year on the day of March 31, and submit financial statements and business operation reports to the Minister of Finance. (Article 93 of the 1980 Act.)

An insurer shall employ an actuary and have him control business concerning insurance or appoint an actuary separately and entrust him with the business concerned. (Article 202 of the 1980 Act.)

An actuary shall confirm whether the calculation of liability reserve, other reserves concerning the insurance contracts, premiums and loans made by the insurance contracts, out of the matters included in the documents to be submitted to the Minister of Finance by an insurer in accordance with this Act, is correct. (Article 203 of 1980 Act.)

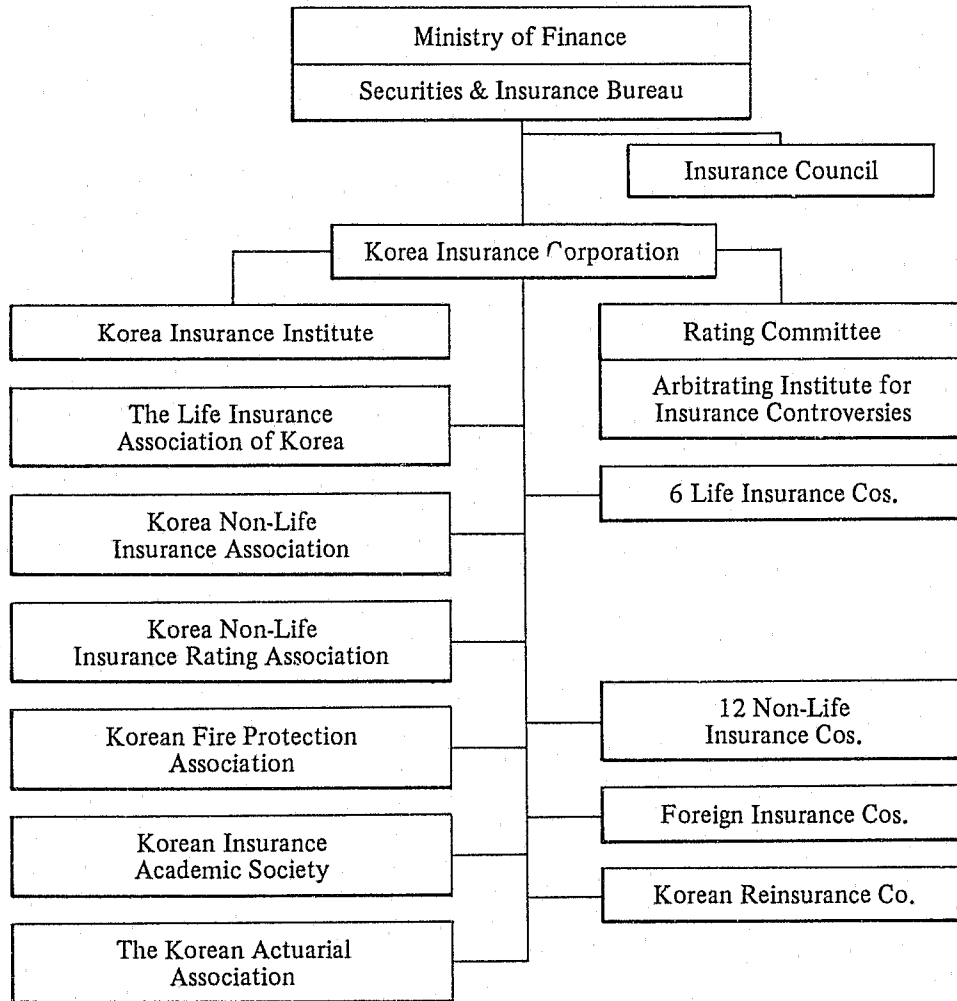
A non-life insurer shall employ an adjuster and give him charge of assessment of the loss and claim paid due to the claim or appoint an adjuster separately and entrust him with the business concerned. (Article 204 of the 1980 Act.)

The Minister of Finance may, when he deems that an actuary or an adjuster was negligent in performing his duties or did an improper act in performing his duties, order suspension of the business operation for a certain period or may order him to be dismissed. (Article 207 of the 1980 Act.)

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C. Insurance Supervision System

1. Institutional Structure¹⁹



2. Authorities and Advisory Organization²⁰

1) Ministry of Finance

The Ministry of Finance is, as aforementioned, the top supervisory authority for the insurance industry in Korea whose main functions are as follows:

- Establishing insurance guidelines and enforcing government policy;
- Licensing domestic and foreign insurers;

- Supervision of investment of insurance company funds and monitoring of reserves;
- Recommendation and supervision of mergers and liquidation of insurance companies.

2) Insurance Council

The Insurance Council was set up in 1971 as an *ad hoc* organization in the Ministry of Finance for the purpose of considering

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matters described in the Insurance Business Act and providing advice and suggestions as requested by the Minister of Finance.

The Insurance Council consists of not more than 15 members from relevant officials, the president of the Korea Insurance Corporation and persons of learning and of experience in insurance who are appointed by the Minister of Finance.

3) Korea Insurance Corporation

The Korea Insurance Corporation was incorporated as a special legal entity without capital requirement in 1978, for the purpose of guiding and fostering the insurance market and also operating specific direct and reinsurance business.

The Korea Insurance Corporation fulfills the following functions:

- Inspection of the insurers and any other person who is subject to inspection by the Korea Insurance Corporation under the Insurance Business Law;
- Deliberation and approval of fundamental documents;
- Operation of direct insurance and reinsurance business where designated by the Minister of Finance, which, however, was suspended as of July 1, 1984;
- Research, statistics and publications;
- Negotiations with international insurance organizations;
- Approval of insurance agents and their system of management;
- Supervision of insurance claim adjusters and actuaries;
- Approval of claim adjusting companies or corporations.

3. Insurance Organizations²¹

1) Rating Committee

The Committee was set up in the Korea Insurance Corporation and is composed of not more than 11 members for life and non-life insurance companies respectively.

Its function is to deliberate and approve the general method of insurance business of the insurer as well as insurance clauses, rates and calculation of reserves, prior to the approval by the Minister of Finance.

2) Arbitrating Institute for Insurance Controversies

The Institute was set up in the Korea Insurance Corporation and is composed of not more than 11 members for life and non-life respectively.

Its function is to arbitrate controversies on insurance contract, assessment and payment of claims arising between the insurers and the insureds or other persons interested.

3) The Life Insurance Association of Korea

The Association was set up in 1958 and is composed of the six domestic life insurance companies.

Its function is to work on planning and research in the life insurance field, together with registration and administration of life insurance solicitors.

4) Korea Non-Life Insurance Association

The Association was set up in 1946, was reorganized in 1949 and is composed of the 13 domestic non-life insurance companies and two foreign companies as associate members.

5) Korea Non-Life Insurance Rating Association

The Association was newly set up in 1983 and is composed of the 12 domestic non-life insurance companies except for the Korean Reinsurance Company.

Its function is, as a professional rating organization, to supplement institutional inertia and to give a concrete foundation to the rating of risks.

6) Korean Insurance Academic Society

The society was established in 1964 and reorganized in 1971.

Its function is to promote the progress of insurance knowledge and expertise through studying the theory and practice of insurance and to have links with foreign insurance academic societies and publishers.

7) The Korean Actuarial Association

The Association was established in 1962.

Its function is to contribute to the development of insurance through theoretical and practical study of the statistical aspects

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of insurance.

8) Korea Insurance Institute

The Institute was established in 1965 and has been operated by the Korea Insurance Corporation since 1979.

Its function is to contribute to the development of insurance through providing various insurance training courses to those persons from the domestic insurance companies and other organizations including insurance agents as well as officials and employees of state-run companies.

Major Insurance-Related Crimes Committed in Korea

A. Criminal Cases in Connection with Life Insurance

1. Murder Cases Disguised as Traffic Accidents

1) Case 1:

In August, 1983, the accused, Jae-Hong Song (28 years of age), purchased an insurance worth 60 million won, the insured of which was his father, Doo-Choo Song, with the Dong-Bang Life Insurance Company and then paid the insurance premium up to the third installment. For the purpose of receiving the insurance money, he lured his father to Mt. Halla, Jeju-do by a chartered taxi, struck his father on the head and killed him. He also struck the taxi driver and made him lose consciousness. He then put his father's body in the taxi and set fire with petroleum in order to disguise it as a traffic accident caused by the L.P. gas explosion.²²

2) Case 2:

The accused Ki-Suk Ryu, (36 years old) purchased insurances of about 400 million won, the insured of which was his unmarried elder brother Pyung-Suk Ryu (3 years old), with the Dae-Han Life Insurance Company and another four companies from September 6th, 1984 to September 26th, 1984, the beneficiary of which was to be his mother. He paid only the initial insurance premium for each of the companies. On October 19th, 1984, he lured the said brother to an isolated place and strangled him to death, and thereafter

laid the dead body on the railroad in order to disguise it as a railroad accident. Two days later, he received the insurance money, 25 million won, from the Dae-Han Life Insurance Company on about Oct. 21st, 1984. Initially, the police treated this case as an accident. However, perceiving that the accused is a bachelor living in poverty, the police carried out an autopsy and found out that the victim was strangled to death.²³

2. Murder Cases Disguised as Burglary and Murder

1) Case 1: (Case of wife-murder)

The victim Ie-Soon Pae (34 years old) purchased a life insurance of 30 million won, the insured of which was herself. Her paramour, the accused, Dong-Hoi Jung, who had divorced his legitimate wife, lived together with the said victim after a fraudulent marriage registration in order to receive the said insurance money. Four months later, the accused, in conspiracy with his ex-brother-in-law, lured the victim to a sea shore, struck her on the head with a square bar and killed her, and then stole a necklace and a bracelet worth up to one million won in order to disguise his homicide as burglary and murder.²⁴

2) Case 2: (Case of husband-murder)

The accused Jung-Soon Choi (35 years old) purchased a life insurance of 30 million won, the insured of which was her husband, on November 10th, 1979 and on December 9th, 1979, without his knowledge. Having decided to murder her husband in conspiracy with her paramour, the accused lured her husband to a wagon-tavern and got him dead drunk. And then the accused took her husband to a mountain path and made her paramour kill her husband on January 14th, 1980.²⁵

3) Case 3: (Case of husband-murder by a hired assassin)

On November, 1983, the accused Il-Sun Park (35 years old), persuaded by an insurance salesman, purchased a life insurance of 30 million won, the insured of which was her husband and paid the insurance premium for one year. Promising to give him ten million won under the con-

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dition of murdering her husband, the accused delivered the start-money of three million and 100,000 won to a hired murderer Joon-Jeong Park. And thereafter the said Park rode in her husband's taxi for four hours and murdered the said husband in a secluded residential area and disguised it as a taxi burglary.²⁶

4) Case 4: (Case of brother-in-law murder)

The accused, Keum-Ok Chun, under the pressure of the debts, murdered her brother-in-law who was insured with D. Life Insurance Company for five million won. She disguised it as a burglary and murder.²⁷

3. Case of Massacre of Sister's Family Disguised as an Accidental Fire

1) Case 1:

The accused, Boon-Rey Park (43 years old) stole the registered seal of her sister Boon-Sun Park (55 years old) without the said sister's knowledge, purchased life insurances, the insured of which was the said sister with the Dong-Bang Life Insurance Company and another three insurance companies for 17 million won on November 28th, 1972, and paid the insurance premium. On January 30th, 1975, while sleeping over with her sister's family, the accused slaughtered all of them by setting fire to their house.

The accused made a false statement that the fire had been caused by a fallen oil-stove in order to camouflage it as an accidental fire, and then received the said insurance money on March 26th, 1975 by counterfeiting the seals of her sister and inheritors.

When the above-mentioned crime succeeded, the accused once more purchased a life insurance, the insured of which was her brother-in-law with the Dong-Bang Life Insurance Company for 44 million won and paid the insurance premium. On May 11th, 1976, the accused lured the said brother-in-law to a tea shop and killed him by putting poison into his milk glass without his knowledge. However, the insurance company was suspicious of the accused in that the accused was to receive insurance mon-

ey in both cases, and refused to pay the insurance money. The accused therefore failed in the attempt.²⁸

2) Case 2: (Case of killing paralysed daughter by suffocation)

The accused, Bok-Deok Kwon, in conspiracy with her paramour, suffocated her daughter with infantile paralysis to death by making a coal fire in the room where the said daughter was sleeping, and then pretended it was an accidental gas poisoning. The accused received the insurance money.²⁹

4. Case of Matricide Disguised as Self-Burning

The accused, Won-Woo Lee (21 years old) purchased a life insurance, the insured of which was his mother Nam-Soo Park (49 years old) for 25 million won without her knowledge and paid the insurance premium for three months. The accused strangled his mother to death in his house on June 1st, 1979, disguising it as suicide by self-burning. In the beginning, the police treated this case as a simple suicide by burning. But two days later, according to the assertion by the eldest son that his mother had no reason for suicide and was likely to be murdered, they made an autopsy to find out that her neckbone was broken and that she also had hypodermic bleeding. Then the police converted the cause for investigation from accident to murder. After the commitment of the above crime, the said accused proceeded to receive the insurance money, but on becoming aware of his being tracked down by the police, he attempted suicide but failed in the attempt.³⁰

5. Case of an Attempt to Murder a Japanese Tourist Disguising it as a Death Caused by Falling over a Precipice

Kurosu Kiyoe, Japanese (58 years old), induced his friend Oikawa Fumio, (37 years old) to take a trip together to Jeju-Island, Korea. He persuaded his friend to buy insurance for themselves, beneficiaries of which were each other by telling a lie that Jeju-Island is a very dangerous

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place; and they did so with a Japanese insurance company for 50 million yen. The accused, Kurosu Kiyoe entered Korea, with the victim Oikawa Fumio, climbed Mt. Halla, Jejudo, and pushed the said victim over a precipice, seriously wounding him.³¹

6. Case of a Japanese Suicide Disguised as Murder

The accused, Nita Masahito (52 years old), bought a life insurance in Japan which would pay 150 million yen to his family in case of his accidental death (including murder, but except suicide) within six days on a trip abroad. The accused landed in Korea on May 24th, 1985, stayed at the Royal Hotel, Busan, and committed a suicide by jumping off from the 12th floor of the hotel with his hands bound behind the back. Just before that act, the accused camouflaged the suicide as burglary and murder. At the beginning, the police investigated this case from the viewpoint of burglary and murder, but soon found it out to be a suicide by virtue of the information from the Interpol that the culprit had bought such an insurance.³²

B. Criminal Cases in Connection with Fire Insurance

1. Cases of Setting Fire Disguised as Accidents

1) Case 1:

The accused, Nak-Joong Joo, as a town headman, had a town official set fire to the town office, and then disguising it as an accidental fire, obtained by fraud the insurance money of three million and 800 thousand won.³³

2) Case 2:

The accused, Sin-Duk Jung, set fire to her clothes store on April 12th, 1975, and then (disguising it as an accidental fire) obtained by fraud the insurance money of 18 million won.³⁴

3) Case 3:

The accused, who was managing a theater, set fire to his theater on February 9th, 1976. Then, camouflaging the fire as an accidental one caused by electric leak-

age, he obtained by fraud the insurance money of 13 million and 800 thousand won.³⁵

4) Case 4:

The accused, who was managing a beer hall, set fire to his shop with gasoline. Disguising the fire as an accident, he obtained by fraud the fire insurance money of 20 million won.³⁶

5) Case 5:

The accused, who was managing a tailor shop named "New Star," set fire to his shop, and then attempted to obtain by fraud the insurance money, and failed in the attempt.³⁷

6) Case 6:

The accused, who was managing a Japanese restaurant named "Jung-Song," set fire to the restaurant where the employees were sleeping at the time, and then obtained by fraud the fire insurance money of 60 million won.³⁸

7) Case 7:

The accused, while managing a publishing company named "Iljinsa," set fire to the company house by placing paper boxes, etc. on a coal stove. Disguising the intentional fire as an accidental one, he obtained by fraud the fire insurance money of 20 million won.³⁹

2. Case of Excessive Claim for Insurance Money by Faking the Amount of Damage

The accused, the representative of the Dongyang Trade Company, notwithstanding the fact that the practical damage of his company caused by fire on January 3rd, 1983, amounted only to 120 million won, exaggerated it to 200 million won by forging the relevant documents, and attempted to obtain by fraud the fire insurance money of 200 million won but failed in the attempt.⁴⁰

3. Case of Obtaining by Fraud the Reinsurance Money by Disguising it as Being Insured

A large company, Gold Star, which is a conglomerate, suffered damage amounting to 700 million won by an accidental fire at a factory under construction. In conspira-

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cy with its brother company Pan-Korea Marine and Fire Insurance Company, it obtained by fraud the insurance money of 300 million won from the Korea Reinsurance Company by falsifying the relevant documents as if the burnt-down goods had been previously insured. This case is peculiar in that a large company obtained by fraud the insurance money in conspiracy with its brother insurance company and that an insurance company itself committed an immoral crime. We are of the opinion that it may become necessary to entirely prohibit the insurance companies which belong to large group companies from dealing with the insurance of their brother companies.⁴¹

C. Criminal Case in Connection with Marine Insurance

• Case of Intentional Ship Submersion

The accused, the captain of a ship named Samjin No. 7, scuttled his ship on the sea 1.5 mile away from the Taejongdae Lighthouse, Busan, and then obtained by fraud the insurance money of 700 million won for the hull of the ship disguising it as an accident caused by heavy seas.⁴²

D. Criminal Case in Connection with Automobile Insurance⁴³

1) Case 1: (Misrepresentation of the Date of Accident)

The accused hit, with his uninsured car, a child to suffer an injury taking four weeks to recuperate, and on that day bought a comprehensive automobile policy. Then the accused obtained by fraud the insurance money of 450 thousand won by cheating the insurer as if the accident had happened a day after the actual date.

2) Case 2: (Misrepresentation of Automobile ID)

The accused, Eun-Joo Park (42 years old), hit with her uninsured car a person to suffer an injury taking 12 weeks to recuperate. She tried to obtain by fraud the insurance money by giving a false report that the car of her friend which had been insured had caused the accident but failed in

the attempt.

3) Case 3: (Misrepresentation of Driver)

The accused Jae-Hoon Lee (36 years old), driving with Hansoo Hwang in his car, hit the car on a rock, so that the accused suffered a wound taking eight weeks to recuperate. Since the car had not been insured with respect to self-damages, the accused tried to obtain by fraud the insurance money of 11 million won by giving a false report that the said Hwang had driven the car and he himself had been wounded.

4) Case 4: (Misrepresentation of an Intentional Car Collision as an Accidental One)

The accused, Won-Tae Cha, was an owner of a taxi almost out-of-service and the accused, Youngrae Song, was an owner of a private car in the same state.

They intentionally had the said cars collide on 12/25, 1985, and damaged the private car which had been insured. The accused persons failed in the attempt to obtain by fraud the insurance money by disguising the intentional collision as an accident.

5) Case 5: (Misrepresentation of the Effective Time of the Insurance)

The defendant fraudulently reports to the insurance company that his insurance was effective at the time of the accident, when, in fact, the insurance was effected after the accident.

This mostly occurs when there is a conspiracy between the defendant and an employee of the insurance company.

Usually, an insurance company has a head office, branch offices, business offices, and agencies. Insurance contracts are executed primarily through the agencies. When the premium is paid to the agency, the agency transmits the premium to its bank and at the same time reports to its branch on the conclusion of the insurance contract. The insurance, then, becomes effective usually after 24:00 p.m. (There are, of course, insurance policies which are effective immediately after the execution of the contract.) If the premium cannot be

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transmitted because it is paid after 6:00 p.m. (by that time, banks are closed), the agency merely reports to its branch office over the phone about the conclusion of the insurance contract (this is the so-called "after-closing report,") keeps the premium overnight, and transmits it to its bank next morning. This is a customary practice of insurance company.

Frauds which fall under this category were committed in the following manner:

An employee of the agency, asked by the defendant (or by other related people), requests the branch office to treat his report as an "after-closing report," reporting falsely that the contract was executed around 6:00 p.m. the day before the accident date, and that he forgot to report it then, when in fact, the contract was entered into after the accident. The branch office connives at this in consideration of its relationship with the agency and enters it in their "after-closing report" book. Further, the agency antedates the receipt of the premium.

6) Case 6: (Misrepresentation of Accident)

The defendant falsely reports to the insurance company that he was injured by a car accident, when, in fact, his injury was due to, for example, assault.

This was mostly when there was a conspiracy and the conspirators were in a close or master-servant relationship, since there must be a driver and the driver should be ready for a criminal charge.

7) Case 7: (Counterfeiting Documents)

In personal injury cases, the defendant counterfeits documents such as salary ledgers, or submits false information about the proof of income to increase the amount of loss.

8) Case 8: (Exaggeration of Medical Treatment Period Necessary for Recovery)

Defendant submits certificates in which a medical treatment period longer than necessary is falsely written in conspiracy with the doctor(s) to extend his medical treatment period.

9) Case 9: (Disclosure of Drunk-Driving)

Defendant who was drunk while he was driving the car in question fraudulently reports to the insurance company as if he had not been drunk. According to general insurance agreement, losses from car accidents caused by drunk-driving are not covered.

10) Case 10: (Disclosure of Driving without a Driver's Licence)

In this case, the defendant who drove a car without a driver's licence fraudulently reports to the insurance company as if he had had it. According to general insurance agreement, losses from car accidents caused by driving without a driver's licence are not covered.

The Characteristics of Crimes in Connection with Insurance

A. *The Characteristics of the Relationship between the Accused Persons and the Victims*

One of the characteristics is that there often lies a special personal relationship, such as family relations, common-law relations, friendship relations, etc. between the accused and the insured. The majority of crimes takes the form of murder of one's own mother, father, brother, friend, husband, or wife.

B. *The Characteristics of Criminal Techniques*

1. The majority of crimes have a tendency to be intentional and to have been plotted for a long period. Many cases are the result of more than two month's plotting.
2. The majority of crimes possess the common trait of being intellectual and cruel.

Aiming at a perfect crime, making up an alibi or disguising it as another crime, and cruel methods are the common characteristics of insurance crime. The case of Jae-Hong Song is a typical case which has these charac-

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teristics.

C. *The Characteristic Motives for Crimes*

The major motive for crimes arises from lust for money, and the incidental reasons are that the insured is disabled, economically unable, or obstructive to an immoral love affair, and so on.

D. *The Characteristics of Conspiracy*

The majority of insurance crimes are committed with an accomplice, for single commitments are inclined to be disclosed. Recent trends show that hired assassins are often connected with insurance crimes.

E. *The Characteristics of Automobile Insurance*

Automobile insurance crimes are mostly committed in conspiracy amongst persons who are in a close or master-and-servant relationship. Furthermore, the extent of conspiracy relationship is getting bigger and bigger, because the conspiracy needs to be thoroughly hidden from the investigation of insurance companies.

1. Involvement of Policemen

In some cases of misrepresentation of the date of accident and misrepresentation of the automobile ID, the policemen were bribed to issue false examination protocols or interrogatories and to receive false certificates of insurance.

2. Involvement of Medical Doctors

In some personal injury cases of misrepresentation of the date of accident, the doctors were bribed to issue false certificates of diagnosis or charts for the car accident victims, with a false first visit date to a hospital, or a false date of an attack of a disease caused by injuries.

3. Involvement of Auto Repair Shops

In some car damage cases of misrepresentation of the date of accident or misrepresentation of the automobile ID, false papers, such as false work orders, were

issued with false dates of entry into garage or with false license plate numbers thereon.

Furthermore, as a result of excessive competition among automobile repair shops to induce damaged cars, it is not uncommon for repair shops themselves to manipulate such disguises or even to do the errands for securing a false insurance policy.

4. Hesitation of Insurance Companies to Report

Insurance companies spend enormous time and energy for investigations into reports of accident. But they are not willing to report the revealed crime to the police for fear that they would lose their business reputation or customers.

Prevention of Insurance Crimes

A. *Measures which May Be Taken by the State*

1. Establishment of Compulsory Rules on the Insurance Contract Law

1) Exemption from liability of the insurance company

The Korea Commercial Code #659 (1) specifies that, "the insurance company shall be exempt from liability to pay insurance money when the insured risks have been caused by the intention or gross negligence of an insurance contractor or the insured." This insurance company's immunity from liability caused by artificial accident is considered to be a good method to prevent insurance crime.

2) Consent of the insured

The Korea Commercial Code #731 specifies that, "the insurance contract which assumes the death of a third party as an insured risk shall require the consent of the insured." This is a provision to prevent crimes which aim at the insurance money in cases where other parties are insured.

2. Strengthened Criminal Punishment

1) According to the Korean Criminal Code #250, the imprisonment for above five years shall be sentenced for a simple murder, but life imprisonment or death

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may be sentenced to a matricide or patricide. This strengthened punishment can be considered helping prevent patricide or matricide in connection with insurance policies for which the insured is one's parent.

2) The Korean Criminal Code #347 stipulates an imprisonment not exceeding ten years for a simple case of fraud. However, according to the Strengthened Punishment for Specific Economic Crimes Act #3, an imprisonment for longer than three years shall be charged when the amount of damage caused by such crime exceeds 100 million won. The huge insurance-related fraud may be prevented because the insurance fraud, in general, involves the amount of above 100 million won.

3. Reinforcement of the System of

Investigation into the Insurance Crimes

1) Considering that recent trends reflect an increase of insurance crimes in number and also in their intellectuality and cruelty, the establishment of a joint committee of police and insurance companies as that existing in Japan is under consideration.

2) Besides, the lecture on "The Investigation into Insurance Crime" was established in the Legal Research and Training Institute and the Police Academy for the purpose of special education for investigators.

B. Prevention by the Insurance Companies

1. Prevention at the Time of Insurance Contract

1) Commercial Codes #s651, 655 take measures preventing insurance fraud by means of concealing important facts. Pursuant to these provisions, the insurance contractor or the insured shall be obliged to notify some important matters at the time of insurance contract. And the insurer can cancel such contract in the event of breach of such duty.

Thus, as a preventive method, the insurer may examine the status and circumstances of the contractor, including not only the purpose of purchasing insurance,

but also whether the insured has previously received insurance money or had a previous conviction or not.

2) Quality and education of insurance salesmen (solicitors)

Improving the quality of insurance salesmen will be most important in the prevention of insurance crimes as most insurance contract deals are concluded through them.

In Korea, a strict test and education of 16 hours covering 4 days are required to become an insurance salesman.⁴⁴

3) Life insurance companies in Seoul are gathering together, encouraged by the Korea Life Insurance Association, and exchanging their informations about persons who recently and frequently took out the same kind of insurance policy with several different insurance companies; persons who took out an insurance policy in which the insurance fee was too big for the client to be able to pay the premium considering his socio-economic status; and the persons who were rejected as policyholders, or the insured in terms of shouldering the burden of paying the premium etc., so that they can make a blacklist.

2. Prevention at the Time of Insurance Money Payment

1) According to Commercial Code #657, when the insurance contractor or the insured is aware of the occurrence of an insured risk, he shall notify such fact to the insurer without delay. If the insurance company receives such immediate notification, it would be easier to prevent fraudulent request of insurance money as the insurance company will be able to examine more closely the cause of accident and the extent of the loss. Moreover, in case the cause is ambiguous, it can investigate more thoroughly as to the intervention of intentionality.

2) In the case of automobile insurance, it is recommended to have insurance companies treat reports of accident without the policeman's confirmation as potential fraud cases and thus not pay the insurance money for such reports. This would prevent frauds on insurance money on the one

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hand, and would lead people to report the accident to the police on the other.

NOTES

1. The Life Insurance Association of Korea, "Life Insurance Business in Korea" 1987. p. 6.
2. Idem, p. 36, 37.
3. Korea Non-Life Insurance Association, "Non-Life Insurance" (Aug. 1987) No. 17. p. 63.
4. See Korean newspaper, "Korea Herald" (Sep. 9, 1987).
5. The Life Insurance Association of Korea, "Life Insurance Business in Korea" 1987. p. 8.
6. Idem, p. 15.
7. Idem, p. 15.
8. Idem, p. 17.
9. Idem, p. 22.
10. Idem, p. 24.
11. Idem, p. 25.
12. Korea Non-Life Insurance Association, "Non-Life Insurance" (Aug. 1987) No. 17. p.8.
13. Idem, p. 13.
14. Idem, p. 16.
15. See Korean newspaper "Korea Herald" (Aug. 28, 1987).
16. Syng-Hwan Hong "Control of Number of Insurance Company," Korean Insurance Journal, (Mar. 1964) p. 155.
17. Insurance Business Act (1980) Art. 6 (1).
18. Enforcement Decree of the Insurance Business Act Art. 12.
19. Korea Insurance Corporation, "1987 Insurance in Korea" p. 21.
20. Idem, p. 21-24.
21. Idem, p. 25.
22. Korean daily newspaper, "Dong-Ah-IL-Bo" (Dec. 10, 1883).
23. Korean daily newspaper, "Han-KuK-IL-Bo."
24. Korean daily newspaper "Kyeong-Nam-IL-Bo" (Jun. 10, 1980).
25. Korean daily newspaper "Cho-Sun-IL-Bo" (Feb. 19, 1980).
26. Korean daily newspaper "Han-Kuk-IL-Bo."
27. Kun, Sang-Yul "Concerning the life insurance-related crimes," p. 115.
28. Idem, p. 117.
29. Idem, p. 118.
30. Korean daily newspaper "Shin-Ah-IL-Bo" (Jun. 4, 1979).
31. Korean daily newspaper "Cho-Sun-IL-Bo" (Sep. 11, 1986).
32. Korean daily newspaper "Jung-Ang-IL-Bo" (Jun. 5, 1985).
33. Kun, Sang-Yul "Concerning the life insurance-related crimes," p. 118.
34. Idem, p. 119.
35. Idem, p. 120.
36. Idem, p. 120.
37. Idem, p. 120.
38. Idem, p. 121.
39. Idem, p. 121.
40. Idem, p. 122.
41. The Official Bulletin of the Prosecutor's Office, No.25.
42. Kun, Sang-Yul "Concerning the life insurance-related crimes," p. 122.
43. The Official Bulletin of the Prosecutor's Office, No. 38.
44. The Life Insurance Association of Korea "Life Insurance Business in Korea" 1987, p. 31.
(The present system of selection test and registration was established as the result of the 1962 Law on Insurance Solicitation (Incorporated as of December, 1977 in the Insurance Business Law), which was enacted with a view to attracting high-calibre personnel in the field of insurance solicitation. In order for any individual to become a solicitor, he or she must pass a selection test conducted by The Life Insurance Association of Korea in accordance with item No. 45 in the regulations governing the application of the Insurance Business Law. The selection test is preceded by a pre-test training course conducted by each individual insurance company on such subjects as Fundamentals of Life Insurance, Laws and Regulations relating to Solicitation, Practice of Solicitation, Life Insurance Clauses and Conduct & Manners of Solicitors. The passers of the test are required to receive a post-test training course for 16 hours over a 4-day period conducted jointly by the life insurance companies, before being allowed to register as solicitors with The Life Insurance Association of Korea and, thus, to begin solicitation activities. As of March 31, 1987, the number of the life insurance solicitors has reached 164,174 of which female solicitors account for an overwhelming 92.7%).

Crime Related to Insurance in Thailand

by Sirisak Tiyapan*

Development and Legislation Concerning Insurance

Like many other developing countries, Thailand has only recently started utilizing insurance as a means for economic development. As far as legal history can be traced back, the first legislation mentioning insurance is "The Incorporation of Partnership and Company Act of 1911" which provided in Section 115 that "Train and tram enterprises as well as *insurance companies* shall not be established without royal permission."

Direct provisions concerning insurance first emerged as part of Chapter III of the Thai Civil and Commercial Code of 1925. This provision as well as the whole Chapter III was, however, repealed and replaced later on by the new text of 1929.

Insurance has been regarded by Thai authorities since the initial stage as a transaction capable of causing a great impact upon people's interests, and was thus categorized, included in, and made the subject of "The Act for Control of Commercial Transactions which affect Public Peace and Order B.E. 2471."

Under this Act, any insurance company desiring to carry out its business must obtain permission from the Ministry of Commerce and Communication and must register with the Insurance Division of this Ministry which means that the mechanism for control of insurance has been firstly established.

Even with this, Thailand still experienced the unfair practice of the insurer who

tried to exploit excessive profits with little or no responsibility to the assured, but even more serious was the instability of insurance firms due to the mismanagement of capital gained. The excessive deficit and final collapse of many big firms before 1967 rendered a great shock to the public and this became the crucial motive for promulgation of "The Life Insurance Act B.E. 2510" as well as "The Act for Insurance Against Loss B.E. 2510."

These two Acts have as their primary objectives:

- 1) to control the operation of insurance companies;
- 2) to protect the interests of the assured; and
- 3) to promote the progress of insurance transactions.

Mismanagement of insurance companies, although rather difficult to be regarded as activities of criminal intention in every case, in fact might be committed with fraudulent deliberation and thus must be regarded as crime related to insurance.

On the other hand, the tendency to commit arson with the intention to claim compensation from the insurer increased very rapidly during the year 1953. Often, the insurance company against which the claim was made had to pay an amount to restore the damage without waiting for the investigation on the part of authorities to keep its credit.

This of course resulted in encouraging the offenders to increase their crimes which eventually might have destroyed the good progress of the economic system. "The Act for Control and Supervision upon Payment to the Assured of 1953" was therefore enacted to prohibit payment of compensation before the conclusion of investigation by the authorities in charge.

In 1958 the Revolution Party then in power also endorsed the policy to suppress

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arson by issuing its Declaration No. 32 which had the primary principle of nullifying any insurance contract whereby the agreed sum of compensation was unreasonably higher than the actual value of the asset insured.

Presently, there is no direct legislation concerning a crime related to insurance in Thailand. When such offences take place the provisions to be applied are the Thai Penal Code and the Life Insurance Act B.E. 2510 as well as the Act for Insurance Against Loss B.E. 2510.

Situations of Crimes Related to Insurance

No matter how one may determine the "crime related to insurance," whether those crimes already defined by the existing legislation (normal crimes) plus specific intention to gain improper profit from insurance activities or some particular behaviour with ill intention to gain insurance profit through gaps in law which failed to include such behaviour as a normal crime under its legislation, Thailand has some experience of both.

Moreover, we also experienced crimes committed by not only the assured but the insurer and third parties as well.

A. The Insurer

Before the coming into force of "The Life Insurance Act of 1967" and "The Act for Insurance Against Loss of 1967," there was no direct legislation to prevent mismanagement of the insurers, especially in the investment of their premiums gained. It was quite normal therefore that the insurers used premiums gained for their own interest or for the interest of their managers or relatives, and not for the interest of the assured or the public in general. One example of this was the unreasonable grant of a loan to somebody upon payment of very low or even no security without any good explanation. Such practice which resulted eventually in the excessive liquidation and collapse of many insurance companies cannot be otherwise explained apart from the fact that fraud had been

committed by the insurers.

Today, the insurer desiring to run an insurance business must be a limited company which has been permitted to do so. No individual is any longer allowed to carry out an insurance transaction.

By this, a crime related to insurance committed by the insurer, if any, will be that of organized crime which is somehow regarded as being more serious than the individual one.

Under these two Acts, the insurance company or its executive staff may face not only cancellation of its business permit but also a criminal penalty should it violate some strict provisions such as failing to maintain qualification standards, collect reserved funds, and control investments.

Although these provisions have been established with the view to prevent opportunities for fraud by the insurer, it does not mean that the possibility of committing a crime by some sophisticated insurers whether directly or indirectly and whether by the company itself or by its executive staff is totally non-existent.

Section 5 of the Life Insurance Act of 1967 defines "the agent of life insurance" as a person designated by an insurance company to persuade another person to enter a contract for life insurance with the company.

Denoting one who acts like a broker in insurance business as "an agent" is the wording complication which inevitably often misleads laymen or sometimes even a lawyer himself. For general understanding, most people recognize an agent of life insurance as the agent of the insurance company whose conduct in connection with the course of business is responsible for and bound by the company upon the Principle of Agent and Principal set forth in Section 797 to Section 844 of the Thai Civil and Commercial Code. Yet, in practice things are quite different.

It is not uncommon that even though the agent of life insurance agrees to accept a particular life insurance of an assured and even the assured himself understands likewise, the insurance company is not bound by the acceptance of the agent of life in-

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surance.

In a situation like this, the insurance company will never regard the agent of life insurance as its agent, thus any facts or conditions known or accepted by the agent of life insurance are not necessarily deemed to be known or accepted by the company. The insurance company usually considers the agent of life insurance as only the one who brings the application form on behalf of the assured to the company for consideration, so in a sense he is the agent of the assured and not the company. This principle has been confirmed by the Thai Supreme Court in its decision of 505/B.E. 2508 (1965).

Although the insurance company usually strongly refuses to accept the status of the agent of life insurance as being its agent, in practice they usually encourage them in various manners such as providing training, giving rewards or commissions when they succeed in persuading people to purchase insurance, and providing application forms and other documents. Such acts certainly cause misunderstanding to the public, particularly to the assured who regards the agent of insurance as being part of the personnel or an agent of the insurance company.

Likewise, fraud may occur either directly by co-operation between the insurance company and its personnel or the agent of life insurance, or indirectly when the agent of life insurance alone deceives the assured who has faithfully paid premiums through the agent of life insurance or the personnel of the company for a long time to discover later on that he gains nothing due to failure to register the contract with the insurer.

B. The Assured

In Thailand, crime related to insurance committed by the assured has taken place in many forms. The following is the classification of cases which have happened:

1. Arson with Ill Intention to Claim Compensation

This crime has greatly increased since 1953. The offenders of this crime are

usually intelligent enough to arrange everything so that it looks as if the burning down of the claimant's assets under insurance is the consequence of a normal incident without his involvement. Fire never starts directly from his assets but within their vicinity or sometimes from a neighbor's residence. It is not deliberately set up but appears to start by accident-often caused by the short-circuit of electricity.

2. Unsubstantial Loss of Insured Car

There are a few cases reported concerning fraud on car insurance by claiming compensation against loss of an insured car which had already been stolen or seriously damaged sometime before the conclusion of the contract between the assured and the insurance company. Of course, all steps of fraud since the submission of the application form containing false data about the car seeking insurance, which in fact was not in the possession of the assured at the moment insurance was sought until the contract had been agreed and the claim was made, were well arranged under the conspiracy of the company's personnel who would have shared a quite satisfactory sum had the plan succeeded.

Other interesting cases are those of unsubstantial loss of insured vehicles. A sophisticated criminal insures his almost brand new car with an insurance company under a contract which covers the loss of an insured car from any cause including theft. Later on, a report is made to the company that the car had been stolen. The report is usually accompanied by evidence of the assured's official complaint with the authority as well as request for compensation. In fact, as one might expect, the stolen car has been disguised and sold as a used car or sometimes even been dismantled for spare parts by the assured himself or with his conspirator.

3. Misrepresentation or Concealment of Facts in Car Insurance

Misrepresentation or concealment of facts in car insurance is made in order to claim against damage of a not too high value usually not exceeding the defined ceiling where-

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by the payment can be automatically allowed without any serious investigation from the company. This can be done in various forms:

- 1) double claim—first receive compensation from the other party in a car accident and then inform the insurer that the insured car was hit while parked by an unknown car to regain an additional amount;
- 2) invented false incident—rehit the non-insured car which has already been hit by another car with the insured car to claim payment from the company;
- 3) cooperation with a third party to report a false accident and claim compensation from the insurer to be shared together;
- 4) claim higher compensation than the actual damage or claim for unsubstantiated damage in a car accident.

4. Murder and False Death

According to Thai law, one who takes insurance upon the life of the other must have interest or some relation with the latter whether through family or business. But as the Supreme Court ruled in its decision of 2447/B.E. 2516 (1973), there is no law which prevents the assured from specifying anyone he wishes to be the beneficiary of his insurance contract/policy even if the nominee is not his relative. Sometime not long ago there were cases where shrewd criminals utilized this legal interpretation to commit a crime by engaging rural people who had little cognizance of insurance to take life insurance and caused them to specify the criminals or their relatives as the beneficiaries, and later on murdered or hired some people to murder the assured. Certainly, this was very well arranged to convince people that the assured was killed by accident not murder. However, the cases have been disclosed by hard effort of the insurers and the offenders have been jailed for many years.

False death is also one of the favorite devices of the dishonest assured to cheat

the insurer. There was a case where the beneficiary tried to deceive the insurance company by taking opportunity of a boat accident which had taken place, in which many passengers died or disappeared in the sea and the bodies were not found, by claiming amounts under their life insurance policies asserting that the assured was dead in the accident and his body was not found. To make the story more believable, false evidence as well as untrue witnesses were arranged together with the temporary going away of the assured to deceive the company that the assured had taken the trip and lost his life. Nevertheless, by the endeavor of the company and the competence of the inquiry officer, this complicated falsehood was revealed and the offender pleaded guilty.

C. Third Party

Apart from the insurer and the assured, third parties are also reported as having been involved in the committing of crimes related to insurance. A third party may be the beneficiary, the relative or friend of the assured, the opposite party in car accident, the agent of life insurance, or even the personnel of the insurance company. These persons are involved in fraud either as the principal or conspirator when attempting to cheat the insurance company in various cases as mentioned before.

It is understood that the classification here is not exhaustive because it is only the illustration of what information has been collected from reports of the insurance companies or from court cases of which the claim was rejected. Certainly, it does not mean that those cases which succeeded or do not appear in the report were 100% legitimate. Among these might be some unprovable crimes the fraud of which has not yet been disclosed.

Criminal Justice Administration against Crime Related to Insurance in Thailand

Thai criminal justice administration is not monopolized by any organ in particular. A system of checks and balances

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seems to play its role silently among the justice administrative officers in the performance of their functions.

Police officers, public prosecutors, judges and correction officers, each have their own role and responsibility which in turn form the whole mechanism of the prevention and suppression of crime.

Generally, when the crime takes place the police officer will hold an investigation, arrest the suspect, make inquiries, arrange and submit the case file to the public prosecutor together with a recommendation either to prosecute or not to prosecute. (Criminal Procedure Code Section 141)

The public prosecutor, upon receipt of the case file, will review all evidence of facts and law concerned, instruct an inquiry officer to make supplementary inquiries as necessary, and then issue a prosecution or non-prosecution order according to his discretion. Finally, if he decides to take action, the public prosecutor will handle such cases in court on behalf of the public.

The court, on the other hand, will appraise evidence presented by the prosecutor and make judgement whether the accused is guilty or not, and if so, the kind and amount of penalty which should be imposed.

Eventually, the offender will be sent into the correctional system for such purposes as:

- 1) to pay/endure the imprisonment penalty;
- 2) to receive rehabilitation;
- 3) to receive occupational training.

Before the final judgement that one is guilty, he is deemed to be absolutely innocent; thus treating him as a criminal is forbidden. Besides, a person shall be criminally punished only when the act done by him is proved to be an offence and the punishment is defined by the law in force at the time of the commitment of such act, and the punishment to be inflicted upon the offender shall be that provided by the law (Section 2 of the Thai Penal Code).

Every Thai justice administrative officer must strictly keep these two principles in mind when performing his function other-

wise he himself might violate rights and freedom of someone.

Crimes related to insurance, even those existing in Thailand at present, have not been specifically put in the legislation yet. Laws as well as justice administration to cope with them are therefore the same set as applicable to general crimes. Thus the difficulties faced by the present Thai justice administration in dealing with insurance crimes are of course also those of common crimes in general. These are such factors as insufficiency of manpower, lack of funds and techniques to cope with the dynamic increase of professional criminal activities, and so on.

However, due to its specific character, crime related to insurance may render more trouble to the justice administration officers in such manners as:

- 1) inadequacy or lack of knowledge and understanding to keep pace with the criminals;
- 2) unavoidable confrontation with the formidable criminals who probably are more dominant in terms of intelligence, money, and influence;
- 3) lack of direct legislation to deal exclusively with the matter.

To make more effective the Thai justice administration in coping with the increasing tendency of crimes to relate to insurance does not mean strengthening the existing system alone but arranging some more specific mechanism dealing with the matter.

Fortunately, however, the harm of crimes related to insurance has already become known to Thai justice administration. The recent establishment of special staff in the Police Department as well as a tendency to have the same in the Public Prosecution Department dealing exclusively with economic crimes including those related to insurance in particular is the good example of this.

Society's Role in Prevention of Crime Related to Insurance

Apart from the formal criminal justice administration, the society—or more pre-

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cisely the people themselves—also have roles in crime prevention.

With regard to crimes related to insurance, roles played by the society are not varied from those related to common crimes in general.

In Thailand, various associations of volunteers against arson and public harm have already been established. Activities performed by these private organizations include *inter alia*: provision of regular patrols, detection of the suspect, and the giving of information to the authorities concerned. Besides, various academic institutes and associations of insurance firms have also incessantly given information, ideas, and knowledge either directly or through seminars to bring about a better understanding by the public of insurance matters so that the people can evade being defrauded or used as a tool for some insurance crimes.

International Scheme to Prevent and Control Crime Related to Insurance

Crime related to insurance is becoming more and more an international rather than a domestic concern. This is simply because of the expanding of international business and transactions which are the basic reasons for the expanding of international insurance activities. Moreover, insurance companies themselves as business enterprises have grown up very rapidly both in size and scope of performance these recent years. Establishment of branches or subsidiaries in foreign lands in response to their growth is therefore very simple.

Nevertheless, the most important fact of the growing international characteristic of insurance crime may relate to the increasing competence of the criminal who is capable of committing a crime in one country and then conveniently fleeing

away to a haven or recommitting the same in another.

International co-operation to prevent and control crimes related to insurance should be promoted to ensure the increased effectiveness of crime obstruction.

At least, the following steps should be among the issues to be considered:

- 1) minimization of problems related to state sovereignty in criminal case handling;
- 2) encouraging the co-operation in extradition principle;
- 3) extending the classification of crimes under international prevention principle whereby every country has to suppress the crime regardless of where it occurred and to include insurance crime to those already specified such as piracy and slave trade;
- 4) technical cooperation and information exchange as well as the establishment of an international organization to deal exclusively with the matter as the one already existing to combat drug and narcotics crimes.

Conclusion

Crimes related to insurance can cause more detriment and harm to the public than many other crimes because of their specific character which undermines economic stability which is the common concern of the public as a whole. The criminal himself is usually an intelligent person who has money and power and can promptly exert his influence to conceal his criminal identity or obstruct the investigation of a crime committed by him.

Cooperation among those who have direct responsibility to prevent and suppress insurance crimes either at the domestic or international level is therefore absolutely necessary.

SECTION 3: GROUP WORKSHOPS

Summary Report of the Rapporteur

Workshop I: Investigative and Legal Aspect Regarding Crimes Aimed at Defrauding the Insurance System and Their Consequences Thereof

Participants: Mr. M. Enamul Huq (Bangladesh)
Mr. Yang Yuguan (China)
Mr. Francisco Arca Patinô (Peru, Chairperson)
Mr. Nicasio M. Tortona (Philippines, Rapporteur)
Mr. Kazuo Inaba (Japan)
Mr. Kenji Oyama (Japan)

Advisors: Mr. Kunihiro Horiuchi
Mr. Fumio Saito

Introduction

Insurance touches all our lives in a multitude of ways. It is an essential element in our present day life, securing our standard of living and the stability of our families, as well as our property rights. Everyone of us feels the protecting arm of some form of insurance and most of us are affected by many forms of this protection.

In view of this widespread public interest in the many insurance coverages available, the supervision and control of this business in the public interest is an important part of our government process. As such, Group I's participants have decided to expand their discussion from the original topic, Arson-Fire Insurance, to some other criminal offences committed against important lines of insurance business, like Marine Insurance, Motor Car Insurance and Life Insurance, and further decided to devote more of their time and attention to the problem so that they can be able to manage the risk on the basis of an exact

knowledge of its causes and probable development.

Accordingly, it was agreed by the participants that the subject under consideration shall be divided and discussed by the following:

- I. Participants from Peru and Bangladesh, Messrs. Francisco Arca P. and M. Enamul Huq, "Marine Insurance."
- II. Participant from the Philippines, Mr. Nicasio M. Tortona, "Fire Insurance."
- III. Participants from Japan and China, Messrs. Kazuo Inaba and Yang Yuguan, "Motor Car Insurance," and
- IV. Participant from Japan, Mr. Kenji Oyama, "Life Insurance."

Discussions

Marine Insurance

The group workshop concentrated mainly in two of the several different coverages provided for by the industry, namely Hull and Cargo Insurance.

Mr. Francisco Arca P. of Peru took over the Hull Insurance and Mr. M. Enamul Huq of Bangladesh dealt with the Cargo Insurance.

As an overall look, other types of coverage were also considered, such as the one referred to as Mutual Insurance which covers the shipowner's liabilities towards third parties (Protection and Indemnity) and Mortgagee's Interest Insurance covering the creditor (bank or other related financial institutions) when he has advanced a sum of money, basically, to purchase the vessel. The Hull & Machinery Insurance, which is assigned in his favour, does not come into effect due to the shipowner's non-fulfillment of his obligations under the policy.

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In trying to portray a picture rather than going into a proper definition, Marine Insurance can be stated to be the insurance upon a hull and machinery, on cargoes, on freights, commissions and other earnings, liabilities towards third parties and others with insurable interest, guaranteed to cover any loss of or damage to the subject matter insured, proximately caused by a marine peril insured against (as those perils are defined in the laws and practice and in the particular coverage) without the willful misconduct of the assured.

1. Hull & Machinery

1) General Description of the Coverage

This particular insurance, which is as old as navigation itself and goes back to old Phoenician and Greek times, in the dawn of history, found its present way through the embracing of several cultures and different forms of legal systems.

Its main purpose is to grant a coverage for the vessel itself, looked upon as a whole (physical and legal entity), in order to protect the owner or his creditor from the perils and misfortunes of navigation.

In modern times, when a vessel's price could go from US\$1,000,000 to more than US\$100,000,000, it is unthinkable that she could be put to sea without being in a proper seaworthy state and, of course, without an appropriate insurance coverage. Thus, the investment of the shipowner will be protected and, in an indirect way, the cargo owner will also be protected due to the several regulations as to safety and condition that the insurers will impose on the shipowner.

It should be stated though that only with the application of the principle of Spreading the Risk, such large amounts of money can be covered. Hence, in order to meet the above, only specialized insurers dealing with marine insurance will carry this particular coverage.

At the same time, the regular and uniform insurance principle of the Actual Value will not be taken into consideration in this particular coverage and the Agreed Value principle will be considered, in order to allow the investors to go into this highly

risky adventure.

As in any other human activity and due to the high stakes involved, criminal actions can and, in fact, do occur in this field.

Thus, crimes like the scuttling of the vessel occur, it being defined as the willful castaway of the vessel with the actual privity or connivance of the owners in order to defraud the insurance.

Other crimes related to the vessel like arson, damages to the hull or the machinery or connivance with ship repairers in order to exaggerate the losses and the amount of the repairs, also occur. Nonetheless and for the purpose of this group workshop, we will only concentrate on scuttling.

2) Case Submitted

This case refers to a Peruvian-registered vessel, owned by a Peruvian shipowner, who insured the Hull and Machinery with a Peruvian insurance company and was reinsured, via the national reinsurance company, in the London market.

This particular Peruvian shipowner, "the owner," owned in the year 1984 two Peruvian flag vessels, the second of which suffered a General Average Loss in its first voyage from El Callao to Durban in Africa (through the Panama canal), with a cargo of fishmeal on board, and had to be put into a port of refuge in Belem do Para, where it stayed for nearly one month waiting for the corresponding spare parts to arrive.

They were eventually delivered and the vessel continued its journey to Durban where the cargo could not be unloaded for a period of time due to the illiquidity of the shipowner. He had been suffering, aggravated by the stop in Belem, from illiquidity or lack of finance. Eventually, the cargo was unloaded and to everybody's surprise it was still in good state.

The illiquidity of the owner was due to a mixture of circumstances, amongst them lack of his own capital, the severe deterioration of the market since 1980 onwards, the aging and inadequate vessels he owned and certain bad reputation of the company

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which in turn had its origin as well as its consequence in the above named factors.

In May 1983, Peru declared a state of emergency for its merchant fleet and created a fund of US\$50,000,000 to refinance debt owed by the Peruvian owners to the state, Peruvian banks and other financial institutions, insurance premiums, including protection and indemnity premiums and calls for working capital.

The owner was the first to obtain a loan under this scheme mainly because the two vessels were bought through the financing of a Peruvian state-owned corporation. He obtained a credit of about US\$1,200,000 but he only received around US\$200,000 in cash. The balance was reserved to pay other outstanding indebtedness, which amounted to more than US\$3,000,000.

In these circumstances, his first vessel, "the vessel," which was insured under a Hull and Machinery Policy in the amount of US\$1,800,000 with a Peruvian insurer and reinsured in the English market, though its actual value in the market was far less, arrived at El Callao to discharge cargo and to load products bound to ports of Colombia and Venezuela.

The first engineer took his due holidays, (one month according to law) and a new chief was employed by the owner. He had formerly worked as such in the same company but had gone aground for the previous year, working in a self-owned business.

The vessel was fully classified and apparently totally seaworthy at the beginning of the voyage.

The vessel was en route to Colombia, on 8 May 1984, two days after leaving the loading port and at a distance of about 45 miles from the coast, still within Peru.

At 11:30 a.m. and with two persons in attendance in the engine room (the first engineer and a greaser) the former was called to the bridge where the master was talking on the radio with the company's head offices, Lima, on a matter involving quantities of bunkers received at Callao. At around noon, the chief went back to the engine room when he was passed by the greaser who was leaving the said room on his way to call the next guard. The chief

began checking gauges and measuring different temperatures while going to the bottom of the engine room, when he first smelled and then saw a fire breaking out heavily and expanding rapidly towards the main engine.

He took a hand extinguisher that did not work and when he went to take the other one, he saw that the fire was spreading uncontrollably. He then shut off the electricity of the vessel in order to prevent short circuits and gave the alarm. He went to the upper deck to close tightly all the openings and proceeded to the Boat Deck where everybody was assembled. He explained what was happening to the master and applied CO₂ (carbon dioxide) to the engine room, the master being unable to see for himself the exact state of affairs. Two rounds of CO₂ were fired.

The master whose communication with the company's head office, had been suddenly interrupted by the shutting off of the energy had sent S.O.S. signals that were not heard by anyone. Then he decided to order the abandonment of the vessel as a measure of safety. The reason for taking this measure was that he had recently seen a fire on a vessel in Puerto Rico, where the Boat Deck was rapidly covered by the flames destroying the rafts and life boats.

All the crew abandoned the ship, crashing one life boat, putting down the other one as well as a raft. They went to a distance of one and one half miles to wait for the CO₂ to extinguish the fire. After 30 minutes the master gave the order to re-embark. However, they saw that the vessel was down by the aft and to starboard and when he, the chief and a couple of sailors went on board they discovered that water was washing into the superstructure and that the engine room was totally flooded. They took the log book, left the S.O.S. signal in automatic and left.

After a while the engine of the life boat collapsed and the crew had to row and set up improvised sails in it. After three days they were finally picked up by a fisherman and conducted ashore where the master and all the crew rendered their declarations before the Captaincy Authority.

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The Captaincy Authority declared the master responsible for the sinking, for abandoning the vessel which made it impossible to detect the ingress of water to the ingress of water due to the force majeure.

The shipowner appealed and the Superiors declared that the master, though acting in a rush, had done well because he thought first of the safety of the crew. They also declared that the vessel was lost because of the ingress of water due to the forces majeure, thus eliminating responsibilities from the master and crew's shoulders.

The insurers were reasonably satisfied with the explanations, but the reinsurers were not and sent to Peru an English lawyer to further investigate the casualty.

The solicitor after investigating the shipowner's position thoroughly, meeting with the master, chief and crew went to the northern part of Peru and investigated further with the fisherman who confirmed the starvation and the state of weakness of the crew when he encountered them.

Finally, the insurer received the agreement from the reinsurer and paid the indemnity.

3) Fraud Related to Hull & Machinery Insurance

The case under consideration attracted the attention of the group workshop and lengthy discussion arose due to the fact that at least six causes as usually are reported in the legal cases regarding scuttling appeared in the case submitted.

They were:

- a) The critical economic and financial situation of the assured.
- b) The vessel being assured for an amount too high with regard to its market value.
- c) The changing of the chief for what was the last voyage.
- d) Communications were being held with land at the time of the casualty.
- e) The sudden abandonment of the vessel in calm seas, instead of waiting for the result of the action of the CO₂.
- f) The ingress of water which subsequently caused the sinking of the vessel.

Also, the general and particular circum-

stances in which the vessel sunk, perfectly fits with what is regarded as common in scuttling practice. In detail, they could be summed up as follows:

- i) The vessel was more than 15 years old.
- ii) The unclear circumstances as to how both the fire arose and the water ingressed into the vessel.
- iii) The vessel sunk in deep waters.

4) Investigative and Legal Viewpoints

The investigation of a case like that under consideration is very difficult, not to speak of its cost. It involves high and specialized techniques and lot of researching.

It should also be mentioned that the shipowner, regarding the Hull & Machinery Insurance, does not need to prove how the peril insured against occurred, but only that it in fact occurred and that the said peril was the direct cause of the loss. Therefore, the burden of proving wrongdoings shifts to the insurer who not only will need to prove a criminal action but also that it was performed with the privity of or in connivance with the assured. The present case was in fact investigated by the insurer on two angles: First, by the experts or surveyors of the Salvage Association, based in London, which is a non-profitable institution who carries out surveys on Hull & Machinery and casualties involving them. Second, and in a later stage, by an English solicitor of a prestigious firm specialized in the maritime field and, in particular, in Hull & Machinery casualties.

Previously, as stated before, the case was also investigated by the Peruvian Captaincy Authorities in two instances or levels. Basically through a double statement or declaration of the master, officers and crew members, rendered before the said authority. It should also be mentioned that, though on a first moment the master was found to be liable of abandoning the vessel with no plausible cause, on appeal the said resolution was reversed and emphasis was placed on the master's attitude towards the safety of his entire crew.

Lastly, the said authority concluded that both the fire and the ingress of water were due to force majeure or an Act of

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God as opposed to acts of men, thus discharging any malicious wrongdoing.

The shipowner's attitude was, as a matter of course, of full co-operation and the answers to the six points enumerated above in para. 3 (a to f) were the following:

- a) As to the first, it was pointed out to him that the assured had another vessel, that not being the only one. In other words he was doing business. Also the critical situation, both economic and financial, was not only his case but that of the industry in general and in particular of the Peruvian merchant marine's, declared as such by the Government. Finally that he had a credit of around US\$1,000,000 from the fund to debit from to pay indebtedness.
- b) As to the second, that the vessel maintained the same figure from his first insurance coverage, three years before the sinking, which had not been increased at the last moment. Also that the market fluctuation, down in this case, could have been the reverse.
- c) As to the third one, he was shown the official labour books where it showed that, in fact, the original chief had a right to take his holidays which were already overdue, as certified by the Authority. Also that the new chief had worked for the owner before, in the same vessel and was therefore both knowledgeable and familiar with it.
- d) As to the fourth one, the figures of difference in bunkering were confirmed by the state-owned supplier, thus eliminating the theoretical connivance between the master and the shipowner as to the appropriate time of the loss and position of the vessel.
- e) As to the fifth one, the shipowner could accept a certain hurry from the master in ordering the abandonment of the vessel, but that could not necessarily be construed as a mischievous act.
- f) Finally, as to the sixth one, that an explosion could have occurred and due to the fact that there was an independent generator running very close to the boat deck, the noise made by the explosion could not be easily heard.

The participants to the group workshop made several remarks as a contribution as to what could have been a further line of investigation.

In particular, it was pointed out the lack of co-ordination between the coast guard and the police and later, between the insurer and reinsurer with the police. In this respect it was stated that the police has appropriate expertise to further obtain evidence through declarations on both the shipowner and crewmembers and perform detailed check-ups on the financial situation prior to and after the events, on all of the parties involved.

The latter due to the fact that if a scuttling actually happened it had to be done with the actual participation of at least one of the crewmembers and a reward or fee would have to be paid to him.

In this sense the police could have contributed to analyze the economic and financial situation of the crewmembers and in particular that of the first engineer who, as reported, had a self-employed business which in theory was not in a good state. The reasoning was that if he was doing well, he likely would not have accepted to go on a journey of not less than 45 days.

It was also pointed out that a more thorough investigation should have been carried out regarding the other first engineer's taking his holiday. They were overdue, of course, but it would have been worthwhile to investigate whether he asked or not to take his holidays, what was the routine of the company, why the former chief engineer was chosen and not any other qualified person existing in Peru, etc.

As far as the fire is concerned the police could have better questioned the first engineer and the greaser as to the circumstances of how the fire arose in the first place, followed by a skilled analysis of the statements.

Finally, additional expert testimony could have been provided based on a scientific experiment as to the possible cause of the fire and subsequent ingress of water. Were the bottom valves opened?

It was pointed out that the basic principle of insurance is that of "uberrima bona

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fidae," utmost good faith, and that the same bounds both the assured and the insurer.

Thus the insurer has to prove his point within a reasonable time. Otherwise, he not only prejudices his counterpart, the assured, but also his commercial image. Further, that to a proven fact of a mischievous act by any of the crewmembers does not necessarily follow that it was committed with the privity or the connivance of the assured.

2. Cargo Insurance

1) General Description of the Coverage

It could be stated to be the contract of insurance to cover any loss of or damage to the subject matter (cargo to be transported by any means in waterways) proximately caused by a peril insured against.

The coverage may be extended to cover not only the actual carriage of it from the moment of loading until the discharge, but also from the moment it leaves the warehouse or any other place where the goods are stored until the actual destiny. Thus, the insurance will cover also land transit both prior to the loading and after the discharge takes place provided the said transit is related to or connected with a water carriage of goods.

2) Case Submitted

The case in brief is that of ship named TGT-I with cargo bound for the port of Chittagong of Bangladesh which became untraced on its way from Singapore in 1986. It contained nylon twine of 5 crores Taka worth approximately US\$1,700,000. Goods amounting to 3.5 crore TK were insured by the state-owned non-life insurance company named Sadharan Bima Corporation (SBC), while goods amounting to 1.5 TK were insured with 4 private insurance companies. On the presumption that the ship had sunk, the importers demanded the payment of indemnity, but SBC refused to pay the same until completion of the investigation which is still pending.

The importer of Dhaka opened a Letter of Credit to cover the purchase of nylon twine. The first bill of lading was issued by

the S.S. Ambassador I of Beniham Shipping Company of Singapore which was supposed to sail on May 1986, but it did not leave Singapore. After five months in October 1986 another bill of lading was issued wherein it showed that the goods loaded on the Ambassador I had been transhipped to the vessel called TGT-I through the intervention of shipping agent Affinity. The latter sailed for destination on 9th October 1986.

During the investigation it was found from Lloyds of London that originally the ship belonged to Keyo Dockyard and after several changes of ownership, the vessel was subsequently re-named "YAISHINOMAKIMARU" which was changed to KAWPO in 1976, SEAKING in 1981, RADIAN in 1985 and finally under Bangkok's ownership it was named TGT-I.

It was also learnt that an International P & I Club refused to underwrite it because the vessel was not in seaworthy condition. After sailing from Singapore the vessel was supposed to arrive in Bangladesh within ten days. But on 14th October 1986 the vessel was reported sunk in the Indian Ocean.

SBC requested Taisar Co. the reinsurer, to investigate the alleged casualty and appointed Shaldek Association to the effect. On 3rd January, 1986, the surveyor reported that the vessel had not sunk and also that the goods were smuggled into India and Thailand and subsequently advised SBC not to accept the claim.

Maritime law provides that any claim related to goods lost by way of accident or otherwise should be filed within one year from the time of loss. However, the parties did not come to an agreement because AGRANI BANK states that the bank is not concerned with such a litigation. SBC filed a case in the Singapore High Court on grounds of fraud.

It is worthwhile to mention here that in 1985 a Singapore vessel named "Vigour" also became untraced carrying palm oil of six crore Taka i.e. approximately worth US\$2,000,000 for the account of the Ministry of Food, Govt. of Bangladesh.

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3) Fraud Related to Cargo Insurance

The above mentioned case is a glaring example of crime relating to cargo insurance where prima facie fraudulent practice has been resorted to by someone concerned with the issue. The case is a transnational one and hence its impact is multinational. The fact remains that the importer has not yet received his goods and the banker has yet to get its money back. It may take a long time to be adjudicated by the court and to apportion the guilt to one or more than one agency who may be both initiator and abettor of the incident. Thus the issue remains as insurance fraud.

4) Investigative and Legal Viewpoints

As stated in the preceding paragraph, the fraud is multinational and its investigation should be carried out in its place of occurrence. Evidently, the place of origin is Singapore wherefrom the goods were supposed to be exported and, in fact a bill of lading was issued. The law enforcement agency will need to investigate why there was a transshipment of cargo and whether the goods were actually loaded on board TGT-I. Why were there so many changes in the name of the vessel, and why did an international P & I Club refuse to underwrite the liabilities of the shipowner? In so doing the investigating agency will have to enlist co-operation of the importer, bank, exporter, shipping line, insurer, adjuster, surveyor and the reinsurer. Also, contact with the Thailand and Indian police and the active assistance of Interpol and related agencies may come to be required.

5) Conclusions

While discussing the investigative and legal aspects the necessary countermeasures have already been analysed simultaneously. However the following few points also need to be taken into consideration.

- 1) The importer may have the right of acceptability of the chartered vessel.
- 2) In maritime trade and marine insurance uniform standards of seaworthy condition need to be enforced evenly.
- 3) The warranty clauses of marine insurance may not have the provision of risk

for "Deviation During Transit" which should be incorporated by all the concerned countries.

- 4) The criminal justice administration is expected to extend beyond national boundaries and be unbiased enough to handle such a transnational case with a spirit of mutual co-operation which is a must for an internationalized crime incidence.

Fire Insurance

1) General Description of the Coverage

This is a contract of indemnity by which the insurer, for a consideration, agrees to indemnify the assured against loss of, or damage to property by fire.

In such a case, the court in defining fire, said: "Spontaneous combustion" is usually a rapid oxidation. Fire is oxidation which is so rapid as to produce either a flame or a glow. Fire is always caused by combustion, but combustion does not always cause fire. The word "spontaneous" refers to the origin of the combustion. It means the internal development without the action of an external. Combustion or spontaneous combustion may be so rapid as to produce fire, but until it does so, combustion cannot be said to be "fire."

In determining the liability of the insurer against damage by fire, it is necessary to make a rather subtle distinction between fires that are "hostile" and those that are "friendly."

(1) When a fire is a friendly fire—So long as fire burns in a place where it was intended to burn, and ought to be, it is to be regarded as merely an agency for the accomplishment of some purpose and not as a hostile peril. So damage caused by smoke issuing from a lamp that is turned up too high or from a stove pipe that is defective or by soot or smoke issuing from a defective furnace is not to be considered as directly caused by fire. The principle here is simply that the policy shall not be construed to protect the insured from injury consequent upon his negligent use or management of fire, so long as it is confined to the place where it ought to be.

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(2) When a fire is a hostile fire—a friendly fire may become hostile by escaping from the place where it ought to be in some place where it ought to not be. And so, the insurer may become liable where the fire in a chimney, due to the ignition of soot there, caused soot and smoke to issue from the stove so as to damage the property insured. The principle here is simply that even though a fire may remain entirely within its proper place it may become a hostile fire if it by accident becomes so excessive as to be beyond control.

2) Arson and Its Motives

Arson has been generally defined as the willful or negligent destruction of property by ignition and/or damaging of property by means of fire. In terms of insurance, arson takes place when a policyholder sets fire to, or employs someone else to set fire to his own property with intent to defraud the insurance company. Arson is punished as a crime that constitutes a public danger, since it can pose a serious threat to human life as well as causing enormous damage to property.

There is no question that insurance is intimately linked with the economy of any country. Arson or acts of arson which are related to insurance are therefore directly and very approximately destructive of the economy. Acts of arson as frauds against the insurance stabs deep into the very core of any nation's economy, laying it open to other maladies. As such, relevant provisions of criminal law in various countries tend to be highly detailed and contain a carefully graded scale of penalties, the most severe of which are life imprisonment and death.

One can think of the myriads of motives that drive people to commit arson to collect insurance money. However, such motives generally fall under any one or some of the following categories:

(1) Arson resulting from some behavioural disorders—Arson as act of revenge, hatred, discontentment, mental illness, boredom, the desire for recognition, and others resulting from the relationship or even lack of it between the arson suspect

and the insurer or occupant of an insured building, fall under this category.

(2) Arson out of specific criminal motives—Since every case of arson is a criminal offence, this category should not only be confined to those who are attempting to defraud the insurance company by setting fire to overinsured or unprofitable property and reaping the benefits but it must also include those cases in which the arsonist is involved in other crimes. Such as, those who are trying to destroy the evidence of burglary, murder, embezzlement or forgery; and further those who want to dispose of unwelcome competition or to force businessman to pay protection.

(3) Arson out of political motives—This category comprises all those cases of arson in which the arsonist is trying to exert pressure on the general public in order to bring about a change in prevailing circumstances in the broadest sense.

3) Arson Fraud and Its Effect on Insurers

A. Loss by willful act or through connivance of insured

Generally the insurer is not liable for a loss caused by the intentional act of the insured or through his connivance. Such loss is not within the contemplation of a contract of insurance one of the requisites of which is that the risk should not be subject in any way to the control of the parties.

However, the insurer must prove the fact of arson, and for this a mere suspicion or a small amount of circumstantial evidence is not enough. On the contrary, evidence must be found that will convince a court of law beyond all doubt that the policyholder was guilty of arson. Accordingly, unless the insurer can prove beyond the shadow of doubt that the defendant set fire to his own property, he remains liable to pay the indemnity compensation stipulated in the policy. In many countries the insurer is further handicapped by the fact that he is obliged by law to pay compensation within the specified period of time, even if arson is suspected and the case is undergoing investigation. Sometimes the authorities also require the insurer not to apply too strict a standard in investigation

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of the possibility of insurance fraud, so that the insured does not think that the insurance company is actually looking for a reason to refuse payment.

B. Loss caused by negligence of the assured

(1) Where there is ordinary negligence—The doctrine of contributory negligence does not in any way apply to rights under a contract of insurance. Mere negligence or carelessness on the part of the assured or of his own servants although directly causing or contributing to the loss, usually is one of the risk covered by the insurance and does not relieve the company from liability. The example of which is where the assured lit some straw under the barn in order to smoke out the bees, and the fire rapidly spread and destroyed the property.

(2) Where there is gross negligence—Gross negligence or recklessness on the part of the assured the consequence of which must have been probably obvious to him at the time will relieve the insurer from liability. This would be true, in a case where the assured in his own house, sees the burning coals in the fireplace roll down on his wooden floor and does not brush them up, or where the assured sees a small fire start and makes no attempt to put it out. This negligent arson must, however, be taken into consideration especially in connection with loss prevention, since it is frequently a cause of loss, as many claims resulting from careless handling of open flames and failure to observe safety regulations.

(3) Fraud by double insurance—Usually, policies of fire insurance contain stipulation that they shall be avoided if additional insurance is procured on the property without the insurer's consent. Such provision is valid and reasonable, and in the absent of consent, waiver, or estoppel, a breach thereof will prevent a recovery on the policy. The purpose of the prohibition against double insurance is to prevent over-insurance and thus avert the perpetuation of fraud. The public as well as the insurer, is interested in preventing the situation in which a loss would be pro-

fitable to the insured. There is a great temptation for dishonest persons, whose property is insured up to its full value or above it, to bring about its destruction, and the same considerations undoubtedly tend to lessen the care that may be exercised by the honest in preventing fire.

4) Preventive and Protective Measures

A. There are various measures that can be introduced, on the one hand to prevent or discourage arson, on the other hand to minimize the amount of arson loss.

External security measures must be designed to prevent unauthorized persons from entering the protected premises or at least to make the entry difficult. The following belong to this category: Access control; guards, safekeeping of keys, lighting, locking away of items that could assist arsonist and structural measures to prevent penetration of the premises.

Internal security measures (directed against the intruder who has already found his way in the premises) are designed to make the act of arson more difficult and in addition, the arsonist must always be in danger of being discovered. Such measures are comprised largely of organizational safety and housekeeping rules and arrangements to prevent unauthorized persons from moving about freely on the premises.

B. For the Insurer

Statistics in many countries will show that a considerable part of the total loss expenditure of the fire insurers is accounted for by arson losses. These losses are also an additional cost to the economy as a whole. Accordingly, the insurers must make appropriate allowances for the arson problem when underwriting fire risks and must consider the following steps:

- (1) Investigation of surrounding circumstances
 - a) Accumulation of cases of arson
 - b) Motive for arson
 - c) Particular type of property affected
- (2) Assessment of the extent of the exposure of the risk
 - a) Exposure on account of the known

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- motives of arsonist
- b) Exposure on account of risk category or location
- (3) Assessment of security measures
 - a) External security measures
 - b) Internal security measures
 - c) Special fire protection measures
- (4) Improvement of the risk circumstances
 - a) Demand for appropriate improvement measures
 - b) Measures introduced
 - c) Measures not introduced
- (5) Acceptance of the risk or not.

5) How Can Fraudulent Arson Be Detected in the Event of Loss

As a rule, an insurer can refuse compensation to the insured if it is proved that the insured set fire to his own property. It is therefore extremely important for the insurer to be able to recognize and show evidence that arson has been committed for purpose of fraud. To do this, he must insure that his loss adjustment staff has training and education programmes on arson detection so that they can evaluate suspicious circumstances and take the necessary steps to have them investigated.

Circumstances that give rise to the suspicion of fraudulent arson include the following:

- a) Considerable over-insurance, or possibly a considerable increase in the sum insured shortly before the loss event
- b) Selling off of stocks without a corresponding reduction in the sum insured
- c) Large stocks of unmarketable goods
- d) Previous fires of unknown cause
- e) Intention of the owner to sell property for which there is little or no market
- f) Excessive claims by the insured

If any of these circumstances are found to be present, the insurance company's investigation should be conducted in close co-operation with the police authorities, the Fire Department and with possible assistance of specialists. At the same time payment should not be made until the investigations have been completed.

6) Co-operation with Government Authorities

The combatting of arson is primarily the task of government authorities, yet, the insurers should indeed actively assist their government in combatting this crime. Co-operation and support are necessary in the following areas:

- a) Publicity and information by insurers with the aim of making the public aware of the significance of the arson problem.
- b) Publicity and information by insurers with regard to possible steps that the individual can take for his protection.
- c) Assistance to the police and public prosecutor in clearing up cases of arson and vice-versa.

The extent to which joint efforts are necessary is clear from the smallness of the number of solved arson cases throughout the world. The insurers can make a contribution to such efforts by lending the criminal prosecution authorities their assistance both in individual cases (helping to clear up specific arson cases) and in general by regularly exchanging information.

Motor Car Insurance

1) General Description of the Coverage

Motor Car Insurance is a protection coverage that will answer for legal liability for losses and damages for bodily injuries or property damage that may be sustained by another arising from the use and operation of a motor vehicle.

Motor car insurance is one of the main insurance businesses in Japan as well as in the rest of the world. It covers the following:

(1) Full comprehensive coverage:

Loss of or Damage to the assured's own vehicle, Theft and Fire. It covers also Third Party Liability for death of or bodily injury to the public and third person and/or damage to their property. Additionally for private cars, several additional forms of protection are afforded such as medical expenses and personal accident benefits for the owner.

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(2) Compulsory automobile liability insurance in Japan:

It was established under the Automobile Liability Security Law. It enjoins a transportation vehicle's operator or an owner of a motor vehicle not to operate his vehicle in public highways unless there is in force in relation thereto a policy which is the automobile liability insurance. Therefore, a person who drives a car without contracting this liability insurance shall be punished with imprisonment for not more than six (6) months or a fine of not more than ¥50,000.00.

The overriding consideration in compelling motor vehicle owners or operators to have third party liability insurance is to assure victims of motor vehicle accidents and/or their dependents, especially when they are poor, immediate financial assistance and indemnity regardless of the financial capability of motor vehicles owners or operators responsible for the accident sustained.

2) Case Submitted

A case in Japan of defrauding automobile insurance was submitted. The case was as follows.

Five men (A-E) got together to defraud automobile insurance money by causing a traffic accident intentionally. One of them, "D" contracted a non-compulsory automobile insurance with an insurance company. Later, they caused the accident intentionally. (A drove his car with B and C. D drove another car with E. The latter bumped his car into A's car from behind at the agreed sign of C at the crossing).

They reported to the police that the accident occurred from D's negligence. All of them went to the hospital complaining of pains in the cervical vertebrae, legs, waist etc., though in fact not one of them was injured. After that, they received medical treatment both as internal and out-patients. (A went to the hospital regularly for seven months B was hospitalized for a month and went to the hospital for six months thereafter. C was hospitalized for four months. D went to the hospital for four months. E was hospitalized for a week and went to the hospital for two months thereafter).

They claimed the indemnity with the necessary documents such as certificate of accident, medical certificate about injury and so on. The indemnity amounted to ¥22,500,000. Besides that the insurance company paid ¥370,000 to the car repairers and ¥4,980,000 for doctor's fees. When the claim was originally submitted, the insurance company asked the Research Company to investigate the cause of the accident, the extent of the injuries, the amount of damages and so on. The surveyor doubted whether they were telling the truth but could not get the evidence to prove the contrary.

About a year later, some police investigator heard from the suspect of another similar crime, that C had advised him how to set up the crime and represent himself as being injured. The police then searched the files to investigate whether C had claimed insurance money and was able to pick up this case and eventually solved it.

3) Fraud Related to Automobile Insurance

Fraud can be committed in several ways:

- a) The offender causes the accident intentionally: This is the most typical case of fraud related to automobile insurance. The case submitted and discussed is an example.
- b) The offender pretends as if the accident has occurred: This is a case where the offenders simulate the occurrence of an accident by forging certificates while in fact there was no accident.
- c) The offender exaggerates the extent of damages: This is the case where the offenders submitted highly speculative damages whilst they in fact are assessed to be worth far less. For example, though they suffered only property damage by the accident, they pretended to have also suffered injuries.
- d) The entering into a contract after the loss has occurred: This is a case where the offender contracts the insurance after he has suffered some loss and then he alters the facts as to the time when the accident occurred.

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4) Investigative and Legal Viewpoints

(1) Difficulties in investigation

It is difficult for investigative authorities to get a clue because many traffic accidents occur everyday and accidents intentionally caused by the insured are similar in appearance to that of true accidents.

Co-operation between investigative authorities (especially police) and insurance companies is deemed necessary for the proper investigation of this kind of crime. A report from an insurance company is the most useful clue for these purposes. Hence, it is necessary to orientate the insurer to make them report the cases to the police when there is suspicion as to fraud.

(2) Problem of Doctors

The offenders cannot get bodily injury insurance money without a certificate issued by a doctor. Thus they will lie to the doctor or they will go to hospitals pretending to suffer from pain in their necks after an accident, even without external injury. On the other hand, it is true that patients injured in car accidents make doctors and hospitals earn much money. So doctors tend to easily permit a patient to be hospitalized or to receive medical treatment for a long time.

It was pointed out in the group workshop that in order to prevent this kind of crime, it should be necessary to limit the hospitals authorized to issue medical certificates for the purpose of claiming indemnity, to only those hospitals that bear the confidence of the insurer.

But it was also pointed out that if a limitation as such was made, some victims of accidents could be compelled to go to hospitals which could be located faraway. It was stated also that when a fraud is uncovered, both the hospital and doctor should be liable to the insurer and the doctor in particular should be suspended for practice under the Hippocratic code of ethics even if he could not be prosecuted on charges of conspiracy to defraud insurance money.

Limiting the amount of insurance money to be paid as doctors fees was also suggested. The reason is that if the offender must pay some portion of the doctor's

fee, they will refrain themselves from committing the crime. But it was pointed out that when the assured is poor, the innocent victims would not be in a position to receive appropriate medical treatment.

(3) Others

According to data at hand, the offenders who commit fraud on automobile insurance are usually unemployed or gangsters. Also taxi drivers often perpetrate this crime in Japan. Thus it has become necessary to investigate carefully the cases where such people cause accidents. Finally, publicity concerning the consequences of the offenders could be a useful weapon to prevent this kind of crime.

Life Insurance

1) General Description of the Coverage

May be defined as the insurance payable on the death of a person, or on his surviving a specified period, or otherwise contingently on the continuance or cessation of life. It has also been defined as a mutual agreement by which a party agrees to pay a given sum on the happening of a particular event contingent on the duration of human life, in consideration of the payment of the premium either by himself or by a third party.

A. Kinds of life insurance policies

(1) Ordinary life policy—is one under the terms of which the insured is required to pay a certain fixed premium annually or at more frequent intervals throughout his life and the beneficiary is entitled to receive payment under the policy only after the death of the insured.

(2) Limited payment life policy—is one under the terms of which the premiums are payable only during a limited period of years, usually ten, fifteen, or twenty years.

(3) Term-insurance is one which provides coverage only if the insured dies during a limited period.

(4) Endowment policy—is one under the terms of which the insurer binds himself to pay a fixed sum to the assured if he survives for a specified period, or if he dies within such period, to some other person

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as directed, (beneficiary).

B. Nature of life insurance

(1) Liability absolutely certain —It contemplates the payment of the specified sum for an event certain to happen at some future time.

(2) Amount of insurance generally without limit—Strictly speaking, there could be no exact pecuniary measurement of the person's interest in his life. Hence, a person can insure his life for any amount as long as he can pay the premium. The only exception is when a person insures the life of another, as where the creditor insures the life of his debtor. In this case, the interest of the creditor in the life of the debtor is susceptible of exact pecuniary estimation.

(3) A life policy may be transferred or assigned to any person even if he has no insurable interest. All life insurance policies are declared by law to be assignable regardless of whether the assignee has an insurable interest in the life of the assured or not. The contract not being one of indemnity, does not require the insurable interest to continue as in the case of other insurance.

C. As distinguished from wagering contract or gambling

(1) In gambling contracts the parties contemplate gain through mere chance; while in insurance, the parties seek to distribute possible loss by reason of mischance:

(2) The gambler courts fortune, while the insured seeks to avoid misfortune;

(3) The contract of gambling tends to increase the inequality of fortune, while insurance tends to equalize fortune.

2) Case Submitted

S and N had made acquaintance with each other in 1969, when N opened his bar near S's shop. S not only accommodated N with much money, but also guaranteed N's debt several times. By the end of July 1987, N's debt to S reached 13 million yen. Earlier in April of 1987, N went to Manila to collect A's indebtedness to him.

In July 1987, N's debts to S reached 13 million yen. To secure payment of this debt, N's insurance policy was amended. The beneficiary was changed from N's wife to S. The insurance policy amendments were completed by 7th July 1987.

On 24th or 25th of January 1979, H informed S that H met N in Manila and that N had become a pimp of Filipino women and had been a beggar. S then decided to kill N to get the insurance money. S sought the help of H regarding his plan to kill N. H agreed. H went to Manila and asked P, a goldfish vendor to get a professional killer to kill N. P agreed but later desisted upon advice of his wife. P returned to Japan. H went to Manila again and met J, a Filipino, and asked J to kill N and to make it appear as burglary or robbery with murder, using a professional killer. J agreed and introduced G as the killer for a fee of Peso 600,000. On 11th June, 1979, H made up his mind to kill N that night. He called up J and informed him of the plan for that night. And so H invited N to a resthouse. After drinking, H and N went out. N was attacked and killed by G and an unknown person. H ran to a restaurant nearby and lied that N had been attacked by a burglar. H repeated the lie to the police.

Japanese Police initiated an investigation since they were aware that H was connected with Boryokudan, Japanese gangsters. Through diplomatic channels and letters of request between the Government of Japan and the Philippines, they were able to build a case against S and H. Subsequently H was arrested and later confessed to his participation in this murder for insurance. Further investigation was conducted to gather enough evidence to indict S which was also successful through the initiatives of both governments. H was already convicted and S is now standing trial for crime of murder in connection with insurance fraud.

3) Fraud Related to Life Insurance

Crimes aimed at life insurance are committed in such manner and with schemes as follows:

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(1) To kill the insured to get life insurance

In this categorized case, the offender or co-offender is always the beneficiary of the life insurance contract. To get life insurance money, the following camouflages are taken.

- a) Camouflaging that the insured died of illness.
- b) Camouflaging that the insured died by accident:
 - That the accident was caused by negligence of a third party.
 - That the accident was caused by negligence of the assured himself.
- c) Camouflaging that the insured committed suicide.
- d) Camouflaging that the insured was killed by a third party.

(2) To disguise health conditions of the insured to buy life insurance

In this case, the offender or co-offender is not always the beneficiary. There are some cases that the assured himself disguises his health condition in order that his family shall get life insurance money after his death.

- a) Using a substitute for the insured for doctor's health examination.
- b) Disguising health conditions when the insured is examined by a doctor.

(3) To camouflage the death of the insured

In this case, the insured pretends to be dead. Therefore the insured himself should be considered to be the offender. Of course the beneficiary is usually a co-offender.

- a) Killing a substitute of the insured
- b) Deliberate disappearance of the insured

4) Investigative and Legal Viewpoints

(1) Investigative Viewpoints

Generally speaking, despite the fact that murder cases aimed at life insurance are usually committed with premeditation and skillfully, it is not difficult for the police to investigate such a case as compared to robbery and murder cases against taxi-drivers or rape and murder cases against street-walkers, etc. Because investigative authorities can easily find the beneficiary, he should be suspected at first.

However, there exist several difficulties in fighting them. Those are pointed out as follows:

- a) The scene where the crime was committed is usually disguised skillfully and cunningly by offenders. So it is difficult for investigators to distinguish and realize what has been committed or what actually occurred.
- b) Offenders tend to commit well-planned crimes so as not to be suspected by police, disguising an alibi, using accomplices and so on. So it is very difficult for investigators to collect enough evidence to prove the occurrence of the crime.
- c) There are some difficulties in fighting transnational crimes in general. International co-operation, such as exchange of information, extra-judicial investigation and extradition is not necessarily going well. Therefore, especially in Japan, such tendency has been recently recognized whereby the offenders lure the victim (the assured) to go abroad and kill him to escape investigation in both countries.

(2) Legal Viewpoints

Regarding life insurance business, several problems can be pointed out. Commercial competition among insurance companies is so severe that insurance companies may underwrite and pay claims without enough consideration, research or investigation.

There are some factors in life insurance itself which lure people to commit crime, such as special clauses which pay extra amounts of money in case of accidents. Using this clause, offenders can obtain big amounts of insurance money by paying a small premium.

5) Countermeasures

(1) Investigative Countermeasures

It should be necessary for investigative authorities dealing with crimes, in which the victims have a life insurance, to survey, inspect and investigate them more thoroughly, assuming that they could be confronted with a case related to such phenomena. It is also necessary for investigative authori-

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ties to train and educate as many experts as possible who already have professional knowledge and investigative ability.

(2) Legal Countermeasures

a) It is necessary for insurance companies to pay great attention to and carry out, if necessary, thorough investigation on the following, when underwriting policy on life insurance:

- financial condition of policy holder and beneficiary
- health condition of insured
- relationship between policy holder, assured and beneficiary
- existence of double insurance

Therefore, systems among insurance companies should be developed to exchange information about the above-mentioned factors.

b) It is necessary for insurance companies to obtain the consent of the insured when underwriting policies.

The assured should also have the right to withdraw his consent where there is reasonable grounds that the assured's life is endangered by the beneficiary. This of course could create great problems when i.e. the insurance was contracted to secure the repayment of a loan.

c) It should be legally established that insurance companies can delay payment of an insurance claim within a certain period of time in cases where murder is being investigated.

General Conclusion

Any human activity is likely to attract crimes for a number of reasons and economic activities will not escape the above named rule. Thus, when related to insurance contracts, frauds can be and are committed with an increasing tendency nowadays.

It is our belief that human nature cannot be completely changed. Therefore active measures should be exercised in order to limit the rate of success of these criminal actions.

In spite of the above, some other measures can be drawn in order to act as a

deterrent to the people from committing these offences in the way of properly understanding the system and the consequences that they could suffer through the committing of crimes.

The economic or intellectual crime is committed in most of the cases by highly intelligent and well educated or trained people. Thus, the skills and methods used by these offenders need to be matched by the law enforcers on the same level. Experts' opinions will also be needed as never before to comply with this aim.

The insurance system is directly linked with any country's economy. Hence, supervision exercised by the Government through appropriate offices or agencies is needed in order to protect the public interest.

As it has been stated in the present work, several factors are contributing to a successful fight against this sort of crime.

On the part of the State, concrete and concise statutes or laws need to be enacted recognizing the several offences with appropriate penalties to deal with them.

On the part of law enforcement, they have to be trained in other new fields like commercial law & practice, computer science and the like.

On the part of the insurers, several other factors can be secured, such as:

a) To make a proper underwriting which will include previous investigations and follow-ups on the assured, regardless of competition.

b) To investigate in detail the circumstances surrounding a casualty or a loss, in particular if suspicion as to fraud appears after the preliminary investigation. In this case, the law should enable the insurer to defer payment until thorough investigations are made and to seek the co-operation with the law enforcement agencies, namely the police and public prosecutors.

Finally, the public, whose interests are at stake, should also be thoroughly informed as to the real nature of insurance, their rights as well as their obligations and the real essence and dangers of fraud against the system which will affect them by the

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raising of the premiums or, eventually, with the non-availability of the respective coverage due to high costs and high risks involved.

Workshop II: Establishment of
Co-operation between
Insurance Companies and
Law Enforcement Entities
by Resolving Problems Such
as Neglect of Informing and
Offering Minimum
Intelligence to Law
Enforcement Entities by
Insurance Companies, and
the Ineffectiveness of Law
Enforcement Entities

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Introduction

Crime is not a new phenomenon. It is as old as humanity. As civilization develops and progresses, so does crime. In the wake of unprecedented technological discoveries, crime has reared its ugly head. New dimensions of crime emerge. The old notions of crimes such as murder and cheating per se have become more complex and difficult to detect. The rapid means of communication have compounded the problems.

Insurance is an important component of modern world business. It is unimaginable that there can be a business transaction

without having insurance coverage. The very nature and structure of the insurance system, in that it can be contracted by a person of any means, has been taken advantage of by some unscrupulous and greedy men. The corrosive effect of crimes related to insurance, especially in homicide and fraud cases in everyday life, has necessitated a thorough study. This is revealed by the few cases which have been exposed.

The traditional concept of crime prevention, the sole province of the police, has to be re-examined, alongside its methods of investigations, in view of the intricacies of modern-day business transactions.

The present society has been changing rapidly with economic developments and technological innovations while the power of the police has been restrained under the principle of democracy, and its human and material resources have also been limited with financial restrictions. Such a situation has been making the capacity of the police more and more limited. Therefore the co-operation of private citizens in the control and prevention of crime has been increasingly important in many areas including the insurance sector which has been advanced along with economic development.

In this area, the private counterparts of police are insurance companies.

However, regarding the need to work hand in glove experienced by the investigating agencies and the insurance companies today, it is observed that there appears to be a "schism" in that relationship. There are many reasons given for this state of affairs, but the fundamental reason has been said to be that insurance companies are commercial entities while the main duty of police is to maintain public order. Insurance companies, collecting premiums which have been decided according to the rational estimates of occurrences of insured accidents and gaining profits from them, are managed by rational principles which serve the pursuit of profits, increase of income and reduction of costs. On the other hand, the police are required to make all possible efforts to maintain public order, where no room for the concepts of "profit" or "cost" exist. So they are com-

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pletely different organizations; therefore it is said that it seems impossible that they can voluntarily maintain a co-operative relation between them. However, is this true? Is the elimination of crime related to insurance not only one of the purposes of police activities but also coincident with the rationalism of insurance companies? And for that, what are the required conditions?

With the above background, this Group Workshop has been given the task to examine the establishment of the co-operation and the effectiveness of law enforcement entities.

Difficulty of Investigation of Crime Related to Insurance

The main causes of the difficulty are due to the characteristics of crime related to insurance. First, the difficulty of finding the clues of a case should be pointed out. Although victims of crime related to insurance are insurance companies, it is very difficult for such companies to identify such a crime because the number of such crimes is extremely small compared to the total number of claims and such a crime is camouflaged as a legal claim. No one has pain and can hear screams with crime related to insurance except such cases having murder as an operational method.

Secondly, the investigation requires a long time and great efforts as well as the proper expertise. There exists no evidence with which we can directly and perfectly prove the transgression of a suspected case, therefore, investigators have to collect much circumstantial evidence. But usually it is a very difficult task and perseverance in the investigation by investigators who have adequate experience is necessary. Therefore, it is possible to complete such an investigation only when such experienced investigators can concentrate on such a case for a certain period of time. Furthermore, for such investigation, other requirements may also include knowledge of an insurance contract, a set system of insurance, provisions regarding insurance and customs of the civil or commercial area.

Needless to say, the number of such investigators is not so large.

Thirdly, the prejudice of investigators as well as the public has made the investigation of crimes related to insurance difficult. Crime related to insurance itself is regarded as not being such a serious crime but only a civil case. Many people have ill feelings toward insurance companies since such companies advertise various risks with exaggeration, partly fraud people to make them enter the contracts, grudge benefits and gain enormous amounts of profits. Many people have no knowledge regarding insurance. Thus, such circumstances may be to the advantage of crime related to insurance.

Necessity of Co-operation

For effective and efficient identification and investigation, co-operation between law enforcement entities and insurance companies is indispensable. It is needless to repeat now that eradication of crime related to insurance is extremely important for present society. It has enjoyed economic prosperity by covering unforeseen losses with insurance. Therefore, if major troubles with insurance companies occur, they directly have a serious impact on society.

For law enforcement agencies, the assistance of insurance companies is especially indispensable regarding the points as follows.

First, law enforcement agencies have great difficulty obtaining clues of crime related to insurance without the assistance of insurance companies, except in some cases which involve seriously illegal measures including a murder or an arson. Of course, as mentioned above, it is very difficult for insurance companies to get a clue of the crime; however, we can say that if they don't provide any information regarding suspicious claims, the police has little possibility to act on such cases.

Secondly, the lack of assistance from insurance companies may hinder the investigation of crime related to insurance. As also mentioned above, law enforcement agencies need the advice of insurance com-

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panies regarding some insurance matters such as the systems and the contracts because such agencies have few officers who have sufficient knowledge of such matters. Furthermore, they may find some important circumstantial evidence for proof of the crime in materials and information in the custody of insurance companies.

On the other hand, from the co-operation with law enforcement agencies, insurance companies can gain benefits as follows.

First, police have much more powerful authority and organization than investigative sections of insurance companies and private detective organizations. Therefore, the police may clear suspicious cases, even if the investigative sections or private detective organizations cannot and, in such cases, insurance companies can refuse such suspicious claims.

Secondly, we have had rather many organized and successful insurance offences and it is pointed out by some persons that an insurance offender is liable to repeat the offence. If such offenders can be investigated and convicted, subsequent cases cannot be committed.

Thirdly, even ordinary people have the possibility to yield to the temptation of committing a crime related to insurance. One of the main reasons is that if it succeeds, they can get a rather large amount of money easily. For this, a frequent investigation and conviction rate would develop an attitude against committing such crimes in people's mind.

Present Problems and Their Causes Regarding Control and Prevention of Crime Related to Insurance

Insurance Company Side

1) Neglect to Report

It is known that insurance companies often don't report a suspicious claim, especially minor claims, to the police. Such neglect in reporting a suspicious case to the investigative authority by the insurance company would result in the difficulties of obtaining any clue which may be of evidential value to a case. When the police or

the investigative authority start the investigation and the insurance company neglects to offer any intelligence, then the investigation will be difficult because of the lack of resources.

The principle conceivable reasons for this neglect are as follows:

(1) Regarding a certain claim, an insurance company is not sure that the claim composes a crime because of insufficiency of evidence. In such a case, the company is liable to pay the claim because it is afraid to be called for indemnity other than the claim and to gain a bad reputation as an unfair and dishonest trader.

(2) Insurance companies are ready to distrust the effectiveness of investigation of law enforcement agencies. If the agencies do not initiate the investigation or fail to investigate a case which the companies have reported with sufficient information, such a report was very useless and the companies wasted both time and money.

(3) If insurance companies succeed in reducing the amount of the payment as the settlement or getting the beneficiary or insured to renounce the claim, they are liable to hesitate to report the case to law enforcement agencies because they find no visible merit to do so.

(4) If insurance companies find the claim suspicious after the payment, they are also liable to hesitate to report the case to police. In such a case, it is very difficult for them to recover the money from the suspect in spite of the report because such a suspect is prone to use or hide the money very quickly.

2) Easy Payment of Claims

Even if it is a suspicious claim and the insurance company has realized it, the company often pays the claim easily. However, if it was paid, the suspect has achieved his/her purpose and may escape while the company becomes unwilling to investigate the case as above mentioned. Nevertheless, in some countries, the period of payment of claims is determined by law.

Insurance companies in such countries have to comply with time limits within which they have either to pay the claim or

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to reject it. This period of time starts to run from the moment the loss has been demonstrated and the amount of damages has been duly established. Any rejection of a claim must obviously be duly supported with sufficient evidence to justify the insurance company's rejection. This deadline, although it has been set up as a protection for the legal losses and is in perfect harmony with the concept of utmost good faith that is supposed to dominate any insurance arrangement, is directly beneficial to the criminals and undoubtedly makes it easier for them to defraud the insurance system. It is important to point out that this provision which regulates the time limit is not a simple condition. As a matter of fact, in some countries, insurance companies might face serious civil suits, penalties and even seizure of assets if the deadline is exceeded.

So insurance companies are obliged to pay the claim even if they believe that it is a fraud case.

However, in countries which have no provision as mentioned above, insurance companies are ready to pay as soon as possible and they are rather eager to pay even if it is a suspicious claim. The main reason for this is the same as (1) (a) above mentioned.

3) Insufficiency of Co-operation among Insurance Companies

In many countries, the relationship among insurance companies seems to be functioning well. In some countries, entities for enhancing co-operation among them have been developed and are in brisk operation. However, regarding the area of management of clients, they don't seem so co-operative because of the severe competition among them. Therefore, they are very

The establishment of the special suspicious cases and persons and this makes it rather difficult to develop and informative black list.

Law Enforcement Agency Side

1) Insufficiency of Expertise

Insurance fraud is difficult to detect in

contrast to non-insurance fraud cases. The investigative authorities are accustomed to the investigation procedures of ordinary criminal cases, and they have sufficient knowledge for handling them. However in insurance fraud they have little expertise in handling complaints involving sophisticated swindles, complex bookkeeping practices and obscure laws. Investigators must understand a corporation's bookkeeping practices, before they can piece together evidence of fraud. The insurance crime is one type of crime in which investigative authorities at present lack the specific practical knowledge. At times they cannot find false entries in the book, and they also lack knowledge of the characteristics of insurance crime and offenders.

Methods to Solve the Present Problems

The methods as follows have been considered appropriate to solving the present problems and to counter crime related to insurance.

- 1) Improvement of law enforcement agencies
 - a) Development of perception and training
 - b) Establishment of a special squad
 - c) Utilization of private professionals
- 2) Strict enforcement of reports from insurance companies
- 3) Reservation of payment of claims
- 4) Education for employees of insurance companies
- 5) Establishment of a co-operation and communication system between law enforcement agencies and insurance companies
- 6) Development of black lists
- 7) Consideration of sentencing of offenders of crimes related to insurance
- 8) Development of awareness of citizens regarding crime related to insurance

Among these methods, discussion was concentrated on the following very important matters.

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Improvement of Law Enforcement Agencies

1) Development of Perception and Training

Investigation authorities should educate or train their personnel to understand the working system of the insurance industry and their social effectiveness and serious damage of insurance fraud; this would help them in deciding what action should be taken when a report is lodged.

Crime related to insurance is very complex and becomes sophisticated with regard to concealment of evidence, difficulties in compiling it, and potential transnational effects.

Since investigators are generalists in the present condition, they must have specialized knowledge when they treat a kind of ultra-modern crime such as insurance fraud cases. A special training program should be conducted in which the investigators learn about insurance business.

2) Establishment of a Special Squad

The establishment of the special investigative squad like the Serious Fraud Office in England is a good example to introduce. In developing countries there is a shortage of skilled manpower and it would be sufficient to train police officers to develop their knowledge and ability. The special Serious Fraud Office must acquire a considerable amount of expertise. The high quality of the investigation staff attached to the Office is due to several factors, and the candidate must be selected from the following:

(1) Recruitment of attorneys who have already had trial experience;

(2) Hiring investigators who have a profound criminal investigation background (e.g., former police officers, military intelligence, fire department arson investigators);

(3) Recruitment of a police officer who possesses a very good working knowledge with regard to criminal investigation;

(4) An accountant who has a broad experience in bookkeeping.

A relatively high salary would be of-

fered to the special investigation team members since this would contribute to motivation. It is very essential that members of the investigative team possess sound knowledge of court proceedings, substantial background in criminal law, well developed trial skills, and the ability to judge the likelihood of winning a case and assessing the suitability of the charge lodged. In addition, of course, leadership skills are important.

Other investigative authorities are another source for recruitment. The advantage of this is that it can bring to the Squad people who have developed specialized skills in investigating or prosecuting fraud cases.

Establishing a good working relationship with the Squad and other investigative authorities is also essential to the success of investigation of insurance fraud. Most project work will require a great deal of investigation, as well as an enormous amount of trial work. Shifting some of the investigative burden to other agencies will enable the Squad to concentrate its limited resources to serious cases only. Liaison by the Special Fraud Office and other investigative authorities can avoid duplication of effort, and if an effective communication network is established between authorities, one will be aware of cases another investigative authority intends to press.

Such liaison can also provide valuable information which may be very useful as evidence or a means of detecting a pattern in criminal activities, and some investigative authorities can provide rapid access to the defendant's business records.

The general police can assist the Special Fraud Office by handling investigation of routine economic crimes such as minor insurance fraud cases so that the Special Fraud Office is not burdened with the large numbers of these cases. More importantly local police can serve as a very important supply of investigative talents, both because of the range of local contacts police officers are likely to have and because of their skill in certain investigative techniques, such as undercover operation. The police investigators were prepared to set

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themselves up quickly with background credentials such as bank accounts and credit ratings, and would succeed in penetrating the offender's sales meeting, gaining important information about the fraud scheme.

In order to speed up the entire prosecution with effective results, it is recommended that the public prosecutor work closely with the S.F.O. and guide their efforts, and prosecute the accused efficiently and effectively. He should concentrate on major impact cases which have the most significant deterrent effects. He should establish close working relationships with other investigative authorities so that he can concentrate his own limited resources on prosecution. He should take full advantage of all existing resources for prosecution.

He should take full advantage of all existing statutes in order to bring the simplest and most provable charge and seek the most effective remedy in complex insurance fraud cases. He should then publicize his/her activities in order to deter insurance fraud crimes and to win public support for his/her activities.

3) Utilization of Private Professionals

Some members of this group pointed out that law enforcement agencies should utilize private professionals such as experts of insurance in insurance companies. Although the agencies need broad and profound knowledge and high technique of a specified area for investigation against not only insurance crimes but also other ultra-modern crimes such as many kinds of economic crimes, it is very difficult for the agencies to keep specialists of such matters in their office as regular staff. This is because the number of such specialists is very limited and the private sector can offer much better conditions to the specialists to keep them. Therefore, it was suggested that law enforcement agencies should develop a system to hire such experts as temporary staff from insurance companies or such companies' associations in accordance with agreements between the agencies and the companies' association. Their expertise must constitute a great help for the control

and prevention of the crime.

However, in some countries, there is no possibility of introducing such a system because of their present public employment system. In such a case, such experts should be utilized as advisors or resource persons of the agencies, however, their positions should be authorized by both the agencies and the private sector. But one more important problem still remains and that is what should be given to the private sector in exchange for such provision of experts.

Strict Enforcement of Reports from Insurance Companies

It has been suggested that insurance companies should report any information regarding a suspicious claim even if it is a very small case and they are not sure if the case constitutes a crime or not. Such is the most informative and strong assistance for the control and prevention of insurance crimes. Even in such a case where the law enforcement agencies can't prosecute the case, they can utilize the information as resources for other cases.

Insurance companies should realize and their employees should be educated that neglecting the report and closing their eyes toward crimes related to insurance invites the increase of such crimes and decrease of people's support as well as assistance of the police, which is to their disadvantage.

However, it is at least the moral duty of the insurance company to report all cases of suspicious fraud to law enforcement entities. Frequently when an alleged fraud case is detected, the initial complaints provide some information which merely suggest whether or not a fraud has been committed. When an insurance company detects a suspicious fraud, it must make several decisions:

- a) Whether there is sufficient evidence to warrant a conviction,
- b) What is the urgency of the case to be reported,
- c) What is the value of the case.

The stage of divulging information by insurance companies to the investigating agencies can be an onerous one, especially for those who are not trained in criminal

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investigation. On one hand, if the information is given at too early a stage the chances are that the investigative personnel would be overburdened, bearing in mind that they have other matters to attend to. On the other hand, if the information is given too late, it may jeopardise the investigation of the case. It is felt that the claims department of an insurance company should alert the authority as soon as there is sufficient proof, as opposed to very strong evidence, that a crime has been committed.

Reservation of Payment of Claims

This seems one of the most important points for control and prevention of crime related to insurance. Providing insurance companies with rights or duties to refuse the payment of suspicious claims can make insurance companies continue to be more eager to co-operate with law enforcement agencies, suspects not to get profits and people realize that crime related to insurance does not pay.

Possible solutions could be stated as follows and the necessary steps to implement them should be taken with the relevant governmental bodies:

- a) To extend the time limit in order to allow more time to be devoted to a full and thorough investigation of suspicious cases. Special care should be given to the fact that legitimate claims presented by innocent people could face unfair delay.
- b) The possibility that the deadline could be postponed by means of criminal action being undertaken and only once that action has been duly resolved would the time limit start to run again.
- c) The possibility that judges could give orders to insurance companies not to pay any money or that judges could freeze the payment and put the money in a trust fund.
- d) In some countries, special clauses have been inserted in the policy wording prohibiting any payment of a claim that is a consequence of a possible arson until the necessary investigation has been duly conducted.

Establishment of a Co-operation and Communication System between Law Enforcement Agencies and Insurance Companies

A considerable portion of law enforcement entities should be geared towards winning and maintaining a good working relationship, mutual understanding and co-operation with the insurance companies and other investigative and regulatory bodies.

In order to achieve mutual understanding, respect and a good working relationship, the two entities should properly define areas of responsibilities with regard to investigation of an insurance case. This would prevent confusion, misunderstanding, and some feeling of distrust between the insurance company and the investigative authority.

Once such is established, the good working relationships and co-operation should be monitored with a view to correcting detraction.

To increase co-operation amongst law enforcement entities and the insurance companies, it is suggested that the two agencies develop a systematic exchange of information both through formal contact and informal contact. The following up of crimes concerning criminal behaviour and characters should be recorded in blacklists to acknowledge other authorities. This co-operation could be done regularly by holding meetings of both parties in order to exchange the information including statistics or characteristics of insurance crime such as:

- a) Special cases,
- b) New criminal trends,
- c) New criminal techniques,
- d) Main targets.

Development of Awareness of Citizens Regarding Crime Related to Insurance

As our society becomes increasingly sophisticated and educated, citizens become more and more aware of their rights to full information from those who seek money, time or energy. Although the crime prevention cause is a worthy one, we must realize that no individual or group should support crime prevention without

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knowing its purpose, functioning, worth and the probability that it will deliver the benefits we claim for it.

Educating people through crime prevention would enable the law enforcement to tell the people exactly what they can do, how they can do it, how much it would cost, what is likely to happen as a result, and what resources are available to help them. People must also be able to determine that what is asked of them is the right thing to do compared to other actions they might take against the crime problem, and they need to know that crime prevention action will not needlessly expose them to new risks.

The public awareness as to the prevention of insurance crime can be done by newspaper articles, television, radio, public service spots and interviews, billboards, posters, shopping centre exhibits, on Police Day, and other general audience approaches. The information should be simple and repetitive. The campaign should, if possible, be continued on a perpetual basis, or at least be repeated at regular intervals. The co-operation of the news media, advertising agencies and other members of the local communication industry is essential to the success of a public awareness campaign. A close working relationship is of the utmost importance. The awareness campaign, though important, only opens the door to citizen participation.

The participation of the insurance companies and the authorities who regulate the function of the insurance companies to educate the people to fully understand the insurance system and its social effectiveness would be of great importance. Education should start from the school level and continue as a long-term project.

Conclusion

Both the insurance companies and the law enforcement agencies have very important social objectives. As we have considered, notwithstanding the foregoing, these two entities are very different in the way they address specific areas and approach particular problems. The mutual lack of

knowledge of each other's activities is a good example of the problematic situation faced when analyzing the inadequate and far from efficient way they co-operate and work together. This paper proposed to discuss each side with the view of giving to the reader a global idea of what are the inconveniences that each party is suffering from as well as presenting suggestions that could help to overcome or at least to decrease the magnitude of the problem.

It is undeniable that the main objective and goal with which we are involved is the appropriate control, diminution and eventual abolition of crime related to insurance; this cannot be achieved if a smooth, flexible and mutually progressive relationship between law enforcement agencies and insurance companies is not accomplished. Therefore, special consideration must be given and strict follow-up must be exercised in this regard.

Although there has so far existed great distance between the two sides, we don't think that it's impossible to establish a genuine co-operative relationship between them because eradication of crime related to insurance and its root is their common purpose. It meets not only the public order for law enforcement agencies but also the stability of activities for insurance companies.

However, we shouldn't try to settle crime related to insurance at the sacrifice of development of insurance companies' activities. It will stagnate development of the society. And we shouldn't try to hold the insurance industry in too high regard. It will serve to increase crime related to insurance remarkably and, after all, damage the industry. Therefore we should seek the way to maintain and integrate the merits of both of them. We, the members of this group, really believe that it's the best integrated approach.

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Workshop III: Difficulties in the Investigation of Insurance Fraud Cases and the Concomitant Transnational Problems Arising Therefrom due to Differences in the Criminal Justice Systems of Respective Countries, and International Assistance in Investigation as a Countermeasure

Summary Report of the Rapporteur

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Introduction

The great socio-political and economic upheavals in Asia, the Pacific region and indeed in many parts of the globe have given rise to new forms of criminality which call for concerted action by countries all over the world. This new type of offence, namely insurance fraud with international implications, sometimes referred to as a white-collar crime or one of the so-called economic crimes, has been cited by some quarters as subversive of a country's stability in the sense that unabated it can erode a nation's economy. Fortunately, there is now a growing awareness of and concern for this phenomenon—coupled with what may well be called a collective effort to address it.

This modest report on the results of the workshop meetings of Group 3 on the

forementioned topic seeks to expose some of the experiences of the participating countries in regard to this new breed of crime. Additionally, this paper also presents a brief discussion of the problems and difficulties encountered during the investigation of the cases cited, the impact of such problems on the final disposition of said cases, a short exposition on extradition, legislation and organizations as countermeasures, and a statement of the conclusions drawn from the workshop. This report has no illusions of expertise on the subject of frauds in insurance. Neither does it arrogate unto itself the prerogatives of other groups and/or persons who may after all have given better treatment to the subject.

The rising incidence of international frauds against insurance may be attributed to many factors among them being:

a) The sociological factors of poverty, unemployment, and illiteracy—Societal changes have a way or ways of leaving their imprints on man's behaviour. In Asia as in many other places, a great majority of the people still live in the slums and depressed areas under sub-human conditions. These are breeding places for crimes or tendencies towards crime.

In his lectures on crime prevention before the class, the eminent crime prevention practitioner, Director Timothy D. Crowe of the National Crime Prevention Institute of the University of Louisville, one of the visiting experts, stressed the need for a thorough understanding of the sociological aspect of crime. The NGPI material entitled "Understanding Crime Prevention" which Mr. Crowe brought with him unerringly points out "that adverse social conditions stimulate criminal learning experiences and anti-social attitudes"—debilitating family and community ties/traditions in the process and prompting the economically and socially deprived to "create a criminal subculture." For while attempts have been made to show that insurance frauds are the exclusive domain of the moneyed and the literate, it appears more likely that at the time they were initiated into crime these fraudsters were "economically and socially deprived" and that

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wealth and influence came about as the logical consequences of one successful insurance fraud after another. In brief, it was precisely their unhappy and unfortunate beginnings that drew them towards crime.

b) The profit motive which may well be the overriding consideration especially for the financiers and leaders of international fraudsters.

c) Police inadequacies—There is no question that there are still countries in Asia and even world wide whose police are undermanned, ill-equipped, undertrained and unprepared to cope with the sophistication and élan of the international underworld. Insurance fraudsters know this and are only too happy to exploit it to their advantage.

d) Problems in investigation—Because of the very nature of an insurance fraud with international implications, problems in investigation which are discussed hereunder have sometimes emboldened fraud practitioners in the insurance industry to pursue their trade without letup, aware of the redtape that normally goes with an investigation that involves two or three nations.

e) Sophistication of fraudsters in planning and execution—There is no doubt that because of their money, fraudsters have the capability to employ the best men in their nefarious activities and acquire the best equipment and weaponry to further their "business." They have the brains to plan and the muzzle to implement their plans.

f) National boundaries and national laws—International frauds against insurance normally transcend national boundaries and must be investigated and checked in accordance with the national laws of the countries concerned. Conflict of laws can arise especially in the absence of extradition or other international arrangements. This can result in delays. Meanwhile, the criminals go about their merry ways.

International frauds against insurance come in many forms and under varied sizes. Murder of the insured is predominant among those who wish to collect the money from life insurance policies, while scuttling or sinking of the vessel is a favour-

ite among insurance fraudsters. In both instances, investigation is difficult for very obvious reasons. Fictitious or feigned accidents at times prove to be convincing excuses for frauds against insurance. And so are many others. An examination of many of these offences would confirm what others before this writing have referred to as characteristics of typical economic crimes which are: (1) Premeditation, (2) sophisticated financial methods, (3) difficulty of compiling evidence and (4) potential transnational effects.

Usually the criminal masterminds his plan, taking due consideration of his goals, his resources, his plan of execution, his priorities, his escape plan, excuses, defenses, explanations, and other important matters to attend to after successful commission of the crime. One cannot therefore take anything for granted when dealing with them.

The participants agreed that each would present a typical or actual case of insurance fraud in his country, although a case appearing in a participant's report may do. Similarly, the participants agreed to apportion the work among themselves with specific timeframes within which to present each assignment before the group for open discussion. The sub-topics outlined were as follows: (I) Specific cases, (II) difficulties and problems, (III) countermeasures and (IV) conclusions.

Specific Cases

The No. 3 Shinei Maru Case

This case was presented by a Japanese participant. It appears that on 31 July, 1979, Fukami and Yano, executives of General Bussan Co., Ltd. in Osaka, purchased No. 3 Shinei Maru at the cost of 17 million yen, and thereafter documented a memorandum of sales agreements stating their intention to sell the vessel to Marine Products Co., Ltd. at the cost of US\$570,000, which is about 125 million yen. The Marine Products Co., Ltd. was a fictitious company which Fukami and Yano purported to have established on 22 June, 1979, with four Americans and two Japanese as its executive officers. Then they applied for naviga-

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tion insurance for US\$627,000 with Cornes Co., Ltd. in Japan. Then Cornes Co., Ltd. contracted a navigation insurance with General Bussan Co., Ltd. after receiving 622,960 yen in premiums, although the insurance surveyor's investigation was done not by the duly designated investigator as prescribed by the insurance association.

Yano, Fukami and one of their cohorts, Sasaki, then perfected their plan of scuttling the vessel. They again documented every aspect of their illegal design. Sasaki was to do the sinking off the coast of Japan. One night while he was on duty, Sasaki pulled the cock out of the ship's bottom valve at the main engine and sea water entered the vessel on 25 August, 1979, sinking the boat. Yano thereafter frequented the Cornes Co., Ltd. office and negotiated for the early payment of the insurance money but this was not paid because Hachinohe Maritime Safety Office did not complete the investigation.

Investigation by Cornes Co., Ltd. office showed that General Bussan Co., Ltd. did not provide the No. 3 Shinei Maru with appropriate equipment and that in fact General Bussan Co., Ltd. suffered some damages. Anyway, Yano and his group managed to get the insurance money but in a lesser amount, approximately 105,730,400 yen.

For fear of police arrest, Sasaki fled to Indonesia. In their investigation, the Japanese Maritime Safety Agency was confronted with the problem of how to negotiate the return of Sasaki from Indonesia to Japan since the extradition treaty had not been concluded between the two countries. However, the Japanese Ministry of Foreign Affairs negotiated the cancellation of Sasaki's passport and he voluntarily came back to Japan.

This case demonstrates some of the problems encountered in the collection of evidence in maritime insurance frauds. The investigators could not find direct evidence to produce in court because the vessel itself had been sunk. There was no extradition between the two countries and yet the suspect was returned to Japan. This further illustrates the substitute measures or other forms of international co-operation which

states can resort to even in the absence of extradition treaties.

The Cathay Pacific Case

This was presented by the participant from Thailand. On 15 June, 1972, Flight No. CX700 of the Cathay Pacific Airways took off from Bangkok on its way to Hong Kong. After takeoff, the plane crashed above South Vietnam killing 81 crew and passengers including the wife and daughter of the suspect. On 31 August, 1972, the suspect was arrested. He was a government official who took an insurance policy on his paramour and on the life of his daughter by his legitimate spouse.

Police investigation showed that the plane was thoroughly checked before takeoff, and that there was no question of mechanical or engine defect whatsoever. According to I.C.A.O. (International Civil Aviation Organization) requirements South Vietnam, a signatory nation, organized an investigating committee composed of representatives of the country where the plane crashed, the country of registration and the country of manufacture, basically to find out the cause of the accident.

Investigation further revealed that the suspect's second wife (paramour) served as a waitress in several eateries before she met the suspect. It appeared that the suspect had long planned to commit a crime of the same nature by studying explosives and the sensitive part of a plane where he could possibly set the explosive. He used a forged document sometime on May 23-24, 1972, as evidence that his father-in-law by his paramour had consented to the passport application of the said woman. Thereafter the suspect took two life insurance policies on the life of his wife in the total amount of 5,000,000 bahts, and on the life of his daughter in the amount of 500,000 bahts with the suspect as the beneficiary in all policies. After thus convincing his wife and child to travel, he put a bomb in his wife's handbag, properly hidden and then the explosion took place as earlier stated.

The circumstances surrounding the commission of the offence, meaning the plane explosion, difficulty in identification of

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the victims, and difficulty in obtaining other details made thorough investigation almost impossible. Therefore when the case was filed in a court of law, the suspect was acquitted on some technicalities. It has to be stated that the Vietnam Government extended all co-operation necessary to the Thai investigating official.

This case illustrates the complicated nature of the new criminality of insurance fraud and the inherent difficulty of investigation.

The Miura Case

This was presented by another Japanese participant. Sometime in November 1981, one K was shot in the head by an unidentified person in Los Angeles, USA, putting her in a coma. She died in November 1982. Following her death, a Japanese weekly magazine came out with an item in January 1984, that her husband, M, took an insurance policy on her life before the shooting. Similarly one Y, an actress, who was the alleged paramour of the suspect, confessed that she was directed by the suspect to attack and kill the suspect's wife K for the insurance money. She said she beat K on the head with a hammer inside a hotel room in Los Angeles in August 1981 without killing her. The Metropolitan Police Department wanted to arrest suspects M and Y but the prosecutor's office objected since the Los Angeles City Police Department was investigating the case. Japanese investigation of the cases was then interrupted. In May 1985, the office of the District Attorney of the County of Los Angeles desisted from charging the aforementioned suspects with murder, and informed the Japanese authorities thereof, pledging support and co-operation if the Japanese would request them.

As a result thereof, the Metropolitan Police Department and the Tokyo District Public Prosecutor's Office decided to resume investigation of the case. A request for assistance was then addressed to the United States through the Ministry of Foreign Affairs. Japanese investigators were later allowed to be present during the interrogation of some persons related to the

case.

A question arose as to the extent of the investigation the Japanese investigators could do in United States territory considering that in Japan foreign investigators can only witness or be present during interrogations. In the case under consideration, the Japanese probers could have done the interrogation since United States authorities were rather lenient but the former restrained themselves. Anyway, based on the evidence gathered, the Japanese police arrested suspects Y and M on the attempted murder case. Both were indicted on 3 October, 1985.

Y gave a full confession before the investigators and before the court. M, however, denied involvement in the case. Both were later sentenced by the Tokyo District Court. M appealed. In August 1987, after the two were convicted, the prosecutor's office in Los Angeles county sent investigators to Japan to gather evidence on the murder case where K died of shooting. The United States investigators were allowed to be witnesses to the interrogation conducted by the Japanese police. Since the case is still pending, possibility exists that the United States may ask for the surrender of M. Japan may, if asked, defer such a surrender under the extradition treaty between the two countries until M's trial is completed and his sentence duly served. The facts and circumstances of this case serve to illustrate the issue of overlapping jurisdiction of states over the same case, which may sometimes result in some delays of investigation.

The Salim's Case

This was presented by the participant from Lesotho. In 1980, S, an Indian man, came to Lesotho from the Republic of South Africa. In Lesotho, he rented premises which he used in running a book-shop business and a fleet of taxicabs.

S had a device which he for a long time used to defraud insurance companies of sizeable amounts of money. He would insure his cars under theft insurance and thereafter sell them in the Republic of South Africa under the pretense that his

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cars were in fact stolen. The insurance companies believe S's concoctions in view of the fact that the incidence of car theft was very high at the time in Lesotho.

In 1984, S was said to have been involved in unlawful activities in Lesotho and he eluded police arrest by escaping to Mauritius. While already in Mauritius the frauds attributed to him were discovered and reported to the Lesotho police. The matter was then taken up on a government level between the two countries in order to negotiate the extradition of S from Mauritius. But the negotiations were unsuccessful. Mauritius wanted a guarantee from Lesotho that S would not be prosecuted for political offence. The two countries differed essentially on the issue because from the point of view of Lesotho S had committed criminal offences only, while Mauritius said that those were political offences and therefore not extraditable.

The importance of this case lies in the fact that extradition is possible only if the crime committed falls under those mentioned in the extradition treaty, and if there is good faith on the part of the signatories to the extradition.

The Nita Masahito Case

This was presented by the participant from Korea. N, a Japanese national, secured a 100 million yen life insurance for himself and for members of his family in case of accidental death and murder, excluding suicide, within six days from the start of his trip abroad. N landed in Korea on May 24, 1985, and stayed at the Royal Hotel Bussan. While at the hotel, he committed suicide by jumping from the 12th floor thereof, with his hands bound behind his back. According to initial police investigation, burglary and murder were suspected to have been committed. Not long thereafter, however, the Korean police received information from the Japanese National Central Bureau of INTERPOL to the effect that N had entered into a contract of insurance before embarking on his journey to Korea. This piece of information together with other facts already known to the Korean police eventually proved that N had

committed suicide. Hence, his death was not covered by the policy.

This typical case demonstrates the importance of prompt exchange of accurate information among police agencies of various countries. Because of the information from the Japanese NCB of INTERPOL, the Korean police were able to unmask the intended fraud behind N's suicide.

The Manila Murder Case

This case was presented by a Japanese participant. It appears that S and N got acquainted with each other in 1969 when N opened his bar near S's shop. S not only accommodated N with much money but also guaranteed N's debts several times. Earlier in April of 1987 N went to Manila to collect A's indebtedness to him. In July 1987, N's debts to S reached 13 million yen. To secure payment of this debt, N's insurance policy was amended. The beneficiary was changed from N to S. N's wife was replaced by S's wife. The insurance policy amendments were completed by 7 July, 1987.

On 24 or 25 of January 1979, H informed S that H met N in Manila and that N had become a pimp of Filipino women and had become a beggar. S then decided to kill N to get the insurance money. S sought the help of H regarding his plan to kill N. H agreed. H went to Manila and asked P (fish vendor) to get a professional killer to eliminate N. P agreed but later desisted upon advice of his wife. H returned to Japan only to go back to Manila where he met J (a Filipino) and asked J to kill N and to make it appear as burglary or robbery with murder, using a professional killer. J agreed and introduced G as the killer for a fee of 600 thousand pesos. On 11 June 1979, H made up his mind to kill N that night. He called up J and informed him of the plan for that night. And so H invited N to a resthouse. After drinking, H and N went out. N was then attacked and killed by G and an unknown person. H ran to a nearby restaurant and lied that N had been attacked by a burglar. H repeated the lie to the police. The group held it unlikely that S would receive the insurance money

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for the death of N not only because he planned it but also due to the fact that the killing was discovered to be murder and not burglary or robbery.

Among the basic problems encountered in this case were the matter of closer coordination between Philippine and Japanese investigators, the early exchange of information between them, and uniformity in investigative procedures. It was nonetheless noted that the investigation was eventually wrapped up and appropriate charges filed.

Difficulties and Problems

Means of Investigation

Jurisdiction is a vital determinant in any investigation. Once settled, one can at once decide whether to investigate or not. It is obvious though that as a rule a country can only enforce its laws and investigate violations thereof within its territorial boundaries. Beyond that, a country must resort to international covenants or internationally accepted principles as reciprocity and comity, or the matter may fall under any of those that may be referred to the International Court of Justice.

Basically it is the police who gather and collect the evidence and it is the prosecution's task to evaluate the evidence and determine whether a prima facie case exists to warrant filing in court or whether further investigation is needed. The prosecutor may choose to directly co-ordinate with the police on such additional investigation.

During the group discussion, a Japanese participant observed that while Japanese police normally do not have jurisdiction to investigate crimes committed outside Japanese territory, the Japanese penal laws can be applied to Japanese nationals who commit crimes outside Japan. Japanese penal laws are given what is known in international law as extra territorial effect. A similar situation does not seem to obtain in the countries of the other participants. In *No. 3 Shinei Maru Case*, suspect Sasaki transgressed the Japanese maritime law against insurance fraud by sinking the ship on the high seas. The Japanese police assumed

jurisdiction and arrested Sasaki. The arrest led to his prosecution under the relevant laws of Japan. Mention should of course be made of the fact that the insurance contract was entered into in Japan and the claim was also later filed in Japan.

The same question of police jurisdiction to investigate cases outside Japanese territory appears to have been resolved in favour of Japanese jurisdiction in the *Manila Murder Case*.

The liberal interpretation given to Japanese penal laws notwithstanding, it would seem that the question of jurisdiction remains to be the major problem for many countries in the investigation of crimes related to insurance. It is not uncommon for economic crimes like offences against maritime insurance to assume international characteristics that are likely to obscure such items as nationalities of the vessel and the crew. In the cases earlier summarized, the crew were disbanded immediately after the alleged losses, and in the case of *No. 3 Shinei Maru*, the investigators experienced difficulties in establishing the identity or nationality of the vessel because the General Bussan Co., Ltd. had prepared a memorandum or sales agreement to the effect that the vessel owners would sell the ship to Marine Products Co., Ltd., a fictitious firm. Through this fraudulent act, Yano and his friends managed not only to increase the cost price of the vessel with larger insurance money as the target but also gave the vessel and for that matter the transaction an international character. This made it difficult for Japanese investigators to trace the nationality of the vessel, prompting them to seek advice from the United States Consulate, the Transportation Bureau of the Ministry of Justice of Japan, and the Japan Shipping Exchange. It was only after they had received such advice that it became clear that General Bussan Co., Ltd. still retained proprietary rights over the sunken vessel, and that meant that they were vested with authority to investigate not only fraud but also the circumstances surrounding the sinking of the vessel.

Another problem in investigation is the

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tinely gathering, collection, and preservation of physical evidence as necessary to prosecution later on. This was evident in the No. 3 Shinei Maru case where Sasaki claimed to have accidentally pulled off the cock permitting water to come in. This could not be verified because the ship had sunk. This is not to mention that other pieces of physical evidence certainly could have been collected at the ship if it did not sink.

The Manila Murder Case was in part hindered by lack of sufficient evidence in the hands of the Japanese investigators despite co-operation from the Manila police authorities. Japanese probes had to travel to Manila to complete their evidence. Fortunately, under Japanese procedural laws and rules the police report, the autopsy report and other documents that emanated from Manila were admitted in evidence by the Japanese trial court. One can imagine the expense and time that would have been incurred if witnesses in the Philippines and the laboratory technicians had to be brought to Japan just to testify.

Overlapping of jurisdiction may be another problem as in a situation where both the country where the crime took place and the country to which the suspect belongs simultaneously undertake investigations of their own. In the *Miura Case* the Japanese police immediately initiated an investigation only to be advised later by the Tokyo District Public Prosecutor not to arrest Miura and Yazawa because this might interfere with or obstruct the then ongoing investigation by the Los Angeles City Police Department. It was only after the Los Angeles prosecution authorities discontinued their investigation that the Japanese police authorities were given the permission to arrest the two suspects. Situations like this can also bring about concomitant delays in investigative operations. Such delays can be very damaging to the interview of witnesses, the interrogation of suspects, the integrity of the crime scene and all sensitive pieces of physical evidence that are expected to be found thereat.

Collection of Evidence

Evidence is many things to many countries. This means that different states give different meanings to evidence. For instance, evidence has been loosely defined as the means authorized to prove the truth or untruth of a case; proof that a crime has been committed and that the suspect is probably responsible for the commission of the crime; proof of the fact of the commission of the crime or the *corpus delicti*. What is evidence in one country may not be evidence at all in another.

The problem becomes even more manifest and undoubtedly demanding when evidence gathered in a foreign country is to be presented before a court of law of another country. This is one reason why international intercourse and relations, not wishing to be completely helpless under such a situation, have come out with international conventions as treaties on mutual assistance in the investigation of transnational crimes, reciprocity, comity and the ever-rewarding method of person-to-person relationships among investigators and prosecutors from different states.

Evidence must be approached from two basic perspectives. One is the physical act of gathering evidence which leans heavily on whether investigators of a foreign country may be allowed to investigate and collect evidence in another country with the police of that foreign country playing a secondary role, or vice versa. Secondly, the collection of competent and relevant evidence and the admissibility thereof before the trial court for what is competent and relevant evidence may not necessarily be admissible evidence. The *lex fori* must by necessity prevail in terms of admissibility of evidence.

Countries generally adopt and use the hearsay rule as part of their rules on evidence. The hearsay rule is nothing but a legal requirement that one can testify only on those matters of which he has personal knowledge. Everything else outside of such personal knowledge is hearsay. There are, however, exceptions to this rule, prominent among which are the dying declaration and parts of the *res gestae*.

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A dying man is presumed to be incapable of falsehood because of his physical condition. Hence, the law considers his dying declaration or *ante-mortem statement* as to the identity of the suspect and other facts about the case as truthful, the only condition being that such statement must be given under *consciousness of an impending death*. Utterances immediately before, during and after the commission of a crime are, again because of the circumstances under which they are given, referred to as parts of the *res gestae* and considered exceptions to the hearsay rule. Other countries may have their own respective sets of exceptions all in accordance with their national law and rules on procedure.

In all the cases cited earlier, over which Japan eventually took jurisdiction, Japan's rather accommodating position insofar as admissibility of evidence is concerned came into play and facilitated the trial and conviction of the accused. For the trial courts of Japan to have demanded otherwise, i.e., physical presence of witnesses during the trials, it would have been costly in terms of money, time and effort, and most significantly, in terms of delay in the administration of justice.

Exchange of Information

The advantages of an effective flow of information, or exchange of information if one may be given the permission to use this old cliché, have long been recognized domestically and internationally. No activity among persons can be facilitated without information passing to and from each of those individuals, no matter how trivial the information may be.

On the international level, exchange of information is one of the imperatives of the day-to-day interaction among states. In the area of international intercourse none can equal the need for exchange of information particularly at a faster and safer pace than in investigation.

Small wonder then that in many instances investigators from two or more countries have had to *ad lib* among themselves without banking on international agreements like extradition or other treat-

ties, all because there is a criminal to pursue, clue to follow up or a crime to solve.

Offhand only a few international machineries for the exchange of information among states although private as compared with those commissioned or organized by the United Nations or by some nations, appear to have been active and these are the ICPO-INTERPOL and the CCCU, among others. During the last few decades of its existence, the ICPO-INTERPOL managed to project some kind of clout not so much because of its functions but mainly due to its consistency and the information that it feeds among the National Central Bureaus of its member states. The ICPO-INTERPOL does most of its job through these NCB's. In turn the N.C.B.'s filter the information from ICPO-INTERPOL into the various police investigative agencies concerned. The ICPO-INTERPOL operates a world-wide telecommunications network designed to reach every member-state through appropriate linkages. Through this network, ICPO-INTERPOL issues out alarms or bulletins from time to time on international crimes, syndicates, internationally wanted persons and other pieces of information useful to national, regional and international policing.

In terms of international exchange of information, the following may be enumerated as having been tested and extremely useful; these are the usual agreements facilitated through diplomatic and consular relations; the international arrangements brought about by such agreements; the facilities of the ICPO-INTERPOL and other credible groups; direct police-to-police or policeman-to-policeman interactions.

The above-mentioned avenues of communication, however, have not always been that productive in terms especially of investigation. Hindrances were noted among them as being: the national laws and national boundaries of countries involved sometimes make the so-called "hot pursuit" principle in international law an empty exercise: lack of a uniform understanding of such important legal niceties as reciprocity and comity; the political, economic, psychosocial and military dimensions in each

country; the actual expenses involved in the use of telecommunications equipment; and the personalities of those involved.

Countermeasures

Extradition

Mueller and Wise, editors of the book "International Criminal Law" cite the following definition of extradition:

"Article 1. Use of Terms: (a) Extradition is the formal surrender of a person by a State to another State for prosecution or punishment."

While prosecution or punishment appears to be the primary objective of extradition, it has been said that the provisional arrest of a person with the view to extradition, and the delivery of property may also be the subject of "requisition" (technical term for request for extradition) within the context of an existing extradition agreement.

Extradition treaties are not without limitations. For instance a state may refuse a request for extradition if the act attributed to the person sought to be delivered to the other state was not punishable in the requested state when the same was committed. A country may decline to act favourable on a request for extradition when the act was committed in whole or in part within its territory or outside the territory of the requesting country. Similarly, a requisition may be politely turned down when the subject is already immune from prosecution because of the lapse of time. The same situation would arise if under the laws of the requested state the subject would have been immune to prosecution and punishment by virtue of the lapse of time if the act was done within the boundaries of the requested state. Again, requests for extradition may be declined when the person sought to be extradited is accused of a political offence ("includes any offence connected with the activities of an organized group directed against the security or governmental system of the requesting state") or if it appears to the requested state that such is the purpose of the request, and for military offence or when it

appears to the requested state that such is the purpose of the request. Military offence here refers to an act punishable by military law or rule, not by civil law.

Other grounds for the rejection of requisitions are that the subject had already been prosecuted before the requested state or a third state for the same act or acts and subject had been convicted or acquitted. There are of course many ramifications of extradition such as those on conflict of requisitions, postponed or conditional extraditions and the rather extended extradition procedure. The reservations of a requested state are also embodied in the same draft convention, along with certain limitations on the requesting state once extradition is granted.

Group III submits that a multilateral extradition treaty should be the ideal and it should be the ultimate aim of negotiations among countries. In the meantime, while negotiations for the conclusion of an extradition treaty are going on, police investigative matters can still be facilitated on a reciprocal basis, particularly when the countries concerned have laws governing investigative, prosecutive and judicial assistance to other states.

The fundamental virtue of an existing extradition treaty is that police investigators, prosecutors, judges and diplomats have a ready avenue through which arrangements can be made with dispatch so that an extraditable suspect may be brought into the territory and jurisdiction of a requesting state. The consequent benefits (crime scene search if possible under the circumstances, collection and preservation of physical evidence, etc.) that are to be derived from an early investigative initiative would thereby be achieved.

Similarly, escape by the suspect would be unlikely. The deterrent impact alone of such a situation on others who might be minded to take advantage of so-called "foreign connections" would be tremendous.

But like all internationally oriented efforts, extradition can be abused or employed to protect individuals in high places. This was evident in the Lesotho case where

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the suspect, a confirmed criminal in Lesotho (after escaping from his native land South Africa), escaped to Mauritius. When Lesotho asked for the suspect's extradition on the basis of an existing extradition treaty, Mauritius refused saying that the suspect was a political offender and that he sought political asylum in Mauritius.

In negotiating bilateral or multilateral extradition agreements, important words or phrases like "political offence" or "political offender" or "socio-political offences" should be clearly defined, and there should be a continuous flow or exchange of relevant information among the states concerned so that appropriate checking and studies can be made while negotiations are going on.

The admitted increase in the incidence of frauds against insurance with international implications should spur every country to aspire for multinational or multilateral extradition covenants.

Legislation

As one goes through the list of proposals and measures submitted by previous classes one invariably finds legislation as a primary recommendation. At the risk of being repetitious, Group III again submits legislation as a countermeasure to the many and varied problems that now confront countries of the world due to the fast-emerging spectre of international fraud against insurance laws. Group III believes that it is only through legislation that states can truly address the basic difficulties especially in the areas of investigation, evidence and international co-operation.

Legislation as a countermeasure is here viewed from two perspectives namely domestic and international. On the domestic level, states can, on their own and through their respective legislation machineries, initiate and adopt laws and rules that would contribute to the international effort to reduce or curb frauds against insurance laws particularly those perpetrated on an international scale.

Thus, nations can adopt laws providing for assistance to other countries in terms of investigation, prosecution and evidence.

More particularly, the question of the nature and extent of the authority of foreign investigators to undertake investigations abroad should be the subject of policy-formulation, along with the admissibility of evidence obtained in foreign countries; then legislation can institutionalize other forms of assistance all in the spirit of reciprocity.

On the international level, legislation also comes into play for extradition treaties, considered by many to be the culmination of multilateral efforts against crime, invariably go through the legislative machineries of the signatory countries for proper ratification.

The new criminality, sometimes referred to as economic crime, has brought about revolutionary changes in the statute books and in the *modus operandi* of their perpetrators. For one, computer crimes have surfaced in diverse forms and proportions. Prosecutors have been wont to denounce certain individuals for alleged computer crimes only to find out that the acts complained against are not defined much less punished as criminal acts. And the underworld has been quick to exploit this legal inadequacy. There can be no question that there is unscrupulous profit from such acts but they go scotfree because such acts are not covered by any law defining them and providing for their penalties.

In the estimation of Group III it would seem that a review of each country's policies/laws and rules on investigation, evidence especially the hearsay rule and its exceptions, co-operation and co-ordination with foreign countries, prosecution and judicial assistance to foreign states and areas of jurisdiction should be done now to keep pace with international criminals and fraudsters. Countries should now be encouraged to update their statute books so that acts which are obviously prejudicial shall be defined as criminal acts with their appropriate sanctions or penalties.

Similarly, countries should now be urged to initiate legislation for better supervision and to a certain extent control of insurance companies and their transactions through better policies, limitations

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and supervision.

Japan has set the pace through her "Law for International Assistance in Investigation," "Law for Judicial Assistance to Foreign Courts" and the "Law of Extradition."

The example set by the United Kingdom insofar as the confiscations or forfeiture of illicit money or funds obtained through illegal traffic in drugs deserves serious attention in terms of similar confiscation or forfeitures of funds illegally earned by insurance fraudsters. Finally, the liberalization of the laws and rules against the disclosure of bank accounts and records, and those on wire-tapping as a legitimate intelligence/security operation upon prior clearance from competent authorities merits legislative initiatives if success against those involved in insurance frauds is to be achieved.

Finally, legislation can set up the necessary policy direction towards the conclusion of multilateral extradition treaties among concerned states.

Organizations

There are a number of associations and groups whose resources have been at the forefront in the common crusade against crimes that transcend national boundaries. There are generally broken down into two groups, namely the governmental or public and the non-governmental organizations or private groupings.

Among the more active ones are the ICPO-INTERPOL, an association that is private but which carries in its roster the National Central Bureaus of governments/states represented by their respective heads of police agencies. ICPO-INTERPOL is not operational in the sense that it has no men or agents hunting down criminals throughout the world as shown in the movies. It has distinguished itself more as a liaison centre among its members. The Commonwealth Commercial Crime Unit (CCCU) whose functions include investigation and the collection of tactical and strategic intelligence has reportedly been doing well even as the League of Arab States appears to be very assertive in its drive against maritime

frauds. There are a host of other organizations which may be performing just as well but listing them down might unduly clutter what in the first place was intended to be a summary report.

Dean Panat Tasneeynond's lecture on "International Co-operation in Combating International Fraud" fortunately provides a substantial list of such entities.

Organizations that have been set up under the auspices of the United Nations and other international regional associations of states dealing with crime in general might fall under the governmental category.

In the meantime, the different investigative units (anti-organized crime, theft and robbery, arson), special branches and intelligence divisions/sections of the police departments of the represented states can be tapped, as in fact some have been tapped at least in the Asian continent, to get themselves involved in joint or co-operative investigative and prosecution efforts on a reciprocal basis. Group III submits that given the necessary boost by way of adequate training, sufficient equipment and other logistical needs, and with the support of their respective governments, these existing institutions can render invaluable assistance to the campaign against frauds. It is necessary, however, that their activities should be properly co-ordinated and integrated to achieve the common objectives.

Furthermore, in the face of the admitted increase in the incidence of frauds against insurance on international proportions, it seems necessary at this point in time to urge participating countries to review the organizational structures of their investigative and prosecutive offices to make them responsive to the needs of the service, and to cause the re-assessment of their policies and laws relative to investigation, evidence and prosecution in general so that infirmities in these laws can be corrected so that even in the absence of extradition treaties suspects can be made to return to the country where they may be wanted and police/prosecutors can accomplish their jobs without so much redtape. All these, of course, are aimed at maximizing the utilization of very limited resources

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in most of the countries involved.

The recommendations of the Fraud Trial Committee of the United Kingdom regarding the creation of a Serious Fraud Office (SFO) is a good example of a domestic government instrumentality that can, with proper support, produce a solid impact on the concerted efforts against insurance frauds. This revelation from Sir Thomas G. Hetherington, former Director of Public Prosecutions in the United Kingdom, in his lecture "Measures to Improve the Prosecution of Crimes with Commercial and International Implications" came as a welcome bit of news at a time when every country seems to be grappling with a problem that is as menacing as it is scheming in its clandestine operations. Incidentally, the same lecture similarly bared a proposed radical departure from ordinary rules of evidence namely the so-called "first-hand documentary hearsay." There was no detailed elucidation of the concept. However, the case of testimonial evidence beamed to the trial court through television was cited as a possible example, although the lecturer admitted that this method could be vulnerable to serious questions.

A well co-ordinated self-policing or self-regimentation common move on the part of insurance companies themselves can also do a lot to help in the campaign considering that their organizations are already in place. Mutual support will then be enhanced.

Conclusions

- 1) Insurance frauds with international implications are realities that states must face and reduce to manageable proportions for their adverse effects against the economy of a nation can be ruinous to the stability of such a nation.
- 2) Policy initiatives on the part of affected states are therefore urgently needed to control these frauds. Such initiatives should cover: review of existing investigative and prosecution structures of government along with their missions and functions to make the same response to

current requirements; review of existing or proposed international commitment, if any, relative to the above-stated topics; strengthening of governmental and non-governmental entities and proper co-ordination of their common activities; and relevant training for all personnel concerned to update them on the names and identities of so-called international fraudsters, their modus operandi, their plans and intentions, and also to keep them abreast with the latest techniques and methods of their craft.

- 3) More active support for and from the various international and regional associations of insurance companies in terms of data/information relative to frauds.
- 4) Stricter supervision (and control) of insurance companies particularly in regard to their transactions and the conditions of the same.
- 5) Conclusion of multilateral extradition treaties as an effective weapon against fraudsters.

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Workshop IV: The Characteristics of
Offenders of Crime Related
to Insurance and
the Effective Measures for
Their Treatment

Summary Report of the Rapporteur

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Introduction

We, all the participants of this International Training Course, have learned detailed information on the actual situation of crime related to insurance in each country in the individual presentations, general discussions and lectures given by the visiting experts which were held before our group workshop session. We also realized that the high incidence of this type of crime has become a serious social problem in many countries. Therefore, how we should prevent this crime related to insurance is our common task. As for the possible counter-measures of prevention, the strength of criminal justice or social measures and international assistance and co-operation can be cited; for example, of criminal counter-measures we have to consider how the investigation in this type of crime should be carried out and what sort of points should be considered and improved in the insurance company, and how we can promote the co-operative relationship between the investigative authority and the insurance company.

On the other hand, appropriate treat-

ment in institutions or in the community for the offenders of murder, arson and fraud related to insurance is also an important measure for preventing such a crime. This treatment should be given to prevent offenders from committing crime again.

Therefore, we, the six members of participants of this Training Course, had discussions on the selection of appropriate sentencing practices and treatment measures for offenders of crime related to insurance. That is; first of all we tried to discuss both the characteristics of crime related to insurance and characteristics of the offenders of crime related to insurance. The second issue we discussed related to sentencing practices for this type of offender because the sentencing determines the direction of the treatment. After this discussion, we had discussions on the effective treatment of the offender of this crime, and, in this discussion, we divided the treatment into institutional treatment and community-based treatment. In order that our discussion be as concrete and empirical as possible, we prepared a questionnaire and distributed it to all members of the other groups (a sample of this questionnaire is appended to this paper). By their diligent co-operation we were able to obtain good knowledge about the actual situation of punishment, sentencing and treatment of offenders in each country.

Now we would like to describe the contents of our discussions based on the result of answers to our questionnaire.

Characteristics of Offences and
Offenders Related to Insurance

This section will deal with both the characteristics of crimes related to insurance and characteristics of offenders of crimes related to insurance. Initially, in discussing treatment measures of offenders of crimes related to insurance (hereinafter, crimes related to insurance are referred to as "insurance crimes"), we defined insurance crimes as follows.

"An insurance crime is an offence committed to illegally obtain insurance money by means of murder, arson and fraud and

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so forth.”

There are many variations of this type of crime, so we chose those crimes which are most frequently objects of discussion about insurance crimes and have an important effect upon both our society and the insurance system. It is important, before considering appropriate treatment measures for offenders of insurance crimes, that we have a clear knowledge and understanding of both the characteristics of insurance crimes and the characteristics of offenders of insurance crimes so that we can treat those offenders in accordance with their identified characteristics.

A. The Characteristics of Insurance Crimes

Through the individual presentations and general discussions, we have already discussed this issue, therefore, based on the results of these discussions, we have confirmed that we can identify the following facts as the characteristics of these crimes.

1. The majority of these crimes can be called intellectual crimes since they are committed with a premeditated plan. It was found that these criminals had plotted for a long period of time before committing the crime. For example, a typical case is the one which is called “Case of Murder for Beppu 300 Million yen Insurance Money” in Japan.

2. In a good many cases of these crimes the criminals are motivated to secure the insurance money for business capital and to repay debts. Statistics in Japan (1978-1982) indicate that both of these motives account for about 60% of the total of insurance murder cases.

3. The amount of damages is usually considerably large.

4. There is very often a close relationship between the principal offender and the victim in such cases of crime.

5. These crimes tend to be committed by a conspiracy and to be committed repeatedly.

Statistics in Japan (1979-1983) indicate that the rate of conspiracy in such insurance crimes as murder, arson and fraud is

79.6% (the WHITE PAPER ON CRIME for 1984), while for other general crimes it is 28.1% (the ANNUAL REPORT OF JUDICIAL STATISTICS FOR 1977-1983).

6. The trend of these crimes which have been committed by organized criminals is increasing.

For example, the group named “Atarareya” (in English “Hittee”) which was composed of about 80 persons was active in Japan; the members of this group united themselves in the actual commission of insurance frauds.

7. These crimes have become remarkably internationalized due to the development of international trade.

8. There are many variations of these crimes, especially such a special form of crime as insurance fraud related to maritime trade.

B. The Characteristics of Offenders of Insurance Crimes

It is not easy to find the characteristics of offenders of insurance crimes compared with other offenders because all offenders originally exhibit similar characteristics. However, we have confirmed that we can identify the following facts as the characteristics of offenders of insurance crimes.

1. Many principal offenders of these crimes are intellectual and they have both willful intention and cruel characteristics. In addition to these points, these offenders generally have a high social status and are in relatively good financial condition prior to committing insurance crimes.

2. On the other hand, other offenders who act as co-offenders are often gang members or have a close relationship with the members of gangster organizations.

3. For these offenders, both the rate of those who are of young age and those who are given sentences of light punishment are low.

4. These offenders often do not concentrate seriously on their rehabilitation in prison because they are rich, so it is very difficult to treat these offenders appropriately.

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As mentioned above, there are various types of offenders of insurance crimes, and we must take this into consideration when we discuss treatment measures for them.

Selection of Sentences for Insurance-Related Crimes

This section will deal with sentencing practices of offenders of insurance crimes.

A. The Investigation for the Presence of Special Provisions in the Penal Code of Each Respective Country

Before discussing sentencing we investigated whether the Penal Code of each of the participating countries contains special provisions directly related to insurance crimes. According to the answers to our questionnaire, countries which have such special provisions in their Penal Code are as follows.

1. Fiji: For forgery (punishment is the same as for other forgeries)
2. Indonesia: For fraud (punishment is heavier than that for non-insurance fraud)
3. Philippines: For arson (punishment is not heavier than that for other types of arson)
4. Thailand: For fraud (punishment is heavier than that for non-insurance fraud)

(The Penal Code of Thailand contains special provisions for murder. One of them is as follows: 289 (6) whoever commits murder of any other person for the purpose of preparing or facilitating the commission of any other offence shall be punished with death.)

Considering sentencing, it is a noticeable fact that the punishment of insurance crime is heavier than that for any other crime of the same nature in Indonesia and Thailand.

B. Next, we investigated the system of suspension of execution of sentence in each country because this system is the beginning of the non-institutional treatment of offenders.

1. According to the answers to our questionnaire, 8 countries, Fiji, Indonesia, Korea, Peru, Philippines, Sudan, Thailand and Japan have such a system, but the details of requisites are not clear in all cases.

2. The actual situation of the system of suspension of execution of sentence in some of the countries is as follows. In Indonesia, suspension of execution of sentence may be given to the offenders for not more than 3 years when they receive a sentence of not more than 1 year's imprisonment. As regards insurance crimes, all offenders who committed murder, arson and fraud may legally receive this sentence.

In Thailand, suspension of execution of sentence may be given to the offenders for not more than 5 years when they receive the sentence of not more than 2 years imprisonment. As regards insurance crimes, the offenders who committed murder cannot receive this sentence according to law.

In Japan, suspension of execution of sentence may be given to the offenders for a period of not more than 5 years when they receive the sentence of not more than 3 years imprisonment with forced labor or a fine of not more than 200,000 yen. As regards insurance crimes, all offenders who committed murder, arson and fraud are legally eligible to receive this type of sentence.

In Saudi Arabia, there is no provision for giving suspension of execution of sentence to the offenders in the Penal Code.

C. Actual Situation of the Sentencing of Insurance Crime

1. In a number of countries, the following facts are generally considered by the judge in sentencing practice.

- a) the gravity of the offence
- b) the circumstances surrounding the offence
- c) the character, age, situation and the motives of offenders
- d) the conditions subsequent to the commission of the offence

2. According to one participant's introduction of the actual situation of the sentencing of insurance-related murder and

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arson in Japan, the sentences given for insurance murder and arson are considerably heavier than those for other crimes of the same kind. That is:

For murder:

- a) The percentage of death and life imprisonment for insurance murders (1949-1986 total 119 cases) was 35.29% (YASUO YAMAMOTO "HOKENKIN SATSUJIN" (insurance murder)) while in general murders (1981-1985 total 4,618 cases) it was only 1.36% (The Annual Report of Judicial Statistics).
- b) The percentage of fixed term imprisonment over 10 years in insurance murders was 41.17% while in general murders it was 10.16%.
- c) The percentage of suspension of execution of sentence in insurance murders was 0 while in general murder it was 24.00%.

For arson:

- a) The percentage of fixed term imprisonment over 5 years in cases of insurance arson (total 39 cases) was 48.71% (statistics published by the Criminal Affairs Bureau, the Ministry of Justice) while in cases of general arson (1981-1985, total 2,163 cases) it was 13.82% (The Annual Report of Judicial Statistics).
- b) The percentage of suspension of execution of sentence in cases of insurance arson was only 5.13% while in cases of general arson it was 37.17%.

3. According to the answers to our questionnaire about this issue, 2 overseas participants answered that both the sentencing of insurance crimes and non-insurance crimes is the same, 2 overseas participants answered that the sentences given for insurance crimes is lighter than those given for non-insurance crimes. This result indicates that social cognition of the insurance crime is very different in each country.

D. The Sentencing Practices of Offenders of Insurance Crimes

1. Based upon the following reasons, the majority of the members of our group considered that offenders of insurance

crimes should receive heavier sentences than offenders of non-insurance crimes.

- a) Insurance crimes are more vicious than other crimes because of their serious motivation, thorough planning, cruelty and so on.
- b) From their nature, insurance crimes can cause the collapse of the insurance system. In addition, in some countries development of the insurance business is necessary and beneficial to the income or capital fund of the government, therefore, crimes against the insurance business should be regarded as crimes against the government.

2. About suspension of execution of sentence, the majority opinion was that such a type of sentence should not be given to offenders of atrocious insurance crimes (for example, murder or arson) but in cases of insurance fraud, suspension of execution of sentence should be considered on a case by case basis.

3. There is a question as to whether parole should be considered at the stage of sentencing of these particular crimes or not. All members of our group shared the opinion that the punishment is administered to the offenders at the court based on the gravity or seriousness of the crime they committed and many other factors mentioned above. At the institution, the treatment is orientated to be given to a person as a human being. There are clear distinctions between these two stages. In addition to this, at the time of pronouncement of the sentence, the judge cannot know whether the offender will surely be rehabilitated or not, and whether he will be given parole or not at the post adjudication stage. Therefore, it was the opinion of the majority of our group that parole should not be taken into consideration in the sentencing stage at court.

4. Results of the questionnaire

We report both the result of answers to our questionnaire about Case Studies No. 1, and No. 2 along with our commentary on those results.

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(Abbreviations)

[O.S] = Overseas participants = 14 persons

[J] = Japanese participants = 7 persons

Total: 21 persons

Case Study No. 1

Case Study No. 1 involves two similar cases of murder in which the ways and means of the crime are the same but the motives for committing the crime are different.

Case A is a love triangle in which the offender killed his lover in order to return to his wife and maintain his family life.

Case B is a case of murder for insurance money in which the offender killed the victim to illegally gain his insurance money.

A. As for the motive (the seriousness and gravity of the motives)

- 1) the love triangle motive is more serious
1 person (O.S 1)
- 2) insurance crime motive is more serious
11 persons (O.S 7, J4)
- 3) equally serious
5 persons (O.S 4, J1)
- 4) difficult to say
4 persons (O.S 2, J2)

B. As for the sentencing (the heaviness of sentence given to the offender)

- 1) case A should be heavier
0
- 2) case B should be heavier
9 persons (O.S 6, J3)
- 3) equal sentences
7 persons (O.S 5, J2)
- 4) difficult to say
5 persons (O.S 2, J3)

C. As for the reasons for judgement (the opinions of participants)

1) Those who said the offender of Case B should be punished more heavily gave the following reasons.

- a) Generally speaking, the motives for committing crimes of the same nature, the greediness for money is more selfish and cruel than that directed to supporting one's family (O.S, J)
- b) The motive of Case A is reasonable

and it can be said to be naive. (O.S.)

- c) As for Case B, there was deceit here in addition to the normal elements of murder. (O.S)
 - d) In Case A, the victim must share some of the fault in that she had a relationship with a married man. (J)
- 2) Those who said the sentencings should be the same gave the following reasons.
- a) Human life cannot be substituted and in both cases human lives were lost. So this result of murder should be regarded as the most important point to be considered when giving a sentence. (O. S)
 - b) In both cases, the offenders are despicable. (O.S)
 - c) The crime of Case B is indeed serious and grave, but the crime of Case A is also serious and grave because it was caused by a very egoistical motive. So, both the sentencings should be the same. (J)
 - d) As for the motives, to maintain the family life is more important than to kill only to obtain insurance money (so, the motive of Case A is more serious), but the result of killing a person is the same. So they should be treated as the same. (O.S)

D. Analysis of the results and commentary

In this case study, both cases might have been too simple for the consideration of sentencing in a serious crime such as murder. It might have been difficult to give a proper judgement. However, the majority of participants said the motive of Case B was more serious than that of Case A. In our opinion, one of the reasons for that result is as follows. That is, as for Case A, there are many issues that should be considered when giving sentence; for example, the process or circumstances under which the victim came to have a relationship with the offender, the circumstances under which the relationship broke off, the living background or situation both of the offender and the lover during the relationship period, the attitude of the wife of the offender and so on. Some of these circumstances might deserve sympathy in con-

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sidering the motive of the offender for committing that sort of crime. On the other hand, in Case B, such circumstances which might deserve sympathy for the offender's motive are comparatively few. Therefore, it can be said that the result of our questionnaire pointed out one characteristic of the insurance crime. On the other hand, in judgement of the sentencing, a person's death resulting from the crime is regarded to be as important. This fact draws our attention. In our group discussion there were different opinions as to the importance of the result of such a crime as murder. However, since we had a limited amount of time, we could not sufficiently explore all aspects of this point. However, we cannot conclude this question easily because there are some quite different approaches in each country depending on the basic attitude and understanding of sentencing practices. Therefore, this question should remain as an important topic for further detailed discussion in future seminars.

Case Study No. 2

Case Study No. 2 involves three cases in which the offenders are all 35-year-old men with no prior criminal records and the amount of money obtained through the fraud was 1 million yen.

Case A is an insurance fraud in which the offender faked a traffic accident to obtain the insurance money. There was no murder or arson involved, and the victim was the insurance company, an impersonal and rich corporation.

Case B involves a 75-year-old lady who has been saving her money for a long time by going without eating nourishing food; she has finally saved 1 million yen. The offender sells her a fake diamond ring and cheats her out of her whole savings of 1 million yen.

Case C involves a 35-year-old career woman who has a good job and has saved several million yen. The offender sells her a fake diamond ring and cheats her out of 1 million yen.

In all three cases the money is not compensated.

A. As to the question regarding which case should receive the heaviest sentence

- 1) for Case A 2 persons (O.S 1, J1)
- 2) for Case B 13 persons (O.S 9, J4)
- 3) for Case C 1 person (O.S 1)

B. As to the question regarding which case should receive the lightest sentence

- 1) for Case A 6 persons (O.S 4, J3)
- 2) for Case B 1 person (O.S 1)
- 3) for Case C 7 persons (O.S 5, J2)

C. As to the opinion about the rate of heaviness of the sentence (symbols used: $A > B$: A is heavier than B; $=$: equal to)

- 1) Case $A > B > C$ 1 person (J1)

The reasons are as follows.

The crime of Case A can be imitated by other people, therefore, this crime has a very big influence on the society. This is a very important point. About Case C, the victim must share some of the blame of the crime because she was careless.

- 2) Case $B > A > C$ 6 persons (O.S 5, J1)

The reasons are as follows.

- a) The damage both financial and mental to the victim is the greatest in Case B, therefore, this case is the most vicious in nature. (many of O.S and J)
- b) In Case B, there might be some carelessness on the side of the victim, but it is too harsh to blame the old woman of 75 years old for her carelessness. (J)
- c) As for Case A, even though there was not so much actual damage to the victim, this crime was very well planned and it can lead to the collapse of the insurance system. Therefore, the crime of Case A is more serious than that of Case C. (O.S, J)
- d) The crime of Case A can be repeated many times. (O.S)
- e) In Case A, the insurance company can cover the damage by reinsurance and another means. (O.S)

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- f) The victim of Case C has financial ability, therefore, her damage is not so great. (O.S)
- g) The crime of Case C resulted from the greediness of the victim. (O.S)
- 3) Case B > Case C > Case A
6 persons (O.S 3, J3)
The reasons are as follows.
- a) The reason why Case B is the most serious is about same as that of 2) case. (O.S, J)
- b) Generally speaking, the main point that should be considered in the crime related to property is what sort of meaning did the property have for the victim, and the insurance company can cover property damage including risk by premiums. Therefore, Case C is more serious than Case A. (J)
- 4) Case B > Case A = Case C
1 person (O.S 1)
The reason is as follows.
Considering that the age of the victim is a contributory factor relating to the aggravating circumstances, Case B is heaviest.
- 5) Case C > Case A > Case B
1 person (O.S 1)
The reasons are as follows.
- a) In Case C, the victim, a woman 35 years old has no chance to collect such an amount of money to maintain her life.
- b) In Case A, the insurance company has a chance to recover the loss by raising the premium or reinsurance.
- c) In Case B, the old 75 years old woman will have little chance to live long enough to utilize her money.
- 6) Case A > Case B = Case C
1 person (O.S 1)
The reasons are as follows:
- a) The offender of Case A committed the crime with premeditation planning.
- b) The offender was a man who knew what he was doing and took the risks.
- 7) All of the cases are the same
4 persons (O.S 3, J1)
The reasons are as follows:
- a) None of the offenders of these 3 cases had or has any factor that could alleviate or diminish the degree of fault. (O.S)
- b) Even if the damage caused to each victim and the social influence of each crime in all given cases is considered, it is very difficult to find any decisive difference among the given cases because the given information is not sufficient. (J)
- c) The given information about the surrounding circumstances of each offender is not sufficient. So, all of these cases are fraud cases, therefore, the offenders should be treated the same. (O.S)
- D. Analysis of the results and commentary
As for each case, not enough information is given as to the circumstances which should be considered in passing sentence. Therefore, it is difficult to judge the actual seriousness in each case.
In addition, it is a very important point that one-third of all participants indicated that the offender of Case A should receive the lightest punishment. As for the main reason given, it was that the actual damage to the insurance company was not substantial. It seems that this point is very important in the consideration of sentencing for insurance crime. It is not always true that such insurance fraud cases should be more severely punished than other fraud cases. Of course, in insurance fraud cases the social influence cannot be ignored as many participants had pointed out. But, at the same time, the opinion of one participant that it is problematical to emphasize the viciousness of insurance crime excessively by the mere fact that it is an insurance crime deserves our attention.

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Institutional Treatment for the Offenders of Insurance Crime

A. *The Most Effective Rehabilitation Programme for the Offenders of Insurance Crime*

1. Classification of offenders

First, we discussed classification of offenders. As mentioned above, there are various types of offenders related to insurance crimes. Therefore, a classification method is needed because the classification of offenders aims at determining the most appropriate institutional allocation and the best available treatment programmes for each offender on the basis of scientific investigation, so that his rehabilitation can be effectively promoted.

According to the result from our questionnaire, several countries have the classification system. The actual situation of the classification system in each country and how to improve this system more effectively should be regarded as an important task.

2. Actual situation of classification

A. In Japan

The main features of the classification system in Japan are as follows:

- 1) An inmate's classification shall be based on medical, psychological, pedagogical, sociological and other professional knowledge and techniques.
- 2) Investigation shall be accompanied by counselling, psychotherapy, guidance and other necessary correctional activities.
- 3) There shall be two types of investigation: initial study to classify newly sentenced prisoners, and review investigation to evaluate the progress in correctional programmes.
- 4) In each correctional region, there shall be one "classification centre," in which scientific investigations and allocation, guidance and other therapeutic services for offenders are carried out.
- 5) The classification procedure has two steps. The first step is grouping prisoners into several classes through scientific

investigation and the second is to institute effective treatment programmes according to the rehabilitative needs of inmates in each class.

According to the categories described below, prisoners are grouped and allocated to the corresponding institutions for their treatment.

- 1) Categories by sex, nationality, kind of penalty, age and term of sentence
 - Class W: Females
 - Class F: Foreigners
 - Class I: Imprisonment without forced labour
 - Class J: Juveniles
 - Class L: Imprisonment for more than 8 years
 - Class Y: Young adults under 26 years of age
- 2) Categories by degree of criminal tendency
 - Class A: Those who do not have an advanced criminal tendency
 - Class B: Those who have an advanced criminal tendency
- 3) Categories by physical and mental disorder
 - Class Mx: Those who are mentally retarded or who need the same treatment as that for the mentally retarded
 - Class My: Those who are psychopathic or who are recognized as having a considerable psychopathic tendency
 - Class Mz: Those who are psychotic or who are recognized as having a considerably psychotic tendency, those who are seriously neurotic, those who are suffering from confinement reaction, and those who are addicted to drugs or alcohol
 - Class Px: Those who are physically disordered, pregnant or recovering from childbirth and in need of medical treatment or care for a considerable period of time
 - Class Py: Those who are physically handicapped and in need of special treatment and those who are blind, deaf or mute
 - Class Pz: Those who are above 60 years of age and generally recognized as

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having considerable senile symptoms and those who need special treatment due to weak constitution

Treatment categories are as follows:

- Class V: Those who need vocational training
- Class E: Those who need academic training
- Class G: Those who need social education
- Class T: Those who need professional therapeutic treatment
- Class S: Those who need special protective treatment
- Class O: Those for whom open treatment is recommended
- Class N: Those for whom some kind of prison maintenance work is recommended

In order to present concrete examples of how this classification system operates in actual practice, Group Four developed a case study involving six models of offenders and described how the classification system would be applied in each case contingent on its specific circumstances, and what type of treatment measures would be recommended based on an individual's classification.

The cases and their respective classifications are explained below.

Case A—Murder related to insurance

- 1) Offender: male, 42 years old, university graduate, manager of a clothing company, two children (ages 6 and 10), no relation with gangsters and no prior criminal record.
- 2) Offence: recently, his business had been slow, and he likes to gamble very much. So, he wanted to gain insurance money illegally. Firstly, he insured his wife who was usually on bad terms with him, and after that he killed her. But he was arrested before he could collect the insurance money.
- 3) Sentence: 15 years' imprisonment with forced labour
- 4) Classification:
 - L—imprisonment for more than 8 years
 - A—does not have advanced criminal

tendency

V—needs vocational training

Case B—Bodily injury and breach of the stimulants control law (use and possession) case

- 1) Offender: male, 35 years old, graduated from junior high school, navy, celibate, person of no fixed address. No relation to gangsters, criminal record = 5 (3 are breaches of the stimulants control law, 2 are bodily injury)
- 2) Offence: he is poisoned by a stimulant drug. He bought the drug in the amount of 2 grams and used 0.2 grams of it. He went to a restaurant where he had an argument with the proprietor and struck and injured him.
- 3) Sentence: 3 years imprisonment with forced labour
- 4) Classification:
 - B—advanced criminal tendency
 - Mz—mentally disordered, possibility of drug addiction
 - T—needs professional therapeutic treatment

Case C—Fraud related to insurance

- 1) Offender: male, 48 years old, graduated from high school, chief of gangsters (belonged to gangster syndicate for many years), has a wife, criminal record = 3 (murder, bodily injury, violence)
- 2) Offence: he wanted to raise money for his gangster syndicate so he signed up for automobile insurance with a non-life insurance company. He subsequently and intentionally crashed his car against an electric pole, claimed to be injured, and was hospitalized. He obtained 3 million yen insurance money.
- 3) Sentence: 2 years and 6 months imprisonment with forced labour
- 4) Classification:
 - B—advanced criminal tendency
 - V—needs vocational training

Case D—Automobile accident case

- 1) Offender: male, 25 years old, university graduate, single, no gangster connections, no prior criminal record
- 2) Offence: while driving his car, he hit

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some passers-by due to his own negligence. As a result of the accident, two people died and one received a serious injury.

- 3) Sentence: 1 year imprisonment without forced labour
- 4) Classification:
 - I—imprisonment without forced labour
 - A—no advanced criminal tendency
 - V—needs vocational training

Case E—Arson and fraud related to insurance

- 1) Offender: female, 40 years old, graduated from high school, employee of a small company, one child (20 years old) with her lover who is a gangster, criminal record = 1 (fraud not related to insurance)
- 2) Offence: she wanted to give financial aid to her lover so she set fire to her house which was insured against fire. She defrauded the insurance company of 10 million yen.
- 3) Sentence: 6 years imprisonment without forced labour
- 4) Classification:
 - W—female
 - B—advanced criminal tendency
 - G—needs social education

Case F—Breach of anti-prostitution law

- 1) Offender: female, 60 years old, graduated from elementary school, unemployed, single, IQ = 55, criminal record = 25 (all breaches of the anti-prostitution law)
- 2) Offence: Enticed a male passer-by to have sexual intercourse with a prostitute.
- 3) Sentence: 6 months imprisonment with forced labour
- 4) Classification:
 - W—female
 - A—no advanced criminal tendency
 - G—needs social education

B. In Thailand

In Thailand, classification was carried out for the newly admitted inmates in the first week while they were in the acceptance section of the prison. They will have been interviewed about their life and back-

ground, for instance, family, job, offence characteristics and so on by the social workers who are in charge of the interviewer. After having the consideration by the classification board due to each background, the inmates will be given the appropriate job or treatment. There are no specific treatments for the different type of inmates except those who have a serious mental illness. The important obstacle of classification in Thailand is the over-crowding problem and the lack of co-operation from the prison officers. In the past there were many prison officers who have graduated at the secondary school level. At present the recruiting policy has changed and is improving.

C. In Indonesia

In Indonesia, the classification is based mainly on the prison's security because of the limited number of prisons. That is the big problem which makes the classification system in Indonesia not successful.

D. In Saudi Arabia

In Saudi Arabia, the treatment of inmates is based upon humanitarian principles in which an attempt is made to restore them to society with a healthy mind and body. In classifying, the inmates are separated and housed according to nationality, age, education, type and frequency of crime committed. Female inmates are separated from male, and single inmates from married.

Due to the various characteristics of offenders in each type of crime, especially insurance crime which has come to our attention because of its seriousness at present, the effective classification system must be considered as the basis of how to treat them appropriately. Since the classification system has not yet been developed sufficiently, this system must be improved more effectively in every country. The skills of classification officers and the educational background of institution officers are the important factors for the success of the classification process. In Japan, the educational and training courses for the institution officers have been quite developed.

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Therefore, there are many officials who have a high academic background. These officials will easily accept or understand new techniques or programmes from classification officers and are ready to give their co-operation. However, since the offenders of insurance crime are intelligent, expertise is needed to deal with such offenders. Social workers who are in charge of interviewers, classification board members who determine appropriate treatment, and institution officers who supervise and rehabilitate them, all of these officials should be trained specifically to deal with an intelligent offender such as the offender of insurance crime.

3. What sort of treatment should be appropriate for this type of offender

Since there are many characteristics which have been pointed out, so it is, therefore, important to treat such offenders according to their characteristics. By roughly dividing them, there are the following characteristics of offenders of insurance crime, that is:

- a) Intelligent offender
- b) Violent offender

A. The sort of treatment which should be possibly given to an intelligent offender was discussed based in 2 different categories.

1) Because of their intelligence, the treatment should correspond to their talent by utilizing it to benefit the institution during their rehabilitation through the treatment programme. Appropriate work should be given, for instance, word processor operation, personal computer operation, printing, library work, education teaching, etc.

2) Because most of them are used to a comfortable life and have a good education, treatment should be given to them in different ways and different types of work from what they are used to in order to make them afraid and dare not commit the crime again. Appropriate work would be hard work with physical labour. Another effective treatment which should be suitable for the intellectual offender is group

therapy. For the offenders who have a similar life background and offence motive, treatment by group therapy is widely used in many countries, for example, the U.S.A., and has been successful especially in crimes concerning moral behaviour such as intellectual crime.

B. The treatment which should be given to the violent offenders for the purpose of rehabilitating them from vicious behaviour.

First of all, there should be research in order to clarify the motive and individual characteristics of each offender. And also hard work with labour, intensive vocational training, religious education and individual counselling are appropriate for this type of offender, especially for the offender who has a relationship with organized gangsters so as to encourage and persuade him away from this gangster group.

Non-institutional Treatment for the Offenders of Insurance Crime

As to non-institutional treatment for the offenders of insurance crime, we, Group 4, discussed parole and probation in each country in general and how to treat those offenders of insurance crime through typical case studies of insurance crime which will be explained in detail in the latter part of this section.

A. Parole and Probation in Each Country

According to the arrangement of the questionnaire, the nations where parole or probation for offenders of insurance crime is used are as follows:

Parole: Bangladesh, China, Fiji, Indonesia, Peru, Philippines, Thailand and Japan

Probation: China, Indonesia, Philippines, Thailand and Japan

Other types of non-institutional treatment:

Bangladesh—remission, pardon and amnesty

Philippines—good behaviour system, pardon and amnesty

Thailand—remission, pardon

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Here, we can find that parole and probation are used as non-institutional treatment in many countries and other types of non-institutional treatment are not popular. Thus, it will be useful to consider parole and probation for the offenders of insurance crime. This point, however, might be open to further discussion for those who object to non-institutional treatment or insist that the sentence must be much heavier for the offenders of insurance crime than other offenders. But as we have seen above, all things considered, including the characteristics of insurance crime and that of the offenders of insurance crime, probation and parole should not be limited to some types of offences. On the contrary, probation and parole should be used for the offenders of insurance crime as well as those of general crime. And also, according to our discussion, if there exists any type of non-institutional treatment such as parole and probation, not only for general offenders but also for offenders of insurance crime, we have the same opinion that those treatments should be used.

Our Group 4 consists of 6 members, representing the nations of Indonesia, Saudi Arabia, Thailand and Japan. Though we discussed the situation of parole and probation in each respective country, the following discussion will describe and explain parole and probation.

1. In Japan

a) Parole and probation

Application for parole and its examination and decision

In Japan the warden of the prison submits an application for parole to the parole board. The parole board upon receipt of the application, examines the case in the panel, and if they find that he is not only eligible for parole but also parole will better serve the goal of correctional efforts, the panel board will determine his parole.

The period of parole supervision is for the remaining term of his sentence, except for a life-terminer where the period of parole is for the rest of his life.

Probation order

Unlike probation in common-law countries, the Japanese probation system is used by the Criminal Court as a complementary measure to the suspension of the execution of sentence. It follows that case selection for probation is made from among those offenders eligible for suspended sentence. Probation order is mandatory when the new sentence is to be suspended again regarding an offence which took place during the period of previous suspension unaccompanied by a probation order. In other cases of suspended sentence, probation is discretionary to the court. All the requirements in the law only refer to the gravity of sentence and criminal record, having no direct reference to this type of offence. Accordingly, even an offender who has committed an offence of serious crime, such as murder or arson, may be placed on probation if special circumstances justify it.

The term of supervision ranges from one to five years, corresponding to that of suspension of the execution of sentence specified by the sentencing court.

b) Probation and parole conditions

In Japan, under supervision, certain conditions are imposed on every offender. As for the parolee, the following general conditions are automatically imposed.

- 1) Requirement to live at the specified residence and to engage in a lawful occupation:
- 2) Restriction of bad conduct:
- 3) Restriction of criminogenic companionship:
- 4) Requirement to get previous approval for move of residence or long journey.

In addition to general conditions, the parolee is also required to abide by special conditions which the parole board sets forth as a guide to a law-abiding life.

On the contrary, as for the probationer, only the following three conditions are imposed.

- 1) Requirement to notify specific place of residence to the probation office immediately after the probation order is rendered:

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- 2) Restriction of bad conduct;
- 3) Requirement to give the probation office a previous notice in moving residence or making a journey exceeding a month.

c) Supervision processes

In Japan it has been an established tradition so far that probation and parole case work is carried out through the collaboration between professional and volunteer probation officers. At the probation office, the probation officer makes a summary of the case record and sends a copy to the volunteer. The volunteer keeps in touch with the client and his family by means of mutual visitations and interviews generally taking place twice a month or so. The volunteer submits a regular progress report to the probation office every month. When the probation officer thinks it necessary, judging from the report of the volunteer or so, he takes an appropriate measure.

d) Volunteer

In Japan about 48,000 persons have been in the volunteer probation officer position. Their roles are to help offenders rehabilitate themselves in the society, that is supervision and assistance of probationers and parolees assigned to individual volunteer probation officer, and to influence the public attitude for the promotion of crime prevention. Besides, they visit an inmate's home to advise the family and make reports to the probation office as a part of pre-release preparation and so on.

Legally, they are defined as a non-permanent official of the National Government and are not paid any remuneration for their service.

2. In Indonesia

Probation Board offices take care of non-institutional treatment, that is probation and parole. The granting of probation and parole is not so popular and there is a dearth of private organizations involved in community-based treatment programmes.

3. In Thailand

Prisoners released on parole must re-

main under parole supervision which is intended principally to extend the period of training and rehabilitation begun within correctional institutions into community life after release.

As to probation, the probation officer has two main duties. The first is to investigate the relevant matters and surroundings of the defendant and report to the judge who orders such investigation. Apart from reporting facts the probation officer may, taking into consideration the safety of the society and the benefit of the accused, also give opinion in the report as to what treatment will be suitable to the particular accused. The second is to advise and supervise the probationer to follow the conditions imposed by the court. And the probationer, when considered needed and appropriate, will be provided with financial assistance by the Foundation.

In Thailand there are also the volunteer probation officers. They supplement and assist the professional probation officers in supervising and guiding probationers both juvenile and adult by regularly reporting probationers' performance to the probation office. The co-operation of the volunteer probation officers who are in the same region or community with probationers will make the probation processes more effective. Before becoming volunteer probation officers, they must pass the recruitment process which is the examination of an applicant's general information, and a training course by the Central Probation Office, Ministry of Justice. At present, there are 419 volunteers working in close co-operation with professional officers. And by 1991, if the plan goes according to schedule, there will be 10,739 volunteers providing services to probationers throughout the country.

Now we can discuss the two case studies above mentioned and, through the discussion, describe how to apply the community-based treatment for the offenders of insurance crime.

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B. Case Studies

1. Case A (Parole case) = murder related to insurance

a) Offender: male, 42 years old, graduated from university, manager of a clothing company, has two children (ages 16 and 10), no relation to gangsters, no prior criminal record.

b) Content of offence: Recently, his business had been slow, and he liked gambling very much. So, he wanted to gain insurance money illegally. Firstly, he insured his wife who was usually on bad terms with him, and after that he killed her. But he was arrested before he could gain the insurance money.

c) Sentence: 15 years imprisonment with forced labour.

2. Our discussion

a) General condition: This offender is a murderer with 15 years imprisonment and was released on parole after serving his sentence 12 years. By the parole system he will be released on parole for 3 years under supervision. He has graduated from university and once he had his own clothing shop. He was convicted for killing his wife and we don't know what the relationship between him and his children is after he had killed their mother. After 12 years in prison he will be released at the age of 54 years and his children will have become adults.

b) Treatment of the offender under parole supervision

1) Concerning the relationship between this offender and his children which is very important for him if they don't want him to live with them after his release from prison because they may still be angry with his offence and have not forgiven him. The parole officer would be in charge of co-ordinating who should find out how to handle this situation. The operation should be set up at the short period of time before the offender's release by increasing mutual understanding between him and his children. The parole officer might go to visit the offender's house and talk to

his children in order to inform them about their father's life during imprisonment and how he has changed and so on. Setting up the opportunity for them to meet together more often before release is a possible way.

2) The half-way house is appropriate in this case because he has been in prison for a very long period—12 years. In Japan, the inmates who have been serving their imprisonment more than 8 years may be selected to go to the half-way house before going back to the society because they are accustomed to institutional life and feel stable in that situation. When they are released they cannot adjust themselves to the social environment in the first period after release. Some inmates feel fear and anxiety so the half-way house is the place for them to have a preparation period in order to come back to their society. In case A, the offender can prepare himself for a job by attending the job skills training program while adjusting himself to the psychological problem his children or his society at the same time under the close observation and supervision by the parole officer.

3) The individual counselling by the parole officer or the professional counselor should be provided to him in order to understand his psychological situation and the problem he is facing. The probation officer can analyze his circumstance from the counselling and help him resolve the problem such as finding him an appropriate job, giving guidance to him due to his repentance in killing his wife and so on. To deepen and keep his repentance is an important point in treating such a long-time and serious crime offender.

4) Though he is an intellectual offender, in the point of treating him as an individual there may be no difference between intellectual offenders and other ones. As an individual parolee, however, he must be imposed some special conditions such as follows:

i) to work surely and steadily and endeavour to maintain a steady life,

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- ii) to refrain from gambling,
- iii) to respect human life and pray that his wife's soul may rest in peace.

3. Case B (Probation) = fraud related to insurance

a) Offender: male, 28 years old, graduated from high school, has had an association with a gangster group for a month, has a wife, has no job, and no prior criminal record.

b) Content of offence: One of the gangsters planned to earn insurance money and the offender joined the offence because he had to get money to live with his young wife. Firstly he contracted automobile insurance with a non-life insurance company, and secondly when he drove his car, he crashed it against an electric pole intentionally. In the end, he pretended that he was injured, and entered a hospital. After all, he gained 1 million yen insurance money from the insurance company. But he and his wife have returned the money after his arrest.

c) Sentence: 2 years and 6 months imprisonment with forced labour will suspension of the execution of sentence with probation of 4 years.

4. Our discussion

a) General condition: This offender committed fraud related to insurance with 2 years and 6 months imprisonment and has a suspended sentence with probation of 4 years. He does not work and has financial problems so he committed this crime in order to obtain the amount of money from the insurance company to sustain his family. He has had a relationship with the organized gangster for one month.

b) Treatment of the offender under probation supervision

Regarding the main point mentioned above, the possible and appropriate guidance should be as follows.

1) He should have a full-time job to earn his livelihood and provide for his family so vocational training is needed for him.

2) Because his financial problems made him commit this crime, temporary financial assistance should be provided to his

family during the time he is in the vocational training period or looking for a job. This will help decrease his anxiety or worry about his wife or his family.

3) In order to encourage him to disassociate himself from the organized gangster group, first of all the probation officer must find out the facts regarding his relationship with the gangsters. The more understanding about the reason and situation we can get, the more benefit for planning how to guide him to cut down this relationship we can have. The co-operation from his wife is very useful to the probation officer or the volunteer probation officer. According to the probation procedure that states he must keep contact with the volunteer probation officer until the end of probation period, he can get some advice or guidance from them which will help him to have purpose in his life and be successful in the probation period.

4) His having been associated with an organized gangster group was analyzed as indicating that he felt unstable in life because of his lack of job and money, hence the need for some organization to support or to protect him. Regarding this point, the probation officer should actively find some good organization such as a steady company which would employ and protect him instead of the gangsters. If he can have some company or some organization or someone to give him the stable condition that he needs, it will be easier to make him abandon his gangster association.

5) Because he is in the probation period, it is the duty of the judiciary system to respond to him until he has finished his probation period. In particular the probation officer who belongs to the judiciary system must actively find out the necessary resources, for instance, the probation officer might make a contact with a welfare organization or some private association or some institution such as a church to support him during the probation period, and they must be the mediator between the offender and the organization if some problems arise.

6) Though this is an insurance crime case and does not belong to other types of

WORKSHOP IV

offences, it is said that we can treat both types equally.

7) In addition, here we should consider a community service order as a fit punishment for this so-called "invisible crime" since society is the ultimate victim, and the offender must realize that he must repay society for the damage he has caused. The community service order is one of the community-based treatments which is used in some countries such as England, Wales, Australia, and Hong Kong and others. The community service order seems to be a heavier punishment than probation but lighter than imprisonment because the offender is imposed, for instance, 100 hours assigned by the judge of working for the public service in tasks such as cleaning a park, building a public monument or a wall, helping the handicapped at a facility or in the community and so on. Of course, he must work under supervision of the probation officer at a fixed place. This type of non-institutional treatment seems to be suitable for offenders of insurance crime.

Conclusion

We had 8 discussion sessions on the treatment of offenders of insurance crimes. We believed that we had indeed discussed our theme, but the legal systems and the treatment methods for this type of offender are very different depending on the country of the participants. Therefore, in the process of discussion, we had to spend a lot of time learning and understanding the system of each country. However, as the result of our discussion, we can list the following points.

1. Identifying appropriate sentencing practices and treatment measures for offenders of crimes related to insurance is a new and challenging task for professionals in the criminal justice system.

2. Addressing the challenge, we have attempted to draw some general conclusions

about the characteristics of these crimes and their appropriate treatment measures. Regarding the offences, they can be roughly categorized into the following two classes:

- 1) intellectual crimes using sophisticated techniques and technology
- 2) violent crimes often involving gangster accomplices contingent on the characteristics of the offence, institutional and non-institutional treatment measures can be generally divided into two categories.
 - i) for the intellectual offender, new methods must be devised both for sentencing practices and in the implementation measures of institutional and non-institutional treatment.
 - ii) for violent offenders, traditional sentencing, classification and treatment methods may be adequate for the present.

3. We have found that offences and offenders related to insurance exist in the Asia and Pacific region and, while increasing, still account for a small percentage of overall criminal activity.

It is difficult to clearly state the accurate dimensions of the problem due to the dearth of valid and reliable data. And, therefore, a conclusive judgement of the real situation cannot be rendered at this point.

4. Given the rapid growth of socio-economic development not only in this region but throughout the world, it is reasonable to assume that crimes related to insurance will continue to increase in both volume and scope in the future. This training course in general and this group report in particular have tried to examine this new and growing menace to society, and take some initial steps towards defining and combatting it. It remains an important task for other professional colleagues in future seminars to continue the work begun in this course.

GROUP WORKSHOPS

APPENDIX

QUESTIONNAIRE

1. What types of punishments does your Penal Code provide for all forms of criminal offences?
A. Death B. Life Imprisonment C. Imprisonment with Labour
D. Imprisonment without Labour E. Fine F. Penal Detention
G. Confiscation H. Corporal Punishment
I. Suspended Sentence (Sentence is withheld after conviction.)
J. Suspension of Execution of Sentence
(Sentence is not carried out after conviction)
K. Others (please specify:)

2. Does your Penal Code contain special provisions directly related to insurance crimes?
A. Yes B. No

3. If Yes, could you provide UNAFEI with a copy of these provisions?
A. Yes B. No

4. What types of punishments does your Penal Code provide for the following crimes directly related to Insurance?
(1) Murder:
A. Death B. Life Imprisonment C. Imprisonment with Labour
D. Imprisonment without Labour E. Fine F. Penal Detention
G. Confiscation H. Corporal Punishment I. Suspended Sentence
J. Suspension of Execution of Sentence
K. Others (please specify:)
(2) Arson:
A. Death B. Life Imprisonment C. Imprisonment with Labour
D. Imprisonment without Labour E. Fine F. Penal Detention
G. Confiscation H. Corporal Punishment I. Suspended Sentence
J. Suspension of Execution of Sentence
K. Others (please specify:)
(3) Fraud:
A. Death B. Life Imprisonment C. Imprisonment with Labour
D. Imprisonment without Labour E. Fine F. Penal Detention
G. Confiscation H. Corporal Punishment I. Suspended Sentence
J. Suspension of Execution of Sentence
K. Others (please specify:)

WORKSHOP IV

(4) Bodily Injury:

- A. Death
- B. Life Imprisonment
- C. Imprisonment with Labour
- D. Imprisonment without Labour
- E. Fine
- F. Penal Detention
- G. Confiscation
- H. Corporal Punishment
- I. Suspended Sentence
- J. Suspension of Execution of Sentence
- K. Others (please specify:)

5. In actual practice, how do sentences for insurance crimes compare to sentences for non-insurance crimes?

Insurance sentences are:

- A. Heavier
- B. Equal
- C. Lighter
- D. Depends on circumstances of specific case
- E. Do not know

6. If your Penal Code provides Suspension of Execution of Sentence for insurance crimes, what is the general percentage of cases which receive Suspension of Execution of Sentences?

- A. 100-75%
- B. 74-50%
- C. 49-25%
- D. 24-1%
- E. Never applied in practice
- F. Do not know

7. Do your country's Penal Institutions use a classification system to classify offenders based on such data as criminal tendency, medical, psychological, sociological, etc?

- A. Yes
- B. No
- C. Do not know

8. If Yes, are different rehabilitation treatments provided for different classifications of offenders?

- A. Yes
- B. No
- C. Do not know

9. Do your country's Penal Institutions have specific rehabilitation treatments for offenders of insurance-related crimes?

- A. Yes
- B. No
- C. Do not know

10. Do your country's Penal Institutions use a progressive grade system for offenders of insurance crimes in which, based on behaviour, the offender can progress through stages from less freedom and privileges to more freedom and privileges?

- A. Yes
- B. No
- C. Do not know

GROUP WORKSHOPS

11. What types of non-institutional treatment measures are used in your country for offenders of insurance-related crimes?
A. Parole B. Probation C. Home Release D. Work Release
E. Remission F. Community Service Order G. Pardon/Amnesty
H. Good Time Allowance I. Restitution/Compensation J. Bail K. Fine
L. Suspended Sentence M. Limitation of Liberty N. Do not know

12. Do you think traditional rehabilitation measures are effective in treating offenders of insurance-related crimes?
A. Yes B. No C. Do not know

13. Are your country's Penal Institutions trying out new methods of treating offenders of insurance-related crimes?
A. Yes B. No C. Do not know

WORKSHOP IV

Country Name _____

Date _____

CASE STUDY NO. 1

Case Study No. 1 involves two similar cases of murder in which the ways and means of the crime are the same but the motives for committing the crime are different.

Case A is a love triangle in which the offender killed his lover in order to return to his wife and maintain his family life.

Case B is a case of murder for insurance money in which the offender killed the victim to illegally gain his insurance money.

QUESTIONS (Please circle the letter of the appropriate response)

1. Do you consider that there is difference in the seriousness and gravity of the motives for the crimes?
A. Yes B. No C. Difficult to say
2. If Yes, which motive do you consider to be more serious?
A. Love triangle motive B. Insurance money motive
3. In sentencing the offenders in each case, what do you think should be the appropriate sentence?
A. The offender in Case A should receive a heavier sentence than the offender in Case B.
B. The offender in Case B should receive a heavier sentence than the offender in Case A.
C. They should receive equal sentences.
D. It is difficult to say.
4. Please give the reason for your choice in question 3.

GROUP WORKSHOPS

CASE STUDY NO. 2

Case Study No. 2 involves three cases in which the offenders are all 35 years old men with no prior criminal records and the amount of money obtained through the fraud was 1 million yen.

Case A is an insurance fraud in which the offender faked a traffic accident to obtain the insurance money. There was no murder or arson involved, and the victim was the insurance company, an impersonal and rich corporation.

Case B involves a 75 years old lady who has been saving her money for a long time by going without eating nourishing food: she has finally saved 1 million yen. The offender sells her a fake diamond ring and cheats her out of her whole savings of 1 million yen.

Case C involves a 35 years old career woman who has a good job and has saved several million yen. The offender sells her a fake diamond ring and cheats her out of 1 million yen.

In all three cases the money is not compensated.

QUESTION

1. How should the offenders in these Cases be sentenced?
(Please put the letter of the Case in the blank space.)
 - A. The heaviest sentence should be for Case ____.
 - B. The next sentence should be for Case ____.
 - C. The lightest sentence should be for Case ____.
2. Please give the reasons for your choices in question 1.

SECTION 4: REPORT OF THE COURSE

Crime Related to Insurance

Session 1: An Analysis of Crimes Related to Insurance and the Role of International Co-operation

- Chairperson: Mr. Alfredo G. Pagulayan (Philippines)*
- Rapporteur: Mr. Arshad bin Haji Mokhtar (Malaysia)*
- Advisor: Mr. Yasuo Shionoya*

Introduction

To every action there is an equal and opposite reaction. This principle is not only valid in physics but, to an extent, it is also applicable to criminology. We laud our discoveries in scientific and technological fields, but against this, progress that we have achieved, there is the backlash of human behaviour which is corrupt and delinquent that threatens the social fabric which we nurture. Progress, just like any newly-discovered medicine, has its side-effects. We find that there are men whose appetite for money is insatiable. There is no such word as "contentment" in their life vocabulary. The animal instinct in them is easily aroused where money is concerned and they look for easy prey to pounce upon. The complexities and intricacies of modern day business seem to be good fishing grounds for avaricious men. To add to this tale of woe, the rapid means of communication further facilitate the unscrupulous ways of this greedy lot. The few cases that have come to light show the extent and magnitude of how these fraudsters could jeopardise the economic well-being of a country. Their operations are not limited to the periphery of a given country but transcend national boundaries. The unwary can only clasp his hands and gasp.

Man seems to have lost his bearings where money is concerned. This is evi-

dent in life assurance cases. There are practices which are clearly distasteful and have contributed to the commission of the crime. Business has become so competitive. Each company is trying to outdo the other. In facing these challenges, companies develop ideas and means have been created to provide insurance coverage for almost everything in life. This is so in developed countries. A relatively new field has developed in England, known as the multi-guarantee insurance, which takes the form of an extended guarantee insurance and operates as an ordinary guarantee to a domestic appliance when the normal period of guarantee expires. Then, a further period can be bought for an additional sum paid directly to the insurance company. The essence of fraud is misrepresentation made to the manufactures and individual insurance companies. Colossal sums paid as premiums by clients to the manufacturers are dissipated, leaving the clients and manufacturers as victims of fraud. With this background in mind, the United Nations Organisation has drawn long-term programmes on the prevention of crime and treatment of offenders, focusing on national and international conduct of business with a view to finding ways and means to tackle problems encountered in such activity so that legitimate business can be insulated against the corrupt ways. With this vision in mind, 25 participants from 14 countries assembled to discuss and analyse the present situation of the insurance system and crimes related to it and its impact, and to develop measures for effective control by criminal justice administration. The participants had the good fortune of listening to talks by visiting experts from West Germany, England, Thailand and the United States of America.

To facilitate an easy approach, the subject matter under discussion was di-

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vided into two broad aspects: one, an analysis of the industry as a whole, and, two, the countermeasures, both civil as well as criminal, that should be developed as a means of effective and efficient control. This report focuses on the former.

As a starting point, we asked ourselves whether insurance crimes are "white-collar" crimes. It appeared that to enter into a polemic regarding this issue would be an exercise in futility for "white-collar" crimes are amorphous in nature. By consensus the participants agreed not to discuss the definition of an insurance crime. However, there is a difference between insurance crime and other "white-collar" crimes, in that the very nature or structure of insurance business makes it easy for fraudsters, whether they are well-educated or trained or not, whether individually or in groups, to commit insurance crime.

Insurance is universally understood and is an important appendage to the regulation of a person's financial affairs, especially in business. Besides developed countries, insurance development in the Third World countries varies from country to country. In Saudi Arabia insurance is practised on the basis of co-operative concept. There are regulatory provisions to control insurance operations. Conversely, the intensity of crimes committed in respect of insurance roughly follows the development pattern. The broadest separation that can be made between insurance is between life and non-life insurance. Non-life insurance can be divided again into property and liability sectors. The three major property branches are fire, marine and automobile. Generally, crimes related to insurance involve the above-mentioned areas, are perpetrated by any of the following groups, that is, the assured, a third party and the insurer, and occur at several stages of the contract.

Characteristics

The whole spectrum of insurance crime could not be adequately gauged due to the lack of statistical data, with the exception of Japan. Perhaps this is a convenient

point at which to remind participating countries of the need to compile insurance crime data in order to achieve a meaningful study of its trends and implications, so that proper strategies can be developed. Research in this field is urgently required. Another factor which compounds the difficulty in getting a true picture of the situation is the low rate of detection. This could be due to the fact that in most cases there are apparent unknown victims. In reality insurance companies are the ones that are affected. From reports received, most of the insurance crimes which were committed fall into six broad categories, that is, murder, fraud, arson, robbery, theft and the destruction of property. The pattern is almost the same the world over, varying only in the frequency of the incidents.

The stature of humanity is dwarfed by man's inordinate greed for money. Conspicuous consumption is relegated to trash and thrown overboard in the pursuit of instant wealth. From statistics that were available for discussion, it was revealed that murder had been committed, even between close relations, for the sake of insurance claims. Out of a total of 44 murder cases that had been committed during a period of five years from 1978 to 1982 in Japan, 10 cases (22.7%) were between husbands and wives, 5 cases (11.4%) between parents and sons, and 3 cases (6.8%) were between brothers. Other relationships were - 11 cases (25%) between employers and employees, 7 cases (15.9%) were due to financial relationship, 4 cases (9.1%) where there was no relationship at all, and 1 case (2.3%) fell into the "others" category. The crimes committed were well-planned and the perpetrators took pains in ensuring that their designs were camouflaged. There were instances where groups of criminals had conspired to commit murder beyond the national shores and insurance claims made thereafter in the home country. There were cases where murder had been disguised as traffic accidents and claims made subsequently. Prostitutes and vagabonds had not been spared by the callous criminals whose main

ANALYSIS OF INSURANCE RELATED CRIME

pursuit was money. They became victims after being insured. Falsifying of identities of murdered persons in order to claim insurance money is not unknown.

Fraud encompasses an array of irregularities and illegal acts characterised by intentional deception. This category of insurance crime is of the same cast as that of the other "white-collar" crimes. The distinguishing feature is the payment made by the insurance companies for the amount lost which had been insured. As has been pointed out above, the very structure of insurance transactions makes it convenient for any individual, acting outside as well as within an organisation, to commit it

Insurance fraud is multifarious. Fraudulent insurance brokers have been known to swindle clients or insurance companies by over-charging or falsifying applications. Individuals or groups of persons have been known to cheat insurance companies by faking accidents and making claims. The introduction of private sickness insurance funds, paying sums of money for each day spent in hospital, has revived fraudulent practices of a sort already known. There have been cases where, contrary to contractual obligations, individuals have not notified insurers about the number of insurance policies that have already been taken out. Others intentionally exploit real accidents by artificially aggravating and prolonging the consequences of accidents. In China, domestic animals, such as horses, which are insured, become objects of insurance frauds. Cases have come to light where such animals were reported missing whereas they had in fact been sold. Sick or old animals were insured whereafter they were killed and reported as dead.

Fraudulent acts committed by insurance institutions occur rarely. However, there have been cases which have been discovered recently that implicated the institution itself. The Equity Funding Corporation (EFC) case in the United States of America has demonstrated that by the use of computers extensive and irreparable damage can be inflicted. This company sold mutual funds and life assurance on commission. There had been manipulations in the

balances by recording non-existent commission income, and liabilities resulting from money borrowed were not recorded. This pushed up the market rates artificially.

The Export Credit Guarantee Department of England (ECGD), which is an insurance arm of the Government of England underwriting risks undertaken by British exporters dealing with foreign clients, has not been spared by fraudsters either. Many of the frauds on ECGD took the form of fraudulent claims for non-existent exports.

The insurance industry today transacts a vast amount of business, not only domestically but also overseas. As maritime transportation is vital in this sector, so is marine insurance. Marine insurance is not spared the venom of fraud either. In fact this is the most vulnerable area of the insurance industry and yet very little can be done to plug the "leaking holes" in view of the multi-jurisdictional nature of it.

The common patterns found in marine fraud are the scuttling of ships with the connivance of the owner, deliberate stranding of vessels, deliberate machinery damage, and non-disclosure of material facts to the insurer. Scuttling of ships is a common trait when shipping companies face financial difficulties or when they experience difficulties in contracting charters. This malaise is as ancient as maritime insurance itself. Events in the late seventies had shown an alarming number of ships sinking in the South-East Asia region. As a result, an investigation team, drawn from London and the affected region, was set up and based in Hong Kong. The team, the Far East Regional Investigation Team (FERIT), carried out investigations and revealed that some or all of the following features were present:

- a) The vessels are usually more than 15 years old and are in very poor condition, hence the coining of the term "rust bucket."
- b) These vessels are usually registered under flags of convenience.
- c) The vessels allegedly carry high-value cargoes, for example, large quantities of

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- cloves, palm oil, brass scrap and PVC resin.
- d) In cases where cargo was actually carried, it would be secretly discharged at an intermediate port before the vessel was scuttled.
 - e) The cargo owners might also be involved along with the shipowner.
 - f) There is usually no loss of life and the crew normally save their personal effects, though the ship's papers are usually lost.
 - g) The ships usually sink in deep water and allegedly in bad weather.
 - h) The ships are usually over-insured.
 - i) The involvement of the same people (shipowners, agents, shippers and crew) in a number of cases indicates that a number of small syndicates are probably operating.
 - j) In some cases the company is specially set up for this.
 - k) The vessels usually develop leaks or there are unexplained explosions on board; for example, one vessel was reported to have struck "an unknown submerged object" as a result of which water began pouring into the holds; and another one was supposed to have suddenly developed a large vertical crack in the port-side shell.
 - l) In some cases the sinking is faked, i.e., the vessel does not sink but reappears elsewhere under a new identity.

An illustration of the international nature of maritime fraud and the difficulties of jurisdiction can be elucidated from the "Salem" case, where the fraudsters were of various nationalities. The ship, which was carrying a cargo of oil to be discharged at some ports in the English Channel, was scuttled off the coast of Senegal. In most cases insurers are liable for any loss proximately caused by perils insured against so long as the loss was not caused by any wilful conduct of the assured. As evidence of such conduct is hard to come by, the insurers end up as losers.

In addition to fraud, arson is another sector where crimes relating to insurance are frequently encountered. Entrepreneurs,

who are insolvent or heavily in debt, try to restore the financial buoyancy of their enterprise by setting fire to the valueless inventory of the enterprise. The Republic of Bangladesh, which exports 90% of the world supply of jute, frequently experiences such arson cases. Fifteen percent of all fire damage in the Federal Republic of Germany is considered to have been caused by arson.

The automobile sector is another area of the insurance industry which is susceptible to crime. Organized thefts of motor vehicles are not only rampant on the domestic level but have also emerged on the international level. Valuable new motor cars and trucks, accompanied by forged documents, are being disposed of in distant countries. In Lesotho and in Southern Africa, theft of motor cars has assumed astronomical proportions. Motor vehicles are being smuggled into and out of Lesotho. Perpetrators are able to weave through check-points because they enjoy the connivance of some public officials. Thefts of motor vehicles are also rampant in other Asian and Latin American countries. Motor insurance claims fraud normally occurs in all three areas of claims—own damage claims, third party property damage claims and third party personal injury claims. Making double or multiple claims by having double or multiple insurance cover for one vehicle, making double or repeated claims from the insurer on the basis of one damaged vehicle, and insuring vehicles which have been damaged or even classified as total loss vehicles without the vehicles first being repaired are the normal *modus operandi*. It is, however, heartening to note that in West Germany organisational measures have achieved initial success by the introduction of a central computer for the automobile insurance business. There have been instances where vehicles were reported stolen so as to evade hire-purchase or loan repayments. The robbery scene is one of the areas where insurance is most affected. The crime is mainly committed by third parties, who include terrorists.

The structure of laws existing in some

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countries, especially in banking, have facilitated fraudsters in their schemes to defraud insurance companies. Re-insurance contracts have been used as a guise. Syndicates are known to have entered into sham contracts of re-insurance with overseas "re-insurers" against risks which both knew to be negligible or non-existing.

Crime is not a new phenomenon. It is as old as humanity. The belief that crime is due to poverty does not hold water. Not all insurance crimes are committed by the neglected or the deprived segment of the populace. The motives of insurance crimes are both qualitatively and quantitatively similar to other "white-collar" crimes. The greedy desire for money is the driving factor. A study of 44 cases conducted by the National Police Agency of Japan, covering a period from 1978 to 1982, identifies the following motives:

- a) to obtain working capital
(17 cases or 38.6%)
- b) to repay debts and get money
for sprees (9 cases or 20.5%)
- c) to collect debt (5 cases or 11.4%)
- d) to get housing capital
(2 cases or 4.5%)
- e) miscellaneous (2 cases or 4.5%)

As in any other field investigation, investigating agencies require information relating to insurance crime in order to assist them in bringing to book the perpetrators. Sadly, this is lacking. It is apparent that insurance companies are reluctant to notify the investigating authorities and various reasons have been advanced to justify this lukewarm attitude. Uppermost is the commercial consideration. Negative publicity could affect companies adversely. Time is a valuable commodity for the companies. Delay in settling claims could be expensive in the final analysis. In some systems of administration, insurance companies feel that it is a vain effort to notify the authorities as there is no reciprocity. On the other hand, there is a lack of understanding on the part of the investigating personnel in respect of insurance. The false assumption that insurance companies are resilient is a contributory factor. It is a common belief

amongst investigative personnel that insurance companies are well-off and can dig deep into their pockets to pay claims. Clearly, there is a lack of communication between the two bodies. Any liaison framework which exists between the two entities is done on an *ad hoc* basis. The scenario has to be changed and permanent bodies have to be constructed so that a constant flow of information can be made possible. Inter-company co-operation can greatly help to achieve this aim.

Versatility in Investigation

It cannot be denied that the nature of business transactions today is sophisticated and the problems generated are mammoth. As in the case of "white-collar" crimes, there is a need for a corps of highly-trained professionals who can detect evidence of fraud at a very early stage in an investigation, not only pertaining to insurance crimes but other "white-collar" crimes as well. This emphasis cannot be glossed over as markets have grown and become more international in character. The present breed of investigators is ill-equipped to investigate multinational conglomerates. The task is simply stupendous. The formation of the Serious Fraud Office in England, where lawyers, accountants and various investigators are housed under one roof, is a timely move. Insurance companies, on the other hand, should develop strategies for foiling criminals who file fraudulent claims. Surveys carried out have shown that companies achieved a significant saving in claim costs in excess of the costs of investigation.

Radical Change in Legislation

Having a corps of professional investigators is not in itself a guarantee that the problems relating to insurance crime would be solved. A factor which often thwarts efforts to throw the dragnet on international fraudsters is the inadequacy of legislation. This can be gleaned from past experience. Some countries have laws which tend to inhibit the extradition of

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wanted persons to a requesting country and others have laws which provide havens for these international criminals. The complexities of modern life have produced problems that require urgent attention. Domestic laws have to be looked into and, if need be, radical changes undertaken. Procedures and laws pertaining to documents and the reception of foreign evidence need to be adjusted. The adoption of "Commission Rogatoire" and its affinity is a wholesome change. England, hitherto known for her conservative approach to changes in the law, especially with regard to the rights of the suspect, has revolutionized its laws in order to cope with the trends in fraud cases. It has gone as far as facilitating the collection and presentation of evidence from abroad into the English courts through video links. Although its efficacy has yet to be tested, the move is a brave and laudable step.

Conclusion

It is beyond imagination and indeed a folly to say that international crime, especially crime related to insurance, can be fought singly by any nation, no matter how developed it is. The development of rapid communication today has made it utterly impossible for such an undertaking. No country can fold its hands and be a disinterested party to the cause. The international community has to embark on a crusade. It is acknowledged that the capacity or capability of a country to do so is determined by its resources. The "universality principle" was introduced for discussion as a means to combat international crime. It was suggested that this principle should be further discussed and studied before it can be adopted into domestic legislation. An all-out effort to stamp out the menace calls for a resolute will and co-operation because "for want of a nail a shoe is lost, for want of a shoe a horse is lost, for want of a horse a soldier is lost, for want of a soldier a battle is lost." Besides co-operation, public awareness with respect to crimes related to insurance must be aroused. Public apathy is

one of the contributing factors hampering the successful campaign against this type of crime.

Criminologists believe that criminal behaviour is the product of environmental conditions. In our pursuit of personal glory and achievement we tend to be individualistic and materialistic. Money and monetary power is our shepherd. Human dignity is trampled. Perhaps this is the moment for all of us to pause and reflect that "if we want a society of free men in which human dignity is safeguarded, a lot of dimension must be rediscovered. . . . When the eternal background is eliminated, man's status must be reaffirmed and no merely secular or scientific theory of life can guarantee that."

Session 2: International Assistance and Co-operation and Countermeasures Against Crime Related to Insurance

*Chairperson: Mr. M. Enamul Huq
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*Rapporteur: Mr. Sirisak Tiyapan
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Advisor: Mr. Yasuro Tanaka

Introduction

Economic crimes appear to form a parallel with that kind of disease called cancer which cannot be treated even by well-reputed specialists without encountering extreme difficulties. And never in the history of mankind has there been such a type of crime whose effects are so widespread and devastating to society that its existence can be felt not only in one but in many countries of the world. That has led the pundits to consider the problem over and over again and to convene the appropriate forums of the various concerned agencies to hold discussions individually, in groups and jointly, against that backdrop we have in UNAFEI to gather our might in combatting crime

COUNTERMEASURES AGAINST INSURANCE CRIME

against insurance which has already attained the dimension of an ever-increasing menace. Jonathan Swift's remark is aptly applicable here: "We are so fond of one another because our ailments are the same." With this, the chairperson underscored the importance of the onerous task of this session but he was hopeful that with the active contribution of fellow participants, the rapporteur, advisor, faculty members and the visiting expert the desired objective can be achieved through the unstinted co-operation of all concerned. The objectives are to:

- a) develop various measures for more effective and efficient control of crime related to insurance by criminal justice administration,
- b) explore innovative approaches to the prevention of crime related to insurance,
- c) formulate overall preventive measures for crime related to insurance.

In order to facilitate the discussion and objectives thereof, the chairperson proposed to proceed as stated hereunder. The consensus and variations, if any, can be categorised under three headings, namely:

1. Non-Criminal Countermeasures,
2. Criminal Countermeasures,
3. International Assistance and Co-operation.

He also stated that due note would be taken of the contents of the country papers submitted during individual presentations, papers dealing with specific problems of various countries and those of the visiting experts, *ad hoc* lecturers or other guest speakers, and so forth. Thus fervently entreating all for their desired co-operation the floor was opened for discussion.

Non-Criminal Countermeasures

To cope with crime related to insurance is not necessarily the burden of the criminal justice administrative domain alone. Non-criminal countermeasures may, in some degree, be more appropriate in confrontation with crime related to insurance than traditional criminal sanctions. They

are, of course, the complementary part of the countermeasures if the most effective prevention and suppression of the said crime is to store.

Non-criminal countermeasures in this regard are considered to include any measure outside the scope of criminal law enforcement against the opportunity to commit a crime related to insurance or to prevent the recurrence of it in the future.

Crimes related to insurance can be distinguished from those traditionally defined under the existing criminal law of each country, because of the different circumstances in those countries when encountering it, and their non-criminal countermeasures are therefore varied by their respective social, cultural and legal systems.

In China, non-criminal countermeasures are taken either by the disciplinary sections of the insurance companies themselves or by the government disciplinary department of each area. These disciplinary sanctions, which are separated from criminal justice administration, are varied according to the magnitude of severity of the crime committed and other circumstances. In Japan, apart from regular meetings among the police, life assurance associations and personal accident insurance associations meet to provide information for criminal case detection, to enhance control of "moral risk" by strengthening the degree of strictness applied in investigation during selection of honest people to insure, especially at the time when the concluding of a contract of life assurance occurs with an amount of insurance money that is abnormally large compared to the prospective client's economic living standard and earnings. This practice has been introduced by the Insurance Deliberation Association, Ministry of Finance in "The Report Concerning Life Insurance" of June 14, 1979. Similarly, in non-life insurance the careful and prudent exclusion of wicked applicants from entering insurance contracts according to the information-exchange system among the insurers has been recommended by "The Report Concerning Non-Life Insurance" of June 8, 1981.

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In Korea, several preventive measures against crime related to insurance have been conducted by the insurance companies which included, *inter alia*: the standardization of qualifications for insurance salesmen by a strict pre-test and a compulsory educational training for a certain period; as well as the establishment of the so-called "black list" containing names of those who recently and frequently took out the same kind of insurance with several insurance companies, or whose insurance monies are unreasonably higher than their normal socio-economic status, and including those who have been rejected from entering into insurance contracts with any company because of their discredit.

In Japan, non-criminal countermeasures are taken by The Insurers' Association through the "black list" system whereby the registration of people and business is made when they are considered a "moral risk." Furthermore, due to the dislike of interference in their business by the criminal administration, the insurers in most cases do not call the police to investigate incidents involving their companies but have it done through independent surveyors or private inspectors instead.

In the Philippines, there exist various private organizations involved in the adoption and implementation of certain measures on the prevention of insurance crimes, such as the Insurance and Surety Association of the Philippines (ISAP), the Philippines Insurance Rating Association (PIRA), the Philippines Association of Surety Underwriters, Inc. (Philassurers), the Anti-Arson Unit and Anti-Camapping Unit of the Philippines Constabulary. These organizations play important roles in co-ordinating with the government authorities in insurance crime detection, prevention and solution. Additionally, The Philippines Association of Surety Underwriters, Inc. has adopted a resolution requesting all surety companies not to provide bail bonds for the accused in certain criminal cases including arsonists, nor issue attachment bonds in case the insurance companies are sued on denial of insurance claim.

In Thailand, apart from adoption of the Life Insurance Act of 1967 and the Act for Insurance Against Loss of 1967, which has as its primary objective the control of the activities of the insurance companies in order to minimize the opportunity of fraud caused by the insurers, all insurance companies through the General Insurance Association and the Thai Life Assurance Association have continually provided information, ideas and knowledge through an annual seminar with a view to better understanding by the public of the system of insurance so that the people can avoid being defrauded or used as a tool for the fraudsters. In addition, other non-criminal countermeasures against crime related to insurance, such as regular patrols, private detection of criminal evidence, and private investigation of crime have also been taken by the insurance companies themselves or by various associations of volunteers for the prevention of arson and public harm.

Nevertheless, it is certainly the case that the various forms of non-criminal countermeasures against crime related to insurance illustrated above, which were referred to in some participants' papers, are not exhaustive. This perhaps arises from the fact that not only did some participants fail to provide information regarding the non-criminal countermeasures against crime related to insurance of their countries in their papers, but also the absence of classification of non-criminal countermeasures in response to crime related to each type of insurance existing in their countries.

Bearing this situation in mind, the participants have exerted their utmost effort in presenting views, ideas and experience in the general discussion under this topic, the results of which are as follows:

1. Element of Insurance Policy and Limitation of the Amount of Claim in Life Assurance

With regard to life assurance, a proposal to exclude the element of "insurable interest" from the insurance policy was made by the participant from Malaysia,

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who indicated that crime related to insurance (in particular murder) usually arose where the relationship between the assured and the beneficiary solely rested on the "insurable interest." To alleviate the temptation to commit crime, the principle should be that only the nearest kin could be nominated as the beneficiary in life assurance. The participant from the Philippines confirmed that such exclusion should be limited only to life assurance. However, the Peruvian participant was of another viewpoint, saying that the principle of "insurable interest" was the most significant notion that distinguished insurance from gambling, without which the spirit of insurance might be distorted.

There was a request from one participant to conclude this issue. However, the chairperson, pointing out the objective of the discussion, which was intended to be open for all views and comments, was of the opinion that it was too early to conclude discussion on a topic which is still under research by experts and specialists. He then invited other participants to contribute the experience of their countries.

The participant from Thailand was of the opinion that the insurance contract was also a kind of contract whereby the free-will of the parties must be observed. Therefore, the insurer and the assured, as the parties of the insurance contract, should have freedom to enter into the contract under the conditions they mutually agreed, though this must be subject to the policy of public moral welfare and interest. He referred later on to the Thai legislation, which required that anyone who takes out insurance upon the life of another must have an "interest" either through family or business with the latter. However, there was no law preventing the assured from specifying anyone else to be the beneficiary of an insurance policy even though no such interest existed. One Japanese participant mentioned the situation in Japan whereby statistics showed that 25% of the victims of murder cases related to insurance were the employees. He also raised as an example a Japanese

case whereby the president of a business firm who was facing financial difficulty had taken insurance out on the lives of his six employees and later on invented a fake accident to murder them. The participant from Colombia, whilst agreeing with the opinion of the participant from Peru, reported the situation in his country whereby the common practice was to insure the life of the partner in a business transaction, but no insurance upon the life of the employee by the employer existed.

Another Japanese participant remarked that "insurable interest" was a matter for each legal system, but another interesting point was the amount of insurance money. For instance, in Japan there was no upper limit to claims in life assurance, therefore, in some cases the insurance money was very high compared with the amount a person could have genuinely earned in his life and this became the cause for increase of crime related to insurance; the amount of claim in life assurance should therefore be limited. The remark of this Japanese participant concurred with the view of the participant from Saudi Arabia, who confirmed that one reason for murder in life assurance was the large amount of money involved, so the government of each country should amend the law to define not only the upper ceiling of the amount but also the mode of payment. In his opinion, the whole amount of compensation should not be paid at one time but in several reasonable instalments. However, the Peruvian participant expressed his concern that limitation of the amount of claim in life assurance might be contrary to the principle of contractual freedom of the parties as against the rights of the people regarding the way they should be able to convey their money, in the same way as when they make their last will and testament.

2. Standardization of the Quality and Education of the Insurance Broker/Agent

The participant from Korea raised the issue of standardization of the quality and education of the insurance broker

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and insurance sales agent as a non-criminal countermeasure against crime related to insurance by pointing out that such crime, in particular that of fraud, usually occurs because of the ill purpose of the contracting parties which is sometimes compounded by the lack of proper understanding of the insurance system of the insurance broker or insurance sales agent. Standardization of the quality and education of such people should therefore be maintained. He referred to the system established by the Life-Insurance Association in Korea which required every sales agent or broker to undergo training for a specified period before being permitted to work. The participant from Fiji agreed with this opinion, but added that lack of knowledge and understanding of insurance on the part of insurance brokers or sales agents was not necessarily the sole cause of crime related to insurance, but lack of knowledge and understanding on the part of the assured as well. It was therefore the duty of all insurance companies or their agents to explain fully and clearly the conditions of the insurance policy to the assured. The participant from the Philippines also agreed with the Korean participant and said that in his country it was a government authority which issued the license to the life insurance agent, not the private bodies.

The Bangladeshi participant emphasised the role and responsibility of the agent/broker, who must be genuine and sincere and should act as go-between for the insurer and assured and utilize his good offices for the mutual benefit of both sides. Failure to do so would lead to personal liability on the part of the individual agent/broker, and also to liability on the part of the company for whom he is supposed to work. To promote better salesmanship, the agents should be trained professionally and they need to be given incentives in the form of cash, kind, social respect and official citations as a reward for doing a good job. This will go a long way to attract the talents which can be of immense service to both the insurer and the assured. However, the participants from Colombia and Peru stated that a

clear distinction is to be made between the several possibilities—an agent could work in insurance business and also with the role and position of the broker who is independent of the parties, otherwise the insurer could not be penalized for the wrongdoings of the intermediary unless he has acted under subordination or as an agent of the insurer according to the contracts of mandate and law of the brokers.

3. Uniform Insurance Policy

The participant from the Philippines suggested that in order to prevent crime related to insurance arising from the uncertainty and distinction of the conditions and terms of the insurance policy, a uniform policy of insurance, especially in marine insurance, should be adopted. The meeting acknowledged the validity of this proposal.

4. Promotion of a Good Working Relationship between Insurance Companies and the Government Authorities

The participant from Thailand expressed her view that one of the non-criminal countermeasures against crime related to insurance was to minimize to the highest possible degree all hindrances to the prevention and suppression of such crime. She mentioned the situation in Thailand as an example: in her country, most of the insurance companies were hesitant or unwilling to contact government authorities, which they thought would bring them more trouble than benefit. This is, of course, a factor which lessens the effectiveness of the control of insurance crime, so she suggested the promotion of a relationship between insurance companies and the government authorities as a non-criminal countermeasure.

Her proposal was agreed to by the chairperson, who further remarked that this would help to improve understanding and co-operation among the public, police and the insurance companies. However, those who are concerned with the prevention and detection of crime related to insurance must have professional liability.

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He described the role and responsibility of police in his country as an example.

5. *Other Non-Criminal Countermeasures*

Apart from those mentioned above, several other non-criminal countermeasures were recommended by the participants, namely:

- a) Exchange of research and information among the insurance companies.
- b) Date of birth and medical certificates need to be checked more carefully, particularly in the case of life assurance.
- c) Co-operation of the insurance companies in some particular matters, relating to investigation, etc.
- d) Establishment of a "black list" system against those discredited assured.
- e) Imparting training to officials of the concerned agencies to disseminate knowledge.
- f) Informing the public about the stable affairs with special role of the press and the journalists.
- g) As far as possible and practicable, cashless transactions and direct payment of premiums to the insurer need to be adopted.
- h) The mass media can play an important role in guiding the criminal justice administration through ascertaining public opinion and highlighting the do's and don't's.
- i) To ensure that all criminal incidents are reported to the police, who in their turn may obtain useful information through the ordinary process.
- j) Enhancement of professional acumen and standards which is the key point to attain the desired result. In this context, the chairperson expressed his wish that the members of the vital agency, i.e. the police, adopt the qualities which the undernoted letters reflect e.g.

P – Polite
O – Obedient
L – Loyal
I – Intelligent
C – Courageous
E – Efficient

Criminal Countermeasures

That man is an aggressive creature will hardly be disputed – no other animal takes positive pleasure in the exercise of cruelty upon another of his own kind. When we learn or read about the atrocities committed by man upon man, we know in our hearts that each one of us harbours within ourselves those same savage impulses which lead to the commission of criminal offences. And we have to ponder deeply over the possible criminal countermeasures to combat and bring to a halt this ominous episode of conflagration of economic crime relating to insurance which seems to go on without abatement because of the apparent absence of victims, and which indirectly harms the whole of society instead of the specific individual. There lies the significance and necessity of putting our heads together to determine how best we can ensure an integrated approach through various stages, e.g., investigation, prosecution, adjudication and correction, of the criminal justice system. These are the different arteries through which the offender can be brought to the book of justice and given his due share of retribution for his wilful furtherance of criminal intent. And it must be ensured that only those who are responsible are dealt with sternly – so that would-be criminals can learn a lesson from the exemplary punishment meted out to the genuine offenders, thereby fostering the efficient and effective control of crime.

In the area of countermeasures against crime related to insurance, the general discussions considered and discussed various aspects of criminal justice administration as follows:

1) The meeting was of the opinion that in some countries, such as China, only the individual assured could commit an insurance crime. In general, however, perpetrators of crime related to insurance were not necessarily limited only to the assured but often involved the insurers and third parties as well. Establishment of criminal countermeasures must, therefore, take into consideration preventive and suppressive

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means for combatting insurance crimes committed by these respective group of offenders.

In relation to this, the visiting expert from U.K. contributed his experience of the difficulty usually faced by English police and lawyers in the investigation and handling of some offences which have this specific character of commercial crime. The assistance of experts in terms of training was thus brought into focus.

2) With regard to the investigation of crime related to insurance, the meeting was of the opinion that although some countries had long been acquainted with crimes of an economic or commercial character, including that relating to insurance activity, and had already developed certain effective investigatory methods to cope with it, this specific type of crime was still rather new to most countries of the participants and the investigation system in their respective countries had not been thus far developed.

The chairperson pointed out the necessity to establish a body composed of those who are working in the field of investigation of this type of crime as well as the experts in the allied fields to act as the co-ordinator for the investigation. The participants from Colombia and Indonesia further recommended the strengthening of co-operation between insurance companies and the investigating authorities in terms of regular information exchange in order to mitigate deficiencies and inadequacies.

3) Regarding prosecution, the Bangladeshi participant introduced the question of "masterminds" and the actual actor in insurance crime, which then led to the discussion of various issues in connection with the prosecutorial systems in the respective countries of the participants. Participants were of the view that the matter of prosecution, specifically the discretion to prosecute any person in the conspiracy of crime, was solely dependent on the particular legal system of each country. In response to a request from the Director of UNAFEI, the visiting expert from U.K. contributed his experience of the pros-

ecution system in England, whereby the prosecutor has to consider whether it is possible or good enough to prosecute anybody according to the policy of public interest. He pointed out that there was no plea-bargaining system in the English system, but sometimes the prosecutor could decide to prosecute a perpetrator by utilizing the evidence of another perpetrator in the same crime whose action was less severe.

A Japanese participant explained the role of the Japanese judiciary when adjudicating criminal cases, especially of insurance crime. The severity of injury caused by each offender, either the leader or the accomplice, as well as the profit they gained must be taken into account. Accordingly, the same penalty for all criminals was not suitable in his opinion and he recommended separate treatment for the "mastermind" and accomplice according to their role.

4) In respect of evidence and its admissibility, the participant from Malaysia raised the issue of the confidentiality of bank books and other documents which is strictly observed in some countries and which might cause difficulty in investigation, prosecution and adjudication of crime related to insurance, and invited the plenary meeting to discuss whether it was suitable or not to keep such absolutability or whether there should be some other means to acquire such information.

One Japanese participant expressed his opinion based on the Japanese practice that in Japan crime related to insurance had not yet been treated as an economic crime so far as the criminal justice administration was concerned; thus, the collection and admissibility of evidence were handled in the same way as for general types of ordinary crime.

The participant from Thailand, sharing the opinion of the Japanese participant, referred to the system in his country whereby no exclusive justice administration for crime related to insurance as such existed at the moment. According to the Criminal Procedure Code, which is applicable to all crimes in general, the Thai in-

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vestigatory officer has the power to inspect bank books and other documents required for the gathering of all evidence and the court, upon a request from the public prosecutor, may also issue an order calling for any document from the bank in the interests of the case trial. A problem, indicated by the Thai participant, has however arisen when the case involved foreign evidence, thereby entailing complications and high costs, both of which were certainly unavoidable.

The visiting expert from U.K. agreed with the Thai participant, citing particularly the type of case when the foreign information and evidence required were subject to the rule of absolute confidentiality of that country. He also informed those present that at that time England was proceeding to have its legislation amended to the effect that hearsay evidence might be accepted in certain circumstances.

5) In the discussion about penalties for and treatment of perpetrators or crime related to insurance, one Japanese participant invited the meeting to consider the question of how severe the punishment inflicted upon the criminal should be in order to deter insurance crime. In this regard, the chairperson expressed his view that punishment alone could not be and is not adequate for the deterrence of crime but should be one of many other components, and the genuine spirit of sincere co-operation among those concerned in crime prevention and suppression should count for more.

There was a wide-ranging discussion among the participants on this issue which then led to other related issues, such as parole and an innovative penalty for crime related to insurance. The meeting was of the opinion that apart from strengthening the existing system in each country to cope with the increasing prevalence of crime related to insurance, innovative measures against such a crime in terms of punishment, for instance, the forfeiture of the illegally-gained profit, should be taken into account. In this regard, assistance from an expert was recommended.

6) The plenary meeting concurred with the idea proposed by the chairperson and supported by the participants from Lesotho and Sudan regarding the establishment of a specific body within the law enforcement administration to deal exclusively with insurance crimes in terms of investigation and prosecution. This body would consist of an expert police official as head, with an accountant and prosecutor who will act as a "Task Force." And for expeditious and better trials, the court officials should also be technically trained and appropriately qualified for the special nature of such crimes.

7) The age-old procedural laws need to be reviewed and special provisions drafted to cover the new dimension of economic crime, which is often a transnational one. Consequently, evidence acts and rules relating to the admissibility of witnesses, evidence and documents should also undergo reform.

8) Criminal-justice-related organs of the police, prosecution, court and corrections should be adequately staffed. Financial constraints must not be an impediment to acquiring up-to-date techniques and equipment.

9) A special investigative unit needs to be set up with members who are conversant with the *modus operandi* of "white-collar" criminals, who are "hard nuts to crack."

10) Incentives for law enforcement agencies and related organizations dealing with criminal incidents—both public and private and aides will encourage the crime-stoppers to give of their best and thereby checkmate the criminals.

11) One participant from Japan, whilst agreeing with the foregoing measures, recommended that alongside the enhancement of professional skill for better investigative techniques, factors relating to prevention of criminal behavior need to be taken care of. He suggested the installation of alarm systems, fire extinguishers and other devices for the prevention of loss, all of which are equally helpful to deter premeditated plans.

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International Assistance and Co-operation

Economic crime with its new forms, dimensions, massive defrauding and devastating consequences has become a disturbing factor and poses serious challenges to many, if not all, systems of criminal justice—in fact, creating and making a mockery of the penal statutes. As recent events show, traditional crimes have become internationalized and a new phenomenon hitherto unknown to society has emerged. Conventional methods of prevention, detection, investigation, prosecution, adjudication and correctional treatment are not as effective as desired in dealing with this sort of new manifestation of “white-collar” crime.

In the international sphere many attempts are being made to bring some measures of uniformity and rationalization to the commercial law of the various trading countries of the world like the EEC, BENELUX, OPEC, and so forth. A creative approach to the law seems more imperative now than ever. In the effort to work for a more salutary effect in formulating overall preventive measures or methods in combatting economic crime, the absence of adequate and effective international co-operation is identified to be the foremost inadequacy. Quite rightly, the United Nations had to adopt in its Seventh Congress at Milan in Italy several plans of action to meet the rising incidence of crime, particularly those that cause irreparable damage and loss to the economy of nations. This concern has made the affected nations put their heads together and fortunately there now prevails a tendency to contribute their might to ensure its fruitful application to checkmate this ever-increasing menace.

Elaborating on this background of information about crime and its impact, discussion of this topic was initiated by the chairperson about the increasing necessity for international assistance and co-operation to cope with it.

The participant from Fiji expressed his view that crime related to insurance usually

arose from problems with cost of living or economic difficulty; therefore, within the scope of international assistance and co-operation, economic development should not be ignored and in this regard the developing countries should have priority in receiving such assistance and co-operation.

One Japanese participant expressed concern about the inefficiency of the domestic administration of justice system in a foreign country when dealing with a crime of international characteristics by raising a Japanese case which failed to have the criminal punished because of the lack of co-operation in returning him to the Japanese jurisdiction while the domestic system of the foreign country was too weak to handle the case itself.

In response to this remark, many participants pointed out the necessity to promote the conclusion of extradition treaties between nations, while some other participants believed that informal co-operation between nations in a genuine spirit was more significant and effective than any formal treaty. In this regard, INTERPOL was cited as an example of very good and effective international co-operation.

There was a suggestion from the meeting that as an initial step for world-wide international co-operation, regional co-operation through the regional organizations should be established and promoted first. This regional organization should take responsibility for those activities as seen in the cases of FERIT, ESCAP, etc., for example:

- a) Organizing periodical meetings of high-ranking representative officers from the countries of the region to discuss the problems commonly faced in the region.
- b) Promoting economic and social development of the region, which in the opinion of this meeting was very important for the detection and prevention of crime related to insurance.
- c) Utilization of regional experts and advisors relating to crime prevention.
- d) Fostering harmonization and co-operation to minimize difficulties arising from conflict of sovereignty vis-à-vis

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jurisdiction of the countries in the region for the common purpose of suppressing regional crimes.

- e) Operating a regional training centre for education in certain practical techniques against crime related to insurance, such as anti-arson programmes, fire-extinguishing systems, and security patrols.

Some of these activities have already been initiated by ESCAP, therefore the meeting thought fit to request more contribution and assistance from ESCAP with regard to this field of operation. Data Bank can help in this regard, too. UNAFEI was requested and invited to be a leader in the establishment of regional co-operation. The Director of UNAFEI explained the position of UNAFEI in that its general purpose and responsibility was to organize training courses and seminars. However, within its scope of functions, UNAFEI was willing to contribute and assist this matter as far as it could.

While discussing the inter-organizational co-operation and national laws, the participant from Colombia referred to FASECOLDA—the association of insurance corporations whose decisions are binding on the component members. The visiting expert explained about the adoption of voluntary self-regulation codes of different multinational concerns which were likely to yield good results. Inherent nationalistic feelings and the desire to be supreme within one's own domain have always stood in the way of smooth investigation of transnational crimes. However, the growing awareness of the parties involved is gradually resolving this problem in a desirable manner, which is a happy trend indeed!

A Few Closing Words

From the discussion and viewpoints expressed by the participants and members of staff and visiting experts, it is abundantly clear that the problem is transnational and the solution thereof should also emanate from concerned multinational actions under the framework of international guidelines. In doing this the

prevalent conjecture is that the power of big concerns gives them greater influence in relationship to small ones especially in developing countries. Inter-agency co-operation is undoubtedly valuable and effective in so far as it goes. Despite a wide awareness and favourable response from many nations, the reality of extradition and other forms of international co-operation and assistance has been far from satisfactory and definitely deserves further discussion and attention. How rightly the illustrious philosopher Hajime Nakamura said, "Our sense of belonging to our world has never been keener than at present." Yet the emphasis today on this evident fact itself implies that while every individual is affected by the quickening flow of world events he is strongly influenced by the ways of living and thinking in his own nation and culture. This is true in other fields generally, but more in the realm of international co-operation with regard to the measures taken to tackle criminal offences and to suggest solutions to the problem.

In his concluding remarks, the chairperson said that the international harmonization of criminal law with special reference to insurance-related crime might have been honoured more in the breach than in its observance. Yet from the present trend of awareness it is heartening to note and hopefully expected that the present voluntary self-regulation of the concerned agencies and units may be treated as convention in the long run. He pleaded for further active contribution with a global perspective to the peace and prosperity of mankind free from the diverse and critical problems worldwide. The deeper understanding of the international community has become a "must" to pass through "a stormy today" to "a better tomorrow." The victories in the permanent war against crime can only be won by the joint efforts of experts in all fields of knowledge irrespective of territorial boundary. We may not have a panacea for the same because there is so much we do not know—but if we are to survive we need to know all that we possibly

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can about ourselves, our developments, our needs, our institutions, our advantages and our failings.

The chairperson added that, as stated at the beginning, it was not within our purview to reach definite conclusions, to give easy answers or clear-cut solutions. The main aim of the Course was to open up a discussion on the subject, as large,

as deep and as unbiassed as possible. This, he hoped, we have achieved, and the credit for this goes first and foremost to fellow participants, the staff of UNAFEI, visiting experts, lecturers and all others who have so kindly and unselfishly given us their time, knowledge and experience, for which we remain grateful.

PART III

Materials Produced during Other UNAFEI Activities

SECTION 1:

Report of the Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI Work Programmes and Directions

— Fuchu, Tokyo, Japan, 4 September 1987 —

Introduction

The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) convened the Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on 4 September 1987, during the occasion of the 76th International Seminar, for the purposes of evaluating on-going UNAFEI programmes and offering recommendations and advice with respect to future directions. The list of participants is attached.

Formal Proceedings

The meeting was formally opened by the Director of UNAFEI, Mr. Hideo Utsuro. After expressing words of welcome and thanking the participants for their attendance, Mr. Utsuro proceeded to briefly trace the history and to articulate the objectives of the Institute since its establishment in 1961. He explained that, in organizing international seminars and training courses and in undertaking various research activities and other projects over the past 25 years, UNAFEI has continually endeavoured to meet the needs of the countries in Asia and the Pacific region, thereby performing the mission entrusted to the Institute by the United Nations. Mr. Utsuro acknowledged with great appreciation the valuable guidance received from previous meetings of the *Ad Hoc* Advisory Committee in carrying out programmes responsive to both the expectations of the United Nations and to the needs of the countries in the region. Finally, the Director invited suggestions, comments and advice from all the participants with regard to on-going and future UNAFEI programmes and activities.

Election of Officers

The following officers were nominated and elected by acclamation of the Committee:

Chairperson: Mr. Atsushi Nagashima
(Japan)
Rapporteur: Mr. T.G. Garner
(Hong Kong)

Adoption of Agenda

The Committee adopted by consensus the following provisional agenda:

1. Election of Officers (Chairperson and Rapporteur)
2. Adoption of the Agenda and Other Organizational Matters
3. Evaluation of the On-going Programmes and Activities, and Suggestions for the Future
 - a) Training Courses and Seminars
 - b) Research Activities
 - c) Information Services
 - d) Alumni Associations and Others
4. Adoption of the Report

General Discussion

One of the participants of the 76th International Seminar gave a brief interim report on the discussions which took place in an earlier session as follows.

MR. FOENANDER: In the 1st Evaluation Session the topic that was dealt with was "Evaluation of UNAFEI Training/Seminar Courses and Other Activities." In the UNAFEI brochure this topic was split into seven component parts under two sub-headings. In anticipation of insufficient time in which to fully deliberate on each part, as suggested in the UNAFEI

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brochure, it was decided that the main topic be sub-divided into two broad sub-topics with a third for any other comments.

The first of the sub-topics was "Evaluation of UNAFEI Programmes," with special reference to the programmes in the Training Courses (inclusive of comparative studies, group workshops, lectures, etc.), Overseas Joint Seminars and International Seminars, and lastly, Research and Information Services.

The second sub-topic was "Effects of the Above Activities," with reference to the effects of the courses (in sub-topic I) on the participants' work, in particular, and, generally, on the criminal justice systems of the respective countries of each participant.

With regard to the first sub-topic, namely, "Evaluation of UNAFEI's Programmes," it was the general consensus among the participants that the courses reflected careful thought and preparation by the staff of UNAFEI in their planning and implementation. The courses afforded participants the opportunity to compare the efficaciousness of their own criminal justice systems with that of others as well as permitting them, through such exposure, to appreciate and acquaint themselves with the systems of other countries, resulting in a broadening of their outlook in their respective spheres of work in the criminal justice system. In the *Training Courses* the comparative studies, group workshops, lectures and study visits were considered to be immensely effective and valuable to drive home the message for the prevention of crime and the treatment of offenders. In the *Overseas Joint/International Seminars* it was apparent that some participants found difficulty in expressing an opinion on these activities, principally for the reason that they had not been previously involved in them. However, for those who had been informed of such activities, their impression was that these activities were improvements to the traditional activities of UNAFEI, in that the Overseas Joint Seminar, for example, which was initiated only rela-

tively recently, afforded the opportunity for better in-depth studies of the criminal justice system of the specific country in which such a seminar is held. It was felt that more of such seminars should be organized. International Seminars, like the recently held International Seminar on Drug Problems in Asia and the Pacific Region, were also similarly regarded. Research and Information Services undertaken by UNAFEI are areas that were apparently unfamiliar to the participants and accordingly no comments were forthcoming from them.

The second sub-topic, "Effects of the Above Activities," provoked comments that were, on the whole, positive. It was felt that while it would be rather wishful thinking to expect any immediate improvements and changes to result in any country following the attendance by a participant at training courses and seminars undertaken by UNAFEI, what was certain to be achieved was the initial implanting of the seed of awareness in the participant of the problems in his own country. This initial awareness should logically lead to improved attitudes that would encourage professionalism by those involved in the criminal justice system, leading finally to the integration of the component segments of the system. In fact, the general view among participants was that the course that they had attended had resulted in a change in their assessment and concern for the offender, as well as in their awareness of the relationship between the various segments of the criminal justice system. There were instances, however, of more tangible results that were effected as a result of these courses/seminars, such as the adoption of the Japanese VPO system, the Japanese koban system, and actual measures to ensure early trial dates for offenders. This concludes my summary of the session.

DR. AHMED: During the last few days since I arrived here I have been listening attentively to many informative statements and stimulating discussions about the quarter-century contribution of

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UNAFEI to the improvement of criminal justice in this important part of the world, and have learned that UNAFEI contributions have been highly appraised by participants of this 76th International Seminar which is devoted to the evaluation of UNAFEI's training courses on prevention of crime and treatment of offenders.

Within this context, kindly allow me as a visiting expert for the first time to this great institution to make a humble contribution within my field of specialization and experience.

What I believe is needed now after a quarter-century's contribution by UNAFEI is to design an appropriate system of evaluation for UNAFEI's major functions in the field of criminal justice. In this respect, Mr. Utsuro's report has stated that "even though the Institute has made a conscious effort to evaluate the effect of its training programmes in terms of the participants' performance upon their return home, it has always been difficult to single out valid methods and precise criteria." I refer to the term "evaluation" which I would like to define here as "a process of forming judgment of the unassessed action from evidence collected on the basis of pre-determined criteria." The unassessed action in this system of evaluation would be UNAFEI's main functions as determined within the context of its stated objectives. The main purpose of this system of evaluation would be to provide a steady flow of information and empirical data upon which basic decisions can be taken and actual operations planned to ensure full utilization of available resources in order to attain UNAFEI's stated objectives.

To provide timely and accurate information, this system of evaluation should use simple and straightforward methods and techniques for data collection and analysis. Therefore, I would suggest that this system of evaluation should be based on the principle of systematic documentation, recording of data, and information feedback.

In this respect, UNAFEI's management, the Japanese Government through JICA and the U.N. relevant specialized agencies

can be identified as the potential users of the information provided by this system of evaluation. Without going into technical details I would like to mention some of the main features of the system of evaluation I am suggesting.

Reviewing UNAFEI stated objectives reveals that the establishment of UNAFEI is not merely a target, but a programme of work that can be conceived as an organization with a set of interrelated social relations between change agents and recipients of change that exist within a certain environment so as to achieve specific objectives within a certain time limit.

In this respect, the UNAFEI's field of performance (criminal justice) is assumed to be a bridge between two basic systems: the system of change (UNAFEI's main function) and the system of recipients of change (UNAFEI's beneficiaries) which have mutual influence within an interactive framework. This interactive framework can be illustrated by a cybernetic structure which is based on a system of three loops: system of change, system of recipients of change, and the field of operations context. There are two parameters representing the interaction between the field of operations context and both the system of change and the system of recipients of change which stimulate both development and growth which can be produced by information feedback.

The external interactions between these two systems on the basis of information feedback stimulate one another to develop the system of change (UNAFEI's main function) to become more effective in its performance, and the system of recipients of change (participants in UNAFEI functions) to express more of their fundamental needs and expectations. This organization paradigm gives the proposed system of evaluation meaning and direction. Its overall strategy is how to provide effective information feedback relevant to UNAFEI's main functions and its beneficiaries in order to stimulate UNAFEI development and growth.

To keep the costs to a minimum, I suggest that the information and data to

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be collected in this system of evaluation be reduced to the absolute minimum necessary within available resources and time limits. In order to keep the suggested evaluation system manageable, I suggest that its procedures are incorporated in the programming of UNAFEI operations to serve other purposes. In order to obtain evidence for forming judgements in the proposed system of evaluation, I would suggest, first, measuring the efficiency of UNAFEI's input; second, measuring the effectiveness of UNAFEI's output; third, assessing the degree of success in achieving UNAFEI's objectives and determining its impact on the intended beneficiaries.

In order to yield the desired flow of information, certain elements of the proposed system of evaluation have to be determined, such as:

1. Classes of evaluation to be taken.
2. Evaluation criteria and standards to be used.
3. Valid and reliable indicators and measures to be used.
4. Methods, techniques and tools to be used for data collection and analysis.
5. When and how often the evaluation topics are to be studied.

This and other difficult aspects of the suggested system of evaluation design can be worked out as a joint technical venture between UNAFEI and ASSTC at Riyadh, through which we can exchange expertise and technical know-how.

Mr. Chairperson, under the wise guidance of UNAFEI's able leadership, I am fully confident that viable ways of mutual co-operation between UNAFEI and ASSTC in Riyadh will materialize in the near future.

DR. BILES: I would like to take this opportunity of bringing the warmest greetings and congratulations from the Australian Government to UNAFEI on the occasion of your 25th Anniversary and those greetings and congratulations come particularly from the Australian Institute of Criminology, the organization that I represent. The Australian Institute of Criminology perhaps regrettably is not a

member of the brotherhood of the United Nations institutes but the Australian Institute does regard itself as part of the extended family of the United Nations institutes and I would like to at least claim that we are a cousin. In fact, even though we may not be a brother or a sister we are a cousin because of the very close links in the past between Australia and UNAFEI bearing in mind that Professor Norval Morris, an Australian, was the first Director here, and one of your very earliest visiting experts was the Honourable Sir John Barry of the Supreme Court of Victoria, I think a personal friend of yours, Mr. Chairperson, who by the way was memorialized in a lecture in Melbourne this last week.

Because of these close links, and other visiting experts from Australia coming here I would like to claim a first cousin relationship between UNAFEI and our Institute.

With regard to the evaluation of UNAFEI's programmes I know that I speak for the Director and all of the staff of the Australian Institute of Criminology when I say (even though I believe we in Australia have a slightly larger staff) we would regard the international training programmes and seminars conducted by UNAFEI with complete admiration. In fact we do so with envy because I know we are not capable of conducting courses and seminars with the same degree of professionalism and the same degree of organizational skill which I have experienced firsthand at UNAFEI. That being the case I am certainly not suggesting any particular improvement except to wish you well in continuing to work along the way that you have in the past. You might have noticed, Mr. Chairperson, that the paper of mine which has been circulated relates to some basic principles of international criminal justice. You will no doubt be relieved to notice that I do not propose reading this paper but I invite participants, visiting experts and UNAFEI staff to read it some time and think about the message it contains.

As I said, I have no specific suggestions for improvement except to comment on

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two things. Firstly, I would want to see UNAFEI in all of its activities, training, research information, and so on go from strength to strength to build on the very solid foundations that it has established in the first 25 years, and secondly, I express the hope that the close relationship between the Australian Institute and UNAFEI will grow even closer in the years to come.

MR. JOUTSEN: Following Dr. Biles who terms himself a cousin in this family I am speaking as the youngest brother trying to evaluate what the eldest brother in the system in doing, never a very enviable position. It is in any case a great pleasure and an honour to bring the greetings of the Helsinki Institute to UNAFEI. Coming from outside the region it is a very difficult task to begin to evaluate the programme and the remarkable success that UNAFEI has achieved over the past quarter of a century. To do this one should always begin with what the region itself has experienced. I am fortunate in this meeting in that I have had the great pleasure and experience of being able to follow the discussions over the past few days which have already been reported by the participants and I have had the pleasure to read the papers which all participants have submitted.

The participants at this Seventy-Sixth International Seminar can be considered representative of the UNAFEI alumni in particular and of the practitioners and experts in crime prevention and criminal justice in the entire region of Asia and Pacific in general. One point that is emphasized time and again is the unanimous agreement on the success, the remarkable success that UNAFEI has achieved in all its activities. During its quarter of a century of life the seminars and other programme activities of UNAFEI have shown that UNAFEI forms a very clear focus for the development of crime prevention and criminal justice in the region, also for the promotion of the goals of the United Nations.

One participant at the Seventy-Sixth

International Seminar has compared his respective criminal justice system to motor engines. He saw the role of UNAFEI as a lubricating agent much like oil. Although UNAFEI itself does not power the engine of criminal justice in the respective countries, it certainly has gone far in helping the criminal justice system run much more smoothly in each country. This smooth running or the improvement of the running has been illustrated by the many examples provided by the participants in their papers.

I would like to use the example of a motor engine and the oil in another sense. UNAFEI has itself developed an extremely highly efficient and smooth-running engine. The experience of the past 25 years shows that there is indeed no reason for an overhaul of the engine; no repairs need to be made. It is difficult if not impossible to suggest how this feat of mechanical engineering could be improved. Fine tuning is always a possibility. I have followed the discussions of the past days with keen interest and again, as the younger son, having the honour to propose recommendations to the eldest son, I have submitted a paper to the distinguished body here. I hope it will be of some assistance. I do this with the greatest respect for the achievement of UNAFEI. What I would like to emphasize is that the UNAFEI engine functions so smoothly that outside observers such as myself can do little to voice anything but our admiration and support. UNAFEI itself is constantly reviewing its operations, refining them whenever necessary and consistently furthering the goals of the United Nations in Crime Prevention and Criminal Justice both in the Asia and Pacific region and in the world in general. To serve on an *Ad Hoc* Advisory Committee such as this is therefore a very easy job and a pleasurable one. The Helsinki Institute wishes to congratulate UNAFEI on 25 years of continued and unrivalled achievements and expresses its hope for long life and further success.

MR. KURITA: I am from the Legal Af-

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fairs Bureau of Japan. As the other participants mentioned, we believe that UNAFEI has attained a very high standard in its various activities. It is highly esteemed and valued. On that basis and at this juncture I would like to make some specific suggestions. The first is to express the hope that further efforts will be made to promote UNAFEI and its co-operation with other United Nations institutions. The second, to recognize the need to upgrade its capacity and facilities in order for UNAFEI to accommodate more numbers of participants and experts.

I also suggest the following themes be considered in future courses/seminars. The first is for a training course to be held by UNAFEI to consider the parole system. In many countries, parole systems are not actively implemented. However, in order to promote resocialization of the inmates and also to alleviate the crowding of prisons I believe a form of parole system should be promoted in the region. I am not saying that no parole system is in use in these countries, only that where the parole system is not fully implemented, UNAFEI will be able to help them implement the system more aggressively through the sending of participants to UNAFEI's courses.

The second one concerns the better utilization of non-governmental organizational resources and also training for them. The community-based treatment of offenders should be promoted in many Asian countries. However, due to a shortage of funds and resources many countries are facing difficulties in implementing community-based treatment. In that sense, the Japanese legal system is attracting attention and likewise in countries like Thailand and Singapore, the VPO system has been introduced, modelled after the Japanese system. This was as a result of participants visiting our Ministry during or after a UNAFEI training course to study the VPO system. It is a great pleasure for us to see our system not only adopted in other countries, but also actively utilized.

The last point concerns a survey on the implementation of SMRs. As you well

know, SMRs adopted by the U.N. have contributed greatly to the promotion of better treatment for offenders. However, in some countries, they have difficulty in implementing the rules. With the assistance of U.N. regional institutions I believe each country would accept a survey on the implementation of SMRs and would encourage visits by experts on this topic.

In terms of priorities, UNAFEI could decide this within its limited framework of resources; I believe an enlargement of the resources and capacity of UNAFEI is necessary so that new courses can be introduced along with other new programmes.

PROF. MATSUO: I am a participant from a university. In a sense, I am a visitor here today from the outside world, and in that sense, I heartily express my congratulations on the successful 25 years of existence of UNAFEI. I really feel this because the universities in Japan as a whole are rather behind the times in international co-operation.

Take my university, for example. The faculty of natural sciences, such as physics, medicine, mathematics, engineering, are very active in co-operation on the international scene, accepting an increasing number of overseas students and researchers. But as far as the law faculty is concerned, we really admit we are doing too little in that direction. At the present time, we are now trying to increase our involvement in it. Looking back 25 years ago, when UNAFEI was founded here, at first it was small; now, it is 25 years older and as the distinguished participants from many countries have just commented UNAFEI has been praised for its activities from all over the world. So, I really envy and congratulate the UNAFEI staff.

I would like to mention one more thing. It is a matter of a fundamental spirit for conducting international relationships.

I think our fathers and mothers in Japan tend to think that some countries are ahead of us, and we have to work hard to catch up with them. Now we realize that this is not correct. Each country has

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its own characteristics, something to be respected. "Respected" means at the same time "respectable." And I think that applies also in the field of criminal justice administration.

Each country, according to its history and social order, has something to be evaluated, to be estimated, to be learned from. So, I believe UNAFEI has been following this spiritual principle which is that each nation has its own characteristics. I hope this spirit will be strengthened, and become the basic principle of UNAFEI in the future.

PROF. MIYAZAWA: I am from Keio University. Mr. Matsuo is a professor of a national university, while I belong to a private university. Keio University is one of the private universities in Japan.

Dr. Ahmed commented that UNAFEI has recorded great achievements but that there is a necessity to feed back information on these achievements. I would like to second that opinion.

Last year in December, I went to a meeting in Strasbourg, Europe, on crime prevention. I was very disappointed that there were no opinions expressed from the Asian side. It was a meeting conducted by European countries. However, there were participants from the United States and from Canada who all made statements.

One request I would like to make here is that staff from UNAFEI should participate in these meetings in order to convey the situation as it stands in Asia to the European people. The European countries are facing the same kind of drug problems as we are, and it is very important that the Asian situation be clearly set out at these meetings.

Some people may feel that because UNAFEI is sending out the Resource Material Series, etc., it is sufficient, but I think it is more important for the staff to actually be present in order to convey the right message and to disseminate the achievements of UNAFEI.

As Mr. Kurita mentioned, so far information in the rehabilitation field has been lacking, and exchanges of information in

the rehabilitation field are necessary. It is a difficult task to build more prisons because it takes a lot of financing. Many Asian participants have made similar statements in the past which have been recorded in the Resource Material Series. Therefore, I believe it is important to disseminate information on the situation in Asian countries including Japan.

MR. SHAIN: As a participant and as a visiting expert of long standing to UNAFEI, I have had some firsthand experience. It is quite obvious to me that the comments made by Dr. David, Dr. Ahmed, Dr. Biles, Mr. Joutsen, and others concerning UNAFEI's history being replete with many, many valuable contributions to the betterment of the social health of the Asian region nations through improvements in their criminal and juvenile justice systems are quite true, and I want to reiterate them.

I think these first 25 years are really only the beginning of what looks like a very long continuous unbroken contribution in this area, and I am certain that if I am still living 25 years from now, and can come back, I will hear even more glowing statements about UNAFEI.

I don't think that any objective observer can help but be impressed by UNAFEI's record of achievements through its far-reaching and imaginative planning, and I believe that these contributions will continue well into the future.

Having said that, I was stimulated the other day to hear our distinguished chairperson bring to the fore the early history of UNAFEI and his own participation as the first Director of this fine institution. I was particularly struck, as I think most of us were, by his reaching out for new methods and new techniques for what I would call adult education, if that's the correct word. He, for example, mentioned specifically that he brought back from his experience in New Jersey a guided interaction methodology which they implemented and used here, and also made mention of the use of case history material.

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I encourage UNAFEI to undertake continued experimentation with course curricula, training methods and educational devices. For example, as a training device for solving administrative problems common to the region, UNAFEI might consider experimentally using the case method so aptly used by the Harvard Business School in its MBA programmes. Similarly, on an experimental basis, it might consider bringing in an outside training consultant, experienced in adult education methods, to assess the educational techniques employed in UNAFEI's seminars and training courses and make suggestions for improvements.

I want to make one final comment with respect to programmes. In 1981, Mr. Shikita embarked on a joint programme with Sri Lanka; we also have a distinguished participant from there. This outreach programme—this international seminar programme—I think was one of the major accomplishments of this institution, because it enabled many regional national officials to participate and benefit from UNAFEI's kind of programme who were not able to come to Fuchu and participate in the programmes here.

So, these three small points represent, first of all, my thinking about what might lie ahead and also my compliments to UNAFEI on its distinguished record over the past quarter of a century.

MR. SHIKITA: I would like to make a few remarks before you move on to the next agenda item. As a former Director, it is somewhat difficult to make favourable comments on the activities of UNAFEI. However, as the former Chief of the U.N. Crime Prevention and Criminal Justice Branch, I must express how deeply the U.N. programme is grateful to UNAFEI for its co-operation particularly in the drafting of the Standard Minimum Rules for the Division of Criminal Justice Administration which actually started in 1981 in UNAFEI. In 1985 this finally culminated in the form of U.N. Standard Minimum Rules for the Juvenile Justice Administration.

Referring briefly to what Mr. Kurita

has mentioned about recommendations for the drafting of another set of Standard Minimum Rules for Non-institutional Treatment, actually UNAFEI has already explained to the participants of the present course that they have already started work on this. The last course conducted here spent some time identifying the necessary elements to be contained in the Standard Minimum Rules for Non-institutional Treatment.

The second item which I wish to emphasize concerns the future direction of UNAFEI in that more emphasis be placed during training programmes on the transplantability or transferability of a system. As mentioned by other distinguished colleagues, the UNAFEI training programme has been responsible for the transfer of some parts of the system which is practised in Japan. Some other country may have a system which is very efficient in that country. It would be valuable to make a more conscious study of the sociological, economic or cultural elements which are contributing to the success of that system, how the system could be transferred to other settings which have a different kind of background, and whether or not it would still be workable.

Lastly, I wish to refer to what our friend Professor Biles mentioned about the Australian Institute as a first cousin. Being Director of the Bureau I attend committee meetings in the Parliament very often and what I say is recorded and quoted, so I am careful in regard to what I say. I recall in 1984 when your Institute was established, I was invited and went there to attend the inauguration ceremony. At that time I quoted your Institute as a "sister institute."

MR. TANAKA: As Chief of the Training Division in UNAFEI I would like to refer to several points and invite your valuable comments.

The first one concerns the number of participants invited from any one country to a seminar course or training course, and whether or not distinguished members of this Advisory Committee think that one

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participant from one country is sufficient or that it would be better to have several participants from one country attend the same course.

The second point concerns the merit of conducting joint judicial seminars in one country a second or subsequent time. We have already conducted joint judicial seminars, but we have been contemplating a second one for the Philippines and Sri Lanka. Therefore I wish to invite comments on this point.

The third point concerns the so-called follow-up study of UNAFEI activities. UNAFEI sent follow-up teams to selected Asian countries from 28 July to 17 August 1985 to conduct follow-up studies on the activities of UNAFEI. As mentioned in the Director's keynote speech we believe such follow-up studies to be very important. The President of Japan's UNAFEI Alumni Association, Mr. Harada, attended the follow-up study in that year, so I would welcome some comment from him regarding his experience in the follow-up study.

Finally, I would like to invite opinions from the floor about evaluation seminars. We are now conducting an evaluation seminar in this Institute, so I would like to invite comment on the necessity to hold evaluation seminars and if they are necessary, how frequent?

CHAIRPERSON: You mentioned several important points but we are facing a shortage of time, and some of the questions have very clear answers. For example, the evaluation seminar is most important. No one objects to that. As to the number of participants in the joint seminar, etc., that you can discuss with the participants at a later stage. So I will invite Mr. Harada to comment on the follow-up study.

MR. HARADA: I would like to say something on that topic later in connection with the Alumni Association's activities.

CHAIRPERSON: Now I will proceed to the next item, and at a later stage if we have enough time I would like to ask the participants to answer the questions posed

by Mr. Tanaka. So we will move to the next item, that is the research questions. I again welcome your suggestions and opinions on the evaluation of present research activities and suggestions for future research. The next item, being information service, we can add to this in order to save time.

MR. SHAIN: Bearing in mind the constraints of time, money and staff, I am a great admirer of what UNAFEI has done in terms of information dissemination, surveys and compilation. I was personally delighted to learn from the Director's report that the profiles and criminal justice systems of all the nations in the region are to be brought up to date, and I just want to commend you for that.

DEPUTY DIRECTOR: UNAFEI should be the main center for information in this region, so I would like to invite suggestions on how best we can improve our position as a center for information on crime problems in the region. All contributions will be most welcome.

DR. DAVID: I believe at least for participants from inside and outside the region and for the U.N. staff, UNAFEI is the source of resource materials, newsletters and reports of seminars and of the more important developments in the region. Of course, we must plan to advance further especially in relation to crime prevention after the Seventh Congress for which my colleague and friend Mr. Shikita should be congratulated. The Seventh Congress was largely his concern and took away many hours of his sleep. I believe that this new development will give an additional dimension to the work of UNAFEI. This is referred to as the development of the United Nations global information network in which all centres will be linked together with the United Nations in order to facilitate an exchange of information from various sources, exchange of personnel and lists of experts' names. Of course, we are just at the beginning but I believe that UNAFEI is capable of advancing further

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in that direction, especially if we can get the co-operation of the United Nations agencies, such as the United Nations Development Programme which operates in each one of the developing countries of this region. There is funding for specific projects in a country at the regional level which certainly brings about good development particularly with UNAFEI as a central part of this new dimension.

MR. GARNER: I would like to respond to the question of research activities and information services in two ways. One is by acknowledging that research is extremely important and any method by which we can evaluate or improve whatever we do, particularly in this region, is all for the good of the countries in the region. But I also know that in the past the emphasis of the activities of this Institute has been on practical application, practical assistance, getting down to the nitty-gritty of problems, tackling them and seeing what can be done at practical levels to help each individual country. I believe that this is part of UNAFEI's success, recognizing problems.

When it comes to the question of information services, I wish to propose to Dr. Pedro David that consideration be given to using this Institute as a post-box for the United Nations. I believe there is a tendency for countries in the region to send directly to Vienna or to New York information which is relevant to UNAFEI, particularly statistics and other relevant data, and in turn this is not passed on to UNAFEI. My first suggestion then concerns using the regional institutes as centres for gathering information, mainly statistical data required by the United Nations. This automatically will give this Institute and others some of the information they require.

I would also suggest that each year this Institute send out to all countries who have participants come here a form of standard questionnaire asking for relevant statistics and information on key indicators and whatever other information is required.

DR. BILES: If I might be allowed, I would like to say a word or two. One of the reasons why the Australian Institute of Criminology could not duplicate the remarkably fine record of UNAFEI international training is that we have put much more of our resources than UNAFEI has into research. I am very aware of the enormous costs that we put into research. I think we should clearly understand when talking about researching criminology that there are many different topics and things that we can do and we can code all criminological or criminal justice research. Some of the things which are done under that name and some of the things that we do at our Institute are very demanding in resources, they take a long time and therefore are extremely expensive. The results inevitably are not necessarily useful, but we have to accept that as a cost of undertaking regional research.

There are other types of research, however, particularly the survey research of the data-gathering sort which are relatively less expensive and the information is of great interest even though it may not tell you precisely whether "a one-for-all system" is more effective than another.

Because of UNAFEI's large commitment and its enormous success in training, I would certainly encourage the continuation of the sort of research that it has been doing, research of the survey type, of the data-gathering type, rather than considering dissipating its resources into very expensive and maybe not in some cases so valuable work.

I certainly concur entirely with the remarks of Mr. Garner in relation to collecting basic statistics and if possible in the years ahead to publish some basic statistical material which I am sure would be greatly appreciated in the excellent publications of UNAFEI, the Resource Material Series and Newsletters.

I would like to make one final point, Mr. Chairperson, that we are all of course short of staff and resources. UNAFEI has one Director of Research, Mr. Satoh, who spent 3 months in Australia last year, but UNAFEI has available, I believe, 1,718 re-

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search assistant alumni members who come from 59 different countries and I am quite sure all are prepared to supply information about their countries at absolutely no cost.

PROF. MATSUO: This is a question for the present Director, Mr. Utsuro. My question is from one who is rather ignorant of the present situation. If my understanding is correct, the Research Institute of the Ministry of Justice in Japan has a strong domestic section as well as an international section at UNAFEI. The domestic section also conducts a number of valuable research projects and collects data every year. My question then is this, is the mutual exchange between the domestic and international sections sufficient at the present time?

DIRECTOR: As you know, we maintain very close co-operation between the Ministry of Justice Research Institute and UNAFEI. For instance, we conducted a cross-city research on the general trends of crime and countermeasures for the prevention of crime 2 years ago through the co-operation of the Ministry of Justice Research Institute and in co-operation with the United Nations University located in Tokyo and also UNSDRI which is located in Rome. We have been very happy with the support and co-operation of the Institute. As we have the responsibility on the international scene as the sole United Nations regional institute specializing in crime prevention matters in Asia and the Pacific, this kind of co-operation is very crucial. I do however appreciate that this kind of co-operation and support is not everything, that there has been valuable co-operation with other regional institutes such as the Australian Institute of Criminology and from other countries in the region. This must also be further pursued. We will therefore do our very best to achieve the highest degree of co-operation possible.

PROF. MATSUO: I have one more comment. We are using simultaneous translation in UNAFEI. If the research data

collected via this system is gathered in English or another language used here such data could be translated into Japanese to be used by a large number of researchers and made available to ordinary Japanese people. If that became a reality, I think mutual understanding would be improved.

DIRECTOR: I would like to respond by giving an example. The Ministry of Justice Research Institute edits the statistics on crime matters, mainly those of Japan. In the past UNAFEI staff have translated the statistical data every year from Japanese into English. We are also planning to publish a special booklet on the drug problem. This will contain all the statistical and explanatory data that we have collected on the problem as it affects the countries in this region; this will be published in Japanese. I greatly appreciate the suggestions made by Professor Matsuo.

MR. SHIKITA: I fully agree with the statement made by our colleagues, Dr. David and Dr. Biles, as well as Professor Matsuo, regarding the research capability of this Institute. But, I meant concentration on more survey-type research programmes and also the more active dissemination of the result of such surveys. I assume that UNAFEI has in the last 25 years of its existence accumulated quite a lot of information, and they have established channels of information in the various parts of the world.

Whether or not it has been systematically compiled, or if the information can be meaningfully retrieved and whether or not it can be freely disseminated, are probably matters which require further effort and the assistance of other agencies in addition to the efforts of the Institute itself.

This, and the concentration on survey-type research might be the correct answer for this type of institution. This is mainly because these can be more easily related to training programmes, particularly since many participants come from the same country. Therefore, they should renew the information or be asked to confirm the information formerly obtained. If this is

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systematically done, I believe this would be one of the most valuable on-going research projects, probably in the world.

In the case of UNAFEI, this is a particular privilege we have that we can ask the participants of a course to bring the information and any explanations. So, I think that with the co-operation of the friendly institutes of the world, probably UNAFEI can systematize a little its conducting of this kind of survey and this would in turn help Dr. David who explained at the beginning about the establishment of a global information network system.

The second point I wish to mention is a little different. After I returned to government service after being with the United Nations I knew of the channels of information from the United Nations to the Japanese Government which I noted at the Congress, and with the Economic and Social Council and General Assemblies. However there are resolutions and other kinds of consensus that the world community has passed; how is this information being transmitted to the respective government departments?

I notice generally that all information is usually sent to the Ministry of Foreign Affairs. But whether or not the Ministry of Foreign Affairs is able to distribute this information through the correct channel to the bureau which has the responsibility for it I do not know.

It is the responsibility of the Institute — the United Nations Institute — to analyze all resolutions and others of the United Nations and disseminate them through the representatives from each government, and the representatives can determine which information is most appropriate to their country, and which is not.

I am of course speaking as a former officer of the United Nations, but probably it would be very useful for the United Nations and probably for the world community if the regional institutes were made a little more aware of the existence of these resolutions, and encouraged to study and analyze them, and to find out their practical value to the problems which exist

in the respective countries in their regions.

DR. DAVID: I wish to speak of one piece of information related to what Mr. Shikita expressed. At the last meeting in Washington of experts convened to study the work of the United Nations, it was pointed out that one of the problems is in the lack of ability of national governments to channel these instruments to the appropriate office at the practical level. So it was recommended that the branch do a parallel system, in that while sending through official channels in accordance with United Nations protocol to also use the institutes to centrally monitor the distribution of these documents. This is a paradox many times over because I have just received a letter from one country in this region which told me that a package I had sent reached an office which had nothing to do with crime prevention. In fact the person to whom I sent the package discovered the package, which had been distributed via the Ministry of Foreign Affairs, while on a visit to that office, which also had nothing to do with the Ministry of Justice or the Attorney-General.

MR. JOUTSEN: Speaking from the point of view of the regional institute for Europe, I would very much like to amplify and support the wise words of Mr. Shikita on the gathering of information and the importance of its dissemination. I would like to pick up on what the rapporteur has suggested in the collection of data, and put this together with what distinguished Dr. Biles has suggested in the collection of basic statistics.

Dr. David noted the quinquennial surveys prepared by the United Nations, the Third United Nations Survey which will shortly be sent out. I hope that UNAFEI will again have the opportunity of taking a look at the responses to the Third Survey in exactly the same manner as it did with the Second Survey, using the information thus gathered to once again prepare criminal justice profiles of the different countries in the region. These profiles which would be based on the survey would thus

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be produced at five-year intervals and, as noted by Mr. Shikita, they could be constantly updated, reviewed and commented upon by the participants. The participants do indeed represent not only almost all of the countries in the region but the many different sectors involved in criminal justice and crime prevention.

I would, furthermore, wish to commend to your attention Dr. Biles' report on methods of measuring the effectiveness of crime prevention and criminal justice. He has pointed to six key indicators on the effectiveness of criminal justice. These could be integrated into country profiles, so that they would include not only the data provided by the Third Survey but special attention would be focussed on these six key indicators. Perhaps, instead of a development of these profiles every five years, we could use Mr. Garner's suggestion for a survey every year requesting countries to provide specific information on key indicators. Otherwise, if too much information is requested there might be an overload, and perhaps the attention and the interest of the government supplying information might decrease.

If emphasis is laid on key indicators, and the governments are made aware of the importance of these indicators for evaluating the effectiveness of their own criminal justice systems, their attention will be maintained, and they will have a vested interest in providing this data and then after this, analyzing it.

MR. HASEGAWA: My remark I am afraid will result in reiterating the opinions expressed by Dr. Biles and Dr. David and other distinguished participants and experts, but I want to stress the special position in which UNAFEI is placed to conduct the survey.

To see it from another point of view, I want to stress how difficult it is for the ESCAP Secretariat, for instance, to conduct even a very simple survey. It is time-consuming and needs money, but as all distinguished experts and participants have said, it is rather easy for UNAFEI to collect very valuable information in this

field. For instance, I know the Australian Institute of Criminology publicizes regularly the simplest statistics of prison populations. Even that sort of information is very, very precious to us for the ESCAP Secretariat cannot collect or gather even that simple information. My chief said it would take two or three years to collect such very simple data.

DIRECTOR: I do not intend to respond to the generous proposals raised by Mr. Joutsen specifically. However, I would like to say one thing. UNAFEI has been considering the fact that if it could be blessed with an enlarged capacity or enlarged resources for so-called research fellowships for the sub-regions in this region, they would serve in fact as specialists for each sub-region. The present number of UNAFEI staff is somewhat limited and we have been very short-handed so we would like to think about enlarging the framework of the establishment.

CHAIRPERSON: Perhaps you may have more contributions on this topic, but time is rather pressing so may I proceed to the next item, that is, alumni associations and others, and if we have time any participant can talk on any items we have already discussed. Firstly, I would like Mr. Harada to talk on this topic.

MR. HARADA: It is my honour to make some remarks on this topic. I have to admit, to my regret, that the Japanese UNAFEI Alumni Association itself has not conducted many vigorous activities so far, but I think in the future we would like to expand our activities and contributions on the part of ex-participants of UNAFEI to meet the same goal of better administration of justice in this region. Apart from the very important missions and functions of UNAFEI expressed and discussed so far, I think one of the very important functions and roles of UNAFEI is to support a healthy and good international relationship on the side of criminal justice. As in the case of each country, it is very important

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to have a well-organized criminal justice system with good administration in order to support economic and social development.

Also in the field of international relationships, I think it is very important for the community of nations to fully understand and respect each other, and the administration of criminal justice in their respective country. In that sense, I was very much impressed by the past experience of UNAFEI activities. I had the opportunity to accompany Mr. Yasuhara, then Attorney-General of Japan, several years ago to visit some of the countries in Asia. I also had a chance to visit several countries as a member of a follow-up mission of the UNAFEI program. In the course of that, I was amazed at how the ex-participants of courses at UNAFEI in those countries were so closely tied after so long and we were able to have good discussions on how to improve the administration of justice.

I believe especially from the side of the alumni that it is necessary to broaden and expand the ties of friendship and mutual understanding among ex-participants in the future. Although we might not be able to transfer a system or a practice itself, we can share feelings and ideas for the better administration of justice. In that sense, I think that mutual understanding and respect for each other is very crucial to support healthier international development.

As I said earlier, of course it is very important to directly improve or contribute to the improvement of criminal justice through the work of UNAFEI. However I also think it is important for each of us to fully understand the different aspects of criminal justice, and to respect that difference. This is achieved through the courses at UNAFEI and its related activities which are very important in support of mutual understanding among nations. I think that must be one of the major roles and functions of UNAFEI.

CHAIRPERSON: Mr. Harada, do you have some opinion on the evaluation seminar?

MR. HARADA: I think it is always important for us to look back at the activities of UNAFEI and the daily work of our ex-participants as alumni members. This will refresh our ideals and renew our eagerness to contribute to the criminal justice system of each nation. I might suggest that if possible I would like UNAFEI to organize a follow-up study mission or evaluation seminar in the future which would also involve ex-participants of UNAFEI so they can get together again and look back and forward for the better administration of justice in this region.

CHAIRPERSON: Perhaps on this subject participants of the seminar course might have something to contribute. At the same time, Mr. Tanaka posed several questions. For instance, in the same course do you prefer to have two or more participants from the same country or is a single participant sufficient? That is one question. Another question is whether joint seminars may be repeated in the same country twice or three times or to take turns to have a seminar from country to country.

The third question concerns your opinion on this evaluation seminar, what is your opinion of this kind of seminar? These are the questions posed by Mr. Tanaka, and I welcome any of the participants to make a contribution on their alumni association's activities and the questions posed by Mr. Tanaka. Is there any participant who would like to say something?

MR. QUEK: Regarding Mr. Tanaka's suggestion that perhaps each country could send one or more participants, well, in my opinion, ideally I think it would be better to send more than one. At least the second one would come from a different arm of the criminal justice system to the first.

As for joint seminars, follow-up is necessary to examine the progress of the joint seminar, say, in about two or three years after the joint seminar was held.

MR. PI: I have been the Secretary of the UNAFEI Alumni Association of Hong

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Kong since 1982, but having said that I must also point out that the Alumni Association is not registered with the Government. From what I can gather from the alumni members there is a lot of goodwill, and every good wish to get something organized but for the time being nothing very substantive has been done. In the past what we have been mainly doing is entertaining and receiving visitors mostly UNAFEI faculty members and also alumni members from other countries. In fact, it is my personal feeling anyway that when I entertain or meet overseas visitors in Hong Kong and whenever the name of UNAFEI is mentioned I feel a sense of intimacy, a sense of brotherhood and immediately respond "yes, UNAFEI." It is also my intention that during this seminar, I would like to see how alumni associations in other countries, in particular Japan itself, are organized so that I may be able to learn something and on returning home plan something more solid.

Now, on the point of the number of representatives from different countries. In fact, during discussions yesterday this point was raised and, at that time, I also responded to this question. It is my view that we are here to learn not only from Japan but from each other. So from that point of view, it is my personal opinion that ideally, if UNAFEI could entertain more representatives from more countries then it is more desirable. The hard fact is, I suppose, that the seating in this room itself would hardly accommodate that many, let alone the financial constraints. So, well, going back to what I said earlier, from a learning point of view I think it is fair that each country sends an equal number, maybe one representative from each country, so it would enhance better learning in the sharing of experience.

On the point of the seminar course, Mr. Tanaka in fact is referring to seminar courses of this nature. Am I right, Mr. Tanaka? We have hardly gone through the first week of the course, but already many of the participants I am sure would agree with me that we already see the value of this sort of seminar course. Not only can

we refresh our own memories, not only can we learn from the past but to my mind these seminar courses have value, both to the Institute itself and also to the participating countries as well. Because, firstly, UNAFEI can see what it has been doing and secondly the participating countries can also see what they have been doing. So, I am all for this sort of seminar and I hope that it can be repeated once in every so many years.

CHAIRPERSON: Any comment from the participants of this course?

MR. GARNER: It would be valuable in considering numbers to discover whether or not for the seminars the right level of person actually attends. Do you always get persons at ministerial or head of department levels or occasionally do you get somebody at middle management level attending, in which case one could reduce the number to fit according to what is available at the correct level thereby releasing additional places for a training course. However having said that I would respectfully suggest that the present 20 places on seminar courses in itself is not sufficient and it is desirable for this number to be increased.

I am also aware that it is difficult for some participants in training courses to bring from their country the information which is required in the form of statistics and other data because very often they live and work in remote areas and do not have access particularly to other branches of the criminal justice system in order to get the information required. However participants in seminars should be able to gain access to whatever information UNAFEI requires.

DEPUTY DIRECTOR: The participants have been discussing the programme at UNAFEI, especially future programmes for improvement of UNAFEI activities, and one of the chairpersons has already reported on the discussions by his session, but we had a second session. Mr. Mian from Pakistan was chairperson of that session

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and he is ready to report on the discussions.

MR. MIAN: I had the honour to chair the session which was to propose recommendations for the future programmes of UNAFEI. The strategy we worked out listed the different activities, and roles of UNAFEI, and then we discussed these one by one.

The first important subject was international courses; the second seminars. In our discussion on both there was unanimity of opinion, a consensus that the courses are well designed and suit the requirements of all the candidates.

I made an earnest effort to bring out ideas for a major policy change in the courses. I stretched the participants to abnormal limits sometimes, so that we should have a very critical analysis and propose some changes. However, I failed in this. This failure is the greatest tribute to the work of UNAFEI and its leadership; everyone was in agreement that the leadership of UNAFEI is in able hands, and we could not find anything substantial to change in future policies. It's going well.

MR. JOUTSEN: I understand that we are breaking for coffee, and the rapporteur and UNAFEI staff will begin to work on the recommendations. In evaluation sessions such as this, the focus is inevitably on suggestions for improvement and development. Perhaps even on criticism.

I have noted throughout these discussions that there have been some recommendations. I have also noted with great satisfaction that there has been no criticism. Of course, there is no room for criticism. But I do hope that the report very accurately reflects what has not been voiced so much in this session but which has been voiced in the participant papers. And that is the total and unanimous support for UNAFEI, the gratitude which the alumni and the countries in the region feel for the achievements of UNAFEI and through this the gratitude to the Government of Japan for its support to UNAFEI. Sincere congratulations of the participants

of this meeting to the Director for his wise leadership, and to the extremely competent staff of UNAFEI. And third, the sincere hope that UNAFEI will indeed continue on this most successful course in the future.

MR. GARNER: Could I just ensure that what was said was a vote of thanks?

CHAIRPERSON: Thank you very much for your co-operation. And now we are coming to the end of the discussion. We will need some 30 minutes for a coffee break to draft the recommendations.

Adoption of the Report

All Committee members agreed that UNAFEI was endeavouring to carry out its duties diligently and hoped that UNAFEI would continue to provide valuable services to the Asia and Pacific region for many years to come.

The chairperson thanked those in attendance for their participation and contributions, and summed up the discussions. The report was adopted unanimously, with the agreement that it would be finalized by the chairperson and the rapporteur. Following a discussion on the recommendations which were unanimously adopted, the chairperson closed the Meeting.

The recommendations read as follows:

RECOMMENDATIONS

The Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI Work Programmes and Directions held at UNAFEI, Fuchu, Tokyo, Japan on 4 September 1987, recommended to UNAFEI:

1. That the present one international seminar course and two international training courses held each year continue, supplemented by special courses or seminars as the need arises.
2. That the duration of all seminars/courses be decided by the Director of UNAFEI, based on such factors as theme,

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course content and funding.

3. That the number of countries participating in each course be increased, as far as possible, taking into account the needs of the region, the increase in the number of applications, and the importance and significance of training.

4. That the feasibility of accepting more than one participant from a country be considered, taking into consideration the favourable response and usefulness of UNAFEI training courses and the need to train as many persons as possible.

5. The expansion of the programme involving overseas joint seminar courses which are very valuable, and have considerable impact in the countries in which they are held. Countries in the region which have as yet not organized overseas joint seminars should be given priority. This does not, however, exclude a country which has previously held a seminar from hosting a second or subsequent one. Second and subsequent seminars are meaningful and very useful as a follow-up to the previous one. For this purpose, UNAFEI should actively seek a way to expand its budget in order to accommodate all countries which apply.

6. That more frequent follow-up studies be carried out to determine the success of UNAFEI programmes and activities in relation to the management and administration of criminal justice in the countries in the region. To enable this to be done, the number of UNAFEI members in each delegation should be increased and the length of the follow-up study tour extended.

7. That, as the sole co-ordinating body in the region, further efforts be made to expand its research capacity and strengthen its available resources in order to carry out the following:

- a) joint research projects in the region to be conducted in countries using UNAFEI and local experts and expertise,
- b) joint studies with other institutes and agencies within the U.N. system,
- c) research to be more closely involved with training programmes,
- d) increase the number of research-fellows accepted by UNAFEI from countries in the region,
- e) establish a number of posts for staff specialized in research at UNAFEI.

8. That visiting experts be invited who have an understanding of the criminal justice systems of countries in the region and consideration be given to increasing the number of experts from the region.

9. That at agreed intervals a questionnaire be circulated to all countries which send participants calling for statistical data and relevant information on key indicators useful to the region.

10. Countries in the region be requested to make available research assistants for secondment to UNAFEI.

11. That due to the recent expansion of UNAFEI activities, special short-term seminars attended by UNAFEI alumni members be held at 3- to 5-year intervals for the purpose of evaluating UNAFEI activities.

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The Sixth Meeting of the *Ad Hoc* Advisory Committee of Experts on UNAFEI
Work Programmes and Directions — 4 September 1987
UNAFEI, Fuchu, Tokyo

List of Participants

Overseas and Domestic Experts

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|------------------------------|--|
| Dr. Mohsen Abd Elhamid Ahmed | Director of the Research Division, Arab Security Studies and Training Center, Saudi Arabia |
| Dr. David Biles | Deputy Director, Australian Institute of Criminology, Australia |
| Dr. Pedro R. David | Interregional Advisor, Crime Prevention and Criminal Justice Branch, CSDHA, United Nations |
| Mr. Thomas G. Garner | Consultant, Criminal Justice (Correctional) Administration and Former Commissioner of Correctional Services, Hong Kong |
| Mr. Akio Harada | President, UNAFEI Alumni Association in Japan; Director, General Affairs Division, Criminal Affairs Bureau, Ministry of Justice, Japan |
| Mr. Hisashi Hasegawa | Regional Advisor for Crime Prevention, Social Development Division, ESCAP, United Nations |
| Mr. Masaharu Hino | Assistant Deputy-Vice Minister of Justice, Ministry of Justice, Japan |
| Mr. Yo Ishiyama | Superintendent, General Affairs Division, Supreme Public Prosecutors Office, Japan |
| Mr. Matti Joutsen | Acting Director, HEUNI, Finland |
| Mr. Keiji Kurita | Director-General, Rehabilitation Bureau, Ministry of Justice, Japan |
| Mr. Koya Matsuo | Professor, Faculty of Law, Tokyo University, Japan |
| Mr. Koichi Miyazawa | Professor, Faculty of Law, Keio University, Japan |
| Mr. Atsushi Nagashima | Justice of the Supreme Court, Japan |
| Mr. Quek Shi Lei | Director of Prisons, Singapore |
| Mr. "Cy" Shain | Research Director Emeritus, Judicial Council of California, U.S.A. |
| Mr. Minoru Shikita | Director-General, Correction Bureau, Ministry of Justice, Japan |
| Mr. Yoshiho Yasuhara | President, Japanese Correctional Association; Director, Asia Crime Prevention Foundation, Japan |

Participants of the 76th Seminar

- | | |
|------------------------|---|
| Mr. Apolosi Vosanibola | Acting Deputy Commissioner of Prisons, Fiji |
| Mr. Wing-Lee Pi | Senior Superintendent in Charge of Shek Pik Maximum Security Prison, Correctional Service Department, Hong Kong |

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Mr. V. Apparao	Special Inspector General of Police, India
Mr. Adi Andoyo Soetjipto	Deputy Chief Justice, Supreme Court, Indonesia
Mr. Al-Samarraie Ayad Bahjat Abdul Karim	Criminology Researcher, Institute of Crime Studies and Researches, Iraq
Mr. Lee Tai Chang	Senior Public Prosecutor, Bugbu Branch Office, Seoul District Prosecution Office, Korea
Mr. Mustafa Ibrahim	Assistant Secretary, Ministry of Home Affairs, Malaysia
Mr. Baboo Ram Gurung	Deputy Superintendent of Police, Police Head- quarters, Ministry of Home Affairs, Nepal
Mr. Shaukat Mahmood Mian	Inspector-General Prisons, Punjab, Lahore, Paki- stan
Mr. Francis Matthew Gesa	Regional Correctional Commander of Northern Region, Papua New Guinea
Mrs. Celia Sanidad Leones	Assistant Commissioner, Crime Prevention and Co- ordinating Branch, National Police Commission, Philippines
Mr. Errol Carl Foenander	Senior District Judge, Singapore
Mr. Haupe Liyanage Piyasena	Senior Superintendent of Police, Nugegoda Divi- sion, Sri Lanka
Mr. Kanok Indrambarya	Chief Judge, Attached to the Ministry of Justice, Thailand
Mr. Kenji Kiyonaga	Chief Researcher, Environment Division, Crime Prevention and Juvenile Department, National Re- search Institute of Police Science, Japan
Mr. Yukio Machida	Public Prosecutor, Tokyo District Public Prosecu- tors Office, Japan
Mr. Taro Nishioka	Director, Kanto-Shin'etsu Regional Narcotic Con- trol Office, Ministry of Health and Welfare, Japan
Mr. Tetsuo Obata	Director, Fukui Probation Office, Japan
Mr. Satoshi Ohtsuka	Warden, Osaka Prison, Japan
Mr. Shogo Takahashi	Judge, Tokyo District Court, Japan

SECTION 2:

Report of the Workshop on Implementation Modalities for the Twenty-Three Recommendations Adopted by the International Seminar on Drug Problems in Asia and the Pacific Region

Purpose of the Workshop

This Seminar was convened on the occasion of the 76th International Seminar of UNAFEI. This was a part of follow-up activities of the International Seminar on Drug Problems in Asia and the Pacific Region held from 4th to 22nd August 1986 in Tokyo, Hong Kong, Bangkok, Chiang Mai and Kuala Lumpur. The purpose of this Seminar was to crystallize some of the important points and issues with regard to the implementation of the 23 recommendations arising from the 1986 International Seminar. The composition of the participants of this Seminar was the same as that of the 76th International Seminar.

This report was prepared by Stuart Blair McEwen, Assistant Commissioner of Police, New Zealand, who chaired the Seminar, with minor editing by a UNAFEI staff member.

Report of the Workshop

At the 76th International Seminar held at UNAFEI, Tokyo, from 31 August to 19 September 1987, participants examined ways and means of implementing the 23 recommendations arising from the 1986 International Seminar on Drug Problems in Asia and the Pacific Region.

Participants in re-affirming their concern for the loss of human life, social dignity and that to the well-being of their nations noted the difficulties associated with balancing the need for extensive legislative powers against the need to preserve the civil liberties of the individual.

Notwithstanding the resource implications implicit in the adoption of some of the recommendations, participants urged all countries to closely examine and

implement, where possible, all or as many as possible, of the strategies set out in order to achieve resolution of the 23 recommendations.

On 8 September 1987, participants of the 76th International Seminar were addressed by Assistant Commissioner Stuart McEwen with an overview of the drug situation in New Zealand and the South Pacific region as well as with a brief presentation on the International Drug Seminar held in Tokyo, Hong Kong, Thailand and Malaysia in August 1986.

Following the presentation, the Seminar participants were divided into three groups. The 23 recommendations arising from the 1986 International Seminar (Kuala Lumpur Appeal) were apportioned and the three groups were charged with providing strategies for implementation.

The Workshop participants later returned to the Plenary Session and presented their strategies. On the basis of the above-mentioned discussions, the following resolutions were made up.

"Kuala Lumpur Appeal" *Recommendations 1-23 and the* *Strategies for Their Implementation*

Recommendation 1

That the most common factors leading to drug abuse were the fragmentation of the family unit, the ready availability of drugs, unemployment, the breakdown in traditional customs, the youth sub-culture, the lack of faith in the future, peer pressure, experimentation, the ease of travel and boredom. A typical abuser profile was that of a young male, 15-25 years of age, unemployed, unskilled and living in a large urban area. Wide publicity and educational programmes were needed to highlight these matters with special emphasis on the

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young.

Resolution

- 1) Provision of educational awareness programmes.
- 2) Emphasise negative aspects of drug abuse.
- 3) Provision of alternative activities, e.g., sporting pursuits, academic achievement, work skills.
- 4) Promote "family" drug education.
- 5) Provide direction for sub-cultures.
- 6) Promote opportunities for increasing work skills and obtaining employment.
- 7) Discourage attitudes reflecting boredom and inability to set worthwhile goals.
- 8) Concentrate education and other programmes toward "at risk" groups.

Recommendation 2

That the highest priority in law enforcement efforts be directed toward large-scale illicit trafficking, manufacture and production of drugs.

Resolution

- 1) Sharing of drug intelligence and data amongst enforcement agencies.
- 2) Establish central organization for formulating and reviewing drug abuse.
- 3) Appointment of liaison positions in source areas and transit countries.
- 4) International forum for co-operation.
- 5) Monitor travel/movements of couriers/traffickers by passenger checks.
- 6) Interrogation of travel computers.
- 7) Implement effective legislation for:
 - a) improving detection (electronic surveillance),
 - b) searching individuals (internal),
 - c) preventing travel (convicted/suspected persons),
 - d) restricting passports/visa issues,
 - e) licensing production of precursors,
 - f) seizure of assets and forfeiture,
 - g) authorise controlled deliveries.

Recommendation 3

That a central co-ordinating committee for formulating and reviewing policies for all aspects of drug abuse control be established in countries where one does not exist.

Resolution

1) Uniformity of:

- a) education programmes,
 - b) sentencing,
 - c) legislation,
 - d) travel agreements and controls,
 - e) passport/visa entry.
- 2) Establish at the highest possible level.
 - 3) Co-ordinate systems for collection and evaluation of data.
 - 4) Effective communication of policy.
 - 5) Greater co-ordination of each country's internal law enforcement agencies.

Recommendation 4

That the use of sophisticated methods such as electronic surveillance and telephone interception with the necessary judicial approval be used as a tool against illicit traffickers in and producers of drugs.

Resolution

Notwithstanding financial and resource constraints:

- 1) Implement appropriate legislation.
- 2) Establish effective training programmes, in order to:
 - a) enhance enforcement capability,
 - b) provide high-quality evidence,
 - c) incriminate organisers/financiers.

Recommendation 5

That access to banking and other financial records of suspected illicit traffickers in and producers of drugs be made possible, where necessary, by way of judicial warrant.

Resolution

Notwithstanding possible legal/financial constraints:

Implement appropriate legislation in order to:

- a) identify assets,
- b) identify associates/business connections,
- c) access records,
- d) support observations,
- e) negate possible defences,
- f) show systematic course of conduct,
- g) provide grounds for seizure/forfeiture,
- h) prevent disposal of incriminating evidence.

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Recommendation 6

That controlled deliveries of illicit drugs or portions thereof be permitted in appropriate cases nationally and internationally, and that legislative or administrative arrangements be made to provide for the use of this technique.

Resolution

Those countries which do not already have official/governmental approval to allow for controlled deliveries should as a matter of urgency now seek such approval in order to:

- a) increase likelihood of identifying/arresting other syndicate members,
- b) observe importation chain and method of operation.

Recommendation 7

That where there is significant backlog of drug-related cases and this is undermining the effectiveness of the criminal justice system, then appropriate action be taken by expanding the judicial system, establishing special courts on a temporary basis or by reviewing the criminal justice system and its administration.

Resolution

A whole range of initiatives should be considered in order to alleviate the pressure placed on the courts both in the short- and long-term, e.g.:

- a) automatic admission of certain evidence,
- b) limiting the right of trial by jury,
- c) encouraging multiple/joint trials,
- d) restrict right of severance,
- e) more presumption on accused,
- f) limit freedom of accused while awaiting trial,
- g) greater incentive for guilty plea,
- h) use of signed depositions from witnesses,
- i) appointment of more judges,
- j) establishment of more courts,
- k) vary court sitting hours,
- l) convening of special courts.

Recommendation 8

That judicial officers at all levels be encouraged to participate in seminars organised by central co-ordinating bodies

and drug specialists in order to ensure that they are kept informed of developments in drug abuse practices and illicit trafficking trends, so as to achieve harmonisation of sentences.

Resolution

In acknowledging and reinforcing the traditional independence of the judiciary a perceived need exists for:

- a) attendance at national seminars on sentencing policies and harmonisation of sentences,
- b) attendance at international seminars on drug abuse and control measures.

Recommendation 9

That consideration should be given to severe punishment for public officials convicted of drug-related charges.

Resolution

In acknowledging the difficulty of introducing legislation directed solely at public officials sentencing policies should take into account:

- a) abuse of position of trust,
- b) prevention of spread of corruption,
- c) compromise of agency's effectiveness,
- d) need for public to be served by good "role model."

Recommendation 10

That effective controls should, where necessary or practical, be established in order to monitor the production, importation and sale of precursor chemicals used in the manufacture of narcotic drugs.

Resolution

That the United Nations draw up and circulate to all countries a comprehensive list of all precursors known to be used in the manufacture of illicit drugs. Member countries are then urged to:

- a) regulate importation and sale,
- b) license supply outlets,
- c) monitor trends in usage of specific chemicals, and
- d) consider substitute chemicals.

Recommendation 11

That provision be made for adequate training and education for personnel in-

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volved in the treatment and rehabilitation of drug dependants.

Resolution

That each country should establish one central agency to co-ordinate treatment and rehabilitative goals after determining:

- a) agencies which should be involved,
- b) the form which training is to take,
- c) educational programmes to be developed,
- d) voluntary treatment or compulsory treatment,
- e) finance support.

Recommendation 12

That greater efforts be made to identify the dimensions of the drug problem by the establishment of central drug data bases.

Resolution

In those countries where no central recording agency exists one should be established for the mandatory reporting of statistics to determine:

- a) the extent of the problem,
- b) cost to enforcement/justice/education/health, and welfare system,
- c) social cost in terms of loss of employment/production,
- d) level of drug addiction and cost to society, so that effective countermeasures can be implemented.

Recommendation 13

That a need exists for treatment and rehabilitation services to be available for drug-addicted prisoners serving sentences. Ideally, separate facilities should be provided for different categories of offenders.

Resolution

- 1) Enhancement of classification system and separate institutions for addicts.
- 2) More flexible transfer of identified inmates to separate facilities for male/female and young inmates.

Recommendation 14

That drug treatment and rehabilitation facilities should be provided by governments and voluntary agencies. Funding should be provided not only by the government but also by the business community

in order to encourage the active participation of the voluntary agencies.

Resolution

- 1) All programmes should be co-ordinated.
- 2) Funding should be provided by the government/business community.
- 3) Promotion by the business community to be encouraged on the basis of increased production, healthy work environment and less work-related accidents.

Recommendation 15

That endeavours be made to improve research into the effectiveness of drug treatment programmes and that detailed research be carried out into the psychological and sociological causes of illicit drug-taking. Significant findings should be forwarded to UNAFEI.

Resolution

- 1) Countries are encouraged to generate scientific studies to identify conditions and factors which may influence individuals and their environment toward drug abuse.
- 2) Determine most successful and cost-effective treatment programmes which are most acceptable to the country.
- 3) Encourage psychological research into causes of drug abuse.

Recommendation 16

That drug dependents leaving institutional treatment be provided with appropriate professional after-care supervision.

Resolution

In an endeavour to prevent a relapse by the drug addict provision should be made for:

- a) adequate numbers of after-care officers,
- b) psychological services,
- c) assistance in gaining employment,
- d) community resources to assist integration,
- e) network of referral systems,
- f) drug addiction to be promoted as a chronic recurring disorder which responds to treatment.

OTHER UNAFEI ACTIVITY MATERIALS

Recommendation 17

That a need exists to harmonize penalties for drug offences. Such harmonization may be achieved, *inter alia*, through international seminars of legislators and chief justices.

Resolution

- 1) Promotion of greater international understanding.
- 2) National and international seminars with legislators, government officials and court officers.

Recommendation 18

That greater efforts be made by developed countries to increase technical and financial assistance in order to improve community facilities and also consultancy services in the field of preventive education, treatment and rehabilitation.

Resolution

- 1) Determine the principal need of the country and co-ordinate international support to achieve that objective.
- 2) Integrate programmes to provide a continuous level of support.
- 3) Ensure on-going financial commitment.

Recommendation 19

That interdisciplinary training and seminars be organized in the region, with respect to all aspects of drug abuse control, and that training facilities be opened on a government-to-government basis.

Resolution

- 1) That law enforcement agencies or governments agree to provide interregional training facilities to pursue objectives.
- 2) Standardize operational training and treatment methods.
- 3) Create useful platforms for the exchange of information and ideas.

Recommendation 20

That details of training programmes and developments in drug abuse control should be forwarded annually to UNAFEI for publication.

Resolution

That the chief enforcement agency in each country be responsible for this task

and to:

- a) consider all training programmes on a regional basis,
- b) report and update drug abuse control developments.

Recommendation 21

That in view of negotiations proceeding for the repatriation of prisoners in many countries, this facility be extended to include persons released on probation so that they can serve their probation period in their own country.

Resolution

Notwithstanding difficulties of enforcement in the "home" country:

- a) bilateral agreements should be negotiated at government level,
- b) legislation should be enacted.

Recommendation 22

That countries which are affected by the illicit production of drugs are to be encouraged to provide increased assistance for crop substitution programmes in the growing areas.

Resolution

While applauding the efforts of some countries' contributions toward crop substitution programmes, developed countries are encouraged in consultation with source countries to provide resources or greater resources.

Recommendation 23

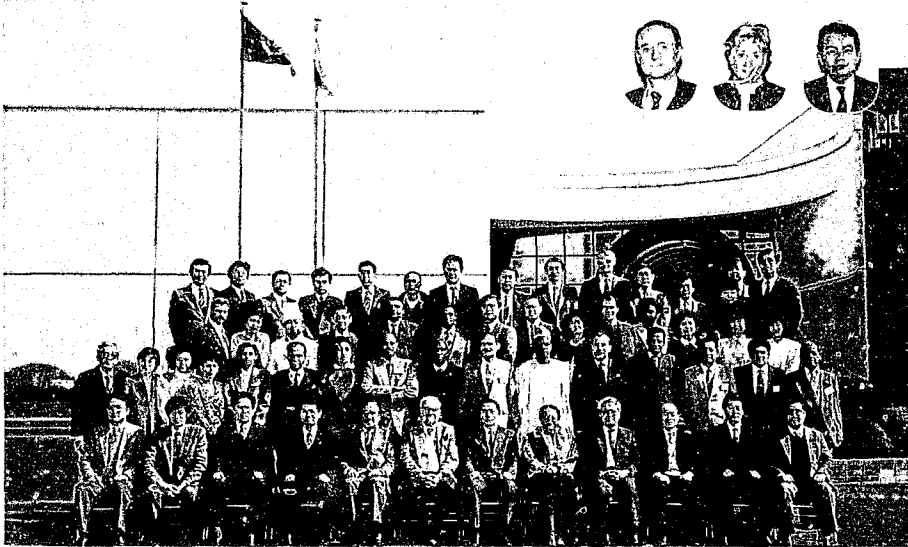
That all countries are strongly urged to become parties to the existing conventions on narcotic drugs and psychotropic substances.

Resolution

Each country in Asia and the Pacific region which is not a signatory should be reminded and encouraged, where applicable, to become a signatory in order to:

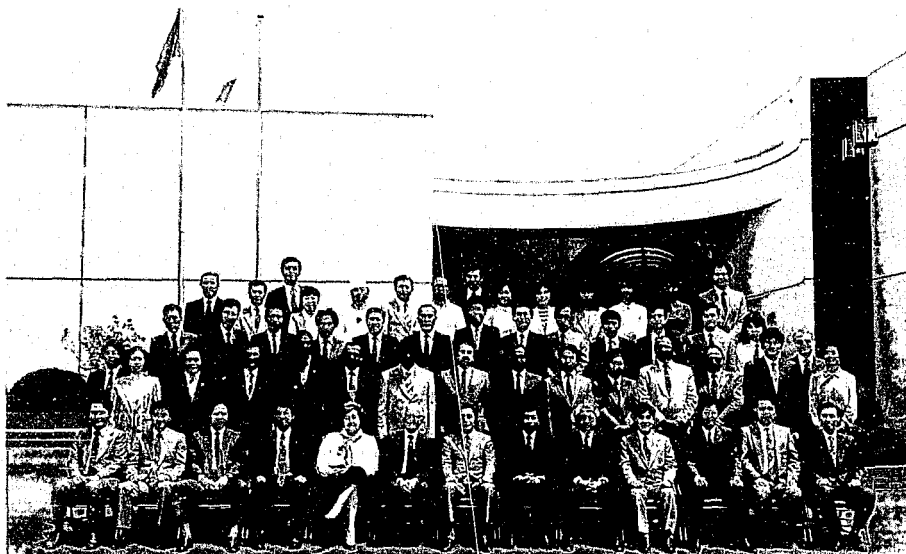
- a) increase universal membership,
- b) provide a forum of international co-operation and communication,
- c) provide universal agreement on scheduling of substances,
- d) tighten drug abuse controls.

**The 74th International Seminar
(UNAFEI, February 9—March 14, 1987)**



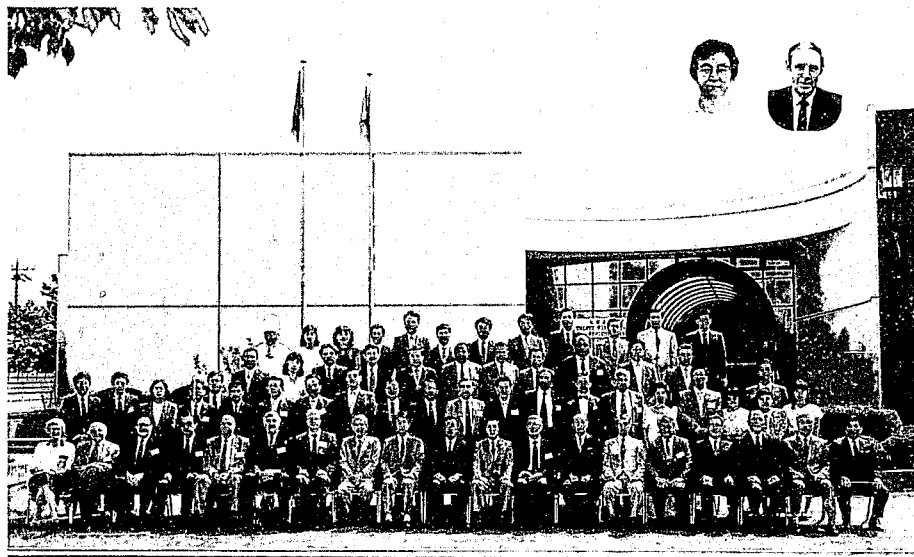
- On top:* Kunert (Visiting Expert), Mrs. Kunert, Shionoya (Faculty)
- 4th Row:* Tsuruta (Staff), Uchida (Staff), Kitajima (Staff), Kanai (Staff), Manabe (Staff), Kaneko (Staff), Higuchi (Japan), Plueksawan (Thailand), Shimanouchi (Japan), Keane (Linguistic Advisor), Sakurai (Japan), Kai (Staff), T. Saitoh (Staff), Tsunashima (Staff), Takahashi (Staff)
- 3rd Row:* Rahimi (Saudi Arabia), Katsushima (Coordinator), Asano (Chief Cook), Swadimongkol (Thailand), Mendis (Sri Lanka), Rongap (Papua New Guinea), Matsunaga (Japan), Fujimoto (Japan), Kuga (Japan), Morrison (Linguistic Advisor), Grant (Jamaica), Watanabe (Staff), Miyazaki (Staff), Miyata (Staff)
- 2nd Row:* Abdul Halim (Indonesia), Chen (China), Lu-Chan (Hong Kong), Palma Villacorta (Honduras), Khan (Fiji), Khan (Bangladesh), Oquendo Romero (Venezuela), Hashim (Sudan), Kirui (Kenya), Dwivedi (India), Abeji (Nigeria), Tafur del Aguila (Peru), Minja (Tanzania), Carrera Chinga (Ecuador), Sedek (Malaysia), Arauz Caicedo (Panama)
- Seated:* Kakizawa (Faculty), Sugita (Faculty), Nomura (Faculty), Tanaka (Faculty), Nor Shahid (Visiting Expert), George (Visiting Expert), Utsuro (Director), Diallo (Visiting Expert), Horiuchi (Deputy Director), Okada (Faculty), Yabe (Chief of Secretariat), Watanabe (Faculty)

The 75th International Training Course
(UNAFEI, April 20—June 20, 1987)



- 4th Row:* Takashima (Staff), Kai (Staff), I. Takahashi (Staff), T. Saitoh (Staff), Asano (Chief Cook), Kitajima (Staff), Kaneko (Staff), Tsuruta (Staff), Miyata (Staff), Watanabe (Staff), N. Nishimura (Coordinator), Iwasa (Coordinator), Sakamoto (JICA Coordinator), Morrison (Linguistic Advisor)
- 3rd Row:* Manabe (Staff), Sonoda (Japan), Leopando (Philippines), Fujita (Japan), Wong (Hong Kong), Ikeda (Japan), Sakuma (Japan), Gotoh (Japan), Higuchi (Japan), Wattanapan (Thailand), Y. Takahashi (Japan), Kodama (Japan), Miyazaki (Staff), Keane (Linguistic Advisor)
- 2nd Row:* Uchida (Staff), Kohno (Staff), Ondi (Philippines), Mustafa (Malaysia), Siimane (Lesotho), Ratnayake (Sri Lanka), Jeet (Fiji), Göksu (Turkey), Gupta (India), Murakami (Japan), Hasegawa (Japan), Canagaretnam (Sri Lanka), Ferreyros Paredes (Peru), Suiyawong (Thailand), Sun (China)
- Seated:* Kakizawa (Faculty), I. Nishimura (Faculty), Nomura (Faculty), Tanaka (Faculty), Mrs. Hall Williams, Hall Williams (Visiting Expert), Utsuro (Director), Atthaniti (Visiting Expert), Horiuchi (Deputy Director), Satoh (Faculty), Yabe (Chief of Secretariat), Shionoya (Faculty), F. Saito (Faculty)

**The 76th International Seminar
(UNAFEI, August 31 – September 19, 1987)**



- On Top:* Zhang (Visiting Expert), McEwen (Visiting Expert)
- 4th Row:* Asano (Chief Cook), Miyata (Staff), Watanabe (Staff), Kai (Staff), Kakizawa (Faculty), Satoh (Faculty), Tanaka (Faculty), I. Nishimura (Faculty), F. Saito (Faculty), Kitajima (Staff), Tsuruta (Staff), Manabe (Staff)
- 3rd Row:* Tsunashima (Staff), Takashima (Staff), Miyazaki (Staff), Shionoya (Faculty), Kiyonaga (Japan), Indranibarya (Thailand), Gesa (Papua New Guinea), Haupe Liyanage (Sri Lanka), Gurung (Nepal), Vosanibola (Fiji), Nomura (Faculty), Kikuchi (Faculty), I. Takahashi (Staff)
- 2nd Row:* Uchida (Staff), Yabe (Chief of Secretariat), Kohno (Staff), Obata (Japan), Ibrahim (Malaysia), Ohtsuka (Japan), Nishioka (Japan), S. Takahashi (Japan), Machida (Japan), Foenander (Singapore), Al-Samarraie (Iraq), Soetjipto (Indonesia), Apparao (India), Pi (Hong Kong), Mian (Pakistan), Leones (Philippines), Lee (Korea), Miura (JICA Coordinator), T. Saitoh (Staff), N. Nishimura (Coordinator)
- Seated:* Mrs. "Cy" Shain, "Cy" Shain (Visiting Expert), Garner (Visiting Expert), Quek (Visiting Expert), Ahmed (Visiting Expert), Biles (Visiting Expert), Joutsen (Visiting Expert), Yasaka (Executive Director, JICA), Igarashi (Ministry of Foreign Affairs), Kakei (Vice-Minister of Justice), Utsuro (Director), David (Visiting Expert), Hasegawa (Visiting Expert), Kamiya (Chairman, Board of Directors, ACPF), Horiuchi (Deputy Director), Takakuwa (Director, T.I.C.O.), Habata (Warden, Fuchu Prison), Sugita (Fuchu City), Morimoto (Fuchu Rotary Club)

The 77th International Training Course
(UNAFEI, October 5 – December 5, 1987)



- On Top:* Lady Hetherington, Mrs. Crowe, Kikuchi (Faculty)
- 4th Row:* Uchida (Staff), Tsunashima (Staff), Miyazaki (Staff), Miyata (Staff), Asano (Chief Cook), Sakamoto (JICA Coordinator), T. Saitoh (Staff), N. Nishimura (Coordinator), Keane (Linguistic Advisor), Manabe (Staff)
- 3rd Row:* Yukawa (Japan), Tortona (Philippines), Aonuma (Japan), Furuta (Japan), Yamashita (Japan), Kawaii (Japan), Seo (Korea), Metsing (Lesotho), Tiyanan (Thailand), Huq (Bangladesh), Hirokawa (Japan), Oyama (Japan), Suguturaga (Fiji)
- 2nd Row:* Nomura (Faculty), Elhaj (Sudan), Puapatanakul (Thailand), Yang (China), Al-Medeimigh (Saudi Arabia), Inaba (Japan), Suganuma (Japan), Saragih Allagan (Indonesia), Maeda (Japan), Pagulayan (Philippines), Arshad (Malaysia), Mejia (Colombia), Arca (Peru), Takahashi (Staff)
- Seated:* Nishikawa (Faculty), Dr. Cook (Ad Hoc Lecturer), I. Nishimura (Faculty), Tanaka (Faculty), Mr. Crowe (Visiting Expert), Sir Thomas C. Hetherington (Visiting Expert), Utsuro (Director), Mr. Tasneeyanond (Visiting Expert), Horiuchi (Deputy Director), Satoh (Faculty), Yabe (Chief of Secretariat), Shionoya (Faculty), F. Saito (Faculty)